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**SUBMISSION ON PROPOSED WAIKATO REGIONAL PLAN CHANGE 1 - WAIKATO AND WAIPĀ RIVER
CATCHMENTS**

1. The Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest & Bird) is an independent community-based conservation organisation, established in 1923. Its mission is to be a voice for nature on behalf of its 70,000 members and supporters, including the Taupo and Waikato Branches.
2. Forest & Bird has had for many years a strong interest in the Waikato Region, particularly in relation to water quality and biodiversity protection. This has included advocating for greater protection of indigenous species, on land and in freshwater and protecting and enhancing the healthy function and integrity of indigenous ecosystems.
3. Freshwater bodies in the Waikato and Waipa Catchments (the catchments) include a wide variety of lakes, wetlands, streams, groundwater and geothermal ecosystems. These ecosystems in turn support a wide diversity of indigenous freshwater fauna and flora. However many of these ecosystems and indigenous species are under threat of extinction. The Waipa and Waikato Rivers are over allocated. All riverine lakes in the Waikato region are either eutrophic or hypertrophic and 74% of native fish species in New Zealand are under threat of extinction.
4. This is a submission on all the provisions of Proposed Plan Change 1 (PC1) on behalf of Forest and Bird. This submission sets out our relief sought in relation to key issues and with reference to relevant section/provisions.

5. This submission focuses on the need to give better effect to Section 6 RMA matters, the maintenance of indigenous biodiversity, the National Policy Statement on Freshwater Management, the Waikato Regional Policy Statement including the Vision and Strategy for the Waikato River / Te Ture Whaimana o Te Awa o Waikato (Vision and Strategy).
6. Forest and Bird could **not** gain an advantage in trade competition through this submission
7. Forest and Bird wish to be heard in support of this submission.
8. If others make a similar submission, we will consider presenting jointly with them at a hearing.
9. This submission starts out by addressing some of the key issues raised by the submission. The relief sought is set out in broad terms. The specific provisions in the plan are then addressed with more detail in the following table.

Key Forest and Bird submissions

10. The objectives of PC1 fall far short of what is necessary to effectively address the severely degraded water quality in the Waipa and Waikato Rivers.
11. While time is needed to address the issues and restore water quality, the setting of an 80 year time frame is far too long. In addition, the short term objectives are weak. Allowing 10 years to put actions in place to achieve 10% of the required reductions fails to grasp the significance of the issue. In addition, waiting 10 years before any concerted action is required is inconsistent with giving effect to the Vision and Strategy. This approach fails to place any responsibility on those who can make the biggest impact on restoring and protecting the health and wellbeing of the Waikato River.
12. The only measure in the plan that appears likely to be effective in reducing discharges of contaminants is that reduction in losses of the 75th percentile of dairy farmers. However, this is not clearly expressed, being identified in the matters of control for a controlled activity rule. It should be clearly expressed in policy.
13. The Community Stakeholder Group (CSG) recommended that good management practise be required for all landowners.¹ Forest & Bird would go further by saying that good management and then, if necessary, best management practise should be progressively required for all landowners.
14. Except for the 75th percentile of dairy farmers, the provisions that purport to require reduction in discharges appear ineffective and do not give any confidence that they will be effective in achieving reductions in diffuse discharges of contaminants and improving water quality.

¹ Paragraph 14.5 *The CSG wishes to see nitrogen reductions from landowners in each sector who are currently leaching very high amounts of nitrogen. The direction is for the highest nitrogen emitters to reduce (75th percentile on per sector basis, drystock sector will need to benchmark before this can be determined); those below the 75th percentile make some reductions that represent good management practices relating to the risk factors on their property*

15. PC1 does not define, in any detail, good or best management practises. The definitions are so broad as to be almost meaningless and have no practical value.
16. Good and best management practises should be clearly defined with the requirement that all farming activities progressively work to good then best management practises. In addition, the 75th percentile of dairy farmers should
17. PC1 suffers from many instances of poor drafting, which create uncertainty and ambiguity. This drafting needs to be improved as any ambiguity will be interpreted in favour of landowners not the environment.
18. Certified Industry Schemes are not supported. The plan is not enforceable against members of these schemes.
19. The provisions that provide for non-notification of resource consents are not supported.

Key relief sought

20. The key relief sought by Forest & Bird is
 - (a) Reduce the time frame for achieving ecosystem health;
 - (b) Amendments to the water quality objectives as set out in Table 1 to ensure they provide for ecosystem health;
 - (c) Defining with clarity best and good management practises, through the use of schedules which set out what these are in detail;
 - (d) Require that good management practise be achieved in the first instance and then best management practise if needed to achieve freshwater objectives;
 - (e) Be clear about the requirement for the 75th percentile of dairy farmer being required to reduce by including it in policy;
 - (f) Delete all references to industry certified schemes;
 - (g) Delete all provisions relating to non-notification of resource consents.
21. Further details are set out below.

Freshwater objectives

22. Forest & Bird considers that the freshwater objectives set out in 3.11.1 are incomplete and that additional measures are needed to provide for ecological health.
23. The proposed freshwater objectives do not include the following attributes:

- (a) Natural character (including the condition of the riparian margin);
- (b) Dissolved oxygen (DO), i.e. diurnal variation in water temperature. DO was not included as the TLG deemed there was not enough point source discharges to warrant the inclusion of this as an attribute;
- (c) Deposited and suspended sediment;
- (d) Te Hauora o te Taiao / the health and mauri of the environment;
- (e) Freshwater Macroinvertebrate Health (Macroinvertebrate Community Index);
- (f) Periphyton;
- (g) Cynobacteria;
- (h) Benthic cyanobacteria;
- (i) Dissolved Inorganic Nitrogen (DIN) & Total Nitrogen in the tributaries / sub catchments;
- (j) Total Phosphorous in the tributaries / sub catchments;
- (k) Temperature;
- (l) pH;
- (m) Toxic heavy metals;
- (n) Barriers to fish migrations; and
- (o) Water flows and levels.

Relief sought

24. We request that Appendix 1 to this submission, which sets out appropriate freshwater objectives, be included in PC1.

Good and best management practice

25. Forest & Bird agrees with the CSG that good management practise should be a requirement for all landowners. In time, and where further improvements are needed to achieve freshwater objectives, best management practises should be required.

26. However, there needs to be ongoing work into developing good and best management practices as recommended by the Land and Water Forum and adopted in Canterbury².

“There is considerable benefit for regional councils, primary sector and farmers in developing an agreed set of clearly defined good management practices that would apply across all the industry sectors (LWF, 2012, Recommendation 15). The MGM project concluded that GMP is what should be reasonably expected from all farming activities (MGM, 2015a). In Canterbury, these minimum requirements are intended to initiate in the farming sector a paradigm shift that will further protect the region’s fresh water resources from quality and quantity degradation, by making efficient resource use a standard for any farming activity.”

27. Unfortunately, PC1 does not properly address these matters:

- (a) good and best management practise are not properly and clearly defined;
- (b) there is no attempt to do so;
- (c) even if it was, there is no requirement that landowners work to good or best management practise.

Relief sought

28. PC1 should seek to incorporate good and best management practise. Detail of good and best management practise should be in schedules.
29. Objectives and policies be amended to provide that all landowners have to achieve good management practises by 2019.
30. There should be a requirement to work to good management practise and, if necessary to achieve the freshwater objectives, a further requirement to work to best management practise. If this still does not achieve the freshwater objectives additional reductions should be required.

Rules

31. Forest & Bird concerns above are carried through to the rules. The requirements for reductions are weak and, all key (easy and hard) decisions have been put off until a later date.
32. The only requirement for reduction in the rules is an oblique requirement that the 75th percentile of dairy farmers have to reduce diffuse discharges of contaminants so they are not in the 75th percentile. This is far short of what is necessary to address what are serious water quality issues.
33. In addition, the rules are poorly drafted.

² PC5 to the Canterbury Land and Water Regional Plan, section 32 report

75th percentile

34. The reference to the 75th percentile also requires some clarification.

(a) What if a dairy farmer who was in the 75th percentile does not provide the information by 2019?

(b) It is not certain if “the 75th percentile nitrogen leaching value by 2026” is with reference to the 75th percentile at the time the 75th percentile is calculated or the 75th percentile in 2026. It is presumably the 75th percentile based on the 2019 information provided to the Council but this should be clarified.

35. The 75th percentile necessarily contains an element of arbitrariness. A dairy farmer just in the 75th percentile will have considerable greater obligations imposed on them than one just outside the 75th percentile. As discussed below, a requirement that all landowners achieve good and then best management practise will help alleviate the unfairness associated with the arbitrary nature of the 75th percentile.

Other reductions

36. PC1 signals that there will be a requirement for other landowners to reduce discharges of contaminants. However, this is not expressed in the rules. The matters of control for Rule 3.11.5.4 provide that other land owners will not have to reduce. Matter of control (ii) refers to maintaining or reducing. Matter of control (iii) provides that all that is necessary is that the nitrogen reference point is not increased. Clause 5(a) of the Farm Management Plan provides that there not be an increase.

37. The reference to a tailor made approach based on risk, provides no certainty that anything will be done or any reductions are required.

38. The provision for non-notification removes the community from any involvement in the process.

39. If there is to be a requirement for reductions other than the 75th percentile of landowners, this needs to be expressed more clearly in the rules. The result of the loose wording and the reference to the tailor made approach is that nothing will be required beyond the 75th percentile of dairy farmers.

Good and best management practises

40. An easy decision is to require that landowners adopt good management practise within a certain period. This was recommended by the CSG and it seems difficult to understand why this recommendation would not be adopted. There can not be a reasonable objection to such a requirement in an overallocated catchment.

41. As discussed above, it is necessary to identify what good and best management practises are in some detail. This needs to be done with urgency.

Controlled Rule 3.11.5.4

42. Rule 3.11.5.4 is poorly drafted. It purports to be a controlled activity rule but is also a permitted activity rule. Clause 3 provides for permitted activities until registered with the Council. Conditions 3 and 4 are ambiguous. What happens if the property is not registered with the Council? Does it remain permitted?

43. The dates after the matters of control have no context or meaning.

Relief sought

44. Forest & Bird seeks amendments to the rules

- (a) The requirement that the 75th percentile reduce discharges:
 - i. is clarified so the ambiguity set out above is removed; and
 - ii. is set out in the rules, not in the provisions relating to Farm Management Plans;
- (b) Matters of control (ii) and (iii) of Rule 3.11.5.4 and Clause 5(a) of Schedule 1 are amended to make it clear that reductions are expected in accordance with Objective 3 and Policy 2;
- (c) Good management practises be required for all landowners;
- (d) Where reductions beyond good management practises are needed to achieve water quality, the rules provide for best management practises.

Farm Environment Plans

45. Farm Environment Plan will be the primary tool/means for identifying and delivery both best and good environmental practice. It is critical that there is confidence in Farm Environment Plans, specifically that they are properly prepared and accurately record past and future diffuse discharges.

46. There is a need to include an audit requirement to assess farm practice against farm environment plans. This can be used to both assess effectiveness of farm environment plans and to establish progress towards the catchment water quality targets/limits can be achieved.

47. Identification of non-compliance with Farm Environment Plan and consent conditions is necessary to establish that the mitigation and remediation actions are appropriate and ensure effectiveness of the plan/compliance with the plan.

Certified Industry schemes

48. The provisions relating to certified industry schemes are misconceived.

49. The benefits for the Council are that it reduces its administrative load in relation to properties which are the subject of the scheme.

50. However the quid pro quo is the effective loss of the Councils ability to manage the way members of these schemes operate. If a Farm Management Plan is approved (rightly or wrongly), activities in accordance with that plan are permitted. There is no ability for the Council to challenge this approval. It's course of action is by a contractual challenge to the scheme, which will not do anything to address a wrongfully approved Farm Management Plan.

51. The Council is effectively contracting out of it statutory duties. This is not appropriate.

Relief sought

52. Forest & Bird seeks that all references to certified industry schemes are deleted.

Commercial vegetable production

53. The provisions are poorly drafted.

54. Policy 3 provides some useful direction, but, except Policy 3(d) this is not carried through into the rules.

55. While it purports to be a controlled rule, Rule 3.5.11.4 permits discharges from commercial vegetable production without conditions. This is not appropriate. Commercial vegetable producers should be required to obtain and provide information that is of a suitable standard than can verify that there is no increase in the diffuse discharges.

56. Forest & Bird has sought the deletion of certified industry schemes. In any event, activity status should not be determined based on whether land is part of a certified industry scheme.

57. Any increases in diffuse discharges of contaminants should be considered a non-complying activity.

Relief sought

58. Forest & Bird seeks:

(a) A permitted rule be added with conditions that:

- i. give effect to Policy 3; and
- ii. requires the creation of the Nitrogen Reference Point; and
- iii. requires that the information necessary to verify that the conditions have been complied with on ongoing basis.

(b) Condition (d) of Rule 3.11.5 is deleted.

(c) The matters of control be amended to reflect Policy 3.

- (d) Any increase in diffuse discharges of contaminants associated with commercial vegetable production is treated as a non-complying activity.

Non-notification

59. While it is accepted that most applications will not warrant notification, there may be some application where notification is justified. The possibility of notification also provides greater confidence in the

Relief Sought

60. Delete provisions which provide for non-notification.

Conclusion

61. Thank you for taking into account the matters raise on our submission

62. If you have any questions on this submission, please contact me in the first instance

Yours faithfully



Jen Miller
Acting Conservation Manager

FOREST & BIRD SUBMISSION ON SPECIFIC PLAN PROVISIONS

Provision	Support – Oppose – Amendment sought	Comment	Relief sought
Objective 1	Amend	<p>The time frame of 2096 is far too long.</p> <p>This timeframe, combined with the Objective 3, which effectively defers any action for 10 years, means that PC1 will not achieve any improvements in water quality. This is not appropriate in an overallocated catchment.</p>	<p>Reword to read:</p> <p><i>The restoration and protection of water quality to achieve healthy rivers by 2050</i></p> <p>Retain the explanation with amendment to 2050.</p>
Objective 2	Amend	<p>There is a disconnection between the objective and the explanation. The objective is inappropriate as it is not related to a nutrient or water quality issue.</p> <p>The explanation refers to the benefits from restoration and enhancement of the water quality. This focus is appropriate but absent from the objective itself.</p>	<p>Amend objective to read:</p> <p><i>The restoration and protection enhancement of water quality contributes to social, economic and cultural wellbeing.</i></p>
Objective 3	Amend	This objective defers actions to improve water quality for a	Amend the objective:

		<p>further 10 years. This is inappropriate.</p> <p>PC1 should require immediate actions required to address the deteriorating water quality.</p> <p>10% is a very small reduction, given that the first changes are likely to be the easiest to achieve.</p> <p>This objective is inconsistent with many of the policies which imply that PC1 actually requires reductions in contaminant losses.</p>	<p><i>Immediate improvements are achieved in water quality are achieved in each sub-catchment and Freshwater Management Unit</i></p> <p>Amend the explanation:</p> <p><i>Actions are put in place and implemented immediately to reduce discharges of nitrogen, phosphorus, sediment and microbial pathogens.</i></p>
Objective 4	Amend	<p>This objective has a number of problems</p> <ul style="list-style-type: none"> • It is not clear what the values and uses are being referred to; • The reference to adaptive management is not appropriate. <p>A staged approach is required to implement changes to achieve the water quality targets and help people and communities adapt financially. These changes need to start now.</p>	<p>Amend to:</p> <p><i>A staged approach that requires:</i></p> <ol style="list-style-type: none"> <i>Taking action to reduce discharges of nitrogen, phosphorous, sediment, and microbial pathogens to achieve the attribute targets for the Waikato and Waipa Rivers;</i> <i>Recognising that further</i>

		<p>While there may be a delay in actual water quality improvements due to accumulated contaminants in soil being released through rain and irrigation this should not be exacerbated though land use practices and activities.</p>	<p><i>contaminant reductions will be required by subsequent regional plans and signalling anticipated future management approaches that will be needed to meet Objective 1.</i></p>
<p>Objective 5</p>		<p>Forest and Bird supports the integration of tangata whenua values into co-management of rivers.</p> <p>However, this must be done in a way that enables the achievement of other objectives set out in this plan, the purpose of the RMA and other high level policy requirements such as the NPS FM.</p> <p>Forest & Bird opposes enabling land use activities which would contribute to the degradation of water quality and loss of ecological values.</p> <p>The language of Objective 5(a)(ii) is problematic as it seems to suggest that tangata whenua:</p> <ul style="list-style-type: none"> (a) can undertake activities which would contribute to the degradation of water quality and loss of ecological values; and (b) have the effect of undermining the ability to meet the water quality attribute targets set out in Table 11-1 . 	<p>Add “while achieving the water quality attributes and targets in Table 3.11-1” at the start of Objective 5(a)(ii).</p>

Reasons for Objective 1		<p>The requirement to achieve the water quality attributes in 80 years is anything but aspirational.</p> <p>This is particularly the case where there is no requirement to do anything for another 10 years.</p>	Update the reasons for adopting to reflect the changes sought to Objective 1.
Reasons for Objective 2		Should recognised that it is also important to provide support during this change/transition	Retain
Reasons for Objective 3		<p>The “<i>short term goals for the 10 year period</i>” are very weak. They do not actually require any actual reduction in contaminants. All that is required is that, within 10 years a plan be implemented to achieve 10% of the required change in water quality.</p> <p>It is difficult to understand how PC1 could seek to achieve less.</p> <p>The approach of only seeking changes to point source discharges at the time of consent renewal and case by case does not enable a coordinated and consistent approach to be applied. Forest & Bird seeks that council set date for limits/targets within a rule to trigger review of consents on a sub-catchment of freshwater managing unit basis.</p>	Update the reasons for adopting to reflect the changes sought to Objective 3.
Reasons for Objective 4		See our comments on Objective 4 above	Amend consistent with reasons for

			changes sought to Objective 4 above.
Reasons to Objective 5		See our comments on Objective 5 above	Amend consistent with reasons for changes sought to Objective 5 above.
Policy 1: Manage diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens		<p>This is a high level policy, which provides guidance on the general approach that will be adopted. Forest & Bird generally supports Council’s intent to manage diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens.</p> <p>However, we consider that further guidance is required on what activities with a low level of contaminant discharge.</p> <p>The plan does not include any guidance on what is a “low level contaminant discharge”, this could vary significantly for difference activities and types of contaminant such that low levels could still have unacceptable adverse effects. This is particularly concerning as “enabling” seems to be achieved through a permitted rule, rather than a consenting approach which would assess the level and effect of such discharges to apply appropriate management requirements.</p>	Amend to provide clarification as to what low level of contamination is.
Policy 2: Tailored approach to reducing diffuse discharges from		As a first step, farming activities should be required to operate according to best management practises.	Policy 2: Reducing diffuse discharges from farming activities

<p>farming activities</p>		<p>Once an activity is operating at best practice any further reductions is sufficient to enable that activity to continue in that location and at that scale while enabling the targets to be achieved. A second step can be taken to consider what further actions, including ceasing the activity at that location, is required to ensure the targets are achieved, and/or that any discharges are within nutrient allocation for the river/catchment and does not cause more than minor localised adverse effects</p> <p>Simply requiring reductions to be undertaken with reference to actual current losses encourages farmers to adopt poor practices (as reductions will be easier to achieve) and penalises farmers who have undertaken best management practise (as losses will be harder to achieve).</p> <p>Forest & Bird is opposed to the reference to a “tailored case by case approach”. This implies a number of factors are relevant and allows for a disparity of treatment. What is required is that all landowners are treated equally and a tailored approach implies that different factors will be relevant in different cases. The tailored approach will become a race to the bottom.</p> <p>Forest & Bird is opposed to the Council delegating its functions of setting conditions on consent to a “certified</p>	<p><i>Manage and require reductions in sub-catchment-wide diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens from farming activities on properties and enterprises by:</i></p> <ul style="list-style-type: none"> <i>a. requiring the 75th percentile of dairy farms to reduce diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens to below the 75th percentile level by 2026;</i> <i>b. requiring all farming activities to operate using good management practice by 2019;</i> <i>c. where further reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens are necessary, these are to be achieved by the use of best</i>
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		<p>industry scheme”.</p> <p>Clause (d) is not effects based. While the Council may be seeking that all farming activities improve practises and reduce diffuse discharges, this policy would disadvantage those who currently undertake good practise or have a low discharge. It may encourage an over inflation of the nitrogen reference point.</p>	<p><i>management practises</i></p> <p>d. <i>where further reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens are necessary these are:</i></p> <p><i>(i) proportionate to the amount of current discharge for the activity operating at best management practises (those discharging more are expected to make greater reductions);and</i></p> <p><i>(ii) proportionate to the scale of water quality improvement required in the sub-catchment; and</i></p> <p><i>(iii) proportionate to the scale of water quality improvement required in the sub-catchment.</i></p> <p>e. <i>mitigation actions required to</i></p>
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			<p><i>meet the reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens needed to achieve the losses under Policy2(b) are specified in a Farm Environment Plan.</i></p> <p><i>f. establishing a Nitrogen Reference Point for the property or enterprise; and</i></p> <p><i>g. requiring stock exclusion 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.</i></p>
<p>Policy 3: Tailored approach to reducing diffuse discharges from commercial vegetable</p>		<p>Forest & Bird is opposed to the reference to a “tailored case by case approach”. This implies a number of factors are relevant and allows for a disparity of treatment. What is required is that all landowners are treated equally and a tailored approach implies that different factors will be relevant in different cases.</p>	<p>Delete references to “tailored approach”</p> <p>Delete (f)</p> <p>Define good and best management practises in a schedule</p>

		<p>The references to good and best management practises are meaningless given these are not defined with any detail in the PC1.</p> <p>Clause (f) only requires a reduction in nitrogen and is inconsistent with Clause (d) and (g) which set particular requirements about reductions.</p>	
Policy 4: Enabling activities with lower discharges to continue or to be established		<p>The policy should only provide for the situation where low levels of diffuse discharges are being maintained or reduced. It should not provide for new activities which result in an increase in diffuse discharges.</p> <p>The policy is inconsistent with Policy 3.11.1(a).</p>	<p>Add the words “<i>provided there is no increase in diffuse discharges of nitrogen, phosphorous, sediment and microbial pathogens</i>” at the end of the first sentence.</p>
Policy 5: Staged approach		<p>This policy is not appropriate.</p> <p>(a) The 80 year timeframe is excessive; and</p> <p>(b) The reference to “making a start”, sends the signal that little change is required.</p> <p>This policy understates the importance of achieving the water quality outcomes sought.</p>	<p>Amend the policy to read:</p> <p><i>Recognise that achieving the water quality attribute^ targets^ set out in Table 11-1 will need to be staged over 35 years, requiring reductions immediately, and additional reduction in the medium to long term where these are necessary to achieve the targets.</i></p>
Policy 6: Restricting land		<p>This policy is not appropriate. A strict approach is necessary</p>	<p>Amend to provide for:</p>

<p>use change</p>		<p>to achieve the water quality attribute^ targets^ set out in Table 11-1. It is not enough that consent will generally not be granted where there is an increase in diffuse discharges. Similarly reductions might be clear and enduring but still may not result in the targets being met.</p> <p>In order to achieve the targets it is necessary that increases only be granted in exceptional circumstances and that reductions are put in place that achieve the targets.</p>	<p><i>Land use change consent applications that demonstrate an increase in the diffuse discharge of nitrogen, phosphorus, sediment or microbial pathogens will only be in exceptional circumstances.</i></p> <p><i>Land use change consent applications that provide for decreases in existing diffuse discharges of nitrogen, phosphorus, sediment or microbial pathogens that will ensure that the water quality attribute^ targets^ set out in Table 11-1 will generally be granted.</i></p>
<p>Policy 7: Preparing for allocation in the future</p>		<p>Forest and Bird supports the approach that land use activities are undertaken on land most suitable to avoid and mitigate adverse effects of the activity.</p> <p>This policy indicates that Council is intending a future nutrient allocation approach which is different than PC1.</p> <p>However, this policy as written does not appear to appropriate guidance.</p>	<p>Delete clauses (b) and (c)</p>

		<p>Clause (b) does not provide an effects based approach and it is unclear how this would be implemented for this policy. See comments on Policy 16 below.</p> <p>Clause (c) is not effects based and is unclear. Minimising disruption and costs needs to be undertaken in the context of achieving the water quality attribute targets set out in Table 11-1. If this is not the case then disruption and costs can be minimised by not doing anything.</p>	
Policy 8: Prioritised implementation		Neutral	
Policy 9: Sub-catchment (including edge of field) mitigation planning, co-ordination and funding		<p>This policy sets out a number of non-regulatory methods.</p> <p>As written these do not set out whose responsibilities it is to undertake these tasks.</p>	<p>Include the actions such as edge of field mitigation measures within rule conditions/standards, matters for control/discretion and farm environment plans.</p> <p>Delete (d)</p>
Policy 10: Provide for point sources discharges of regional significance		<p>The working of policy 10 is inappropriate and unclear. It appears that the council is intending a priority for some infrastructure and industry activities to continue point discharges while other activities. However, it is not clear what is to be covered by the policy.</p>	Delete Policy 10

		<p>It is also not clear if Council intends this policy to guide consent application decisions on other activities or for the re-consenting of existing regionally significant activities.</p> <p>Further while the policy provides for consideration of continued operation it does not provide for increase capacity which may already be assumed in Council planning for population growth.</p> <p>Forest & Bird considers that:</p> <ul style="list-style-type: none"> (a) providing an exemption for regionally significant infrastructure requires a clear definition; and (b) including industry is inappropriate; (c) that such activities be considered in establishing any nutrient allocation approach; and (d) they also meet best practice; and (e) undertake measures to ensure water quality targets are achieved. <p>The policy is not clear in terms of how new activities are to be addressed.</p>	
Policy 11: Application of		The application of the Best Applicable Option is supported in	Delete “toxic” from (a)

<p>Best Practicable Option and mitigation or offset of effects to point source discharges</p>		<p>principle but should not be used to allow inappropriate activities.</p> <p>The reference to significant toxic effects in Clause (a) is inappropriate. The appropriate reference should be significant adverse effects.</p> <p>Offsets are not appropriate in a water quality context.</p>	<p>Delete everything after the first sentence of the policy except Clause (a).</p>
<p>Policy 12: Additional considerations for point source discharges in relation to water quality targets</p>		<p>While the policy says “additional” these are quite clear directions. The term additional seems to suggest this policy has less weight than others.</p> <p>Forest & Bird, generally supports (a) but considers the time frames are inappropriate.</p> <p>Clause (b) is ambiguous.</p> <p>Clause (c) is inappropriate as it provides that the inappropriately permissive regime in PC1 to apply to point source discharges.</p> <p>Forest & Bird accepts a staging approach may be appropriate in some circumstances but should not apply to new activities</p>	<p>Amend (a) to provide for the shorter timeframes sought by Forest & Bird.</p> <p>Delete (b) or make it clear that this only applies to existing regionally significant infrastructure.</p>
<p>Policy 13: Point sources consent duration</p>		<p>Forest & Bird supports the intent to provide policy guidance on consent duration. However, the most important consideration in terms of duration is the extent to which the</p>	<p>Redraft policy</p> <p>Policy 13: Point sources consent duration</p>

		<p>activity will ensure that the water quality target are met. This policy does not include reference to this matter.</p> <p>Clause (a) – Policies 11 and 12 are too ambiguous to rely on.</p> <p>Clause (b) and (c) - The achievement of water quality targets is more important the cost and certainty.</p>	<p><i>When determining an appropriate duration for any consent granted consider the following matters:</i></p> <ul style="list-style-type: none"> <i>a. Whether the applicant demonstrates that the discharges is consistent with the water quality attribute^ targets^ set out in Table 11-1;</i> <i>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</i> <i>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).</i>
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Policy 14: Lakes Freshwater Management Units	Amend	The timeframe is far too long.	Replace 2096 with 2050
Policy 15: Whangamarino Wetland		NA - withdrawn	
Policy 16: Flexibility for development of land returned under Te Tiriti o Waitangi settlements and multiple owned land	Oppose	<p>This policy is ambiguous.</p> <p>If flexibility is intended to extend to allowance for higher nutrient discharges than for other activities the direction and approach for this needs to be clearly set out, including:</p> <ul style="list-style-type: none"> (a) Where there is overallocation, what reductions are required to ensure that the targets are met. (b) Where there is not overallocation, how an allocation of any available nutrient capacity, will ensure water quality targets are achieved. <p>As currently written there is no basis for the matters for “taking into account” where these would be inconsistent with achieving the targets, and higher order policy.</p> <p>If it is intended that this policy provide wider guidance in terms of meeting te Tiriti o Waitangi requirements then these matters should be clearly set out in the policy.</p>	Delete Policy 16.

Policy 17: Considering the wider context of the Vision and Strategy/		Neutral	
Method 3.11.4.1: Working with others	Support	This method is appropriate.	Retain
Method 3.11.4.2: Certified Industry Scheme	Oppose	As discussed above.	Delete
Method 3.11.4.3: Farm Environment Plans	Support	Subject to the contents of Farm Management Plans being appropriate Forest & Bird is supportive of this method. Support the independent third party auditing requirement, however it is unclear whether this will include on site access to verify or just desk top exercise.	Retain, subject to comments on Farm Environment Plans in this submission being adopted.
Method 3.11.4.5: Sub-catchment scale planning		General support for ongoing development of sub-catchment plans	Retain
Method 3.11.4.6: Funding and implementation/	Support	General support that Council recognises the need to secure funding for the implementation of Chapter 3.11 Encourage Council to set out the key aspects requiring funding to ensure implementation is successful. The strong focus on nonregulatory and permitted activities places a	Retain and amend to include further detail on priorities for council resourcing of implementation

		significant resource requirement on the council to ensure this is successful.	
Method 3.11.4.7: Information needs to support any future allocation	Support	Any allocation approach needs to address the nutrient time lag described in the explanation to Table 3.11.1 Needs to provide for enhancement and be adaptable to targets set through review of or new sub-catchment plans	Retain
Method 3.11.4.9: Managing the effects of urban development	Support	Generally supports recognition of the need to work with territorial authorities on water quality issues.	Retain
Method 3.11.4.10: Accounting system and monitoring	Support	Generally support the Council in providing informative monitoring information on water quality. Note that the need for sub-catchment monitoring in clause a.(ii). of this method needs to be addressed through the implementation of addition to the council monitoring programme.	Retain
Method 3.11.4.11: Monitoring and evaluation of the implementation of Chapter 3.11	Amend	Monitoring and evaluation needs to include the monitoring requirements for an assessment of how effective both the non-regulatory and regulatory approaches are in Chapter 3.11 to maintaining and enhancing the quality of water in water bodies required under section 30 of the RMA.	Amend to include further monitoring and assessment to address this submission.
Method 3.11.4.12:	Amend	This method does not go far enough. The requirement for	Include schedules setting out good

Support research and dissemination of best practice guidelines to reduce diffuse discharges		<p>good and best management practices is a critical part of ensuring that the planning regime is fair.</p> <p>If reductions are required from actual not good or best practise levels then excessive levels of discharge are encouraged so reductions are manageable. Those that have already adopted good or best management practises are disadvantaged.</p>	and best management practise and incorporate these into the rules
Rules		See also comments on rules above.	
Rule 3.11.5.1: Permitted Activity Rule - Small and low intensity farming activities	Amend	<p>While the rule heading says “small and low intensity” the rule actually provides for small separately to low intensity. This means that small scale activities could be intensive. Less intensive “6 stock units per hectare” can be extensive as there is no limit to property size.</p> <p>In addition on a large property it is not clear if the stocking rate could be averaged such that part of the property could be intensively farmed while the remaining (possibly less accessible areas) are rarely grazed.</p>	<p>Amend rule 3.11.5.1 to only apply to properties under 4.1 hectares or amend clause 5 and add a new clause as follows:</p> <p>“5. For grazed land, the stocking rate of <u>any land being grazed, at any time, the land</u> is less than 6 stock units per hectare <u>on the land being grazed at that time;</u> and</p>
Rule 3.11.5.2: Permitted Activity Rule – Other farming activities	Amend	<p>Condition 3(a)-(d) are unenforceable. If there is no requirement to keep records of farm activities, there can be no proper basis for providing verification. There can be no confidence in a system that apparently relies on hearsay.</p> <p>There needs to be provision where landowners are required</p>	Condition 3(d) is amended so that it includes provision that requires landowners provide the Council with information as to the land use activities that were occurring on the land on 22 October 2016 and

		<p>to provide the Council with details of the landuse that will allow the Council to properly compare current with historic land use.</p> <p>Condition 5 should require the provision of adequate information that allows for auditing.</p>	<p>annually thereafter in such a way that can be verified to ensure that the requirements of Condition 3(b) with confidence.</p>
<p>Rule 3.11.5.3: Permitted Activity Rule - Farming activities with a Farm Environment Plan under a Certified Industry Scheme</p>	<p>Oppose</p>	<p>As discussed above, Forest & Bird opposes all references to certified industry schemes.</p>	<p>Delete</p>
<p>Rule 3.11.5.4: Controlled Activity Rule - Farming activities with a Farm Environment Plan not under a Certified Industry Scheme</p>	<p>Amend</p>	<p>This rule is poorly drafted and ambiguous. It states it is a controlled activity rule but permits certain activities. It does not state that failing to meet the permitted standard will result in a controlled activity.</p> <p>Accept a controlled activity status is appropriate for existing activities which can adapt to achieve the water quality targets. However it is not clear how this rule is a controlled activity status.</p> <p>Controlled activity status should not apply where there is an increase in diffuse discharges of contaminants. Non-complying status is appropriate.</p>	<p>The permitted aspects of this rule should be combined with Rule 3.11.5.3 which already identified the sub-catchment targets and dates.</p> <p>Amend Rule 3.11.5.4 to apply as a controlled rule from the catchment dates as follows:</p> <p><u>“Except where the activity complies with as provide for in Rules 3.11.5.1 and Rule 3.11.5.2 the use.... is a permitted activity until controlled activity from:...”</u></p>

			<p>Add or amend to include a non-complying activity rule for any activities which do not comply with rule 1, 2 and 4 (as amended above) after the catchment dates.</p> <p>Add the words “Subject to Rules 3.11.5.6 and 3.11.5.7 at the start of the rule</p> <p>Delete reference to non-notification</p>
Rule 3.11.5.5: Controlled Activity Rule - Existing commercial vegetable production	Amend	See discussion on commercial vegetable production above	Amend as per discussion on commercial vegetable production above
Rule 3.11.5.6: Restricted Discretionary Activity Rule - The use of land for farming activities	Amend	Any increase in diffuse discharges of contaminants should be non-complying.	Make a breach of Conditions 3 or 4 of Rule 3.11.5.2 should be a non-complying activity and any increase in discharges from commercial vegetable production be non-complying.
Rule 3.11.5.7: Non-complying Activity Rule -		Forest & Bird supports the apparent intent to limit land use change within the catchment.	Add provision in rule to provide that any other activities that

Land Use Change		An increase in diffuse discharge of contaminants should be non-complying.	increase diffuse discharge of contaminants are non-complying.
Schedule A - Registration with Waikato Regional Council		<p>Forest & Bird agrees that Council should retain basic information.</p> <p>Presumably (f) also relates to the grazing that occurred at 22 October 2016. This should be clarified.</p>	<p>Include provision that the activity should be operating at good and then best management practise.</p> <p>Clarify (f) such that it refers to 22 October 2016</p>
Schedule B - Nitrogen Reference Point	Amend	The allowance for the highest year in 2015/2016 is not appropriate	Amend Clause (b) so that is the average not highest.
Schedule C - Stock exclusion	Support		Retain
Schedule 1 - Requirements for Farm Environment Plans		<p>This schedule as proposed does not set out adequate requirements for a farming activity to assess the impacts or mitigation of onsite practise in achieving the water quality attributes and limits.</p> <p>Forest and Bird considers that non regulatory approach to farm plans is inappropriate and will not achieve a consistent or effects reduction in defuse discharges.</p> <p>Forest and Bird supports retaining and enhancing the information requirements set out, in particular by including:</p>	<p>Amend to provide additional information as discussed.</p> <p>Amend 5(a) to ensure that Farm Management Plans include the requirement to provide for reductions, rather than simply maintaining the status quo.</p>

		<p>(a) Additional detail on irrigation management to identify irrigated areas on property/spatial risk map and any soil moisture monitoring undertaken;</p> <p>(b) Clear and specific objectives for type of land use/ farm management outcomes to approve the farm plans against;</p> <p>(c) To set out a clear requirement to calculate and include the Nitrogen Reference Point in the Farm Environment Plan;</p> <p>(d) To include the identification of any significant indigenous biodiversity, outstanding waterbodies and sensitive receiving environments (ie inanga spawning) on or adjacent to the property.</p> <p>If a Farm Environment Plan approach is to be used then the requirements should not be less than those required by Environment Canterbury's Farm Environment Plan schedule 7 of their Land and Water Plan.</p>	
Schedule 2 - Certification of Industry Schemes/	Oppose	As discussed above Forest & Bird opposes these schemes.	Delete

Definitions			
Arable cropping	Support	The definition is appropriate	Retain
Best management practice/s	Amend	<p>Forest & Bird supports the recognition of a best practice approach. However, the definition does not describe “best management practices”. As discussed in key issues above the requirements and expectation need to set out either in the definition or a schedule.</p> <p>The proposed definition is ambiguous and uncertain and does not assist the plan in achieving the requirements of the NPSFM.</p> <p>The term “feasible” within the definition is particularly uncertain as this may mean different things to different people.</p> <p>As written and used within the plan it would likely result in significant uncertainty to the extent of mitigation and resulting adverse effects.</p>	<p>Amend the definition to read: “Best management practice/s: means the practices set out in Schedule XX”</p> <p>Add new schedule XX to set out the expectations for best management practice, include standards and measures so that Council can enforce compliance against best management practice as a rule or consent condition.</p>
Certified Farm Environment Planner	Amend	<p>The word entity is inappropriate. This would include a company or organisation:</p> <ul style="list-style-type: none"> (a) companies could not comply with requirements in (b); (b) it is uncertain whether everyone on the company would have undertaken all requirements in a, b 	<p>Delete the words “or entity”</p> <p>Add the following requirements</p> <p>(a) <i>is a current member of a Professional Institute that requires members to subscribe to a Code of Ethics</i></p>

		<p>and c.</p> <p>Additional requirements related to professional affiliation and demonstrated proficiency should be added.</p>	<p><i>and has a procedure in place for dealing with complaints made against members; and</i></p> <p><i>(b) demonstrates, to Waikato Regional Council, proficiency in the auditing of Farm Environment Plans against the matters set out in Part C of Schedule 7.</i></p>
<p>Certified Farm Nutrient Advisor</p>	<p>Amend</p>	<p>This definition sets the bar too low.</p>	<p>Amend as follows:</p> <p><i>means a person that holds a Certificate of Completion in Advanced Sustainable Nutrient Management in New Zealand Agriculture from Massey University:</i></p> <p><i>a. has been certified by the New Zealand Institute for Primary Industry Management as meeting the criteria for a 'Certified Dairy Farm System Consultant'; or</i></p> <p><i>b. holds any other qualification, that has been approved by the Chief Executive of Waikato Regional Council, as being an equivalent</i></p>

			<i>standard with respect to the knowledge and competencies required.</i>
Certified Industry Scheme/s	Oppose	Forest & Bird does not support Certified Industry Schemes.	Delete definition
Commercial vegetable production	Amend	The list should be inclusive not exclusive	Amend definition so the listed vegetable are examples not a definitive list.
Cultivation	Oppose	There is a disconnect between the exclusions and the matters being addressed in the rules (except forestry). The excluded activities all have potential for adverse effects on water quality. It is not clear how Council intends to address potential adverse effects from the excluded activities on water quality	Delete (a)-(c).
Dairy Farming	Amend	This definition is ambiguous. It is unclear whether the other activities necessary for dairy farming are included under this definition, and whether activities outside side the milking season would be included as dairy farming.	Amend definition to clarify that includes all activities associated with dairy farming and includes time when milking is not occurring .
Diffused discharge/s	Support	Forest & Bird supports this definition	Retain

Drain	Support	Forest & Bird supports this definition	Retain
Drystock Farming	Support	Forest & Bird supports this definition	Retain
Edge of field mitigation/s	Support	Forest & Bird supports this definition	Retain
Enterprise/s	Support	Forest & Bird supports this definition	Retain
Escherichia coli (E. coli)	Support	Forest & Bird supports this definition	Retain
Farm Environment Plan/s	Support	Support subject to amendments to address our submission on schedule 1	Retain
Farming activities	Amend	However it is not clear why the growing of crops on land irrigated from a municipal wastewater discharge is not a farming activity. This exclusion is not effects based.	Amend by deleting exclusion for municipal wastewater discharges
Five-year rolling average	Support	Forest & Bird supports this definition	Retain
Forage crop	Support	Forest & Bird supports this definition	Retain
Good Management Practice/s	Amend	<p>This definition is inadequate. There needs to be some Council auditing of whether industry promoted good management practises are appropriate.</p> <p>The appropriate way of dealing with good management practices in PC1 is identify what those good management practises are and include in a schedule to the plan. This allows for transparency and confidence that what is said to be good management practises are in fact good management practises.</p>	<p>“Good management practice/s: means the practices set out in Schedule XX”</p> <p>Add new schedule XX to set out the expectations for good management practice, include standards and measures so that Council can enforce compliance against good management practice as a rule or consent condition.</p>

Livestock crossing structure	Support	Forest & Bird supports this definition	Retain
Mahinga kai	Support	Forest & Bird supports this definition	Retain
Microbial pathogen/s	Support	Forest & Bird supports this definition	Retain
Nitrogen Reference Point	Amend	<p>The Nitrogen reference point as proposed would be the highest annual nitrogen leaching loss that occurred during a single year, rather than average. This is not appropriate.</p> <p>Flexibility of a baseline period is not appropriate within the structure of this plan. The reference to agreed years is not appropriate. The reference should be for identified years. Agreed years allows for picking and choosing of the years which provide for the largest N losses.</p>	<p>Amend to read:</p> <p>“Nitrogen baseline means:</p> <p>a. the discharge of nitrogen below the root zone, as modelled with OVERSEER®, (where the required data is inputted into the model in accordance with OVERSEER® Best Practice Data Input Standards), or an equivalent model approved by the Chief Executive of Waikato Regional Council, averaged over a 24 month consecutive period covering two financial years 2014/2015 and 2015/2016, except for commercial vegetable production in which case the reference period is 1</p>

			<p>July 2006 to 30 June 2016, and expressed in kg per hectare per annum; and</p> <p>c. if OVERSEER® is updated, the most recent version is to be used to recalculate the nitrogen baseline using the same input data for the same period as used in (a) above.”</p>
Offset/s	Oppose	Offsets are not appropriate in the water quality context	Delete
Point source discharge/s	Amend	The definition could be Improved	<p>Amend as follows:</p> <p><i>“means a discharge from a specific and identifiable outlet onto or into land, a water body or the sea.”</i></p>
Restoration	Support	Forest & Bird supports this definition	Retain
Setback	Support	Forest & Bird supports this definition	Retain

Consequential amendments			
All parts of Part D	Support	These provisions are generally supported but some amendments may be necessary to give effect to the content of this submission.	Retain with any amendments necessary to be consistent with the relief sought in this submission.

APPENDIX 1 - Freshwater Objectives and as inclusions as standards within the Plan

Table 1 - Rivers and Streams																		
River Class	Biological				Water Quality								Flows			Habitat		
	Fish	Macro-phytes	Perip-hyton*	Inverte-brates	Temp	pH	DO	Nutrients		Water clarity	Toxicants		Min	Core allocation	Hydrological variability	Sediment cover**	Natural character	
			< mg/m2 chlorophyll a	MCI	Celcius		>mg/l	DIN < mg/l	DRP < mg/l	>M (flows under 50 th %ile	NO ₃ N < mg/l	NH ₃ N			% natural MALF	% natural MALF	Narrative	< % visual cover fine sediment
Head-waters	Fish communities are resilient and their structure composition and diversity are balance	Indigenous Macrophyte communities are resilient and their structure composition and diversity are balanced	50	120	19	5.8-8.5	>8	150	<6	10	CH 2.4/3.5	CH 99% protection (ANZECC)	MALF	0	Natural flow characteristics including the natural pattern and range of water level fluctuations and hydrodynamic processes of rivers, lakes and natural wetlands and coastal habitats is provided for to safeguard aquatic habitat diversity and	10	River form (including pool, run, riffle, and riparian margins) and function (including hydrological regime and fluvial processes) is suitable to support fish through	0.9
Low-land			120	100	19	5.8-8.7	150	<6	3	80						30		30

