

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER of an appeal pursuant to clause
14(1) of the First Schedule of
the Act

BETWEEN **FEDERATED FARMERS OF
NEW ZEALAND**

Appellant

AND **HAWKE'S BAY REGIONAL COUNCIL**

Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT
AGAINST DECISION ON A PROPOSED CHANGE TO A REGIONAL POLICY STATEMENT**
Clause 14(1) of First Schedule, Resource Management Act 1991

Federated Farmers of New Zealand

To: The Registrar
Environment Court
DX: SX10044
Wellington

Federated Farmers of New Zealand appeal against a decision of the Hawke's Bay Regional Council on the following Change:

Change 5 to the Hawke's Bay Regional Policy Statement

Federated Farmers of New Zealand made a submission and a further submission and presented before the Hearings Committee in respect of Change 5 to the Hawke's Bay Regional Policy Statement.

Federated Farmers of New Zealand is not a trade competitor for the purposes of Section 308D of the Resource Management Act 1991.

Federated Farmers of New Zealand received notice of the decision referred to in this appeal on 5 June 2013.

The decision to reject or accept only in part Federated Farmers submissions and further submissions in respect of Change 5 to the Hawke's Bay Regional Policy Statement was made by Hawke's Bay Regional Council.

Federated Farmers is willing to undertake mediation.

The decisions (or parts of the decision) that Federated Farmers of New Zealand is appealing are:

1 Summary of the decision specific provision or matter

Objective LW1 Integrated management of freshwater and land use and development.

Summary of reasons for the appeal

- 1.1 Federated Farmers appeals in Objective LW1 for the reason that the objective should focus on the adverse effects of land use and development, and providing enablement of industry good practice in point 8.
- 1.2 The first paragraph of the objective should focus on the adverse effects of land use and development, rather than on land use and development itself. Although the RMA places obligations on the Regional Council to control land use under Section 30(1)(c) we consider that Section 5 of the RMA is the overarching directive to manage adverse effects in (1)(c) when achieving sustainable management. The overall purpose of the Change is the effect that land use and development can have on freshwater, and Objective LW1 needs to encompass this concept. Point 3 of this objective also should be amended so that it focusses on recognising that adverse effects of land uses can impact on the receiving coastal environment, rather than land use activities themselves.
- 1.3 Relief Sought
 - a) That Objective LW1 is amended to focus on effects of land use rather than on land use activities themselves, and
 - b) Make any consequential amendment as to detail or substance throughout the Regional Policy Statement to give effect to this appeal point.

2 Summary of the decision specific provision or matter

Policy LW1 Problem solving approach- catchment-based integrated management.

Summary of reasons for the appeal

- 2.1 Federated Farmers appeals Policy LW1 for the reason that it will not achieve sustainable management as it goes beyond the intent of setting an impartial framework for decision-making, and does not focus on adverse effects.
- 2.2 The policy should focus on the adverse effects of land use and development, rather than on land use and development itself. The overall purpose of the Change is the effect that land use and development can have on freshwater, and Policy LW1 needs to encompass this concept.
- 2.3 Federated Farmers considers that Policy POL LW1.3 in particular will prejudice the decision-making towards specific values rather than setting the framework and process on how values will be decided on, and is inconsistent with POL LW2. Specific values to be protected have been identified in POL LW1.3 as ecosystems, water quantity, quality and mauri, and contact recreational values, the policy does not allow for other values such as economic values to be considered when decision making, and takes away the ability for a community to decide what values are important to them and does not achieve sustainable management. We seek for POL LW1.3 to be deleted.
- 2.4 Relief Sought
 - a) That Policy LW1 is amended to focus on adverse effects of land use and development, and
 - b) That Policy LW1.3 is deleted, and
 - c) Make any consequential amendment as to detail or substance throughout the Regional Policy Statement to give effect to this appeal point.

3 Summary of the decision specific provision or matter

Policy POL LW3 Problem solving approach – managing use of productive land use.

Summary of reasons for the appeal

- 3.1 Federated Farmers appeals Policy LW3 for the reason that it should focus on adverse effects arising from all land uses in order to meet objectives and achieve sustainable management.
- 3.2 The first paragraph and title of the policy should focus on managing the adverse effects of productive land use, rather than on managing productive land use itself. We do not consider that managing all aspects of land use will achieve sustainable management, a better approach is to manage adverse effects that lead to the issues that have been identified, and to meet objectives.
- 3.3 The specific focus on production land only is inconsistent with the integrated intent of Change 5 across all land uses. The policy will potentially ignore other land uses that can have adverse effects,

and unless all land uses are included, objectives will be unachievable. The Section 42 Report stated that the intent was to manage non-point source discharges, we consider that this should be clearly stated in the policy and applies for all land uses, rather than seeking to manage use of productive land only.

3.4 Relief Sought

- a) That Policy POL LW3 is amended to focus on managing the effects of land use and on non-point source discharges from all land uses, and
- b) Make any consequential amendment as to detail or substance throughout the Regional Policy Statement to give effect to this appeal point.

4 Summary of the decision specific provision or matter

Policy POL 4A

Summary of reasons for the appeal

- 4.1 Federated Farmers appeals Policy POL 4A for the reason that it unsuitably prioritises regulatory methods over non-regulatory methods.
- 4.2 Non-regulatory methods can be appropriate and effective for protecting the significant values of wetlands. Change 5 and the inclusion of Policy POL 4A changes the direction by stating that non-regulatory methods are to be used only in support of regulatory methods.
- 4.3 Wetlands which are deemed sufficiently significant to be regulated should also be determined to be of sufficient priority for non-regulatory assistance with works and services. This policy unsuitably emphasises regulatory methods over non-regulatory methods.

4.4 Relief Sought

- a) That Policy POL 4A is amended so that non-regulatory methods are a primary means for protecting significant values of wetlands.
- b) Make any consequential amendment as to detail or substance throughout the Regional Policy Statement to give effect to this appeal point.

5 Summary of the decision specific provision or matter

Issue Statement in Chapter 3.10

Summary of reasons for the appeal

- 5.1 Federated Farmers appeals the Issue Statement in Chapter 3.10 for the reason that the new text in brackets is unnecessary, biased and will not achieve sustainable management.
- 5.2 The decision to specify that non-point source discharges include production land use activities in (b) is unnecessary, because the Regional Plan Glossary provides a definition of non point source (diffuse) discharges which clarifies that these arise from a wide and diffuse area. Obviously these may include production land use activities as well as diffuse discharges from other land uses. There is no need to specify in the Issue Statement that production land use is a source of non-point source discharges, particularly when this is the only source that is identified. This will create a bias against this activity at the risk of excluding other land use sources such as urban or industrial. Sustainable management will not be achieved if focus is on a single land use.

5.3 Relief Sought

- a) That the Issue Statement in Chapter 3.10 is amended to read:

....

- (b) *Stock access to water bodies and nonpoint source discharges (~~including production land use activities~~) which cause contamination of rivers, lakes and wetlands, and degrade their margins.*

....

- b) Make any consequential amendment as to detail or substance throughout the Regional Policy Statement to give effect to this appeal point.

I attach the following documents to this notice:

- (a) a copy of Federated Farmers submissions:
- (b) a copy of the relevant decision (*or* part of the decision):
- (c) any other documents necessary for an adequate understanding of the appeal:
- (d) a list of names and addresses of persons to be served with a copy of this notice.



Rhea Dasent
for Federated Farmers of New Zealand

15 July 2013

Address for service of appellant:

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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.