

Before an Independent Hearings Panel

The Proposed Waikato Regional Plan Change 1

IN THE MATTER OF the Resource Management Act 1991 (**RMA**)

IN THE MATTER OF the Proposed Waikato Regional Plan Change 1

**CLOSING STATEMENT ON BEHALF OF
MIRAKA LIMITED**

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MAY IT PLEASE THE COMMISSIONERS

1. INTRODUCTION

- 1.1 Miraka Limited (**Miraka**) has played an active part in Plan Change 1 (**PC1**) with comprehensive evidence and appearances in all Blocks.
- 1.2 This closing statement will emphasise the key outcomes for PC1 sought by Miraka and briefly respond to new material that it has not had the opportunity to address to date in the hearing process.
- 1.3 On that basis these submissions will address the following matters:
 - (a) Miraka's key concerns;
 - (b) The effectiveness of Farm Environment Plans (**FEPs**) and further amendments to Schedule 1;
 - (c) Proposed new national policy direction on water quality; and
 - (d) The recent Environment Court decision *Federated Farmers v Bay of Plenty Regional Council*.

2. KEY CONCERNS

- 2.1 The Panel has heard detailed evidence and submissions, about a wide range of technical and legal matters. Potentially lost amongst the detail however is the fundamental need to make PC1 workable on the ground in such a way as to incentivise and achieve changes in farmer behaviour. In Miraka's view this can only happen if the farming community have confidence that the plan change is fair and equitable and take ownership of the actions required to achieve the 10 year interim target.
- 2.2 In Miraka's view there are three critical ways in which PC1 can achieve these outcomes:
 - (a) An FEP approach which gives sufficient flexibility for a farmer, in conjunction with a qualified Certified Farm Environment Planner (**CFEP**), to identify appropriate actions and practices to implement Good Farming Practice. A farmer and specific co-authored FEP will lead to a much higher level of ownership than an approach that is

imposed. Te Ara Miraka has shown how a collaborative approach can achieve farmer buy-in and incentivise on-farm change;¹

- (b) Ensure all four key contaminants are managed in the same way, including removing the 75th percentile approach for nitrogen reduction.² The 75th percentile approach is unfair and inequitable for certain farmers. A robust FEP regime which implements Good Farming Practice can deliver the necessary reductions in contaminants for the first 10 years of PC1.
- (c) Emphasising practice change for land managers, the Waikato Regional Council (**WRC**) and the catchment community as a whole.³ The evidence of Dr Paine for Miraka in Block 1 outlined the principles of practice change and Miraka's evidence has outlined how those principles can be applied to PC1.

3. EFFECTIVENESS OF FARM ENVIRONMENT PLANS AND AMENDMENTS TO SCHEDULE 1

- 3.1 The effectiveness of FEPs was addressed in considerable detail within Miraka's Block 3 legal submissions and evidence.⁴ Permitted activity status for existing farming, within a Certified Sector Scheme (**CSS**) and with an FEP, is the most efficient and effective approach to regulate a substantial number of farms without the burdens of resource consent.⁵
- 3.2 Miraka's preference is for PC1 to contain a tailored FEP approach whereby Schedule 1 contains goals and management principles (previously objectives and principles) and then individual farmers, in conjunction with a CFEP, identify the appropriate actions and practices for each farm.⁶ Such an approach will be robust and effective:
 - (a) Tailoring FEPs for each farm is about ensuring the right combination, priority and timing of actions and practices for the particular circumstances of each farm.⁷ This allows time and resources to be spent on the most important and impactful steps;⁸

¹ Evidence of Grant Jackson for Block 2 at 6.2.

² Legal submissions for Block 2 at 2.1(g).

³ Evidence of Gavin Sheath at 1.5.

⁴ Evidence of Grant Jackson for Block 2 at 4.10.

⁵ Legal submissions for Block 2 at 3.19.

⁶ Legal submissions for Block 3 at 2.15.

⁷ Legal submissions for Block 3 at 2.18.

⁸ Rebuttal evidence of Ms Addenbrooke for Block 3.

- (b) Schedule 1 outlines the requirements for FEP and, with the amendments proposed in Block 3⁹ and as attached to these submissions, embeds Good Farming Practice within FEPs;
- (c) When assessing the provisions, the Panel must assume that people will comply with all the rules and standards within the plan and meet the requirements of Schedule 1;
- (d) The role of the CFEP is critical to providing farmers with expert assistance¹⁰ and an appropriate degree of rigour and objectivity. They have the relevant skills and expertise and will be subject to audit and thereby incentivised to act independently and professionally;
- (e) Review of and reporting on the implementation of actions and practices required by FEPs is critical to give confidence to the Council and the community that the FEPs will be implemented.¹¹ Miraka strongly advocates that the review of the FEP should be undertaken by the CFEP who worked with the farmer and prepared it. This CFEP will have an established relationship and trust with the farmer and is more likely to get farmer cooperation and commitment;
- (f) A CSS provides support for farmers, oversight of FEP preparation and performance, potential efficiencies for large scale preparation of FEPs and additional monitoring to assist WRC in its roles.¹² This additional layer of farmer support should also provide confidence to the Council that robust monitoring is being undertaken and that there are additional incentives through the CSS to encourage farmers to achieve targets; and
- (g) Finally, the FEPs for PC1 only need to focus on the first 10 years of an 80 year journey to achieve the Vision and Strategy. They are one of the key steps to improving farmer commitment and to setting them on the right course to achieve further contaminant reductions in the medium and long term.

⁹ Legal submissions for Block 3 at 2.12.

¹⁰ Evidence of Elizabeth Kim Hardy for Block 3 at 3.12, 3.16 and 3.17.

¹¹ Evidence of Grant Jackson for Block 2 at 6.1.

¹² Evidence of Elizabeth Kim Hardy for Block 3 at 3.15 and 3.16.

- 3.3 The alternative approach of minimum standards (i.e. the Schedule 1A approach) is being developed further by Federated Farmers and Fonterra and Miraka will not address that approach any further at this stage.

Revised Schedule 1

- 3.4 In response to questions raised by the Panel during Miraka's attendance at the Block 3 hearing and related questions put to Fonterra and Federated Farmers witnesses, Miraka has prepared a revised Schedule 1. A track change version is attached as Appendix 1 and a clean version as Appendix 2.

- 3.5 The key amendments to Schedule 1 are as follows:

(a) For Part B Purpose of Farm Environment Plan:

- (i) Inserting 'practices' after actions so there is reference to both. The purpose is to clarify that both are required and can be undertaken to achieve the requirements of the FEP, in response to a question from Commissioner Hill. In this context "actions" refers to physical actions such as fencing and "practices" refer to management and operational matters such as excluding stock from certain pastures during wet times of the year; and
- (ii) Qualification of point 4 to restrict the consideration of reasonably available farm resources to the timing of implementation.

(b) For Part C FEP Content:

- (i) Removal of district plan language terms 'assessment' and replaced with 'evaluation' to clarify that the FEP is not a consent assessment tool;
- (ii) Removal of 'objectives and principles' and replacement with 'goals and management principles', the purpose being to distinguish the language from that in the plan provisions and clarify that the FEP is not a subset of the plan objective and policy framework;

- (iii) Removal of 3.c) and insertion of its main body after 3.b) to provide clarity that implementation time frames are to apply to only new actions or practices identified in the FEP;
- (iv) Insert a new clause 4 to indicate the required level of specificity of identified actions and practices to be undertaken to achieve the requirements of the FEP, in response to expressions of concern by the Panel about the level of specificity of actions in FEP. Actions and practices identified in the FEP should be sufficiently specific to be assessed and measured during review;¹³
- (v) Amendment to Management Principle 9 in response to Commissioner Robinson's concerns that a greater than minimum set back would be required when that was deemed necessary, taking into account the site context and physical landform;
- (vi) Removal of Management Principles 10 and 16 as it is not necessary to refer to requirements in another part of the Plan;
- (vii) Management Principles 11, 12 and 13 were specifically amended in response to Commissioner Robinson's concerns that the previous wording was too open.

3.6 Part D FEP Review, Monitoring and Reporting Requirements:

- (a) Inclusion of reference to two yearly reviews to provide clarity and cross reference to the plan provisions;
- (b) Removal of what was previously number 2 as it was redundant given the other two points;
- (c) Greater clarity that the purpose of the FEP review is to provide an expert opinion on whether the farming activities on the property are being undertaken in a manner consistent with the commitments recorded in the FEP and whether specific actions and practices have been undertaken in the timeframe specified; and

¹³ Example: Plant 60 poplar poles at approximately 3 metre intervals across the lower slope of paddock [x] by [date].

- (d) Removal of the reference to the Dragten grading system, given that the review must be undertaken in accordance with the WRC's review manual and this does not preclude using a grading system.
- 3.7 Finally, a number of the management principles in Schedule 1 refer to "minimise". Commissioner Robinson questioned Miraka's witnesses about how they would define this term. Miraka's witnesses consider minimise means "*to reduce to the smallest practicable amount or degree*". This wording could be included within the relevant management principles if the Panel considered that appropriate or could be included in the plan definitions.

4. ESSENTIAL FRESHWATER

- 4.1 As the Panel will be aware, the Minister for the Environment recently released its Essential Freshwater programme (also known as Action for healthy waterways). It includes a draft National Policy Statement for Freshwater Management and proposed National Environmental Standards for Freshwater for consultation.¹⁴ The substance of those documents is directly relevant to many of the issues being addressed in PC1.
- 4.2 Given the draft NPS and NES are still out for consultation, are subject to amendment and have not yet been approved and issued under section 52 Resource Management Act 1991, the Panel can give no weight to them in its deliberations.¹⁵
- 4.3 However, it is worth noting that PC1 aligns reasonably well to the draft documents in terms of the following matters:
- (a) Having a clear focus on the integrated management of the effects of the use and development of land on water quality;¹⁶
 - (b) The inclusion of interim freshwater targets in regional plans set at intervals of no more than 10 years;¹⁷
 - (c) Consenting at scale is provided for in relation to land in multiple ownership;¹⁸

¹⁴ Ministry for the Environment "Draft National Policy Statement for Freshwater Management" and "Proposed National Environmental Standards for Freshwater" (press releases, September 2019).

¹⁵ *Carter Hold Harvey Ltd v Waikato Regional Council* [2011] NZEnvC 380 at [51].

¹⁶ NPS-FM 2019, 3.4.

¹⁷ NPS-FM 2019, 3.9(5)(b).

¹⁸ NPS-FM 2019, Subpart 3: Definitions.

- (d) The requirement of Freshwater Farm Plans, which seem generally equivalent to FEPs in PC1;¹⁹ and
 - (e) Overseer not generally being required when preparing Freshwater Farm Plans (apart from in specified catchments, which do not include the Waikato River catchment).²⁰
- 4.4 The emerging national direction on FEPs and their equivalents and the role of Overseer are particularly relevant to Miraka's case.

5. RECENT ENVIRONMENT COURT CASE AUTHORITY

- 5.1 Following Miraka's appearance at Block 3, the Environment Court released its interim decision regarding farming in the Lake Rotorua catchment - *Federated Farmers v Bay of Plenty Regional Council*.²¹
- 5.2 Miraka's position in Blocks 2 and 3 was that each region and any case authority relating to that region must be considered on its own merits. With that caveat, the Environment Court made a number of potentially relevant observations relating to allocation regimes and land use capacity (**LUC**) and Overseer. However, its observations on Good Management Practice need to be put into the context of that case, which was different from PC1.

Allocation based on LUC

- 5.3 The central issue for determination in *Federated Farmers* was the appropriate method to allocate nitrogen to rural land uses. One group of parties sought an LUC-based approach. The Court considered the advantages and disadvantages of use of LUC in managing nitrogen allocation, and noted that there were only two examples of plans in New Zealand that use LUC in nitrogen loss schemes.²²
- 5.4 The Court observed that the two examples have only been operative for a relatively short period and there is much uncertainty with the method (including an understanding of its strengths and weaknesses).²³
- 5.5 Miraka has not reviewed the LUC system rejected by the Environment Court compared to that proposed by submitters in PC1 and that would likely be beyond the ambit of this closing statement. But the Panel should have

¹⁹ NPS-FM 2019, Subpart 3.

²⁰ NES, Subpart 4 and Schedule 1.

²¹ *Federated Farmers of New Zealand Incorporated v Bay of Plenty Regional Council* [2019] NZEnvC 136.

²² *Ibid* at [249]-[252].

²³ *Ibid* at [252].

regard to the Court's views on the uncertainty with the LUC and its limited use across the country when considering the merits of substantially changing PC1 to accommodate such an approach.

Overseer

- 5.6 Both the nitrogen allocation methods that were considered by the Court used Overseer as a method of calculating nitrogen. The Court observed that due to Overseer being a long-term prediction model, a limitation was that it could not be used to "predict short term management outcomes or changes that may be required to day-to-day farm operations".²⁴
- 5.7 The Court also noted that there are limitations to using Overseer in a regulatory context, including that:
- (a) Different versions of the program produce materially different predicted nitrogen losses (where variability between versions of Overseer can be as high as 88%);²⁵ and
 - (b) The overall uncertainty associated with the model may be as high as 30-50%, and that from a resource management planning perspective this may be problematic.²⁶
- 5.8 Helpfully, the Court outlined criteria that need to be met when using Overseer in a regulatory context, which included that there must be "a compliance mechanism that is certain, reasonable, practical and legally enforceable".²⁷
- 5.9 The Panel may wish to review those criteria when considering the evidence and submissions it has received on the use of Overseer within PC1. The Court's concerns about the role of Overseer match many of those expressed by Miraka and its witnesses.

Good Management Practice

- 5.10 The Court in *Federated Farmers* also briefly mentioned the use of good management practice to reduce nitrogen loss, expressing the view that the Regional Council 'encouraging and supporting' good management practices could not be relied on to provide adequate certainty that nitrogen loss

²⁴ Ibid at [109].

²⁵ Ibid at [111] – [112].

²⁶ Ibid at [112] and [113].

²⁷ Ibid at [112] and [113].

targets would be achieved.²⁸ The Court does not discuss the evidence it heard on the issue because the context of the decision was the appropriate allocation regime and not the methods to manage on farm activities. The observation about good management practice was therefore not relevant to the issues the Court had to determine.

5.11 Miraka agrees that the mere encouragement of good farming practice is not enough to achieve nitrogen loss outcomes. But PC1, as amended by Miraka, goes much further than the approach considered in *Federated Farmers*:

- (a) Good farming practice is specifically required by the policies and is embedded within the revised Schedule 1, giving the approach regulatory force; and
- (b) If all farms are required to implement good farming practice, there is evidence that, cumulatively, it will likely result in the necessary reduction of nitrogen surplus and loss levels.²⁹

6. CONCLUSION

6.1 Miraka and a number of other submitters in Block 3 identified that it may be valuable to hold expert conferencing on FEPs, particularly with regard to minimum standards. If the Panel was minded to make such a direction, Miraka would wish to be involved.

6.2 On behalf of Miraka we thank the Panel again for its time and wish it well in its deliberations.

DATED this 26th day of September 2019



J Caldwell / M Gribben

Counsel for Miraka Limited

²⁸ Ibid at [174]. Miraka notes that "encouraging and supporting" is effectively what the Waikato Regional Council has been doing for some decades.

²⁹ Evidence of Dr Sheath for Block 3.

APPENDIX 1

Miraka Limited – Closing Statement – 26 September 2019

Drafting note: This Schedule is based on Schedule 1 included in the section 42A report for Block 3 with proposed amendments from Miraka Limited.

Text in Black is from the Section 42A Report for Block 3.

Text in Green is from the primary evidence of Mr Eccles on behalf of Federated Farmers

Text in Red is from the supplementary evidence of Miraka Limited (dated 19 July 2019)

Text in Blue are the further revisions by Miraka to be attached to the closing statement (underlines for additions, strikethrough for deletions)

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

The Farm Environment Plan (FEP) will be prepared and provided in accordance with Parts A to ~~C~~, ~~and B~~ below. Progress with implementation will be monitored, reviewed in accordance with Part ~~DC~~. Any change to an FEP must be made and changed in accordance with Part ~~ED~~.

Note: A person seeking to operate in accordance with permitted activity Rules 3.11.5.2 or 3.11.5.3 must have an FEP consistent with all parts of this Schedule, and must undertake the actions described in the FEP. A farming activity that has an FEP that does not comply with this schedule, or which is undertaken in a manner that does not comply with the FEP will not meet the conditions of the permitted activity rule and an application for resource consent will be required.

PART A – PROVISION OF FEP

An FEP that has been certified as meeting the requirements of B below by a Certified Farm Environment Planner (CFEP), must be submitted to Waikato Regional Council (the council) using either:

1. A council digital FEP tool including the matters set out in Part B below to the extent relevant, with maps provided as spatial GIS layers; OR
2. An industry digital FEP tool, capable of recording information consistent with the council data exchange specifications that includes the matters set out in Part B below to the extent relevant, with maps provided as spatial GIS layers.

~~2. An industry prepared FEP that:~~

- ~~a) includes the following minimum components:~~

- ~~i. the matters set out in Parts B below to the extent relevant; and~~
- ~~ii. performance measures that are capable of being reviewed as set out in Part C below~~

~~b) has been approved by the Chief Executive of Waikato Regional Council as meeting the criteria in (a) and capable of providing FEPs in a digital format, consistent with the council data exchange specifications.~~

The Waikato Regional Council data exchange specifications will set out the standards and detail of the data exchange process to be used by external industry parties in the provision of FEPs.

PART B – PURPOSE OF A FARM ENVIRONMENT PLAN

The purposes of a Farm Environment Plan are to firstly assess/evaluate the farm enterprise against good farming practice for the management of diffuse discharges of nitrogen, phosphorous, sediment and microbial pathogens. Secondly, where the farm enterprise is not consistent with good farming practice, the Farm Environment Plan is to identify the actions and practices/mitigations to manage the diffuse discharge of nitrogen, phosphorous, sediment and microbial pathogens from the farm enterprise to achieve good farming practice.

In identifying actions and practices/mitigations, the Farm Environment Plan is to identify the nature, combination, priority and timing of actions and practices to manage the diffuse discharge of nitrogen, phosphorous, sediment and microbial pathogens from the farm enterprise in a way that takes account of:

1. Recognises and takes account of the characteristics of the sub-catchment within which the subject farming enterprise is located as set out in the relevant Sub-catchment Management Plan and/or Catchment Profile produced by Waikato Regional Council; and
2. corresponds to the scale and significance of the risk from the discharge of each contaminant from the farm enterprise; and
3. recognises and takes account of the bio-physical characteristics of the property or enterprise; and

4. Takes account of the resources reasonably available to the farm enterprise in determining the time frames for implementation of actions and practices.

PART **CB** – FEP CONTENT

The FEP shall contain as a minimum:

1. The property or enterprise details:

- a) Full name, address and contact details (including email addresses and telephone numbers) of the person responsible for the land use activities;
- b) Legal description of the land and any relevant farm identifiers such as dairy supply number.

2. A map(s) at a scale that clearly shows:

- a) The boundaries of the property or land areas being farmed;
- b) The boundaries of the main land management units or land uses on the property or within the farm enterprise;
- c) The location of any Schedule C waterbodies;
- d) The location of riparian vegetation and fences adjacent to Schedule C waterbodies;
- e) The location on any Schedule C waterbodies waterways where stock have access or there are stock crossings;
- f) The location of any critical source areas and hotspots for contaminant loss to groundwater or surface water;
- g) **The location of land that is cultivated and land to be cultivated over the next 12-month period; and**
- h) The location(s) of any required actions and practices to support the achievement of the objectives and principles listed in section C3.

~~h) All land that may be cultivated and land to be cultivated over the next 12-month period.~~

3. An evaluation/assessment of whether farming practices are consistent with each of the following objectives goals and management principles; and

- a) ~~A description~~ Confirmation of those farming practices that will continue to be undertaken in a manner consistent with the objectives goals and management principles;
- b) ~~A description~~ Identification of those farming practices that are not consistent with the objectives goals or management principles, and a description of the time bound

actions or practices that will be adopted to ensure the goal/objectives or management principles are met, with identification of those that must be implemented within 12 months of the certification of the FEP and those that may be implemented over a longer (and specified) time period. ,; and

~~e) identification of those farming practices in a) and b) that the CFEP has identified must be implemented within 12 months of the certification of the FEP and those that may be implemented over a longer time period.~~

4. A list of all the farming actions and practices in 3. above, including their individual time frames for implementation. Each action and practice are to include, wherever possible, specific detail on length or areal extent, location, materials, and quantities.

54. The FEP shall include for each objective goal and management principle in section 6 below:

~~a) Detail and content that reflects the scale of environmental risk posed by the activity;
b) A defined and auditable description of the actions and practices to be undertaken to farm in accordance with the objectives and principles in Part C;~~

~~a) Accurate and auditable records of annual farm inputs, outputs, actions and practices and management practices that The records and evidence that must be kept that demonstrate performance and the achievement, or progress toward achievement, of an objective a goal or management principle listed in Part C; and~~

~~b) Information described in a) above is provided to the Waikato Council on request.-~~

65. The FEP shall include a description of actions and practices undertaken to address FMU/sub-catchment community catchment plan objectives including but not limited to:

- a) Freshwater targets.
- b) Community identified farm practice change targets.
- c) FMU/sub-catchment monitoring and auditing practices.
- d) Community education initiatives.

6a3b – Management Area: Nutrient management

Objective Goal 12

To minimise nutrient losses to water while maximising nutrient use efficiency.

Management Principles

14. Monitor soil phosphorus levels and maintain them at or below the agronomic optimum for the farm system.
25. Manage the amount and timing of fertiliser inputs, ~~taking account of~~ identifying all sources of nitrogen and phosphorus, to match plant requirements and minimise risk of losses.
36. Store and load fertiliser to minimise risk of spillage, leaching and loss into waterbodies.
47. Maintain and calibrate ~~Ensure~~ equipment for spreading fertilisers ~~is well maintained and calibrated.~~
58. Store, transport and distribute feed to minimise wastage, leachate and soil damage.

Objective Goal 3-2

To farm in accordance with the nitrogen management requirements of PC1

Management Principle

~~96. Farm in a manner that does not result in Farm nitrogen losses do not exceeding the N Surplus Nitrogen Reference Point for the property or enterprise.~~

36be – Management Area: Waterways

Objective Goal 34

To minimise losses of sediment, microbial pathogens, phosphorus and nitrogen to waterways.

Management Principles

~~740.~~ Identify risk of overland flow of phosphorus, sediment and microbial pathogens on the property and implement measures to minimise losses transport of these to waterbodies.

~~844.~~ Locate and manage farm tracks, gateways, water troughs, self-feeding areas, stock camps, wallows and other sources of run-off to minimise risks to water quality.

Objective Goal 45

To exclude stock from waterbodies and minimise stock damage to the beds and margins of wetlands and riparian areas.

Management Principle

~~942.~~ Exclude stock from waterbodies ~~with a setback to the extent~~ that is compatible with land form, stock class and stock intensity. ~~A setback that is greater than the minimum set out in Schedule C may be required.~~ Where exclusion is not possible practicable, mitigate impacts on waterways.

~~1013. Exclude stock in a manner consistent with the requirements of Schedule C.~~

36cd – Management Area: Land and soil

Objective Goal 56

To minimise contaminant losses to waterways from soil disturbance and erosion.

Management Principles

~~1144.~~ 1144. ~~Minimise~~manage periods of exposed soil between crops/pasture and adopt measures to minimise ~~reduce-risk-of~~ erosion, overland flow and leaching.

~~1245.~~ 1245. ~~Manage or r~~Retire erosion-prone land or adopt measures to minimise soil losses ~~through appropriate measures and practices.~~

~~1346.~~ 1346. Select only appropriate paddocks for growing crops and intensive grazing, recognising and mitigating possible nitrogen and phosphorus, faecal, and sediment loss from critical source areas.

~~1447.~~ 1447. Manage grazing and crops to minimise losses from critical source areas.

36de – Management Area: Effluent

Objective Goal 67

To minimise contaminant losses to waterways from farm animal effluent.

Management Principles

~~1548.~~ 1548. Ensure the effluent system meets current industry-specific Code of Practice or equivalent standard.

~~1649.~~ 1649. ~~Have sufficient storage available for farm effluent and wastewater and actively manage effluent storage levels.~~

~~1720.~~ 1720. Maintain and calibrate ~~Ensure~~ equipment for spreading effluent and other organic manures. ~~is well-maintained and calibrated.~~

~~1824.~~ 1824. Apply effluent to pasture and crops at depths, rates and times to match plant requirements and soil water holding capacity.

36ef – Management Area: Water and irrigation

Objective Goal 78

To operate irrigation systems efficiently and ensuring that the actual use of water is monitored and is efficient.

Management Principles

~~1922.~~ 1922. Manage the amount and timing of irrigation inputs to meet plant demands and minimise risk of leaching and run off.

2023. Design, check and operate irrigation systems to minimise the amount of water needed to meet production objectives.

PART C D – FEP REVIEW MONITORING AND REPORTING REQUIREMENTS

The FEP shall be reviewed no more than 12 months following approval (and every two years thereafter unless determined that an earlier review is required) by a Certified Farm Environment Planner for consistency with this schedule and to determine achievement of the commitments recorded in the FEP including, as relevant:

1. Performance of the property or enterprise against the actions and practices recorded in the FEP that is being reviewed including whether any critical actions required to be undertaken within 12 months of certification have been undertaken; and
 2. Whether the commitment to continue good farm practice has been fulfilled; and
 2. Whether there has been an acceptable rate of progress towards the actions and practices and actions in the FEP that can be implemented over time.
-
1. ~~Prior to lodging a landuse consent application with the Council under rule 3.11.5.3–3.11.5.5 of PC1; and~~
 2. ~~Within the granting of that consent application; and~~
 3. ~~In accordance with the review intervals set out in the conditions of that resource consent; and~~
 4. ~~In accordance with permitted activity x.xx, controlled activity x.xx and RDA x.xx~~

The purpose of the review is to provide ~~an~~ expert opinion as to whether the farming activities on the property are being undertaken in a manner consistent with ~~the objectives and principles set out in Part B of this schedule~~ the commitments recorded in the FEP and whether specific actions and practices have been undertaken in the timeframe specified. The review shall be undertaken by a Certified Farm Environment Planner who holds a reviewing endorsement (issued by WRC), and must be undertaken in accordance with the review process set out in the Waikato Regional Council's Farm Environment Plan Independent Review manual. ~~The review may include use of the Dragten grading system as set out in method 3.11.4.3.~~

The review shall be undertaken by re-assessing the FEP in accordance with the requirements set out in this schedule and against the actions and timeframes set out in the FEP. The results of the review shall be provided to the Waikato Regional Council, within 20 working days of the review due date.

PART ~~ED~~ – AMENDING AN FEP CHANGES

Unless otherwise required by the Waikato Regional Council in accordance with any conditions of ~~any~~the resource consent, changes can be made to the FEP ~~without triggering the need for review by a CFEP~~, provided:

- a)1- The amended FEP is certified by a Certified Farm Environment Planner as continuing to comply with the requirements of this schedule
- b)2- The change to the FEP does not contravene any mandatory requirement of ~~the resource consent, or any requirement of~~ the Regional Plan that is not already authorised.
- c)3- The ~~nature of the~~ change to the FEP is documented as an amended FEP and provided to the regional council as though it were a new FEP in a manner consistent with Part A of this Schedule. ~~in writing and made available to any CFEP undertaking a review, or to the Waikato Regional Council, on request.~~

APPENDIX 2

Miraka Limited – Closing Statement – 26 September 2019

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

The Farm Environment Plan (FEP) will be prepared and provided in accordance with Parts A to C below. Progress with implementation will be monitored in accordance with Part D. Any change to an FEP must be made in accordance with Part E.

Note: A person seeking to operate in accordance with permitted activity Rules 3.11.5.2 or 3.11.5.3 must have an FEP consistent with all parts of this Schedule, and must undertake the actions described in the FEP. A farming activity that has an FEP that does not comply with this schedule, or which is undertaken in a manner that does not comply with the FEP will not meet the conditions of the permitted activity rule and an application for resource consent will be required.

PART A – PROVISION OF FEP

An FEP that has been certified as meeting the requirements of B below by a Certified Farm Environment Planner (CFEP), must be submitted to Waikato Regional Council (the council) using either:

1. A council digital FEP tool including the matters set out in Part B below to the extent relevant, with maps provided as spatial GIS layers; OR
2. An industry digital FEP tool, capable of recording information consistent with the council data exchange specifications that includes the matters set out in Part B below to the extent relevant, with maps provided as spatial GIS layers.

Note: The Waikato Regional Council data exchange specifications will set out the standards and detail of the data exchange process to be used by external industry parties in the provision of FEPs.

PART B – PURPOSE OF A FARM ENVIRONMENT PLAN

The purposes of a Farm Environment Plan are to firstly evaluate the farm enterprise against good farming practice for the management of diffuse discharges of nitrogen, phosphorous,

sediment and microbial pathogens. Secondly, where the farm enterprise is not consistent with good farming practice, the Farm Environment Plan is to identify the actions and practices to manage the diffuse discharge of nitrogen, phosphorous, sediment and microbial pathogens from the farm enterprise to achieve good farming practice.

In identifying actions and practices, the Farm Environment Plan is to identify the nature, combination, priority and timing of actions and practices to manage the diffuse discharge of nitrogen, phosphorous, sediment and microbial pathogens from the farm enterprise in a way that takes account of:

5. the characteristics of the sub-catchment within which the subject farming enterprise is located as set out in the relevant Sub-catchment Management Plan and/or Catchment Profile produced by Waikato Regional Council; and
6. the scale and significance of the risk from the discharge of each contaminant from the farm enterprise; and
7. the bio-physical characteristics of the property or enterprise; and
8. the resources reasonably available to the farm enterprise in determining the time frames for implementation of actions and practices.

PART C – FEP CONTENT

The FEP shall contain as a minimum:

1. The property or enterprise details:
 - e) Full name, address and contact details (including email addresses and telephone numbers) of the person responsible for the land use activities;
 - f) Legal description of the land and any relevant farm identifiers such as dairy supply number.
2. A map(s) at a scale that clearly shows:
 - a) The boundaries of the property or land areas being farmed;
 - b) The boundaries of the main land management units or land uses on the property or within the farm enterprise;
 - c) The location of any Schedule C waterbodies;

- d) The location of riparian vegetation and fences adjacent to Schedule C waterbodies;
- e) The location on any Schedule C waterbodies where stock have access or there are stock crossings;
- f) The location of any critical source areas and hotspots for contaminant loss to groundwater or surface water;
- g) The location of land that is cultivated and land to be cultivated over the next 12-month period; and
- h) The location(s) of any required actions and practices to support the achievement of the objectives and principles listed in section C3.

3. An evaluation of whether farming practices are consistent with each of the following goals and management principles; and

- a) Confirmation of those farming practices that will continue to be undertaken in a manner consistent with the goals and management principles;
- b) Identification of those farming practices that are not consistent with the goals or management principles, and a description of the time bound actions or practices that will be adopted to ensure the goals or management principles are met, with identification of those that must be implemented within 12 months of the certification of the FEP and those that may be implemented over a longer (and specified) time period.

4. A list of all the farming actions and practices in 3. above, including their individual time frames for implementation. Each action and practice are to include, wherever possible, specific detail on length or areal extent, location, materials, and quantities.

5. The FEP shall include for each goal and management principle in section 6 below:

- a) Accurate and auditable records of annual farm inputs, outputs, actions and practices that demonstrate performance and the achievement, or progress toward achievement, of a goal or management principle listed in Part C; and
- b) Information described in a) above is provided to the Waikato Council on request.

6. The FEP shall include a description of actions and practices undertaken to address FMU/sub-catchment community catchment plan objectives including but not limited to:

- a) Freshwater targets.

- b) Community identified farm practice change targets.
- c) FMU/sub-catchment monitoring and auditing practices.
- d) Community education initiatives.

7a – Management Area: Nutrient management

Goal 1

To minimise nutrient losses to water while maximising nutrient use efficiency.

Management Principles

1. Monitor soil phosphorus levels and maintain them at or below the agronomic optimum for the farm system.
2. Manage the amount and timing of fertiliser inputs, identifying all sources of nitrogen and phosphorus, to match plant requirements and minimise risk of losses.
3. Store and load fertiliser to minimise risk of spillage, leaching and loss into waterbodies.
4. Maintain and calibrate equipment for spreading fertilisers.
5. Store, transport and distribute feed to minimise wastage, leachate and soil damage.

Goal 2

To farm in accordance with the nitrogen management requirements of PC1

Management Principle

6. Farm nitrogen losses do not exceed the N Surplus Nitrogen Reference Point for the property or enterprise.

7b – Management Area: Waterways

Goal 3

To minimise losses of sediment, microbial pathogens, phosphorus and nitrogen to waterways.

Management Principles

7. Identify risk of overland flow of phosphorus, sediment and microbial pathogens on the property and implement measures to minimise transport of these to waterbodies.
8. Locate and manage farm tracks, gateways, water troughs, self-feeding areas, stock camps, wallows and other sources of run-off to minimise risks to water quality.

Goal 4

To exclude stock from waterbodies and minimise stock damage to the beds and margins of wetlands and riparian areas.

Management Principle

9. Exclude stock from waterbodies with a setback that is compatible with land form, stock class and stock intensity. A setback that is greater than the minimum set out in Schedule C may be required. Where exclusion is not practicable, mitigate impacts on waterways.

7c – Management Area: Land and soil

Goal 5

To minimise contaminant losses to waterways from soil disturbance and erosion.

Management Principles

10. Minimise periods of exposed soil between crops/pasture and adopt measures to minimise erosion, overland flow and leaching.
11. Retire erosion-prone land or adopt measures to minimise soil losses.
12. Select only appropriate paddocks for growing crops and intensive grazing, recognising and mitigating possible nitrogen and phosphorus, faecal, and sediment loss from critical source areas.
13. Manage grazing and crops to minimise losses from critical source areas.

7d – Management Area: Effluent

Goal 6

To minimise contaminant losses to waterways from farm animal effluent.

Management Principles

14. Ensure the effluent system meets current industry-specific Code of Practice or equivalent standard.
15. Maintain and calibrate equipment for spreading effluent and other organic manures.
16. Apply effluent to pasture and crops at depths, rates and times to match plant requirements and soil water holding capacity.

7e – Management Area: Water and irrigation

Goal 7

To operate irrigation systems efficiently and ensuring that the actual use of water is monitored and is efficient.

Management Principles

17. Manage the amount and timing of irrigation inputs to meet plant demands and minimise risk of leaching and run off.
18. Design, check and operate irrigation systems to minimise the amount of water needed to meet production objectives.

PART D – FEP REVIEW AND REPORTING REQUIREMENTS

The FEP shall be reviewed no more than 12 months following approval (and every two years thereafter unless determined that an earlier review is required) by a Certified Farm Environment Planner for consistency with this schedule and to determine achievement of the commitments recorded in the FEP including, as relevant:

3. Performance of the property or enterprise against the actions and practices recorded in the FEP that is being reviewed including whether any critical actions required to be undertaken within 12 months of certification have been undertaken; and
2. Whether there has been an acceptable rate of progress towards the actions and practices in the FEP that can be implemented over time.

The purpose of the review is to provide an expert opinion as to whether the farming activities on the property are being undertaken in a manner consistent with the commitments recorded in the FEP and whether specific actions and practices have been undertaken in the timeframe specified. The review shall be undertaken by a Certified Farm Environment Planner who holds a reviewing endorsement (issued by WRC), and must be undertaken in accordance with the review process set out in the Waikato Regional Council's Farm Environment Plan Independent Review manual.

The review shall be undertaken by re-assessing the FEP in accordance with the requirements set out in this schedule and against the actions and timeframes set out in the

FEP. The results of the review shall be provided to the Waikato Regional Council, within 20 working days of the review due date.

PART E – AMENDING AN FEP

Unless otherwise required by the Waikato Regional Council in accordance with any conditions of any resource consent, changes can be made to the FEP, provided:

1. The amended FEP is certified by a Certified Farm Environment Planner as continuing to comply with the requirements of this schedule.
2. The change to the FEP does not contravene any mandatory requirement of the Regional Plan that is not already authorised.
3. The change to the FEP is documented as an amended FEP and provided to the regional council as though it were a new FEP in a manner consistent with Part A of this Schedule.