

In the matter of: **Clause of Schedule 1 – Resource Management Act -
Submission on publicly notified plan change – Proposed Waikato
Regional Plan Change 1 – Waikato and Waipa River Catchments**

And: **Hill Country Farmers Group
Submitter ID 73321**

And: **Waikato Regional Council
Local Authority**

**Hill Country Farmers Group
Summary of Hearing Block 2 Presentation - Scheduled June 24, 2019**

Introduction

1. The beauty and character of our hill country environment and indeed those very communities that depend upon it are under threat - not because they are in any way incompatible with achieving the V&S, but because the people who live and work in the hills were never properly consulted to determine a set of workable environmental rules. Some of these rules are not at all well suited to hill country.
2. We will comment on topics in HS2 which:
 - a. Directly impact on our communities and/or our creeks
 - b. We know something about
3. We will be arguing strongly that our type of non-intensive farming should remain a “permitted activity” and tighter regulatory control is both unjustified and excessive.
4. We will provide an alternative pathway to the Schedule C fencing rule and discuss how CSA management can be built into Farm Environment Plans to provide certainty and accountability for the wider community.
5. The footprint of extensive hill country farming is not heavy enough nor sufficiently well understood to justify an excessively restrictive and expensive regime as proposed by the CSG. In addition, WRC have no idea how to implement stock-exclusion in hill country, nor the mitigation of every creek and would not have the resources to manage such a regime.
6. In HS1 we argued that PC1 proposal needed to change because:
 - a. The modelling of both environmental and financial costs was deficient with respect to hill country farming - in that it ignored:
 - i. construction “spill” and stock tracking that will be associated with fencing all creeks to 25 degrees
 - ii. Mitigation costs for creeks beyond 25 degrees as required by Schedule1

- iii. Likely capital devaluations resulting from PC1 restrictions and compliance requirements
- b. We argued that a less expensive and less destructive approach could focus the management of Critical Source Areas and provided some examples with costings.
- c. We provided the independent report by Baker Ag which showed that the financial burdens being placed on hill country families were unbearable. This report also showed:
 - i. PC1 created differing problems for different farms
 - ii. These case studies contradict those who “sugar coat” or perhaps misunderstand the cost burden being placed upon drystock sector
 - iii. The farm with the lowest stocking rate (and most likely best water) was burdened with the heaviest costs

7. A summary of the financial implications for hill country farmers as calculated by Mr Beetham is as follows:

Family	Compliance cost	NRP opp. cost pa	LUC erosion of land value
Farm A	-\$299K	nil	nil
Farm B	-\$627K	nil	nil
Farm C	-\$399K	-\$256K	-\$1,845K
Farm D	-\$188K	-\$167K	nil
Farm E	-\$26K	nil	-\$619K

Stock Crossings

8. We welcome the acknowledgement by the S42 that the imposition of tens of thousands of stock crossings (as required in Schedule C) across hill country paddocks is problematic. We contend that such a provision would lead to unnecessary sediment generation during installation and flood events. Therefore we support the Officers conclusion at S42a V2 Para 929 “the stock crossing provisions in the draft national regulations may be helpful” and the inclusion of Officers amendments to Schedule C.

Stock Exclusion

9. We were surprised to see that the S42 Officers had not taken a consistent and similarly pragmatic approach to the treatment of stock exclusion. The PC1 provisions around stock exclusion are one of the main issues submitted on by the Hill Country Farmers Group. We oppose the mandatory fencing of streams to 25° on the basis that it both fiscally and environmentally reckless.

10. This rule needs to be changed because it is not effects based. Fences do nothing to stop contaminants flowing over the land and discharging to waterbodies during rain events, they only stop direct deposition which has been shown not to be a significant issue under our extensive hill country farming systems.
11. We will illustrate 5 good reasons to changes this 25° fencing rule, because it is:
 - Unaffordable
 - Unwarranted and unproven
 - Inefficient allocation of resources
 - Creates unintended consequences and perverse incentives
 - Impractical and indeterminate
12. In practice it will contaminate rather than improve our headwaters and in doing so take us further from rather than closer to the V&S.
13. We propose the best solution is to mandate stock exclusion for intensive farming $\geq 18\text{SU/ha}$ and mandate CSA remediation for extensive farms $< 18\text{SU/ha}$.
14. Alternately but less preferably, if cattle, deer, and pigs must be excluded for low intensity farming $< 18\text{SU/ha}$, rules should specifically apply to permanently flowing waterbodies, only where $\geq 75\%$ of the adjacent land on both sides of the water body is < 15 degrees slope.
15. Contaminant risk on the rest of hill country is best approached through the identification and mitigation of those critical source areas that are impacting on water quality.

Unaffordable

16. The Commissioners will note the quotation to fence a single creek on Farm B, as appended to the BakerAg Report - \$262,160. Much of the cost was attributed to the right hand side of the creek (photo to be presented) - where 15 hours of bull dozing and many hours of hand digging were required to establish a fence line. Because of the variations in slope, post spacings are much closer. Because of the winding nature of the stream there are a lot more "angles" (a large post to withstand angular strain) and stays (posts used to support other posts). In fact, whether it is 1, 2 or 3 or 5 wire is largely irrelevant in the overall costings. What makes fences expensive is preparation, posts and labour and hill country fencing requires much more of all those things than lowland fences. The BakerAg Report likely understates costs of fencing as the mapping techniques used do not account for the various steep sidelings and natural obstacles to be fenced around. We understand that not every farm will be hit with such costs, but for many such costs will be prohibitive.

Unwarranted & unproven

17. It is our view that scientific literature provides only one study on stock exclusion that is relevant to Waikato hill country.
18. Quinn & Hughes *“Before and After Integrated Catchment Management in a Headwater Catchment: Changes in Water Quality”* (2014) state *“The removal of cattle from riparian areas had an immediate and positive effect on stream water clarity”*. But then go on to note that *“where riparian areas were planted (or naturally regenerated) with trees and shrubs and livestock were excluded, the stream water clarity decreased.”* They attribute this worsening of clarity to *“a reduction in ground cover vegetation (caused by shading by weeds, trees and shrubs) that armour stream banks against preparatory erosion processes”*. They also note *“The response of different forms of N and P to the catchment management changes has been complex with concentrations increasing at some sites.”* In summary, of the two hill country streams where livestock exclusion was introduced, one of them improved for clarity, the other deteriorated for clarity and both streams, surprisingly, showed increased levels of P and N. It may also be observed that some of the pre and post ICM difference in sediment could possibly be due to changes in stock policy where a breeding cow system was changed to a bull beef system as this was not possible for the trial to adjust for.
19. This trial also confirmed the results of a prior study in 2002 by Quinn and Stroud in the same catchment which clearly showed that even pre-harvest, pine-trees produce more sediment than extensive sheep and beef farming.
20. In other words, for the key pollutant in our sub-catchment, sediment, plantation forestry is worse than pasture and fencing off creeks may, counterintuitively, make it worse in the long run, due to bank shading and loss of root structure.
21. These studies and others suggest that the maintenance of a thick mat of grass is one of the best mitigations against stream bank erosion in hill country. Perhaps with the exception of those critical areas (CSAs) where stock frequent, the best thing we can do is to leave stream banks exactly as they are - extensively grazed with a good cover of pasture.
22. We concur with Quinn and Hughes (2014) where they note in concluding summary, *“These findings highlight the complexity of the response of stream water quality to catchment management changes and illustrate the need for catchment managers to consider a range of factors when planning catchment rehabilitation measures.”* We would argue that one of those factors should be the scientific basis of so called “mitigations” which are proven by diligent and published work in hill country environments and provide proven benefits to justify the costs.

Misplaced allocation of resources

23. We agree with the view of Mr Gerry Kessels, expert witness for B&LNZ in HS1. At paragraph 47 of his expert witness statement Mr Kessels notes *"...the effectiveness of FEPs will be curtailed by these same rules, which also require mandatory stock exclusion provisions by fencing in relation to slope for certain lands regardless alternative methods developed through the FEP process. In effect, the fencing regulations could override a mix of potentially more effective or efficient on-farm management or edge-of-field mitigation alternatives identified during the development of individual FEPs, especially for those farming systems on more diverse geologies and slopes above 15 °s. The reason being is that farmers will have to prioritise resources towards erecting and maintaining fences for stock exclusion of waterways on slopes greater than 15 °s (and less than 25 °s), thereby reducing opportunities and resources to use other management and mitigation options available to achieve similar or more effective outcomes."*
24. Mr Kessels continues in Paragraph 51 of his statement that *"Fencing stock from waterways has a number of direct and positive effects on reducing pollution runoff and enhancing biodiversity values (for example, Belsky et al. (1999)²³ and McDowell et al. (2017)²⁴). However, McDowell et al (2013)²⁵ concludes, the effectiveness of fencing off stock as a strategy to mitigate contaminant loads is highly site and contaminant specific, ranging from highly effective in flat areas and where contaminants are particulate associated, to very ineffective in steeper areas and where contaminants are mobile."*
25. Dr Dada, in his statement as expert witness for B&LNZ, notes that *"A review of published studies indicate that direct deposition is a minor percentage of total annual catchment E.coli loads to waterways in the Waikato Region, and that surface runoff is the major source of faecal pollution from agriculture in the Waikato Region. It is logical that if the streambank fencing is erected for reducing animal access and delivery of E. coli to waterways, there could still be elevated E. coli levels in PC1 streams that run through agricultural catchments. Rather than a 'blanket fencing approach' currently proposed in the WRPC1, a more effective response to reduce the risk of pathogens from agricultural land uses entering waterbodies is the identification and management of critical source areas."*
26. In review of the Compliance Map for Farm C appended to these notes we suggest that there is expert support for hill country mitigation expenditure to be focussed solely on the CSA area (marked in orange) rather than being diluted by unnecessary fencing and attempting to "mitigate" every single creek.

Unintended consequences

27. The major problem with building fences in hill country is they will in the long-run exacerbate rather than mitigate our key issue - sediment. This comes about due to increased exposure of soil during the construction phase due to mechanical benching and later through developing stock tracking.

Perverse incentives

28. We suggest there is a significant likelihood that this provision to exclude cattle from waterways will counterintuitively result in hill country farmers lifting cattle numbers and reducing sheep numbers. This trend will be driven by practical management issues, increased maintenance costs and associated animal-health risks of trying to graze sheep in areas where cattle-only stock exclusion fences are present.

Impractical & Indeterminate

29. Hill country creeks exhibit a huge variation in slopes within the same paddock and present a difficult problem to those interpreting slope thresholds. In Dec 2015, WRC implementation team advised the CSG that slope criteria *“has some difficult definition and measurement implications for enforcement”*. (file no 231002)
30. After multiple attempts to get some clarity around this rule we received a written answer from the Council on April 15, 2019 (appended to these notes for the Commissioners information). Mr Gasquoine answers: *“There are no current guidelines on what constitutes a 25 ° slope creek – these will be developed once we have an operative plan.”*
31. The implications of this issue are many. How can all the FEPs developed for hill country over the past few years know whether they are truly compliant or not? How can any confidence be placed in the CSG and Council modelling of fencing costs if they don't know what constitutes a 25 ° creek? To be clear, this is not a small problem at the margins or periphery of the land being discussed but a core uncertainty that will be present to a large extent on virtually every hill country farm. By way of illustration we have attached LUC maps for Farm A to these notes which calculate that 44% of land area was categorised to be between 21 and 35°. On Farm B the figure was 46%.
32. We suggest we follow the lead of 7 other regions who resolved this difficulty by applying a simple farming intensity threshold to determine whether or not stock exclusion rules should apply. Intensity is to large degree a proxy for slope and vice-versa. Extensive hill country farming, as indicated by its description, occurs on the very type of land with difficulties measuring slope and building fences and those same slopes present inherent limitations to intensification.
33. Alternately, we can follow our national water leadership body, the LAWF and limit fencing to those downland areas <15 ° where the terrain is less variable and the science less opaque. We suggest for clarity this option also includes some minimum threshold where 75% of the adjacent land on both sides of the water body is <15 °.
34. S42a V2 Para 899 would suggest that Officers are now recommending that in addition to excluding stock from perennial waterways that farmers should also exclude them from intermittent ones. We oppose such a provision on the basis of increased cost and uncertainty.

35. S42 Officers state in S42a V2 Para 890, in relation to the draft national stock exclusion rules NPS-FM (which cap fencing to 15° and recommend more appropriate measures for hill country) that *“Officers consider that the draft regulations would not meet the requirements of reducing contaminant losses from farm land in accordance with the 80-year timeframe to achieve the water quality objectives of the Vision and Strategy.”* The Officers provide no further analysis to back such considerations. We disagree with this opinion and assert that if hill country farmers are pushed to build fences beyond this sensible limit of 15° then we will most definitely not achieve water quality objectives of the V&S - as every fence built will take us further away from our targets because it will exacerbate sediment, won't be effective in mitigating E.coli and could conceivably elevate P and N levels.
36. S42a V2 Para 904 states that *“The Officers acknowledge that while fencing of waterbodies and the associated works around water reticulation...may involve a significant financial cost, but those costs are an **unavoidable consequence** of achieving the outcomes sought by the Vision and Strategy and PC1.”* We strongly refute this statement. The most grievous part of these costs are entirely avoidable if the regulators take a more sensible approach - as is the collateral damage to our streams.
37. This unnecessary fencing of hill country creeks will not only degrade our creeks in itself, but will by its very magnitude take essential financial resources away from more effective mitigation strategies thereby creating a “double-whammy” against our stream ecology and against the V&S.

Land Use Change

38. It is our understanding that the moratorium on Land Use Change as described in Policy 16 was primarily designed to halt the conversion of forestry on high leaching pumice soils to dairy production in the Upper Waikato. Some of our members now support some restrictions in this area. Some of us also now understand that Iwi, due to traditional ownership structures have not had access to the same capital as pakeha to develop their land to the same extent and have therefore effectively been disadvantaged by this “freezing” of land use.
39. The Baker Ag Report projects significant erosion of equity for several of the case studies due to Policy 16 and it would be reasonable to say that such farmers were the intended target of the land use change rule.
40. There is perhaps a case for restrictions of certain land use change in some catchments but not necessarily in all catchments and that those restrictions should be based on the catchment profile of nutrient loading.
41. Quinn and Stroud, Land use effects on water quality and exports (2002) found that whilst changing pasture into forestry reduced Nitrogen exports from hill country, it also increased sediment.

42. In another study (McKergow et al, 2010) it was noted that during a storm event a pine forest catchment exported 4x as much sediment as an adjacent pasture catchment and that a native forest catchment exported 3 x as much as pasture.
43. Could it be that, for a catchment like ours where sediment is apparently a more important issue than N, that there should be some flexibility in this LUC rule, because a prohibition on changing from Pines into Pasture on hill country will in fact aggravate rather than alleviate our sediment problem? In other catchments where N is the greater problem, then it would seem that the currently proposed LUC restriction on converting forestry to pasture may have some justification.
44. We propose that instead of “one rule for all” that Land Use Change is assessed within the context of sub-catchments nutrient profiles. We also encourage the Commission to at least consider the possibility of a partial Land Use Change rule where some sort of regulatory pathway is afforded to those farmers who want to sell or lease or nominate a small portion (say <30%) of their farm for a different Land Use. That would at least maintain the moratorium on wholesale dairy conversions from forestry and extensive drystock but also provide the necessary flexibility for those small-scale land use changes required to pursue market opportunities and trends.

NRP

45. The provision of a mandatory NRP is unnecessary, and unjustified for low intensity hill country farms. Our overall N footprint is minor and the risk of sector wide increase is minimal and does not therefore justify a mechanism that will have potentially severe impacts on individuals financial equity and sustainability.
46. Conceptually, we oppose a planning mechanism that essentially locks in historical land practices regardless of environmental and economic efficiencies. Such a mechanism effectively persecutes those who have never engaged in environmentally damaging activities, those who operate at relatively benign levels of intensity and those who have taken proactive environmental steps to mitigate their exports of N.
47. The key issue that low emitters face under a ‘grandparenting’ regime is that the market will price-in such regulatory limits to land values and effectively discount low emitting properties and offer a premium for high emitting properties. Thus, the well-meaning idea of a reference point by which farmers can be ‘judged’ by Council, will inevitably lead to disastrous consequences where those who have done the least harm to the environment will be judged the most harshly by the marketplace.
48. S42 Officers note (S42a V2 Para 287) *“A great many submitters have opposed this framework, with a large number criticising the “grandparenting” approach whereby low emitters are locked into a low emitting future. There is also considerable support for the rule framework and its reliance on a NRP, notably from the dairy sector.”* We suggest this support is based around an apparent satisfaction that highly intensive environmental footprints will

be locked in place in perpetuity whilst those with less intensive and undeveloped land will be similarly 'frozen in time'. Justifications for the equity of such an arrangement appear to point toward the CSG modelling which we have already noted is deficient in many aspects, particularly with respect to its forecasting of costs for the drystock sector, in that it ignores:

- a. capital devaluation for low leaching farmers
- b. costs of mandatory mitigation for creeks >25°s
- c. costs of CSA mitigations

49. Those that have intensified to the point where they have caused water quality degradation and in particular the increasing trends in nitrogen, are being rewarded and empowered to continue and to take the allocation from those farmers who for various reasons operated below environmental limits.
50. We note that N load from Hill Country Sheep & Beef appears to be 7% and declining according to the WRC's report (HR/TLG 2015-2016/1.4) Review of Historical Land Use and Nitrogen Leaching Waikato and Waipa Catchments September 2015. Most of our land has inherent slope limitations to intensification and most of us are farming in a very similar way to our forefathers. Evidence presented B&LNZ expert Andrew Burt, showed that the average stock rate for our industry has declined rather than intensified in recent years. We would, therefore, argue that the environmental risk of allowing some small amount of N flexibility for low emitters is minimal.
51. The imposition of "grandparenting" rules on low emitters, is in our view, environmentally inefficient, and well summarized by Dr Dewes in P28 of her HS2 evidence where she states that *"Capping extensive or very low (i.e. under 20 kg N per ha per year) leaching farming systems at their historic N discharge levels, provides business uncertainty, reduces the resilience and viability of the business, impacts on land values and therefore bankability of the farm. It also reduces the ability for the farm to internalise other externalities which may result in greater environmental benefits, such as reducing erosion and phosphorus, protecting and enhancing biodiversity, and further reducing the risk of pathogen losses from the farm."*

Mitigations beyond 25 degrees

52. In Schedule 1, farmers are required to provide alternative mitigation measures for every creek in areas with a slope exceeding 25°. We contend that such a rule is redundant if we are also charged with mitigating our Critical Source Areas and simply diverts funds away from the environmental priorities of CSA remediation.
53. The term "mitigation" is applied with various definitions depending upon who you talk to in the WRC. The ambiguity of such a rule merely provides another reason to delete, because not only is it potentially expensive and environmentally redundant, but implementation and enforcement are likely unworkable.

Slope

54. WRC's own figures show that livestock pressure is the least significant, contributing to only 4% of bare soil of the total exposed area. There are many other contributing factors that in our opinion are far more important than slope such as tracks, stock management, stock age and season, pasture cover, soil type and structure. Furthermore, most areas considered too steep to farm sustainably have already been identified by our forefathers and left as indigenous forest, fenced out or replanted.
55. Regardless of acknowledging a probable lack of supporting evidence in S42a V2 Para 737-740, Officers continue to propose a slope limitation for grazing livestock. If the Officers refer to livestock grazing on crops, then we suggest they clarify this position. If they are indeed promoting a new regulatory concept of slope based grazing cap we most strenuously oppose it.

Cultivation

56. The proposed wording of Permitted Activity Rule with respect to slope thresholds for cultivation or grazing is extremely exclusive and fails to enable practices which are low risk and can be better managed through effective FEPs that identify and mitigate critical sources areas. As indicated by the Officers, *"The net result of the permitted activity conditions is likely to mean that (very) few properties would qualify as a permitted activity."* (S42a V2 709)
57. Conceptually we oppose a planning mechanism that relies on control of inputs such as maximum area, slope, season when an alternative effects-based process can be applied. The value of Farm Environment Plans is in assessing areas of potential risk, exploring the issues which may lie in the margins and describing the practices used to minimise the discharge of environmental emissions.
58. The most recent (S42a V2) definitions of Cultivation and Winter Forage Crops are clear and reasonable and provide appropriate guidance in applying activity rules. However, the risks associated with either pasture or crops are inherent in how they are established and how grazing is managed, not in the fact that cropping or grazing occurs. As we have described, the difficulty measuring slope on variable hill country presents intrinsic weakness when used as a prescriptive tool and therefore may be too blunt and the lack nuance of good practice that can be better expressed through FEPs. We would not like to see blanket limits put on cropping or grazing slopes when the real issue is how these slopes are grazed.

FEPs

59. HCFG supports the use of FEPs as an effective tool to engage Farmers and document the process of environmental decisions on farm. We believe that FEPs are a way to demonstrate that most Farmers have some potential and ability to improve water quality. The type and magnitude of actions taken must be tailored to the circumstances and consequently the

nature and cost of FEP implementation will vary between different properties and farm systems.

60. Logically, it is farm-scale actions that are relevant within the farm boundaries but FEPs must also demonstrate cohesion with Regional (or National) standards and Catchment level objectives, as well as take a risk-based approach to addressing the unique features of individual properties and farm systems.
61. Within the farm boundaries we can expect FEPs to:
 - Describe a pathway to compliance with Schedule 1
 - Provide identification of risks – both diffuse and critical sources of emissions
 - Plan for actions to avoid, remedy or mitigate environmental risks
 - Specify associated budget of costs
 - Specify timeframes for completion of capital works
62. We propose that a significant saving in workload and cost can be achieved by enabling Farmers under a Low Intensity Threshold of 18 SU/ha to prepare their own FEPs. Such an approach avoids much of the double-handling that would occur if a farmer must engage a CFEP to write (or pre-approve) an FEP followed by a further auditing system which also confirms this plan is satisfactory and its implementation is progressing.
63. While the availability of 'expert' advice is beneficial when required, we feel with Council, Industry and Sector support, Farmers will be most effective in developing and managing their own Farm Environment Plans.
64. Outsourcing this service to a Council accredited 'provider':
 - Creates an industry centred around the bureaucracy of compliance
 - Does not optimise the potential for raising farmer awareness and capability
 - Undermines the sense of ownership of both problems and solutions
 - Promotes an atmosphere where environmental actions on farm become dependent on an external trigger
 - Inhibits development of innovative solutions
65. Farmers not only have specific knowledge and experience in the stewardship of our land and animals, we have transferable skills and familiar process for risk management. An example of how such a farmer-initiated planning system might work in practice is our risk management for Health and Safety which is a similar process to Farm Environment Planning.
66. Farmers can access support and comprehensive guidance material for Farm Environment Planning offered by Industry, Sectors, Central and Regional government. We recommend that Farmers attend a workshop to cover the expected standards for FEPs, as well as regular refreshers to stay up to date on current material.
67. While we suggest many Farmers will manage their own FEPs effectively, there will be those who have neither the time nor inclination to do so and will prefer to engage consultants.

Farmers should retain the option to employ CFEP consultants or participate in Certified Sector Schemes as appropriate to their circumstances. However, we believe mandatory pre-approval of all FEPs by CFEPs will be costly and unwarranted, and for Low Intensity Farming under a Permitted Activity Status and we submit that these environmental funds are better spent on actions which will directly improve water quality.

68. We suggest FEPs should play a key role for all activities, including Low Intensity Farming, in meeting the objectives in PC1. Checking the standard of FEPs and progress of implementation could be addressed in several ways. It is premature to present a preferred thorough and robust auditing programme at this time but we offer some suggestions for consideration.
69. Failure to provide a FEP under a Permitted Activity would trigger a consequential shift up the hierarchy of Activity Rules, one requiring consent, Overseer analysis and setting an NRP control. Alternately auditing may identify deficient FEPs requiring specified timeframes to rectify or referral to CFEP or CSS for support. Whether it is Council staff or consultants that will oversee an audit largely comes down to capability (knowledge, experience), capacity (resources) and funding, and should emphasise both consistency and impartiality. We will be eager to make an informed recommendation during discussions on specifications for Schedule 1 in Hearing Stream 3.
70. The effectiveness of a protocol to elicit a predicted outcome when applied by different practitioners is known as ‘inter-operator reliability’ – meaning we should get a similar result no matter who is administering the protocol. However, there has been wild variance, depending on the source, between interpretation of rules, definition of thresholds, assessment of risk, and suggested effective mitigations. We require the rules to be written with utmost clarity and with careful intention as to how they should be applied, not so they can be adapted, modified or overruled on the tenuous authority of Council staff or consultants.
71. Hill Country Farmers support the idea of FEPs but are reluctant to invest time and money in writing one until the PC1 rules are sorted out and presently acceptable mitigations appear to be whatever the Council wants on the day. We are confident that Farmer capability with FEPs is not the weakest link in this plan. We must sort out the rules first to something clear, proven and practical, so that farmers and consultants can apply these rules in a consistent and repeatable way to develop high quality FEPs.
72. We believe Farmers with “skin in the game” are more likely to be strategic in the utilization of resources, innovative in their solutions and highly results focussed. Farmers need to retain both agency & responsibility over how we manage our farms, our work volume, scheduling and priorities, as well as budgets and financial decisions. If not, at best PC1 becomes a game of minimum compliance to imposed demands.
73. Positive outcome with any type of intervention is closely correlated to an expectation of success. A Farmer-developed FEP that is solution-focussed and addresses Critical Source

Areas provides a vehicle for Farmers to make a difference. Farmers need to believe their actions are relevant to reaching targets and feedback on progress with water quality must be communicated clearly and often.

74. FEPs should be considered a “living document” with flexibility for unforeseen circumstances, weather events and responsive to changes on farm that could affect outcomes. Regular feedback on water quality will tell us whether our actions are indeed having the expected effect, whether we are closing in on targets and this will be essential to inform effective and efficient revisions in FEPs.
75. As we stretch Environmental budgets to get the biggest bang for our buck, each mitigation should be evaluated on a cost/benefit basis. We also have a time budget and must be mindful of realistic allowance for completion of work. Any FEP that does not include a variety of available options with estimated costs and timeframes for implementation is purely academic. Farmers need recommendations that work in practice, not only in theory, and budgets for cost and time may have very real repercussions on success.
76. As for providing certainty to the wider community and Iwi that we will indeed take positive actions and play out part, we believe such certainty is ingrained in the FEP process we have supported. By providing a pathway for extensive hill country to remain a PA conditional that a FEP is submitted, regulators are in fact providing both a stick and a carrot to get this work done.
77. The details of how those plans should be audited is yet to be determined but will necessarily have to provide the wider community with assurance that these environmental promises are being delivered on by farmers and to a consistent standard of quality. Furthermore the Council’s own water monitoring and feedback plans which are yet to be seen, should underline the progress made by farmers and provide a further level of comfort to the wider community.

Permitted Activity Rule

New Rule 3.11.5.XX Permitted Activity Rule - Farming activities with stocking rate less than 18 stock units/hectare

*The use of land for farming activities (excluding commercial vegetable production) and the associated diffuse discharges of nitrogen, phosphorous, sediment and microbial pathogens, onto or into land in circumstances which may result in those contaminants entering water is a **permitted activity** subject to the following conditions:*

1. *The property is registered with the Waikato Regional Council in conformance with Schedule A; and*
2. *For grazed land, the winter stocking rate of the effective grazing area of the property is <18 stock units per hectare; and*
3. *No arable cropping occurs; and*
4. *A Farm Environment Plan has been prepared for the property in accordance with the requirements of Schedule 1 and submitted to Waikato Regional Council as follows:*
 - a. *By XX for priority 1 sub-catchments listed in Table 3.11-2*
 - b. *By XX for priority 2 sub-catchments listed in Table 3.11-2*
 - c. *By XX for priority 3 sub-catchments listed in Table 3.11-2; and*

If stock exclusion is specified, we provide recommended wording as follows:

5. *Cattle, horses, deer and pigs are excluded from water bodies where 75% of the adjacent land on both sides of the water body is <15 degrees slope. Where break feeding occurs, cattle are excluded from water irrespective of slope.*

Defining Low Intensity Threshold

78. Finding the right stocking rate setting to capture the intended subset of Low Intensity Farming activity is an important issue. Setting this threshold too high would be counter to the overall objectives of PC1 and its responsibilities to the Vision & Strategy. Setting this threshold too low will bump many Low Intensity Farms up the hierarchy of activity rules to a controlled or discretionary activity, one that requires consent, Overseer analysis and setting an NRP control. As the Officers state *“This is by no means an insignificant issue, and goes to the heart of questions over PC1 with respect to compliance costs, industry capacity and Council’s capacity to complete the presently staged FEP and consenting process by 2026.”* (S42a V2 Para 294)

79. We agree entirely and wish to help the WRC make best use of its resources by focusing its compliance activities on intensive farming whilst allowing low-risk farming below 18SU/ha operating with a FEP to remain a permitted activity. Meeting PC1 objectives requires applying appropriate & effective actions where they are made possible by farmers but equally requires a mature and pragmatic approach by regulators to acknowledge and accept that some actions are unnecessary or impractical.
80. Setting the Permitted Activity Threshold affects a multimillion-dollar compliance industry, with Overseer costs alone predicted from \$7.5M to \$25M and additional consent costs increasing lock-step with more rigorous activity rules. (S42a V2 444) HCFG believe reliance on this level of analysis should be minimised for Low Intensity Farming using a simple intensity threshold to inhibit intensification and FEPs to minimise CSA risks.
81. If we retrace the steps to arrive at the current prescribed threshold *“15 kg N/ha/yr was chosen as a leaching rate that would equate to a low impact farming system”* and *“a stocking rate of 10 stock units per hectare would be roughly equivalent to a leaching rate of 15 kg N/ha/yr”* and *“farms with a stocking rate of 10 stock units or less would generally be considered low impact farming systems”* (S42a V2 161), we see that the basis for all this conversion is an arbitrary ‘choice’ for what is considered low intensity.
82. 18 SU/ha may also be an arbitrary measure but is an established and accepted convention for the distinction between low & high intensity farming. Traditionally stocking rate is defined as the stocking rate as at 30 June.
83. Defining Low Intensity is perhaps more difficult to do than describing what it is not.
- not generally reliant on Nitrogen inputs
 - not significantly supported by supplementary feed inputs
 - does not match the lowest intensity Dairy systems 1 & 2
84. There is precedence in many other regions for defining High Intensity Farming as the key threshold for more rigorous rules, and using a variety of descriptions:
- uses substantial environmental control and/or modification to facilitate growth of livestock and/or vegetative matter
 - equal or more than 18 stock units
 - cattle or deer grazed on irrigated land
 - livestock contained for break-feeding of winter feed crops
85. Low Intensity Farming is generally none of those things and closely correlates with the natural capital of the soil and the natural grass growth curve. S42 Officers have stated (S42a V2 Para 305) they are very supportive of a permissive framework for *“farming situations where the effects are considered to be at the low end of the scale”* so that they are not *“penalised for having done the right thing”* but are *“finding it difficult to clearly articulate in the rule framework exactly how this could be done.”*

86. We agree entirely with the Officers here and suggest that a combination of a PA to 18SU/ha with mandatory FEPs that identify and mitigate CSA's in hill country could be exactly that solution which Officers are finding so difficult to articulate. Not only will it achieve a less 'resource-intensive' regulatory framework for those at the low end of the scale - but it would eliminate in practice much of the ambiguity and subjectivity that surround slope thresholds. Those who will argue against such targeted regulation on the grounds that we would be somehow not be taking responsibility or contributing, are simply misunderstanding the nature and scale of the CSA remediation program that would ensue. Under such a scenario every hill country farmer would be forced to take responsibility for those bits of their farm that really matter and if he is unwilling to make such a commitment, then we suggest that he or she should face a higher level of regulatory approval.

Controlled Activity Rule

87. S42 Officers state *“Plan Change 1 as notified identified that the majority of farming activities that are unable to comply with the permitted activity rules, but are not intensifying (able to comply with the historic NRP) would be a controlled activity” and “Officers are concerned that a controlled activity status will mean that Council is unable to decline an application that clearly increases the losses of any or all of the four contaminants under a controlled activity framework. Similarly, without a clear and unambiguous threshold as to what constitutes an increase in the losses of those contaminants, a controlled activity status would appear to have some risks. Officers have nevertheless included an option for a controlled activity rule (Rule 3.11.5.2A Controlled Activity Rule – Medium intensity farming), for what are considered lower risk farming activities, and welcome evidence at the hearing on the robustness of its thresholds.”* (S42a V2 Para 293)

88. We do not support this Controlled Activity Rule as presented by the Officers. It attempts to solve the intensity threshold issue (not capturing those it is intended for) by creating a hybrid between SU and NRP controls when the logical solution would be to simply change the threshold. As Officers describe, this rule also creates a potential paradox where activities must be closely scrutinized but not able to be declined. It is unclear what this achieves other than additional workload and cost for both applicant and Council. Enabling Permitted Activities to a threshold of 18 SU/ha while also operating with a FEP offers better advantage, as it widens the net to capture more low intensity farms and ensures property specific environmental risks are addressed.

Conclusion

89. This Commission will need to find a pathway that hill country farmers and Iwi can walk together. A pathway that is wide enough for most of us to walk, and one that will eventually lead to the 80 year targets. Because the pathway proposed by the CSG needs some urgent remapping so that a more sensible route is plotted through our hill.
90. Some will argue we just need more time to adjust - we respectfully disagree. To us that simply passes the ball to our children.
91. We acknowledge that under this proposal some **will** be asked to do more than others. Some hill country farmers who are less intensive may have generally lower CSA remediation costs. Others at the higher end may have substantially higher remediation costs. Those who refuse to participate and those who wish to embark upon changes in land use will, and in our view should, have higher regulatory hurdles to jump over. Those who cultivate will necessarily have to invest in mitigations as a part of their FEP.
92. We all need to move on and change some of the worst aspects of the CSG proposal. We need policies for hill country catchments that are supported by science not politics, or dogma.
93. We absolutely reject those simplistic and spurious arguments of dairy industry lobbyists - that essentially amount to "what's good for the goose is good for the gander". We can do much better than that - there is absolutely no reason in the world why this Commission cannot recommend a set of rules that are appropriate for intensive farming and another set that are appropriate for extensive farming. Seven other regions have, after all, already headed down this track.
94. We cannot fight pollution with ignorance, with arrogance nor with poorly defined rules and impossibility subjective assessments. To fight pollution we need a set of rules where all hill country farmers take responsibility for their own environmental footprints. Where farmer leadership, science, education, regulation work in tandem to change how we farm. Where CSAs are clearly identified and addressed on every hill country farm. Where Council regulators focus their limited resources on those at the high risk end of the pollution spectrum and let those at the low risk end remain a permitted activity - with certain conditions.
95. Despite our low risk status, we are prepared to contribute to the overall solution and spend significant amounts of money looking after those bits of our 1265 waterways that need looking after. In return, we wish to retain our permitted activity status.
96. We don't pretend to have all the answers for hill country but we do have more than the WRC and CSG - whose collective knowledge of hill country catchments is frightening in it's paucity and whose policy recommendations to date have been "adventurous". We are not so unreasonable as to try and absolve ourselves of all blame and responsibility - the only

thing we have ever argued for is “justified and appropriate” water solutions. Justified by science and appropriate for our hill country environment. We understand that once some resource is applied by WRC to our catchments and once some science-based understandings can be agreed, that we may indeed have to ‘chart a new course’ but we are nowhere near that point today. And so what we are asking for... is simply a beginning. But at least to begin - that is the important thing...