

**BEFORE THE HEARING COMMISSIONERS  
AT HAMILTON**

**IN THE MATTER** of the Resource Management Act 1991  
(**"the Act"**)

**AND**

**IN THE MATTER** of the hearing of submissions on The  
Proposed Waikato Regional Plan Change 1  
– Waikato and Waipa River Catchments:  
Block 3

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**STATEMENT OF EVIDENCE BY VANCE ANDREW HODGSON  
FOR HORTICULTURE NEW ZEALAND**

**9 JULY 2019**

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## **SUMMARY STATEMENT**

1. This planning evidence addresses the Horticulture New Zealand (“**HortNZ**”) submission, further submissions and the Waikato Regional Council’s (“**WRC**”) Section 42A Report responses to the submissions on the Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments (“**PC1**”).
2. The submission and this planning evidence address how HortNZ considers that an alternative planning provision would better give effect to, be not inconsistent with, or have regard to (as the case may be) the various relevant planning documents and further support a robust regional plan.
3. The HortNZ submission and evidence clarifies the regional and national significance of the horticultural sector in the Waikato for food production, the area of activity, number of operators and the relative contaminant contribution.
4. In my opinion, PC1 rightly provides a tailored planning response to ensure domestic food supply is secured for current and future generations. Notwithstanding this, I consider the framework of PC1 could be improved by explicitly recognising the food production values associated with horticulture and other methods could be provided that enable the continuation of existing horticultural activity and provide for growth.

## **QUALIFICATIONS AND EXPERIENCE**

5. My full name is Vance Andrew Hodgson. I am a director of Hodgson Planning Consultants Ltd, a resource management consultancy based in Waiuku. I have the qualifications and experience set out in my evidence for Blocks 1 and 2.
6. I have read the Environment Court’s Code of Conduct for Expert Witnesses, and I agree to comply with it. I confirm that the issues addressed in this brief of evidence are within my area of expertise,

except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## **SCOPE OF EVIDENCE**

7. This evidence provides a planning assessment of those provisions on which HortNZ submitted and addresses the Section 42A Report prepared by WRC.
8. The planning framework is well described in both the Section 32 Report and the Section 42A Report provided by the WRC. I generally agree with the analysis.
9. The Section 42A Report provides a format within which submissions have been analysed. The topic covered in my evidence addresses – Part C1 Commercial Vegetable Production.

## **PART C1 COMMERCIAL VEGETABLE PRODUCTION**

10. Paragraph C1.1.4 of the Section 42A Report provides an overview of the PC1 provisions relating to Commercial Vegetable Production (CVP). The overview notes that due to the nature of CVP the management approach applied for pastoral farming cannot be easily applied to CVP.
11. The overarching approach of PC1 is for CVP growers to adopt Farm Environment Plans (FEP), undertake nutrient budgeting, farm at “good farming practice” (GFP) or “best management practice” (BMP) and restrict further expansion of CVP growing areas to reduce overall discharges from CVP.
12. Policy 3 is a CVP specific policy to achieve the objectives of PC1 which aim for improvements in water quality while maintaining social, economic and cultural well-being and protecting and restoring tangata whenua freshwater values.

13. I have previously discussed the particular values of CVP and expressed my support for the tailored approach to addressing diffuse discharges from commercial vegetable production system through evidence at Block 1 and Block 2. I do not repeat that discussion here but rather respond to the Section 42A Report and focus on the provisions for managing CVP activity.

### **C1.3 Use of Overseer for Commercial Vegetable Production**

14. Backed up by the evidence of HortNZ, I agree with Officers that there are difficulties in using Overseer to model leaching from CVP, particularly: for crops where leaching is not well researched; where different fertiliser regimes are used for different crops; where crop types are often changed; and, where crops can be farmed on new areas of land for short periods.
15. The need to consider alternative models to calculate a Nitrogen Reference Point (NRP) is well recognised and embedded in PC1 through Schedule B where the WRC Chief Executive can approve alternatives on a case by case basis. I support the retention of this option. Without alternatives the planning framework will fail for CVP, an issue recognised in Canterbury where ECAN worked with the rural sector to develop an alternative in the form of N Check.

### **C1.4 10% Reduction in Nitrogen Loss for Commercial Vegetable Production**

16. As notified, Policy 3(d) requires a 10% reduction in the diffuse discharge of N, and a tailored reduction in the diffuse discharge of P, sediment and microbial pathogens across the sector to be achieved through the implementation of BMP or GFP.
17. The Officers have set out an analysis of the issues associated with this policy requirement and reach the conclusion that they 'hesitantly' prefer the removal of the numeric 10% decrease in Policy 3, in favour of strengthened reliance on faster uptake of GFP for all CVP.

18. I support the analysis and recommendation. I agree that practically it is difficult to measure a reduction of 10% if a tool such as Overseer cannot be deployed. Also, real and enduring reductions of all four contaminants are required within the catchment to achieve the Objectives of PC1 and the Vision and Strategy. We must have a plan that: takes a whole of catchment response to discharge management; recognises that not all activities are equal in the nature or effect of their discharges; and, provides for individual and collective actions.
19. I understand from the evidence that CVP can have high contaminant discharges on a per hectare basis, particularly Nitrogen associated with some food producing crops. However, when taking a catchment view, the footprint of CVP in the region is small and the relative contribution to the contaminant load small. In my view the absence of significant discharges of microbiological contaminants from CVP activities should be factored into the overall broad judgement of effects.
20. Much can be achieved through BMP or GFP for existing and new CVP. However, if we are to address the pressure for additional CVP in the Waikato Region a blanket 10% reduction in Policy 3 provides no ability to consider this.
21. Cumulative reductions from all activities are anticipated through PC1 with a focus on higher emitters. In my opinion there should be some provision within reductions to enable new CVP (to grow food) and still achieve the water quality targets and states in Table 3.11-1 and the Vision and Strategy.

#### **C1.5 Nitrogen Reference Point for Commercial Vegetable Production**

22. In Paragraph 88 of the Section 42A Report, Officers state that if a requirement to establish a NRP is removed for CVP, there still needs to be confidence that this would not compromise the achievement of the Vision and Strategy, the NPS-FM and the objectives of PC1.

23. In my view the adoption of a series of proxy farm systems that benchmark the current discharge profile for a series of differing rotations on differing soils and climate types would help. I understand Mr Ford is proposing some proxies and I consider they should be incorporated as a baseline for existing production systems.
24. Mr Keenan describes that a partnership approach between growers and Council should be undertaken to develop proxies for a future allocation framework. However, this is not an impediment to introducing proxies now utilising the systems analysed for the purpose of preparing the s32 report for PC1 and described by Mr Ford.
25. The submission of HortNZ sought changes to the PC1 implementation methods to direct proxy development. The Officers propose deletion of all methods that are non-statutory. Like Mr Keenan, I consider there is merit in retaining the method for CVP in the absence of certainty that other modelling systems will be fit for purpose for developing the future allocation framework.
26. I see the NRP issue being resolved in a revised structure of Rule 3.11.5.5 relating to existing CVP which requires:
- The total maximum area of land use for existing CVP to be identified, and by sub-catchments not exceeded.
  - Quantification of nitrogen through a series of constructed and simplified farm or enterprise level proxies and a description of phosphorous and sediment controls deployed.
  - An FEP that as a minimum shows for existing operations:
    - GFP.
    - Adherence to relevant minimum standards.
    - Mitigations required to reduce phosphorus discharge relating to targeted fertiliser recommendations and other mitigations required to reduce erosion and soil loss.

- WRC access to the model or records that record diffuse discharge losses.
  - A Controlled Activity status that enables Council to assess an application and define conditions under which the activity must operate.
  - An ability to rotate the farm across the sub-catchments within an FMU as opposed to requiring a consent for each sub-catchment.
27. As expressed in my Block 2 evidence, I agree with the Officers' determinations on the need to reduce reliance on a simple threshold like NRP for CVP.
28. A NRP is relevant to determine appropriate management practices and to track trends in CVP nitrogen losses. Mr Ford's Nitrogen proxies could be utilised for this. But I agree that using a NRP as a farm level limit for CVP is not workable.
29. A NRP is relevant for PC1 in the context of land use change associated with rotational CVP, where, as CVP moves from a site a NRP needs to be determined for the land and incoming non-CVP activity. The Officers have recommended a matter of discretion (3.11.5.5 ix) to address this:
- ix. The procedures and limitations, including Nitrogen Reference Points, to be applied to land that leaves the commercial vegetable growing activities.*
30. Schedule B then provides the method to determine the NRP.
31. In my opinion more certainty needs to be provided around how the NRP for land leaving CVP might be calculated. This cannot be left hanging without a method or guidance.
32. An option may be to grandparent back to the pre-CVP land use, but this seems to evoke all of the complications around lack of records and uncertainty.



33. Another option is that suggested by Michelle Sands, being a calculation based on the activity in the sub-catchment at that time and the associated N load. That is, sum up the grand-parented load for all the possible land in each sub-catchment, subtract the load associated with existing vegetable growing and redistribute the remaining load across all the land (and that becomes the Kg/ha) that remains on the land when a vegetable lease shifts.
34. I prefer Ms Sands' approach but it would require WRC to develop an accounting framework or hold information (for consistency and to ensure plan objectives are met) that land users could draw upon for information on the sub-catchment land use loads. It also suggests that the unattenuated sub-catchment load limits proposed by HortNZ may be a useful addition to Table 3.11-1.

#### **C1.6 Maximum Area Cap for CVP**

35. As identified in paragraph 89 of the Section 42A Report, establishing then capping the maximum land area utilised for CVP is a requirement of the 'as notified' Policy 3. The area is based on production data from 2006-2016.
36. I have previously stated in evidence that I agree with a controlled activity status and land area limit for existing commercial vegetable production. PC1 has sought to develop a regulatory framework for these areas that ensures domestic food supply is secured for current and future generations. This is reflected in the controlled activity status for existing commercial vegetable production that protects the existing footprint of activity and guarantees consent approval.
37. Hort NZ has also quantified the necessary anticipated growth of CVP in the region over the life of the plan (at a 10 year assumption). This is an area of land that can also be capped given the limited availability of land suitable for CVP and the need to ensure the targets and states of Table 3.11-1 are achieved. The effect in terms of Nitrogen discharge is negligible when assessed against the catchment load.

38. I see that some flexibility can be provided in 3.11.5.5 without compromising the Vision and Strategy, the NPS-FM, and outcomes sought through PC1. Catchment improvements in water quality remain the bottom line outcome. The flexibility sought is, in my opinion, entirely reasonable. I refer back to the fact this is a nationally significant activity supplying a basic need (supply of fresh vegetables for domestic consumption).
39. In regard to new CVP, the Officers' propose that to better enable the expansion of existing CVP operations or new entrants through greater policy support provided that there are offsets, within the sub-catchment of the losses of all four contaminants that are equal to or greater than the increase from the CVP production. I support the intent while noting the practical challenges for on and off farm offsetting set out in the HortNZ evidence.
40. Notwithstanding this I consider offsetting for diffuse discharges a worthy method. The question is how this should be framed in PC1 and whether in light of the high public benefit of CVP, a lower-level regulatory route may be appropriate for new CVP. For example, a discretionary activity rule subject to the requirement that net discharge on the land does not increase.
41. There may be situations where land use intensification could occur without impacting on sub-catchment attribute targets and states. If this can be proved, then the activity should be approved. In my opinion offsetting is a valid consideration through the consent process (to be offered by the applicant).

#### **C1.7 Transferring nitrogen losses between properties**

42. As established through the HortNZ evidence, CVP rotations occur across the sub-catchments defined in PC1. This is a necessary occurrence of the rotational system because of lease arrangement conditions and the primary need to rotate land to remain productive. New leased land needs to have suitable good quality, deep, free draining soils which have not previously been used for

the same crop (within a period); mild climatic conditions; be close to processing/ packing facilities; and be close to a labour force.

43. PC1 is based around sub-catchments and Freshwater Management Units (FMU) as being divisions of the wider catchment. The sub-catchment approach is then reflected in terms of the water quality modelling and in Table 3.11-1. Policy 3 is currently structure to provide for consents only within a sub-catchment area with Officers noting a preference for this in paragraph 111 of the Section 42A Report.
44. The result is either a non-complying activity status for growers undertaking this activity or the need to obtain multiple sub-catchment consents. The presentation of grower Mr Brendan Balle to Commissioners in Block 2 hearings highlighted the situation. Paragraph 111 of the Section 42A Report outlines the issue further and notes that enabling rotations in any consenting regime will still require either formal transfer of consents or at least notification and provision of information to the Council when CVP is shifted.
45. The 'command area' approach taken by ECAN appears to be an appropriate response whereby an area of land is consented that is larger than the area of activity and conditions of consent set out that land may be added to or removed from the enterprise provided that:
  - The entire land area is within the 'command area' shown on a plan which forms part of the consent;
  - Prior to change occurring, the consent holder provides an updated list and plan of the properties subject to the activity.
  - The maximum land area consented is not exceeded.
  - The FEP is updated as required to reflect the area of activity.
46. This approach provides the notification and provision of information to the Council.

47. Officers have identified residual concerns about how the local effects of a sub-catchment-wide consent might be assessed, particularly cumulatively if there are many of these consents in a sub-catchment.
48. I see this resolved through CVP methods that cap the increase in nitrogen at the sub catchment and FMU scale, so the increases are negligible and exceeded by the decreases in nitrogen proposed in the other rules, such that an improvement in nitrogen loads still predicted.
49. Furthermore, sector-based initiatives and other mitigation measures are to be employed to progressively reduce losses of nitrogen, phosphorus, sediment and microbial pathogens.

#### **Policy and Rules**

50. As I see it, supporting existing and enabling new CVP while realising the Vision of restoring and protecting the health and wellbeing of the Waikato River requires a framework that:
  - Enables existing CVP activity within a sub-catchment and across an FMU. Within a capped area at audited GFP.
  - Provides a pathway to consider growth in CVP over the anticipated life of PC1 to support population growth vegetable demands. Within a capped area and GFP.
  - Provides a pathway to consider new CVP where offsite mitigations (offsetting) can be considered.
  - Retain a definition of enterprise, restricted to the interpretation of CVP rules.
51. In Attachment A I have set out the changes that I have proposed on behalf of HortNZ to PC1 to enable this.
52. The changes are explained below.

### Policy 1

53. A change is proposed relative to the recommendations version of Policy 1 in the Block 2 Section 42A report.
54. Firstly, a change introduces an exception to the reduction requirement for all activities and all contaminants as proposed in Policy 1(b4). Without this, a pathway to consider growth in CVP over the anticipated life of PC1 to support population growth vegetable demands (provisional growth) would not be available.
55. Secondly, a change introduces an exception for land use change. This is required to provide a pathway to consider the provisional growth requirement or any new CVP.

### Policy 3

56. The policy remains one that provides a tailored approach to reducing discharges from CVP.
57. Sector-based initiatives and other mitigation measures to progressively reduce losses of nitrogen, phosphorus, sediment and microbial pathogens remain a policy outcome. I see this supporting NZGAP and catchment collective options.
58. The policy retains support for existing CVP (as a controlled activity) within limits established through a land area cap and a Nitrogen leaching load determined by proxy farm systems that benchmark the current discharge profile for a series of differing rotations on differing soils and climate types. This is in place of an NRP.
59. Nitrogen baselines are also required to be established in each sub-catchment and FMU – against which the applicant would be required to demonstrate that the targets in Table 3.11-1 are met. This will more easily be achieved if the HortNZ suggestion that unattenuated sub-catchment load limits are added to Table 3.11-1.

60. Policy support for growth in CVP over the anticipated life of PC1 (as a restricted discretionary activity) to support population growth vegetable demands (provisional growth) is provided. The policy recognising the inter-regional values and activity of CVP. Limits are again set down in the form of a land area cap being a limitation on where this could occur relative to Land Use Capability and specified sub-catchments. The proxy load associated with the CVP is required to remain below the sub-catchment and FMU load limit.
61. A nitrogen reference point is required for land no longer utilised for commercial vegetable production and HortNZ propose a method to support this.
62. The policy reiterates the need to adhere to GFP, FEPS and relevant minimum standards. Those minimum standards are set out in the evidence of Damien Farrelly for Hort NZ.
63. Finally, a potential pathway to consider new CVP is provided in the policy, where offsetting can be considered. A Discretionary Activity status for all new CVP and activity that fails to meet the standards of a permitted, controlled or restricted discretionary activity.

Rule 3.11.5.5

64. Rule 3.11.5.5 retains a permitted activity lead in time and proposed controlled activity pathway for existing CVP within the limits set out in the policy.
65. An NRP requirement is removed and replaced by nitrogen benchmarking using the proxy farm systems. As described by the Hort NZ witnesses, this appears a practical response to the challenges of nitrogen benchmarking for CVP and a baseline against which nitrogen management and reductions can be assessed.
66. Mitigations required to reduce phosphorus discharge relating to targeted fertiliser recommendations and other mitigations required

to reduce erosion and soil loss achieved are achieved through the FEP.

67. An important addition is a control to ensure the rotation for the period before and after the baseline period meets the same or less intensive proxy rotation definition. This avoids intensification of site.
68. The FEP requirement remains setting out minimum requirements that include:
  - Good Farming Practice;
  - Adherence to any relevant minimum standards; and
  - That losses of nitrogen that do not exceed the maximum annual losses that were occurring during the 5 years up to 2016.
69. To ensure transparency and accounting, full access to systems that model or record diffuse contaminant losses for the farming land use authorised by this rule is granted to the Waikato Regional Council.
70. Matters of control cover the relevant areas around which consent conditions can be structured to manage the activity and its effects.

#### New Rule 3.11.5.5X

71. A new Rule 3.11.5.5X is proposed to provide a pathway to consider growth in CVP over the anticipated life of PC1 to support population growth vegetable demands (provisional growth).
72. The standards and matters of discretion are largely the same as the controlled activity framework for existing CVP. The key difference is again a capped land limit. The area is limited to land that meets a defined set of conditions. That includes:
  - LUC I or II.

- Specified sub-catchments as described in the evidence of Tim Baker for Hort NZ:
  - Any sub-catchment currently in, or below the National Objectives Framework (NOF) C band for nitrate are excluded. This would exclude: Mangaone (Central Waikato), Whakapipi (Lower Waikato), Komakorau (Lower Waikato), Mangamingi (Upper Waikato), and Kawanui (Upper Waikato).
  - Sub-catchments containing sensitive lake environments should be excluded. This includes Waikare, Whangamarino at Island Block Rd, Whangamarino at Jefferies Rd Br and Whangape).
  - Sub-catchments currently dominated (>50%) by CVP should be excluded (Whakapipi).

73. An important inclusion in the matters of discretion is the requirement that the land will be used for CVP and not 'land banked' or made unavailable through inflated lease or land prices. This could be achieved by requiring evidence through the consent process to confirm the applicant is a grower and consent term conditions to require a consent to be given effect to within a reasonable period of time to ensure that the activity consented occurs.

New Rule 3.11.5.5XX

74. A Discretionary Activity rule is proposed as a potential pathway to consider new CVP. I do not see this as an open door for new CVP which would rightly be assessed against the full PC1 objective and policy suite. An application needing to prove that losses of all four contaminants within sub-catchments are equal to or greater than the increase from the commercial vegetable production activity. Offsetting should be a consideration for new CVP while noting the significant difficulties highlighted in the evidence of Mr Stuart Ford.



75. A Discretionary Activity status would apply for all new CVP and activity that fails to meet the standards of a permitted, controlled or restricted discretionary activity.

### **Waikato Regional Policy Statement**

76. Alignment of the HortNZ approach with the Vision and Strategy is a matter covered by the evidence of Mr Keenan and Ms Sands. I agree with their assessments and provide no further commentary on those matters.
77. The statutory requirements and relevant matters of the Waikato Regional Policy Statement (RPS) is covered in the Section 32 and Section 42A report. Mr Keenan has also referred back to this document in his evidence. I concur with his analysis of the objectives and policies within the RPS relevant to CVP.
78. While obviously not discounting the importance of other RPS policies, of particular interest, relating to my experience with the horticultural sector and land use planning, is Policy 4.4 in relation to primary production, Policy 14.1 relating to soils and Policy 14.2 in relation to high class soils.
79. Policy 4.4 is as follows:

***Policy 4.4 Regionally significant industry and primary production***

*The management of natural and physical resources provides for the continued operation and development of regionally significant industry and primary production activities by:*

- a) *recognising the value and long term benefits of regionally significant industry to economic, social and cultural wellbeing;*

- b) *recognising the value and long term benefits of primary production activities which support regionally significant industry;*
- c) *ensuring the adverse effects of regionally significant industry and primary production are avoided, remedied or mitigated;*
- d) *co-ordinating infrastructure and service provision at a scale appropriate to the activities likely to be undertaken;*
- e) *maintaining and where appropriate enhancing access to natural and physical resources, while balancing the competing demand for these resources;*
- f) *avoiding or minimising the potential for reverse sensitivity; and*
- g) *promoting positive environmental outcomes.*

80. The policy recognises the important role that primary production plays in contributing to the economic, social and cultural wellbeing of people and communities and also recognises that there is the potential for these activities to generate adverse effects which need to be managed. I see the HortNZ promoted method package as achieving this policy.

81. Policy 14.1 seeks to maintain or enhance the life supporting capacity of the soil resource to:

- a) *minimise sedimentation and erosion;*
- b) *maintain or enhance biological, chemical and physical soil properties; and*

*c) retain soil versatility to protect the existing and foreseeable range of uses of the soil resource.*

82. The specifics in terms of current and future methods to minimise sedimentation and erosion are covered in the evidence of Andrew Barber. The need for rotational horticulture to maintain or enhance biological, chemical and physical soil properties covered in the evidence of Ms Sands.
83. Retaining soil versatility to protect the existing and foreseeable range of uses of the soil resource is sustainable management as in accordance with section 5 of the RMA.
84. Policy 14.2 is on point and seeks to avoid a decline in the availability of high-class soils for primary production due to inappropriate subdivision, use or development. We await national direction on high-class soils for what many see as a lack of strength in current resource management policy. Notwithstanding this, Councils like the Waikato District and Matamata-Piako have District Plans that recognise the issue and provide controls on land use and subdivision to protect this scarce and valuable resource and the associated food production values.
85. As notified PC1 also rightly identified food production values but has not carried these values through to methods that enable the high-quality land resource to be fully utilised. The methods proposed by HortNZ achieve this, within limits that ensure freshwater quality outcomes are achieved.

**Low Intensity Farming Activities: Fruit**

86. During the Block 2 hearings, a lack of clarity was identified in how PC1 addressed fruit production activity. This activity is understood to be a low intensity farming system but not explicitly identified in Rule 3.11.5.1. As described in the evidence of HortNZ at that hearing, there appeared no justification for excluding fruit-based enterprises from the permitted activity pathway or that those orchards over 20ha should be required to submit a NRP.

87. The Block 2 Section 42A recommendations version did not address the issue and HortNZ were asked to return with a definition of 'fruit' that could be considered as an exclusion under Rule 3.11.5.1.
88. This has been provided by Ms Sands and Mr Keenan within a proposed definition of Low Intensity Horticulture as follows:

***Low Intensity Horticulture***

*Including asparagus, vegetables grown under cover, legumes grown in arable rotations, all berries not included in the definition of vegetables, and fruit.*

***Fruit:*** *for the purpose of defining low intensity farming activities in Chapter 3.11XX means the following fruit grown in New Zealand for commercial purposes including commercial processing): (a) apples, avocados, babacos, berry crops, casanas, cherimoyas, citrus, feijoas, figs, guavas, kiwifruit, kiwiberries, loquats, passionfruit, pears, persimmons, quinces, sapotes, summerfruit (including apricots, cherries, nectarines, peaches, and plums), and tamarillos; and (b) the hybrids of the fruit listed in paragraph (a)".*

89. In terms of the structure of Rule 3.11.5.1 (or 3.11.5.2 as per the Block 2 Section 42A recommendations version), it would appear prudent to require the activity to register with Waikato Regional Council (to inform the accounting framework and future allocation). Stocking rate, NRP and slope controls are not relevant.

**Vance Hodgson**  
**July 2019**

## Attachment A

### Policy 1

Amend Policy 1 (Block 2 Section 42a recommendation version as follows)

**Policy 1: ~~Manage d~~ Diffuse discharge management s of nitrogen, phosphorus, sediment and microbial pathogens/Te Kaupapa Here 1: Te whakahaere i ngā rukenga roha o te hauota, o te pūtūtae-whetū, o te waiparapara me te tukumate ora poto**

Reduce ~~Manage and require reductions in~~ catchment-wide and sub-catchment-wide diffuse of discharges of nitrogen, phosphorus, sediment and microbial pathogens, by:

a1. Requiring all farming activities to operate at Good Farming Practice, or better; and

a2. Establishing, where possible, a Nitrogen Reference Point for all properties or enterprises; and

a. Enabling activities with a low level of contaminant discharge to water bodies ~~provided these discharges do not increase~~; and

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

b1. Calculating the 75<sup>th</sup> percentile nitrogen leaching values and requiring farmers with a Nitrogen Reference Point greater than the 75<sup>th</sup> percentile and 50<sup>th</sup> percentile and farmers with a Nitrogen Reference Point between the 50<sup>th</sup> percentile to reduce nitrogen loss to below the 75<sup>th</sup> percentile to demonstrate real and enduring reductions of nitrogen leaching, with resource consents specifying an amount of reduction or changes to practices required to take place; and

b2. Where Good Farming Practices are not adopted, to specify controls in a resource consent that ensures contaminant losses will be reducing;

b3. Except as provided for in Policies [1(a) and], [Policy 3](#), 16, generally granting only those land use and discharge consent applications that demonstrate clear and enduring reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens; and

b4. Except as provided for in Policies [1(a) and], [Policy 3](#), Policy 16, generally not granting land use consent applications that involve a change in the use of the land, or an increase in the intensity of the use of land, unless the application demonstrates clear and enduring reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens; and

c. Progressively excluding cattle, horses, deer and pigs from rivers, streams, drains, wetlands and lakes.

## Policy 3

Amend Policy 3 (notified version as follows)

**Policy 3: Tailored approach to reducing diffuse discharges from commercial vegetable production systems/Te Kaupapa Here 3: He huarahi ka āta whakahāngaihia hei whakaiti i ngā rukenga roha i ngā pūnaha arumoni hei whakatupu hua whenua**

~~Manage and require reductions in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens from commercial vegetable production through a tailored, property or enterprise-specific approach where: Provide for commercial vegetable production activities, including the flexibility to undertake crop rotations on changing parcels of land while requiring reductions in diffuse discharges from existing CVP and managing nitrogen, phosphorus, sediment and microbial pathogens for new CVP by:~~

- ~~a. Flexibility is provided to undertake crop rotations on changing parcels of land for commercial vegetable production, while reducing average contaminant discharges over time; and Adopting sector-based initiatives and other mitigation measures to progressively reduce losses of nitrogen, phosphorus, sediment and microbial pathogens.~~
- ~~b. Capping the maximum area in existing production for a property or enterprise is established and capped utilising commercial vegetable production data from each of the 10 years up to 2016; and~~

~~Establishing baselines for each property or enterprise that define:~~

- ~~(i) The maximum area of land for a proxy commercial vegetable rotation based on a representative sample of data from the ten years prior to 2016; allowing for the maximum area in any one year over that period; and~~
- ~~(ii) A proxy nitrogen leaching load associated with a rotation; and~~

~~Establishing sub-catchment and FMU baselines that define:~~

- ~~(i) Load associated with the proxy loads for the existing and new rotations in each sub-catchment and FMU.~~

- ~~c. Recognise the inter-regional domestic food supply values associated with commercial vegetable production by provisioning a maximum area of land available to support commercial vegetable food supply needs for population growth during the anticipated life of the plan subject to controls to ensure:~~

- ~~(i) The location is within the LUC I and II.~~
- ~~(ii) Sub-catchments identified as appropriate for CVP.~~
- ~~(iii) The proxy load associated with the CVP area is less than the FMU load limit accounting for any consents that have already been granted.~~
- ~~(iv) The proxy load associated with the CVP area less than the sub catchment load limit accounting for any consents that have already been granted.~~

- ~~d. Establishing a Nitrogen Reference Point for each property or enterprise; and A nitrogen reference point is established for land no longer utilised for commercial vegetable production.~~

- ~~e. Identified mitigation actions are set out and implemented within timeframes specified in either a Farm Environment Plan and associated resource consent, or in specific requirements established by participation in a Certified Industry Scheme. Enabling commercial vegetable production that manages diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens within baselines and through adherence to Good Farming Practice, Farm Environment Plans and relevant minimum standards.~~

- f. Providing for resource consents for commercial vegetable production activity that encompasses multiple properties within a sub-catchment or Freshwater Management Unit, provided that a) to e) above are met.
- g. Offsetting may be proposed for commercial vegetable production activity above the maximum area set out in b) and c), provided that the outcome achieved are losses of all four contaminants within sub-catchments that are equal to or greater than the increase from the commercial vegetable production activity.
- ~~d. A 10% decrease in the diffuse discharge of nitrogen and a tailored reduction in the diffuse discharge of phosphorus, sediment and microbial pathogens is achieved across the sector through the implementation of Best or Good Management Practices; and~~
- ~~f. Commercial vegetable production enterprises that reduce nitrogen, phosphorus, sediment and microbial pathogens are enabled; and~~
- ~~g. The degree of reduction in diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens is proportionate to the amount of current discharge (those discharging more are expected to make greater reductions), and the scale of water quality improvement required in the sub-catchment.~~

### Rule 3.11.5.5

Amend Rule 3.11.5.5 (notified version as follows)

#### Rule 3.11.5.5 - Controlled Activity Rule – Existing Commercial Vegetable Production

The use of land for commercial vegetable production and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water, is a permitted activity until 1 September 2021 or a date 6 months after the plan becoming operative, from which date it shall be a controlled activity (requiring resource consent) subject to the following standards and terms:

- a. The property is registered with the Waikato Regional Council in conformance with Schedule A; and
- ~~b. Nitrogen Reference Point is produced for the property or enterprise in conformance with Schedule B and provided to the Waikato Regional Council at the time the resource consent application is lodged; and~~
- b. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and
- ~~c. The land use is registered to a Certified Industry Scheme; and~~
- c. The areas of land, and their locations broken down by sub-catchments [refer to Table 3.11-2], that were used for commercial vegetable production within the property or enterprise each year in the period 1 July 2006 to 30 June 2016, together with the maximum area of land used for commercial vegetable production within that period, shall be provided to the Council; and. The following information, relating to the land used by the applicant for commercial vegetable production each year in the period 1 July 2016 to 30 June 2016, is provided to the Council:
  - i. The total, maximum area (hectares) of land used for commercial vegetable production; and
  - ii. The maximum areas (hectares) of land and their locations, per sub-catchment [refer to Table 3.11-2] and FMU [refer to Map 3.11-1]; and
  - iii. Quantification of nitrogen benchmarks utilising the most representative proxy farm system identified in the FEP Schedule aggregated at a sub-catchment; and FMU scale.
  - iv. A description of sediment control measures; and
- d. The total area of land for which consent is sought for commercial vegetable production must not exceed the maximum land area of the property or enterprise that was used for commercial vegetable production during the period 1 July 2006 to 30 June 2016; and;
- ~~g. Where new land is proposed to be used for commercial vegetable production, an equivalent area of land must be removed from commercial vegetable production in order to comply with standard and term f.; and~~
- e. The rotation for the period before and after the baseline period must meet the same or less intensive proxy rotation definition.
- f. A Farm Environment Plan for the property or enterprise prepared in conformance with Schedule 1 and approved by a Certified Farm Environment Planner is provided to the Waikato Regional Council at the time the resource consent application is lodged that, at a minimum, shows:
  - i. Good Farming Practice;
  - ii. Adherence to any relevant minimum standards; and
  - iii. That losses of nitrogen that do not exceed the maximum annual losses that were occurring during the 10 years up to 2016; and



- g. Full electronic access to a 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.

### **Matters of control**

- i. The content, compliance with and auditing of the Farm Environment Plan.
- ii. The maximum total and per-sub-catchment area of land to be used for commercial vegetable production.
- iii. The degree to which the crop rotation meets the nominated proxy definition.
- iv. ~~The actions and timeframes for undertaking mitigation actions that maintain or reduce the diffuse discharge of nitrogen, phosphorus or sediment to water or to land where these contaminants may enter water, including provisions to manage the effects of land being retired from commercial vegetable production and provisions to achieve Policy 3(d). The actions and timeframes to achieve Good Farming Practices or better and any relevant minimum standards to avoid exceeding baseline losses.~~
- v. ~~The actions and timeframes to ensure that the diffuse discharge of nitrogen does not increase beyond the Nitrogen Reference Point for the property or enterprise.~~
- v. The term of the resource consent.
- vi. The monitoring, record keeping, reporting, contaminant accounting and information provision requirements for the holder of the resource consent to demonstrate and/or monitor compliance with any resource consent and the Farm Environment Plan.
- vii. The time frame and circumstances under which the consent conditions may be reviewed.
- viii. Procedures for reviewing, amending and re-certifying the Farm Environment Plan.
- ix. The procedures and limitations, including Nitrogen Reference Points, to be applied to land that leaves the commercial vegetable growing activities.

### **Notification**

Consent applications will be considered without notification, and without the need to obtain written approval of affected persons.

### **Rule 3.11.5.5X**

New Rule 3.11.5.5X as follows:

#### **Rule 3.11.5.X – Restricted Discretionary Activity Rule – Commercial Vegetable Production: Provisional Growth**

The use of land for commercial vegetable production: provisional growth, is a restricted discretionary activity subject to the following conditions:

- a. The property is registered with the Waikato Regional Council in conformance with Schedule A; and
- b. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and
- c. The total area of land for which consent is sought for commercial vegetable production must not exceed the maximum land area calculated as additional sub-catchment Nitrogen load not exceeding 1%, using proxy rotations on land suitable for additional CVP, as defined in Policy 3 ci, cii.
- d. A Farm Environment Plan for the property or enterprise prepared in conformance with Schedule 1 and approved by a Certified Farm Environment Planner is provided to the Waikato Regional Council at the time the resource consent application is lodged that, at a minimum, shows:
  - (i) Good Farming Practice;
  - (ii) Adherence to any relevant minimum standards; and
  - (iii) That losses of nitrogen that do not exceed the proxy farm system aggregated at a sub-catchment; and FMU scale.
- e. Full electronic access to 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.

#### **Waikato Regional Council reserves discretion over the following matters:**

- i. The content, compliance with and auditing of the Farm Environment Plan.
- ii. The maximum total and per-sub-catchment area of land to be used for commercial vegetable production.
- iii. The actions and timeframes to achieve Good Farming Practices or better and any relevant minimum standards to avoid exceeding baseline losses.
- iv. The term that Council may apply to require a consent to be given effect to within a reasonable period of time to ensure that the activity consented occurs.
- v. The term of the resource consent.
- vi. The monitoring, record keeping, reporting, contaminant accounting and information provision requirements for the holder of the resource consent to demonstrate and/or monitor compliance with any resource consent and the Farm Environment Plan.
- vii. The time frame and circumstances under which the consent conditions may be reviewed.
- viii. Procedures for reviewing, amending and re-certifying the Farm Environment Plan.
- ix. The procedures and limitations, including Nitrogen Reference Points, to be applied to land that leaves the commercial vegetable growing activities.

#### **Notification:**

Consent applications will be considered without notification, and without the need to obtain written approval of affected persons.

**Rule 3.11.5.XX**

New Rule 3.11.5.5XX as follows:

**Rule 3.11.XX – Discretionary Activity Rule – New commercial vegetable production**

The use of land for commercial vegetable production that does not meet the conditions as a permitted, controlled or restricted discretionary activity.

(Consequential change to remove non-complying activity status for new commercial vegetable production).

## Schedule B – Nitrogen Reference Point

Add new Nitrogen Reference Point criteria to Schedule B as follows:

h. The NRP for land leaving CVP is to be calculated based on the activity in the sub-catchment at that time and the associated N load. I.e. sum up the grand-parented load for all the possible land in each sub-catchment, subtract the load associated with existing vegetable growing. Redistribute the remaining load across all the land (and that becomes the kg/ha) that remains on the land when a the CVP activity departs a site.

## Definitions

### **Commercial Vegetable Production Enterprises**

Means an aggregation of parcels of land that constitutes a single operating unit for the purpose of contaminant management.

### **Low Intensity Horticulture**

Including asparagus, vegetables grown under cover, legumes grown in arable rotations, all berries not included in the definition of vegetables, and fruit.

**Fruit:** for the purpose of defining low intensity farming activities in Chapter 3.11XX means the following fruit grown in New Zealand for commercial purposes including commercial processing): **(a)** apples, avocados, babacos, berry crops, casanas, cherimoyas, citrus, feijoas, figs, guavas, kiwifruit, kiwiberries, loquats, passionfruit, pears, persimmons, quinces, sapotes, summerfruit (including apricots, cherries, nectarines, peaches, and plums), and tamarillos; and **(b)** the hybrids of the fruit listed in paragraph (a)".