

**IN THE ENVIRONMENT COURT
AT WELLINGTON**

**I TE KOTI TAIAO O AOTEAROA
KI TE WHANGANUI-A-TARA**

IN THE MATTER of the Resource Management Act 1991

A N D

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

BETWEEN **FEDERATED FARMERS OF NEW ZEALAND
INC**

Appellant

AND **GREATER WELLINGTON REGIONAL COUNCIL**

Respondent

NOTICE OF APPEAL



444 Anglesea Street
PO Box 447
Hamilton
Phone: 0800 327 646
Email: jcookmunro@fedfarm.org.nz
Contact: Jo-Anne Cook-Munro

FORM 7 NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISIONS ON PROPOSED CHANGE ONE TO THE GREATER WELLINGTON REGIONAL POLICY STATEMENT

Clause 14(1) of Schedule 1, Resource Management Act 1991

To: The Registrar
Environment Court
WELLINGTON

1. Federated Farmers of New Zealand Inc (**Federated Farmers**) appeals against parts of the decisions of the Greater Wellington Regional Council (**Council**) on Proposed Change One (**PC1**) to the Greater Wellington Regional Policy Statement (**RPS**).
2. Federated Farmers is not a trade competitor for the purpose of section 308D of the Resource Management Act 1991 (**RMA**).
3. Federated Farmers made a submission on PC1 dated 14 October 2022.
4. Federated Farmers received notice of the Council's decision on PC1 on 4 October 2024. The appeal period closes on 18 November 2024.
5. The decision was made by the Council.

The decision (or parts of the decision) that Federated Farmers is appealing:

6. The parts of the decision that Federated Farmers appeals are Policy CC.6 and the associated definition of "Highly erodible land" for the reasons set out in **Appendix A** to this Notice.

The reasons for the appeal are as follows:

7. The reasons for appeal are that the parts of the PC1 Decision:
 - (a) do not promote the sustainable management of resources in accordance with section 5 of the RMA in that they do not manage the use, development and protection of natural and physical resources which enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety;

- (b) have not been prepared and changed in accordance with the provisions of Part 2 of the RMA, including (in particular) s7(b); and
 - (c) do not represent the most appropriate way to achieve the objectives of the Regional Policy Statement and/or the purpose of the RMA, as required by section 32 of the RMA.
8. The reasons for the appeal with respect to specific provisions are set out in the table attached as Appendix 1.

Federated Farmers seeks the following relief:

9. The relief sought in respect of each provision is set out in the table attached as Appendix 1 to this appeal.

ATTACHMENTS

10. The following documents are attached to this Notice:
- (a) Appendix A: Table of relief sought by provisions with reasons provided.
 - (b) Appendix B: a copy of the relevant parts of the PC1 Decision
 - (c) Appendix C: a copy of this appeal has been served on the Respondent and copied to the email addresses of the persons who made submissions and further submissions on the relevant parts of PC1 as listed in Appendix C
 - (d) Appendix D: a copy of Federated Farmers submission.

Dated 18 November 2024

Signature of person authorised to sign on behalf of the appellant:



Jo-Anne Cook-Munro

On behalf of Federated Farmers of New Zealand

Address for Service of Appellant: Federated Farmers of New Zealand
444 Anglesea Street, Hamilton 3240
Phone: 0800 327 646
Email: jcookmunro@fedfarm.org.nz

Advice to recipients of copy of notice of appeal

How to become a party to proceedings

You may be a party to the proceedings if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must, -

- Within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33), with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- Within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

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 and the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington or Christchurch.

Appendix A: Table of relief sought by provisions with reasons provided.

Provision Appealed	Reasons for Appeal	Relief Sought
Regional Policy Statement Change One		
<p>New Policy CC.6</p> <p>Increasing regional forest cover and avoiding plantation forestry on highly erodible land</p>	<p>Federated Farmers appeals Policy CC.6 and in particular clause (b) which directs “<i>avoiding plantation forestry on highly erodible land, particularly in catchments where water quality targets for sediment are not reached</i>”.</p> <p>In its submission, Federated Farmers sought that Policy CC.6 be deleted, and any consequential amendments required as a result of the relief sought.</p> <p>Its submission acknowledged the Council’s intent to incentivise native plantings (clause (a)) but opposed Council’s intent to be more stringent than the provisions in the National Environmental Standards for Plantation Forestry (NES-PF) (clause (b)).</p> <p>The submission acknowledged that the NES-PF (now the National Environmental Standard for Commercial Forestry (NES-CF)) provided for Councils to propose more stringent rules, but the Council had not sufficiently addressed the requirement under s32(4) of the RMA to examine whether this approach was justified given the circumstances of the region.</p> <p>In relation to catchment sediment targets, the Federated Farmers submission noted these would be set in future plan changes, and those plan changes will be the appropriate time to consider provisions to meet any such targets.</p> <p>The decisions on PC1 rejected the relief sought by Federated Farmers, including on the basis that:</p> <ul style="list-style-type: none"> • Clause (b) aims to give effect to the National Policy Statement for Freshwater Management (NPS-FM), focusing on areas that do not meet water quality limits under the NPS-FM. This is seen to be provided for by regulation 6 of the NES-PF. • An “avoid” policy does not mean that an activity is automatically prohibited but does imply a non-complying activity, and a more detailed section 32 assessment would need to be conducted as part of promulgating new rules in a regional plan. 	<p>Federated Farmers seeks the following relief:</p> <ul style="list-style-type: none"> (a) the deletion of clause (b) of new Policy CC.6; and (b) any consequential amendments required as a result of giving effect to the relief that has been sought.

Provision Appealed	Reasons for Appeal	Relief Sought
Regional Policy Statement Change One		
	<p>Federated Farmers do not agree that Council have provided sufficient justification for clause (b) being more stringent than the NES-CF. It does not agree that relying on the s32 analysis for a future plan change under the RMA to give effect to clause (b) is appropriate and does not provide certainty for plan users.</p>	
<p>New definition of highly erodible land</p>	<p>Federated Farmers appeals the new definition for ‘highly erodible land’.</p> <p>This definition is relied on in Clause (b) of Policy CC.6. In its submission, Federated Farmers sought that the proposed definition be deleted, consistent with relief sought for deletion of Policy CC.6.</p> <p>The definition as notified was in two parts:</p> <ul style="list-style-type: none"> • one part which referred to “<i>land classified as very high (red) according to the erosion susceptibility classification in the NES for Plantation Forestry 2017; and</i> • a second part which referred to “<i>land at risk of severe erosion (landslide, earthflow, and gully) if it does not have a protective cover of deep-rooted woody vegetation</i>”. <p>The PC1 Decision rejects the relief sought by Federated Farmers on the basis (amongst other matters) that a definition for ‘highly erodible land’ is necessary to support interpretation of the concept of “right tree-right place”. The “red zone” classification used in the NES-PF was developed to inform plantation forestry practice as part of implementing the NES-PF, rather than identify priority areas for restoring forest cover.</p> <p>Council acknowledged the confusion created by having two parts to the definition. Council staff advised that the definition for highly erodible land used by the Ministry for the Environment (MfE) and Statistics NZ was appropriate to be used in PC1 as it was developed to inform national erosion management policy and state of the environment monitoring.</p> <p>Accordingly, the decision deleted the part of the definition relied on in the NES-CF and retained the part relied on in MfE reporting.</p>	<p>Federated Farmers seeks the following relief:</p> <ol style="list-style-type: none"> (a) The deletion of the new definition of highly erodible land; and (b) any consequential amendments required as a result of giving effect to the relief that has been sought.

Provision Appealed	Reasons for Appeal	Relief Sought
<i>Regional Policy Statement Change One</i>		
	<p>Federated Farmers do not agree that a definition is necessary. The effect is to exacerbate confusion as landowners in the region need to consider four different definitions of erosion risk/susceptibility:</p> <ul style="list-style-type: none"> • The erosion susceptibility classification in the NES-CF. • The new RPS definition of “highly erodible land”. • The operative NRP definition of “erosion prone land”. • The NRP PC1 proposed definitions for “high erosion risk land” and “highest erosion risk land”. 	