

Perrin Ag comment on Waikato Regional Council Plan Change1

The following provides a brief summary and commentary on the revised version of Waikato Regional Council (WRC) Plan Change1 (PC1). The content focusses on dairy and drystock farming. There are additional provisions that are not discussed here for vegetable production and all farming within the catchment of the Whangamarino wetland. It is based on our current interpretation and as with everyone else we are working through the implications of the Hearing Commissioner's recommendations. As pertinent new information comes to light we will endeavour to communicate this with you.

You can access the full report considered by the councillors here:

<https://www.waikatoregion.govt.nz/council/policy-and-plans/healthy-rivers-plan-for-change>

And useful summary factsheets of the Hearing Commissioner's recommended PC1 here:

<https://www.waikatoregion.govt.nz/council/policy-and-plans/healthy-rivers-plan-for-change/infosheets/>

What stage is Plan Change 1 (PC1) at?

- The Waikato regional councillors voted to accept the Hearing Commissioner's version on 18 March 2020. It is likely to be 'notified' (the point when the proposed plan becomes "official" and is released to the public) in early April, with 30 days for appeals to be lodged. This was of course prior to the Covid-19 lockdown
- PC1 is not yet operative. It will become operative once all appeals to the Environment Court have been resolved. If there were no appeals it would become operative in the near future
- Once operative the rules in the Plan will start to take effect.

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- The rules are likely to be appealed. The appeal process can take some time, so the rules are not likely to come into effect in the near future. However, it is important to start considering what these rules mean for your business.



What has changed, what are the new rules and what does this mean for my farm?

- Council are advising, through factsheets, that all farms are permitted until the plan becomes operative
- Properties over 4.1ha will still need to register with WRC, and the date will depend on what catchment you are in
- There are a set of minimum standards all farms must meet (focused on stock exclusion, cropping and fertiliser use)
- You no longer need to submit a Nitrogen Reference Point (NRP). If you have done a NRP that includes the 2015/16 year you can still use this for your **Nitrogen Leaching Loss Rate (NLLR)** (Table 1) but a later year may be more suitable
- The rules now use your nitrogen loss (NLLR), your winter stocking rate, farm type and a set of Minimum Farming Standards to determine whether your farming activity is permitted, or requires a consent. Your NLLR will also determine what type of consent you need and the requirements the Council places on your farm via the consent, such as required level of change
- A NLLR is a modelled calculation of the N loss from your farm for a year between (and including) 2015/16 and 2019/20 or the most recent farming year
- If drystock farms can operate at a winter stocking rate of 18 revised stock units (RSU)/ha or less and meet the Minimum Farming Standards they are likely to be permitted. Dairy farms can be permitted if they have a NLLR in the "low" band and can also meet the Minimum Farming Standards
- Dairy farms with a NLLR in the moderate category, or drystock farms with a winter stocking rate of 18 RSU/ha or more, will need controlled activity consents. Non-drystock farms with a NLLR in the high category or properties with blocks that are separated by more than a road or river, will need a discretionary consent. Controlled activity consents must be granted, however the Council can impose conditions on the matters they have identified in the rule. Under a discretionary activity Council have full control over whether or not the consent is granted and what conditions it can impose

Table 1: Nitrogen Leaching Loss Rate levels:

Freshwater Management Unit ³	Low (kgN/ha/year)	Moderate (kgN/ha/year)	High (kgN/ha/year)
Lower Waikato River	≤ 21	>21 and ≤ 29	> 29
Middle Waikato River	≤ 21	>21 and ≤33	> 33
Upper Waikato River	≤ 31	>31 and ≤ 57	> 57
Waipā River	≤ 30	> 30 and ≤43	> 43

- Most farms over 20ha that are permitted (once the plan is operative) will need a Farm Environment Plan. The farm plan needs to meet certain criteria but does not have to be signed off by a certified person
- All farms with consents will need certified Farm Environment Plans. A Farm Environment Plan will identify actions that need to be taken in order to minimise contaminant losses from your farm. The actions need to be auditable, time bound and the plan needs to be signed by a

Certified Farm Environment Planner (it can be prepared by anyone). The Farm Planner certification process is under development

- The dates you need to get consents will depend on the sub-catchment you are in and if you can meet the Minimum Farming Standards
- Land use change is restricted and will need to be discussed with Council.

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- The Hearings Commissioners have made significant changes to the plan and WRC are still working through the detail of how it will be implemented
- Farms, especially in the high and moderate bands, can expect to have to make some changes that reduce the contaminant losses from their properties
- In contrast to the previous version's requirement to reduce below the 75th percentile, the revised version of the plan has not set reduction requirements. Instead, the plan is focused towards minimising contaminant loss and achieving good farming practice on all farms
- However, the 'high limits' for Freshwater Management Units in Table 1 are calculated from the values supplied to WRC (2015-16yr) by Fonterra and equate to the 75th percentile
- 'Low limits' are generally the bottom 25th percentile
- Farms in the moderate NLLR category operating at best practice and with high nitrogen efficiency will probably not need to reduce their Overseer nitrogen losses, at this stage
- Farms operating in the high NLLR category operating at best practice and with high nitrogen efficiency, will have to demonstrate why they shouldn't have to reduce their nitrogen losses. It is unclear how significant this hurdle will be
- It is yet to be clarified how Overseer version changes will be treated with fixed NLLR thresholds
- The first step for farmers is to identify their sub-catchment (and required timeframes) and then understand what consent pathway they are likely to fall into. NLLR must be determined by a Certified Nutrient Management Advisor.

Minimum farming standards

- Generally, unless approved through a consent all pastoral farms will need to meet the Minimum Farming Standards
- Schedule C of PC1 requires all waterbodies on land with a slope of up to 15 degrees, or where the slope is > 15 degrees and farming on the adjoining land exceeds 18 RSU/ha, to be fenced to exclude cattle, horses, deer and pigs. Some intermittent waterbodies may also need to be fenced depending on their characteristics
- Fencing is not required if these animals are prevented from entering the bed of a waterbody by a stock proof barrier (natural or constructed)
- New fencing is required to meet certain setbacks, but existing fencing does not have to be moved
- A waterbody is defined as:
 - The bed of any river (including spring, stream and modified river or stream) or artificial watercourse that is permanently or intermittently flowing
 - The bed of any lake
 - Any wetland, including a constructed wetland, greater than 50m²

- The dates for fencing and stock exclusion from waterbodies are:
 - Within two years of PC1 becoming operative; or
 - One year after PC1 becomes operative if the farm is located in a sub- catchment that is identified as sensitive to *E. coli*.
- Stock can cross through waterbodies if the location is identified in your farm plan and they are driven across in a single movement
- Nitrogenous fertiliser is not to be applied at rates greater than 30kgN/ha and cannot be applied in June and July if the soil temperature is below 10 degrees
- A 10m un-grazed vegetated buffer strip is required between crops grazed in June, July, and August and waterbodies
- No cultivation can occur within 5m of any waterbody
- No cattle older than two years or greater than 400kgs live weight are grazed on forage crops on land use capability (LUC) class 6e, 7 or 8 land, from 1 June to 1 September.

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- While the plan may undergo appeals which impact these Minimum Farming Standards, it will be important to understand if your farm business can meet these from the operative date and if not what change may be required
- Farms will need to ensure their business can meet these Minimum Farming Standards in the long term to ensure business viability. In some cases capital expenditure will be required and in other cases changes to the farm system may be needed
- While these are Minimum Farming Standards under PC1, farmers may also need to meet future minimum standards based on other national policy. It is not clear yet if these will or will not align with PC1 and we will continue to monitor any changes.

What should I do if I am selling or purchasing a property?

- Under the previous version of PC1 it was important that vendors had a Nitrogen Reference Point (NRP) completed so that the purchasers were aware of how the property would be limited under the rules at that time
- The revised version of PC1 states that a NLLR must be established for a property if it is either greater than 20ha or used for commercial vegetable production, and where it is required by one of the rules in PC1.

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Dairy Farms

- Because NLLRs can be based on the most recent farming year, people who purchase a property and can farm the property for a year prior to the rules becoming operative may be able to establish a NLLR based on their own farm system. However, this approach is risky as it is not known when the rules will become operative or if an alternative base year is preferable
- If possible, it is advisable for a vendor to provide all Overseer analysis and supporting data to a purchaser back to the 2015/16 year, or for their highest loss year and sufficient evidence to demonstrate this is likely to be the highest loss year, of the years in question

- Similarly, a purchaser should require the provision of any such information available as a condition in the contract
- A purchaser should understand what the nitrogen loss from their proposed farm system will be and how that compares to the property's NLLR. Additional considerations would be the degree of investment required to bring the property up to Minimum Farming Standards.

Drystock farms

- The revised rules don't appear to require the establishment of a NLLR for drystock properties, therefore records of historical N loss may not be necessary
- However, because the rules may potentially change and the interpretation and implementation plan is still being worked through, we consider it prudent for any Overseer files and supporting information to be passed from the vendor to the purchaser
- As with dairy properties additional considerations would be the degree of investment required to bring the property up to Minimum Farming Standards.

For any further queries please contact your own consultant or any of the team at Perrin Ag.

30 March 2020