

**BEFORE INDEPENDENT HEARING COMMISSIONERS
AT HAMILTON**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions on Proposed Plan
Change 1 to the Waikato Regional Plan

**LEGAL SUBMISSIONS IN REPLY ON BEHALF OF
FONTERRA CO-OPERATIVE GROUP LTD (74057)**

BLOCK 2 – HEARING 19 JUNE 2019

26 JUNE 2019

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CHAMBERS

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MAY IT PLEASE THE COMMISSIONERS:**1. INTRODUCTION**

1.1 These submissions are presented on behalf of Fonterra Co-operative Group Ltd (**Fonterra**) and respond to questions raised by the Panel at the presentation of Fonterra's case on 19 June 2019.

2. CASELAW ON SECTION 70 AND THE MEANING OF "RECEIVING WATER"

2.1 The Panel asked whether there was any caselaw directly addressing s 70, RMA, and in particular what the phrase "receiving waters" mean. I have not been able to locate any additional judicial commentary directly addressing this issue, other than the decision referred to which said that receiving waters are "well understood to be the waters at the point of discharge"¹.

2.2 In my submission, that interpretation of "receiving water" was correct:

- (a) The RMA defines "water" as being all inclusive (ie "water in all its physical forms whether flowing or not and whether over or under the ground"). This phrase therefore clearly includes surface water and groundwater. The phrase "water body" is almost as broad, encompassing all water except that in the coastal marine area.
- (b) However, in those sections of the Act dealing with discharges – which in my submission is intended to be *point source discharges* - the phrase "receiving waters" has been used (eg, sections 15B, 70, 419 and Schedule 3 Water quality classes). Had Parliament intended the broader phrase "water" to be used in the context of those sections, then that could have been used. Instead the narrower phrase "receiving waters" was used.

¹ Board of Inquiry Final Report and Decision *New Zealand King Salmon Requests for Plan Changes and Applications for Resource Consents*, 22 February 2013, at [1307].

- (c) By contrast, other sections of the RMA that would clearly allow *non-point source discharges* to be regulated, include the broader phrases of such as “water bodies” or “water”. For example, the functions of regional councils in s 30(1) of the RMA includes:
- (i) “The control of the use of land for the purpose of - ... the maintenance and enhancement of the quality of water in water bodies and coastal water” (s 30(1)(c)(ii))
 - (ii) “The control of discharges of contaminants into or onto land, air, or water and discharges of water into water” (s 30(1)(f))
 - (iii) “If appropriate, the establishment of rules in a regional plan to allocate any of the following ... (iv) the capacity of air or water to assimilate a discharge of contaminants” (s 30(1)(fa)).

3. PHOSPHORUS DISCHARGE – TE RAPA AND LICHFIELD

- 3.1 The Panel asked about the very low level of Phosphorus discharges from the Te Rapa site during the 2008/2009 year evident in Figure 2B to Ms Buckley’s evidence (presented by Mr Goldschmidt).
- 3.2 Fonterra can confirm that, during this year, Te Rapa site staff conducted an intensive trial of alum dosing of its wastewater. While this did significantly reduce P concentrations, it gave rise to large volumes of sediment that had high levels of aluminium that required disposal to landfill. Since that time, the operational use of alum dosing has been carried out at a level to ensure P concentrations in the discharge are well within consent limits, whilst managing the need to dispose of the resulting aluminium-contaminated sediment. Since that time there have also been product mix changes (eg construction of the Cream Cheese plants), which resulted in increased P load to the ponds.
- 3.3 The Panel also asked Dr Neale about why there had been an increase in P over the period assessed at the Lichfield site (Table 4, p12, Dr Neale’s primary evidence). This was explained by Dr Neale at the hearing, this was likely to have been caused by the increased production/processing

at Lichfield over this period, combined with the change in cleaning products as described in paragraph 5.20 of his evidence.

5.20 As a result of the focus on reducing nitrogen discharges in previous years, Fonterra responded by reducing the use of nitrogen-based cleaning chemicals in its manufacturing plants, in favour of phosphorus-based chemicals. Whilst this reduced the TN contribution, the TP contribution remained consistent or increased.

Fonterra FEPs

- 3.4 Currently, Fonterra has 2,100 suppliers within the PC1 catchment. Of these, approximately 416 are operating under a FEP prepared with the assistance of a Fonterra Sustainable Dairy Adviser (**SDA**). These FEPs would each take about 2 to 2.5 days of SDA time, and they would likely cost on average around \$3,500. As noted at the hearing, these FEPs are based on the requirements of PC 1 as notified, and all existing FEPs would therefore need to be updated (potentially significantly) following PC1 becoming operative and the new FEP requirements coming into effect.
- 3.5 Fonterra’s Sustainability Report for the year ending July 2018 records that Fonterra intends to have 100% of its suppliers operating under an FEP by 2025, and for another 1,000 FEPs to be delivered across New Zealand in FY19 (p 11).

Are Fonterra farmers operating at GFP?

- 3.6 Similar to the Miraka response, for Fonterra suppliers there is a normal distribution curve from leading farmers who are probably generally farming “at or above GFP” – to a tail of farmers who would need to make considerable changes across a number of practices to be considered to be meeting the high level principles as currently expressed. We have not assessed farmers against GFP principles until we started rolling out FEPs so it is not possible to provide a specific number. It is important to note that while Fonterra FEPs do reference the GFP “principles” our assessment of risk and the actions to address those risks are done at a much more detailed level (than the necessarily subjective assessment against principles). Fonterra believes that it will never be possible (nor

particularly useful) to try to robustly assess effectiveness of outcomes based on meeting the GFP principles – they are, simply put, too uncertain and subjective. This is why Fonterra strongly support a more detailed FEP schedule where the principles are defined in a way farmers will understand and engage with.

4. OVERSEER ASSUMPTIONS

4.1 The Panel asked whether Overseer assumes that all farmers are otherwise operating at GFP.

4.2 Overseer involves the inputting of data to a large number of “model fields”. Good practice assumptions vary widely across these fields (eg, for effluent management, a few fairly coarse inputs are used to model nutrient flows – this part of the model could be considered to a large degree to assume good practice). Other fields have much more detailed inputs meaning the model is making fewer assumptions (and therefore would not be considered to be “assuming good practice” that might not in fact be occurring).

5. FONTERRA SANCTIONS ON SUPPLIERS

5.1 The Panel asked whether Fonterra had sanctioned any of its suppliers because of a failure to comply with any environmental obligations, either by refusing to collect milk or by expulsion from the co-operative.

5.2 As Mr Allen noted at the hearing, the DIRA legislation and the company’s Constitution makes expulsion highly problematic, however as the extract from Fonterra’s *Sustainability Report* makes clear, Fonterra has suspended milk collection where it has needed to:

New Zealand on-farm assessments			
	2016/17	2017/18	Commentary
Number of assessments	9,891	9,694	This represents more than 99% of supplying farms during 2017/18. The lower number corresponds to fewer supplying farms.
Percentage of farms with effluent infrastructure capable of 365-day compliance	82%	86%	Progress continues to be made towards achieving 100%.
Percentage of farms referred to SDAs with major or critical non-compliances	3.2%	3.9%	There was a slight increase in referrals because we have included those arising from Farm Environmental Plans as well as from annual assessments.
Number of milk collection suspension notices issued	78 farms due to stock exclusion	98 farms due to stock exclusion 8 farms due to effluent requirements	There was a slight increase in the number issued as we focussed on completing our stock exclusion ¹ targets.

6. CONSOLIDATED SET OF AMENDMENTS

- 6.1 Attached to these submissions in reply is a consolidated set of amendments prepared by Fonterra's independent planning consultant, Mr Willis. The comment boxes provide a brief precis of the reasons, as discussed during the hearing.
- 6.2 Fonterra is considering further the comment about the Nitrogen Risk Scorecard and how Fonterra was proposing that be incorporated into the rule framework, and to what extent it might supplement or replace Overseer. Because this is related to the matters to be discussed in the Block 3 hearings, Fonterra will address this point in detail at that time however Fonterra's submission to Variation 1 to PC1 explained one option for how this could be incorporated into the rules.

**B J Matheson****Counsel for Fonterra Co-operative Group Ltd**

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Attachment 1 – Consolidated changes to PC1

The provisions that follow as those included in the Block 2 evidence of Gerard Willis (on behalf of Fonterra), with amendments as required to respond to comments made by the hearing panel.

Text in blue underscored font is as proposed in Mr Willis' evidence and is consistent with that used in the Fonterra submission.

The red underscored font is text proposed in the s42A Report (Policies only).

The green underscored font is text proposed in response to Hearing Panel's comments.

POLICIES

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

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

- a1. Requiring all farming activities to operate at Good Farming Practice, or better consistent with b and b1 below; and
- a2. Establishing, where possible, a Nitrogen Reference Point for all properties or enterprises; and
- a. Enabling activities with a low level of contaminant discharge to water bodies ~~provided those discharges do not increase~~; and
- b. Requiring farming activities with moderate to high levels of phosphorus, E.coli or sediment contaminant discharge to water bodies to reduce their discharges proportionate to the amount of (2016) discharge and the water quality improvements required in the sub-catchment taking into account both the extent of reductions required to reach the sub-catchment and the level of discharge the farming activity had in 2016 relative to other farming activities in the sub-catchment (with higher dischargers required to make greater reductions) ; 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 commensurate with them operating at Good Farming

Practice, with resource consents specifying an amount of reduction or changes to practices required to take place; and

- b2. Where Good Farming Practices are not adopted at the time a consent application is made, to specify controls in a resource consent that ensures contaminant losses will be reducing;
- 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; and
- 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 and enduring reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens; and
- c. Progressively excluding cattle, horses, deer and pigs from rivers, streams, drains, wetlands and lakes.

Policy 10: Provide for point source discharges from activities of regional significance

When deciding resource consent applications for **point source discharges** of nitrogen, phosphorus, sediment and **microbial pathogens** to water or onto or into land, subject to Policy 11 and Policy 12 provide for the:

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

Policy 11: Application of Best Practicable Option and mitigation or offset of effects to point source discharges

Require any person undertaking a point source discharge of nitrogen, phosphorus, sediment or microbial pathogens to water or onto or into land in the Waikato and Waipa River catchments to, as a minimum, adopt the Best Practicable Option*, as identified at the time a resource consent application is determined, to avoid or mitigate the adverse effects of the discharge. ~~at the time a resource consent is decided.~~

Where ~~it is not practicable to avoid or mitigate all~~, despite the adoption of Best Practicable Option, there remain significant residual effects, it is encouraged that an offset measure ~~may~~ be proposed in an alternative location or locations to the point source discharge, for the purpose of ensuring positive effects on the environment to lessen any residual adverse effects of the discharge(s) that will or may result from allowing the

activity provided that the:

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

For the purposes of this policy, whether a significant residual effect is will, or is likely to, occur will be determined having regard to:

- i. in respect of an existing discharge, the extent to which any replacement discharge or discharges fails to reduce the contaminant load of that discharge proportionate to the decrease required to achieve the short-term attribute states in Table 3.11-1 or the progression towards the 80-year water quality attribute states in Table 3.11-1;
- ii. In respect of a new discharge, the extent to which any new discharge will add E Coli, sediment, N or P contaminants to either the Waikato River or Waipa River catchments.

Policy 12: ~~Additional considerations for~~ Considering point source discharges in relation to water quality targets

When deciding a resource consent application, ~~c~~Consider the contribution made by a point source discharge to the nitrogen, phosphorus, sediment and microbial pathogen catchment loads and the impact of that contribution on the likely achievement of the short term water quality attribute states[^] targets[^] in Table 3.11-1 ~~Objective 3~~ or the progression towards the 80-year water quality attribute states[^] targets[^] in Objective 4 Table 3.11-1, taking into account:

- a. The relative proportion of nitrogen, phosphorus, sediment or microbial pathogens that the particular point source discharge contributes to the catchment load and the net change proposed in that contribution; and

- b. Past ~~technology~~ upgrades undertaken to ~~model, monitor and~~ reduce the discharge of nitrogen, phosphorus, sediment or microbial pathogens within the previous consent term; and
- c. ~~The ability~~ Whether it is appropriate to stage future mitigation actions to allow investment costs to be spread over time and to ~~meet~~ contribute to the water quality ~~attribute states~~[^] ~~targets~~[^] specified above; ~~and~~
- d. The diminishing return on investment in treatment plant upgrades in respect of any resultant reduction in nitrogen, phosphorus, sediment or microbial pathogens when treatment plant processes are already achieving a high level of contaminant reduction through the application of the Best Practicable Option* and the nature of any offsetting of effects that has been proposed by the applicant in accordance with Policy 11.

Policy 13: Point sources consent duration

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

- a. The appropriateness of a longer consent duration ~~A consent term exceeding 25 years,~~ that reflects the commitment made to achieving reductions in contaminant losses where the applicant demonstrates that the discharge is that contribute to consistent with achieving the water quality attribute states set out in Table 3.11-1 at a rate and in proportion to the scale and timing of reductions required across the sub catchment. ~~the approaches set out will be met;~~ and/or
- b. The magnitude and significance of the investment made or proposed to be made in contaminant reduction measures and any resultant improvements in the receiving water quality that have been made ofr will be achieved; and
- c. The need to provide appropriate certainty of investment where contaminant reduction measures are proposed (including investment in treatment plant upgrades or land based application technology).
- d. Whether, considering the matters listed in a. to c. above, a long term consent (at least 25 years) is appropriate.

RULES

Note changes to rules are to PC1 as notified and do not include amendments recommended in the s42A Report

Rule 3.11.5.1 - Permitted Activity Rule – Small low risk 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; and
5. Less than 25% of the feed consumed by livestock on the property is imported on to the property.

~~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; and~~ ~~Where the property area is greater than 20 hectares:~~

Rule 3.11.5.2 - Permitted Activity Rule – ~~Other farming activities~~ Small and/or low to medium nitrogen leaching risk 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 that is not permitted

under Rule 3.11.5.1 where the property area greater than 4.1 hectares, and has more than 6 stock units per hectare or is used for arable cropping, is a permitted activity subject to the following conditions:

1. The property is registered with the Waikato Regional Council in conformance with Schedule A; ~~and~~
2. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C and Conditions 3(c) and 4(f) of this Rule; ~~and~~
3. ~~Where~~The property area is less than or equal to 20 hectares; and
 - a. The farming activities do not form part of an enterprise being undertaken on more than one property; ~~and~~
 - b. Less than 25% of the feed consumed by any livestock on the property is imported onto the property;
 - ~~b.c.~~ 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~~
 - ~~e.d.~~ Upon request, the landowner shall obtain and provide to the Waikato Regional Council independent verification from a Certified Farm Environment Planner that the use of land is compliant with either ~~b)c~~(i) or ~~b)c~~(ii) above; ~~and~~
 - ~~d.e.~~ Upon request from the Waikato Regional Council, a description of the current land use activities shall be provided to the Council; ~~and~~
 - ~~e.f.~~ 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); or
4. ~~Where~~The property or enterprise has an area ~~is~~ greater than 20 hectares and:
 - a. The peak stocking rate is less than 10 stock units per hectare;
 - b. Less than 5% of the property is cultivated in any one year;
 - c. No winter forage crops are grazed in situ.
 - d. A reference level of nitrogen leaching, is provided to the Waikato Regional Council in the form of either:
 - (i) An Nitrogen Reference Point calculated in accordance with Schedule B; or
 - (ii) A Nitrogen Risk Scorecard Reference Grade determined in accordance with Schedule BA.

- e. Nitrogen leaching from the property or enterprise does not exceed the reference level of nitrogen leaching for the property or enterprise submitted to the Waikato Regional Council in accordance with condition 4 d, as demonstrated by either:
 - (i) the three-year rolling average as submitted to the Waikato Regional Council by 1 July each year; or
 - (ii) an annual Nitrogen Risk Scorecard Assessment undertaken in accordance with Schedule BA and submitted to the Waikato Regional Council by 1 July each year.
 - f. A Farm Environment Plan is prepared in accordance with Schedule 1, is approved by a Certified Farm Environment Planner, and is provided to the Waikato Regional Council by 1 July 2023;
 - g. The use of land is undertaken in accordance with the actions and timeframes specified in the Farm Environment Plan;
 - h. The Farm Environment Plan provided under Condition 4f may be amended in accordance with the procedure set out in Schedule 1 and the use of land shall thereafter be undertaken in accordance with the amended plan;
 - i. A copy of the Farm Environment Plan amended in accordance with condition 4h shall be provided to the Waikato Regional Council within 30 working days of the date of its amendment;
 - j. 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); or
5. The property or enterprise is used for arable cropping; and
- a. No part of the property is used for grazing livestock
 - b. Arable cropping does not occur within 3 meters of any waterbody
 - c. No part of the property or enterprise over 15 degrees slope is cultivated
 - d. 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 5 a to d above.
 - e. A reference level of nitrogen leaching and associated data, is provided to the Waikato Regional Council at the date of registration in the form of either:
 - (i) A Nitrogen Reference Point calculated in accordance with Schedule B; or
 - (ii) A Nitrogen Risk Scorecard Grade determined in accordance with Schedule BA.

- f. Nitrogen leaching from the property or enterprise does not exceed the reference level of nitrogen leaching for the property or enterprise submitted to the Waikato Regional Council in accordance with condition 4 d, as demonstrated by either:
 - (i) the three-year rolling average as calculated each year and submitted to the Waikato Regional Council; or
 - (ii) an annual Nitrogen Risk Scorecard Assessment undertaken in accordance with Schedule BA and submitted to the Waikato Regional Council by 1 July each year.
- g. A Farm Environment Plan is prepared in accordance with Schedule 1, is approved by a Certified Farm Environment Planner, and is provided to the Waikato Regional Council by 1 July 2023;
- h. The use of land is undertaken in accordance with the actions and timeframes specified in the Farm Environment Plan;
- i. The Farm Environment Plan provided under Condition 4g may be amended in accordance with the procedure set out in Schedule 1 and the use of land shall thereafter be undertaken in accordance with the amended plan;
- j. A copy of the Farm Environment Plan amended in accordance with condition 4h shall be provided to the Waikato Regional Council within 30 working days of the date of its amendment;

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

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

1. The property is registered with the Waikato Regional Council in conformance with Schedule A; and
2. A Nitrogen Reference Point is ~~produced~~ calculated for the property or enterprise in conformance with Schedule B within the period May 2020 to 30 November 2020; and.
3. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and
4. The Certified Industry Scheme meets the ~~criteria standards~~ set out in Schedule 2 ~~and has been approved by the Chief Executive Officer of Waikato Regional Council~~; and
5. A Farm Environment Plan which has been prepared in accordance with Schedule 1 and has been approved by a Certified Farm Environment Planner, is provided to the Waikato Regional Council as follows:
 - ~~a. By 1 July 2021. for properties or enterprises within Priority 1 sub-catchments listed in Table 3.11-2 and properties or enterprises within a Nitrogen Reference Point greater than the 75th percentile nitrogen leaching value;~~
 - ~~b. By 1 July 2023 for properties or enterprises within Priority 2 sub-catchments listed in Table 3.11-2;~~

c. ~~By 1 July 2026 for properties or enterprises within Priority 3 sub-catchments listed in Table 3.11-2; and~~

6. Where the property or farm enterprise has a Nitrogen Reference Point below the 50th percentile nitrogen leaching value, either:

a. The three-year rolling average for the property or enterprise does not exceed the Nitrogen Reference Point from the date on which the Nitrogen Reference Point is provided to the Waikato Regional Council; or

b. The property or enterprise has an annual Nitrogen Risk Scorecard Assessment Grade the same as the Nitrogen Risk Scorecard Reference Grade as assessed in accordance with Schedule BA; and

c. The information required to undertake the Nitrogen Risk Scorecard Assessment as set out in Schedule BA shall be provided to the Waikato Regional Council by 1 July each year in the template prescribed in Schedule BA e; or

7. Where the property or farm enterprise has a Nitrogen Reference Point above the 50th percentile nitrogen leaching value but below the 75th percentile nitrogen leaching value, the three-year rolling average does not exceed the Nitrogen Reference Point from the date on which the Nitrogen Reference Point is provided to the Waikato Regional Council; or

8. Where the property or farm enterprise has a Nitrogen Reference Point above the 75th percentile nitrogen leaching value, the Farm Environment Plan for the property or enterprise will set out actions, timeframes and other measures to ensure that diffuse discharge of nitrogen is progressively reduced so that it does not exceed that 75th percentile nitrogen leaching value by 2026.

Conditions 6, 7 and 8 to be retained as notified (but renumbered as appropriate).

GLOSSARY

Farming activities: For the purposes of Chapter 3.11, the grazing of animals or the growing of produce, including crops, commercial vegetable production and orchard produce but not does not include:

a. planted production forest; or

b. the growing of crops ~~(including pasture for 'cut and carry')~~ on land irrigated by consented ~~industrial or~~ municipal wastewater discharges; **or**

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- c. the growing of pasture on land irrigated by consented industrial wastewater discharges where that pasture is not grazed in situ but harvested as animal feed and transported and used off the property on which the industrial wastewater discharge occurs (i.e. 'cut and carry')
- c. production or growing of produce undertaken entirely within a building; or
- d. production or growing produce for consumption by the occupier of the property or their family.