

SUBMISSION – WAIKATO REGIONAL PLAN CHANGE 1

To: Waikato Regional Council

Name of submitter: Hancock Forest Management (NZ) limited (“HFM or the submitter”)

1. This is a submission on the Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments notified on 21 October 2016 (“PC1)
2. The submitter could not gain an advantage in trade competition through this submission pursuant to s308C of the Act.
3. This submission relates to the entire contents of PC1.
4. Introduction and Background

HFM is the manager of 206,000 ha of plantation forest located in the North Island for two investor clients; Taumata Plantations Ltd and Tiaki Plantations Company. HFM manages approximately 90,000ha of plantation forest within the Waikato and Waipa catchments, on the behalf of Taumata Plantations Ltd. The forests in the catchment are in a variety of ownerships including freehold (58,000 ha), long term lease (18,000 ha) and forestry rights (13,000 ha).

Both HFM and our client’s key business is in plantation forestry and therefore we are not directly involved in any forest to dairy farm conversions. However at the time of purchase from the former owner, Carter Holt Harvey, the asset included one rotation forestry rights to the current rotation of trees on land retained by Carter Holt Harvey for the purpose of conversion. Therefore in some instances Taumata Plantations owns the current crop of trees on land that is handed back to the owner after harvest. All land owned by Taumata Plantations or under long term lease or multiple rotation forestry rights is being replanted into forestry.

HFM had some indirect involvement in the Collaborative Stakeholder Group process via Environmental Manager Sally Strang who was one of two delegates to the forestry sector representative (Trish Fordyce being the other). This submission is consistent with views expressed during formation of the rules by the CSG, and the final voting by forestry on the CSG.

5. General reasons for the submission:

PC1 attempts to freeze land use in the Waikato region as it was in 2016, with leaching rates held to 2014-2016 levels. It purports to solve the problems caused by high contaminant loss land uses by imposing constraint on low contaminant loss land uses. For most intensive land uses the key method to implement the objectives relies on the gathering of information for the development of future policy direction as part of subsequent plan reviews. The management approach is consistent with the definition of grandparenting.

Grandparenting entrenches existing practices and penalises dischargers who have already taken steps to internalise their effects. The Plan therefore fails to **meet its objectives** even without taking account of the load to come, as it does not require active reductions in discharges from the activities responsible for the majority of discharges into the river catchments.

Despite signalling that the following plan review should transition to a “land use suitability” approach there is no legal requirement that this transition must occur when the plan is due for review. The land use suitability approach is defined as incorporating elements of the land use capability (or natural capital) approach but relies on additional research and understanding of a range of other factors that also capture elements of grandparenting.

The submitter considers that the implementation methods are not the most appropriate way to achieve the objectives of the Plan. They fail to do the heavy lifting required to achieve the objectives.

Key issues associated with implementation of PC1 in its proposed form are:

- the Farm Environment Plan process fails to mandate the implementation of mitigation methods;
- through application of the NRP the rules in PC1 foreshadow a grandparented allocation of discharge rights which will result in clear disincentives to adopt best management practices to achieve net reductions in discharges;
- the Plan does not require reductions except for the very highest dischargers, and therefore fails to require all land and water users to make a fair and reasonable contribution to the achievement of limits;
- the plan fails to adequately or appropriately recognise prior investment in measures that have led to improved water quality improvement and penalises early adopters of best practice;
- the plan fails to recognise those land uses providing benefits to water quality and penalises those land uses through stripping of property rights
- the certified industry scheme, which is not subject to any robust or transparent approval process, inappropriately delegates decision making authority to a third party, is self audited by industry, and authorises a system (NRP and Overseer®) that is susceptible to strategic management to achieve improved outcomes for users of that system;
- PC1 relies too heavily on information collection as the justification for its stage one approach to contaminant management.

HFM’s position is that it is inappropriate and unreasonable to delay adopting an equitable approach that robustly addresses those activities contributing most to water quality problems. Through pastoral farming research there is already significant information regarding best management practices that will reduce leaching and contaminant loss. There are numerous examples of best practice farmers who are already operating in the lowest quartile of nutrient loss while remaining financially viable. To ignore the ‘low hanging fruit’ of extending the adoption of such farming practices to all farms, and instead to focus on an approach of information gathering and only requiring the top 25% worst farms to improve is inappropriate.

The proposed approach picks winners and is pitting sector against sector, with the unfortunate outcome that those who contributed most to the problem gain the most, and are incentivised to continue polluting to retain land use flexibility. The only way that regulation can incentivise the correct behaviours is to apply effects based regulation whereby those polluting the most face the highest regulatory burden, and those contributing least are encouraged and incentivised. Arguably this plan change is the reverse.

HFM’s proposed approach as outlined in its submission (Appendix One) is to regulate land use on the basis of adoption of the Best Practicable Option (“BPO”) (also known as best management practices). This approach is considered the most appropriate, not only because it is consistent with the existing regional plan approach to many land use activities, but also because it recognises the limitations associated with the early adoption of a land use suitability system in the absence of good baseline information. Notwithstanding, HFM considers that it is appropriate to work towards a land use

suitability approach using sub catchment information over the life of PC1 so as to inform the next plan change.

6. The principal changes that the submitter seeks to the PC1 are:
 - a. An equitable level of regulation for diffuse sources that discharge contaminants to require the internalisation of adverse effects by:
 - i. adopting BPO through consent conditions or Plan rules, as an interim approach;
 - ii. ensuring that all diffuse sources eventually face discharge limits;
 - iii. recognising that low capital cost options can be implemented sooner than high capital cost items;
 - b. Non-point source discharges are managed within the next ten years using a BPO approach as the foundation for regulation;
 - c. Land use is not 'frozen', even on an interim basis: Some flexibility for land owners is required so they can choose the approach or actions taken to mitigate effects. Consents will be required to change land use as a restricted discretionary activity but will be able to be granted where the BPO is applied from the outset of the land use change;
 - d. Overseer is part of a matrix approach (rather than sole determiner of NRP or compliance)
 - e. Third party approval processes are required to apply for resource consents to ensure that there is transparent, accountable and credible delivery of the Plan's objectives
 - f. If an allocation regime is to be adopted it should be based on a consistent foundation (such as LUC) treating like land alike.

Without these changes, the submitter is concerned that PC1 has effectively awarded a windfall gain to the highest polluting land uses which now hold a monopoly on activities such as vegetable production and dairy farming, with consequent land value gains. Conversely there will be an immediate negative land value impact to the lowest polluting land uses including forestry and dry stock properties. This will inevitably impact the land value of our client and all forest owners (including farm foresters). This can only serve to deter future forestry planting, particularly given the plan change signals a further allocation regime to be introduced in ten years' time. Landowners will be deterred from planting trees in the knowledge that such planting could effectively lead to elimination of any higher and better use options in future and consequent reduction in land value.

7. The specific reasons and relief:

The specific reasons and relief are outlined in the attached table and appendix.

For the provisions of PC1 that the submitter opposes, at a general level those provisions:

- a. Do not achieve the purpose of the RMA or promote the sustainable management of resources and are contrary to Part 2 and other provisions of the RMA;
- b. Do not enable the social, economic and cultural well-being of the Waikato community and are not otherwise consistent with the CSG's policy selection criteria;
- c. Do not have sufficient regard to the efficient use and development of rural land and supporting assets, such as Kinleith Mill
- d. Are not consistent with the Regional Policy Statement, including the Vision and Strategy
- e. Are not consistent with s70;
- f. Do not give effect to the NPS-FM

- g. Do not represent the most appropriate way of meeting the PC1 objectives, and means of exercising the Council's functions, having regard to the efficiency and effectiveness of the provisions relative to other means;
- h. Do not discharge the Council's duties under section 32 of the Act.

At a general level, for the provisions of PC1 that the submitter supports, those provisions:

- i. Will promote the sustainable management of resources and are not contrary to Part 2 and other provisions of the RMA;
- j. Will enable the social, economic and cultural well-being of the Waikato community
- k. Represent the most appropriate way of meeting the Proposed Plan objectives, and means of exercising the Council's functions, having regard to the efficiency and effectiveness of the provisions relative to other means.

8. Other Relief:

The submitter seeks the following decisions:

- a. That the proposed provisions of PC1 be amended to address the issues and relief raised in this submission (including within Appendix One):
- b. Any other or consequential relief to PC1 including but not limited to any amendments to the Objectives, Policies, Rules, Assessment Criteria, Explanation and Reasons and such other provisions as to give full effect to the matters raised in this submission (including within Appendix One).

While specific relief is set out in the attached table in Appendix One there may be other methods or relief that address the submitter's concerns and the suggested revisions do not limit the generality of the reasons for this submission or the relief sought in this submission.

- 9. The submitter wishes to be heard in support of its submission.
- 10. If others make a similar submission, the submitter will consider presenting a joint case with them at any hearing.



Sally Strang
Hancock Forest Management (NZ) Ltd

Dated this the 8th day of March 2017

Address for service
Sally Strang
Hancock Forest Management
PO Box 648
Tokoroa 3420

Telephone: 07 885 0350
Email: sstrang@hnrq.com

Appendix One – HFM Submission

Section Number	Provision	Support or Oppose	Submission	Relief Sought
3.11.2	Objective 1	Oppose in part	<p>HFM supports:</p> <ul style="list-style-type: none"> • the need to restore and protect water quality in the river • a staged time frame which recognises that implementing actions will take time, and load to come also means immediately achieving targets is unrealistic <p>However, it is concerned that the long term targets are not scientifically robust and therefore the objective is visionary rather than realistically achievable.</p> <p>Importantly, PC1 ignores the low hanging fruit whereby if all farmers were to adopt best practice mitigation measures currently being utilised successfully by some farmers, within a reasonable time frame, potentially significant reductions in discharges of the four contaminants could be achieved in a manner that is more efficient and effective than the approach adopted by PC1.</p>	<p>Amend Objective One as follows:</p> <p>By 2096, discharges of nitrogen, phosphorus, sediment and microbial pathogens to land and water result in achievement of the restoration and protection of the 80 year water quality attribute target goals in Table 3-11.1. <u>By 2066 discharges of nitrogen, phosphorus, sediment and microbial pathogens to land and water result in achievement of 30 percent of the restoration and protection of the 80 year water quality attribute goals in Table 3-11.1.</u></p> <p>Insert a new objective as follows:</p> <p>The management of discharges onto or into land or directly into water and land use activities affecting groundwater and surface water quality in a manner that:</p> <ol style="list-style-type: none"> (a) Safeguards the life supporting capacity of water and recognises and provides for the restoration and protection of the 80 year water quality attribute goals in Table 3-11.1, through the adoption of the best practicable option; (b) Where a discharge is onto or into land, avoids, remedies or mitigates adverse effects on surface water or groundwater. (c) Recognises that discharges contribute to social and economic wellbeing and in some cases significant investment relies those discharges, including rural-based activities such as agriculture, perishable food processing and industry; (d) Recognises that new regionally significant industrial discharges contribute to social and economic wellbeing and may be appropriate where such activities increase the net efficiency of resource use or where changes to land use.

Appendix One – HFM Submission

3.11.2	Objective 2	Oppose in part	The Objective is appropriate to the extent that it incorporates the concept of economic and social wellbeing, however, it would be improved by amalgamating the concepts into Objective One.	Delete objective two and incorporate the concept of the three well-beings into Objective One.
3.11.2	Objective 3	Oppose in part	The intent of Objective 3 to achieve a measurable improvement in water quality to meet the long term water quality targets is supported, however the 10% change is somewhat arbitrary and in the short term difficult to measure. The concern is that PC1 as currently proposed is not necessarily setting the region on a clear path toward achievement of the long term targets. In particular PC1 appears to be more aimed at holding the status quo than in making any real measurable improvements in land use practices by those contributing to water quality degradation.	Revise the Objective so that improvements are required now to set the region on a firm trajectory toward achieving the 80 year goals, with measurable improvements in the first ten years and implementation of actions that are aligned with the long term goals
3.11.2	Objective 4	Oppose	HFM supports the intent of the Objective to provide for a staged approach to enable and people and communities to undertake adaptive management to provide for their social, economic and cultural wellbeing. Achievement of the long term water quality attributes will inevitably take time and in some instances require significant capital investment. However the remainder of the objective is vague and unclear. As proposed, PC1 arguably shields some of the highest polluting activities from taking any meaningful action and locks in land use as it was in 2016. While PC1 recognises that further actions will be required from the top quartile dischargers, arguably it does not set the region on a robust path to achieving those long term aspirations and in fact creates impediments and disincentives to landowners to take any voluntary action.	Retain the reference to the staged approach in the Objective but make further amendments to clarify that actions will be required to achieve the Objective One targets and that these actions need to be implemented within the life of PC1.
3.11.3	Policy 1	Support in part	HFM supports the need to manage diffuse discharges of Nitrogen, Phosphorous, sediment and microbial pathogens to the Waikato River to achieve the requirements of the NPS FW and the Vision and Strategy for the Waikato River. The policy appropriately reflects the intent of the Resource Management Act (RMA) by indicating an approach whereby the level of improvement required is proportional to impact – those land uses contributing the most contaminants will be required to improve the most. It is questionable whether this policy is consistently applied in PC1.	Retain Policy 1 with amendments to reflect amendments to the rules requiring all farming activities to adopt the BPO
3.11.3	Policy 2	Oppose in part	HFM NZ supports the need for a tailored approach to managing diffuse discharges in the longer term. Farms are variable in their nature and in the	Either replace or supplement the tailored approach with sound sensible BPOs for all land use activities to be adopted

Appendix One – HFM Submission

			<p>longer term if we are to leave no stone unturned to achieve the long term water quality objectives it will require consideration of individual farms on a case by case basis. However the FEP approach has the potential to be a very time consuming and costly exercise.</p> <p>Relying solely on an FEP approach means that the opportunity to apply well understood mitigation through best management practice options (low hanging fruit) to improve water quality across all farms will be lost or unnecessarily delayed, in some instances for many years.</p> <p>HFM opposes clause (c) regarding establishment of Nitrogen Reference Points. In our view this is approach is synonymous with grand-parenting. Those polluting the most are rewarded with the greatest flexibility of land use (and therefore increased land value) while those who have contributed the least to the problem are most constrained and will lose land value. This is inequitable and creates entirely the wrong incentives to achieve water quality objectives – effectively landowners will be motivated to obtain the highest possible N leaching rates to preserve future land use options.</p> <p>HFM supports clause (d) which appropriately requires that those contributing most pollutants are required to deliver the greatest improvement. This is in our view consistent with the purpose of the RMA.</p> <p>HFM supports clause (e). Fencing stock out of waterways is one of the essential actions to achieve long term water quality objectives. The timing of this should reflect practical constraints and individual circumstances but as a long term goal stock exclusion is appropriate.</p>	<p>within workable but prompt time frames. Delete clause (c) – Nitrogen Reference Point. Retain clause (d). Amend clause (e) as required to reflect realistic time frames for extensive dry stock farms.</p>
3.11.3	Policy 3	Oppose in part	<p>To the extent that commercial vegetable production systems contribute to water quality, HFM considers that amendments may be necessary to this Policy for the purpose of overall consistency of approach.</p>	<p>Amend the policy so that it is consistent with the adoption of the BPO approach proposed through this submission.</p>
3.11.3	Policy 4	Support in part	<p>The policy appropriately recognises that existing and new low discharging activities should be enabled. Enabling and encouraging low discharge activities, such as forestry is surely the only logical path forward if the region is to meet the long term objectives and meet social, economic and cultural outcomes.</p> <p>Whilst we accept that in the longer term further actions and mitigations will be required by some land users, such as low leaching farming activities, we do not</p>	<p>Amend policy 4 to enable low discharge land uses such as forestry. Ensure that mitigation actions are applied to all farming activities taking into account relative contributions and risk.</p>

Appendix One – HFM Submission

			accept the need for low discharging activities to bear significant cost in the short term so as to shield high discharging activities from having to undertake actions.	
3.11.3	Policy 5	Support	HFM supports in principle policy 5 and recognises that water quality objectives cannot realistically be achieved within a short time frame, not least of all due to the effects of the Nitrogen load to come. However in our view PC1 should not just 'prepare' land users for further reductions, but actually set all land use in the region on an aligned trajectory toward achievement of the long term targets.	Amend Policy 5 to create a clearer implementation path toward achievement of the long term targets, within the life of this plan.
3.11.3	Policy 6	Oppose	<p>HFM strongly opposes Policy 6. The approach of restricting land use change results in a grandparenting of existing discharges. This approach rewards the polluter and penalises those who contributed least to the problem. The policy effectively means that forestry, being the productive land use that has contributed least to the problem, is penalised by having no alternative land uses available. By contrast those who are polluting the most will have the greatest flexibility and options.</p> <p>In our view low contaminating land uses are being used as offsets for high contaminating land uses, but with the offsets being taken by regulation rather than being compensated for – effectively one sector bearing the cost of externalities created by another.</p> <p>The policy and associated rules will undoubtedly immediately reduce land values for all land that is currently under forestry (and dry stock and cropping farming) that has any alternative land use potential. Perversely it will almost certainly increase the land value of land under vegetable cropping and intensive dairy by creating a monopoly situation where that is the only land now available in the region for that use.</p> <p>This is the direct opposite to an ecosystem services approach (effectively taxing those providing benefits) and surely creates entirely the wrong incentives in terms of future land use choices. Landowners will be motivated to stay in the highest polluting land uses so as to retain future options, and therefore land value.</p>	Delete Policy 6
	Policy 7	Support in part	HFM supports in principle Policy 7. We are aware through the CSG process that the constraint on land use change (Policy 6) was originally mooted as a 'short term' moratorium on land use change, to enable time to put the necessary	Retain Policy 7 but amend it to include a clearer transition toward a non-grand parented approach to allocation within the life of PC1 to create certainty for land users.

Appendix One – HFM Submission

			<p>processes in place to devise a more equitable approach. This seemed reasonable. The short term evolved into ten years and then into uncertainty as to whether the moratorium would actually end. Policy 7 was an attempt to articulate that the intent of the CSG all along was that the NRP and constraint on land use change was intended as in interim measure, and in the longer term is intended to introduce a more equitable approach reflecting the natural capital of the land. However firstly, HFM has the concern that the policy has almost no weight given the current plan cannot in any way dictate what future plan changes will contain. Secondly, we are concerned that the considerable uncertainty at signalling future allocation, when combined with no concrete requirements for higher polluters to improve in this plan change, will create disincentives for land users to improve (either through management practices or land use changes) through fear of losing future land use options and therefore land value. This situation is exacerbated by the fact that the Waikato Regional Council has a history of taking a grand parenting approach to resource allocation – Variation 5, Variation 6 and now PC1.</p>	
	Policy 8	Oppose in part	<p>While we are not opposed to the proposal to stage the implementation of actions, in reality the only reason for the need to stage action is the overly bureaucratic nature of the solution proposed, involving many thousands of man hours of both consultants and council staff in order to implement, review and approve farm plans and Nitrogen Reference Points. If PC1 had more of a focus on actual actions through Best Management Practices, rather than creation of a bureaucracy, it is possible the staged approach would not be required. The farmers would know what they have to do over a given time frame and they could proceed with the actions.</p>	<p>Amend Policy 8 to be consistent with the proposed amendments to the rules below.</p>
	Policy 9	Support in part	<p>HFM is supportive of the policy. In the longer term farmers and land managers working together to solve problems at a sub-catchment level is going to be one of the practical tools to achieve the long term goals of the plan.</p>	<p>Retain Policy 9 with amendments to specify the timeframes for implementation of the cost effective mitigations.</p>
	Policy 10 Policy 11	Support in part	<p>As forest owners the success of the forest industry is reliant on the ongoing continuation of regionally significant processing industries, as is the case for many other primary land users, recognising that further amendments may be necessary to strengthen the policies.</p>	<p>Retain Policies 10 and 11, subject to appropriate amendments to strengthen the policy.</p>
	Policy 16	Support in part	<p>HFM supports the intent of policy 16 to retain flexibility for the use of land for Maori land, but also all land users. We believe that long term flexibility of land use and the ability to change with the times is critical for the long term success and survival of the rural sector. Therefore we support this aspiration for Maori</p>	<p>Amend the approach of the plan to enable flexibility of land use for all landowners within reasonable constraints. In conjunction with the other amendments this policy may be unnecessary.</p>

Appendix One – HFM Submission

			land recognising impediments to change. It is however our preference that the approach of PC1 enables some degree of flexibility for all land users. In our view this is essential not only for the long term viability of rural communities but also to avoid perverse incentives to continue with higher polluting land uses.	
3.11.4.2	Certified Industry Scheme	Support in part	The use of Certified Industry Schemes has the potential to streamline the process of administering PC1. However to have full permitted status for some of the highest polluting land use in the catchment, while land use with lesser effects requires consent, is in our view inconsistent with objective one of PC1 and the RMA. Furthermore we are concerned that there are no specific requirements for improvement for farms operating under an industry scheme.	Retain the approach of using Certified Industry Scheme's but through a more certain process such as operating under resource consent.
3.11.4.3	Farm Environment Plans	Oppose in part	<p>HFM supports the use of FEP's to managing diffuse discharges in the longer term. Farms are variable in their nature and in the longer term if we are to leave no stone unturned to achieve the long term water quality objectives it will require consideration of individual farms on a case by case basis. However the FEP approach does have the potential to be a very time consuming and costly exercise in delaying any real action.</p> <p>Relying solely on an FEP approach means that the opportunity to apply well understood best management practices to improve water quality across all farms will be lost or unnecessarily delayed, in some instances for many years.</p> <p>In the interim we consider that some of the information contained in the FEP should be provided to the Council as part of permitted activity standards in conjunction with BPO requirements.</p>	Either replace or supplement the FEP's with sound sensible BPO's for all land use activities to be adopted within workable but prompt time frames.
3.11.4.5	Sub-catchment Scale planning	Support in part	In the longer term land managers working together to solve problems at a sub-catchment level is going to be one of the practical tools to obtain the improvements required to achieve the long term goals of the plan. However, it is important that the funding of mitigation work is through those land uses that contribute and benefit from such mitigation to avoid such costs being borne by forestry, low leaching or point source discharges.	Amend the method to ensure that mitigation work is funded by land uses with diffuse discharges in proportion to contribution and benefit.
3.11.4.7	Information needs to support future allocation	Support in part	Ongoing research and information gathering is going to be essential to inform future plan changes and achieve the long term water quality goals of the plan. To this end, the goal should not be just to inform some future allocation framework that has been effectively 'kicked down the road'. Research should be aimed at developing further solutions that can be implemented within the	Amend the implementation method to "Gather information and commission appropriate research to inform <u>mitigation strategies to manage any future framework for the allocation of diffuse discharges including:...</u> "

Appendix One – HFM Submission

			timeframe of the plan change and to inform future plan changes.	
3.11.4.8	Develop an allocation framework for the next regional plan	Oppose	As noted in our submission to Policy 7, deferring implementation of an allocation framework, but signalling it will occur in a Region where the perverse effects of grandparenting are now very well understood by land users, can only create a disincentive to any voluntary action and therefore an impediment to achieving water quality objectives.	Replace 3.11.4.8 with the implementation of actions within the life of PC1.
3.11.4.9	Managing the effects of urban development	Support	While this plan change focusses largely on rural land use, to achieve the long term objectives of the plan will require all discharges to waterways in the region to be managed effectively, including urban discharges.	Retain method 3.11.4.9
3.11.4.10	Accounting system and monitoring	Support	Establishing a representative monitoring network across all sub-catchments and ongoing monitoring is essential to monitor progress toward long term goals in PC1.	Retain method 3.11.4.10
3.11.4.11	Monitoring & evaluation of the implementation of chapter 3.11	Support in part	Monitoring of the effectiveness of this plan change will be of high public interest and essential to inform future plan change processes. The method will need amending depending on any subsequent changes in approach (reference to NRP, FEP's etc).	Amend method 3.11.4.11 as required to reflect the alternative approach proposed below.
3.11.4.12	Support research & best management practices	Support in part	HFM supports the goal to support the dissemination of best management practices and research into further methods to reduce discharges. Given the long term water quality goals are going to require substantial changes in land use practice and indeed land use itself, ongoing research is appropriate to develop the knowledge required to inform both on the ground practice and future plan changes. However it is our view that enough is known already to enable the council to develop a BPO approach, with permitted activity conditions requiring actions that are already in practice and proven to be effective in reducing contaminant losses to be carried out now. To our mind delaying implementation or including them as guidance is ignoring some of the potentially easy gains that can be made.	Amend method 3.11.4.2 to include the requirement to implement BPOs (over an appropriate timeframe) where they are already known to be practical and effective.
3.11.5.1	Permitted Activity – Small and low intensity farming activities	Support in part	The rule as worded appropriately permits those farming activities that are of a size or intensity that they have a low potential for discharge of contaminants. In our view making such activities is consistent with the Act, but there is the potential to clarify the rules by amalgamating Rules 1 and 2.	Retain rule 3.11.5.1 or amalgamate with Rule 3.11.5.2

Appendix One – HFM Submission

3.11.5.2	Permitted Activity – Other farming activities	Support in part	<p>The rule as worded appropriately permits those farming activities that are of a size or intensity that they have a low potential for discharge of contaminants. In our view making such activities permitted is consistent with the Act.</p> <p>Our only concern is in relation to properties less than 20ha that have exceptionally high discharges. While we understand the practical reasons behind exempting properties <20ha being one of resourcing, providing a limit of 15kg /hectare /year is not likely to be observed if it is cumbersome for small land holders to assess and / or it is considered unlikely to be enforced. Collectively such properties could make a material contribution of pollutants if they are heavily stocked. The nub of the reason for exempting them is the resource intensive approach developed under PC1 of relying on property by property FEPs. Substituting the FEP's with region wide practical BPO's, including stock limits, applying to all properties should ensure best practice is followed everywhere, including on smaller landholdings.</p>	Retain rule 3.11.5.2 but include region wide BPO's to be followed on all rural properties, including those under 20ha.
3.11.5.3	Permitted activity – farming activities with a FEP under a certified industry scheme	Oppose	<p>We are concerned that there are no specific requirements for improvement for farms operating under an industry scheme, other than those with N leaching above the 75th percentile by 2026. We believe a more appropriate approach is to use a BPO approach with permitted activities to be followed by all farmers, regardless of sector. Farmers unable to meet the BPO's (indicating a higher level of potential effect) would then default to a consented regime to ensure a property specific consideration of the mitigation options. In our view this approach is more consistent with the RMA and is an approach that has routinely been used in Regional Plans for decades for activities other than farming (to date largely permitted without rules).</p>	Replace rule 3.11.5.3 with a BPO approach with permitted activity conditions above which a consent would be required.
3.11.5.4	Controlled activity rules – Farming activities with a FEP not under a certified industry scheme.	Oppose	<p>HFM opposes rule 3.11.5.4 for a number of reasons. While we understand the intent of the rule (to introduce FEP's managed in a staged fashion and managed by consent) the rule is very confusingly laid out, in particular the layers of implementation dates mixed in with permitted activity conditions and matters for control which will undoubtedly cause confusion amongst farmers.</p> <p>The muddled layout is particularly concerning given the far reaching implications of the rules in terms of the viability of many farming enterprises in the region. It is imperative that the rules can be easily interpreted and understood so landowners understand exactly where they stand.</p> <p><u>FEPs</u> Part of the root cause of the convoluted rules is the complexities surrounding</p>	<p>Redraft the rules so that farming activities are permitted subject to application of the best practicable option (eg best management practices).</p> <p>Incorporate the minimum standards in the FEP into the rules, including the information requirements contained in the FEP.</p> <p>Remove the reliance on NRPs and Overseer® as a method for assessing compliance.</p>

Appendix One – HFM Submission

			<p>staged timing which as noted above arises from the practical resource constraints associated with the very resource intensive approach developed under PC1 of relying on property by property Farm Environment Plans. To our thinking the application of a set of practical, proven BPO's that are required to be applied on all properties within a given timeframe would ensure earlier adoption of good practice, would be considerably simpler and less resource intensive to understand, administer and enforce. That way the bulk of the funding would be spent on actual measures to improve water quality, rather than the army of staff and consultants required to administer the FEP approach. That said, some of the information contained in FEPs is useful and important for farmers to understand in terms of their management options, so aspects of the FEP could be incorporated into the activity standards.</p> <p><u>NRPs</u> HFM is strongly opposed to the introduction of Nitrogen Reference Points (NRP's) used as a basis for setting discharge limits. Implementation issues aside, this is a form of 'grand parenting' discharge limits which regulates land use activities in inverse proportion to their contribution to a problem. Those polluting the most are rewarded with the greatest flexibility of land use (and therefore increased land value) while those who have contributed the least to the problem are most constrained and will lose land value.</p> <p>This is inequitable and creates entirely the wrong incentives to achieve water quality objectives – effectively landowners will be motivated to retain their N leaching rates as high as possible in order to retain future land-use options.</p> <p>When combined with the land use change rule (rule 7) the NRP creates a situation that only those polluting excessively will have the opportunity to change land use (by taking advantage of the head room created by their poor practice) which is again inequitable, not effects based and contrary to the approach of the RMA.</p> <p>To compound the inequities created by the NRP approach, the short comings of Overseer® as a tool for allocating between properties and land use is now well understood: The results for the exact same property can vary widely between different people undertaking the Overseer® inputs (presumably due to different assumptions). It is quite possible that just through an understanding of how Overseer® works properties will be able to generate an inflated NRP and then show an improvement through creative accounting. It is</p>	
--	--	--	---	--

Appendix One – HFM Submission

			also well accepted that Overseer® is a crude means of measuring comparative leaching between different properties, and in particular different land uses and different soils (many of which have never been ground-truthed). While there is clearly a place for Overseer® as a tool for farmers to evaluate and select different management options within their own property (the purpose it was designed for) it seems unacceptable to use it as the basis for allocation and future land use, given its short comings and the massive implications for peoples’ livelihoods and future land use options.	
3.11.5.5	Controlled activity - existing Commercial vegetable production	Oppose in part	To the extent that the regulation of the commercial vegetation production activities reflects the overall approach to diffuse discharges, and will potentially fail to achieve the objectives of PC1, this rule is opposed.	Make such amendments as appropriate to reflect the approach described in HFM’s submissions on the farming rules.
3.11.5.6	RD Rule	Oppose in part	To the extent that the matters for control are inconsistent with the BPO approach advocated by HFM, this rule is opposed.	Make such amendments to the matters for control as appropriate to ensure that the BPO approach is applied to applicants for resource consent.
3.11.5.7	Non complying activity rule – land use change		<p>HFM strongly opposes rule 3.11.5.7. The approach of restricting land use change is effectively ‘grand parenting’. This approach rewards polluters and penalises those who make a lesser contribution to the problem. The policy effectively means that forestry, being the productive land use that has contributed least to the problem is penalised by having no alternative land uses available. By contrast those who are polluting the most will have the greatest flexibility and options.</p> <p>In our view low contaminating land uses are being used as offsets for high contaminating land uses, but with the offsets being taken by regulation rather than being compensated – effectively one sector bearing the cost of externalities created by another.</p> <p>The policy and associated rules will undoubtedly immediately reduce land values for all land that is currently under forestry (and dry stock and cropping farming) that has alternative land use potential. Perversely it will almost certainly increase the land value of land under vegetable cropping and intensive dairy by creating a monopoly situation where that is the only land now available in the region for this use.</p> <p>This is the direct opposite to an ecosystem services approach (effectively taxing</p>	Delete rule 3.11.5.7 and replace it with robust BPO based rules that require those causing the adverse effects associated with their activities to avoid, remedy or mitigate those activities.

Appendix One – HFM Submission

			<p>those providing benefits) and creates entirely the wrong incentives in terms of future land use choices. Landowners will be motivated to stay in the highest polluting land uses so as to retain future options, and therefore land value.</p> <p>Perversely when combined with the NRP approach it creates a situation whereby only those polluting excessively will have the opportunity to change land use. This has been demonstrated by a consent already issued by Waikato Regional Council for conversion of a drystock farm to dairy by a neighbouring dairy farmer who purchased the property. They were able to undertake the conversion by making improvements on their existing farm, effectively creating head room from their higher than necessary leaching levels. The approach is completely inequitable, not effects based and effectively creates winners and losers based on current polluting behaviour.</p> <p>The rule will lock rural land use in the Waikato as it was in 2016 which cannot be a tenable solution for the long term given the need for rural businesses to adapt to changes in market preferences, climate change and other challenges.</p>	
Schedule A	Registration	Oppose in part	<p>While HFM is not opposed to the intent of Schedule A we can see that this has the potential to create a significant amount of work to both input the data by landowners and for the Regional Council to make sense of it, therefore the design of the system is critical.</p> <p>It is currently unclear whether non-farming properties are required to enter data. Schedule A suggests that all properties greater than 2ha must be entered, but the rules that enforce Schedule A all refer to 'farming' activities which suggest only farming activities are required to register? It would be our preference that only farming activities are required to register as registration of forests would not provide any useful information to the Council.</p> <p>If the intent is to gather data for plantation forests, in the case of HFM our forests in the Waikato region are located within over two hundred different titles in varying ownership (freehold, leasehold, forestry right etc) therefore the process has the potential to create a lot of work if not properly designed.</p> <p>Suggestions for improvement include:</p> <ul style="list-style-type: none"> • Being able to enter valuation numbers which are shorter and less prone to error, to automatically bring up the associated property titles. • Being able to enter multiple properties as one entry to enable joining 	<p>Amend Schedule A to apply to farming activities only.</p> <p>If the intent is to require registration of forestry blocks, design Schedule A taking into account our suggestions to streamline the process including:</p> <ul style="list-style-type: none"> • Being able to enter valuation numbers to automatically bring up the associated property titles. • Being able to enter multiple properties as one entry to enable joining together of blocks run contiguously. • Generating the data from a system that once correct property title(s) are entered automatically generates a boundary map and land area. • Having a default system once plantation forestry is entered to end the entry input requirements. • Allow for a non-standard format physical addresses e.g. a Forest Name rather than street address.

Appendix One – HFM Submission

			<p>together of blocks run contiguously.</p> <ul style="list-style-type: none"> • Generating the data from a system that once valuation numbers or property title(s) are entered, automatically generates a boundary map and land area. • Having a default system once plantation forestry is entered to end the entry input requirements. • Allow for a non-standard format physical addresses – forestry blocks generally do not have a road number or in many cases even a logical public road associated with them (e.g. a block within the centre of Kinleith Forest which is accessed from multiple directions). 	
Schedule B	Nitrogen Reference Point	Oppose	HFM is opposed to the use of Nitrogen Reference Points and repeats its submissions on rule 3.11.5.4. The NRP should not be used as a means of allocation, until such time that better tools are available to accurately measure the NRP and a fairer means of allocation has been developed.	Delete the Schedule and reference to NRP's, or amend the approach such that NRP's are used as an information gathering tool only.
Schedule 1	Requirements for Farm Environment Plans	Oppose	As stated in our submission to rule 3.11.5.4 HFM is opposed to the use of FEP's as the sole basis for achieving improvement in contaminant losses from farming.	Replace reliance on FEP's with a BPO approach to be implemented immediately. If FEP's are to be retained, expand Schedule 1 to include specific and straight forward actions that are known to be viable and reduce contaminant loss.
Schedule 2	Certification of Industry Schemes	Oppose	<p>The adoption of an approach based on the application of minimum standards / the BPO may obviate the need for industry schemes and the issues arising such as:</p> <ul style="list-style-type: none"> - How they will be implemented - The extent to which they will be robust - The cost to the industry - The potential questions of the vires of third parties determining matters within the remit of the Council's functions 	Delete Schedule 2
Table 3.11-1	Short term and long term numerical water quality targets for the Waikato and Waipa River catchments		The attribute tables are unclear as to how the attributed numbers were derived. While there is some logic to having different attribute targets in different parts of the catchment, it does appear that the attribute tables are setting higher targets in parts of the catchment with cleaner water and lower targets where water quality is lower. This is again a form of grandparenting whereby those catchments with dominated by high intensity farmer and therefore more contaminated water are rewarded with less ambitious targets.	Amend Table 3-11-1 to ensure attribute targets fairly allocate water quality expectations across all catchments based on natural characteristics, rather than rewarding land users in heavily degraded catchments with less ambitious targets.

Appendix One – HFM Submission

<p>Part B 5.1.5, 5.1.4.11</p>	<p>Additional conditions for plantation forest harvesting</p>	<p>Support</p>	<p>HFM supports the proposed additional rules for plantation forest harvesting in the catchment. The fact that plantation forestry is the land use that is proposed to be the only productive land use that is completely locked with no alternatives under rule 3.11.5.7 would indicate that plantation forestry is the most preferred productive land use in terms of achieving water quality outcomes. Given plantation forestry has been regulated under Regional Plans since the outset of the RMA, and to date as far as we are aware any concerns that Waikato Regional Council have had with sub-standard operations have been able to be enforced via the existing rules, this would suggest the rules are sufficient. Additional requirements for companies to notify the Council of commencement and provide a harvest plan are sensible additions to enable the Council to be more proactive in administering and enforcing the rules rather than the current situation where they often have no idea where permitted woodlot operations are being undertaken until the job is well progressed or even completed.</p> <p>HFM's only concern is that for large forests managers with large numbers of operations being undertaken on an ongoing basis that the Council pragmatically administers the rule – requiring notification of only the commencement of harvest in a forest such as Kinleith (not each individual harvest area) and submission of harvest plans and amendments in periodic tranches or on request, ideally electronically.</p>	<p>Retain rule 5.1.5, 5.1.4.11.</p>
<p>Part D</p>	<p>Consequential amendments generally</p>		<p>To the extent that the PC1 “consequential amendments” amend the existing regional plan rules so that they will only apply to point source discharges, these are inappropriate and unreasonable, particularly if the Alternative Approach is adopted. The application of the existing plan provisions to farming activities regulated under PC1 is unclear. If it is intended that the existing plan provisions no longer apply where those activities are regulated under PC1 (new chapter 3.11), this is opposed. Many of the activity standards in the existing plan should continue to apply in addition to the standards proposed by PC1.</p>	<p>These amendments should be deleted so that it is clear that the existing rules continue to apply to diffuse discharges. Failing that, the relevant existing rules should be incorporated into Chapter 3.11 to form part of the permitted activity standards.</p>