

IN THE ENVIRONMENT COURT
AT AUCKLAND

ENV-2020-AKL-000101

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 AUCKLAND/WAIKATO AND EASTERN FISH AND
GAME COUNCILS

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:

Auckland/Waikato and Eastern Fish and Game Councils v Waikato Regional Council
ENV-2020-AKL-000101

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 opposes 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.



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APPENDIX A

Provision Appealed	Reasons for Appeal	Relief Sought by Appellant	Support/Oppose	Reason
Values and uses for the Waikato and Waipā Rivers				
3.11.1 Values and uses for the Waikato and Waipā Rivers	The Appellant notes that while the values are <i>not</i> required to be included, the identification of values for each FMU is central to the identification of freshwater objectives and limits. The values are also vital components of monitoring and measuring the success of policies and methods. (This appeal also seeks that the values be referenced in some of the PC 1 Objectives).	Reinsert section 3.11.1 “Values and uses for the Waikato and Waipā Rivers” with the changes as shown in Appendix 1 to this Appeal. In particular: <ul style="list-style-type: none"> • Re-insert the intrinsic values in section 3.11.1.1 (with the additions merged through Variation 1). • Include appropriate recognition of wetlands and lakes. • Include values for introduced fishery species, including for feeding, migration and spawning requirements (this is not transparent in the ecosystem health value). • Reinsert the Mahinga Kai value from the Mana tangata – Use values in section 3.11.1.2 and to amend it to also include fishing of valued introduced species and for recreational purposes. 	Oppose	Federated Farmers considers that it is unnecessary to reinsert the values or to make the amendments proposed by the Appellant.
Objectives				
Objectives/Ngā Whāinga	The Appellant considers that the freshwater objectives of PC1 should be labelled as such for the purpose of clear implementation of (part of) the NPSFM. This part of PC 1 includes freshwater objectives.	Amend the heading as follows: Objectives <u>and freshwater objectives</u> /Ngā Whāinga	Oppose	Federated Farmers considers that it is unnecessary to specifically refer to freshwater objectives and does not agree that the objective listed are freshwater objectives (in that the NPSFM has not yet been fully implemented).
Objective 1	The Appellant considers that there are other contaminants that need to be managed to achieve restoration and protection of the health and wellbeing of the Waikato and Waipā Rivers (as well as nitrogen, phosphorus, sediment and microbial pathogens). The Decision found that additional attributes that are sufficiently connected with the content of PC1, are within ‘scope’. They	Amend Objective 1 as follows: In relation to the effects of nitrogen, phosphorus, sediment and microbial pathogens <u>and other contaminants</u> on water quality, the health and wellbeing of the Waikato and Waipā Rivers, including all springs, lakes and wetlands within their catchments, is both restored over time and protected, with the result that with the result that <u>the values are provided for</u> , in particular that theyse waterbodies are safe for people to swim in and take food from, <u>and the water</u>	Oppose	Federated Farmers opposes reference to “other contaminants” and considers that the scope of PC1 is limited to nitrogen, phosphorus, sediment and microbial pathogens. As above, Federated Farmers does not agree that the objectives should be specified as freshwater objectives.

	<p>do have merit and should be referenced in the Objectives and Policies.</p> <p>The NPSFM requires values to be identified for each freshwater management unit (FMU). The values should be transparent, be stated in the planning document, and referred to in Objectives. The values of swimming and taking food should remain specially stated.</p> <p>The freshwater objectives of PC1 should be labelled as such for the purpose of clear implementation of (part of) the NPSFM, and should clearly cross- reference the Table 3.11-1 attribute states. This Objective should be identified as a Freshwater Objective for the purposes of the NPSFM</p>	<p><u>quality attribute states in Table 3.11-1 are achieved</u>, at the latest by 2096.</p> <p><u>(This is a Freshwater Objective for the purpose of the NPSFM).</u></p> <p>AND:</p> <ul style="list-style-type: none"> • Amend Table 3.11-1 as sought in this submission; • Reinstate the “Values” as sought in this submission. 		<p>Federated Farmers does not consider that it is appropriate to attempt to fully implement the NPSFM through PC1. That will happen through the Freshwater Plan Change Process.</p> <p>Federated Farmers opposes the amendments to Table 3.11-1 and reinstatement of the values.</p>
<p>Objective 2</p>	<p>The Appellant considers that there are other contaminants that need to be managed to achieve restoration and protection of the health and wellbeing of the Waikato and Waipā Rivers.</p> <p>The short-term numeric goals in Table 3.11-1 not do not include all the attributes required, and some attributes are not stringent enough to give effect to Policy A1(a) of the NPSFM.</p> <p>The numeric water quality goals in Table 3.11-1 do not include attributes for wetlands (other than Whangamarino wetland) so the objective fails to meet Objectives A2(b) and B4 of the</p>	<p>Amend Objective 2 as follows (or similar): Progress is made over the life of this Plan towards the restoration and protection of the health and wellbeing of the Waikato and Waipā River catchments in relation to nitrogen, phosphorus, sediment, and microbial pathogens <u>and other contaminants</u>, by the short-term numeric water quality values attribute states in Table 3.11-1 being met no later than 10 years after Chapter 3.11 of this Plan is operative.</p> <p><u>(This is a Freshwater Objective for the purpose of the NPSFM).</u></p> <p>AND: Amend Table 3.11-1 as sought in this submission</p>	<p>Oppose</p>	<p>Federated Farmers opposes reference to “other contaminants” and considers that the scope of PC1 is limited to nitrogen, phosphorus, sediment and microbial pathogens.</p> <p>As above, Federated Farmers does not agree that the objectives should be specified as freshwater objectives. Federated Farmers does not consider that it is appropriate to attempt to fully implement the NPSFM through PC1. That will happen through the Freshwater Plan Change Process.</p>

	<p>NPSFM which require that the significant values of all wetlands to be protected.</p> <p>Water quality goals should also be included for lakes. This Objective should be identified as a Freshwater Objective for the purposes of the NPSFM.</p>			
Objective 3	<p>The Appellant considers that there are other contaminants that need to be managed to achieve restoration and protection of the health and wellbeing of the Waikato and Waipā Rivers.</p>	<p>Amend Objective 3 as follows: ...staging the reduction of the discharges of nitrogen, phosphorus, sediment and microbial pathogens <u>and other contaminants</u> ...</p>	Oppose	<p>Federated Farmers opposes reference to “other contaminants” and considers that the scope of PC1 is limited to nitrogen, phosphorus, sediment and microbial pathogens.</p> <p>Federated Farmers does not consider that it is appropriate to attempt to fully implement the NPSFM through PC1. That will happen through the Freshwater Plan Change Process.</p>
Objective 5	<p>Objective 5 only recognises nitrogen, phosphorus, sediment and microbial pathogens and fails to recognise other quality, and related quantity, effects of discharges to wetlands or management of the movement of water (including on water levels).</p> <p>All significant hydrological and ecosystem functions and values need to be protected to ensure that the Whangamarino Wetland is appropriately managed as required by Objective A2(a) and (b) and B4 of the NPSFM and to recognise and provide for the significant habitat it provides, in accordance with s6(c) RMA.</p>	<p>Amend Objective 5 as follows: Restoration and protection of the health, <u>and wellbeing and ecosystem function</u> of the Whangamarino Wetland, over time and in relation to contaminants including nitrogen, phosphorus, sediment, <u>and microbial pathogens and associated hydrological drivers</u>, at the latest by 2096, consistent with its status as an outstanding waterbody with significant values, including habitat for threatened species and sensitive raised bog ecosystems.</p> <p><u>(This is a Freshwater Objective for the purpose of the NPSFM)."</u></p> <p>AND:</p> <p>Amend Table 3.11-1 as sought in this submission, including appropriate targets for nutrients, sediment as well as the</p>	Oppose	<p>Federated Farmers opposes reference to “associated hydrological drivers” and considers that the scope of PC1 is limited to nitrogen, phosphorus, sediment and microbial pathogens.</p> <p>As above, Federated Farmers does not agree that the objectives should be specified as freshwater objectives. Federated Farmers does not consider that it is appropriate to attempt to fully implement the NPSFM through PC1. That will happen through the Freshwater Plan Change Process.</p>

	This Objective should be identified as a Freshwater Objective for the purposes of the NPSFM.	hydrological regime (including water levels) for the Whangamarino wetland.		
Policies				
Policy 1	<p>The Appellant considers that there are other contaminants that need to be managed to achieve restoration and protection of the health and wellbeing of the Waikato and Waipā Rivers.</p> <p>The term 'general improvement' is vague. It does not provide plan users with clear guidance as to the degree of improvement required to achieve the PC1 Objectives or to give effect to the Objectives of the NPSFM. It should be replaced with a requirement for the reduction in diffuse discharges necessary to achieve the short term and long term numeric goals in each sub-catchment, and in the entire catchment, to be made individually and collectively.</p> <p>The reference to the priority contaminants in Table 3.11-2 is inappropriate as all contaminants require reduction if catchment level goals are to be achieved.</p> <p>Volcanic and dune lakes should be the subject sub-clause (d) (not just riverine and peat lakes).</p> <p>Amend sub-clause (e) to require implementation of Farm Environment Plans within 5</p>	<p>Amend Policy 1 as follows: “Manage farming land uses to reduce diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens and other contaminants, by: a. Requiring a general improvement in farming practice to reduce diffuse discharges of those contaminants, both individual and collectively, to achieve the short term and long term water quality attribute states in Table 3.11-1; and b. Focusing priority action on those farming practices that reduce those contaminant(s) set out in Table 3.11-2; and c. Enabling, through permitted activity rules, low intensity farming and horticultural activities (not including commercial vegetable production), with low risk of diffuse discharge of contaminants to water bodies, and requiring resource consents for all other activities; and d. Requiring a greater level of scrutiny, by resource consents, of those farming activities (including commercial vegetable production) that diffusely discharge into sub-catchments that include riverine or peat lakes identified on Map 3.11-1 in accordance with Policy 15; and e. Requiring the timely implementation of all Farm Environment Plans within 5 years of this plan becoming operative to reduce diffuse discharges of those contaminants.</p>	Oppose	<p>Federated Farmers opposes reference to “other contaminants” and considers that the scope of PC1 is limited to nitrogen, phosphorus, sediment and microbial pathogens.</p> <p>Federated Farmers considers the relief sought to be unreasonable and extremely onerous on farmers, and not supported by a s32 assessment.</p> <p>Federated Farmers does not consider that it is appropriate to attempt to fully implement the NPSFM through PC1. That will happen through the Freshwater Plan Change Process</p>

	years. The term 'timely', in subclause (c) lacks the required degree of specificity.			
Policy 2	<p>The Appellant notes the following:</p> <ul style="list-style-type: none"> - The phrase 'provide for farming activities' could provide an (incorrect) implication that all consent applications (other than controlled activities) will be 'provided for' and therefore granted. - The phrases 'lowest practicable', 'significant reduction' and 'appropriate transition' are ambiguous, and do not clearly correlate with achieving water quality goals. - There is no 'pathway' or plan direction for when a resource consent is declined, including where it does not have a Farm Environment Plan, where it does not adequately or appropriately reduce the loss of contaminants proportionate with its current contaminant loss and the amount of reduction required to achieve sub-catchment and catchment water quality goals. For example, it is not clear whether the relative vulnerability of the land to nitrogen leaching, would be a valid reason 	<p>Amend Policy 2 to:</p> <ul style="list-style-type: none"> • restate the chapeau as follows: "Manage Provide for farming activities (that require a resource consent) other than commercial vegetable production, with a Farm Environment Plan prepared in accordance with Policy 4, as follows ..."; • delete the phrases 'lowest practicable', 'significant reduction' and 'appropriate transition' and provide clear interpretation of those phrases consistent with controlling farming to achieve water quality goals; • provide a clear pathway and direction for when a resource consent is declined, including where it does not have a Farm Environment Plan, where it does not adequately or appropriately reduce the loss of contaminants proportionate with its current contaminant loss and the amount of reduction required to achieve sub-catchment and catchment water quality goals; • delete sub-clause (b)(ii); • Insert new clause after (b) as follows: <u>"Not granting land use consent applications for farms:</u> <u>i. that do not have Farm Environment Plan prepared under Policy 4, or</u> <u>ii. that have High Nitrogen Leaching Loss Rate and do not demonstrate significant reductions to their Nitrogen Leaching Loss Rate, or</u> <u>iii. where reductions to the Nitrogen Leaching Loss Rate or other contaminants is not proportionate to the farm's current contaminant loss and the</u> 	Oppose	<p>Federated Farmers considers the relief sought by the Appellant will impose significant social and economic cost for little or unknown environmental benefit and is inconsistent with the purposes of the RMA.</p> <p>Federated Farmers opposes the reinstatement of "manage" and considers the term "provide for" better reflects the policy's intention.</p> <p>Federated Farmers considers that the phrases 'lowest practicable', 'significant reduction' and 'appropriate transition' do not provide sufficient certainty and consistency in how the policy will be applied. Federated Farmers supports the deletion of these phrases to be replaced with clear guidance as to what those phrases mean. However, does not support the Appellant's intent or proposed wording for clarifying those words.</p> <p>Federated Farmers considers that paragraph (b)(ii) should be deleted and considers that it should be replaced by the relief sought in the Federated Farmers' appeal.</p> <p>Federated Farmers opposes the new clause proposed by the Appellant for reasons including that it is unreasonable and inconsistent with the purpose of the plan or sustainable management.</p> <p>Federated Farmers opposes the amendments to sub-clause (c) and</p>

	<p>that significant reductions in a farm's Nitrogen Leaching Loss Rate are not required, or are required only over an extended timeframe.</p> <ul style="list-style-type: none"> - Sub-clause (b)(ii) is inappropriate as all farming activities with a "High" Nitrogen Leaching Loss should make significant reductions over time. - Sub-clause (c) should provide more definitive guidance on the circumstances under which such consents will be granted. Any availability of more intensive land use consent applications must be closely confined. (Refer also the reasons listed against Rule 3.11.4.9 in this appeal). - Sub-clauses (d) and (e) should provide adequate guidance for decision-makers on when or what circumstances the discretion should be exercised to waive the requirement. In the absence of such guidance, the discretion should be removed. Subclause 2(e) should provide clear examples of how stock access to waterways can be mitigated to ensure that 	<p><u>amount of reduction required to achieve sub-catchment and catchment water quality goals."</u></p> <ul style="list-style-type: none"> • amend sub-clause (c) as follows: "Generally Not granting land use consent applications for changes in land use that involve a material increase in the intensity of the use of land compared to the land uses as at 22 October 2016, unless it can be demonstrated that would result in a positive contribution to the health and wellbeing of the Waikato and Waipā river catchments in accordance with Policy 5" <p>And clarify:</p> <ul style="list-style-type: none"> - what "material increase" means; - the farm(s) 'existing environment' does not provide a baseline - so that an assessment of effects that analyses mitigation measures/reductions alone, will not meet the requirements of the Fourth Schedule; and - that for such consents, the cumulative adverse effects at the sub-catchment and catchment scales need to be assessed, requiring a full analysis of sub-catchment and catchment loads (and modelling) to establish expected effects in-stream. <ul style="list-style-type: none"> • delete the word 'Generally' from sub-clause (d) and delete sub-clause (e) OR provide adequate guidance on the exercise of discretion/measures considered adequate mitigation(s). 		<p>considers that a reasonable pathway for land use change needs to be provided.</p> <p>Federated Farmers opposes the amendments to sub-clause (d) and considers that appropriate flexibility ought to be provided to the landowner to choose the right mitigation (and combination of mitigations) and to tailor it to their property.</p>
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	plan users understand if Policy 2(e) is being met, for example with reference to Schedule C.			
Policies 3, 11, 16 & 19	The Appellant considers that there are other contaminants that need to be managed to achieve restoration and protection of the health and wellbeing of the Waikato and Waipā Rivers (as well as nitrogen, phosphorus, sediment and microbial pathogens).	Refer to the effects of other contaminants e.g. “nitrogen, phosphorus, sediment, and microbial pathogens and other contaminants ”.	Oppose	Federated Farmers opposes reference to “other contaminants” and considers that the scope of PC1 is limited to nitrogen, phosphorus, sediment and microbial pathogens. Federated Farmers does not consider that it is appropriate to attempt to fully implement the NPSFM through PC1. That will happen through the Freshwater Plan Change Process
Policy 4	The Appellant considers that there are other contaminants that need to be managed to achieve restoration and protection of the health and wellbeing of the Waikato and Waipā Rivers (as well as nitrogen, phosphorus, sediment and microbial pathogens). The reference to the priority contaminants in Table 3.11-2 is inappropriate as all contaminants require reduction if catchment level goals are to be achieved.	Amend Policy 4 to: <ul style="list-style-type: none"> Refer to the effects of other contaminants where reference is made to nitrogen, phosphorus, sediment, and microbial pathogens e.g. “... nitrogen, phosphorus, sediment, and microbial pathogens and other contaminants ... ”. Delete sub-clause (e). 	Oppose	Federated Farmers opposes reference to “other contaminants” and considers that the scope of PC1 is limited to nitrogen, phosphorus, sediment and microbial pathogens. Federated Farmers does not consider that it is appropriate to attempt to fully implement the NPSFM through PC1. That will happen through the Freshwater Plan Change Process Federated Farmers supports prioritising actions, particularly as this recognises that it is not possible (or cost effective) to improve all contaminants at once, that some contaminants are more of an issue than others (depending on the particular sub-catchment and sector the farming activity belongs to, for example) and that putting more effort into one or more contaminant will be more effective and efficient than reducing all contaminants.

				Federated Farmers considers that paragraph (e) should be retained with amendments as proposed by the Federated Farmers' appeal.
Policy 5	The Appellant considers the word "overall" in sub-clause (a) of this Policy indicates that contaminants may be traded off against each other. It is inappropriate for contaminants to be traded against other contaminants, or to allow contamination in one sub-catchment or FMU to be offset against contamination in another sub-catchment or FMU. Trading-off different contaminants is ecologically inappropriate and is inconsistent with the NPSFM.	Delete Policy 5. If Policy 5 remains then it must be on the basis of a definition of "offset/compensation" contained in Policy 12 (as sought to be amended in the appeal) or as follows: <u>Offset/compensation: For the purpose of Chapter 3.11 means for a specific contaminant/s a measurable conservation action, demonstrated to achieve 'net gain' through robust and appropriate methodology, that reduces the intensity, extent and/or duration of residual adverse effects on water quality and achieves conservation outcomes above and beyond that which would have been achieved if the off set had not taken place.</u>	Oppose	Federated Farmers supports a policy that allows for offsetting and compensation because that potentially provides greater flexibility for how environmental benefits will be achieved and helps to reduce the costs. However, Federated Farmers considers that amendments are needed to Policy 5 to provide some the context for this assessment using a framework to establish key parameters as outlined in Federated Farmers' appeal. Federated Farmers opposes the amendments proposes by the Appellant.
Policy 7	The Appellant considers that if there is to be the opportunity for a robust allocation regime under a future plan change, land use consents under PC1 should not be issued beyond 2035. The word "generally" provides an invitation to apply for consents with a longer duration. This could, in some cases, put significant pressure on decision-makers to grant consents with a longer duration (for example pressure from applicants seeking to 'pre-empt' a future allocation regime).	Amend Policy 7 as follows: Generally - Not granting resource consents that authorise farming and commercial vegetable production activities for a duration beyond 2035 in recognition of the possibility that a replacement regional plan(s) may include new requirements for management after that date, including an allocation regime.	Oppose	Federated Farmers considers that the "default position" should not be to not grant consent and considers that it is unreasonable to remove the term "generally".
Policy 8 Policy 10	The Appellant considers that there is insufficient messaging in Policy 8 and 10 to make it clear to plan readers, that PC 1 is only a first step on a journey	Amend Policies 8 and 10 to provide certainty around future reductions and allocations, and that those reductions and allocations will have to be sufficient to achieve the long term numeric water	Oppose	Federated Farmers does not support specifying future reductions and allocations in this plan change. Federated Farmers considers that needs to be part of

	<p>that will likely include a future 'allocation' regime for nutrients, in order to achieve Objective 1. This may in turn require more significant changes to land use.</p> <p>Sub-clause (b) of Policy 8 may indicate to readers that long term numeric water quality goals could be 're-thought', should the mechanisms needed to achieve those goals be found to cause significant impacts upon people and communities. Such messaging is incorrect and inappropriate.</p>	<p>quality goals, and to specifically address that future management regimes may re-allocate contaminant loss differently to the current plan, and that future (additional) changes to land use will likely be required.</p> <p>Amend Policy 10 by removing the word "diffuse", because any future management regime, including an allocation regime, should cover point-source as well as diffuse discharges of (allocable) contaminants.</p>		<p>consideration during a community process and in the context of better information and science. It is not appropriate for this plan change to bind future plan changes in that way.</p>
<p>Policy 15</p>	<p>The Appellant considers that more appropriate attribute states should be developed for lakes, based on more refined lake groupings. (This should include for volcanic and dune lakes, as well as for riverine and peat lakes).</p> <p>The four coarse groupings for lakes, centred around geomorphological processes, are not sufficiently refined for the purpose of assessing ecosystem health, or for designing restoration approaches.</p> <p>The long term attribute states for lakes in Table 3.11-1 are unambitious and do not achieve Te Ture Whaimana. In particular, it is counter-productive to set targets that are worse than current state for lakes that are above NOF bottom lines. Arresting the further decline of the relatively few high quality lakes in the</p>	<p>Identify management units for <i>all</i> lakes in the Region that are of a scale appropriate for assessing lake ecosystem health.</p> <p>Set short and long-term water quality targets (attribute states) for lakes based on the information currently available, and the more refined management unit classification.</p>	<p>Oppose</p>	<p>Federated Farmers considers that Policy 15 should only apply to riverine and peat lakes.</p> <p>Federated Farmers considers that there is insufficient information at present to set short and long-term water quality targets for lakes.</p>

	<p>Region, requires immediate site-specific action. Once lake systems collapse, and change to a turbid algal dominated state, it becomes exponentially more difficult and expensive to restore. Non-regulatory methods (as provided in this Policy and in Method 3.11.3.1) are supported but without robust regulatory backing, these methods do not recognise the urgency required for these lakes.</p> <p>A precautionary approach should be taken. Lack of information should not be a reason to delay effective interventions for the Region's lakes (Te Ture Whaimana Strategies (b) and (c) and Objective (f)).</p>			
<p>Policy 16</p>	<p>The Appellant considers that although the reference to 'contribute to' [restoration and protection] and 'assist' [protection], recognise that water quantity as well as quality will need to be managed to achieve the ultimate goal (refer Decision at [1427]), these words dilute the policy direction. The Policy should include stronger directive language that unequivocally requires the restoration and protection of the Whangamarino wetland, consistent with its status as an outstanding freshwater body. Sub-clause (a) refers to the Whangamarino Wetland "Catchment area sub-catchments" but the</p>	<p>Amend Policy 16 as follows: "Contribute to rRestoration and protection of the Whangamarino Wetland including by the reduction of both diffuse and point source discharges of nitrogen, phosphorus, sediment or microbial pathogens and other contaminants entering the wetland system, to: a. achieve the numeric water quality values and attribute states in Table 3.11-1 for the Whangamarino Wetland FMU Catchment area sub-catchments [shown in Map 3.11-3]; b. assist protection of the significant values and ecosystem health of the wetland system; c. minimise avoid any further loss of bog wetland habitat; d. increase the availability of mahinga kai; while taking account of at all times managing the hydrological drivers that</p>	<p>Oppose</p>	<p>Federated Farmers' considers that the relief sought be the Appellant fails to recognise that there are other natural sources of contaminants and pests (like koi carp) which affect the water quality of the Whangamarino Wetland.</p> <p>Federated Farmers does not consider there is a need for a separate FMU for the Whangamarino Wetland and considers that a tailored catchment plan approach to Whangamarino that co-ordinates whole of catchment and community actions to restore and protect the wetland is appropriate.</p> <p>Federated Farmers does not support reference to "other contaminants".</p>

	<p>Whangamarino Wetland should constitute a separate FMU - in recognition of the significant values associated with it.</p> <p>In sub-clause (a), timeframes should be set for achieving reductions in diffuse and point source discharges of contaminants. This should include short and long term timeframes. A lack of timeframes is inconsistent with the protection required for outstanding waterbodies.</p> <p>Sub-clause (c) should be amended to use the term 'avoid' rather than 'minimise' in order to ensure that the important values of the Whangamarino Wetland are protected.</p>	<p>affect <u>the Wetland's</u> water quality <u>and associated values.</u>"</p> <p>AND: Provide a separate FMU for the Whangamarino Wetland complex.</p>		<p>Federated Farmers does not support the use of the word "minimise" in paragraph c (and elsewhere in the plan) because it could be interpreted as requiring reductions to the lowest extent possible and there is no consideration of the associated costs and benefits. Federated Farmers considers the term "avoid" sought by the Appellant to be unreasonable (and would not achieve sustainable management) and considers the phrase "assist with" to be more appropriate.</p> <p>Federated Farmers considers the phrase "at all times managing" to be unduly onerous and not consistent with sustainable management.</p> <p>Federated Farmers considers that as well as hydrological drivers (which Federated Farmers assumes includes groundwater travel lags and load to come but if not the policy should be amended to clarify that it does include this), natural sources of contaminants and pests (like koi carp) ought to be taken into account. The amendment sought by the Appellant does not provide clearly provide for such.</p>
<p>Policy 17</p>	<p>The words '[c]ontribute to' dilute this policy direction. The Policy should include stronger language that unequivocally requires restoration and protection of the significant values and uses of wetlands – consistent with the NPSFM and the RMA. The generic nature of</p>	<p>Amend Policy 17 as follows: "Contribute toRestoration and protection of the significant values and uses of wetlands other than Whangamarino, <u>including their natural form and character, wai tapu, mahinga kai, recreation values</u> and their ecosystems by:</p>	<p>Oppose</p>	<p>Federated Farmers considers that Policy 17 should be deleted.</p> <p>Federated Farmers considers that the relief sought is unnecessary because the significant values and uses of wetlands will be addressed through the requirements in other policies to address the effects of</p>

	<p>the Policy 17 risks that it will achieve little in practice additional to the Operative Waikato Regional Plan (which has failed to protect the wetlands of the Waikato Region). Whether a wetland is 'degraded' will need to be argued on a case-by-case basis, which is inefficient. Policy 17 should be amended to include reference to attributes for each type of wetland consistent with maintaining (or restoring) wetlands in a healthy ecological state, and managing nutrients, sediment and the hydrological regime within the natural range for the wetland type.</p> <p>Wetlands should be managed to maintain health at the levels identified (in an amended Table 3.11-1), or where they do not achieve the levels in that Table, to restore the wetland so that it does achieve those levels.</p> <p>The values of wetlands should be more explicitly referenced in this Policy.</p>	<p><u>(a) maintaining the water quality and hydrological regime of wetlands where the attribute states in Table 3.11-1 are met; and</u> <u>(b) where one or more of the targets in Table 3.11-1 degraded are not met, improving the water quality and hydrological regime values of wetlands so that those targets are, or will be, met for the wetland, within the timeframes specified in Table 3.11-1 particularly in relation to the effects of nitrogen, phosphorus, sediment or microbial pathogen discharges."</u></p> <p>Amend Table 3.11-1 as sought in this submission, including appropriate targets for wetlands – at a minimum for nutrients, sediment and the hydrological regime (including water levels).</p>		<p>nitrogen, phosphorus, sediment or microbial pathogen discharges.</p>
Implementation methods				
<p>3.11.3.6 Koi carp and Canada geese</p>	<p>The Appellant considers that the inclusion of rudd and tench in the list of pest species fails to have regard to the Auckland/Waikato Sports Fish and Game Bird Management Plan 2010 - which identifies these species as sports fish.</p>	<p>Remove rudd and tench from the list of pest fish species in this Method.</p>	<p>Oppose</p>	<p>Federated Farmers considers that rudd and tench are pests as Federated Farmers understands that they are damaging freshwater habitats and competing with native fish.</p>
Rules				
<p>Rule 3.11.4.4 Controlled Activity Rule – Moderate intensity farming</p>	<p>The Appellant considers that all farms applying for consent under this rule should comply</p>	<p>Amend Rule 3.11.4.4 to require all farms applying for consent under this rule to comply with all of the minimum farming</p>	<p>Oppose</p>	<p>Federated Farmers considers that there ought to be a controlled activity pathway for those farms</p>

	<p>with all of the minimum farming standards in Schedule C, including the stock access requirements.</p> <p>All farms applying for consent under this rule should be required to prepare a Farm Environment Plan in accordance with Schedule D1 (delete reference to Schedule D2).</p> <p>In 'matter of control' (vi) there is insufficient guidance on what healthy lake environments are, and the land use activities/discharges likely to have the greatest impact on each lake type.</p>	<p>standards in Schedule C, including the stock access requirements.</p> <p>Amend Rule 3.11.4.4 to require farms applying for consent under this rule to prepare a Farm Environment Plan in accordance with Schedule D1 (delete reference to Schedule D2).</p> <p>Add further guidance on how to assess (vi) ("<i>the effects of the activity on lake water quality</i>").</p>		<p>that cannot meet Schedule C (and can then tailor actions through a FEP under Schedule D2).</p> <p>Federated Farmers considers that (vi) ought to be deleted for the reasons outlined in the Federated Farmers' appeal and therefore opposes further guidance on how to assess (vi).</p>
<p>Rule 3.11.4.6 Restricted Discretionary Activity Rule – Farming in Whangamarino Wetland catchment</p>	<p>The Appellant considers that all farms applying for consent under this rule should comply with all of the minimum farming standards in Schedule C, including the stock access requirements.</p> <p>All farms applying for consent under this rule should be required to prepare a Farm Environment Plan in accordance with Schedule D1 (delete reference to Schedule D2).</p>	<p>Amend Rule 3.11.4.6 to require farms applying for consent under this rule to comply with all of the minimum farming standards in Schedule C, including the stock access requirements.</p> <p>Amend Rule 3.11.4.6 to require farms applying for consent under this rule to prepare a Farm Environment Plan in accordance with Schedule D1 (delete reference to Schedule D2).</p> <p>AND:</p> <p>Amend Rule 3.11.4.6 to refer to the Whangamarino Wetland FMU (rather than the Whangamarino Wetland catchment) as sought by Fish and Game elsewhere in this appeal.</p>	<p>Oppose</p>	<p>Federated Farmers does not support a restricted discretionary activity status for existing farming activities in the Whangamarino Wetland Catchment and considers that it should be deleted for the reasons set out in the Federated Farmers' appeal.</p> <p>In the event that the rule is not deleted, Federated Farmers considers that there ought to be a restricted discretionary activity pathway for those farms in the Whangamarino Wetland Catchment that cannot meet Schedule C (and can then tailor actions through a FEP under Schedule D2).</p> <p>Federated Farmers does not consider there is a need for a separate FMU for the Whangamarino Wetland and considers that a tailored catchment</p>

				plan approach to Whangamarino that co-ordinates whole of catchment and community actions to restore and protect the wetland is appropriate.
Rule 3.11.4.7 Discretionary Activity Rule – Farming in a collective, high intensity farming, and farming not otherwise authorised	<p>The Appellant considers that all farms applying for consent under this rule should comply with all of the minimum farming standards in Schedule C, including the stock access requirements.</p> <p>All farms applying for consent under this rule should be required to prepare a Farm Environment Plan in accordance with Schedule D1 (delete reference to Schedule D2).</p>	<p>Amend Rule 3.11.4.7 to require farms applying under this rule to comply with the minimum farming standards in Schedule C, including the stock access requirements.</p> <p>Amend Rule 3.11.4.7 to require farms applying under this rule to prepare a Farm Environment Plan in accordance with Schedule D1 (delete reference to Schedule D2).</p>	Oppose	Federated Farmers considers that there ought to be a controlled activity pathway for those farms that cannot meet Schedule C (and can then tailor actions through a FEP under Schedule D2).
Rule 3.11.4.9 Non-complying activity Rule – Land use change	<p>The Appellant considers that the ‘consenting pathway’ that is allowed under this Rule should be clarified.</p> <p>If PC 1 is to truly lay the ground for comprehensive future plan change(s), then this non-complying activity rule must directly reference a strong and definitive policy framework and require robust analysis from applicants.</p> <p>Although Policies 2(c) and 5 indicate that offset/compensation is required for these land use change applications, it is unclear whether this only applies to ‘increases’ in contaminants from current baseline levels, or whether it applies to all discharges from the activity.</p>	<p>Amend Rule 3.11.4.9 as follows: Clarify that the farm(s) ‘existing environment’ does not provide a baseline, so that an assessment of the effects that relies on mitigation measures/reductions alone, will not meet the requirements of the Fourth Schedule.</p> <p>Clarify that consideration of potential adverse effects under this Rule requires consideration of cumulative adverse effects at the sub-catchment and catchment scales, using a baseline of ‘no discharges’, which will require an analysis of sub-catchment and catchment loads and modelling to assess potential effects ‘in-stream’.</p> <p>Clarify whether Policies 2(c) and 5 apply to all discharges proposed, or only to the increase(s) from current levels.</p>	Oppose	Federated Farmers considers that that land use change ought to be provided for as a discretionary activity, and considers that the relief sought by the Appellant is too high a threshold.

	<p>Operating from the current discharge as a 'baseline' is inconsistent with the High Court's decision in Ngati Rangī Trust v Manawatu-Wanganui Regional Council [2016] NZHC 2949. In other regions applicants have argued that reduction in diffuse discharges of nitrogen and phosphorus from current farm levels is sufficient to show that effects are 'minor'. This was rejected by the Environment Court in Wellington Fish & Game Council v Manawātū Whanganui Regional Council [2017] NZEnvC 37. The definition of "effect" in section 3 of the Act includes cumulative effects. Therefore, for these consents the Fourth Schedule requires a full analysis of sub-catchment and catchment loads. Allowing such conversions without that robust analysis of the effects of contaminants, from a starting point of 'zero' discharge, encourages stranded capital and fails to recognise that subsequent plan change(s) could well require conversions back to less intensive uses, in order to meet Objective 1.</p>			
<p>Insert a new non-complying activity rule</p>	<p>The Appellant says that there is no suitable default rule for farming activities that do not meet the standards of the discretionary activity rule 3.11.4.7 (including additional or altered conditions as sought in this appeal). These activities should be 'non-complying'.</p>	<p>Amend the plan change to provide for a default rule for farming activities that do not meet the standards of the discretionary activity rule 3.11.4.7 (including additional or altered conditions as sought in this appeal) as a non-complying activity.</p>	<p>Oppose</p>	<p>Federated Farmers considers that all farming activities should be able to be a permitted, controlled or discretionary activity status.</p>
<p>Schedules</p>				

<p>Schedule B - Nitrogen leaching loss rate for FMUs</p> <p>Table 1: Nitrogen Leaching Loss Rate levels</p>	<p>The Appellation says there should be differentiation between FMUs and leaching loss intensity needs to be based on risk of adverse effect, reductions in nitrogen loss required, and need for regulation, rather than on assessment based upon current loss rates in each FMU.</p>	<p>Amend Table 1: Nitrogen Leaching Loss Rate levels so that the levels of nitrogen leaching loss rate allowed in each category are commensurate with the levels of nitrogen in the catchment and the amount and rate of change required to reach instream nitrogen goals.</p>	<p>Oppose</p>	<p>Federated Farmers is concerned Table 1 may not be an accurate representation of the dairy curve in each of the FMUs. However, Federated Farmers considers that the relief sought in the Federated Farmers' appeal is more appropriate to rectify this issue than that sought by the Appellant.</p>
<p>Schedule C - Minimum farming standards</p> <p>Stock exclusion</p>	<p>The Appellant considers that for slopes of over 15 degrees, the rule fails to provide for the Objectives of PC 1, because the 'trigger' stocking rate of 18 units per hectare is too high.</p> <p>The setback distances included in Schedule C are insufficient to achieve the removal of fine sediment and do not appear to be based on sound scientific evidence. Sediment and riparian zones are priorities management in the Waikato Region, in order to achieve ecological health for rivers streams: Pingram, M.A. et al. (2019) "Improving region-wide ecological condition of wadeable streams: Risk analyses highlight key stressors for policy management" Environmental Science and Policy. Elsevier, 92 (July 2018), pp 170-181.</p> <p>Fencing will be ineffective and inefficient where setbacks are too close to the channel and/or in the floodplain and likely to be damaged by flood events (which are expected to be more frequent and severe due to climate change impacts).</p>	<p>Amend Schedule C as follows: Include a lesser stocking rate for Schedule C (1)(b).</p> <p>Amend Schedule C to require fences to exclude stock to be set back at least 5 metres from the edge of the bed of the waterbody other than wetlands and lakes (rather than 1m to 3m as set out in the decision).</p> <p>Amend Schedule C to include require fences to exclude stock to be setback at least 10 metres from the edge of all wetlands (not just those identified in Table 3.7.7) and 20 metres from the edge of the bed of all lakes. Amend Schedule C to require stock exclusion from all wetlands, regardless of size, and specifically to delete the 50m2 threshold in the Decision.</p> <p>Clarify what the "edge of the bed" or the "outer edge of the bed" means, using illustrations and by reference to the definition in the Act.</p>	<p>Oppose</p>	<p>Federated Farmers considers that 18 stock units per hectare is a reasonable trigger and should not be lowered.</p> <p>Federated Farmers considers that the setbacks sought by the appellant are too stringent, unreasonable and unnecessary.</p>

	<p>Schedule C should clarify what the 'edge of the bed' means. The definition of 'bed' under the Act includes 'the space of land which the waters of the river cover at its fullest flow'. If this point is not clarified the point at which the setbacks are measured from will be highly variable amongst farms.</p>			
<p>Schedule D1 - Requirements for Farm Environment Plans for farming under Rule 3.11.4.3</p>	<p>The Appellant considers that the trigger for a review of a Farm Environment Plan in the event of a "material increase" in the intensity of farming (Part E (b)) should be clarified.</p> <p>The Schedule should require the removal of redundant drains.</p> <p>A link should be made between Farm Environment Plan actions and the water quality attribute states in Table 3.11-1 (refer also reasoning under the topic "Limits" above in this submission).</p>	<p>Amend Schedule D1 as follows: Include a definition of "material increase" for the purposes of Part E(b) of Schedule D1.</p> <p>Require the identification and removal of redundant drains in Farm Environment Plans.</p> <p>Provide clarity as to whether the requirements of Schedule D1 constitute "limits" for the purpose of the NPSFM and, if so, how these limits are predicted to achieve the Freshwater Objectives of PC1.</p>	<p>Support in part</p>	<p>Federated Farmers also has concerns about the words "material increase" in paragraph b of Part E. Federated Farmers is concerned that this is not defined and it is not clear how "intensity" in farming is to be measured e.g. does it relate to stocking rates, increases in one or more of the contaminants, change in farm system or something else? Federated Farmers also considers that a material increase in farming should not trigger a FEP review if the FEP is amended to be consistent with the Schedule or if the standards in the relevant rule are still met.</p> <p>Federated Farmers seeks an appropriate definition of either the words "material increase in the intensity of farming" or a more appropriate term (such as significant farm system change or similar) to clearly identify when a FEP will require review.</p> <p>Federated Farmers opposes the requirement to identify and remove redundant drains in a permitted Farm Environment Plan.</p>
<p>Schedule D2 - Requirements for Farm Environment Plans for farming that requires consent</p>	<p>The Appellant considers that Schedule D2 does not provide appropriate requirements for</p>	<p>Delete Schedule D2</p>	<p>Oppose</p>	<p>Federated Farmers supports a reasonable FEP framework that provides for tailoring of actions within an FEP to the particular</p>

	Farm Environment Plans for farms that require consent.			property and farm system, farm type and sub-catchment, and is cost effective. Therefore, Schedule D2 should not be deleted (but it should be amended as proposed in Federated Farmers' appeal).
Tables				
Table 3.11-1 General	The Appellant says that attribute states for some sub-catchments are missing.	Include attribute states for all sub-catchments using the best information currently available.	Oppose	Federated Farmers considers that attribute states should not be provided unless there is appropriate and sufficient monitoring data.
Table 3.11-1(b): Dissolved Nitrogen and Phosphorus Attribute States Table 3.11-1(c) – Chlorophyll, Total Nitrogen and Total Phosphorus Attribute States	The Appellant says that setting all of the DRP attribute states (short term and long term) at the current state concentrations is inadequate for those sub-catchments that require improvement, either in their own right or to meet downstream goals. Nitrogen attribute states should be set at the minimum level that will achieve the values-based Freshwater Objectives and the 'lowest common denominator' - including for nutrient sensitive downstream receiving environments and with reference to meeting other attribute states - including periphyton, dissolved oxygen and MCI.	Amend Tables 3.11-1(b) and (c) to provide for attribute states that are consistent with providing for ecosystem health and that reflect the habitat requirements of trout (for the Region's trout fisheries). In Table 3.11-1(c), include periphyton attribute states as required by the NPSFM.	Oppose	Federated Farmers considers these are beyond the scope of PC1 or there is insufficient data or they are inappropriate attribute states.
Table 3.11-1(d) – Dune, Riverine, Volcanic and Peat Lakes Freshwater Management Units	The Appellant wants to replace Table 3.11-1(d) with a more appropriate FMU categorisation and table of attributes, limits and targets which reflects good ecosystem health for lakes.	Amend Table 3.11-1(d) to reflect an alternative re-categorisation of lake FMUs, and appropriate short and long-term attributes, limits and targets for the purpose of achieving PC 1 Objectives 1 and 2, based upon the best information/data currently available.	Oppose	Federated Farmers considers that Table 11-1(d) ought to be deleted.
Table 3.11-1: New sub-table(s)	The Appellant considers that to manage ecosystem health there is a need to manage the main	Amend Table 3.11-1 to provide attribute states for all aspects of ecosystem health, and reflecting the habitat	Oppose	Federated Farmers considers these are beyond the scope of PC1 or there is insufficient data or

	<p>factors driving ecosystem health - these primarily include nutrients, sediment, habitat and flow. Clear numeric objectives that measure ecosystem health in its entirety (i.e. structure (species diversity and composition), function (ecological processes) and resilience) are needed. These should reflect the precautionary principle, be naturally achievable and not result in poor ecosystem health.</p> <p>Insert sub-tables in Table 3.11-1 comprising the full range of attributes to measure and manage ecosystem health, for the mainstem and tributary sites, and for significant sites (sub-catchments) for the Region's trout fisheries that reflect the habitat requirements of trout.</p> <p>Sediment is a key contaminant that has been identified as a primary driver of ecosystem health in the Waikato Region and a measure of deposited sediment in Table 3.11 is required in order to evaluate improvements, such as improvements from stock exclusion and setbacks.</p> <p>For wetlands, although recommended attributes for TN and TP for the Whangamarino Wetland have been included, targets should be applied to all wetlands for TN, TP, sedimentation and for hydrological alteration (where it</p>	<p>requirements of trout for the Region's trout fisheries, including:</p> <ul style="list-style-type: none"> - MCI (% change) - numeric objective at all wadeable monitoring sites. - Fish Q – IBI. - Dissolved Oxygen 7-day mean minimum (mg/L). - Dissolved Oxygen 1-day minimum (mg/L). - Deposited sediment (% cover) - no naturally hard-bottomed sites should have a deposited fine sediment cover greater than 20%. - QMCI and ASPM. <p>Amend the tables to include a table which lists water quality attribute states for all wetlands (in addition the Whangamarino Wetland) for TN, TP, sedimentation and for hydrological alteration (where it exacerbates water quality contamination). This may require narrative or numeric attribute states.</p>		<p>they are inappropriate attribute states.</p>
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	exacerbates water quality contamination).			
Table 3.11-2 – Prioritisation of contaminants in each sub-catchment (as noted under Policy 1)/	The Appellant considers that all contaminants require managing if healthy water quality is to be achieved. Failure to meet the required attribute state for one contaminant can have cascading impacts that alter entire community composition.	Delete Table 3.11-2	Oppose	Table 3.11-2 ought to be retained (with amendments as set out in Federated Farmers’ appeal) because Federated Farmers supports an approach of prioritisation of sub-catchments that takes into account all contaminants.
Maps				
Map 3-11-1	The inclusion of specific FMU, along with attributes and targets for the Whangamarino wetland will better reflect the wetland’s significance and requirements for protection.	Amend Map 3.11-1 to include a specific FMU for the Whangamarino wetland. Amend Map 3.11-1 to recategorise the lake FMUs to better reflect their values, as sought elsewhere in this submission.	Oppose	Federated Farmers does not consider there is a need for a separate FMU for the Whangamarino Wetland and considers that a tailored catchment plan approach to Whangamarino that co-ordinates whole of catchment and community actions to restore and protect the wetland is appropriate.
Map 3.11-3 Whangamarino Wetland		Amend Map 3.11-1 to appropriately refer to the Whangamarino FMU.	Oppose	Federated Farmers does not consider there is a need for a separate FMU for the Whangamarino Wetland and considers that a tailored catchment plan approach to Whangamarino that co-ordinates whole of catchment and community actions to restore and protect the wetland is appropriate.
Other matters				
Limits	The Appellant says that the NPSFM requires freshwater quality limits to be set for FMU’s. A “limit” is the maximum amount of resource use available, which allows a freshwater objective to be met. There are limits for horticulture (maximum ha limits) and there are ‘minimum standards’ for farming, but the minimum	Amend the plan change to provide clear limits for farming activities that will enable the freshwater objectives to be met. This includes clarifying what constitute “limits” in PC1, what constitute Freshwater Objectives, and how the two are linked. (Refer also the relief sought for Schedule D1 in this appeal).	Oppose	Federated Farmers does not consider that it is appropriate to attempt to fully implement the NPSFM through PC1. Federated Farmers also does not agree that there is a requirement in PC1 to clarify limits and link them to freshwater objectives.

	<p>standards do not apply to all farming activities and it is not clear that they are in fact limits. If the minimum farming standards are limits, it is not clear how they achieve the freshwater objectives.</p>			
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