

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Waikato Regional Plan
Change 1 and Variation 1 to Proposed Plan
Change 1: Waikato and Waipā Catchments

Block 2 Hearing – Part C

AND

IN THE MATTER of the submissions and further submissions
by Ravensdown Limited
(Submitter ID 74058)

**STATEMENT OF EVIDENCE OF CARMEN WENDY TAYLOR
ON BEHALF OF RAVENSDOWN LIMITED**

3 MAY 2019

SUMMARY

- A. Ravensdown Limited (**Ravensdown**) lodged submissions and further submissions on the Proposed Waikato Regional Plan Change 1: Waikato and Waipā Catchments (**PC1**) and Variation 1 to the Proposed Waikato Regional Plan: Waikato and Waipā River Catchments (**Variation 1**), hereafter referred to as '**PC1 and Variation 1**'.
- B. PC1 and Variation 1 introduces resource management provisions where farming activities, and associated diffuse discharges, in the Waikato and Waipā catchments, as part of a staged approach, will achieve the short-term and 80-year water quality attribute states in Table 3.11-1 of PC1 and Variation 1. These provisions have been developed to ensure that the Vision and Strategy (**Vision and Strategy**) for the Waikato River will be achieved over time.
- C. To achieve the above goal, PC1 and Variation 1, in the context of farming activities, seeks to identify priorities for management, put in place mechanisms to ensure there is no increase in diffuse discharges (i.e., restrictions on farming intensification), encourage reduction in diffuse discharges from all farming activities and gather information that will enable property level limits to be established in the future. Key mechanisms incorporated into PC1 and Variation 1 for the reduction of diffuse discharges from farming activities include stock exclusion from waterbodies, Good Farming Practices (**GFP**) and Farm Environment Plans (**FEP**) requirements and the need for farming activities to seek resource consents for all but low intensity farming activities.
- D. In my opinion, as part of a staged approach, the above resource management framework, provided it is implemented effectively by all parties should achieve the outcomes sought by the Vision and Strategy. In saying this, I note that there is the potential for timing and resourcing issues arising out of PC1 and Variation 1 as discussed in **Section 3** of my evidence and Mr Fitzpatrick's evidence.
- E. However, as outlined in my evidence, including my consideration of matters raised in Ms Wilkes and Mr Fitzpatrick's evidence, I also consider that amendments to the some of the section 42A Report's recommendations on PC1 and Variation 1 provisions are required, as overviewed in the following paragraphs.
- F. Policy 1 provides guidance on the range of actions to be implemented in relation to farming activities and associated diffuse discharges. For the reasons outlined

in **paragraphs 4.1 to 4.11** of my evidence, I consider that amendments to the section 42A Report recommendations are required to clearly identify that diffuse discharges in the catchments are to be managed, as well as reduced, and that all farming activities, not just 'higher dischargers' (e.g., dairy farms that exceed the 75th percentile nitrogen leaching values), are to operate in accordance with GFP and property specific FEPs as a means of reducing diffuse discharges. In this context, the effective reference to property level discharge limits in Clauses (b) and (b1) needs to be deleted and the clauses (Clauses (b3) and (b4)) that provide guidance on whether or not resource consents will be granted also need to be amended so that they do not state that resource consents will only be granted if property level reductions in diffuse discharges are demonstrated.

- G. Policy 4, as discussed in **paragraphs 5.1 to 5.9** of my evidence, identifies that to achieve the outcomes sought by Objective 1 of PC1 and Variation 1 future plan changes or regional plans will be required and that consent terms for farming activities will be set to enable further diffuse discharge reductions through replacement consents. The inference of the section 42A Report's recommended policy is that short term resource consents will generally be granted and, in my opinion, this does not provide certainty for farmers. On this basis, this policy should be amended to identify that the reduction in diffuse discharges is an obligation of all resource users, not just farmers, and to provide for potential longer-term consents. Based on Ms Wilkes's evidence, I have proposed a range of 10 to 15-year consent terms depending on whether specific criteria outlined in the policy is being met.
- H. In relation to the Nitrogen Reference Point (**NRP**), I consider this tool is an important component of PC1 and Variation 1. However, amendments to Schedule B (Nitrogen Reference Point) to clarify that there are two uses of the NRP, namely the initial calculation and then subsequent use as a tool to compare modelled property level nitrogen leaching level reductions are required. Other amendments to address technical requirements of Overseer and to provide clarity around provisions (as discussed in **paragraphs 6.1 to 6.6** of my evidence) are also requested in relation to this schedule, as well as the definition of NRP. Also, as Mr Fitzpatrick considers that all Certified Farm Nutrient Advisors (**CFNA**) should, at a minimum, be Certified Nutrient Management Advisors, I have requested an amendment to the CFNA definition (as discussed in **paragraphs 9.10 to 9.13** of my evidence).

- I. Certified Sector Schemes (**CSS**), were originally incorporated into PC1 and Variation 1, as a means of providing oversight of farming activities (and FEPs) without the need to generate and process over 5,000 resource consent applications for these activities. The section 42A Report recommends changes that removes this advantage (i.e., farming, which is part of a CSS, is no longer a permitted activity), while recommending the retention of the concept via Policy 3A and Schedule 2. As discussed in my evidence (**paragraphs 7.1 to 7.7**), I support the proposed deletion of optional Rule 3.11.5.3 which provides for farming activities with a FEP and as part of a CSS as there is no advantage in having two rules for effectively the same activity. In relation to Policy 3A and Schedule 2, I am neutral as to whether or not they are retained but note that Mr Fitzpatrick, in his evidence, considered that there will be insufficient commercial drivers for such a scheme, as well as too much business risk.

- J. In relation to the rules that are the subject of this hearing (refer to **paragraphs 8.1 to 8.8** of my evidence), I support the recommended rule hierarchy, the proposed inclusion of a controlled activity rule for medium intensity farming (Rule 3.11.5.2A) and the separation of the diffuse discharge and land use rules. However, amendments to rule provisions are required to address functionality, technical and clarity issues associated with the conditions attached to the rules, and to remove the matter of discretion that identifies that 'high dischargers' of nitrogen will be required to reduce discharges to comply with the 75th percentile nitrogen leaching value.

- K. For all other PC1 and Variation 1 provisions, except for Policy 8, I request the acceptance of the section 42A Report recommendations. Policy 8, which identifies the priorities for implementation of PC1 and Variation 1, in my opinion needs to identify that the dairy farming properties with a NRP greater than the 75th percentile nitrogen leaching value are also a priority in terms of the management of diffuse discharges.

- L. The specific amendments to the section 42A Report recommendations, in relation to the matters which are the subject of this hearing, are contained in **Appendix B** of my evidence.

1. INTRODUCTION

Background – My Role for Ravensdown Limited

- 1.1 Ravensdown Limited (**Ravensdown**) lodged submissions and further submissions on the Proposed Waikato Regional Plan Change 1: Waikato and Waipā Catchments (**PC1**) and Variation 1 to the Proposed Waikato Regional Plan: Waikato and Waipā River Catchments (**Variation 1**), hereafter referred to as '**PC1 and Variation 1**'.
- 1.2 As I outlined in my written statement (dated 14 February 2019) prepared for the Block 1 Hearing (Parts A and B), Mr Chris Hansen, of CHC Limited, assisted Ravensdown with the preparation of submissions on PC1. Following Mr Hansen's departure on an extended sabbatical and Planz Consultants Limited's (**Planz**) subsequent engagement to assist Ravensdown with its involvement in plan development processes nationally, I assisted Ravensdown with its submissions on Variation 1 and the subsequent preparation of further submissions.
- 1.3 Although an overview of my qualifications and experience was attached to the written statement provided in relation to the Block 1 Hearing, as I have not yet presented evidence at the PC1 and Variation 1 hearing, I have once again provided this information in **Appendix A** of my evidence.

Code of Conduct

- 1.4 Whilst this is a Council Hearing, I acknowledge that I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court updated Practice Note 2014, and agree to comply with it. I confirm that the matters addressed within my evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

2. SCOPE OF EVIDENCE

- 2.1 As background, Ravensdown in its submission on PC1 (dated 8 March 2017) stated that they generally supported the intent of PC1 (and Variation 1) to meet the requirements of the Vision and Strategy for the Waikato River (**the Vision**

and Strategy), subject to amendments sought through its submissions. The submission also stated that it supported: the use of the collaborative process adopted to prepare PC1; the Vision and Strategy outcomes¹; the approach to reducing contaminant losses from pastoral land as implemented within proposed Chapter 3.11; the use of permitted and controlled activity rules; the use of OVERSEER®; the use of Farm Environment Plans (**FEP**); and, in principle, the concept of Certified Industry Schemes.

2.2 In addition, I note that my written statement for the Block 1 Hearing (dated 14 February 2019), requested the acceptance of the section 42A Report's recommendations covering Part A (Overview and Context) and Part B (Overall Direction, Values and Uses, Science and Economics, Objectives, Limits and Targets) in relation to the matters Ravensdown submitted (and further submitted) on².

2.3 In relation to this Block 2 Hearing, I have reviewed the section 42A Report covering Parts C1 to C6 (Policies, Rules and Schedules (most)), hereafter referred to as the '**section 42A Report**'. My review focussed on the section 42A Report's recommendations, including the technical and contextual matters associated with the recommendations, in relation to PC1 and Variation 1 provisions that Ravensdown submitted and further submitted on.

2.4 Based on my review, it was decided between myself and Ms Wilkes (Ravensdown's Environmental Policy Specialist), that company and planning evidence traversing matters arising from Ravensdown's submission points should be presented at this hearing.

2.5 Ravensdown's company evidence, which I have read and considered in preparing my evidence, has been prepared by Ms Wilkes and Mr Fitzpatrick (Ravensdown Environmental's Business Manager). The matters covered in Ms Wilkes' and Mr Fitzpatrick's evidence includes:

- (a) Ms Wilkes' evidence provides an overview of Ravensdown's interest in regulatory processes, its shareholders in the Waikato region and its

¹ The submission refers to the "... matters listed in bullet points on page 25 of the notified proposed PC1". I take this to mean, the bullet point outcomes identified in relation to 'cultivation and primary production' in Section '3.11.1.2 – Use values' of PC1 and Variation 1.

² The relevant provisions are: Intrinsic Values for 'Ecosystem health' and 'Natural form and character'; Use Values for 'primary production' and 'commercial, municipal and industrial use'; Objectives 1 to 4 and 6; Policy 14; and, the introduction to Table 3.11-1 contained in Section 3.11.1 of PC1 and Variation 1.

business. Ms Wilkes' evidence then addresses: consent durations; provision of farm data under Rule 3.11.5.2; and, considerations associated with the use of Overseer; and

- (b) Mr Fitzpatrick's evidence addresses: potential timing and resourcing implications of PC1 and Variation 1; Certified Sector Schemes; and, the appropriate training and experience for Certified Farm Nutrient Advisors.

2.6 Based on my review of the section 42A Report, and given the matters raised in the evidence of Ms Wilkes and Mr Fitzpatrick, my evidence addresses the following matters:

- (a) **'Timing and Resourcing Implications'** potentially arising from the obligations contained within PC1 and Variation 1 are discussed in **Section 3**.
- (b) In **Sections 4 and 5** respectively, I discuss the reasons for the requested amendments to **'Policy 1 – Diffuse Discharge Management'** and **'Policy 4 – Future Discharge Reductions'**.
- (c) The **'Nitrogen Reference Point'**, my understanding of its intended use within PC1 and Variation 1 and the reasons for the requested amendments to these provisions are discussed in **Section 6**.
- (d) **'Certified Sector Schemes'** provisions of PC1 and Variation 1 are discussed in **Section 7**.
- (e) The **'Rules'** which are part of this Block 2 Hearing are discussed in **Section 8** of my evidence.
- (f) **Section 9** of my evidence covers three **'Other Matters'**, specifically **'Policy 5 – Staged Approach'**, **'Policy 8 – Prioritised Implementation'** and the definition of **'Certified Farm Nutrient Advisor'**.
- (g) A **'Conclusion'** is contained in **Section 10**.

2.7 In preparing my evidence, I have not undertaken a statutory plan assessment as I consider that the statutory framework contained in Section A.2 of the

section 32 Report appropriately overviews relevant legislation, statutory planning documents and relevant objectives and policies. I also acknowledge, as stated in the section 32 Report³, that the Vision and Strategy, which PC1 and Variation 1 gives effect to, takes precedence over the National Policy Statement for Freshwater Management (**NPS-FM**) where the NPS-FM is inconsistent with the Vision and Strategy (and where it establishes more stringent water quality conditions than the NPS-FM).

- 2.8 Given the broad approach adopted within the section 42A Report where the majority of submission points are not assessed individually, my evidence does not specifically traverse Ravensdown's submissions, further submissions and section 42A Report's recommendations. Rather, in preparing and structuring my evidence I have taken the section 42A Report's recommended amendments as the starting point for discussion. However, where appropriate, I have considered the issues raised in Ravensdown's submissions (and further submissions).
- 2.9 My evidence does not specifically discuss the section 42A Report's recommendations in relation to '**Policy 2 – Farm Environment Plans**'. However, for the purpose of completeness, I note that while Ravensdown sought amendments to this policy in its submissions (PC1-10102), I consider that the section 42A Report's recommendation in relation to this policy appropriately outline the policy intent for FEPs which are part of the resource management tools arising out of PC1 and Variation 1. I therefore support the section 42A Report's recommended amendments and consider they should be accepted.
- 2.10 **Appendix B** of my evidence contains the provisions of PC1 and Variation 1, where Ravensdown was a submitter or further submitter⁴. Alongside these provisions I have identified whether, based on matters traversed in my evidence, as well as the evidence of Ms Wilkes and Mr Fitzpatrick, whether the retention (acceptance) of the section 42A Report's recommendations are supported or further amendments are being sought.

³ Section A.2.3.2 (Vision and Strategy) of the section 32 Report.

⁴ Submission number references have also been provided in Appendix B.

2.11 Also, although not specifically discussed later in my evidence, I note that **Appendix B** contains the following requested amendments and/or retention of section 42A Report's recommendations:

- (a) Retention of the section 42A Report's recommended Schedule A (Registration with Waikato Regional Council).
- (b) A proposed definition for the 'most recent version of the OVERSEER® Model' should it be decided that a definition is required. The proposed definition is consistent with one of Ravensdown's further submission points.

3. TIMING AND RESOURCING IMPLICATIONS

3.1 Ravensdown, in its submissions and further submissions, identified that it considered that the implementation of PC1 and Variation 1, giving the timing requirements for specific activities, raises the prospect of capacity and resourcing issues. If these issues do occur, they will apply to parties assisting resource users to meet their obligations under PC1 and Variation 1 as well as Waikato Regional Council (**Council**) in terms of its responsibilities.

3.2 The key timing milestones incorporated into PC1 and Variation 1 as a result of the section 42A Report's recommendations, which place obligation on parties are as follows:

- (a) **1 May 2020 to 30 November 2020:**
 - Rural properties, which are greater than 4.1ha in area, must register with Council in accordance with the requirements outlined in Schedule A; and
 - Properties (and potentially enterprises), with a cumulative area greater than 20ha, are required to 'publish' the properties' Nitrogen Reference Point (**NRP**) to Council (Clause (e) of Schedule B).
- (b) **Before 1 September 2021** (or 6 months after PC1 and Variation 1 becomes operative), properties in Priority 1 sub-catchments and dairy

farms which exceed the 75th percentile nitrogen leaching value⁵ are no longer permitted activities under Rule 3.11.5.1A and therefore, unless provided for by Rule 3.11.5.2 (low intensity farms), will need to apply for resource consent supported by a FEP under Rule 3.11.5.4 or potentially optional Rule 3.11.5.2A (unless applying under Rule 3.11.5.6A).

- (c) **Before 1 March 2025** (or 1 year after PC1 becomes operative), properties in Priority 2 sub-catchments are no longer permitted activities under Rule 3.11.5.1A and therefore, unless provided for by Rule 3.11.5.2, will need to apply for consent supported by an FEP (unless applying under Rule 3.11.5.6A).
- (d) **By 1 January 2026**, all remaining properties (i.e., Priority 3 sub-catchments) are no longer permitted activities under Rule 3.11.5.1A and therefore, unless provided for by Rule 3.11.5.2, will need to apply for consent supported by an FEP (unless applying under Rule 3.11.5.6A).

3.3 The above final 2026 timeframe reflects the aim of Objective 3. This objective aims to ensure that sufficient actions are in place, and implemented, to reduce diffuse and point source discharges in order to achieve the short-term water quality attribute states in Table 3.11-1.

3.4 The above timing requirements may also result in resourcing implications for Council, including the need to calculate that the four⁶ FMU 75th percentile nitrogen leaching values in a timely manner and the subsequent processing of the resource consent applications triggered by the PC1 and Variation 1 rules. In addition, the requirement to monitor resource consent compliance, including the auditing of FEPs, undertake NRP compliance monitoring as referred to in Schedule B and to approve and audit CSSs in accordance with Schedule 2 have potential resourcing implications for Council.

⁵ The definition of '75th percentile nitrogen leaching value' identifies that this provision of PC1 and Variation 1 relates to dairy farms.

⁶ The definition for '75th percentile nitrogen leaching value', as I read it, identifies that a value will be calculated for each river of the four river FMUs. In relation to the four lake FMUs, the definition identifies that they will be included within the relevant river FMU.

- 3.5 I also note, that the section 42A Report's recommendation in relation to Policy 4 (discussed in **paragraphs 5.1 to 5.9** of my evidence), identifies that the consent duration for farming activities will be such that further reductions in contaminant losses will be implemented through replacement resource consents (rather than section 128 reviews of conditions). If relatively short-term consents are granted, the continued need to apply for new resource consents for farming activities, and the need for these applications to be processed, will mean that appropriate external and Council resources will need to continue to be available.
- 3.6 The section 32 Report⁷ identifies that approximately 10,000 properties will need to register with Council and approximately 5,000 properties will need to calculate a NRP and prepare a FEP.
- 3.7 Based on Mr Fitzpatrick's assessment of the resourcing implications of PC1 and Variation 1, provided sufficient technical resources are available to service the needs of PC1 and Variation 1, then the timeframes for specific actions under PC1 and Variation 1 are, in my opinion, appropriate. In saying this, I acknowledge the need to commence action, albeit as part of an overall staged approach, as soon as possible in order to achieve the outcomes sought by Objective 1.
- 3.8 However, I also consider, based on Mr Fitzpatrick's evidence, that there is a need for Council to be aware, on an ongoing basis, of potential resourcing issues. In this context, I consider that if access to technical resources does become an issue in the future, that Council should be generally accommodating where farmers who are trying their best to meet the requirements of PC1 and Variation 1 have been unable to meet timeframes through no fault of their own. In this context, I note that Mr Fitzpatrick, in his evidence, mentions the successful use of waitlists in other regions.

4. POLICY 1 – DIFFUSE DISCHARGE MANAGEMENT

- 4.1 The section 42A Report recommends a number of changes to Policy 1, with key elements of the proposed revisions entailing consolidating relevant parts of

⁷ Second last paragraph in Section E.2.5.2 of the section 32 Report.

Policies 1, 2 and 6 into Policy 1 such that the revised policy provides the direction for all farming activities⁸. As a result of the section 42A Report's recommendations, Policy 2 has been reframed to outline the role of FEPs within PC1 and Variation 1, while Policy 6 has been deleted.

4.2 Recommended Policy 1 seeks to reduce catchment and sub-catchment wide diffuse discharges by requiring a range of actions in relation to farming activities. These actions, or management approaches, are outlined in Clauses (a1) to (c) as follows:

- requiring all farming activities to operate at Good Farming Practice⁹ (**GFP**) or better (Clause (a1));
- the establishment of a NRP for each farm property (Clause (a2));
- enabling (i.e., permitting) farming activities with low levels of contaminant discharge (Clause (a));
- requiring farming activities to reduce their diffuse discharges, with medium to high discharges to reduce discharges proportionate to the improvements required in the catchment, while the 75th percentile nitrogen leaching value dairy farmers are required to reduce nitrogen discharges to between the 50th and 75th percentile levels with resource consents specifying the amount of reduction or changes to practices required to take place (Clauses (b) and (b1));
- where GFP is not adopted, controls will be specified in resource consents to ensure the reduction in contaminant losses (Clause (b2));
- identifying that resource consents for farming activities will only be granted where clear and enduring reductions in diffuse discharges are demonstrated (Clause (b3));
- identifying that resource consents for land use change, namely farming intensification, will only be granted where clear and enduring reductions in diffuse discharges are demonstrated (Clause (b4)); and

⁸ Paragraph 210(2) in Section C1.2 of the section 42A Report.

⁹ Good Farming Practice is not defined in PC1 and Variation 1. GFP is an update to the concept of Good Management Practice as principally articulated in the *"Industry-agreed Good Management Practices relating to Water Quality"* (September 2015). GFP is outlined in the *"Good Farming Practice Action Plan for Water Quality 2018"*. From my perspective, GFP and GMP are environmental management approaches for farming where practices, procedures or tools are put in place to achieve a desired environmental outcome which can include the avoidance or mitigation of environmental risks or adverse effects. In addition, these practices, procedures or tools are not static and should be reviewed over time in order to try and achieve continual improvement.

- progressively excluding larger animals¹⁰ from waterbodies (Clause (c)).
- 4.3 Ravensdown, in its submissions, supported the intent of Policy 1 to manage diffuse discharges in the Waikato and Waipā catchments and requested amendments to clarify that the intent is to manage the diffuse discharges and to require reductions where the sub-catchment is over-allocated¹¹.
- 4.4 In relation to the Policy 2 matters incorporated into Policy 1, Ravensdown requested¹² that Clause (d) (effectively Clause (b) in Policy 1) be amended, for the purposes of clarity, by stating that the degree of reduction in diffuse discharges is proportionate to the scale of water quality improvement required in the sub-catchment.
- 4.5 Ravensdown, in its submission¹³ on notified Policy 6, considered that amendments were required to identify that in over-allocated catchments where water quality outcomes are not being met, that land use change is to be restricted as an increase in diffuse discharges is not acceptable. Ravensdown also noted that it was possible that land use change where GFP and adaptive mitigations are adopted could result in no overall increase in diffuse discharges and thus no deterioration in sub-catchment water quality. On this basis, Ravensdown, in its submission, requested amendments that clarified that resource consents for land use change would generally not be granted if doing so would result in water quality deterioration, or an overall decrease in water quality.
- 4.6 Finally, in relation to Ravensdown's other submissions relevant to Policy 1, there are two places that included a reference to properties with a NRP that exceeded the 75th percentile nitrogen leaching value needing to identify actions, timeframes and other measures that would ensure the diffuse discharge of nitrogen was reduced so as not to exceed the 75th percentile leaching value by 1 July 2026. This provision was incorporated as a 'Matter of Control' within notified Rule 3.11.5.4 and as a matter to be included in FEPs (Part 5(b) of

¹⁰ Larger animals are identified as cattle, horses, deer and pigs.

¹¹ Submission point PC1-10101.

¹² Submission point PC1-10102.

¹³ Submission point PC1-10107.

Schedule 1). Ravensdown's submissions¹⁴ on this aspect of Rule 3.11.5.4 and Schedule 1 identified that it considered that this requirement was not fair or efficient and that it was better to simply require all land users to reduce diffuse discharges. On this basis, Ravensdown requests the following amendment to part (iv) of the Rule 3.11.5.4 Matters of Control and Part 5(b) of Schedule 1:

iv Where the Nitrogen Reference Point exceeds the 75th percentile nitrogen leaching value, actions, timeframes and other measures to ensure reduce the diffuse losses ~~discharge of nitrogen using best practicable options in keeping with industry agreed good management practice, prior to a nitrogen loss allocation system being decided and introduced~~ ~~is reduced so that it does not exceed the 75th percentile nitrogen leaching value by 1 July 2026.~~

4.7 Given the issues raised in Ravensdown's submissions and based on my understanding of the purpose of PC1 and Variation 1 in terms of facilitating a staged approach to achieving the Vision and Strategy for the Waikato and Waipā catchments by 2096, I am of the opinion that amendments to the section 42A Report recommended Policy 1 are required, particularly in relation to the specific guidance for some properties to reduce nitrogen losses to specific 'limits'.

4.8 This is based on a number of factors, including the following:

(a) The section 32 Report identifies that staging the transition to the 80-year goal is the reasonably practicable option that will achieve the objectives of PC1 and Variation 1 (as assessed in Section E.2 of the section 32 Report). This staged approach will require reductions now as the first stage of change, while signalling further future reductions will be required, including through the establishment of potential future property-level limits (i.e., a potential allocation regime). The staged approach also enables information to be gathered for the next plan change (e.g., the modelled nitrogen profile of sub-catchments and catchments). When assessing the risks of the staged approach, the section 32 Report considers that the risks of choosing not to act earlier

¹⁴ Submission point PC1-10148 in relation to Rule 3.11.5.4 and submission points PC1-10174 and/or PC1-12504 in relation to Schedule 1.

in terms of setting property level limits “... is only a risk if Plan Change 1 fails to hold discharges at current levels and begin the process of making reductions”¹⁵. Therefore, as I understand it, the intent of the staged approach accommodated within PC1 and Variation 1 is to start a process of change through regulatory controls, to ensure that diffuse discharges do not increase and put in place provisions that will support contaminant loss reductions, but not at the property level, and the data that is not yet available is gathered for the establishment of an allocation regime.

- (b) In Section E.3 of the section 32 Report, the ‘making reductions’ options are assessed, with Option 6 selected as the most appropriate way to achieve the objectives of PC1 and Variation 1. Option 6 is described as:

*Control activities on-farm and require mitigations to reduce the effects on water through a combination of mandatory mitigations and mandatory Farm Environment Plans. Require landowners to determine, and provide to council, the levels of nitrogen discharged from their land, and not exceed that number. Require farms with high diffuse nitrogen discharges to reduce*¹⁶.

- (c) The statement at the beginning of PC1 and Variation 1 from the Healthy Rivers Wai Ora committee co-chairs identifies that PC1 and Variation 1 represents the start of the journey to restore and protect the health and wellbeing of the Waikato and Waipā rivers over a 80-year time.
- (d) Methods 3.11.4.7 and 3.11.4.8 of PC1 and Variation 1 identify that information is to be gathered and scientific research undertaken to inform future frameworks for the allocation of diffuse discharges, and Council will develop an allocation framework based on this information.

4.9 Based on the guidance outlined above and the issues raised in Ravensdown’s submissions which I consider are valid, the intent of PC1 and Variation 1 in the

¹⁵ Sixth paragraph in Section E.2.7 of the section 32 Report.

¹⁶ As described in Section E.3.2 of the section 32 Report.

context of farming activities and associated diffuse discharges are centred around:

- (a) identifying priorities for management (i.e., as outlined in Policy 8 – refer to **paragraphs 9.5 to 9.8** of my evidence);
- (b) putting in place various mechanisms to ensure that there is no increase in diffuse discharges (i.e., the farming intensification land use change rules);
- (c) encouraging reductions in diffuse discharges from all farming activities (i.e., stock exclusion from waterbodies, GFP and FEP requirements and the need to seek resource consents for all but low intensity farming activities); and
- (d) gathering information, which includes but is not limited to the NRP, to enable, in the future, the establishment of property-level limits or allocation regimes.

4.10 Given the intent of PC1 and Variation 1, as I have outlined above, I consider that further amendments to Policy 1 are required for the following reasons:

- (a) Policy 1 should be amended to reinstate the requirement to manage diffuse discharges, as well as reduce them. The section 42A Report recommends amendments such that the policy only refers to the reduction of diffuse discharges and in my opinion that does not reflect the intent of PC1 and Variation. Rather, PC1 and Variation 1 seeks to put in place a regime, albeit the first stage of a regime, that seeks to manage diffuse discharges. The purpose of the management regime in the short-term is to ensure that at a minimum, current water quality levels are held and the process for achieving reductions in contaminants losses, particularly in order to achieve the short-term water quality attribute states in 'over-allocated' sub-catchments, are put in place. I note that the achievement of the water quality attribute states, both the short-term and 80-year states, place an obligation on all resource users, including but not limited to farming activities.
- (b) The requirement for all farming activities to operate in accordance with GFP or better (Clause (a)) is supported as it places an obligation on

all farmers, which collectively should achieve reductions in diffuse discharges in catchments and sub-catchments. Given this Clause (a) requirement, Clause (b2) becomes irrelevant as all farming activities are required to operate in accordance with GFP. On this basis, Clause (b2) should be deleted.

- (c) Clauses (b) and (b1), as recommended in the section 42A Report, in effect places property level limits on some farming activities. This is not consistent with the staged approach to PC1 and Variation 1. Specifically, Clause (b) requires farming activities with moderate or high levels of contaminants, whatever that may be, to reduce contaminant losses to an amount of the properties' 2016 discharge which is proportionate to the amount of water quality improvement required in the sub-catchment. Clause (b1) specifies that farming activities that exceed the 75th percentile nitrogen leaching value are to reduce diffuse nitrogen losses to between the 50th to 75th percentile.

In my opinion, there are a number of issues associated with these requirements, including:

- the 75th percentile nitrogen leaching value is not a property level compliance limit, rather it is used as a means of prioritising properties, along with properties in Priority 1 sub-catchments, for implementation of regulatory control under PC1 and Variation 1;
- as outlined in Ravensdown's submission, rather than placing the obligation to the achieve the short-term and 80-year water quality attribute states on certain resource users, I agree that all land users should be required to put in place actions aimed at reducing their diffuse discharges;
- the management approaches incorporated into PC1 and Variation 1 in relation to the management of diffuse discharges from all farming activities principally revolve around the introduction of regulatory control, the use GFP, the implementation of FEPs and the exclusion of larger animals from waterbodies; and,
- where a farming activity exceeds the FMU's 75th percentile nitrogen leaching value and where it has successfully implemented GFP and complies with its FEP, but this action has

not resulted in significant diffuse discharge reductions, under Clause (b3) of this policy (discussed in **paragraph 4.10(d)** below), it is stated that the farming activity will generally not be granted a resource consent to use the land. If this the case, with no resource consent to use the land, the farming activity will have to cease. This outcome has the potential to adversely affect people and the community socially and economically.

Given these concerns, I consider that Clause (b) is unnecessary and should be deleted. In relation to Clause (b1), I agree that dairy farms that are above the 75th percentile nitrogen leaching value for any FMU, as the likely higher discharges of nitrogen within the FMU, should be required to reduce diffuse nitrogen discharges with these actions and measures detailed in the FEP for the property. Accordingly, my proposed amendments to Clause (b1) of Policy 1 are as follows:

b1. ~~Calculating the 75th percentile and 50th percentile nitrogen leaching values and r~~Requiring dairy farmers with a Nitrogen Reference Point greater than the 75th percentile of the river or lake Freshwater Management Unit, to implement actions and measures, in accordance with specific timeframes to demonstrate real and enduring reduce nitrogen loss reductions to below the 75th percentile and farmers with a Nitrogen Reference Point between the 50th and 75th percentile to demonstrate real and enduring reductions of nitrogen leaching, with Farm Environment Plans resource consents specifying an amount of reduction or changes to practices required to take place; and

- (d) Clause (b3), as recommended in the section 42A Report identifies that resource consents for farming activities will not be granted unless the application demonstrates a clear and enduring reduction in diffuse discharges. As I have outlined above in my evidence, I consider that PC1 and Variation 1 seeks to manage diffuse discharges in a manner that ensures that contaminant losses do not increase (i.e., a hold the line approach) where the short-term water quality attribute states are met in a sub-catchment (i.e., where they are not met, reductions will

be required from all activities in the sub-catchment). In saying this, I also acknowledge that PC1 and Variation 1 also seeks to reduce diffuse discharges through a range of measures, including regulatory control, the use of GFP, the implementation of FEPs and the exclusion of larger animals from waterbodies. On this basis, I consider that this clause should be amended to state that for resource consent to be granted the application must demonstrate “*clear and enduring commitment to operating in accordance with GFP to contribute to catchment and sub-catchment wide reductions in diffuse discharges*” (rather than just ‘clear and enduring reductions of diffuse discharges’).

- (e) Clause (b4) which provides guidance on the granting of resource consents in relation to change in the use of land (i.e., farming intensification) outlines, similar to Clause (b3) discussed above, that resource consents will not be granted unless the application demonstrates clear and enduring reductions in diffuse discharges. For the reasons discussed above in **paragraph 4.10(d)** and given that the management measures that applies to all farming activities (as outlined in the above paragraph) will also apply to any intensified farming activity that was granted a resource consent, I consider that this clause should be amended to state that for resource consent to be granted the application must demonstrate that there is to be no increase in diffuse discharges (rather than ‘clear and enduring reductions’).

- 4.11 My requested amendments to Policy 1, as discussed in the above paragraphs, are provided in **Appendix B** of my evidence.

5. POLICY 4 – FUTURE DISCHARGE REDUCTIONS

- 5.1 Policy 4, as amended by the recommendations of the section 42A Report, recognises that future plan changes, or regional plans, are likely to be required in the future to achieve the outcome sought by Objective 1 of PC1 and Variation 1. The outcome sought by Objective 1 is the reduction in the discharge of nitrogen, phosphorus, sediment and microbial pathogens to land and water in

order to restore and protect the Waikato and Waipā Rivers such that by 2096, at the latest, the water quality attribute states in Table 3.11-1 are met.

- 5.2 Policy 4, as recommended, then outlines that in relation to farming activities, consent terms will be set to enable further reductions in contaminant losses to be implemented by way of replacement resource consents, rather than section 128 review processes, unless the application demonstrates enduring reductions that will achieve the short-term water quality attribute states and provided the property is not within a Priority1 sub-catchment.
- 5.3 In suggesting the recommended amendments to Policy 4, the section 42A Report outlines that Officer's considered that:
- (a) The notified version of Policy 4 duplicated parts of Policy 1 (i.e., the management of diffuse discharges) and therefore the duplicated provisions should be deleted from Policy 4¹⁷.
 - (b) While signalling future plan changes is not within the scope of PC1, the policy should acknowledge that in order for Objective 1 to be met, further reduction in contamination losses are likely to be required and the reality is that this will need to be addressed through future statutory planning processes¹⁸.
 - (c) Consistency with respect to consent duration is required in order to give effect to the need for future contaminant loss reductions signalled by the policy. In this context, if long term consents are granted to farming activities, the ability to achieve further reductions will be limited¹⁹.
 - (d) While the review of resource consents is an option, this process can be expensive, difficult to administer and often limited as to what can be achieved and for this reason section 128 reviews are not a preferred approach²⁰.
 - (e) Relatively short duration resource consents provide little investment certainty and clarity for farmers. For this reason, the section 42A

¹⁷ Paragraph 553 in Section C1.6.1 of the section 42A Report.

¹⁸ Paragraph 554 in Section C1.6.1 of the section 42A Report.

¹⁹ Paragraph 556 in Section C1.6.1 of the section 42A Report.

²⁰ Paragraph 557 in Section C1.6.1 of the section 42A Report.

Report recommends wording that provides scope for longer term consents where reductions in contaminants losses, above those anticipated by PC1 and Variation 1, are shown by the applicant²¹.

- 5.4 Ravensdown, in its submissions, supported Policy 4 in part and requested that the overall intent of the policy be retained while improving the policy in terms of clarity and implementation, in relation to references to 'low discharging activity', 'existing or new activity' and 'cumulative achievement' of Objective 3. In my opinion, the recommended refocussing of Policy 4, particularly in relation to not duplicating Policy 1 matters, largely addresses these issues.
- 5.5 Ravensdown also requested a new policy²² in submissions, similar to the proposed policy for point source discharges (Policy 13), that provided guidance on consent durations for non-point source discharges. The policy requested by Ravensdown was as follows:

Policy 13A: Non-point sources consent duration.

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

- a. A consent term exceeding 15 years, where the applicant demonstrates the approaches set out in Policies 1 to 4 will be met; and*
- b. The magnitude and significance of the investment made or proposed to be made in contaminant reduction measures on any resultant improvements in the receiving water quality; and*
- c. The need to provide appropriate certainty of investment where contaminant reduction measures are proposed (including investment in treatment plant updates or land based application technology).*

- 5.6 While, as stated in **paragraph 5.4** above, I consider the refocussing of Policy 4 addresses some of the issues raised in Ravensdown's submissions, in my opinion, the policy still requires further amendment. My proposed amendments are provided in **Appendix B** of my evidence.

²¹ Paragraph 557 in Section C1.6.1 of the section 42A Report.

²² Submission point PC1-10121.

5.7 The nature and reasons for the requested amendments are as follows:

- (a) Objective 4 of PC1 and Variation 1 identifies that in order to achieve Objective 1 further contaminant reductions will be required by subsequent regional plans. Policy 4, titled 'Future discharge reductions', supports this objective and therefore in my opinion this policy should refer to all activities in the catchments that have the potential to affect water quality, not just farming activities. For this reason, I have proposed amendments to the first part of the policy that refers to activities, including farming, that discharge, whether directly or indirectly, nitrogen, phosphorus, sediment and microbial pathogens, being subject to potential further regulation in the future.
- (b) In considering consent durations, in my opinion, one of the matters for consideration includes the appropriateness of granting longer term consents that provide certainty for the farming community. Longer term consents will mean that farmers can continue to farm and thus generate an income, while also having time and the finances available to invest in improvements in accordance with GFP. Where farmers are operating in accordance with GFP, where the activity is consistent with achieving the water quality attribute states in Table 3.11-1 and provided the property is not located within a Priority 1 sub-catchment, a longer duration consent (i.e., up to 15-years) should be able to be granted. Where these criteria are being met, the waters of the Waikato and Waipā Rivers will be being protected from being adversely affected by these farming activities. This criteria is not dissimilar to that proposed in Policy 13 in relation to point source discharges.
- (c) In my amendments to Policy 4, I have proposed providing guidance for resource users as to likely consent terms. This assists resource users in understanding their potential future liabilities and costs in terms of future consenting processes, while also providing guidance on the criteria for granting longer term consents. If the criteria for granting longer term consents are met (as discussed in the above paragraph), I consider, based on the evidence of Ms Wilkes, that a consent term of up to 15-years will provide sufficient certainty for farmers as well as flexibility for Council to require future potential changes over the now, not quite 80-year timeframe, provided for within

PC1 and Variation 1. Also, to achieve the right balance between certainty for the farming community, and thus commitment to the outcomes being sought, and the need to continue to strive to reduce contaminant losses in circumstances where the criteria is not being met, then I consider, once again based on the evidence of Ms Wilkes, that a 10-year consent term is appropriate.

- 5.8 Finally, although amendments to Policy 4 are not proposed in relation to section 128 reviews of consent conditions, I am of the opinion that they are a viable option for achieving further contaminant loss reductions from consented activities in the Waikato and Waipā River catchments. The section 42A Report²³ outlines that Council staff are hesitant about the effectiveness of such reviews while also noting that they tend to be expensive and difficult to administer. While this may be the opinion of Council staff, seeking replacement resource consents or participating in review processes can both be expensive, it's just that in the case of applicant's seeking new or replacement resource consents they bear the costs rather than Council. As I understand it, Council's would incur more costs if a review process was used rather than a replacement resource consent process. However, I note that broadly speaking, the resourcing implications are likely to be similar for both pathways.
- 5.9 In terms of the effectiveness of such reviews, in my opinion, section 128 of the Resource Management Act 1991 (**RMA**) clearly outlines that consent conditions can be reviewed for a range of reasons, including, but not limited to responding to regional discharge and land use rules (section 128(1)(a) and (bb)) and for any other purpose specified (section 128(1)(iii)). In my opinion, section 128 of the RMA could be effective in reviewing consent conditions to ensure further contaminant loss reductions, where and if required. However, for section 128 reviews to be effect, it will be important that when resource consents are initially granted that conditions are drafted with this potential in mind.

²³ Paragraph 557 in Section C1.6.1 of the section 42A Report.

6. NITROGEN REFERENCE POINT

- 6.1 The NRP is a tool that has been incorporated into PC1 and Variation 1 to serve, as I see it, a number of purposes. Firstly, as stated in the NRP definition, it establishes a 'benchmark', using Overseer or an alternative approved model, of the nitrogen discharges from a farm (and the farm system in operation) during the specified reference period.
- 6.2 The establishment of the NRP (required under Policy 1(a2)), and the provision of each property's NRP to Council between 1 May to 30 November 2020, will then enable the calculation of a 'nitrogen leaching value' for each of the four river FMUs in the Waikato and Waipā catchments to be calculated. However, I note that this is reliant on all NRPs from all properties greater than 20ha in area being provided to Council within the specified timeframe. The provision of the NRPs will then enable the dairy farms with a NRP greater than the 75th percentile nitrogen leaching value to be identified, with these properties then becoming a priority for regulatory control (Policy 8 and Rule 3.11.5.1A).
- 6.3 Finally, the NRP can then be used as a comparative tool to identify if progress in the reduction of contaminant losses from farming activities, whether at a property, sub-catchment or FMU level, is being achieved. In saying this, I acknowledge that the success of the regulatory approaches (for all activities, not just farming) included in PC1 and Variation 1, in terms of the restoration and protection of the water quality of the Waikato and Waipā catchments, will be determined by water quality monitoring which will identify whether the short-term and 80-year water quality attribute states are being met.
- 6.4 Based on my understanding, I consider that the concept of the NRP and the general manner in which it is to be utilised as part of PC1 and Variation 1 (subject to the amendments I have discussed within my evidence) will be an important component of the PC1 and Variation 1 toolbox. For this reason, I support the inclusion of the NRP, and associated provisions, in PC1 and Variation 1.
- 6.5 While making this statement, amendments to Schedule B (Nitrogen Reference Point) and the definition for 'Nitrogen Reference Point' are considered necessary to provide clarity and/or to accommodate technical considerations raised in the evidence of Ms Wilkes.

6.6 The reasons for the requested amendments, as provided in tracked changes mode in **Appendix B** of my evidence, are as follows:

(a) **Schedule B – Nitrogen Reference Point:**

- There are effectively two key timing related action points within the schedule. The first is the calculation of the initial NRP as provided for by Clauses (a) to (f), and then the subsequent review and monitoring of nitrogen leaching improvements as currently provided for by the last part of Clause (c) and Clause (g). Accordingly, for the purpose of clarity I consider that the schedule should be split into two sections, the first titled 'A. Calculation of Initial Nitrogen Reference Point' and the second titled 'B. Monitoring of Nitrogen Leaching Improvements'. Part A would contain the existing recommended Clauses (a) to (f), although the second part of Clause (c), subject to the amendments discussed below, which refers to updating the NRP when new versions of models are released should be moved into Part B.
- Clause (a) (Clause A(a) in Appendix B) identifies that an NRP is to be calculated during the reference period, except where a land use is approved under Rules 5.11.5.6 and 3.11.5.7 as a NRP will be determined at the time that resource consent is sought. In my opinion, only Rule 3.11.5.7, which relates to farming intensification, should be identified as an exclusion (i.e., a new NRP will need to be provided within the application for the changed and more intensive farming activity). In contrast, farming activities seeking a resource consent under Rule 3.11.5.6 should have already calculated a NRP in 2020 in accordance with Schedule B (i.e., before Rule 3.11.5.1A ceases to permit existing farming activities).
- Second part of Clause (c) (Clause B(a) in Appendix B) identifies that the NRP is to be recalculated when new versions of the Overseer model (or other models) are updated. This will enable a direct comparison to be carried out between the baseline nitrogen leaching value for a property and nitrogen leaching that is occurring as a result of GFP and implementation of a FEP (as well as any other consent condition requirements). However,

while the intent of this clause is supported, based on Ms Wilkes' evidence, I understand that the most recent version of Overseer (Overseer FM) updates on a relatively frequent basis and therefore the requirement to update the NRP whenever the model is updated is not consistent with how the model now operates. On this basis, I have proposed amendments to this clause to identify that the property level NRP is to be updated annually, with the timeframe specified in the resource consent, or within 10 working days of a request from Council.

- Clause (d) (Clause A(d) in Appendix B) identifies, amongst a range of requirements, that 'exceptions and inclusions' in Council's 'Nitrogen Reference Point Guide' will override the relevant technical guidance that relates to the Overseer model. For the reasons outlined in Ms Wilkes' evidence, the deletion of the reference to the regional exceptions and inclusions provided in this clause is requested.

- (b) **NRP definition.** Minor wording changes are proposed solely for the purpose of clarity, including clarifying that 'the reference period' is specified in Schedule B.

7. CERTIFIED SECTOR SCHEMES

7.1 Certified Industry Schemes, now referred to as Certified Sector Schemes (**CSS**) as a result of section 42A Report's recommendations, are entities approved by Council, provided they met specific requirements, that would support the preparation of FEPs and oversee implementation. The notified concept provided for farming activities who prepared a FEP as part of a CSS as permitted activities, with the CSS providing oversight rather than Council²⁴. In contrast, farming activities that were not part of a CSS would need to seek a controlled activity resource consent (Rule 3.11.5.4 as notified).

7.2 The inclusion of the CSS concept in PC1 and Variation 1 was a method of providing oversight to farming activities (and FEPs) without the need to

²⁴ Paragraph 779 in Section C3 of the section 42A Report.

generate and process approximately 5,000 resource consent applications for these activities²⁵.

- 7.3 The CSS approach, in relation to the PC1 and Variation 1 provisions which are the subject of this hearing, was provided in the notified versions of Policies 2 and 3, Rule 3.11.5.4, Schedule 2 and the associated definition in the glossary.
- 7.4 To provide context, Ravensdown, in its submissions, supported, in principle, the use of CSS. However, while supporting Council working with industry to develop and implement an industry (or sector) certification process consistent with Schedule 2, Ravensdown also requested various amendments whereby existing national industry certification schemes can form part of the CSS under PC1 and Variation 1²⁶. In its submission, Ravensdown identified that resourcing efficiencies would be associated with adopting existing programmes such as the Certified Nutrient Management Advisor programme.
- 7.5 CSS, as a component of PC1 and Variation 1, is discussed in Section C3 of the section 42A Report. In relation to CSS provisions, the section 42A Report recommends the following key amendments²⁷:
- (a) Renaming Certified Industry Schemes to CSS to better align with WRP definitions.
 - (b) Clarifying the purpose of CSS and the process for becoming certified through a specific CSS policy (recommended Policy 3A) and amendments to Schedule 2. This includes ensuring that the minimum standards for CSS, including requirements for ongoing audits and monitoring, are better articulated.
 - (c) Amending the rules by making farming activities with a FEP, which are not low or medium intensity farming, restricted discretionary activities irrespective of whether or not the farming activity is part of a CSS. This recommendation responds to various submissions points which raised issues around the appropriateness and lawfulness of the permitted

²⁵ Paragraph 807 in Section C3 of the section 42A Report.

²⁶ As traversed in 'Part 1 – General Comments on Proposed PC1' of Ravensdown's submission and in relation to Method 3.11.4.2 which is not the subject of this hearing. Ravensdown's submission point number in relation to Method 3.11.4.2 is PC1-10125.

²⁷ As overviewed in paragraph 782 in Section C3 of the section 42A Report.

activity rule for farming activities which are part of a CSS²⁸. The section 42A Report recommended, in response to submissions, that the activity status for these farming activities should be the same, thus establishing a level playing field and strengthening Council's ability to monitor these activities through consent conditions²⁹.

- (d) The section 42A Report³⁰, although identifying an optional restricted discretionary activity rule (Rule 3.11.5.3) for farming activities with a FEP under a CSS, recommend that this rule is not needed. The reason for this is that amendments to Rule 3.11.5.4, now also recommended to be a restricted discretionary activity, can provide for farming activities with a FEP whether or not they under a CSS. Given that the same activity status applies to the optional Rule 3.11.5.3 and Rule 3.11.5.4, the section 42A Report states that there is no regulatory incentive to become a member of a CSS.
- (e) While the section 42A Report recommends not including a specific regulatory method (i.e., rule) providing for farming activities under a CSS, the section 42A Report recommends the retention of the non-regulatory provisions³¹, namely Policy 3A and Schedule 2 (and refer to CSS in Condition 4 of Rule 3.11.5.4).

7.6 I support the proposed deletion of the optional Rule 3.11.5.3 as I do not see any advantage in having two rules for the same activity with the same activity status. This proposed amendment is identified in **Appendix B** of my evidence.

7.7 In relation to Policy 3A and Schedule 2, I am neutral as to whether or not they are retained but note that Mr Fitzpatrick, in his evidence, considered that there will be insufficient commercial drivers for such a scheme and that there is too much business risk to generate the necessary market response. I have noted therefore noted in **Appendix B**, that if CSSs are retained in PC1 and Variation 1 that I support the recommendations of the section 42A Report.

²⁸ Paragraph 800 in Section C3 of the section 42A Report.

²⁹ Paragraph 806 in Section C3 of the section 42A report.

³⁰ Paragraph 810 in Section C3 of the section 42A Report.

³¹ Paragraph 810 in Section C3 of the section 42A Report.

8. RULES

8.1 The rules and rule hierarchy has been significantly amended by the recommendations of the section 42A Report. As an overview the rules provide for:

(a) Permitted activities as follows:

- Rule 3.11.5.1A permits, as an interim regime, the use of land for farming until the timeframes under PC1 and Variation 1, as outlined in **Section 3** of my evidence, trigger the need to seek a resource consent (Parts (1) to (3)) subject to conditions and (or) provided any change of use does not exceed 4.1ha (Part (6)).
- Rule 3.11.5.2 permits 'low intensity' farming activities, with low density defined by the rule conditions.
- Rule 3.11.5.8 permits the diffuse discharge of nitrogen, phosphorus, sediment and/or microbial contaminants from farming activities where the farming activity is either a permitted activity or authorised by way of a resource consent.

(b) Controlled activity, as an option, where Rule 3.11.5.2A provides for 'medium intensity' farming subject to conditions.

(c) Restricted discretionary activities as follows:

- Rule 3.11.5.3, as an option, that provides for farming activities with a FEP under a CSS, subject to conditions. As discussed in **paragraph 7.6** above, I have proposed the deletion of this rule.
- Rule 3.11.5.4 provides for farming activities with a FEP, subject to conditions.

(d) Discretionary activity rule (Rule 3.11.5.6A) that provides for farming activities, but not change of use activities, that do not comply with the specified conditions of the restricted discretionary activity rules.

(e) Non-complying activities as follows:

- Rule 3.11.5.7 provides for a change of use (for farming) where the change of use condition of the restricted discretionary rule is not complied with.

- Rule 3.11.5.9 provides for unauthorised diffuse discharges from farming (i.e., diffuse discharges not provided for by Rule 3.11.5.8 (permitted activity rule)).

- 8.2 The recommended rule hierarchy, as part of the proposed staged approach provided for in PC1 and Variation 1, puts in place regulations and associated controls on all, but low intensity, farming activities in the Waikato and Waipā River catchments. I consider that this rule hierarchy is appropriately balanced in that it permits some activities, requires resource consents for all others while also identifying through non-complying activity status that generally further intensification of rural land is no longer tenable.
- 8.3 As an overview, the rules permit low intensity farming (subject to meeting the conditions of Rule 3.11.5.2), and as an interim measure which accommodates a staged and prioritised approach, all farming activities are permitted until 1 January 2026, at the latest. Thereafter, resource consents need to be sought as either a controlled or restricted discretionary activity where the farming activity, amongst a range of measures, has prepared and implemented a FEP which identifies the risks to the environment and actions to manage or mitigate those risks. Discretionary activity status for farming activities that do not comply with Conditions (1) to (6) of Rule 3.11.5.4 (restricted discretionary activity) (i.e., which includes the use of FEP) and non-complying activity status for land use intensification in excess of 4.1ha is therefore appropriate.
- 8.4 I also consider that separating the rules into land use and diffuse discharge activities is appropriate as this approach correlates with the fact that land use consents relate to activities that would, in this case, otherwise contravene section 9 of the RMA, while discharge permits relate to activities that would otherwise contravene section 15 of the RMA³².
- 8.5 As the discharges which are provided for by the PC1 and Variation 1 rules are non-point source (diffuse) discharges from farming activities, rather than point source discharges, I consider that it is appropriate to provide for these discharges as permitted activities under Rule 3.11.5.8 if the farming land use that gives rise to the discharges is either authorised by way of a permitted activity rule or by a resource consent. This is because the land use activity is

³² Section 87 of the RMA describes the different types of resource consents that can be granted under the RMA.

where PC1 and Variation 1 focusses its direct regulatory management approach. In this context, non-complying activity status under Rule 3.11.5.9 for diffuse discharges not permitted or authorised by way of a resource consent is also appropriate in terms of the rule hierarchy and the objectives of PC1 and Variation 1.

8.6 I also support including the recommended controlled activity Rule 3.11.5.2A (option) to provide for medium density farming where Council must grant the resource consent sought, subject to conditions. Condition (8) of this rule effectively defines medium density as a farm where either the NRP is not exceeded, or the stocking rate does not exceed 18 stock units per hectare and has not increased above the reference period (Schedule B) stocking rate. I understand that Council Officers³³ consider that these thresholds, based on their understanding, is likely to be representative of medium intensity farming where the risks, in terms of the diffuse discharges, are significantly less than other more intensive farming activities. On this basis, and given the fact that a resource consent still needs to be sought and that the farming activity still needs to be registered (Condition (1)), a NRP produced (Condition (2)), larger stock need to be excluded from water bodies (Condition (3)) and a FEP needs to be prepared and implemented (Condition (7)), controlled activity status for medium intensity farming is an appropriate resource management approach.

8.7 While I support the rule hierarchy and the rule provisions generally, there are issues with some rule provisions where I consider further amendments to the section 42A Report's recommendations are required. They are as follows:

(a) **Condition (C)(f) of Rule 3.11.5.2** (permitted activity). This condition requires low intensity farming activities to provide Council with stock numbers, fertiliser application and annual feed information on an annual basis. As currently drafted, farmers are to provide stock number and fertiliser application information for the following year, not the past year. As outlined by Ms Wilkes in her evidence, farmers will not be able to accurately provide this information in advance and therefore this condition is not a logical requirement. On this basis, I consider that this condition should be amended to require the actual

³³ I acknowledge that the section 42A Report (paragraph 293) identifies that evidence to support the robustness of these thresholds has been requested. I cannot comment on the robustness of these thresholds, although I am confident that other submitters will address this matter.

data (not a best guess), over a previous 12-month period, to be reported annually to Council as follows:

From 30 November 2020, the following information is to be provided to the Waikato Regional Council by 1 September each year, with the information provided covering the previous 12 month period from 1 July to 30 June:

- a. The monthly average stock numbers of each stock class ~~from 1 July to 30 June in the following year; and~~*
- b. Tonnes and type of fertiliser applied ~~from 1 July to 30 June in the following year; ...~~*
- c. Tonnes of and type of animal feed brought onto the property ~~in the previous 12 months; and~~*

(b) **Full electronic access to Overseer.** A condition attached to all the permitted, controlled and restricted discretionary land use rules³⁴, specifies that Council is to be granted full electronic access to Overseer or any other software or systems that models or records diffuse contaminant losses. As outlined by Ms Wilkes in her evidence, the most recent version of Overseer does not provide the nature of information it is anticipated that Council are seeking through this condition. Given this evidence, in my opinion, this condition which is attached to the rules should be deleted. In relation to Council's anticipated information needs, it is considered that the relevant information can be provided through the proposed amendment to the second part of Clause (c) (Clause B(a) in **Appendix B** of my evidence) of Schedule B, as discussed in **paragraph 6.6(a)** (last bullet point) of my evidence.

(c) **NRP – Matter of control and Matter of restricted discretion.** Under Rules 3.11.5.2A and 3.11.5.4, where the NRP for a property exceeds the 75th percentile nitrogen leaching value for a FMU, the actions, timeframes and other measures to ensure that the diffuse discharge will be reduced to comply with the 75th percentile nitrogen leaching value by 1 July 2026 are included as a matter to be considered by

³⁴ Condition (5) of Rule 3.11.5.1A, Condition (C)(g) of Rule 3.11.5.2, Condition (6) of Rule 3.11.5.2A and Condition (6) of Rule 3.11.5.4.

Council when assessing applications under these rules. For the reasons discussed in **paragraphs 4.1 to 4.11** of my evidence in relation to Policy 1, I do not consider this is an appropriate requirement and therefore, in my opinion, this matter should be deleted from both rules (Matter (iv) under both rules). In my opinion, the 75th percentile nitrogen leaching value is a tool incorporated into PC1 and Variation 1, at least initially, for identifying priorities for implementing regulation and change, not as a compliance or enforcement mechanism. I also note that other matters identified within the rules will ensure that farmers are doing all that can be done on a property, over time, to endeavour to reduce contaminant losses arising from their activities (i.e., requirements to: prepare, implement and review FEPs; and, operate in accordance with GFP).

- (d) **NRP under Condition (C) in Rule 3.11.5.2.** In accordance with Schedule B, all properties greater than 20ha are required to produce a NRP for the property, irrespective of the stock units associated with the property. For this reason, as shown in **Appendix B** of my evidence, Condition (C)(3)(a) should be relocated to the beginning of Condition (C).

- 8.8 My requested amendments to the rule provisions as discussed in the above paragraphs are provided in **Appendix B** of my evidence.

9. OTHER MATTERS

Policy 5 – Staged Approach

- 9.1 The section 42A Report's recommended Policy 5 identifies, in support of the objectives of PC1 and Variation 1, that a staged approach to reducing contaminant losses in the Waikato and Waipā catchments is required. In adopting a staged approach, the policy outlines that PC1 and Variation 1 recognises that: farmers, business and communities need to contribute to achieving the water quality attribute states in Table 3.11-1; change needs to start immediately; change is to be staged over the coming decades to minimise social, economic and cultural disruption and to enable innovation and new

practices to develop; and, responding to the effects of climate change will require a range of different responses over time.

9.2 The staged transition to the 80-year goal of PC1 and Variation 1 is considered within the section 32 Report as follows:

(a) **Objectives**³⁵. In assessing the appropriateness of Objectives 2 and 4, the section 32 Report outlines that the *“selection of the objectives ... is driven by the need for a staged approach to achieving the Vision and Strategy”*³⁶. The section 32 Report also outlines that positive social and community benefits arising from these objectives include acknowledgement that: environmental wellbeing is intimately linked with social, economic and cultural wellbeing; providing people and communities time to adapt will enable them to provide for their social, economic and cultural wellbeing; and, water quality is important for today and future generations and that on-going degradation needs to be halted and water quality improved³⁷.

(b) **Policies and Methods**³⁸. The section 32 Report (Section E.2.8) concluded that providing a staged approach (Option 2) is appropriate for a range of reasons, including but not limited to the fact that there are *“significant social and economic implications arising from meeting the long term water quality goals of the Vision and Strategy”*³⁹ and that landowners and the community will, over time, need to make changes to the way land is used and diffuse discharges managed.

9.3 I note that in its submissions, Ravensdown supported the retention of objectives (notified Objectives 2 and 4) and policies (namely Policy 5) with these provisions identifying that a staged approach to achieving the 80-year water quality attribute states of PC1 and Variation 1 was required.

9.4 In my opinion, Policy 5 as amended by the recommendations in the section 42A Report, continues to reflect a staged approach to achieving the implementation of the Vision and Strategy so as to minimise, or manage, social, economic and

³⁵ Section D.1.2 of the section 32 Report.

³⁶ First sentence in Section D.1.2.1 of the section 32 Report.

³⁷ Second paragraph on p.96 in Section D.1.2.2 of the section 32 Report.

³⁸ Section E.2 of the section 32 Report.

³⁹ First paragraph in Section E.2.8 of the section 32 Report.

cultural disruption, while recognising that change does need to start now. I consider that the amended Policy 5, as recommended in the section 42A Report, appropriately balances the need to commence action now while enabling people and communities to provide for their social, economic and cultural wellbeing.

Policy 8 – Prioritised Implementation

- 9.5 The section 42A Report's recommended Policy 8 identifies that the priority for the management of diffuse discharges is in accordance with the prioritisation in Table 3.11-2 (i.e., Priority 1 then 2 and then 3 sub-catchments), commercial vegetation production activities and the catchment of lakes. I acknowledge that the inclusion of 'commercial vegetation production activities' will be considered as part of a future hearing and therefore I do not comment further on this aspect of the proposed policy.
- 9.6 The recommendation proposes the deletion of the '75th percentile nitrogen leaching value', which was included in the notified version of the policy⁴⁰, while identifying an option to include dairy farming. Given the definitions included in PC1 and Variation 1, the 75th percentile nitrogen leaching value refers to the dairy farms with the highest (i.e., within the top 25th percentile) NRP in each of the four river FMUs (including relevant lake FMUs).
- 9.7 As I read the section 42A Report⁴¹, the reasons for the proposed amendment is to focus the policy on the prioritisation of areas (i.e., the river sub-catchments and lakes catchments) and the farming sectors which are the focus of PC1 and Variation 1, particularly initially (and prior to any future plan changes as provided for by Policy 4). In proposing 'dairy farming' as an option, the section 42A Report identifies that the Officers are concerned that including all dairy farming will overload the first phase of implementation.
- 9.8 Given the policy framework of PC1 and Variation 1, and the subsequent proposed methods (including the rules and associated schedule provisions), the initial implementation priorities are the 'areas', as listed within the policy, and the dairy farms that diffusely discharge the highest amount of nitrogen to

⁴⁰ The inclusion of the '75th percentile leaching value discharges' was supported by Ravensdown in its submission.

⁴¹ Paragraph 598 in Section C1.6.3 of the section 42A Report.

the environment (i.e., the top 25th percentile discharges). While the broader framework of PC1 and Variation 1 puts in place a range of controls on diffuse discharges from farming activities (i.e., the requirements for FEPs, the adoption of GFP and the need to seek resource consents), PC1 and Variation 1 clearly identifies that the 75th percentile nitrogen leaching value dairy farms are the first priority, along with Priority 1 sub-catchments, for the implementation of the PC1 and Variation 1 controls.

- 9.9 For the above reason, to clearly identify the implementation priorities of PC1 and Variation 1, I consider that further amendments to Policy 8 (from the version of the policy recommended in the section 42A Report) should be made as follows:

Policy 8: Prioritised implementation

Prioritise the management of diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens in accordance with the prioritisation of areas set out in Table 3.11-2, commercial vegetable production activities, ~~[OPTION and dairy farming properties with a Nitrogen Reference Point greater than the 75th percentile nitrogen leaching value]~~ and the catchments of lakes.

‘Certified Farm Nutrient Advisor’ Definition

- 9.10 The section 42A Report’s recommended definition for Certified Farm Nutrient Advisor (**CFNA**) is a person or entity that is certified under the Nutrient Management Adviser Certification Programme Ltd (Clause (a)), or has completed training to an advanced level and has at least two years’ experience (Clause (b)). In addition, the advisors, who will be listed on Council’s webpage once approved, will have to agree to abide by Council’s procedures and guidelines and will be audited by Council to determine that the advisor is capable of preparing robust and reliable nutrient loss reports.
- 9.11 In making this recommendation, the section 42A Report identifies that the amended definition strikes an appropriate balance between qualifications,

experience and the number of advisors^{42,43} that will be required to carry out tasks under PC1 and Variation 1.

9.12 Ravensdown, in its submission, requested that the notified definition which only required these advisors to have completed nutrient management training to at least an intermediate level, be replaced with a requirement that the adviser's be either certified under the Nutrient Management Adviser Certification Programme Ltd or be approved by Council as having the equivalent experience and/or training.

9.13 In my opinion, Clause (a) of the revised recommended definition reflects the intent of Ravensdown's submission point. However, Mr Fitzpatrick, in his evidence, identifies that he considers that, at a minimum, all CFNAs should be Certified Nutrient Management Advisors. Based on this evidence, I request the deletion of Clause (b) of the CFNA definition.

10. CONCLUSION

10.1 In my opinion, as part of a staged approach, the PC1 and Variation 1 resource management framework, provided it is implemented effectively by all parties should be effective at achieving the outcomes sought by the Vision and Strategy. In saying this, I note that there is the potential for timing and resourcing issues arising out of PC1 and Variation 1 as discussed in **Section 3** of my evidence.

10.2 However, as outlined in my evidence, I consider that amendments to some of the section 42A Report's recommendations on PC1 and Variation 1 provisions are required. This is particularly the case in relation to Policies 1, 4 and 8, some rule conditions and a matter of discretion attached to two rules, as well as Schedule B (Nitrogen Reference Point).

10.3 The main reasons for the requested changes include: ensuring that all farming activities, not just 'higher dischargers' (i.e., dairy farms that exceed the 75th percentile nitrogen leaching values), operate in accordance with GFP and

⁴² Paragraph 649 in Section C1.6.7 of the section 42A Report.

⁴³ The section 42A Report estimates that approximately 5,000 properties will need to calculate a NRP (refer to paragraph 643 in relation to the analysis associated with this definition).

property specific FEPs as a means of striving to reduce diffuse discharges; the need to remove the effective reference to property level discharge limits and the associated guidance that resource consents will not be granted where these limits are not achieved; and, to provide guidance criteria for the granting of consents terms of between 10 to 15-years for farming activities (Policy 4). Besides these matters, the rest of my requested amendments are required to address functionality, technical or clarity issues.

- 10.4 For all other PC1 and Variation 1 provisions, I request the acceptance of the section 42A Report recommendations including the recommended deletion of optional Rule 3.11.5.3 (farming activities with a FEP and within a CSS). I also support the inclusion of the proposed medium intensity farming rule (Rule 3.11.5.2A).
- 10.5 The specific amendments to the section 42A Report recommendations, in relation to the matters which are the subject of this hearing, are contained in **Appendix B** of my evidence.



Carmen Taylor

3 May 2019

APPENDIX A – CARMEN WENDY TAYLOR – QUALIFICATIONS AND EXPERIENCE

- A1.1 My full name is Carmen Wendy Taylor.
- A1.2 I hold the qualifications of Bachelor of Science (Geography) and Masters of Regional and Resource Planning from the University of Otago. I am a full member of the New Zealand Planning Institute.
- A1.3 I have over 25 years of professional planning and resource management experience in New Zealand. Since September 2017 I have been employed by Planz Consultants Limited (**Planz**), a planning and resource management consultancy. Prior to joining Planz, I was employed by Golder Associates (NZ) Limited, and before that MWH New Zealand Limited and the Electricity Corporation of New Zealand (**ECNZ**).
- A1.4 Throughout my professional experience, I have been involved in complex projects, initially for ECNZ and then for a range of clients, which have required detailed assessments of the implications and interrelationships associated with utilising a range of resources, such as land, water (surface water and groundwater), air and the coastal marine area. These projects have generally involved technical and scientific input, which I have understood and then utilised when assessing the planning implications (both planning policy implications and resource consent requirements), of projects under the Resource Management Act 1991 (**RMA**).
- A1.5 In relation to policy development work since 2006, I been involved in the following plan development processes: Environment Southland's Variation No. 4 (Water Quality) to the Proposed Fresh Water Plan; Environment Waikato's Proposed Variation No. 6 (Water Allocation); the Proposed One Plan for the Manawatu-Wanganui Region; Central Otago District Council's Proposed Plan Changes 5A to 5W; Proposed Hauraki District Plan; Bay of Plenty's Proposed Regional Policy Statement; Environment Waikato's Proposed Regional Policy Statement; Taupo District Council's Proposed Plan Change 29; the Proposed Auckland Unitary Plan; the Canterbury Air Regional Plan; the Proposed Marlborough Environment Plan; and, Clutha District Council's Proposed Plan Change 40 (Stirling re-zoning). The nature of my involvement varies, but includes preparation of submissions, further submissions, review and advice

on the recommendations of the section 42A Reports, preparation and presentation of planning evidence, review of decisions and participation in appeal processes.

- A1.6 More recently I have been assisting Ravensdown with policy development processes throughout New Zealand, including but not limited to: Proposed Marlborough Environment Plan; Proposed Natural Resources Plan for the Wellington Region; Proposed Regional Plan for Northland; Proposed Southland Water and Land Plan; Proposed Plan Change 13 (Air Quality) to the Regional Natural Resources Plan in the Bay of Plenty Region; and, the Proposed Second Generation Dunedin City District Plan.
- A1.7 Examples of complex projects where I have prepared applications under the RMA and/or other legislation include:
- (a) Consent for the continued operation of the Manapouri Hydro-electric Power Scheme and the approvals required for the construction of the second tailrace at Manapouri.
 - (b) Resource consents and designations for municipal wastewater treatment and disposal facilities at Dunedin, Queenstown and Wanaka.
 - (c) Resource consents and designations for Queenstown's sanitary landfill and waste management facilities (landfills and transfer stations) in Invercargill City and Southland District.
 - (d) Resource consents for the construction and operation of Trustpower Limited's Mahinerangi Wind Farm in Otago.
 - (e) Discharge permits for discharges to air, land and water from a number of dairy manufacturing facilities.
 - (f) Discharges permits for discharges to air and coastal waters from a fertiliser manufacturing site.
 - (g) Marine consent to mine phosphorite on the Chatham Rise for Chatham Rock Phosphate Limited.
 - (h) Discharge permits, water permits and land use consents for alluvial gold mining in Central Otago.

APPENDIX B – SUMMARY OF REQUESTED AMENDMENTS

For ease of identification in relation to the requested amendments to the provisions of PC1 and Variation 1 (as outlined in the table below), a ‘clean version’ of the section 42A Report’s recommendations are contained in the following table with the subsequent tracked changes (additions are shown in underlined text and deletions shown in ~~strikethrough text~~) identifying the requested amendments discussed in my evidence.

The grey shading identifying parts of provisions which will be the subject of a future hearing has been retained in the provisions contained in the following table. However, I have not included the grey shaded Māori headings.

PC1 and Variation 1 Provision	Requested Amendments
Section 3.11.3 - Policies	
<p>Policy 1 (incorporating Policy 6) (Sub. No’s. PC1-10101 and PC1-10107)</p>	<p>As discussed in paragraphs 4.1 to 4.11 of my evidence, amend the section 42A Report’s recommended policy as follows:</p> <p><i>Policy 1: Diffuse discharge management</i></p> <p><i><u>Manage and</u> Reduce catchment-wide and sub-catchment diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens, by:</i></p> <p><i>a1. Requiring all farming activities to operate at Good Farming Practice, or better; and</i></p> <p><i>a2. Establishing, where possible, a Nitrogen Reference Point for all properties <u>or enterprises</u>; and</i></p> <p><i>a. Enabling activities with a low level of contaminant discharge to water bodies; and</i></p> <p><i>b. Requiring farming activities with moderate to high levels of contaminant discharge to water bodies to reduce their discharges proportionate to the amount of (2016) discharge and the water quality improvements required in the sub-catchment; and</i></p> <p><i>b1. Calculating the 75th percentile and 50th percentile nitrogen leaching values and <u>Requiring dairy farmers with a Nitrogen Reference Point greater than the 75th percentile</u></i></p>

PC1 and Variation 1 Provision	Requested Amendments
	<p>of the river or lake Freshwater Management Unit, to implement actions and measures, in accordance with specific timeframes to demonstrate real and enduring <u>reduce</u> nitrogen loss reductions to below the 75th percentile and farmers with a Nitrogen Reference Point between the 50th and 75th percentile to demonstrate real and enduring reductions of nitrogen leaching, with Farm Environment Plans resource consents specifying an amount of reduction or changes to practices required to take place; and</p> <p>b2. Where Good Farming Practices are not adopted, to specify controls in a resource consent that ensures contaminant losses will be reducing;</p> <p>b3. Except as provided for in Policies [1(a) and] 16, generally granting only those land use and discharge consent applications that demonstrate clear and enduring <u>commitment to operating in accordance with Good Farming Practices to contribute to catchment and sub-catchment wide reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens; and</u></p> <p>b4 Except as provided for in Policies [1(a) and] Policy 16, generally not granting land use consent applications that involve a change in the use of the land, or an increase in the intensity of the use of land, unless the application demonstrates <u>no increase clear and enduring reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens; and</u></p> <p>c. Progressively excluding cattle, horses, deer and pigs from rivers, streams, drains, wetlands and lakes</p>
<p>Policy 2 (Sub. No. PC1-10102)</p>	<p>As discussed in paragraph 2.9 of my evidence, retain the section 42A Report’s recommended policy as follows:</p> <p>Policy 2: Farm Environment Plans</p> <p><i>Reduce catchment-wide and sub-catchment diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens from farming activities on properties and enterprises, through Farm Environment Plans that:</i></p> <p>a1. Set out clear, specific and timeframed minimum standards for Good Farming Practice; and</p>

PC1 and Variation 1 Provision	Requested Amendments
	<p>a. <i>Take a tailored, risk based approach to define mitigation actions on the land that will reduce diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens; and</i></p> <p>b. <i>Undergo the same level of rigour in developing, monitoring and auditing set out in a Farm Environment Plan, whether the consent holder is a member of a Certified Sector Scheme or not; and</i></p> <p>b2. <i>Are flexible and able to be updated so that continuous improvement, new technologies and mitigation practices can be adopted, such that diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens further reduce over time.</i></p>
<p>New Policy 3A</p>	<p>If Certified Sector Schemes are to be retained (as discussed in paragraphs 7.1 to 7.7 of my evidence), retain the section 42A Report’s recommended policy as follows:</p> <p>Policy 3A: Certified Sector Schemes</p> <p><i>Waikato Regional Council will support the development of Certified Sector Schemes as groups or organisations responsible for preparing and monitoring the implementation of Farm Environment Plans by:</i></p> <p>a. <i>Setting out minimum standards for Certified Sector Schemes in Schedule 2; and</i></p> <p>b. <i>Establishing a process for approving Certified Sector Schemes based on their ability to meet the minimum standards, including entering into a contractual agreement with each Certified Sector Scheme to meet and maintain those standards; and</i></p> <p>c. <i>Requiring independent audit of the performance of Certified Sector Schemes in preparing and monitoring the implementation of Farm Environment Plans for their members.</i></p>
<p>Policy 4 (Sub. No. PC1-10105)</p>	<p>As discussed in paragraphs 5.1 to 5.9 of my evidence, amend the section 42A Report’s recommended policy as follows:</p> <p>Policy 4: Future discharge reductions</p> <p><i>To recognise that future regional plan changes or regional plans are likely to <u>further regulate</u> require all farming activities, including farming, make further reductions in the <u>that diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens, whether directly or</u></i></p>

PC1 and Variation 1 Provision	Requested Amendments
	<p><i><u>indirectly (diffuse discharges), to the river and lake Freshwater Management Units, in order for Objective 1 to be met.</u></i></p> <p><i><u>To grant</u>In granting resource consents that authorise farming activities, and in determining a consent term, the following matters will be considered:</i></p> <p><i><u>a. The appropriateness of granting a longer term consent of up to 15-years, where the property is not in a Priority 1 sub-catchment and the applicant demonstrates that:</u></i></p> <p><i><u>i. the activity is consistent with achieving the water quality attribute states set out in Table 3.11-1; and</u></i></p> <p><i><u>ii. Good Farming Practices will be adopted.</u></i></p> <p><i><u>b. A 10-year consent term for all other farming activities.</u></i></p> <p><i>for a duration that will enable further reductions in contaminant losses to be implemented through replacement resource consents rather than by way of a review of consent conditions; unless the application demonstrates clear and enduring ongoing reductions of contaminant losses beyond those imposed in response to the short term water quality attribute states in Table 3.11-1 and the property is not in a Priority 1 sub-catchment.</i></p>
<p>Policy 5 (Sub. No. PC1-10106)</p>	<p>As discussed in paragraphs 9.1 to 9.4 of my evidence, retain the section 42A Report's recommended policy as follows:</p> <p>Policy 5: Staged approach</p> <p>To recognise that:</p> <p><i>d. All farmers, businesses and communities will need to contribute to achieving the water quality attribute states in Table 3.11-1; and</i></p> <p><i>b. Changes in practices and activities need to start immediately; and</i></p> <p><i>c. The rate of change will need to be staged over the coming decades to minimise social, economic and cultural disruption and enable innovation and new practices to develop; and</i></p>

PC1 and Variation 1 Provision	Requested Amendments
	<p><i>d. Responding to the reasonably foreseeable effects of climate change will mean that different regulatory and nonregulatory responses may be needed in future.</i></p>
<p>Policy 8 (Sub. No's. PC1-10119, V1PC1-270 and V1PC1-1341)</p>	<p>As discussed in paragraphs 9.5 to 9.9 of my evidence, amend the section 42A Report's recommended policy as follows:</p> <p>Policy 8: Prioritised implementation</p> <p><i>Prioritise the management of diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens in accordance with the prioritisation of areas set out in Table 3.11-2, <u>commercial vegetable production activities, OPTION and dairy farming properties with a Nitrogen Reference Point greater than the 75th percentile nitrogen leaching value</u> and the catchments of lakes.</i></p>
<p>Section 3.11.5 - Rules</p>	
<p>New Rule 3.11.5.1A (Sub. No's. PC1-10139, PC1-10140, V1PC1-277 and V1PC1-1343)</p>	<p>As discussed in paragraphs 8.1 to 8.8 of my evidence, amend the section 42A Report's recommended rule as follows:</p> <p>Rule 3.11.5.1A – Interim Permitted Activity Rule – Farming</p> <p><i>The use of land for farming, which is not a permitted activity under Rule 3.11.5.2, is a permitted activity until:</i></p> <ol style="list-style-type: none"> <i>1. The later of 1 September 2021 or 6 months after this Plan becomes operative, for properties in Priority 1 sub-catchments listed in Table 3.11-2, and all properties with a Nitrogen Reference Point greater than the 75th percentile nitrogen leaching value; and</i> <i>2. The later of 1 March 2025 or 1 year after this Plan becomes operative for properties in Priority 2 sub-catchments listed in Table 3.11-2; and</i> <i>3. 1 January 2026 for properties in Priority 3 sub-catchments listed in Table 3.11-2;</i> <p><i>subject to the following conditions:</i></p> <ol style="list-style-type: none"> <i>1 The property is registered with the Council in conformance with Schedule A; and</i>

PC1 and Variation 1 Provision	Requested Amendments
	<ol style="list-style-type: none"> 2. <i>Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and</i> 3. <i>No commercial vegetable production occurs; and</i> 4. <i>A Nitrogen Reference Point is produced for the property in conformance with Schedule B; and</i> 5. <i>Full electronic access to Overseer or any other software or system that models or records diffuse contaminant losses for the farming land use authorised by this rule is granted to the Council; and</i> 6. <i>There has been less than a cumulative net total of 4.1 hectares of change in the use of land from that which was occurring at 22 October 2016 within a property or enterprise from:</i> <ol style="list-style-type: none"> 1. <i>Woody vegetation to farming activities; or</i> 2. <i>Any farming activity other than dairy farming to dairy farming; or</i> 3. <i>Any farming activity to Commercial Vegetable Production</i>
<p>Rule 3.11.5.2 (Sub. No's. PC1-10139, PC1-10140, V1PC1-277 and V1PC1-1343)</p>	<p>As discussed in paragraphs 8.1 to 8.8 of my evidence, amend the section 42A Report's recommended rule as follows:</p> <p>Rule 3.11.5.2 - Permitted Activity Rule – Low intensity farming</p> <p><i>The use of land for farming is a permitted activity subject to the following conditions:</i></p> <p>A. <i>For all properties:</i></p> <ol style="list-style-type: none"> 1. <i>The property is registered with the Waikato Regional Council in conformance with Schedule A; and</i> 2. <i>Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and</i> <p>2A. <i>The farming activities do not form part of an enterprise; and</i></p> <p>2B. <i>No commercial vegetable production occurs; and</i></p>

PC1 and Variation 1 Provision	Requested Amendments
	<p>2C. No dairy farming or grazing of dairy cattle occurs; and</p> <p>2D. No feedlots or sacrifice paddocks are used on the property; and</p> <p>2E. No more than 5% of the land used for farming is used for cropping, including winter forage crops; and</p> <p>B. The property area is less than or equal to 20 hectares; or:</p> <p>C. <u>The property area is greater than 20 hectares, a Nitrogen Reference Point is produced for the property in conformance with Schedule B, and either:</u></p> <ol style="list-style-type: none"> 1. The stocking rate of the land is less than 6 stock units per hectare; or 2. The only farming activity occurring on the property is the raising, training or housing of horses; or 3. The stocking rate of the land is greater than 6 stock units but less than 10 stock units per hectare; and <p>a. A Nitrogen Reference Point is produced for the property in conformance with Schedule B; and</p> <p>c. No part of the property over 15 degrees slope is cultivated; and</p> <p>c1. No part of the property over XX degrees of slope is grazed; and</p> <p>d. No winter forage crops are grazed in situ; and</p> <p>f. From 30 November 2020, the following information is <u>to be provided to the Waikato Regional Council by 1 September each year, with the information provided covering the previous 12 month period from 1 July to 30 June:</u></p> <ol style="list-style-type: none"> a. The monthly average stock numbers of each stock class from 1 July to 30 June in the following year; and e. Tonnes and type of fertiliser applied from 1 July to 30 June in the following year; and f. Tonnes of and type of animal feed brought onto the property in the previous 12 months; and

PC1 and Variation 1 Provision	Requested Amendments
	<p>g. Full electronic access to Overseer or any other software or system that models or records diffuse contaminant losses for the farming land use authorised by this rule is granted to the Council; and</p> <p>h. Upon request, the landowner shall obtain and provide to the Council independent verification from a Certified Farm Environment Planner that the use of land is compliant with the conditions of this Rule within 20 working days of the request (unless otherwise agreed in writing by Council).</p>
<p>New Rule 3.11.5.2A (Option) (Sub. No's. PC1-10139, PC1-10140, V1PC1-277 and V1PC1-1343)</p>	<p>As discussed in paragraphs 8.1 to 8.8 of my evidence, amend the section 42A Report's recommended rule as follows:</p> <p>Rule 3.11.5.2A - Controlled Activity Rule – Medium intensity farming</p> <p>The use of land for farming, which is not a permitted activity under Rules 3.11.5.1A to 3.11.5.2, is a controlled activity subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The property is registered with the Council in conformance with Schedule A; and 2. A Nitrogen Reference Point is produced for the property in conformance with Schedule B; and 3. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and 4. The farming activities do not form part of an enterprise; and 5. No commercial vegetable production occurs; and 6. Full electronic access to Overseer or any other software or system that models or records diffuse contaminant losses for the farming land use authorised by this rule is granted to the Council; and 7. A Farm Environment Plan has been prepared in conformance with Schedule 1 and has been approved by a Certified Farm Environment Planner, and is provided to the Council at the time the resource consent application is lodged; and 8. Either:

PC1 and Variation 1 Provision	Requested Amendments
	<p>a. <i>The Nitrogen Reference Point is not exceeded; or</i></p> <p>b. <i>The stocking rate of the land is no greater than 18 stock units per hectare and has not increased above the stocking rate during the <u>Nitrogen Reference Period</u> in Schedule B; and</i></p> <p><u>96.</u> <i>There has been less than a cumulative net total of 4.1 hectares of change in the use of land from that which was occurring at 22 October 2016 within a property or enterprise from:</i></p> <ol style="list-style-type: none"> 1. <i>Woody vegetation to farming activities; or</i> 2. <i>Any farming activity other than dairy farming to dairy farming; or</i> 3. <i>Any farming activity to Commercial Vegetable Production</i> <p><i>Waikato Regional Council reserves control over the following matters:</i></p> <ol style="list-style-type: none"> i. <i>The content, compliance with and auditing of the Farm Environment Plan.</i> ii. <i>The actions and timeframes to achieve Good Farming Practices or better in order to reduce the diffuse discharge of nitrogen, phosphorus, sediment or microbial pathogens to water or to land where they may enter water.</i> iii. <i>For enterprises, the procedures and limitations, including Nitrogen Reference Points, to be applied to land that enters or leaves the enterprise.</i> iv. <i>Where the Nitrogen Reference Point exceeds the 75th percentile nitrogen leaching value, actions, timeframes and other measures to ensure the diffuse discharge of nitrogen is reduced so that it does not exceed the 75th percentile nitrogen leaching value by 1 July 2026.</i> iv. <i>The term of the resource consent.</i> v. <i>The timeframe and circumstances under which the consent conditions may be reviewed.</i> vi. <i>Procedures for reviewing, amending and re-approving the Farm Environment Plan.</i>

PC1 and Variation 1 Provision	Requested Amendments
<p>Rule 3.11.5.3 (Option) (Sub. No's. PC1-10144, V1PC1-279 and V1PC1-1344) (Further Sub. No's PC1-10998 and PC1-8427)</p>	<p>Irrespective of whether or not Certified Sector Schemes are retained (as discussed in paragraphs 7.1 to 7.7 of my evidence), delete this rule option as follows:</p> <p>Rule 3.11.5.3 – Restricted Discretionary Activity Rule – Farming with a Farm Environment Plan under a Certified Sector Scheme</p> <p>The use of land for farming activities where the land use is registered to a Certified Sector Scheme is a restricted discretionary 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. 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 Sector Scheme has been approved by the Chief Executive Officer of the Waikato Regional Council as meeting the standards set out in Schedule 2; and 5. A Farm Environment Plan which has been prepared in accordance with Schedule 1 and has been approved by a Certified Farm Environment Planner, and is provided to the Waikato Regional Council at the time the resource consent application is lodged; and 5a. Full electronic access to Overseer or any other software or system that records farm data and models or records diffuse contaminant losses for the farming land use authorised by this rule is granted to the Waikato Regional Council; and 5b. There have been less than a cumulative net total of 4.1 hectares of change in the use of land from that which was occurring at 22 October 2016 within a property or enterprise from: <ol style="list-style-type: none"> 1. Woody vegetation to farming activities; or 2. Any farming activity other than dairy farming to dairy farming; or 3. Any farming activity to Commercial Vegetable Production

PC1 and Variation 1 Provision	Requested Amendments
	<p><i>Waikato Regional Council restricts its discretion to the following matters:</i></p> <ul style="list-style-type: none"> <i>i. The content, compliance with and auditing of the Farm Environment Plan.</i> <i>ii. The actions and timeframes to achieve Good Farming Practices or better in order to reduce the diffuse discharge of nitrogen, phosphorus, sediment or microbial pathogens to water or to land where they may enter water.</i> <i>iii. The effects, including cumulatively, of diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens, particularly where the activity may lead to an increase in the discharge of one or more contaminants.</i> <i>iv. For enterprises, the procedures and limitations, including Nitrogen Reference Points, to be applied to land that enters or leaves the enterprise.</i> <i>v. Where the Nitrogen Reference Point exceeds the 75th percentile nitrogen leaching value, actions, timeframes and other measures to ensure the diffuse discharge of nitrogen is reduced so that it does not exceed the 75th percentile nitrogen leaching value by 1 July 2026.</i> <i>vi. The term of the resource consent.</i> <i>vii. The timeframe and circumstances under which the consent conditions may be reviewed.</i> <i>viii. Procedures for reviewing, amending and re-approving the Farm Environment Plan.</i>
<p>Rule 3.11.5.4 (Sub. No's. PC1-10148, PC1-10156, V1PC1-280 and V1PC1-1345) (Further Sub No's. PC1-10999, PC1-11001 and PC1-13115)</p>	<p>As discussed in paragraphs 8.1 to 8.8 of my evidence, amend the section 42A Report's recommended rule as follows:</p> <p><i>Rule 3.11.5.4 – Restricted Discretionary Activity Rule – Farming with a Farm Environment Plan</i></p> <p><i>The use of land for farming activities, which is not a permitted activity under Rules 3.11.5.1A to 3.11.5.2, is a Restricted Discretionary activity until:</i></p> <p><i>subject to the following conditions:</i></p> <ol style="list-style-type: none"> <i>1. The property is registered with the Waikato Regional Council in conformance with Schedule A; and</i>

PC1 and Variation 1 Provision	Requested Amendments
	<p>2. A Nitrogen Reference Point is produced for the property or enterprise in conformance with Schedule B; and</p> <p>3. No commercial vegetable production occurs; and</p> <p>4. A Farm Environment Plan has been prepared in conformance with Schedule 1 and has been approved by a Certified Farm Environment Planner, or prepared under a Certified Sector Scheme, and is provided to the Council at the time the resource consent application is lodged; and</p> <p>5. Cattle, horses, deer and pigs are excluded from water bodies in accordance with Schedule C; and</p> <p>6. Full electronic access to Overseer or any other software or system that models or records diffuse contaminant losses for the farming land use authorised by this rule is granted to the Waikato Regional Council; and</p> <p>7. There have been less than a cumulative net total of 4.1 hectares of change in the use of land from that which was occurring at 22 October 2016 within a property or enterprise from:</p> <ol style="list-style-type: none"> 1. Woody vegetation to farming activities; or 2. Any farming activity other than dairy farming to dairy farming; or 3. Any farming activity to Commercial Vegetable Production <p>Waikato Regional Council restricts its discretion to the following matters:</p> <ol style="list-style-type: none"> i. The content, compliance with and auditing of the Farm Environment Plan. ii. The actions and timeframes to achieve Good Farming Practices or better in order to reduce the diffuse discharge of nitrogen, phosphorus, sediment or microbial pathogens to water or to land where they may enter water. iii. The effects, including cumulatively, of diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens, particularly where the activity may lead to an increase in the discharge of one or more contaminants.

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	<p><i>iiib. For enterprises, the procedures and limitations, including Nitrogen Reference Points, to be applied to land that enters or leaves the enterprise</i></p> <p><i>iv. Where the Nitrogen Reference Point exceeds the 75th percentile nitrogen leaching value, actions, timeframes and other measures to ensure the diffuse discharge of nitrogen is reduced so that it does not exceed the 75th percentile nitrogen leaching value by 1 July 2026.</i></p> <p><i>v. The term of the resource consent.</i></p> <p><i>vi. The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent to demonstrate and/or monitor compliance with the Farm Environment Plan.</i></p> <p><i>vii. The timeframe and circumstances under which the consent conditions may be reviewed.</i></p> <p><i>viii. Procedures for reviewing, amending and re-approving the Farm Environment Plan.</i></p> <p><i>ix. Information to be provided to show that the property is being managed in a way that would not cause an increase in loss of contaminants, which may include annual Overseer modelling for the property or enterprise, or information on matters such as stocking rate, fertiliser application, imported feed and cropping</i></p>
<p>New Rule 3.11.5.6A (Sub. No. PC1-10158)</p>	<p>As discussed in paragraphs 8.1 to 8.8 of my evidence, and given my recommended deletion of Rule 3.11.5.3 (as discussed in paragraphs 7.1 to 7.7 of my evidence), amend the section 42A Report's recommended rule as follows:</p> <p>Rule 3.11.5.6A - Discretionary Activity Rule</p> <p><i>The use of land for farming that does not meet one or more of conditions (1) to (5a) of Rule 3.11.5.3 or conditions (1) to (6) of Rule 3.11.5.4 is a Discretionary activity.</i></p>

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<p>Rule 3.11.5.7 (Sub. No. PC1-10161) (Further Sub. No. PC1-10247)</p>	<p>As discussed in paragraphs 8.1 to 8.8 of my evidence, and given my recommended deletion of Rule 3.11.5.3 (as discussed in paragraphs 7.1 to 7.7 of my evidence), amend the section 42A Report's recommended rule as follows:</p> <p>Rule 3.11.5.7 - Non-Complying Activity Rule</p> <p><i>The use of land for farming that does not meet condition (5b) of Rule 3.11.5.3 or condition (7) of Rule 3.11.5.4 is a non-complying activity.</i></p>
<p>New Rule 3.11.5.8 (Sub. No. PC1-10158)</p>	<p>As discussed in paragraphs 8.1 to 8.8 of my evidence, retain the section 42A Report's recommended rule as follows:</p> <p>Rule 3.11.5.8 - Permitted Activity Rule – Authorised Diffuse Discharges</p> <p><i>The diffuse discharge of nitrogen, phosphorus, sediment and or microbial contaminants from farming onto or into land in circumstances that may result in a contaminant entering water that would otherwise contravene section 15(1) of the RMA is a permitted activity, provided the following conditions are is met:</i></p> <ol style="list-style-type: none"> 1. <i>the land use activity associated with the discharge is authorised under Rules 3.11.5.1 to 3.11.5.7; and</i> 2. <i>the discharge of a contaminant is managed to ensure that after reasonable mixing it does not give rise to any of the following effects on receiving waters:</i> <ol style="list-style-type: none"> (a) <i>any conspicuous oil or grease films, scums or foams, or floatable or suspended materials; or</i> (b) <i>any conspicuous change in the colour or visual clarity; or</i> (c) <i>the rendering of fresh water unsuitable for consumption by farm animals; or</i> (d) <i>any significant adverse effects on aquatic life.</i>

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<p>New Rule 3.11.5.9 (Sub. No. PC1-10161 on Rule 3.11.5.7) (Further Sub. No. PC1-10247 on Rule 3.11.5.7)</p>	<p>As discussed in paragraphs 8.1 to 8.8 of my evidence, retain the section 42A Report's recommended rule as follows:</p> <p><i>Rule 3.11.5.9 - Non-Complying Activity Rule – Unauthorised Diffuse Discharges</i></p> <p><i>The diffuse discharge of nitrogen, phosphorus, sediment and or microbial contaminants from farming onto or into land in circumstances that may result in a contaminant entering water that would otherwise contravene section 15(1) of the RMA that does not meet one or more of the conditions of Rule 3.11.5.8 is a non-complying activity.</i></p>
Schedules	
<p>Schedule A – Registration with Waikato Regional Council (Sub. No's. PC1-10163 and VIPC1-283)</p>	<p>As discussed in paragraph 2.11(a) of my evidence, retain the section 42A Report's recommended schedule as follows:</p> <p><i>Properties with an area greater than 4.1 hectares (excluding urban properties) must be registered with the Waikato Regional Council in the following manner:</i></p> <ol style="list-style-type: none"> <i>1. Registration must occur between 1 May 2020 and 30 November 2020.</i> <i>2. Registration information set out in clause 5, and where relevant in clause 6, below must be provided.</i> <i>3. Proof of registration must be provided to the Waikato Regional Council within 7 working days of a request by Waikato Regional Council being made (unless otherwise agreed in writing by Council).</i> <i>4. Registration information must be updated by the new owner of a property within 30 working days of the new owner taking possession of the property, or otherwise at the request of the Waikato Regional Council.</i> <i>5. All owners must provide:</i> <ol style="list-style-type: none"> <i>a. The following information in respect of the land property owner, and the person responsible for using the land (if different from the property owner):</i> <ol style="list-style-type: none"> <i>i. Full name.</i>

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	<ul style="list-style-type: none"> ii. <i>Trading name (if applicable, where the owner is a company or other entity).</i> iii. <i>Full postal and email address.</i> iv. <i>Telephone contact details.</i> b. <i>Legal description and certificate(s) of title references (computer freehold registers) for all of the land in the property.</i> c. <i>Physical address of the property.</i> d. <i>A description of the land use activity or activities undertaken on the property as at 22 October 2016, including the land area of each activity.</i> e. <i>The total land area of the property.</i> f. <i>Where the land is used for grazing, and no NRP is required under this Plan, the annual average and maximum stocking rate of animals grazed on the land.</i> g. <i>If the property forms part of an enterprise, the name of that enterprise.</i> 6. <i>Properties that graze livestock must also provide a map showing the location of:</i> <ul style="list-style-type: none"> i. <i>Property boundaries; and</i> ii. <i>Water bodies listed in Schedule C for stock exclusion within the property boundary and fences adjacent to those water bodies; and</i> iii. <i>Livestock crossing points over those water bodies and a description of any livestock crossing structures.</i>
<p>Schedule B – Nitrogen Reference Point</p> <p>(Sub. No's. PC1-10165, V1PC1-284 and V1PC1-1347)</p> <p>(Further Sub No's. PC1-11506, PC1-87443 and PC1-8451)</p>	<p>As discussed in paragraphs 6.1 to 6.6 of my evidence, amend the section 42A Report's recommended schedule as follows:</p> <p>A. <u>Calculation of Initial Nitrogen Reference Point</u></p> <p><i>A property or enterprise with a cumulative area greater than 20 hectares (or any property or enterprise used for commercial vegetable production) must have a Nitrogen Reference Point calculated as follows:</i></p>

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	<p>a. <i>The Nitrogen Reference Point must be calculated by a Certified Farm Nutrient Advisor by modelling the amount of nitrogen being leached from the property or enterprise during the relevant reference period specified in clause f), except for any land use approved under Rules 3.11.5.6 or 3.11.5.7 where the Nitrogen Reference Point shall be determined through the Rule 3.11.5.6 or 3.11.5.7 consent process.</i></p> <p>b. <i>The Nitrogen Reference Point shall be the highest modelled annual nitrogen leaching loss that occurred during a single year (being 12 consecutive months) within the reference period specified in clause f), except for commercial vegetable production in which case the Nitrogen Reference Point shall be the average annual nitrogen leaching loss during the reference period.</i></p> <p>c. <i>The Nitrogen Reference Point must be calculated using the most recent version of the OVERSEER® Model as the default model (other models may be approved for use by the Chief Executive of the Waikato Regional Council, if justified on a case by case basis). The Nitrogen Reference Point must be updated using the initial reference data whenever a new version of the OVERSEER® Model, or any other approved model used to prepare the Nitrogen Reference Point, is released.</i></p> <p>d. <i>The Nitrogen Reference Point data shall comprise the data used by the OVERSEER® or other approved model to calculate the Nitrogen Reference Point, and where the OVERSEER® Model is used, it must be calculated using the OVERSEER® Best Practice Data Input Standards or replacement technical guidance that relate to the version of the OVERSEER® model being used, with the exceptions and inclusions set out in a Waikato Regional Council Nitrogen Reference Point Guide. Where another approved model is used, it will conform to the data input standards as approved by the Chief Executive of the Waikato Regional Council.</i></p> <p>e. <i>The Nitrogen Reference Point Analysis (inputs and outputs) must be published to Waikato Regional Council within the period 1 May 2020 to 30 November 2020.</i></p> <p>f. <i>The Nitrogen Reference Period is 1 July 2014 to 30 June 2016, except for commercial vegetable production in which case the reference period is 1 July 2006 to 30 June 2016.</i></p>

B. Monitoring of Nitrogen Leaching Improvements

a. For the purposes of determining reductions of nitrogen leaching levels from properties, the Nitrogen Reference Point must be updated using the initial reference data at least annually in accordance with the timeframe specified in a property's land use consent, or within 10 working days of receipt of a request from Council.

bg. The following records (where relevant to the calculation and compliance auditing of the Nitrogen Reference Point) must be retained for the life of the plan and/or relevant consent, whichever is longer, and provided to Waikato Regional Council at its request:

- i. Records of stock numbers and stock classes, births and deaths, stock movements on and off the property, grazing records and transport records;
- ii. Total annual milk solids as stated in the milk supply statement;
- iii. Records of fertiliser type and amount, including annual accounts, and any records of fertiliser application rates and placement;
- iv. Quantity and type of feed supplements purchased and used on the property;
- v. Water use records for irrigation (to be averaged over 3 years or longer) in order to determine irrigation application rates (mm/ha/month per irrigated block) and areas irrigated;
- vi. Crops grown on the property (area and yield), quantities of each crop consumed on the property, and quantities sold off farm; and
- vii. Horticulture crop diaries and NZGAP records; and
- viii. The Nitrogen Reference Point Data as defined in Schedule B clause d; and
- ix. Soil test data – including anion storage capacity; and
- x. A map which shows property boundaries, block management areas, retired/non-productive areas and areas used for effluent irrigation.

Advice note: For the avoidance of doubt, financial information contained within the above records may be redacted (blacked out) prior to it being provided to Waikato Regional Council.

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<p>Schedule 2 – Certification of Sector Schemes (Sub. No. PC1-10183)</p>	<p>If Certified Sector Schemes are to be retained (as discussed in paragraphs 7.1 to 7.7 of my evidence), retain the section 42A Report’s recommended schedule as follows:</p> <p><i>The purpose of this schedule is to set out the minimum standards for Certified Sector Schemes.</i></p> <p><i>Applications for approval as a Certified Sector Scheme shall be lodged with the Waikato Regional Council, and include information that demonstrates how the following standards are met. The Waikato Regional Council may request further information or clarification on the application as it sees fit.</i></p> <p><i>Approval will be at the discretion of the Chief Executive Officer of the Waikato Regional Council subject to the Chief Executive Officer being satisfied that the scheme will meet the standards set out in sections A to D below</i></p> <p>A. Governance and management</p> <p><i>Applications must include:</i></p> <ol style="list-style-type: none"> <i>1. A description of the governance arrangements of the Scheme;</i> <i>2. The contractual arrangements between the Scheme and its members;</i> <i>3. A description of the process for gaining and ceasing membership;</i> <i>4. A description of the Scheme area, including land uses, key environmental issues, property boundaries and ownership details of members’ properties;</i> <i>5. A procedure for keeping records of the matters in (4) above and advising WRC of changes;</i> <i>6. A draft contractual agreement with the Waikato Regional Council that will require the Scheme, on certification, to meet and maintain the standards outlined in Section A to D below.</i> <p>B. Preparation of Farm Environment Plans</p> <p><i>Applications must include:</i></p>

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	<p>1. <i>A statement of the Scheme’s capability and capacity for preparing and certifying Farm Environment Plans that meet the requirements of Schedule 1, including the qualifications and experience of any personnel employed by or otherwise contracted to the Scheme to prepare or certify Farm Environment Plans;</i></p> <p>2. <i>An outline of timeframes for developing Farm Environment Plans for its members.</i></p> <p>C. Implementation of Farm Environment Plans</p> <p><i>Applications must include:</i></p> <p>1. <i>A statement of the Scheme’s capability and capacity for monitoring and assessing the implementation of Farm Environment Plans, including the qualifications and experience of any personnel employed by or otherwise contracted to the Scheme to monitor or assess implementation of Farm Environment Plans;</i></p> <p>2. <i>A description of the expectations and agreements around landowner and property record-keeping;</i></p> <p>3. <i>A strategy for identifying and managing poor performance in implementing Farm Environment Plans.</i></p> <p>D. Audit</p> <p><i>Applications must include a description of an annual audit process to be conducted by an independent body, including:</i></p> <p>1. <i>A process for assessing performance against agreed actions in Farm Environment Plans at an individual property level;</i></p> <p>2. <i>A statement of how audit results will be shared with the Scheme’s members and the wider community;</i></p> <p>3. <i>A process for assessing the performance of any personnel employed by or otherwise contracted to the Scheme to prepare, certify, and audit the implementation of Farm Environment Plans.</i></p> <p><i>A summary audit report must be submitted to the Waikato Regional Council annually.</i></p>

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Part C – Glossary of Terms	
<p>75th percentile nitrogen leaching value (Sub. No. V1PC1-285) (Further Sub. No. PC1-3664)</p>	<p>As discussed in paragraphs 6.1 to 6.6 of my evidence, retain the section 42A Report’s recommended definition as follows:</p> <p><i>The 75th percentile value (units of kg N/ha/year) of all of the Nitrogen Reference Point values for dairy farming properties within each river (including properties within any lake Freshwater Management Unit within the relevant river Freshwater Management Unit) Freshwater Management Unit^ and which is determined by the Chief Executive of the Waikato Regional Council and published on the Waikato Regional Council website and can be based on aggregated data supplied to the Waikato Regional Council and individual farm data received by the Waikato Regional Council by YYY.</i></p>
<p>Certified Farm Nutrient Advisor (Sub. No. PC1-10199)</p>	<p>As discussed in paragraphs 9.10 to 9.13 of my evidence, amend the section 42A Report’s recommended definition as follows:</p> <p><i>is a person or entity certified by the Chief Executive Officer of Waikato Regional Council and has the following qualifications and experience as meeting the following criteria:</i></p> <p><i>a. Is a certified as a Nutrient Management Adviser under the Nutrient Management Adviser Certification Programme Ltd; or</i></p> <p><i>b. Has completed nutrient management training to at least an advanced level, and has at least two years experience in nutrient management planning;</i></p> <p><i>and agrees to follow the procedures and guidelines set out by Waikato Regional Council and audits of the Certified Farm Nutrient Advisor’s work by Waikato Regional Council show that that the Advisor is preparing robust and reliable nutrient loss reports.</i></p> <p><i>Note: Certified Farm Nutrient Advisors will be listed on the Waikato Regional Council’s website.</i></p>
<p>Nitrogen Reference Point (Sub. No. PC1-10202)</p>	<p>As discussed in paragraphs 6.1 to 6.6 of my evidence, amend the section 42A Report’s recommended definition as follows:</p>

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	<p><i>is tThe nitrogen discharge benchmark established for a farm, when <u>and</u> the farm system <u>that was</u> in place during the reference period <u>specified in Schedule B</u>, and is modelled using the most recent version of the Overseer model (or an alternative model approved by the Chief Executive Officer of the Waikato Regional Council) as described in Schedule B.</i></p>