

IN THE ENVIRONMENT COURT
AT AUCKLAND

ENV-2020-AKL-000100

I MUA I TE KOOTI TAIAO O AOTEAROA
TĀMAKI MAKĀURAU

IN THE MATTER of the Resource Management Act 1991

A N D

IN THE MATTER of an appeal pursuant to clause 14(1) of the First
Schedule of the Act

BETWEEN WAIKATO AND WAIPĀ RIVER IWI

Appellant

A N D WAIKATO REGIONAL COUNCIL

Respondent

NOTICE OF PERSON'S WISH TO BE PARTY TO PROCEEDINGS

Section 274 Resource Management Act 1991

29 September 2020



**FEDERATED
FARMERS**
OF NEW ZEALAND

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To: The Registrar
Environment Court
Auckland

Federated Farmers of New Zealand Inc ("**Federated Farmers**") wishes to be a party to the following proceedings:

Waikato and Waipā River Iwi v Waikato Regional Council
ENV-2020-AKL-000100

Federated Farmers made a submission about the subject matter of the proceedings.

Federated Farmers is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.

Federated Farmers is interested in all of the proceedings.

1. Federated Farmers represents farmers in the Waikato and Waipā Rivers Catchment.
2. Federated Farmers has appealed the decision to on Proposed Waikato Regional Council Plan Change 1 – Waikato and Waipā River Catchments ("**PC1**"), as amended by the Hearing Panel, in its entirety, i.e. the decision as it relates to the introduction and all of the objectives, policies, methods, rules, definitions and schedules.
3. Federated Farmers supports sustainable management of resources and the use of regulatory and non-regulatory measures to maintain or enhance water quality, and to restore and protect the health and wellbeing of the Waikato and Waipā Rivers. However, Federated Farmers considers that the regulatory and non-regulatory methods proposed in PC1 do not appropriately give effect to the relevant higher order documents, have not appropriately balanced environmental, economic, social and cultural considerations, and are not the most efficient and effective means of achieving the objective of the plan change.
4. Federated Farmers is interested in all the issues raised by the Appellant.
5. Federated Farmers supports in part and opposes in part the relief sought by the Appellant.

6. Without limiting the generality of the above, an explanation of the issues that Federated Farmers has particular interest in is set out in **Appendix A**.

7. Federated Farmers agrees to participate in mediation or other alternative dispute resolution of the proceedings.



N J Edwards / L F Jeffries

Counsel for Federated Farmers

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APPENDIX A

Provision Appealed	Reasons for Appeal	Relief Sought by Appellant	Support/Oppose	Reason
Objectives				
Objective 4	<p>Objective 4 articulates a desired future state where tangata whenua values are integrated into the management of the Waikato and Waipā River catchment.</p> <p>The publicly notified version of PC1 included Objective 4(b) that specifically stated, “new impediments to the flexibility of the use of tangata whenua ancestral lands are minimised”. The Iwi Co-Governors supported the specific phrasing of Objective 4(b).</p> <p>The amendments to Objective 4(c) now explicitly restrict impediments to the use of TWAL to, “those necessary to give effect to Te Ture Whaimana”.</p> <p>The Iwi Co-Governors consider the flexibility for the use of other land – that is not defined as tangata whenua ancestral land – is not restricted in the same manner. For example, flexibility for the intensification of drystock farming is unrestricted under Rule 3.11.4.3 and flexibility for the expansion of CVP is explicitly provided for under Rule 3.11.4.8.</p>	<p>Amend Objective 4(c) as follows:</p> <p>a. Any new impediments to the flexibility of the use of tangata whenua ancestral lands and land returned via treaty settlements are restricted to those necessary to give effect to Te Ture Whaimana o Te Awa o Waikato are minimised;</p>	Oppose	<p>Federated Farmers opposes the relief sought and considers that the plan change ought to adopt a consistent approach across all land types that is effects based as opposed to ownership based.</p> <p>Federated Farmers considers that the plan change should treat all landowners equitably, and that it is not the role of the Council to address matters that relate to Treaty of Waitangi or other grievances through the plan change.</p> <p>Further PC1 is the response from the WRC and the Iwi Co-Governors to restoring and protecting the Awa, as required by Te Ture Whaimana o Te Awa o Waikato / Vision and Strategy for the Waikato River (Te Ture Whaimana).</p> <p>Section 17(3) of the Waikato-Tainui Act requires that persons carrying out functions or exercising powers under the RMA must also have particular regard to Te Ture Whaimana.</p> <p>Further PC1 must give effect to Te Ture Whaimana given it is deemed to be part of the Waikato Regional Policy Statement.</p> <p>Section 5(1) of the Waikato-Tainui Act states “<i>the vision and strategy is intended by Parliament to be the primary direction-setting document for the Waikato River and activities within</i></p>

				<p><i>its catchment affecting the Waikato River”.</i></p> <p>In <i>Carter Holt Harvey Ltd et al v Waikato Regional Council</i> [2011] NZEnvC 380 at [100], the Environment Court described applying Te Ture Whaimana in a First Schedule Plan Process as follows: “The co-management regime established by the Settlement Act and the River Iwi Act is radically different to what hitherto existed under the Resource Management Act and what currently exists elsewhere in New Zealand. Parliament has accorded great weight and importance to the Vision and Strategy as the primary direction-setting document for the Waikato River catchment.” Therefore, with the above in mind, Federated Farmers opposes the relief sought by the Appellant on the basis that all provisions in PC1 must give effect to Te Ture Whaimana – including those that relate to Tangata Whenua Ancestral Lands.</p>
Policies				
Policy 2	<p>Policy 2 provides for farming activities, other than CVP, that require resource consent and are prepared in accordance with Policy 4.</p> <p>Policy 2(b)(i) requires properties with ‘High’ Nitrogen Leaching Loss Rates (NLLR) to make significant reductions to their NLLR and has no parallel requirement of significant reductions for phosphorus or sediment.</p> <p>Policy 2(b)(ii) provides an avenue for properties to demonstrate, to the Waikato Regional Council (WRC), why significant reductions to their ‘High’ NLLR should not be required. It is</p>	<p>Delete Policy 2(b)(ii).</p> <p>OR</p> <p>Amend Policy 2(b)(ii) to identify the specific circumstances/situations where it is appropriate for a property with a ‘High’ NLLR to avoid making significant reductions to their NLLR.</p>	Support in part	<p>Federated Farmers is concerned that paragraph b(ii) does not provide for sufficient certainty and consistency in how the policy will be applied to farmers with high N leaching loss rates; or for consistency and equity in treatment of all farmers within PC1</p>

	<p>unclear what the specific circumstances/situation would be for a property with a 'High' NLLR to opt out of making significant reductions in accordance with Policy 2(b)(ii).</p> <p>The risk is Policy 2(b)(ii) becomes a de facto gateway for properties to avoid making significant reductions to their NLLR and could jeopardise achieving the 20% Improvement.</p> <p>Note Policy 2(b)(iii) already provides for WRC to consider extended timeframes to enable a farming system to transition to low nitrogen leaching land uses, or to make significant reductions to a 'High' NLLR.</p> <p>Note Policy 2(c), requiring that resource consents will generally not be granted, is expressly linked to Policy 5 – providing for offsetting and compensation.</p>			
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Rules

<p>Rule 3.11.4.1 Permitted Activity Rule – Small and very low intensity farming</p>	<p>Policy 1(c) enables low intensity farming as a permitted activity where there is a “low risk of diffuse discharge of contaminants”.</p> <p>Rule 3.11.4.1 increases the permitted activity threshold for ‘very low intensity’ farming from less than 6 to less than 12 (wintered) stock units per hectare (wsu/ha).</p> <p>The increase in wsu/ha threshold means an unknown number of drystock farms greater than 20 hectares will now only need to demonstrate conformance with Schedule C.</p>	<p>Amend Rule 3.11.4.1 to: Re-calibrate the less than 12 wsu/ha threshold down, to ensure more farms are required to prepare an FEP in conformance with Schedule D1 (Part D), as ‘low’ intensity farming systems.</p>	<p>Support in part</p>	<p>Federated Farmers considers that an appropriate stock unit number needs to be adopted to set a reasonable threshold and would support a different number from the Decisions Version of PC1 if that more appropriately achieved sustainable management.</p>
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	<p>The Decision provided no information or evidence to quantify the number of drystock farms that are captured by the increase from less than 6 to less than 12 wsu/ha, or the cumulative impact of fewer properties than the notified version of PC1 being required to prepare an FEP in conformance with Schedule D1 (Part D).</p> <p>The risk is the unknown number of drystock properties between 6 and 12wsu/ha that no longer need to prepare an FEP will jeopardise achieving the 20% Improvement.</p>			
<p>Rule 3.11.4.3 – Permitted Activity Rule – Low intensity farming</p>	<p>Permitted intensification of drystock farming up to 18 wsu/ha: Policy 1(c) enables low intensity farming as a permitted activity where there is a “low risk of diffuse discharge of contaminants”.</p> <p>Rule 3.11.4.3 allows for the intensification of drystock farming up to 18 wsu/ha as a permitted activity.</p> <p>Increasing the stocking rate to 18 wsu/ha will lead to an unknown increase in the diffuse discharge of contaminants and is no longer “low risk” under Policy 1(c).</p> <p>The Decision provided no information or evidence to quantify the number of drystock farms that are currently farming greater than 12 wsu/ha but less than 18 wsu/ha and the probable increase in the diffuse discharge of contaminants that will result from increasing stocking rates up to 18 wsu/ha.</p> <p>Policy 2 and Policy 4 do not apply, as the intensification of drystock farming is a permitted activity meaning it does</p>	<p>Re-calibrate Rule 3.11.4.3 to reduce the less than 18 wsu/ha threshold for ‘low’ intensity farming to minimise the permitted intensification of drystock farming and ensure more properties prepare FEPs in conformance with Schedule D2 (Part D) as ‘moderate’ or ‘high’ intensity farming systems.</p> <p>OR</p> <p>Re-calibrate Rule 3.11.4.3 to constrain the less 18 wsu/ha threshold to LUC 1, 2, 3 and 4 land.</p> <p>Insert new clauses in rule 3.11.4.3(7) to read: <u>b. where 3A(ii) applies, provide evidence to demonstrate the Nitrogen Leaching Loss Rate for the property is Low in Table 1 of Schedule B(B); and</u> <u>c. demonstrates a general improvement in farming practice to reduce diffuse discharges of</u></p>	<p>Support in part Oppose in part</p>	<p>Federated Farmers considers that an appropriate stock unit number needs to be adopted to set a reasonable threshold and would support a different number from the Decisions Version of PC1 if that more appropriately achieved sustainable management.</p> <p>Federated Farmers is very concerned about any standards that rely on the LUC system given that farm scale mapping is required to ensure that land is properly classified, such mapping is expensive and time consuming, and the LUC class may not reflect the environmental effects (particularly as limitations to the versatility of land, based on its LUC classification, can be overcome). Federated Farmers therefore opposes the alternative proposed by the Appellant.</p> <p>Federated Farmers does not consider there is a risk of “unmanaged” intensification of drystock farming as there are still significant restrictions on intensification. Further while a few individual properties may be able to</p>

	<p>not require resource consent and is effectively unable to be managed by the WRC.</p> <p>The risk is unmanaged intensification of drystock farming that leads to a probable increase in the diffuse discharge of contaminants; will jeopardise achieving the 20% Improvement and cut across the opportunity for TWAL to be developed.</p> <p>Application of 18 wsu/ha threshold: The definition of winter stocking rate is an average stocking rate across the effective grazed area of a drystock property, and means the 18 wsu/ha threshold applies to all land use classes (LUC).</p> <p>There will be a difference between the physical carrying capacity of higher LUCs [i.e. LUC 4, 5, 6, 7 and 8] on a drystock property and the 18 wsu/ha threshold. The natural limitation of some drystock farming properties, particularly within sub-catchments that are dominated by steep hill country, will be substantially less than 18 wsu/ha.</p>	<p><u>nitrogen, phosphorus, sediment and microbial pathogens; and d. demonstrates what farming practices will be actioned to reduce diffuse discharges of the contaminant(s) of priority for the relevant sub-catchment set out in Table 3.11-2; and</u></p>		<p>intensify slightly, drystock as an industry will likely be decreasing in intensification overall and therefore opposes the new clauses proposed by the Appellant.</p>
<p>Rule 3.11.4.4 – Controlled Activity Rule – Moderate intensity farming</p>	<p>Rule 3.11.4.4(6)(b): Rule 3.11.4.4(6)(b) does not adequately reflect the requirement in Policy 1(a) to make a general improvement in farming practice to reduce diffuse discharges of the four contaminants, or Policy 1(b) to focus priority actions on those farming practices that reduce the contaminants listed in Table 3.11-2.</p> <p>Schedule D2 (Part D) may provide tools to achieve the “general improvement in farming practice”. However, the linkage between Policy</p>	<p>Insert new clauses in rule 3.11.4.4(6)(b) to read: <u>iii. demonstrating a general improvement in farming practice to reduce diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens; and iv. demonstrating the farming practices will be actioned to reduce diffuse discharges of the contaminant(s) of priority for the relevant sub-catchment set out in Table 3.11-2;</u></p>	<p>Oppose</p>	<p>Federated Farmers considers that the new clauses proposed by the Appellant are unnecessary as the requirements of Policy 1(b) are clearly met through tailored FEPs.</p> <p>Federated Farmers considers that Rule 3.11.4.4 provides a clear linkage to D2 which provides an appropriate framework to assist farmers and farm advisors to choose from the myriad of options that may be available to address potential critical source areas, risks etc (subject to</p>

	<p>1(a), Rule 3.11.4.4 and Schedule D2 is not clear.</p> <p>Rule 3.11.4.4 does not provide a linkage to the contaminant(s) that are deemed to be a priority in Table 3.11-2.</p> <p>This means that it is possible for an FEP to be developed, compliant with Rule 3.11.4.4 and Schedule D2 (Part D), that does not adequately reflect the requirements of Policy 1(b).</p>			amendments in Federated Farmers' appeal).
Rule 3.11.4.6 – Restricted Discretionary Activity Rule – Farming in Whangamarino	<p>Rule 3.11.4.6(5)(b) Rule 3.11.4.6(5)(b) does not adequately reflect the requirement in Policy 1(a) to make a general improvement in farming practice to reduce diffuse discharges of the four contaminants, or Policy 1(b) to focus priority actions on those farming practices that reduce the contaminants listed in Table 3.11-2.</p> <p>Schedule D2 (Part D) may provide tools to achieve the “general improvement in farming practice”. However, the linkage between Policy 1(a), Rule 3.11.4.4 and Schedule D2 is not clear.</p> <p>Rule 3.11.4.6 does not provide a linkage to the contaminant(s) that are deemed to be a priority in Table 3.11-2.</p> <p>This means it is possible for an FEP to be developed, compliant with Rule 3.11.4.6 and Schedule D2 (Part D), that does not adequately reflect the requirements of Policy 1(b).</p>	<p>Insert new clauses in rule 3.11.4.6(5)(b) to read: <u>iii. demonstrating a general improvement in farming practice to reduce diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens; and</u> <u>iv. demonstrating the farming practices will be actioned to reduce diffuse discharges of the contaminant(s) of priority for the relevant sub-catchment set out in Table 3.11-2;</u></p>	Oppose	<p>Federated Farmers considers that the new clauses proposed by the Appellant are unnecessary as the requirements of Policy 1(b) are clearly met through tailored FEPs.</p> <p>Federated Farmers considers that Rule 3.11.4.4 provides a clear linkage to D2 which provides an appropriate framework to assist farmers and farm advisors to choose from the myriad of options that may be available to address potential critical source areas, risks etc (subject to amendments in Federated Farmers' appeal).</p>
Rule 3.11.4.8 – Discretionary Activity Rule – Commercial	The Appellants oppose the CVP Expansion Provisions for the following reasons:	<p>Delete Policy 3(d) and Rule 3.11.4.8.</p> <p>OR</p>	Oppose	Federated Farmers considers that Rule 3.11.4.8 needs to ensure consistency with the rest of the regulatory framework in terms of

<p>vegetable production expansion</p> <p>Table 1: Sub-catchments with Commercial Vegetable Production growth areas ...</p>	<p>(a) The Panel's reasoning is wrong at law. Policy 3(d) refers to "recognition of the contribution to people and communities from commercial vegetable production consistent with Te Ture Whaimana o Te Awa o Waikato..." This is a misinterpretation of Te Ture Whaimana. Under clause 1(2) of Te Ture Whaimana abundant life and prosperous communities are identified as the positive consequence of a healthy river. Accordingly, giving effect to Te Ture Whaimana, first and foremost, requires consideration of the impact of CVP on the health and wellbeing of the Waikato and Waipā Rivers.</p> <p>(b) If CVP expansion is provided for, it will detrimentally affect the overall reduction in nitrogen loading and the ability to give effect to Te Ture Whaimana.</p> <p>(c) The Panel is picking winners;</p> <p>(d) The rule is also in error. The evidence presented for Horticulture NZ requested approximately 715ha to allow for growth and land lost to urban development. The Panel's Decision 'constrained' expansion to 13 sub-catchments in the lower Waikato and Waipā. However, that area equates to nearly 3,698ha.</p>	<p>Discretionary rule for the development of TWAL (currently a non-complying activity) so as to be comparable to Rule 3.11.4.8, to prevent the intent of Objective 4(b) and Policy 18 from being undermined.</p> <p>AND</p> <p>Re-calibrate Table 1 in Rule 3.11.4.8 to identify a combined maximum area limit of 716ha from the identified sub-catchments.</p> <p>AND</p> <p>Insert new clauses in rule 3.11.4.8(4)(b) to read:</p> <p><u>iii. demonstrating a general improvement in farming practice to reduce diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens; and</u></p> <p><u>iv. demonstrating the farming practices will be actioned to reduce diffuse discharges of the contaminant(s) of priority for the relevant sub-catchment set out in Table 3.11-2;</u></p> <p><u>v. showing actions and mitigations that demonstrate how the farming activity will achieve the goals and principles set out in Part D of Schedule D2; and</u></p> <p><u>vi. if the NLLR for the property is High as identified in Table 1 in Schedule B(B), demonstrate how a significant reduction in the Nitrogen Leaching Loss Rate will be made; and</u></p>		<p>consistent expectations of farmers and everyone doing their part to improve water quality.</p> <p>Federated Farmers considers that a discretionary activity status is appropriate to recognise that this rule provides for a new activity or intensification of an existing activity. However, Federated Farmers considers that all land use change (currently non-complying) ought to be discretionary (as sought in the Federated Farmers' appeal).</p> <p>Federated Farmers opposes a discretionary rule specifically for the development of Treaty of Waitangi Ancestral Land. Federated Farmers considers that the intensification of all land uses should be treated equally to ensure as the appellant noted that the plan change does not "pick winners".</p>
<p>Rule 3.11.4.9 – Non-Complying Activity Rule – Land use change</p>	<p>This Appellant considers that this issue is related to Policy 3(d) and Rule 3.11.4.8.</p>	<p>Delete Policy 3(d) and Rule 3.11.4.8.</p> <p>AND</p>	<p>Oppose</p>	<p>Federated Farmers considers that land use change ought to be provided for as a discretionary activity, except that land use change to commercial</p>

	<p>As notified, Rule 3.11.5.7 (now Rule 3.11.4.9), which requires non-complying land use consent for any change to existing land use as specified in the rule, only had effect until 1 July 2026 (End Date).</p> <p>Recognising the impracticality of a specified End Date in the context of a plan change development that could take longer to come into effect than first anticipated, the Iwi Co-Governors advocated for retention of an End Date '10 years from the date on which PC1 would become operative'.</p> <p>Any concept of an End Date has been removed in Rule 3.11.4.9. This is the rule to which TWAL is subject.</p> <p>The permissive nature of the CVP Expansion Provisions, and the effect they have of undermining the TWAL provisions, now make the End Date even more critical.</p>	<p>Retain Rule 3.11.4.9 End Date '10 years from the date on which PC1 would become operative'.</p> <p>OR</p> <p>Discretionary rule for the development of TWAL (currently a non-complying activity) so as to be comparable to Rule 3.11.4.8, to prevent the intent of Objective 4(b) and Policy 18 from being undermined</p>		<p>vegetable production that does not meet Rule 3.11.4.8 should be a non-complying activity (as per Federated Farmers' appeal). However, should the non-complying activity rule be retained Federated Farmers considers that the end of rule date of 1 July 2026 should not be reinstated.</p> <p>Federated Farmers concurs with the section 42A report analysis that given the delays to finalising PC1, it would seem unrealistic that a new planning regime would be ready for notification by 2026. The Section 42A Officers were concerned that a fixed end date, whether or not closer in time to now, is problematic and may lead to the need for a future plan change, just to remove that date.</p> <p>With the above in mind, Federated Farmers considers the End Date is both overly optimistic in terms of developments in the PC1 process and potentially problematic in trying to remove it in the future.</p> <p>As noted above, Federated Farmers opposes a discretionary rule specifically for the development of Treaty of Waitangi Ancestral Land. Federated Farmers considers that the intensification of all land uses should be treated equally to ensure as the appellant noted that the plan change does not "pick winners".</p>
Schedules				
<p>Schedule B – Nitrogen leaching loss rate for FMUs A. Calculation of Nitrogen Leaching Loss Rate</p>	<p>Table 1: Nitrogen Leaching Loss Rate Levels: The Appellants consider that the 'Low', 'Moderate' or 'High' NLLR Levels set out in Table 1 are not intended to be used as a compliance</p>	<p>Re-calibrate down the values for the 'Low' and 'Moderate' NLLR Levels set out in Table 1.</p> <p>AND</p>	<p>Support in part</p>	<p>Table 1: Nitrogen Leaching Loss Rate Levels: Federated Farmers understands that the intention of Table 1 is that that the low, moderate and high kgN/ha/yr numbers are intended to represent the 30th, 30th to 75th, and 75th</p>

<p>B. Table 1: Nitrogen Leaching Loss Rate levels:</p>	<p>tool or a NLLR level target for conditions of any resource consent.</p> <p>If the NLLR levels were to be used for compliance purposes, the Appellant consider that there is a potential risk of intensification occurring within the NLLR Levels (e.g. a condition of resource consent that requires a property to maintain a 'High' NLLR Level could mean anything greater than 57kgN/ha/year in the Upper Waikato Freshwater Management Unit).</p> <p>With respect to Rule 3.11.4.3, the Appellants are not satisfied that both the 18 wsu/ha threshold and less than 31 kg N/ha/year NLLR level have equivalency as 'Low' intensity farming operations.</p> <p>Amendments are required to Table 1 to better reflect the 'Low' and 'Moderate' NLLR levels and how they equate to other proxy thresholds for 'farming intensity' in PC1.</p> <p>Use of term 'in conformance with' and 'calculate' in respect of Table 1 in Schedule B (Part A) in Chapter 3.11</p> <p>The Appellant says that the language of "in conformance with" is awkward and could be misinterpreted to mean the NLLR must be conformed with at all times. We suggest amending it to "as identified in".</p>	<p>Amend all references to "...Nitrogen Leaching Loss Rate is produced for the property with Schedule B; and" in Policy 4(a), Rule 3.11.4.3, Rule 3.11.4.4, Rule 3.11.4.5, Rule 3.11.4.6, Rule 3.11.4.7, Rule 3.11.4.8, Schedule D1(C)(5) and Schedule D2(C)(3)(d) to read: "...Nitrogen Leaching Loss Rate is produced for the property with Schedule B(A); and"</p> <p>AND</p> <p>Insert new note in Table 1: Nitrogen Leaching Loss Rate levels to read: <u>Note: The 'Low', 'Moderate' or 'High' NLLR levels in Table 1 are not intended to act as a numerical target to demonstrate compliance with any condition of resource consent.</u></p> <p>AND</p> <p>Amend Rule 3.11.4.3(3A)(ii) to read: The Nitrogen Leaching Loss Rate for the property is Low <u>as identified in in-conformance-with</u> Table 1 in Schedule B(B);</p> <p>AND</p> <p>Amend Rule 3.11.4.4(4A)(ii) to read: The Nitrogen Leaching Loss Rate for the property is <u>Moderate as identified in in-conformance-with</u> Table 1 in Schedule B(B);</p> <p>AND</p>		<p>percentiles for N leaching for dairy farmers in each FMU (with the exception of the Upper Waikato FMU, where the bottom number is the 25th percentile not the 30th). The numbers are based on data provided by the Appellant about N leaching for its farmers during the 2015/16 season.</p> <p>Federated Farmers agrees with the Appellant that the N leaching numbers in Table 1 need to be revisited, however, Federated Farmers prefers the relief sought in its own appeal of Table 1.</p> <p>Use of term 'in conformance with' and 'calculate' in respect of Table 1 in Schedule B (Part A) in Chapter 3.11</p> <p>Federated Farmers agrees that the wording "in conformance with" is awkward and could be misinterpreted to mean the NLLR must be conformed with at all times. Federated Farmers supports amending it to "as identified in".</p>
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		<p>Amend Rule 3.11.4.4(4B)(ii) to read: The Nitrogen Leaching Loss Rate for the property is Low as identified in in conformance with Table 1 in Schedule B(B);</p> <p>AND</p> <p>Amend Rule 3.11.4.7(7B) to read: The Nitrogen Leaching Loss Rate for the property is High as identified in in conformance with Table 1 in Schedule B(B);</p> <p>AND</p> <p>Amend Policy 4(a) to read: a. If a property is used for dairy farming, commercial vegetable production, or has a stocking rate of more than 18 stock units per hectare and/or more than 5% in arable cropping, use an appropriate decision support tool in accordance with Schedule B(A) of this Chapter, to calculate quantify the Nitrogen Leaching Loss Rate for the property; and</p>		
<p>Schedule C – Minimum farming standards</p>	<p>Utility of Schedule C The minimum requirements for fertiliser application rates, sacrifice paddocks, forage cropping and cultivation are considered current good practice.</p> <p>It is unclear the number of properties in the Waikato and Waipā River catchments that are greater than 20ha and have not already incorporated these good practices.</p> <p>The biggest issue will be hill country sediment and phosphorous discharges which may be</p>	<p>Re-calibrate Rule 3.11.4.1 to reduce the less than 12wsu/ha threshold, to ensure more farms prepare FEPs under Schedule D1 (e.g. as 'low' intensity farming systems).</p> <p>AND</p> <p>Re-calibrate the 18su/ha threshold for Schedule C(1)(b) to ensure stock are excluded from more waterbodies.</p> <p>AND</p>	<p>Support in part Oppose in part</p>	<p>Federated Farmers considers that an appropriate stock unit number needs to be adopted to set a reasonable threshold and would support a different number from the Decisions Version of PC1 if that more appropriately achieved sustainable management.</p> <p>Federated Farmers does not consider it necessary to refer to current industry guidance documents in Schedule C, nor are Council required to do so.</p>

	<p>exacerbated/high due to the increased su/ha thresholds for Rules 3.11.4.1 and 3.11.4.3.</p> <p>Stock exclusion Amendments to stock exclusion criteria mean the properties that run fewer than 18 su/ha in paddocks adjoining a waterbody on land over 15 degrees, will not need to fence those waterbodies.</p> <p>Schedule C(1)(b) is unlikely to result in stock being excluded from waterbodies on slopes greater than 15 degrees with a stocking rate greater than 18 su/ha, due to the limitations of heavily stocking greater than LUC4 hill country.</p> <p>Enforcing compliance with the 18 su/ha threshold on hill country that is greater than 15 degree slope and adjacent to waterbodies will be challenging.</p>	<p>Improvements to Schedule C are required, starting with acknowledging and requiring adherence to current industry guidance documents (e.g. Farm Dairy Effluent Code of practice); setting requirements to minimise sediment loss; controls around stock movement in confirmed areas; cultivation and irrigation.</p>		
<p>Schedule D1 – Requirements for Farm Environment Plans for farming under Rule 3.11.4.3</p>	<p>The Appellants are concerned that the current requirements in Schedule D1, coupled with the identified problems in Rule 3.11.4.1, will not achieve the 20% Improvement in the 10-year timeframe post Chapter 3.11 becoming operative.</p> <p>Review and updating FEPs Part E in Schedule D1 requires FEPs to be reviewed by a Certified Farm Environment Planner for ‘consistency with this schedule’ within 12 months of the date of the FEP, and every 3 years thereafter.</p> <p>Part E only refers to a review of the FEPs, and not to updating or amending the FEPs as a result of that review.</p>	<p>WRC needs to undertake modelling to provide comfort that Schedule C + Schedule D1 + Schedule D2 will equate to a 20% Improvement in the 10-year timeframe post Chapter 3.11 becoming operative.</p> <p>AND Amend Part E of Schedule D2 to read:</p> <p>PART E – REVIEWING AND UPDATING A FARM ENVIRONMENT PLAN The FEP shall be reviewed by a Certified Farm Environment Planner who holds a reviewing endorsement (issued by Waikato Regional Council) and updated as</p>	<p>Oppose</p>	<p>Federated Farmers considers that the short term targets ought to be amended to ensure that the required improvement is 10% of the journey (not 20%). This was the intention of CSG, the intention of the first 10 years and has been modelled and the subject of a s32 assessment.</p> <p>It is not appropriate to require 20% of the journey when the policy mix has not been modelled, it is not clear that 20% will be achieved and at what cost and it is not appropriate to effectively double farmer obligations in the same 10 year timeframe (while there has been delay in getting to this point, and further delay before PC1 is operative, during that time farmers have not had an opportunity to prepare or to start</p>

	<p>There is no requirement in Part E to include as part of that review a consideration of the need to update the FEPs to provide for continuous improvement and the adoption of new technologies and mitigation practices that is required to achieve Policy 4(h).</p>	<p><u>necessary to provide for continuous improvement in farming practices to reduce diffuse discharges of contaminants, the adoption of new technologies and mitigation practices and for consistency with this schedule</u>, as follows:</p> <ol style="list-style-type: none"> 1. Within 12 months of the date that the FEP is required and thereafter at intervals of no more than 3 years; 2. An FEP shall also be reviewed in the event of any material increase in the intensity of farming. The purpose of the review is to provide an expert opinion as to whether the farming activities on the property are being undertaken in a manner that meets the Part D minimum standards <u>and to update the FEP</u>. The results of the review, <u>including any updates to the FEP</u>, shall be provided to the Waikato Regional Council within 20 working days of the review date. 		<p>making reductions because it is not clear what will be required of them). This means that there is no appropriate transition for farmers to get to 20% improvement.</p> <p>Therefore Federated Farmers does not support modelling to shows that Schedule C + Schedule D1 + Schedule D2 will equate to a 20% Improvement in the 10-year timeframe post Chapter 3.11 becoming operative.</p> <p>Federated Farmers considers that Part F allows FEPs to be amended which essentially provides for the relief being sought.</p>
<p>Schedule D2 – Requirements for Farm Environment Plans for farming that requires consent</p>	<p>Utility of Schedule D2 Schedule D2 sets out requirements for FEPs for properties that are defined as: (i) 'Moderate' and 'High' Intensity farming under Rules 3.11.4.4 and 3.11.4.7; (ii) existing CVP under Rule 3.11.4.5; (iii) located within the Whangamarino wetland catchment under Rule 3.11.4.6; or (iv) new CVP under Rule 3.11.4.8 (acknowledging that new activities including TWAL would likely be required to prepare a FEP in conformance with Schedule D2).</p> <p>Part D of Schedule D2 provides substantially more scope to develop specific, time-bound actions and practices that will be adopted to</p>	<p>WRC needs to undertake modelling to provide comfort that Schedule C + Schedule D1 + Schedule D2 will equate to 20% improvement in the 10-year timeframe post Chapter 3.11 becoming operative.</p> <p>AND</p> <p>Amend Part B(2) of Schedule D2 to read: 2. Where appropriate, i Identify and record the specific, time bound actions and mitigations that will be adopted to ensure the farming activities are consistent with the goals and principles set out in Part D of this schedule, that will result</p>	<p>Oppose</p>	<p>Federated Farmers considers that the short term targets ought to be amended to ensure that the required improvement is 10% of the journey (not 20%). This was the intention of CSG, the intention of the first 10 years and has been modelled and the subject of a s32 assessment.</p> <p>It is not appropriate to require 20% of the journey when the policy mix has not been modelled, it is not clear that 20% will be achieved and at what cost and it is not appropriate to effectively double farmer obligations in the same 10 year timeframe (while there has been delay in getting to this point, and further delay before PC1 is operative, during that time farmers have not had</p>

	<p>ensure the farming activities are consistent with the seven (7) goals and principles.</p> <p>The key will be ensuring FEP developed under Schedule D2 “will result in the greatest reduction in diffuse discharges possible” as set out in the purpose. However, the use of language “where appropriate” in Part B(2) infers that properties preparing a FEP in conformance with Schedule D2 may not be required to put in place “specific, time bound actions and mitigation” to implement the requirements of Policy 1(a), (b), (d), Policy 2(b)(i) and Policy 4 and Policy 4.</p> <p>Similar to Schedule D1, it is unclear how many farming properties will be required to prepare FEPs in conformance with Schedule D2.</p> <p>The Appellants are concerned that the 20% improvement to achieve Te Ture Whaimana will not be met in the 10-year timeframe post Chapter 3.11 becoming operative.</p> <p>Review and updating FEP Part E in Schedule D2 requires FEPs to be reviewed by a Certified Farm Environment Planner for ‘consistency with this schedule’ within 12 months of the granting of the consent application and in accordance with the review intervals set out in the conditions of the resource consent.</p> <p>Part E only refers to a review of the FEPs, and not to updating or amending the FEPs as a result of that review.</p>	<p>in the greatest reduction in diffuse discharges as practicable.</p> <p>AND Amend Part E of Schedule D2 to read: PART E – <u>REVIEWING AND UPDATING A FARM ENVIRONMENT PLAN</u> The FEP shall be reviewed by a Certified Farm Environment Planner <u>and updated as necessary for consistency with this schedule and to provide for continuous improvement in farming practices to reduce diffuse discharges of contaminants, the adoption of new technologies and mitigation practices as appropriate:</u></p> <ol style="list-style-type: none"> 1. Within 12 months of the granting of the consent application; and 2. In accordance with the review intervals set out in the conditions of the resource consent. <u>2. An FEP shall also be reviewed in the event of any material increase in the intensity of farming.</u> <p>The purpose of the review is to provide an expert opinion whether the farming activities on the property are being undertaken in a manner consistent with the goals and principles set out in Part D of this schedule <u>and to update the FEP</u>. The review, <u>including any updates to the FEP</u>, shall be undertaken by re-assessing the FEP in accordance with the requirements set out in this schedule.</p>		<p>an opportunity to prepare or to start making reductions because it is not clear what will be required of them). This means that there is no appropriate transition for farmers to get to 20% improvement.</p> <p>Therefore Federated Farmers does not support modelling to shows that Schedule C + Schedule D1 + Schedule D2 will equate to a 20% Improvement in the 10-year timeframe post Chapter 3.11 becoming operative.</p> <p>Federated Farmers considers that Part F allows FEPs to be amended which essentially provides for the relief being sought.</p>
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	<p>There is no requirement in Part E to include as part of that review a consideration of the need to update the FEPs to provide for continuous improvement and the adoption of new technologies and mitigation practices that is required to achieve Policy 4(h).</p>			
Tables				
<p>Table 3.11-1: Short term water quality attribute states and 80 year attribute states for the Waikato and Waipā River catchments</p> <p>Table 3.11-1(a) E.coli and Clarity Attribute States</p> <p>Table 3.11-1(b) Dissolved Nitrogen and Phosphorus Attribute States</p> <p>Table 3.11-1(c) Chlorophyll, Total Nitrogen and Total Phosphorus Attribute States</p> <p>Table 3.11-1(d) Dune, Riverine, Volcanic and Peat Lakes Freshwater Management Units</p>	<p>Table 3.11-1(b) as amended in the Decision introduces requirements for catchment-scale nitrate-nitrogen and ammoniacal-nitrogen concentration reductions that are inconsistent with both:</p> <ul style="list-style-type: none"> - the expert recommendations to use the 99% species protection (Band A) for the Waikato and Waipā Rivers mainstems and the 95% species protection level (Band B) for all tributaries; and - the Decision's stated intend to use the current state nitrate and ammonia values as targets. <p>The nitrate-nitrogen and ammoniacal-nitrogen concentration reduction requirements are quite variable across the sub-catchments and result in situations where sub-catchments with relatively better water quality is required to make a greater proportional improvement than a neighbouring sub-catchment with more degraded water quality.</p> <p>The following sub-catchments are present in Table 3.11-2 but are omitted from Table 3.11-1, presumably because there is no data on the current state of water quality. It would be preferable to incorporate these sub-catchments in Table 3.11-1 and signal that water quality attributes</p>	<p>Amend Table 3.11-1 to follow the expert recommendations.</p> <p>Include the sub-catchments identified here.</p> <p>AND</p> <p>Include a new method to require setting water quality attributes for the sub-catchments when sufficient monitoring data is collected</p>	<p>Oppose</p>	<p>Federated Farmers considers that attribute states should not be provided unless there is appropriate and sufficient monitoring data.</p>

will be set at levels that are not worse than the current state as soon as sufficient monitoring data is collected.

Sub-catchment	No.
Waikato at Karapiro	41
Puniu at Wharepapa	50
Waikato at Bridge St	27
Waikato at Rangitiri	15
Waikato at Port Waikato	6
Firewood	21
Waikare	13
Awaroa (Rotowaro) at Harris/Te Ohaki Br	18
Mangarama	61
Mangarapa	55
Moakurua	42
Waipā at Waingaro Rd Br	24

**Table 3.11-2
Prioritisation of
contaminants in each sub-
catchment (as noted under
Policy 1)/Te Ripanga 3.11-2:
Te whakamātāmuatanga o
ngā tāhawahawatanga i roto
i ia riu kautawa (e rārangi
ana i raro i te Kaupapa Here
1)**

Table 3.11-1 requires reductions in phosphorus, nitrogen and E.coli and improvement in water clarity in the mainstem of the lower Waikato River.

These improvements cannot realistically be achieved unless reductions in all four contaminants PC1 seeks to control are achieved at the whole-of-catchment scale.

Additional reductions in contaminants and/or water clarity improvements are required in some sub-catchments to achieve the Water Quality Attribute States set in Table 3.11-1.

However, Table 3.11-2 and Schedules D1 and D2 do not make specific reference to the whole-of-catchment or sub-catchment reductions in contaminants and/or water clarity improvements set in Table 3.11-1.

Improve and strengthen the linkages between what PC1 sets out to achieve (the water quality Attribute States set in Tables 3.11-1) and how it will achieve it (the various land use control policies, rules and schedules), including, but not limited to, the following:

- Include an additional Table 3.11-2(a) to include the relative reduction in nitrogen, phosphorus and E.coli required (as set in Table 3.11-1) at the whole-of-catchment scale.
- Amend Table 3.11-2 to include the relative improvement required in each sub-catchment, where this improvement is greater than that required at the whole of catchment scale.
- Identify the priority contaminant(s) for each sub-catchment. The prioritisation of contaminants may be based on an analysis of: the water quality improvements required to achieve the water quality Attributes states at the sub-catchment scale; or

Oppose

Federated Farmers does not support an approach that requires a reduction in all four contaminants in a sub-catchment. Such an approach would not take into account situations where there is no issue with one or more of the contaminants in the particular sub-catchment or where a particular farming activity is not contributing towards an issue.

Such an approach may also preclude a farming activity from making a greater reduction in a contaminant that is an issue (say sediment) because it has to focus on making a reduction in a contaminant that is not an issue (say nitrogen). This would not result in a better environmental outcome and would likely result in a worse environmental outcome.

Further, such an approach does not take into account the social and economic costs, which would likely significantly outweigh any benefit of reducing all contaminants everywhere.

		<p>the contaminant loads or yields contributed to the mainstem by each sub-catchment; or a combination thereof.</p> <ul style="list-style-type: none"> - Include a requirement in Schedules D1 and D2 to demonstrate how specific, time bound actions and mitigations will contribute to achieving the relative improvements identified in Tables 3.11-2(a) and 3.11-2. - Include a requirement in Schedules D1 and D2 to demonstrate how specific, time bound actions and mitigations will focus on the priority contaminant(s) identified in table 3.11-2 for each sub-catchment. 		
<p>Table 3.11-3 Sub-catchment Application Date/Te Ripanga 3.11-3: Te rā tonu o te riu kautawa</p>	<p>It is understood that the intent of spacing out of the FEPs and consents over a 5-year period acknowledges the significant volume of work required to prepare FEPs for the whole catchment, and reflects that limited professional resources are available to prepare and audit FEPs.</p> <p>The requirements to prepare FEPs in the PC1 Decision version is materially different from those of the Notified version. This is likely to affect the total number of FEPs required in each sub-catchment and in the whole catchment.</p> <p>Table 3.11-3 should prioritise sub-catchments on the basis of where the greatest water quality benefits may be achieved by the implementation of FEPS, both at the sub-catchment and catchment scale.</p>	<p>Re-order the sub-catchments in Table 3.11-3 to optimise achieving the short-term [10-year] numerical water quality attributes in Table 3.11-1. The prioritisation may need to be based on an analysis of:</p> <ul style="list-style-type: none"> - The number of FEPs required in each sub-catchment; - the water quality improvements required to achieve the water quality Attributes states at the sub-catchment scale, or - the contaminant loads or yields contributed to the mainstem by each sub-catchment; or - a combination thereof 	Support in part	<p>Federated Farmers supports the prioritisation of the dates for application of resource consents and, in principle, supports such an approach based on targeting priority sub-catchments. However, Federated Farmers has concerns that the volume of consents is still likely to be significant and that there is a real risk that there will be insufficient capability and capacity (by CFEPs and Council) to ensure they are all processed. Federated Farmers also has concerns that there are still some sub-catchments that have been given a higher priority than they should have (and the vice versa could also apply).</p> <p>Federated Farmers considers that Table 3.11-3 ought to be amended to stage the implementation of the requirement to obtain resource consent over 10 years, this would</p>

				mean that the number of consents to be processed each year is reduced to a level that is realistic and manageable and that the sub-catchments where water quality is worst are targeted first.
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