

**BEFORE THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

ENV-2022-AKL-000025, 000055, 000036

**I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKĀURAU**

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of appeals under clause 14 of Schedule 1 of the Act against the decision of the Waikato District Council on the Proposed Waikato District Plan

BETWEEN **Ward Group** (ENV-2022-AKL-000025)
The Director-General of Conservation (ENV-2022-AKL-000036)
Federated Farmers of New Zealand (ENV-2022-AKL-000051)
Middlemiss Farm Holdings Limited (ENV-2022-AKL-000055)

Appellants

AND **WAIKATO DISTRICT COUNCIL**

Respondent

**NOTICE BY AUCKLAND/WAIKATO FISH AND GAME COUNCIL TO BECOME A PARTY
TO PROCEEDINGS PURSUANT TO SECTION 274 RESOURCE MANAGEMENT ACT 1991**

22 March 2022

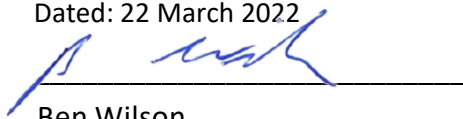
Address for service:

Ben Wilson
Chief Executive
Auckland/Waikato Fish and Game Council
156 Brymer Road
RD9 Hamilton 3289
bwilson@fishandgame.org.nz

To: The Registrar
Environment Court
AUCKLAND

1. Auckland/Waikato Fish and Game Council (“Fish and Game”) gives notice under s274 of the Act that it wishes to be a party to these proceedings:
Appeals on the Decision of the Waikato District Council on the Proposed Waikato District Plan by:
 - Ward Group (ENV-2022-AKL-000025)
 - The Director-General of Conservation (ENV-2022-AKL-000036)
 - Federated Farmers of New Zealand (ENV-2022-AKL-000051)
 - Middlemiss Farm Holdings Limited (ENV-2022-AKL-000055)
2. Fish and Game:
 - a. made a submission on the matters included in each of the appeals; and
 - b. is a person who has an interest in the proceedings that is greater than the interest of the public generally has – Auckland/Waikato Fish and Game Council is established under section 26P of the Conservation Act 1987 and has the functions set out in section 26Q of that Act.
3. Fish and Game is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. Fish and Game is interested in the matters raised in the appeals that are listed in the Table below.
5. Fish and Game position on the relief sought in the appeals, and the grounds for opposing and/or supporting the relief sought, is set out in the Table below. Where Fish & Game *opposes* the relief sought its further grounds are that such relief is:
 - a. not in accordance with sound resource management practices; and
 - b. inconsistent with Part 2 of the Resource Management Act 1991.
6. Fish and Game agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Dated: 22 March 2022



Ben Wilson

Chief Executive
Auckland/Waikato Fish and Game Council
156 Brymer Road
RD9 Hamilton 3289
bwilson@fishandgame.org.nz
021 848 306

Appeal(s):	Matters Fish & Game is interested in:	Reasons / position:
ENV-2022-AKL-000025 Ward Group v Waikato District Council	Rezone its 2 sites at Meremere, comprising approximately 56 hectares, from Rural Zone to Heavy Industrial Zone (HIZ- decisions version) as included in the Proposed District Plan.	Oppose the relief sought. This will not protect the neighbouring Whangamarino Wetland, which is a Ramsar site of international significance and a Significant Natural Area (SNA). The Whangamarino receives ongoing impacts from surrounding agriculture and forestry. The rezoning of the 2 sites at Meremere to heavy industrial would pose further threats of environmental degradation.
ENV-2022-AKL-000055 Middlemiss Farm Holdings Limited v Waikato District Council	<ul style="list-style-type: none"> • Part 1 – Introduction and general provisions – Interpretation • Part 2 – SD - Strategic Direction • Part 2 – ECO – Ecosystems and indigenous biodiversity • Part 2 – NATC – Natural Character • Part 2 – SUB - Subdivision • Part 3 – GRUZ – General rural zone • Part 3 – RLZ – Rural lifestyle zone • Part 4 – Schedules - APP2 – Criteria for determining significance of biodiversity • Part 4 – APP3 - Biodiversity offsetting 	Support the relief sought. The appellant is seeking ecological protection, maintenance and enhancement through subdivision and development incentives. This includes support for Conservation Lot provisions for the protection of SNA, and seeking that similar mechanisms be extended to provide for in situ ecological enhancement. ¹ Fish and Game supports the listed appeals in regard to conservation lots or other forms of incentives to preserve and enhance SNA habitat, particularly wetlands.
ENV-2022-AKL-000036 The Department of Conservation v Waikato District Council	<p>Amend the definition of “<i>Significant Natural Area</i>” to include unmapped areas that meet the criteria identified in Appendix 2 of the Proposed Plan.</p> <p>Amend Part 2 ECO to include recognition, provision, and protection of the “habitat” of</p>	Support the relief sought to ensure that areas that meet the SNA criteria in 11A Waikato Regional Policy Statement are managed as such (even where the area is not currently mapped). Support the relief sought to ensure the protection of significant indigenous vegetation inclusive of the “habitat” of

¹ Middlemiss Farm Holdings Limited Notice of Appeal pg.2

	<p>indigenous fauna, rather than “indigenous fauna”.</p> <p>Amend Appendix 2 to provide for the significant natural area criteria to apply to plantation forestry.</p> <p>Amend ECO-P2(1)(c) to require offsetting of residual adverse effects, rather than effects that are more than minor.</p> <p>Amend ECO-P3(1) to allow for biodiversity offsetting following avoidance, mitigation and remediation, where an activity will result in residual adverse effects on any significant natural area.</p> <p>Amend Appendix 3 to require a quantitative assessment of biodiversity losses and gains rather than a qualitative assessment.</p> <p>Amend ECO-P2 to recognise that there are limits to the appropriate use of compensation.</p>	<p>indigenous fauna, providing proper substance to Part 2 RMA.</p> <p>Support the relief sought, as it is set out in the National Environmental Standards for Plantation Forestry, “<i>Vegetation clearance of indigenous vegetation associated with a plantation forestry activity is a permitted activity if subclause (3) the clearance does not occur within a significant natural area</i>”.²</p> <p>Support the relief sought as values to be lost through the activity to which the offset applies should be counterbalanced by the proposed offsetting activity which is at least commensurate with the residual adverse effects on indigenous biodiversity, so that the overall result is no net loss.</p> <p>Support the relief sought. Fish and Game agree that the inclusion of biodiversity offsetting is appropriate as it is a measurable conservation outcome resulting from actions designed to compensate for residual, adverse biodiversity effects arising from activities after appropriate avoidance, remediation, and mitigation measures have been applied.</p> <p>Support the relief sought as qualitative assessment does not achieve the functions prescribed to the Respondent under section 31 RMA for maintaining indigenous biological diversity.</p> <p>Support the relief sought as preventing or mitigating adverse effects associated with contaminated land and maintaining indigenous biological diversity is required under section 31 RMA.</p>
ENV-2022-AKL-000051 Federated Farmers of New Zealand	APP2 – Criteria for determining	Oppose the relief sought: Recent evidence shows that the Waikato District continues to lose significant portions of SNA habitat including wetlands. A precautionary

² Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017

<p>v Waikato District Council</p>	<p>significance of indigenous biodiversity - addition of advice note:</p> <p><i>Note: The significant natural areas (SNAs) currently identified on the planning maps are for information purposes only and have no legal effect until a robust identification process, including ground-truthing, has been undertaken.</i></p> <p>Reinstate notified Policy 3.2.8 as follows.</p> <p>Incentivise subdivision in the Rural Zone when there is the legal and physical protection of Significant Natural Areas, provided the areas are of a suitable size and quality to achieve a functioning ecosystem.</p> <p>Amend ECO-R5(1)</p> <p>Amend ECO-R11 (1)</p>	<p>approach is required to ensure these areas are safeguarded.</p> <p>Support the relief sought: Whilst Fish & Game agrees with the Commissioners rationale that SNA habitats have protection in theory, these protections have often proven ineffective at preventing SNA habitat degradation and loss. Incentivised subdivision would provide an effective tool through which critical habitats can be safeguarded and restored.</p> <p>Oppose in part: We do not support the removal of area restrictions and addition of pasture maintenance. Pasture maintenance is already covered in ECO-R15. The definition of pasture maintenance is unclear and large scale clearance activities have resulted in adverse effects on water quality through increased erosion and sediment loss in the past. Restrictions on this type of activity are appropriate, although we agree that differentiation should be made between indigenous and exotic vegetation in this rule.</p> <p>Oppose in part: We do not support the inclusion of construction of farm drains and tracks. The addition of this rule would mean no restrictions on indigenous vegetation removal when new farm drains and tracks are created which is inappropriate.</p>
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	<p>Amend ECO-R15</p> <p>Delete all the SNAs from the planning maps, except for the following:</p> <p>a) Those that have been visited and verified (in terms of consistency with Appendix 2 criteria and spatial extent) by the parties delegated this task by the Council.</p> <p>b) Submitters that have appeared at the hearing with clear photographs and evidence of their properties.</p> <p>c) Sites in public ownership such as Department of Conservation, WRC and Council.</p> <p>That SUB-R50 be amended by including provision for the creation of conservation allotments as a restricted discretionary activity.</p>	<p>Oppose the relief sought: It is critical that appropriate buffers are maintained around waterbodies in order to prevent further water quality degradation and 10m is appropriate for vegetation clearance activities. We do not support the removal of area restrictions on vegetation clearance. Large scale removal of plants less than 4m in height can still have significant adverse effects on water quality in catchments and loss of biodiversity values.</p> <p>Oppose the relief sought: A precautionary approach is required to stop the further loss and degradation of SNA habitats. In most instances we are aware of, habitats identified as SNAs from geo spatial imaging are correctly categorised in the first instance.</p> <p>Support the relief sought: As for Policy 3.2.8, incentivisation provides an effective tool through which critical habitats can be safeguarded and restored.</p>
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