

ATTACHMENT 1

PRIMARY EVIDENCE OF KIM HARDY

3 MAY 2019

Miraka proposed changes in yellow 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.**
- d. **Requiring regular reporting by Certified Sector Schemes to the Waikato Regional Council**
- e. **Allowing certification 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 lakes.⁶⁴ Priority areas include:

and through the requirements in FEPS

- a. Sub-catchments where there is a greater gap between the water quality targets^Δ in Objective 1 (Table 3.11-1) and current water quality; and
- b. Lakes Freshwater Management Units^Δ; 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;⁸⁴ 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~~
- ~~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(e) 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;
- 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
- c1. No part of the property over XX degrees of slope is⁹³ 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); and⁹⁴
- 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
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.

3.11.5.3 **Permitted Restricted-Discretionary** Activity Rule – Farming activities with a Farm Environment Plan under a Certified **Industry Sector Scheme/Te Ture mō ngā Mahi e Whakaetia 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
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 has been prepared in accordance 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; 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 1 and the use of land shall thereafter be undertaken in accordance with the 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.

~~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.~~

3.11.5.4 ~~Controlled Restricted Discretionary Activity Rule – Farming activities with a Farm Environment Plan 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 3.11.5.3, 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:~~

- ~~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~~
- ~~3. No commercial vegetable production occurs; and~~
- ~~4. 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~~
- ~~5. Cattle, horses, deer and pigs are excluded from water bodies in accordance with Schedule C; and¹⁰¹~~
- ~~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 Waikato Regional Council; and¹⁰²~~
- ~~7. 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 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.~~

- ii. ~~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.~~
- ii. ~~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

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