

IN THE ENVIRONMENT COURT  
AT AUCKLAND

ENV-2020-AKL-000097

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 DAIRYNZ 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

---



**FEDERATED  
FARMERS**  
OF NEW ZEALAND

169 London Street  
PO Box 447  
Hamilton  
Telephone: 07 858 0815  
Email: [ljeffries@fedfarm.org.nz](mailto:ljeffries@fedfarm.org.nz)  
Solicitor acting: Nikki Edwards /  
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:

**DairyNZ Limited v Waikato Regional Council**  
**ENV-2020-AKL-000097**

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

Date: 29 September 2020

Address for service: PO Box 447, Hamilton 3240

Telephone: 07 858 0815

Fax/email: [ljeffries@fedfarm.org.nz](mailto:ljeffries@fedfarm.org.nz)

Contact person: Laura Jeffries

Provision Appealed	Reasons for Appeal	Relief Sought	Support/Oppose	Reason
<b>Objectives</b>				
<b>Objective 1</b>	Objective 1 refers to “Waikato and Waipā Rivers including springs, lakes and wetlands within their catchments”. Objective 3 refers to the “Waikato and Waipā river catchments”. Objective 4 refers to “the rivers and other water bodies within the Waikato and Waipā catchments”. The inconsistent use of terminology could lead to unintended consequences. There is a concern about whether Objective 1 applies to all <i>tributaries</i> of the Waikato and Waipā river as the list of waterbodies with the catchments omits references to streams and other tributary water ways.	<b>Define</b> the term “water bodies within Waikato and Waipā River catchments” and use that term consistently across all objectives and other relevant provisions.  A definition would be as follows: <u>The Waikato and Waipā Rivers, including all tributaries, springs, lakes and wetlands and connected water bodies within their surface water catchments</u>	Support in part	Federated Farmers supports the use of consistent terminology and agrees defining the term “water bodies within Waikato and Waipā River catchments”. Federated Farmers has concerns that defining this term should not change the application or meaning of provisions with PC1 and therefore would oppose the change if it did.
<b>Objective 2</b> <b>And Table 3.11-1</b> <b>Ans associated Method 3.11.3.4</b>	The Appellant says that it supported the objective in the proposed PC1 as a first stage toward achieving Te Ture Whaimana as 10% of the difference between current water quality and long-term water quality goals. The Appellant acknowledges the water quality goal for PC1 has doubled from 10% to 20% of the difference.  The Appellant says that in the life of PC1, measured water quality attribute states will vary for a number of reasons, some of which bear no relation to actions within the control of dairy farmers. The Appellant is concerned that that in future plan effectiveness reviews, any	<b>Amend Objective 2</b> and Table 3.11-1 and associated explanatory text to clarify what is expected to be achieved by PC1, including consideration of time lags between what happen on the land and what is measured in the water.  Whether Table 3.11-1 should require 20% of the improvement needed to achieve the 80-year targets within 10 years will depend on the nature of the policies and methods (including rules) that result from this appeal.  The Appellant requests that objective 2 and Table 3.11-1 be revisited iteratively with consideration of other appeal points in relation to the scope and efficacy of policies and methods that apply to likely improvement in sediment, phosphorus, and <i>E.coli</i> and	Support in part	As stated by the Appellant, Objective 2 now relies on the achievement of 20% of the journey in 10 (as opposed to 10%).  Federated Farmers agrees that Objective 2 and Table 3.11-1 needs to be revisited with consideration of the scope and efficacy of policies and methods that apply to likely improvement in sediment, phosphorus, and <i>E.coli</i> . However, Federated Farmers does not consider the relief sought by the Appellant goes far enough to ensure realistic standards for plan users.  Federated Farmers considers a 20% water quality improvement to be unrealistic and unachievable and will likely impose significant cost (without providing an appropriate transition or

	<p>shortfall in meeting water quality attribute states listed in Table 3.11-1 will be seen as dairy farmer non-compliance with regulation, rather than a failure of PC1 provisions.</p> <p>The Appellant says that it does not oppose the 20% target <i>per se</i> but is concerned that the cost of this revised target has not been considered and that the policies and rule framework required to achieve the target (particularly for phosphorus, <i>E.coli</i> and sediment) has not been put in place in a way that will ensure the target is viable or which distributes the burden appropriately over all contaminant sources.</p> <p>The Appellant says that the amendment to Objective 2 made in the council decision version of PC1 to change the short-term attribute states and the way the objective is worded, so that '<i>short term numeric water quality values in Table 3.11-1 are met</i>' is inappropriate. Previously the objective referred to '<i>actions put in place and implemented</i>' in order to acknowledge that changes on the land would take time to be reflected in water quality and would not all be measured within ten years of PC1. The Appellant says this is explained at the beginning of Section 3.11.6</p>	<p>in addition to the above changes, <b>amend Objective 2 as follows:</b></p> <p>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 <u>actions put in place and implemented for</u> nitrogen, phosphorus, sediment and microbial pathogens <u>being sufficient to achieve water quality improvements as indicated</u> by the short-term numeric water quality values in Table 3.11-1 <u>being met no later than</u> 10 years after Chapter 3.11 of this Plan is operative.</p> <p><b>Section 3.11.6</b> Retain explanatory text in Section 3.11.6 that clarifies that short-term water quality attribute states will not be used as receiving water limits for the purpose of granting resource consents for Farm Environment Plans or assessing compliance with those consents.</p>		<p>pathway), and has not been subject of a section 32 or 32AA assessment.</p> <p>Federated Farmers considers that Objective 2 ought to focus on 10% water quality improvement (by amendment of attribute states in Table 3.11-1, including that if current monitoring data is update, the short term targets need to be re-calculated to ensure that the obligation is to achieve 10% of the journey) and it ought to focus on implementation of actions to achieve that 10 years after PC1 is operative (as opposed to achievement of instream targets for which there will be a lag between actions and improvements).</p> <p>Federated Farmers also supports retaining the explanatory text in Section 3.11.6 that clarifies that short-term water quality attribute states will not be used as receiving water limits for the purpose of granting resource consents for Farm Environment Plans or assessing compliance with those consents.</p>
<b>Objective 3</b>	Objective 3 sets out the proposition that the way the plan provides for social and	<b>Amend</b> Objective 3 so that it recognises the need to provide for communities' social and economic,	Support	Federated Farmers agrees that Objective 3 should capture the full

	<p>economic wellbeing is by staging the required in-stream improvements (and hence contaminant reductions) at a manageable pace and providing for collective community action. It does so rather than providing a broader acknowledgement of social and economic considerations.</p>	<p>spiritual and cultural well-being through means other than solely by way of the two matters listed in the decisions version of the policy. The amended policy should recognise, and provide the foundation for, the many other ways that the provisions of PC1 take account of those considerations in the design of its policies and methods.</p>		<p>range of ways that social and economic matters are recognised by PC1.</p>
<b>Policies</b>				
<b>Policy 1</b>	<p>The Appellant says that Policies 1-4 set the course of action for managing risk and adverse effects of diffuse contaminants from farming and commercial vegetable production. These policies set the course of action for methods (including rules), and the Appellant's concern is that they are not the most effective and efficient way of achieving PC1 Objectives, particularly Objective 2.</p> <p>Policy 1 is not problematic in terms of the overview of the approach toward farming land use that it sets out. It introduces the concept of "<i>low intensity farming .... with low risk of diffuse discharge</i>". The Appellant's concern is that other provisions such as Policy 2, 3 and 4 and Rules 3.11.4.3 – 3.11.4.5 inclusively, set thresholds for what is considered low intensity and low risk that in the Appellants view, is not justified by evidence of adverse effects on the environment, and requests that Policies 1-4 are reviewed and amended accordingly.</p>	<p><b>Amend Policy 1 as follows:</b>  c. Enabling, through permitted activity rules, <del>low intensity</del> farming and horticultural activities (not including commercial vegetable production), with low risk (<u>individually and cumulatively</u>) of diffuse discharge of contaminants to water bodies, and requiring resource consents for all other activities; and</p>	<p>Support in part  Oppose in part</p>	<p><b>Low intensity farming</b>  Federated Farmers has concerns about the risk of regulatory failure (if a large number of activities are to require certified FEPs and consent) and has concerns to ensure that a reasonable, practical and implementable framework is achieved. Accordingly, Federated Farmers supports the ability for some farming to operate as a permitted activity and for consents to be required for higher intensity farming.</p> <p>However, Federated Farmers has concerns for how an individual farmer will show that, cumulatively, they are "low risk" and considers it is unduly onerous to require that they do.</p> <p>Federated Farmers also considers that "low intensity" could be retained.</p>

	<p>Policy 1 uses an undefined concept of “<i>low intensity farming .... with low risk of diffuse discharge</i>”. Although that term is not defined, the way it is applied through rules seems to ignore the cumulative impact of many supposedly “<i>low intensity farms</i>”.</p> <p>The policy aims to provide the foundation for permitted activity rules and needs to better target the activities that are genuinely low risk, both individually and cumulatively, to achieve the objectives.</p> <p>Furthermore, the concept of low intensity farming needs to be defined in such a way as to consider contaminant loss risk of all four contaminants, not simply nitrogen. The policy does not acknowledge that risk (and drivers of risk) other than nitrogen leaching potential and stocking rates are relevant to consent status (including matters such as slope, erodibility and management practices).</p>			
<p><b>Policy 2</b></p>	<p>The Appellant’s concern is that the Appellant says Policy 2 establishes a highly differentiated approach to managing activities that is not based on adverse effects of those activities and that this may lead to PC1 Objectives not being met.</p> <p>The Appellant also says Policy 2 differentiates based on, and seeks to manage, diffuse</p>	<p>Any change to the policy or associated Schedules, should retain the requirement for every property to assess its current environmental footprint, in a way that can be aggregated and compared across different land uses when PC1 is reviewed.</p> <p><b>Amend Policy 2 as follows:</b></p>	<p>Support in part Oppose in part</p>	<p><b>Relief Point A</b> Federated Farmers is also concerned that paragraphs a and b of policy 2 do not provide for sufficient certainty and consistency in how the policy will be applied to farmers with moderate and high N leaching loss rates; or for consistency and equity in treatment of all farmers within PC1.</p> <p>In particular, no certainty is provided to plan users or consenting officers about whether N leaching is “as low as</p>

	<p>nitrogen discharges; but the primary risk to the Waikato and Waipā rivers (and associated water bodies) is the other contaminants, at least as much (and often more so) than nitrogen. Accordingly, it is important that the policy fully addresses other contaminant loss risk.</p> <p>The Appellant says the policy is incomplete by not applying to commercial vegetable production and considers it should apply to all farming activities that require a resource consent.</p> <p>The Appellant supports the requirement for all landowners to assess their current environmental footprint, in a way that can be aggregated and compared across different land uses when PC1 is reviewed. Managing nitrogen is an important component of PC1 and through dairy companies, most dairy farmers are familiar with recording and reporting N inputs on their farms.</p> <p>The Appellant's concern is that the threshold numbers for stock units that apply to drystock farms in PC1 have not been sufficiently scrutinised in terms of risk and adverse effects.</p> <p>The Appellant considers that Policy 2 should refer to risk of all contaminants, in addition to the approach of using N to differentiate between low,</p>	<p>A. The tests of 'reduce to the lowest practicable level' and 'significant reduction' need to be developed further within the policy to provide greater clarity about the matters that will be relevant to consider, and the likely magnitude of the leaching reduction that will be considered appropriate under each test.</p> <p>B. The policy tests in relation to nitrogen loss need to apply to all farms that require a resource consent and not just to dairy farms.</p> <p>C. Opportunity needs to be provided within that rewording for nitrogen reductions to be demonstrated by means other than annual Overseer modelling. For example, purchased nitrogen surplus or Fonterra's Nitrogen Risk Scorecard should be acceptable metrics.</p> <p>D. Some indication of the acceptable levels of N leaching and the extent of required reductions should be included in metricised terms. For example, a proportional reduction range; leaching rate of a prescribed (75th) percentile of farms in the catchment; or agreed level of purchased N surplus.</p> <p><b>Amend Policy 2</b> to make it applicable to all farming activities that require a resource consent. In addition to the</p>	<p>practicable" or whether a "significant reduction to nitrogen" is proposed. In principle, Federated Farmers supports the relief sought by the Appellant requiring further development within the policy to provide greater clarity about the matters that will be relevant to consider, and the likely magnitude of the leaching reduction that will be considered appropriate under each test.</p> <p><b>Relief Point B</b>  Federated Farmers disagrees with the Appellants interpretation of paragraph a and b. Federated Farmers notes that both drystock and dairy farms under Rule 3.11.4.5 will be required to obtain an NLLR and therefore will be subject to Policy a or b. Federated Farmers considers that the policy already provides the relief sought (and should not be amended to extend the policy beyond that).</p> <p><b>Relief Point C</b>  Federated Farmers agrees that nitrogen leaching should be able to be demonstrated by means other than annual Overseer modelling. Federated Farmers considers that nitrogen surplus might be an option but considers that further work is needed (and this should not be the only option).</p> <p><b>Relief Point D</b>  Federated Farmers agrees that there needs to be some indication of the acceptable levels of N leaching to provide clarity as to what is expected from farmers.</p> <p><b>Apply to all farming activities</b>  Federated Farmers is interested in this appeal point so as to ensure that any outcomes are consistent with the</p>
--	--	---	--

	<p>moderate and high N leaching risk.</p> <p>The Appellant supports Overseer and other tools or models that are effective in assessing risk of diffuse discharge of N and may be more efficient to use across many properties.</p> <p>The Appellant supports the principle that those landowners with the highest risk of N loss must reduce N leaving the property. However, the Appellant says Policy 2 does not give certainty to plan users and is likely to result in widely differing interpretations and N mitigation requirements consent by consent.</p> <p><b>Policy 2.a</b></p> <p>For farming activity categorized in the moderate Nitrogen Leaching Loss Range (NLLR) the requirement to demonstrate that either the NLLR is already as low as practicable given the current land use or that the NLLR will reduce to the lowest practicable level over an appropriate specified period introduces serious uncertainties.</p> <p>Although this is a policy rather than a rule, the policy will play an important role in assessment of resource consent applications and must be sufficiently certain for that purpose.</p>	<p>approach of using N to differentiate between low, moderate and high risk, the concept of a threshold using stock units intended to differentiate based on diffuse discharge risk for all four contaminants could be applied and spelt out in Policy 2. The threshold should be established in discussion with technical and farm systems experts and should set risk thresholds in terms of managing adverse effects of farming activities.</p>		<p>outcomes sought in Federated Farmers' appeal.</p>
--	--	--	--	--

	<p>The Appellant says the terms “as low as practicable” and “given the current land use” could be interpreted in a number of different ways.</p> <p><b>Policy 2.b</b></p> <p>The Appellant says the requirement to “make significant reductions” to the NLLR or demonstrate why that should not be required or should not be required urgently creates a similar level of uncertainty. While this is a policy rather than a rule, the meaning of “significant reductions” is not clarified elsewhere and is confused further by the four bullet points listing factors to be considered under this policy. It is preferable to define significant in the policy rather than leave it open to interpret consent by consent.</p>			
<p><b>Policy 3</b></p>	<p>The Appellant says Policy 3 further reflects a differentiated policy approach that favours some activities (in this case commercial vegetable production) potentially, to the disadvantage of others (because an increase in contaminant loss from this sector places an increased burden to achieve reductions from other sectors – and reduces the likelihood that iwi will be able to develop their land).</p> <p>The Appellant says whereas Policy 2 includes strong and</p>	<p><b>Redraft Policy 3</b> (and/or make corresponding amendments to the policy framework) to create better alignment between Policy 3 and other policies relating to other (pastoral) land uses and, in particular make the following amendments:</p> <p>A. A provision mirroring Policy 2c should be included within Policy 3.</p> <p>B. The specific recognition of the benefits of the activity (Policy 3d) should be included within in Policy 2 (or alternatively deleted from Policy 3) to provide a comparable policy framework.</p>	<p>Support in part Oppose in part</p>	<p>Federated Farmers considers that a consistent and equitable approach to all activities in the PC 1 catchment ought to be adopted to ensure that everyone is doing their part to improve water quality. Federated Farmers therefore agrees with the Appellant that Policy 3 requires amendments to create better alignment between Policy 3 and other policies relating to other (pastoral) land use activities.</p> <p><b>Relief Point A</b> Federated Farmers refers to its reasoning above (Policy 2, Relief Point A).</p> <p><b>Relief Point B</b></p>

	<p>clear policy direction that consent will not generally be granted for an increase in land use intensity, no such policy direction is included for vegetable production.</p> <p>The Appellant also notes that there is no equity of treatment between commercial vegetable production and other intensive farming. Not only are different (and less onerous) policy tests applied, but Policy 3 expressly recognises the contribution commercial vegetable production makes to people and communities. No such recognition is given to other farming activities – despite those other farming activities providing many of the same benefits.</p> <p>The Appellant says the Hearing Panel’s report records acceptance of evidence that the discharge of nitrogen, P and sediment from new commercial vegetable production would, after mitigation, be not greater (and potentially less) than the pastoral activity displaced. However, the requirement to demonstrate that outcome at the time a consent is sought is not included in Policy 3.</p>	<p><b>Add to Policy 3</b> a requirement to demonstrate that, where new land is to be brought into vegetable production, discharges of diffuse contaminants would be no greater than the activity displaced (or, where that cannot be demonstrated, that offsetting of additional contaminants is undertaken on another site within the same sub catchment and preferably the same water body)</p>		<p>Federated Farmers is also concerned that recognising the positive contribution of CVP to people and communities in this policy, but not providing comparable recognition to other farming activities, unduly and unnecessarily elevates the status of CVP and/or does not appropriately recognise the status of other farming activities. Federated Farmers therefore sees benefit in including a clause similar to Policy 3d within Policy 2 (or alternatively deleted from Policy 3) to provide a comparable policy framework.</p> <p><b>Requirement to demonstrate new CVP activity discharges are no greater than activity displaced</b> As noted above Federated Farmers considers that the provisions that apply to CVP should be consistent with the expectation of other activities.</p>
<p><b>Policy 4</b></p>	<p>The Appellant says that while Policy 4a says that all dairy farms must have an FEP with a quantified NLLR for the property, drystock farming does not need to do the same unless its stocking rate is more than 18su/ha. The Appellant says</p>	<p><b>Amend Policy 4 as follows:</b> A. Amend sub part a of the policy to provide the foundation for PC1 to: (i) Require the initial assessment of the intensity of farming activities and nitrogen loss risk of farms by</p>	<p>Support in part Oppose in part</p>	<p><b>Relief Point A</b> In principle, Federated Farmers supports obtaining a NLLR where it is used as a drafting gate to determine the activity status of dairy farming activities but not where it is used as an allocation or benchmarking tool, or where it is used to require B reductions.</p>

	<p>the associated Rule 3.11.4.4 creates even greater differentiation by, despite Policy 4, not requiring any drystock farm to have a NLLR.</p> <p>The Appellant considers that if stocking rate is considered an appropriate measure of risk, then that should be applied consistently across all farm systems. The Appellant says setting aside the fact that Rule 3.11.4.4 does not, in fact, reflect Policy 4, the 18su/ha winter stocking rate threshold (as applied by the associated rules) for drystock farming means that almost all drystock farms will avoid the need for N loss rate quantification.</p> <p>The Appellant is concerned that the risk threshold for all four contaminants has not been appropriately established and set out in Policy 4.</p> <p>The Appellant says aside from the question of whether an initial Nitrogen Leaching Loss Rate must be calculated in accordance with Schedule B, is the question of whether farms should be required to assess nitrogen loss risk (using a suitable decision support tool) on an on-going (annual) basis.</p> <p>Schedule D1 Part D2 of PC1 requires those permitted activities with FEPs to demonstrate that nitrogen loss risk does not increase over time. They may do so using</p>	<p>reference to either the NLLR or the stocking rate of the individual property;</p> <p>(ii) Establish thresholds of Low, Moderate and High risk (using NLLRs and, as an alternative, broadly corresponding stocking rates) for the management of farming activities; and</p> <p>(iii) Require appropriate information to demonstrate the NLLR or an appropriate stocking rate be included within FEPs.</p> <p>B. Include a new subpart in Policy 4 that requires, in respect of all FEPs, the annual monitoring of on-going N loss risk to be undertaken to demonstrate that (at minimum) nitrogen loss risk is not increasing over time. Explicitly enable N loss risk to be assessed using means other than Overseer leaching estimates in the same way as already provided for in Schedule D1 Part D2 in respect of FEPs associated with permitted activities.</p> <p>C. Insert a new subpart of the policy that requires independently certified FEPs for all farms.</p>		<p>Federated Farmers disagrees with the Appellants point that Rule 3.11.4.4 does not require drystock farms with a stocking rate more than 18su/ha to obtain an NLLR. All activities controlled by Rule 3.11.4.4 must have a Schedule D2 FEP which must include the NLLR for the farm in conformance for Schedule B. Federated Farmers therefore considers Rule 3.11.4.4 to reflect Policy 4.</p> <p>Federated Farmers supports the use of a stocking rate as a measure of risk and disagrees with the Appellant's comments that the 18su/ha winter stocking rate threshold would mean that almost all drystock farms will avoid the need for N loss rate quantification. Feedback from drystock members indicates that the majority of drystock farmers in the area will likely be required to obtain controlled consents under Rule 3.11.4.4 and therefore as noted above, will be required to obtain a NLLR under Schedule D2.</p> <p>With that in mind, Federated Farmers does not support drystock farming and CVP having to obtain an NLLR because it does not affect their activity status and is not used as an allocation or benchmarking tool, or has the basis to require reductions.</p> <p><b>Relief Point B</b></p> <p>Federated Farmers is also concerned about activities where Overseer does not do a good job of reflecting their N leaching. This includes arable cropping (as explained in Federated Farmers' submission).</p>
--	---	---	--	--

	<p>any tool approved by any person that the WRC is satisfied in suitably qualified. This allows tools and methods other than Overseer to be used to assess on-going nitrogen loss risk.</p> <p>The Appellant says the ability to assess and report risk (rather than, necessarily, a leaching metric) should also apply to consented activities that must have an FEP (ie. those consented farms should also be allowed to assess and monitor ongoing nitrogen loss risk using tools other than Overseer leaching estimates). The Appellant considers the obligation to annually assess and report nitrogen loss risk, and the ability to do so using tools other than Overseer, should be included within Policy 4.</p> <p>As a separate matter, The Appellant considers Policy 4 should, but does not, confirm that all farm systems should be subject to a rigorous, independently prepared FEP. The rules provide that FEPs may be prepared by the farmer themselves (subject to audit). No independent certification is required for the many farms that will have permitted activity status. Only when a resource consent is required is there independent rigour applied to the content of an FEP.</p> <p>The Appellant says FEPs are important because they are the</p>			<p>Federated Farmers supports the relief sought by the Appellant to provide for alternatives to Overseer (and recognition of mitigations other than Overseer) to attempt to address this concern.</p> <p><b>Relief Point C</b> Federated Farmers supports the ability for FEPs to be prepared by the landowner (or by other people). Federated Farmers has concerns about regulatory failure particularly about the significant volume of FEPs that would be required to be certified if every FEP requires independent certification. Federated Farmers notes that there is a shortage of CFEPs to prepare and certify FEPs.</p> <p>Federated Farmers therefore does not support the relief sought by the Appellant.</p>
--	---	--	--	---

	<p>primary tool for addressing sediment, phosphorus and E.coli losses from farm systems. They should always be subject to professional, independent certification and the requirement to have an FEP should not be linked solely to the N loss risk of a farming property (whether estimated by Overseer or stocking rate). These simplified proxies for N loss risk from a farm will not necessarily be linked to losses of P, sediment and E.coli. Such an approach risks poor management outcomes for these three other contaminants.</p>			
<b>Policy 10</b>	<p>The Appellant says that the WRC should collect information undertake research and tool development to enable better, more targeted and more effective management in the future.</p> <p>However, the Appellant is concerned that any account of contaminant losses is done in a like for like fashion between sectors. There is potential for poor and/or uncomparable data and misleading results.</p>	<p><b>Amend Policy 10 as follows:</b> Prepare for further diffuse discharge reductions and any future management regime (including potentially the allocation of diffuse discharges of contaminants) in subsequent regional plans by collecting information and undertaking research including, but not limited to, collecting <u>(consistently across all sectors)</u> information about current discharges <u>of all four diffuse contaminants</u> ,</p>	Support	Federated Farmers supports the relief sought by the Appellant in that information should be collected consistently across all sectors about the current discharges of all four diffuse contaminants.
<b>Methods</b>				
<b>Method 3.11.3.3</b>	<p>The Appellant wishes to ensure that any accounting system that is developed by the Regional Council collects and reports information consistently across sectors and across all four contaminants so that results are fairly compared (and differences in accounting methodologies and levels of confidence in data are transparent).</p>	<p><b>Amend Method 3.11.3.3 as follows:</b> d. An information and accounting system for the diffuse discharges from properties that <u>allows for consistent and comparable reporting across sectors and which</u> supports the management of nitrogen, phosphorus, sediment and microbial pathogens diffuse discharges at a property scale.</p>	Support in part	In principle, Federated Farmers agrees that any accounting system that is developed by the Regional Council should collect and report information consistently across sectors and across all four contaminants so that results are fairly compared (and differences in accounting methodologies and levels of confidence in data are transparent). However, it also considers that actions ought to be proportionate and is

				concerned that consistency should not impose unnecessary or unduly onerous obligations on farmers.
<b>Method 3.11.3.4</b>	The Appellant wishes to ensure that any accounting system that is developed by the Regional Council collects and reports information consistently across sectors and across all four contaminants so that results are fairly compared (and differences in accounting methodologies and levels of confidence in data are transparent).	<b>Amend 3.11.3.4 as follows:</b> d. Collate data on the number of land use resource consents issued under the rules of this chapter, the number of Farm Environment Plans completed, compliance with the actions listed in Farm Environment Plans, contaminant loss risk for properties, and nitrogen discharge data reported under Farm Environment Plans ( <u>and the methods and metrics used to collect and report that data</u> ).	Support in part	Federated Farmers considers Method 3.11.3.4 should be deleted for the reasons set out in its appeal. However, if it is retained Federated Farmers sees benefit in collecting data on the methods and metrics used to collect and report that data to ensure transparency and consistency (save that it repeats its concerns about proportionality above).
<b>Rules</b>				
<b>Rule 3.11.4.3 – Permitted Activity Rule – Low intensity farming</b>	<p>The Appellant’s concern is that provisions for drystock in Rule 3.11.4.3 could result in more diffuse contaminant entering water bodies in the PC1 catchment.</p> <p>In terms of managing N, the Appellant does not oppose farmers having to establish their NLLR that then determines which consent category applies to the property. However, the Appellant says, the threshold in Rule 3.11.4.3 3Ai) that applies to drystock farming does not appear to be based on an equivalent and thorough assessment of risk of adverse effects.</p> <p>The Appellant requests amendment to an appropriate “low intensity” threshold, should be further researched by experts including farm systems and Overseer experts and based on risk of diffuse</p>	<p><b>Amend Rule 3.11.4.3</b> to remove the distinction between dry stock and dairying and require that any farming activity operating as a permitted activity must:</p> <p>A. have a Nitrogen Leaching Loss Rate less than or equal to the Low Leaching Loss Rate for the FMU as set out in Table 1 of Schedule B or have an appropriate stocking rate less than [number to be determined]* stock units per hectare</p> <p>B. have an FEP certified by a certified farm planner that demonstrates that the farm will not increase its N losses (or risk of N loss) relative to the previous year.</p> <p>C. be registered with the Council and in conformance with Schedule A provide evidence of the peak and winter stocking rate.</p> <p>D. be subject to annual reporting to Council of an appropriate indicator of Nitrogen loss risk estimated by a certified farm planner using an appropriate decision support tool.</p>	Oppose	<p><b>Relief Point A</b></p> <p>Federated Farmers does not consider it necessary or reasonable to establish a Nitrogen Leaching Loss Rate less than or equal to the Low Nitrogen Leaching Loss Rate for the FMU as set out in Table 1 of Schedule B. Federated Farmers supports having a stocking rate of equal to or less than 18 stock units per hectare. Federated Farmers considers that there is a difference between drystock and dairy farming and that there is a need for a distinction that reflect the different outcomes and effects.</p> <p><b>Relief Point B</b></p> <p>As set out above, Federated Farmers is very concerned about the regulatory failure that would likely result if all permitted activity FEPs were required to be certified (as well as the cost this would impose on low risk farming activities). Federated Farmers also considers that their flexibility ought to be provided to low intensity, permitted activities to adjust their farm systems</p>

	<p>discharge of N, P, sediment and <i>E.coli</i>. The Appellant has not specified how and when the stocking rate should be applied. Instead, if stocking rate is to apply to both dairy and drystock, careful assessment of implications and effectiveness is needed, as well as the threshold values chosen.</p> <p>The Appellant says Rule 3.11.4.3 applies a different permitted activity threshold metric for drystock farming compared to that applying to dairying. A drystock farm operating at up to 18 winter stock units per hectare in winter will not necessarily be more benign in respect of water quality than a low or medium intensity dairy farm (which might operate at 18 winter stock units or less intensity). That is because, amongst other things, the two farm systems will likely be undertaken on land of very different inherent risk to water quality. In that regard Rule 3.11.4.3 is not effects-based.</p> <p>The Appellant notes, at the same time, it is appropriate that genuinely low risk farming activities can operate as permitted activities. A greater proportion of farms could be authorised as permitted activities provided that “low risk” is robustly and consistently assessed across sectors, and that appropriate conditions are imposed, monitored and, where</p>	<p>*The Appellant seeks that the stocking rate applied by this rule should be further researched by experts including farm systems and Overseer experts and based on risk of diffuse discharge of N, P, sediment and <i>E.coli</i>.</p>		<p>and they should not be required to maintain their NLLR.</p> <p><b>Relief Point C</b>  Federated Farmers considers that there is no clear rationale to include the peak stocking rate as required information. It is not relevant given that the trigger under Chapter 3.11 for drystock farming activities is the winter. Federated Farmers notes that there can be considerable variation in stocking rates (for no change in farm system) due to economic factors, drought etc. It would be very onerous and unnecessary to require this information to be updated. Federated Farmers therefore opposes the relief sought.</p> <p><b>Relief Point D</b>  Federated Farmers considers that not all land uses should be subject to annual reporting to Council of an appropriate indicator of Nitrogen loss risk estimated by a certified farm planner using an appropriate decision support tool. Federated Farmers considers the effects of drystock farming may be different to dairy farming and therefore the same requirements may not necessary.</p>
--	--	---	--	--

	<p>necessary, enforced to reliably manage effects.</p>			
<p><b>Rule 3.11.4.4 – Controlled Activity Rule – Moderate intensity farming</b></p>	<p>The Appellant does not consider that the different treatment between drystock and dairy farms is effects based. Recognising the cost and time of assessing and tracking N leaching for farms that have not previously undertaken this, an alternative risk threshold such as stock units could be applied to both dairy and drystock farms.</p> <p>The Appellant requests that when different ways of assessing risk thresholds are used, they must be carefully assessed to ensure risk is consistently identified and managed across the four contaminants.</p> <p>The current threshold of moderate risk for drystock farms in 4A i) of rule 3.11.4.4 is set at a winter stocking rate of greater than 18 stock units per hectare. The Appellant requests this is amended to a lower stocking rate that can be shown to be an equivalent level of risk of diffuse discharges of the four contaminants for drystock farms, as the moderate NLLR threshold is for. The Appellant has not specified how and when the stocking rate should be applied. Instead, if stocking rate is to apply to both dairy and drystock, careful assessment of implications and effectiveness is needed, as well as the threshold values chosen.</p>	<p><b>Amend Rule 3.11.4.4 so that any farming activity</b> (whether drystock or dairy) that can demonstrate one or other of the following is a controlled activity:</p> <p>A. The farming activity exceeds the stocking rate limits specified in Rule 3.11.4.3 but does not exceed the stocking rate limit of Rule 3.11.4.7; or</p> <p>B. The farming activity has a Nitrogen Leaching Loss Rate that is 'moderate' according to Table 1 of Schedule B</p> <p>The following conditions must apply (in addition to the other conditions set out in the decisions version of the rule):</p> <p>A. an FEP for the activity must be prepared by a certified farm planner that demonstrates N loss maintenance or reduction as required by Policy 2.</p> <p>B. the stock exclusion standards set out in Schedule C must be complied with.</p> <p>Amend condition 3 of Rule 3.11.4.4 so that a Nitrogen Leaching Loss Rate is only required where the applicant elects to qualify for the rule through claiming a Moderate Nitrogen Leaching Loss Rate. Otherwise require the supply of a stocking rate.</p> <p>*The Appellant seeks that the stocking rate applied by this rule should be further researched by experts including farm systems and Overseer experts and based on risk of diffuse discharge of N, P, sediment and E.coli</p>	<p>Oppose</p>	<p>Federated Farmers supports a controlled activity status for moderate intensity (and other) farming activities.</p> <p>Federated Farmers considers that drystock and dairy cannot be treated the same in some circumstances. Federated Farmers considers that an NLLR is generally an appropriate threshold for managing dairy farming activities given that nitrogen is the contaminant generally at issue for dairying. However, stock units are a more appropriate threshold for many drystock activities where sediment and E.coli are typically a greater issue than nitrogen.</p>

	<p>Similarly, when consents are being assessed under this rule Policy 2 should apply neutrally across both drystock and dairy so that reductions required in N losses are fairly and effectively distributed.</p> <p>Stock exclusion is one of the most basic and effective contaminant loss mitigation measures. If exceptions are routinely granted to drystock farmers, there will be little or no gain to the health of the waterways currently affected by stock access because most dairy farms have already excluded stock. At the regional scale, further reductions in adverse effects from stock access is largely dependent on action on drystock farms.</p> <p>If standard stock exclusion requirements cannot be met, then the matter should be dealt with as a Restricted Discretionary Activity. Furthermore, a clear policy is required to guide decision-making on when an exception should be granted and what measures must be put in place to minimise risk.</p> <p>The range and nature of conditions and the broad reservation of control are concerning for controlled activity status for moderate intensity farming.</p>			
--	---	--	--	--

	<p>Under rule 3.11.4A.6, the Farm Environment Plan must be approved by a certified Farm Environment planner as showing actions and mitigations that demonstrate how the farming activity will achieve the goals and principles set out in part D of Schedule 2.</p> <p>Those goals and principles refer to outcomes such as minimisation of certain effects.</p> <p>That concern is compounded by the reservation of control over the content of a Farm Environment Plan, the actions and timeframes which demonstrate how the farming activity will achieve those goals and principles, and measures to address the effects of contaminant discharges and the duration of the resource consent. The controlled activity status of these activities may be more of an illusion than a reality, given that breadth of control over the conditions of the resource consent.</p> <p>In considering a controlled activity consent application under this rule, the Council will have to consider the provisions of Policy 2, the requirement that the NLLR is as low as practicable given the current land use or will be within an appropriate period.</p>			
<p><b>Rule 3.11.4.5 – Controlled Activity Rule – Existing Commercial Vegetable Production</b></p>	<p>In contrast to the rules that apply to pastoral farming systems, all existing commercial vegetable production (CVP)</p>	<p><b>Amend Rule 3.11.4.5</b> to insert appropriate thresholds which ensure that CVP with high contaminant loss are subject to restricted discretionary</p>	<p>Support in part Oppose in part</p>	<p>Federated Farmers considers that CVP activities with high contaminant loss should be subject to the same effects-</p>

	<p>(being that area of CVP in the highest year during 2006-2016 period) is a controlled activity regardless of intensity of operation or extent of contaminant loss associated with the activity. That is despite CVP being a high per hectare contributor of sediment, nitrogen and phosphorus.</p> <p>The Appellant says this represents an inequitable approach to managing contaminant loss within the catchment and cannot be described as 'effects-based'. The case for providing CVP with a preferential status in the catchment is not made.</p> <p>The low level of regulatory control over existing CVP is compounded by the applicable FEP requirements under Schedule D2 which are vague and general in nature and do not specifically address the risks associated with CVP. This means that the efficacy of control over CVP is likely to be low relative to the requirements applying to pastoral systems.</p>	<p>activity consent in the same way that pastoral farmers with a 'High' contaminant loss would be subject to a restricted discretionary activity consent under the Appellant's proposed rule 3.11.4.7.</p>		<p>based assessment that applies to other land uses.</p> <p>Federated Farmers considers that CVP activities with high contaminant loss should continue to be subject to a controlled activity consent to recognise that they are existing activity. Federated Farmers considers a restricted discretionary activity status for these activities as proposed by the Appellant is likely to be unreasonably stringent, and could impose unnecessary costs. The ability to turn down consent and/or take into account a matter in exercise of Council's discretion, does not recognise that these are existing farming activities.</p> <p>Federated Farmers considers that the current rule could be amended to include an additional matter of control to recognise that these farms ought to manage nitrogen in accordance with Policy 2 (as amended by Federated Farmers' appeal).</p> <p>Federated Farmers considers that an NLLR is generally an appropriate threshold to apply to dairy farming activities given that nitrogen is the contaminant generally at issue for dairying. However, stock units are likely to be more appropriate threshold for drystock where sediment and <i>E.coli</i> are typically greater issues than nitrogen.</p>
<p><b>Rule 3.11.4.7 – Discretionary Activity Rule – Farming in a collective, high intensity farming, and farming not otherwise authorised</b></p>	<p>The Appellant supports farming operations with a very high risk of contaminant loss requiring scrutiny and control through the resource consent process. However, it does not support N leaching loss being the sole metric used to determine</p>	<p><b>Amend Rule 3.11.4.7</b> so that any of the following farming activities can demonstrate one or other of the following is a restricted discretionary activity:</p> <p>A. the farming activity has a stocking rate that exceeds [number to be</p>	<p>Oppose</p>	<p>In principle, Federated Farmers supports farming operations with a very high risk of contaminant loss requiring greater scrutiny and control through the resource consent process.</p> <p>However, Federated Farmers is concerned that a restricted</p>

	<p>farming intensity and risk level. That approach ignores the fact that the catchment faces water quality issues associated with sediment, phosphorus and <i>E.coli</i> that are just as challenging as those associated with nitrogen.</p> <p>The Appellant has not specified how and when the stocking rate should be applied. Instead, if stocking rate is to apply to both dairy and drystock, careful assessment of implications and effectiveness is needed, as well as the threshold values chosen.</p> <p>Furthermore, given the scope of concern is clearly identifiable around four diffuse contaminants, the Appellant considers that restricted discretionary activity, rather than full discretionary, status is appropriate. Matters of discretion should be limited to those four diffuse contaminants, the activities and practices that give rise to those contaminant losses and the controls necessary manage those activities and practices.</p>	<p>determined] stock units per hectare; or</p> <p>B. the farming activity has a Nitrogen Leaching Loss Rate that is 'High' according to Table 1 of Schedule B.</p> <p>Require - in addition to the above - that any farming activity that would otherwise be a permitted or controlled activity except that it cannot meet the stock exclusion standards of Schedule C is a restricted discretionary activity.</p> <p>Ensure that any FEP required under this rule is prepared by a certified farm planner.</p> <p>* The Appellant seeks that the stocking rate applied in this rule should be further researched by experts including farm systems and Overseer experts and based on risk of diffuse discharge of N, P, sediment and <i>E.coli</i></p>		<p>discretionary activity status for these activities as proposed by the Appellant will likely be unreasonably stringent and impose unnecessary costs. Federated Farmers is concerned that the ability to turn down consent and/or take into account any matter in exercise of Council's discretion, does not recognise that these are existing farming activities.</p>
<p><b>Rule 3.11.4.8 – Discretionary Activity Rule – Commercial vegetable production expansion</b></p> <p><b>Table 1: Sub-catchments with Commercial Vegetable Production growth areas ...</b></p>	<p>The Appellant notes that Rule 3.11.4.8 provides for CVP to expand in the catchment to occupy 3,698 ha (including 'extant' consents'). That represents as significant allowance for growth. No other land use has been given a specific right to expand.</p> <p>The Appellant considers that although it is a full discretionary</p>	<p>Either:</p> <p>A. Amend Rule 3.11.4.8 to be a non-complying rule consistent with the way other farming activities seeking expansion are treated by PC1; or</p> <p>B. Include within the rule and policy framework clear requirements for:</p> <p>i. The conversion of land for CVP to occur only where it can be demonstrated that the loss of nitrogen</p>	<p>Support in part Oppose in part</p>	<p>Federated Farmers agrees with the Appellant that Rule 3.11.4.8 needs to ensure consistency with the rest of the regulatory framework in terms of consistent expectations of farmers and everyone doing their part to improve water quality. However Federated Farmers considers that a discretionary activity status is appropriate to recognise that this rule provides for a new activity or intensification of an existing activity.</p>

	<p>consent, the rule represents another example of lack of equitable treatment in the management of rural land uses and associated diffuse discharges across the Waikato and Waipā river catchments.</p> <p>The evidence relied on by the hearing commissioners suggested that (after mitigation) there would be a net improvement in nitrogen loss and in sediment loss with only a 'negligible' change in P. However, the requirement to demonstrate such an improvement (or negligible change in the case of P) relative to the land use displaced is not required to be demonstrated by the rule or by the objectives and policies of PC1.</p> <p>Furthermore, although the Appellant understands the hectareage specified in Table 1 of the Rule is for both existing and new CVP, the design of the rule (and the absence of any need for existing CVP to gain resource consent before Rule 3.11.4.8 applies) means that the rule could operate to allow far more CVP than is specified in Table 1.</p>	<p>and sediment would be no greater than that of the land use displaced by the conversion and that any increase in phosphorus would be negligible; and</p> <p>ii. To the extent to which is not possible on land to be converted, that offsetting of any additional contaminant loss shall apply; and</p> <p>Amend Rule 3.11.4.5 to apply only after all existing CVP has been consented under Rule 3.11.4.4.</p>		<p>Federated Farmers considers that amendments can be made the existing rule to ensure consistency across the rest of the regulatory framework.</p>
<p><b>Rule 3.11.4.9 – Non-Complying Activity Rule – Land use change</b></p>	<p>The Appellant supports a non-complying rule to regulate activities that will create significant new and additional diffuse discharges of any of the four targeted contaminants. However, the Appellant considers that Rule 3.11.4.9 is incomplete because it does not</p>	<p><b>Amend Rule 3.11.4.9</b> so that any of the following activities are non-complying activities (in addition to those set out in the decisions version of the rule):</p> <p>A. Any activity that does not have a certified FEP that would otherwise be</p>	<p>Oppose</p>	<p>Federated Farmers considers that land use change ought to be provided for as a discretionary activity, except that land use change to commercial vegetable production that does not meet Rule 3.11.4.8 should be a non-complying activity.</p>

	<p>capture significant 'within system' intensification or capture those farms that seek to operate without an effective, certified FEP.</p> <p>The Appellant is concerned that the environment (ie, the health of the Waikato and Waipā rivers) will not benefit from the reductions in contaminant loads made by dairy and others because those benefits will instead be captured by intensifying drystock and expanding CVP systems. Rule 3.11.4.9 does not manage that risk.</p>	<p>required to have an FEP under any other rule of PC 1.</p> <p>B. Any activity that increases its N loss from 'Low' or 'Moderate' to 'High'.</p> <p>C. Any activity that increases its stocking rate (from that submitted in accordance with any other rule in the plan) to a level above a peak stocking rate of [number to be determined]*.</p> <p>* the Appellant seeks that the stocking rate applied in this rule should be researched by experts including farm systems and Overseer experts and based on risk of diffuse discharge of N, P, sediment and <i>E.coli</i></p>	<p>Federated Farmers considers that a non-complying activity status for the other kinds of land use change is too high a threshold. Federated Farmers considers that a non-complying activity status (including the section 104D gateway test) is more appropriate for activities that have not been contemplated. In contrast, PC1 provides a robust objective and policy framework for considering a consent application for land use change.</p> <p>Federated Farmers considers that it would also provide a reasonable and appropriate basis for considering the effects of the land use change, irrespective of land ownership.</p> <p>Federated Farmers does not agree that the environment (ie, the health of the Waikato and Waipā rivers) will not benefit from the reductions in contaminant loads made by dairy and others because those benefits will instead be captured by intensifying drystock. Federated Farmers considers that drystock farmers ability to intensify remains small due to a number of reasons other than stocking rate. Federated Farmers considers not allowing very low intensity farmers (including dairy) to intensify essentially benchmarks these farms to existing levels which the plan change does not set out to achieve. Further at times,</p>
--	---	--	---

				some intensification is necessary in some parts of a property to allow for retirement of paddocks or other off-setting practices which in turn has a greater environmental benefit.
--	--	--	--	---

**Schedules**

<p><b>Schedule B – Nitrogen leaching loss rate for FMUs</b></p> <p><b>A. Calculation of Nitrogen Leaching Loss Rate</b></p> <p><b>Table 1: Nitrogen Leaching Loss Rate levels:</b></p>	<p>The leaching rates set out in Table 1 are based on the 25<sup>th</sup> / 30<sup>th</sup> and 75<sup>th</sup> percentiles of dairy farm leaching in each FMU.</p> <p>The Appellant says there is no rationale provided for that division.</p> <p>While the Appellant supports the use of leaching values as thresholds for activity categories (alongside stocking rate limits as an alternative metric) it considers that the leaching rates are set at levels that do not reflect genuine risk to water quality or the ability to make moderate to low cost leaching reductions.</p> <p>The Appellant considers that it is also important to note that the leaching values were derived from Overseer modelling using Version 6.3 but as Overseer is updated, the leaching rates will vary and the FMU percentile values in the table will not represent the percentiles originally intended (meaning more or less farms will fall into the permitted activity category for example).</p>	<p><b>Amend Table 1 in Schedule B by:</b></p> <p>A. Recalculating the ‘Low’ leaching threshold to be based on the 50th percentile of dairy farm leaching and adding further columns to display the comparable stocking rate thresholds.</p> <p>B. Recalculating the ‘Moderate’ leaching threshold to capture those farms between the 50th and 75th percentiles of dairy farm leaching and adding further columns to display the comparable stocking rate thresholds.</p> <p>Include a mechanism in Schedule B to ensure that, as Overseer is updated over time, the values in Table 1 are adjusted so that they continue to represent the 50th and 75th percentiles of the dairy leaching as at 2018. This adjustment needs to take place at least until five years after the date that PC 1 becomes operative (being the date by which the rules take effect in the last sub-catchments).</p>	<p>Support in part Oppose in part</p>	<p>Federated Farmers understands that the intention of Table 1 is that the low, moderate and high kgN/ha/yr numbers are intended to represent the 30th, 30th to 75th, and 75th percentiles for N leaching for dairy farmers in each FMU (with the exception of the Upper Waikato FMU, where the bottom number is the 25th percentile not the 30th). The numbers are based on data provided by Fonterra about N leaching for its farmers during the 2015/16 season.</p> <p>Federated Farmers agrees with the Appellant that the N leaching numbers in Table 1 need to be revisited, however, Federated Farmers prefers the relief sought in its own appeal of Table 1. Federated Farmers is particularly concerned about the Appellants focus on adding columns to display the comparable stocking rate thresholds as Federated Farmers has explained above, Federated Farmers does not consider it appropriate that drystock and dairying have interrelated activity thresholds or triggers given the different effects the two farming systems have on the environment.</p> <p>Federated Farmers supports amendments to provide for the ability to update the N loss rates in Table 1 as Overseer version changes, such as a</p>
--	---	--	---	---

				reference file approach, without the need to rely on future plan changes.
<p><b>Schedule C – Minimum farming standards</b></p>	<p><b>Nitrogenous Fertiliser</b>  The Appellant says the minimum standard prohibiting nitrogenous fertiliser 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 is not effects-based and does not accord with industry best practice.</p> <p>In Waikato, ryegrass on dairy farms is actively growing in the latter half of July, and any nitrogenous fertiliser applied in that time is expected to be taken up by plants and has low risk of leaching. Adding a requirement for testing soil temperature adds an unnecessary level of complication to the minimum standard.</p> <p>The minimum standard would be more accurate and clearer in its interpretation if the soil temperature was removed and the latter half of July was not included.</p> <p>The Appellant supports the fertiliser code of practice published by the Fertiliser Association 2013. This document notes that “Applying fertiliser long before the plant will take up the nutrient exposes the nutrient to potential loss. It is especially important to apply highly mobile nutrients at times</p>	<p><b>Amend Schedule C as follows:</b>  <i>Nitrogenous Fertiliser</i>  7. No nitrogenous fertiliser applied <del>during the months of from 1 June and to 15th day of July</del> in any year. <del>unless the temperature is tested and found to be greater than 10 degrees Celsius within the root zone</del></p>	<p>Oppose</p>	<p>Federated Farmers is concerned that restricting the application of nitrogenous fertiliser during the month of July is likely to be detrimental to many farm operations, for little or no environmental benefit. Federated Farmers considers that clause 7 is too restrictive as a minimum standard and ought to be deleted.</p>

	<p>when plants are actively growing to avoid losses to the environment between application and plant uptake” (page 36)</p> <p>“Application of fertiliser in relation to soil and air temperatures is also important because these conditions affect plant growth and hence nutrient use. For example, applying nitrogen fertiliser to ryegrass when soil temperatures are less than 6°C and falling is likely to be ineffective in stimulating pasture growth because ryegrass stops growing at soil temperatures below 4°C” (page 37)</p>			
<p><b>Schedule D1 – Requirements for Farm Environment Plans for farming under Rule 3.11.4.3</b></p>	<p>The Appellant considers the suggestion that FEPs can be prepared by the landowner and need not be certified by a certified farm planner as being compliant with requirements, when combined with permitted activity rules that provide for almost all drystock farming, undermines the credibility and efficacy of PC 1. There is little, if any, assurance that such an approach will result in reductions of diffuse contaminants from the drystock sector.</p> <p>It is not clear what an audit, by a “suitably qualified” person, of a farmer-prepared FEP would assess. To provide confidence that all risks have been fully identified and that actions put in place consistent with meeting all GFPs are in place, this audit</p>	<p><b>Make the following amendments to Schedule D1:</b></p> <p>A. Amend the note at the beginning of Schedule D1 to clarify that all FEPs must be certified by a certified Farm Environment Planner.</p> <p>B. Provide clear and certain direction about who may approve an N loss risk assessment tool and what the Waikato Regional Council’s role is in that process.</p> <p>C. Amend Part D 2 so that it is clear that:</p> <ul style="list-style-type: none"> <li>• The whole farm risk assessment referred to relates to N loss</li> <li>• A minimum standard is that N loss/loss risk is not higher than the previous year</li> <li>• The information demonstrating that N loss/loss risk has not increased from the previous year is to be</li> </ul>	<p>Support in part Oppose in part</p>	<p><b>Relief Point A</b> In principle, Federated Farmers agrees with a more specific and less tailored Schedule for preparation of FEPs to ensure that FEPs can be prepared as a permitted activity.</p> <p>Federated Farmers supports the FEP to be prepared by the landowner (or by other people) and opposes the relief sought due to concerns of regulatory failure and the lack of certified Farm Environment Planners to certify all FEPs.</p> <p><b>Relief Point B and C</b> Federated Farmers supports the need for clarity as to who may approve an N loss risk assessment and the Council’s role in that process.</p> <p>In principle, Federated Farmers also supports amendments to Part D, paragraph 2 to provide more clarity as to what is expected and by who.</p>

	<p>would have to replicate the certified farm plan process. Given this, it would seem more efficient and more certain for farmers, to ensure all FEPs are created to a consistent high standard from the outset.</p> <p>While the Appellant supports the greater use of permitted activity status, it considers that a high quality FEP is critical to PC 1 in providing for any farming system as a permitted activity.</p> <p>The Appellant supports the idea (Part D 2) that there should be an annual requirement to demonstrate that N loss/N loss risk has not increased over the previous years and, in particular, that this may be demonstrated by a range of potential tools (i.e., that this is not limited to Overseer but could include tools such as Fonterra’s Nitrogen Risk Scorecard). However, the section is not clearly expressed and is open to various interpretations. There is lack of clarity as to who may approve such tools and how the Waikato Regional Council will determine who is suitably qualified to undertake such approval.</p> <p>While Rule 3.11.4.3 condition 6 requires compliance with Schedule D1 (Part D), the requirement of Part D 2 as it relates to the matter of maintaining N loss at or below the level of the previous year, is</p>	<p>retained and provided to the Waikato Regional Council</p> <ul style="list-style-type: none"> <li>• The model or tool must be used by a suitably qualified person</li> </ul> <p>D. Amend Part D 8 to provide for (at least) a two-year transition period within which farmers can make the infrastructural investment required to comply.</p> <p>E. Amend Part D 10 by adding the following:</p> <p>b. <u>Except as provided in c below</u>, information described in a) above is provided to the Waikato Regional Council on request</p> <p>c. <u>Any material increase in stocking rate, area of cultivation, area under irrigation or change to winter grazing practices shall be reported to the Waikato Regional Council.</u></p> <p>F. Amend Part E by either deleting item b or by making the following change:</p> <p>An FEP shall also be reviewed in the event of any material increase in <u>intensity of farming stocking rate, area of cultivation, area under irrigation or change to winter grazing practices.</u></p>		<p><b>Relief Point D</b> Federated Farmers considers that an appropriate transition period should be provided to allow farmers to make the infrastructural investment required to comply.</p> <p><b>Relief Point E</b> Federated Farmers considers that the relief sought by the Appellant is unnecessary and unduly onerous on landowners and does not support the relief sought.</p> <p><b>Relief Point F</b> Federated Farmers considers that the relief sought by the Appellant is unnecessary and unduly onerous on landowners. There is no need to review an FEP as long as the farm continues to operate at the same intensity and can meet the requirements of D1. Federated Farmers therefore opposes the relief sought by the Appellant.</p>
--	--	---	--	--

	<p>not clearly expressed as a minimum standard.</p> <p>Uncertainty is introduced by Part E 2, which implies that a material increase in intensity is allowed as a permitted activity, albeit it will trigger a review of the FEP. That seems to contradict Part D 2 which suggests that no increase in N is permissible.</p> <p>Compliance with Part D 8 will require a significant investment in infrastructure for many farmers. The financing and building of that infrastructure cannot occur instantly. This issue is similar to the requirements for stock exclusion and yet the stock exclusion provisions allow farmers two years after the FEP is prepared to have exclusion fences in place. No such transition period is provided in this Part for effluent infrastructure. It should be.</p>			
<p><b>Schedule D2 – Requirements for Farm Environment Plans for farming that requires consent</b></p>	<p>The goals and principles in this part of schedule D2 identify outcomes that are typically described using words such as “minimise the loss of contaminants that potentially affect water quality”, “minimise nutrient losses to water”, “achieves the nutrient loss reductions required in policy 2” and “minimise losses of nitrogen, phosphorous, sediment and microbial pathogens to waterways”.</p>	<p>Delete the word minimise where it appears in Schedule D2.</p> <p>Replace the goals and principles of Schedule D2 with the well-known Industry Agreed Good Farming Practices (GFP), complemented as necessary with additional detail from the associated GFP guidelines and other specific matters as may be relevant to the Waikato context.</p> <p>Provide clarity over the requirement that will apply to on-going monitoring and reporting of nitrogen loss risk. This should include provision for use</p>	<p>Support in part Oppose in part</p>	<p><b>Minimise</b> Federated Farmers supports the deletion of the word “minimise” within Schedule D2. Federated Farmers considers that “minimise” has a connotation of reduction (even if the contaminant discharge is already low), and could be interpreted as reducing to the lowest extent possible. Federated Farmers considers an approach of “reducing everything, everywhere” is inappropriate and also introduces uncertainty about what level of contaminant loss is to be produced, as well as potentially imposing significant cost above what has been assessed or</p>

	<p>Those terms can be interpreted to mean a range of things. This terminology creates a serious risk that the controlled activity and discretionary activity farming consents must ensure the achievement of the absolute minimum possible loss of those contaminants to water, and demonstrate, as a certainty, the outcomes that are referred to in Policy 2 as described earlier in this letter.</p> <p>Even if the consent authority wishes to implement those provisions in a practical and achievable way, any opponents of a pragmatic approach could find substantial support from the combination of provisions in Policy 2, the consent rules and part D2 of schedule D. The uncertainty about the meaning of the some of the terms used is a significant issue on its own, but the potential requirement to achieve an absolute minimization of contaminant discharges, regardless of consequences, could be used in an unintended way to interpret and implement Policy 2.</p>	<p>of alternative (to Overseer) risk estimation tools for any farming activity.</p>		<p>intended in the first 10 years of the journey.</p> <p>Federated Farmers considers the use of the words “manage and/or reduce” provides better clarity that the required assessment is against Good Farming Practice and where this is already met (or even exceeded) then discharges are managed and where it is not met, there are to be managed reductions to achieve Good Farming Practice.</p> <p><b>Good Farming Practices</b> While Federated Farmers considers that the goals and principles are supplementary guidelines to Part B and generally consistent with the Good Farming Practice principles, Federated Farmers does not agree with some of the wording changes to the principles in the Decisions Version and considers that this fundamentally changes the principles agreed by industry groups.</p> <p>Federated Farmers supports the replacement of goals and principles to be consistent with the well-known Industry Agreed GFP.</p> <p><b>On-going Monitoring</b> Federated Farmers supports providing clarity over the requirement that will apply to on-going monitoring and reporting of nitrogen loss risk</p>
<b>Other matters</b>				
<b>Other</b>	<p>It is not clear whether consents issued under the various Rules of PC 1 will require nitrogen loss to be maintained (in the case of Rule 3.11.4.2, for example) or reduced (in the case of Rule 3.11.4.4, for example) relative to an Overseer estimated benchmark</p>	<p><b>Amend PC 1</b> to ensure that any conditions imposed on resource consents relating to nitrogen loss/risk limits require that either:</p> <p>(a) The nitrogen loss/risk limit to be determined by, and compliance assessed by a tool or methodology that does not change over time; or</p>	Support	<p>Federated Farmers supports the ability to update the N leaching loss rates as Overseer version changes without the need to rely on future plan changes.</p>

	<p>or baseline nitrogen loss risk assessment for the property.</p> <p>It appears that that is at least an option that may be adopted as a consenting practice. It may be that where the Nitrogen Loss Leaching Loss Rate is submitted it is used in that role.</p> <p>Such an approach could lead to unfair and unintended consequences as leaching rates "frozen" would not be comparable to leaching rates estimated by up-dated versions of the Overseer model. That is, achieving the maintenance or reduction relative to the fixed N loss rate condition on consent could become significantly harder (or easier) to achieve as future versions of Overseer are used to estimate contemporary leaching.</p>	<p>(b) Where Overseer is used to model N leaching loss, that any N leaching loss target is updated as and when a new version of Overseer is released.</p>		
--	---	---	--	--