

**BEFORE THE ENVIRONMENT COURT
AT WELLINGTON**

Env-2019-WGN-

IN THE MATTER

of the Resource Management Act
1991 ("Act")

AND

IN THE MATTER

of an appeal pursuant to clause
14(1) of the First Schedule of the Act
in relation to the Proposed Natural
Resources Plan for the Wellington
Region

BETWEEN

**FEDERATED FARMERS OF NEW
ZEALAND INC**

Appellant

AND

**WELLINGTON REGIONAL
COUNCIL**

Respondent

NOTICE OF APPEAL



Level 6, Wellington Chambers,
154 Featherston St
PO Box 715
Wellington 6140
Telephone: 0800 327 646
Email: emcgruddy@fedfarm.org.nz

**FORM 7 NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST
DECISIONS ON THE PROPOSED NATURAL RESOURCES PLAN FOR
THE WELLINGTON REGION**

To: The Registrar
Environment Court
Wellington

1. Federated Farmers of NZ Inc (FFNZ) appeal against a decision of the Wellington Regional Council (WRC) on the following proposed plan:

Proposed Natural Resources Plan for the Wellington Region

2. FFNZ made a submission and a further submission and presented at hearings before Wellington Regional Council Hearing Commissioners in respect of the proposed plan.
3. FFNZ is not a trade competitor for the purposes of Section 308D of the Resource Management Act 1991 (Act).
4. FFNZ received notice of the decision referred to in this appeal on 31 July 2019.
5. The decision was made by the Respondent.
6. FFNZ is willing to participate in mediation.
7. The parts of the decision that FFNZ is appealing are:
 - a. Rural Landuse provisions relating to livestock access to waterbodies, farm earthworks, and vegetation clearance
 - b. Discharge provisions relating to spraying drains and fertiliser application
 - c. Definitions relating to these and other provisions

- d. Provisions relating to identification of wetlands and provisions to manage activities in or near wetlands

Reasons for appeal

8. FFNZ's reasons for appeal are generally that:
 - a. The proposed provisions are not the most appropriate to achieve the purpose of the Act or the proposed objectives
 - b. The proposed provisions are contrary to good resource management and planning practices
 - c. Permitted activity rules have over burdensome conditions and are vague or uncertain
 - d. Activities that do not comply with permitted activity status have inappropriate default activity status and/or consent pathways
 - e. The purpose of the Act and objectives of the plan can be met with less restrictive and more certain provisions.

9. FFNZ further reasons for appeal include that:
 - a. Decision Report 3 (para 3.32) notes expert evidence from Council that there is no compelling evidence of wholesale degradation of freshwater quality through the region. The evidence from Council¹ further shows that "there is a high level of confidence that a majority of sites have improving trends over the past decade for most variables (and) there is strong evidence of overall water quality improvement at the regional level over the past decade". Acknowledging this context, FFNZ seek less onerous rules for certain activities.

¹ Statement of Right of Reply Evidence of Antonius Snelder on behalf of WRC, 4 May 2018 (para 8.3)

- b. Decision Report 1 (para 5.12) acknowledges the importance of farming activities to both the regional and national economy, and an intent to simplify the rules applying to farming practices. Acknowledging this intent, FFNZ seek amendments to certain rules and definitions for improved clarity and certainty.

- c. Decision Report 1 (para 5.17, 5.18). records submitters concern that many areas of significance were not identified in any specific manner; and the related concern, particularly in relation to wetlands, was how one would be able to determine whether provisions are applicable or not to a given site or activity. In respect of landscapes, the Panel records (para 4.252, 4.253), substantial difficulty accepting that case-by-case protection through future resource consent processes is valid or appropriate in a section 32 sense. Again in Decision Report 10 (Para 3.10) the Panel stated that this amounts to identification and assessment “on the hoof”, and stressed the importance (para 4.15) of a robust technical methodology for the identification and consultation that the necessary First Schedule process requires. In Decision Report 13 (para 3.48), the Panel expressed its overarching concerns regarding provisions for wetlands, in particular whether the absence of information regarding unscheduled wetlands gives certainty as to what the subsequent rules apply to; and again stating the need for empirical work by Council, proceeding to a First Schedule process involving the necessary section 32 assessment.

- d. For these reasons as set out in the Decision Reports FFNZ seek a robust and consistent Schedule One process for the identification, mapping and scheduling of natural or significant wetlands before plan provisions apply to those wetlands, so that plan users and WRC can have certainty about which areas of land rules apply to.

10. Without limiting the generality of the above, the specific reasons for the appeal and the relief sought with respect to each provision are set out in the table attached at Schedule 1 and in FFNZ's submission and further submission.
11. FFNZ also seeks the following further relief (in addition to the matters set out above and in Schedule 1):
 - a. other relief to give effect to the concerns raised in this appeal and in FFNZ's submission and further submission;
 - b. any consequential amendment as to detail or substance throughout the Plan to give effect to these appeal points; and
 - c. costs
12. FFNZ attaches the following documents to this notice:
 - a. a copy of Federated Farmers submission and further submission
 - b. a list of names and addresses of persons to be served with a copy of this notice.

Elizabeth McGruddy

for Federated Farmers of New Zealand Inc

18 September 2019

Address for service of appellant:

Elizabeth McGruddy
Senior Policy Advisor
Federated Farmers of New Zealand
PO Box 715
WELLINGTON 6140

Tel No.: 0800 327 646
Email: emcgruddy@fedfarm.org.nz

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission or the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

The copy of this notice served on you does not attach a copy of any other documents necessary for the adequate understanding of the appeal (of which there were none), or a list of names and addresses of persons to be served with a copy of this notice. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington or Christchurch.

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
Land Use Provisions – Rural Activities				
1	Rule R97 Livestock access to a surface water body or the coastal marine area	<p><u>Livestock access to a surface water body or the coastal marine area, and any associated discharge to water, is a permitted activity provided the following conditions are met:</u></p> <p><u>(a) From 31 July 2019, there shall be no livestock access to a Category 1 surface water body, except that sheep may have access to a significant natural wetland listed in Schedule F3 (significant wetlands).</u></p> <p><u>(b) From 31 July 2022, access by:</u></p> <p><u>(i) livestock to a Category 2 surface water body, or and</u></p> <p><u>(ii) dairy cows to a river that is not a Category 1 or Category 2 surface water body and has an active bed width of 1 metre or wider,</u></p> <p><u>may occur provided:</u></p> <p><u>a. there is no surface</u></p>	Amend R97 (or consequential definitions) to the following or similar effect.	<p>FFNZ relief on R97 is intended as a more appropriate way to give effect to Objective O2, Objective O6, Policy P65 and Policy P99, alongside implementation of Methods M12, M13 and M14.</p> <p>O2 directs that the importance of land and water to the social and economic wellbeing of the community are recognised in the management of resources.</p> <p>O6 directs that sufficient fresh water is available for the reasonable needs of livestock.</p> <p>P65 provides that adverse effects of rural landuse activities be minimised including through rules and methods in the plan, good management practices and integrated catchment management.</p> <p>P99 provides that livestock access be managed to protect Category One waterbodies; and otherwise restrict the location and frequency of access of some types of livestock</p> <p>M12 provides for a partnership approach to identifying Category One and Two waterbodies, promoting good management practices, and implementation of riparian management plans across a number of priority catchments.</p> <p>M13 directs a partnership approach to develop management options for the water races including a plan change specific to rules for livestock access to water races.</p> <p>M14 provides for a partnership approach implementing riparian and land management practices for drains and highly modified waterways that minimise sediment and nutrients to waterways.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p><u>water present at the time and location of the access;</u> <u>or</u> <u>if there is surface water present, the access is only at a stock crossing point that complies with condition (d).</u></p> <p><u>(c) At all times, livestock access to a surface water body or the coastal marine area shall not result in:</u> <u>(i) a conspicuous change in colour or visual clarity of water;</u> <u>a. in a site with significant</u></p>	<p>Livestock</p> <p>Amend R97 OR the livestock definition to specify that R97 applies to farmed dairy cows, cattle, deer and pigs.</p> <p>Category Two</p> <p>Amend R97 or the definition of Category Two waterbodies to exclude water races and drains.</p> <p>Delete bii .</p> <p>Extend the timeframe for Huangarua to 2025; and provide that exclusion is required during trout spawning periods (31 May-31 Aug)</p>	<p>Livestock</p> <p>FFNZ relief on the definition of livestock sought amendments to specify that “for the purpose of R97, means farmed dairy cows, cattle, deer and pigs”.</p> <p>Decisions Report 8 (para 6.7) states: “The definition of livestock is amended, as sought by Federated Farmers. We share Mr Loe’s view that the defined term should specify the animals most likely to interact with surface water”.</p> <p>It appears to be an inadvertent error that this change was not made.</p> <p>Category Two</p> <p>The most appropriate way to manage livestock access to water races is to develop a specific plan change or variation as directed by M13.</p> <p>The requirement to exclude stock from drains – which may be permanently flowing or hold water through wet months or only after rainfall events – is onerous and disproportionate to environmental benefits. The most appropriate way to manage effects of livestock access to drains is as provided for in M14.</p> <p>The most appropriate way to manage the effects of dairy cows, dry cows and heifers outside of the Map 29 lowland areas is through the same conditions which apply to cattle, deer and pigs.</p> <p>Huangarua: the effect of including trout spawning habitat in Category Two is to include hill country segments which are not otherwise included in Map 29. Method M12 provides for WRC to assist with riparian works in Huangarua catchment by 2025 – the timeframe for stock exclusion would most appropriately be aligned.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p><u>mana whenua values identified in Schedule C (mana whenua); or</u></p> <p>b. <u>in a natural wetland, lake, estuary or the coastal marine area; or</u></p> <p>c. <u>beyond the zone of reasonable mixing in a river; or</u></p> <p>(ii) <u>pugging or de-vegetation that exposes bare earth; or</u></p> <p>(iii) <u>cattle, farmed deer or farmed pigs being left unattended in, or not being actively moved through, a natural wetland, estuary or the coastal marine area.</u></p> <p>(d) <u>A stock crossing point on a river, open drain, water race or lake shall:</u></p>	<p>Conditions</p> <p>Amend R97 or the definition of surface water body to exclude drains and water races.</p> <p>Delete cii</p> <p>Delete ciii</p> <p>..</p>	<p>Conditions</p> <p>The inclusion of drains in the definition of surface water body introduces a very high level of uncertainty for lowland and hill country farmers, and potentially an inordinate level of costs disproportionate to environmental benefits.</p> <p>The effect of the pugging condition is introduce an inappropriate threshold which is likely to have the effect of requiring region wide stock exclusion at odds with the intent of R97 to provide for livestock access outside of the Category One and Two waterbodies. FFNZ estimate that the cost of meeting the current conditions on one average hill country property could be in excess of \$1 million.</p> <p>The new condition ciii has the effect of making these waterbodies “Category One” with immediate effect, but with no identification or mapping of the areas, and with no prior consultation with affected landowners.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p>(i) <u>be not more than 20m wide, and</u></p> <p>(ii) <u>be perpendicular to the direction of water flow, except where this is impracticable owing to the natural contours of the bed or adjoining land, and</u></p> <p>(iii) <u>align with a constructed track or raceway on either side of the stock crossing point, and</u></p> <p>(iv) <u>not be used to allow cattle, farmed deer or farmed pigs to be left unattended in, or not actively moved through, the water body, and</u></p> <p>(v) <u>not be used more frequently than twice in any month.</u></p> <p><u>Note</u></p> <p><u>Fencing is one method of managing livestock access and fencing can be either permanent or temporary as long as it achieves the conditions of the rule.</u></p>	<p>Crossings</p> <p>Add crossing conditions from b (ba and bb) to c</p> <p>Delete di, diii and dv</p> <p>Wetlands</p> <p>Add provision for livestock access as stipulated in and carried out in accordance with a wetland restoration management plan under Rule R106</p> <p>Add provision for livestock access as stipulated in a QEII or Nga Whenua Rahui covenant.</p>	<p>Crossings</p> <p>Conditions ba and bb (access may occur provided...) appear to be have been inadvertently omitted from c consequent to re-structuring of the rule.</p> <p>Conditions iii and v may be appropriate for dairy crossings on a milking platform, but are not appropriate outside of this situation. The key condition which most appropriately expresses the intent of the rule is condition iv.</p> <p>Wetlands</p> <p>Consistent with other rules in the plan, provision should be made for livestock access in accordance with a wetland restoration plan.</p> <p>Similar provision would appropriately be made for landowners with covenants.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
2	Rule R98 Livestock access (excluding any Category One surface water body)	The use <u>and disturbance of the bed including the banks, or other land in a surface water body or the coastal marine area, and any associated discharge to water, land for access by any from livestock access to the bed (including the banks), and the disturbance of the bed and discharge of sediment and excreta to a surface water body</u> that <u>does not comply with is not permitted by</u> condition (b), (c) or (d) of Rule R97, is a discretionary activity.	Provide for default rule with Controlled Activity status Consequential amendments to definitions as for R97	Consent may be sought for problematic sites where alternate stock water or power is not available or the area is subject to challenging terrain or floods. Consent might also be sought to extend Cat Two timeframes (2022) to align with partnership funding timelines (2023 to 2025) Money spent on discretionary consent processes would more appropriately be spent on the ground on matters that can be specified in a controlled consent.
3	Rule R98A	<u>The use and disturbance of the bed, including the banks, or other land in a surface water body or the coastal marine area, and any associated discharge to water, from livestock access that does not comply with condition (a) of Rule R97, is a non complying activity.</u>	Provide for default rule with RD Activity status Consequential amendments to definitions as for R97	Reasons as for R98
4	Rule R99 Earthworks	The use of land, and the <u>associated</u> discharge of <u>sediment-laden runoff stormwater</u> into water or onto or into land where it may enter water from earthworks of up to a total contiguous area up to of 3,000m² per property per 12 month period is a permitted activity, provided the following conditions are met: (a) soil or debris from earthworks is not placed where it can enter a surface water body or the coastal marine area, and	Amend R99 (or consequential definitions) to the following or similar effect. Amend to provide for <u>contiguous</u> (not total) area on a property that is over 20ha.	FFNZ relief on R99 is intended as a more appropriate way to give effect to Policy P98, alongside implementation of Methods M1 and M12. P98 provides for earthworks and vegetation clearance activities with the potential for significant accelerated erosion or sediment discharges to use measures including good management practices to minimise risks and control runoff. M1 directs WRC to produce guidance for earthworks and vegetation clearance. M12 directs WRC to provide assistance with erosion and sediment control across a number of priority catchments. A total area of 3000m ² may be appropriate for an urban subdivision or

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p>(b) earthworks will not create or contribute to instability or subsidence of a slope or another land surface at or beyond the boundary of the property where the earthworks occurs, and</p> <p>(c) work areas are stabilised within six months after the completion of the earthworks.</p> <p>(d) any earthworks shall not, after the zone of reasonable mixing, Result in any of the following effects in receiving waters</p> <p>(i) the production of conspicuous oil or grease films, scums of foams, or floatable or suspended materials, or</p> <p>(ii) any conspicuous change in colour or visual clarity, or</p> <p>(iii) any emission of objectionable odour, or</p>	<p>Delete c or amend to restrict it to properties less than 20 ha, and amend the definition of earthworks to exclude construction of farm tracks.</p> <p>Delete e) or amend to provide exceptions for activities permitted by R116 small dams and R117 new structures including sediment weirs and erosion protection , and for farm tracks including stock crossing tracks AND amend the definition of surface water body to exclude drains</p>	<p>lifestyle block but is an inappropriate threshold for a working farm; and it implies landowners must tally up each and all small earthworks through the course of a year to assure of not breaching the threshold.</p> <p>On a working farm, any potential for significant accelerated erosion from a contiguous area of 3,000m2 can most appropriately be managed through good management practice (eg, culverting, cut-off drains, picking grade and location of works) to meet conditions a), b) and d).</p> <p>The requirement to achieve 80% vegetative ground cover within 6 months (eg, through hydroseeding or synthetic mats) is not appropriate in farm situations (eg, farm tracks) where potential for significant accelerated erosion can more appropriately be managed by other sediment control techniques to achieve the other conditions of the rule.</p> <p>Condition e) has been added in the course of the hearing and has the effect of requiring consent for activities which are otherwise permitted under the plan..</p> <p>In respect of farm tracks, the most appropriate alignment to minimise the potential for significant accelerated erosion, may be within 5m of a waterbody; and effects can be managed through conditions a, b and d.</p> <p>The inclusion of drains in the definition of surface water body introduces a high level of uncertainty in the application of this rule, and is not the most appropriate way to give effect to P98.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p>(iv) the rendering of fresh water unsuitable for consumption by animals, or</p> <p>(v) any significant effect on aquatic life, <u>and</u></p> <p><u>(e) earthworks shall not occur within 5m of a surface water body except for activities permitted by Rule R114 or Rule R115.</u></p> <p><i>Note</i> <u>Rule R99 does not control any earthworks or soil disturbances covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.</u></p>		
5	Rule R100 Vegetation clearance on erosion prone land	<p>The use of land, and the <u>associated</u> discharge of sediment-laden runoff stormwater into water or onto or into land where it may enter water from vegetation clearance of <u>up to a total contiguous</u> area up to of 2ha per property per 12 month period on erosion prone land is a permitted activity, provided the following conditions are met:</p> <p>(a) any soil or debris from the vegetation clearance is not placed where it can enter a surface water body or the coastal marine area, and</p>	<p>Amend R100 (or consequential definitions) to the following or similar effect.</p> <p>Amend to provide for <u>contiguous</u> (not total) area on a property that is over 20ha.</p>	<p>Reasons as for R99.</p> <p>A total area of 2ha may be appropriate for an urban subdivision or lifestyle block but is an inappropriate threshold for a working farm; and it implies landowners must tally up each and all small vegetation clearance activities (eg, spot spraying gorse) through the course of a year to assure of not breaching the threshold.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p>(b) any soil disturbances associated with the vegetation clearance shall not after the zone of reasonable mixing, Result in any of the following effects in receiving waters</p> <p>(i) the production of conspicuous oil or grease films, scums of foams, or floatable or suspended materials, or</p> <p>(ii) any conspicuous change in colour or visual clarity, or</p> <p>(iii) any emission of objectionable odour, or</p> <p>(iv) the rendering of fresh water unsuitable for consumption by animals, or</p> <p>(v) any significant effect on aquatic life, <u>and</u></p> <p><u>(c) vegetation clearance shall not occur within 5m of a surface water body except for</u></p>	<p>Provide map of erosion prone land, and amend definition to exclude stable substrate</p> <p>Delete c) or amend to provide for clearance of exotic species and tauhini/scrub and to provide for farm tracks and crossings, and activities otherwise permitted (as for R99) OR amend the definition of vegetation clearance to exclude spraying and to exclude scrub/weed species.</p>	<p>FFNZ original relief on the definition of erosion prone land sought provision of a map to assist clarity and certainty and to exclude areas of stable substrate, eg, greywacke.</p> <p>This rule, including condition c, has the effect of requiring landowners to seek consent for managing weed species (eg, gorse, blackberry, pines) at significant cost and out of proportion to any benefits for reducing the potential for accelerated erosion.</p> <p>The intent of condition c can more appropriately be met by conditions a and b.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p><u>activities permitted by Rule R114 or Rule R115.</u></p> <p><i>Notes:</i></p> <p>(a) <u>Vegetation clearance is also controlled by provisions in district plans and bylaws, and the Electricity (Hazards from Trees) Regulations 2003.</u></p> <p>(b) <u>Rule R100 does not control any vegetation clearance or vegetation disturbances covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.</u></p>		
6	R101 Earthworks and vegetation clearance	<p>The use of land, and the <u>associated</u> discharge of <u>sediment-laden runoff stormwater</u> into water or onto or into land where it may enter water from earthworks not permitted by Rule R99 or vegetation clearance on erosion prone land that is not permitted by Rule R99 or Rule R100 is a discretionary activity.</p>	<p>Provide for default rule with Controlled Activity status</p> <p>Consequential amendments to definitions as for R99 and R100.</p>	<p>Money spent on discretionary consent processes would be more appropriately spent on the ground on matters that can be specified in a controlled consent</p> <p>.</p> <p>.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
Discharge Provisions – Rural Activities				
7	Rule R37 agricultural chemicals into water	<p>The discharge of agricultural chemicals into surface water bodies water is a permitted activity, provided the following conditions are met:</p> <p>(a) the agricultural chemical is approved by the Environmental Protection Authority for discharge into surface water bodies water, and</p> <p>(b) the discharge shall be in accordance with NZS 8409:2004 Management of Agricultural Chemicals and NZS 8409:2004 Management of Agricultural Chemicals, Records Appendix C9 unless inconsistent with the relevant Environmental Protection Agency approval in which case the conditions of the relevant Environment Protection Agency approval is followed, and</p> <p>(c) any person (including from a boat) applying agricultural chemicals in a public place or on private property for hire or reward.</p>	<p>Amend to the following or similar effect</p> <p>Reinstate R37</p> <p>OR amend R36B to provide for agricultural use over or into water.</p>	<p>Decision 7 (para 3.8) records that the two permitted activity rules (R36, R37) were restructured to relate to handheld and motorised/aerial applications respectively.</p> <p>However the effect of the changes is to make one of the permitted activity rules - application of agricultural chemicals to water - a restricted discretionary activity. This appears to be an inadvertent error.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p>must be a Registered Chemical Applicator; or a holder of an Approved Handler certificate and be under the immediate and direct supervision of a holder of Registered Chemical Applicator accreditation, or</p> <p>(d) for ground-based applications the applicator shall hold either:</p> <p>(i) a current GROWSAFE[®] Registered Applicators Certificate with the Aquatic strand, or</p> <p>(ii) New Zealand Qualification Authority National Certificate in Agrichemical Application with the Aquatic strand, and</p> <p>(e) for aerial applications the applicator shall hold either:</p> <p>(i) a Pilots² Agrichemical Rating Certificate issued by</p>		

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p>the Civil Aviation Authority under Civil Aviation Rule 61, or</p> <p>(ii) the company or operator holds an suitable accreditation for agricultural application, and</p> <p>(f) the applicator shall notify:</p> <p>(i) every person taking water for potable supply within 1km downstream of the proposed discharge 12 hours before the discharge begins, and</p> <p>(ii) each resource consent holder for taking water from a community drinking water supply protection area downstream of the discharge one week before the discharge begins, and</p>		

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p>(g) in a public amenity area the applicator shall:</p> <p>(i) place signs in the immediate vicinity before spraying begins, and remain in place until the withholding or re-entry period as specified on the product label has expired, and</p> <p>(ii) alongside roadways, vehicles associated with spraying agrichemicals shall display prominent signs (front and back) advising that spraying is in progress.</p> <p>Note Aerial application of agrichemicals to natural wetlands is controlled by Rule R105.</p>		

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
8	Rule R82 – Application of fertiliser from ground-based or aerial applications	<p>The discharge of fertiliser onto or into land <u>where a contaminant may enter water</u>, or into air is a permitted activity, provided the following conditions are met:</p> <p>(a) the discharge <u>from ground-based application</u> is not <u>directly</u> onto or into a surface water body or beyond the boundary of the property including as a result of wind drift, and</p> <p>(b) <u>the discharge from aerial application is not directly onto or into a surface water body that is more than 2m wide, and</u></p> <p>(b)(c) the discharge of odour is not <u>does not cause an</u> offensive or objectionable <u>effect</u> beyond the boundary of the property, and</p> <p>(c)(d) <u>the discharge is in accordance with the Fertiliser Quality Control Council's Code of Practice for the Placement of Fertiliser in New Zealand 2018, and for aerial discharges, the pilot shall record details of the following:</u></p> <ul style="list-style-type: none"> (i) <u>locations of the discharge site, and</u> (ii) <u>date of the discharge, and</u> (iii) <u>type of fertiliser applied, and</u> (iv) <u>daily flight logs, and</u> (v) <u>verification of tracks flown, and</u> (vi) <u>weather conditions at the time of discharge, and</u> (vii) <u>a copy of the flight log is held by the operator and made available to the Wellington Regional Council upon request.</u> 	<p>Amend R82 (and consequential definitions) to the following or similar effect</p> <p>Amend b to specify permanently flowing rivers more than 2m active bed width</p> <p>Delete drains from the definition of surface waterbody.</p>	<p>FFNZ relief seeks amendments to provide for more clarity and certainty in respect of condition b) for aerial application; in part for consistency with R97 which provides for conditions to apply when water is flowing, and which provides for width to be assessed as the active bed width.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p><u>(e) the discharge by a non-commercial operator using groundspreading equipment, is in accordance with the Fertiliser Association of New Zealand's Code of Practice for Nutrient Management (With Emphasis on Fertiliser Use) 2013.</u></p>		
9	Fertiliser – default rule	The proposed default rules are R67 – non-complying, and R68 - discretionary	Provide for fertiliser default rule with controlled activity status.	Money spent on discretionary consent processes would be more appropriately spent on the ground on matters that can be specified in a controlled consent. .

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
Wetland Provisions				
10	R108 activities in significant natural wetlands	<p>The following activities, in a natural wetland or significant natural wetland except for those stipulated in and carried out in accordance with a wetland restoration management plan under Rule R106:</p> <ul style="list-style-type: none"> (a) take, use, damming or diverting water into, within, or from the significant natural wetland, or the take and use of water within 50m of the significant natural wetland, (b) land disturbance including excavation and deposition, (c) reclamation (including and drainage or diverting of water to an extent that the area affected ceases to have the characteristics of a significant natural wetland), including any associated: (d) disturbance of a river or lake bed, or foreshore or seabed that forms part of a significant natural wetland, and (e) deposition in, on, or under a river or lake bed, or foreshore or seabed that forms part of a 	<p>Amend to the following or similar effect</p> <p>Delete the amendment to a, which extends the rule to apply within 50m</p>	<p>This amendment significantly extends the scope of the rule; and “significant wetlands” are not identified in the plan except in Schedule F3.</p> <p>Decision Report 13 (para 4.29-4.31) records the decision to alter clause a) to trigger non-complying status for the take and use of water within 50m of significant wetlands; and notes that scope to adopt this recommended change comes from the Transpower submission.</p> <p>However Transpower did not submit on Rule R108.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p><u>significant</u> natural wetland, and</p> <p>(f) damage to a part of the foreshore or seabed that forms part of a <u>significant</u> natural wetland, and</p> <p>(g) diversion of water, and</p> <p>(a) discharge of sediment to water</p> <p>(c) are non-complying activities.</p>		
11	R110 Activities in outstanding natural wetlands	<p>The following activities, in an outstanding natural wetland identified in Schedule A3 (outstanding wetlands), except for those stipulated in and carried out in accordance with a <u>wetland restoration management plan</u> under Rule R106:</p> <p>(a) the discharge of water or contaminants,</p> <p>(b) take, use, damming or diverting water into, within, or from the wetland <u>outstanding natural wetland, or the take and use of water within 50m of the outstanding natural wetland,</u></p> <p>(c) the placement of new structures with an area 10m² or greater for the purpose of hunting and recreation</p>	<p>Amend to the following or similar effect</p> <p>Delete amendment to b, extending the rule to 50m</p>	<p>Reasons as for R108 above: Decision Report 13 (para 4.37) notes the change is made for the same reasons and with recourse to the same scope as for R108.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p>(d) (including maimai and jetties), and all other structures, land disturbance including excavation and deposition,</p> <p>(e) vegetation clearance, excluding the removal of pest plants under Rule R105,</p> <p>(f) other activities that are not discretionary under Rule R109 or prohibited by Rule R111</p> <p>are non-complying activities.</p>		

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
Definitions				
12	Category Two surface waterbody	<p>Category 2 surface water body includes, and is limited to:</p> <ul style="list-style-type: none"> (a) estuaries other than those identified in Schedule F4 (coastal sites), and (b) within the mapped lowland areas shown on Map 29, rivers that have an active bed width of 1m or wider, and drains greater than 1m wide, and water races, and (c) rivers and streams important to trout <u>spawning</u> habitat identified in Schedule I (trout habitat), and (d) natural lakes, <p>but excludes any surface water body that meets the definition of a Category 1 surface water body.</p>	<p>Amend to the following or similar effect.</p> <p>Amend b to delete drains and water races.</p>	<p>Reasons as set out above in respect of R97.</p>
13	Drain	<p>Any artificial watercourse, open or piped watercourse, designed and constructed for the purpose of land drainage of surface or subsurface water. Channels designed and constructed to convey water only during rainfall events and which do not convey or retain water at other times are excluded from this definition.</p> <p>Only for the purpose of Rule R121 (drain clearance) a drain also includes a highly modified watercourse or river and is channelled to such an extent that it has the characteristics of a farm drainage canal.</p> <p><u>Note:</u></p> <p><u>For the avoidance of doubt, channels or swales that only convey water during or immediately following rainfall events are not drains.</u></p>	<p>Amend to the following or similar effect</p> <p>Amend to read “permanently flowing”</p> <p>Delete the second part of the note; and replace with reference to new method M14A.</p>	<p>As noted in reasons for relief sought on the rules above the current definition of drains – which includes permanently flowing drains, and drains which may hold water in wet months and drains which only carry water after rain – introduces a high level of uncertainty and complexity in respect of multiple rules; and potentially an inappropriately high level of costs disproportionate to ecological benefits.</p> <p>In respect of mapping, FFNZ original relief sought that drains and highly modified rivers be mapped. Decision Report 12 (para 5.5) records that new Method M14A commits Council to developing a map layer that identifies drains and highly modified rivers, in response to concerns from submitters that such features are otherwise difficult to interpret on the ground.</p> <p>In this context the second part of the note is redundant and should be replaced with a reference to the new method.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p><u>Many watercourses that are considered to be drains are natural watercourses that have been highly modified, often over many decades, and include channels dug to drain natural wetlands.</u></p>		
14	Ephemeral flow path	<p>A river that:</p> <p>(a) does not have an active bed, or</p> <p>(b)(a) has a bed that is predominantly vegetated, and</p> <p>(b) only conveys <u>or temporarily retains</u> water during or immediately following heavy rainfall events, and</p> <p>(c) does not convey or retain water at other times.</p> <p><u>Note: An ephemeral flow path is not a surface waterbody.</u></p>	<p>Amend to the following or similar effect</p> <p>Retain a) does not have an active bed</p>	<p>This definition is intended to help provide clarity for plan readers but does not achieve that result.</p> <p>The first confusion arises from reference to a “river” where it should more appropriately refer to an area of land.</p> <p>Clause a improves clarity and certainty and should be retained.</p>
15	Highly modified river or stream	<p>For the purposes of Rule R121 only, means a river or stream that has been modified and channelled <u>for the purpose of land drainage of surface or sub-surface water and has the following characteristics: to the extent that it has the characteristics of (in form or function) an artificial farm drainage canal. For the purposes of this definition, the characteristics of a farm drainage canal are considered to include that;</u></p> <ul style="list-style-type: none"> it has been channelled into a single flow, <u>and</u> the channel <u>has been straightened is straight, with no ‘natural curves’, and</u> the channel is mechanically formed with straight or steeply angled banks, <u>and</u> it is maintained to keep the water table at least 0.3m below the root zone of the surrounding pasture, and 	<p>Amend to the following or similar effect</p> <p>Amend to read “a watercourse as shown on Map xx”</p> <p>OR add a note with reference to new method M14A, which provides for</p>	<p>Reason as above for drains; and for consistency with the new definition of water race.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<ul style="list-style-type: none"> that it exhibits these characteristics for at least its entire length through the property in which the <u>activity is being carried out</u> watercourse is being assessed, and <u>it is not managed as part of a stormwater network and is not a water race.</u> <p><u>Note:</u> <u>For the avoidance of doubt, this definition does not include channels or swales that only convey water during, or immediately after rainfall events, or water races and the stormwater network are not Highly modified rivers or streams.</u></p>	advice and mapping	
16	Surface waterbody	<p><u>Any</u> river, lake, wetland, estuary, <u>outside of the coastal marine area</u>, open drain or water race, and its <u>their</u> bed. For the purpose of the Plan, surface water body does not include ephemeral flow paths and bodies of water designed, installed and maintained for any of the following purposes:</p> <p>(a) water storage ponds for</p> <ul style="list-style-type: none"> (i) fire fighting or (ii) irrigation, or (iii) stock watering, or <p>(b) water treatment ponds for</p> <ul style="list-style-type: none"> (i) wastewater, or (ii) stormwater, or (iii) nutrient attenuation, or (iv) sediment control, or (v) animal effluent, or 	<p>Amend to the following or similar effect</p> <p>Delete drains and water races</p>	<p>The inclusion of drains and water races is inconsistent with the RMA definition; and, for the reasons set out above, introduces significant uncertainty and complexity and very high potential restrictions and costs in respect of multiple rules.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
		<p>(vi) operating sumps, quarries and gravel pits.</p> <p>Also see definitions for Category 1, and Category 2 surface water bodies, and the definition for River class.</p>		
17	Significant Natural Wetland & Natural Wetland	<p>A note has been added to the definition of Natural Wetland to the effect that all natural wetlands meet the definition of significant natural wetland.</p> <p>The note to the definition of Significant Natural Wetland relating to R97 and Schedule F3 wetlands has been amended, including deletion of the size requirement.</p>	<p>Identification, groundtruthing and mapping of wetlands through a Schedule One process before provisions apply to a wetland</p> <p>Where, as a result of the rules and/or the mapping of wetlands, water takes from wetlands for domestic needs and/or stock drinking needs (and the existing associated infrastructure and networks), are no longer</p>	<p>The effect of the changes to both definitions is to create considerable uncertainty for plan users. Partly in respect of the rules referred to above and including other areas such as takes for stock drinking purposes that are currently allowed.</p> <p>Identification and mapping through a Schedule One process would provide certainty for plan users and Council about which areas of land rules apply to, including those rules listed above. This may also require consequential changes to rules and other provisions to ensure clarity.</p>

Schedule 1 – Relief sought by Appeal Point (including reasons)

	Plan Provision	WRC decision	Federated Farmers appeal relief sought	Reason(s) for the relief sought
			allowed, a reasonable consenting pathway is provided.. Retain minimum size provision	