

SUBMISSION – WAIKATO REGIONAL PLAN CHANGE 1

To: Waikato Regional Council

Name of submitter: Oji Fibre Solutions (NZ) Limited (“OjiFS 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:**

The submitter is one of Australasia’s leading producers of market pulp, paper and fibre-based packaging. Within the Waikato Region it is the owner of Kinleith Mill. The Kinleith Mill produces approximately \$500 million of pulp, paper products and chemical by-products per year, mostly as exports. It directly employs over 450 people. As a producer of pulp and paper, the submitter is dependent on a secure source of future fibre supply to the Mill and the ability to utilise the region’s water. Accordingly, the Mill’s location is deliberately close to New Zealand’s largest wood fibre source and the port at Tauranga, and adjacent to a river resource of which it is a significant but efficient user. The Mill is an economically and environmentally significant industry in the region. For instance, it supports the primary sector by producing locally made packaging paper, and is also New Zealand’s largest user of recovered paper, underpinning New Zealand’s paper recycling efforts.

5. **General Reasons for the submission:**

OjiFS considers that the implementation methods currently contained in PC1 are not the most appropriate way to achieve PC1’s objectives of restoring water quality in the Waikato River in a manner that is consistent with the Vision and Strategy for the Waikato River or the sustainable management of region’s natural and physical resources. The methods fail to address the fundamental problem of excess diffuse source discharges within the catchment, even without taking into account the potential load of nitrogen already in the groundwater.

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

- PC1 does not require reductions in discharges of contaminants, except for the very highest dischargers, and therefore fails to require all land and water users to adopt practicable measures or make a proportionate contribution to mitigating adverse effects on water quality, either at all, or within reasonable timeframes.
- By removing development flexibility, PC1 acts to actively discourage land uses, such as forestry, and management practice changes that provide benefits to water quality;
- Because PC1 adopts a staged approach to the management of contaminant discharges that relies heavily on information collection, it unreasonably defers the adoption of practicable options which could be applied as an interim measure.

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- PC1 penalises activities that have already taken steps to internalise their adverse environmental effects.
- Through application of the Nitrogen Reference Point (“NRP”), the rules in PC1 foreshadow a grandparented allocation of discharge rights that will result in clear disincentives to adopt best practicable management practices;
- PC1’s stated intention that the plan may eventually transition to a more equitable approach based on “land use suitability” may be (legally) overridden by any subsequent plan review;
- The Farm Environment Plan, which underpins the rule framework, is a risk assessment process that fails to mandate the implementation of mitigation methods;
- For diffuse discharges, PC1 fails to adequately or appropriately recognise prior investment in measures that have led to improved water quality mitigation measures;
- The certified industry scheme is not subject to any robust or transparent approval process. It also inappropriately delegates decision making authority to a third party, is self-audited by the ‘industry’ being regulated, and authorises a system (NRP and Overseer®) that is susceptible to strategic management to achieve improved commercial outcomes for users of that system;
- PC1 unfairly requires point sources to adopt the best practicable option and to apply offsets and to be assessed against the short term targets of the plan in a manner that could result in those consented activities bearing the future burden to improve water quality.

In light of the PC1 approach, OjiFS is concerned that point source discharges will be disproportionately tasked with achieving the objectives of PC1 in the absence of a corresponding contribution of any significance from intensive land use activities. It is also concerned that the provisions of PC1 will act as a direct disincentive to the expansion of production forestry in the region in a situation where more afforestation, which is likely to lead to improved water quality, should be actively encouraged. Afforestation also has benefits for local processing industry, which is an efficient user of finite resources relative to other land uses. Addressing the disincentives in PC1 to afforestation is therefore essential to improve water quality over the medium to long term, which in turn will have a positive effect on people’s health and the region’s economic, social and cultural well-being.

OjiFS’s position is that it is inappropriate and unreasonable to delay adopting a more equitable approach that robustly addresses the activities contributing most to water quality problems. Through pastoral farming research, there is already significant information regarding best practicable practices that will reduce leaching and contaminant loss. There are already examples of best practice farmers operating in the lowest quartile of nutrient loss while remaining profitable. It is unclear why PC1 does not extend the adoption of these practicable farming practices to all farms. Instead, PC1 focuses on information gathering, and only requires the top 25% worst farms to improve, which is an insufficient response to the water quality issues in the region.

OjiFS has proposed an alternative approach (“the Alternative Approach”) as outlined in Appendix Two of its submission. The Alternative Approach 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 is a pragmatic response that recognises some further understanding of the subcatchments may be required before a land use suitability system can be implemented. OjiFS considers that it is necessary to work towards property level allocation/discharge limits based on a land use suitability approach using sub catchment information over the life of PC1 to inform the next plan change.

6. **General relief sought:**

The principal changes that the submitter seeks to PC1 are:

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- 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 are incentivised to identify and adopt best management practices consistent with the objective of improved regional water quality over time; and
 - 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 and to avoid a perverse incentive where land owners are motivated to maintain grand-parented pollution 'rights' and the attributed land value so imparted. 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. The role of Overseer is to help farmers fine tune their options for reducing leaching. It is not suitable as the foundation for determining future allocations of a resource;
 - e. Third party schemes are required to apply for resource consents to operate as 'consented industry schemes' to ensure that there is transparent, accountable and credible delivery of the Plan's objectives; and
 - f. If, in the alternative it is considered appropriate to implement an allocation from the outset, such allocation should be based on a consistent foundation (such as LUC) where land is treated like for like.
7. **General reasons for the relief:**

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 National Policy Statement for Freshwater Management 2014 ("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; and
- 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;

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- 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. **The specific reasons and relief:**

The submitter has provided three appendices in support of its submissions:

- a. Appendix One – a table of specific submissions on each part of PC1
- b. Appendix Two – an overview of the Alternative Approach
- c. Appendix Three – a new Schedule D (BPOs) for inclusion in PC1.

The submitter seeks the following decisions:

- d. That the proposed provisions of PC1 be amended to address the issues and relief raised in this submission, including within Appendix One, and that the Alternative Approach in Appendices Two and Three be applied.
- e. 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 the Appendices).

While specific relief is set out in the Appendices 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. Without limiting the foregoing, the specific relief set out in Appendix Three, Schedule D is an indicative approach to the types of best practicable options that could be applied to farming activities and is subject to further evidence based refinement.

- 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.



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Dated this 8th day of March 2017

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Appendix One – Waikato Regional Plan Change No 1 – Waikato and Waipa Catchments

#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
	Part A	Background and Explanation			
1	3.11	All of the background and explanation	Oppose	For the reasons set out below the statements in the background and explanation are opposed.	Redraft this section as appropriate to give effect to the reasons for OjifS's opposition to this section of PC1, to the Alternative Approach or to other aspects of OjifS's submissions.
2		Co-management of the Waikato and Waipa Rivers	Oppose	OjifS opposes the way in which the explanation proposes to give effect to the Vision and Strategy for the reasons outlined in this submission.	Redraft to give effect to the Alternative Approach.
3		Collaborative Approach	Oppose	OjifS does not accept that the collaborative group "represented stakeholders and the wider community.". It represented <u>some</u> stakeholders, not including OjifS, despite OjifS's requests to directly participate, its position as the largest non-farming or energy industrial operator in the region and the value of commercially robust regional wood processing as an inducement to reforestation and afforestation. Reference should be made to the fact that involvement on the CSG was by invitation issued by the Regional Council. It should also be acknowledged that the critical aspects of the CSG's recommendations to the Regional Council were agreed only to the extent that a majority of invited CSG members voted for them.	Record that only some stakeholders were represented and insert a statement to the effect that there was no consensus from the CSG in relation to a number of issues. Record that involvement on the CSG was by invitation only, issued by the Regional Council.
4		Full achievement of the Vision and Strategy will be intergenerational	Support in part	OjifS supports the statement that "In addition, the current understanding is that achieving water quality restoration requires a considerable amount of land to be changed from land uses with moderate and high intensity of discharges to land use with lower discharges (e.g. through reforestation)." It is appropriate to recognise that afforestation or reforestation is a land use that contributes significantly less to the reduction in catchment water quality than alternative "permitted" uses of the same land. Forestry and afforestation therefore contribute to the attainment of water quality as contemplated in the Vision & Strategy. PC1 fails to integrate and therefore indirectly discourages afforestation in the Waikato and Waipa catchments for the reasons outlined in this submission.	Alter any statements referring to rule 3.5.11.7 so that this section is consistent with the proposed modification of the land use change rule.
5	Oppose		OjifS opposes the statement " <u>The staged approach recognises that immediate large scale land use change may be socially disruptive</u> , and there is considerable effort and cost for resource users, industry and Waikato Regional Council to set up the change process in the first stage." The statement fails to recognise that restricting land use change may also be economically disruptive and could lead to environmentally perverse outcomes, for the reasons outlined in relation to rule 3.11.5.7 and Policy 6. Transitioning to the Alternative Approach is the most appropriate means of achieving PC1s		

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				objectives and ensuring that adverse effects are internalised in a manner consistent with sustainable management.	
6	3.11 (cont'd)	Full achievement of the Vision and Strategy will be intergenerational (cont'd)	Oppose in part	OjiFS supports the desire to reduce contaminant losses from pastoral farm land as outlined in the Explanation, but for the reasons outlined in this submission, opposes the PC1 approach.	Redraft the Explanation to give effect to the Alternative Approach.
7			Oppose	The Explanation refers to the land use rules and future plan changes as being interim. As the nature of future (10 years +) rights and obligations cannot be determined this creates investment uncertainty, particularly for long lived land uses such as forestry. The risk that individual property owners will act to preserve their individual interests in higher opportunity derived land values at the expense of the environment has been overlooked or discounted.	Amend the Explanation to delete the second and third sentences on page 16 to give effect to the Alternative Approach.
	3.11.1	Values and Uses for the Waikato and Waipa Rivers			
8		Use values - Primary Production	Support in part	The Use Value for Primary Production provides “These industries contribute to the economic, social and cultural wellbeing of people and communities, and are the major component of wealth creation within the region. These industries and associated primary production also support other industries and communities within rural and urban settings.” This statement is equally true of commercial and industrial use in the region. A comparison of the use values for primary production with the use values for Commercial, municipal and industrial use conveys an inappropriately hierarchical and subjective preference as between primary production and industry.	Amend the use values statements to use consistent language that avoids any inference that there is a prescribed hierarchy as between competing uses and the implication that one use could be prioritised by regulators over the other.
9		Use values – Commercial, municipal and industrial use			Add the following statement to the left hand column: <u>“These industries contribute to the economic, social and cultural wellbeing of people and communities, and are the major component of wealth creation within the region. These industries and associated primary production also support other industries and communities within rural and urban settings.”</u>

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3.11.2 Objectives and Reasons for Adopting the Objectives					
10	Objective 1	Long-term restoration and protection of water quality for each sub-catchment and Freshwater Management Unit	Oppose in part	<p>The horizon of 80 years is in and of itself not necessarily unreasonable provided that it is understood to be aspirational. In conjunction with this long term goal a medium term goal to set the direction of the plan, such as 30% over a thirty year period should also be adopted. This is more statistically measurable in the medium term than the 10 percent change proposed by Objective three, particularly when the load to come is considered.</p> <p>In conjunction with aspirational goals, the objectives must focus on the need to avoid, remedy or mitigate the effects of discharges on surface water or ground water. Per OjIFS's proposed Alternative Approach, the appropriate way to work towards the long term goals is through the adoption and application of the BPO to all activities.</p> <p>OjIFS is concerned that PC1 fails to contemplate future development in the region where that development is an efficient use of resources.</p> <p>An objective is required to reflect the social and economic contribution of existing industry in the region, in a manner consistent with objectives in other parts of Chapter 3 of the Regional Plan. The objective should recognise the value of new or expanded regionally significant industry where that underpins environmentally beneficial land uses. Wood processing, in all its forms, represents a demand for logs which would motivate landowners to retain and expand forestry in the region. The high cost of transport and the wider economic multipliers of local processing suggest wood processing within the region is more efficient than locating such processing outside the region.</p> <p>Alternatively, or in addition the objectives could be redrafted to reflect numerical levels and targets which give effect to the NPS –FW 2014.</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><u>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:</u></p> <ul style="list-style-type: none"> (a) <u>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;</u> (b) <u>For discharges onto or into land, avoids, remedies or mitigates adverse effects on surface water or groundwater.</u> (c) <u>Recognises that discharges contribute to social and economic wellbeing and in some cases significant investment relies on those discharges, including rural-based activities such as agriculture, perishable food processing and industry;</u> (d) <u>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.</u>
11	Objective 2	Social, economic and cultural wellbeing is maintained in the	Oppose in part	<p>The heading of Objective two is not consistent with the wording of the objective itself and the objective and heading requires amendment accordingly.</p> <p>The intent of the objective, as expressed by the heading, which is to recognise social,</p>	Delete objective two and incorporate the concept of the three well-beings into Objective One.

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		long term		economic and cultural well-being and to manage the long term water quality goals in conjunction with the three well-beings is supported. However, the drafting of the objective suggests that the well-beings are only relevant to the extent that they will be achieved as a result of improved water quality.	
12	Objective 3	Short-term improvements in water quality in the first stage of restoration and protection of water quality for each sub-catchment and Freshwater Management Unit	Oppose in part	<p>Objective 3 seeks short term improvements in water quality including a ten percent change over the life of PC1.</p> <p>This objective only requires actions to be put in place and implemented by 2026 whereas it should more appropriately require some immediate action with a staged approach over the life of the plan. There are a number of BPOs which are practicable and / or of relatively low cost that are able to be readily implemented in the short term. This represents the same BPO / minimum standards approach applied to other activities under the Waikato Regional Plan.</p> <p>The focus on 10% does not prescribe that the ten percent must be achieved within the life of the plan. When applied to very low numbers, 10% is, in many cases, statistically irrelevant and difficult to measure. For this reason larger, medium term targets are more helpful / relevant. This objective is therefore better to focus on working towards medium term reductions through the BPO as well as referencing the 10% targets.</p> <p>The focus on 10 percent rather than BPO is also economically and environmentally inefficient. This is particularly the case where past proactive improvement or low inherent adverse effect requires a disproportionate cost to achieve an improvement specified in percentage terms.</p> <p>The Objective does not distinguish between point source and diffuse discharges. The Section 32 Report is clear that objectives 1 and 3 are focussed on addressing diffuse source discharges from land (pp96 and 101) and is consistent with the finding that industrial discharges account for a relatively small percentage of N and P to water compared to diffuse discharges from agriculture. Chapter 3.5 of the regional plan already addresses point source discharges and as noted in the explanation "Point source discharges are currently managed through existing resource consents, and further action required to improve the quality of these discharges will occur on a case-by-case basis at the time of consent renewal guided by the targets and limits set in Objective 1"</p> <p>Notwithstanding, the Reasons for Adopting Objective 3 refers specifically to point source discharges only as follows; "Point source discharges are currently managed through existing resource consents, and further action required to improve the quality of these discharges will occur on a case-by-case basis at the time of consent renewal, guided by the targets and limits set in Objective 1." There is no specific reference to diffuse discharges at all in the Reasons for Adopting Objective 3 and no support in the Section 32 report for this statement.</p>	<p>Amend Objective 3 to be consistent with the Alternative Approach and / or as follows:</p> <p>Actions put in place immediately and implemented by 2026 to reduce non-point source discharges of nitrogen, phosphorus, sediment and microbial pathogens, are sufficient to achieve <u>Objective 1 (as redrafted)</u>, ten percent of the required change between current water quality and the 80 year water quality attribute targets in Table 3.11-1. A ten percent change towards the long term water quality improvements is indicated by the short term water quality attribute targets in Table 3.11-1.</p> <p>Delete the following paragraph from the Reasons for Adopting Objective 3:</p> <p>"Point source discharges are currently managed through existing resource consents, and further action required to improve the quality of these discharges will occur on a case-by-case basis at the time of consent renewal, guided by the targets and limits set in Objective 1."</p>

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				<p>The inclusion of the above paragraph in the Reasons for Adopting Objective 3 is unreasonable and out of context. It is not appropriate to refer to point source discharges in the context of this objective. It implies that point source discharges will do the “heavy lifting” and that through consent applications a 10% increase in discharges will be expected. This could be inequitably and unreasonably applied to the renewal of existing consents that have already achieved an overall reduction in impact on the river through the application of the BPO. Point source discharges are also likely to have consent terms that endure beyond the life of the plan so it is appropriate to refer the medium or long term objectives of the plan rather than the short term objectives. Notably, in the context of point source discharges the plan’s policies refer only to Objective 1.</p> <p>In accordance with the Alternative Approach and the Section 32 Report, the Objective should focus on reductions from diffuse discharges arising from agricultural activities as the activities that are having the greatest contribution to water quality degradation in the region.</p> <p>The specification of a percentage reduction in relation to point source discharges cannot hope to achieve the vision for the catchment. A ten percent reduction in the approximately 15 percent of total impact attributable to point source discharges is logically and at best, only a 1.5% improvement in water quality in the total river catchment.</p>	
13	Objective 4	People and community resilience	Oppose in part	<p>Although the obligation to avoid, remedy or mitigate the adverse effects of activities has existed since the RMA was enacted in 1991, OjIFS recognises that a staged approach to managing diffuse discharges is pragmatic. However, it considers that the transition to an approach whereby activities internalise the adverse effects of diffuse discharges on the environment must begin to occur over the life of PC1. It is not sufficient to simply “signal” a future approach for the majority of farming enterprises, not least because that approach is not binding. Furthermore, without implementing the changes into PC1, the plan inappropriately incentivises the continuation of existing management practices on properties with high diffuse discharges.</p>	<p>Amend Objective 4 as follows:</p> <p>...</p> <p>a. considering the values and uses when taking actions to achieve the attribute short term goals targets for the Waikato and Waipa Rivers in Table 3-11.1; and</p> <p>b. recognising that further contaminant reductions will be required during the life of the plan and by subsequent regional plans and signalling anticipated future management approaches that will be needed to meet Objective 1.</p> <p>Otherwise ensure that the Objective is consistent with the Alternative Approach.</p>
14	Objective 5	Mana Tangata – protecting and restoring tangata whenua values	Support in part	<p>OjIFS considers that all land holders, including tangata whenua should have the same flexibility of land use within the parameters of the Alternative Approach.</p>	<p>In conjunction with the proposed revision of Rule 6, delete clause b) of Objective 5.</p>

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15		Principal Reasons for Adopting Objectives 1-6	Oppose	<p>The reasons for adopting the objectives are unnecessary and inappropriate. Although a convention of the Waikato Regional Plan, the explanations in some instances generally confuse the issues, are repetitive, retrospective and /or appear to significantly alter or extend the application of the objectives. The objectives of the Plan should be sufficiently clear to stand alone. Unlike the contents of a regional policy statement the Act does not provide that the Council may include the principal reasons for adopting objectives. A regional plan may only state the principal reasons for adopting the policies and methods (s67(2)(c)).</p> <p>As the explanations generally extend the objectives and anticipate the policies, if they are retained, the explanations would be clearer if they followed the policies and methods (and were consistent with those).</p>	<p>Delete this section</p> <p>If that relief is not accepted, in the alternative, reframe the explanation with respect to the policies and methods, without confusing, repeating or extending the issues expressed in the policies and methods.</p>
3.11.3 Policies					
16	Policy 1	Manage diffuse discharges of nitrogen, phosphorus, sediment and E.coli	Support in part	<p>The general policy that farming activities reduce their discharges is supported, however, overall, there is a lack of connection between the policies requiring reductions and the rules. Furthermore, Policy 1 is a less detailed version of Policy 2 and although it attempts to deal with non farming activities, it does so in a manner that is inconsistent with the implementation methods of the plan and the purpose of the Act.</p> <p>Without limiting the generality of the above:</p> <ol style="list-style-type: none"> The policy heading includes a focus on “diffuse discharges” but there is no reference to “diffuse” discharges in the text. Headings may be considered in ascertaining the meaning of regulation; Subclause (a) is not consistent with the implementation rules. There is no ability to prevent those small and low intensity farming activities from increasing their diffuse discharges through changes in land management practice, provided they meet the permitted activity standards. There is therefore a disconnect between this policy and the requirements to adopt best management practice, good management practices or certification through a certified industry scheme. Subclause (b) is not consistent with the implementation rules. For all but the highest leaching farms (top quartile) there is no clear or specific requirement to reduce their discharges. There is no recognition that the intensity of a discharge has a different environmental effect depending on where in the catchment it occurs, such that a high discharge in one part of the catchment does not have the same effect as the same discharge in another area. The policy can be interpreted as implying that it applies to non- farming activities (clause (a)) but does not specify what activities it refers to, when there is no issue or method identified in relation to non-farming activities with diffuse discharges (eg forestry). 	<p>Amend Policy 1 as follows:</p> <p>Manage and require Achieve reductions in sub-catchment-wide <u>diffuse</u> discharges of nitrogen, phosphorus, sediment and microbial pathogens from farming activities, by: a. Enabling activities with a low level of contaminant discharge to water bodies provided those discharges do not increase; Requiring farming activities with a low level of contaminant discharge to water bodies to progressively exclude livestock (not including sheep) from rivers, streams, drains, wetlands and lakes and b. Requiring farming activities with moderate to high levels of contaminant discharge to water bodies to adopt the BPO to reduce or mitigate their discharges; and c. Progressively excluding cattle, horses, deer and pigs from rivers, streams, drains, wetlands and lakes.</p> <p>Or Redraft the policy to reflect the Alternative Approach.</p>

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17	Policy 2	Tailored approach to reducing diffuse discharges from farming activities	Oppose	<p>This policy appears to expand on Policy 1 by providing more detail on the basis for managing farming activities.</p> <p>It requires reductions through the FEP, stock exclusion and / or participation in a certified industry scheme and is judged against the NRP. Although the goal of reducing discharges is supported, for the reasons set out in this submission, those reductions will not be achieved through PC1 in its proposed form.</p> <p>Clause (d) requires the “degree of reduction to be proportionate to the amount of current discharge... and proportionate to the scale of water quality improvement required in the sub-catchment”. Although in principle the concept of proportionality is supported, it is not clear how or when PC1 will apply the policy if there is an absence of sub-catchment information. There is a risk that this policy could be interpreted as contrary to the achievement of water quality improvements by allowing current low cost mitigation options to be by-passed on the basis that a proportionate reduction equates to a ten percent improvement. PC1 regulates flexibility and therefore land value on the basis of existing levels of diffuse discharges which could act to impede the adoption of appropriate mitigation.</p> <p>Clause e) is supported as fencing stock out of waterways is one of the appropriate BPOs that should be progressively applied to farming activities.</p>	<p>Redraft the policy to reflect the Alternative Approach, including by deleting reference to the requirement for a NRP and incorporating a reference to the requirement for new farming activities to adopt BPO.</p> <p>If the above relief is not accepted, as a minimum, achieve diffuse discharges from farming activities and commercial vegetation through the adoption of BPO in accordance with Policy 3(d) (as redrafted per the submission).</p> <p>Replace “manage and require reductions” of diffuse discharges with “Achieve reductions”</p>
18	Policy 3	Tailored approach to reducing diffuse discharges from commercial vegetable production systems	Support in part	<p>This policy manages on the basis of risk which sets the framework for the commercial vegetable production rules. It applies a grandparented allocation to the maximum area in production. In contrast to the farming policies, it also requires a 10% decrease in discharges through the implementation of good management practices.</p> <p>The reasonable interpretation of policy 3(d) is that good management practice is achieved by a ten percent decrease in diffuse discharges, notwithstanding the starting point or the ease with which other levels of reduction could be achieved.</p> <p>This policy inappropriately refers to both best or good management practices and implies that they are different standards that can be applied in the “alternative”. Refer to the submission on the definition of good management practices.</p> <p>As the definition of farming activities includes commercial vegetable production, where a BPO approach is applied, there is no need for a separate policy.</p>	<p>Delete this policy subject to any necessary amendments to give effect to the Alternative Approach.</p>
19	Policy 4	Enabling activities with lower risk to continue or to be established while signalling further	Support in part	<p>This policy enables existing and new lower risk activities (i.e less than 4.1ha and low intensity farms less than 20ha). Although the policy contains the proviso that these activities may continue provided that cumulatively the achievement of Objective 3 is not compromised, there is no method to contain any check on cumulative effects where those low risk activities are farming activities.</p>	<p>Redraft Policy 4 to give effect to the reasons for the submission and so that it is consistent with the Alternative Approach.</p> <p>Amend the policy to enable low leaching activities such</p>

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		change may be required in future		<p>Notwithstanding, the policy should ensure that existing and new low discharging activities such as forestry are enabled.</p> <p>As there is no requirement to implement a NRP until 2019 there are a potentially large number of blocks less than 20ha that will not be subject to any management for at least three years from the date of the plan's notification. Cumulatively these farms present a risk to the water quality in their catchment.</p> <p>It is more appropriate to require all low risk activities to adopt some form of BPO regardless of risk, recognising the concept of proportionality.</p>	<p>as forestry while ensuring that existing farming activities adopt some BPOs, such as fencing stock from waterways.</p> <p>Amend the heading to include the word "diffuse" consistent with the policy wording / focus.</p>
20	Policy 5	Staged approach	Oppose in part	Ojifs recognises that there is some need to transition change but seeks that any transition be adopted during the life of PC1.	Amend Policy 5 to recognise the transition to the Alternative Approach (to be implemented during the life of the plan).
21	Policy 6	Restricting land use change	Oppose	<p>This policy and the corresponding Rule 6 are not reasonable or appropriate. They are not necessary if the Alternative Approach is utilised.</p> <p>For land currently afforested, which does not require a NRP, and in the absence of any defined or assumed diffuse leaching loss from the activity, both the policy and rule 3.11.5.7 are uncertain and potentially unreasonable: It is not possible to determine the extent to which a change in land use from forestry to another land use will result in a discharge of contaminants that is greater than the existing land uses but the presumption is that an increase will occur however low the actual intensity of the discharge. As written this policy amounts to a prohibition on land use change. It is not clear what, if any, allowance will be made for natural variability in diffuse leaching of N where cyclical changes in the activity of forestry over a rotation are judged against the prescribed benchmark of 22 October 2016. The full extent of variability in diffuse N associated with forestry is unknown. It could be influenced by use of fertiliser at time of planting, slash management practices, post-harvest over-sowing with grass for sediment control or the predominance of leguminous weeds and nitrate in rainfall arising from ammonia volatilised from other properties' land uses.</p> <p>In addition to referring to the diffuse discharge of nitrogen, phosphorus or microbial pathogens, Policy 6 also requires consent applicants to demonstrate that there is no increase in the diffuse discharge of sediment. Forestry is typically associated with low (but not no) loss of sediment. The 30 year rotation typically associated with wood fibre production has a low sediment generating potential as compared to some other predominant land uses when viewed as an average over time but with a cyclical, predictable and unavoidable increase at and for a few years after harvest. It is not clear whether a forest that was mid or late rotation in 2016 will be required to maintain little or no discharge of sediment at harvest, but that is one interpretation of the policy.</p>	Delete policy 6. Incorporate into Policy 2 a requirement for new farming activities to adopt BPO from the outset.

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				<p>By enabling existing discharges to continue and limiting new entrants, the combined effect of the policies is to grandparent the rights to diffuse source pollution. Grandparenting has been defined as “allowing existing operators to carry on producing current levels of effects, particularly adverse effects, and imposing restrictions only upon new entrants to whatever activity is being dealt with. (per <i>Day v Manwatu-Wanganui Regional Council</i> [2012] NZEnvC 182, per Thompson J. at [5-128])</p> <p>The policy will result in perverse environmental, economic and social outcomes for the further reasons outlined in relation to Rule 7.</p>	
22	Policy 7	Preparing for allocation in the future	Support in part	<p>Policy 7 seeks to direct the framework for future plans and to provide the basis for the collection of information and further research.</p> <p>To the extent that this policy is signalling a more punitive approach to diffuse discharges in the future, in conjunction with the other parts of the regional plan, it could incentivise perverse environmental outcomes. Those grandparented higher levels of discharges will benefit through higher land value if they decline to adopt discharge reduction measures.</p> <p>Although there is no binding requirement on a future regional plan to follow the direction anticipated in an existing regional plan, it is appropriate to signal that any future allocation will not be grandparented or based solely on existing use. Notwithstanding, these policy considerations should be more clearly articulated.</p> <p>It is noted that many of the policies are not consistent with, or only partially reflect the CSG policy selection criteria.</p>	Redraft the policy as a method, with amendments to clarify that future allocation will not be grandparented or based on existing use. In the alternative, redraft a new policy /method to adopt the Alternative Approach and to provide the basis for collection of information and further research.
23	Policy 8	Prioritised implementation	Oppose in part	<p>The approach to sub catchments is not opposed per se. However, to the extent that the rules implement the policies by deferring and delaying, particularly with respect to implementation of mitigations to reduce discharges until the end of the life of PC1, the policy is opposed.</p>	Amend so that this policy is consistent with the Alternative Approach, to the extent necessary.
24	Policy 9	Sub-catchment and edge of field mitigation planning, co-ordination and funding	Support in part	<p>This policy adopts a sub-catchment approach. OjIFS supports encouraging cost-effective mitigations which have the greatest effect on improving water quality to the extent that this is a reference to the BPO. However OjIFS considers that cost effective mitigations should be applied regardless of where in the catchment they are applied, as this is consistent with s5 of the RMA.</p>	<p>Retain the policy subject to the following amendments:</p> <ul style="list-style-type: none"> - clarify the basis and timeframes for implementing cost effective mitigation strategies. - Delete clause (d) - Insert reference to the BPO <p>Otherwise amend this policy so that it is consistent with the Alternative Approach. If the Alternative Approach is not accepted, require identified strategies to be implemented via FEPs (as opposed to encouraging them).</p>

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25	Policy 10	Provide for Point Source Discharges of Regional Significance (provides for the continued operation of regionally significant industry)	Support in part	<p>Recognition of the need to provide for the continued operation of regionally significant industry is appropriate and consistent with the purpose of the Act.</p> <p>However, this policy requires strengthening in the following manner:</p> <ol style="list-style-type: none"> By recognising that it may be appropriate to apply a net benefit approach to regionally significant industrial point source discharges, where, for example, the environmental benefits of additional conversion of more land to forestry may result from an increased demand by expanding regional processing capacity; By defining those activities that are “regionally significant industry” in accordance with the definition in the RPS which requires the regional plan to identify those activities. 	<p>Amend the policy as follows:</p> <p>When deciding resource consent applications for point source discharges of nitrogen, phosphorus, sediment and /or microbial pathogens to water or onto or into land, provide for the:</p> <ol style="list-style-type: none"> Provide for the continued operation of regionally significant infrastructure; and Provide for the continued operation or expansion of regionally significant industry’ <p>Define regionally significant industry to clearly include the Kinleith Industrial Park, for example, as follows:</p> <p>Regionally significant industry - means industry based on the region’s use of natural and physical resources which have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits. Regionally significant industry includes:</p> <ol style="list-style-type: none"> Wood processing plants; Dairy manufacturing sites; Meat processing plants; Mineral extraction activities; and Renewable energy generation.
26	Policy 11	Application of Best Practicable Option and Mitigation or Offset of Effects to Point Source Discharges	Oppose	<p>The effect of this policy is to allow the Council to require offsetting to achieve further gains by way of offsets <u>after</u> the BPO and associated mitigations have been applied.</p> <p>This policy is supported to the extent it recognises BPO, however OjifS opposes linking offsets to situations where it is not practicable to avoid, or mitigate effects and as a means of avoiding, remedying or mitigating “all adverse effects”.</p> <p>The BPO, by definition incorporates the concept of practicability. If an action is not practicable it is not the BPO. This policy therefore obviates, or goes substantially beyond, the BPO and requires the avoidance or mitigation of <u>all</u> adverse effects through the use of offsets. OjifS’s support for BPO extends to its application to all diffuse source discharges, although as proposed neither the BPO nor an offsetting approach is applied to activities with diffuse discharges. This results in significant inequities as between the management of activities.</p> <p>This policy needs to clarify that the adoption of the BPO is the mechanism for achieving Objective 3. On that basis the BPO will not prescribe a ten percent, or any other numeric, reduction requirement towards the long term water quality improvements as indicated by</p>	<p>Amend Policy 11 to make it clear that:</p> <ol style="list-style-type: none"> the adoption of the BPO is the principal mechanism for achieving Objective 3; an offset is not additional to, but may form part of the BPO; the discharge / activity will not require a ten percent or any other standardised numeric reduction in discharges towards the long term water quality improvements as indicated by the short term water quality attribute targets (goals) in Table 3-11-1 as an obligation additional to the adoption of the BPO.

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				<p>the short term water quality attribute targets (goals) in Table 3-11-1 as an obligation <u>additional to</u> the adoption of the BPO.</p> <p>The policy must recognise that those with existing consents already subject to BPO obligations have made prior investments in measures that have already led to greater efficiency in water quality mitigation measures. These may need to be recognised as a fair and reasonable contribution to the achievement of the region’s water quality targets.</p>	
27	Policy 12	Additional Considerations for Point Source Discharges in Relation to Water Quality Targets	Oppose	<p>This policy inappropriately and unreasonably signals that point source discharges must take into account their contribution to the likely achievement of the short term target in Objective 3 or the progression towards the 80 year targets in objective one as an “additional” consideration. Policy 12 is inappropriate, uncertain and unreasonable if the intention is that its obligations are additional to the BPO required by Policy 11.</p> <p>There is also no equivalent policy that applies to diffuse discharges.</p> <p>Despite the matters to be taken into account, the effect of this policy, when combined with the overall management approach in PC1 is to place the burden for water quality improvement primarily on point source discharges. This is despite the fact that comparatively a much smaller percentage of the water quality issues in the catchments are associated with consented point source discharges than diffuse discharges. The section 32 Evaluation notes that to date there “have been significant reductions in point source discharges and the focus needs to be on everyone (including diffuse discharges) contributing to reductions in the future.” The evaluation report indicates that the approach to date has worked and fails to clearly assess the efficiency and effectiveness of the policy relative to the option of not including such a policy.</p> <p>There is a lack of transparency as to what considerations will be required to achieve the Objective One targets and how consent applications for point source discharges will be assessed against these targets. For example, the policies for commercial vegetation production systems translate the targets to a ten percent reduction in discharges, while for farming activities, only the top quartile are required to reduce their reductions back to the 75th percentile by 2026.</p> <p>OjifS’s position is that application of the BPO across all discharges is the most appropriate means of incentivising the development and adoption of new methods to achieve the objectives of PC1. For the purpose of s70 (2) and having regard to the nature of the discharges, the receiving environment and other alternatives, rules requiring the adoption of the BPO are the most efficient and effective means of preventing or minimising those adverse effects on the environment.</p> <p>The requirement to adopt the BPO is, in and of itself, appropriate to mitigate discharges. Applying a BPO approach inherently takes into account the ability of the discharge to prevent or minimise adverse effects on the environment and the financial implications</p>	<p>Redraft Policy 12 as follows or alternatively delete it.</p> <p><u>“In assessing consent applications for point source discharges take into account: 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 targets in Objective 3 or the progression towards the 80-year targets in Objective 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 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 for new point source discharges the application of the best practicable option; and c. The ability to stage future mitigation actions to allow investment costs to be spread over time or occur at a point in time and meet the water quality 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*.” E. for new or expanded regionally significant industry, the social and economic benefits of the proposal including the extent to which a net increase in lower discharging land uses create a net benefit to the environmental health of the river(s).</u></p>

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				<p>associated with the approach. There is appropriate provision for point source discharges through an approach that requires the adoption of BPO (per Policy 11) in addition to the existing rules in the regional plan. In any event such discharges must be considered in the context of the regional rules, s107 of the Act and the Vision and Strategy.</p> <p>If policy 12 is retained, the application of clause (d) to treatment plant upgrades should apply equally to other existing industrial discharges. As this policy focusses solely and therefore inappropriately on existing point source discharges additions to the criteria are necessary to a) require the adoption of the BPO and b) to provide a pathway for the consenting of new or significantly expanded regionally significant industrial processing. A part of the solution to improving the Region's water is a different balance between farming and forestry land uses throughout the catchments in a manner that better reflect land use suitability. Therefore there needs to provision for the future potential processing needs of those land uses as an incentive to those investing in afforestation on the basis of a domestic as well as export demand for the increased wood being produced.</p>	
28	Policy 13	Point sources consent duration	Oppose	This policy is unnecessary and inappropriate. It implies that a long term consent will only be considered where the applicant achieves reductions or the mitigation of all effects (per Policy 11 and 12). This is inconsistent with sustainable management. Case law has established appropriate factors for the consideration of consent duration.	Delete policy 13 (a)
29	Policy 16	Flexibility for development of land returned under Te Tiriti o Waitangi settlements and multiple owned Māori land	Oppose	<p>OjIFS seeks that Rule 3.11.5.7 be deleted, for the reasons outlined in relation to that rule and policy 6. As a corollary policy 16 is unnecessary.</p> <p>Without limiting the above, OjIFS opposes the suggestion that Maori land is subject to a "best management practice" obligation while other land owners can engage in the same or similar land uses on the basis of "good management practices" being "industry agreed and approved practices".</p>	Delete Policy 16
30	Policy 17	Considering the wider context of the Vision and Strategy	Oppose in part	As point source discharges generally require a resource consent and are already governed by other parts of the Regional Plan this policy should only apply to diffuse discharges.	Amend the policy so that it applies only to diffuse discharges.
3.11.4 Implementation methods					
31		All methods – general submission	Oppose	The implementation methods are incapable of implementation in their current form.	Amend the implementation methods to ensure that the provisions of PC1 or alternatively, the Alternative Approach, are capable of implementation.
32	3.11.4.2	Certified Industry Scheme	Oppose	The operation of the scheme is not sufficiently certain. For example, it is not clear how an "appropriate structure, governance arrangements and management will be determined". As it is not clear how this scheme will operate in practice, it is not possible to assess the effectiveness and efficiency of the scheme. Consequentially, it is not possible to judge if the	Amend the method so that it is consistent with the Alternative Approach and the requirement for a resource consent to establish the certified industry scheme.

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				<p>certified industry scheme represents the BPO, and therefore the fair and equitable allocation of the costs of achieving the Vision and Strategy to those using regional water resources on the basis of the Schemes.</p> <p>Through the adoption of a certified industry scheme approved by the CEO, the Council is reserving to a third party, without any checks and balances, the right to determine what amounts to sustainable management in a manner that is ultra vires. The ability to determine how undefined "minimum standards" will be complied with, or the extent to which "actions, timeframes and other measures" will "not increase beyond the property or enterprise's NRP unless other suitable mitigations are specified" (not defined) distinguishes the process from an intra vires certification process, such as where a noise consultant certifies that a noise standard (developed under the Standards Act 1988) has been achieved, or where there is compliance with a resource consent.</p> <p>The use of OVERSEER® is inappropriately relied on as the basis for certification. OVERSEER® is subject to uncertainty for the reasons outlined in the submission (refer Schedule B).</p>	<p>Limit the use of a certified industry scheme to the implementation of specified minimum standards defined as the BPO for the activities provided.</p> <p>It is important that persons administering OVERSEER® hold appropriate qualifications including a requirement for a Certificate of Completion in Sustainable Nutrient Management in New Zealand Agriculture and a Certificate of Completion in Advanced Sustainable Nutrient Management from Massey University (consistent with the requirements of the One Plan)</p> <p>Refer to the submission on Schedule B and the Alternative Approach for the relief sought, including in relation to the application of OVERSEER®.</p>
33	3.11.4.3	Farm Environment Plans	Oppose	<p>Instead of implementing minimum standards by way of activity standards, the approach of PC1 is to allow the FEP to do the 'heavy lifting', in part as a mechanism to avoid the requirement for a resource consent. The result is a high level of discretion given to certified farm advisors in a manner that is inappropriate and uncertain.</p> <p>The FEPs require descriptions as to the mitigations that could be adopted but the only mandatory requirement is that the NRP is not exceeded (noting that stock are excluded via the rules). For the majority of farmers, this results in a freeze in existing discharges, (which fits the definition of grandparenting). Notwithstanding the lack of minimum standards for farmers, the FEP applies some minimum standards to vegetable growers.</p> <p>To be intra vires, minimum standards requiring adoption of the BPO should form part of the plan provisions. These should be applied as soon as practicable while acknowledging that there is further work required to allocate the discharge of contaminants on the basis of land use suitability (see the Alternative Approach in Appendix One below).</p> <p>At the same time the plan needs to work towards developing clear directives for each sub-catchment as to the mitigations and levels of reduction required for each farm (due to different starting points) and for each diffuse pollutant in a manner which meets the net reductions required for the sub-catchment, in combination with other activities in the catchment. This information is linked to other implementation methods that require sub-catchment scale plans etc. But, in the interim, BPOs should be progressively applied.</p> <p>The aspects of the FEP that provide useful baseline information to the council should be incorporated into the rules. The FEP may also be useful as a means of providing information to support applications for resource consent.</p>	<p>Delete the method, or otherwise amend it so that it is consistent with the Alternative Approach which incorporates aspects of the FEP into the permitted activity standards, and relies on the FEP only as a means of providing information to support applications for resource consent.</p>

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34	3.11.4.5	Sub-catchment scale planning	Oppose in part	<p>The approach to sub catchment planning is not opposed per se. However, to the extent that the rules implement the policies by deferring and delaying, particularly with respect to implementation of mitigations to reduce discharges until the end of the life of PC1, the policy and implementation methods are opposed.</p> <p>Although the method requires that sub catchment planning identify the causes of current water quality decline and the identification of cost effective measures, much of this information is already understood, or readily available with sufficient certainty to inform best management practices.</p> <p>The availability of this information means that sub catchment plans should be available by early 2019, prior to the first round of FEPs required by 2020.</p> <p>Notwithstanding, if a sub catchment approach is to be feasible, the planning needs to identify how the percentage reductions that will be required will be calculated and by what date— is it as a percentage of the catchment or a percentage of the overall reduction? PC1 also needs to identify the circumstances when a sub catchment plan may be required.</p> <p>Clause f provides “Coordinate funding of mitigation work by those contributing to water quality degradation, in proportion to that contribution.”. This method is supported subject to the need to ensure that funding of mitigation work is in proportion to contribution and benefit. For example, point source discharges should not be required to fund the development of mitigation work that relates to diffuse discharges, and vice versa.</p> <p>The Council’s draft Implementation Plan proposes that FEPs will take into account any relevant SCPs when FEPs are reviewed but it is not clear when FEPs are able to be reviewed or on what basis when they are part of an industry certified scheme and the activities are permitted.</p>	<p>Amend the method to reflect the Alternative Approach.</p> <p>In the alternative, require sub catchment plans to be prepared in sufficient time to support the timeframes for the development of FEPs.</p> <p>Clarify the basis and timeframes for implementing cost effective mitigation strategies.</p> <p>Amend the method, in line with the policy to require identified strategies to clearly require implementation via FEPs (as opposed to encouraging or assessing and determining them).</p> <p>Amend clause f as follows: “Coordinate funding of mitigation work by those land uses with <u>diffuse discharges</u> contributing to water quality degradation, in proportion to that contribution and <u>benefit</u>.”.</p>
35	3.11.4.6	Funding and implementation	Oppose in part	<p>This policy is opposed in part. It is appropriate to seek to secure funding for implementation of Chapter 3.11 through the annual plan and long term plan processes. However, it should be clear that the costs attributable including regulatory cost should fall to be internalised by those activities giving rise to the cost. The cost of obtaining consents and implementing and monitoring conditions falls to consent holders. In the circumstances where many activities are permitted, it is also important to expressly recognise that such activities need to be appropriately monitored and that specific funding is in place to achieve this. Without such funding, PC1 will not be effective and the objectives will not be achieved. The draft Implementation Plan (page 19) notes that the Council does not propose to proactively monitor permitted activity rules. In the scheme of PC1 this approach to monitoring is inappropriate and unreasonable.</p>	<p>Add a new clause:</p> <ul style="list-style-type: none"> - recognising the need to monitor permitted activities - to have funding in place to ensure this occurs. - To make it clear that regulation of permitted activity conditions is a cost that should be provided for by way of a specific rate or activity charge if it cannot be charged directly.

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36	3.11.4.7	Information needs to support any future allocation	Oppose	<p>This method is inappropriate as it fails to focus squarely on information needed to support the development of mitigation strategies during the life of the plan.</p> <p>The method is inappropriate to the extent that it focusses research effort on frameworks for the allocation of diffuse discharges. The RMA presumes that the liability for pollution rests with the exacerbator. To reallocate that liability by way of grandparenting or any other means is inappropriate where it creates a perverse incentive to continue unsustainable resource management.</p> <p>The method needs to be reframed to reflect the Alternative Approach.</p>	<p>Amend the first sentence as follows:</p> <p>“Gather information and commission appropriate scientific research to inform mitigation strategies to manage any future framework for the allocation of diffuse discharges including:...”</p> <p>Make such other changes as appropriate to reflect the reasons for the submission and /or the Alternative Approach.</p>
37	3.11.4.8	Reviewing Chapter 3.11 and developing an allocation framework for the next Regional Plan	Oppose	The submissions on Policy 7 are repeated.	Delete 3.11.4.8
38	3.11.4.9	Managing the effects of urban development	Support	To achieve the objectives of PC1 all discharges will need to be efficiently and effectively managed.	Retain
39	3.11.4.10	Accounting system and monitoring plan	Oppose in part	<p>This method should be subject to an appropriate time frame for its implementation (e.g. five years), particularly in relation to how the information will be used to establish the baseline data for compiling a monitoring plan. In the interim the baseline data that exists should be utilised where possible with new data to support existing gaps.</p> <p>The use of MCI as a parameter is not necessarily appropriate and careful consideration of its application as part of PC1 is required.</p> <p>To the extent that it generates useful data on the efficacy of Council’s interventions, that data will be ‘after the fact’. By contrast, accounting for and publishing information in generalised form on total inputs to the region could provide a more timely indication of improvement in, or risk to, catchment water quality. Information on total regional use of nitrate fertiliser or imported feed supplements provides a useful picture of the efficiency of use over time.</p>	<p>Amend 3.11.4.10 to incorporate a five year time frame (or such as timeframe as appropriate but within the life of the plan) for implementation of a publicly available accounting system and monitoring programme in each FMU.</p> <p>Ensure that clause (c) continues to refer to MCI as an option rather than a requirement.</p> <p>Identify total nitrate and phosphate fertiliser use of imported animal feeds as information to be collated and published.</p>
40	3.11.4.11	Monitoring and evaluation of the implementation of Chapter 3.11	Oppose in part	<p>This method is opposed to the extent that modifications to it may be required to implement the Alternative Approach.</p> <p>The reference to working with industry in clause (e) is inappropriate to the extent that determining the success of a certified industry scheme may be impartial without third party input from other stakeholders.</p>	<p>Make such changes as appropriate to reflect the reasons for the submission and /or the Alternative Approach.</p> <p>Amend clause (e) to delete ‘industry’ and replace it with ‘a broad range of stakeholders’.</p>

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41	3.11.4.12	Support research and dissemination of best practice guidelines to reduce diffuse discharges	Oppose in part	<p>This policy appears to apply to all diffuse discharges, not just farming. To the extent it applies to forestry and other activities with diffuse discharges that have not been identified as significant contributors to N and P, this method is inappropriate and unnecessary. It also seems to suggest that guidelines are the preferred method for reducing diffuse discharges, when minimum standards are required for the reasons outlined in this submission.</p> <p>The reference to Best Management Practices is confusing as that term differs from Best Practicable Option.</p>	<p>Restrict application of the method to diffuse discharges from agricultural activities.</p> <p>Specify that the Council will require continuing development and implementation of best practice minimum standards for agricultural discharges.</p> <p>Replace the term “Best Management Practices” with “Best Practicable Option”.</p>
3.11.5 Rules					
42		All rules – general submission	Oppose	<p>Many of the rules contain dates from which compliance is required. It is difficult to ascertain what changes will be upheld following decisions of the council and appeals. It is important to ensure that for dates within the next three years, that these are able to be met with certainty.</p>	<p>Where appropriate amend the implementation dates so that they take effect within 6 months of the release of decisions pursuant to clause 10 of Schedule One or any appeals.</p>
43	3.11.5.1 (Rule 1)	Permitted Activity Rule – Small and Low Intensity farming enterprises	Oppose in part	<p>The rule is understood as providing efficiently for low risk activities without the requirement for resource consent, particularly on an interim basis. However, it is appropriate and equally more efficient to set some minimum standards to avoid cumulative effects and to amalgamate rules 1 and 2.</p>	<p>Make such changes as set out in the Alternative Approach, including that the rule be amended so that Certified Industry Schemes must obtain a resource consent.</p>
44	3.11.5.2 (Rule 2)	Permitted Activity Rule – Other Farming activities	Oppose in part	<p>The rule is opposed on the basis that it is more efficient to provide for all low risk activities as subject to the same minimum standards.</p>	<p>Make such changes as set out in the Alternative Approach.</p>
45	3.11.5.3 (Rule 3)	Permitted Activity Rule – Farming activities with Farm Environment Plan under a Certified Industry Scheme	Oppose	<p>This rule provides for farming activities with a FEP under a certified industry scheme by between 2020 and 2026 to be classified as permitted activities.</p> <p>The rule lacks clarity, is uncertain, inappropriate and fails to give effect to the purpose of the Act.</p> <p>As the permitted activity status relies on a FEP there is nothing which provides any certainty that the adverse effects of the land use and associated discharges will be avoided, remedied, or mitigated or that s70 of the Act (in relation to discharges) will be satisfied.</p> <p>It is not clear that the rule will be effective in achieving the objectives of the plan. As a permitted activity, the rule fails to take into account:</p> <ul style="list-style-type: none"> (a) The requirement for certainty and capable of objective assessment (b) The need to be comprehensible to a reasonably informed, but not necessarily expert, person; (c) The broad definition of effects including cumulative and temporary effects; (d) The creation of a 'permitted baseline' and the effect that is likely to have on the determination of resource consent applications. 	<p>Make such changes as set out in the Alternative Approach</p>

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				<p>Further, the rule is ultra vires. If the FEP is deemed to mitigate or reduce discharges then there is an improper delegation of functions to a third party as the determination of the mitigation to be undertaken under the auspices of the FEP sets the standards to avoid, remedy or mitigate the effects of the activity, a matter which is properly the purview of the council.</p> <p>The submissions in relation to the FEP and NRP and certified industry schemes are repeated.</p> <p>To require FEPs to be provided between 2020 and 2026 depending on catchment priority is an unnecessary delay and therefore inappropriate. To the extent that BPOs for the activities in question exist, there is no justification for any delay in their implementation. To the extent that an option cannot be implemented for any reason, it is by definition not practicable.</p>	
46		<u>Clause 6</u>	Oppose	<p>On the face of it this rule appears to require that the actions and timeframes specified in the FEP are implemented. Although stock exclusion and setbacks are mandated via the rules, the FEP is not specific as to which of those actions that are identified must be implemented: The bottom line is only to ensure that the NRP is not exceeded, however this is not specified in the rule itself.</p> <p>The Report “Using OVERSEER® in Regulation, Technical Resources and Guidance for the Appropriate and Consistent Use of OVERSEER® by Regional Councils” considers that it is not appropriate to rely on thresholds that depend on OVERSEER® estimates to define permitted activities unless a robust version management mechanism is used.</p> <p>To be effective the plan needs to specify the minimum standards to be achieved. These should be the BPO. Refer to the Alternative Approach.</p>	Make such changes as set out in the Alternative Approach
47		<u>Clause 7</u>	Oppose	<p>Clause 7 provides for amendments to the FEP in accordance with a procedure set out in Schedule 1. As schedule 1 does not specify any procedure for amendment this condition cannot be complied with.</p>	Make such changes as set out in the Alternative Approach

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#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
48	3.11.5.4 (Rule 4)	Controlled Activity Rule –Farming activities with Farm Environment Plan not under a Certified Industry Scheme (permitted until between 2019-2025)	Oppose	<p>This rule provides for farming activities not under a certified industry scheme by between 2020 and 2026 to require consent as a controlled activity, depending on catchment location.</p> <p>The rule lacks clarity, is inappropriate and fails to give effect to the purpose of the Act. It is uncertain in the absence of ‘guidance’ which has yet to be developed. With reference to the 5 year rolling average it is unclear how that will be applied, particularly when calculated by OVERSEER®.</p> <p>The submissions in relation to the FEP and NRP and certified industry schemes are repeated.</p> <p>To require FEPs to be provided between 2020 and 2026 depending on catchment priority is an inappropriate delay. This contrasts unreasonably with the requirement for vegetable growers to have an FEP by 2020 irrespective of catchment.</p> <p>Even if the FEP is to be provided by 2020, there is no requirement to achieve the reductions for the top quartile of farming activities until mid 2026. Farmers will be well aware that by 2026 a new plan may have been proposed thereby incentivising them to wait for the notification of the replacement plan before taking any steps to achieve the required reductions.</p>	<p>Make such changes as set out in the Alternative Approach</p> <p>If that relief is not accepted and a controlled activity is deemed to be more appropriate, address the matters raised in the submission, including the matters of control.</p>
49		<u>Clause 4</u>		<p>It is unclear why clause 4(d) which requires stock to be excluded from waterbodies in conformance with Schedule C does not take effect as a permitted activity condition. This contrasts with Rule 3. The practical effect is that farmers in priority 2 and 3 catchments that are not part of a certified industry scheme will not be required to exclude stock from waterways or install fencing until 2026. For priority 1 catchments these rules will not apply until 2023. In contrast, for farmers with a certified industry scheme, the Schedule C requirements apply immediately (subject only to the compliance dates therein).</p> <p>If stock exclusion with fencing is the BPO in a particular circumstance it is not clear on what basis a significant delay in installation can be justified.</p>	
50		<u>Clause 5</u>		<p>Clause 5(d) seeks to exclude cattle, horses, deer and pigs from waterbodies. Sheep are excluded but there may be other animals that should also be included or excluded, in which case the term “livestock, excluding sheep” is more encompassing. The proposed wording risks a perverse incentive, where the absence of specific reference in PC1 motivates an increase in the area of land used to graze alpaca, goats or any other unlisted species.</p>	
51		<u>Clause 7</u>		<p>Clause 7 provides that the FEP may be amended in accordance with the procedure specified in Schedule 1 and the use of land shall be undertaken in accordance with the amended plan.</p> <p>There is no guidance available on the ‘initial’ FEP and therefore no capacity to judge what</p>	

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#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
				<p>need or basis exists for the proposed capacity to amend FEPS. There is no procedure in Schedule 1 of the Plan.</p> <p>This clause provides inappropriate flexibility and could be used to manipulate outcomes as between certified farm advisors who have different approaches.</p>	
52		<u>Matters of control</u>	Oppose	<p>The matters of control make it clear that the Council may control whether mitigation actions “maintain or reduce” diffuse discharges, yet in relation to the NRP it is a question of whether there is any increase beyond the NRP. Together the matters of control imply that no reduction is required unless a NRP exceeds the 75th percentile or the NRP is increased. Even then there may be “other suitable mitigations”. For example, this suggests that a farm may be able to increase its herd size if it installs herd homes to mitigate the effect of intensification, notwithstanding that this method could be employed as a form of mitigation for existing discharges.</p> <p>This approach contrasts with the management of point source discharges, which although contributing a much smaller proportionate of the contaminant load to water, are charged with applying the BPO and offsets, and assuming all discharges are not avoided or mitigated, with possible further reductions to achieve the plan’s objectives.</p>	
53	3.11.5.5 (Rule 5)	Controlled Activity Rule – Existing commercial vegetable production (permitted until 2019)	Oppose	<p>This rule grandparents potentially very high leaching rates based on the NRP. The rule lacks clarity, is inappropriate and fails to give effect to the purpose of the Act. It fails to appropriately implement Policy 3.</p> <p>The submissions in relation to the workability of the FEP and NRP and certified industry schemes are repeated.</p> <p>To require FEPs to be provided within a three year timeframe (1 January 2020) is an inappropriate delay, where a practicable change or changes could be made sooner, notwithstanding that this period is shorter than required for farmers under Rule 4.</p> <p>Matter of control (iii) anticipates reductions in diffuse discharges including the achievement of Policy 3(d) (a 10% decrease) through the retirement of land. However, this contrasts with matter of control (iv) which conversely imposes actions and timeframes to ensure that discharges do not increase beyond the property’s NRP, without any reference to the 10% reduction required in policy 3. These matters of control need to be reconciled so that it is clear that a decrease in NRP is mandatory and is achieved through the adoption of the BPO.</p> <p>It is also unclear how the retirement of land is to be managed.</p>	<p>Delete this rule and make such changes as appropriate to reflect the reasons for the submission and /or the Alternative Approach.</p> <p>If the rule is retained as a controlled activity, delete matter of control (iv) and amend matter of control (iii) as follows:</p> <p>The actions and timeframes for undertaking the <u>best practicable option</u> mitigation actions that maintain or reduce the diffuse discharge of nitrogen...”</p>
54	3.11.5.6 (Rule 6)	Restricted Discretionary activity rule – the	Oppose	<p>The matters over which the Council reserves discretion include diffuse discharges and the matters addressed in Schedules A, B and C. For the reasons outlined in the submissions on those schedules, there is insufficient scope within the Council’s discretion to compel</p>	<p>Make such changes as appropriate to reflect the reasons for the submission and /or the Alternative Approach.</p>

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#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
		use of land for farming activities		reductions to achieve the Objectives of the plan.	<p>Include as a new matter of control:</p> <p><u>Mitigation actions that maintain or reduce the diffuse discharge of nitrogen, phosphorus or sediment to water or to land where those contaminants may enter water including best management practices to achieve Objective 3.</u></p>
55	3.11.5.7 (Rule 7)	Non complying activity rule – Land Use Change	Oppose	<p>The rule regulates changes in the use of land for specified activities, from the activity occurring on the land as at 22 October 2016, as a non-complying activity. The change must exceed a total of 4.1 hectares. In essence the rule targets changes to farming for non-farming activities, and changes to dairy farming for existing non-dairy farming activities. It fails to regulate intensification of existing dairy farms.</p> <p>Any application for consent as a non-complying activity pursuant to s104D requires consideration of the objectives and policies. Policy 6 provides that any land use change consent that demonstrates an increase in diffuse discharges will generally not be granted. Unless a reduction in diffuse discharges can be demonstrated, the rule acts as a freeze on a number of existing uses, by locking in place, or grandparenting existing discharges as at 22 October 2016. In practical terms, any of the land use changes regulated by the rule will be unfeasible (with the exception of that land covered by Policy 16).</p> <p>Although conversion to forestry is not regulated per se, once land is converted ‘down’ to a lower discharging use, there is a risk that subsequent plan changes will prevent it from being converted to a higher discharging use.</p> <p>Proposed Rule 3.11.5.7 is opposed in its entirety. Without limitation:</p> <ol style="list-style-type: none"> The rule will significantly affect land values and provide a windfall gain to those with the highest discharges. Standard valuation methods used to value rural land extrapolate a capital value based on the returns from the ‘highest and best use’ of that land irrespective of its current use. Rule 3.11.5.7 has the practical effect of limiting the ‘highest and best’ use of land to those uses with the same or lower N leaching potential as the existing use. Perversely, land with the highest discharges will receive a high capital value per hectare while land with the lowest discharges will dramatically drop in value per hectare. As the plan only ‘signals’ rather than locks in a future change in allocation, individual property owners will be incentivised to continue land use activities where those activities are associated with a higher assumed N leaching potential, rather than change land use to an activity associated with a lower risk of loss of contaminants. Continuing such activities will potentially shield them from any future allocation that grandparents discharges. The rule is inequitable, as there is no limitation on increased intensification of an existing land use. For example, under this rule dairy farmers are not prevented from increasing their herd, provided they do not increase their NRP (under other 	<p>Delete or modify rule 3.11.5.7 to make such changes as appropriate to reflect the reasons for the submission and /or the Alternative Approach.</p>

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#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
				<p>provisions). In circumstances where dairy farmers have a high NRP they retain the flexibility to increase or decrease herd size providing their NRP is not increased. Conversely sheep and beef farmers who seek to operate a dairy herd are required to apply for consent as a non-complying activity.</p> <p>d. To the extent that the rule impedes landowners’ incentive and ability to respond to changing market demand for the different outputs from rural productive land use, the rule is likely to adversely affect social and economic well-being.</p> <p>e. The incentive to convert land to a lower discharging activity or to operate in a manner that minimises discharges will be greater than might otherwise be expected because the capital value of land avoids liability for income and other taxes in the majority of situations. It is reasonable to suppose that few if any landowners would be willing to voluntarily forgo the capital value of greater land use flexibility by changing from an activity associated with greater loss of contaminants to forestry with its lower or no loss of contaminants above natural / background rates. The assumption that land owners will act in their financial self-interest has been reinforced by the distortionary influence on investment in forestry following enactment of the Climate Change Response Act 2008. From the perspective of an existing dairy farmer with a high discharge, the regulatory constraint on changes to and from other land uses presents a potential for extraordinary capital gains. These arise where cyclical and predictable increases in demand for the outputs from particular land uses coincide with a regulated constraint on new entrants to that market in response to higher demand and greater prices.</p> <p>f. The rule amounts to a prohibition on change in activity where land was in forestry at 22 October 2016. Forestry is typically associated with the lowest or no loss of contaminants associated with artificially applied fertilisers, in particular N and P. There is therefore no scope to satisfy the Council that any application for consent will not be contrary to policy 6.</p> <p>g. The rule is inconsistent with and fails to support the statements in the background explanation that “...achieving water quality restoration requires a considerable amount of land to be changed from land uses with moderate and high intensity of discharges to land use with lower discharges (e.g. through reforestation).”</p> <p>h. Constraint on land use change will constrain investment in forestry and reduce land values as pursuant to PC1 conversion will result in a loss of future allocation and at the risk of an immediate opportunity value based devaluation in land asset.</p> <p>i. If adverse effects are not avoided, remedied or mitigated, PC1, will lead to gaming and a disincentive to utilise land for forestry.</p> <p>j. The rule is inconsistent with the CSG policy selection criteria, in particular, that it fails to “provide flexibility for future land use” except to the extent that Policy 6 provides flexibility for treaty settlements land and multiple Maori owned land;</p> <p>k. The rule is inconsistent with the Explanation and background to PC1 which provides that the no land use change approach is an interim rule. Setting a time limit that coincides with the end of the life of PC1 dissembles the expressed intention.</p> <p>l. The rule is unnecessary as it has not been established that there is a significant risk of land use change or an increase in discharges without it, particularly in the absence of</p>	

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#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
				<p>compliance with the rules in the existing plan.</p> <p>m. The rule fails to clearly regulate only diffuse discharges.</p>	
56			Oppose	<p>The notification provision is ultra vires. The proviso that any application will be considered without notification or the need to obtain written approval of affected persons, where the Council is satisfied that the loss of contaminants from the proposed land use will be lower than that from the existing land use, inappropriately predetermines the outcome of the application. The rule should be expressed as being subject to consideration without notification.</p>	<p>If the rule is retained, amend the notification provision as follows:</p> <p>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.</p>
Schedules					
57	Schedule A	Registration	Support in part	<p>Registration is supported in principle as an appropriate mechanism to develop an information baseline.</p> <p>The reference in clause 5(d) to a description of an activity as at 22 October 2016 effectively grandparents rights to discharge contaminants as at that date. The date presupposes records as evidence of the claimed activity which may be difficult to prove or disprove.</p>	<p>Retain registration but amend clause 5(d) to refer to land use activities undertaken on the property in the preceding year.</p>
58	Schedule B	Nitrogen Reference Point	Oppose in part	<p>The NRP is defined as "The nitrogen loss number (units of kg N/ha/year) that is derived from an OVERSEER® use protocol compliant OVERSEER® file that describes the property or farm enterprise and farm practices in an agreed year or years developed by a Certified Farm Nutrient Advisor, using the current version of the OVERSEER® model (or another model approved by the Council) for the property or enterprise at the "reference" point in time."</p> <p>By definition the NRP is dependent on OVERSEER® to model a property's reference point in time.</p> <p><u>Use of OVERSEER®</u></p> <p>OVERSEER® is a model that is subject to regular review and changes. The Plan allows the Council to refer to the current version. This raises questions as to the vires of incorporating documents by reference with reference to the subsequent approval of new versions (per Part 3 of Schedule 1).</p> <p>The rules and schedules require that the property holder provide the electronic output files. However, to ensure that data is able to be transferred from one version to the next in a manner that ensures consistency, scrutiny of reconciliation, validation, and futureproofing the rules must require either the provision of the parameter files or provision of a certified XML file of OVERSEER®. These files are required by other regional plans including the One Plan.</p>	<p>Delete Schedule B, consistent with the Alternative Approach.</p> <p>To the extent that the Alternative Approach is not adopted, require the provision of the parameter files or a certified XML file of OVERSEER® for the preparation of the NRP.</p> <p>Ensure that such files form part of the audit process and are provided to WRC as part of the NRP data (refer Schedule B)</p> <p>Amend cl (d) as follows: <i>The Nitrogen Reference Point data shall comprise the electronic <u>input, output and parameter files</u> from the OVERSEER® or other approved model...</i></p> <p>Amend cl (e) by changing the requirement to provide the NRP and data to the Council to within 6 months of date of the plan becoming operative (unless the period stipulated is earlier).</p> <p>Add to (g) as follows: <i>(viii) The information in clause (d)</i></p>

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#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
				<p>Without a parameter file or certified XML file, the electronic output file is simply a nutrient budget which contains an insufficient level of detail to determine the property discharges. In the absence of the supporting information contained in the parameter file, and faced with a measuring tool that is regularly updated, a nutrient budget alone is subject to manipulation.</p> <p>The parameter file is required in order to determine what has been entered into the model to generate leaching outputs to:</p> <ol style="list-style-type: none"> reconcile that the nutrient budget is correct; and ensure that the updated overseer model (or something deemed suitable from WRC CEO) can be rebuilt utilising any updated version or model. <p>The use of OVERSEER® is flawed and should not be relied on as the basis for achieving the objectives of the plan. While OVERSEER® has a role in identifying risk it is not yet fit for the purpose of achieving compliance.</p> <p>The calculation of the NRP has significant implications for the plan objectives and land owners if it is not correctly calculated. As acknowledged in the Council's draft Implementation Plan, "ultimately nitrogen modelling estimates are highly reliant on the expertise of the individual modeller". (#9602004 p17) "The Council recognises that the NRP process may be open to exaggerating or gaming" (p19). As the foundation tool for achieving the objectives of the plan this is unreasonable and inappropriate.</p> <p>In addition, OjIFs opposes the use of the NRP because of the reference period which is, per clause (f), the two financial years covering 2014/2015 and 2015/2016. This was a period of high production which will potentially allow some farmers significant "head room" in terms of ongoing farm management practices. It will contribute to a failure to achieve the plan's objectives.</p>	<p>[this clause requires that specific information must be provided to Waikato Regional Council on request].</p> <p>Generally, ensure that the NRP is used as a benchmark and that it is not used as the basis for grandparenting.</p>
59			Oppose in part	<p>The period of calculation bases the output on years which coincide with the highest agricultural productions on record. In some cases, if those outputs are used as the basis for setting the NRP, farmers will have headroom to increase production over and above current levels.</p> <p>To ensure that the highest leaching farmers internalise the effects of their activities it is important to transition to the Alternative Approach to avoid ongoing increases in discharges that are within the capped NRP limit. Not adopting this approach will result in a failure to meet PC1's objectives.</p>	Make such changes as appropriate to reflect the reasons for the submission and /or the Alternative Approach.
60	Schedule C	Stock exclusion	Support in part	Stock exclusion is supported in principle although OjIFs understands that the provisions as they relate to sheep and beef farms may be inefficient and unreasonable.	Amend the Schedule to refer to "livestock (not including sheep)". Otherwise make such changes as appropriate to reflect the

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#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
					Alternative Approach – see Appendix Two. Refine the provisions to ensure that stock exclusion represents the BPO for specific land uses and associated activities.
61	Schedule 1	Requirements for Farm Environment Plans	Oppose in part	<p>The practical operation of the FEP is unclear and inappropriate.</p> <p>On the face of it the rules appear to require that the actions and timeframes specified in the FEP are implemented. However the FEP is not specific as to what actions identified are mandatory. Except for the top quartile of farmers, the bottom line is only to ensure that the NRP is not exceeded. Otherwise, the FEP is an information gathering / risk assessment tool.</p> <p>The FEP requires that the FEP risk assessments will have regard to the sub-catchment management targets set out in Table 3-11.1 but it is not clear how these targets will be translated into FEPs.</p> <p>The guidance required to prepare FEPs has yet to be prepared, and the top quartile farmers are yet to be identified, meaning that it is not possible to understand with any certainty, how and to whom the FEP will apply.</p> <p>It is therefore not possible to determine how the rules will be complied with.</p> <p>To be effective the plan needs to specify the minimum standards to be achieved. Refer to the Alternative Approach.</p> <p>This schedule should be retained, but only for the purpose of providing information to support applications under rule 6.</p>	<p>Retain for information purposes only, with the deletion of Clause 5.</p> <p>Otherwise make such changes as appropriate to reflect the reasons for the submission and /or the Alternative Approach, including setting out the information requirement aspects of the FEP as part of the rules.</p>
62			Oppose	<p>The wording of the requirements in relation to stock exclusion and setbacks is unclear. For example, the FEP requires a description of setbacks and riparian management but falls short of mandating the implementation of particular measures (although the rules deal with this issue more directly).</p> <p>In some instances the wording is also too open to interpretation. For example, clause 2(a)(ii) refers to the excluding stock for areas with a slope exceeding 25 ° and where stream fencing is impracticable, the provision of alternative mitigation measures. There is no specification of the alternative mitigation measures or when stream fencing might be impracticable. This type of wording reserves discretion to a third party which is ultra vires.</p> <p>The lack of certainty in the schedule suggests that the issues are more appropriately managed by way of resource consent with such matters reserved for control by the council.</p>	

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#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
63				The FEP fails to recognise and incorporate the existing provisions of the Regional Plan. If a FEP is to be used to manage farming discharges it should cover all discharges regardless of whether they are diffuse or point source discharges.	
64				The rules provide that FEPs can be amended as per the schedule, yet there is no process specified in Schedule 1 or any other schedule in the Plan.	
65	Schedule 2	Certification of Industry Schemes	Oppose	<p>Certified Industry Schemes (“CIS”) need to be functional by 2019. The intent of the scheme appears to be to delegate consenting functions to a third party, which is ultra vires.</p> <p>As the CIS itself requires only the approval of the Chief Executive there is no transparency that will provide the public with confidence that the scheme will be sufficiently comprehensive and robust.</p> <p>The submission on Method 3.11.4.2 is repeated.</p>	Adopt the Alternative Approach and amendments in Appendix Two.
Tables and Maps					
66		List of Tables and Maps	Oppose in part	The tables are unclear and require further explanation. In particular it is not clear which parts of the table constitute the water quality attribute targets, as the table refers only to attributes or whether the tables are consistent with the NPS-FW 2014.	Amend Table 3.11-1 and the Objectives of the Plan to ensure consistency with the NPS-FW 2014 and to clarify that the targets are aspirational goals. If the targets are retained clarify how they will be applied to the implementation of PC1.
67		Inclusion of land from the Lower Waikato	Oppose	It is appropriate to include all land in the lower Waikato in the Plan Change. There is no sound resource management basis to separate 11% of the total Healthy Rivers area from PC1. OjifS considers that all land should be managed equitably by way of a BPO approach, or alternatively through a resource consent process.	Include all land from the Lower Waikato as originally notified.
Definitions / Glossary of Terms					
68		Best management practices	Oppose	<p>This glossary term reflects the RMA definition of best practicable option (BPO). It is used in only three places in PC1 (apart from the definition):</p> <ul style="list-style-type: none"> - Policy 3 – a tailored approach to reducing discharges, where it refers to Best or Good Management Practices - Policy 16 - Implementation method 12 (supporting research and dissemination of best practice guidelines) <p>OjifS considers that as the definition is based on the RMA definition of BPO it is not necessary to use an alternative term and is confusing.</p>	Replace the terms good management practices and best management practices with Best Practicable Option as defined by the RMA and make commensurate changes to PC1 as required.
69		Certified Farm Environment	Oppose	It is not clear what is meant by “advanced training” in the definition of certified farm environment planner. It is appropriate to ensure that advisors have the appropriate skills,	Delete the definition if the Alternative Approach is adopted. Otherwise, retain the definition but amend the term

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#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
		Planner		qualifications and experience to implement the provisions of the plan.	“Advanced training” so that it is a person who holds a Certificate of Completion in Sustainable Nutrient Management in New Zealand Agriculture and a Certificate of Completion in Advanced Sustainable Nutrient Management from Massey University.
70		Certified Nutrient Management Advisor	Oppose	<p>A Certified Farm Nutrient Advisor: “is a person certified by the Chief Executive Officer of Waikato Regional Council and listed on the Waikato Regional Council website as a certified farm nutrient advisor and has the following qualifications and experience: a. Has completed nutrient management training to at least intermediate level, and b. Has experience in nutrient management planning.”</p> <p>This definition requires amendment to ensure that such advisors have suitable qualifications to ensure that they can deliver an OVERSEER® reflective of the farm’s history and in line with the Regional Council’s protocol.</p>	<p>Delete the definition if the Alternative Approach is adopted. Otherwise, amend the definition as follows:</p> <p>Certified Farm Nutrient Advisor: “is a person certified by the Chief Executive Officer of Waikato Regional Council and listed on the Waikato Regional Council website as a certified farm nutrient advisor and has the following qualifications and experience: a. Has completed nutrient management training to at least intermediate level, and</p> <p>a person who has both holds a <u>Certificate of Completion in Sustainable Nutrient Management in New Zealand Agriculture and a Certificate of Completion in Advanced Sustainable Nutrient Management from Massey University;</u> <u>and</u></p> <p>b. Has experience in nutrient management planning.”</p> <p>Reference to other qualifications applicable to other predominant land uses may be appropriate, for example in relation to horticulture.</p>
71		Five Year Rolling Average	Oppose	This definition is unnecessary as a five year rolling average is uncertain.	Delete the definition and use of the term.
72		Highest quartile pastoral nitrogen leaching value	Oppose	The use of the term is uncertain and its application unreasonable. It is not possible to ascertain whether a farm requires consent until the properties are ranked on 31 March 2019.	If the Alternative Approach is adopted there is no need to refer to the highest quartile as all emitters will be required to adopt BPO and work towards the identified bottom lines for their properties.
73		Good Management Practice	Oppose	<p>The inclusion of the requirement to implement good management practices (“GMP”) in the plan is inappropriate. Firstly, there is only one policy that refers to Good Management Practices (Policy 3 – commercial vegetable production). Even in this context it is used in the context of “Best or good management practices”.</p> <p>Secondly, and notwithstanding, the definition is problematic as any action is a GMP provided it is industry agreed and approved, although there is no indication of the process by which a GMP becomes “industry agreed or approved.”</p>	Delete the term ‘good management practice’ and replace it with Best Practicable Option as defined by the RMA.

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				<p>A further concern is how GMPs will be used. OVERSEER® already assumes a number of GMPs are in place on farm in order to generate the NRP. This raises the prospect of double counting. For example, there is an assumption by OVERSEER® that all effluent ponds are lined and there is no connectivity with groundwater from the effluent storage area. Any unlined ponds or ponds lined with less than impervious materials (1×10^{-9} m/s) would render the OVERSEER® calculation variable at best. This means that the NRP will be underestimating the N loss from these farms by approximately 5-10% on that basis alone.</p> <p>OjiFS considers that the best practicable option is the standard that should be applied equally to diffuse and point source discharges.</p>	
74		Nitrogen Reference Point	Oppose	Refer to the submission on Schedule B	<p>Delete the definition.</p> <p>If the alternative approach is not accepted, replace it as follows:</p> <p><u>“Nitrogen Reference Point means the nitrogen loss number (units of kg N/ ha/year that is based on a nutrient management plan prepared annually in accordance with the Code of Practice for Nutrient Management (NZ Fertiliser Manufacturers” Glossary One Plan - 2014 Glossary-11 Research Association 2007) which records (including copies of the OVERSEER® input, output and parameter files used to prepare the plan in accordance with OVERSEER® Best Practice Date Input Standards) and takes into account all sources of nutrients for intensive farming and identifies all relevant nutrient management practices and mitigations. It must be prepared by Certified Farm Nutrient Advisor” (see amended definition of Certified Farm Nutrient Advisor).</u></p>
75		Offsets	Oppose in part	To the extent that offsets are to be provided as a method, the technique should be available to all resource users. If offsets are to be used, they should be recognised as an alternative means of achieving the outcomes of the BPO and not an additional obligation.	Amend the definition of Offsets as follows: “For the purposes of Chapter 3.11 means for specific contaminants an alternative action to achieve a prescribed obligation that reduces residual adverse effects of that contaminant on water quality.”
76		Point Source Discharge	Support	The definition as drafted is appropriate and necessary.	Retain
77		Regionally Significant Industry	Oppose	<p>Policy 10 refers to Regionally Significant Industry. There is no current definition in the Regional Plan or PC1.</p> <p>The Regional Policy Statement defines Regionally Significant Infrastructure as: <i>“Regionally significant industry - means an economic activity based on the use of natural</i></p>	<p>Provide a definition of regionally significant industry that clearly includes the Kinleith Industrial Park, for example, as follows:.</p> <p><u>Regionally significant industry - means industry based on the</u></p>

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#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
				<p><i>and physical resources in the region and is identified in regional or district plans, which has been shown to have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits. "</i></p> <p>To have any meaning for the purpose of PC1, the RPS definition therefore requires a further definition in the Regional Plan.</p>	<p><u>region's use of natural and physical resources which have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits. Regionally significant industry includes:</u></p> <p>a) <u>Wood processing plants;</u> b) <u>Dairy manufacturing sites;</u> c) <u>Meat processing plants;</u> d) <u>Mineral extraction activities; and</u> e) <u>Renewable energy generation.</u></p>
78		Stock Unit	Oppose	The number of stock units per animal and the animal performance definitions are inappropriate for use in the Waipa and Waikato catchments. They were developed for application to the Rotorua Lakes catchments and as a result, the supporting calculations use different assumptions.	Delete the definition of Stock Units or amend it so that the units and weights are appropriate for PC1 and are consistent as between drystock and dairy operations. Refer to the Alternative Approach.
Other issues					
79		5.1.5	Support	The amendments to Rule 5.1.5 to require the provision of a harvest plan for forestry to the Council are supported as this is a plan already prepared by the forest industry.	Retain without amendments.
Consequential amendments					
80		Consequential amendments - generally	Oppose	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.	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.
81	3.2	Water Management Classes	Oppose in part	The amendments to Chapter 3.2 are unclear and uncertain with respect to application of the PC1 rules to resource users. For example, on the one hand it appears as if the targets will be used in the decision making process yet on the other it states that the targets are not to be used directly as limits / standards. If many activities are to be managed through the BPO applied through permitted activity standards, it is unreasonable for other consent applications to be assessed by way of reference to the BPO and the targets.	Clarify that the targets are goals and have been used only for the purpose of developing the objectives of the plan and that they are not directly applicable to resource consent applications.
82		3.2.4.1	Oppose	Further to amendment through PC1, this method is to extend to the policies in Chapter 3.11. It provides that where two policies address the same issue "and are inconsistent" particular regard will be had to the more stringent policy in regard to this issue. PC1 needs to be absolutely clear about which Chapter applies to which activity.	Delete
83	3.3	Water takes	Oppose	It is inappropriate to transfer the policies in Chapter 3.11 to the policy section of the water takes chapter. The policies in PC1 have been drafted from the perspective of water quality,	Delete

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				not water quantity. The potential impact of the policies on water quantity has not been assessed under s32.	
84	3.5	Discharges	Oppose	Refer to the submission on consequential amendments generally.	Delete
85	3.5.5.2	Permitted activity Rule 3.5.5.2 – Discharge of feed pad and stand off pad effluent onto land	Oppose	<p>PC1 proposes to insert the words “point source” before the word “discharge”. The following advisory note and consequential amendments to this rule adopt the same approach. These changes are opposed as they are unnecessary. It is not always clear whether such discharges are diffuse or point source discharges, or what the relationship is between the chapters</p> <p>OjiFS further seeks additional amendments to the Rule in accordance with its Alternative Approach.</p>	<p>Clarify the relationship between Chapter 3.11 and other chapters of the Regional Plan.</p> <p>Amend permitted activity Rule 3.5.5.2 – Discharge of feed pad and stand off pad effluent onto land as follows:</p> <p>The discharge of feed pad and stand-off pad effluent to land outside the Lake Taupo Catchment and the subsequent discharge of contaminants to air is a permitted activity subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The pad shall be sealed, so as to restrict seepage of effluent. The permeability of the sealing layer for such treatment or storage facilities shall not exceed 1x10⁻⁹ metres per second. 2. There shall be no run-off or discharge of pad effluent into <u>groundwater or surface water</u>. 3. Materials used to absorb pad effluent or the effluent itself when spread on land as a means of disposal shall not exceed the limit specified in Table 3-8 inclusive of any loading made under Rules 3.5.5.1, 3.5.5.3, 3.5.6.2, 3.5.6.3 and 3.5.6.4. The pad shall be located at least: <ol style="list-style-type: none"> a. 20 metres from surface water; b. <u>150 metres from a residential building or any other building being part of a place of assembly on another site;</u> c. <u>50 metres from a property boundary</u> 4. Any discharge of contaminants into air arising from this activity shall comply with permitted activity conditions in Section 6.1.8 of this Plan. 5. The discharger shall provide information to show how the requirements of this rule are being met, if requested by the Waikato Regional Council. 6. The discharge shall not occur within 20 metres of a Significant Geothermal Feature*.

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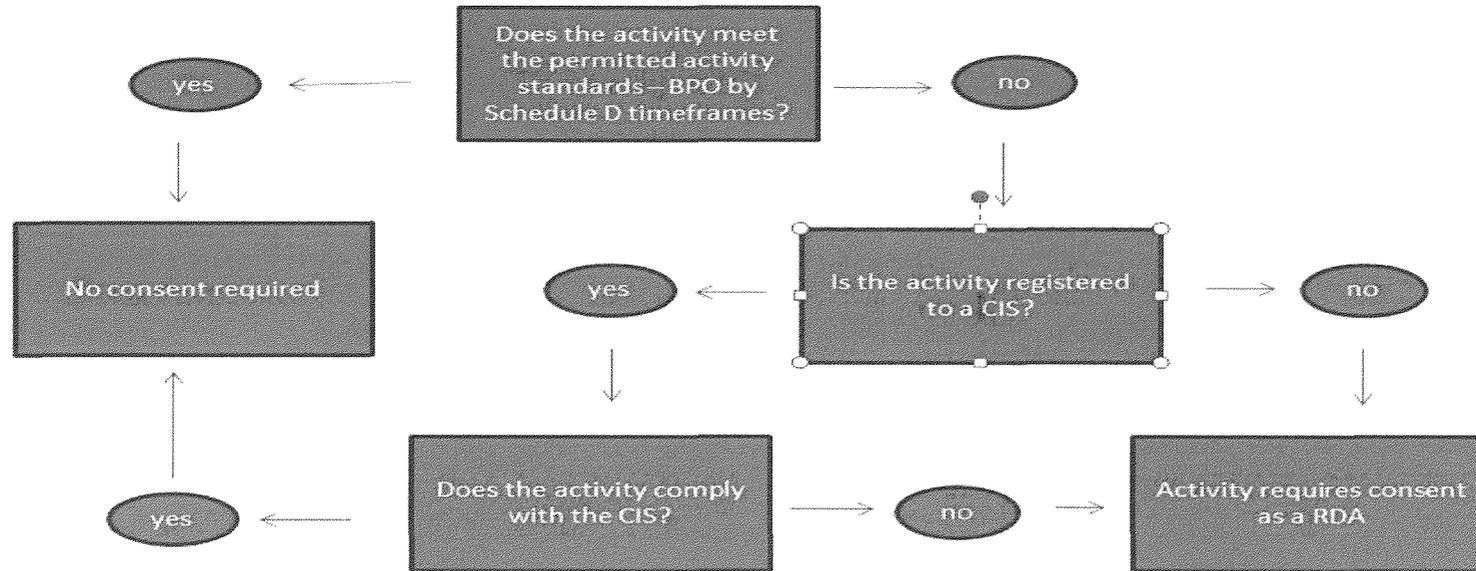
#	Provision of PC1	Heading	Support / Oppose	Reasons	Decision Requested
					<p>7. Where fertiliser is applied onto the same land on which farm animal effluent has been disposed of in the preceding 12 months, the application must be in accordance with Rule 3.9.4.11.</p> <p>8. <u>Runoff from the surrounding catchment area is prevented from entering the feedlot or feedpad.</u></p> <p><u>Add a new rule for discharges from feed pads. Refer to Appendix Three - Schedule D.</u></p>
86	3.9	Non-point source discharges	Oppose	The efficacy and extent to which PC1 should address point source discharges at all is questioned. In view of the fact that there are no rules in Chapter 3.11 it would be clearer to continue to address point source discharges in the chapter of the plan that already deals with such discharges.	<p>Delete the proposed amendments to Chapter 3.9</p> <p>Insert the specific policies in Chapter 3.11 that apply to only point source discharges to Chapter 3.9 to avoid any inconsistency.</p> <p>Except for policies 10-12 remove all references to point source discharges from Chapter 3.11.</p> <p>Amend Rule 3.9.4.11 as set out in Appendix Three - Schedule D.</p>
87	4.3	River and Lake Bed Disturbances	Oppose	<p>The amendments to this section of the Regional Plan potentially exempt activities from compliance with the existing permitted activity standards where land is within the Waipa and Waikato catchments.</p> <p>This fails to recognise that the standards in Chapter 3.11 will take time to be given effect to and that there is a need for interim control. In addition, some of the standards and advisory notes should be equally applicable to those catchments in any event.</p>	<p>Delete the consequential amendments and make it clear that the provisions in Chapter 3.11 will only apply once they have been complied with, not in advance of the transition dates provided.</p> <p>Where appropriate, introduce the permitted activity standards associated with livestock in Chapter 4.3 to Chapter 3.11.</p>
88		The incorporation of OVERSEER® into the Plan	Oppose	The use of OVERSEER® is inappropriately relied on as the basis for certification. OVERSEER® is subject to uncertainty for the reasons outlined in the submission (refer Schedule B).	Make such changes as appropriate to reflect the reasons for the submission and /or the Alternative Approach.
89		Failure to consider the requirement in the Resource Management (National Environmental Standards for sources of drinking water) Regulations 2007	Oppose	<p>The Council has failed to comply with regulation 10 of the NES. It has not, either through the s32 evaluation or any other report:</p> <ul style="list-style-type: none"> - considered on what basis or at the basis on which the Council is satisfied that the proposed permitted activity rules will not result in community drinking water supplies being unsafe for human consumption following existing treatment. - Reserved discretion to itself to require: <ul style="list-style-type: none"> o discharge consents to be declined where they are likely to result in the community drinking water becoming unsafe for human consumption following existing treatment o conditions to be placed on consents that require notification of drinking water suppliers if significant unintended events occur that may adversely 	<p>Identify specific areas where there are discharges to land in circumstances that could result in community drinking water supplies becoming unsafe for human consumption following existing treatment.</p> <p>For those areas create a separate rule for all land uses, irrespective of size, so that resource consent is required for all discharges.</p> <p>In addition to the above relief, amend the matters of control for activities that are restricted discretionary, discretionary or non-complying to allow the council to provide, as a matter</p>

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				affect sources of human drinking water	<p>of control for:</p> <ul style="list-style-type: none"> ○ discharge consents to be declined where they are likely to result in the community drinking water becoming unsafe for human consumption following existing treatment conditions to be placed on consents that require notification of drinking water suppliers if significant unintended events occur that may adversely affect sources of human drinking water. ○ conditions to be placed on consents that require notification of drinking water suppliers if significant unintended events occur that may adversely affect sources of human drinking water. <p>For controlled activities allow the council to provide, as a matter of control for:</p> <ul style="list-style-type: none"> ○ conditions to be placed on consents that require notification of drinking water suppliers if significant unintended events occur that may adversely affect sources of human drinking water.
90		S32 evaluation	Oppose	<p>The s32 evaluation has failed to properly evaluate or comply with the provisions of the Plan in accordance with s32 and s32A of the Act.</p> <p>In particular, but without limitation, in considering whether the provisions of the proposal are the most appropriate way to achieve the objectives:</p> <ul style="list-style-type: none"> (a) It has not assessed the efficiency and effectiveness of applying a BPO approach to diffuse discharges (b) It has not identified or assessed a natural capital or land use suitability approach despite this approach being adopted by other regional councils (eg Hawkes Bay). (c) It has not assessed controls on land use changes in conjunction with requiring reductions from agricultural diffuse discharges (d) It has failed to appropriately recognise and quantify the significant economic implications for land owners who are restricted from changing land use where that change is assessed as a non-complying activity. 	Re-evaluate PC1 in a manner that complies with s32.
91		The Alternative Approach		The Alternative Approach is set out in Appendix Two. To the extent that modifications are required to the objectives, policies, methods and rules, to give effect to the principles and objectives set out in the Alternative Approach, such changes are sought.	Redraft the Plan in a manner generally consistent with the Alternative Approach

Overview of Alternative Approach (with focus on the rules)

Flow chart of proposed alternative approach for farming activities (not including land use change)



RDA – restricted discretionary activity
CIS – Consented Industry Scheme
BPO – Best practicable option

Table 1 - alternative approach and reasons

Description of Alternative Approach	Reasons
<p>The alternative approach seeks to implement the BPO through permitted activity standards specified in PC1 or alternatively specified under a consented certified Industry Scheme. Standards differ based on the nature of the activity, eg farming activity or commercial vegetable production.</p>	<ul style="list-style-type: none"> • Simple / easy to enforce • Certain • Low compliance costs once BPOs are established • BPOs would reduce the discharge of the four contaminants across the board even allowing for some land use intensification. <p>OjiFS's position is that application of the BPO across all discharges is the most appropriate means of beginning the process of achieving the targets for the life of PC1. For the purpose of s70 (2) and having regard to the nature of the discharges, the receiving environment and other alternatives, rules requiring the adoption of the BPO are the most efficient and effective means of preventing or minimising those adverse effects on the environment.</p>
<p>The standards include: Stock intensity limits based on LUC (per Appendix Three- Schedule D)</p> <p>The stock exclusion requirements are transitioned based on the timeframes for priority sub-catchments listed in Schedule C.</p>	<p>The stock limits limit intensification based on LUC and reduce overall discharges.</p> <p>The implementation timeframes for stock exclusion are retained.</p>
<p>Where a farmer cannot meet the BPO standards there are two alternatives:</p> <ol style="list-style-type: none"> 1. Operate as a permitted activity certified under an Industry Scheme; or 2. Apply for consent as a restricted discretionary activity <p>Activities otherwise default to non-complying.</p>	<ul style="list-style-type: none"> • Relies on existing information • Ensures sufficient time to implement the standards or alternatively apply for a consent • As a permitted activity there is no justification for all farm activities not meeting the dates for implementation.

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Description of Alternative Approach	Reasons
<p>Farming and commercial vegetable production activities are a restricted discretionary activity where the permitted activity controls are not complied with.</p> <p>Discretion is restricted to the provision of key information and consideration of BPO to overall achieve at least the same estimated level of reduction in effects as the permitted activity standards.</p>	<p>Although some farmers may have adopted other mitigation options that differ from the minimum standards applied, the standards those farmers have adopted may need to be confirmed as suitable alternatives. There will be a cost associated with the consent application for those farmers. Alternatively PC1 could expressly recognise other mitigation options as also meeting those standards, without requiring them for the majority.</p>
<p>PC1 continues to utilise the Certified Industry Scheme with modifications. The CIS must be granted a resource consent by the council. The CIS would allow the development of alternative minimum standards to the permitted activity rules. The standards would need to ensure that they are likely to achieve the same level of reductions as the minimum standards in the permitted activity rule.</p> <p>Consents for a CIS would need to be in place before 2020. In the interim farmers would be subject to provision of the same information they will be required to provide in any event as part of the CIS.</p> <p>In the event that a consent process for the CIS is not accepted, reference to the CIS should be removed from PC1.</p>	<p>This approach recognises the scale of consents required.</p>
<p>There is flexibility for intensification.</p>	<p>While some land uses may be able to change or intensify there will be practical limits for many based on the proposed stock limits.</p>
<p>As an interim measure, ie until development of the next plan change, provide for land use change as a restricted discretionary activity with discretion restricted to application of the BPO.</p>	<p>The existing farmers have a transitional grace period (until 2020) to introduce BPOs whereas new entrants are expected to introduce BPOs from the outset.</p> <p>BPO standards based on, for example, stock intensity limits will limit intensification only to those land uses where it is suitable.</p> <p>The requirement for a consent that can be granted subject to conditions will avoid significant changes to land use values, particularly</p>

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Description of Alternative Approach	Reasons
	for land that is suited to an alternate use.
Properties under 20ha are a permitted activity and are subject to more limited permitted activity standards than farms over 20ha. However, all farms must provide information as per Rule 1 (without the NRP requirements)	This approach recognises the large number of farms under 20ha.
<p>There is no requirement for a FEP, except to the extent that the information in the FEP Schedule forms the basis only as an information requirement for restricted discretionary activity applications.</p> <p>Aspects of the FEP are incorporated into the permitted activity standards.</p>	This reduces the costs associated with the risk assessment aspect of the FEP.
There is no requirement for a NRP.	This simplifies the requirements for all land owners. It avoids locking in the basis for an allocation based on existing use (grandparenting)
There is no reliance on OVERSEER®. However, except for farmers operating under Rule 1, OVERSEER® is used to develop a nutrient management plan with input data provided to the Council. OVERSEER® calculations should be provided to the Council on a three yearly basis.	<p>OVERSEER® is subject to uncertainty and gaming, particularly as between models.</p> <p>Its use solely for the purpose of the collection of information on an ongoing basis may assist in providing some catchment base line data for the next generation plan.</p> <p>Farms applying fertiliser already require an NMP under the existing plan rules.</p>

Table 2 - amendments proposed to the PC1 rules

The following table is indicative of the types of amendments to the rules in PC1 necessary to apply the Alternative Approach. Further amendments may be necessary to give full effect to the reasons for the submissions, including for the avoidance of doubt, changes to the activity status of the rules and the specific BPO standards. The objectives and policies are amended as per the relief sought in Appendix One of the submission.

Rules	Concepts	Amendments to Plan
<p>Rule 1 Permitted Activity Rule – small and low intensity farming activities</p>	<p>Small and low intensity farming activities less than 20 ha are permitted activities. All farms must be registered Stock must be excluded from water bodies in accordance with Schedule C No cultivation or grazing over 15 degrees (per clause 3.11.5.2 (4)(c)) No winter forage crops grazed in situ (per clauses 3.11.5.2 (4)(d)) Waterbody standards apply per Schedule C (per clauses 3.11.5.2 (4)(e)) Information to be provided to Council including stock numbers for properties (per clause 3.11.4.2 (5)) Information regarding Compliance with standards to be provided on request (per modified 3.11.4.2 3(c)) Stock limits may not be increased until the permitted activity standards are complied with. Create no inference that historic or existing uses will form the basis for future allocation of discharge limits or stocking limits.</p>	<p>“The use of land for farming activities less than 20 ha 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:</p> <ol style="list-style-type: none"> 1. The property is registered with the Waikato Regional Council in conformance with Schedule A; and 2. Cattle, horses, deer and pigs <u>Livestock (not including sheep)</u> are excluded from water bodies in conformance with Schedule C; and <p>Either:</p> <ol style="list-style-type: none"> 3. The property area is less than or equal to 4.1 20 hectares; and 4. The farming activities do not form part of an enterprise being undertaken on more than one property; or <p>Where the property area is greater than 4.1 hectares:</p> <ol style="list-style-type: none"> 5. For grazed land, the stocking rate of the land is less than 6 stock units per hectare; and 3. No arable cropping occurs; and 4. The farming activities do not form part of an enterprise being undertaken on more than one property. 5. Where the land is used for grazing livestock, the stocking rate of the land is no greater than the levels specified in rule 4 {Appendix D}. 6. No part of the property or enterprise over 15 degrees slope is cultivated or grazed; 7. No winter forage crops are grazed in situ; 8. 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

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Rules	Concepts	Amendments to Plan
		livestock (not including sheep) cannot be within three metres of the bed of the water body (excluding constructed wetlands and drains); 9. From 31 March 2018, for all properties greater than 2 ha, the following information must be provided to the Waikato Regional Council by 1 September each year: a. Annual stock numbers; and b. Annual fertiliser use; and c. Annual brought in animal feed. d. The requirements in Schedule A
Rule 2 Permitted Activity Rule – other farming activities	Rule 2 is amalgamated with Rule 1.	Deleted
Rule 3 – permitted activity rule – farming activities under a certified industry scheme	Where the standards set out in Rule 4 or Rule 5 cannot be complied with or a farming activity or commercial vegetable producer wishes to utilise different standards it may elect to apply the alternative standards certified under an Industry Scheme which has been granted in accordance with rule 8. Full notification of consents for certified industry schemes is sought.	Except as provided for in Rule 3.11.5.1 and Rule 3.11.5.2 the use of land for farming activities (excluding or 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 provided that 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 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 Scheme has a resource consent granted under Rule 8 meets the criteria 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 2020 for properties or enterprises within Priority 1 sub-catchments listed in Table 3.11-2, and properties or enterprises with 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

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Rules	Concepts	Amendments to Plan
		<p>for properties or enterprises within Priority 3 sub-catchments listed in Table 3.11.2; and 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.</p>
<p>Rule 4 Permitted Activity Rule Farming Activities not under a certified Industry Scheme</p>	<p>For farming activities greater than 20 ha, PC1 implements the BPO through permitted activity standards which stipulate lower risk farm management practices.</p> <p>The standards are transitioned based on the times specified in Schedule D.</p> <p>The standards in new Schedule D include:</p> <ul style="list-style-type: none"> - Stock intensity limits within LUC - Waterbody standards apply per Schedule C (per clauses 3.11.5.2 (4)(e)) - Information to be provided from 2018 to Council including stock numbers for properties (per clause 3.11.4.2 (5)) - Information regarding Compliance with standards to be provided on request (per modified 3.11.4.2 3(c)) - Overseer calculations to be provided (per clause 2(e) of the FEP schedule (1)) - <i>The timeframes for providing the information in Rule 4 clause 3 may need to be extended to a three yearly timeframe.</i> 	<p>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 <u>greater than 20 ha and not registered to a Certified Industry Scheme</u>, 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 <u>subject to the following conditions:</u> until:</p> <p>[Delete clauses 1-5, 'Matters of control' and 'Dates' and replace with the following:]</p> <ol style="list-style-type: none"> 1. <u>The property is registered with the Waikato Regional Council in conformance with Schedule A;</u> 2. <u>The best practicable options set out in Schedule D are complied with;</u> 3. <u>From 31 March 2018 the following information must be provided to the Waikato Regional Council by 1 September each year</u> <ol style="list-style-type: none"> a. <u>Annual stock numbers; and</u> b. <u>Annual fertiliser use; and</u> c. <u>Annual brought in animal feed.</u> d. <u>The requirements in Schedule A (note: a to d may not be necessary in light of (e))</u> e. <u>A description of nutrient management practices including a nutrient budget for the farm enterprise calculated using the model OVERSEER® in accordance with the OVERSEER® use protocols, or using any other model or method approved by the Chief Executive Officer of Waikato Regional Council.</u>

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Rules	Concepts	Amendments to Plan
<p>Rule 5 – permitted activity rule - Commercial vegetable production not under a certified industry scheme</p>	<p>For commercial vegetable production activities PC1 implements the BPO through permitted activity standards or a consented industry scheme (under rule 4).</p> <p>Modify Rule 5 to apply the appropriate BPO standards consistent with the reductions to be achieved by the BPO standards applied to farming activities.</p>	<p>Specific drafting to be based on the concepts in column 2</p>
<p>Rule 6 – Restricted discretionary activity rule The use of land for farming or commercial vegetation production</p>	<p>If the permitted activity standards are not met the activity is restricted discretionary with discretion restricted to consideration of BPO to overall achieve at least the same estimated level of reduction in effects as the permitted activity standards:</p>	<p>“The use of land for farming activities <u>or commercial vegetation production</u> that does not comply with the conditions, standards 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).</p> <p>Waikato Regional Council restricts its discretion over the following matters:</p> <ol style="list-style-type: none"> 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. viii. <u>the actions and timeframes for undertaking mitigation actions that reduce the diffuse discharges of activities nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water and whether</u>

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Rules	Concepts	Amendments to Plan
		<p><u>those actions are likely to achieve the same or better reductions in those contaminants than the minimum standards under Rules 1, 4 and 5</u></p> <p>ix. <u>the provision of information under Rules 1, 4 and 5.</u></p> <p><u>Applications should include the information requirements contained in Schedule 1</u></p> <p><u>The normal tests for notification apply.</u></p>
Rule 7 - Amend	<p>Land use change is a restricted discretionary activity.</p> <p>Restrict discretion to the implementation of BPO and the matters of discretion applicable to other farming activities.</p> <p>In the alternative incorporate the BPOs for new farming activities into the permitted activity rules.</p>	Specific drafting to be based on the concepts in column 2
New Rule 8 – Restricted Discretionary Activity - Approval of certified industry scheme	<p>A certified industry scheme is a restricted discretionary activity and is referred to as a ‘consented industry scheme’.</p> <p>The Applicant must lodge an application to be assessed against the criteria in Schedule 2.</p> <p>The CIS must require certified participants to provide the following information:</p> <ul style="list-style-type: none"> a. Information to be provided to Council (per Schedule B – (g)) b. Information regarding Compliance with standards to be provided on request (per modified 3.11.4.2 3(c)) c. Overseer calculations to be provided (per clause 2(e) of the FEP schedule <p>For matters of discretion include the following clause:</p>	Specific drafting to be based on the concepts in column 2

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Rules	Concepts	Amendments to Plan
	<p>- the actions and timeframes for undertaking mitigation actions that maintain or reduce the diffuse discharges of activities nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water and whether those actions are likely to achieve the same or better reductions in those contaminants than the minimum standards provided under Rules 1, 4 and 5</p> <p>This rule is subject to full notification.</p> <p>In the alternative delete the rule in its entirety.</p>	
Schedule A	Retain – forms part of rules	Amend clause 5 (d) of Schedule A to refer to land use activities undertaken on the property in the preceding year.
Schedule B	Delete. But utilise clause (g) as the basis for data provision for the permitted activity rules	Delete
Schedule C	Retain but amend as the Schedule forms part of rules	<p>Amend</p> <ul style="list-style-type: none"> • to refer to “livestock (not including sheep)” • to remove reference to FEPs • Amend clauses 4(a) and 5 so that the date of 2020 applies to all properties and enterprises • Delete 4 (b)
Schedule 1	Retain, but only for the purpose of providing information to support applications under rule 6.	Retain but delete clause (5)

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Rules	Concepts	Amendments to Plan
Schedule 2	Move schedule 2 to new rule 8.	Delete the sentence relating to approval by WRC CEO.
Consequential amendments to Regional Plan Rules	Amendments to effluent discharge rules Amendments to fertiliser application rules	Refer to the submission – Appendix One

Best Practicable Options for farming activities	Time frame to be applied	Potential for translation into plan rules as new Schedule D	Status
<p>Waterways to be fenced and all domestic animals excluded (except sheep) with buffers according to BMP standard for riparian zones</p>	<p>Timeframes as defined in Schedule C for priority sub-catchments (ie. 2020)</p>	<p><i>Livestock (not including sheep) are excluded from water bodies in conformance with Schedule C (as amended by the submission);</i></p> <p><i>In addition delete clause 2 of Schedule C and replace with the following:</i></p> <p>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 livestock (not including sheep) cannot be within three metres of the bed of the water body (excluding constructed wetlands and drains);</p> <p>Alternatively, apply a stock exclusion buffer that is appropriate to the size and location of the waterbody eg 10m for rivers, lakes and wetlands and 20m for regionally significant waterbodies plus 0.62 times the LUC average.</p>	<p>Permitted subject to standards</p>
<p>Basic stock Intensity Index to be applied to the whole farm system based on LUC and bodyweight</p>	<p>By 2023</p>	<p>Subject to further adjustment but indicatively, farm enterprises must not exceed the Basic Intensity Index¹ below, for example:</p> <p>Up to 1200 kg body weight per effective Hectare on LUC Class 1-3 land (this is equivalent to 2.2 (525 kg) Friesian cows eating 12.5 TDM pasture to make milk. (average of all classes must not be greater than 3)</p> <p>Up to 1000 kg bodyweight per hectare on class 3-4 land (average of all classes in farm system must not be greater than 4)</p> <p>Up to 750 kgLW/ha for LUC 5-6</p> <p>Up to 600 kg lw/Ha for LUC class 7</p>	<p>Permitted subject to standards</p>

Best Practicable Options for farming activities	Time frame to be applied	Potential for translation into plan rules as new Schedule D	Status
Effluent to be managed	2020	Effluent management is currently a permitted activity under the plan – per Rules 3.5.5.1 and 3.5.5.2 but changes are sought to the permitted activity rules for rule 3.5.5.2. see below	Permitted subject to standards
Feedlot, stand off pads and feedpads to be managed	2020	<p>Amend Permitted Activity Rule 3.5.5.2 – Discharge of Feed Pad and Stand-Off Pad Effluent onto Land as follows:</p> <p>(Feedpad rule)</p> <p>The discharge of feed pad and stand-off pad effluent to land outside the Lake Taupo Catchment and the subsequent discharge of contaminants to air is a permitted activity subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The pad shall be sealed, so as to restrict seepage of effluent. The permeability of the sealing layer for such treatment or storage facilities shall not exceed 1x10⁻⁹ metres per second. 2. There shall be no run-off or discharge of pad effluent into <u>groundwater or surface water</u>. 3. Materials used to absorb pad effluent or the effluent itself when spread on land as a means of disposal shall not exceed the limit specified in Table 3-8 inclusive of any loading made under Rules 3.5.5.1, 3.5.5.3, 3.5.6.2, 3.5.6.3 and 3.5.6.4. The pad shall be located at least: <ol style="list-style-type: none"> a) 20 metres from surface water; b) <u>150 metres from a residential building or any other building being part of a place of assembly on another site;</u> 	Permitted subject to standards

		<p style="text-align: center;">c) <u>50 metres from a property boundary</u></p> <p>4. Any discharge of contaminants into air arising from this activity shall comply with permitted activity conditions in Section 6.1.8 of this Plan.</p> <p>5. The discharger shall provide information to show how the requirements of this rule are being met, if requested by the Waikato Regional Council.</p> <p>6. The discharge shall not occur within 20 metres of a Significant Geothermal Feature*.</p> <p>7. Where fertiliser is applied onto the same land on which farm animal effluent has been disposed of in the preceding 12 months, the application must be in accordance with Rule 3.9.4.11.</p> <p>8. <u>Runoff from the surrounding catchment area is prevented from entering the feedpad or stand off pad.</u></p> <p><u>Include a new feedlot rule:</u></p> <p>The use of land for the purpose of operating a feedlot is a permitted activity subject to the following standards:</p> <p>1. The land used for the feedlot shall be managed in a manner that prevents any seepage of contaminants into groundwater. The feedlot shall be located no less than 20 m from any surface water body;</p> <p>2. The feedlot shall be located no less than:</p> <ul style="list-style-type: none"> a. 20 metres from surface water; b. 150 metres from a residential building or any other building being part of a place of assembly on another site; c. 50 metres from a property boundary <p>3. Runoff from the surrounding catchment area is prevented from entering the feedlot.</p>	
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Best Practicable Options for farming activities	Time frame to be applied	Potential for translation into plan rules as new Schedule D	Status
<p>Fertiliser application to be applied in accordance with BMP code of practice guidelines.</p>	2020	<p>Fertiliser application is currently a permitted activity under the plan – per Rule 3.9.4.11</p> <p>Amend the existing rule to require records of NPKS kg/ha/yr/date/proof of placement to be kept for compliance/overseer audit purposes as part of the Nutrient Management Plan.</p> <p>Amend the rule to refer to the most recent updated Code of Practice for Nutrient Management.</p> <p>Amend the rule to stipulate a maximum N loading rate of 120kg/N/ha as follows:</p> <p><i>A maximum nitrogen loading rate of fertiliser must not exceed 150 120 kg/hectare/year for land grazed by livestock (applied to effective pastoral hectares) animal effluent irrigated. The maximum nitrogen loading rate should include all sources of applied nitrogen including fertiliser, biosolids and irrigated farm effluent.</i></p>	Permitted subject to standards
	2020	<p>This rule defaults to RDA where permitted activity standards are not met.</p> <p>Matters of discretion include:</p> <ul style="list-style-type: none"> • Whole farm soil total N tests if the farm is using more than 120 kg N/ha/yr on permanent pastoral areas • Demonstrating N use meets the objectives of the plan 	Restricted Discretionary Activity

Best Practicable Options for farming activities	Time frame to be applied	Potential for translation into plan rules as new Schedule D	Status
Phosphorous Application to be limited	2020	Use of less than 30 k P/ha/yr is a permitted activity for dairy farming and 50 k P/ha/yr for arable cropping	Permitted subject to standards
		Defaults to RDA where permitted activity standards are not met. Matters of discretion include: <ul style="list-style-type: none"> • Farm soil total P and Cd tests • Demonstrating P use meets the objectives of the plan 	Restricted Discretionary Activity
Irrigation to be applied using standards derived from the appropriate codes of practice	2020	Irrigation is undertaken in accordance with management practices adopted from the relevant Codes of Practice for Irrigation for the most efficient water use (eg in accordance with best practice Soil Moisture Deficit Guidelines) If not already a requirement of the Regional Plan, ensure that telemetry is applied to all water abstraction points by 2025.	Permitted subject to standards
Arable Cropping to be limited.	2020	For arable Cropping: All arable cropping shall be undertaken using minimum tillage. No nitrogen is applied to arable crops in June or July. Define minimum tillage – means “a tillage method that does not turn the soil over and / or change the soil structure through using ploughs”	Permitted subject to standards

Best Practicable Options for farming activities	Time frame to be applied	Potential for translation into plan rules as new Schedule D	Status
Winter Forage Crops to be limited.	2020	No winter forage crops are grazed in situ.	Permitted subject to standards
Commercial vegetable cropping	2023	BPOs are to be developed. These may be based on the minimum standards contained in Schedule 1 of PC1 and may also include maximum fertiliser application rates.	Permitted subject to standards

Activities that cannot comply with permitted activity standards default to restricted discretionary. In some, but not all cases, matters for control have been listed.

For the avoidance of doubt, the above table is indicative of the types of best practicable options to be applied to the rules as new Schedule D in PC1 and as part of the Alternative Approach. Further amendments may be necessary to give full effect to the reasons for the submissions, including for the avoidance of doubt, changes to the activity status of the rules and the specific BPO standards. The objectives and policies are amended as per the relief sought in Appendix One of the submission.
