

ATTACHMENT 1

REBUTTAL EVIDENCE OF KIM HARDY

19 July 2019

Miraka proposed changes in **yellow shading**
Rebuttal changes in **green shading**

3.11.3 Policies/Ngā Kaupapa Here

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

~~Reduce Manage and require reductions in²⁹ catchment-wide and³⁰ sub-catchment-wide diffuse³¹ discharges of nitrogen, phosphorus, sediment and microbial pathogens, by:~~

- ~~a1. Requiring all farming activities to operate at Good Farming Practice, or better; and³²~~
- ~~a2. Establishing, where possible, a Nitrogen Reference Point for nitrogen surplus for all properties or enterprises; and³³~~
- ~~a3. Measuring and monitoring reduction actions and changes to the Nitrogen Reference Points for nitrogen surplus, for all properties.~~
- a. Enabling activities with a low level of contaminant discharge to water bodies ~~provided those discharges do not increase³⁴; and~~
- b. Requiring farming activities with moderate to high levels of contaminant discharge ~~to water bodies relative to Good Farming Practice~~ to reduce their discharges proportionate to the amount of (2016) discharge and the water quality improvements required in the sub- catchment³⁵; and
- b1. ~~Calculating the 75th percentile and 50th percentile nitrogen leaching values and requiring farmers with a Nitrogen Reference Point greater than the 75th percentile to reduce nitrogen loss to below the 75th percentile and farmers with a Nitrogen Reference Point between the 50th and 75th percentile to demonstrate real and enduring reductions of nitrogen leaching, with resource consents specifying an amount of reduction or changes to practices required to take place; and~~
- ~~b1.1 Promoting Good Farming Practice to reduce the discharge of all four contaminants.~~
- b2. Where Good Farming Practices are not adopted, to specify controls in a resource consent that ensures contaminant losses will be reducing;³⁷
- b3. Except as provided for in Policies [1(a) and] 16, generally granting only those land use and discharge consent applications that demonstrate clear and enduring reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens; and³⁸
- b4. Except as provided for in Policies [1(a) and] Policy 16, generally not granting land use consent applications that involve a change in the use of the land, or an increase in the intensity of the use of land, unless the application demonstrates clear reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens; and³⁹
- c. Progressively excluding cattle, horses, deer and pigs from rivers, streams, drains, wetlands and lakes.

Policy 2: ~~Farm Environment Plans Tailored approach to reducing diffuse discharges from farming activities/~~Te Kaupapa Here 2: He huarahi ka āta whakahāngaihia hei whakaiti i ngā rukenga roha i ngā mahinga pāmu

~~Reduce Manage and require reductions in⁴⁰ catchment-wide and⁴¹ sub-catchment-wide⁴² diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens from farming activities on properties and enterprises, through Farm Environment Plans⁴³ that:~~

- ~~a1. Set out clear, specific and timeframed minimum standards for Good Farming Practice; and⁴⁴~~
- a. ~~Take Taking~~ a tailored, risk based approach to define mitigation actions on the land that will reduce diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens, ~~with the mitigation actions to be specified in a Farm Environment Plan either associated with a resource consent, or in specific requirements established by participation in a Certified Industry Scheme⁴⁵; and~~
- b. ~~Undergo Requiring~~ the same level of rigour in developing, monitoring and auditing ~~of mitigation actions on the land that is set out in a Farm Environment Plan, whether the consent holder is a member of a Certified Sector Scheme or not it is established with a resource consent or through Certified Industry Schemes⁴⁶; and~~
- b2. ~~Are flexible and able to be updated so that continuous improvement, new technologies and mitigation practices can be adopted, such that diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens further reduce~~

- over time.⁴⁷
- c. Establishing a Nitrogen Reference Point for the property or enterprise; and⁴⁸
 - d. Requiring the degree of reduction in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens to be proportionate to the amount of current discharge (those discharging more are expected to make greater reductions), and proportionate to the scale of water quality improvement required in the sub-catchment; and⁴⁹
 - e. 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 2026.⁵⁰

Policy 3A: Certified Sector Schemes

Waikato Regional Council will support the development of Certified Sector Schemes as groups or organisations responsible for preparing and monitoring the implementation of Farm Environment Plans by:

- a. Setting out minimum standards for Certified Sector Schemes in Schedule 2; and
- b. Establishing a process for approving Certified Sector Schemes based on their ability to meet the minimum standards, including entering into a contractual agreement with each Certified Sector Scheme to meet and maintain those standards; and
- c. Requiring independent audit of the performance of Certified Sector Schemes in preparing and monitoring the implementation of Farm Environment Plans for their members. The independent auditor must be qualified in xxx and approved as a Waikato Regional Council Sector Scheme Auditor by the Chief Executive of Waikato Regional Council. Annual random audits of no less than x CFEP approved FEPs will be undertaken by the Waikato Regional Council. Any failed CFEP audit results will automatically result in loss of certification status and revoke of the approved FEP.
- d. Requiring regular reporting by Certified Sector Schemes to the Waikato Regional Council
- e. Allowing certified teatien sector schemes to be revoked in the event of continual and repeated failure to meet its obligations

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

Manage sub-catchment wide diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens, and enable existing and new low discharging activities to continue provided that cumulatively the achievement of Objective 3 is not compromised. Activities and uses currently defined as low dischargers may in the future need to To recognise that future regional plan changes or regional plans are likely to require all farming activities make further reductions in the take mitigation actions that will reduce diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens in order for Objective 1 to be met.⁵²

To grant resource consents that authorise farming activities for a duration that will enable further reductions in contaminant losses to be implemented through replacement resource consents rather than by way of a review of consent conditions; unless the application demonstrates clear and enduring ongoing reductions of contaminant losses beyond those imposed in response to the short-term water quality attribute states in Table 3.11-1 and the property is not in a Priority 1 sub-catchment.⁵³

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

To recognise that:

- a. All farmers, businesses and communities⁵⁴ will need to contribute to achieving the water quality attribute states⁵⁵ in Table 3.11-1; and
- b. Changes in practices and activities need to start immediately⁵⁶; and
- c. The rate of change will need to be staged over the coming decades to minimise social, economic⁵⁷ and cultural disruption and enable innovation and new practices to develop; and
- d. Responding to the reasonably foreseeable effects of climate change will mean that different regulatory and non-regulatory responses may be needed in future.⁵⁸

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

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

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

Land use change consent applications that demonstrate clear and enduring decreases in existing diffuse discharges of nitrogen, phosphorus, sediment or microbial pathogens will generally be granted.⁵⁹

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

Prioritise the management of diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens land and water resources by implementing Policies 2, 3 and 9, and⁶¹ in accordance with the prioritisation of areas set out in Table 3.11-2, commercial vegetable production activities⁶² [OPTION and dairy farming⁶³]. The catchments of lakes⁶⁴ Priority areas include: and through the requirements in FEPs

- a. Sub-catchments where there is a greater gap between the water quality targets⁶⁵ in Objective 1 (Table 3.11-1) and current water quality; and
- b. Lakes Freshwater Management Units⁶⁶; and
- c. Whangamarino Wetland.

In addition to the priority sub-catchments listed in Table 3.11-2, the 75th percentile nitrogen-leaching value dischargers will also be prioritised for Farm Environment Plans.⁶⁵

3.11.5 Rules/Ngā Ture

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

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

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

1. The property is registered with the Waikato Regional Council in conformance with Schedule A; and
 2. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and
- Either:
3. The property area is less than or equal to 4.1 hectares; and
 4. The farming activities do not form part of an enterprise being undertaken on more than one property; or
- The property area Where the property area is greater than 4.1 hectares:
5. For grazed land, the stocking rate of the land is less than 6 stock units per hectare; and
 6. No arable cropping occurs; and
 7. The farming activities do not form part of an enterprise being undertaken on more than one property.^{82,83}

3.11.5.1A Interim Permitted Activity Rule – Farming

Rule 3.11.5.1A – Interim Permitted Activity Rule – Farming

The use of land for farming, which is not a permitted activity under Rule 3.11.5.2, is a permitted activity until:

1. The later of 1 September 2021 or 6 months after this Plan becomes operative, for all properties in Priority 1 sub-catchments listed in Table 3.11-2, and all properties with a Nitrogen Reference Point greater than the 75th percentile nitrogen leaching value; and
2. The later of 1 March 2025 or 1 year after this Plan becomes operative for properties in Priority 2 sub-catchments listed in Table 3.11-2; and
3. 1 January 2026 for properties in Priority 3 sub-catchments listed in Table 3.11-2.

subject to the following conditions:

1. The property is registered with the Council in conformance with Schedule A; and
2. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and
3. No commercial vegetable production occurs; and
4. A Nitrogen Reference Point for nitrogen surplus is produced for the property in conformance with Schedule B; and
- 4A. The Nitrogen Reference Point for Nitrogen Surplus does not reduce below the level of nitrogen surplus for the property submitted to the Waikato Regional Council in accordance with condition 4
5. Full electronic access to Overseer or any other software or system that models or records diffuse contaminant losses for the farming land use authorised by this rule is granted to the Council; and⁸⁵
6. There has been less than a cumulative net total of 4.1 hectares of change in the use of land from that which was occurring at 22 October 2016 within a property or enterprise from:
 1. Woody vegetation to farming activities; or
 2. Any farming activity other than dairy farming to dairy farming; or
 3. Any farming activity to Commercial Vegetable Production⁸⁶

3.11.5.2 Permitted Activity Rule – Other Low intensity farming activities/Te Ture mō ngā Mahi e Whakaaetia ana – Ētehi atu mahi i runga pāmu

Rule 3.11.5.2 - Permitted Activity Rule – Other Low intensity farming activities

The use of land for farming activities (excluding commercial vegetable production) and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water where the property area is greater than 4.1 hectares, and has more than 6 stock units per hectare or is used for arable cropping,⁸⁷ is a permitted activity subject to the following conditions:

A. For all properties:

1. The property is registered with the Waikato Regional Council in conformance with Schedule A; and
2. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C and Conditions

- 3(e) and 4(c) of this Rule; and
- 2A. The farming activities do not form part of an enterprise; and
- 2B. No commercial vegetable production occurs; and
- 2C. No dairy farming or grazing of dairy cattle occurs; and
- 2D. No feedlots or sacrifice paddocks are used on the property; and
- 2E. No more than 5% of the land used for farming is used for cropping, including winter forage crops; and⁸⁸
- B3. ~~Where~~ The property area is less than or equal to 20 hectares; or:
- a. ~~The farming activities do not form part of an enterprise being undertaken on more than one property; and~~
- b. ~~Where the land is:~~
- i. ~~used for grazing livestock, the stocking rate of the land is no greater than the stocking rate of the land at 22 October 2016; or~~
- ii. ~~not used for grazing livestock, the land use has the same or lower diffuse discharges of nitrogen, phosphorus, sediment or microbial pathogens as the land use at 22 October 2016; and~~
- c. ~~Upon request, the landowner shall obtain and provide to the Council independent verification from a Certified Farm Environment Planner that the use of land is compliant with either (b)(i) or (b)(ii) above; and~~
- d. ~~Upon request from the Council, a description of the current land use activities shall be provided to the Council; and~~
- e. ~~Where the property or enterprise contains any of the water bodies listed in Schedule C, new fences installed after 22 October 2016 must be located to ensure cattle, horses, deer and pigs cannot be within three metres of the bed of the water body (excluding constructed wetlands and drains).~~⁸⁹
- C4. ~~Where~~ The property or enterprise area is greater than 20 hectares, and either:
1. The stocking rate of the land is less than 6 stock units per hectare; or
2. The only farming activity occurring on the property is the raising, training or housing of horses; or⁹⁰
3. The stocking rate of the land is greater than 6 stock units but less than 10 stock units per hectare; and⁹¹
- a. A Nitrogen Reference Point for nitrogen surplus is produced for the property or enterprise in conformance with Schedule B;
- a1. The Nitrogen Reference Point for Nitrogen Surplus does not reduce below the level of nitrogen surplus for the property submitted to the Waikato Regional Council in accordance with condition 3a.
- and
- b. The diffuse discharge of nitrogen from the property or enterprise does not exceed either:
- i. the Nitrogen Reference Point; or
- ii. 15kg nitrogen/hectare/year;
- whichever is the lesser, over the whole property or enterprise when assessed in accordance with Schedule B; and⁹²
- c. No part of the property or enterprise over 15 degrees slope is cultivated; and ~~or~~
- c1. No part of the property over XX degrees of slope is⁹³ ~~is~~ grazed; and
- d. No winter forage crops are grazed in situ; and
- e. ~~Where the property or enterprise contains any of the water bodies listed in Schedule C:~~
- i. ~~There shall be no cultivation within 5 metres of the bed of the water body; and~~
- ii. ~~New fences installed after 22 October 2016 must be located to ensure cattle, horses, deer and pigs cannot be within three metres of the bed of the water body (excluding constructed wetlands and drains); and~~⁹⁴
- f5. ~~For all properties greater than 4.1 hectares, from 31 March 2019 30 November 2020, in addition to the requirements of Schedule A, the following information is~~ must be provided to the Waikato Regional Council by 1 September each year:
- a. The monthly average Annual stock numbers of each stock class from 1 July to 30 June in the following year; and
- b. Tonnes and type of Annual fertiliser applied from 1 July to 30 June in the following year use; and
- c. Tonnes of and type of Annual brought in animal feed brought onto the property in the previous 12 months; and⁹⁵
- g. Full electronic access to Overseer or any other software or system that models or records diffuse contaminant losses for the farming land use authorised by this rule is granted to the Council; and⁹⁶
- h. Upon request, the landowner shall obtain and provide to the Council independent verification from a Certified Farm Environment Planner that the use of land is compliant with the conditions of this Rule within 20 working days of the request (unless otherwise agreed in writing by Council).⁹⁷

OPTION

3.11.5.2A Controlled Activity Rule – Medium intensity farming/

Rule 3.11.5.2A - Controlled Activity Rule – Medium intensity farming

The use of land for farming, which is not a permitted activity under Rules 3.11.5.1A to 3.11.5.2, is a controlled activity subject to the following conditions:

1. The property is registered with the Council in conformance with Schedule A; and

1A. A Farm Environment Plan which has been prepared in accordance with Schedule 1A and has been approved by a Certified Farm Environment Planner, and is provided to the Waikato Regional Council at the time the resource

- ~~consent application is lodged; and~~
2. A Nitrogen Reference Point for nitrogen surplus is produced for the property in conformance with Schedule B; and
 3. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and
 4. The farming activities do not form part of an enterprise; and
 5. No commercial vegetable production occurs; and

 6. Full electronic access to Overseer or any other software or system that models or records diffuse contaminant losses for the farming land use authorised by this rule is granted to the Council; and
 7. A Farm Environment Plan has been prepared in conformance with Schedule 1 and has been approved by a Certified Farm Environment Planner, and is provided to the Council at the time the resource consent application is lodged; and
 8. Either:
 - a. The Nitrogen Reference Point for nitrogen surplus is not exceeded; or
 - b. The stocking rate of the land is no greater than 18 stock units per hectare and has not increased above the stocking rate during the Reference Period in Schedule B; and
 6. There has been less than a cumulative net total of 4.1 hectares of change in the use of land from that which was occurring at 22 October 2016 within a property or enterprise from:
 1. Woody vegetation to farming activities; or
 2. Any farming activity other than dairy farming to dairy farming; or
 3. Any farming activity to Commercial Vegetable Production

Waikato Regional Council reserves control over the following matters:

- i. The content, compliance with and auditing of the Farm Environment Plan.
 - ii. The actions and timeframes to achieve Good Farming Practices or better in order to reduce the diffuse discharge of nitrogen, phosphorus, sediment or microbial pathogens to water or to land where they may enter water.
 - iii. For enterprises, the procedures and limitations, including Nitrogen Reference Points, to be applied to land that enters or leaves the enterprise.
 - iv. Where the Nitrogen Reference Point exceeds the 75th percentile nitrogen leaching value, actions, timeframes and other measures to ensure the diffuse discharge of nitrogen is reduced so that it does not exceed the 75th percentile nitrogen leaching value by 1 July 2026.
 - v. The term of the resource consent.
 - vi. The timeframe and circumstances under which the consent conditions may be reviewed.
 - vii. Procedures for reviewing, amending and re-approving the Farm Environment Plan.
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3.11.5.3 Permitted ~~Restricted Discretionary~~ Activity Rule – Farming activities with a Farm Environment Plan ~~prepared under Schedule 1A and~~ under a Certified ~~Industry Sector Scheme/Te~~ Ture mō ngā Mahi e Whakaaetia ana – Ngā mahi i runga pāmu kua whai Mahere Taiao ā-Pāmu i raro i te Kaupapa ā-Ahumahi kua Whai Tohu

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

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

1. The property is registered with the Waikato Regional Council in conformance with Schedule A; and
2. A Nitrogen Reference Point ~~for nitrogen surplus~~ is produced for the property or enterprise in conformance with Schedule B; and

~~2A. The Nitrogen Reference Point for Nitrogen Surplus does not reduce below the level of nitrogen surplus for the property submitted to the Waikato Regional Council in accordance with condition 2; and~~

3. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and
4. The Certified ~~Industry Sector Scheme~~ meets the criteria set out in Schedule 2 and has been approved by the Chief Executive Officer of the Waikato Regional Council ~~as meeting the standards set out in Schedule 2~~ and not revoked by written notice from the Chief Executive; and

~~4A. The property of enterprise is part of an approved Certified Sector Scheme and is complying with all its necessary obligations and responsibilities under that Certified ~~Sector Industry~~ Scheme; and~~

5. A Farm Environment Plan which:

- a. has been prepared in accordance with Schedule 1A; and
- b. has been approved by a Certified Farm Environment Planner; and
- c. is provided to the Waikato Regional Council ~~at the time the resource consent application is lodged; and as follows:~~

- a. ~~By 1 July 2020 1 March 2022~~ for properties or enterprises within Priority 1 sub-catchments listed in Table 3.11-2, and all properties or enterprises with a Nitrogen Reference Point greater than the 75th percentile nitrogen leaching value;
- b. ~~By 1 July 2023 1 March 2025~~ for properties or enterprises within Priority 2 sub-catchments listed in Table 3.11-2;
- c. ~~By 1 July 2026~~ for properties or enterprises within Priority 3 sub-catchments listed in Table 3.11-2; and

~~5a. Full electronic access to Overseer or any other software or system that records farm data and models or records diffuse contaminant losses for the farming land use authorised by this rule is granted to the Waikato Regional Council; and~~

~~5b. There have been less than a cumulative net total of 4.1 hectares of change in the use of land from that which was occurring at 22 October 2016 within a property or enterprise from:~~

1. ~~Woody vegetation to farming activities; or~~
2. ~~Any farming activity other than dairy farming to dairy farming; or~~
3. ~~Any farming activity to Commercial Vegetable Production~~

~~6. The use of land shall be undertaken in accordance with the actions and timeframes specified in the Farm Environment Plan; and~~

~~7. The Farm Environment Plan provided under Condition 5 may be amended in accordance with the procedure set out in Schedule 1A and the use of land shall thereafter be undertaken in accordance with the ~~approved~~ amended plan; and~~

~~8. A copy of the Farm Environment Plan amended in accordance with condition (7) shall be provided to the Waikato Regional Council within 30 working days of the date of its amendment.~~

~~9. Meets all the relevant monitoring and reporting requirements described within the certified Farm Environment Plan and Method 3.11.4.3.~~

~~Waikato Regional Council restricts its discretion to the following matters:~~

- ~~i. The content, compliance with and auditing of the Farm Environment Plan.~~
- ~~ii. The actions and timeframes to achieve Good Farming Practices or better in order to reduce the diffuse discharge of nitrogen, phosphorus, sediment or microbial pathogens to water or to land where they may enter water.~~
- ~~iii. The effects, including cumulatively, of diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens, particularly where the activity may lead to an increase in the discharge of one or more contaminants.~~
- ~~iv. For enterprises, the procedures and limitations, including Nitrogen Reference Points, to be applied to land that enters or leaves the enterprise.~~
- ~~v. Where the Nitrogen Reference Point exceeds the 75th percentile nitrogen leaching value, actions, timeframes and other measures to ensure the diffuse discharge of nitrogen is reduced so that it does not exceed the 75th percentile nitrogen leaching value by 1 July 2026.~~
- ~~vi. The term of the resource consent.~~
- ~~vii. The timeframe and circumstances under which the consent conditions may be reviewed.~~
- ~~viii. Procedures for reviewing, amending and re-approving the Farm Environment Plan.~~

3.11.5.3A Controlled Activity Rule – Farming under a Certified Sector Scheme without a farm environment plan fully compliant with Schedule 1A

Insert new rule in accordance with Willis Evidence para 8.3

3.11.5.4 Controlled Restricted Discretionary Activity Rule – Farming activities with a Farm

Environment Plan prepared under Schedule 1 not under a Certified Industry Scheme/Te Ture mō ngā Mahi ka āta

Whakahaerehia – Ngā mahi i runga pāmu kua whai Mahere Taiao ā-Pāmu kāore i raro i te Kaupapa ā-Ahumahi kua Whai Tohu

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

~~Except as provided for in Rule 3.11.5.1 and Rule 3.11.5.2~~ The use of land for farming activities (excluding commercial vegetable production) where that land use is not registered to a Certified Industry Scheme, and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water, which is not a permitted activity under Rules 3.11.5.1A to 3.11.5.32, is a Restricted Discretionary permitted⁹⁸ activity until:

- ~~1. 1 January 2020 1 September 2021~~ for properties or enterprises in Priority 1 sub-catchments listed in Table 3.11-2
- ~~2. 1 January 2023 1 September 2024~~ for properties or enterprises in Priority 2 sub-catchments listed in Table 3.11-2;
- ~~3. 1 January 2026~~ for properties or enterprises in Priority 3 sub-catchments listed in Table 3.11-2;⁹⁹

subject to the following conditions:

- The property is registered with the Waikato Regional Council in conformance with Schedule A; and
1A. A Farm Environment Plan which has been prepared in accordance with Schedule 1A and has been approved by a

Certified Farm Environment Planner, and is provided to the Waikato Regional Council at the time the resource consent application is lodged; and as follows: the Waikato Regional Council confirms that the farming activity is a permitted activity.

- A Nitrogen Reference Point for nitrogen surplus is produced for the property or enterprise in conformance with Schedule B; and

2A. The Nitrogen Reference Point for Nitrogen Surplus does not reduce below the level of nitrogen surplus for the property submitted to the Waikato Regional Council in accordance with condition 2; and

- No commercial vegetable production occurs; and

- A Farm Environment Plan has been prepared in conformance with Schedule 1 and has been approved by a Certified

Farm Environment Planner, or prepared under a Certified Sector Scheme, and is provided to the Council at the time the resource consent application is lodged; and¹⁰⁰

- Cattle, horses, deer and pigs are excluded from water bodies in accordance with Schedule C; and¹⁰¹

- Full electronic access to Overseer or any other software or system that models or records diffuse contaminant losses

for the farming land use authorised by this rule is granted to the Waikato Regional Council; and¹⁰²

- There have been less than a cumulative net total of 4.1 hectares of change in the use of land from that which was

occurring at 22 October 2016 within a property or enterprise from:

- Woody vegetation to farming activities; or
- Any farming activity other than dairy farming to dairy farming; or
- Any farming activity to Commercial Vegetable Production¹⁰³

After the dates set out in 1), 2) and 3) above the use of land shall be a controlled activity (requiring resource consent), subject to the following standards and terms:

~~a. A Farm Environment Plan has been prepared in conformance with Schedule 1 and has been approved by a Certified~~

~~Farm Environment Planner, and is provided to the Waikato Regional Council at the time the resource consent application is lodged by the dates specified in I-III below; and~~

~~b. The property is registered with the Waikato Regional Council in conformance with Schedule A; and~~

~~c. A Nitrogen Reference Point is produced for the property or enterprise in conformance with Schedule B and is provided~~

~~to the Waikato Regional Council at the time the resource consent application is lodged; and~~

~~d. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C.~~

~~Waikato Regional Council restricts its discretion to the following matters: Matters of Control~~

~~Waikato Regional Council reserves control over the following matters:~~

~~i. The content, compliance with and auditing of the Farm Environment Plan.~~

~~ii. The actions and timeframes to achieve Good Farming Practices or better in order to for undertaking mitigation actions~~

~~that maintain or reduce the diffuse discharge of nitrogen, phosphorus, sediment or microbial pathogens to water or to land where they may enter water.~~

~~ia. The effects, including cumulatively, of diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens,~~

~~particularly where the activity may lead to an increase in the discharge of one or more contaminants.~~

~~iib. For enterprises, the procedures and limitations, including Nitrogen Reference Points for nitrogen surplus, to be applied to land that enters or leaves the enterprise.~~

~~iii. The actions, timeframes and other measures to ensure that the diffuse discharge of nitrogen from the property or enterprise, as measured by the five-year rolling average annual nitrogen loss as determined by the use of the current version of OVERSEER[®], does not increase beyond the property or enterprise's Nitrogen Reference Point, unless other suitable mitigations are specified.~~

~~iv. Where the Nitrogen Reference Point exceeds the 75th percentile nitrogen leaching value, actions, timeframes and other measures to ensure the diffuse discharge of nitrogen is reduced so that it does not exceed the 75th percentile nitrogen leaching value by 1 July 2026.~~

~~v. The term of the resource consent.~~

~~vi. The monitoring, record keeping, reporting and information provision requirements for the holder of the resource~~

~~consent to demonstrate and/or monitor compliance with the Farm Environment Plan.~~

~~vii. The timeframe and circumstances under which the consent conditions may be reviewed or the Farm Environment Plan~~

~~shall be amended.~~

~~viii. Procedures for reviewing, amending and re-approving the Farm Environment Plan.~~

~~ix. Information to be provided to show that the property is being managed in a way that would not cause an increase in~~

~~loss of contaminants, which may include annual Overseer modelling for the property or enterprise, or information on~~

~~matters such as stocking rate, fertiliser application, imported feed and cropping~~

Dates:

~~I. For Priority 1 sub-catchments, and properties with a Nitrogen Reference Point of greater than 75th percentile nitrogen~~

~~leaching value, by 1 July 2020~~

~~II. For Priority 2 sub-catchments, by 1 July 2023~~

~~III. For Priority 3 sub-catchments, by 1 July 2026~~

Notification:

~~Consent applications will be considered without notification, and without the need to obtain written approval of affected persons.¹⁰⁴~~

3.11.5.6 Restricted Discretionary Activity Rule – The use of land for farming

activities/Te Ture mō ngā kōwhiringa mahi e herea ana — te whakamahinga o te whenua mō ngā mahinga pāmu

Rule 3.11.5.6 Restricted Discretionary Activity Rule — The use of land for farming activities

The use of land for farming activities that does not comply with the conditions, standard or terms of Rules 3.11.5.1 to 3.11.5.5 and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water is a restricted discretionary activity (requiring resource consent) Waikato Regional Council restricts its discretion over the following matters:

- i. Cumulative effects on water quality of the catchment of the Waikato and Waipa Rivers.
- ii. The diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens.
- iii. The need for and the content of a Farm Environment Plan.
- iv. The term of the resource consent.
- v. The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent.
- vi. The time frame and circumstances under which the consent conditions may be reviewed.
- vii. The matters addressed by Schedules A, B and C.

Notification:

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

3.11.5.6A Discretionary Activity Rule

Rule 3.11.5.6A - Discretionary Activity Rule

The use of land for farming that does not meet one or more of [conditions (1) to (5a) of Rule 3.11.5.3 or] conditions (1) to (6) of Rule 3.11.5.4 is a Discretionary activity.¹⁰⁵

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

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

The use of land for farming that does not meet [condition (5b) of Rule 3.11.5.3 or] condition (7) of Rule 3.11.5.4 is a non-complying activity.¹⁰⁶

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

1. Woody vegetation to farming activities; or
2. Any livestock grazing other than dairy farming to dairy farming; or
3. Arable cropping to dairy farming; or
4. Any land use to commercial vegetable production except as provided for under standard and term g. of Rule 3.11.5.5 is a non-complying activity (requiring resource consent) until 1 July 2026.

Notification:

Consent applications will be considered without notification, and without the need to obtain written approval of affected persons, subject to the Council being satisfied that the loss of contaminants from the proposed land use will be lower than that from the existing land use.¹⁰⁷

3.11.5.8 Permitted Activity Rule – Authorised Diffuse Discharges

The diffuse discharge of nitrogen, phosphorus, sediment and or microbial contaminants from farming onto or into land in circumstances that may result in a contaminant entering water that would otherwise contravene section 15(1) of the RMA is a permitted activity, provided the following conditions are met:

1. the land use activity associated with the discharge is authorised under Rules 3.11.5.1 to 3.11.5.7; and
2. the discharge of a contaminant is managed to ensure that after reasonable mixing it does not give rise to any of the following effects on receiving waters:
 - (a) any conspicuous oil or grease films, scums or foams, or floatable or suspended materials; or
 - (b) any conspicuous change in the colour or visual clarity; or
 - (c) the rendering of fresh water unsuitable for consumption by farm animals; or
 - (d) any significant adverse effects on aquatic life.¹⁰⁸

3.11.5.9 Non-Complying Activity Rule – Unauthorised Diffuse Discharges

The diffuse discharge of nitrogen, phosphorus, sediment and or microbial contaminants from farming onto or into land in circumstances that may result in a contaminant entering water that would otherwise contravene section 15(1) of the RMA that does not meet one or more of the conditions of Rule 3.11.5.8 is a non-complying activity.¹⁰⁹

Definition of Property:

For the purposes of Chapters 3.3, and 3.4 and 3.11 means one or more allotments contained in a single certificate of title, and also includes all adjacent land that is a single operating unit for the purposes of management under the same management structure OR in the same ownership, but contained in separate certificates of title. For the purpose of Rule [3.11.5.3 and] 3.11.5.4, a property is considered to be within a sub-catchment if more than 50% of that property is within the sub-catchment.'

Definition of Enterprise:

Enterprise/s: means one or more parcels of land under the same management structure held in single or multiple ownership to support the principle land use or which the principle land use is reliant upon, and constitutes a single operating unit for the purposes of management. An enterprise is considered to be within a sub catchment if more than 50% of that enterprise is within the sub catchment.

3.11.4 Implementation methods/Ngā tikanga whakatinana

3.11.4.3 Farm Environment Plans

Waikato Regional Council will prepare parameters and minimum requirements for the development of a certification process for professionals to develop, certify and monitor Farm Environment Plans in a consistent approach across the region. A Farm Environment Plan will be prepared by a certified person as per the requirements outlined in Schedule 1, and will assess the risk of diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens and specify actions to reduce those risks in order to bring about reductions in the discharges of those contaminants. Waikato Regional Council will develop guidance for risk assessments, auditing and compiling Farm Environment Plans.

Waikato Regional Council will take a risk based approach to monitoring Farm Environment Plans, starting with more frequent monitoring and then moving to monitoring based on risk assessment. Robust third party audit (independent of the farmer and Certified Farm Environment Planner) and monitoring will be required.

The risk based approach to monitoring the Farm Environment plans may include the grading system set out in the Dragten report 'Proposed Revisions to Schedule 1 to incorporate Good Farming Practice into Farm Environment Plans' (12 June 2019).

The Council will undertake annual random audits of no less than x CFEP approved FEPs. Any failed CFEP audit results will automatically result in loss of certification status and revoke of the approved FEP

3.11.4.5 Sub-catchments

Support retention of this method.

Insert:

h. Sub-catchment wide monitoring of good management practice and mitigation.

3.11.4.7 Information needs to support any future allocation/Ngā pārongo e hiahiatia ana hei taunaki i ngā tohanga o anamata

Gather information and commission appropriate scientific research to inform any future framework for the allocation of diffuse discharges including:

~~a. Implementing processes that will support the setting of property or enterprise level diffuse discharge limits in the future.~~

a. ~~b.~~ Researching:

- i. The quantum of contaminants that can be discharged at a sub-catchment and Freshwater Management Unit[^] scale while meeting the Table 3.11-1 water quality attribute[^] targets[^].
- ii. Methods to categorise and define 'land suitability'.
- iii. Tools for measuring or modelling discharges from individual properties, enterprises and sub-catchments, and how this can be related to the Table 3.11-1 water quality attribute[^] targets[^].

~~b. c. Sub-catchment wide monitoring of good management practice and mitigation.~~

3.11.4.10 Accounting system, Auditing and monitoring/Te pūnaha kaute me te aroturuki

Waikato Regional Council will establish and operate a publicly available accounting system, auditing and monitoring system in each Freshwater Management Unit/sub catchment, including:

- a. Collecting information on nitrogen, phosphorus, sediment and **microbial pathogen** levels in the respective fresh water bodies in each Freshwater Management Unit[^] from:
 - i. Council's existing river monitoring network; and
 - ii. **Sub-catchments** that are currently unrepresented in the existing monitoring network; and
 - iii. Lake Freshwater Management Units[^].
- b. Using the information collected to establish the baseline data for compiling a monitoring plan and to assess progress towards achieving the Table 11-1 water quality attribute[^] targets[^]; and
- c. Using state of the environment monitoring data including biological monitoring tools such as the Macroinvertebrate Community Index to provide the basis for identifying and reporting on long-term trends; and
- d. An information and accounting system for the **diffuse discharges** from **properties** and **enterprises** that supports the management of nitrogen, phosphorus, sediment and **microbial pathogens diffuse discharges** at an **enterprise or property** scale.

e. Annual random audits of no less than x CFEP approved FEPs will be undertaken by the Council. The Audits must be independent and are to be undertaken by a CFEP independent to FEP for the site being audited.

The Council shall maintain monitoring records of all annual FEPs and achievement of the commitments set out in the FEP. As summary of these monitoring records shall be made publicly available and updated annually.

Consequential changes to Schedule A – Registration with Waikato Regional Council and Schedule B – Nitrogen Reference Point to implement changes to policies and rules in particular to amend NRP to refer to nitrogen surplus and not nitrogen leach.

Miraka Limited - Rebuttal evidence – Block 3

19 July 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 Track Changes are from Miraka Limited

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

The Farm Environment Plan (FEP) will be prepared and provided in accordance with Parts A-C, ~~and B~~ below. Progress with implementation will be monitored, reviewed in accordance with Part DE. 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 purpose of a Farm Environment Plan is to assess the farm enterprise against good farming practice for the management of diffuse discharges of nitrogen, phosphorous, sediment and microbial pathogens. Where the farm enterprise is not consistent with good farming practice, the Farm Environment Plan is to identify the actions and 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 mitigations, the Farm Environment Plan is to identify the nature, combination, priority and timing of actions to manage the diffuse discharge of nitrogen, phosphorous, sediment and microbial pathogens from the farm enterprise in a way that:

1. Recognises and ~~takes account of~~provides for 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 ~~to the likely achievement of the short term targets^ in Objective 3 or the progression towards the outcomes anticipated by the Vision & Strategy and values^ referred to in Objective 1; and~~
3. ~~Recognises and takes account of the bio-physical characteristics of the property/enterprise Takes account of the relative contribution of the industry sector within which the farm enterprise belongs to the likely achievement of the short term targets^ in Objective 3 or the progression towards the outcomes anticipated by the Vision & Strategy referred to in Objective 1; and~~

4. Takes account of the resources reasonably available to the farm enterprise.

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; ~~and~~
- 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 assessment of whether farming practices are consistent with each of the following objectives and principles; and

- ~~a).~~ Aa description of those farming practices that will continue to be undertaken in a manner consistent with the objectives and principles;
- ~~b).~~ A description of those farming practices that are not consistent with the objectives or principles, and a description of the time bound actions or practices that will be adopted to ensure the objectives or principles are met; and
- c) 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. The FEP shall include for each objective and 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 and management practices that demonstrate performance and the achievement, or progress toward achievement, of an objective or principle listed in Part C; and
- b) Information described in a) above is provided to the Waikato Council on request.

5. The FEP shall include a description of actions 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.

~~**3a – Management area: Whole farm**~~

~~**Objective 1**~~

~~To manage farming activities according to good farming practice, and in a way that minimises the loss of contaminants from the farm.~~

~~**Principles**~~

- ~~1. Identify the characteristics of the farm system, the risks that the farm system poses to water quality, and the good farming practices that minimise the losses of sediment, microbial pathogens, phosphorus and nitrogen.~~
- ~~2. Maintain accurate and auditable records of annual farm inputs, outputs and management practices.~~
- ~~3. Manage farming operations to minimise losses of sediment, microbial pathogens, phosphorus and nitrogen to water, and maintain or enhance soil structure.~~

~~-~~

6a3b – Management Area: Nutrient management

Objective 12

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

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 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. Ensure equipment for spreading fertilisers is well maintained and calibrated.
- 58. Store, transport and distribute feed to minimise wastage, leachate and soil damage.

Objective 3-2

To farm in accordance with the nitrogen management requirements of PC1

Principle

Either, where the property's NRP is \leq 75th percentile:-

- ~~9. Farm in a manner that does not result in farm nitrogen losses exceeding the farm's NRP;—~~

Or, where the property's NRP is $>$ than the 75th percentile-

- ~~9. Farm in a manner that does not result in farm nitrogen losses exceeding the 75th%ile for the FMU; or-~~
- 96. Farm in a manner that does not result in farm nitrogen losses exceeding the N Surplus Nitrogen Reference Point for the property or enterprise.

36bc – Management Area: Waterways

Objective 34

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

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.
- 811. 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 45

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

Principle

942. Exclude stock from waterbodies to the extent that it is compatible with land form, stock class and stock intensity. Where exclusion is not possible-practicable, mitigate impacts on waterways.

1043. Exclude stock in a manner consistent with the requirements of Schedule C.

36cd – Management Area: Land and soil

Objective 56

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

Principles

1144. Manage periods of exposed soil between crops/pasture to reduce risk of erosion, overland flow and leaching.

1245. Manage or retire erosion-prone land to minimise soil losses through appropriate measures and practices.

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

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

36de – Management Area: Effluent

Objective 67

To minimise contaminant losses to waterways from farm animal effluent.

Principles

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

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

1720. Ensure equipment for spreading effluent and other organic manures is well maintained and calibrated.

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 ~~7~~⁸

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

Principles

~~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 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
3. Whether there has been an acceptable rate of progress towards the 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. 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 the Waikato Regional Councils FEP 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 anythe 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 ~~farming activity remains consistent with Part B~~ 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.~~

Miraka Limited - Rebuttal evidence – Block 3

19 July 2019

Drafting note: This Schedule is based on Schedule 1A included in the primary evidence of Mr Willis with proposed amendments from Miraka Limited.

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

The Farm Environment Plan (FEP) will be prepared and provided in accordance with Parts A-C below. Progress with implementation will be monitored in accordance with Part D ~~(where the FEP is required as a condition of resource consent)~~. 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 that includes 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.

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 – CONTENT OF AN FEP

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 water bodies;
 - e) The location on any Schedule C water**bodiesways** 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; ~~and~~
 - g) The location of land that may be cultivated and land to be cultivated over the next 12-month period; and
 - hg) The location(s) of described actions and practices to be undertaken.

~~3. Description of whole farm management practices and general requirements:~~

- ~~a) Identification and description of the key characteristics of the farm system including all inputs, outputs and management practices~~

3. Description of the key characteristics of the farm system, the context within which it operates and the key contaminant risks. Each FEP is to address the standards and requirements in Part C. The relevant standards and requirements for each FEP are to be determined on a case by case basis by the CFEP. Determination of the relevant standards and requirements is to be done by the CFEP based on the following considerations:

- a) The characteristics of the sub-catchment within which the property or enterprise is located as set out in the relevant Sub-catchment Management Plan and/or Catchment Profile produced by Waikato Regional Council; and

- b) The scale and significance of the risk from the discharge of each contaminant from the property or enterprise; and
- c) Bio-physical characteristics of the property/enterprise and the types of mitigations that are therefore available and appropriate.

The combination, priority and timing of the implementation of the standards and requirements in the FEP is to be determined by the CFEP based on the above considerations a-c and the resources reasonably available to the land manager or enterprise.

4. Description of actions 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.

54. Based on 3 and 4 above, and on an identification and assessment of all sources of sediment, nitrogen, phosphorus and microbial pathogens, a description of:

- a) a description of the farming practices (including the management actions for critical source areas) that are consistent with the standards and requirements as set out in Part C and a commitment to continue those practices and actions;
- b) a description of the farming practices (including the management actions for critical source areas) that are not consistent with the standards and requirements as set out in Part C and a commitment to adopt the required practices and actions; as soon as practicable and in no instance shall that exceed 4 years from the date the FEP is required by this plan or 2028, whichever is earlier.
- c) identification of any risk of contaminant loss on the farm that would not be managed by the standards and requirements as set out in Part C and a description of any additional practices and actions that may be required to address that risk; and
- d) identification of those farming practices in a) to c) 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.

PART C – STANDARDS AND REQUIREMENTS

1. Nutrient management

- a) Nutrient budget, soil tests and industry approved tools (eg Crop Calculator) are used as tools for determining fertiliser requirements, with
 - i) Regular soil tests (specified frequency) undertaken as aid to determining P needs
 - ii) Deep soil N testing is used as basis of N applications to crops
- b) Plant analysis is used as an aid to determining crop requirements and fertiliser needs.
- c) Fertiliser application rates are based on advisor's recommendations
- d) Fertiliser recommendations are made specifically for different nutrient blocks and/crops
- e) Fertiliser is applied at appropriate rates and timing for crop type
- e)f) Nitrogen (N) fertiliser is applied to pasture in response to a future feed deficit identified using a feed budgeting tool.
- b)g) Nitrogen fertiliser application rates to pasture are no greater than 30 units of N per dressing.
- e)h) Nitrogen fertiliser is applied to crops in accordance with recommendations of the relevant industry crop model.
- i) Nitrogen fertiliser is not applied when soil temperature (as provided by either soil temperature monitoring or by reference to a catchment specific daily soil temp site) is below 10 degrees.
- d)j) Nitrogen fertiliser is not applied during the high-risk months of May, June and July.
- k) Crop rotation is designed to utilise residual nitrogen in the soil (e.g. cereals following fodder crop)
- e)l) Soil phosphorus (P) levels are monitored and maintained at or below agronomic optimum as set out in Fertiliser Use Code of Practice - <http://www.fertiliser.org.nz/Site/code-of-practice/>
- f)m) Where soil P levels are above optimum there will be a managed reduction plan to reach COP optimum levels.
- n) Phosphate fertiliser is applied to pasture in response to predicted future feed or crop requirements
- o) Phosphate fertiliser is not applied during the high-risk months of June to September inclusive
- p) Phosphate fertiliser is not applied when soils are at field capacity and/or soil temperatures are below 8 degrees

- g) Slow release P fertilisers are used where risk of P loss from conventional P fertilisers are high.
- g)r) Fertiliser is stored on a sealed surface and covered or roofed with impermeable material. The storage area will be walled or bunded so no contaminated runoff from the storage site occurs.
- h)s) On-farm eEquipment for spreading fertiliser is calibrated at least annually according to design specifications and a record kept of that calibration process.
- h)t) Contractors used for fertiliser spreading are Spreadmark certified
- h)u) Precision Ag technologies are used for the placement of fertiliser
- v) There are no direct applications fertiliser applications into waterways

2. Farming in accordance with the nitrogen management requirements

- a) ~~Where the N leaching rate is greater than the 75th%ile for the relevant FMU, action must be taken to decrease nitrogen leaching rate below the 75th%ile. This action must ensure the property has reduced nitrogen leaching to at least the required level, and is to be implemented within 3 years of the relevant FEP provision date. This must be demonstrated by the inclusion in the FEP of an Overseer modelled scenario of projected future nitrogen leaching rate under revised management practices and a commitment to adopt those revised practices.~~
- b) ~~Where the applicable NRP is less than or equal to the relevant 75th%ile N leaching rate, e~~
- a) Nitrogen losses are at or below the N Surplus Nitrogen Reference Point for the property or enterprise;
- b) Efficiency opportunities are will be identified and described with associated actions to minimise N leaching. Expected reductions are demonstrated by the inclusion in the FEP of an Overseer modelled on-farm benchmark for N surplus and modelled scenario of future N surplus under revised management practices.
- c) Where purchased N surplus is greater than 225kg N/ha/yr, practice change is identified to decrease purchased N surplus such that the 225kg N/ha/yr threshold is not exceeded. Such reduction must be achieved within 5 years.
- a) —
- e) ~~A Nitrogen Risk Scorecard (NRS) assessment of risk (sector specific) is be carried out as part of the FEP development process. An annual NRS report is generated and demonstrates that N loss risk ratings have not increased over the previous year.~~

~~d) Where purchased N surplus is greater than 150kg N/ha/yr practice change is to decrease purchased N surplus such that the 150kg N/ha/yr threshold is not exceeded.~~

Note: 'purchased N surplus' is calculated as the difference between the N brought onto a farm in fertiliser and imported animal feed less the amount of N exported from the farm in product. It is can be calculated using the on-line calculator located on the Waikato Regional Council website or, alternatively, it is an automated output of Overseer nutrient budgets ~~of the Nitrogen Risk Scorecard~~.

3. Waterways management

- a) Stock are excluded from waterways in conformance with Schedule C
- b) Where Schedule C does not require exclusion, effective temporary exclusion with a minimum 1.5m setback is to be undertaken/achieved when:
 - i. stock ~~are~~ being intensively grazed using break or block feeding with electric fencing in any paddock with a Schedule C waterway; or
 - ii. The paddock stocking rate is greater than 30SU/ha.
- c) Critical source areas for nitrogen, phosphorus, sediment and pathogens that are close to, or closely linked with a Schedule C waterway are prioritised for action.
- d) Any new or replacement stock exclusion fencing of a Schedule C waterway has an average setback from the waterway bank of 3m with no point having less than a 1.5m setback for land with a slope over 10 degrees, and an average setback from the waterway bank of 1.5m with no point having less than a 1m setback for land with a slope less than 10 degrees.
- e) Low points are identified and wider riparian margins left in these areas to filter runoff
- e)f) Vegetated buffer strips are maintained along all waterways (including drains and wetlands)
- g) Sections of the waterway margins on the property are strategically planted with appropriate riparian species to enhance stream habitat
- f)h) Enhancement programme is in place for areas on the property which are identified as significant wetlands

4. Land and soil

- a) ~~e)~~ All land of class ~~6e~~, 7 or 8 (as determined using the Land Use Capability (LUC) Survey Handbook) is identified on the farm maps.
- b) All Class 8 land is retired from grazing
- c) No cattle older than 2 years or greater than 400kg ~~wt~~ are grazed on LUC class ~~6e or~~ 7 ~~or 8~~ land from June 1 to September 1.

- d) Farm scale erosion risks (type of erosion occurring / areas of the property at risk / specific location of ~~major-significant~~ erosion-prone soils-sites) are mapped.
- e) Sites identified as erosion prone are to be treated with soil conservation control techniques appropriate to the erosion type as identified and described in the Soil Conservation Technical Handbook 2001. These are identified on a map, and a schedule of control works included in the FEP.
- f) Differences in soil susceptibility to compaction are identified and soils or sites susceptible to compaction are mapped, and these are managed to minimise damage, including:
 - i. No cattle older than 2 years or greater than 400kg ~~wt~~ are grazed when soils are at field capacity
 - ii. Appropriate cultivation practices for the soil type and crop are used to maintain and/or enhance soil structure
 - iii. Cropping rotations are managed in such a way to help maintain and/or improve soil structure
 - iv. Passage of heavy machinery over high compaction risk soils is limited or avoided
 - v. Significant soil compaction damage is managed through soil aeration

Note: Properties or enterprises that have a current comprehensive erosion plan developed in conjunction with the Waikato Regional Council may attach such plan to the FEP in place of e) above.

Note: Properties or enterprises with significant areas of class 6, 7, or 8 land or with significant erosion risk by area or severity must develop their schedule of control works in e) above in conjunction with a CFEP with specific soil conservation ~~creditation~~ or directly with the Waikato Regional Council. Such plan is to be attached to the FEP.

Note: On properties with identified large scale erosion risks an erosion plan must be developed in conjunction with the regional council. The FEP must include an action to develop the erosion plan and, once prepared, include reference to such a plan, however, council supported erosion plans (that may be at more than a single property scale) do not have to be duplicated within the property FEP.

5. Winter grazing of forage crops

- a) No cattle older than 2 years or greater than 400kg ~~wt~~ are grazed on forage crops on LUC class 6e, 7 or 8 land from June 1 to September 1.

- b) No winter grazing of forage crops occurs on LUC Class 6e, 7 or 8 land from June 1 to September 1 where the number of cattle grazed exceeds ~~30-in-a-single-mob-xx~~ 100/ha
- c) No winter grazing of fodder crops (from June 1 to September 1) occurs within 3m of any Schedule C water body. An ~~ungrazed~~, vegetated buffer of at least 3m is provided between a winter grazed block and any Schedule C water body.
- ~~ee)~~ Break feeding is managed so animals are grazed toward a water body, with strips next to riparian margins grazed last.
- f) Ephemeral waterways that are not permanently fenced that have water in them during grazing are temporarily fenced to exclude stock.

6. Races, laneways, bridges

- a) New rRaces, laneways, culverts and bridges will be designed (including, in the case of races and laneways, through surface contouring and surface drainage channels) and maintained to prevent ponding and to direct ~~runoff~~ runoff away from waterways or in-to vegetated areas. Direct ~~runoff~~ runoff to surface water or to intermittent flow paths must not occur.
- b) Existing races, laneways, culverts and bridges are assessed and adapted to meet the requirements in a) above within 5 years.
- c) Farm tracks, gateways, water troughs, self-feeding areas, stock camps wallows and other sources of sediment, nutrient and microbial loss are located so as to minimise the risks to surface water quality.

7. Cropping

- a) No cultivation of LUC class 6e, 7 or 8 land or any land with a slope exceeding 25 degrees other than minimum tillage or direct drilling.
- b) On land less than 10 degrees slope cultivation setbacks from any Schedule C waterway are 1.53m minimum.
- c) On land greater than 10 degrees slope (but not including class 6e and above) cultivation setbacks are 35m minimum.
- d) Cultivation does not occur within any intermittent flow path
- e) Cultivation does not occur within any critical source areas.

8. Effluent management

- a) All effluent from dairy sheds, yards, feed pads, and other collection areas are collected for land application

- b) Effluent storage consistent with Dairy Effluent Storage Calculator (DESC) https://www.dairynz.co.nz/media/3223285/Using_the_Dairy_Effluent_Storage_Calculator_DN240_114.pdf is in place within 3 years of the date that the FEP is required.
- c) Effluent ponds are managed so as to ensure there is a minimum of 75% working volume available between 1 March and 1 May each year.
- d) The effluent block is sized to ensure nitrogen applications from applied effluent are less than 150kgN /ha/ year.
- e) The effluent system is designed and operated to ensure that the conditions of the permitted activity rule 3.5.5.1 in the regional plan can be met at all times.
- f) Yard areas (drystock and dairy) to be managed to ensure runoff to water does not occur. Where yards are sealed and washed down effluent must be collected into an effluent system and managed as set out in b) to e) above.
- g) No effluent is spread, over drains or water races, within 50m of watercourse or bore, within 20m of public road, within 150m of residential dwelling
- h) Major incident risks are identified and emergency procedures are in place
- i) Nitrogen applied from effluent is less than 150kg/ha as calculated by OVERSEER
- j) Effluent system maintenance and monitoring is carried out on a regular basis
- k) Application equipment is tested annually to ensure that it applying effluent uniformly at a depth appropriate to the design specs
- l) Effluent application is based on soil moisture status and effluent is not applied when soil conditions are near field capacity
- m) Effluent is spread over the whole of the available area
- n) Fertiliser applied to the effluent block is calculated taking into consideration the timing and amount of effluent applied
- o) All effluent applications are recorded - Location, duration, speed, person who did this, (including solids or slurry tankers)
- p) Effluent is applied at depths/rates that do not lead to ponding or runoff
- q) Effluent system is capable of delivering the correct amount of effluent for soil type and slope
- r) GPS technology is used to assist with the placement of effluent

9. Irrigation

- a) Irrigation scheduling: irrigation decisions are informed by:
 - i. soil moisture tapes, soil moisture probes and/or a soil moisture budget ~~are used to inform irrigation decisions.~~

ii. crop requirements

iii. recognition of differences in soil properties and their management

- b) A deficit irrigation system is operated. Fixed depth and return irrigation systems must be replaced with a deficit irrigation approach within 3 years of the date that the FEP is required.
- c) An assessment of the irrigation system must be undertaken every second year to determine application depths and uniformity. Where test results fall outside of manufacturers' specifications for the system an action must be included to address this within 12 months.
- d) All new irrigation systems are designed to meet the Irrigation New Zealand Codes of Practice and standards, and:
- i. Installed in accordance with Installation Code of Practice for Piped Irrigation Systems;
 - ii.—Tested and has been certified to deliver to INZ COP standards;
 - ii. Post installation checks show that system performs to desired specifications for system capacity, application depth and uniformity; and
 - iii. System is designed with site specific knowledge of soil, climate and crops needs
- e) Full pre-season maintenance checks undertaken on all irrigators
- f) On-going through the season system maintenance is undertaken and actions recorded
- g.) GPS or other technology used to aid placement of irrigators
- h) Irrigation applications to non-target areas are minimised
- i) System is closed down if run-off and/or ponding occurs and action taken to correct problem

10. Water Takes

- a) All farms will have in place all necessary authorisations for water takes. The conditions that apply to the particular takes on the property must be described in the FEP.

11. Record Kkeeping requirements

- a) Accurate and auditable records of annual farm inputs, outputs and management practices are maintained.
- b) Information described in a) above is provided to the Waikato Council on request.

PART G D – FEP REVIEW MONITORING AND REPORTING REQUIREMENTS

The FEP shall be reviewed no more than 12 months following approval 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
 3. Whether there has been an acceptable rate of progress towards the practices and actions in the FEP that can be implemented over time.
-
- ~~1. Prior to lodging a resource consent application with the Council under rule 3.11.5.3 – 3.11.5.5 of PG1; 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. 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 the Waikato Regional Councils FEP Independent Review manual. The review may include use of the Drogen grading system as set out in Method 3.11.4.3 of the Plan.

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:

- a) The amended FEP is certified by a Certified Farm Environment Planner as continuing to comply with the requirements of this schedule
- b) The change to the FEP does not contravene any mandatory requirement of any resource consent held in respect of the property [or enterprise](#), or any requirement of the Regional Plan that is not already authorised
- c) 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.