

IN THE ENVIRONMENT COURT
AT AUCKLAND

ENV-2020-AKL-000147

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 Landcorp Farming Limited

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



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Laura Jeffries

To: The Registrar
Environment Court
Auckland

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

Landcorp Farming Limited v Waikato Regional Council
ENV-2020-AKL-000147

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.

A handwritten signature in blue ink that reads "Laura Jeffries". The signature is written in a cursive style.

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
Policies				
Policy 2	The terminology used in the policy, particularly but not limited to subparagraphs a) and b) is so unclear as to make the requirements ambiguous. The terms 'significant', 'significant reduction' and 'low as possible' are not defined glossary terms in PC1 or the operative Waikato Regional Plan. Given the ambiguous terminology used, plan users (applicants) will have no certainty as to how this policy will be applied on farm or what the expectations are, therefore making it ineffective and inefficient.	Relief sought: Clearer specific guidance and definition of terms is required throughout the policy, or remove Policy 2 in its entirety	Support in part	In principle, Federated Farmers supports the provision of guidance as to what factors are taken into account when considering the level of effort required by each farm (not necessarily just on nitrogen but on any of the four contaminants that PC1 controls). However, Federated Farmers considers that the wording of Policy 2 is insufficient to provide that for nitrogen (with no guidance on any of the other contaminants). In particular, no certainty is provided to plan users or consenting officers about whether N leaching is “as low as practicable” or whether a “significant reduction to nitrogen” is proposed.
Policy 9	The Appellant supports the intent of this policy, however the issue for the Appellant is that it is not clear how a collective consent could be let based on a catchment water quality objective, and also when actions of each holder, or others, may result in non-compliance and liability under the plan. In order for the Appellant to make clear business decisions in the future more clarity is required to provide certainty. Policy 9 is ineffective and inefficient and has unclear enforcement mechanisms and requires greater certainty as to the benefits, or otherwise, of collectives to address catchment quality.	Amend Policy 9 to clarify roles, responsibilities and risks for multi-site consents.	Support in part Oppose in part	Federated Farmers supports the clarification roles, responsibilities and risks for multi-site consents. Federated Farmers considers that this could be captured in the Catchment Profiles it proposes in its Appeal.

Rules				
<p>Rule 3.11.4.3 – Permitted Activity Rule – Low intensity farming</p>	<p>The primary issues with this rule for the Appellant is the lack of clarity in Schedules C and D1, and the technical basis for the 18 stock units per hectare winter stocking rate requirement. Many of the Appellant's farms may fit under this rule and it should be clear, correct and be easily interpreted in the Plan.</p> <p>The rule lacks clarity in Schedules C and D1 matters, and the technical basis for the 18 stock units per hectare winter stocking rate requirement. In addition, Rule 3.11.4.3 is not appropriately clear in waterbodies criteria and implementation timeframe to enable Low NLLR farms and others, to be eligible.</p>	<p>Amend the structure of this rule or provide greater clarity for low emission farming. In part, appropriate relief is also contingent on appropriately clarifying Schedule C implementation requirements and timing and Schedule D1 issues (each of which is referred to elsewhere in this appeal).</p>	<p>Support</p>	<p>Federated Farmers considers that Rule 3.11.4.3, as currently drafted, is unclear and confusing and supports the relief sought.</p>
Schedules				
<p>Schedule D1 – Requirements for Farm Environment Plans for farming under Rule 3.11.4.3</p>	<p>Schedule D1, Part D, clauses (1) d and (1) f: Clause d) requires that nitrogenous fertiliser is not applied at rates greater than 30kgN/ha per dressing. The Nitrogenous fertiliser definition in the operative plan captures a wide variety of organicN, vermicast, soil amendments and synthetic fertilisers as well as whey and FDE. Foliar N application does not seem to be envisaged and would be inappropriately captured by the rule. The intent of this clause therefore has questionable scientific merit.</p>	<p>Schedule D1, Part D, clauses (1) d and (1) f: Amend these clauses in a way to better align with good science, avoid unintended consequences, and to promote sustainable management.</p> <p>Schedule D1, Part D, clause 2(b): Amend rule to achieve the intended outcomes via an effects based and technically defensible limit.</p> <p>Schedule D1, Part D, clause 4(b): Amend the rule to make it risk based and to accommodate possible site specific risk mitigations which could safely accommodate the activity.</p> <p>Schedule D1, Part D, clause 5b:</p>	<p>Support in part Oppose in part</p>	<p>Schedule D1, Part D, clauses (1) d and (1) f: Federated Farmers is concerned about the limitation of N fertiliser applications to 30kgN per hectare per dressing and the limitation of no N fertiliser during June and July. Fertiliser application during July is important for grass growth and supporting dairy herds after calving. Federated Farmers is also concerned that 30kgN is too conservative.</p> <p>Schedule D1, Part D, clause 2(b): Federated Farmers is concerned about the focus of paragraph 2 on nitrogen management requirements, when properties preparing FEPs under Schedule D1 will have low N leaching and the NLLR is used to determine</p>

	<p>Clause f) requires that no nitrogenous fertiliser is applied during the months of June and July in any year unless the temperature is tested and found to be greater than 10 degrees Celsius within the root zone. This rule lacks scientific rigour and does not promote sustainable management, because temperature response is dependent on crop/specific pasture and its particular soil temperature response profile.</p> <p>Schedule D1, Part D, clause 2(b): This clause has the effect of grand parenting an imported N cap. The method for calculating this is specific to certain models and the environmental outcome of the rule is unclear. There is no provision within this calculation for downstream effects attenuation to be applied.</p> <p>Schedule D1, Part D, clause 4(b): This clause does not envisage the limited potential for effects where particular Class 6e land is of flat topography and has a contaminant risk profile that can be mitigated compared to 6e steep land. Pasture grazing of certain low slope or flat 6e land, may be of little risk in any season.</p> <p>Schedule D1, Part D, clause 5b: The term <i>individually fenced</i> is uncertain in its application to</p>	<p>Amend the provision with non-arbitrary guidance to better achieve the outcomes sought.</p>		<p>activity status and not to benchmark activities or to require N reductions.</p> <p>Schedule D1, Part D, clause 4(b): Federated Farmers considers the standards for grazing on land of LUC 6e, 7 or 8 in paragraph 4b are unduly cautious and restrictive. Federated Farmers is concerned that this provision would significantly impact on the ability of a large number of dairy and drystock farmers to continue to farm their properties over the winter months. Federated Farmers also considers the provision to be unclear and uncertain and would be too difficult or subjective to assess.</p> <p>Schedule D1, Part D, clause 5b: Federated Farmers considers the reference to 30 cattle grazed in an individually fenced area ought to be deleted.</p>
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	foraging practices. It is also unclear what the basis is for 30 cattle per area.			
Schedule D2 – Requirements for Farm Environment Plans for farming that requires consent	Schedule D2, Part D, Principle 22: The rule is incongruent with Schedule C requirements, and is also a higher test than, and inconsistent with, operative permitted activity rules in the plan (Rules 3.5.5.1 and 3.5.5.2 and Schedule D1). Temporal and soil temperature constraints may combine to negate the use of the DESC. The standards of outcome between permitted activities and consented sites should be aligned.	Amend Principle 22 (with consequential amendment to Principle 19), and align schedule D2 requirements with the operative permitted activity rules for equal outcome or amend operative effluent application rules.	Support in part	Federated Farmers is interested in this appeal point so as to ensure that any outcomes are consistent with the outcomes sought in Federated Farmers' appeal.
Glossary				
Property	The definition and its use in the rules is insufficiently clear to accommodate catchment farming practices. The Appellant may later be disadvantaged in its business decisions by the lack of clarity in the definition. The Property/Enterprise topic has not been adequately resolved to potentially allow dispersed properties to be grouped for consents. The definition does not allow for grouping of operations across sites.	Amend definition to cover farming across a mix of land ownership and leases, and multi-site farm management operations with respect to the matters covered by the plan.	Support in part	Federated Farmers considers the definition of property should be amended to achieve a farm enterprise approach.
Slope	This term is used to determine significant stock exclusion and cropping provisions in the plan, including in respect of permitted activity status rules and so needs to be clear and concise. The present wording is unclear and appears potentially 'adaptable' by use of fenceline creation and averaging interpretation. Either way, a	Amend the definition to give sufficient clarity with respect to paddock size and the in-field use of the criteria and averaging, to better inform Schedules B, C, D1 and D2.	Support	Federated Farmers considers that the definition of slope could be clearer.

	clearer definition will assist the Appellant's significant capital exposure with respect to implementing this on principally Livestock operations.			
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