

IN THE ENVIRONMENT COURT
AT AUCKLAND

ENV-2020-AKL-000091

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 HAMILTON CITY COUNCIL

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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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:

Hamilton City Council v Waikato Regional Council
ENV-2020-AKL-000091

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				
Method 3.11.3.2	Sub-catchment scale plans will achieve nothing if the plans, themselves, are not implemented. The method should be amended to require the WRC to work with relevant stakeholders to “develop and implement” sub-catchment scale plans.	Amend Method 3.11.3.2 as follows: Waikato Regional Council will work with relevant stakeholders to develop and implement sub-catchment scale plans (where a catchment plan does not already exist) where it has been shown to be required. Sub-catchment scale planning will:	Support	Federated Farmers supports the relief sought to ensure sub-catchment plans are implemented.
Schedules				
Schedule C – Minimum farming standards	<p>Stock Exclusion This provision is as follows:</p> <p><i>Exclusions:</i> <i>The following situations are excluded from Clauses 1, 2 and 3:</i></p> <p><i>II. Deer or pig wallows in constructed ponds or constructed wetlands that are located at least 10 metres away from the bed of a water body and which are not connected by an overland flow path to a water body.</i></p> <p>The Block 2 s42A Report recommended the addition of this exclusion, and this was addressed in HCC’s evidence to the Block 2 hearing.</p> <p>The Appellant says that problems arise from the definition of “water body” in the operative Waikato Regional Plan, namely:</p>	<p>Amend Schedule C as follows:</p> <p>Exclusions: The following situations are excluded from Clauses 1, 2 and 3:</p> <p>II. Deer or pig wallows in constructed ponds or constructed wetlands that are located at least 10 metres away from the bed of any other surface water body that does not include a wallow, and which are not connected to the latter by an overland flow path, pipe or channel to a water body.</p> <p><u>Overland flow path: For the purposes of Chapter 3.11, is a succession of localised low points on land that form a path along which stormwater concentrates and flows downhill during and after a rainfall event. Unlike a stream or an ephemeral stream, the flow in an overland flow path is temporary and will cease after it has stopped raining and the accumulated surface water has drained away.</u></p>	Support in part Oppose in part	Federated Farmers is interested in this appeal point as to ensure that any outcomes are consistent with the outcomes sought in Federated Farmers’ appeal.

Water body: Fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area*

Therefore, a constructed pond, or a constructed wetland, in which a deer or pig wallow is located is itself a “water body”, as is any aquifer underlying it.

It is understood the conditions on the exclusion relate to protecting surface water, not ground water. For clarity, the provision should clarify this.

The Appellant notes another problem with this provision is the second condition for this exclusion, namely, that the wallows “are not connected by an overland flow path to a water body”. As the term “overland flow path” is not defined in PC1 or the Operative Waikato Regional Plan, there is a risk that it could be interpreted in a way that nullifies the exclusion. This could occur, for example, if it were considered that every point in a catchment is connected by an overland flow path to a water body.

A further deficiency with the provision is that, provided the stated conditions are satisfied, Exclusion II would apply, even if a pipe or channel (other than an “overland flow path”) connected the constructed ponds or constructed wetland containing

	a wallow to another surface water body that does not include a wallow.			
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