

Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments.

Submission form on publicly notified – Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments.

SubForm	PC12016	COVER SHEET	
FOR OFFICE USE ONLY			
		Submission Number	
Entered		Initials	
File Ref		Sheet 1 of	

FORM 5 Clause 6 of First Schedule, Resource Management Act 1991

SUBMISSIONS CAN BE	
Mailed to	Chief Executive, 401 Grey Street, Private Bag 3038, Waikato Mail Centre, Hamilton 3240
Delivered to	Waikato Regional Council, 401 Grey Street, Hamilton East, Hamilton
Faxed to	(07) 859 0998 <i>Please Note: if you fax your submission, please post or deliver a copy to one of the above addresses</i>
Emailed to	healthyrivers@waikatoregion.govt.nz <i>Please Note: Submissions received by email must contain full contact details. We also request you send us a signed original by post or courier.</i>
Online at	www.waikatoregion.govt.nz/healthyrivers
We need to receive your submission by 5pm, 8 March 2017.	

YOUR NAME AND CONTACT DETAILS		
Full name: Waitomo District Council		
Full address: PO Box 404, Queen Street, Te Kuiti		
Email: cathy.o'callaghan@waitomo.govt.nz	Phone: 07 878 0800	Fax: 07 878 7771

ADDRESS FOR SERVICE OF SUBMITTER		
Full name: as above		
Address for service of person making submission		
Email	Phone	Fax

TRADE COMPETITION AND ADVERSE EFFECTS <i>(select appropriate)</i>
<input type="checkbox"/> I could / <input checked="" type="checkbox"/> could not gain an advantage in trade competition through this submission.
<input type="checkbox"/> I am / <input type="checkbox"/> am not directly affected by an effect of the subject matter of the submission that: (a) adversely affects the environment, and (b) does not relate to the trade competition or the effects of trade competition. Delete entire paragraph if you could not gain an advantage in trade competition through this submission.

THE SPECIFIC PROVISIONS OF PROPOSED PLAN CHANGE 1 THAT MY SUBMISSION RELATES TO

*Please state the provision, map or page number e.g. Objective 4 or Rule 3.11.5.1
(continue on separate sheet(s) if necessary.)*

See attached.

I SUPPORT OR OPPOSE THE ABOVE PROVISION/S

(select as appropriate and continue on separate sheet(s) if necessary.)

- Support the above provisions
- Support the above provision with amendments
- Oppose the above provisions

MY SUBMISSION IS THAT

*Tell us the reasons why you support or oppose or wish to have the specific provisions amended.
(Please continue on separate sheet(s) if necessary.)*

See attached.

I SEEK THE FOLLOWING DECISION BY COUNCIL

(select as appropriate and continue on separate sheet(s) if necessary.)

- Accept the above provision
- Accept the above provision with amendments as outlined below
- Decline the above provision
- If not declined, then amend the above provision as outlined below

See attached.

PLEASE INDICATE BY TICKING THE RELEVANT BOX WHETHER YOU WISH TO BE HEARD IN SUPPORT OF YOUR SUBMISSION

I wish to speak at the hearing in support of my submissions.

I do not wish to speak at the hearing in support of my submissions.

JOINT SUBMISSIONS

If others make a similar submission, please tick this box if you will consider presenting a joint case with them at the hearing.

IF YOU HAVE USED EXTRA SHEETS FOR THIS SUBMISSION PLEASE ATTACH THEM TO THIS FORM AND INDICATE BELOW

Yes, I have attached extra sheets.

No, I have not attached extra sheets.

SIGNATURE OF SUBMITTER

(or person authorised to sign on behalf of submitter)

A signature is not required if you make your submission by electronic means.

Signature



Date 7 March 2017

Personal information is used for the administration of the submission process and will be made public. All information collected will be held by Waikato Regional Council, with submitters having the right to access and correct personal information.

PLEASE CHECK that you have provided all of the information requested and if you are having trouble filling out this form, phone Waikato Regional Council on 0800 800 401 for help.

Healthy Rivers Plan Change Submission

Preamble

Introduction

1. Waitomo District Council (Council) welcomes the opportunity to make a submission on Plan Change 1 (PC1). The Council acknowledges the significant and innovative work undertaken by the Waikato Regional Council (WRC) and stakeholders through the Collaborative Stakeholder Group (CSG) to develop this Plan Change.
2. This preamble forms part of the Council's submission. It provides a broad outline of key issues and concerns for the Council. The submission points attached in Form 5 include details of the decisions sought on the individual points as far as this has been practicable. In most cases it has been possible to provide replacement provisions or specific amendments. However, given the complexity and untried nature of some of the provisions, in some cases the submission is only able to describe the nature of the amendments sought. The Council would welcome the opportunity to work with WRC staff and other submitters to develop specific wording within the scope of those requests.

Support

3. The Council broadly supports the key high level objectives and policies of PC1 and recognises that these will be the first regulatory steps towards achieving the Vision and Strategy for the Waikato River. The Council also acknowledges the substantial efforts and considerable environmental improvements that many farmers in our District have already achieved. While the Council acknowledges that this overarching document underpins many of WRC's high level policies (such as the Waikato Regional Policy Statement), we remain concerned about the practicality of implementation of PC1. As such, the focus of Council's submission relates to implementation matters.

Rule Drafting

4. The Council is concerned with the overall drafting and structure of the provisions. Particular issues are:
 - Inconsistencies and lack of integration with the Operative Regional Plan, which PC1 forms part of.
 - The use of subjective and uncertain language such as 'appropriate', 'short term' and 'considers' in rules that require specific and measurable standards or conditions.
 - Inconsistent use of 'standards and terms' and 'conditions' for different resource consent categories.
 - The use of tables such as Table 3.11-1, which set numerical targets without sufficient explanation or context.
 - Internal inconsistencies in the stock exclusion rules.
 - Excessive use of cross referencing to schedules which are key aspects of determining compliance.
 - Confusion over whether the rules apply on a 'property' or 'enterprise' basis.
 - Inconsistencies in formatting, map and table labeling and headings.
5. These and other drafting issues lead to uncertainty for Plan users and for WRC staff administering and enforcing the rules. Council observes that an applicant should be able to understand from reading the rules, what type of resource consent they require (if any) and broadly what they need to do to achieve compliance. Without this degree of clarity, compliance and administration costs will be excessive and the provisions become vulnerable to legal challenge. In our view, the rules as currently drafted, make it questionable as to whether PC1 can be implemented.

Nitrogen Management

6. Much of the focus of PC1 centres on limiting and managing nitrogen discharges. This emphasis seems to be driven largely by the availability of data on nitrogen, compared to the availability of data on other contaminants. This approach does not take into account significant differences in sub-catchment environmental characteristics.
7. Nitrogen discharges have a detrimental effect on water quality. However these effects are not uniform across all soil types or Freshwater Management Units (FMU). The evidence points to the high leaching pumice soils of the upper Waikato (which has already been subject to significant land use intensification), and the more intensively farmed central Waikato Basin, as being the main areas of nitrogen leaching.
8. The Northern King Country, which includes Waitomo District, is quite different in nature and still has significant untapped development potential. It has a higher proportion of sedimentary soils, and is not as highly developed nor as intensively farmed as other areas of the Waikato-Waipā catchment. As a result, the main contamination issues within our District are not related to nitrogen leaching, but rather to sediment and phosphorus which are associated with erosion and soil loss. In the Waipā FMU, these appear to be measured by 'clarity' rather than by 'annual median total phosphorous' which is not provided for in Table 3-11-1. Given phosphorus has been identified as a contaminant issue in Waitomo, Council is unclear as to how this is being measured.
9. Pathogen contamination in waterways is another issue within the District. There appears to be no way of differentiating the quantities of pathogens (*E.Coli*/100mL is the proposed marker) deposited directly by animals into waterways (which is proposed to be managed by stock exclusion), from the quantities washed off the land surface by rainfall (which can be mitigated by planted margins). In this respect, Council is concerned about the total *E.Coli* reduction (the benefit) that can be actually achieved by fencing drystock farm waterways in comparison with the total cost of undertaking this fencing.
10. Council does not consider that applying a 'one size fits all' rule to nitrogen loss by way of a Nitrogen Reference Point (NRP) is an appropriate approach for Waitomo District. Council further considers that applying the same approach to contaminant loss across the whole Waikato-Waipā catchment does not take proper or appropriate account of sub-catchment differences. As such, Council considers this approach to be inequitable, as it discriminates against those sub-catchments with the most untapped development potential (and often the lowest contaminants) and favours those that are intensively developed (and have the highest contaminant discharges).
11. This issue of equity is considered on Page 171 of the Section 32 Report:

"The approach to holding all landowners to the Nitrogen Reference Point without allowing flexibility to increase may be seen as running counter to a principle of 'proportionality' whereby those who contribute to a problem are the ones targeted to contribute to the solution. However, this principle of proportionality is evident in the policy requiring reductions to be commensurate to the current degree of discharges (that is, those discharging more must make greater reductions). It is also clearly the basis for requiring those in the highest leaching quartile to come down to that point, as discussed above".
12. In order for this proportionality argument to stand, Council considers that the principle of *"requiring reductions to be commensurate to the current degree of discharges"* should also apply to the type of contaminant being discharged, and this should be examined in the context of the sub-catchment and the resulting environmental effects. Council believes that applying a 'one size fits all' approach by way of a NRP on a catchment-wide basis, fails to take into account the significant differences that apply across the catchment.
13. A more effective and refined approach would be to employ sub-catchment planning and management, and alongside that, focus on implementing robust Farm Environment Plans (FEPs). Council considers that FEPs could be used to identify and mitigate high risk situations. Where the FEP indicates that the risk cannot be mitigated, the rules need to ensure that the consenting process appropriately limits the adverse environmental effects. Additionally, Council is supportive of the sub-catchment planning and management approach and considers that Priority 1 areas should take precedence in the development and implementation of sub-catchment plans.

14. Employing the NRP approach on a catchment-wide basis will also result in different costs and benefits compared to elsewhere. The effect of enforcing existing NRPs in Waitomo will place a 'cap' on rural production and development, effectively discouraging the unrealized potential of the District. This will have the following negative impacts and costs:
 - a) Locking farms into their current production levels.
 - b) Consequently locking farm business values.
 - c) Discouraging potentially environmentally sustainable farm business growth, which in turn drives District economic and employment growth.
 - d) Consequential negative economic impacts on small rural towns, which have already suffered significantly from rural depopulation and the erosion of community and social services.
15. The Council also opposes the principle of using modelled numerical values of nitrogen discharges via the *Overseer* model to determine resource consent status and compliance with standards. It is understood that *Overseer* was designed as an assessment tool rather than as a legally enforceable standard. A numerical model is subject to many unknowns beyond the control of users and beyond the control of WRC. There is excessive reliance on the NRP calculated via *Overseer*. Because *Overseer* determines numerical standards to be met for ongoing compliance with the NRP, it will need to be re-run for any land use change, and possibly more frequently to demonstrate compliance. This creates uncertainty and excessive compliance costs. The costs, benefits and risks of using *Overseer* in this way need to be considered in more detail.
16. In addition the method of locking in property-specific NRPs to be complied with on an ongoing basis is inequitable because they are based on historical performance, which means similar farming operations will have to perform to different standards.
17. Council also considers that the dates by which NRPs must be calculated and FEPs prepared are unrealistic given the likely timeframe of 2-3 years before PC1 becomes operative. Amendments as a result of decisions on submissions may also have changed the relevant rules during that time. It would be more realistic to set the period to undertake actions from a milestone in the PC1 process, such as the date decisions are made by WRC or the date PC1 is made operative.
18. For the above reasons, the Council opposes the NRP rules in their current form. An alternative and more effective approach to nitrogen management would be to place more emphasis on the FEPs and to employ robust sub-catchment planning and management.

Land Use Change

19. The Council is concerned that the non-complying activity status for land use intensification is excessively conservative and will have unintended consequences. An effects based approach more consistent with the Resource Management Act 1991 (RMA), would be to allow intensification where contaminant discharges are maintained, reduced or offset. The non-complying activity status is inconsistent with this approach as it essentially assumes that consent is inappropriate and will only be granted in exceptional circumstances. A discretionary activity status based on strict criteria would be a better fit with the RMA and the policies and objectives of PC1.
20. In addition the land use intensification rule is poorly drafted, so it is unclear what action will 'trigger' the need for a consent (for example, where a mix of land use changes take place on a single farm). There is also no provision in the rule that encourages lower intensity land use changes such as forestry planting or pasture retirement.

Withdrawal of Part of Plan Change 1

21. On 22 November 2016, WRC withdrew part of PC1 to enable consultation with Hauraki iwi to be completed. This has created confusion and uncertainty for submitters as it has been unclear what the implications of it will be. If there are changes to PC1 as a result of the consultation, that could lead to inconsistencies within the document. Once the withdrawn part is re-notified there will be a second opportunity for submissions, but the potential scope of those submissions is currently unclear. These issues are likely to lead to duplication of effort and additional costs. The Council is concerned particularly, that the amended Section 32 (3 December 2016) states that there will be a

greater requirement on those outside of the withdrawn area (but within the Waikato-Waipā catchment) to lower contaminant losses.

22. It would be helpful for WRC to keep its key stakeholders informed of progress and proposals for the withdrawn section of PC1.

Equity and Implementation

23. The health and wellbeing of the Waikato River is a significant issue and a benefit to everyone in the Waikato region, both rural and urban. However PC1 is focused on rural land use only within the specified catchments. This means that the cost of achieving improvements in water quality are spread very unevenly across the region. The majority of the costs, both in terms of compliance, mitigation works and farm management are borne by only a small sector of the region's ratepayers. Even within the rural sector the costs are spread unevenly with some of the highest costs falling on hill country farmers. These economic and social impacts on rural communities have not been fully assessed.
24. Given the widely spread benefits of improved water quality there is a case for WRC to develop an implementation plan that spreads costs more widely across the region rather than the 'user pays' approach taken by PC1. The Council is concerned that WRC has failed to provide leadership by developing a clear and forward-looking implementation plan. This lack of a clear and inclusive implementation plan is one of the key reasons that the wider community has not bought into PC1. The keys to implementation should be identifying the highest priority sub-catchments and resourcing the development of sub-catchment management plans through funding and staff. This will focus effort in the areas where the benefits are greatest and will also aid in building a constructive working relationship with WRC, rather than the current excessively regulatory approach inherent in PC1.

Additional sheet to assist in making a submission

Section number of the Plan Change	Support /Oppose	Submission	Decision sought
Please refer to title and page numbers used in the plan change document	Indicate whether you support or oppose the provision.	State in summary the nature of your submission and the reasons for it.	State clearly the decision and/or suggested changes you want Council to make on the provision.
Rule drafting and formatting	Oppose in part	Paragraphs 4-5 of the attached preamble outline Council's concerns relating to rule drafting and formatting	Amend the provisions to provide certainty for Plan users and for WRC staff administering the provisions. Ensure the provisions are clear, can be implemented and are enforceable.
Withdrawal of part of PC1 on 22 November 2016	Neutral	Paragraphs 21-22 of the attached preamble outline Council's concerns relating to the withdrawal of part of PC1. It is unclear what the implications of this will be. Council is concerned about the potential for a greater requirement on those outside of the withdrawn area (but within the Waikato-Waipā catchment) to lower contaminant losses.	WRC to keep its key stakeholders informed of progress and proposals for the withdrawn section of PC1.
Equity and implementation	Oppose in part	Paragraphs 23-24 of the attached preamble outline Council's concerns relating to equity and implementation. The cost of achieving improvements in water quality are spread very unevenly across the region. The majority of the costs, both in terms of compliance, mitigation works and farm management are borne by only a small sector of the region's ratepayers. Even within the rural sector the costs are spread unevenly with some of the highest costs falling on hill country farmers. These economic and social impacts on rural communities have not been fully assessed.	Develop plan provisions and an implementation plan that spreads costs more widely across the region rather than the 'user pays' approach taken by PC1. Resource the development of sub-catchment management plans through funding and staff in order to focus effort in the areas where the benefits are greatest.
3.11.2 Objectives 1 and 2 Page 27	Support	This submission supports Objectives 1 and 2 as they encapsulate the overall purpose of the Plan Change which is supported.	Retain Objectives 1 and 2.

<p>3.11.2 Objective 3 Page 27</p>	<p>Support with amendments</p>	<p>The reference to 'short term' in Objective 3 is uncertain as there is no definition of 'short term' in PC1 and it means different things to different people. This will make it difficult to accurately assess proposals against the objective. The explanation below Objective 3 refers to actions being implemented by 2026, suggesting that short term means by 2026. On that basis, it is logical to include 2026 in the objective itself.</p>	<p>Amend Objective 3 to read; <i>'Short term Improvements to water (ie. By 2026).....'</i></p>
<p>3.11.3 Policy 6 Restricting Land Use Change Page 32</p>	<p>Oppose in part</p>	<p>In general terms, the relationship between the rules and the objectives and policies are not clear. Policy 6 appears to be aimed at rural land use change, as set out in Rule 3.11.5.7, but is written in such a way that it seems to apply to all land use change, including urban land use change.</p> <p>Policies 10, 11 and 12 provide for point source discharges from significant infrastructure and industry and for the application of Best Practical Option and mitigation or offset for point source discharges. The policies also acknowledge that such discharges could increase. There appears to be a disconnect between Policies 10-12 and Policy 6. That is, Policies 10-12 assume that certain discharges can have an adverse effect to a point and may increase, but Policy 6 does not make the same allowance. Policy 6 states that applications that demonstrate an increase in diffuse discharge of the listed contaminants will <i>"generally not be granted"</i>. It is not clear why these differentiations have been made between point source and diffuse discharges, when from an effects-based perspective, they apply to the same contaminants discharging into the same receiving environment.</p>	<p>Amend Policy 6 so that the relationship between the rule and the policy is clearer. Amend Policy 6 (and other policies as required) so as to clearly differentiate between rural and urban land use and diffuse and point source discharges.</p> <p>Address the policy disconnect between Policies 10-12 and Policy 6 as per the submission point.</p>
<p>3.11.3 Policies 10, 11, 12 and 13 Pages 33-34</p>	<p>Support</p>	<p>Policies 10-13 are supported as they acknowledge the regionally significant role of some point source discharges, including those associated with community infrastructure operated by local authorities.</p>	<p>Retain Policies 10, 11, 12 and 13.</p>

<p>Implementation Method 3.11.4.5 and Policy 9 Sub-catchment scale planning Page 37 and page 33</p>	<p>Oppose in part</p>	<p>Sub-catchment management plans are an opportunity to lead the community towards achievement of the objectives of PC1, potentially reducing the emphasis on individual property regulation. Given their importance, the wording of this method should be strengthened and additional wording added to Policy 9 or a new policy created. Territorial authorities should play an active role in sub-catchment planning as they are already involved in many sub-catchment activities. Sub-catchment planning should be a priority because of the potential to deliver benefits appropriate to that area and at a broader scale, to generate community support. It is also considered that Priority 1 areas should take precedence in the development and implementation of sub-catchment plans.</p>	<p>Amend Method 3.11.4.5 and Policy 9 (or add a new sub-catchment management policy) to include:</p> <ul style="list-style-type: none"> • making development of sub-catchment plans a high priority implementation item, and focusing on Priority 1 sub-catchments first. • Working closely with territorial authorities in development of sub-catchment plans • Promoting sub-catchment plans that deliver broader benefits than individual property compliance
<p>3.11.4.6 Funding and Implementation Page 37</p>	<p>Oppose in part</p>	<p>PC 1 has wide ranging implications for land use, particularly rural land use within the catchments. The compliance and administration costs are high. More specific details are needed on support and implementation to ensure the affected communities adjust to the new regime efficiently and effectively. Local authorities, with their responsibilities for land use and environmental management, are key partners in ensuring the provisions are worked out effectively. The PC1 provisions are new and untested in the Waikato and many of the cost burdens of implementation and compliance will fall on individual rural landholders rather than being spread across the wider regional community. Therefore it is important that additional effort is made to communicate and educate people about the long term purpose of the policies. Information needs to be shared between WRC and territorial authorities to ensure affected landowners are well informed, as territorial authorities are usually the principal source of property information for land users and property and business purchasers. Consideration should be given as to whether there is a mechanism by which relevant PC1 information could be added to LIM reports.</p>	<p>Add the following to 3.11.4.6:</p> <p><i><u>‘c. Provide sufficient staff and financial resources to work with local authorities within the catchments to ensure consistent and coordinated information and implementation is available to landowners and community engagement is undertaken to ensure the purposes are well understood by the community.</u></i></p> <p><i><u>d. Investigate methods of providing PC1 Information on LIM reports</u></i></p> <p><i><u>e. Work with local authorities and stakeholders within the catchments to prioritise, develop and implement sub-catchment plans’.</u></i></p>

<p>3.11.5 Rules Pages 39-45</p>	<p>Oppose in part</p>	<p>The rules include dates by which certain actions are required, including property registration, preparation of FEPs and calculation of NRPs. Given the likely 2-3 year time frame to complete the RMA Schedule 1 process, the dates are unrealistic and should be removed and instead timeframes set based on a reasonable time.</p>	<p>Amend the dates required for property registration, preparation of FEPs and calculation of NRPs so that a reasonable time is allowed following PC1 becoming operative.</p>
<p>3.11.5 Rules 3.11.5.1 to 3.11.5.7: References to property and enterprise Pages 39-45</p>	<p>Oppose in part</p>	<p>It is unclear how PC1 deals with changes in property boundaries and the land areas covered by enterprises. Generally land use rules need to apply to a clearly defined property because land use consents run with the land (unless otherwise provided in a consent). However enterprise is defined as a mix of parcels of land (properties) and an operating unit or business. It is not clear how changes through subdivision, amalgamation or leases are to be addressed, nor changes in enterprises.</p>	<p>Clarify how changes in property boundaries and lease arrangements with properties and enterprises will affect compliance with rules.</p>
<p>3.11.5 Rules 3.11.5.2 and 3.11.5.3 Permitted Activity Rules Pages 40-41</p>	<p>Oppose in Part</p>	<p>Rule 3.11.5.3 includes permitted activity conditions requiring both calculation of a NRP and preparation of a FEP. However the rule does not require the farm to operate in accordance with the NRP, only in accordance with the '<i>actions and timeframes</i>' in the FEP. Those refer to the NRP but do not specifically require compliance with the NRP.</p> <p>Rule 3.11.5.2 requires compliance with the NRP (for properties over 20ha).</p> <p>These provisions create confusion as to whether the NRP is a numerical value to be complied with, or is a tool to inform mitigation measures.</p> <p>The NRP is a property-specific numerical value derived using the software package <i>Overseer</i> which is used to estimate nutrient losses. However it is not suitable as a Plan standard or condition to be complied with because it is subject to change as a result of external factors. These include changes in the <i>Overseer</i> model as it is updated over time and its sensitivity to different data inputs. As a result it does not meet the test of certainty required of a permitted activity rule. Clause 30 of Schedule 1 to the RMA sets out the requirements for 'written material' to be included in a Plan. Although <i>Overseer</i> is not 'written</p>	<p>Amend the provisions in Rules 3.11.5.2 and 3.11.5.3 and any other rules specifying the NRP be calculated and not exceeded, as per the submission point.</p>

		material' a similar approach can be applied, and again it would not meet the relevant test. The technical document ' <i>Using Overseer in Regulation</i> ', also recommends against using it for permitted activity thresholds. An NRP could be used as part of a FEP to inform the actions in it.	
3.11.5 Rules 3.11.5.4, 3.11.5.5, 3.11.5.6 and 3.11.5.7 Offset Mitigation Pages 42-45	Oppose in part	These controlled activity, restricted discretionary and non-complying activity rules include a range of Matters of Control, Standards and Terms and matters of discretion. These matters do not include reference to offset mitigation although it is a widely accepted option to be considered where residual effects cannot be avoided or mitigated on-site. Offset mitigation is acknowledged as an appropriate method in Policy 11 relating to point source discharges.	Include in each of Rules 3.11.5.4, 3.11.5.5, 3.11.5.6 and 3.11.5.7 additional matters of control, standards and terms and matters of discretion providing for offset mitigation, generally as outlined in Policy 11. The matters should specify the offset; <ul style="list-style-type: none"> • is for the same contaminant • occurs in the same sub-catchment, or if not practicable within the same Freshwater Management Unit • remains in place for the duration of the consent and is secured by consent condition

<p>Rule 3.11.5.7 Non-Complying Activity Rule – Land Use Change Page 45</p>	<p>Oppose</p>	<p>Also see paragraphs 19-20 of the attached preamble which outline Council’s concerns relating to Land Use Change. Rule 3.11.5.7 classifies land use intensification as a non-complying activity. Non-complying activities are difficult to obtain consent for and in policy terms are not seen as appropriate. This will have an outcome of ‘setting in stone’ the current land use pattern as if that is the optimal pattern for the next 10 years. It will not be responsive to technological or management changes that could reduce or hold discharges at their current levels. It also creates uncertainty as to what land can be used for, by placing excessive emphasis on the current land use pattern. However the footnote to the rule states that consent would be likely to be granted if the loss of contaminants will be lower than the existing land use. This better reflects the policy position of effects based and staged methods of reducing contaminant discharges. This indicates that a discretionary activity status based on strict assessment criteria would be a more appropriate provision.</p>	<p>Replace Rule 3.11.5.7 with a rule that specifies that the land use changes listed in it are a discretionary activity with specific criteria to measure applications against including whether the loss of contaminants will be the same or lower than the existing land use.</p>
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<p>Rule 3.11.5.7 Non-Complying Activity Rule – Land Use Change Page 45</p>	<p>Oppose in part</p>	<p>Also see paragraphs 19-20 of the attached preamble which outline Council’s concerns relating to Land Use Change. Rule 3.11.5.7 specifies four land use changes that require consent under the Rule. It is unclear whether all of the land use changes intended to be captured are covered by the rule and the associated definitions. For example, it is not clear where horticulture/ viticulture fits in, or whether some forms of intensive animal rearing such as poultry, calves or pigs are intended to be captured. In addition the rule is unclear as to how mixed changes to land use are to be considered. The rule as drafted does not reflect the reality of land use change which is often a mixture of changes taking place over a period of time. For example 5ha of forest could be converted to pasture, therefore triggering the non-complying activity status, at the same time as 50ha of pasture is converted to forestry. This would be contrary to the overall objectives of PC1. There is also no provision in the rule that encourages lower intensity land use changes such as forestry planting or pasture retirement.</p>	<p>Amend Rule 3.11.5.7 and the associated definitions to make it clear how horticulture/viticulture and intensive outdoor animal rearing are covered by the rule.</p> <p>Provide an explanation of how the rule is to be administered where there is a mix of varied land use changes within the same property or enterprise.</p> <p>Make provision in the rule to encourage lower intensity land use changes such as forestry planting or pasture retirement.</p>
<p>Schedule A – Registration with Waikato Regional Council Page 46</p>	<p>Oppose in part</p>	<p>The registration information required is unclear and some of it is unnecessary. The requirement in clause (3) to provide proof of registration to WRC is unnecessary given that the registration is held by WRC. WRC should take responsibility to hold the registration information. The reference to legal descriptions in clause 5(b) is uncertain. The registration information does not take into account that some of the rules refer to ‘enterprises’ and several properties or parts of properties will comprise an enterprise. It would be helpful if the registration information also captured enterprise information.</p>	<ul style="list-style-type: none"> • Delete clause (3) • Amend clause 5(b) to read <i>‘Legal descriptions and certificate of title (computer freehold registers) for all of the land in the property’</i> • Add the following after 5(f): <i>‘(g) If the property forms part of an enterprise provide the name of that enterprise’</i>

<p>Schedule B – Nitrogen Reference Point Page 47</p>	<p>Oppose in part</p>	<p>Paragraphs 6-18 of the attached preamble outline Council’s concerns relating to nitrogen management. In summary, the NRP provisions are inequitable in that they are based on historical performance to establish property-specific caps, which means similar farming operations will have to perform to different standards. Employing the NRP approach on a catchment-wide basis will also result in different costs and benefits compared to elsewhere. The effect of enforcing existing NRPs in Waitomo will place a ‘cap’ on rural production and development, effectively discouraging the unrealized potential of the District.</p>	<p>Amend the provisions to take appropriate account of sub-catchment differences. In place of applying a ‘one size fits all’ approach by way of a NRP on a catchment-wide basis, employ sub-catchment planning and management alongside the implementation of robust FEPs</p> <p>As set out elsewhere in this submission do not employ the modelled numerical values of nitrogen discharges via the <i>Overseer</i> model to determine resource consent status and compliance with standards. The risks, costs and benefits of the <i>Overseer</i> model require more detailed consideration.</p>
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<p>Schedule C – Stock exclusion Page 50</p>	<p>Oppose in part</p>	<p>The stock exclusion rule is too onerous and does not take into account the widely varying situations encountered on farms in the sub-catchments. The benefit versus cost for fencing on high intensity farms is potentially high but the benefit versus cost for low intensity hill country farms is potentially very low. A more refined approach to stock exclusion is required. In addition there are inconsistencies between Schedule C and the rules with the fencing setback being either 3 metres or 1 metre. Schedule C is inconsistent with the stock exclusion provisions in Schedule 1 making it unclear which is to apply.</p> <p>On 23 February 2017, the Ministry for the Environment released a draft set of national stock exclusion rules. The intent of the rules is to provide a consistent national standard for stock exclusion from waterways to be provided by national regulations. However regional councils may impose more stringent stock exclusion rules. The draft national rules are inconsistent with the Schedule C provisions, creating potential for confusion. The draft national rules take a slope-based approach and also a more refined approach to stream types and type of stock. These approaches are more appropriate and better reflect the costs and benefits of stock exclusion in the catchments than Schedule C. There is no evidence in the Section 32 report or elsewhere to demonstrate that PC1 requires a more stringent approach, therefore the national regulations should be adopted in place of Schedule C.</p>	<p>Delete Schedule C and replace it with cross references to the proposed national stock exclusion regulations being produced by the Ministry for the Environment and make any necessary consequential amendments to the rules.</p>
<p>Table 3.11-1 Water Quality Targets for the Waikato and Waipa Catchments Page 57</p>	<p>Support with amendments</p>	<p>Table 3.11-1 on page 57 is in five sections to reflect different freshwater management units. There is no number on the table, making it unclear whether it is the right table referred to in the provisions.</p> <p>Table 3.11-1 includes short term targets. There is no definition or explanation of what ‘short term’ means. This creates uncertainty for administration of the Plan. It appears from the Section 32 report that short term means by 2026.</p>	<ul style="list-style-type: none"> • Include the table number (3.11-1) in the title of the table on page 57 • Include a definition of ‘short term’ in Table 3.11-1 as ‘by 2026’. • Include a map identifying the locations of the monitoring sites in Table 3.11-1.

<p>Definition – Certified Farm Nutrient Advisor Page 80</p>	<p>Oppose</p>	<p>The definition of ‘<i>Certified Farm Nutrient Advisor</i>’ is inconsistent with the definition of ‘<i>Certified Nutrient Management Advisor</i>’ contained in the Regional Plan. This is confusing and will lead to administrative difficulties as it is unclear whether they are interchangeable.</p>	<p>Rationalise the definitions of ‘<i>Certified Farm Nutrient Advisor</i>’ and ‘<i>Certified Nutrient Management Advisor</i>’ in the Regional Plan and PC1 so they are the same.</p>
<p>Definition – Farming Activities Page 81</p>	<p>Oppose</p>	<p>The definition of Farming Activities in PC1 is inconsistent with the definition of Farming Activities in the Waikato Regional Plan. This will be confusing for both Plan users and administrators. It is also unclear why crop growing that is irrigated by municipal wastewater discharges is excluded from the definition. The main difference between the definitions is the reference to ‘market gardens’ in the Regional Plan compared to ‘commercial vegetable production’ in PC1. As ‘market gardens’ are not defined in either, the Regional Plan definition could be amended to match the PC1 definition.</p>	<p>Rationalise the definitions of ‘Farming Activities’ in PC1 and the Waikato Regional Plan so that they are the same.</p>
<p>Schedule 1: Requirements for Farm Environment Plans Page 51-55</p>	<p>Oppose in part</p>	<p>The FEP provisions are not sufficiently certain or clear. It is unclear whether they are meant to establish permitted activity thresholds or to act as a tool to determine mitigation measures to reduce or control nutrient discharges. Permitted activities must be in the form of clearly specified and measurable standards. The FEP provisions include references to ‘assessment of risk of discharge’, ‘assessment of appropriate land use’ and ‘appropriate location of winter forage crops’. These are all subjective elements requiring professional judgement, but the FEP is a permitted activity standard by virtue of Rule 3.11.5.3. The FEP is also approved by the Certified Farm Environment Planner so the permitted activity status is delegated to a third party, which is inappropriate as only the Regional Council can determine activity status. It is also inappropriate for FEPs to include discretion for unspecified alternative models to be used to determine nutrient budgets.</p>	<p>Amend Schedule 1 requirements to remove reference to ‘appropriate’ and other subjective provisions and replace them with specific measurable language, or amend the Farm Environment Plan provisions so that they inform mitigation measures that must be complied with, rather than set the standards themselves.</p>

Schedule 1 and 3.11.6 – List of Tables and Maps Page 51-70	Support in part	Given rainfall is major factor in transporting E,Coli, it is unclear whether the E. Coli limits in the table make allowance for flooding events. That is, how the peak events are factored into calculations.	Amend the provisions as required, to ensure appropriate account has been taken in setting the E. Coli limits to make allowance for peak flooding events.
All of the above provisions			In relation to all of the above topics, any consequential and/or similar amendments to have the same effect.