

IN THE ENVIRONMENT COURT
AT AUCKLAND

ENV-2020-AKL-2020-AKL-00149

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 LOCHIEL FARMLANDS 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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To: The Registrar
Environment Court
Auckland

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

Lochiel Farmlands Limited v Waikato Regional Council
ENV-2020-AKL-000149

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
Methods				
<p>Method 3.11.3.6 Koi carp and Canada Geese management</p>	<p>The measurement and approach in relation to management of control of Koi Carp insufficiently recognise the environmental impact on the freshwater caused by koi carp.</p>	<p>Method 3.11.3.6 be amended as follows:</p> <p>a. Continue to work with, provide support to, and strongly encourage the relevant agencies (such as Department of Conservation, Fish & Game and the Ministry for Primary Industries), as well as the community and landowners, to take a coordinated approach to the management, surveillance, control and eradication, of pest species including: Koi carp, brown bullhead catfish, gambusia, rudd and tench; and any new pest species; and to control, as far as practicable, advisory animals including Canada geese. In the context of Chapter 3.11 a focus should be placed on the management and control of Koi-carp and Canada geese, <u>and the eradication of Koi carp</u>; and</p>	<p>Support in part</p>	<p>Federated Farmers considers that many of the ongoing degradation problems with the Whangamarino Wetland (and other sites) are due to the effects of pests such as Koi Carp. Even with strict restrictions on the agriculture sector it is likely that water quality will continue to degrade if pests are not controlled.</p> <p>Federated Farmers considers that stronger controls need to be put in place to manage pest control, in particular koi carp. Without addressing the issue of pest fish it is unlikely that the water quality in the Whangamarino wetland will experience meaningful improvement, regardless of the restrictions placed on farming enterprises.</p>
Rules				
<p>Rule 3.11.4.4 – Controlled Activity Rule – Moderate intensity farming</p>	<p>Rule 4.11.4.4B provides that any farming activities under Rule 3.11.4.3 which are not able to meet Schedule C or Schedule D1 to be a controlled activity rule, are to be Controlled Activity. The word “or” suggests that rule 3.11.4.4 may not capture the situation</p>	<p>Amend rule 3.11.4.4. 4 as follows</p> <p>4B. The use of land for farming, including any associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens into water</p>	<p>Support</p>	<p>Federated Farmers agrees that Rule 3.11.4.4 should capture the situation where farming activities are not able to meet both schedule C and Schedule D1.</p>

	<p>where farming activities are not able to meet both schedule C and Schedule D1. Therefore, the word “or” should be replaced with “and/or”.</p>	<p>or onto or into land in circumstances which may result in those contaminants entering water, where:</p> <ul style="list-style-type: none"> i. For drystock farming the winter stocking rate is equal to or less than 18 stock units per hectare; ii. For all other farming, the Nitrogen Leaching Loss Rate for the property is Low in conformance with Table 1 in Schedule B; but which cannot meet the stock exclusion standards in Clauses 1-4 of Schedule C <u>and/or</u> one or more of the standards in Part D of Schedule D1; 		
Schedules				
<p>Schedule C – Minimum farming standards</p>	<p>Stock Exclusion 1(b) applies a maximum grazing intensity of 18 stock units per hectare based on a slope criterion greater than 15 degrees to be applied on an “any paddock” basis. This threshold is very low given current rotational grazing practice and is therefore disproportionately restrictive and likely to be impracticable for many dry stock farmers to comply with.</p> <p>The stock exclusion standard in Schedule C 1(b) applies to the farming of cattle, horses, deer and pigs. That standard will apply to the Appellant. It is not clear, however, whether any</p>	<p>Amend Schedule C as follows:</p> <p>1. The water bodies on land:</p> <ul style="list-style-type: none"> a. with a slope of up to 15 degrees; or b. with a slope over 15 degrees where in any paddock adjoining the water body, the number of stock units exceeds 18 per grazed hectare <u>at any time measured on a whole of farm basis</u>; must be fenced to exclude farmed cattle, horses, deer and pigs, unless those animals are prevented from entering the bed of the water body by a stock-proof natural or constructed barrier formed by topography or vegetation. 	<p>Support in part Oppose in part</p>	<p>Federated Farmers considers that the stock exclusion rules should reflect those of the national standards and only apply to low slope land as defined in the Stock Exclusions Regulations.</p> <p>Further as per the Stock Exclusion Regulations, Federated Farmers considers that sheep should not be captured within the stock exclusion provisions. Federated Farmers does however support explicit reference to sheep if they are to be included.</p> <p>Federated Farmers considers that intermittent water bodies</p>

	<p>stock units attributed to sheep should also be counted when calculating the stock units for exclusion of cattle (and other animals). The definition of Stock Unit in the Glossary assigns varying stock unit rates to sheep depending on their age. If it is intended that the standard in Schedule C 1(b) must apply a total stock unit calculation including from sheep, that should be explicit to avoid uncertainty.</p> <p>The inclusion of a farming standard in respect of rivers that flow intermittently will have a disproportionate effect on the drystock farm, particularly in the hill country that has not been, or has insufficiently been, considered in a s 32 and substantive sense.</p>	<p>Amend paragraph 1(b) so that the intention of the standard (to include or exclude sheep from the stock unit calculation) is clarified and explicit.</p> <p>5. Water bodies from which cattle, horses, deer and pigs must be excluded:</p> <p>a. The bed of a river (including any spring, stream and modified river or stream), or artificial watercourse that is permanently or intermittently flowing; and</p>		<p>only be captured in a way that is consistent with the Stock Exclusion Regulations.</p>
<p>Schedule D1 – Requirements for Farm Environment Plans for farming under Rule 3.11.4.3</p>	<p>Part C – Farm Environment Plan Content</p> <p>The requirement for a map that shows LUC classes on the property. This is impractical to achieve and any current databases are unreliable and do not necessarily align with the Land Use Capability assessment for farms.</p> <p>Part D – Standards</p> <p>The Appellant considers the standards in Schedule D1 Part D4(b) are unduly restrictive. It will have a significant effect on the red meat sector in Waikato, which has cattle as an integral</p>	<p>Amend Schedule D1 as follows:</p> <p>Part C – Farm Environment Plan Content</p> <p>...</p> <p>3. A map(s) or aerial photo at a scale that clearly shows:</p> <p>a. The property boundaries of the land being farmed;</p> <p>b. Land Use Capability (LUC) classes;</p> <p>Part D – Standards</p> <p>4. <i>Land and soil</i></p> <p>a. Actions to minimise sediment loss from critical source areas</p>	<p>Support</p>	<p>Part C – Farm Environment Plan Content</p> <p>While Federated Farmers supports the use of LUC as a decision support tool, it is just one of the potential tools for informing farm management decisions. Federated Farmers would be concerned if there was a requirement to carry out property or farm scale mapping or if LUC class was used as the sole determinate of the versatility of land, management actions or land uses.</p> <p>Federated Farmers has concerns about the standards based on LUC 6e, 7 and 8 land</p>

	<p>part of farming systems, particularly where a farm has large area of LUC Class 6 land.</p> <p>Managing the risk of larger animals on more vulnerable landscapes is more appropriately addressed through the intensity of the stocking rate and management of erosion prone land and critical source areas. The identification of age, weight and number of cattle do not address the risk of those animals being held on land that is vulnerable and are unnecessary.</p> <p>The requirement in paragraph 6b for existing races, laneways, culverts and bridges to meet the same standards within 3 years of Chapter 3.11 becoming operative. It is considered that this requirement for existing infrastructure be unreasonably onerous and extremely costly for farmers.</p> <p>The requirement in paragraph 6d for existing gateways, water troughs, self-feeding areas, stock camps, wallows and other sources of sediment, nutrient and microbial loss to be located to minimise the risks to surface water quality within three years of Chapter 3.11 becoming operative. It is submitted that such requirement to be unduly onerous for farmers in both time and money with limited environmental impact.</p>	<p>are undertaken as soon as possible in accordance with a plan which prioritises those which are near Schedule C Clause 5 waterbodies.</p> <p>b. On land of LUC class 6e, 7 or 8 no cattle older than 2 years or greater than 400kg lwt are grazed from 1 June to 1 September.</p> <p>...</p> <p><i>6. Races, laneways, bridges and other infrastructure</i></p> <p>a. New races, laneways, culverts and bridges must be designed (including, in the case of races and laneways, through surface contouring and surface drainage channels) and maintained to prevent ponding and to direct runoff to vegetated areas. Direct runoff to surface water or to intermittent flow paths must not occur.</p> <p>Note: direct runoff occurs where there is no filtering effect as a result of contact with vegetation.</p> <p>b. Existing races, laneways, culverts and bridges which were established before this chapter becomes operative shall meet standard 6(a) within three years after this chapter becomes operative.</p> <p>c. New gateways, water troughs, self-feeding areas, stock camps, wallows and other</p>		<p>because they will likely affect many farming activities and are too blunt to manage effects.</p> <p>Federated Farmers agrees that paragraph 3.b should be deleted.</p> <p>Part D – Standards</p> <p><i>4. Land and soil</i></p> <p>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. Federated Farmers agrees paragraph 4b ought to be deleted.</p> <p><i>6. Races, laneways, bridges and other infrastructure</i></p> <p>Federated Farmers considers the requirement for existing races, laneways, culverts and bridges to meet the same standards within 3 years of Chapter 3.11 becoming operative to be unreasonably onerous and extremely costly for farmers. Federated Farmers considers that other farm practices, such as removing stock from critical source areas</p>
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		<p>sources of sediment, nutrient and microbial loss are located to minimise the risks to surface water quality.</p> <p>d. Existing gateways, water troughs, self-feeding areas, stock camps, wallows and other sources of sediment, nutrient and microbial loss are re-located to minimise the risks to surface water quality within three years after this chapter becomes operative.</p>		<p>and limiting stock adjacent to water bodies would be a more effective use of money and time for farmers to reduce contaminants.</p> <p>Federated Farmers agrees paragraph 6b ought to be deleted.</p> <p>Federated Farmers considers the requirement for existing gateways, water troughs, self-feeding areas, stock camps, wallows and other sources of sediment, nutrient and microbial loss to be located to minimise the risks to surface water quality within three years of Chapter 3.11 to be unduly onerous for farmers in both time and money with limited environmental impact. Federated Farmers considers that there are more effective uses of money and time of farmers to reduce contaminants.</p> <p>Federated Farmers agrees paragraph 6d ought to be deleted.</p>
Other matters				
LUC	<p>Remove any reference to LUC classes where there is no corresponding link to Land Use Capability assessment throughout the PC1 in order to maintain that focus on land use capability.</p> <p>For example, Schedule D1 Part D 4b, 5a and 5b, 7a, Schedule D2 Part C 2(b), Part D 15.</p>	<p>Deleting all the references to LUC classes throughout PC1 except where specifically linked to the term "Land Use Capability."</p>	<p>Support in part Oppose in part</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</p>

	<p>The correct reference should be "Land Use Capability".</p>			<p>overcome). Further practical issues include how paddocks would be assessed if part of the paddock was LUC 6e and part was LUC 4, for example.</p> <p>Federated Farmers therefore considers that LUC classes do not accurately reflect the land use capability and reference to LUC classes should be deleted throughout PC1.</p>
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