
In the matter of: Clause of Schedule 1 – Resource Management Act - Submission on publicly notified plan change – Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments

And: **Primary Land Users Group**
Submitter

And: **Waikato Regional Council**
Local Authority

Submission on publicly notified proposal for plan change

Dated: 8 March 2017

Date: 08/03/2017

The 'parties' to this submission include:

Name of Submitter: Primary Land Users Group
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The Primary Land Users Groups (PLUG) is comprised of members from primary industry sectors including Dairy, Forestry, Sheep and Beef, Hill Country, Federated Farmers and Horticulture within the Waikato Region. These groups have collaborated to address our serious concerns over the direction and impacts of the proposed Waikato Regional Council's (WRC) Healthy Rivers/Wai Ora Plan Change 1 (PC1).

SUBMISSION

1. The Primary Land Users Group (PLUG) has reviewed Waikato Regional Council's proposed Healthy Rivers Plan Change 1 (PC1) and **oppose** the Plan Change in its current form.
2. PLUG wish to be heard in support of this submission.
3. I am not a trade competitor for the purposes of the submission but the proposed plan has a direct impact on my ability to farm. If changes sought in the plan are adopted they may impact on others but I am not in direct trade competition with them.

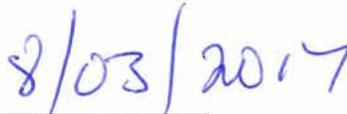
4. The Primary Land Users Group (PLUG) is comprised of members including:

- Peter Buckley (Chair)
- Brendan Balle (Vice Chair)
- Murray Parrish
- Jason Barrier
- Bruce Cameron
- Trevor Simpson
- Shane Croft

Peter Buckley will sign this submission on behalf of PLUG



Signature



date

Withdrawal of PC1

5. PLUG support the intention of PC1, being a healthy river sustaining abundant life and prosperous communities. We do not believe that the Collaborative Stakeholder Group have represented the balanced interests of the regional communities in its development and this is reflected in the decisions adopted by the Regional Council. We believe the resulting proposed policy changes are not “practical and achievable by local communities” as is a requirement under the Terms of Reference: Collaborative Stakeholder Group, Doc # 2194147.
6. Furthermore, it is considered that Waikato Regional Council have acted inappropriately with respect to their sustainable management obligations in the Resource Management Act through the withdrawal of the ‘Hauraki area’ from the Plan Change following plan notification.
7. PLUG suggests that the section 32 analysis undertaken prior to the withdrawal of the Hauraki area is an inaccurate reflection of the Proposed Plan, recognising that it is now incomplete. Waikato Regional Council state that *‘the withdrawal of this area would place a greater requirement on those outside of the area (but within the Waikato-Waipā catchment) to lower contaminant losses to compensate’*. It is therefore considered that the current section 32 analysis is inadequate and should be withdrawn along with Plan Change 1 until the Hauraki area issues are resolved.
8. Section 32(1)(c) of the Resource Management Act, 1991 (RMA) specifies that an evaluation report must contain a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal. It is our opinion that the current Section 32 analysis fails to meet this requirement.

Resolution sought:

9. Withdraw Plan Change 1 in its entirety until the conclusion of Hauraki iwi negotiations, and to allow time for the deficiencies in the proposal to be addressed.
10. Prepare a new Section 32 analysis upon reinsertion of the Hauraki area and associated rule framework into Plan Change 1 reflective of whatever agreement is reached with the appellants.

Overview

11. There are further significant areas of PC1, in its current form, that require addressing. These include:

Legislative requirements

12. The National Policy Statement for Freshwater Management, 2014 (NPS) specifies that where changes in community behaviours are required, adjustment timeframes should be decided based on the economic effects that result from the speed of change (NPS, 2014). PLUG considers that in PC1's current form:
 - The full economic impact of Plan Change 1 cannot be determined due to the unavailability of WRC guidance on Farm Environment Plans (FEP), and due to the uncertainty in relation to the withdrawal of the Hauraki area;
 - Despite significant economic impact to the sectors, there is no clear information available to justify that proposed gains will be made under the current rule framework, in the ten-year period addressed by this Plan Change.
13. PLUG acknowledges and supports the requirement of the Resource Management Act, 1991 (RMA) section 6(a) to preserve the natural character of lakes and rivers and their margins and to protect them from inappropriate use and development. We do not, however, consider food and fibre production, amidst a rapidly growing population, inappropriate use of surrounding land, provided that production is carried out in a sustainable way. We consider food and fibre production to be essential services in this context and in light of wider environmental issues, such as climate change.
14. Scenario 1 developed by the CSG, and adapted without moderation by the Waikato Regional Council, is intended to give effect to the Waikato River Authority's Vision and Strategy by representing water quality restoration everywhere. Achieving water quality targets over time, as dictated by the NPS should be carried out in a way that is economically sustainable. Of the 74 sub-catchments identified within the Waikato and Waipa catchments, there are only 14 monitored sites that do not meet current Nitrate targets, yet at considerable costs, blanket rules are applied to all sub-catchments and to all forms of land use.
15. The target set for Nitrate within the Plan, would be considered 'pristine' water quality conditions under NIWA's National Objectives Framework (NOF). PLUG recommends that water quality is addressed on a sub-catchment basis, where rules target problem areas, requiring reductions in these areas only. Where water quality is already high, continuing current land practices represents sustainable management. Enhancement of the environment will occur through targeting high emitters and problem areas, which is not the case under the current rule framework.
16. The approach taken by the proposed rules (detailed analysis provided within submission below) does not acknowledge those land managers/sub-catchments that have appropriately managed discharges from their properties historically. In fact, proposed PC1 penalises those that have, by Grandparenting Nitrate rights, thereby benefiting 'high emitters' defined as those that have made the least effort to avoid or mitigate their adverse environmental effects. The current approach taken by PC1 conflicts with the RMA, where rules are not centred around being "effects based" and in fact benefit those with the greatest effects.

Section 32 Analysis

17. Restricting low discharging farms to a Nitrogen Reference Point by way of Overseer (a great management tool, as opposed to an imprecise regulatory tool) has many knock-on effects economically, that have not been adequately considered within the section 32 analysis. These include:
 - Immediate devaluation of the capital value of properties with now limited ability to farm to its sustainable potential; Loss of resale value
 - Associated increased risk profiles with banks;
 - Associated increased interest rates;
 - Investment uncertainty leading to a loss of succession planning; and loss of innovation;
 - Disincentive to adopt pollution reducing methods;
 - Restrictions on the ability for businesses to grow and change to meet market demands.
18. Nor does the section 32 analysis adequately consider property scale mitigations and the associated cost benefits. Productive rural land use is not a one size fits all. Soil type and assimilative capabilities, rainfall and topography, are all fundamental in the decision-making process and there are many mitigation strategies available. Of note, fencing up to 25 degrees needs immediate re-consideration.
19. PLUG consider that the knock-on effects of this have not been adequately assessed within the section 32 analysis. The impacts of the proposed Plan Change are economically damaging and therefore not consistent with the reasonable understanding of sustainable management. The outcomes of Plan Change 1 therefore go directly against Objective 2 (Social and Economic Wellbeing) and Objective 4 (People and Community Resilience) of the Plan, and include:
 - The demise of smaller rural communities within the affected catchments, where property owners have land values reduced leading to a lack of sustainability in rural productive areas;
 - Increased stress and tension for landowners and communities;
 - Closure of community facilities and schools; loss of local clubs/sports teams; and loss of community spirit.
20. The consideration of the 'speed of change' in regard to the economic effects, as required by the NPS (defined para 10 of this submission), has not been considered within the Section 32 analysis. The unavailability of information critical to the interpretation of PC1 suggests that it cannot be. The significant economic impacts likely to be imposed through the adoption of PC1, bear no relationship to the water quality improvements required and in many cases those that bear the highest financial burden, require minimal water quality improvement.
21. The Section 32 analysis states that Nitrate losses from non-dairy pastoral land use to have increased by only 4% over the period 1972 to 2012. We consider that the cost benefit to non-dairy pastoral land uses has not been adequately considered in the context of significant mitigation and compliance costs being imposed.
22. The RMA Section 32 analysis requires that the appropriateness of policies and methods be assessed having regard to their **efficiency**. There are no measures available to determine the efficiency of the proposed rules over the ten-year period

covered by PC1. As detailed by Quality Planning, the section 32 evaluation should also include a comprehensive and transparent disclosure of the full range and likely scale of costs and benefits that are quantified, where possible. Numerous costs have been omitted or under estimated in this analysis, as evidenced by the findings of Frank Scrimgeour, Professor of Economics Waikato University.

Resolution sought:

23. Upon reinsertion of the Hauraki area and associated rule framework into Plan Change 1, prepare a new Section 32 analysis addressing points raised above. In this, incorporate WRC's guidance materials; and additional analysis in relation to specific provisions set out within the plan. This should include the cost benefit analysis of specified provisions e.g. fencing requirements.
24. Remove requirement for fencing to 25 degrees from PC1 and allow for mitigation strategies to be adopted above 15 degrees, at the discretion of the Certified Farm Environment Planner, presumed to be an expert in this field.
25. Make the obligation on mitigation measures proportional to the property and sub-catchment specific gains to be made in water quality over the ten-year period.

Compensation

26. PLUG suggest that Waikato Regional Council should provide a substantial contribution to the capital investment costs resulting from the provisions introduced in PC1. It is also considered that there should be compensation for land devaluation, resulting from the introduction of a Nitrogen Reference Point (grandparenting).

The specific provisions of the proposal that this submission relates to and the decisions it seeks from Council are as detailed below. The outcomes sought and the wording used is as a suggestion only, where a suggestion is proposed it is with the intention of 'or words to that effect'. The outcomes sought may require consequential changes to the plan, including Objectives, Policies, or other rules, or restructuring of the Plan, or parts thereof, to give effect to the relief sought.

Objectives

Objective 1

Objective 1: Long-term restoration and protection of water quality for each sub-catchment and Freshwater Management Unit/Te Whāinga 1: Te whakaoranga tauroa me te tiakanga tauroa o te kounga wai ki ia riu kōawaawa me te Wae Whakahaere i te Wai Māori

By 2096, discharges of nitrogen, phosphorus, sediment and microbial pathogens to land and water result in achievement of the restoration and protection of the 80-year water quality attribute targets in Table 3.11-1.

27. PLUG support the intention of Objective 1. Attribute targets set in Table 3.11-1 require amendment. The attribute targets are inconsistent with maintaining sound economic and cultural wellbeing, and for Nitrates are beyond what was anticipated by the NPS or V&S. It is also considered that flood and high flow conditions should be separated in the data set.

Resolution sought:

28. Revise Attributes in Table 3.11-1 to reflect achievable limits.

Objective 2

Objective 2: Social, economic and cultural wellbeing is maintained in the long term/Te Whāinga 2: Ka whakaūngia te oranga ā-pāpori, ā-ōhanga, ā-ahurea hoki i ngā tauroa

Waikato and Waipa communities and their economy benefit from the restoration and protection of water quality in the Waikato River catchment, which enables the people and communities to continue to provide for their social, economic and cultural wellbeing.

29. PLUG support the intention of Objective 2 but believe that PC1, under the currently proposed framework, does not meet Objective 2. The social and economic wellbeing of the rural communities within the Waikato and Waipa catchments will be undermined, through unsustainable and unjustified compliance and mitigation costs, property devaluation and the unwarranted grandparenting through the introduction of a Nitrogen Reference Point.

Resolution sought:

30. Amend rules in PC1 to remove requirement for Nitrogen Reference Point.
31. Address contaminants on a sub-catchment basis by requiring the land manager to apply the appropriate best practicable option (BPO); and target the highest emitting sub-catchments.
32. Enable appropriate mitigation strategies to be adopted in the context of water quality gains to be made.

Objective 3

Objective 3: Short-term improvements in water quality in the first stage of restoration and protection of water quality for each sub-catchment and Freshwater Management Unit/Te Whāinga 3: Ngā whakapainga taupoto o te kounga wai i te wāhanga tuatahi o te whakaoranga me te tiakanga o te kounga wai i ia riu kōawāwa me te Wae Whakahaere Wai Māori

Actions put in place and implemented by 2026 to reduce discharges of nitrogen, phosphorus, sediment and microbial pathogens, are sufficient to achieve ten percent of the required change between current water quality and the 80-year water quality attribute targets in Table 3.11-1. A ten percent change towards the long term water quality improvements is indicated by the short term water quality attribute targets in Table 3.11-1

33. There is a clear lack of data to justify the gains that will be made in the 10-year period applicable to PC1, under the current rule framework. PLUG propose a sub catchment approach where landowners are able to work collaboratively to achieve reductions across each sub-catchment by applying appropriate BPO's, as opposed to grandparenting through the introduction of a Nitrogen Reference Point within the Waikato and Waipa catchments.

Resolution sought

34. Adopt a sub-catchment management approach to ensure collaborative and fair allocation of the resources within the region, to achieve practicable reductions in discharges of nitrogen, phosphorous, microbial pathogens and sediment across the Waikato and Waipa catchments.

Objective 4

Objective 4: People and community resilience/Te Whāinga 4: Te manawa piharau o te tangata me te hapori

A staged approach to change enables people and communities to undertake adaptive management to continue to provide for their social, economic and cultural wellbeing in the short term while:

- a. considering the values and uses when taking action to achieve the attribute targets for the Waikato and Waipa Rivers in Table 3.11-1; and*
- b. recognising that further contaminant reductions will be required by subsequent regional plans and signalling anticipated future management approaches that will be needed to meet Objective 1*

35. PLUG support the intention of Objective 4, but contend that PC1 fails to meet this objective. PLUG consider that not all costs have been acknowledged, assessed properly, understood or fairly allocated in relation to PC1. The staged approach proposed does not incentivise adaptive management due to significant financial implications for many landowners.

Resolution sought:

36. Amend rules within PC1 to give effect to Objective 4.

Objective 5

Objective 5: Mana Tangata – protecting and restoring tangata whenua values/Te Whāinga 5: Te Mana Tangata – te tiaki me te whakaora i ngā uara o te tangata whenua

Tangata whenua values are integrated into the co-management of the rivers and other water bodies within the catchment such that:

- a. tangata whenua have the ability to:*
 - i. manage their own lands and resources, by exercising mana whakahaere, for the benefit of their people; and*
 - ii. actively sustain a relationship with ancestral land and with the rivers and other water bodies in the catchment; and*
- b. new impediments to the flexibility of the use of tangata whenua ancestral lands are minimised; and*
- c. improvement in the rivers' water quality and the exercise of kaitiakitanga increase the spiritual and physical wellbeing of iwi and their tribal and cultural identity.*

37. PLUG support this objective. We suggest that as drafted, PC1 will not achieve this objective and could differentially impede the use of ancestral lands.

Objective 6: Whangamarino Wetland/Te Whāinga 6: Ngā Repo o Whangamarino

- a. Nitrogen, phosphorus, sediment and microbial pathogen loads in the catchment of Whangamarino Wetland are reduced in the short term, to make progress towards the long term restoration of Whangamarino Wetland; and*
- b. The management of contaminant loads entering Whangamarino Wetland is consistent with the achievement of the water quality attribute targets in Table 3.11-1.*

38. PLUG support this objective provided the Whangamarino Wetland Plan is integrated into the Whangamarino Catchment Management Plan.

POLICIES

Policy 1

Policy 1: Manage diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens/Te Kaupapa Here 1: Te whakahaere i ngā rukenga roha o te hauota, o te pūtūtae-whetū, o te waiparapara me te tukumate ora poto

Manage and require reductions in sub-catchment-wide discharges of nitrogen, phosphorus, sediment and microbial pathogens, by:

- a. *Enabling activities with a low level of contaminant discharge to water bodies provided those discharges do not increase; and*
 - b. *Requiring farming activities with moderate to high levels of contaminant discharge to water bodies to reduce their discharges; and*
 - c. *Progressively excluding cattle, horses, deer and pigs from rivers, streams, drains, wetlands and lakes for areas with a slope less than 15 degrees and on those slopes exceeding 15 degrees where break feeding occurs.*
 - d. *Requiring farming activities on slopes exceeding 15 degrees (where break feeding does not occur) to manage contaminant discharges to water bodies through mitigation actions that specifically target critical source areas.*
39. PLUG support with proposed amendments as highlight above in red.
40. We seek a definition of 'do not increase' as we are dealing with statistics and nature at work.
41. Natural event measurement under the current methodology has large unexplained variation. With continuous automated monitoring, we are likely to get more reliable numbers from an improved measuring programme. We need to have limits to account for variability.
42. PLUG seeks clarification on the interpretation of the Rules and Schedule C in relation to determining slope and mandatory fencing requirements.

Resolution sought:

43. Amend as reflected in red above.
44. Develop improved measuring programme to gain more reliable data.

45. Develop interpretation guidance and definition clarification, as discussed above.

Policy 2

Policy 2: Tailored approach to managing and where relevant reducing diffuse discharges from farming activities/Te Kaupapa Here 2: He huarahi ka āta whakahāngaihia hei whakaiti i ngā rukenga roha i ngā mahinga pāmu

Manage and *where relevant* require reductions in sub-catchment-wide diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens from farming activities on properties and enterprises by:

- a. Taking a tailored, risk based approach to define mitigation actions on the land that will reduce diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens, with the mitigation actions to be specified in a Farm Environment Plan either associated with a resource consent, or in specific requirements established by participation in a Certified Industry Scheme; and;
- b. Requiring the same level of rigour in developing, monitoring and auditing of mitigation actions on the land that is set out in a Farm Environment Plan whether it is established with a resource consent or through Certified Industry Schemes; and;
- c. Establishing a Nitrogen Reference Point for the property or enterprise; and
- d. Requiring the degree of reduction in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens *where required* to be proportionate to the amount of current discharge (those discharging more are expected to make greater reductions), and proportionate to the scale of water quality improvement required in the sub-catchment; and
- e. Requiring stock exclusion *for areas with a slope less than 15 degrees and on those slopes exceeding 15 degrees where break feeding occurs* to be completed within 3 years following the dates by which a Farm Environment Plan must be provided to the Council, or in any case no later than 1 July 2026.

46. Support with amendments, indicated in red above. PLUG support a sub-catchment based approach. It is considered that utilising a tailored property specific environment plan, in conjunction with a sub-catchment management approach, is the most appropriate way to achieve the desired targets.
47. PLUG consider that mitigation options should enable the adoption of the BPO to effectively manage diffuse discharges on a property specific basis. We do not support writing mitigation strategies into rules. It is considered that as science evolves, flexibility should be such that changing strategies can be reflected on farm, without having to go through a plan change to change prescriptive rules that may enforce an outdated mechanism.

Resolution sought:

48. Amend as reflected in red above. Align with proposed amendments to NPS-FM.

Policy 3

Policy 3: Tailored approach to managing and where relevant reducing diffuse discharges from commercial vegetable production systems/Te Kaupapa Here 3: He huarahi ka āta whakahāngaihia hei whakaiti i ngā rukenga roha i ngā pūnaha arumoni hei whakatupu hua whenua

Manage and where relevant require reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens from commercial vegetable production through a tailored, property or enterprise-specific approach where:

- a. *Flexibility is provided to undertake crop rotations on changing parcels of land for commercial vegetable production, while managing and where required reducing average contaminant discharges over time; and*
- b. *The maximum area in production for a property or enterprise is established and capped utilising commercial vegetable production data from the 10 years up to 2016; and*
- c. ~~*Establishing a Nitrogen Reference Point for each property or enterprise; and*~~
- d. ~~*A 10% decrease in the diffuse discharge of nitrogen and a tailored reduction in the diffuse discharge of phosphorus, sediment and microbial pathogens is achieved across the sector through the implementation of Best or Good Management Practices; and*~~
- e. *Identified mitigation actions are set out and implemented within timeframes specified in either a Farm Environment Plan and associated resource consent, or in specific requirements established by participation in a Certified Industry Scheme.*
- f. *Commercial vegetable production enterprises that reduce nitrogen, phosphorus, sediment and microbial pathogens are enabled; and*
- g. *The degree of reduction in diffuse discharges of nitrogen, phosphorus and sediment and microbial pathogens is proportionate to the amount of current discharge (those discharging more are expected to make greater reductions), and the scale of water quality improvement required in the sub-catchment.*

49. Support with amendments as highlighted above. PLUG do not support the use of a Nitrogen Reference Point that cannot be accurately derived for Horticultural systems as is the case with OVERSEER (in the absence of any other publicly available suitable model). We consider that founding a property owner's current situation and progress on inaccurately modelled numbers (as would be the case with OVERSEER in a horticultural context) offers no real benefit to the plan. We do, however, support the use of tailored Farm Environment Plans to ensure that BPO management practices are adopted and that enterprises are making reductions in all four contaminants where practicable.
50. PLUG seek clarification as to how the maximum area in production will be moved around the region under a Controlled Activity (CA) consent. We question whether the right to commercially grow vegetables provided for under this consent will:
- Sit with the land and will not be able to move with the enterprise, which will affect rotation capabilities and undermine BPO management, potentially

leading to greater intensification and greater incidence of soil borne disease. This will also impact on situations where land is leased for commercial vegetable production and could potentially create an unintended market given the scarcity of suitable growing land; or

- Allow for the transfer of land into and out of commercial vegetable production provided the total area is not exceeded. If this is the case, it is questioned as to whether retired land will be allocated a nitrogen reference point when returned to pasture, should this occur.

Resolution sought:

51. Amend as indicated above.
52. Provide clarification surrounding the movement of land with an enterprise under the CA.

Policy 4

Policy 4: Enabling activities with lower discharges to continue or to be established while signalling further change may be required in future/Te Kaupapa Here 4: Te tuku kia haere tonu, kia whakatūria rānei ngā tūmahi he iti iho ngā rukenga, me te tohu ake ākuanei pea me panoni anō hei ngā tau e heke mai ana

Manage sub-catchment-wide diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens, and enable existing and new low discharging activities to continue provided that cumulatively the achievement of Objective 3 is not compromised. Activities and uses currently defined as low dischargers may in the future need to take mitigation actions that will reduce diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens in order for Objective 1 to be met.

53. Support with amendments as indicated above. PLUG support enabling existing and new low discharging activities to continue. It is considered that landowners require certainty going forward, particularly where considerable capital investment is required. We do not support the use of a Nitrogen Reference Point (grandparenting) and consider that an individual may be formally disadvantaged through the loss of opportunity-derived capital value by being ascribed a low or lower emission level under the current framework, the effect of which is perverse.
54. PLUG consider that the determination of low discharging activities places too much reliance on Nitrogen in the context of the four contaminants that should be considered in proportion to their significance. It is also considered that the modelling tool, OVERSEER, provides too much uncertainty. We support a sub-catchment based BPO management approach.

Resolution sought:

55. Amend as indicated above.
56. Amend rules to provide future certainty for land owners. In particular, remove requirement for Nitrogen Reference Point from PC1.

Policy 5

Policy 5: Staged approach/Te Kaupapa Here 5: He huarahi wāwāhi

Recognise that achieving the water quality attribute targets set out in Table 11-1 will need to be staged over 80 years, to minimise social disruption and allow for innovation and new practices to develop, while making a start on reducing discharges of nitrogen, phosphorus, sediment and microbial pathogens, and preparing for further reductions that will be required in subsequent regional plans.

57. PLUG support subject to greater clarification. It is not considered that the proposed framework minimises social disruption or allows for innovation in the context of significant expenditure for property scale mitigation and compliance, and in consultants' fees. We question how social disruption will be measured to ensure compliance with Policy 5 as WRC have indicated that they currently have no suitable indicators. We do not consider that PC1 gives effect to this policy.

Resolution sought:

58. Amend rules in PC1 to minimise social disruption.
59. Ensure suitable indicators are identified to measure social disruption.

Policy 6

Policy 6: Restricting land use change/Te Kaupapa Here 6: Te here i te panonitanga ā-whakamahinga whenua

Except as provided for in Policy 16, land use change consent applications that demonstrate an increase in the diffuse discharge of nitrogen, phosphorus, sediment or microbial pathogens will generally not be granted.

Land use change consent applications that demonstrate clear and enduring decreases in existing diffuse discharges of nitrogen, phosphorus, sediment or microbial pathogens will generally be granted.

60. PLUG oppose Policy 6. Restricting land use change on a broad scale across the Waikato and Waipa catchments is unjustified and should be removed from the plan. Land use flexibility is fundamental to sustainable primary production enterprises, especially where the enterprise must be able to respond to changing market demands. It is considered that where Stage 1 targets are met, as required by Table 3.11-1, each sub-catchment should have the flexibility to manage finite resources accordingly as a permitted activity. Where the sub-catchment has been identified as a high priority, it is considered that a restricted discretionary land use change consent could be utilised to manage accordingly.

Resolution sought:

61. Remove Policy 6 from PC1.

Policy 7

Policy 7: Preparing for allocation ~~in the future~~/Te Kaupapa Here 7: Kia takatū ki ngā tohanga hei ngā tau e heke mai ana

During Stage 1, work collaboratively with relevant stakeholders and consented dischargers to develop a sub-catchment management approach to manage diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens ~~that will be required by subsequent regional plans, by implementing the policies and methods in this chapter.~~ To assist this process, collect information and undertake research to support this, including collecting information about current discharges, ~~developing~~ appropriate modelling tools to estimate contaminant discharges, and ~~researching the~~ spatial variability of land use and contaminant losses and the effect of contaminant discharges in different parts of the catchment that will assist in defining 'land suitability' for a range of uses and allocation.

Any future Allocation should consider the following principles:

- a. Land suitability
which reflects the biophysical and climate properties, the risk of contaminant discharges from that land, and the sensitivity of the receiving water body, as a starting point (i.e. where the effect on the land and receiving waters will be the same, like land is treated the same for the purposes of allocation); and
- b. Allowance for flexibility of development of tangata whenua ancestral land; and
- c. Minimise social disruption and costs in the transition to the 'land suitability' approach; and
- d. Future allocation decisions should take advantage of new data and knowledge.

62. PLUG do not support future allocation, amendments highlight in red above. PLUG believe that allocation on a sub-catchment basis should be considered in PC1. Every sub-catchment is different and displays unique water quality characteristics. Management on a BPO sub-catchment basis should be addressed within this Plan Change. It is recommended that Table 3.11-1 be amended to include attribute targets for each sub-catchment.

Resolution sought:

63. Amend as indicated above in red.

Policy 8

Policy 8: Prioritised implementation/Te Kaupapa Here 8: Te raupapa o te whakatinanatanga

Prioritise the management of land and water resources by implementing Policies 2, 3 and 9, and in accordance with the prioritisation of areas set out in Table 3.11-2. Priority areas include:

- a. Sub-catchments where there is a greater gap between the water quality targets in Objective 1 (Table 3.11-1) and current water quality; and*
- b. Lakes Freshwater Management Units; and*
- c. Whangamarino Wetland.*

In addition to the priority sub-catchments listed in Table 3.11-2, the 75th percentile nitrogen leaching value dischargers will also be prioritised for Farm Environment Plans.

64. PLUG support Policy 8, provided it is interpreted as requiring land managers to avoid, remedy or mitigate the adverse effects of their activities. It also needs to be stated that the 75th percentile is based on nitrogen leaching rates determined on dairy farms using Overseer.

Resolution sought:

65. Confirm basis for 75th percentile and provide clear guidance on interpretation as discussed above.

Policy 9

Policy 9: Sub-catchment (including edge of field) mitigation planning, co-ordination and funding/Te Kaupapa Here 9: Te whakarite mahi whakangāwari, mahi ngātahi me te pūtea mō te riu kōawāwa (tae atu ki ngā taitapa)

Take a prioritised and integrated approach to sub-catchment water quality management by undertaking sub-catchment planning, and use this planning to support actions including edge of field mitigation measures. Support measures that efficiently and effectively contribute to water quality improvements. This approach includes:

- a. Engaging early with tangata whenua and with landowners, communities and potential funding partners in sub-catchments in line with the priority areas listed in Table 3.11-2; and*
- b. Assessing the reasons for current water quality and sources of contaminant discharge, at various scales in a sub-catchment; and*
- c. Encouraging cost-effective mitigations where they have the biggest effect on improving water quality; and*
- d. Allowing, where multiple farming enterprises contribute to a mitigation, for the resultant reduction in diffuse discharges to be apportioned to each enterprise in accordance with their respective*

contribution to the mitigation and their respective responsibility for the ongoing management of the mitigation

66. PLUG support Policy 9. A sub-catchment approach enables the targeting of problem areas specific to each of the four contaminants and to each sub-catchment, thereby incentivising landowners to collectively act to make reductions, as required. This approach encourages the efficient and appropriate management of the finite resources available within each sub-catchment. Rules should be amended within PC1 to give effect to Policy 9.

Policy 10

Policy 10: Provide for point source discharges of regional significance/Te Kaupapa Here 10: Te whakatau i ngā rukenga i ngā pū tuwha e noho tāpua ana ki te rohe

When deciding resource consent applications for point source discharges of nitrogen, phosphorus, sediment and microbial pathogens to water or onto or into land, provide for the:

- a. Continued operation of regionally significant infrastructure; and*
- b. Continued operation of regionally significant industry.*

67. PLUG support Policy 10 but consider that while point source discharges have been adequately addressed within the plan as regionally significant, inadequate provision has been given to the regional significance of the primary production sectors.

Resolution sought:

68. Amend PC1 to reflect the regional significance of primary production sectors.

Policy 11

Policy 11: Application of Best Practicable Option and mitigation or offset of effects to point source discharges/Te Kaupapa Here 11: Te whakahāngai i te Kōwhiringa ka Tino Taea me ngā mahi whakangāwari pānga; te karo rānei i ngā pānga ki ngā rukenga i ngā pū tuwha

Require any person undertaking a point source discharge of nitrogen, phosphorus, sediment or microbial pathogens to water or onto or into land in the Waikato and Waipa River catchments to adopt the Best Practicable Option to avoid or mitigate the adverse effects of the discharge, at the time a resource consent application is decided. Where it is not practicable to avoid or mitigate all adverse effects, an offset measure may be proposed in an alternative location or locations to the point source discharge, for the purpose of ensuring positive effects on the environment to lessen any residual adverse effects of the discharge(s) that will or may result from allowing the activity provided that the:*

- a. Primary discharge does not result in any significant toxic adverse effect at the point source discharge location; and*
- b. Offset measure is for the same contaminant; and*
- c. Offset measure occurs preferably within the same sub-catchment in which the primary discharge occurs and if this is not practicable, then within the same Freshwater Management Unit[^] or a Freshwater Management Unit[^] located upstream, and*
- d. Offset measure remains in place for the duration of the consent and is secured by consent condition.*

69. PLUG support Policy 11 in part. It is considered that all sectors should be able to implement BPO management for mitigation e.g. through Farm Environment Plans. Off-setting should be considered within an enterprise where environmental initiatives have been undertaken to offset diffuse discharges for that enterprise. This would enable the acknowledgement of those that have historically invested in the environment, currently not recognised under PC1.

Resolution sought:

70. Allow for BPO management.
71. Enable off-setting within an enterprise where environmental investment has off-set diffuse discharges.

Policy 12

Policy 12: Additional considerations for point source discharges in relation to water quality targets/Te Kaupapa Here 12: He take anō hei whakaaro ake mō ngā rukenga i ngā pū tuwha e pā ana ki ngā whāinga ā-kounga wai

Consider the contribution made by a point source discharge to the nitrogen, phosphorus, sediment and microbial pathogen catchment loads and the impact of that contribution on the likely achievement of the short term targets[^] in Objective 3 or the progression towards the 80-year targets[^] in Objective 1, taking into account:

- a. The relative proportion of nitrogen, phosphorus, sediment or microbial pathogens that the particular point source discharge contributes to the catchment load; and*
- b. Past technology upgrades undertaken to model, monitor and reduce the discharge of nitrogen, phosphorus, sediment or microbial pathogens within the previous consent term; and*
- c. The ability to stage future mitigation actions to allow investment costs to be spread over time and meet the water quality targets[^] specified above; and*
- d. The diminishing return on investment in treatment plant upgrades in respect of any resultant reduction in nitrogen, phosphorus, sediment or microbial pathogens when treatment plant processes are already achieving a high level of contaminant reduction through the application of the Best Practicable Option*.*

72. PLUG support in part. It is considered that past initiatives undertaken within the primary sectors, that have acted to improve the environmental effects in the context of the four contaminants, should be taken into consideration within PC1, as is the case with point source discharges.
73. We also consider that the ability to stage future works to allow investments costs to be spread over time should be applicable to all stakeholders given the considerable capital investment required of the primary sectors, to comply with the current provisions set out in PC1.
74. The focus in item d,) should be less on contaminant reduction and more about the significance of the level of output of that contaminant and its cumulative effect within the sub catchment.

Resolution sought:

- 75. Acknowledge past environmental initiatives undertaken by land managers, within PC1
- 76. Allow for staging of capital investment costs for all stakeholders
- 77. Focus on contaminant significance within PC1 on a sub catchment basis

Policy 13

Policy 13: Point sources consent duration/Te Kaupapa Here 13: Te roa o te tukanga tono whakaaetanga mō te pū tuwha

When determining an appropriate duration for any consent granted consider the following matters:

- a. A consent term exceeding 25 years, where the applicant demonstrates the approaches set out in Policies 11 and 12 will be met; and*
- b. The magnitude and significance of the investment made or proposed to be made in contaminant reduction measures and any resultant improvements in the receiving water quality; and*
- c. The need to provide appropriate certainty of investment where contaminant reduction measures are proposed (including investment in treatment plant upgrades or land based application technology).*

- 78. PLUG support Policy 13 in part. Policy 13 should be amended to reflect the same considerations for all stakeholders within the Waipa and Waikato catchments. Duration of consent should be the same for all consent holders.

Resolution sought:

- 79. Reflect the same considerations for all stakeholders within PC1.

Policy 14

Policy 14: Lakes Freshwater Management Units/Te Kaupapa Here 14: Ngā Wae Whakahaere Wai Māori i ngā Roto

Restore and protect lakes by 2096 through the implementation of a tailored lake-by-lake approach, guided by Lake Catchment Plans prepared over the next 10 years, which will include collecting and using data and information to support the management of activities in the lakes Freshwater Management Units[^].

- 80. PLUG support Policy 14.

Policy 15

Policy 15: Whangamarino Wetland/Te Kaupapa Here 15: Ngā Repo o Whangamarino

Protect and make progress towards restoration of Whangamarino Wetland by reducing the discharge of nitrogen, phosphorus, sediment and microbial pathogens in the sub-catchments that flow into the wetland to:

- a. Reduce and minimise further loss of the bog ecosystem; and*
- b. Provide increasing availability of mahinga kai; and*
- c. Support implementation of any catchment plan prepared in future by Waikato Regional Council **and stakeholders** that covers Whangamarino Wetland.*

- 81. PLUG support Policy 15 with amendments highlighted in red above. We support the inclusion of all sources of contaminates including the management of pest species

within the catchment plan for the Whangamarino Wetland and implementation of any catchment plan prepared in the future by Waikato Regional Council and stakeholders.

Resolution sought:

82. Amend to reflect as highlighted in red above.

Policy 16

Policy 16: Flexibility for development of land returned under Te Tiriti o Waitangi settlements and multiple owned Māori land/Te Kaupapa Here 16: Te hangore o te tukanga mō te whakawhanaketanga o ngā whenua e whakahokia ai i raro i ngā whakataunga kokoraho o Te Tiriti o Waitangi me ngā whenua Māori kei raro i te mana whakahaere o te takitini

For the purposes of considering land use change applications under Rule 3.11.5.7, land use change that enables the development of tangata whenua ancestral lands shall be managed in a way that recognises and provides for:

- a. The relationship of tangata whenua with their ancestral lands; and*
- b. The exercise of kaitiakitanga; and*
- c. The creation of positive economic, social and cultural benefits for tangata whenua now and into the future;*

Taking into account:

- i. Best management practice actions for nitrogen, phosphorus, sediment and microbial pathogens for the proposed new type of land use; and*
- ii. The suitability of the land for development into the proposed new type of land use, reflecting the principles for future allocation as contained in Policy 7, including the risk of contaminant discharge from that land and the sensitivity of the receiving water body; and*
- iii. The short term targets[^] to be achieved in Objective 3.*

83. PLUG support Policy 16 but do not believe that PC1 gives effect to this provision under the current rule framework.

Policy 17

Policy 17: Considering the wider context of the Vision and Strategy/Te Kaupapa Here 17: Te whakaaro ake ki te horopaki whānui o Te Ture Whaimana

When applying policies and methods in Chapter 3.11, seek opportunities to advance those matters in the Vision and Strategy and the values[^] for the Waikato and Waipa Rivers that fall outside the scope of Chapter 3.11, but could be considered secondary benefits of methods carried out under this Chapter, including, but not limited to:

- a. Opportunities to enhance biodiversity, wetland values[^] and the functioning of ecosystems; and*
- b. Opportunities to enhance access and recreational values[^] associated with the rivers.*

84. PLUG support Policy 17 but do not believe that the PC1 gives effect to the Waikato River Authority Vision and Strategy in its current form.

IMPLEMENTATION METHODS

3.11.4.3 Farm Environment Plans

85. PLUG support in principle, the use of tailored Farm Environment Plans that enable the best practicable option to be employed. Our support is qualified to the extent that the WRC's interpretation of this obligation has yet to be disclosed.
86. We question the definition of a certified farm environment planner being too prescriptive. Waikato Regional Council advised that there will be approximately 10,000 enterprises required to register within the catchments, of these 5,000 will require a Nitrogen Reference Point, and of these, the majority will also require a Farm Environment Plan (with the exception of those considered to meet Rule 3.11.5.2). It is anticipated that 2,000 of the 5,000 will be required to submit to council within 6 months of 1 July 2020. We question the supply and demand ratio in this case. It is essential that the farm environment planner be suitably qualified in the farming sector they are addressing as each are uniquely different. It seems likely that under such pressures, qualifications may overrule appropriate experience and the results could be disadvantageous to all. It is considered that solely adequate experience should be included as a qualification within the framework.
87. The Farm Environment Plan requirements are difficult to interpret and require clarification, particularly in relation to slope interpretation. We suggest guidance be prepared by WRC.
88. We also question the duration of a farm environment plan and seek clarification as to how long this plan will be in effect before review, and whether WRC's guidance would be reviewed. If so, on what basis.

Resolution sought:

89. Include experience as a qualification through broadening Certified Farm Environment Planner definition.
90. Provide guidance document, including clarification on slope interpretation and fencing, stock watering and stock crossing requirements.

3.11.4.4 Lakes and Whangamarino Wetland

91. PLUG support this method however, in our view this cannot be achieved unless and until pest species are addressed.

Resolution sought:

92. Amend methods to include and prioritise the management of pest species. For avoidance of doubt this includes koi carp.

3.11.4.12 Support research and dissemination of best practice guidelines to reduce diffuse discharges

93. PLUG support this method in part. This should be amended to reflect the determination of BPO's rather than best practice, as this better reflects the need for practicable balancing of social, economic and environmental objectives.

Resolution sought:

94. Amend to reflect the determination of BPO's rather than best practice, as this better reflects the need for practicable balancing of social, economic and environmental objectives.

RULES

3.11.5.1 Permitted Activity Rule – Small and Low Intensity farming activities/Te Ture mō ngā Mahi e Whakaaetia ana – Ngā mahi iti, ngā mahi pāiti hoki i runga pāmu

Rule 3.11.5.1 - Permitted Activity Rule – Small and Low Intensity farming activities

The use of land for farming activities (excluding commercial vegetable production) and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water is a permitted activity subject to the following conditions:

1. The property is registered with the Waikato Regional Council in conformance with Schedule A; and
2. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C for areas with a slope less than 15 degrees and on those slopes exceeding 15 degrees where break feeding occurs; and
Either:
 3. The property area is less than or equal to 4.1 hectares; and
 4. The farming activities do not form part of an enterprise being undertaken on more than one property; orWhere the property area is greater than 4.1 hectares:
 5. For grazed land, the stocking rate of the land is less than 6 stock units per hectare; and
 6. No arable cropping occurs; and
 7. The farming activities do not form part of an enterprise being undertaken on more than one property.

95. Support with amendments, highlighted in red above. Align with proposed amendments to NPS-FM.
96. We seek clarification on slope interpretation and what constitutes a 15-degree slope on land where topography is varied. This is currently difficult to implement.

Resolution sought:

97. Amend as reflected in red above. Provide guidance on interpretation, particularly on stock exclusion, crossing and watering requirements.

Rule 3.11.5.2 - Permitted Activity Rule – Other farming activities

The use of land for farming activities (excluding commercial vegetable production) and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water where the property area is greater than 4.1 hectares, and has more than 6 and less than 18 stock units per hectare or is used for arable cropping, is a permitted activity subject to the following conditions:

1. The property is registered with the Waikato Regional Council in conformance with Schedule A; and 2. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C for areas with a slope less than 15 degrees and on those slopes exceeding 15 degrees where break feeding occurs and Conditions 3(e) and 4(e) of this Rule; and 3. Where the property area is less than or equal to 20 hectares:

a. The farming activities do not form part of an enterprise being undertaken on more than one property; and b. Where the land is:

~~i. used for grazing livestock, the stocking rate of the land is no greater than the stocking rate of the land at 22 October 2016; or ii. not used for grazing livestock, the land use has the same or lower diffuse discharges of nitrogen, phosphorus, sediment or microbial pathogens as the land use at 22 October 2016; and~~

c. Upon request, the landowner shall obtain and provide to the Council independent verification from a Certified Farm Environment Planner that the use of land is compliant with either b)(i) or b)(ii) above; and d. Upon request from the Council, a description of the current land use activities shall be provided to the Council; and e. Where the property or enterprise contains any of the water bodies listed in Schedule C, new fences installed after 22 October 2016 for areas with a slope less than 15 degrees and on those slopes exceeding 15 degrees where break feeding occurs must be located to ensure cattle, horses, deer and pigs cannot be within three metres of the bed of the water body (excluding constructed wetlands and drains).

4. Where the property or enterprise area is greater than 20 hectares:

~~a. A Nitrogen Reference Point is produced for the property or enterprise in conformance with Schedule B; and b. The diffuse discharge of nitrogen from the property or enterprise does not exceed either:~~

~~i. the Nitrogen Reference Point; or ii. 15kg nitrogen/hectare/year, whichever is the lesser, over the whole property or enterprise when assessed in accordance with Schedule B; and~~

c. No part of the property or enterprise over 15 degrees slope is cultivated or grazed unless effects of diffuse discharges can be mitigated; and d. No winter forage crops are grazed in situ; and e. Where the property or enterprise contains any of the water bodies listed in Schedule C:

~~i. There shall be no cultivation within 5 metres of the bed of the water body unless effects of diffuse discharges can be mitigated; and ii. New fences installed after 22 October 2016 for areas with a slope less than 15 degrees and on those slopes exceeding 15 degrees where~~

break feeding occurs must be located to ensure cattle, horses, deer and pigs cannot be within three metres of the bed of the water body (excluding constructed wetlands and drains); and

5. For all properties greater than 4.1 hectares, from 31 March 2019, in addition to the requirements of Schedule A, the following information must be provided to the Waikato Regional Council by 1 September each year:

a. Annual stock numbers; and b. Annual fertiliser use; and c. Annual brought in animal feed.

98. Support with amendments as highlighted in red above. Align with proposed amendments to NPS-FM.
99. It is considered unsuitable to select the date of plan notification to address stocking rate or discharge requirements, as this date has no reflection on the cycle of land management practices. If a date is to be selected this should have a reflection on the operation of farming systems e.g. winter carrying capacity of the land; cultivation periods.
100. PLUG consider that grazing should be enabled over 15 degrees and that cultivation should be able to be undertaken provided effects are adequately mitigated through the tailored Farm Environment Plan.

Resolution sought:

101. Amend as indicated in red above.

Rule 3.11.5.3 - Permitted Activity Rule – Farming activities with a Farm Environment Plan under a Certified Industry Scheme

Except as provided for in Rule 3.11.5.1 and Rule 3.11.5.2 the use of land for farming activities (excluding commercial vegetable production) where the land use is registered to a Certified Industry Scheme, and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water is a permitted activity subject to the following conditions:

1. The property is registered with the Waikato Regional Council in conformance with Schedule A; and
- ~~2. A Nitrogen Reference Point is produced for the property or enterprise in conformance with Schedule B; and~~
3. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C ~~for areas with a slope less than 15 degrees and on those slopes exceeding 15 degrees where break feeding occurs; and~~
4. The Certified Industry Scheme meets the criteria set out in Schedule 2 and has been approved by the Chief Executive Officer of Waikato Regional Council; and
5. A Farm Environment Plan which has been prepared in accordance with Schedule 1 and has been approved by a Certified Farm Environment Planner, is provided to the Waikato Regional Council ~~as follows:~~
 - ~~a. By 1 July 2020 for properties or enterprises within Priority 1 sub-catchments listed in Table 3.11-2, and properties or enterprises with a Nitrogen Reference Point greater than the 75th percentile nitrogen leaching value;~~
 - ~~b. By 1 July 2023 for properties or enterprises within Priority 2 sub-catchments listed in Table 3.11-2;~~
 - ~~c. By 1 July 2026 for properties or enterprises within Priority 3 sub-catchments listed in Table 3.11-2; and~~
6. The use of land shall be undertaken in accordance with the actions and timeframes specified in the Farm Environment Plan; and
7. The Farm Environment Plan provided under Condition 5 may be amended in accordance with the procedure set out in Schedule 1 and the use of land shall thereafter be undertaken in accordance with the amended plan; and
8. A copy of the Farm Environment Plan amended in accordance with condition (7) shall be provided to the Waikato Regional Council within 30 working days of the date of its amendment.

102. PLUG oppose the use of a Nitrogen Reference Point (NRP). The approach taken by the proposed rules does not acknowledge those farmers/sub catchments that have appropriately managed discharges from their farms historically. In fact, proposed PC1 penalises those that have, by effectively Grandparenting rights, and benefiting high emitters. The current approach taken by PC1 conflicts with the RMA, where rules are not centred around being “effects based” and in fact benefit those with the

greatest effects. In addition, we consider that the NRP derived using OVERSEER is imprecise when used for regulatory purposes. In addition, there needs to be a toolbox of mitigation options available in Farm Environment Planning and mitigation time frames specified within the plan need to be realistic and achievable.

Resolution sought:

103. Remove NRP from the plan and adopt a sub-catchment approach addressing all four contaminants in proportion to their significance, and specific to each sub-catchment.

Rule 3.11.5.4 - Controlled Activity Rule – Farming activities with a Farm Environment Plan not under a Certified Industry Scheme

Except as provided for in Rule 3.11.5.1 and Rule 3.11.5.2 the use of land for farming activities (excluding commercial vegetable production) where that land use is not registered to a Certified Industry Scheme, and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water is a permitted activity until:

1. 1 January 2020 for properties or enterprises in Priority 1 sub-catchments listed in Table 3.11-2, ~~and properties or enterprises with a Nitrogen Reference Point greater than the 75th percentile nitrogen leaching value;~~

2. 1 January 2023 for properties or enterprises in Priority 2 sub-catchments listed in Table 3.11-2;

3. 1 January 2026 for properties or enterprises in Priority 3 sub-catchments listed in Table 3.11-2; Subject to the following conditions:

4. The property is registered with the Waikato Regional Council in conformance with Schedule A; and ~~5. A Nitrogen Reference Point is produced for the property or enterprise in conformance with Schedule B; and After the dates set out in 1), 2) and 3) above the use of land shall be a controlled activity (requiring resource consent), subject to the following standards and terms:~~

a. A Farm Environment Plan has been prepared in conformance with Schedule 1 and has been approved by a Certified Farm Environment Planner, and is provided to the Waikato Regional Council at the time the resource consent application is lodged by the dates specified in I-III below; and b. The property is registered with the Waikato Regional Council in conformance with Schedule A; and c. ~~A Nitrogen Reference Point is produced for the property or enterprise in conformance with Schedule B and is provided to the Waikato Regional Council at the time the resource consent application is lodged;~~ and d. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C for areas with a slope less than 15 degrees and on those slopes exceeding 15 degrees where break feeding occurs.

104. PLUG support with amendments, indicated in red above. The use of the NRP should be removed from the plan.

105. Fencing requirements should reflect the amendments to the NPS-FM.

Resolution sought:

106. Amend as reflected in red above. Remove NRP from the plan; align with proposed amendments to NPS-FM.

3.11.5.5 Controlled Activity Rule – Existing commercial vegetable production/Te Ture mō ngā Mahi ka āta Whakahaerehia – Te whakatupu hua whenua ā-arumoni o te wā nei

Rule 3.11.5.5 - Controlled Activity Rule – Existing commercial vegetable production

The use of land for commercial vegetable production and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water, is a permitted activity until 1 January 2020, from which date it shall be a controlled activity (requiring resource consent) subject to the following standards and terms:

- a. The property is registered with the Waikato Regional Council in conformance with Schedule A; and
- ~~b. A Nitrogen Reference Point is produced for the property or enterprise in conformance with Schedule B and provided to the Waikato Regional Council at the time the resource consent application is lodged; and~~
- c. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and
- d. The land use is registered to a Certified Industry Scheme; and
- e. The areas of land, and their locations broken down by sub-catchments [refer to Table 3.11-2], that were used for commercial vegetable production within the property or enterprise ~~each any year in the period 1 July 2006 to 30 June 2016, together with the maximum area of land used for commercial vegetable production within that period, shall be provided to the Council; and~~
- ~~f. The total area of land for which consent is sought for commercial vegetable production must not exceed the maximum land area of the property or enterprise that was used for commercial vegetable production during the period 1 July 2006 to 30 June 2016; and~~
- ~~g. Where new land is proposed to be used for commercial vegetable production, an equivalent area of land must be removed from commercial vegetable production in order to comply with standard and term f.; and~~
- h. A Farm Environment Plan for the property or enterprise prepared in conformance with Schedule 1 and approved by a Certified Farm Environment Planner is provided to the Waikato Regional Council at the time the resource consent application is lodged.

Matters of Control

Waikato Regional Council reserves control over the following matters:

- i. *The content of the Farm Environment Plan.*
- ii. *The maximum area of land to be used for commercial vegetable production.*
- iii. *The actions and timeframes for undertaking mitigation actions that maintain or reduce the diffuse discharge of nitrogen, phosphorus or sediment to water or to land where those contaminants may enter water, including provisions to manage the effects of land being retired from commercial vegetable production and provisions to achieve Policy 3(d).*
- ~~iv. *The actions and timeframes to ensure that the diffuse discharge of nitrogen does not increase beyond the Nitrogen Reference Point for the property or enterprise.*~~
- v. *The term of the resource consent.*
- vi. *The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent to demonstrate and/or monitor compliance with the Farm Environment Plan.*
- vii. *The time frame and circumstances under which the consent conditions may be reviewed.*
- viii. *Procedures for reviewing, amending and re-certifying the Farm Environment Plan.*

Notification:

Consent applications will be considered without notification, and without the need to obtain written approval of affected persons

Advisory note: Under section 20A(2) of the RMA a consent must be applied for within 6 months of 1 January 2020, namely by 1 July 2020.

- 107. PLUG support in part/oppose in part. We consider the proposal to limit the area of well managed horticultural land short sighted and illogical. We have concerns that if this Controlled Activity (CA) consent is a Land Use consent, then the allocation will sit with the land and will be unlikely to be able to move with the enterprise. This will affect rotation capabilities and undermine best management practices. This will also impact on leased properties where landowners wish to lease that land for the best price given the proposed capping of land area for vegetable production within the Waikato and Waipa catchments.
- 108. If the CA enables the movement of land around the catchments with the enterprise, then the allocation given to that land can follow the enterprise in its entirety. We question, how retired land be addressed with regard to residual value of N being assigned.
- 109. We consider that if a sub-catchment approach is adopted and finite resources are managed on a sub-catchment basis then capping of land area may no longer be required. It is however, considered that commercial vegetable growers will still require the flexibility to move between sub-catchments given the nature of their business and this will need to be reflected within the plan.

Resolution sought:

- 110. Amend as reflected in red above.
- 111. Adopt sub-catchment management approach.
- 112. Provide clarification on how land will move around the catchments with an enterprise under the proposed consent if provisions are retained.

3.11.5.7 Non-Complying Activity Rule – Land Use Change/Te Ture mō ngā mahi kāore e whai i ngā ture – Te Panonitanga ā-Whakamahinga Whenua

Rule 3.11.5.7 - Non-Complying Activity Rule – Land Use Change

Notwithstanding any other rule in this Plan, any of the following changes in the use of land from that which was occurring at 22 October 2016 within a property or enterprise located in the Waikato and Waipa catchments, where prior to 1 July 2026 the change exceeds a total of 4.1 hectares:

- 1. Woody vegetation to farming activities; or*
- 2. Any livestock grazing other than dairy farming to dairy farming; or*
- 3. Arable cropping to dairy farming; or*
- 4. Any land use to commercial vegetable production except as provided for under standard and term g. of Rule 3.11.5.5*

is a non-complying activity (requiring resource consent) until 1 July 2026.

Notification:

Consent applications will be considered without notification, and without the need to obtain written approval of affected persons, subject to the Council being satisfied that the loss of contaminants from the proposed land use will be lower than that from the existing land use.

- 113. PLUG oppose Rule 3.11.5.7. Restricting land use change on a broad scale across the Waikato and Waipa catchments is unjustified and should be removed from the plan. Land use flexibility is fundamental to sustainable primary production enterprises and especially in relation to food and fibre production, where the enterprise must be able to respond to the demands of an increasing population. It is considered that where Stage 1 targets are met, as required by Table 3.11-1, each sub-catchment should have the flexibility to manage finite resources accordingly as a permitted activity. Where the sub-catchment has been identified as a high priority, it is considered that a restricted discretionary land use change consent could be utilised to manage accordingly.
- 114. Of note, when adopted in practice, if 4.1ha of arable cropping is utilised within the normal operations of a dairy farming system, conversion of this cropped area back to pasture would be considered Non-Complying and consent would be required. This is illogical and superfluous.

Resolution sought:

- 115. Delete Non-Complying Land Use Change Rule from PC1.

116. Enable change in land use in sub-catchments meet Table 3.11-1 attribute targets as a Permitted Activity.
117. Introduce a new Restricted Discretionary Activity consent to manage change in land use in high priority sub-catchments by adoption of applicable BPO management practices.

Schedule B – Nitrogen Reference Point

118. PLUG oppose the use of a Nitrogen Reference Point, due to the perverse effects of effectively 'Grandparenting'. This is contradictory to the intention of the Waikato River Authority's Vision and Strategy (V&S) and does not in-still the behavioural and land management changes required to meet its objectives. Consequently, this has many unintended outcomes including capital devaluation and associated loss of growth and innovation.

Resolution sought:

119. Delete Schedule B from PC1
120. Replace with schedule detailing requirements for Sub-Catchment Management Plan

Schedule C - Stock exclusion/Te Āpitihanga C – Te aukatinga o ngā kararehe

Except as provided by Exclusions I. and II., stock must be excluded from the water bodies listed in i. to iv. below as follows:

- 1. The water bodies must be fenced to exclude cattle, horses, deer and pigs, unless those animals are prevented from entering the bed of the water body by a stock proof natural barrier formed by topography or vegetation.*
- 2. New fences installed after 22 October 2016 must be located to ensure cattle, horses, deer and pigs cannot ~~be within one metre of the~~ enter the bed of the water body (excluding constructed wetlands) in accordance with Schedule 1.*
- 3. Livestock must not be permitted to enter onto or pass across the bed of the water body, except when using a livestock crossing structure or where stock is moved in one continuous movement and this occurs less frequently than once per week.*
- 4. For land use authorised under Rules 3.11.5.1 or 3.11.5.2, clauses 1 and 2 must be complied with:*
 - a. By 1 July 2023 for properties and enterprises within Priority 1 sub-catchments listed in Table 3.11-2.*
 - b. By 1 July 2026 for properties and enterprises within Priority 2 and Priority 3 sub-catchments listed in Table 3.11-2.*
- 5. For land use authorised under Rules 3.11.5.3, 3.11.5.4 or 3.11.5.5, clauses 1 and 2 must be complied with by the date and in the manner specified in the property's or enterprise's Farm Environment Plan, which shall be within 3 years following the dates by which a Farm Environment Plan must be provided to the Council, or in any case no later than 1 July 2026.*

Water bodies from which cattle, horses, deer and pigs must be excluded:

- i. Any river that continually contains surface water and exceeds 1m wide at any point and is 30cm deep on average.
- ii. Any drain that continually contains surface water exceeds 1m wide at any point and is 30cm deep on average.
- iii. Any wetland, including a constructed wetland.
- iv. Any lake.

Exclusions: The following situations are excluded from clauses 1 and 2:

- I. Areas with slopes exceeding 15 degrees and where no break feeding occurs;
- II. Where the entry onto or passing across the bed of the water body is by horses that are being ridden or led.
- III. Where the entry onto or passing across the bed of the water body is by a feral animal.
- IV. Areas less than 15 degrees demonstrated to be in high flood zones and where fencing is impractical

121. PLUG support with amendments as indicated above in red. The proposed amendments reflect alignment with the NPS-FM and to rectify conflicts between Schedule C and Schedule 1.

Resolution sought:

122. Amend as reflected in red above.

Schedule 1 - Requirements for Farm Environment Plans/Te Āpitiwhanga 1: Ngā Herenga i ngā Mahere Taiao ā-Pāmu

A Farm Environment Plan shall be prepared in accordance with the requirements of A below. The Farm Environment Plan shall be certified as meeting the requirements of A by a Certified Farm Environment Planner.

The Farm Environment Plan shall identify all sources of sediment, nitrogen, phosphorus and microbial pathogens, and identify actions, and timeframes for those actions to be completed, in order to reduce the diffuse discharges of these contaminants.

The Farm Environment Plan must clearly identify how specified minimum standards will be complied with.

The requirements set out in A apply to all Farm Environment Plans, including those prepared within a Certified Industry Scheme.

This schedule applies to all farming activities, but it is acknowledged that some provisions will not be relevant to every farming activity.

A. Farm Environment Plans shall contain as a minimum:

- 1. The property or enterprise details:

- (a) Full name, address and contact details (including email addresses and telephone numbers) of the person responsible for the property or enterprise.
- (b) Trading name (if applicable, where the owner is a company or other entity).
- (c) A list of land parcels which constitute the property or enterprise:
 - (i) the physical address and ownership of each parcel of land (if different from the person responsible for the property or enterprise) and any relevant farm identifiers such as the dairy supply number, Agribase identification number, valuation reference; and
 - (ii) The legal description of each parcel of land.

2. An assessment of the risk of diffuse discharge of sediment, nitrogen, phosphorus and microbial pathogens associated with the farming activities on the property, and the priority of those identified risks, having regard to sub-catchment targets in Table 3.11-1 and the priority of lakes within the sub-catchment. As a minimum, the risk assessment shall include (where relevant to the particular land use):

(a) A description of where and how stock shall be excluded from water bodies for stock exclusion including:

- (i) the provision of fencing and livestock crossing structures to achieve compliance with Schedule C; and
- (ii) for areas with a slope exceeding 15° and where stream fencing is impracticable, the provision of alternative mitigation measures.

(b) A description of setbacks and riparian management, including:

- (i) The management of water body margins including how damage to the bed and margins of water bodies, and the direct input of contaminants will be avoided, and how riparian margin settling and filtering will be provided for; and
- (ii) Where practicable the provision of minimum grazing setbacks from water bodies for stock exclusion of 1 metre for land with a slope of less than 15° and 3 metres for land between 15° and 25° where break feeding occurs; and
- (iii) The provision of minimum cultivation setbacks of 5 metres unless effects of diffuse discharges can be mitigated.

(c) A description of the critical source areas from which sediment, nitrogen, phosphorus and microbial pathogens are lost, including:

- (i) the identification of intermittent waterways, overland flow paths and areas prone to flooding and ponding, and an assessment of opportunities to minimise losses from these areas through appropriate stocking policy, stock exclusion and/or measures to detain floodwaters and settle out or otherwise remove sediment, nitrogen, phosphorus and microbial pathogens (e.g. detention bunds, sediment traps, natural and constructed wetlands); and

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- (ii) the identification of actively eroding areas, erosion prone areas, and areas of bare soil and appropriate measures for erosion and sediment control and re-vegetation; and
- (iii) an assessment of the risk of diffuse discharge of sediment, nitrogen, phosphorus and microbial pathogens from tracks and races and livestock crossing structures to waterways, and the identification of appropriate measures to minimise these discharges (e.g. cut-off drains, and shaping); and
- (iv) the identification of areas where effluent accumulates including yards, races, livestock crossing structures, underpasses, stock camps, and feed-out areas, and appropriate measures to minimise the risk of diffuse discharges of contaminants from these areas to groundwater or surface water; and

(v) the identification of other 'hotspots' such as fertiliser, silage, compost, or effluent storage facilities, wash-water facilities, offal or refuse disposal pits, and feeding or stock holding areas, and the appropriate measures to minimise the risk of diffuse discharges of contaminants from these areas to groundwater or surface water.

(d) An assessment of appropriate land use and grazing management for specific areas on the farm in order to maintain and improve the physical and biological condition of soils and minimise the diffuse discharge of sediment, nitrogen, phosphorus and microbial pathogens to water bodies, including:

- (i) matching land use to land capability; and
- (ii) identifying areas not suitable for grazing; and
- (iii) stocking policy to maintain soil condition and pasture cover; and
- (iv) the appropriate location and management of winter forage crops; and
- (v) suitable management practices for strip grazing.

(e) A description of nutrient management practices including a nutrient budget for the farm enterprise calculated using the model OVERSEER® in accordance with the OVERSEER® use protocols, or using any other model or method approved by the Chief Executive Officer of Waikato Regional Council.

(f) A description of cultivation management, including:

- (i) The identification of slopes over 15° and how cultivation on them will be avoided; unless contaminant discharges to water bodies from that cultivation can be **avoided mitigated**; and
- (ii) How the adverse effects of cultivation on slopes of less than 15° will be mitigated through appropriate erosion and sediment controls for each paddock that will be cultivated including by:

- **assessing where overland flows enters and exits the paddock in rainfall events; and**
- **identifying appropriate measures to divert overland flows from entering the cultivated paddock; and**
- **identifying measures to trap sediment leaving the cultivated paddock in overland flows; and**
- **maintaining appropriate buffers between cultivated areas and water bodies (minimum 5m setback).**
- **A description of collected animal effluent management including how the risks associated with the operation of effluent systems will be managed to minimise contaminant discharges to groundwater or surface water.**
- **A description of freshwater irrigation management including how contaminant loss arising from the irrigation system to groundwater or surface water will be minimised.**

3. A spatial risk map(s) at a scale that clearly shows:

- (a) The boundaries of the property; and
 - (b) The locations of the main land uses that occur on the property; and
 - (c) The locations of existing and future mitigation actions to manage contaminant diffuse discharges; and
- 6 For dairy farms this might be the OVERSEER® blocks, for drystock farms this might be Land Use Capability blocks.

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- (d) Any relevant internal property boundaries that relate to risks and mitigation actions described in this plan; and

- (e) The location of continually flowing rivers, streams, and drains ~~that exceed 1m wide and 30cm deep on average~~ and permanent lakes, ponds and wetlands; and
- (f) The location of riparian vegetation and fences adjacent to water bodies; and
- (g) The location of critical source areas for contaminants, as identified in 2 (c) above.

4. A description of the actions that will be undertaken in response to the risks identified in the risk assessment in 2 above (having regard to their relative priority) as well as where the mandatory time-bound actions will be undertaken, and when and to what standard they will be completed.

5. A description of the following:

- (a) ~~Actions, timeframes and other measures to ensure that the diffuse discharge of nitrogen from the property or enterprise, as measured by the five-year rolling average annual nitrogen loss as determined by the use of the current version of OVERSEER @, does not increase beyond the property or enterprise's Nitrogen Reference Point, unless other suitable mitigations are specified; or~~
- (b) ~~Where the Nitrogen Reference Point exceeds the 75th percentile nitrogen leaching value, actions, timeframes and other measures to ensure the diffuse discharge of nitrogen is reduced so that it does not exceed the 75th percentile nitrogen leaching value by 1 July 2026, except in the case of Rule 3.11.5.5.~~

- 123. PLUG support with amendments. Align with proposed amendments to NPS-FM.
- 124. Guidance is sought to clarify slope interpretation, fencing and stock watering and crossing requirements.

Resolution sought:

- 125. Amend as indicated in red above.
- 126. Provide guidance on interpretation as discussed.

Conclusion

- 127. PLUG conclude that PC1 fails to deliver a plan that is socially, economically or culturally sustainable. We consider that the effect of grandparenting through the introduction of a Nitrogen Reference Point will be perverse on landowner behaviour and will contradict the intention of Waikato River Authority's Vision and Strategy.
- 128. PLUG support the use of BPO management as opposed to the prescriptive and restrictive proposal put forward under PC1. We suggest reconsidering the plan and adopting sub-catchment management to address water quality issues. This approach enables management to reflect the variability on farm through a tailored farm environment plan utilising a toolbox of mitigations, while collectively managing, and where relevant, reducing contaminants of concern on a sub-catchment basis. We consider that this approach, in contrast to the current proposal, will foster positive landowner behaviour and buy-in while achieving greater improvements in water quality.