



# **SUMMARY OF SUBMISSIONS AND RESPONSE TO SUBMISSIONS**

## **PROPOSED WAIKATO REGIONAL PLAN CHANGE 2: TAUPŌ OVERSEER VERSION**

Minister's Direction Step 6 Report

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# Introduction

Step 6 of the Minister’s Direction for the Plan Change 2 (PC2): Taupo Overseer Version Streamlined Planning Process requires a report to be written that shows how submissions have been considered and the changes (if any) recommended to the proposed plan change. The report must:

- a) Include how particular regard was given to the section 32 evaluation, and any additional report prepared under section 32AA (as may be relevant)
- b) Be prepared having regard to any report prepared under clause 8AA(5)

This report fulfils the Step 6 requirement.

Note that some parties have requested changes to the PC2 Section 32 report. The Section 32 report cannot be changed because it is a notified document. Section 32AA provides for further evaluations when a planning instrument is changed or proposed to be changed. Such evaluations can be in a separate Section 32AA report or can be “be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section” (RMA Section 32AA(1)(d)(ii)). This Step 6 report is considered to be the decision-making record for PC2. Where further evaluations pursuant to Section 32AA have been required, they have been made in this Step 6 report.

This report should also be considered to satisfy the following requirements of Clause 83(1) of Schedule 1 of RMA:

- (b) a summary report of the written submissions; and
- (c) a report showing how submissions have been considered and any modifications made to the proposed planning instrument in light of the submissions
- (d) the evaluation report required by section 32AA

With respect to the Direction’s Step 6b), no Clause 8AA(5) report has been prepared. A clause 8AA resolution of dispute process was used to address matters related to Taupo Rules 3.10.5.4 and 3.10.5.5, raised by three submitters who would like to be collectively referred to as Te Ture Whenua/Settlement land submitters (CNI Iwi Land Management Limited, Lake Taupō Forest Trust and Lake Rotoaira Forest Trust, and N.Z. Forest Managers (NZFM)). However the Clause 8AA process did not result in the need for independent mediation and therefore a clause 8AA(5) report was not prepared. However, Appendix 1 of this Step 6 report describes in detail the issues with Rules 3.10.5.4 and 3.10.5.5 raised by the submitters and the recommended solution. The Te Ture Whenua/Settlement land submitters, and the Raukawa Charitable Trust who made a late submission on the same matter, have supported the recommendation in Appendix 1.

With respect to the late submission of Raukawa Charitable Trust, in response to a Memorandum on the matter (WRC Document 16640581), Waikato Regional Council made the following resolution:

*That pursuant to the Resource Management Act 1991 Section 37 and Schedule 1 Clause 81(3)(b), Waikato Regional Council waives the failure to comply with the requirement to lodge a submission on Plan Change 2: Taupo Overseer Version within the prescribed submission period, with respect to the late submission by Raukawa Charitable Trust, such that the submission is received.*

The following table describes the relief requested by the PC2 submitters and describes how each matter has been considered, and any changes recommended to the proposed plan change as a result of the submissions. Where changes to the regional plan Chapter 3.10 provisions are recommended in this report, text that is to be removed is shown in ~~green and strikethrough~~. New text to be inserted is shown as green and underlined. As stated above, any further Section 32AA evaluations are also included in the table.

The Te Ture Whenua/Settlement land submitters have made very similar submissions so these are dealt with together. The Raukawa Charitable Trust submission has requested a similar decision to the Te Ture Whenua/Settlement land submitters with respect to Rules 3.10.5.4 and 3.10.5.5, so is addressed together with those submitters on those points.

Abbreviations used in this report

ORD	Overseer Reference Dataset
NDA	Nitrogen Discharge Allowance
NMP	Nitrogen Management Plan
WRC	Waikato Regional Council
Kg/N	Kilograms of Nitrogen
Kg/N/ha/yr	Kilograms of nitrogen per hectare per year
RPV5	Regional Plan Variation 5
PC2	Proposed Waikato Regional Plan Change 2: Taupo Overseer Version

Submission	Response
Submitter: Rotorua/Taupō Federated Farmers, Waikato Federated Farmers and Ruapehu Federated Farmers – PC2-1	

<p>1. The submission stated that Policy 3A should clearly set out how the Overseer Reference Dataset (ORD) will be developed, particularly to explain how the ORD will reflect the Nitrogen Discharge Allowance (NDA) when farmers are operating under their NDA. The explanation should be in the policy, or as an Advisory Note, or within an Implementation Method or within the definition of the ORD. The submitters reason for requesting these changes is that they were concerned that some farmers would lose some of their NDA during the transition to the ORD.</p>	<p>This matter was discussed with the submitter. It was pointed out that Policy 3A is clear that the ORD will describe existing farm operations as they would be if all the current NDA is being used. There are 11 detailed steps in the process being used, with additional explanations. Adding this list to the policy or other provisions seems unnecessary and would be unlikely to provide any greater guarantees than the policy itself that farmers will maintain their full NDA allowance.</p> <p>It should be noted that Section D.4.2.1 of the Section 32 report provides a detailed description of how the Overseer Reference Dataset will be developed. Bullet point b) of this section states <i>“In consultation with the farmer, an Overseer v5.4.3 scenario is drafted for the property, based on the current farm land use, but with adjusted farm system inputs (where necessary) so that the scenario uses all of the farm’s available NDA”</i>.</p> <p>However, during discussions with the submitter it was agreed that a sentence could be added to the explanation to the Policy to give greater clarity about this point. It is therefore recommended that the explanation to the policy be amended by adding the following sentence: <i>“Consented farmers will not lose any of their Nitrogen Discharge Allowance through this process”</i></p> <p><b>Recommendation</b> Amend the explanation to Policy 3A as follows: <b>“Policy 3A: Review of consents and change to use the most recent Overseer version. In December . . . from version 5.4.3 to updated versions. <u>Consented farmers will not lose any of their Nitrogen Discharge Allowance through this process.</u>”</b></p>
<p>2. Amend to include an advisory note that Waikato Regional Council will meet the costs of reviewing existing consents and the necessary changes to refer to the most recent version of Overseer. The submitter notes that the s32 report states that at the time of</p>	<p>Since PC2 was notified, Waikato Regional Council (WRC) has made the decision that Council will cover the costs of reviewing the existing Taupo consents and changing them to use updated Overseer versions and the ORD. However, this is not a matter that needs to be stated in a regional plan. It is more an implementation and Section 32 matter than a matter to</p>

<p>writing, decisions about where costs should lie had not been made.</p>	<p>be addressed in the regional plan. For this reason, the specific relief sought is not accepted.</p> <p>However, it is accepted that information about where costs lie would help in the understanding of the impacts of the plan change. <b>The following description therefore is to be considered a further evaluation of PC2 pursuant to RMA Section 32AA.</b></p> <p>Section D.4.2.2 of the Section 32 report evaluates the option chosen for PC2. The section on costs stated: <i>“Consent reviews, and changes to consents to enable the use of updated Overseer versions may be about \$71,000. A decision has yet to be made as to whether this cost should fall on consent holders or the regional council”</i>. Since the drafting of the Section 32 report, WRC has made the decision to fund the consent reviews and changes to consents, rather than expect individual consent holders to cover this cost. Although this does not change the overall cost of the option, it does mean that the financial costs of the option to individual consent holders is considerably less than would otherwise be the case. This does not affect the conclusions from the evaluation in the Section 32 report.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>3. Amend paragraph d of new Policy 3A as follows:</p> <p><a href="#">WRC Waikato Regional Council access to the property’s published OVERSEER™ analysis is enabled.</a></p>	<p>The change is appropriate because Waikato Regional Council is written in full elsewhere in the regional plan and the relief sought is accepted.</p> <p><b>Recommendation</b> Amend paragraph d) of new Policy 3A as follows: <a href="#">WRC Waikato Regional Council access to the property’s published OVERSEER™ analysis is enabled.</a></p>

<p>4. The submitter has requested a change to the matters of control in Rules 3.10.5.3, 3.10.5.6, 3.10.5.7 and 3.10.5.8 that state when a Nitrogen Management Plan (NMP) needs to be changed due to farm practices being altered. The change is to add the word ‘significantly’ so that the NMP needs to be changed when farm practices are ‘significantly altered’ rather than merely ‘altered’. The submitter is concerned that farmers will need to change their NMP even with very minor changes to farm practices (that presumably may not actually impact on the farm’s overall leaching). If this request is not accepted, the submitter requests that a minimum threshold of change should be stated that triggers the need to update the NMP.</p> <p>The submitter has requested a similar change with respect to the description of a NMP in the Advisory Notes to Rule 3.10.5.3.</p>	<p>These matters of control have been updated by PC2 so that it does not refer to original benchmark data or Overseer version 5.4.3. The effect of the provision is otherwise unchanged, including the requirement to change the NMP when farm management practices are altered. Adding the word significantly is too vague to be meaningful in legal terms, and raises a matter not addressed by the plan change. The alternative of describing thresholds of change for when the NMP needs to be updated is not possible, because thresholds would need to be described for many different types of change (effectively thresholds would need to be established for many of the Overseer model inputs). The provision has been in place for many years and farmers and council staff have made it work in a satisfactory way, using discretion as appropriate. Although the concern raised by the submitter is a valid one, it doesn’t seem to be causing a problem for consent holders, there is no easy way of providing flexibility but also certainty in the provisions to address the matter, and it is considered out of scope as it is not an issue caused by the plan change or related to the Overseer planning issue being addressed by PC2. For these reasons, the relief sought is not accepted. Note that this response was discussed with the submitter, and the response appeared to be accepted by the submitter.</p> <p>The comments above also apply to the relief sought for the Nitrogen Management Plan advisory note. For these reasons the relief sought is not accepted.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>Taupō District Council – PC2-2</p>	
<p>5. The submitter requests that Permitted Activity Rule 3.10.5.1 is not changed and remains as per the wording</p>	<p>Permitted Activity Rule 3.10.5.1 provides for a low density of farm animals to be kept on land in the Taupo catchment without consent. A table of</p>

in the Operative Regional Plan. The submitter states that the “proposed change will directly impact on the capacity for conversion of permitted activity residential development/subdivision”.

permitted animal densities for different animals is included in the rule. The rule states that the permitted animal numbers are equivalent to 8 kgN/ha/yr. As per the other Taupo land use rules, this was a number to be used with Overseer version 5.4.3. When other Overseer versions are used, the animal numbers in the table would not be equivalent to modelled nitrogen leaching of 8 kgN/ha/yr. For this reason, the leaching number needs to be changed and therefore the submitter’s request could not be accepted.

The main concern of the submitter appears to relate to owners of undeveloped and forested land who may wish to convert their land to lifestyle/urban land use, permitted by Rule 3.10.5.1. Currently the landowner would need to purchase additional nitrogen to allow for 8 kgN/ha/yr as calculated by Overseer v5.4.3, plus sufficient nitrogen for any wastewater discharges from onsite systems. If the rule is changed as proposed, the landowner would need to purchase wastewater nitrogen plus 12 kgN/ha/yr (later Overseer versions generally model leaching as being higher than does v5.4.3 for the same animal inputs). The 12 kgN/ha/yr is a proxy to be used for the permitted animal leaching when modelled by updated versions of Overseer. The applicant considers this will disadvantage such landowners.

Whether or not this does create an additional cost for landowners wishing to subdivide land would depend on the cost of nitrogen at the time. One could reasonably assume however, that the cost of nitrogen would be related to the number of animals it would allow on the land (or the income that could be earned from that amount of nitrogen). It may be therefore, that the cost of nitrogen is less when calculated by OverseerFM than version 5.4.3, because more nitrogen is needed per animal (see also response to submission point 12 below which gives a slightly more detailed response to a similar point). That would seem to make economic sense, but of course only time will tell, and the actual cost of nitrogen will depend on many additional factors besides the Overseer calculation. The cost of nitrogen is not a matter controlled by the regional plan. It is therefore not



	<p>clear that the requirement for 12 kgN/ha/yr under updated Overseer versions, rather than 8 kgN/ha/yr under Overseer v5.4.3, would disadvantage landowners in the way suggested by the submitter.</p> <p>Once Overseer v5.4.3 expires, it would not be appropriate to equate the table's animal numbers to 8 kgN/ha/yr because updated Overseer versions would model them differently with different nitrogen leaching amounts. Note too that the table has been a problem since the rule was developed, because the animal figures in the table did not seem to accurately represent even the 8 kgN/ha/yr under v5.4.3. The plan change has thus sought to make the table more accurate. For these reasons it would not be appropriate to leave this rule unchanged as the submitter requests.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>6. While noting it is out of scope for this plan change, the submitter requests that during the future larger rule of Chapter 3.10 provisions, WRC considers a mechanism that would allow nitrogen to be transferred to non-farming situations. For example, the submitter would like the ability for nitrogen to be transferred to the Taupo District Council when a landowner is no longer farming and will connect to one of Councils reticulated wastewater schemes.</p>	<p>This is a reasonable matter to consider, and while staff would agree it should be addressed during the larger review of Chapter 3.10, it is not a matter that can be addressed through PC2 as the submitter notes.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>Taupō Lake Care, Inc – PC2-3</p>	
<p>7. To accept the provisions in full as advertised</p>	<p>Relief sought accepted. WRC staff have worked closely with the Taupo Lake Care farmer group during development of PC2 and appreciate the support of this submitter.</p>

	<p><b>Recommendation</b></p> <p>No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>Whakarawa Enterprises Ltd and Hauhungaroa Partnership – PC2-4</p>	
<p>8. That Overseer uses actual rainfall data so as to not disadvantage properties ability to farm inside the catchment with lower than average rainfall. The submitter notes that rainfall on the two properties is significantly less than that used in Overseer for their properties.</p>	<p>In responding to this submission, the following points should be noted:</p> <ol style="list-style-type: none"> <li>1. OverseerFM generated rainfall is a national standard. The data is derived from the NIWA rainfall interpolation model that is essentially like a topographical map of the country using a rainfall gradient instead of an altitude gradient.</li> <li>2. Soil type and stocking rate have a much greater influence in nitrogen leaching than rainfall.</li> <li>3. Predicted nitrogen leaching is a representation of the effects of farming activities on a given farm. The Overseer Reference Dataset will describe the activities currently allowed by the property’s NDA.</li> <li>4. Because the rainfall and soil type will remain consistent between comparisons of predicted nitrogen leaching of the ORD and future NMPs and monitoring, there is no advantage or disadvantage for the farmer if rainfall is different in given years to what has been measured on farms.</li> <li>5. Overseer modellers’ experience is that very rarely are on-farm rainfall data accurate and gathered to the standard required by NIWA</li> <li>6. Rainfall (and soil types) present on farm may change in the future as OverseerFM is updated to include more accurate data. Although such changes and updates seem to be a cause of concern, because the model is always used comparatively in the same version such changes become largely irrelevant. Comparative use is achieved by analysing the ORD and NMP scenarios in the same version.</li> </ol> <p>Note that since the Chapter 3.10 rules have been in place, farmers have not been able to input their own estimated rainfall in the Overseer Model.</p>

	<p>This has not been changed by PC2. For these reasons, the relief sought is not accepted.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>South Waikato District Council – PC2-5</p>	
<p>9. No specific change is sought by this submitter. However the submitter seems to be concerned that the change to OverseerFM may allow an increase in nitrogen leaching in the Taupo catchment, which may then cause more nitrogen to enter the Waikato River, which may then need to be compensated for by stronger nitrogen reducing provisions for farmers in the Waikato River catchment.</p>	<p>As no relief is sought, no response is required. However, as stated in the section 32 report and the accompanying technical document, the change from use of Overseer version 5.4.3 to OverseerFM in the Taupo catchment has been designed not to allow any increase in nitrogen leaching in the catchment. A farmer’s ORD is designed to be equivalent in terms of nitrogen leaching to the farm’s original NDA. No additional nitrogen will therefore discharge to the Waikato River as a result of this plan change.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>CNI Iwi Land Management Limited – PC2-7, Lake Taupō Forest Trust and Lake Rotoaira Forest Trust – PC2-6, N.Z. Forest Managers (NZFM) – PC2-8, and Raukawa Charitable Trust – PC2-10 with respect to Rules 3.10.5.4 and 3.10.5.5.</p>	
<p>10. CNI Iwi Land Management Limited and NZ Forest Managers request that WRC revise PC2 to constrain the use of Overseer to be a decision support tool, and to cease the use of Overseer as the tool or mechanism to support N leach catchment accounting or N leach trading. The submitters consider that the Overseer model is inaccurate, different versions change leaching</p>	<p>With respect to the request to constrain the use of Overseer to be a decision support tool, the following comments should be noted. The purpose of Chapter 3.10 is to protect the clarity of Lake Taupo. The main contaminant that was threatening the lake’s clarity was (and still is) nitrogen. Chapter 3.10 has protected the lake by capping nitrogen leaching and reducing nitrogen leaching in the catchment by 20 percent. The 20 percent reduction has been achieved. That job is done. To maintain the nitrogen cap, the Overseer model must be used as required by Chapter</p>

estimates for the same inputs, and Overseer models some land uses better than others.

3.10's Policy 3b. PC2 does not change this primary policy approach. Overseer is used to ensure farmers continue to farm within their nitrogen cap, to facilitate nitrogen trading, and to facilitate nitrogen allocation when farms are subdivided or amalgamated. The use of Overseer in these matters was established during the Regional Plan Variation 5 (RPV5) process that established Chapter 3.10 and PC2 does not change this. In all these matters, Overseer is indeed the decision support tool. The submitter does not clearly state how PC2 should be changed to constrain the use of Overseer to being a decision support tool, so no change is accepted in relation to this matter.

With respect to the request to cease the use of Overseer as a tool or mechanism to support catchment accounting of nitrogen leaching, the following comments should be noted. The submission states that the Overseer model is used to support the reduction of nitrogen leaching by 20 percent. Overseer was used in this way, but is no longer, given that the 20 percent reduction has been completed. The plan provisions do not otherwise require Overseer to be used for catchment accounting of nitrogen. No specific change to PC2 is requested in relation to this matter so no change is accepted.

The submitter requests that Overseer is no longer used to account for nitrogen trading. Nitrogen trading cannot occur without a method of quantifying the amount of nitrogen traded. Nitrogen trading is a key policy direction in Chapter 3.10, and this is not being amended by PC2. This submission point is therefore out of scope.

Although the question of whether Overseer should be used or not is well beyond the scope of this plan change, given that this is a core platform of Chapter 3.10's policy direction, and that it is not being changed by Plan Change 2, the following comments may be useful to those considering the plan change. In terms of the submitter's concern about the accuracy of Overseer, it is certainly agreed that Overseer cannot tell us accurately how much nitrogen actually leaches from a particular piece of land. The

	<p>modelling is certainly improving with newer versions of Overseer, but it will never be able to tell us how much nitrogen leaching is actually occurring in any particular situation. For this reason, it is important to use Overseer in a way that recognises the inaccuracies. Although Overseer cannot predict actual leaching rates in any particular situation, it is very good at indicating if a change in land use on a particular piece of land is likely to increase nitrogen leaching. This indeed is how Overseer is used in Chapter 3.10. The main use of Overseer in Chapter 3.10 is to ensure farm nitrogen leaching does not increase (that is, remains within its initially allocated leaching cap). If a farmer wishes to change farm practices, the proposal is modelled to see if the change will increase leaching or not. Because farm inputs such as soil, topography and climate are the same in each case, the model can quite accurately show if the change is likely to increase leaching or not. This is an appropriate use of Overseer.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>11. The submitters request that the Section 32 report is revised to <i>"accurately identify the risks associated with locking proportionality of the Overseer model 5.4.3 to the current land uses while using Overseer FM"</i>.</p>	<p>Following discussion with the submitters' consultant, this point seems to have been due to a misunderstanding that the Taupo rules maintain a farmer's nitrogen leaching as a proportion of the total catchment nitrogen leaching. This is not the case as each farmer has an individual leaching allowance that is not tied to the total nitrogen leaching in the catchment. This matter does not therefore need to be responded to further.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>12. The submitters have requested changes to the Section 32 report as follows: <i>"Revise the section 32 report to accurately describe the effects of PC2, including the effects of removing options for land use change for</i></p>	<p>It is considered that the section 32 report does accurately describe the effects of PC2. PC2 does not remove options for land use change for Māori landowners. In this respect, it is assumed that the submitters are referring to Rule 3.10.5.4 (Controlled activity rule for development of Ngati</p>

*Māori land owners and changing the proportionality of nitrogen leaching capacity between land uses in a way that further disadvantages low leaching land uses”.*

Tūwharetoa undeveloped and forested land). The only change to this rule by PC2 is to add an advisory note to the rule which states: *“Once Overseer Version 5.4.3 expires, this rule can no longer be used because the additional nitrogen allowance provided for in this rule only has relevance in terms of Version 5.4.3. The rule will be reviewed in full during the Healthy Environments regional plan review”.* The advisory note does not change the rule, it merely points out that the rule cannot be used once Overseer Version 5.4.3 expires. Applications can be made for additional nitrogen under this rule while Overseer version 5.4.3 continues to function. However, PC2 does not ‘fix’ Rule 3.10.5.4 so that it can continue to function after Overseer version 5.4.3 expires. This matter is further addressed below in relation to specific requests by the submitters to find such a ‘fix’ to Rule 3.10.5.4.

In terms of the claim that PC2 changes *“the proportionality of nitrogen leaching capacity between land uses in a way that further disadvantages low leaching land uses”* it is not clear in the submission how this occurs. It is true that OverseerFM will model nitrogen leaching from land uses differently to version 5.4.3. It is also true that PC2 does not change the stated leaching rates in Rule 3.10.5.12 of 2 kgN/ha/yr for unimproved land and 3 kgN/ha/yr for plantation forests. The detailed technical report which accompanied the s32 report stated: *“There is further work underway to update Overseer modelling of leaching from plantation forests. Until this work is progressed, it is recommended that the leaching figures in 3.10.5.12b) be retained. The figures will need to be reviewed during the more comprehensive Chapter 3.10 review that will follow Plan Change 2”.* This issue had been discussed with some of the forestry representatives during consultation and development of the PC2 documents. It is noted that changing these leaching rates could effectively result in a reallocation of nitrogen to forestry concerns and was therefore too complex for the PC2 Streamlined Planning Process.

OverseerFM will often model leaching as being at a higher rate than version 5.4.3 for the same inputs. It is possible therefore, that if a forester

wanted to buy additional nitrogen, to say allow some stock onto the forestry block, in terms of quantity, when modelled by OverseerFM, more nitrogen may need to be purchased than when modelled by Overseer version 5.4.3. Let's say for example that the forester wanted to buy enough nitrogen to add 100 cows to a forestry block. Using OverseerFM, the forester may need to purchase an additional 1200 kgN, whereas under Overseer version 5.4.3 the forester may have needed an additional 800 kgN. One may assume however, that the cost of nitrogen would be related to the number of cows it would buy (or the income that could be earned from that amount of nitrogen). It may be therefore, that the cost of nitrogen is less when calculated by OverseerFM than version 5.4.3, because more nitrogen is needed per animal. That would seem to make economic sense, but of course only time will tell, and the actual cost of nitrogen will depend on many additional factors besides the Overseer calculation. The cost of nitrogen is not a matter that can be controlled by the regional plan. It is therefore not clear whether moving to OverseerFM would disadvantage foresters in the way suggested by the submitters. Following discussion about this point with the submitters' consultant, it was agreed that the matter should be addressed in a Section 32AA report.

**The following description therefore is to be considered a further evaluation of PC2 pursuant to RMA Section 32AA.**

Section D4.2.2 of the Section 32 report evaluates the option chosen for PC2. The focus of the evaluation was on allowing farmers to continue to change farming operations using updated Overseer versions. It noted that the plan change would allow farmers to continue to trade nitrogen using updated Overseer versions. The Section 32 report did not comment on whether costs would increase for foresters who wish to purchase nitrogen for development of their land using updated Overseer versions.

PC2 enables nitrogen trading in the Taupo Catchment to continue after Overseer version 5.4.3 expires, by providing a process within the Taupo rules to use updated Overseer versions. The existing policy approach in the

Taupo provisions requires the use of Overseer and this approach was not changed by PC2. Overseer is still considered by Council technical staff to be the only viable way of accounting for nitrogen trading. Therefore, to not allow the use of updated Overseer versions would effectively mean that nitrogen trading could no longer occur in the catchment. Again, nitrogen trading is an important policy approach in the Taupo provisions and this is not changed by PC2. So, if PC2 did not allow the use of updated Overseer versions, the cost would be preventing further land use change in the catchment. This would be considered to be an unacceptable cost. The question therefore becomes, is the cost of allowing updated Overseer versions greater than the cost of not allowing them? As described above, it is possible that foresters who wish to purchase additional nitrogen for land development may need to purchase more nitrogen leaching rights (kilograms of nitrogen) when the trade is accounted for by recent Overseer versions than by Overseer 5.4.3. This is because recent Overseer versions model leaching for many pastoral land uses as higher than version 5.4.3, so for example, more nitrogen needs to be purchased per animal. As stated above, it is likely that the cost of purchasing nitrogen would be related to how many additional animals it would allow to be bought onto a property. So, if more nitrogen is needed per animal, it should be purchased at a lower price per unit of nitrogen. So, it is not certain that the change to more recent Overseer versions would result in greater costs to foresters who wish to buy nitrogen for land development. The most we could say is that there may be some additional cost. However, this is likely to be insignificant compared to the 'cost' of not allowing the use of updated Overseer versions (that is to prevent nitrogen trading altogether). This matter is therefore not considered to be of such significance that a different option for addressing the expiry of Overseer version 5.4.3 needs to be sought.

**Recommendation**

No amendments are made to the Waikato Regional Plan as a result of this submission.



<p>13. CNI Iwi Land Management Limited and NZ Forest Managers request the following: “Include in the section 32 report an assessment under section 32(1)(a) of the effects of PC2 on the ability to change land use for Māori land, thus meeting Objective 4”.</p>	<p>The RMA section 32(1)(a) requires an examination of “the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act”. This section of the Act is about evaluating plan Objectives. PC2 does not change the plan Objectives so such an assessment is not required. However, the concern of the submitters is the belief that PC2 changes the ability for Māori to use their land. This matter is addressed above (submission point 12) and the conclusion is that PC2 does not remove options for land use change for Māori landowners. This submission point is therefore not accepted.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>14. CNI Iwi Land Management Limited and NZ Forest Managers request the removal of the Overseer Reference Dataset approach to changing from use of Overseer version 5.4.3 to later versions of Overseer. The request is made specifically with respect to Rule 3.10.5.3, but also for all other instances where this occurs in PC2. The submitters go on to request a system “for all land uses that enables trading between land use types to continue”. The concern appears to be that the Overseer Reference Dataset approach disadvantages owners of undeveloped and forested land. The submitters state “This has the effect of increasing the proportion of N allocated to higher leaching pastoral uses and decreasing the amount allocated to low leaching uses. This is contrary to Objectives 4, Policy 1, Policy 3 and Policy 14 of Chapter 3.10.”</p>	<p>The submitters consider that the use of updated Overseer versions, will result in more nitrogen being allocated to pastoral land uses compared to undeveloped and forested land use if the leaching rates for undeveloped and forested land stated in Rule 3.10.5.12 are not changed. They consider this is the case because updated Overseer versions often model leaching from pastoral land uses higher than does version 5.4.3. It needs to be remembered however that what is allocated is a right to use land in a particular way. If a property is allocated enough nitrogen for 100 cows and 20 hectares of pine trees, this allocation remains, even though it would be modelled to leach different amounts by different Overseer versions. This is why the Overseer Reference Dataset process has been devised. It allows a description of farm inputs to represent the allocated Nitrogen Discharge Allowance irrespective of which Overseer version is being used. However, it is acknowledged that different Overseer versions will sometimes result in different modelled leaching rates for different land uses relative to each other. This is not just a matter that impacts forestry land use.</p> <p>Note that abandoning the Overseer Reference Dataset solution would effectively mean abandoning all of PC2. This would not address the</p>

	<p>planning problem (expiry of Overseer 5.4.3 in December). The submitters request a ‘reconciliation system’ that enables trading between land use types to continue. The fact is that one of the key aims of PC2 was to ensure nitrogen trading can continue and that is the case. For all the reasons in the section 32 report, the chosen option is still considered the best option. This submission point is therefore not accepted.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>15. Lake Taupō Forest Trust and Lake Rotoaira Forest Trust request that the nitrogen leaching rate for unimproved land is increased so that it is the same as for non-nitrogen fixing plantation forest land.</p>	<p>PC2 does not change the stated leaching rates in Rule 3.10.5.12 of 2 kgN/ha/yr for unimproved land and 3 kgN/ha/yr for plantation forests. The detailed technical report which accompanied the s32 report stated: <i>“There is further work underway to update Overseer modelling of leaching from plantation forests. Until this work is progressed, it is recommended that the leaching figures in 3.10.5.12b) be retained. The figures will need to be reviewed during the more comprehensive Chapter 3.10 review that will follow Plan Change 2”</i>. This issue had been discussed with some of the forestry representatives during consultation and development of the PC2 documents. It is noted that changing these leaching rates could effectively result in a reallocation of nitrogen to forestry concerns and was therefore too complex for the PC2 Streamlined Planning Process. The submitter’s points about the difficulty of having the two different leaching rates is certainly understood, and further work is needed on this matter in the full review of Chapter 3.10. In the meantime, it is understood that WRC staff will work with forestry groups to mitigate this issue as much as possible. For these reasons, the submission point cannot be accepted.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>

16. The submitters request that further changes are made to enable rule 3.10.5.4 to continue functioning after Overseer version 5.4.3 expires, and to retain the ability to trade nitrogen allocations after the transition to updated Overseer versions. NZ Forest Managers request that an interim measure is provided to allow the rule to function until the full review of Chapter 3.10 is complete. Note that maintaining the functioning of Rule 3.10.5.4 was also a request made in the Raukawa Charitable Trust late submission. This submitter noted that Māori land has historically suffered impediments to development. This submitter noted that a possible solution to allow the rule (and Rule 3.10.5.5) to continue to function would be to establish a reference dataset for a typical farm as a model to establish additional nitrogen allowances for undeveloped or forestry land.

Based on the submissions, and on follow up discussions with the Te Ture Whenua/Settlement land submitters, this appears to be the major concern. It is an understandable concern because Rule 3.10.5.4 allows owners of Tūwharetoa undeveloped and forestry land access to an additional 11,000 kgN/yr as a controlled activity consent. The rule relies on Overseer version 5.4.3 remaining functional. However, the version will expire in December 2020 and there is no way of avoiding this as explained in the Section 32 report. PC2 does not fix this problem. The Section 32 report notes that a later full review of the Chapter 3.10 Taupo provisions will address this matter. However, the effect would be that after December 2020, the allocation will cease to be available and it may be a number of years before a further plan change could be completed that re-establishes the allocation (if in fact it does so).

The problem was assessed in the Section 32 report. It concluded that fixing the problem of rule 3.10.5.4 would be too complex for a Streamlined Planning Process and could not be completed before Overseer 5.4.3 expires. At the time, it was considered that to resolve the problem would involve changing the allocation of 11,000 kgN/yr to an equivalent allocation using more recent versions of Overseer. In other words, if 11,000 kgN are allocated with version 5.4.3, how many kilograms would need to be allocated for different Overseer version so that the same land use changes would be allowed? In addition, the 11,000 kgN/yr was to be an allocation over a 10 year period, but Tūwharetoa had initially wanted an additional 27,629 kgN/yr over 25 years. Also, there is debate over what a reasonable leaching estimate for undeveloped and forestry land should be. This is important in terms of understanding how much additional nitrogen is needed to provided for other land uses. For these reasons, it was not considered that a solution to the problem of 3.10.5.4 could be addressed through a Streamlined Planning Process.

Following discussions with the submitters, an alternative way of addressing the matter has been developed which avoids the complex discussions alluded to above. The solution is to change the 11,000 kgN/yr allocation

into a number of Standard Animal Equivalents. This would allow rule 3.10.5.4 to continue to function after Overseer version 5.4.3 expires. In effect it changes the 'currency' of allocation, without actually changing how much nitrogen is allocated. In brief the proposal is as follows:

- Replace the 11,000 kgN/yr with the input equivalent of 2,752 Angus steers. Modelling using Overseer v5.4.3 shows that 2,752 Angus steers on a typical forestry/undeveloped block in the Taupo catchment (rolling topography, browntop pasture, pumice soils, 1500mm rainfall) would be modelled to leach 11,000 kgN/yr.
- When a person applies for nitrogen under the rule, they would describe the changes they wish to make to their land use that would increase nitrogen leaching (such as additional sheep, cropping, wastewater systems and so on). The changes would be modelled by the most recent Overseer version at the time to identify how much nitrogen is needed. The most recent version is then used to determine the number of Standard Animal Equivalents that equate to the needed amount of nitrogen.
- WRC will keep a running total of Standard Animal Equivalents still to be allocated by the rule. Provided there are sufficient Equivalents left in the pool, the allocation can be made.

Note that there are similarities between this solution and the idea suggested by the Raukawa Charitable Trust in their submission.

**Appended to this Step 6 report is a full description of the proposal as well as an evaluation of the proposal as required by RMA Section 32 and 32AA.** The recommendation is to proceed with this proposal.

#### **Recommendation**

Amend the Summary of Rules table in Section 3.10.5 of the Waikato Regional Plan where it refers to Rule 3.10.5.4 as follows:

**Controlled** Provides a limited development allowance for Maori land of 2 kgN/ha/year, and after Overseer v5.4.3 expires of equivalent nitrogen to 0.5 Standard Animal Equivalents per hectare, above relevant deemed background leaching rates.

Amend condition d) of Rule 3.10.5.4 as follows:

The total cumulative amount of additional nitrogen leached from all land authorised for development under this rule shall not exceed 11,000 kilograms per annum ~~by 30 June 2017~~ when modelled by Overseer version 5.4.3, and after version 5.4.3 expires, 2752 Standard Animal Equivalents defined for the purpose of this rule as Angus steers, 13 months old in July and present all year, on rolling topography and browntop pasture.

Amend condition e) of Rule 3.10.5.4 as follows:

The average amount of nitrogen leaching from that part of the land subject to the application, once the proposed development is in place, shall not exceed 2 kilograms of nitrogen per hectare per year, or after Overseer version 5.4.3 expires, 0.5 Standard Animal Equivalents per hectare, plus the relevant deemed nitrogen leaching rate defined in Rule 3.10.5.12 for unimproved land or non-nitrogen fixing plantation forest.

Amend condition f) of Rule 3.10.5.4 as follows:

No resource consent or combination of resource consents under this Rule shall allow an increase in average nitrogen leaching in respect of any land that exceeds 2 kilograms of nitrogen per hectare per year, or after Overseer version 5.4.3 expires, 0.5 Standard Animal Equivalents per hectare.

Amend Matter of Control i) of Rule 3.10.5.4 as follows:

The specification of the ~~Nitrogen Discharge Allowance in kgN/ha/year and total kgN/year~~ Overseer Reference Dataset for the land subject to the application.

Amend Matter of Control iii) of Rule 3.10.5.4 as follows:

~~Version 5.4.3 of the OVERSEERTM~~ The most recent version of the Overseer model shall be used to demonstrate that any changes to the Nitrogen Management Plan, undertaken during the duration of any resource consent granted under this rule, will not lead to ~~an exceedance of the~~

	<p><del>Nitrogen Discharge Allowance for increased nitrogen leaching from the land subject to the application.</del></p> <p>Add an Advisory Note to Rule 3.10.5.4 as follows:  <u>The 2752 Standard Animal Equivalents was determined by modelling Angus steers, 13 months old in July and present all year, on 5,500 ha (at 2 kilograms of nitrogen per hectare per year to equal the total of 11,000 kilograms of nitrogen per year), on rolling topography, browntop pasture, pumice soils and 1500mm rainfall.</u></p> <p>Delete the Advisory Note to Rule 3.10.5.4 as follows:  <del>Once Overseer Version 5.4.3 expires, this rule can no longer be used because the additional nitrogen allowance provided for in this rule only has relevance in terms of Version 5.4.3. The rule will be reviewed in full during the Healthy Environments regional plan review.</del></p> <p>Amend the second Advisory Note to Rule 3.10.5.4 as follows:  Refer to the Advice Notes under Rule 3.10.5.3 as they guidance they provide is relevant to consents issued under this Rule.</p>
<p>17. The submitters request that further changes are made to enable rule 3.10.5.5 to continue functioning after Overseer version 5.4.3 expires, and to retain the ability to trade nitrogen allocations after the transition to updated Overseer versions. Note that the Raukawa Charitable Trust submission also requested that a solution be found to enable rule 3.10.5.5 to continue to function.</p>	<p>For the same reasons as described above in relation to submission point 16, it is recommended that Rule 3.10.5.5 be updated (similarly to Rule 3.10.5.4) so that it continues to function after Overseer version 5.4.3 expires, as requested by these submitters. The allocation would occur as described above using the concept of a Standard Animal Equivalent. In the case of Rule 3.10.5.5, the current allocation of 3,100 kgN/yr would be replaced with 775 Standard Animal Equivalents. <b>This is explained in full, along with an RMA Section 32 and 32AA evaluation, in the Appendix to this Step 6 report.</b></p> <p><b>Recommendation</b>  Amend the Summary of Rules table in Section 3.10.5 of the Waikato Regional Plan where it refers to Rule 3.10.5.5 as follows:  <b>Controlled</b> Provides a limited development allowance for</p>

Non-Maori land of 2 kgN/ha/year, and after Overseer v5.4.3 expires of equivalent nitrogen to 0.5 Standard Animal Equivalents per hectare, above relevant deemed background leaching rates.

Amend condition d) of Rule 3.10.5.5 as follows:

The total cumulative amount of additional nitrogen leached from all land authorised for development under this rule shall not exceed 3,100 kilograms per annum by 30 June 2017 when modelled by Overseer version 5.4.3, and after version 5.4.3 expires, 775 Standard Animal Equivalents defined for the purpose of this rule as Angus steers, 13 months old in July and present all year, on rolling topography and browntop pasture.

Amend condition e) of Rule 3.10.5.5 as follows:

The average amount of nitrogen leaching from that part of the land subject to the application, once the proposed development is in place, shall not exceed 2 kilograms of nitrogen per hectare per year, or after Overseer version 5.4.3 expires, 0.5 Standard Animal Equivalents per hectare, plus the relevant deemed nitrogen leaching rate defined in Rule 3.10.5.12 for unimproved land or non-nitrogen fixing plantation forest.

Amend condition f) of Rule 3.10.5.5 as follows:

No resource consent or combination of resource consents under this Rule shall allow an increase in average nitrogen leaching in respect of any land that exceeds 2 kilograms of nitrogen per hectare per year, or after Overseer version 5.4.3 expires, 0.5 Standard Animal Equivalents per hectare.

Amend Matter of Control i) of Rule 3.10.5.5 as follows:

The specification of the Nitrogen Discharge Allowance in kgN/ha/year and total kgN/year Overseer Reference Dataset for the land subject to the application.

Amend Matter of Control iii) of Rule 3.10.5.5 as follows:

Version 5.4.3 of the OVERSEERTM The most recent version of the Overseer model shall be used to demonstrate that any changes to the Nitrogen

	<p>Management Plan, undertaken during the duration of any resource consent granted under this rule, will not lead to <del>an exceedance of the Nitrogen Discharge Allowance for increased nitrogen leaching from</del> the land subject to the application.</p> <p>Add an Advisory Note to Rule 3.10.5.5 as follows:  <u>The 775 Standard Animal Equivalents was determined by modelling Angus steers, 13 months old in July and present all year, on 1550 ha (at 2 kilograms of nitrogen per hectare per year to equal the total of 3100 kilograms of nitrogen per year), on rolling topography, browntop pasture, pumice soils and 1500mm rainfall.</u></p> <p>Delete the Advisory Note to Rule 3.10.5.5 as follows:  <u>Once Overseer Version 5.4.3 expires, this rule can no longer be used because the additional nitrogen allowance provided for in this rule only has relevance in terms of Version 5.4.3. The rule will be reviewed in full during the Healthy Environments regional plan review.</u></p> <p>Amend the first Advisory Note to Rule 3.10.5.5 as follows:  Refer to the Advice Notes under Rule 3.10.5.3 as they guidance they provide is relevant to consents issued under this Rule.</p>
<p>18. CNI Iwi Land Management Limited requests that the requirement to model offsetting using Overseer or the Overseer Reference Dataset for low leaching land uses is removed from Rule 3.10.5.8.</p>	<p>Rule 3.10.5.8 is a controlled activity rule to allow offsetting or trading of nitrogen to low leaching land. As noted with respect to the submission point 10 above, nitrogen trading cannot occur without a method of quantifying the amount of nitrogen traded. Nitrogen trading is a key policy direction in Chapter 3.10 and this is not being amended by PC2. This submission point is therefore out of scope. The Overseer Reference Dataset is a necessary method to allow updated Overseer versions. The submitters have not proposed an alternative method. The submission point is therefore not accepted.</p> <p><b>Recommendation</b></p>



	No amendments are made to the Waikato Regional Plan as a result of this submission.
<p>19. The submitters request that Rule 3.10.5.12 establishes “a more realistic per hectare figure for each of plantation forest and unimproved land, to enable these land uses to occur without requiring consent and to participate in N leach trades as part of PC2”. The submitters consider that the leaching rates provided in the regional plan are not realistic.</p>	<p>As noted with respect to the submission point 10 above, and as discussed in the Section 32 report, PC2 does not change the stated leaching rates in Rule 3.10.5.12 of 2 kgN/ha/yr for unimproved land and 3 kgN/ha/yr for plantation forests. As noted above, changing the leaching rates could effectively result in a reallocation of nitrogen to forestry concerns and was therefore too complex for the PC2 Streamlined Planning Process. The submitters have not suggested what a more realistic leaching rate would be, or provided evidence that the current leaching rates are inappropriate. From earlier discussions with forestry representatives, it is clear that further research is needed before scientifically justified changes could be made to these leaching rates. Note that plantation forestry and undeveloped land currently is covered in the Taupo catchment through Permitted Activity Rule 3.10.5.2. These land uses are already occurring as permitted activities (without requiring consent) and this is not changed by PC2. Nitrogen can be purchased (traded) for forestry and undeveloped land through Rule 3.10.5.8. For these reasons, this submission point is not accepted.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>Lakes and Waterways Action Group (LWAG) – PC2-9</p>	
<p>20. Change the title of Policy 2 to recognise that Lake Taupo is an Outstanding waterbody in New Zealand as well as the Waikato region.</p>	<p>Policy 2 is titled “Identification of Lake Taupo as an Outstanding Waterbody in the Waikato Region”. This matter is not relevant to PC2 which is addressing the Overseer issue. There is therefore not scope to accept this submission.</p> <p><b>Recommendation</b></p>

	<p>No amendments are made to the Waikato Regional Plan as a result of this submission.</p>
<p>21. The submitter supports the proposed consent review process but requests that the cost for this review falls on WRC for properties with a current consent.</p>	<p>The cost of the reviews is to be covered by WRC rather than individual consent holders. This decision was made after the s32 report was written. It is accepted that information about where costs lie would help in the understanding of the impacts of the plan change. <b>The following description therefore is to be considered a further evaluation of PC2 pursuant to RMA Section 32AA.</b></p> <p>Section D.4.2.2 of the Section 32 report evaluates the option chosen for PC2. The section on costs stated: <i>“Consent reviews, and changes to consents to enable the use of updated Overseer versions may be about \$71,000. A decision has yet to be made as to whether this cost should fall on consent holders or the regional council”</i>. Since the drafting of the Section 32 report, WRC has made the decision to fund the consent reviews and changes to consents, rather than expect individual consent holders to cover this cost. Although this does not change the overall cost of the option, it does mean that the financial costs of the option to individual consent holders is considerably less than would otherwise be the case. This does not affect the conclusions from the evaluation in the Section 32 report.</p> <p><b>Recommendation</b> No amendments are made to the Waikato Regional Plan as a result of this submission.</p>

# Appendix 1 to Step 6 Report: Recommended solution to enable ongoing functioning of Taupo Rules 3.10.5.4 and 3.10.5.5, with RMA Section 32/32AA Evaluation

## 1. Introduction

Three submitters to Plan Change 2: Taupo Overseer version (PC2), who collectively would like to be referred to as the Te Ture Whenua/Settlement land submitters, have requested that Waikato Regional Council (WRC) make changes to Rules 3.10.5.4 and 3.10.5.5 to enable the rules to continue functioning after Overseer Version 5.4.3 expires. Rule 3.10.5.4 allocates 11,000 kgN/yr to owners of Tūwharetoa undeveloped and forested land, and Rule 3.10.5.5 allocates 3,100 kgN/yr to owners of non-Tūwharetoa undeveloped and forested land. A similar request was made in a late submission from the Raukawa Charitable Trust. In fact, the Raukawa submission suggests a solution very similar to that outlined in this report.

The three Te Ture Whenua/Settlement land submitters are CNI Iwi Land Management Limited, Lake Taupō Forest Trust and Lake Rotoaira Forest Trust, and N.Z. Forest Managers (NZFM). These submitters either own land with forest on it (many related to Treaty Settlements) or advocate for those owners (NZFM). These submitters wish to preserve the flexibility for different land uses provided for by Rules 3.10.5.4 and 3.10.5.5.

Note that an RMA Schedule 1 Clause 8AA resolution of disputes process was initiated with the Te Ture Whenua/Settlement land submitters with respect to their requests to enable Rules 3.10.5.4 and 3.10.5.5 to continue to function after Overseer version 5.4.3 expires. The solution recommended in this Step 6 report has been developed as part of that process. The resolution of disputes process did not require the use of an independent mediator as provided for in Clause 8AA because agreement on these matters was reached.

The Section 32 report notes that the two rules cannot be used after Overseer version 5.4.3 expires and PC2 adds an Advisory Note to each rule stating this. At the time of writing the s32 report, WRC staff thought a solution to this matter would be overly complex for a quick streamlined planning process. It was thought that to address the matter would require discussions about equivalent nitrogen allocations under future Overseer versions, and resolution of issues about additional nitrogen allocations following the initial 10 year allocation, and the adequacy of leaching numbers used in the rules for forestry and undeveloped land. The matter was therefore delayed until it could be addressed in the full review of the regional plan Chapter 3.10 Taupo provisions at a later date.

The submissions however have clearly requested that WRC enable the rules to continue functioning after version 5.4.3 expires. Following discussions with these submitters, it was suggested that a solution might be found such that the rules' nitrogen allocation is restated as some form of input data equivalent (in some ways similar to how farmers' Nitrogen Discharge Allowances are to be restated as Overseer Reference Datasets).

## 2. The proposed solution

Rule 3.10.5.4 allocates up to 11,000 kgN/yr leaching at a rate of no more than 2 kgN/ha/yr. This means that the minimum area the allocation can apply to would be 5,500 ha (2 kgN/ha/yr over 5,500 ha equals 11,000 kgN/yr). We will assume that people would want to use the allocated nitrogen over the smallest area possible to give the highest allowable leaching rate.

To allocate the 11,000 kgN/yr leaching rate using updated Overseer versions, we need to use a Standard Animal Equivalent. Because beef cattle are commonly grazed on Taupo catchment soils, we have chosen to use 13 month old in July Angus steers on browntop rolling pasture as the standard animal equivalent. To determine how many of these Standard Animal Equivalents would be equivalent to 11,000 kgN/yr, WRC modelled the Standard Animal Equivalents on 5,500 ha, with pumice soil and 1500 mm rainfall in Overseer version 5.4.3 (refer WRC doc 16742227). This was to approximate a typical block of land in the Taupo catchment. Note that pumice soil and 1500mm rainfall are not included in the definition of Standard Animal Equivalents because Standard Animal Equivalents are also to be used when people apply for nitrogen under the rule. In this case, site specific soil and rainfall figures need to be used to establish an appropriate Overseer Reference Dataset for the property.

Using Overseer version 5.4.3, we have found that 2752 of these standard animals with these default land block conditions would be modelled to leach 11,000 kgN/yr over an area of 5,500 ha (at 2kgN per hectare). In other words, 2752 Angus steers with these default modelling values, is equivalent to the 11,000 kgN/yr currently available through rule 3.10.5.4 when modelled on a land area of 5,500 ha.

Condition d) of Rule 3.10.5.4 currently is as follows:

*The total cumulative amount of additional nitrogen leached from all land authorised for development under this rule shall not exceed 11,000 kilograms per annum by 30 June 2017.*

The proposed solution is to change this condition to read:

*The total cumulative amount of additional nitrogen leached from all land authorised for development under this rule shall not exceed 11,000 kilograms per annum ~~by 30 June 2017~~ when modelled by Overseer version 5.4.3, and after version 5.4.3 expires, 2752 Standard Animal Equivalents defined for the purpose of this rule as Angus steers, 13 months old in July and present all year, on rolling topography and browntop pasture.*

For clarity, an Advice Note is recommended to be added stating: The 2752 Standard Animal Equivalents was determined by modelling Angus steers, 13 months old in July and present all year, on 5,500 ha (at 2 kilograms of nitrogen per hectare per year to equal the total of 11,000 kilograms of nitrogen per year), on rolling topography, browntop pasture, pumice soils and 1500mm rainfall.

Conditions e) and f) of rule 3.10.5.4 limit the additional leaching allowed by the rule to no more than 2 kgN/ha/yr. The use of different Overseer versions would result in the 2 kgN/ha/yr being represented by different animal numbers, so it would be preferable to again state the

requirement in terms of animal equivalents. The aim of these conditions seems to be that although the rule allows for additional nitrogen to be used, the original writers of the rule wanted to avoid a change to intensive farming. Modelling by Overseer version 5.4.3 shows that 0.5 Angus steers using the default inputs described above, would be equivalent to 2 kgN/ha/yr leaching over 5,500 hectares for typical Taupo forestry and undeveloped land.

It is therefore recommended that these conditions are amended as follows:

- e) The average amount of nitrogen leaching from that part of the land subject to the application, once the proposed development is in place, shall not exceed 2 kilograms of nitrogen per hectare per year, or after Overseer version 5.4.3 expires, 0.5 Standard Animal Equivalents per hectare, plus the relevant deemed nitrogen leaching rate defined in Rule 3.10.5.12 for unimproved land or non-nitrogen fixing plantation forest;
- f) No resource consent or combination of resource consents under this Rule shall allow an increase in average nitrogen leaching in respect of any land that exceeds 2 kilograms of nitrogen per hectare per year, or after Overseer version 5.4.3 expires, 0.5 Standard Animal Equivalents per hectare;

Note that some other changes are needed to the rule as well. These are discussed later in this report.

### **3. How would the solution work in practice?**

As discussed above, 2752 Standard Animal Equivalents on 5,500 ha using the above default modelling inputs is equivalent to the 11,000 kgN/yr allocated by the rule. After Overseer version 5.4.3 expires, nitrogen allocations would be made based on these Standard Animal Equivalents. Let's say for the sake of discussion that by December 2020 when version 5.4.3 expires, 3,500 kgN/yr have been allocated under the rule leaving 7,500 kgN/yr, and lets say that this is calculated to be equivalent to 1800 Standard Animal Equivalents.

Let's say a person applies for additional nitrogen under Rule 3.10.5.4 to allow the addition of 500 sheep for a sheep milking operation and 200 kg of nitrogen per year for an onsite wastewater system to service a tourist accommodation block. An Overseer scenario is developed, using the most recent version of Overseer, that describes the proposal based on the land area that it relates to (let's say in this example, 100 ha). This would calculate how much nitrogen the landowner needs for the proposal. Let's say this shows that the landowner needs an additional 800 kgN/yr above the property's background nitrogen, to allow for the proposal.

WRC then prepares a scenario with the most recent version of Overseer using the Standard Animal Equivalents (Angus steers, 13 month old and present all year, on rolling topography and browntop pasture), with property specific soils and rainfall, at a density of 0.5 Standard Animal Equivalents per hectare. This determines the number of Standard Animal Equivalents that could be applied to the land area and determines if the applicant has enough land area for the required 800 kgN/yr of additional nitrogen. Let's say this scenario shows that 200 Standard Animal Equivalents at 0.5 steers per ha can be applied to the applicant's land of 100 ha, and that this is equivalent to the needed additional 800 kgN/yr

using the most recent Overseer version. The applicant therefore has enough land for the proposal (if not, they would need to reduce the nitrogen needed or increase the land area the proposal relates to). The required allocation can then be made, and the Standard Animal Equivalents allocated (200) are deleted from the pool of nitrogen (expressed as Standard Animal Equivalents) available through the rule. There are now effectively 1600 Standard Animal Equivalents that can still be allocated (original 1800 minus the allocated 200).

Note that the Standard Animal Equivalent Overseer scenario in the above example becomes the Overseer Reference Dataset for the property. The Nitrogen Management Plan will describe what nitrogen leaching activities will actually occur on the property.

#### **4. What other changes to the rule would need to be made as a minimum?**

The other changes that would need to be made to Rule 3.10.5.4 to enable it to function after Overseer v5.4.3 expires are discussed as follows:

- Matter of Control i) is: *“The specification of the Nitrogen Discharge Allowance in kgN/ha/year and total kgN/year for the land subject to the application”*. It is not appropriate for a consent to specify a set amount of nitrogen discharge when Overseer versions change, as this would allow different amounts of farm inputs and therefore different amounts of actual nitrogen leaching (a set NDA only works for a specified Overseer version). It is recommended that this condition be changed to *“The specification of the [Nitrogen Discharge Allowance in kgN/ha/year and total kgN/year Overseer Reference Dataset](#) for the land subject to the application”*.
- Matter of Control ii) is: *“The requirement to maintain a Nitrogen Management Plan for the land subject to the application”*. This does not need to be changed. However it is useful to note that this makes available the option to require a Nitrogen Management Plan. Note that this would only be needed where the additional nitrogen is to be used for farming purposes. If the additional nitrogen is to be used for non-farming purposes (such as a tourist accommodation block wastewater system) a Nitrogen Management Plan should not be needed.
- Matter of Control iii) is: *“Version 5.4.3 of the OVERSEERTM model shall be used to demonstrate that any changes to the Nitrogen Management Plan, undertaken during the duration of any resource consent granted under this rule, will not lead to an exceedance of the Nitrogen Discharge Allowance for the land subject to the application;”*. To update this Matter of Control so that it refers to updated Overseer versions, it is recommended to be changed to read as follows: *[Version 5.4.3 of the OVERSEERTM](#) [The most recent version of the Overseer](#) model shall be used to demonstrate that any changes to the Nitrogen Management Plan, undertaken during the duration of any resource consent granted under this rule, will not lead to [an exceedance of the Nitrogen Discharge Allowance for increased nitrogen leaching from](#) the land subject to the application.*
- This advice note added by PC2 would need to be removed: *“Once Overseer Version 5.4.3 expires, this rule can no longer be used because the additional nitrogen allowance provided for in this rule only has relevance in terms of Version 5.4.3. The rule will be reviewed in full during the Healthy Environments regional plan review”*.

- The Summary of Rules table in Section 3.10.5 of Chapter 11, where it refers to Rules 3.10.5.4 (and 3.10.5.5 given that similar changes are recommended below to that rule), needs to be updated as follows:

Flexibility for Māori Land (Rule 3.10.5.4)	<b>Controlled</b> Provides a limited development allowance for Māori land of 2 kgN/ha/year, and after Overseer v5.4.3 expires of equivalent nitrogen to 0.5 Standard Animal Equivalents per hectare, above relevant deemed background leaching rates
Flexibility for Non-Māori Land (Rule 3.10.5.5)	<b>Controlled</b> Provides a limited development allowance for Non-Māori land of 2 kgN/ha/year, and after Overseer v5.4.3 expires of equivalent nitrogen to 0.5 Standard Animal Equivalents per hectare, above relevant deemed background leaching rates

The recommendation is therefore to change the rule to read as follows:

### 3.10.5.4 Controlled Activity Rule – Development of Ngati Tūwharetoa Undeveloped and Forested Land

The use of land, in the Lake Taupo catchment which may result in nitrogen leaching from the land and entering water is a **controlled activity** subject to the following conditions, standards and terms:

- All of the land subject to the application is Māori land within the meaning of Section 4 of the Te Ture Whenua Māori Act 1993;
- This Rule shall only enable increases in nitrogen leaching in respect of that part of the land subject to the application which as at 9 July 2005 comprised unimproved land or non-nitrogen fixing plantation forest;
- All or part of the land subject to the application is proposed to be developed in a manner that may result in an increase in nitrogen leaching from that land;
- The total cumulative amount of additional nitrogen leached from all land authorised for development under this rule shall not exceed 11,000 kilograms per annum by 30 June 2017 when modelled by Overseer version 5.4.3, and after version 5.4.3 expires, 2752 Standard Animal Equivalents defined for the purpose of this rule as Angus steers, 13 months old in July and present all year, on rolling topography and browntop pasture.
- The average amount of nitrogen leaching from that part of the land subject to the application, once the proposed development is in place, shall not exceed 2 kilograms of nitrogen per hectare per year, or after Overseer version 5.4.3 expires, 0.5 Standard Animal Equivalents per hectare, plus the relevant deemed nitrogen leaching rate defined in Rule 3.10.5.12 for unimproved land or non-nitrogen fixing plantation forest;

- f) No resource consent or combination of resource consents under this Rule shall allow an increase in average nitrogen leaching in respect of any land that exceeds 2 kilograms of nitrogen per hectare per year, or after Overseer version 5.4.3 expires, 0.5 Standard Animal Equivalents per hectare;
- g) The potential to increase the amount of nitrogen able to leach from the land subject to the application above the deemed nitrogen leaching rate shall not be transferable across land boundaries;
- h) Where the nitrogen leaching authorised by this rule is for the discharge of domestic wastewater effluent (including grey water but not stormwater) from any new conventional wastewater systems onto or into land, standards, terms and conditions (a) to (n) of Rule 3.10.6.4 shall apply;
- i) Where the nitrogen leaching authorised by this rule is for the discharge of domestic wastewater effluent (including grey water but not stormwater) from any new advanced wastewater systems onto or into land, standards, terms and conditions (a) to (o) of Rule 3.10.6.3 shall apply;
- j) Conventional wastewater systems shall not be installed within the near shore zone;

**and provided also that:**

Where a land use is authorised as a controlled activity by this Rule, the subject land shall not be used to offset any nitrogen leaching increase elsewhere in the catchment.

**Matters of Control**

Waikato Regional Council reserves control over the following matters:

- i) The specification of the ~~Nitrogen Discharge Allowance in kgN/ha/year and total kgN/year~~ Overseer Reference Dataset for the land subject to the application;
- ii) The requirement to maintain a Nitrogen Management Plan for the land subject to the application;
- iii) ~~Version 5.4.3 of the OVERSEERTM~~ The most recent version of the Overseer model shall be used to demonstrate that any changes to the Nitrogen Management Plan, undertaken during the duration of any resource consent granted under this rule, will not lead to an exceedance of the Nitrogen Discharge Allowance for increased nitrogen leaching from the land subject to the application;
- iv) The self monitoring, record keeping, information provision and site access requirements for the holders of resource consents required to demonstrate ongoing compliance with the Nitrogen Management Plan;
- v) Restrictions on the use of wastewater systems and the monitoring, maintenance and reporting requirements for those systems;
- vi) The circumstances and timeframes under which the resource consent conditions may be reviewed;
- vii) The duration of the resource consent; and
- viii) The circumstances under which resource consents granted under this rule can be surrendered either in whole or part pursuant to s138 of the RMA; and



## Notification:

Notice of controlled activity applications received in accordance with this rule does not need to be served.

## Advisory Notes:

- Rule 3.10.5.4 is intended to provide for the development of Māori land that was undeveloped or forested land at the date of notification of Variation 5 – Lake Taupo Catchment (9 July 2005). However, for the avoidance of doubt, it is noted that Māori land that contains some developed land is not precluded from the rule provided the nitrogen leaching from the proposed development together with any nitrogen leaching from existing development does not exceed the upper limit on the average annual leaching of nitrogen set by conditions d) and e) of this rule.
- Refer to the Advice Notes under Rule 3.10.5.3 as they guidance they provide is relevant to consents issued under this Rule
- The 2752 Standard Animal Equivalents was determined by modelling Angus steers, 13 months old in July and present all year, on 5,500 ha (at 2 kilograms of nitrogen per hectare per year to equal the total of 11,000 kilograms of nitrogen per year), on rolling topography, browntop pasture, pumice soils and 1500mm rainfall.
- ~~Once Overseer Version 5.4.3 expires, this rule can no longer be used because the additional nitrogen allowance provided for in this rule only has relevance in terms of Version 5.4.3. The rule will be reviewed in full during the Healthy Environments regional plan review.~~

Note that it is also recommended that the small typographical error in the second advice note to the rule is corrected (they).

### 5. Similar changes to Rule 3.10.5.5

The above discussion has focussed on Rule 3.10.5.4. Rule 3.10.5.5 is an almost identical rule that allows allocations of nitrogen of up to a cumulative total of 3,100 kg/yr for non-Tūwharetoa forestry and undeveloped land. As for Rule 3.10.5.4, Rule 3.10.5.5 will also become unusable after Overseer version 5.4.3 expires in December this year. To allow the allocation to continue to be available after December 2020, as was intended originally by the provisions, and to maintain consistency with Rule 3.10.5.4, it is recommended that this matter be addressed within the Plan Change 2 process. It is recommended that it be addressed in the same way as recommended above for Rule 3.10.5.4.

To allow Rule 3.10.5.5 to continue to function after Overseer version 5.4.3 expires, effectively the same provisions of the rule as for Rule 3.10.5.4 need to be changed in the same way. It is therefore recommended that Conditions e) and f), and Matters of Control i) and iii) of Rule 3.10.5.5 be changed exactly as has been recommended above for Rule 3.10.5.4. Condition d) should be changed in the same way as well, with the difference being that the allocation of 3,100 kilograms of nitrogen per year is restated as 775 Standard Animal Equivalents over an area of 1550 hectares. The Advisory Note added to the rule by PC2 would also need to be deleted. It is recommended therefore that the rule be changed as follows:

### 3.10.5.5 Controlled Activity Rule – Development of Non-Ngati Tūwharetoa Undeveloped and Forested Land

The use of land, in the Lake Taupo catchment which may result in nitrogen leaching from the land and entering water is a **controlled activity** subject to the following conditions, standards and terms:

- a) As at 9 July 2005 the land comprised unimproved land or non-nitrogen fixing plantation forest;
- b) The land does not comprise Crown owned land or land that is explicitly covered by Rule 3.10.5.4(a);
- c) All or part of the land subject to the application is proposed to be developed in a manner that may result in an increase in nitrogen leaching from that land;
- d) The total cumulative amount of additional nitrogen leached from all land authorised for development under this rule shall not exceed 3,100 kilograms per annum by 30 June 2017 when modelled by Overseer version 5.4.3, and after version 5.4.3 expires, 775 Standard Animal Equivalents defined for the purpose of this rule as Angus steers, 13 months old in July and present all year, on rolling topography and browntop pasture.
- e) The average amount of nitrogen leaching from that part of the land subject to the application, once the proposed development is in place, shall not exceed 2 kilograms of nitrogen per hectare per year, or after Overseer version 5.4.3 expires, 0.5 Standard Animal Equivalents per hectare, plus the relevant deemed nitrogen leaching rate defined in Rule 3.10.5.12 for unimproved land or non-nitrogen fixing plantation forest;
- f) No resource consent or combination of resource consents under this Rule shall allow an increase in average nitrogen leaching in respect of any land that exceeds 2 kilograms of nitrogen per hectare per year, or after Overseer version 5.4.3 expires, 0.5 Standard Animal Equivalents per hectare;
- g) The potential to increase the amount of nitrogen able to leach from the land subject to the application above the deemed nitrogen leaching rate shall not be transferable across land boundaries;
- h) Where the nitrogen leaching authorised by this rule is for the discharge of domestic wastewater effluent (including grey water but not stormwater) from any new conventional wastewater systems onto or into land, standards, terms and conditions (a) to (n) of Rule 3.10.6.4 shall apply;
- i) Where the nitrogen leaching authorised by this rule is for the discharge of domestic wastewater effluent (including grey water but not stormwater) from any new advanced wastewater systems onto or into land, standards, terms and conditions (a) to (o) of Rule 3.10.6.3 shall apply;
- j) Conventional wastewater systems shall not be installed within the near shore zone;

#### **and provided also that:**

Where a land use is authorised as a controlled activity by this Rule, the subject land shall not be used to offset any nitrogen leaching increase elsewhere in the catchment.

## Matters of Control

Waikato Regional Council reserves control over the following matters:

- i) The specification of the ~~Nitrogen Discharge Allowance in kgN/ha/year and total kgN/year~~ Overseer Reference Dataset for the land subject to the application;
- ii) The requirement to maintain a Nitrogen Management Plan for the land subject to the application;
- iii) ~~Version 5.4.3 of the OVERSEERTM~~ The most recent version of the Overseer model shall be used to demonstrate that any changes to the Nitrogen Management Plan, undertaken during the duration of any resource consent granted under this rule, will not lead to ~~an exceedance of the Nitrogen Discharge Allowance for~~ increased nitrogen leaching from the land subject to the application;
- iv) The self monitoring, record keeping, information provision and site access requirements for the holders of resource consents required to demonstrate ongoing compliance with the Nitrogen Management Plan;
- v) Restrictions on the use of wastewater systems and the monitoring, maintenance and reporting requirements for those systems;
- vi) The circumstances and timeframes under which the resource consent conditions may be reviewed;
- vii) The duration of the resource consent; and
- viii) The circumstances under which resource consents granted under this rule can be surrendered either in whole or part pursuant to s138 of the RMA.

## Notification:

Notice of controlled activity applications received in accordance with this rule does not need to be served.

## Advisory Notes:

- Refer to the Advice Notes under Rule 3.10.5.3 as ~~the~~ guidance they provide is relevant to consents issued under this Rule
- The 775 Standard Animal Equivalent was determined by modelling Angus steers, 13 months old in July and present all year, on 1550 ha (at 2 kilograms of nitrogen per hectare per year to equal the total of 3100 kilograms of nitrogen per year), on rolling topography, browntop pasture, pumice soils and 1500mm rainfall.
- ~~Once Overseer Version 5.4.3 expires, this rule can no longer be used because the additional nitrogen allowance provided for in this rule only has relevance in terms of Version 5.4.3. The rule will be reviewed in full during the Healthy Environments regional plan review.~~

Note that it is also recommended that the small typographical error in the second advice note to the rule is corrected (they).

## 6. RMA Section 32/32AA evaluation

### The planning issue

The planning issue in terms of the Waikato Regional Plan Rules 3.10.5.4 and 3.10.5.5 is that these rules, which allowed for an additional allocation of nitrogen, become unavailable due to the expiry of the Overseer version that these rules rely on. Therefore, the rules lose their effect, not as a result of a deliberate planning process to remove them, but because the allocations had not been fully taken up before the Overseer version they relied on expires. Note that the largest allocation is to Tūwharetoa land. Tūwharetoa stand to lose the most therefore if this planning issue isn't 'fixed'. Some Tūwharetoa representatives noted during consultation in the lead up to PC2, that the reason the allocation had not been applied for was because Tūwharetoa hapu had been focusing on their Treaty Settlement process.

As noted above, resolving the issue with these two rules was initially considered too difficult for a Streamlined Planning Process. It was stated that these matters would be addressed during a full review of Waikato Regional Plan Chapter 3.10 at a later date. However, during the Disputes Resolution process following receipt of submissions about these rules, a solution was found that avoids the complicated discussions initially envisaged, and which in fact is a similar process to the change of farming NDAs to Overseer Reference Datasets. This allows the existing allocations in Rules 3.10.5.4 and 3.10.5.5 to be restated in a different but equivalent 'currency' (Standard Animal Equivalents rather than kilograms of nitrogen).

Rules 3.10.5.4 and 3.10.5.5 were developed during the initial Environment Court process for the Taupo provisions, in response to appeals to the notified Regional Plan Variation 5 (RPV5) (Environment Court Decision No 123 [2011]). The provisions recognised that the effect of capping nitrogen on undeveloped and forested land left very few options for owners of this land to do anything other than retain the existing land use. Legal submissions to the Environment Court noted that the legal justification supporting Tūwharetoa's ability to access additional nitrogen was the RMA section 6(e), 7(a) and 8, which recognised the unique status of iwi. Extending the ability to non-Tūwharetoa landowners with forest was considered desirable to achieve consistency. Of note is that the second largest landholding affected by the non-Tūwharetoa rule 3.10.5.5 is land returned through Treaty Settlement, for which the same RMA section 6(e), 7(a) and 8 arguments apply.

The PC2 Te Ture Whenua/Settlement land submitters have noted that allowing Rule 3.10.5.4 to cease functioning would not be consistent with:

- Objective 4 (Economic costs minimised and social and cultural effects mitigated)
- Policy 1 (To recognise tangata whenua values and interests)
- Policy 3 (Cap nitrogen outputs from land in the catchment while, among other things, enabling low nitrogen leaching activities within specific nitrogen limits)
- Policy 14 (Nitrogen trading – permitting the transfer of Nitrogen Discharge Allowances around the catchment).

It should be noted that PC2 does not actively prevent the use of Rules 3.10.5.4 and 3.10.5.5. The rules would stop working as a consequence of the expiry of the Overseer version that these rules rely on. However, the PC2 Section 32 report states that the plan change sets out to resolve the planning issue "that the Taupo provisions in the Waikato Regional Plan that require the use of Overseer v5.4.3 need to be changed to allow

updated versions of Overseer to be used” (Section 32 report, page 4). This planning issue equally applies to Rules 3.10.5.4 and 3.10.5.5. Originally this was put in the ‘too hard basket’. However, because a solution has now been found that would address this planning issue with respect to Rules 3.10.5.4 and 3.10.5.5, it is recommended that it would be appropriate to make the required changes as part of PC2.

#### Costs and benefits of proposed changes

Section 32(2)(a) requires an assessment of the costs and benefits of changing a provision. The relevant question is, would the change to Rules 3.10.5.4 and 3.10.5.5 change the initially envisaged costs and benefits of implementing these rules?

In terms of costs, the process of allocating nitrogen under these amended rules may be a little more complex than at present using Overseer version 5.4.3. Currently, a person would apply for a certain amount of the available nitrogen, and part of the consent process would be to model the proposal through Overseer version 5.4.3 to determine how much nitrogen is needed for the proposal and whether the applicant has sufficient land. Using the recommended solution involving Standard Animal Equivalents means that the applicant’s proposal needs to be modelled to determine the amount of nitrogen needed, and then a second round of modelling is needed to determine how many Standard Animal Equivalents would be equivalent to the proposal. This may take more time and there may be some additional cost to the applicant.

The benefits from making the changes include that the allocations will continue to be available after Overseer version 5.4.3 expires in December. This means that owners of undeveloped and forested land would be able to obtain nitrogen for further developments on their land. This would have economic and employment benefits. The change would also allow updated Overseer versions to be used which allow a greater range of nitrogen reducing mitigations and land uses to be modelled.

Making changes to Rules 3.10.5.4 and 3.10.5.5 to enable them to continue to function after December 2020 means that the full policy response initially established in Chapter 3.10 to achieve the Taupo objectives can continue to function. It should be noted that these provisions would have been established in response to a Section 32 style evaluation, applied during the RPV5 Environment Court process. To allow the rules to cease functioning would therefore mean that part of the policy framework determined to be required to achieve the Taupo Objectives would stop functioning. As the Te Ture Whenua/Settlement land submitters have pointed out, this is particularly important in terms of Objective 4. In terms of RMA Section 32(1)(b), the two rules had been determined as part of the policy mix most appropriate to achieve the objectives, and if possible therefore, they should be retained.

#### Other options

In terms of other options to maintain the functioning of Rules 3.10.5.4 and 3.10.5.5, no other relatively straight forward options have been found. The allocations of 11,000 and 3,100 kilograms of nitrogen per year could be changed to some equivalent using the current version of Overseer (OverseerFM) but determining an equivalent would not be simple, given that there is no straight-line relationship between the outputs

of both versions. From now on, Overseer versions will change regularly. It would not be possible to lock in another version based on the new Overseer online platform. Therefore any allocation determined for one version would quickly become out of date.

The change to Rules 3.10.5.4 and 3.10.5.5 could be delayed as was originally suggested. This would allow time for more complex discussions about nitrogen allocations and leaching rates. However even with the best intentions it could be a number of years before a full review of Chapter 3.10 could be completed, during which time the allocations would not be available. There is also no guarantee that such a review would result in the reinstatement of the allocations.

### Conclusion

In summary, in terms of Section 32 and Section 32AA, it is recommended that Rules 3.10.5.4 and 3.10.5.5 be updated as described in this report for the following reasons:

- The policy framework initially considered to be an efficient and effective way of achieving the Waikato Regional Plan Taupo Objectives in Chapter 3.10 would be retained in full.
- Owners of undeveloped and forested land will maintain access to some additional nitrogen for development purposes, which would have benefits in terms of economic growth and employment.
- Delaying dealing with this matter creates uncertainty for owners of undeveloped and forested land in the Taupo catchment as to whether they will be able to claim the nitrogen allocated by Rules 3.10.5.4 and 3.10.5.5.
- Not fixing this planning issue would have a particular impact on Tūwharetoa. The option provided for Tūwharetoa through the RPV5 Environment Court process, in recognition of RMA section 6(e), 7(a) and 8 matters, would become unavailable through no fault of theirs.
- The change allows the benefits of updated Overseer versions to be used with Rules 3.10.5.4 and 3.10.5.5.
- The benefits of making the change would be significantly greater than any cost.
- The options for a more complete discussion of whether additional nitrogen (over the current allocations of 11,000 and 3,100 kilograms of nitrogen per year) should be provided for, and about whether the current provisions ascribe a realistic nitrogen leaching rate for undeveloped and forested land, can still be considered during the full review of Chapter 3.10.

**Note that Waikato Regional Council sought legal advice on whether there is legal scope within PC2, based on the submissions received, to make the changes to Rules 3.10.5.4 and 3.10.5.5 recommended in this Step 6 Appendix. The advice concluded that there is legal scope to make these changes.**