

# **Proposed Natural Resources Plan for the Wellington Region**

## **Section 42A Hearing Report For Hearing commencing 10 July 2017**

**Report dated: 9 June 2017**

Report on submissions and further submissions

**Topic: Land use in riparian margins and stock  
access to surface water bodies and the CMA**

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**Table 1: List of abbreviations**

<b>List of abbreviations</b>	
Coastal marine area	CMA
Department of Conservation	DoC
Ministry for the Environment	MfE
National Policy Statement – Freshwater Management	NPS-FM
New Zealand Coastal Policy Statement	New ZealandCPS
Proposed Natural Resources Plan for the Wellington Region	proposed Plan
Regional Coastal Plan	Coastal Plan
Regional Freshwater Plan	Freshwater Plan
Regional Policy Statement for the Wellington Region	RPS
Resource Management Act 1991	RMA
Wellington Regional Council	Council



## **1. Executive summary**

1. This report considers submissions on the Proposed Natural Resources Plan (proposed Plan) on provisions related to land use in riparian margins and stock access to surface water bodies and the coastal marine area (CMA).
2. The report outlines recommendations in response to the issues that have emerged from submissions.
3. There are 614 submission points and 130 further submission points on the provisions addressed in this report.

## **Key issues and responses**

4. I have organised the submissions on the provisions related to land use in riparian margins and stock access to surface water bodies and the CMA into the proposed Plan framework of definitions, objectives, policies, rules, and other methods.
5. The issue that has been submitted on in the greatest numbers and with the widest range of views and relief sought are the rules for managing livestock access to surface water bodies and the CMA. Submissions on these rules are addressed in Issue 4.

## **Overlapping topics**

6. Submissions on land use in riparian margins and stock access to surface water bodies and the CMA overlap with the following topic reports:
  - ‘Wetlands and biodiversity’: Rules that refer to Schedule F3 sites, Schedule F1B sites, and Schedule F2a sites;
  - ‘Beds of lakes and rivers’: Rules that refer to Schedule C sites;
  - ‘Coast’: Rules that refer to Schedule F4 sites;
  - ‘Water quality’: Rules that refer to the Zone of reasonable mixing, Schedule C sites, and Schedule A sites;

- “Discharges to land’: Rules that refer to community drinking water supply abstraction sites.
7. While the topics covered by this report include provisions that refer to Schedules A, C and F, this report does not address submission points that seek amendments to these schedules or provisions relating to community drinking water supply abstraction sites.

## **2. Introduction**

8. My name is Barry Loe. I work as a resource management advisor in private practice in Christchurch.
9. Since 1985 I have been involved in the investigation and management of effects on the environment of discharges of contaminants, use of water, contaminated land and land use. I was employed earlier in my career by catchment authorities and regional councils, and since 1991 I have undertaken these services as a contract resource management advisor to councils and other clients. From 2002 to 2010 I was a contract regional planner to Canterbury Regional Council developing objectives, policies and methods, including rules, for the land use, water quality, contaminated land and air quality provisions of the Canterbury Natural Resources Regional Plan. I am the RMA advisor to a range of companies and individuals to assist them with resource management matters, and prepare applications for resource consents, including Assessments of Environmental Effects for proposed activities. The areas of commercial activity of these clients include; rural production, animal rearing and meat processing, vegetable processing, quarrying and waste management.
10. I was engaged by the Wellington Regional Council (the Council) after the proposed Plan was notified, specifically to prepare this section 42A officer's report for the hearing of submissions.

## **3. Code of conduct**

11. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with it.
12. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
13. I am authorised to give this evidence on the Council's behalf.

## 4. Scope of hearing report

14. This report is prepared in accordance with section 42A of the Resource Management Act 1991 (RMA). This report considers submissions and further submissions (submissions) that were received by the Council in relation to the provisions for the management of riparian margins and stock access to surface water bodies and the CMA in the proposed Plan. These provisions are listed in Table 2.

<b>Table 2: Provisions covered by this report</b>
<p><b>2 Interpretation -- Definitions of:</b>                      Cultivation                      Livestock                      Dairy cows                      Category 1 surface water body                      Category 2 surface water body                      Break-feeding                      Stock crossing point                      Zone of reasonable mixing                      Stock drinking point</p> <p><b>3 Objectives</b>                      Objective O27 Riparian margins                      Objective O44 Land use effects on soil and water                      Objective O45 Livestock access to water bodies</p> <p><b>4 Policies</b>                      Policy P72: Zone of reasonable mixing                      Policy P99: Livestock access to water bodies                      Policy P100: Riparian margins for cultivation and break-feeding                      Policy P101: Management of riparian margins</p> <p><b>5 Rules</b>                      Rule R94: Cultivation or tilling of land                      Rule R95: Break-feeding                      Rule R96: Cultivation and break-feeding                      Rule R97: Access to the beds of surface water bodies by livestock                      Rule R98: Livestock access to the beds of surface water bodies</p> <p><b>6 Methods</b>                      Method M12: Sustainable land management practices</p>

Section 5 of this report is a statutory background to the management of land use in riparian margins and stock access to surface water bodies and the CMA. Section 6 of this report is a background to the key issues discussed in this report, and section 7 of this report is an analysis of the submissions and further submissions.

15. Appendix A sets out my recommended amendments to the provisions of the proposed Plan to manage land use in riparian margins and stock access to surface water bodies and the CMA and provides my section 32AA assessment for these.
16. Appendix B contains my recommendations on submissions.
17. Appendix C provides a list of individual submitters to the provisions covered by this report.
18. Appendix D contains a list of submitters to the provisions covered by this report who used a common template.
19. This report is intended to be read in conjunction with other RMA section 42A officers' reports relating to the proposed Plan. These are:
  - Part A: Introduction and procedural matters, which contains procedural background information, statutory context and administrative matters pertaining to the regional plan review and the proposed Plan;
  - Part A: RMA section 32 and consultation; and
  - Part A: Overall framework of the proposed Plan.

The three 'Part A' RMA section 42A reports are common to all topics while all other reports, including this one, are specific to each topic and address the submissions and further submissions relevant to that particular aspect of the proposed Natural Resources Plan.

20. This report addresses submissions lodged on the management of land use in riparian margins and stock access to surface water bodies and the CMA provisions of the proposed Plan.

21. Some of the issues addressed in this report are interrelated with matters addressed in the Section 42A officers' reports: 'Wetlands and biodiversity' (Hearing 3); 'Water quality' (Hearing 4); and 'Beds of lakes and rivers' (Hearing 5).

## **5. Background – Statutory and non-statutory documents**

22. There are statutes, policy statements and proposed regulations which have relevance to managing land use in riparian areas, livestock access, cultivation and break-feeding. There are also a range of industry standards and guidance documents, which have no legal effect, but which provide useful information in a resource management context.

### **5.1 Resource Management Act 1991**

23. Council has responsibility under the RMA to control land use for the purposes of maintaining and enhancing water quality (section 30(1)(c)(ii) of the RMA), and to control discharges onto land or into water (section 30(1)(f) of the RMA) to achieve the purpose of the RMA.

24. The use of land outside the CMA is controlled by section 9 of the RMA. This section is generally 'enabling' in that it generally enables the use of land unless that use is restricted by a national environmental standard (NES), or a rule in a regional or district plan. If a land use is restricted by an NES or a regional rule, resource consent may be sought unless the use is prohibited. This means that if Council wishes to control any use of land in order to maintain and enhance water quality, it must do so by restricting this use through provisions in the regional plan. Restrictions on livestock access to land in wetlands, drains and water races to maintain or enhance water quality, can be implemented through regional rules under section 9.

25. Section 12 restricts the use of the CMA. Section 12 is generally 'restrictive' in respect of stock access to the CMA as any disturbance or depositing on the

foreshore or seabed that is likely to have an adverse effect must be authorised by an NES or a regional rule, or by resource consent.

26. Discharges to land and water are controlled by section 15 of the RMA. Section 15 is generally 'restrictive' when dealing with discharges to water or to land that may enter water – no person may discharge any contaminant to water or land where it may enter water unless this discharge is expressly permitted by a rule in a plan, an NES or a resource consent has been granted. This means that if the regional council wishes to permit a discharge, it must expressly be a permitted activity in the regional plan, otherwise resource consent would be required. Livestock access to water bodies may result in a discharge of waste from the animals into water, or onto land where it may enter water in a river, lake, wetland or the CMA.
27. Section 13 of the RMA controls certain activities in the beds of lakes and rivers. Some activities are 'restricted' by section 13 and some are 'enabled'. Of relevance to the topic of livestock access, 'entering or passing across' the bed of a river or lake is 'enabled' by the RMA unless there is a rule in the regional plan restricting this. However, the 'disturbance of the bed' of a river or lake may not occur unless it is expressly authorised by a rule in a plan, NES or resource consent. Livestock crossing will 'enter or pass across' the bed of a river or lake, and they are also likely to 'disturb the bed' by that passage. This means that in order to expressly allow livestock access to the bed of a river or lake, rules in a regional plan need to clearly allow both the access and the disturbance.
28. Section 70(1) of the RMA directs that regional councils shall not include a permitted activity rule in a regional plan for a discharge that enters water that would cause, after reasonable mixing, any of the following to occur (either as a result of that discharge or in combination with other contaminants):
- The production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials;
  - Any conspicuous change in the colour or visual clarity;
  - Any emission of objectionable odour;

- The rendering of fresh water unsuitable for consumption by farm animals;  
or
- Any significant adverse effects on aquatic life.

29. The Council must be satisfied that none of the above will result before making a rule permitting a discharge. Section 70(2) provides further direction that if a rule for a discharge to water requires ‘best practicable option’ management to prevent or minimise any actual or likely adverse effects, the regional council shall be satisfied that the inclusion of that rule is the most efficient and effective means of preventing or minimising those adverse effects on the environment.

#### **5.1.1 National Policy Statement for Freshwater Management (2014)**

30. The National Policy Statement for Freshwater Management (NPS-FM) 2014 is of particular relevance as it supports improved freshwater management in New Zealand by directing regional councils to establish objectives and set limits for fresh water in their regional plans and give regional councils specific direction on how this should be done. Amendments to the NPS-FM have been proposed in 2017 that are intended to clarify the application of objectives and policies in the NPS-FM 2014.

31. Objective A1 of the NPS-FM is to safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems, of fresh water and the health of people and communities, at least as affected by secondary contact with fresh water. To achieve this objective, the NPS-FM sets national bottom lines for two compulsory values – ecosystem health and human health for recreation – and minimum acceptable states for other national values. The NPS-FM also acknowledges iwi and community values by recognising the range of iwi and community interests in fresh water, including environmental, social, economic and cultural values.

32. Objective A2 is, in part, to protect the significant values of outstanding freshwater bodies and to protect the significant values of wetlands.

33. Policy C1 of the NPS-FM is clear that the government expects regional councils to manage land use as one of the methods to maintain and improve

water quality including to achieve the national bottom lines, where these are currently not achieved. Policy C2 expresses the expectation for regional councils to amend regional policy statements to provide for integrated management of the effects of the use and development of land on fresh water, and land and fresh water on coastal water.

34. The Council is implementing the NPS-FM principally through the whitua process, based on a catchment-specific collaborative process with the community (GWRC 2017). The provisions in the proposed Plan for livestock access, break-feeding and cultivation will also help implement aspects of the NPS-FM across the Wellington Region. In particular, the provisions will help safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems, of fresh water and the health of people and communities. The provisions for livestock access also specifically protect outstanding freshwater bodies and the significant values of wetlands.

#### **5.1.2 New Zealand Coastal Policy Statement (2010)**

35. The New Zealand Coastal Policy Statement 2010 (New ZealandCPS) is to be given effect to by the regional coastal plan. The New ZealandCPS acknowledges that diffuse sources of contamination can result in poor and declining coastal water quality. New ZealandCPS Policy 22 requires that sediment loadings in runoff to the CMA be reduced by controls on land use activities.
36. The definition of surface waterbody in the proposed Plan includes estuaries, which are within the CMA. The lowest reach of a river that flows to an estuary or the coast may also be within the CMA. In the proposed Plan, Objectives O27, O44 and O45, Policies P99 and P100, and Rules R96, R97, R98 and R99 are identified as applying in both coastal marine area and landward area, by the coastal icon  at each provision. The icon was, however, omitted in error from Rules R94 and R95, but it was intended that these rules also apply in the CMA.

### **5.1.3 National Environmental Standards for Sources of Human Drinking Water (2007)**

37. The Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007 (NES-Drinking Water) have specific requirements (Regulations 9 and 10) that apply to permitted activity rules that have the potential to affect drinking water sources for registered community drinking water supplies (those supplying populations of 501 or more people for 60 or more days each year).
38. The NES-Drinking Water requires regional councils to consider the effects of activities on drinking water sources in their decision-making. Specifically, it requires that permitted activities in regional plans will not result in community drinking water supplies being unsafe for human consumption following existing treatment.
39. Defecation and urination by livestock directly into water can result in increased pathogens e.g. bacteria, viruses, and parasites entering a drinking water supply. These pathogens can endanger human health. Treatment processes may not eliminate these pathogens.

### **5.1.4 RMA Regulations**

#### **Proposed national regulations for stock exclusion from water bodies**

40. The government is proposing national regulations requiring farmers to, progressively from 2017 to 2025, ensure that cattle, including dairy cows, farmed deer and farmed pigs, do not enter water ways more than 1m wide, or any lakes or wetlands. Dairy cows are to be excluded from all waterways on the plains. The stock exclusion requirements were first proposed in the Ministry for the Environment 2016 publication *Next steps for fresh water: Consultation document*, and further developed in the publication, *Clean Water* (MfE 2017). At the time of writing, submissions on the proposal for stock exclusion requirements have closed. The proposals will be subject to further refinement, prior to regulations being drafted by the Parliamentary Counsel Office. These regulations are expected to commence taking effect in July 2017, with progressive implementation through to 2030, depending on stock type and land slope. Land slope will be classified using the Landcare Research Manaaki Whenua ‘Steepness of Slope’ on-line database.

41. Table 3 below, sets out the currently drafted proposals to exclude cattle, deer and pigs from surface water bodies. Dairy cattle on milking platforms<sup>1</sup>, and pigs, are to be excluded from all water bodies, including waterways over 1m wide, by 1 July 2017, and from waterways less than 1m wide on the plains by 2020. The requirements for exclusion of stock are proposed to be progressively extended to land used for dairy support<sup>2</sup>, and to beef cattle and deer at later dates through to 2030. Access to surface water bodies by other livestock, such as; sheep, goats, horses, water buffalo and alpaca are not managed under the proposed regulations.

**Table 3: Proposed national livestock exclusion requirements**

Farm/stock type	Plains (0-3°)	Undulating / rolling land (>3-15°)	Steeper land (>15° and over)
Dairy cattle (on milking platforms) and pigs	1 July 2017 for waterways over 1 metre wide on all slopes 1 July 2020 for waterways less than 1 metre wide on the plains		
Dairy support (on either land owned/leased by the dairy farmer or third party land)	1 July 2022 for all waterways on the plains regardless of size and waterways over 1 metre wide on rolling land		Only where break feeding, by 1 July 2022
Beef cattle and deer	1 July 2025 for all waterways regardless of size	1 July 2030 for waterways over 1 metre wide	
	Where break feeding, by 1 July 2022		

Extracted from: *Clean Water* Ministry for the Environment 2017

42. The proposal also includes requirements to exclude cattle and deer from all water ways when break-feeding is being undertaken, and limit the use of stock crossings in the bed of a water body. It is proposed that beef cattle, deer and pigs will be able to cross a water body provided they are supervised and actively moved across in one continuous movement. If a stock crossing is used more frequently than once a week, the crossing must have a bridge or culvert installed by 1 July 2019.

<sup>1</sup> The milking platform is the area of a dairy farm devoted to feeding cows on a daily basis during the milking season.

<sup>2</sup> Dairy support is land used for grazing dairy cattle throughout the off-season, when the cows are not being milked.

43. The proposal for regulations contains an alternative option, when a landowner is unable to meet the requirements of the regulations, they may apply to the regional council for permission to develop a 'stock exclusion plan'. The plan would set out the alternative mitigation to be undertaken to manage impacts of stock access, where stock exclusion is not feasible. The stock exclusion plan must be approved by the regional council.
44. The proposed regulations will set the minimum requirements for stock exclusion, and the timing for the implementation of the requirements. The impacts of the regulations will be determined by the provisions of the RMA (refer section 68(2)) and the provisions of the regulations. At this stage, the proposal is not to override more stringent rules in a regional plan, and regional councils will be able to apply stock exclusion rules more widely where they see this as necessary or desirable.
45. Once the regulations come into force, the rules in the proposed Plan may require further consideration to ensure that the rules in the decisions on the plan are consistent with the regulations.

#### **5.1.5 Regional Policy Statement for the Wellington Region**

46. The Regional Policy Statement for the Wellington Region 2013 (RPS) identifies the following significant resource management issues:

***Poor ecosystem function in rivers, lakes and wetlands***

*The ecosystem function of some rivers, lakes and wetlands has been impaired, with some wetland and lowland stream ecosystems coming under particular pressure. Some activities that can impair ecosystem function are:*

...

*(c) removing streamside vegetation*

...

*(f) stock access to river and stream beds, lake beds and wetlands, and their margins*

...

47. The RPS has objectives for achieving water quality and ecosystem health. These are:

- *Objective 6: The quality of coastal waters is maintained or enhanced to a level that is suitable for the health and vitality of coastal and marine ecosystems.*
- *Objective 12: The quantity and quality of fresh water:*
  - (a) meet the range of uses and values for which water is required;*
  - (b) safeguard the life-supporting capacity of water bodies; and*
  - (c) meet the reasonably foreseeable needs of future generations.*
- *Objective 13: The region’s rivers, lakes and wetlands support healthy functioning ecosystems.*
- *Objective 26: Mauri is sustained, particularly in relation to coastal and fresh waters.*
- *Objective 27 Mahinga kai and natural resources used for customary purposes are maintained and enhanced, and these resources are healthy and accessible to tangata whenua.*

48. A wide range of policies in the RPS direct how these objectives are to be achieved. These include:

- Policy 12: Management purposes for surface water bodies – regional plans  
*Regional plans shall include policies, rules and/or methods that:*
  - (a) require that water quality, flows and water levels, and the aquatic habitat of surface water bodies are to be managed for the purpose of safeguarding aquatic ecosystem...*
- Policy 18: Protecting aquatic ecological function of water bodies – regional plans  
*Regional plans shall include policies, rules and/or methods that:*
  - ...
  - (c) promote the protection and reinstatement of riparian habitat;*
  - ...
  - (f) discourage stock access to rivers, lakes and wetlands;...*
- Policy 19: Managing amenity, recreational and indigenous biodiversity values of rivers and lakes – regional plans  
*Regional plans shall include policies, rules and/or methods that:*

*(a) maintain or enhance the amenity and recreational values of rivers and lakes, including those with significant values listed in Table 15 of Appendix 1; and*  
*(b) protect the significant indigenous ecosystems and habitats with significant indigenous biodiversity values of rivers and lakes, including those listed in Table 16 of Appendix 1.*

49. RPS Policies 23 and 24 direct regional plans to identify and protect ecosystems and habitats with significant indigenous biodiversity values, including those of significance to tangata whenua.

50. RPS Policies 36 and 37 require that when undertaking a review of a plan particular regard be given to effects on natural character, and safeguarding the life-supporting capacity, of coastal and marine ecosystems.

51. The most relevant RPS methods include:

- *Method 8: Prepare and disseminate information about the restoration and enhancement of degraded water bodies and the natural character of the coastal environment,...*
- *Method 15: Prepare and disseminate information about sustainable land management practices.*
- *Method 32: Involve iwi, hapū, marae or whānau, stakeholders, landowners and the community in the protection of the values associated with the rivers and lakes identified in Appendix 1.*
- *Method 36: Support industry-led environmental accords and codes of practice where these will lead to the achievement of objectives of the Regional Policy Statement.*

#### **5.1.6 Operative regional plans**

52. The operative plans relevant to the management of riparian margins and stock access to surface water bodies and the CMA report are; the regional Freshwater Plan for the Wellington Region (Freshwater Plan) and the regional Soil Plan for the Wellington Region (Soil Plan) and the regional Coastal Plan for the Wellington Region (Coastal Plan).

53. The operative provisions in the Freshwater Plan, the Soil Plan and the Coastal Plan reflect a permissive regulatory approach towards the management of livestock access to surface water bodies and the CMA, and regarding break-feeding and cultivation.
54. The operative plans do not exercise Council's ability to control land use under section 9 of the RMA, for the purpose of maintaining and enhancing water quality, such as requiring cultivation or break-feeding set-backs. The operative plans also do not specifically contain rules that allow livestock access to disturb the CMA or the bed or other land in surface water bodies under RMA sections 12 and 13, or discharge contaminants into water under section 15. Such activities require authorisation by a regional rule or resource consent, so in the absence of regional rules, livestock access is not authorised under the operative plans, so could require a discretionary consent, as the default activity status for any unspecified activities. The Council has not, to date, approached managing this issue through a regulatory process, but has used a non-regulatory approach to inform and encourage land owners to adopt industry best practices.

#### **5.1.7 Regional Freshwater Plan**

55. The Freshwater Plan addresses land-use effects on water quality and quantity section 12.1.3. The explanatory text in this section is clear that the Freshwater Plan does not make rules on land use.

Several policies in the Freshwater Plan address riparian margins. These are; Policies 4.2.9, 4.2.10, 4.2.11, 4.2.12 and 4.2.13. Policy 5.2.15 in the Freshwater Plan addresses non-point source discharges such as from agricultural land use, but it is a policy to promote mitigation of adverse effects, rather than use regional rules. The Freshwater Plan contains a mix of methods that address riparian management.

#### **5.1.8 Regional Soil Plan**

56. In the Soil Plan, Objective 4.1.11 and Policy 4.2.16 address the use of land management practices to minimise soil disturbance. The explanation for Policy 4.2.16 advocates contour cultivation, direct drilling, the establishment of riparian strips, and protecting areas from grazing animals.

57. Policy 4.2.14 of the Soil Plan promotes riparian management and the explanation for the policy notes that a riparian management strategy will be prepared as a means of implementing the policies relating to riparian management.
58. The Soil Plan does not have any rules specific to cultivation or riparian management.
59. Council manages several non-regulatory programmes through internal Council departments such as Land Management, which offer assistance for the development of farm environment plans, fencing and the establishment and maintenance of vegetated riparian margins.

#### **5.1.9 Operative plans: Effectiveness and efficiency**

60. Prior to the notification of the proposed Plan the Council relied on the use of non-regulatory management guidelines (GWRC 2011) and a reactive approach of responding to complaints, to manage the adverse effects of livestock on surface water bodies. As there are no rules restricting this activity in the operative plans, there is a lack of clarity for livestock owners and the community regarding the circumstances under which animals are permitted to be in a river, lake, wetland or the CMA. The lack of specific provisions in the operative plans are an inefficient and ineffective way to achieve the policies in the plans and the requirements of sections 9, 12, 13 and 15 of the RMA.
61. Council enforcement officers responded to over 80 incidents about livestock access between 1 January 2009 and 31 July 2015. Without specific provisions in the operative plans, council officers relied on sections 12, 13 and 15 of the RMA, rather than on regional rules to address these incidents.

#### **5.1.10 Implementation of the proposed Plan**

62. Since the proposed Plan was notified in July 2015 Council staff have developed and commenced programmes to assist land owners to understand, plan and implement measures to meet livestock exclusion and restrictions required by proposed Plan provisions. The focus to date has been sites in Category 1 surface water bodies, of which there are about 400 in the region.

63. The Category 1 sites have been divided into four classes, with the two dominant classes being 'complex sites' on private land, and sites on public land. There are 215 complex sites, involving 120 landowners. An initial assessment has been completed for 90 of the complex sites. These assessments show that at 43% of sites inspected stock have already been excluded from the water body by fencing.
64. Programmes to exclude stock will be developed with the landowners on sites not yet protected from stock access. About 70% of landowners contacted so far have indicated support for the programme, and fencing has commenced at five sites.
65. The Council's Land Management team reports that the network of contacts from soil conservation Farm Plan work undertaken between the Council and landowners has been invaluable to this new process. The established relationships allow for positive conversations in the majority of cases, and outcomes can be achieved with a co-operative approach.

#### **5.1.11 Non-regulatory guidance and industry standards**

66. The Council has not undertaken any specific research or monitoring to investigate the effects of livestock access on surface waters in the Wellington Region, and the Council has relied on investigations undertaken elsewhere in New Zealand, such as Davies-Colley et al (2004), to identify the actual and potential adverse effects of stock access to water bodies.
67. MfE and the Department of Conservation (DoC) have produced guidance documents that advocate livestock exclusion from surface waters and the use of contour ploughing and riparian set-backs to reduce the effects of certain land uses on water quality and ecosystem health. (MfE 2001a, MfE 2001b, DoC 2006).
68. The Dairying and Clean Streams Accord signed in 2003, was a voluntary agreement between Fonterra, Ministry for the Environment, Ministry of Agriculture and Forestry, and regional councils to exclude dairy cows from waterways. This accord ran until 2012 and was a key non-regulatory driver in respect of excluding stock access to water. The 2003 agreement was

superseded by the *Sustainable Dairying: Water Accord* (Dairy Environment Leadership Group (DELG) 2013), which has agreed targets for livestock exclusion and riparian management.

69. Under the 2013 water Accord all dairy cows are to be excluded from permanently flowing streams and drains that are at least 1m wide and 30cm deep. This is to be achieved in the first instance on paddocks used during the milking season (the milking platform). After 31 May 2017, this will also be required on land used to support the dairy farm, such as winter runoff blocks. Exclusion is to be achieved through the use of permanent fencing. In addition, all farms are to have riparian management plans by 2020. The national target set by DairyNZ to have 50% of dairy farms with waterways to have a riparian management plan by 31 May 2016 was not achieved, with only 27% achievement by that date.
70. In the Wellington Region, most dairy farms are cooperative members of Fonterra. The Supply Fonterra environment programme (Fonterra 2012) has a set of minimum standards, similar to those in the Accord, which must be met by all suppliers. Fonterra could refuse to accept milk from non-compliant farms. In addition, Supply Fonterra requires that sediment from tracks, sacrifice paddocks and winter forage blocks must not enter waterways. I have not been able to source specific information about the implementation of these programmes in the Wellington region.
71. In 2011, Council published *A Guide to Managing Stock Access to Waterways* (GWRC 2011). The Guide was developed in partnership with Federated Farmers, Fonterra, DairyNZ, Beef and Lamb New Zealand and the New Zealand Deer Farmers Association. The guide includes recommendations to fence off areas where it is practicable and where heavier livestock are likely to be grazed.
72. The industry groups for beef and sheep and for deer have guidelines which generally recommend animals be excluded from water bodies (Beef and Lamb New Zealand 2014, New Zealand Deer Farmers Association 2012). The

industry group for pig farmers, New ZealandPork, recommends that all water courses should be fenced (MPI 2012).

73. To assist and inform landowners to succeed with riparian planting and management of riparian areas, Council published *Mind the Stream* (GWRC 2009), and DairyNZ has published *Getting riparian planting right in the Wellington Region* (DairyNZ 2014).
74. Industry-agreed Good Management Practices for Water Quality 2015 (Matrix of Good Management Project Partners 2015)<sup>3</sup> is a cross-agricultural, land-based industry accord to identify good management practices (GMPs) to maintain or improve water quality. GMPs include:
- *Identify risk of overland flow of sediment and faecal bacteria on the property and implement measures to minimise transport of these to water bodies.*
  - *Locate and manage farm tracks, gateways, water troughs, self-feeding areas, stock camps, wallows and other sources of runoff to minimise risks to water quality.*
  - *To the extent that is compatible with land form, stock class and intensity, exclude stock from waterways.*
  - *Select appropriate paddocks for intensive grazing, recognising and mitigating possible nutrient and sediment loss from critical source areas.*

## 6. Background – Issues

### 6.1 Overview of the issues

#### 6.1.1 Issues

75. The Council, in 2010, commenced region-wide engagement with the community to help define the resource management issues for the development of the proposed Plan (GWRC 2014a): Two significant issues identified are:

#### Issue 4.2: Aquatic ecosystem health impairment

*The ecosystem health and function of surface water bodies is being impaired by activities that degrade habitat quality, with some wetland and lowland stream ecosystems coming under particular pressure.*

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<sup>3</sup> The Matrix of Good Management (MGM) project is a collaborative initiative between Environment Canterbury, Crown Research Institutes (AgResearch, Plant & Food Research and Landcare Research), primary sector organisations (DairyNZ, Deer Industry New Zealand, New ZealandPork, Beef and Lamb New Zealand, Horticulture New Zealand and the Foundation for Arable Research) and is overseen by a cross-sectoral governance stakeholder group.

#### Issue 4.8: Adverse effects of livestock access

*Stock access to surface water bodies, artificial watercourses, and the coastal marine area increases erosion of banks and beds of lakes and rivers and has adverse effects on water and habitat quality and the health and functioning of ecosystems.*

76. Livestock, particularly larger animals that have an affinity for water, such as cattle, deer and pigs, in or near water bodies and the CMA, can result in adverse effects on aquatic ecosystem health and function, from physical disturbance of the banks and beds, increased erosion and sedimentation and the direct inputs of faecal matter, nitrogen and phosphorus to surface water. Cultivation and break-feeding of livestock are two agricultural practices that expose soil, when undertaken adjacent to a water body and following rainfall, can result in contaminants entering a water body. Riparian margins can reduce the potential for this to occur.

## 6.2 Consultation

77. In 2012 and 2013 a series of workshops specific to rural land use provisions in the proposed Plan were held with key stakeholders. Stakeholders expressed a wide range of opinions on how to manage livestock access to water bodies (Parminter and Greenberg 2012). Some suggested that all waterways should be fenced, while others thought that exclusion should only be required for intensively farmed animals. Some considered that provisions for stream bank protection should be site-specific rather than having region-wide provisions. Other stakeholders suggested that the Council should provide funding.
78. As the meetings progressed, general areas of agreement emerged, such as the need for the proposed Plan to contain some provisions regarding livestock access (as opposed to the then status quo of no specific provisions), a desire for provisions to be prioritised in some way based on the types of water bodies and types of livestock, and an acknowledgement that, for some provisions, the use of transitional time periods would be the most practicable and reasonable approach.
79. The draft provisions were also discussed with the Farming Reference Group, an advisory group to Council, which provides advice, information and recommendations on matters concerning the functions of Council as they relate

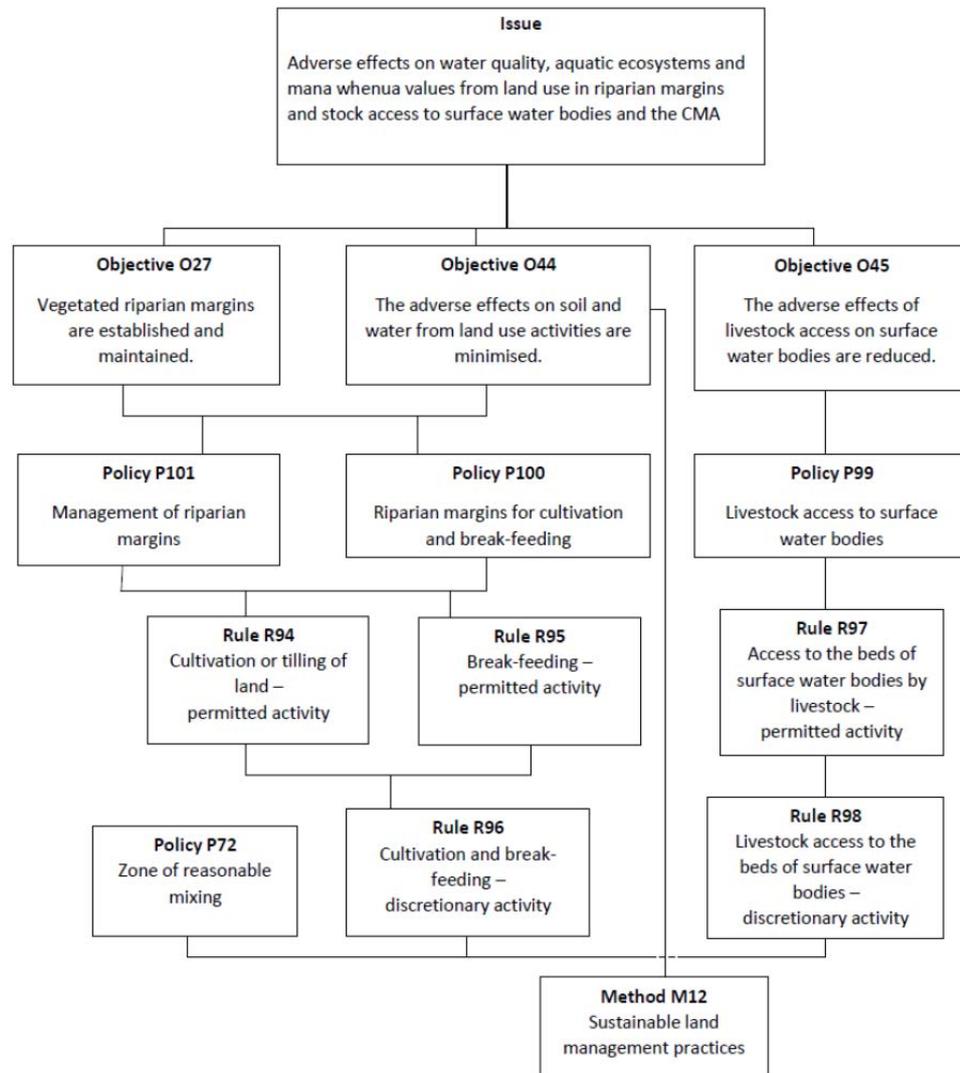
to the well-being of the region's farming communities. The Farming Reference Group recommended that the transition time be sufficiently long to allow landowners and managers to comply with the rules. This group also recommended that the rules framework should recognise that the cost-benefit ratio of fencing in the hill country may be greater than for lowland areas due to the size and layout of many hill country blocks and problems with accessibility.

80. Stakeholder feedback at workshops on the provisions for cultivation and break-feeding reflected a general agreement that farmers should be using good management practices, which include the use of set-backs and contour cultivation. Disagreement remained on whether the provisions needed to stipulate the minimum width of required set-backs, or if they did, what set-back width would be most appropriate to achieve the purpose of sediment retention.
81. Following the release of the draft Natural Resources Plan (draft NRP) in September 2014, a significant amount of feedback was received on the draft provisions for managing livestock access. To explore these comments, Council facilitated a series of three Focus Group meetings in February and March 2015. In addition to Council officers, there were 19 other participants in the Focus Group from throughout the region, including farmers and representatives of iwi, industry, and central government. Following the Focus Group meetings, three public meetings were held (GWRC 2015a). The feedback and comments from the Focus Group and subsequent public meetings informed the provisions of the proposed Plan.

### **6.3 Overview of the policy framework of the proposed Plan**

82. The proposed Plan, through the objectives, policies, rules and other methods seeks to minimise the adverse effects on water bodies from livestock access and land use activities such as cultivation and break-feeding of livestock near water bodies, and to promote good practice management of riparian areas adjacent to water bodies to prevent contaminants from land entering water bodies.

83. The provisions of the proposed Plan identify priority areas, such as sites of high value to mana whenua and water bodies particularly vulnerable to degradation from livestock, and implement progressive requirements to exclude certain livestock types from these areas.



**Figure 1: Proposed Plan framework to manage land use in riparian margins and stock access to surface water bodies and the CMA**

### Objectives

84. The objectives of the proposed Plan addressed in this report are: Objective O27: Riparian margins, Objective O44: Land use, and Objective O45: Livestock access to water bodies. The outcomes sought for livestock access in Objective O45, break-feeding and cultivation in Objective O27 and Objective O44, will help reduce the adverse effects of land use on the aquatic

environment. The provisions are also directly related to a suite of 13 objectives in the proposed Plan associated with; mauri and intrinsic values, ecosystem health and mahinga kai, contact recreation and Māori customary use, the health needs of people, natural wetlands, significant sites, trout habitat and indigenous biodiversity.

## Policies

85. The proposed Plan contains a broad range of policies directed at meeting the outcomes for water quality. These include:

- P1: Ki uta ki tai and integrated catchment management
- P4: Minimising adverse effects
- P8: Beneficial activities
- P10: Contact recreation and Māori customary use
- P17: Mauri
- P18: Mana whenua relationships with Ngā Taonga Nui a Kiwa
- P19: Māori values
- P20: Exercise of kaitiakitanga
- P22: Ecosystem values of estuaries and harbours
- P31: Aquatic ecosystem health and mahinga kai
- P36: Effects on indigenous bird habitat
- P39: Adverse effects on outstanding water bodies
- P40: Ecosystems and habitats with significant indigenous biodiversity values
- P44: Protection and restoration of sites with significant mana whenua values
- P65: Minimising effects of nutrient discharges
- P96: Managing land use
- P95: Discharges to land
- P69: Human drinking water supplies
- P33: Protecting indigenous fish habitat
- P99: Livestock access to surface water bodies
- P100: Riparian margins for cultivation and break-feeding
- P101: Management of riparian margins

- P105: Protecting trout habitat

86. There are three policies in the proposed Plan specific to the management of riparian margins and stock access to water bodies and the CMA. These are; Policy P99: Livestock access to surface water bodies, Policy P100: Riparian margins for cultivation and break-feeding, and Policy P101: Management of riparian margins. These policies seek to; exclude stock from high value water bodies, limit the adverse effects of stock access to other water bodies, and from break-feeding and cultivation adjacent to water bodies, and to encourage good management of riparian margins.

## Methods

87. These objectives and policies are to be implemented by rules and supported by non-regulatory methods. Permitted activity Rules R94 and R95 include conditions to control cultivation and break-feeding adjacent to surface water bodies. Rule R96 is a discretionary activity where those conditions are not met. Conditions in permitted activity Rule R97 and discretionary activity Rule R98 control livestock access to surface water bodies and the CMA. Method M12: Sustainable land management practices, commits Council to providing resources to landowners to achieve and comply with the provisions.

## 7. Analysis of submissions

### 7.1 Overview of submissions received

88. There were approximately 570 submission points and a 125 further submission points received on provisions relevant to management of land use in riparian margins and stock access to surface water bodies and the CMA. Some of the submissions were in common formats prepared by the:

- Farmers Common Format (73 submissions)
- Land Matters Common Format (10 submissions)
- Craig Dairy Farms Common Format (11 submissions)

89. To avoid unnecessary repetition, individual submitters who used a common format are generally represented in the evaluations by reference to one relevant submission point.

## 7.2 Key issues raised in submissions

90. I have set out my analysis of the proposed Plan provisions, under the following headings:

- Issue 1 – Definitions (page 25)
- Issue 2 – Objectives O27, O44 and O45 (page 51)
- Issue 3 – Policies P72, P99, P100 and P101 (page 65)
- Issue 4 – Rules R94 to R98 (page 80)
- Issue 5 – Method M12 (page 112).

### Issue 1. Definitions

#### Background

91. The proposed Plan defines a range of terms that are directly associated with objectives, policies and rules relating to stock access to water bodies and the CMA, and cultivation and break-feeding practices. This report considers submission on the definitions of the following terms:

- Issue 1.1 Cultivation
- Issue 1.2 Livestock
- Issue 1.3 Dairy cows
- Issue 1.4 Category 1 surface water body
- Issue 1.5 Category 2 surface water body
- Issue 1.6 Break-feeding
- Issue 1.7 Stock crossing point
- Issue 1.8 Zone of reasonable mixing
- Issue 1.9 New definition requested – Stock drinking point

#### Issue 1.1 Definition of cultivation

92. There are three submissions on the definition of cultivation in the proposed Plan. This definition is:

*Cultivation* Any process that involves turning over or tilling the soil for the preparation of growing crops, excluding:  
(a) direct drilling, and

- (b) no-till practices, and*
- (c) harvesting, and*
- (d) forestry.*

93. Wellington Regional Council (S133/001), Federated Farmers of New Zealand (S352/022) and Horticulture New Zealand (S307/003) all seek that 'strip-tilling' is included in the exclusions in (a) – (d) of the definition.
94. Submitter S352 also seeks that the exclusion (c) of the definition should be expanded to expressly state harvesting 'of forage and crops including ground disturbance'.
95. Submitter S307 submits that harvesting should be included in the description of the cultivation process, as it is an intrinsic consequence for growing many crops e.g. sub-surface crops such as root vegetables.

#### Assessment

96. Cultivation is generally described as preparation and use of land for growing crops. The disturbance of the soil, usually by ploughing, is to turn over the upper layer of the soil, bringing fresh nutrients to the surface, while burying weeds and the remains of previous crops and allowing them to break down. A ploughed field is typically left to dry out, and is then harrowed before planting or sowing seed.
97. The cropping regime could impact on the time that soil is vulnerable to erosion. If the crop being grown is a seasonal crop e.g. winter stock feed or market garden produce, then the soil would remain exposed throughout the crop, and possibly be regularly and frequently cultivated. Cultivation to renew pasture would occur much less frequently.
98. Cultivation is one of several land use activities that are managed through the proposed Plan provisions to reduce sediment and nutrient inputs to surface water, and consequent effects on water quality and ecosystem health, from these land use activities. Limiting the disturbance of soil in situations where the soil may enter a surface water body, e.g. deposition in the water body, or in runoff from stormwater or irrigation, is appropriate good practice.

99. The definition in the proposed Plan has contradictory elements that reduce its certainty. The introductory clause limits cultivation to ‘turning over or tilling the soil for preparation of growing crops’, and then excludes harvesting, which is not a preparatory process, so does not need to be excluded. The phrases ‘turning over’ and ‘tilling’ of soil are also uncertain. ‘Tilling’ means cultivation and ‘turning over’ soil is only one form of mechanical disturbance of the soil that may be involved in cultivation.
100. Strip-tilling is a cultivation system that uses minimum tillage as a soil conservation measure. Only the portion of the soil that is to contain the seed row is disturbed. The submitters identify that it had been the intention in the proposed Plan to exclude strip-tilling from the definition of cultivation, but in error this was not done. It would be appropriate in this context to exclude strip-tilling from the definition of cultivation, meaning that strip-tilling is not a land use activity controlled by the rules of the proposed Plan. With the exclusion of strip-tilling, the use of ‘tilling’ to describe cultivation, or as an alternative practice, creates ambiguity, and it is recommended that the term is deleted from the definition and from the title of Rule R94. Similarly describing cultivation as ‘turning over’ of soil is not sufficiently comprehensive.
101. Horticulture New Zealand (S307/003) seeks that the definition of cultivation include harvesting of crops, as harvesting can also cause soil disturbance e.g. harvesting of root crops. I agree because excluding harvesting processes would reduce the effectiveness of any limits on the land use.
102. The definition of cultivation excludes ‘forestry’. This general term could include elements of forest operations that disturb soil; road and track formation, ground preparation for planting, harvesting and root raking. Forestry is not defined in the proposed Plan. ‘Plantation forestry’ is defined and the s42A report Soil Conservation contains a recommendation to include a definition of ‘harvesting’ in respect of plantation forestry. There is some overlap with the definition of cultivation in respect of the term ‘harvest’, as a forest is a crop. For clarity and consistency the definition of cultivation should expressly exclude ‘plantation forestry’ and ‘harvesting’ in that context.

## Recommendation

103. Amend the definition of cultivation, as follows:

Cultivation ~~Any process that involves turning over, or tilling~~ Disturbing the soil for the preparation of planting, growing, or harvesting, of a crops or pasture, excluding:  
(a) direct drilling practices, ~~and~~  
(b) no-till or strip-tilling practices, and  
(c) ~~harvesting, and~~  
(~~d~~) forestry, plantation forestry or harvesting.

104. Amend the title of Rule R94, as follows:

Rule R94: Cultivation ~~or tilling~~ of land – permitted activity

## Issue 1.2 Definition of livestock

105. There is one submission and one further submission on the definition of Livestock in the proposed Plan. The definition is;

***Livestock*** *Domestic animals, such as cattle or horses, raised for home use or for profit. For the purpose of the Plan **livestock** does not include horses while they are being used for transportation, or bird species.*

106. Federated Farmers of New Zealand (S352/033), supported by the further submission of Waa Rata Estate (FS1/014), want the definition amended to make the meaning clearer. The amendment sought is:

***Livestock*** *For the purposes of Rule 97, means farmed dairy cows, cattle, deer and pigs. Domestic animals, such as cattle or horses, raised for home use or for profit. For the purpose of this plan livestock does not include horses while they are being used for transportation, or bird species*

107. The term ‘livestock’ is used in objectives, policies and rules in the proposed Plan, and with the exceptions of its use in Objective 07 (stock drinking water quality) and Policy P8 Beneficial activities (exclude stock from erosion prone land), the term is used in relation to the management of stock access to a surface water body or the CMA. The definition includes domestic animals ‘raised for home use or for profit’, so could include a wide range of animals e.g. dogs, cats, goats, alpaca, llama, donkeys, buffalo, horses, as well as, sheep, cattle, deer and pigs.

108. The proposed Plan does not intend to manage all ‘livestock’ in respect of access to water bodies, and has identified some types of livestock; cattle, farmed deer and pigs, that are recognised as having potential to create significant adverse effects on water quality from access to water bodies. Other types of livestock are far less likely to enter water, and could be managed in the beds of river, lakes and in wetlands. I note the draft national regulations for stock exclusion only apply to dairy and beef cattle, deer and pigs.
109. The proposed Plan provisions relating to the management of animals in or near a surface water body in Rules R97 and R98, identifies some types of livestock; cattle, dairy cows, farmed pigs, farmed deer and sheep that are subject to specific restrictions on access to a surface water body. There are also some provisions relating to general livestock access, such as Rule R97 clauses (a) to (c), so would apply to any domestic animals that had access to a surface water body. These provisions are more extensive than the draft national guidelines, but this would be allowed under the regulations.
110. The proposed Plan provisions are directed at farm animals rather than domestic animals, so the definition could be made clearer by expressing that it applies to farm animals.
111. I note the term ‘livestock’ in Objective O7, relating to stock drinking water, would be unintentionally limited, by the definition excluding birds, as the objective would not apply to stock water for commercial poultry. The second part of the definition should apply to Rules R97 and R98 only. Amending the definition as recommended will have no material effect on the use of the term in Objective O7 or Policy P8 as the term livestock there already refers to farm animals.
112. Recommendation:
- (i) Amend the definition of livestock as follows:
- Livestock** ~~Domestic Farm animals, such as cattle or horses, raised for home use or for profit.~~ For the purpose of Rule R97 and Rule R98 of the Plan **livestock** does not include horses while they are being used for transportation, or bird species.

### Issue 1.3 Definition of dairy cows

113. The proposed Plan defines ‘dairy cows’ as:

*Dairy cows*                      *A herd of cows reared for commercial milk production, including dry cows and heifers.*

114. There are five submissions on the definition of dairy cows. Submitters Julian and Ruth Blackett (S299/059), Tim Mansell and Family (S351/092) and Java Trust Limited (S120/019) want the definition amended to exclude dry cows and heifers, so that these types of cattle would be excluded from restrictions on access to a surface water body.

115. DairyNZ and Fonterra Co-operative Group Limited (S316/011) want the definition deleted because treating dairy cows differently to other livestock in Rule R97 rule is not effects-based. The submitter suggests that a definition of ‘cattle’, that includes ‘cows and bulls, including dairy cows’, could be included. I note that the relief sought refers to the animals rather than the collective noun of a ‘herd’. Royal Forest and Bird Protection Society (S353/005) supports the definition, wanting it retained.

116. The term ‘dairy cows’ is only used in Rule R97 clause (d) of the proposed Plan. In this context it is used to specify stock exclusion requirements that will only apply to cattle, including dairy cows, which by way of its definition includes dry cows and heifers. Rule R97(d) is that from 31.07.2022 ‘cattle including dairy cows’ can access Category 2 surface water bodies and ‘dairy cows’ can access rivers with a bed wider than 1m provided conditions (i) to (vi), and (a) to (c), that limit the effects of the stock access, are complied with. Prior to 2022, (a) to (c) would apply to stock access to dairy cows. There are also conditions in permitted activity Rule R97 controlling the access of other cattle, deer and pigs to surface water bodies.

117. The inclusion in the definition of dry cows, i.e. cows that are not currently being milked, and heifers, i.e. young cows yet to have a calf and start being milked, is intended to address the increasing use of ‘dairy support’ land. This is steeper land used to graze non-milking stock, and is usually located away from the ‘milking platform’, i.e. intensive grazing land where the milking cow herd

feeds, and is milked. The surface water bodies on land used for dairy support is also vulnerable to the effects of stock access by the cattle.

118. I note that the proposed national regulations will require by that by 01/07/2022, dairy support stock are to be excluded from all waterways on the plains and from all waterways over 1m wide on rolling land. Therefore, it is appropriate to continue to include dry cows and heifers in the proposed Plan definition, and consequently the rules, as the effects on the surface water bodies and CMA can occur irrespective of whether the cows are being milked. Rule R97 requires dairy cows to be excluded from rivers less than 1m wide by 31/07/2022.
119. The rule identifies particular water bodies and types of livestock and sets limits on effects from the access of these animals. Rule R97 is, in part at least, effects-based. Again, the definition and rules are consistent with the proposed national regulations, which identify those livestock that are most likely to enter water, or cause significant disturbance of land in surface water bodies. These livestock include dairy cows, dry cows and heifers.
120. I note that the proposed regulations refer to animals, rather than collective nouns, such as herd of cattle or deer. There is no allowance for any minimum number of animals to be allowed access – all stock must be excluded. The proposed Plan does not set any minimum number of animals either, yet the definition in the proposed Plan says that dairy cows are a herd i.e. a group of cows, so that a single cow or several cows but not in a group, may not come within the definition. The effects resulting from stock access to a surface water body can derive from only a small number of animals. The average dairy herd in the Wellington Region is now over 350 milking cows (DairyNZ 2014a). This does not include dry cows and heifers.
121. DairyNZ and Fonterra Co-operative Group Limited (S316/011) suggest a definition of cattle could replace the definition of dairy cows. Cattle is a term to describe animals in the genus *Bos*, and cattle includes cows, bulls, oxen, heifers, steers, bullocks and calves, so would include beef cattle as well as dairy cattle. As the requirements for stock exclusion take effect for dairy cattle and beef cattle at different times, the broader definition would complicate the

application of the rules. The definition could be made more certain by describing the cows, dry cows and heifers as cattle, and a ‘herd’ of cows is an unspecific term for a definition, and should be deleted.

122. Recommendation:

Amend the definition of dairy cows, as follows;

**Dairy cows**            ~~A herd of cows~~ Cattle reared for commercial milk production, including dry cows and heifers.

#### **Issue 1.4 Definition of break-feeding**

123. The proposed Plan defines break-feeding as:

***Break-feeding***            *The feeding of livestock on pasture or forage where feed allocation is controlled by the frequent movement of an electric fence.*

124. There are four submissions on the definition of break-feeding. James Falloon (S376/044), Allan A Smith (S35/001) supported by Waa Rata Estate (FS1/060), and Beef and Lamb New Zealand (S311/020) want amendments to allow for temporary fences other than electric fences. Federated Farmers of New Zealand (S352/016) want controls on break-feeding to apply only in winter months, and to incorporate this into the definition.

125. The term break-feeding is used in the proposed Plan in relation to Policy P100, permitted activity Rule R95 and discretionary activity Rule R96 which seek to limit contaminants entering surface water from this activity. The potential impacts on water quality arise from a combination of the density of livestock, the proximity to a surface water body, rainfall, soil type, land slope and vegetation on the land surface.

126. For the purposes of the definition the method of confinement of the livestock should not be limited to an electric fence, because livestock being break-fed but confined by some other method, would escape the definition, and therefore would not be subject to the rule. The advance of technology may mean that livestock are soon being contained by invisible electronic containment systems, based on GPS technology. The requirement to ensure livestock remain

excluded from water bodies and adjacent areas will remain even if no fence is visible.

127. While break-feeding generally occurs during winter months the potential adverse effects on water quality from break-feeding livestock could occur at any time of the year, and there is no reason to limit the time that the definition, and thereby the control on the activity, should apply.

128. Recommendation:

The definition of break-feeding should be amended to include other methods of containment.

**Break-feeding**      ~~The feeding of Livestock~~ in a paddock where access to ~~on~~ pasture or forage in a section of the paddock ~~where feed allocation~~ is controlled by the frequent movement of ~~an electric fence~~ a temporary fence or other method to contain the livestock.

## Issue 1.5 Definition of stock crossing point

129. The proposed Plan defines stock crossing point:

***Stock crossing point***      *A location where livestock cross a surface water body from one side to the other. The locations on each side of the surface water body are directly opposite each other and are not more than 20m wide.*

130. There are about 80 submissions and three further submissions on the definition of stock crossing. The submissions include the Farmers Common Format (73 submissions), Federated Farmers of New Zealand (S352/049), Beef and Lamb New Zealand Limited (S311/022), New Zealand Deer Farmers' Association - Wairarapa Branch (S434/011), Brad Gooding (S383/005), Tony Dowman (S312/005) and Waa Rata Estate (S152/032) all who seek that the definition is amended to recognise the practical limitations of hill country farming, where the typography may preclude having a stock crossing point where the entry and exit locations are 'directly opposite'. The submission from Derek Neal (S278/005) seeks that the width of the crossing should not be set in the definition, but in the rule. Waa Rata Estate (S152/032) also seeks to clarify that a stock crossing point is not a 'livestock exclusion area'. Submissions S434/011

and S352/049 are opposed by Rangitāne o Wairarapa (FS74/329, FS74/022). Submission S352/049 is supported by Waa Rata Estate (FS1/022).

131. The action that the proposed Plan is seeking to manage is stock being moved across land, either land that is, or is not, covered with water at the time, in a surface water body or the CMA. The term ‘stock crossing point’ is used in the proposed Plan only in Rule R97, in relation to the control of access of livestock to the bed of a surface water body. A stock crossing point is, by its nature, an area where stock are authorised to be in the bed of a surface water body. Conditions in permitted activity Rule R97 set controls on the extent of effects of stock access to the bed at locations where there is a defined stock crossing point and where there is no stock crossing point. Rule R98 requires consent when those conditions are not met. The definition of stock crossing point, however, describes a stock crossing point to be ‘a location’ where stock may ‘cross a surface water body’, and this could include via a bridge or culvert.
132. It is not clear that the phrases relating to position and width are specifications for a livestock crossing. The specifications are absolute – ‘...the locations are...directly opposite’ and ‘not more than 20m wide’. The intention is to control stock access to the bed at a formed crossing, where the banks of the surface water body have been contoured to allow entry and exit from the bed, and the livestock are moved across in an area not more than 20m wide. It may not always be possible, however, for the access and exit point to be ‘directly opposite’, but the intention is to have the crossing the shortest possible distance that livestock are in the bed. The entry/exit points are to be located to provide the shortest practicable route across the bed. Should a livestock crossing be wider than 20m for any reason, or with entry and exit points not directly opposite, then the crossing would be excluded from the definition, and therefore not be a stock crossing point. While the rule conditions managing effects of livestock access would still apply, the use of the stock crossing would escape the rule provisions that limit the frequency of use of stock crossings from applying.
133. Rule R97 contains conditions limiting the effects of livestock access to surface water bodies, including not to result in significant pugging of the bed ‘other

than at a stock crossing point'. Once the restrictions on access in Category 2 surface water bodies take effect and there is water in the bed, the access to the surface water body is only allowed at a stock crossing point associated with a maintained access track, and that is used no more than twice per month, and when the stock are actively crossing.

134. These are conditions in the permitted activity Rule R97 that limit the stock crossing point, so as the submitter Derek Neal (S278/005) suggests, I agree it would make the proposed Plan provisions clearer to have all the conditions relating to stock crossings within the rule. The definition should be restricted to defining what a stock crossing is rather than including 'standards' or 'conditions'. From this, should a stock crossing point be more than 20m wide, then this would be a breach of the rule conditions, with consequences for activity status under the proposed Plan, rather than disqualifying a facility that is clearly a stock crossing from being classified as such.
135. Under Rule R97 conditions (d) (iii) – (iv), if stock access is to the bed of a Category 2 surface water body which has water in the bed at the time of the access, but the access is not at a stock crossing point, the rule conditions would not be complied with, and resource consent required under Rule R98. While there would also be requirement for consent if the access was at a stock crossing point that did not comply with the definition, the implementation of the proposed Plan provisions will be less complex if the limits on a stock crossing point are co-located in Rule R97.

**Recommendation:**

- (i) Amend the definition of stock crossing point so that it is a definition without conditions:

**Stock crossing point** The area of the bed or other land in a surface water body or the coastal marine area ~~A location where livestock can cross a surface water body from one side to the other. The locations on each side of the surface water body are directly opposite each other and are not more than 20m wide.~~

- (ii) Consequently, amend Rule R97 to include the 'standards' for a stock crossing:

Rule R97: Access to the beds of surface water bodies by livestock – permitted activity

...

(x) A stock crossing point on a river, open drain, water race or lake shall:

- (i) be not more than 20 metres wide, and
- (ii) be perpendicular to the direction of water flow, except where this is impracticable owing to the natural contours of the bed or adjoining land; and
- (iii) align with a constructed track or raceway on either side of the **stock crossing point**; and
- (iv) not be used to allow cattle, farmed deer or farmed pigs to be left unattended in, or not actively moved through, a river, open drain, water race or lake;

## Issue 1.6 Definition of Category 1 surface water body

136. The proposed Plan defines Category 1 surface water body:

### *Category 1 surface*

*water body* **Category 1 surface water body** includes, and is limited to:

- (a) sites with significant **mana whenua** values identified in Schedule C (mana whenua), and*
- (b) inanga spawning habitat identified in Schedule F1b (inanga spawning habitats), and*
- (c) habitats for indigenous birds in rivers identified in Schedule F2a (birds-rivers)*
- (d) estuaries identified in Schedule F4 (coastal sites), and*
- (e) **significant natural wetlands** greater than 0.1ha identified in Schedule F3 (significant wetlands), and*
- (f) outstanding water bodies identified in Schedule A (outstanding water bodies), and*
- (g) within 1,000m upstream of a surface water abstraction site for a community drinking water supply shown on Map 26.*

137. There are four submissions and three further submissions on the definition of Category 1 surface water body.

138. The Minister of Conservation (S75/007) supports the purpose of defining Category 1 surface water bodies but does not support the spatial limit on the size of significant natural wetlands to be included in Category 1. The submission seeks that clause (e) is amended so that significant natural wetlands to which the livestock access rules apply are not restricted to only those greater than 0.1ha, and Clauses (b), (c), (d), and (f) are retained. The amendment sought is supported in the further submission from Rangitāne o Wairarapa (FS74/179), and opposed in the further submission from Land Matters Limited (FS65/001) who ask that the definition be retained. DairyNZ and Fonterra Co-operative Group Limited (S316/007) support the definition but seek clarification that the ‘significant natural wetlands’ are limited to those on Schedule F3 not simply any ‘significant wetland’ greater than 0.1ha.

139. ‘**Significant natural wetland**’ is defined in the proposed Plan to be,

*“A natural wetland that meets one or more of criteria (a) to (d) listed in Policy 23 of the Regional Policy Statement 2013 being: representativeness; rarity; diversity; ecological context.”*

The definition also includes a note, *“Identified **significant natural wetlands** greater than 0.1ha from which livestock should be excluded under Rule R98(sic) are listed in Schedule F3 (significant wetlands)”*.

Schedule F3 is a list of ‘identified significant natural wetlands’ i.e. wetlands, which have been assessed and classified, as a ‘significant natural wetland’. These wetlands are amongst the highest priority areas from which livestock, except sheep, are to be excluded under the conditions in permitted activity Rule R97. I agree with submitter S75/007 that if a wetland has been classified as being a significant natural wetland, the size of the wetland should not be a factor determining whether stock are to be excluded or not. Clause (e) of the definition of Category 1 surface water body should refer to ‘identified significant natural wetlands’ in Schedule F3.

140. Federated Farmers of New Zealand (S352/018) seek to amend the definition of Category 1 water bodies by;

- (i) Adding the introductory phrase, 'For the purpose of Rule [R]97,' Category 1....;
- (ii) Amending clause (a) that relates to Schedule C (mana whenua) so that site specific restrictions on livestock access are identified in the schedule;
- (iii) Amending clause (b) to identify periods of inanga spawning, when livestock would be excluded from Schedule F1b waterbodies;
- (iv) Amending clause (e) so that only significant natural wetlands of more than 1.0 hectare would have stock excluded; and
- (v) Deleting clause (f), as the submitter seeks to have Schedule A deleted.

141. The submission by Federated Farmers of New Zealand is opposed by Rangitāne o Wairarapa (FS74/006) because they consider the amendments sought are not consistent with achieving the objectives of the proposed Plan.
142. Category 1 surface water bodies are defined specifically in relation to the exclusion of livestock from the beds of rivers, lakes and wetlands. The Category 1 surface water bodies have been identified as the most sensitive in the region to the impacts of livestock access, and are the highest priority to ensure that livestock access is prevented. The term 'Category1 surface water bodies' appears in Policy P99, Rule R97 and Method M12, so it is necessary to not limit the application of the definition to Rule R97 only. For this reason, this submission point should be rejected.
143. The submission by Federated Farmers of New Zealand to amend Schedule C to specify activities that are to be restricted at the various sites identified in Schedule C was considered in the Significant Areas and Sites for Mana Whenua Report in Hearing 1. The recommendation to the Panel at Hearing Stream 1 was to reject the submission because the large number of sites, and the varying sensitivity of these sites to activities, such as stock access, requires site-by-site assessment of effects via the resource consent process. I support the recommendation made to Hearing Stream 1 on this matter. The submission to delete Schedule A will be considered in the s42A officers' report Wetlands and biodiversity in Hearing Stream 3.

144. Federated Farmers of New Zealand also seek to amend Clause (b) of the definition of Category 1 surface water body to exclude stock from areas of inanga spawning habitat from March to May each year, which is the main spawning period. Schedule F1b identifies areas of tidal influence in the specified rivers and parts of the CMA, have been surveyed and found to have habitat suitable for inanga spawning.
145. Inanga require riparian vegetation to lay their eggs above the normal river levels amongst vegetation that is flooded by spring tides. Where livestock have direct access to surface water bodies, banks can collapse and riparian vegetation can be destroyed. Loss of spawning habitat is a main reason for decline in inanga populations. Allowing livestock access to the spawning areas outside of the spawning period could result in destruction of the habitat, and defeat the general purpose of the provision. Should a land owner adjacent to an area identified in Schedule F1b not wish to exclude livestock from the area, then a stock access plan could be prepared and approved by Council under the recommended amendments to Rule R97, or resource consent application could be made under Rule R98, and the effects on the environment assessed for the activity in that particular situation.
146. Porirua City Council (S163/022) seeks that the clauses in the definition are re-ordered so the schedules referred to are in alphabetical order in the definition. I agree with the submitter that this minor change would improve the coherence of the definition. The change would involve moving clause (d) to position (f), and clause (f) to position (a). A further minor change is to insert the words ‘identified’ and ‘natural’ into the description of Schedule F3 in clause (e) to make this consistent with the Schedule F3 title.
147. Recommendations:

Amend the definition of Category 1 surface water body, as follows:

**Category 1 surface**

**water body** **Category 1 surface water body** includes, and is limited to:

- (a) outstanding water bodies identified in Schedule A (outstanding water bodies), and

- ~~(b)~~ sites with significant **mana whenua** values identified in Schedule C (mana whenua), and
- ~~(b)-(c)~~ inanga spawning habitat identified in Schedule F1b (inanga spawning habitats), and
- ~~(e)~~ (d) habitats for indigenous birds in rivers identified in Schedule F2a (birds-rivers)
- ~~(d)~~ estuaries identified in Schedule F4 (coastal sites), and
- (e) **significant natural wetlands** ~~greater than 0.1ha~~ identified in Schedule F3 (identified significant natural wetlands), and
- (f) estuaries identified in Schedule F4 (coastal sites), and
- ~~(f)~~ outstanding water bodies identified in Schedule A (outstanding water bodies), and
- (g) within 1,000m upstream of a surface water abstraction site for a community drinking water supply shown on Map 26.

## Issue 1.7 Definition of Category 2 surface water body

148. The proposed Plan defines Category 2 surface water body:

### Category 2 surface water body

*Category 2 surface water body includes, and is limited to:*

- (a) estuaries other than those identified in Schedule F4 (coastal sites), and*
  - (b) within the mapped lowland areas shown on Map 29, rivers that have an **active bed** width of 1m or wider, and drains greater than 1m wide, and **water races**, and*
  - (c) rivers and streams important to trout spawning habitat identified in Schedule I (trout habitat), and*
  - (d) **natural lakes**,*
- but excludes any **surface water body** that meets the definition of a **Category 1 surface water body**.*

149. Category 2 surface water bodies are the second order priority water bodies from which some livestock are to be excluded within a time frame set in the proposed Plan. Under permitted activity Rule R97(d), access to the beds of surface water bodies listed in Category 2 by livestock, cattle, including dairy cows, farmed deer and farmed pigs, is to be specifically limited by 31/07/2022. There is an extensive range of surface water bodies in Category 2 including; estuaries, lowland rivers, drains and water races, trout spawning waters, and natural lakes. Stock access to Category 2 surface water bodies is allowed provided there is no water in the bed; or if there is water in the bed the access is for stock crossing only. Where access is permitted by the rule the effects of land disturbance and on water quality are controlled by conditions in Rule R97.

150. There are about 90 submissions and 13 further submissions on the definition of Category 2 surface water body. The submissions include the Farmers Common Format and Wairarapa Water Users Common Format (73 submissions) and Federated Farmers of New Zealand (S352/019) which all seek that water races and drains are excluded from the definition of Category 2 surface water body.
151. Other issues raised in these submissions are;
- (a) that it is not practical to fence off all waterways on hill country farms,
  - (b) stock exclusion should not apply to rivers and drains that are not continually flowing, and
  - (c) riparian fencing and vegetation can impede and increase the cost of drain and water race maintenance.
152. The submission by Federated Farmers of New Zealand (S352/019) is supported by Horticulture New Zealand (FS71/019) because the change sought seeks to provide greater clarification, but is opposed by Rangitāne o Wairarapa (FS74/007) because the change is not consistent with achieving the objectives of the proposed Plan. Carterton District Council (FS85/019) advises in its further submission on Robert Kyle (S290/001), one of the Farmers Common Format submitters, that the Carterton District Council wishes to participate in any further work, discussions or hearings relating to the question of whether water races are included in or excluded from the definition of Category 2 surface water body and associated rules.
153. The Section 32 report: *Livestock access, break-feeding and cultivation* for the proposed Plan traverses considerations of the inclusion of water races and drains in the livestock access provisions of the proposed Plan. The water race channel systems in the Wairarapa have been in existence for over 100 years. Installed to provide water for stock drinking they are a network of predominantly artificial channels, but include sections of modified rivers, springs and wetlands. Drains have been excavated on land to reduce water table levels, and provide conduits to remove runoff and overland flow. Over time, the water

races, modified rivers and wetlands, and drains have become intermingled and largely indistinguishable in the landscape. The water race and drain networks all eventually flow into rivers, wetlands, lakes or estuaries.

154. Council has responsibility to manage the quality of water within both artificial<sup>4</sup> and natural water bodies. Given, the interconnections of the natural and artificial water body systems in the Wairarapa and other lowland areas of the region, and the accessibility of the water in these systems to livestock, it is necessary to include water races and drains within the stock exclusion provisions of the proposed Plan in order to achieve comprehensive, effective management of water quality. I note that the proposed national regulations for stock exclusion apply to ‘permanently flowing rivers, streams and drains’, and will require drains of any size that contain water and are on flat land, to have stock excluded. These regulations will set requirements which a regional plan will not be able to relax. The inclusion of drains and water races on flat land in the stock exclusion provisions of the proposed Plan is consistent with proposed national initiatives.

155. In respect of the other issues raised in these submissions:

a) that it is not practical to fence off all waterways on hill country farms.

This is accepted and the stock access rules do not specify that all waterways must be fenced, nor is there a requirement to exclude stock from all waterways on hill country farms. While fencing is currently the most practicable method to exclude livestock or control stock access, the rule provides for other management techniques to be employed, if effective. The proposed Plan allows stock access to surface water bodies that are not in Category 1. In Category 2 surface water bodies, and for dairy cows in rivers more than 1m wide, stock access is allowed to dry beds, and for stock crossings in beds containing water provided the conditions in clause (d) of Rule R97 are complied with. Outside of Category 1 or Category 2, access is allowed, provided the effects of the stock

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<sup>4</sup> Artificial watercourses include; irrigation canals, water supply races and farm drainage canals (RMA s2 definition of ‘river’)

access comply with conditions (a) to (c) of Rule R97. It is expected that national regulations will be more stringent than the provisions of Rule R97 applying outside Category 1, as the regulations will require stock to be excluded from waterways, rather than access allowed subject to conditions.

- b) stock exclusion should not apply to rivers and drains that are not continually flowing.

The RMA definition of a river includes continually and intermittently flowing water bodies. It is generally accepted that a river does not include an ephemeral watercourse that contains flow for only a short time after rainfall. Water quality in intermittently flowing rivers, such as the upper reaches of braided gravel rivers or reaches that are dry during drought, can be adversely affected from livestock access even when there is no flow, and water in drains that flow continually or intermittently is also susceptible to adverse effects of livestock access, so it is appropriate that stock exclusion provisions apply to these water bodies.

- c) riparian fencing and vegetation can impede and increase the cost of drain and water race maintenance.

I acknowledge that creating riparian margins can make access to water bodies more complicated, but there are management practices that can resolve these issues, such as removable fences on one side of the drain or water race. Preventing stock entering drains and water races can, over time, reduce maintenance requirements as reduced erosion of the banks from stock movements, should reduce the amount of sediment deposited and needing to be removed from a water course.

156. The Minister of Conservation (S75/008) supports excluding livestock access from the sites listed in Category 2 as an important method to achieve the objectives and policies in the proposed Plan regarding aquatic ecosystem health and maintain the biodiversity values of these sites. The submission seeks that the definition of Category 2 surface water bodies is amended, so that rivers, regardless of their size, identified in Schedule F1 that are also within the mapped lowland areas shown on Map 29 are in Category 2. The submitter

considers that these rivers have significant indigenous biodiversity values and livestock should be excluded from all Schedule F1 rivers to ensure these values are maintained. The submission is supported by Rangitāne o Wairarapa (FS74/180) because the amendment provides clarification and certainty for plan users, and opposed by Land Matters Limited (FS65/002).

157. Schedule F1 rivers in lowland areas have been identified as having significant indigenous ecosystems. These rivers may also have other classifications in the proposed Plan. The GIS mapping overlays of the Schedule F1 rivers and the water race systems in the lowland areas show considerable overlap, indicating that some water race systems may also be Schedule F1 rivers. The development with the community of the proposed Plan provisions for stock access, and implementation in the lowland areas, has been based on limiting stock access to rivers with an active bed width of more than 1m. Where stock access occurs in rivers and streams where the bed width is less than 1m, the land disturbance and water quality conditions in Rule R97 (a) to (c) are to be complied with.
158. The proposed national regulations are expected to require that cattle, pigs and deer be excluded from waterways less than 1m wide on the plains, progressively from 2020 to 2025. The regional plan will have to be at least consistent with these provisions. I consider it is appropriate to meanwhile continue with the proposed Plan approach of including in Category 2, rivers more than 1m wide on the mapped lowland areas, and not include all Schedule F1 rivers.
159. Neville Fisher (S12/005) seeks that water races are not included in the definition as these have resource consents held by territorial authorities. South Wairarapa District Council (S366/018) and Masterton District Council (S367/018) submit that the proposed Plan has inappropriately included water within drains and water supply races within the regulatory framework for freshwater, because drains and water races have specific functions and should not be subjected to the same framework as natural water bodies. Carterton District Council (FS85/020, FS85/021) while not supporting or opposing the

other Wairarapa councils' submissions, wishes to participate in processes relating to these submissions

160. The regulatory framework for freshwater is established in the RMA. Water in any form and location, except in a pipe, cistern or tank, is subject to the RMA. A regional council has responsibility under the RMA to control the discharge of contaminants into water, and to manage land use which may affect water quality. The purpose and operation of water races and drains is separate to the requirements relating to the water itself in the races and drains. The inclusion of water races and drains as Category 2 surface water bodies is for the maintenance and improvement of water quality, specifically by limiting livestock access to these surface water bodies.

161. New Zealand Deer Farmers' Association - Wairarapa Branch (S434/010) submit that stock exclusion from Category 2 water bodies in areas important for trout spawning should only apply during the spawning season as defined on p164 of the proposed Plan. Rangitāne o Wairarapa (FS74/328) opposes the relief sought by the submitter because it believes it is not consistent with achieving the objectives of the proposed Plan. The reference by the submitter to the definition of the spawning season refers proposed Plan Section 5.5.4 Activities in the beds of lakes and rivers general conditions, which apply to the activities authorised by Rules R112 to R125. General condition (f) is

*(f) in any part of the river or lake bed covered by water, which is identified as trout spawning waters in Schedule I (trout habitat), disturbance of the bed or diversions of water shall not take place during the spawning period of 31 May and 31 August,...*

162. Subject to conditions on scale and effects, Rules R112 to R125 authorise activities in the beds of rivers or lakes; including the placement, maintenance and removal of structures, excavation of sand and gravel, maintenance of drains, planting and removal of vegetation, and passage over the bed, other than for livestock. These activities are not permitted to take place in the bed of a river or lake at the locations identified in Schedule I as 'Important trout spawning waters', and shown on Map 22, when the bed is covered by water between 31 May to 31 August.

163. The nature and scale of the activities authorised under Rules R112 to R125 is generally limited and discrete, such as installation of a culvert or river crossing, or for maintenance of existing structures or drains. While the authorised activities may result in some short-term effects from the disturbance of limited areas of the bed, these are not long-term disturbances and any discharge of contaminants or disturbance of the bed tend to be small-scale and short-term. In comparison, if cattle, deer or pigs were to have unrestricted access to the beds of these rivers for periods of up to nine months of the year outside the spawning period the characteristics of these rivers that create the important spawning areas could be significantly adversely affected by livestock access.
164. Kaiwawai Dairies Limited (S119/047) seek to have the definition amended to apply consistency to rivers, drains and water races, so if water races are included in the definition then it applies only those wider than 1m. South Wairarapa District Council (FS26/017) opposes S119/047 because they submit that (see S366/018 above); drains and water races are artificial watercourses with specific functions and should not be considered surface water bodies, and the function does not change depending on the width of the water race.
165. As discussed above, the water in water races is subject to RMA provisions for water quality, so it is appropriate that stock access to the water races is managed for water quality purposes. Unlike natural rivers however, the water races do not vary greatly in width over their length, and almost all would be wider than 1 metre. The national regulations are expected to require cattle deer and pigs to progressively be excluded from all waterways on the plains, regardless of size. This will include artificial water courses that flow into natural water. Therefore, I do not recommend any change to the proposed Plan in response to these submissions.
166. DairyNZ and Fonterra Co-operative Group Limited (S316/008) support the Category 2 surface water body definition because it does not list natural wetlands. The proposed Plan includes wetlands in the definition of surface water body, but in setting priorities for stock exclusion, includes only those significant natural wetlands identified in Schedule F3 in Category 1. No other wetlands are identified in the proposed plan for specific controls on stock

access, so stock access to wetlands not on Schedule F3 is allowed provided the water quality limits in Rule R97 (b) and (c) are complied with. The proposed national regulations for stock exclusion may, however, extend the scope of stock exclusion to all natural wetlands. Should that occur, a regional plan will not be able to relax that requirement, and this may require amendment to the provisions in the proposed Plan, once the regulations take effect.

167. Recommendation:

No amendment of the definition of Category 2 surface water body.

### **Issue 1.8 Definition of zone of reasonable mixing**

168. The Proposed Plan defines Zone of reasonable mixing as;

#### ***Zone of reasonable mixing***

*For the purpose of permitted rules in the Plan, but excluding discharges to coastal water, the **zone of reasonable mixing** is:*

- (a) in relation to flowing **surface water bodies**, whichever of the following is the least:*
- (i) a distance 200m downstream of the point of discharge if the width of the wetted channel is greater than 30m at the point of discharge, or*
  - (ii) a distance equal to seven times the width of the wetted channel of the **surface water body**, but which shall not be less than 50m, or*
  - (iii) the distance downstream at which mixing of contaminants has occurred across the full width of the wetted channel of the **surface water body**, but which shall not be less than 50m, or*
- (b) in relation to lakes, a distance 15m from the point of discharge.*

*For consented activities and for permitted activity discharges to coastal water, the **zone of reasonable mixing** is determined on a case by case basis in accordance with Policy P71.*

169. There are seven submissions and two further submissions on the definition of zone of reasonable mixing. The matters in submissions are summarised:

- Retain the definition (DairyNZ and Fonterra Co-operative Group Limited (S316/023), New Zealand Transport Agency (S146/038);
- The definition is not effects-based, and does not consider the assimilative capacity of the receiving water body (Wellington Water Limited (S135/035) supported in a further submission from Hutt City Council and

Upper Hutt City Council (FS59/007) as the definition does not provide certainty;

- The definition does not provide certainty in respect of permitted activity discharges to coastal water (Wellington City Council S286/046, Roding, Parks and Gardens and Solid Waste departments of Hutt City Council and Upper Hutt City Council (S85/060), Hutt City Council (S84/015));
- Discharges with freshwater into coastal water do not readily or quickly mix due the differing densities of the water. A zone of reasonable mixing for discharges into coastal water is not appropriate (Wellington Recreational Marine Fishers Association (S32/059), with a further submission from Carterton District Council (FS85/066) that is neutral but expresses that amendments made in response to this submission would have implications region-wide.

170. The concept of a zone of reasonable mixing is that there is an area of a water body receiving a discharge where dilution and dispersion occurs before the imposed limits on effects of the discharge on water quality are imposed. There may be some baseline limits on effects imposed within the zone of reasonable mixing.
171. In resource consent processes for a discharge, the appropriate mixing zone is established for the specific discharge and its receiving environment. For permitted activities it is necessary to define the extent of the mixing zone to provide the certainty needed for permitted activity rules.
172. The definition in the proposed Plan is in two parts. The first part defines the ‘zone of reasonable mixing’ for permitted activities occurring in ‘flowing surface water bodies’ and lakes, but excludes discharges to coastal water. Surface water bodies are defined to include rivers, lakes, estuaries, wetlands, open drains and water races. The size of a mixing zone in a flowing surface water body is determined from the width of the wetted channel. The mixing zone in a lake is a fixed distance from the discharge point.

173. The second part of the definition applies to consented discharges, and to permitted activity discharges to coastal water. The mixing zone for these discharges is to be determined on a case-by-case basis. I agree with the submitters S286/046, S85/060 and S84/015 that this does not provide certainty for permitted activity discharges to coastal water.
174. Although the concept of ‘reasonable mixing’ is embodied in section 70 and section 107 of the RMA, it is not defined in the RMA. It is widely accepted planning practice in New Zealand regional plans, however, to establish a fixed, or readily calculated, size for zones of reasonable mixing. In a river, this is usually an allowed extent down-stream and across the flow, dependent upon the size of the river. In lakes the extent is usually a fixed distance from the discharge point. The determination in a river is an attempt, if somewhat crude, to match the discharge to the assimilative capacity, and in consideration that this zone is applied only to permitted activities with lowest potential for adverse effects. The fixed distance in a lake is arbitrary, but with the intent of the mixing zone occupying only a very small area of the water body.
175. The fixed distance used for mixing zone has also been used in some regional coastal plans e.g. Southland, Canterbury and Waikato, for permitted activity discharges to coastal water. Distances for mixing zones in regional permitted coastal discharge activity rules vary - from 5m to 100m from the discharge point in the regional plans referred to above, depending on the nature of the discharge.
176. Despite that fresh water and sea water do not readily mix, a permitted activity discharge of water, or water and contaminants, to the CMA should have only minor adverse effects on coastal water quality. Section 70 of the RMA sets the baseline for effects from a discharge to water authorised by a permitted activity rule, and a permitted activity rule should be sufficiently clear and certain to enable a reasonable person to understand whether an activity will comply or not. The definition in the proposed Plan does not achieve that for permitted activity discharges to coastal water.

177. The proposed Plan will be more effective if it sets a mixing zone size for permitted activity discharges to coastal water, and while any distance will be arbitrary, a distance of 15m from the discharge point is commonly used in other regional coastal plans to ensure that the extent of the zone in the CMA is appropriately limited, and to provide certainty for the application of coastal rules.
178. As the definition of ‘surface water body’ includes estuaries, which are all in the CMA and contain coastal water, these should be excluded from the mixing zone for ‘flowing surface water body’. Minor amendments to the definition are that the reference to Policy P71, should be to Policy P72, which guides the criteria for determining a zone of reasonable mixing for a resource consent, and that the two parts of the definition are numbered and worded consistently to provide greater clarity.
179. Recommendation:

Amend the definition of ‘zone of reasonable mixing’ as follows:

### **Zone of reasonable mixing**

(1) ~~For the purpose of permitted rules in the Plan, but excluding discharges to coastal water,~~ the **zone of reasonable mixing** is:

- (a) in relation to a flowing surface water bodyies, excluding an estuary, whichever of the following is the least:
- (i) a distance 200m downstream of the point of discharge if the width of the wetted channel is greater than 30m at the point of discharge, or
  - (ii) a distance equal to seven times the width of the wetted channel of the **surface water body**, but which shall not be less than 50m, or
  - (iii) the distance downstream at which mixing of contaminants has occurred across the full width of the wetted channel of the **surface water body**, but which shall not be less than 50m, or
- (b) in relation to a lakes and the coastal marine area, including an estuary, a distance 15m from the point of discharge.

(2) ~~For the purpose of consented activities and for permitted activity discharges to coastal water,~~ the **zone of reasonable mixing** is determined on a case by case basis in accordance with Policy P724.

## **Issue 1.9 New Definition – Stock drinking point**

180. Federated Farmers of New Zealand (S352/050) seek to have a new definition, “stock drinking point” added to support practical application of livestock exclusion rules. The definition proposed by the submitter is:

**Stock drinking point** - For the purpose of the livestock access rule, means a location where provision is made for livestock access to a surface water body for drinking water.

181. This submission is related to Federated Farmers of New Zealand submission on Rule R97 (S352/207), where the submitter supports the intent of the rule, but seeks amendments to allow stock access for drinking water in surface water bodies if there is no “reasonably practical alternate water source”. The recommendation on S352/207, at paragraphs 342 to 344 of this report, is to reject the submission because the expectation with stock exclusion is that stock drinking water supplies will be provided out of the water body, and the proposed national regulations are not expected to provide for stock drinking points where stock are to be excluded. Therefore a new definition is not needed.

### **Section 32AA assessment of Issue 1**

182. An assessment of my recommended changes on Issue 1 pursuant to section 32AA of the RMA is attached as Appendix A.

## **Issue 2. Objectives O27, O44 and O45**

### **Background**

183. The objectives for riparian margins, managing livestock access to water bodies, and cultivation and break-feeding near water bodies are Objectives O27, O44, and O45.

184. I have grouped the submission points for this issue into the following sub-topics:

- Issue 2.1 Objective O27
- Issue 2.2 Objective O44
- Issue 2.3 Objective O45

## Issue 2.1 Objective O27

*Objective O27 Vegetated riparian margins are established and maintained.*

185. Objective O27 is part of the suite of objectives in Section 3.6 of the proposed Plan that set outcomes for biodiversity, aquatic ecosystem health, and mahinga kai. Objective O27 is specific to vegetated riparian margins, setting the outcome to be achieved, that these margins are “established and maintained”. The proposed Plan, however, does not define ‘riparian margin’, while the RPS defines ‘riparian’ as: *Any land that adjoins or directly influences or is influenced by, a water body.*
186. Objective O27 sets a very broad goal, which lacks specificity as to what is to be achieved. The Section 32 report: Aquatic ecosystems (GWRC 2015) identifies that Objective O27 contributes to the implementation of responsibilities of the Council under the RMA and a range of RMA-derived instruments, including; RMA section 6(a) and section 30, NZCPS Policy 14, NPS-FM Objective A1(a), and RPS Policy 18(c). Each of the provisions recognises the relationship between riparian margins, water quality and ecosystem health. The Greater Wellington Regional Council Biodiversity Strategy (GWRC 2016) also recognises the importance of riparian areas for biodiversity values.
187. RPS Policy 18 states, *Regional plans shall include policies, rules and/or methods that:...(c) promote the protection and reinstatement of riparian habitat;...because, “Habitat diversity, which is described in clauses (a), (b) and (c), is essential for aquatic ecosystems to survive and be self-sustaining”.*
188. While the Wellington Regional Council functions include the establishment, implementation and review of objectives, policies and methods for maintaining indigenous biological diversity (section 30(1)(ga)), the responsibilities for controlling the use of land for this purpose have been allocated to territorial authorities through the regional policy statement. RPS Policy 61 identifies that maintenance and enhancement of biodiversity values outside the CMA and beds of rivers and lakes is a responsibility of territorial authorities.

189. The management of riparian margins within the CMA, the beds of rivers and lakes, and wetlands under the proposed Plan is for the full extent of regional council responsibilities: water quality purposes, soil conservation, biodiversity, mahinga kai, and other values identified in the proposed Plan. While indigenous biodiversity values are not managed by the proposed Plan outside the CMA or the beds of rivers or lakes, the benefits from promoting riparian planting for water quality purposes can also enhance biodiversity values, as the riparian planting can provide food and shelter for aquatic life and terrestrial organisms.

### Submissions

190. There are 10 submission points and six further submission points regarding Objective O27. Royal Forest and Bird Protection Society (S353/034), Minister of Conservation (S75/030) and Friends of the Paekakariki Streams (S112/019) each support the objective, with reasons including that the objective recognises the importance of riparian margins including providing and safeguarding instream habitat, reducing effects of sediment and nutrient runoff (S75/030) and promotes the purpose of the RMA (S353/034). Land Matters Limited (FS65/009) support, in part, submission S75/030.
191. Federated Farmers of New Zealand (S352/084) opposes the objective because the outcome may not be appropriate for all situations, and seeks that Objective O27 is deleted. This submission is opposed by Wellington Fish & Game Council (FS89/038).
192. Masterton District Council (S367/049) supported by Horticulture New Zealand (FS71/047), South Wairarapa District Council (S366/049), DairyNZ and Fonterra Co-operative Group Limited (S316/034), Carterton District Council (S301/030), Fish & Game (S308/028), Rangitāne o Wairarapa Inc (S279/038) and Allan A Smith (S35/004) supported by Waa Rata Estate (FS1/063), Carter Family (FS67/016) and Mansell Family (FS68/025) seek that Objective O27 is amended. The reasons for, and amendments sought are:
- vegetated riparian margins may not be appropriate or necessary in all situations, and the objective should seek them “in accordance with good

practice” (S316), “where appropriate and necessary” (S366 and S367) and “where they are needed to help protect water quality, adjoining biodiversity and waterway channel integrity” (S35);

- the objective should seek to ensure that the ecological values of healthy functioning riparian margins are recognised and provided for, including through protection and establishment (S308);
- the objective does not specify types of water bodies where margins are to be vegetated, nor that planting should be of indigenous species. The objective should be clear on the outcome, which may include maintaining and enhancing aquatic and riparian habitat to support ecosystem health and to reduce sediment and nutrient discharges to water bodies (S279);
- to acknowledge the need to allow longer than the 10-year life of the Natural Resources Plan to achieve the objective (S301).

### Assessment

193. An objective in the proposed Plan should address a resource management issue, and in order to meet the sustainable management purpose of the RMA, state the outcome the supporting policies are to achieve. The establishment and maintenance of vegetated riparian margins, where these contribute to maintaining or enhancing water quality and ecosystem health is accepted as good practice, and is promoted in many guidelines for rural industries including forestry and farming.
194. The ability of the proposed Plan to manage riparian margins outside the bed of the river or lake is limited to water quality and soil conservation. Objective O27 does not identify any dimensions to its application, either spatially or temporally, and submitters are seeking greater clarity from the objective, either in where and when it would apply, and what the outcome sought is. A plan objective is not required to be limited to the life of a plan, so the pursuit of the outcome can extend further than a 10-year plan time frame. The lack of a definition of ‘riparian margin’ in the proposed Plan creates further uncertainty as to the spatial application of the provisions of the proposed Plan.

195. I agree with those submitters that say that Objective O27 lacks specificity and the outcome to be achieved should be more clearly expressed in the objective. The outcome sought for vegetated riparian margins is that they contribute to maintaining or improving water quality, aquatic ecosystem health, mahinga kai and indigenous biodiversity, vegetated riparian margins of rivers, lakes and the CMA. To achieve this will require riparian margins to be established, and existing vegetated riparian margins maintained, or depleted margins restored.
196. The objective, and the proposed Plan, may be assisted by defining riparian margin. The term is used throughout the proposed Plan, but is not used in any regulatory role. Riparian margin, zone, area are terms that have many and varied meanings, including being located wholly within the bed of a river or lake, or outside the bed. The definition recommended makes a separation between the surface water body or CMA and the productive or other land use, which could include agricultural, residential, commercial or industrial land use, occurring on adjacent land. The recommended definition identifies that a different activity will occur within the riparian margin, e.g. planting, weed management, non-productive activity, than will take place on the adjacent land, and also states the purpose of the riparian margin.

**197. Recommendations:**

- (a) Amend Objective O27 as follows:

**Objective O27**

Vegetated riparian margins are established, ~~and maintained~~, or restored to enhance water quality, aquatic ecosystem health, mahinga kai and indigenous biodiversity of rivers, lakes, wetlands and the coastal marine area.

- (b) Define riparian margin as:

**Riparian margin:**

A strip of land which separates an inland or upland area from a **surface water body** or the coastal marine area, where the activity is modified to maintain or improve water quality, aquatic ecosystem health, mahinga kai and indigenous biodiversity within the **surface water body** or coastal marine area.

## Issue 2.2 Objective O44

*Objective O44 The adverse effects on soil and water from land use activities are minimised.*

198. Objective O44 is a very broad statement of outcome, encompassing all adverse effects on all soil and water from all land use activities. Objective O44 is in a proposed regional plan, so its effect is limited to the functions of a regional council. In this context, an objective is a statement of what is to be achieved through the resolution of a particular issue. An objective should be specific and clearly state what is aimed for in overcoming the issue. An objective should be clear enough to provide targets, that the policies of the plan seek to achieve.
199. The Section 32 report: Discharges to land issues and evaluation identifies Objective O44 as one of the suite of objectives that provide for an integrated approach to address Issues 3.6 (Cleanfills), 3.7 (Landfills), 3.9 (Discharges to land), and 4.3 (Land uses and discharges of contaminants). The issues are that discharges of contaminants to land and water, from a range of land uses and point source discharges, can have adverse effects on the quality of soil and water resources, the ecosystems supported by these resources and the availability and use of these resources.
200. The section 32 report states that Objective O44 is a broad objective, seeking the minimisation of adverse effects on soil and water from land use activities. The objective is to be implemented by provisions throughout the proposed Plan, and is an aspirational objective to be achieved over a longer time frame than the life of the Plan. Policy P4 sets out what the proposed Plan means by ‘minimise’.

### Submissions

201. There are 16 submission points and 21 further submission points on Objective O44.
202. Powerco (S29/008), The Oil Companies (S55/007), Java Trust Limited (S120/008), Holcim (New Zealand) Limited (S276/008), Wellington International Airport Limited (S282/019), Fertiliser Association New Zealand (S302/023), Rangitāne o Wairarapa Inc (S279/054), Horticulture New Zealand

(S307/026), and Ravensdown Limited (S310/017) submit that to ‘minimise’ adverse effects is uncertain and does not meet the purpose and principles of the RMA. The submitters seek, variously, to have Objective O44 deleted or to state that adverse effects on soil and water from land use activities are ‘avoided, remedied or mitigated’, because the concepts of preventing the occurrence of, and making good the impact of, adverse effects are not promoted if the outcome is only to reduce adverse effects to the smallest possible degree. These submissions are supported by Wellington Water Limited (FS25/010), Rural Residents Environmental Society Incorporated (FS55/002), Wellington International Airport Limited (FS69/030), South Wairarapa District Council (FS26/040, FS26/059), Masterton District Council (FS30/038) and Ravensdown Limited (FS46/012).

203. New Zealand Transport Agency (S146/063), opposed by Queen Elizabeth II National Trust (FS96/027), submits that adverse effects of land use should be reduced to the ‘extent practicable’, and Federated Farmers of New Zealand (S352/099), supported by Waa Rata Estate (FS1/036), submits that the objective should state that effects of land use activities will be managed by non-regulatory programmes, with rules to manage significant adverse effects. Submission S352/099 is opposed in the further submissions of Forest and Bird Protection Society New Zealand (FS43/023), Rangitāne o Wairarapa (FS74/041) and Wellington Fish & Game Council (FS89/048).
204. Fish & Game (S308/034) submits that Objective O44, along with Objectives O46 and O47, are contrary to the purpose and principles of the RMA, fail to give effect to the NPSFM and NZCPS and do not address the impact of farming land uses on freshwater environments or how these impacts will be avoided, remedied or mitigated. The submitter, along with Royal Forest and Bird Protection Society (S353/038) seeks amendments to these objectives, or new objectives to ensure that land use management is consistent with achieving the freshwater objectives in Tables 3.1 to 4.5 of the proposed Plan, and with the NPS-FM and NZCPS. Horticulture New Zealand (FS71/057) opposes the Fish & Game submission point.

205. Rural Residents Environmental Society Incorporated (S125/008) submit that O44 is ‘weak’ and will not prevent the creation of more contaminated land. The submitter seeks that O44 is amended to state, ‘Land use activities will not create a contaminated site.’ This is opposed by The Oil Companies (FS57/025).
206. Objective O44 is supported by Friends of the Paekakariki Streams (S112/026).

### Assessment

207. Objective O44 derives directly from RMA section 30(1)(c) which requires regional councils to control the use of land including for the purposes of; soil conservation,<sup>5</sup> and the maintenance and enhancement of water quality and ecosystems in water bodies and coastal water. The objective therefore, must be geared to at least maintain the existing qualities of soils, and maintaining and enhancing the existing water quality and ecosystems in water bodies and coastal water. To achieve the maintenance or enhancement of the quality of these resources may require that adverse effects of land use are prevented (avoided), past adverse effects are made good (remedied), or the extent of adverse effects made less severe (mitigated).
208. The NPS-FM Objective A1 is:

*To safeguard:*

- a) the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems, of fresh water; and*
- b) the health of people and communities, at least as affected by secondary contact with fresh water;*

*in sustainably managing the use and development of land, and of discharges of contaminants.*

This NPS-FM objective expresses a similar outcome to Objective O44, in that the use of land is to be managed sustainably, in a way that safeguards water quality and ecosystems.

209. Objective O44 is one objective from the suite in the proposed Plan. The objectives are to be read together, along with the policies and methods, to

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<sup>5</sup> Soil conservation is defined in the RMA to mean “avoiding, remedying or mitigating soil erosion and maintaining the physical, chemical, and biological qualities of soil”

provide the overall outcomes and pathways to achieve the purpose of the Plan. While each objective should contribute to the overall direction, each alone does not have to solely achieve it. Objective O45 also has a function in the proposed Plan to implement the NPS-FM.

210. The objectives of the proposed Plan for water quality, biodiversity, aquatic system health and mahinga kai, include Tables 3.1 to 3.8 that set quantitative and narrative outcomes for water bodies in the region. Where these objectives are not met, the proposed Plan requires improvement over time meet the objective. The management of land use will be one of the actions contributing to the achievement of the water quality objectives, so I agree with the submitters that Objective O44 should be more explicit in describing what the management of land use is to achieve.
211. I also agree with the submitters that Objective O44, as notified, does not set the appropriate high-level goal to shape the regulatory function of the regional plan required under RMA section 30(1)(c). In this context, seeking to minimise adverse effects is an outcome that is geared lower than the requirement to maintain or enhance the quality of these resources.
212. The proposed Plan is seeking that land use activities maintain and improve soil resources and water quality, and safeguard the associated ecosystems. The wording of Objective O45 could be amended to better express the outcome sought.

#### Summary of recommendation

Objective O44 is amended as follows:

#### Objective O44

~~The adverse effects on soil and water from land use activities are minimised~~

Land use activities are to maintain or enhance soil conservation and contribute to maintaining and improving water quality and the health of aquatic ecosystems.

### Issue 2.3 Objective O45

**Objective O45** *The adverse effects of livestock access on surface water bodies are reduced.*

213. Objective O45 seeks to have adverse effects of livestock access on surface water bodies reduced. The issues which Objective O45 seeks to resolve are identified in the Section 32 report: Livestock access, break-feeding and cultivation as; Issue 4.8: Adverse effects of livestock access, and Issue 4.2: Aquatic ecosystem health improvement. Each issue identifies that livestock access to the bed, including the banks, of surface water bodies, and to water in surface water bodies can result in adverse effects on water quality and ecosystem health. A wide range of adverse effects may arise from livestock to water bodies, including inputs of sediment from soil disturbance and erosion, destruction of habitat and discharges of nutrients and pathogens.
214. The section 32 report identifies that livestock access to water bodies is a national issue, and that region-wide consultation begun by Council in 2010, identified the adverse effects on water bodies from livestock access, and aquatic health impairment as two significant issues for the region.
215. Nationally, the government asked the Land and Water Forum for advice on the form of a national regulation to exclude stock from water bodies. In September 2015, the forum recommended a framework that excludes dairy cattle, beef cattle, deer and pigs from water bodies on the plains and in lowland hills over time, while allowing flexibility in the means by which this is done (Land and Water Forum 2015). Under this framework, regional councils will be able to require exclusion of stock from critical source areas and areas of ecological importance in terrain where the national stock exclusion regulation will not apply – such as steeper land, unless break-feeding, or the CMA.
216. The government has proposed these recommendations as national regulations in the publications *Next steps for fresh water: Consultation document* (MfE 2016) and *Clean Water* (MfE 2017). The national regulations requiring exclusion of livestock from water bodies are expected to take effect in July 2017, with progressive implementation through to 2030, depending on stock

type and land slope. The proposed Plan cannot be inconsistent with those regulations.

### Submissions

217. There are six submission points and seven further submission points on Objective O45.
218. Federated Farmers of New Zealand (S352/100) seek that Objective O45 should be amended to strike a balance between values and uses of water by providing for a reduction in adverse effects over time, while maintaining access for stock to drinking water. This submission is opposed by Forest and Bird Protection Society New Zealand (FS43/039), Rangitāne o Wairarapa (FS74/042) and Wellington Fish & Game Council (FS89/049).
219. Fish & Game (S308/037) consider the proposed Plan does not adequately provide for the exclusion of stock from waterbodies and does not establish appropriate riparian set-back distances in relation to stock exclusion. The submitter seeks a timetable for exclusion of various types of livestock from surface water bodies. This submission is opposed in part by DairyNZ and Fonterra Co-Operative Dairy Group Limited (FS84/008).
220. Rangitāne o Wairarapa (S279/055) considers that Objective O45 will not achieve the purpose of the RMA, and does not cross reference other objectives for water quality in the proposed Plan. The submitter seeks that the objective states the outcomes to be achieved through the reduction of adverse effects, and that adverse effects are to be avoided as the first priority, then remedied or mitigated. Adverse effects of livestock access to sites of significance to mana whenua and sites of significant indigenous biodiversity are to be avoided. The submission is opposed by Federated Farmers of New Zealand (FS54/015).
221. The Minister of Conservation (S75/037) supports Objective O45, but points out that the CMA is not included in the definition of surface water bodies, and is therefore excluded from the objective. The proposed Plan is required to give effect to the NZCPS, including Policy 21(d), which relates to the enhancement of water quality where this is degraded in the CMA, by excluding livestock.

222. Royal Forest and Bird Protection Society (S353/039) oppose Objective O45 because stock access can have significant adverse effects, and it is inadequate that the effects simply be reduced, as they may remain significant. The submission is opposed by DairyNZ and Fonterra Co-Operative Dairy Group Limited (FS84/030).
223. Friends of the Paekakariki Streams (S112/027) supports Objective O45 but express concern that fencing to exclude stock from waterways can be placed so close to the stream bank that sediment, nutrients and pathogens will still get into water.

### Assessment

224. Objective O45 derives directly from RMA sections 30(1)(c) and (f) which require regional councils to control the use of land including for the purposes of; soil conservation,<sup>6</sup> and the maintenance and enhancement of water quality and ecosystems in water bodies and coastal water, and to control discharges of contaminants onto land and into water.
225. The Objective therefore, must be geared to avoiding, remedying or mitigating soil erosion, maintaining the physical, chemical and biological qualities of soil, and enhancing the existing water quality and ecosystems in water bodies and coastal water. To achieve the maintenance or enhancement of the quality of these resources may require that adverse effects of livestock access are prevented (avoided), past adverse effects are made good (remedied), or the extent of adverse effects made less severe (mitigated).
226. The proposed Plan contains a wide range of objectives that also relate to water quality and aquatic ecosystem health, and the values of surface water bodies, including; mauri, mahinga kai, recreation, drinking water, natural character and biodiversity. Most of these other objectives seek to safeguard, or preserve and protect, or maintain or enhance, or restore or improve water quality and aquatic ecosystem health and the values derived from these resources. An objective

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<sup>6</sup> Soil conservation is defined in the RMA to mean “*avoiding, remedying or mitigating soil erosion and maintaining the physical, chemical, and biological qualities of soil*”

that seeks to only to reduce adverse effects from stock access appears to be inconsistent with, and counter-productive to, many other objectives of the proposed Plan.

227. I agree with the submitters that Objective O45, as notified, does not set the appropriate high-level goal to shape the regulatory function of the regional plan required under RMA section 30(1)(c). In this context, seeking to only reduce adverse effects of livestock access to surface water bodies is an outcome that is geared lower than the requirement to maintain or enhance the quality of these resources, or avoid, remedy or mitigate soil erosion. The outcome sought by O45 is not the high-level goal expected for an objective in a regional plan.
228. The issue that Objective O45 addresses, degraded water quality and ecosystem health, is already identified and addressed by other objectives of the proposed Plan, including Objectives O23, O24 and O25. The intent of Objective O45 – to reduce adverse effects on water quality and ecosystem health by excluding stock from surface water bodies, is a means to attain these other objectives, therefore O45 is more a policy than an objective. The proposed Plan has Policy P99: Livestock access to surface water bodies. Policy P99 sets out what it seeks to achieve – the protection of aquatic habitat and water quality, and the means to achieve this, through restrictions on stock access to surface water bodies. Policy P99 seeks a higher level of attainment than Objective O45. The objective and policy are not consistent.
229. The requirement under RMA section 30(1)(c)(ii) to maintain and enhance water quality extends to coastal water. Objective O45, as notified, applies to surface water bodies. ‘Surface water body’ is defined in the proposed Plan as, ‘*A river, lake, wetland, estuary, open drain or water race, and its bed.*’ The definition of surface water body includes estuaries but no other coastal water. The RMA definition of coastal water is:
- Coastal water means seawater within the outer limits of the territorial sea and includes—*
- (a) seawater with a substantial fresh water component; and*
- (b) seawater in estuaries, fiords, inlets, harbours, or embayments:*

230. The 'territorial sea' extends seaward from the baseline low water mark for 12 nautical miles. The 'coastal marine area' includes land and coastal water in the area seaward of mean high water springs, except where it crosses a river, the coastal marine area extends upstream of the mouth by 5 times the width of the mouth, to a maximum of 1 kilometre upstream, or a distance agreed between the Minister of Conservation and the regional council.

231. The stock exclusion requirements in the NZCPS Policy 21(d) are that, where water quality has deteriorated in a coastal environment, stock are required to be excluded within a prescribed timeframe.

*Policy 21 Enhancement of water quality*

*Where the quality of water in the coastal environment has deteriorated so that it is having a significant adverse effect on ecosystems, natural habitats, or water based recreational activities, or is restricting existing uses, such as aquaculture, shellfish gathering, and cultural activities, give priority to improving that quality by:*

...

*(d) requiring that stock are excluded from the coastal marine area, adjoining intertidal areas and other water bodies and riparian margins in the coastal environment within a prescribed time frame; and...*

232. The proposed Plan is also a regional coastal plan to implement the NZCPS, therefore the application of the provisions relating to stock access should include coastal water and the CMA. I note that while Objective O45 does not explicitly include the CMA, Policy P99 does specify that it applies to the CMA.

233. Objective O45 overlaps with the other objectives in the proposed Plan for water quality, ecosystem health, recreation values, mauri, mahinga kai, etc., but stands between these objectives and the policy. Objective O45 is not effective or appropriate in the proposed Plan.

234. The outcome sought by Objective O45, improvement to water quality and associated ecosystems and values from restricting stock access to surface water bodies and the CMA, duplicates Objective O44 that sets outcomes for land use effects on soil and water quality. I have recommended amendments to Objective O45 at Issue 2.3, and now recommend that Objective O45 is deleted, further amendment is made to Objective 44 to identify that stock access to

surface water bodies and the CMA is a particular land use for which the proposed Plan is setting outcomes.

#### Recommendations

- Delete Objective O45

#### ~~Objective O45~~

~~The adverse effects of livestock access on surface water bodies are reduced.~~

- Further amend Objective O44, as follows:

#### **Objective O44**

~~The adverse effects on soil and water from land use activities are minimised~~

Land use activities, including livestock access to a **surface water body** or the coastal marine area, maintain or enhance soil conservation and contribute to maintaining and improving water quality and the health of aquatic ecosystems.

#### Section 32AA assessment of on Issue 2

235. An assessment of my recommended changes on Issue 2 pursuant to section 32AA of the RMA is attached in Appendix A.

### **Issue 3. Policies P72, P99, P100 and P101**

#### Background

236. The policies for the zone of reasonable mixing, riparian margins, managing livestock access to water bodies, and cultivation and breaking feeding near water bodies are; Policies P72, P99, P100 and P101. These policies have been grouped because they direct actions related to managing the effects on surface water quality from land use in riparian margins and stock access to surface water bodies and the CMA.

237. I have grouped the submissions on these provisions into the following sub-topics:

- Issue 3.1 Policy P72
- Policy 3.2 Policy P99
- Issue 3.3 Policy P100
- Issue 3.4 Policy P101

### Issue 3.1 Policy P72

238. Policy P72 establishes the criteria for determining the acceptable zone of reasonable mixing for discharges to water that require resource consent. The policy is:

*Policy P72: Zone of reasonable mixing*

*Where not otherwise permitted by a rule, the **zone of reasonable mixing** shall be minimised and will be determined on a case-by-case basis. In determining the **zone of reasonable mixing**, particular regard shall be given to:*

- (a) acute and chronic toxicity effects, and*
- (b) adverse effects on aquatic species migration, and*
- (c) efficient mixing of the discharge with the receiving waters, and*
- (d) avoiding a site with significant **mana whenua** values identified in Schedule C (mana whenua), and*
- (e) the identified values of that area of water, and*
- (f) avoiding significant adverse effects within the **zone of reasonable mixing**.*

239. There are four submissions to Policy P72. The matters raised in submissions are summarised:

- Retain Policy P72 (Minister of Conservation S75/089);
- Delete the policy because; it is not consistent with the definition of zone of reasonable mixing, which specifies distances, a ‘site’ referred to in clause (d) is not a ‘zone’, and clause (f) limiting effects within the mixing zone may not be consistent with RMA (Wellington Water Limited S135/087);
- Amend Policy P72 as it conflicts with the definition of zone of reasonable mixing which specifies the size of a zone, and to clarify whether the policy applies in the CMA (New Zealand Transport Agency S146/117, Vector Gas Limited S145/044).

## Assessment

240. Policy P72 in the proposed Plan attempts to identify that it applies when considering discharges to water that require resource consent, but this is not clearly stated. The proposed Plan's definition of zone of reasonable mixing has two parts, the first applying to permitted activity discharges, the second part referring to this policy. The wording of both the definition and the policy as notified is not particularly clear. Recommendations are made to amend the definition to increase clarity (see Issue 1.8), and the clarity of Policy P72 can also be improved, so that the definition and the policy are consistent.
241. Policy P72 applies in the CMA, as indicated in the proposed Plan by the 'coastal icon'  with the policy, and if the recommended amendments to the definition are accepted, the application of Policy P72 in the CMA will be for discharges that require a new resource consent.
242. The purpose of the policy is to provide criteria for determining an acceptable mixing zone, where water quality outcomes at or near the discharge site may not be achieved as a result of the discharge. The criteria include that the size of the zone is as small as possible, and that within the zone there are limits to the extent of adverse effects. The mixing zone element of an application for resource consent to discharge to water is not exempt from consideration under the RMA from the section 104(1) requirements including Part 2 of the RMA, effects on the environment of allowing the activity, and policy documents and plans. It is appropriate for the Policy to identify aspects of the location or nature of the mixing zone that are to be given particular regard, such as avoiding sites with significant mana whenua values.

## Recommendation

243. Amend Policy P72 as follows:

### Policy P72: Zone of reasonable mixing

When a discharge to water requires resource consent, ~~Where not otherwise permitted by a rule,~~ the **zone of reasonable mixing** shall be minimised and will be determined on a case-by-case basis. In determining the **zone of reasonable mixing**, particular regard shall be given to:

- (a) acute and chronic toxicity effects, and
- (b) adverse effects on aquatic species migration, and
- (c) efficient mixing of the discharge with the receiving waters, and
- (d) avoiding a site with significant **mana whenua** values identified in Schedule C (mana whenua), and
- (e) the identified values of that area of water, and
- (f) avoiding significant adverse effects within the **zone of reasonable mixing**.

### Issue 3.2 Policy P99

244. Policy P99 is:

*Policy P99: Livestock access to surface water bodies*

*Sedimentation, the direct discharge of contaminants and the disturbance to the banks and beds (including plants and habitats in, on or under the bed) of **surface water bodies** and the coastal marine area resulting from **livestock** access shall be managed to:*

*(a) protect aquatic habitat and water quality, and*

*(b) protect the significant values of Category 1 **surface water bodies**.*

*Where **livestock** are not excluded from the bed (including the banks) of **surface water bodies**, the adverse effects of access are avoided, remedied or mitigated by methods, such as, but not limited to:*

*(c) restricting the types of **livestock**, and*

*(d) restricting the numbers of animals, and*

*(e) limiting the density, frequency and duration of access, and*

*(f) providing sufficient alternative sources of drinking water, shade and grazing outside of the banks and beds.*

245. Policy P99, as notified, has two parts. The first part seeks to manage; sedimentation resulting from livestock access, discharges from livestock and disturbance by livestock, in surface water bodies and the CMA, so that aquatic habitat and water quality is generally protected, along with the specific protection of the significant values of the surface water bodies identified as ‘Category 1 surface water bodies’.

246. The second part of Policy P99 seeks, in locations where stock are not excluded from surface water bodies, that adverse effects are avoided, remedied or mitigated. A range of ‘methods’ are suggested to achieve this, but the range is not limited to those measures only. The measures include restricting livestock types, numbers, access duration, and providing stock drinking water supplies.

## Submissions

247. There are 10 submission points and eight further submission points on Policy P99.
248. Rangitāne o Wairarapa Inc (S279/132) submit that the adverse effects of livestock on water bodies must be avoided as a first priority, and livestock that cause adverse effects on the beds and banks of water bodies, and on water quality, should be excluded. The submitter wants stock excluded from sites in proposed Plan Schedules A-F and H.
249. Fish & Game (S308/066) state that, as proposed, the proposed Plan does not adequately provide for the exclusion of stock from water bodies and does not establish appropriate riparian set-back distances in relation to stock exclusion. The submitter seeks that new policies are created, and existing policies amended to ensure that the exclusion and set-back provisions stated are achieved. The submission is supported by Rangitāne o Wairarapa (FS74/122) and opposed by DairyNZ and Fonterra Co-Operative Dairy Group Limited (FS84/013).
250. Federated Farmers of New Zealand (S352/174) submit that access for livestock to drinking water needs to have priority alongside stock exclusion and to remove the policy directive to restrict types and numbers of animals that have access to surface water bodies. The submission is supported by Waa Rata Estate (FS1/043) and opposed by Rangitāne o Wairarapa (FS74/062) and Wellington Fish & Game Council (FS89/091).
251. Masterton District Council (S367/091) and South Wairarapa District Council (S366/091) oppose Policy P99 because they perceive it to be contrary to the purpose for which the Wairarapa plains water race network was established, and are concerned about the cost to councils and landowners of restricting access, and also the availability of alternative water supplies. The submitters seek amendments to the policy that would make restrictions on stock access to water races subject to the 'extent practicable'.
252. Royal Forest and Bird Protection Society (S353/105) oppose Policy P99 and want it replaced with a policy requiring stock to be excluded from water bodies

except where the adverse effects, including cumulative adverse effects, can be demonstrated as being no more than minor. This submission is opposed by DairyNZ and Fonterra Co-Operative Dairy Group Limited (FS84/039).

253. Ngā Hapū o Ōtaki (S309/032) opposes in part Policy P99 because the policy will not sufficiently protect waters from adverse effects of stock access and it does not consider the effect on Māori values. The submitter wants Policy P99 to refer to Schedule B: Ngā Taonga Nui a Kiwa. The submission is opposed by DairyNZ and Fonterra Co-Operative Dairy Group Limited (FS84/088).
254. Friends of the Paekakariki Streams (S112/072), Porirua Harbour and Catchment Community Trust (S33/022), Kahungunu Ki Wairarapa (S300/007), and Minister of Conservation (S75/097) each support Policy P99 as notified.

#### Assessment

255. Policy P99 should direct the course of action which the proposed Plan will take to meet the outcomes expressed in the objectives of the proposed Plan. In respect of stock access the outcomes sought are maintenance and enhancement of water quality, aquatic ecosystem health and mahinga kai in fresh water bodies and the CMA.
256. The course of action intended is to exclude or restrict stock access to surface water bodies and the CMA. This course of action is consistent with the proposed national direction being set by the government which has in the publication *Next steps for fresh water: Consultation document*, proposed national regulations requiring exclusion of livestock from fresh water bodies – streams, rivers, lakes and wetlands (MfE 2016). The national regulations are proposed to take effect in July 2017, with progressive implementation through to 2030, depending on stock type and land slope. A regional council will be able to have more stringent or wide-reaching rules relating to livestock access than the minimum set in the regulations.
257. The policy framework of the proposed Plan should describe the actions to be taken; exclusion or restriction of stock access, and the general outline of locations and timing of implementation. The national regulations will set the minimum requirements, and the policy should also express actions where the

proposed Plan will be more stringent than the regulations. At the time of writing this report the regulations have not been published, so details are not available. It is expected that the regulations will apply to cattle, deer and pigs only, while the proposed Plan has controls for access of all livestock in some areas.

258. The policy intent as expressed in Policy P99, as notified, is to ‘manage’ the adverse effects of livestock access to generally protect aquatic habitat and water quality in fresh and coastal water, and protect the significant values of Category 1 surface water. This approach is not sufficiently directive, as it does not establish the course of action that the proposed Plan is taking. The national regulations will most likely require dairy cattle, pigs, beef cattle and deer to be excluded from streams, rivers and lakes with progressive effect depending on animal type and land contour from 2017 to 2030. The national regulations, once in effect, will set the minimum requirements for stock exclusion, so to be consistent the Policy should direct exclusion of specified livestock from specified water bodies. Where livestock access to water bodies or the coastal marine area is to be restricted, but not excluded, the policy should set out the regime of actions to achieve this.
259. Policy P99, as notified, identifies as a priority, protection of ‘Category 1 surface water bodies’ from the adverse effects of stock access. The explanation of the classification of these water bodies is given in the Section 32 report: Livestock access, break-feeding and cultivation at section 5.2.6. The report states that Category 1, *includes many significant sites, but it does not include all sites identified as significant in the proposed Plan*. This approach, of ranking sites for priority of management, may not be compatible or consistent with the approach being developed in the national regulations, as the national regulations prioritise the implementation of the exclusions of livestock based on livestock type and land slope, rather than the values of specific sites or areas. The outcome currently expected from the proposed national regulations is, by 2030, to have all dairy cows, pigs, beef cattle and deer excluded from permanently flowing waterways and drains greater than 1m wide on land less than 15 degrees slope, and excluded from smaller waterways on the plains, and from all lakes and natural wetlands.

260. Policy P99 should direct that the impacts of livestock access that are to be avoided, provide for the exclusion of the types of livestock that are considered to have significant impacts on water quality and aquatic habitats, identify the water bodies and areas from which these livestock will be excluded, and set the course of action for circumstances when livestock may have access to water bodies.
261. The proposed Plan identifies a specific range of water bodies or sites to be subject to provisions in respect of stock access, as well as expressing a general intent to manage the effects of stock access outside the specified areas. The specified areas are defined as a Category 1 or Category 2 surface water body and are shown on the GIS planning maps. A Category 1 surface water body is described in the section 32 report as a ‘significant site’, but Category 1 does not include all sites identified as ‘significant’ in the schedules to the proposed Plan. Included in Category 1 are;
- Schedule A: Outstanding water bodies,
  - Schedule C: Sites with significant mana whenua values, and
  - parts of Schedule F;
    - F1b: Inanga spawning habitat,
    - F2a: river habitat for indigenous birds,
    - F3: Identified significant natural wetlands, and
    - estuaries identified in Schedule F4: Sites with significant indigenous biodiversity values in the coastal marine area.
262. Rangitāne o Wairarapa (S279/132) and Ngā Hapū o Ōtaki (S309/032) seek to have included in Category 1, the following proposed Plan schedules: Schedule B: Ngā Taonga Nui a Kiwa, Schedule D: Statutory Acknowledgements, Schedule E: Sites with significant historic heritage values, excluded parts of Schedule F: Ecosystems and habitats with significant indigenous biodiversity values, and Schedule H: Contact recreation and Māori customary use. Ngā Hapū o Ōtaki (S309/032) seeks that Schedule B is referred to in Policy P99.
263. The purpose of Category 1 is to identify the highest priority areas for protection from the adverse effects of livestock access. There is considerable

cross-over between the taonga described in Schedule B and the sites in Schedules A, F and C. Schedule D: Statutory acknowledgements serves a specific purpose, in that Council is required to have particular regard to any statutory acknowledgement when processing any resource consent application within the area of the statutory acknowledgement. Therefore, because of this specific purpose it is not appropriate to include Schedule D in Category 1.

264. Schedule E predominately identifies post-European settlement historic structures, places, shipwrecks etc. There are only two sites of pre-European significance identified; the archaeological landscape around Pahaoa River Mouth, and Lake Onoke and foreshore. Both sites are also in Schedule C: Sites with significant mana whenua values. The sites in those parts of Schedule F that are not included in Category 1, as notified, are almost all in Schedules A, C or the included parts of F. Similarly, with Schedule H, where the water bodies identified are also in Schedule A and/or Schedule C, so are included in Category 1. The protection from the effects of stock access sought by the submitters is already provided for by the existing Category 1.
265. The proposed Plan provides for the protection of Schedule C sites through a framework of objectives, policies and rules. This framework is described in the s42A report, Significant Areas and Sites for Mana Whenua, Issue 2.
266. Masterton District Council (S367/091) and South Wairarapa District Council (S366/091) express concern that restricting stock access to the Wairarapa water race network will have impacts for their councils' and land owners costs and access for stock water. Water races are included in the proposed Plan as a Category 2 surface water body. Category 2 surface water bodies are to have access for some stock restricted but not excluded. Stock access to a Category 2 surface water body is subject to conditions limiting adverse effects on disturbance of the bed and water quality.
267. There will be cost involved in achieving the outcomes of improved water quality and ecosystem health, but as discussed elsewhere in this report, there are both national and regional programmes to reduce the adverse effects of

stock access to surface water, and the water race networks are part of the surface water environment in Wairarapa.

268. Federated Farmers of New Zealand (352/174) seeks a priority along-side stock exclusion, for stock access to drinking water. The submitter also wants to have removed the elements of the policy that direct restrictions on the types and number of animals. The government and industry programmes to reduce the impacts of stock access to water, have identified that some stock types are likely to create greater adverse effects than other stock types, and have targeted restrictions to those stock that have greatest effect. These programmes have also identified water bodies that are more vulnerable. As these programmes require exclusion of stock, they do not consider stock density or numbers. The proposed Plan provides for stock access subject to limits on adverse effects. This is a more efficient approach than setting stock numbers or density limits, so I agree that the policy should not refer to restrictions on stock numbers as an action to address the issue.

#### Summary of recommendation

- Amend Policy P99 as follows:

Policy P99: Livestock access to a surface water bodies and the coastal marine area

Sedimentation, the direct discharge of contaminants, damage to the beds or banks, and the degradation of aquatic ecosystems disturbance to the banks and beds (including plants and habitats in, on or under the bed) of a surface water bodies and or the coastal marine area resulting from **livestock** access shall be managed to:

- (a) ~~protect aquatic habitat and water quality, and~~
- (~~b~~) protect the significant values of **Category 1 surface water bodies** by excluding **livestock** from these water bodies; and
- (b) outside a Category 1 ~~Where **livestock** are not excluded from the bed (including the banks) of **surface water bodies** the adverse effects of access are avoided, remedied or mitigated by methods, such as, but not limited to:~~
- (~~c~~) (i) restricting the **location and frequency of access of some types of livestock**, and
- (ii) only allow access that protects aquatic habitat and water quality, and avoids significant damage to land in a surface water body or the coastal marine area.
- (~~d~~) ~~restricting the numbers of animals, and~~
- (~~e~~) ~~limiting the density, frequency and duration of access, and~~

~~(f) providing sufficient alternative sources of drinking water, shade and grazing outside of the banks and beds.~~

### **Issue 3.3 Policy P100**

#### *Policy P100: Riparian margins for cultivation and break-feeding*

*The overland flow of contaminants to **surface water bodies** from the use of land for **cultivation and break-feeding** shall be minimised through the use of riparian set-backs and good management practices.*

269. Policy P100 is to minimise the overland flow and discharge of contaminants into surface water bodies resulting from cultivation of land or break-feeding of livestock, near surface water bodies. The tools that the policy identifies to be implemented are; setting minimum distance set-backs from a surface water body for these activities, and good management practices.

#### **Submissions**

270. There are eight submissions and five further submission points on Policy P100.
271. Federated Farmers of New Zealand (S352/175) oppose Policy P100, submitting that riparian set-backs are just one management tool, and their effectiveness may not be proven. It requests that the policy should establish a framework of using good management practices, rather than specifying one technique. This submission is supported by Horticulture New Zealand (FS71/096) and opposed by Wellington Fish & Game Council (FS89/092).
272. DairyNZ and Fonterra Co-operative Group Limited (S316/078) oppose Policy P100 as they consider that good management practice with respect to riparian margins is best dealt with in Policy P101. The submitter wants Policy P100 deleted.
273. Friends of the Paekakariki Streams (S112/073), Porirua Harbour and Catchment Community Trust (S33/023) and Rangitāne o Wairarapa Inc (S279/133) each support Policy P100 and want it retained. Submission S279/133 is opposed by Federated Farmers of New Zealand (FS54/032).
274. Royal Forest and Bird Protection Society (S353/106) support in part Policy P100, but consider riparian set-backs and good management practices should

be used to avoid, remedy or mitigate, not minimise, adverse effects from cultivation and break-feeding.

275. Fish & Game (S308/067) submit that Policy P100 does not establish appropriate set-back distances for cultivation, and should be amended. This is supported by Rangitāne o Wairarapa (FS74/123) and opposed in part by DairyNZ and Fonterra Co-Operative Dairy Group Limited (FS84/014).

### Assessment

276. Policy P100 is part of the suite of policies to achieve the outcomes of the proposed Plan relating to the maintenance and enhancement of water quality, ecosystem health and mahinga kai. Policy P100 provides actions to achieve Objectives O27, O44, O46 and O47. Policy P100 identifies that certain land use practices, cultivation and break-feeding of livestock adjacent to a surface water body may result in contaminants being discharged to surface water. The methods to address this are specified as the use of riparian margin set-backs and good management practices. While these methods may be effective in some circumstances, they may not always result in minimal contaminants in water, and these are not the only methods that could be implemented to minimise overland flow or a discharge to water. Also, there are many other land management activities that could also result in contaminants entering a surface water body.
277. Other policies in the proposed Plan address the effects of a discharge of contaminants to water from unspecified sources, e.g. Policies P67, P68, P70, P71 and P72. These policies provide the framework for establishing the level of acceptable effects on the environment from a discharge to water. Policy P101 addresses the reasons for the management of riparian margins, including those matters specified in P100.
278. Policy P100 is very restricted in both the scope of the activity it manages, and the tools to manage the activity. The intent of the policy – to minimise overland flow containing contaminants entering a surface water body from land use activities – is expressed in other policies of the proposed Plan. The

identification in the policy of the tools to be implemented is not required or necessary, and could prove to be too limiting.

279. Policy P100 is not an efficient or effective means to address the issue or achieve the outcomes sought by the proposed Plan. I agree with submitter S352 that Policy P100 as notified is too limited in scope, and with submitter S316 that Policy P101 is the appropriate policy to address the purpose for and management of riparian margins.

### Recommendation

- Delete Policy P100 and make amendments to Policy P101, as set out in the following Issue.

## Issue 3.4 Policy P101

### *Policy P101: Management of riparian margins*

*In order to maintain or restore **aquatic ecosystem health** and natural character, and reduce the amount of sediments and nutrients entering **surface water bodies**, good management of riparian margins shall be encouraged including:*

- (a) the exclusion of **livestock**, and*  
*(b) the planting of appropriate riparian vegetation, and*  
*(c) the management of pest plants and animals.*

280. Policy P8(f) and Policy P101 encourage the retirement of riparian margins from agricultural land use and their revegetation. Policy 101 has a clear intent – to contribute to maintenance or restoration of aquatic ecosystem health and the natural character of surface water bodies, and to reduce sediment and nutrients entering a surface water body. The actions proposed by the policy are, however, ‘promotional’ in that the policy states that ‘...good management of riparian margins shall be encouraged...’ including by excluding livestock, planting appropriate vegetation and managing pests in riparian margins.

### Submissions

281. There are 11 submissions and four further submission points on Policy P101.
282. Porirua Harbour and Catchment Community Trust (S33/024), Friends of the Paekakariki Streams (S112/074), Royal Forest and Bird Protection Society (S353/107), and Minister of Conservation (S75/098) each support Policy P101 and want it retained.

283. Rangitāne o Wairarapa (S279/134) submits that Policy P101 should be amended to include reference to maintaining and enhancing mahinga kai. The submission is opposed by Carterton District Council (FS85/175).
284. Fish & Game (S308/068) seeks amendments to Policy P101 to ensure land use activities are required to be undertaken using good management practices, and that riparian set-back distances take into account slope, soil type, activity and risk of contaminant discharge to freshwater. Rangitāne o Wairarapa (FS74/124) supports this submission and DairyNZ and Fonterra Co-Operative Dairy Group Limited (FS84/015) oppose in part.
285. Waa Rata Estate (S152/028) seeks amendments to Policy P101 so that it includes provision for access through riparian margins and across waterways for both people and livestock.
286. South Wairarapa District Council (S366/092) and Masterton District Council (S367/092) oppose Policy P101, and seek amendments to it because, while it states that it will only ‘encourage’ the specified practices, the submitters are concerned that this could be interpreted as a requirement when considered in conjunction with policies regarding protection of aquatic ecosystem health and natural character, and may also require offset of effects where the ‘encouragement’ is not taken up.
287. CT and EM Brown (S13/013) raise concerns that Policy P101 would apply to riparian margins on storm water channels and that excluding livestock by fencing these margins would preclude maintenance of the channels, for example allowing access for machinery. This submission is supported by the Mansell Family (FS68/010).
288. DairyNZ and Fonterra Co-operative Group Limited (S316/079) support Policy P101, as it is consistent with the submitter’s position on riparian management, and the existing co-operative efforts with the Council to develop riparian good practice guidance. Further to their submission on Policy P100, the submitter seeks that Policy P101 should also identify the use of riparian set-backs for cultivation and break-feeding, as another means of good management of riparian margins.

## Assessment

289. A policy in a regional plan assists decisions makers and provides the action plan that will contribute to achieving the objectives of the plan. Policy P101 contributes to achieving a wide range of the proposed Plan objectives, including objectives relating to water quality, ecosystem health and mahinga kai. Retaining, establishing and managing riparian margins adjacent to surface water bodies is well recognised as good land management practice to limit contaminants from land use activities entering water, and improve water quality, aquatic and terrestrial habitats.
290. The effects identified in Policy P101 are impacts of sediments and nutrients on aquatic ecosystems, and the course of action should be to use good management practices to manage riparian margins. This policy, as notified, contains clauses that cloud the purpose and effectiveness of Policy P101. Policy P101 will be given effect to through rules in the proposed Plan, such as Rules R94 to R101, and Method M12.
291. I agree with submitter S279 that as Policy P101 is one that will contribute to maintaining or improving habitat for mahinga kai it should refer to this value. I also agree with submitter S308 that the policy should be more directive, making it clear that the expectation is for good management practices to be adopted, as is now the industry norm. The policy does not prevent access to water bodies or through riparian margins. These issues are to be resolved through the implementation of good management practices, and compliance with regional rules.

## Recommendation

292. Amend Policy P101 as follows:

### Policy P101: Management of riparian margins

~~In order to m-~~ Maintain or restore water quality, aquatic ecosystem health, mahinga kai and natural character, and reduce the amount of ~~sediments and nutrients~~ contaminants entering **surface water bodies**, through good management of riparian margins ~~shall be encouraged~~ including:

- (a) the exclusion of livestock likely to affect water quality, and
- (b) appropriate set-back distances from **surface water bodies** for some land use activities,
- (c) encouraging the planting of appropriate riparian vegetation, and

(d) the management of pest plants and animals.

### Section 32AA assessment of Issue 3

293. An assessment of my recommended changes on Issue 3 pursuant to section 32AA of the RMA is attached in Appendix A.

### Issue 4. Rules R94, R95, R96, R97 and R98

294. The rules for riparian margins, managing livestock access to water bodies, and cultivation and breaking feeding near water bodies are; Rules R94, R95, R96, R97 and R98. These rules are to manage the effects on water quality of land use activities in or near surface water bodies and the CMA, including the access of livestock.

295. I have grouped the submissions on these provisions into the following sub-topics:

- Issue 4.1 Rule R94: Cultivation or tilling of land – permitted activity
- Issue 4.2 Rule R95: Break-feeding- permitted activity
- Issue 4.3 Rule R96: Cultivation and break-feeding – discretionary activity
- Issue 4.4 Rule R97: Access to the beds of surface water bodies by livestock – permitted activity
- Issue 4.5 Rule R98: Livestock access to the beds of surface water bodies – discretionary activity

### Issue 4.1 Rule R94: Cultivation of land

296. Rule R94 is:

*Rule R94: Cultivation or tilling of land – permitted activity*

*The use of land for **cultivation** is a permitted activity, provided the following conditions are met:*

- (a) **cultivation** shall not occur within 5m of a **surface water body**, and*
- (b) **cultivation** is undertaken along the contour of the land, where reasonably practicable, and*
- (c) sediment-laden surface water resulting from **cultivation** does not flow to a **surface water body**.*

297. Rule R94 is a permitted activity rule allowing the cultivation of land, subject to conditions requiring; a 5m set-back from a surface water body, cultivation

along the contour of the land, where practicable, and runoff to water is not 'sediment-laden'.

### Submissions

298. There are about 100 submissions and 20 further submission points to Rule R94.

A summary of the matters raised is:

- Retain Rule R94 as controls are important to safeguard aquatic ecosystem health. Minister of Conservation (S75/139).
- Delete Rule R94 as it will not achieve protection of water bodies. Michael John Slater (S113/001).
- Delete Rule R94 as it significantly reduces the area available for cropping (Michael Cohr S60/001).
- Delete Rule R94 as it is impractical and unreasonable that sediment laden water does not enter a water body (Java Trust Limited S120/016).
- Delete the Clause (a) requiring cultivation to be 5m from a surface water body (Farmers Common Format , Wairarapa Water Users Common Format, David and Michael Keeling 169/008, New Zealand Deer Farmers' Association - Wairarapa Branch S434/018 opposed by Rangitāne o Wairarapa (FS74/333) because a set-back will help protect surface water bodies from effects of sediment runoff from cultivation).
- The 5m set-back in clause (a) should be removed as clause (c) will ensure water bodies are not adversely affected by cultivation. (Land Matters Limited Common Format including Stewart Alexander Barton (S6/001) supported by The Mansell Family (FS68/001), and Carter Families (S295/056) supported by Waa Rata Estate (FS1/090)).
- The 5m set-back will exclude large areas of productive farm land and create issues with pest plants. Amend clause (a) to reduce the set-back distance to 2m (Wairarapa Water Users Common Format).

- The impacts of cultivation can be managed in many ways. Encourage/require use of best management practices that are appropriate to a site, rather than imposing generic, specific requirements. Delete Clauses (a) and (c) and amend Clause (b) to promote good management practices, with an advice note added referring to Horticulture New Zealand 'Erosion and Sediment Control Guidelines for Vegetable Production' (Horticulture New Zealand S307/070). The submission is supported by Beef and Lamb New Zealand (FS53/034) and Wainuiomata Rural Community Association (FS88/005) as an effects-based, practical solution, but opposed by Rangitāne o Wairarapa (FS74/263) because any guidance should come from Council's sediment control guidelines.
- Amend clause (a) to reduce the set-back on flat land to 3m but retain at 5m on steeper land >15 degrees slope (DairyNZ and Fonterra Co-operative Group Limited (S316/106)).
- Amend clause (a) to require a set-back of 5m from a water body with a wetted channel width >2m, and a set-back of 2m from water body with a wetted channel <2m (Craig Dairy Farms Common Format including Garry Daniell (S431/010) supported in part by Wainuiomata Rural Community Association (FS88/004) as a practical solution that will minimise silt entering waterways from cultivation.
- The inclusion of farm drains within the definition of surface water body could mean extensive areas of a property would be excluded from cultivation under a 5m set back (Derek Neal S278/019).
- Drains that are man-made should not be subject to Rule R94, and be excluded from the definition of surface water body (Wainuiomata Rural Community Association S164/006).
- Delete clauses (a) and (b) as these are unnecessary measures to achieve clause (c), which should be the only condition (Neville Fisher (S12/028), Anders and Emily Crofoot (S304/009). Kaiwaiwai Dairies Limited (S119/028)).

- Amend clause (c) to include limits on water quality effects, that meet RMA section 70, including no conspicuous change to colour or visual clarity beyond zone of reasonable mixing. Anders and Emily Crofoot (S304/009); Fish & Game (S308/099), supported by Rangitāne o Wairarapa (FS74/134), opposed in part by Horticulture New Zealand (FS71/146); Federated Farmers of New Zealand (S352/205) supported in part by Horticulture New Zealand (FS71/147) subject to the further submitter's submission being accepted, and opposed by; Forest and Bird Protection Society New Zealand (FS43/030) as the proposed changes are incompatible with the RMA, and Rangitāne o Wairarapa (FS74/076) as the proposed changes reduce the effectiveness of the rule conditions.
- Exempt runoff from high rainfall events complying with Clause (c) (Allan A Smith (S35/015) supported by Waa Rata Estate (FS1/072) and The Mansell Family (FS68/030)).

## Assessment

299. The Section 32 report Livestock access, break-feeding and cultivation (GWRC 2015) at section 5.3 makes reference to a NIWA report, *Assessment of strategies to mitigate the impact or loss of contaminants from agricultural land to freshwaters. Report prepared for MfE. June 2013*. The NIWA report compiles a list of current strategies available in New Zealand for farmers to reduce impacts of land use on water quality, and provides commentary on their relative cost-effectiveness and some context as to their likely use or variability in contributing to the maintenance or improvement of fresh water quality. In respect of the use of set-backs the s32 Report summarises the NIWA report; *The effectiveness of set-backs to mitigate the overland flow of contaminants to surface water is dependent on a number of factors including the porosity of the soil, the intensity of the rainfall event, the slope of the exposed land, the presence or absence of preferred flow paths, the width of the set-back, and the vegetation type and cover within the set-back (McDowell et al. 2013; NIWA 2006)*.
300. In 2013, the Waikato Regional Council with the Primary Sector Partnership (a group of representatives from agricultural industry organisations working in

the Upper Waikato catchment), produced a range of information broadsheets describing practices to reduce contaminants getting into water and improve water quality on cropping, drystock and dairy farms. These information broadsheets, also referenced in the section 32 report, promote a range of similar practices as McDowell *et al.*

301. Limiting contaminants entering water bodies from agricultural land use relies on a wide range of techniques and practices, and most have wide variability in effectiveness depending upon the situation in which the practice or technique is used. Rule R94 identifies two techniques for cultivation to manage sediment entry to a surface water body – set back from the water body, and cultivation along the contour. A vegetated buffer strip, while not without limitations, can provide a relatively effective means to reduce larger particle sediment inflows into water. The set-back area of 5m specified in Rule R94, however, does not specify that this area must be a vegetated buffer strip, nor that the set-back distance is measured from the edge of the bed of the surface water body.
302. The distance of 5m has some research-based justification (Parkyn 2004) for being a width to achieve filtering of sediment in an agricultural context, partially larger particles in overland flow. There are, however, several other factors impacting on the effectiveness of the set-back area. These include; slope, vegetation type and condition in the set-back area, and whether the flow is channelled or evenly spread over the land. Some other regional plans, e.g. Waikato Regional Water Plan, set a minimum 2m set-back for cultivation from a water body (as defined in the RMA), as a permitted activity with conditions that set water quality limits on sediment in a discharge to water from land that has been cultivated. Proposed Plan Change 1 to the Waikato Regional Plan covering the Waikato and Waipa rivers catchments, increases the set-back distance for cultivation as a permitted activity to 5m from the bed, has retained water quality limits, and applied the rule to land adjacent to a drain that continually contains surface water.
303. Some submitters express concern about the area of land that would be excluded from cultivation on properties with surface water bodies, particularly where there are numerous drains on a property. Such properties are generally on flat

land, where a narrower set-back distance may be effective. On flat land, with slope less than 3 degrees, the set-back distance could be reduced to a minimum of 2m, provided the set-back area was in pasture or other groundcover vegetation, and remained so during the period of cultivation on the adjacent land.

304. Cultivation along the contour is a best practice technique to reduce sediment flowing to water. The water that may flow from areas of cultivation into a water body can have adverse effects on water quality and the values of the water body. As notified, Rule R94 condition (c) is that ‘sediment-laden’ runoff water ‘does not flow’ to a surface water body. A rule condition imposing such an imprecise but absolute standard as ‘sediment-laden’ would not pass tests for certainty, enforceability and reasonableness, and I agree with those submitters who seek better defined limits to manage the discharge.
305. Where a discharge to water occurs from land that has been cultivated, the discharge will be overland flow containing sediment, nutrients and micro-organisms from animal waste. The set-back requirements should mitigate the discharge, so the effects of the discharge should be minimal. Section 70 of the RMA sets minimum acceptable effects from discharges to water that are authorised by a permitted activity rule. I recommend that the relevant provisions of section 70 are included in Rule R94, as these are conditions that any discharge resulting from cultivation would have to comply with as a permitted activity. The recommendation incorporates the recommendations to amend the definition of ‘zone of reasonable mixing’ made at Issue 1.8 of this Report.

### Recommendation

306. Amend Rule R94 as follows:

#### Rule R94: Cultivation ~~or tilling~~ of land – permitted activity

The use of land for **cultivation** is a permitted activity, provided the following conditions are met:

- (a) **cultivation** on land with slope of more than 3 degrees shall not occur within 5 metres of the bed of a **surface water body** or the coastal marine area, ~~and~~ or  
 (b) **cultivation** on land with slope of 3 degrees or less shall not occur within 2 metres of the bed of a **surface water body** or the coastal marine area;

- and  
the land between the cultivated land and the bed of a **surface water body** or the coastal marine area shall be in pasture or other groundcover vegetation throughout the period of **cultivation**; and  
(c) **cultivation** is undertaken along the contour of the land, where reasonably practicable, and  
(d) ~~sediment-laden any discharge surface water resulting~~ from land subject to **cultivation** does not flow to a **surface water body** shall not, outside the **zone of reasonable mixing** in a **surface water body** or the coastal marine area, result in any of the following effects in receiving waters:  
(i) a conspicuous change in colour or visual clarity;  
(ii) the rendering of fresh water unsuitable for consumption by animals;  
(iii) any significant adverse effect on aquatic life.

## Issue 4.2 Rule R95: Break-feeding

307. Rule R95 is:

### *Rule R95: Break-feeding – permitted activity*

*The use of land for **break-feeding** is a permitted activity, provided the following conditions are met:*

- (a) **break-feeding** shall not occur within 5m of a **surface water body**,  
and  
(b) *sediment-laden surface water resulting from **break-feeding** does not flow to a **surface water body**.*

308. Rule R95 is to manage the use of land used for break-feeding livestock adjacent to a surface water body. The land use is a permitted activity provided the break-feeding does not occur within 5m of a surface water body, or result in ‘sediment-laden’ runoff to the water body.

## Submissions

309. There are almost 100 submissions and five further submission points to Rule R95. A summary of the matters raised is:

- Retain Rule R95 as controls are important to safeguard aquatic ecosystem health. (Minister of Conservation S75/139)
- Delete Rule R95 as it will not achieve protection of water bodies. (Michael John Slater S113/002)
- Delete clause (a) requiring break-feeding to be 5m from a surface water body (Farmers Common Format, Wairarapa Water Users Common

Format, New Zealand Deer Farmers' Association - Wairarapa Branch (S434/019) opposed by Rangitāne o Wairarapa (FS74/334) because discharges from heavily stocked areas can affect water quality, and with contaminants that are not visible.

- The 5m set-back in clause (a) should be removed as clause (b) will ensure water bodies are not adversely affected by break-feeding (Land Matters Limited Common Format including Carter Families (S295/057) supported by Waa Rata Estate (FS1/091), Stewart Alexander Barton (S6/002), supported by The Mansell Family (FS68/002), and Anders and Emily Crofoot (S304/010).
- Amend clause (a) to require a set-back of 5m from a water body with a wetted channel width >2m, and a set-back of 2m from water body with a wetted channel <2m (Craig Dairy Farms Common Format).
- Amend Rule R95 to allow stock access to water (Jamie Falloon S373/045).
- Delete Clause (a) because this is a measure to achieve Clause (b) (Kaiwaiwai Dairies Limited (S119/029), and Neville Fisher (S12/029)).
- Amend clause (a) to reduce the set-back on flat land to 3m but retain at 5m on steeper land >15 degrees slope (DairyNZ and Fonterra Co-operative Group Limited (S316/107).
- There is a wide range of measures available to prevent sediment discharge from break-feeding areas. Encourage/require use of best management practices that are appropriate to a site, rather than imposing generic, specific requirements. Either delete clause (a) or amend clause (a) to require a vegetated buffer between the break-feeding area and a surface water body. Amend clause (b) to require that runoff does not result in a conspicuous change to colour or visual clarity of the water body (Beef and Lamb New Zealand (S311/019), opposed by Rangitāne o Wairarapa (FS74/241), and Federated Farmers of New Zealand (S352/206), opposed by Rangitāne o Wairarapa (FS74/077)).

- The inclusion of farm drains within the definition of surface water body means extensive areas of a property would be excluded from break-feeding. Allow break-feeding within 2m of a drain (Derek Neal S278/020) or within 2m of any surface water body (Alexander Haddon Webster (S274/048)).
- Encourage/require use of best management practices, that are appropriate to a site, rather than imposing specific set-backs (New Zealand Deer Farmers' Association - Wairarapa Branch (S434/019), opposed by Rangitāne o Wairarapa (FS74/334)).
- Exempt runoff from high rainfall events complying with clause (b) (Allan A Smith (S35/016) supported by The Mansell Family (FS68/031)).

### Assessment

310. Permitted activity Rule R95 takes a similar approach to Rule R94, in that the land use practice of break-feeding forage crops near to water bodies is a permitted activity provided the break-feeding occurs more than 5m from the water body, and sediment laden water from break-feeding does not flow to a surface water body.
311. The issues raised in submissions to Rule R95 are very similar to those relating to Rule R94, and the response is also similar. Break-feeding of forage crops in winter can result in significant concentrations of sediment, nutrients and micro-organisms in runoff from these areas. Best management practices to minimise the discharge of these contaminants to a surface water body include; having a vegetated set-back area between break-feeding forage and the water body, limiting the time stock spend grazing to about three hours maximum, and grazing in a pattern that moves towards the water body rather than away from it.
312. Some submitters express concern about the area of land that would be excluded from break-feeding on properties with surface water bodies, particularly where there are numerous drains on a property. Such properties are generally on flat land, where a narrower set-back distance may be effective. On flat land, with slope less than 3 degrees, the set-back distance could be reduced to a minimum

of 2m. The area between the cultivation and the water body is providing the filter for the sediment, so should be in pasture or other groundcover vegetation, and remain so during the period of break-feeding on the adjacent land.

313. The water that may flow from areas of break-feeding into a water body can have adverse effects on water quality and the values of the water body. As notified, Rule R95 condition (b) is that ‘sediment-laden’ runoff water ‘does not flow’ to a surface water body. A rule condition imposing such an imprecise standard as ‘sediment-laden’ would not pass tests for certainty, enforceability and reasonableness, and I agree with those submitters who seek better defined limits to manage the discharge.
314. Where a discharge to water occurs from land that has been used for break-feeding, the discharge will be overland flow containing sediment, nutrients and micro-organisms from animal waste. The set-back requirements should minimise the discharge, and the effects of the discharge should be minimal. The RMA, at section 70, sets minimum requirements for effects from rules for permitted activity discharges to water. I recommend that the relevant provisions of section 70 are included in Rule R95, as conditions that any discharge resulting from break-feeding would have to comply with as a permitted activity. The recommendation incorporates the recommendations to amend the definition of ‘zone of reasonable mixing’ made at Issue 1.8 of this report.

### Recommendation

- Amend Rule R95 as follows:

#### Rule R95: Livestock ~~B~~break-feeding – permitted activity

The use of land for **livestock break-feeding** is a permitted activity, provided the following conditions are met:

- (a) **Livestock break-feeding** on land with slope of more than 3 degrees shall not ~~occur~~be within 5 metres of the bed of a surface water body or the coastal marine area,
- (b) **Livestock break-feeding** on land with slope of 3 degrees or less shall not be within 2 metres of the bed of a **surface water body** or the coastal marine area;

and

the land between the land used for break-feeding and the bed of a **surface water body** or the coastal marine area, shall be in pasture or other groundcover vegetation, and not be grazed or cultivated throughout the period that the land adjacent is used for **break-feeding**.

and

- (c) sediment-laden any discharge to a **surface water body** surface water resulting from land used for **break-feeding** does not flow to a **surface water body** shall not, outside the **zone of reasonable mixing** in a **surface water body** or the coastal marine area, result in any of the following effects in receiving waters:
- (i) a conspicuous change in colour or visual clarity;
  - (ii) the rendering of fresh water unsuitable for consumption by animals;
  - (iii) any significant adverse effect on aquatic life.

### **Issue 4.3 Rule R96: Cultivation and break-feeding**

315. Rule R96 is:

*Rule R96: Cultivation and break-feeding – discretionary activity*

*The use of land for **cultivation** or **break-feeding** that is not permitted by Rule R94 or Rule R95 is a discretionary activity.*

316. Rule R96 is the discretionary activity rule that applies when the conditions of permitted activity rules R94 or R95 cannot be complied with.

#### **Submissions**

317. There are nine submissions and three further submission points to Rule R96. The matters raised in submissions each relate to the activity status of this rule. Submissions under the Land Matters Limited Common Format (S295/058, S285/058, S294/058, S297/058, S299/058, S351/058, S348/100) want Rule R96 to be for a controlled activity status rather than discretionary.

318. Horticulture New Zealand (S307/071) wants Rule R96 to have restricted discretionary activity status and include matters of discretion including; location, scale, timing, duration of the activity, the adverse effects, and measures to avoid, remedy or mitigate effects.

#### **Assessment**

319. Cultivation or break-feeding that is undertaken adjacent to a surface water body, without implementing basic safeguards and best management practices, may result in adverse effects on water quality and significant adverse effects on

the values of aquatic ecosystems. The emphasis in the proposed Plan is for the use of good management practices, and the permitted activity rules reflect this. If, in a particular circumstance, the land use is not being undertaken in compliance with the permitted activity rule, and a resource consent is required, it would mean these good management practices are not being followed, and/or adverse effects on water quality are more than minor. If the resource consent status was for a controlled activity, the Council could not decline the application, so would need to be confident that the effects of the activity, including the total cumulative effects that could arise from any number of such consents, would be able to be managed by resource consent conditions.

320. The nature of actual and potential adverse effects, particularly cumulative effects, from these discharges could vary widely, and potentially have very significant impacts especially in water bodies with significant values. Therefore, I recommend that the proposed Plan provisions retain the ability to decline an application, therefore controlled activity status is not appropriate. Restricting matters of discretion to the very broad range of matters identified in the Horticulture New Zealand submission would provide little, if any advantage to an applicant or restrict the decision-maker. Discretionary activity is the appropriate status for Rule R96.

#### Recommendation

- No change to Rule R96.

#### **Issue 4.4 Rule 97: Access to the beds of surface water bodies by livestock – permitted activity**

321. Rule R97 is:

*Rule R97: Access to the beds of surface water bodies by livestock – permitted activity*

*The use of land for access by **livestock** to the bed, including banks, and the disturbance of the bed and banks and the discharge of associated sediment and excreta to a **surface water body** is a permitted activity, provided the following conditions are met:*

*(a) the access does not result in significant pugging of the bed (including the banks) of a lake or river other than at a **stock crossing point**, and*

*(b) the access does not cause a conspicuous change in colour or visual clarity within a site with significant **mana whenua** values identified in Schedule C (**mana whenua**), and*

*(c) the access does not cause a conspicuous change in colour or visual clarity beyond the **zone of reasonable mixing** in all other locations, and*

*(d) from seven years after the date of public notification of the Proposed Natural Resources Plan (31.07.2015), access by cattle (including **dairy cows**), farmed deer and farmed pigs within **Category 2 surface water bodies**, and **dairy cows** within rivers that have an active bed width of 1m or wider can occur where:*

*there is no flowing or ponded water within the (i) bed at the time and location of the access, and*

*(ii) other than at a **stock crossing point** the access does not result in significant pugging of the bed (including the banks) of a lake or river, or*

*(iii) there is flowing or ponded water within the bed, and the access is only for the purpose of crossing at a **stock crossing point**, and*

*(iv) the **stock crossing point** is associated with a maintained access track, and*

*(v) the access for the purpose of crossing at a **stock crossing point** occurs no more than twice in any month, and*

*(vi) the **livestock** are actively crossing, and*

*(e) from three years after the date of public notification of the Proposed Natural Resources Plan (31.07.2015):*

*(i) within a **significant natural wetland** listed in Schedule F3 (significant wetlands) **livestock** access is limited to sheep, and*

*and*

*(ii) with the exception of (vii) above, there is no **livestock** access within **Category 1 surface water bodies**.*

#### *Note*

*Fencing is one method of managing **livestock** access and fencing can be either permanent or temporary as long as it achieves the conditions of the rule.*

322. Rule R97 authorises, as a permitted activity, the access of livestock to, and disturbance of, the bed of a surface water body, and associated discharge of sediment and excreta, subject to conditions relating to physical disturbance of the bed and water quality impacts. The rule also imposes limitations on access by livestock, including exclusion to specified water bodies, but the imposition of these limitations is delayed under the conditions of the rule.

#### Submissions

323. There are about 125 submissions and about 30 further submission points to Rule R97. The matters raised in submissions are summarised:

***General***

- Support Rule R97 as notified (Neville Fisher S12/030, Minister of Conservation S75/141, Waa Rata Estate S152/034, Wainuiomata Rural Community Association S164/009).
- Support for an effects-based approach for controlling stock access to surface water bodies, but support is contingent on relief sought in submission points on definitions, Schedule C and Schedule I (Federated Farmers of New Zealand S352/207). In respect of these other proposed Plan provisions the submitters seek improved clarity of terms defined, and greater specificity of the potential impacts of activities on the sites listed in schedules.

***Rule structure***

- Rule R97 does not meet drafting standards for a permitted activity rule. The rule conditions must be clear, certain and enforceable (Best Farm Limited, Hunters Hill Limited and Stebbings Farmlands Limited S149/020, Fish & Game S308/109).
- Rule R97 does not meet RMA section 5 environmental bottom lines, is not consistent with NPS-FM and proposed Plan objectives, and does not give effect to Policies P97 to P100. Rule R97 does not meet the RMA section 70 requirements for a permitted activity rule (Environmental Defence Society Incorporated S110/012, Fish & Game S308/109, Royal Forest and Bird Protection Society S353/138).

***Scope of Rule R97***

- Consider the cost implications for land owners (Federated Farmers of New Zealand S352/207, New Zealand Deer Farmers' Association - Wairarapa Branch S434/008, Allan A Smith S35/017, Kate Reedy S338/001).
- Stock access to water bodies should be managed without regulations, and by individual landowners (Dan Riddiford S350/001, Charlie Matthews S320/001).

- Stock access to a water body should be authorised by resource consent in all locations or in some catchments (Environmental Defence Society Incorporated S110/012).
- Introduce land slope criteria and set-backs to the rule provisions (Fish & Game S308/109).
- Extend the application of the rule to all sites in proposed Plan Schedules A to F and H (Rangitāne o Wairarapa S279/183).
- Rule R97 does not protect Ngā Taonga Nui a Kiwa (Schedule B) (Hapū o Ōtaki S309/039).
- Set minimum set-back distances of >5m for sites with high values identified in proposed Plan schedules (Fish & Game S308/109).
- Rule R97 does not manage stock access to the CMA, adjoining intertidal areas and other water bodies and riparian margins in the coastal environment. Rule R97 should have provisions that apply in the CMA (Minister of Conservation S75/142).
- Delete condition (b) relating to Schedule C (mana whenua) (Federated Farmers of New Zealand S352/207).
- Rule condition e (ii) contains an error when it refers to '(vii) above' as there is no clause (vii). (Porirua City Council S163/108, DairyNZ and Fonterra Co-operative Group Limited S316/108).
- There should be no permitted activity that authorises sediment discharge to streams in the Wainui Catchment. All stock access should require resource consent as a discretionary activity. (Friends of the Paekakariki Streams S112/095).
- Exempt water races and/or drains from restrictions on livestock access. (Wairarapa Water Users Common Format, David Michael Cohr S60/002 and Michael Keeling S169/010).

- Amend the rule to provide for the inevitability of floods, disruptions to power and water supplies, or other emergencies compromising fences or water supplies (Federated Farmers of New Zealand S352/207).

### ***Rule provisions***

#### *Stock exclusion*

- Stock should be excluded from the beds of lakes and rivers, and wetlands except for extensively farmed livestock in the hill country (Fish & Game S308/109).
- Exempt sheep, goats and other livestock that avoid water from the rule provisions (Beef and Lamb New Zealand S311/021, Farmers Common Format, Wairarapa Water Users Common Format, New Zealand Deer Farmers' Association - Wairarapa Branch S434/009, Tony Dowman S312/004).
- Apply rule provisions equally to all cattle, and allow dairy cows, including dry cows, access to hill country rivers with an active bed wider than 1m (Farmers Common Format, Wairarapa Water Users Common Format, Land Matters Common Format, David and Michael Keeling S169/010).
- Stock should only be excluded from Category 1 surface water bodies that have permanent water (JQ and PM Donald S404/004).
- There should be no access for farmed cattle, deer or pigs allowed as a permitted activity in any Category 1 or Category 2 water body where the bed width is wider than 1m (Royal Forest and Bird Protection Society S353/138).
- Support allowing only sheep in significant wetlands (David and Michael Keeling S169/010).
- Sheep should not be excluded from any Category 1 surface water body (Kairoa Farms Limited S74/011, David and Michael Keeling S169/010).

- Allow livestock other than sheep in significant natural wetlands (CT and EM Brown S13/014).
- Do not allow as a permitted activity any livestock in a wetland with significant values. Access by sheep to significant wetlands should be on a case-by-case basis (Minister of Conservation S75/142).
- Remove limits on stock access to wetlands (CT and EM Brown S13/014).
- Stock exclusion from inanga and trout spawning areas should be during spawning season only (David and Michael Keeling S169/010, Kairoa Farms Limited, Farmers Common Format, Wairarapa Water Users Common Format, Tony Dowman S312/004).

#### *Stock access to drinking water*

- Allow for stock drinking points on water bodies because some areas do not have reliable alternatives (Federated Farmers of New Zealand S352/207, Farmers Common Format, Wairarapa Water Users Common Format, David and Michael Keeling S169/010, Terawhiti Farming Co. S288/003, New Zealand Deer Farmers' Association - Wairarapa Branch S434/012, Kairoa Farms Limited S74/017).
- Rule should apply only when alternative stock drinking water supply is available (Farmers Common Format, Wairarapa Water Users Common Format, Tony Dowman S312/004).
- Farms on the east coast of the Wairarapa rely, in summer, on river flats for stock grazing and access to rivers for stock drinking water (Aohanga Incorporation S284/006).

#### *Stock Crossings*

- The requirements for a stock crossing point are unrealistic in hill country and these should only apply on plains or lowland areas (Beef and Lamb New Zealand S311/021).

- Unreasonable limit on the frequency that stock crossing points can be used (Allan A Smith S35/017, Waa Rata Estate S152/073).

#### *Timeframes for Implementation*

- Extend the time frames for implementation for Category 1 surface water bodies to 2020 and Category 2 surface water bodies to 2025 (Farmers Common Format, Wairarapa Water Users Common Format, Craig Dairy Farms Common Format, Land Matters Common Format, Kairoa Farms Limited S74/011, David and Michael Keeling S169/010, Terawhiti Farming Co. S288/002, Tony Dowman S312/004, New Zealand Deer Farmers' Association - Wairarapa Branch S434/008).
- Time frames for implementation of the rule should commence from the date the Plan is made operative (Federated Farmers of New Zealand S352/207).
- Reduce the time frames to 3 years to have deer, cattle and pigs excluded from all water bodies on land less than 16 degrees slope and 5 years for all other surface water bodies (Fish & Game S308/109).

#### *Other*

- While supporting stock exclusion from valued fishing waters, consider impacts on recreational use if fencing is required to exclude stock (Wellington Fish & Game Association (Wairarapa) S52/001, Sport Fly Fishing New Zealand Incorporated S71/003, Graham Evans S86/002).
- Consider the relationship of the rule with advice given under whitua programmes (Porirua Harbour and Catchment Community Trust S33/03, Christine Marjorie Stanley S87/009).

## Assessment

324. Rule R97 has three main components to authorise and manage stock access to the bed of a surface water body<sup>7</sup> and associated disturbance of the bed and discharge of sediment and contaminants from the animals to water.
325. The first component sets a baseline of allowable effects in all water bodies authorising access of livestock to, and for stock crossings in, a surface water body. The access is authorised whether or not there is water in the bed, provided that there is no significant pugging of the bed away from a stock crossing point, and the stock access does not cause a conspicuous change to water colour or clarity, in a Schedule C (mana whenua) site, or in other areas, outside of the defined zone of reasonable mixing.
326. These general permissions and limits on effects prevail in all areas until the specific time related controls in Rule R97 take effect. Once the stock exclusion provisions for Category 1 surface water bodies take effect, this first component of the rule will continue to apply in Category 2 surface water bodies where stock access is allowed, and in all other surface water bodies in the region.
327. The second and third elements of Rule R97 identify priority locations where some types of livestock are to be excluded from some surface water bodies by specified dates. The priority locations are identified in the proposed Plan as Category 1 and Category 2 surface water bodies.
328. Category 1 are water bodies or sites in water bodies, which have significant values for ecosystem health, indigenous species habitats, mana whenua values

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<sup>7</sup> Surface water body is defined as; A river, lake, wetland, estuary, open **drain** or **water race**, and its bed. For the purpose of the Plan, **surface water body** does not include **ephemeral flow paths** and bodies of water designed, installed and maintained for any of the following purposes:

- (a) water storage ponds for
  - (i) fire fighting or
  - (ii) irrigation, or
  - (iii) stock watering, or
- (b) water treatment ponds for
  - (i) **wastewater**, or
  - (ii) **stormwater**, or
  - (iii) nutrient attenuation, or
  - (iv) sediment control, or
  - (v) animal effluent, or
  - (vi) operating sumps, quarries and gravel pits.

and community drinking water sources. Rule R97, as notified, requires all livestock to be excluded from Category 1 surface water bodies from 31 July 2018, but with an exemption allowing sheep access to significant natural wetlands listed in Schedule F3.

329. Category 2 are surface water bodies that can be significantly adversely impacted by the effects of livestock access if this is not managed. These water bodies are; estuaries, lakes, trout spawning rivers, rivers and drains more than 1m wide in lowland areas identified on Map 29, and water races.
330. The proposals for conditions on stock access to Category 2 surface water bodies are to have effect from 31 July 2022. These controls apply to cattle including dairy cows, deer and pigs, and dairy cows in a river more than 1m wide. Access by these livestock to a Category 2 surface water body and dairy cows in any other river more than 1m wide, is allowed provided there is no surface water in the bed of the river, drain, water race or lake, and the access does not result in significant pugging of soil in the bed.
331. Stock crossings for cattle deer or pigs are allowed in Category 2 water bodies, and for dairy cows in any other river more than 1m wide, whether or not there is water in the bed, provided the stock crossing is part of the farm track system, is only used to move the stock, and is not used more than twice a month.
332. While the provisions of Rule R97 for Category 1 surface water bodies are very clear – all livestock to be excluded from the specified locations by a fixed date - the general provisions and those applying to Category 2 surface water bodies and to dairy cows in rivers more than 1m wide, do not have the same precision and clarity. There are potentially some wide gaps between the likely requirements under the proposed national regulations and the proposed Plan provisions. Some of the proposed Plan provisions are likely to be less stringent than the proposed regulations, a situation where the regulations will likely prevail over those of the proposed Plan.
333. The main areas where the proposed regulations are likely to be more stringent than Rule R97 is that they require livestock exclusion in the following areas:

- all wetlands;
- permanently flowing water ways less than 1m wide on land with slope 3 degrees or less;
- artificial water bodies that flow into natural water bodies,
- no stock crossings in water bodies where stock are excluded,
- all lakes including lakes formed by human activity.

334. Some of the differences between Rule R97 and the proposed regulations are also matters raised in submissions to Rule R97. As the regulations as currently proposed will set the minimum requirements for livestock exclusion, but allow a regional plan to have rules that are more stringent, it may be efficient to focus the proposed Plan provisions on the areas where it is desirable to have more stringent controls to manage stock access. These areas are; the Category 1 surface water bodies, Category 2 water bodies that are not within the scope of the regulations, and the base line effects-based limits that are in Rule R97. However, until national regulations are in effect the proposed Plan is the instrument to manage stock access to all surface water bodies.

#### ***Scope and Structure of Rule R97***

335. Several submissions raised matters relating to the scope and structure of Rule R97. These include submissions to have no rules managing stock access, or requiring resource consents for all or some stock access to a surface water body. Regional rules are needed to authorise RMA section 13 activities in the beds of lakes and rivers, and section 15 discharges of contaminants into water or onto land where they may enter water. Without a regional rule all stock access to a river or lake would require resource consent. While some submissions seek this outcome, it is not efficient or effective to require that a resource consent always be obtained to manage the effects of livestock access to surface water bodies or the CMA. This could also lead to much higher monitoring and compliance costs for consent holders.

336. This is the situation for the operative Plans, where there are no permitted activity rules for livestock access, so elements of the stock access that breach RMA sections 12, 13 and 15 may require consent in each instance. During the

operative plans review it was determined that this was not an ideal situation as it was not realistic to require resource consents for all livestock access. However, without regional rules or resource consents, there was no legal authority or certainty for livestock owners or the community about the circumstances under which animals can be in a river, lake, wetland or the CMA.

337. Submissions from mana whenua seek to extend the application of the rule, presumably to exclude livestock, from all sites identified in Schedules A to F and H, and particularly Schedule B. As discussed in respect of Policy P99 livestock exclusion from Category 1 surface water surface bodies will provide some of the relief sought by the submitters, as there is considerable overlap between the Schedules A and C and the other Schedules in the proposed Plan. As also noted in the analysis of submissions on Policy P99, not all of these schedules are relevant to stock access rules, because of the nature of the information contained in the schedules, e.g. Schedule B which identifies significant mana whenua values at a catchment scale, and could not be readily applied to an individual property.
338. Federated Farmers of New Zealand seek that clause (b) is deleted. Clause (b) seeks to limit the effects of stock access in or to Schedule C (mana whenua) sites. Clause (b) is part of the effects-based conditions in Rule R97. While Schedule C sites are also included in Category 1, from which stock are to be excluded from 2018, there is a need to protect these sites from the effects of stock access in adjacent areas. Clause (b) applies to both the sites themselves and adjacent areas until the Category 1 exclusions take effect, and then continues to apply to stock access that is allowed upstream of, or adjacent to a Schedule C site. Clause (b) is needed for the on-going protection of Schedule C sites. My recommendation is for no change to clause (b).
339. Fish & Game (S308/109) submits that land slope criteria should be introduced to the rule provisions. Rule R97 uses a combination of identifying factors for classifying land for the management of stock access. One of these characteristics is slope, as Category 2 surface water bodies include lowland areas, which have been classified largely but not entirely, on the basis of being

land less than 15 degrees slope. This land is identified on Map 29. I note that some areas of land of less than 15 degrees slope is not included on Map 29.

340. Fish & Game also seeks that Rule R97 sets minimum set-back distances from water bodies where stock are to be excluded. Livestock are required to be excluded from Category 1 sites (except for sheep in significant wetlands) by 2018. While the proposed Plan does not contain any requirement for a set-back, such as a riparian margin, the Council's Land Management Department has been working with, and providing funding to, landowners with surface water bodies from which stock are to be excluded. These programmes include the establishment of a riparian margin along or around a water body, where this is feasible. I consider this is a better approach than setting fixed set-backs where stock are to be excluded.
341. Stock access is allowed, with conditions, to Category 2 sites, which includes Schedule I (trout habitat), being rivers and streams important to trout spawning habitat. The conditions of the access to Schedule I sites are that access is limited to dry beds, or if there is water in the bed, the access is limited to stock crossings used not more than twice per month.
342. Whether the access allowed to Schedule I sites by cattle, farmed deer and farmed pigs, and the limitation on frequency of use of crossings in Schedule I rivers will protect the trout spawning habitat is not clear, and the submitter may wish to address this point at the hearings.

***Application of Rule R97 in the coastal marine area***

343. Permitted activity Rule R97, and Policies P99 to P101, which Rule R97 implements, form part of the regional coastal plan, and the provisions apply both seaward and landward of the CMA boundary. The CMA boundary is defined by the RMA in relation to tide levels on the open coast and in estuaries, but in a river that flows into the CMA, the CMA boundary extends up the river for the lesser distance of either 1km, or a distance 5 times the width of the river mouth. Some CMA boundary positions, however result from agreements made by Council with the Minister of Conservation under the operative coastal plan. The location of the river mouth and the calculated CMA boundary in each river

that flows to the coast in the region, are shown on maps 42-48 of the proposed Plan and on the GIS planning maps on the Council website.

344. The proposed Plan definition of surface water body includes ‘estuary’, and Category 1 surface water bodies includes estuaries identified in Schedule F4 (coastal sites), and a range of other significant sites, such as inanga spawning habitat, that may be wholly or partly in the CMA. Category 2 surface water bodies include estuaries that are not in Schedule F4.
345. Rule R97 has been designed to primarily manage livestock access to the bed of a river, drain, water race or lake. This is reflected in the description of the activity and the effects-based conditions. Rule R97 lacks conditions to manage stock access to the CMA and to wetlands, outside Category 1 sites. Livestock access to a river that flows through the CMA boundary, and at that point ceases to be a ‘river’, or to the foreshore or an estuary, also needs to be managed by way of rule conditions.
346. Rule R97 does not have any clearly stated, effects-based limits that apply in the CMA outside of estuaries, as these are the only part of the CMA included in the proposed Plan definition of surface water body. The lack of provisions relating to managing stock access in the CMA was a drafting omission in the proposed Plan, and this omission is observed in the submission from the Minister of Conservation (S75/142). While the national regulations are likely to require stock exclusion from all wetlands, implementation of both regulations and the proposed Plan provisions will be progressive, commencing in 2017 through to 2030. Although the regulations as currently proposed will not apply in the CMA, the proposed Plan sets out to manage the effects of stock access in this area. Clear limits on the nature and extent of acceptable effects are necessary. Amendments to Rule R97 and R98 are recommended to achieve this.

### ***Stock crossings***

347. Rule R97 only applies standards for a stock crossing relating to; location, use and frequency of use, in flowing or ponded water in Category 2 surface water bodies. Meeting these requirements is deferred until 2022. Prior to this date,

and outside of Category 2, or in dry river or lake beds, wetlands or the CMA there are no conditions relating to use or effects of use to be complied with. This omission is identified in the submission by the Minister of Conservation (S75/142). These gaps should be filled to ensure consistent application of the rule, and to give effect to the policies of the proposed Plan. Amendments to Rule R97 are recommended to achieve this.

***Stock drinking points***

348. The cost of excluding stock from surface water bodies is an expensive project for landowners. There has always been an expectation that part of the cost is to provide reticulated stock water systems, as stock drinking was a primary reason livestock were in water bodies, contributing to reduced water quality. The staging of stock exclusion requirements is in part to allow landowners time to plan for the costs involved.
349. A recent evaluation report, *Economic Evaluation of Stock Water Reticulation on Hill Country*, prepared for the Ministry for Primary Industries and Beef and Lamb New Zealand assessed the costs and benefits of reticulated stock water systems in New Zealand hill country farms. The report concluded that significant productivity gains can be achieved from the installation of reticulated stock water systems and associated subdivision and riparian fencing, resulting in significant return on the investment, and a short pay-back period. Other gains, such as ‘peace-of-mind’ from a reliable water supply, and meeting stock exclusion requirements were also reported.
350. The proposed national regulations for stock exclusion do not provide for stock drinking points where stock exclusion is required, as the staging of the exclusion is to allow planning for the additional costs. I recommend that the proposed Plan take the same approach. Outside of Category 1 and Category 2 areas stock access is allowed, including for drinking water, provided the baseline water quality limits in Rule R97 are complied with.

*RMA section 70*

351. RMA section 70 requires that any permitted activity rule for discharge to land or water will not breach the water quality limits specified in the section. Rule R97 in the proposed Plan contains conditions requiring that where stock access is allowed, the access in all areas outside Schedule C areas and where discharges from stock access tracks enter water, shall not, outside the zone of reasonable mixing, breach the relevant water quality limits in RMA section 70. Within Schedule C areas, or for stock access that affects a Schedule C area, the water quality limits must be achieved without mixing. In my opinion Rule R97, with my recommended amendments, complies with RMA section 70.

*Timeframes for Implementation*

352. Submissions seek various relief relating to the time frames to implement the limits on stock access to Category 1 and Category 2 surface water bodies. This ranges from decreasing the time period to three years from notification to increasing by three years, and having the time period commence from when the proposed Plan becomes operative (not when it was notified).

353. The proposed Plan was notified on 31 July 2015, and signalled that Category 1 exclusions would be implemented by 31/07/2018, and Category 2 restrictions by 31/07/2022. This timing is not dissimilar to the likely requirements of the national regulations, which propose to impose stock exclusions commencing from July 2017. The regulations will prevail over the proposed Plan provisions, unless the plan is more stringent.

354. In respect of timing, the exclusion of stock from Category 1 surface water bodies by 31 July 2018 will likely be, overall, more stringent than the regulations as Category 1 includes some surface water bodies that may not have stock excluded under the regulations until 2025, or later. Category 1 surface water bodies have the highest values in the region, and early exclusion of stock is necessary to protect those values.

355. Many landowners in the region that have Category 1 surface water bodies have commenced programmes to exclude stock from these. The Land Management

Department of the Council reports that, due to the considerable number of landowners and the extent of some property programmes, not all Category 1 surface water bodies will have stock excluded by 31 July 2018. This will raise issues of non-compliance and enforcement that may be detrimental to achieving the goal for Category 1. The Land Management Department suggest that a 12 month extension to the time frame for Category 1 surface water bodies would be sufficient to alleviate the risk of non-compliance for these landowners. I support that suggestion and recommend the deadline for livestock exclusion from Category 1 surface water bodies be extended to 31 July 2019.

### *Stock exclusion plans*

356. The national regulations as proposed provide for an alternative option for a landowner unable to meet the requirements for stock exclusion due to plausible reasons such as significant practical constraints. The landowner will be able to apply to the Council for permission to develop a 'stock exclusion plan'. This plan is, in effect a stock access plan, as it must set out where complete stock exclusion is not feasible and what alternate mitigation measures will be undertaken to manage the adverse impacts on the water bodies. The plan must be approved by the Council.
357. There is merit in permitted activity Rule R97 accommodating the proposed regulations in this respect, as there will be many land owners in the region that may not be able to achieve full compliance with stock exclusion from Category 1 surface water bodies, due to physical and practical constraints. Under the proposed Plan, in this situation, resource consent would be required under Rule R98 to authorise the non-complying access. This consenting requirement could be an impediment to achieving the outcomes desired from managing stock access, as resources that could be applied to implementing a stock access plan are consumed by a consent process.
358. The Land Management and Biodiversity Departments of the Council are already working with landowners and assisting to fund the development and implementation of Riparian and Wetland Management Plans. The management

plans can address the management of stock access to Category 1 sites where complete exclusion is not achievable due to practical constraints. The management plans are agreed between the landowner and the Council.

359. The stock access plans could also apply in Category 2 areas and other areas where a landowner may not be able to comply with requirements to exclude livestock e.g. from water bodies with flowing or ponded water in the bed.
360. Permitted activity Rule R97 could include a clause that provides for this alternative option where exclusion or limits on access cannot be achieved.

*Minor changes*

361. Rules R97 and R98 sit under a section banner, 5.4.3 Stock Exclusion. The term misrepresents what the rules are addressing, which is stock access, with exclusion only applying to Category 1 areas. The exclusion is a sub-set of the management of stock access, so the banner would be more accurate to state, ‘Stock access’.
362. The titles of Rules R97 and R98 are worded slightly differently; R97 is ‘Access to ...by livestock’, while R98 is ‘Livestock access to...’. There is no intended difference in the rule titles, and consistent wording is preferable. The title of Rule R98 is more succinct, so the R97 title is preferable.
363. I recommend that the section banner title, and the title of Rule R97 are amended, as minor amendments under RMA section 16.

**Recommendation**

364. Amend Rule R97 as follows:

**5.4.3 Livestock ~~exclusion~~ access**

Rule R97: Livestock Access to the beds of a surface water bodies or the coastal marine area by livestock – permitted activity

The use and disturbance of the bed, including the banks or other land in a surface water body or the coastal marine area, and any associated discharge to water from ~~for access by livestock access to the bed, including banks, and the disturbance of the bed and banks and the discharge of associated sediment and excreta to a surface water body~~ is a permitted activity, provided the following conditions are met:

- (a) a Livestock Access Plan has been approved in writing by the Wellington Regional Council, and the terms and conditions of the Livestock Access Plan are complied with at all times;

or

~~the access does not result in significant pugging of the bed (including the banks) of a lake or river other than at a **stock crossing point**, and~~

- (b) the access, or any discharge from a constructed track or raceway, does not cause a conspicuous change in colour or visual clarity of water;

(i) within a site with significant **mana whenua** values identified in Schedule C (mana whenua), and or

(ii) ~~(e) the access does not cause a conspicuous change in colour or visual clarity beyond the **zone of reasonable mixing** in all any other locations,~~

and

- (c) the access to a river, open drain, water race or lake does not result in pugging or de-vegetation that exposes bare earth in the bed (including the banks),

and

- (d) the access to a wetland, estuary or the coastal marine area does not result in:

(i) pugging or de-vegetation that exposes bare earth; or

(ii) a conspicuous change in colour or visual clarity of water; or

(iii) cattle, farmed deer or farmed pigs being left unattended in, or not being actively moved through, a wetland, estuary or the coastal marine area,

and

- (e) A **stock crossing point** on a river, open drain, water race or lake shall:

(i) be not more than 20 metres wide, and

(ii) be perpendicular to the direction of water flow, except where this is impracticable owing to the natural contours of the bed or adjoining land; and

(iii) align with a constructed track or raceway on either side of the **stock crossing point**; and

(iv) not be used to allow cattle, farmed deer or farmed pigs to be left unattended in, or not actively moved through, a river, open drain, water race or lake;

and

- (f) from 31.07.2022(45), access by cattle (including **dairy cows**), farmed deer and farmed pigs within a **Category 2 surface water body**, and **dairy cows** within a rivers that is not a **Category 1 surface water body** and has ~~have~~ an active bed width of 1 metre or wider can occur where:

(i) there is no flowing or ponded water within the bed at the time and location of the access, and

(ii) ~~other than at a **stock crossing point** the access does not result in significant pugging of the bed (including the banks) of a lake or river, the access complies with condition (c) or condition (d);~~

or

(iii) there is flowing or ponded water within the bed, and the access is only for the purpose of crossing at a **stock crossing point**, and

(iv) ~~the **stock crossing point** is associated with a maintained access track the access complies with conditions (b) and (e), and~~

(v) ~~the access for the purpose use of crossing at a the **stock crossing point** occurs no more frequently than twice in any month, and~~

- (vi) ~~the livestock are actively crossing,~~  
 and  
 (e)(g) ~~from three years after the date of public notification of the Proposed Natural Resources Plan (31.07.20195):~~
- (i) within a **significant natural wetland** listed in Schedule F3 (significant wetlands) **livestock** access is limited to sheep,  
 and
  - (ii) with the exception of ~~provided by condition (g)(i) (vii) above,~~ there is no **livestock** access within a **Category 1 surface water bodies**.

*Note*

Fencing is one method of managing **livestock** access and fencing can be either permanent or temporary as long as it achieves the conditions of the rule.

## Issue 4.5 Rule R98

365. Rule R98 is:

*Rule R98: Livestock access to the beds of surface water bodies – discretionary activity*

*The use of land for access by any **livestock** to the bed (including the banks), and the disturbance of the bed and discharge of sediment and excreta to a **surface water body** that is not permitted by Rule R97, is a discretionary activity.*

366. Rule R98 is a discretionary activity rule that applies if one or more of the conditions of permitted activity Rule R97 are not complied with.

### Submissions

367. There are five submission points and three further submission points to Rule R98. A summary of the submissions is:

- The discretionary activity status of Rule R98 is supported (DairyNZ and Fonterra Co-operative Group Limited S316/109) but the submitter is concerned that this rule may restrict the use of bridges or culverts for crossings over Category 1 surface water bodies (S316/110). The submission is supported by Waa Rata Estate (FS1/054) and opposed by Rangitāne o Wairarapa (FS74/078).
- A discretionary consent application is excessive for minor non-compliance with Rule R97. There should be scale and intensity of livestock access that is permitted (Waa Rata Estate S152/074).

- Rule R98 should be for a controlled activity (Federated Farmers of New Zealand S352/208).
- Rule R98 should be for a non-complying activity (Royal Forest and Bird Protection Society S353/139, opposed by DairyNZ & Fonterra Co-Operative Dairy Group Limited (FS84/044)).

### Assessment

368. Rule R98 is the rule applying if an activity does not comply with Rule R97, and resource consent is required to; authorise the access of livestock to a surface water body or the CMA, or where stock have been excluded and the adverse effects of the livestock access on land, or water quality, are greater than allowed under Rule R97. A landowner seeking livestock access to a Category 1 surface water body or to Category 2 surface water body that would not comply with Rule R97, would make an application for resource consent under Rule R98.
369. Submissions variously seek a lessening and a strengthening of the consent status for Rule R98. Waa Rata Estate (S152/074) submit that discretionary status is excessive for minor non-compliance with Rule R97. As explained in my assessment in respect of Rule R97, it provides for stock access in many locations, subject to conditions. Minor non-compliance with those conditions, over a long period may result in significant adverse effects which would need to be assessed before approval is granted.
370. A lower activity status is controlled activity. Federated Farmers of New Zealand seek that such an application be for a controlled activity. The nature of actual and potential adverse effects, particularly cumulative effects, from livestock access could vary widely, and have significant adverse effects especially in water bodies with significant values.
371. If the resource consent status was for a controlled activity, the Council could not decline the application, so would need to be confident that the effects of the activity, including the total cumulative effects that could arise from any number of such consents, would be able to be managed by resource consent

conditions. I recommend that the Council reserve the ability to decline an application, so controlled activity status is not appropriate.

372. When an application for resource consent is made the Council would consider all the potential effects on the environment, including cumulative effects, of allowing the activity, therefore it is appropriate that the scope of matters considered would be as broad as necessary. Discretionary activity status means that an application for resource consent is required under the proposed Plan, but a decision to grant or refuse the application would be based on the nature and extent of adverse effects on the environment, the nature of the receiving environment, as well as the objective and policy framework of the proposed Plan and other relevant policy documents.
373. Royal Forest and Bird Protection Society (S353/139) seeks that Rule R98 be for a non-complying activity. Non-complying status is often reserved for those activities where the potential adverse effects are great but do not necessarily warrant prohibition, and that consents would only be granted in exceptional circumstances. The intent of the proposed Plan is to manage the effects of livestock access, and a discretionary status allows full assessment of effects of the activity.
374. I recommend that discretionary activity status is appropriate for Rule R98.
375. As noted in respect of Rule R97 and the submission by the Minister of Conservation relating to its application in the CMA, Rule R98 should be amended to specifically identify that it applies in the CMA, as well as to a surface water body.

### Recommendation

376. Amend Rule R98 as follows:

**Rule R98: Livestock access to ~~the beds of~~ a surface water bodyies or the coastal marine area – discretionary activity**

**The use and disturbance of the bed, including the banks, or other land in a surface water body or the coastal marine area, and any associated discharge to water, ~~and for access by any from livestock access to a surface water body~~ the bed, including banks, and the disturbance of the bed and banks and discharge of associated sediment and**

~~exereta to water a surface water body~~ that is not permitted by Rule R97, is a discretionary activity.

#### Section 32AA assessment of Issue 4

377. An assessment of my recommended changes on Issue 4 pursuant to section 32AA of the RMA is attached in Appendix A

### **Issue 5. Method M12: Sustainable land management practices**

378. Method M12 is:

*Wellington Regional Council will encourage sustainable rural land management by:*

- (a) providing research, advice and promoting **good management practices**, developed in partnership with landowners and rural industries, and*
- (b) working in partnership with affected landowners to identify **Category 1 surface water bodies** and **Category 2 surface water bodies**, and*
- (c) developing, and assisting with the implementation of riparian management plans, critical source area management plans, farm plans and farm environment plans across a number of priority catchments, including:*
  - (i) providing assistance with riparian planting, and erosion and sediment control for 50% of farms in the Taueru River, Kopuaranga River and Huangarua River catchments by 2025,*
  - and*
  - (ii) providing assistance with riparian planting, nutrient and erosion and sediment control for 50% of properties in the Mangatarere River and Taratahi/Parkvale stream catchments by 2025 and Lake Wairarapa and Whareama River estuary catchments by 2023, and*
  - (d) collecting and providing biophysical information needed for adaptive management, and*
  - (e) providing plants through the Akura Conservation Centre for erosion control and riparian and wetland management, and*
  - (f) providing incentives, such as assistance with costs and labour associated with riparian and wetland fencing, planting and pest control.*

379. Method M12 is a non-regulatory provision of the Proposed Plan, but commits the Council to encouraging sustainable rural land management through a range of actions including; in partnership with rural industries and landowners, developing good management practices<sup>8</sup>, working with landowners to identify

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<sup>8</sup> **Good management practice** is defined/described in the proposed Plan to be: Practices, procedures or tools (including rules) that are effective at achieving the desired performance while providing for desired environmental outcomes. Good management practice evolves through time and results in continuous improvement as new information, technology and awareness of particular issues

Category 1 and Category 2 surface water bodies, developing and assisting with the implementation of riparian management plans and farm environment plans in identified priority catchments and providing resources to help implement these management plans.

380. The Section 32 report: Livestock access, break-feeding and cultivation states that Method M12 was developed, in part, to assist landowners and managers with the cost of complying with the new provisions for stock exclusion and land use in riparian margins. Method M12 is also expected to improve the sustainability of any fencing efforts, through advice and guidance and assistance with riparian management planning and implementation.

### Submissions

381. There are 11 submissions and three further submission points to Method M12. A summary of the matters raised in submissions is:

- Council-led environmental initiatives have historically and currently continue to assist the farming community, and a partnership approach is encouraged (New Zealand Deer Farmers' Association - Wairarapa Branch S434/007) and Method M12 is supported (Friends of the Paekakariki Streams S112/083, Neville Fisher S12/049, DairyNZ and Fonterra Co-operative Group Limited S316/128, Rural Residents Environmental Society Incorporated S125/025).
- Extend the scope of Method M12 to develop catchment scale plans to implement best practices and provide assistance to landowners outside the priority areas identified in Method M12 (Federated Farmers of New Zealand S352/244 supported by Ravensdown Limited (FS46/036)).
- Method M12 should focus on erosion and sediment control, while nutrient management is best dealt with through farm environment plans in the whitua catchments (Ravensdown Limited S310/052).

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are developed and disseminated. Good management practice guidelines can be found on the Wellington Regional Council's website <http://www.gw.govt.nz/good-management-practice/>

- Development of best management practices should be undertaken jointly between industry and stakeholders. Include a new method to provide for this joint development process (Horticulture New Zealand S307/079 supported by Ravensdown Limited (FS46/035) and Fertiliser Association of New Zealand FS50/012)).
- Recognise strategic urban growth areas in the promotion of sustainable rural land management. Include a new Method to integrate urban development with rural land use planning (Porirua City Council S163/153). Method M12 does not include urban landowners, and should promote sustainable land management in both rural and urban areas (Ngā Hapū o Ōtaki S309/047).
- Encourage landowners to restore margins with indigenous vegetation (Friends of the Paekakariki Streams S112/006).

### Assessment

382. Method M12 is intended to continue the assistance to rural land owners that the Council has for many years provided, and to develop this further to implement the provisions of the proposed Plan. Method M12 includes provisions to develop tools to support land management generally, as well as in priority catchments, some of which are identified in the Method. The proposed Plan identifies five whaitua management areas, with consultative processes under way in two of these, the Ruamāhanga and Te Awarua o Porirua Harbour catchments. The processes will be extended to other catchments.
383. Porirua City Council and Ngā Hapū o Ōtaki both want a Method to promote integrated urban and rural land management. There is merit in this as the adverse effects of land use on water quality and aquatic ecosystems derive from both rural and urban land uses.
384. The introductory statement of Method 12, that *Wellington Regional Council will encourage sustainable rural land management...* does not fully reflect the nature of the method which is to promote sustainable land management throughout the region, regardless of the type and location of land use. Clause (a) of Method 12 should be extended to promote partnerships with territorial authorities, and urban landowners and industries, as well as the rural sector. As

a consequential amendment, the section title at Methods 6.5 should also refer to land use

## Recommendations

385. Amend Method 6.5 title as follows;

6.5 ~~Rural~~ Land use

386. Amend Method M12 as follows:

### Method M12: Sustainable land management practices

Wellington Regional Council will encourage sustainable ~~rural~~ land management by:...

- (a) providing research, advice and promoting **good management practices**, developed in partnership with territorial authorities and rural and urban landowners and ~~rural~~ industries, and...

## Section 32AA assessment of on Issue 5

387. An assessment of my recommended changes on Issue 5 pursuant to section 32AA of the RMA is attached in Appendix A.

## 8. Conclusion

388. The management of land use in riparian margins and stock access to surface water bodies and the CMA is significant issue for New Zealand and the Wellington Region. The proposed Plan contains objectives, policies, rules and other methods to address the issue and establish clear outcomes and means to achieve these outcomes.

389. The submissions received on these provisions have been carefully considered and the many recommendations made in this report to amend the provisions in the proposed Plan are in direct response to these submissions. The role of the submitters is gratefully acknowledged.

390. The issue of stock access is also being addressed through national regulations that are currently being prepared by central government. It is expected that the regulations will take effect before 1 July 2017, however, to date, only the draft scope of the proposed regulations has been published.

391. The regulations as currently proposed will set minimum requirements that a regional plan cannot relax, although the regional plan may be more stringent than the regulations. At present the proposed Plan appears to be more stringent than the regulations in some areas of the control of stock access, but in other areas may not be consistent with the regulations. The specifics of these areas of difference will not be able to be confirmed until the drafted regulations have been published. This is expected at the end of June 2017.
392. It is not expected that the regulations will require changes to regional plans, and the two regulatory documents will exist side-by-side, however the timing of the hearings on the proposed Plan on this matter means there could be opportunity to make the proposed Plan consistent with the regulations, i.e. ensure the proposed Plan rules are not more relaxed than the regulations. Where the proposed Plan is more stringent than the regulations it is not recommended that the proposed Plan be relaxed.
393. To enable this comparison of the regulations with the proposed Plan rules, I seek leave of the Hearing Panel to submit a supplement to this report that will set out the comparison and make recommendations to achieve consistency with the regulations, once they have been published.

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## Appendix A: Recommended amendments and section 32AA assessment

Note: My recommended amendments are set out below. Additions to the notified text are in underline and deletions are ~~strike-through~~ text. The section 32AA assessment follows alongside for each of the provisions.

Amendment No./Submission point No.	Chapter	Provision	Recommended amendment	Evaluation of amendment (section 32AA assessment)
A1/(S133/001) (S307/003) (S352/022) Refer to Issue 1.1	Chapter 2 Interpretation	Section 2.2 Definitions	<p><b>Cultivation</b> <del>Any process that involves turning over, or tilling</del> <u>Disturbing</u> the soil for <del>the preparation of</del> <u>planting, growing, or harvesting, of a crops or pasture,</u> excluding:</p> <ul style="list-style-type: none"> <li>(a) direct drilling <u>practices,</u> and</li> <li>(b) no-till <u>or strip-tilling</u> practices, and</li> <li>(c) <del>harvesting,</del> and</li> <li>(<del>d</del>) forestry, <u>plantation forestry or harvesting.</u></li> </ul>	<p><b><u>Effectiveness and efficiency</u></b>                      The amendment will provide a clearer and more certain definition, thus increasing the efficiency of the proposed Plan. The recommended amendment maintains the intent of the definition in the proposed Plan and would not alter any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b>                      There are no costs associated with this recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b>                      There are environmental benefits from a clear and certain definition, as it is more likely that land users will understand and implement the proposed Plan provisions associated with cultivation.</p> <p><b><u>Risk of acting or not acting</u></b>                      The risk of not acting is that the decision version will not provide a clear and certain definition, causing confusion about when the rules apply or are complied with.</p> <p><b><u>Decision about most appropriate option</u></b>                      In my opinion the proposed amendment is the most appropriate way to address uncertainty identified in submissions and assessed in Issue 1.1.</p>

<p>A2/(S352/033)</p> <p>Refer to Issue 1.2</p>	<p>Chapter 2 Interpretation</p>	<p>Section 2.2 Definitions</p>	<p><b>Livestock</b> <del>Domestic Farm animals, such as cattle or horses, raised for home use or for profit.</del> For the purpose of <u>Rule R97 and Rule R98</u> of the Plan <b>livestock</b> does not include horses while they are being used for transportation, or bird species.</p>	<p><b><u>Effectiveness and efficiency</u></b>                  The amendment will provide a clearer and more certain definition, thus increasing the efficiency of the proposed Plan. The recommended amendment maintains the intent of the definition in the proposed Plan and would not alter any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b>                  There are no costs associated with this recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b>                  There are environmental benefits from a clear and certain definition, as it is more likely that land users will understand and implement the proposed Plan provisions relating to livestock.</p> <p><b><u>Risk of acting or not acting</u></b>                  The risk of not acting is that the decision version will not provide a clear and certain definition, causing confusion about when the rules apply or are complied with.</p> <p><b><u>Decision about most appropriate option</u></b>                  In my opinion the proposed amendment is the most appropriate way to address uncertainty identified in submissions and assessed in Issue 1.2.</p>
<p>A3/(S120/019) (S299/059), (S351/092)</p> <p>Refer to Issue 1.3</p>	<p>Chapter 2 Interpretation</p>	<p>Section 2.2 Definitions</p>	<p><b>Dairy cows</b>  <del>A herd of cows</del> <u>Cattle</u> reared for commercial milk production, including dry cows and heifers.</p>	<p><b><u>Effectiveness and efficiency</u></b>                  The amendment will provide a clearer and more certain definition, thus increasing the efficiency of the proposed Plan. The recommended amendment maintains the intent of the definition in the proposed Plan and would not alter any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b></p>

				<p>There are no costs associated with this recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b></p> <p>There are environmental benefits from a clear and certain definition, as it is more likely that land users will understand and implement the proposed Plan provisions relating to dairy cows.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will not provide a clear and certain definition, causing confusion about when the rules apply or are complied with.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendment is the most appropriate way to address uncertainty identified in submissions and assessed in Issue 1.3.</p>
<p>A4/(S35/001) (S311/020) (S352/016) (S376/044)</p> <p>Refer to Issue 1.4</p>	<p>Chapter 2 Interpretation</p>	<p>Section 2.2 Definitions</p>	<p><b>Break-feeding</b></p> <p><u>The feeding of Livestock in a paddock where access to on-pasture or forage in a section of the paddock where feed allocation is controlled by the frequent movement of an electric fence a temporary fence or other method to contain the livestock.</u></p>	<p><b><u>Effectiveness and efficiency</u></b></p> <p>The amendment will provide a clearer and more certain definition, thus increasing the efficiency of the proposed Plan. The recommended amendment maintains the intent of the definition in the proposed Plan and would not alter any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b></p> <p>There are no costs associated with this recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b></p> <p>There are environmental benefits from a clear and certain definition, as it is more likely that land users will understand and implement the proposed Plan provisions relating to break-feeding livestock.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will not provide a clear and certain definition, causing confusion about when the rules apply or are complied with.</p>

				<p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendment is the most appropriate way to address uncertainty identified in submissions and assessed in Issue 1.4.</p>
<p>A5/(S152/032) (S278/005) (S311/022) (S312/005) (S352/049) (S383/005) (S434/011)</p> <p>Refer to Issue 1.5</p>	<p>Chapter 2 Interpretation</p>	<p>Section 2.2 Definitions</p>	<p><b>Stock crossing point</b></p> <p><u>The area of the bed or other land in a surface water body or the coastal marine area A location where livestock can cross a surface water body from one side to the other. The locations on each side of the surface water body are directly opposite each other and are not more than 20m wide.</u></p> <p>Rule R97: Access to the beds of surface water bodies by livestock – permitted activity</p> <p>...</p> <p><u>e) A stock crossing point on a river, open drain, water race or lake shall:</u></p> <ul style="list-style-type: none"> <li><u>(i) be not more than 20 metres wide, and</u></li> <li><u>(ii) be perpendicular to the direction of water flow, except where this is impracticable owing to the natural contours of the bed or adjoining land; and</u></li> <li><u>(iii) align with a constructed track or raceway on either side of the stock crossing point; and</u></li> <li><u>(i) not be used to allow cattle, farmed deer or farmed pigs to be left unattended in, or not actively moved through, a river, open drain, water race or lake;</u></li> </ul>	<p><b><u>Effectiveness and efficiency</u></b></p> <p>The amendment will provide a clearer and more certain definition, and ensure the provision applies in the CMA, thus increasing the efficiency of the proposed Plan. The transfer of the standards for a crossing to Rule R97 creates more robust provisions. The recommended amendments maintain the intent of the definition in the proposed Plan, and would not alter any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b></p> <p>There are no costs associated with this recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b></p> <p>There are environmental benefits from a clear and certain definition and rule conditions as it is more likely that land users will understand and implement the proposed Plan provisions relating to livestock crossing points.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will not provide a clear and certain definition, causing confusion about when the rules apply or are complied with.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendments are the most appropriate way to address uncertainty identified in submissions and assessed in Issue 1.5.</p>

<p>A6/(S75/007) (S163/022) (S316/007) (S352/018)</p> <p>Refer to Issue 1.6</p>	<p>Chapter 2 Interpretation</p>	<p>Section 2.2 Definitions</p>	<p><b>Category 1 surface water body</b> includes, and is limited to:</p> <p>(a) <u>outstanding water bodies identified in Schedule A (outstanding water bodies), and</u></p> <p>(b) sites with significant <b>mana whenua</b> values identified in Schedule C (mana whenua), and</p> <p><del>(b)</del> <del>(c)</del> <u>inanga spawning habitat identified in Schedule F1b (inanga spawning habitats), and</u></p> <p><del>(c)</del> (d) habitats for indigenous birds in rivers identified in Schedule F2a (birds-rivers)</p> <p><del>(d)</del> <u>estuaries identified in Schedule F4 (coastal sites), and</u></p> <p>(e) <u>significant natural wetlands greater than 0.1ha identified in Schedule F3 (identified significant natural wetlands), and</u></p> <p><del>(e)</del> <u>estuaries identified in Schedule F4 (coastal sites), and</u></p> <p><del>(f)</del> <u>outstanding water bodies identified in Schedule A (outstanding water bodies), and</u></p> <p>(g) within 1,000m upstream of a surface water abstraction site for a community drinking water supply shown on Map 26.</p>	<p><b><u>Effectiveness and efficiency</u></b></p> <p>The amendment will provide a clearer and more certain definition, thus increasing the efficiency of the proposed Plan. The recommended amendment maintains the intent of the definition in the proposed Plan and would not alter any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b></p> <p>There are no costs associated with this recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b></p> <p>There are environmental benefits from a clear and certain definition, as it is more likely that land users will understand and implement the proposed Plan provisions relating to Category 1 surface water bodies.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will not provide a clear and certain definition, causing confusion about when the rules apply or are complied with.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendment is the most appropriate way to address uncertainty identified in submissions and assessed in Issue 1.6.</p>
<p>A7/(S32/059), (S84/015) (S85/060), (S135/035) (S146/038) (S286/046) (S316/023)</p>	<p>Chapter 2 Interpretation</p>	<p>Section 2.2 Definitions</p>	<p><b>Zone of reasonable mixing</b></p> <p>(1) <del>_____</del> For the purpose of permitted rules in the Plan, <del>but excluding discharges to coastal water,</del> the <b>zone of reasonable mixing</b> is:</p> <p>(a) in relation to <u>a flowing surface water bodyies,</u> <u>excluding an estuary,</u> whichever of the following is the least:</p> <p>(i) a distance 200m downstream of the point of</p>	<p><b><u>Effectiveness and efficiency</u></b></p> <p>The amendment will provide a clearer and more certain definition, thus increasing the efficiency of the proposed Plan. The recommended amendment maintains the intent of the definition in the proposed Plan and would not alter any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b></p>

<p>Refer to Issue 1.8</p>			<p>discharge if the width of the wetted channel is greater than 30m at the point of discharge, or</p> <p>(ii) a distance equal to seven times the width of the wetted channel of the <b>surface water body</b>, but which shall not be less than 50m, or</p> <p>(iii) the distance downstream at which mixing of contaminants has occurred across the full width of the wetted channel of the <b>surface water body</b>, but which shall not be less than 50m, or</p> <p>(b) in relation to <u>a lakes and the coastal marine area, including an estuary</u>, a distance 15m from the point of discharge.</p> <p>(2) <u>For the purpose of consented activities and for permitted activity discharges to coastal water</u>, the <b>zone of reasonable mixing</b> is determined on a case by case basis in accordance with Policy P724.</p>	<p>There are no costs associated with this recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b></p> <p>There are environmental benefits from a clear and certain definition, as it is more likely that dischargers will understand and implement the proposed Plan provisions relating to the zone of reasonable mixing.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will not provide a clear and certain definition, causing confusion about when the rules apply or are complied with.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendment is the most appropriate way to address uncertainty identified in submissions and assessed in Issue 1.8.</p>
<p>A8/(S35/004) (S75/030) (S112/019) (S279/038) (S301/030) (S316/034) (S352/084) (S353/034) (S366/049) (S367/049) (S308/028)</p>	<p>Chapter 3 Objectives</p>	<p>Section 3.6</p>	<p>Objective O27</p> <p><u>Vegetated riparian margins are established, and maintained, or restored to enhance water quality, aquatic ecosystem health, mahinga kai and indigenous biodiversity of rivers, lakes, wetlands and the coastal marine area.</u></p> <p><b><u>Riparian margin:</u></b> <u>A strip of land which separates an inland or upland area from a <b>surface water body</b> or the coastal marine area, where the activity is modified to</u></p>	<p><b><u>Effectiveness and efficiency</u></b></p> <p>The recommended changes to Objective O27 and a new definition of riparian margin will provide for clearer outcomes and more accurate description, thus increasing the efficiency of the proposed Plan. The recommended amendments maintain the intent of the information provided in the proposed Plan and none of them would alter the meaning or any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b></p> <p>There are no costs associated with these recommendations.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b></p> <p>There are environmental, cultural, economic or social benefits from</p>

Refer to Issue 2.1			<p><u>maintain or improve water quality, aquatic ecosystem health, mahinga kai and indigenous biodiversity within the surface water body or coastal marine area.</u></p>	<p>more clearly describing the outcomes sought by the proposed Plan.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will not provide clear outcomes and accurate description of the associated resources.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendments are the most appropriate way to address omissions and inaccuracies in Section 3.6 identified in submissions and assessed in Issue 2.1.</p>
<p>A9/(S29/008) (S55/007) (S120/008) (S125/008) (S146/063) (S276/008) (S279/054) (S282/019) (S302/023) (S307/026) (S308/034) (S310/017) (S352/099)</p> <p>Refer to Issue 2.2</p>	Chapter 3 Objectives	Section 3.10	<p><b>Objective O44</b></p> <p><del>The adverse effects on soil and water from land use activities are minimised</del></p> <p><u>Land use activities are to maintain or enhance soil conservation and contribute to maintaining and improving water quality and the health of aquatic ecosystems.</u></p>	<p><b><u>Effectiveness and efficiency</u></b></p> <p>The recommended changes to Objective O44 will provide for clearer outcomes, thus increasing the efficiency of the proposed Plan. The recommended amendment maintains the intent of the information provided in the proposed Plan and would not alter the meaning or any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b></p> <p>There are no costs associated with these recommendations.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b></p> <p>There are environmental, cultural, economic or social benefits from more clearly describing the outcomes sought by the proposed Plan.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will not provide clear outcomes.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendment is the most appropriate way to address omissions and inaccuracies in Section 3.10 identified in submissions and assessed in Issue 2.2.</p>
A10/(S75/037) (S112/027)	Chapter 3 Objectives	Section 3.10	<p><del>Objective O45</del></p> <p><del>The adverse effects of livestock access on surface</del></p>	<p><b><u>Effectiveness and efficiency</u></b></p> <p>The recommendation to delete Objective O45, and further amend</p>

<p>(S279/055) (S308/037) (S352/100) (S353/039)</p> <p>Refer Issue 2.3</p>			<p><del>water bodies are reduced.</del></p> <p><b>Objective O44</b>  <del>The adverse effects on soil and water from land use activities are minimised</del>  <u>Land use activities, including stock access to a surface water body or the coastal marine area, maintain or enhance soil conservation and contribute to maintaining and improving water quality and the health of aquatic ecosystems.</u></p>	<p>Objective O44 to combine the outcome in Objective O45 will provide for clearer. More coherent outcomes and more accurate description, thus increasing the efficiency of the proposed Plan. The recommended amendments maintain the intent of the information provided in the proposed Plan and none of them would alter the meaning or any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b>          There are no costs associated with these recommendations.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b>          There are environmental, cultural, economic or social benefits from more clearly and coherently describing the outcomes sought by the proposed Plan.</p> <p><b><u>Risk of acting or not acting</u></b>          The risk of not acting is that the decision version will not provide clear coherent outcomes.</p> <p><b><u>Decision about most appropriate option</u></b>          In my opinion the proposed amendments are the most appropriate way to address omissions and inaccuracies in Section 3.6 identified in submissions and assessed in Issue 2.3.</p>
<p>A11/(S75/089) (S135/087) (S145/044) (S146/117)</p> <p>Refer Issue</p>	<p>Chapter 4 Policies</p>	<p>Section 4.8</p>	<p>Policy P72: Zone of reasonable mixing  <u>When a discharge to water requires resource consent, Where not otherwise permitted by a rule, the zone of reasonable mixing shall be minimised and will be determined on a case-by-case basis. In determining the zone of reasonable mixing, particular regard shall be given to:</u>          (a) acute and chronic toxicity effects, and          (b) adverse effects on aquatic species migration, and          (c) efficient mixing of the discharge with the</p>	<p><b><u>Effectiveness and efficiency</u></b>          The recommended change to Policy P72 will provide for clearer expression of the purpose of Policy P72, thus increasing the efficiency of the proposed Plan. The recommended amendment maintains the intent of the information provided in the proposed Plan and would not alter the meaning or any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b>          There are no costs associated with the recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b>          There are environmental, cultural, economic or social benefits from</p>

			<p>receiving waters, and</p> <p>(d) avoiding a site with significant <b>mana whenua</b> values identified in Schedule C (mana whenua), and</p> <p>(e) the identified values of that area of water, and</p> <p>(f) avoiding significant adverse effects within the <b>zone of reasonable mixing</b>.</p>	<p>more clearly describing the circumstances when Policy P72 will be used to support the outcomes sought by the proposed Plan.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will not provide clear direction on the zone of reasonable mixing.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendment is the most appropriate way to address omissions and inaccuracies in Section 4.8 identified in submissions and assessed in Issue 3.1.</p>
<p>A12/(S33/022) (S75/097) (S112/072) (S279/132) (S300/007) (S308/066) (S309/032) (S352/174) (S353/105) (S366/091) (S367/091)</p> <p>Refer Issue</p>	<p>Chapter 4 Policies</p>	<p>Section 4.8</p>	<p>Policy P99: Livestock access to <u>a surface water bodyies and the coastal marine area</u></p> <p>Sedimentation, the direct discharge of contaminants, <u>damage to the beds or banks</u>, and the <u>degradation of aquatic ecosystems disturbance to the banks and beds</u> (including plants and habitats in, on or under the bed) of <u>a surface water bodyies and or the coastal marine area</u> resulting from <b>livestock</b> access shall be managed to:</p> <p>(a) <del>protect aquatic habitat and water quality, and</del></p> <p>(b) protect the significant values of <b>Category 1 surface water bodies by excluding livestock from these water bodies; and</b></p> <p>(b) outside a Category 1 <del>Where livestock are not excluded from the bed (including the banks) of surface water body ies the adverse effects of access are avoided, remedied or mitigated by methods, such as, but not limited to:</del></p> <p>(c) <del>(i) restricting the location and frequency of</del></p>	<p><b><u>Effectiveness and efficiency</u></b></p> <p>The recommended changes to Policy P99 will provide for clearer expression of the purpose of Policy P99, thus increasing the efficiency of the proposed Plan. The recommended amendments maintain the intent of the information provided in the proposed Plan and would not alter the meaning or any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b></p> <p>There are no costs associated with the recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b></p> <p>There are environmental, cultural, economic or social benefits from more clearly describing the circumstances when Policy P99 will be used to support the outcomes sought by the proposed Plan.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will not provide clear direction on the management of livestock access to surface water bodies and the CMA.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendment is the most appropriate way to address omissions and inaccuracies in Section 4.8 identified in</p>

			<p><u>access of some types of livestock, and</u>  <u>(ii) only allow access that protects aquatic habitat and water quality, and avoids significant damage to land in a surface water body or the coastal marine area.</u>  <del>(d) restricting the numbers of animals, and</del>  <del>(e) limiting the density, frequency and duration of access, and</del>  <del>(f) providing sufficient alternative sources of drinking water, shade and grazing outside of the banks and beds.</del></p>	<p>submissions and assessed in Issue 3.2.</p>
<p>A13/(S33/023)  (S112/073),  (S279/133)  (S308/067)  (S316/078)  (S352/175)  (S353/106)</p> <p>Refer Issue</p>	<p>Chapter 4  Policies</p>	<p>Section 4.8</p>	<p><del>Policy P100: Riparian margins for cultivation and break feeding</del>  <del>The overland flow of contaminants to surface water bodies from the use of land for cultivation and break feeding shall be minimised through the use of riparian set backs and good management practices.</del></p>	<p><b><u>Effectiveness and efficiency</u></b>  The recommendation to delete Policy P100 will remove a potentially limiting course of action for Council and provide for overall clearer expression of the purpose of other policies to achieve proposed Plan outcomes, thus increasing the efficiency of the proposed Plan. The recommended amendments maintain the intent of the information provided in the proposed Plan and would not alter the meaning or any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b>  There are no costs associated with the recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b>  There are environmental, cultural, economic or social benefits from more clearly describing the circumstances when Policy P99 will be used to support the outcomes sought by the proposed Plan.</p> <p><b><u>Risk of acting or not acting</u></b>  The risk of not acting is that the decision version will not provide clear direction on the management of livestock access to surface water bodies and the CMA.</p> <p><b><u>Decision about most appropriate option</u></b></p>

				In my opinion the proposed amendment is the most appropriate way to address omissions and inaccuracies in Section 4.8 identified in submissions and assessed in Issue 3.3.
A14/(S13/013) (S33/024) (S75/098) (S112/074) (S152/028) (S279/134) (S308/068) (S316/079) (S353/107) (S366/092) (S367/092)  Refer Issue	Chapter 4 Policies	Section 4.8	Policy P101: Management of riparian margins  <del>In order to m</del> <u>Maintain or restore water quality, aquatic ecosystem health, mahinga kai and natural character, and reduce the amount of sediments and nutrients-contaminants entering surface water bodies, through</u> good management of riparian margins <del>shall be encouraged</del> including: (a) the exclusion of livestock <u>likely to affect water quality, and</u> (b) <u>appropriate set-back distances from surface water bodies for some land use activities,</u> (c) <u>encouraging</u> the planting of appropriate riparian vegetation, and (d) the management of pest plants and animals.	<b><u>Effectiveness and efficiency</u></b> The recommended changes to Policy P101 will provide for clearer expression of the purpose of Policy P101, thus increasing the efficiency of the proposed Plan. The recommended amendments maintain the intent of the information provided in the proposed Plan and would not alter the meaning or any outcome of the proposed Plan. <b><u>Costs</u></b> There are no costs associated with the recommendation. <b><u>Benefits: (environmental, cultural, economic and social)</u></b> There are environmental, cultural, economic or social benefits from more clearly describing the actions of Policy P101 that will be used to achieve the outcomes sought by the proposed Plan. <b><u>Risk of acting or not acting</u></b> The risk of not acting is that the decision version will not provide clear direction on the management of riparian margins. <b><u>Decision about most appropriate option</u></b> In my opinion the proposed amendment is the most appropriate way to address omissions and inaccuracies in Section 4.8 identified in submissions and assessed in Issue 3.4.
A15/(S6/001) (S35/015) (S75/139) (S60/001) (S113/001) (S119/028) (S120/016)	Chapter 5 Rules	Section 5.4	Rule R94: Cultivation <del>or tilling</del> of land – permitted activity The use of land for <b>cultivation</b> is a permitted activity, provided the following conditions are met: (a) <u>cultivation on land with slope of more than 3 degrees shall not occur within 5 metres of the bed</u>	<b><u>Effectiveness and efficiency</u></b> The recommended amendments to Rule R94 will provide greater certainty for the use of land for cultivation as it identifies more explicitly the conditions under which cultivation can be undertaken close to a water body. The recommended amendments are in some respects more permissive than the proposed Plan, but introduce limits on effects on water quality from the activity, thus increasing

<p>(S169/008) (S278/019) (S295/056) (S304/009). (S307/070) (S308/099) (S316/106) (S352/205) (S431/010) (S434/018) (Farmers Common Format) (Wairarapa Water Users Common Format) (Land Matters Limited Common Format) (Craig Dairy Farm Common Format)</p> <p>Refer Issue 4.1</p>			<p><u>of a surface water body or the coastal marine area, and or</u> (b) <u>cultivation on land with slope of 3 degrees or less shall not occur within 2 metres of the bed of a surface water body or the coastal marine area;</u> <u>and</u> <u>the land between the cultivated land and the bed of a surface water body or the coastal marine area shall be in pasture or other groundcover vegetation throughout the period of cultivation; and</u> (c) <u>cultivation is undertaken along the contour of the land, where reasonably practicable, and</u> (d) <u>sediment laden any discharge surface water resulting from land subject to cultivation does not flow to a surface water body shall not, outside the zone of reasonable mixing in a surface water body or the coastal marine area, result in any of the following effects in receiving waters;</u> (i) <u>a conspicuous change in colour or visual clarity;</u> (ii) <u>the rendering of fresh water unsuitable for consumption by animals;</u> (iii) <u>any significant adverse effect on aquatic life.</u></p>	<p>the effectiveness and efficiency of the proposed Plan. The recommended amendments maintain the intent of the provisions in the proposed Plan and would not alter the meaning or any outcome of the proposed Plan.</p> <p><b>Costs</b> There are no costs associated with the recommendation.</p> <p><b>Benefits: (environmental, cultural, economic and social)</b> There are environmental, cultural, economic or social benefits from rule conditions that are certain and enforceable and will contribute to achieve the outcomes sought by the proposed Plan.</p> <p><b>Risk of acting or not acting</b> The risk of not acting is that the decision version will not provide certainty for land users and the Council for the control of cultivation adjacent to a surface water body.</p> <p><b>Decision about most appropriate option</b> In my opinion the proposed amendment is the most appropriate way to address omissions and inaccuracies in Section 5.4 identified in submissions and assessed in Issue 4.1.</p>
<p>A16/(S6/002) (S12/029) (S75/139) (S113/002) (S119/029) (S274/048). (S278/020) (S295/057)</p>	<p>Chapter 5 Rules</p>	<p>Section 5.4</p>	<p>Rule R95: <u>Livestock B</u>break-feeding – permitted activity The use of land for <u>livestock break-feeding</u> is a permitted activity, provided the following conditions are met: (a) <u>Livestock break-feeding on land with slope of more than 3 degrees shall not occur be within 5 metres of the bed of a surface</u></p>	<p><b>Effectiveness and efficiency</b> The recommended amendments to Rule R95 will provide greater certainty for the use of land for break-feeding of livestock as it identifies more explicitly the conditions under which break-feeding can be undertaken close to a water body. The recommended amendments are in some respects more permissive than the proposed Plan, but introduce limits on effects on water quality from the activity, thus increasing the effectiveness and efficiency of the</p>

<p>(S304/010) (S311/019) (S311/019) (S316/107) (S352/206) (S373/045) (S434/019) (Farmers Common Format) (Wairarapa Water Users Common Format) (Craig Dairy Farm Common Format) (Land Matters Limited Common Format)</p> <p>Refer Issue 4.2</p>			<p>(b) <u>water body or the coastal marine area, Livestock break-feeding on land with slope of 3 degrees or less shall not be within 2 metres of the bed of a surface water body or the coastal marine area; and the land between the land used for break-feeding and the bed of a surface water body or the coastal marine area, shall be in pasture or other groundcover vegetation, and not be grazed or cultivated throughout the period that the land adjacent is used for break-feeding.</u></p> <p>and</p> <p>(c) <u>sediment laden any discharge to a surface water body surface water resulting from land used for break-feeding does not flow to a surface water body shall not, outside the zone of reasonable mixing in a surface water body or the coastal marine area, result in any of the following effects in receiving waters:</u></p> <ul style="list-style-type: none"> <li>(i) <u>a conspicuous change in colour or visual clarity;</u></li> <li>(ii) <u>the rendering of fresh water unsuitable for consumption by animals;</u></li> <li>(iii) <u>any significant adverse effect on aquatic life.</u></li> </ul>	<p>proposed Plan. The recommended amendments maintain the intent of the provisions in the proposed Plan and would not alter the meaning or any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b></p> <p>There are no costs associated with the recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b></p> <p>There are environmental, cultural, economic or social benefits from rule conditions that are certain and enforceable and will contribute to achieve the outcomes sought by the proposed Plan.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will not provide certainty for land users and the Council for the control of break-feeding adjacent to a surface water body.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendment is the most appropriate way to address omissions and inaccuracies in Section 5.4 identified in submissions and assessed in Issue 4.2.</p>
<p>A17/(S12/030) (S13/014) (S33/03) (S35/017)</p>	<p>Chapter 5 Rules</p>	<p>Section 5.4</p>	<p><b><u>5.4.3 Livestock exclusion access</u></b></p> <p>Rule R97: <u>Livestock Access to the beds of a surface water bodies or the coastal marine area by</u></p>	<p><b><u>Effectiveness and efficiency</u></b></p> <p>The recommended amendments to Rule R97 will provide greater certainty for the use of land for and associated discharge from livestock access to a surface water body and the CMA. The</p>

<p>S52/001) (S60/002) (S71/003) (S74/011) (S74/017) (S75/141) (S75/142) (S86/002) (S87/009) (S110/012) (S112/095) (S149/020) (S152/034) (S152/073) (S163/108) (S164/009) (S169/010) (S279/183) (S284/006) (S288/002) (S288/003) (S308/109) (S309/039) (S311/021) (S312/004) (S316/108) (S320/001) (S338/001) (S404/004) (S434/008) (S434/009) (S350/001) (S352/207)</p>			<p>livestock – permitted activity</p> <p>The use <u>and disturbance of the bed, including the banks or other land in a surface water body or the coastal marine area, and any associated discharge to water from</u> <u>for access by livestock access to the bed, including banks, and the disturbance of the bed and banks and the discharge of associated sediment and excreta to a surface water body</u> is a permitted activity, provided the following conditions are met:</p> <p>(a) <u>a Livestock Access Plan has been approved in writing by the Wellington Regional Council, and the terms and conditions of the Livestock Access Plan are complied with at all times;</u></p> <p><u>or</u></p> <p><del>the access does not result in significant pugging of the bed (including the banks) of a lake or river other than at a stock crossing point, and</del></p> <p>(b) the access, <u>or any discharge from a constructed track or raceway,</u> does not cause a conspicuous change in colour or visual clarity of water;</p> <p>(i) within a site with significant mana whenua values identified in Schedule C (mana whenua), <u>and or</u></p> <p>(ii) <del>(c) the access does not cause a conspicuous change in colour or visual</del> clarity beyond the zone of reasonable</p>	<p>recommended amendments clarify the situations where stock are to be excluded from specific surface water bodies, and the conditions under which livestock can access a surface water body and the CMA. The recommended amendments include conditions relating to stock access to a wetland or the CMA that were not expressly addressed in the rule in the proposed Plan. The recommended amendments will increase the effectiveness and efficiency of the proposed Plan. The recommended amendments maintain the intent of the provisions in the proposed Plan and would not alter the meaning or any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b></p> <p>There are no costs associated with the recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b></p> <p>There are environmental, cultural, economic or social benefits from rule conditions that are certain and enforceable and will contribute to achieve the outcomes sought by the proposed Plan.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will not provide certainty for land users and the Council for the control of stock access to a surface water body.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendment is the most appropriate way to address omissions and inaccuracies in Section 5.4 identified in submissions and assessed in Issue 4.4.</p>
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<p>(S353/138) (Farmers Common Format) (Wairarapa Water Users Common Format) (Land Matters Common Format)</p> <p>Refer Issue 4.4</p>		<p><del>mixing</del> in <del>all</del> <u>any</u> other locations, and <u>(c) the access to a river, open drain, water race or lake does not result in pugging or de-vegetation that exposes bare earth in the bed (including the banks),</u> and <u>(d) the access to a wetland, estuary or the coastal marine area does not result in:</u> <u>(i) pugging or de-vegetation that exposes bare earth; or</u> <u>(ii) a conspicuous change in colour or visual clarity of water; or</u> <u>(iii) cattle, farmed deer or farmed pigs being left unattended in, or not being actively moved through, a wetland, estuary or the coastal marine area.</u> and <u>(e) A stock crossing point on a river, open drain, water race or lake shall:</u> <u>(i) be not more than 20 metres wide,</u> and <u>(ii) be perpendicular to the direction of water flow, except where this is impracticable owing to the natural contours of the bed or adjoining land; and</u> <u>(iii) align with a constructed track or raceway on either side of the stock crossing point; and</u> <u>(iv) not be used to allow cattle, farmed</u></p>	
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			<p><u>deer or farmed pigs to be left unattended in, or not actively moved through, a river, open drain, water race or lake:</u></p> <p><u>and</u></p> <p>(f) _____ from 31.07.2022(15), access by cattle (including <b>dairy cows</b>), farmed deer and farmed pigs within a <b>Category 2 surface water body</b>ies, and <b>dairy cows</b> within a rivers that <u>is not a <b>Category 1 surface water body</b> and has</u> have an active bed width of 1m or wider can occur where:</p> <ul style="list-style-type: none"> <li>(i) there is no flowing or ponded water within the bed at the time and location of the access, and</li> <li>(ii) <del>other than at a <b>stock crossing point</b> the access does not result in significant pugging of the bed (including the banks) of a lake or river,</del> <u>the access complies with condition (c) or condition (d);</u></li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>(iii) there is flowing or ponded water within the bed, and the access is only for the purpose of crossing at a <b>stock crossing point</b>, and</li> <li>(iv) <del>the <b>stock crossing point</b> is associated with a maintained access track</del> <u>the access complies with conditions (b) and (e), and</u></li> <li>(v) <del>the access for the purpose use of crossing at a <b>the stock crossing</b></del></li> </ul>	
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			<p>point occurs no more frequently than twice in any month, and</p> <p>(vi) the livestock are actively crossing, and</p> <p>(e)(g) from three years after the date of public notification of the Proposed Natural Resources Plan (31.07.2019):</p> <p>(i) within a significant natural wetland listed in Schedule F3 (significant wetlands) livestock access is limited to sheep,</p> <p>and</p> <p>(ii) with the exception of provided by condition (g)(i) (vii) above, there is no livestock access within a Category 1 surface water bodies.</p> <p><i>Note</i> Fencing is one method of managing livestock access and fencing can be either permanent or temporary as long as it achieves the conditions of the rule.</p>	
<p>A18/(S152/074) (S316/109) (S316/110) (S352/208) (S353/139)</p>	<p>Chapter 5 Rules</p>	<p>Section 5.4</p>	<p>Rule R98: Livestock access to <del>the beds of a surface water bodies or the coastal marine area</del> – discretionary activity</p> <p>The use and disturbance of <u>the bed, including the banks, or other land in a surface water body or the coastal marine area, and any associated discharge to water, land for access by any from livestock access to a surface water body</u> <del>the bed, including banks, and the disturbance of the bed and banks</del></p>	<p><b><u>Effectiveness and efficiency</u></b></p> <p>The recommended amendments to Rule R98 will provide greater certainty for the use of land for and associated discharge from livestock access to a surface water body and the CMA. The recommended amendments clarify where Rule R98 applies. The recommended amendments will increase the effectiveness and efficiency of the proposed Plan. The recommended amendments maintain the intent of the provisions in the proposed Plan and would not alter the meaning or any outcome of the proposed Plan.</p>

<p>Refer Issue 4.5</p>			<p>and discharge of associated sediment and excreta to <del>water</del> a <u>surface water body</u> that is not permitted by Rule R97, is a discretionary activity.</p>	<p><b><u>Costs</u></b> There are no costs associated with the recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b> There are environmental, cultural, economic or social benefits from rule specifications that are certain and enforceable and will contribute to achieve the outcomes sought by the proposed Plan.</p> <p><b><u>Risk of acting or not acting</u></b> The risk of not acting is that the decision version will not provide certainty for land users and the Council for the control of stock access to a surface water body or the CMA.</p> <p><b><u>Decision about most appropriate option</u></b> In my opinion the proposed amendment is the most appropriate way to address omissions and inaccuracies in Section 5.4 identified in submissions and assessed in Issue 4.5.</p>
<p>A19/(S12/049) (S112/006) (S112/083) (S125/025) (S163/153) (S307/079) (S309/047) (S310/052) (S316/128) (S352/244) (S434/007)</p> <p>Refer Issue 5</p>	<p>Chapter 6 Other Methods</p>	<p>Section 6.5</p>	<p>6.5 <del>Rural</del> Land use Method M12: Sustainable land management practices Wellington Regional Council will encourage sustainable <del>rural</del> land management by:...</p> <p>(a) providing research, advice and promoting <b>good management practices</b>, developed in partnership <u>with territorial authorities and rural and urban</u> landowners and <del>rural</del> industries, and</p>	<p><b><u>Effectiveness and efficiency</u></b> The recommended amendments to Section 6.5 and Method M12 will provide for increased engagement by Council with the community to promote sustainable land use practices in both rural and urban contexts. The recommended amendments will increase the effectiveness and efficiency of the proposed Plan. The recommended amendments maintain the intent of the provisions in the proposed Plan and would not alter the meaning or any outcome of the proposed Plan.</p> <p><b><u>Costs</u></b> There are no costs associated with the recommendation.</p> <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b> There are environmental, cultural, economic or social benefits from Methods that promote good management practices to encourage sustainable land management throughout the region. This Method and will contribute to achieve the outcomes sought by the proposed</p>

				<p>Plan.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the decision version will promote sustainable land use in rural areas only, limiting the opportunity to encourage sustainable land use irrespective of its location.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendment is the most appropriate way to address omissions and inaccuracies in Section 6.5 identified in submissions and assessed in Issue 5.</p>
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## Appendix B: Common Template Submissions

- Farmers Common Format (Table A)
- Land Matters Common Format (Table B)
- Craig Dairy Farms Common Format (Table C)

Table A: List of Farmer Common Format Submitters

Submitter number	Name
S365	A J Barton
S298	A T McKay
S334	Alan Westbury
S345	Alex Kyle
S292	Andrew Patrick
S336	Andrew Thomson
S343	Andy Phillips
S396	Bernie George
S393	Blair Roberts
S337	Bob Tosswill
S347	Brian Bosch
S320	Charlie Matthews
S289	Charlotte and Toby McDonald
S339	Chris and Steven Price
S170	Chris Engel
S379	Clayton Hartnell
S303	Craig and Janet Morrison
S38	D P Wood
S350	Dan Riddiford
S395	Daniel George
S341	David Hume
S377	Donald McCreary
S323	DW and PC McKay
S321	Edward Handyside
S342	Gary James and Anne Marie Daysh
S363	Gavin Bruce
S371	George Ritchie
S388	Gerard Vollebregt

S381	Glen Rowe
S375	Graeme Hugh Tulloch
S391	Guy Didsbury
S390	Hayden Thurston
S332	Hiwi Trust
S404	J.Q and P.M Donald
S376	James Falloon
S373	Jamie Falloon
S280	Jan and Jock Richmond
S389	Jeremy Bennill
S281	Jim, Pascoe and Henry Reynolds
S401	Joe Hintz
S314	John Carred
S74	Kairoa Farms Limited
S360	Kyle Wells
S372	Leo Vollebregt
S378	Lewis Herrick
S293	Margaret Niven
S348	Max Lutz
S355	Michael Hewison
S113	Michael John Slater
S374	Michael Taylor
S385	Michael Wood
S356	Mike Butterick
S397	Mike McCreary
S400	Mike Moran
S394	Owen Butcher
S331	Pip Tocker
S387	Pip Wilkinson
S322	Rex McKay
S384	Richard Osborne
S368	Richard Tosswill
S369	Richard Wilkie
S290	Robert Kyle
S354	Sam Orsborn
S361	Sandra Shivas

S399	Sandy Bidwell
S386	Shane and Geoff Wilkinson
S392	Stewart Weatherstone
S171	Stuart Woodman
S317	Susannah and Mark Guscott
S312	Taratahi Agricultural Training Centre
S324	Tim Williams
S151	Warren Bryant
S380	Willy and Sally Bosch

**Table B: List of Land Matters Common Format Submitters**

Submitter number	Name
S294	Bell Camp Trust
S295	Carter Families
S299	Julian and Ruth Blackett
S297	Kennott Family Trust
S285	Land Matters Ltd
S370	Mahaki Holdings Ltd
S348	Max Lutz
S351	Tim Mansell and family
S349	USNZ
S346	Waikanae Christian Holiday Park (El Rancho)

**Table C: List of Craig Dairy Farms Common Format Submitters**

Submitter number	Name
S427	AB and DE Smith
S430	Ali and Dion Kilmister
S426	Beryl Masters Stuart
S429	Blair Percy
S358	Craig Dairy Farm Ltd
S431	Garry Daniell
S342	Gary James and Anne Marie Daysh
S428	James and Jane Smallwood
S378	Lewis Herrick

S173	N and S Terry
S361	Sandra Shivas

## **Appendix C: Recommended Decisions on Submissions**