

IN THE ENVIRONMENT COURT  
AT AUCKLAND

ENV-2020-AKL-000084

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 FONTERRA LIMITED

*Appellant*

A N D WAIKATO REGIONAL COUNCIL

*Respondent*

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**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:

**Fonterra Limited v Waikato Regional Council**  
**ENV-2020-AKL-000084**

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.



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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
<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 particular concern about whether Objective 1 applies to all tributaries of the Waikato and Waipā river as the list of waterbodies with the catchments omits references to streams and other tributary water ways.	<p>Define the term “water bodies within the Waikato and Waipā River catchments” and use that term consistently across all objectives and other relevant provisions.</p> <p>A definition would be as follows:</p> <p><u>The Waikato and Waipā Rivers, including all tributaries, springs, lakes and wetlands and connected water bodies within their surface water catchments</u></p>	Support in part	Federated Farmers supports the use of consistent terminology and sees merit in 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>	Objective 2 sets the target of achieving Table 3.11-1 attribute states within 10 years. The attribute states listed in Table 3.11-1 represent making 20% of the improvement required towards the 80-year freshwater objective. This was increased from the 10% improvement required by PC1 as notified. The Appellant does not oppose the 20% target per se 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, E.coli and sediment) has not been put in	<p>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.</p> <p>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, in particular, to likely improvement in sediment, phosphorus and E.coli. Consideration for lags needs to be factored into Objective 2.</p>	Support in part	<p>As stated by the Appellant, Objective 2 now relies on the achievement of 20% of the journey in 10 (as opposed to 10%).</p> <p>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 E.coli. However, Federated Farmers does not consider the relief sought by the Appellant goes far enough to ensure realistic standards for plan users.</p> <p>Federated Farmers considers a 20% water quality improvement to be</p>

	<p>place in a way that will ensure the target is viable or which distributes the burden appropriately over all contaminant sources.</p> <p>In addition, the objective has been reframed in the decisions version of PC 1 from focusing on having in place and implementing actions sufficient to achieve the reductions, to actually having achieved those reductions. This is a more onerous and less controllable outcome, particularly when the achievement of Table 3.11-1 target attribute states will be heavily influenced by already committed contaminant losses and the lags in the system before those contaminant losses influence in-stream conditions. For all those reasons, there is very low probability that Objective 2 will be met as currently expressed and with the current policy and regulatory settings.</p>			<p>unrealistic and unachievable and will likely impose significant cost (without providing an appropriate transition or 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><b>Objective 3</b></p>	<p>Objective 3 sets out the proposition that the way the plan provides for social and 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>The Appellant agrees that Objective 3 should not provide</p>	<p><b>Amend</b> Objective 3 so that it recognises the need to provide for communities' social and economic, 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 PC 1 take account of those considerations in the design of its policies and methods.</p>	<p>Support</p>	<p>Federated Farmers agrees that Objective 3 should capture the full range of ways that social and economic matters are recognised by PC1.</p>

	<p>for a direct trade-off between ecological well-being and social and economic well-being and that Objective 3 should not invite such an approach.</p> <p>However, as worded Objective 3 does not capture the full range of ways that social and economic matters are recognised by PC1.</p> <p>For example, PC1 should not make a farmer adopt an expensive mitigation when an equally effective but more affordable option exists. Similarly it should not impose the full burden for achieving outcomes on one sector or group of users, but rather spread that load over all contributors. Those are important principles that should be founded in an objective of the plan. Accordingly, the Appellant considers that the scope of Objective 3 has been overly constrained.</p>			
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**Policies**

<p><b>Policy 1</b></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 “low intensity farms”.</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</p>	<p><b>Amend Policy 1 as follows:</b>  c. Enabling, through permitted activity rules, <u>low intensity</u> farming and horticultural activities (not including commercial vegetable production), with low risk <u>(individually and cumulatively)</u> of diffuse discharge of <u>all four</u> contaminants to water bodies, and requiring resource consents for all other activities</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</p>
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	<p>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 is relevant to consent status (including matters such as slope, erodibility and management practices).</p>			<p>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><b>Policy 2</b></p>	<p>Policy 2 establishes a highly differentiated approach to managing activities that is not based on the adverse effects of those activities. The relationship between Policy 1 and Policy 2 is not clear but it is clear from looking at how Policy 2 is applied through rules, that Policy 2 a, b and c will not apply to drystock farming (or to commercial vegetable production). Those activities are not required to have a Nitrogen Loss Leaching Rate and hence will not have to demonstrate that their leaching loss is “as low as reasonably practicable”, or, where that leaching loss is high, make “significant reductions”. Those obligations will rest entirely with dairy farming. That situation arises from the use of the drystock-specific 18 winter stocking units (WSU) threshold as an alternative to the Low, Moderate and High leaching loss</p>	<p><b>Amend Policy 2 as follows:</b></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 the Appellant’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</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 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 Appellant’s interpretation of paragraph a and b. Federated Farmers notes that</p>

	<p>thresholds of Schedule B, Table 1. We address that matter further in relation to Policy 4 and Rule 3.11.4.3.</p> <p>Furthermore, Policy 2 differentiates on the basis of, and seeks to manage, diffuse 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>Policy 2 is central to the workability and efficacy of PC 1 because it is the primary resource consent decision-making guiding policy for farming activities (as set out in sub part a and b(i)). Yet the policy tests included with Policy 2 are too generally and vaguely expressed, meaning that resource consent applicants have little certainty and applications are likely to be assessed variably and inconsistently. Accordingly, the policy provides low certainty for both farmers and for the community concerned to ensure that plan objectives will be met.</p> <p>The reference in Policy 2 b (iii) to transition periods for land use conversion (within which significant nitrogen loss reductions may not be required) raises many issues and is likely</p>	<p>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>E. Policy 2 b (ii) should be amended to read:</p> <p>a. “demonstrate why significant reductions to their Nitrogen Leaching Loss Rate should <del>either</del> not be required; <del>or</del></p> <p>F. Policy 2 b (iii) should be deleted.</p> <p>G. The first bullet point under Policy 2 b should be amended to read:</p> <p><del>The accuracy of Whether</del> the modelled Nitrogen Leaching Loss Rate, <del>including whether</del> captures the benefits of existing contaminant mitigation steps that have been put in place.</p> <p>H. Delete the clause under the second bullet of Policy 2 b. as shown below:</p> <p><del>Subject to data availability, the depth of groundwater under the land, the chemical characteristics of that groundwater, the speed that groundwater transmits nitrate nitrogen leached below the root zone to surface waterways and the likely attenuation of nitrate nitrogen between the rootzone and any surface waterway</del></p>	<p>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>
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	<p>to be the source of confusion and inconsistent application. If the intent is to allow high nitrogen discharging activities to continue for a period of time, before a voluntary land use change occurs then that is a matter that could be considered under a slightly reworded Policy 2 b (ii) without the need for the complication of Policy 2 b (iii).</p> <p>The ability to broadly argue the accuracy of Overseer at the time of consent is inappropriate although the Appellant does accept that whether mitigations have been accounted for in modelling will be relevant. While attenuation and transmission factors are relevant considerations in terms of effects on surface water, the poor state of information about these matters (and the expense in obtaining information) means that consideration of attenuation and transmission will result in inconsistent decision-making and inequitable outcomes for landholders.</p>			
<p><b>Policy 3</b></p>	<p>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>Redraft Policy 3 (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)</p>	<p>Support in part Oppose in part</p>	<p>Federated Farmers considers that a consistent and equitable approach to all activities in the PC1 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></p>

	<p>Whereas Policy 2 includes strong and 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>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 the fact that those other farming activities provide many of the same benefits and, generally, at a much greater scale.</p> <p>The Hearing Panel’s report records acceptance (paragraphs 1603, 1604 and 1617) 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>should be included in Policy 2 (or alternatively deleted from Policy 3) to provide a comparable policy framework.</p> <p>C. Add to Policy 3 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 refers to its reasoning above (Policy 2, Relief Point A).</p> <p><b>Relief Point B</b> 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>Relief Point C</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>Policy 4a sets out what types of farming require quantification of nitrogen leaching rates. The Appellant says that this, and other parts of the policy, raise a</p>	<p><b>Amend Policy 4 to as follows:</b> A. Amend sub part a of the policy to provide the foundation for PC 1 to: (i) Require the initial assessment of the intensity of farming activities and</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</p>

	<p>number of issues that need to be addressed.</p> <p>While Policy 4a says that all dairy farms must have an FEP with a quantified Nitrogen Leaching Loss Rate for the property, drystock farming does not need to have the same unless its stocking rate is more than 18 stock units per hectare (su/ha). The associated Rule 3.11.4.4 creates even greater differentiation by, despite Policy 4, not requiring any drystock farm to have a Nitrogen Leaching Loss Rate.</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. 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>Dairy farms, on the other hand, are subject to this requirement under Policy 4 regardless of their stocking rate (which will often be less than 18su/ha at some point over the same winter months).</p> <p>As set out elsewhere in the notice of appeal, the Appellant says that there should be</p>	<p>nitrogen loss risk of farms by reference to either the NLLR or the peak 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 peak stocking rates) for the management of farming activities; and</p> <p>(iii) Require appropriate information to demonstrate the NLLR or the peak 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>but not where it is used as an allocation or benchmarking tool, or where it is used to require B reductions.</p> <p>Federated Farmers disagrees with the Appellant's 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>
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	<p>equivalency in the risk threshold used to assess the nitrogen loss risk of dairy and drystock farms. One way to achieve that is to retain the numeric N loss thresholds of Table 1 of Schedule B but include stocking rates as an alternative risk threshold (calibrated to be reasonably equivalent). Farmers could choose either the Overseer-dependent Nitrogen Leaching Loss Rate or the peak stocking rate option for determining nitrogen loss risk, and hence for determining which of Rules 3.11.4.3, 3.11.4.4 or 3.11.4.7 apply.</p> <p>Applying that approach would mean that Policy 4 should require the FEP to include either the Nitrogen Leaching Loss Rate (prepared in accordance with Schedule B) or the peak stocking rate.</p> <p>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 D 2 of PC 1 requires those permitted activities with FEPs to demonstrate that nitrogen loss risk does not increase over time. They may do so using any tool approved by any person</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></p> <p>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>
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	<p>that the Waikato Regional Council is satisfied is 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 that 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 obligation to annually assess and report nitrogen loss risk, and the ability to do so using tools other than Overseer, should be included Provision appealed Specific grounds of appeal/reasons Relief sought within Policy 4. As a separate matter, 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. FEPs are important because they are the primary tool for addressing sediment, phosphorus and E.coli losses from farm</p>			
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	<p>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>			
<p><b>Policy 10</b></p>	<p>The Appellant supports the idea that the Councils should collect information and 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. Given that the planning regime would likely permit almost all drystock farming, the ability to understand and account for contaminant losses from those systems appears weak. Similarly, because N losses will be estimated differently for different sectors (using, for example, Overseer for dairy, stocking rate for drystock and a yet to be determined alternative for vegetable production) the potential for poor and/or uncompileable data and misleading results is very high. This could translate into</p>	<p><b>Amend Policy 10 to reads 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>, developing appropriate modelling tools to estimate contaminant discharges, and researching the spatial variability of land use, contaminant losses and the effect of contaminant discharges in different parts of the catchment, to assist in the design of any future management regime</p>	<p>Support</p>	<p>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.</p>

	inequitable future policy responses.			
<b>Methods</b>				
<b>Method 3.11.3.3 and 3.11.3.4</b>	As noted in respect of Policy 10, 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 Part d of 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.	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>	As noted in respect of Policy 10, 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 Part d of Method 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>	Rule 3 inappropriately 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 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	<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: 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 a stocking rate less than 18* stock units per hectare at peak stocking rate.	Oppose	<b>Relief Point A</b> 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

	<p>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. The threshold of 18 winter su/ha is not appropriate and is not supported by evidence. The concept of a winter stocking rate does not manage the risks associated with very high stocking rates at other times of the year. For that reason, the Appellant supports use of a 'peak' stocking rate being the highest rate occurring over the farming year.</p> <p>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 necessary, enforced to reliably manage effects.</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.  C. be registered with the Council and in conformance with Schedule A provide evidence of the peak and winter stocking rate.  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> <p>* While the metric of 18 stock units (peak) is indicated here as an appropriate "low intensity" threshold, the Appellant seeks that the stocking rate applied by this rule should be that rate that would likely result in nitrogen leaching no greater than the 50%ile dairy leaching rate for the relevant FMU (ie. the two indicators of risk should be reasonably aligned).</p>	<p>reflect the different outcomes and effects.</p> <p><b>Relief Point B</b>  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 intensity and 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 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 be necessary.</p>
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<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 well-founded or ‘effects based’. The same threshold metric should apply equally to both farm systems (or, if different metrics are used, they are carefully calibrated to ensure risk is consistently identified and managed).</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>The Appellant considers that the opportunity for a ‘tailored solution’ for stock exclusion too easily allows exceptions to basic stock exclusion standards to be granted through the controlled activity consenting process.</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 the vast majority of 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><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 peak stocking rate.</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 <i>E.coli</i> are typically a greater issue than nitrogen.</p>
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	<p>If standard stock exclusion requirements cannot be met then the matter should be dealt with as an RDA.</p> <p>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><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) (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>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 particular risks associated with CVP. This means that the</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 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>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-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</p>

	<p>efficacy of control over CVP is likely to be low relative to the requirements applying to pastoral systems</p>			<p>activities given that nitrogen is the contaminant generally at issue for dairying. However, stock units are likely to be a 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 close scrutiny and control through the resource consent process. However, it does not support N leaching loss being the sole metric used to determine 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 (in fact in many places more) severe and more challenging than those associated with nitrogen.</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>Consistent with its appeal on Rule 3.11.4.3, the Appellant considers the ‘winter’ stock rate</p>	<p>Amend Rule 3.11.4.7 so that any of the following farming activities (whether drystock or dairy) that 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 25* peak 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>* While the metric of 25 peak stock units is indicated here, the Appellant seeks that the stocking rate applied in this rule should be that rate that would likely result in nitrogen leaching, equal to or greater than the 75th %ile dairy leaching rate for the relevant FMU.</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 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>is an inappropriate measure because it potentially allows very high stocking rates outside of the winter period. The Appellant, accordingly, favours use of 'peak' stocking rate metric as a better indicator of actual risk. It considers that an appropriate peak stock unit threshold for high risk farming would be set at the equivalent of the 75th percentile leaching rate.</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>Rule 3.11.4.8 provides for CVP to expand in the catchment to occupy 3,698 ha (including 'extant' consents'). That represents a significant allowance for growth. No other land use has been given a specific right to expand. Although it is a full discretionary 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 <i>improvement</i> 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</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 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 i. is not possible on land to be converted, that offsetting of any additional contaminant loss shall apply; and</p> <p>C. Amend Rule 3.11.4.5 to apply only after all existing CVP has been consented under Rule 3.11.4.4.</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>Federated Farmers considers that amendments can be made the existing rule to ensure consistency across the rest of the regulatory framework.</p>

	<p>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><b>Rule 3.11.4.9</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 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 Waipa 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>Amend Rule 3.11.4.9 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 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 in accordance with any other rule in the plan) to a level above a peak stocking rate of 25 su/ha*.</p> <p>* While the metric of 25 peak stock units is indicated here, the Appellant seeks that the stocking rate applied in this rule should be that rate that would likely result in nitrogen leaching, equal to or greater than the 75th %ile dairy leaching rate for the relevant FMU.</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>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</p>

				<p>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, 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.</p>
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**Schedules**

**Schedule B**

<p>The leaching rates set out in Table 1 are based on the 25th / 30th and 75th 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</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 peak 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</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 the Appellant about N</p>
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	<p>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 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>and adding further columns to display the comparable peak 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>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 Appellant's 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 reference file approach, without the need to rely on future plan changes.</p>
<p><b>Schedule D1</b></p>	<p>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</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> </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</p>

	<p>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 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 (ie, that this is not limited to Overseer but could include tools such as the Appellant's Nitrogen Risk Scorecard). However, the section is not clearly expressed and is open to various interpretations. In particular, 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>	<ul style="list-style-type: none"> <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 retained and provided to the Waikato Regional Council</li> <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><u>c. 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 <u>increase in intensity of farming stocking rate, area of cultivation, area under irrigation or change to winter grazing practices.</u></p>		<p>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><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>
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	<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 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</b></p>	<p>Schedule D2 includes a range of 'goals and principles' that are unclear, untested and for which there is no agreed meaning.</p> <p>Schedule D2 Part C is not clear as to what requirements will</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</p>	<p>Support in part Oppose in part</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</p>

	<p>apply to the on-going assessment of nitrogen loss/nitrogen loss risk. In particular, it is not clear whether annual Overseer reporting will be required against Nitrogen Leaching Loss Rates. As set out in relation to Policy 4, the Appellant says that there are methods other than Overseer modelling that will be appropriate for annual risk assessment. The tools able to be used to monitor nitrogen leaching loss risk from permitted activities (under Schedule D1 part D2) should be available for use in respect of consented activities.</p>	<p>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 of alternative (to Overseer) risk estimation tools for any farming activity.</p>		<p>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>				
<p><b>Other</b></p>	<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 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</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> <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>	<p>Support</p>	<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>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>			
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