Waikato Regional Plan and Waikato Regional Coastal Plan Review:

Implementation Perspectives

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focus
resource management group

Waikato Regional Plan and Waikato Regional Coastal Plan Review: Implementation Perspectives

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ABBREVIATIONS USED

ASCV	Area of significant conservation value
BOD	Biological oxygen depletion
CA	Controlled activity
DA	Discretionary activity
EPA	Environmental Protection Authority
FDE	Farm dairy effluent
HSNO	Hazardous Substances and New Organisms Act 1996
HREA	High risk erosion area
ICM	Integrated Catchment Management Directorate (formerly RCS, Biosecurity and Biodiversity)
JMA	Joint management agreement
MHWS	Mean high water springs
N-C	Non-complying activity
NES	National environmental standards
NPS	National policy statement
PA	Permitted activity
Pr	Prohibited activity
RCS	River and Catchment Services Group (now a part of ICM)
RMA	Resource Management Act 1991
RUD	Resource Use Directorate
SNA	Significant natural area
SS	Suspended solids
WRC	Waikato Regional Council
WRCP	Waikato Regional Coastal Plan, 2005
WRP	Waikato Regional Plan, 2007

EXECUTIVE SUMMARY

This report sets out to identify rule provisions of the Waikato Regional Plan (WRP) and Waikato Regional Coastal Plan (WRCP) ("the plans") which are not working and how they might be improved, from the perspective of staff rule implementers and users. This report is for internal use as the plan review process progresses and was based on a literature review of existing WRC documents relating to plan reviews and interviews with key Resource Use Directorate (RUD) and Integrated Catchment Management (ICM) staff. Complementary to this report are detailed interview notes (Appendix B) along with two excel spreadsheets detailing staff comments on specific rules. All source documentation on which this report is based should be referred to for specific details as the plan review progresses.

The Vision and Strategy for the Waikato Rive along with Council's strategic priorities need to be embedded into the approach taken when re-writing the plans. In addition other key changes such as amendments to the RMA and changes to National Policy Statements (NPS) or National Environmental Standards (NES) must also be considered.

The plan philosophy is currently one of "enabling without bureaucracy". It is considered timely to review this approach and ensure it is still the most appropriate approach for all activities. In addition it was suggested by staff interviewed that policies and rules need state clearly the outcomes being sought. In this respect, more explicit policy guidance was sought for a range of matters.

The purpose of rules is fundamentally to meet the requirements of legislation, to prioritise environmental effects, and provide security of business for applicants. When drafting rules consideration needs to be given to ensuring it is the "right tool" and that it is clear, enforceable and able to be monitored. It was particularly reinforced that if a rule cannot be enforced then other management tools should be used.

A wide range of suggested new rules have been identified, along with suggested improvements to existing rules. In addition a strong theme is that permitted activity rules need to be simple, understood by all and have clear triggers for compliance.

Another strong theme arising from the interviews was the proposal to develop an implementation plan in parallel to the review process.

Specific resource areas where significant work may be required in the review process were identified, and included:

- air module –general approach, and technical issues associated with agri-chemicals
- geothermal – zone and field definition, and access to data from consent holders
- farm activities – level of control and detail of expected actions
- land management - particularly gullies, perennial wet areas, drainage, overburden, wetlands, biodiversity, pest pathways
- water – particularly water treatment overflows, run-off
- structures – maimai/ whitebait stands, dams
- coastal – particularly mangroves, marine farming, erosion structures, pest pathways.

There were also some additional areas of work raised through the interviews as matters to be further considered as the plan review process proceeds.

INTRODUCTION

1.1 Purpose and Scope

The overall purpose of this report is to:

- identify the rule provisions of the Waikato Regional Plan (WRP) and Waikato Regional Coastal Plan (WRCP) ("the plans") that are not working from the perspective of Waikato Regional Council (WRC) staff who implement the plans or use the rules to apply for resource consents, and why they are deficient;
- suggest how the provisions identified as deficient can be improved; and
- suggest how the practicality of monitoring and enforcement of methods and rules can be improved.

This report is prepared as an internal document for use by staff working on the overall WRP and WRCP review project. It draws together and assesses plan review information that has been gathered to date, and builds further on earlier work which detailed issues associated with specific rules. It draws out common themes, directions and work priorities to be considered in guiding the way the next stages of the plan review.

The report is structured as follows:

- Part One reviews key existing WRC documents related to plan review matters and provides an overview of themes arising from these documents;
- Part Two presents results from interviews with RUD and ICM[1] staff who implement the plans or use the rules to apply for resource consents, and an outline of key themes arising from these interviews; and
- Conclusions and themes drawn from a combination of the above two parts are presented; including indentifying priority areas for further work.

1.2 Methodology

The methodology used involved a desk-top survey and staff interviews. No new investigations were undertaken.

Part One was undertaken as a desk-top exercise, reviewing existing documents which had already been prepared for Council. The following key documents were reviewed:

[1] For the purpose of this report interviews were held with staff who were focused on the interests of the former River and Catchment Services group.

a. a review of whether the Plans give effect to the Vision and Strategy for the Waikato River
b. two plan effectiveness reviews for the plans
c. two lists of changes requested by staff over time and collated by policy advisors
d. an excel spreadsheet created by rule implementers
e. reports on monitoring compliance with permitted activity rules; and
f. reports on dairy shed effluent farmer response and compliance.

The published documents reviewed are listed in an annotated bibliography in Appendix A. It is noted that all the above documents were prepared with different purposes. However there are themes arising from them that are pertinent to the purpose of this report and are important to consider in the overall plan review process.

Part Two involved a series of interviews with key RUD and ICM staff. The contract manager identified a list of staff who collectively had experience with the full range of Plan topics (refer Appendix B). The interviews were based on a set of questions which were aimed at triggering discussion. These questions were used primarily as background information for the "interviewees" to provide them with guidance on the scope of the information being sought. All interviews were based on the topic areas of interest to the interviewee and the matters of particular concern to them from an implementation perspective.

Detailed interview notes were recorded and specific comments on rules were collated into two excel spreadsheets. All interviewees were given the opportunity to comment on or edit the notes taken. A list of documents arising from the interviews is provided in Appendix B, and these are resources that will be available for future reference as the review of the WRP and WRCP progresses. It is noted that some rules were not commented on by staff interviewed.

In respect to differing staff views about current and future plan drafting, it is noted that there were differing and sometimes conflicting views between staff interviewed. These differences are noted in the report, however no attempt has been made to resolve or reconcile these differences, or to further define the reasons for the differences.

PART ONE: REVIEW OF EXISTING DOCUMENTS

This section of the report provides an overview of themes arising from key existing WRC documents related to plan review matters. In brief, the following key documents have been reviewed:

a. a review of whether the plans give effect to the Vision and Strategy for the Waikato River
b. plan effectiveness reviews for each of the plans
c. two lists of changes requested by staff and collated over time by policy advisors
d. an excel spreadsheet created by rule implementers
e. reports on monitoring compliance with permitted activity rules; and
f. reports on dairy shed effluent farmer response and compliance.

The published documents reviewed are listed in an annotated bibliography in Appendix A. Two separate reports reviewing the Lake Taupo catchment rules have also been referenced in this Appendix.

2.1 Review of Overview Document: Vision and Strategy

The review of the plans sits within an RMA environment which has undergone several changes since the WRP and WRCP were initially proposed. In this context a key background document is "*Restoring and Protecting the Health and Wellbeing of the Waikato River: Vision and Strategy for the Waikato River" (undated).* This document relates to the Waikato River and its catchments from Huka Falls to Port Waikato and has an overarching purpose of restoring and protecting the health and well-being of the Waikato River for future generations. It was intended by Parliament to be the primary direction-setting document for the River and catchments. Three recent Acts[2] prescribe that WRC must review their regional plans to ensure they give effect to the Vision and Strategy for the Waikato River.

Waikato Regional Plan

A report prepared by Opus (Proffit, 2013) made a comparative assessment between the provisions of the Vision and Strategy for the Waikato River and those of the WRP. The report concluded that the WRP does not give effect to the Vision and Strategy. The principles or themes of the Vision and Strategy which were considered to be gaps in the WRP included:

[2] Outlined in Section 13(4) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, Section 14(4) of the Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010 and Section 8(2) of the Nga Wai o Maniapoto (Waipa River) Act 2012.

- *the status of the Waikato River*
- *the application of Maatauranga Maori*
- *the relationship values of the iwi and community with the Waikato River and its catchment*
- *cumulative effects and precautionary approach.* p.1.[3]

In addition the Opus report identified a series of issues which were to be discussed and resolved in order to align the two documents, including (but not limited to) defining the "level of effect" that the WRP must give to the Vision and Strategy[4]; interpretation of terminology used; application of maatauranga Maori; status of the Waikato River within a regional plan.

In respect to the recent WRP variation relating to "water allocation", the Opus report noted that in their opinion and contrary to the view expressed in the related Environment Court decision, some sections of the variation did give effect to the Vision and Strategy, while others did not. The Environment Court decision on Variation 6 concluded that:

> "*The extent of references required to the Vision and Strategy are, as Mr Milne said a matter of evaluative judgement rather than law. We find that the Council has struck an appropriate balance between the competing positions. Appropriate acknowledgement is given to the statutory direction that the Vision and Strategy is intended by Parliament to be the primary direction-setting document for the Waikato River*".

This constitutes a clear finding by the Court that the Variation 6 provisions approved by the Court do give effect to the Vision and Strategy.

Waikato Regional Coastal Plan

An internal assessment (Silver, 2014) was undertaken to determine whether the WRCP gives effect to the Vision and Strategy for that part of the Waikato River which falls within the coastal marine area (an area of approximately 8 kms upstream from the open coast line). This assessment concluded that the WRCP does not give effect to the Vision and Strategy for the Waikato River.

The assessment notes that:

> *While some of the policy direction of the RCP is consistent with the overall aims of the Vision and Strategy, the plan does not include any specific provisions for the Waikato river, other than the identification of the river as an Area of Significant Conservation Value*[ASCV]. *While the ASCVs are referred to by many policies and rules (typically as an additional assessment criteria), their effectiveness has been limited as they are*

[3] Waikato Regional Council, 2013. Report on the Opus "Vision and Strategy Review" of the Regional Plan. Unpublished internal memo (DM#2780258)

[4] WRC subsequently obtained a legal opinion, however it does not provide any directive guidance on this matter.

relatively non-specific, failing to identify precisely what values are present or where they are located. p.4.[5]

2.2 Existing Plan Effectiveness Reviews

This section provides an overview of the plan effectiveness reviews undertaken for the WRP and WRCP.

Waikato Regional Plan and Waikato Regional Coastal Plan

The purpose of the policy effectiveness review of the WRP and WRCP (GHD Ltd, 2011):

> "*assesses whether the existing plans are effectively achieving the desired outcomes, whether there have been significant changes in policy direction that require changes to the regulatory framework and whether there are gaps in the plan*[s] *relating to new or emerging issues in the region.*"p.1.[6]

It is a high level assessment which establishes the overall scope of changes required to the plans. It also identifies strategic priorities (established by the Council)[7] which will influence the approach to future plan development, including:

- sustaining the values of land and water
- not unnecessarily restricting regional development
- incorporating co-governance principles.

At a general level the following actions were recommended:

- review permitted activities to identify those which have created adverse effects
- review all rules so that conditions are based on what an activity is required to comply with, rather than on effects
- continue to use permitted activities to allow use of resources where the effects are no more than minor
- develop non-regulatory methods to complement rules to achieve better environmental outcomes
- investigate appropriate uses of financial contributions
- ensure rules are enforceable.

[5] Refer: Silver, G., 2014. Application of the Vision and Strategy of the Waikato River to the Waikato Regional Coastal Plan. Unpublished internal memo. (DM# 3028644)

[6] GHD Ltd, 2011. Waikato Regional Council: Waikato Regional Plan: Policy Effectiveness Review.

[7] Waikato Regional Council strategic priorities were reviewed in 2013, and the three noted above were retained in more simple language, with two more added around coastal and marine and community partnerships.

The report has made extensive recommendations on matters related to the reviewing of policy. In addition recommendations were made for rules as follows:

Land, Water and Soil

- update water classifications (including adding suspended sediment standards)
- set velocity/ quantity guidelines or limits for stormwater
- review PA rules for earthworks and culverts
- revise drainage of wetland rules
- review structures rules
- investigate discharge trading schemes
- review agricultural issues
- develop strategy for significant land use change
- specific changes required for permitted activities for dairy effluent, extraction of bed material, earthworks
- investigate use of comprehensive consents.

Coastal

- review rules to address deficiencies
- review rules relating to pests, protection structures, moorings, vehicle access, stock exclusion, others from staff list (refer section 2.3 below)
- review rules relating to mining (discharges to air from burning, noise, impacts on marine life that is not disturbances)
- revisit occupation charges.

Biodiversity

- revisit vegetation removal rules
- revise rules around wetland drainage
- consider indirect effect of other rules on biodiversity
- incorporate rules for SNA areas
- investigate offsets to get more planting
- require consents to provide information on biological effects of activities (e.g., land use conversions).

Heritage and Landscapes

- determine regulatory framework for access and SNAs
- clarify regulatory role for historic heritage, natural heritage and landscapes.

Geothermal

- minor rule changes (specified in review document)
- review standards and terms and consent conditions re: information to be supplied by developers.

Air

- rule changes/ additions (specified in review document)
- assess compliance with NES
- check rules in other sections of the plan to ensure effects on air appropriately considered.

Natural Hazards

- establish rules for primary hazards zones
- minor rule changes (specified in review document).

While the above provides a brief overview of key themes there is a wealth of detail in this review on specific resources. Other matters raised in the workshops which were a part of this review identified the following themes:

- activities with minimal effects should be permitted activities
- permitted activities will be monitored and enforced where required
- cumulative effects need to be addressed
- results from past monitoring should be considered in the review of rules.

Waikato Regional Coastal Plan

The purpose of the WRCP review (Britton & Silver, 2013) was to:

> *"provide an overview of key legislative and policy changes that have occurred since the RCP was proposed and review the effectiveness and efficiency of the plan"*. p.7.[8]

Key themes arising from this review which relate to rules include:

- beneficial to implementation staff if re-drafted rules incorporate results/guidance from monitoring programs into rules, where appropriate
- some rules are too tight in their standards, which results in some activities with a low level of adverse effects being "unnecessarily" shifted into a higher class of rules (when they cannot meet all standards set out in a rule)

[8] Britton, R. and Silver, G., 2013. Review of the Waikato Regional Coastal Plan.

- some rules are circular when applied, i.e., either an activity can be considered as fitting into a range of rule classes depending on the interpretation of definitions; or the "opening" wording of a rule that defines the size or scope of an activity does not mesh clearly with cascading rules for the same activity
- some rules are no longer relevant/ have never been used
- confusion between standards and terms and consent conditions
- interpretation difficulties
- overlapping rules for complex activities, i.e. determine whether rules should be effects or activity based rules
- restricted coastal activities are largely redundant
- new rules may be required as a result of the future trends/pressures identified for the coast (detailed in Part 3 of the review)
- the NZCPS (gazetted 2010) will require rules to be more specific, due to the more directive nature of the policies and the expectation for zoning of areas and/or activities.

2.3 Review of Collated Lists of Rule Issues

Waikato Regional Plan

This section is based on two staff documents (unpublished):

- an excel spreadsheet[9] which provides an overview of selected rules relating to land and water. Staff commenting on the rules were involved in implementing the rules through resource consents and/or enforcement actions. (Refer to Appendix C for an overview summary of comments made on specific rules); and
- a table of suggested plan changes[10] which has been accumulated over time from a range of staff within the organisation. This document highlights specific changes to certain plan provisions, as well as some general matters to be considered.

Key overview themes arising from these documents include:

- monitoring compliance of permitted activities has only been undertaken for a few rules (refer section 2.4 below). Therefore there is no or limited knowledge on how frequently or how effectively most permitted activities are being carried out by resource users nor what effects are occurring cumulatively on the environment

[9] DM# 2824331. NB: this spreadsheet was prepared for work on the Healthy Rivers project. Part Two of this report has built on this information and has subsequently been saved as DM# 3113426.

[10] DM# 1763231

- monitoring compliance with consent conditions is governed by prioritisation of environmental effects from activities, complaints, and funding available for monitoring
- while the focus of this report is on rules, some staff noted that the other non-regulatory methods were generally supported. These methods were considered to be important for supporting behavioural changes and for providing guidance or back-up methods to support compliance with the rules
- notification/ non-notification requirements in the plans should be considered
- there is a need to align rules with catchment management plans.

General comments made on rules include:

- discretionary rules are considered to be useful as "backstops" for activities that do not meet the conditions or standards and terms of permitted or controlled activities. However, some interviewed expressed a contrary view and wanted to see more specificity in the rules to restrict the scope of discretion. In some discretionary rules, it was noted that there needs to be clarification of cross references to conditions and standards and terms of other rules
- many rules have not been used or are rarely used. No commentary was made on whether they should still be retained
- several rules were identified as having wording issues (e.g., undefined terminology, terminology that required a subjective assessment, unclear wording, heading not matching content)
- some rules were identified as overlapping with other rules (e.g., cleanfill, earthworks and overburden rules)
- some permitted activity rules were considered to be too permissive (e.g., stormwater) or to have inappropriate "triggers" (e.g., bridges)
- permitted activity rules should:
    - have "black and white" conditions
    - give certainty to resource users
    - be easily understood and
    - be easily enforced.

Areas where further rules were considered to be required or existing rules to be strengthened included:

- more clarity required for rules on
    - stormwater
    - structures in flood plains
- new rules required for:
    - free-range piggeries
    - roofed animal housing structures
    - grazing near wetlands

    - eel weirs
    - home heating
    - shooting ranges
    - coastal erosion protection structures
    - soil and water conservation works not subject to a land improvement agreement
    - discharges from marine engines
    - stock truck effluent
    - human effluent from pump station overflows
    - "sacrifice" paddocks
    - disposal of used tyres
    - oil and gas exploration
    - cemeteries
    - cultivation near waterways and/or large scale cultivation
- protection of watercourses, wetlands, wet gullies etc is considered to be far too weak within the plan generally (in particular rule 4.3.9.3 vegetation clearance does not address "non significant" wetlands)
- role of rules in protecting kaarst, SNAs, wetlands, outstanding features and landscapes
- gravel extraction rules and implications of allocation of gravel resource
- managing cumulative effects from private flood protection works (e.g., rule 3.6.4.13 needs to clarify how cumulative effects will be addressed)
- drainage of wetlands needs to be tightened, e.g., rule 3.7.4.7 is a discretionary activity but it is rare for consent application to be made. However illegal drainage is common and results in significant further loss of wetlands
- roading, tracking vegetation clearance (e.g., refer rule 5.1.4.11) staff considered that the framework for rules around earthworks is too complex and does not have clear cascades/linkages between rules that are obvious to the non-expert user. In addition, there is a need to review rules and definitions that relate to high risk erosion areas (including integration with the WRCP)
- overlaps currently exist between cleanfill, earthworks and overburden rules, and should be removed
- consideration could be given to a permitted activity rule for very small closed landfills
- discharges of treated effluent (discretionary rule 3.5.5.5) is commonly used however it is difficult to decline applications via this rule and its supporting policy. This rule is considered to be no longer appropriate given national policy, industry view, and JMA responsibilities. Key issues are: increased inputs due to feedpads, increased herd size, poor maintenance and inadequately sized ponds. Consideration should be given to rules that promote phasing out of inappropriate systems (including barrier ditch systems) e.g., specify strict discharge quality standards, or prohibit them in sensitive catchments

- livestock in waterways/ on banks is a discretionary or non-complying activity (rules 4.3.5.5 & .6) but they have not been implemented. Staff have infrequently received enquiries about this rule and generally encourage farmers to avoid stock access to waterway at all times. Developing a consent and then monitoring this activity would be a challenge. These rules conflict with industry accords requiring farmers to fence waterways.

Waikato Regional Coastal Plan

This section is based on an internal staff document (unpublished) of suggested plan changes[11] which have been collated over time from a range of staff within the organisation. This document highlights specific changes to certain plan provisions, as well as some general matters to be considered.

General themes arising from this document, which are additional to general themes identified for the WRP included:

- clarify role/ purpose of standards and terms/ conditions/ notification advice
- review "matters reserved control over" for appropriateness and coverage
- clarify links between rules and ASCV
- review the relevance of financial contributions (align with WRP for consistency)
- assess relevance and role of assessment criteria and decision-making criteria
- review references to external documents.

Areas where further rules were considered to be required or existing rules to be strengthened included:

- new rules required for:
    - human remains/ burials at sea
    - drains and borrow pits (needs to be aligned with the WRP approach)
    - biosecurity issues need to be re-scoped
    - maui dolphins habitat
    - noise (including underwater noise)
    - refuelling from structures/ land and the link to the Maritime Transport Act (for oil spill plans)
    - speed of vessels in proximity to shellfish beds/ eroding coastlines
    - surf breaks
- some of the current marine farming rules conflict with the aquaculture reform legislation, also there is a need to review the "extension" rule
- there are some anomalies in the marina rules and how these rules related to some of the effects based rules

[11] DM# 1208407

- disturbance rules need to also control access, discharges of hydro carbons, contracted operations
- mangrove removal requires a more specific approach
- some discharge and dredging/ disturbance rules conflict with the Marine Pollution Regulations
- maimai and whitebait stands - need reviewing and aligning with WRP for consistency
- moorings rules have a range of difficulties, including temporary anchoring vs moorings
- seawalls/ other protection structures – requires a more integrated approach across MHWS (including the relationship with high risk erosion areas in the WRP)
- review anomalies with network utility rules (including links to other rules).

2.4 Review of Compliance Monitoring Reports

Waikato Regional Plan

A number of reports have been prepared in relation to monitoring compliance with and effectiveness of permitted activity rules in the WRP. The WRP has around 85 permitted activity rules. Of these rules staff determined some priorities for compliance monitoring. Some of the criteria used in this prioritisation include: greatest potential risk of environmental effects; whether the rule could practically be monitored; whether it was affordable to be monitored; and whether the rules were likely to have been implemented. A monitoring framework was set up for assessing compliance with the priority permitted activity rules (Fenton, T. and Kelly, J., 2007). A review of the monitoring which had been undertaken in accordance with this framework was completed in 2009 (Morris, B., 2009). It was considered that this review also provides insights into the likely effectiveness of other permitted activity rules in the WRP.

Key themes arising from the review document and the surveys are:

- **Overall WRP scope and intent:** the underlying philosophy for the WRP was to take an "enabling approach" to resource management by permitting activities which were likely to have no more than minor adverse effects and to support this through best practice guidance and education. This approach anticipated reduced bureaucracy and costs for resource users, and a reduced number of consents required to be processed by WRC[12]. The review of the six priority rules[13] identified that while there were difficulties in determining compliance rates, the rules were

[12] It is also noted that this underlying philosophical approach has led to some of the implementation issues relating to compliance, raised in this report.

[13] Stock in water bodies (Rule 4.3.5.4); fertiliser use (Rule 3.9.4.11); farm animal effluent (Rules 3.5.5.1 and .2); vegetation clearance (Rule 5.1.4.11); culverts (Rules 4.2.9.1 and.2); bridges (Rule 4.2.8.1).

in general not being effectively complied with and were not effective in managing environmental effects – particularly cumulative effects and diffuse discharges. The review noted that:

"*…the following factors generally lead to less clarity and greater potential confusion and ambiguity for resource users:*

- *Higher number of conditions.*
- *Conditions with greater complexity.*
- *Conditions where the effects are very hard to measure.*
- *Conditions where it is difficult to prove compliance".* pp72-3

- **Wording Difficulties:** The review identified a range of wording difficulties including:
  - lack of data to measure standards specified in the rules
  - difficulty in determining how to measure the standards specified in the rules, including use of standards that were considered to be impractical to monitor
  - different methodologies required for monitoring different standards in the same rule i.e., compliance could not be assessed by using one methodology for each rule
  - difficulty in understanding the rules (including ambiguous standards)
  - difficulty in practically applying the rules in respect to existing farm systems
  - the rules should be designed with practical monitoring and compliance in mind.

- **Awareness and understanding of Rules:** The awareness of permitted activity rules amongst resource users (and contractors) was considered to be low and the understanding of the standards was considered to be variable and "often flawed". There was also poor awareness of specified triggers within a rule. In addition voluntary notification to WRC (e.g., as required for bridges) was rare. It was noted that there was a lack of incentive for resource users to comply with permitted activity standards.

- **Environmental deterioration:** The review noted that the rules were difficult to monitor and to determine what environmental effects were resulting from the activities covered by the rules which were reviewed, however it considered that the permitted activities were contributing to on-going environmental degradation. The review also found that

  "While there is little definitive proof of the linkages between permitted activities and adverse environmental effects, it seems very difficult to separate

the two. There is scientific evidence of environmental deterioration within the intensively farmed areas of the Waikato region, and the environmental effects from permitted activities are almost certain to be substantial contributors." P.8

Further it was noted that environmental effects from the same activity varied across the region e.g., effects are likely to be more severe in upper catchment headwaters and steep land, free draining soils, near pristine waterways, coastal areas, endangered habitats, areas of social importance.

- **Gaps in Rules:** In terms of farming and forestry activities, the review particularly noted that a key gap related to managing the effects of large-scale land use change and intensification of farming practices. In this respect the review noted staff feedback that farm effluent and fertiliser rules should not be permitted activities. The review also identified that:
    - cumulative effects from non-point source discharges were not being addressed appropriately
    - soil health (compaction, soil loss and contamination) were considered to be gaps
    - there were gaps in the coastal zone transition between the WRP and WRCP
    - there is a lack of measurable thresholds and standards in rules.

- **Cost of Compliance:** Staff feedback noted the cost of compliance as being a key issue for resource users i.e., the economic impact of complying with rule standards, when considered in the context of the overall business.
- **Increasing Effectiveness:** the review made the following suggestions on how to improve the effectiveness of permitted activities (p.83):

    "From a <u>resource user perspective</u>, permitted activity rules should:

        - *Be simple.*
        - *Be clear.*
        - *Have few conditions.*
        - *Provide lots of certainty on how to comply.*
        - *Leave few "grey areas" that are open to wide interpretation.*
        - *Be able to be complied with.*

    From an <u>Environment Waikato regulatory and outcomes perspective</u>, permitted activity rules should:

        - *Focus on activities that have minor adverse environmental effects.*
        - *Be written with monitoring and implementation in mind, and be enforceable and measurable.*

- *Focus on environmental outcomes, and provide for managing chronic, cumulative effects.*
- *Enable a cost recovery mechanism for implementation.*
- *Be written to enable compliance monitoring prior to the rules being broken."* p.83.

Waikato Regional Coastal Plan

No similar monitoring exercise has been undertaken for permitted activity rules in the WRCP.

2.5 Key Themes from Review of Existing Documents

From the review of the documents considered in this part of the review, the following key themes are identified (NB: not listed in any order of priority). However any review of specific plan provisions should refer back to the source documents for specific details.

i) From an overall approach to future plan development, the Vision and Strategy for the Waikato River and Council's strategic priorities needs to be embedded into the approach taken. In addition, consideration should be given as to whether the current "enabling approach" taken in the plans is still appropriate for all activities.

ii) Other key changes such as amendments to the RMA, changes to NPS/ NES must be considered and incorporated as appropriate.

iii) The purpose of rules is fundamentally to implement the requirements of legislation. Rules provide a means to categorise and prioritise environmental effects (from minor effects (e.g., permitted activities) to potentially significant effects (e.g., non-complying activities). Defining categories of activities under rule classes also provides certainty for applicants (about the requirements to be met) and business security (through resource consents issued and compliance required). When drafting rules consideration needs to be given to ensuring it is the "right tool" for achieving the policies and that it is clear, enforceable and able to be monitored.

iv) From a technical perspective: the "workability" of rules relies on clarity of intent and terminology used; should avoid defining consent conditions; and should have consistent presentation throughout the plans.

v) A wide range of suggested new rules have been identified, along with suggested improvements to existing rules. In addition a strong theme is that permitted activity rules need to be simple, understood by all and have clear triggers for compliance.

PART TWO: VIEWS OF RUD & ICM STAFF

Part Two of this report presents an overview of the key themes arising from the interviews undertaken with RUD and ICM[14] staff who implement/ use the WRP and WRCP rules.

This overview is drawn from the reference material listed in Appendix B, which includes:

- a list of the staff interviewed
- a list of additional staff who were recommended as "resources" for future rule development
- a list of DM# references for interviews undertaken and excel spreadsheets of comments on rules
- records of the interviews undertaken.

This reference material provides detailed information that will be of further use as the plan review process progresses.

This Part of the report is structured under the following key themes:

- plan philosophy
- plan structure
- policy and rule development process
- general issues re: policy
- general issues re: rules
- guidance for rule writing
- overview commentary on specific rules.

3.1 Views on Plan Philosophy

Some general comments were raised about the underlying philosophical approach to the development of rules. In particular it was noted that if the underlying approach to the plans is "enabling without bureaucracy", then it is essential that the policies are written more strongly and in a way that clarifies how activities are to be managed and what matters need to be controlled.

From the RCS perspective, it was emphasised that they are in a unique position and that this should be recognised in the way the plan is written. Their position arises from the fact that they are a part of WRC (governed by the Local Government Act) and that they are required to provide critical services to ratepayers and required to comply with several pieces of legislation

[14] NB: interviews were only held with staff who were focused on the interests of the former River and Catchment Services group (RCS). RCS hold approximately 170 individual resource consents, covering for example, structures, pumps, river and flood maintenance activities.

including: the Soil Conservation and Rivers Control Act, 1941, the Public Works Act, 1981 and the Land Drainage Act, 1908 as well as the RMA, 1991). It is this legislative duty to manage a range of environmental and social factors that places them in a different position to other public or private developers. There is therefore a need to weigh up the legal requirements of the RMA, with the legal requirements of the other mandated legislation and the environmental outcomes being sought.

In terms of rules, it was considered that the aim of the plan should be to assist by increasing the level of certainty in the consent process and making the consent decision-making process simpler. This could be achieved for example, by making provisions more explicit and reducing the level of discretion (where appropriate to do so).

Among those interviewed there were conflicting views on the nature of the relationship between the RPS and the plans. Some considered that the plans are "stand-alone" documents, within which the RPS has been given full effect. However others considered this was not the situation and that the RPS was additional to the plans. This relationship should be explicitly clarified within the plans. In addition it was also noted that repeating the provisions of the RPS or repetition but with slight wording changes should both be avoided (unless there is a clearly stated justification for any variation in wording).

From the perspective of managing behaviours and seeking changes in people's actions, it was suggested that further thought needs to be given within the plans to incentivising compliance i.e., using approaches to rules and support tools that encourage people to "do the right thing"[15]. Associated with this is the challenge to think innovatively about the use of financial methods to support the provision of advice (currently non-chargeable) from staff, in order to assist in achieving compliance.

3.2 Views on Plan Structure

In line with recent amendments to the RMA, there was strong support for a "slimmer" plan which would focus primarily on policies and rules. It was also suggested that it would be helpful if the rules could be co-located in one area and/or presented in a manner whereby they could be readily separated from the remainder of the plan, for ease of use outside the office environs. One interviewee recommended the layout used for the rules in the Hawkes Bay Regional Plan.

In terms of the structure of the current plans, **matters which were supported** by staff included:

- the activity table at the beginning of WRP was considered to be very useful for searching on where specific activities were addressed in the plan
- the reasons/ explanations to policies or rules, provided they elaborate on the rationale for the plan provisions or clarify the intent of the rule

[15] Refer to DM# 2309778 for compliance perspective on factors to be considered under enforcement.

- the glossary, provided there was no conflict in terminology used in the glossary compared to that used in the rules (i.e., it was noted that there needs to be a careful check between the way definitions are worded and how they are used in rules, to avoid complications/ misinterpretations).

In terms of the structure of the current plans, **matters that were not considered necessary** to retain in the plans included:

- assessment criteria: These lists were not considered to be useful. Some of those interviewed had never referred to them, while others only referred to them as a "check list" for major projects. In addition, it was considered that these criteria can lead to conflicts between policy directions and the rules (due to complexity, overlaps, inability to respond to new practices over time). They have no statutory basis and their status within the plan is unclear (raising questions such as: are other things (not listed) irrelevant? do they inadvertently limit the ambit of considerations?). If through the plan review it is decided that assessment criteria will be kept, at the very least the plan must state what their status is. They could more appropriately be included in an implementation plan
- "other methods": While the importance of "other methods" in implementing certain policy directives was acknowledged, there was a strong view expressed that such actions should not be identified within statutory documents, as there is no certainty for who is responsible for the actions, how they are to be funded and when they are to be undertaken. However there was also a strongly held opinion that critical "other methods" should be retained. Critical methods were considered to be those actions that require continuity across several years (budgets and political cycles). In this situation the statutory plans provide strong guidance for the public and council on the additional actions being undertaken to support the rules (e.g., financial incentives and farm plans are key tools for RCS, i.e., WRP methods 5.1.4.4 & .5). In addition, it was noted that some of the "other methods" referring to enforcement should be deleted, as they were in conflict with the RMA and have resulted in some unintended constraints on arguments to defend "non-compliance" of activities
- non-statutory advice: Unless such advice is critical to the interpretation of a rule, it was suggested that this information would be better located in an "implementation plan"
- information requirements: These are listed at the back of each plan and are seldom if ever used. Most of this information is covered on the consent application forms, and this is more readily able to be updated over time.

Implementation Plan

There was strong support expressed for an "implementation plan" to be developed in parallel to the review of the plans. It was suggested that this document should be focused on information to assist implementation (as opposed to justifications as required by s32 RMA). It was considered that the implementation plan could cover:

- the rationale or intent behind the general approach to the management of an issue
- the reasons for each of the conditions within a rule
- how it is intended that the rules would be implemented, including intended implementation support (e.g., through other methods, or the on-going provision of data or other required support systems)
- flow charts to show rule hierarchies
- approach to be taken to education of the public about the rules
- interpretation of what words/ phrases/ conditions mean (including use of diagrams and preferably co-located with the rule)
- working advice (e.g., any other guidance to support decision-making)
- where rules have effects-based criteria – how these criteria would be achieved at a practical level
- what the anticipated cost to the applicant is to comply and the benefit to the community (i.e., regulation is a cost imposed on an individual, for the benefit of the wider community)
- what is the anticipated cost to council to implement (including, a cost-benefit analysis of consent application costs, annual charges and compliance with consent conditions for RCS activities)
- who is responsible for implementation actions (and any anticipated timing or budgets)
- monitoring expectations e.g., how often the activity/ rule criteria should be monitored; what exactly should be monitored; what is the anticipated cost to Council of this monitoring; what is the level of priority for this work.

3.3 Views on Policy and Rule Development Process

During the interviews some staff identified that the following steps should be taken when developing policy and rules:

- detailed problem definition
- identify what behaviours "council" want people to exhibit; i.e., be specific about what outcomes are being sought
- decide on most appropriate tools for getting this behaviour to change
- utilise the monitoring data that has been collected by consent holders (particularly with respect to RCS monitoring and the knowledge gained through their mitigation and enhancement plans

- ensure policy and rules are written in a way that is "effective" for meeting the outcomes sought
- assess the potential or unintended consequences of the rule (e.g., by involving RUD and ICM staff in assessing this aspect). Consequences that lead to inequitable outcomes for the same activity in different areas should be avoided as far as possible (current examples include: groundwater permitted activity allocation rules, riparian management)
- detail the economic impact of the policy or rule on the council (in terms of implementation) and on the potential applicant (application and implementation costs[16]); i.e., to ensure that these costs are justifiable and necessary for the outcomes being sought.

In addition, involving RUD and ICM staff in "testing" draft rules and in providing technical and practical advice during the submission, hearing and decision processes, was emphasised as being important for achieving practical and effective rules.

3.4 General Issues Raised about Plan Policies

In general, staff commented that they made limited use of the policies in the plans. Some staff commented that they did not refer to policy when dealing with a discretionary activity, rather referring to the science information and Part II RMA provisions directly (refer s104 RMA[17]). However, others requested a stronger cross-referencing between rules and policies to ensure that the outcomes being sought were clear and that the policies supported the rules. There was also a common view expressed that far stronger and more explicit policy guidance was required, particularly to support discretionary rules, and decisions to decline a consent application.

Policy which included "assessment criteria" was not considered to be helpful. The concerns raised were that such policies do not state clear outcomes being sought and can be contradictory to the rule provisions. However, it was suggested that such assessment criteria could be useful as non-statutory guidance in the suggested "implementation plan" (refer to discussion on this matter above).

Additional policy guidance was sought for the following matters:

- the additional geographical areas added to the region as a result of the Auckland Council re-organisation
- social, economic and cultural impacts: There is no or limited policy guidance on how these matters are to be addressed in rules or in consent decisions (e.g., as contributing

[16] NB: RCS pay approximately $53,000 for annual consent charges.

[17] S104 RMA requires that decision-makers "have regard to" the plans. This appears to be interpreted as the plans having lesser or no importance compared to Part II RMA.

factors in seeking behavioural changes and/or compliance). In general consent decisions are based only on the effects on the physical environment

- "enhancement" and mitigation: There was a request for policy guidance on what these terms mean, what triggers should be used, and when to apply them as a consent condition (including e.g., off-sets and compensation). It was noted that case law and common practice have evolved significantly in these areas in recent years and this should be reflected in the policy guidance
- avoid, remedy, mitigate: Policy should provide more clarity around what effects are to be avoided, what sort of effects are to be remedied and what (and how) should other effects be mitigated
- cumulative effects: While some acknowledged that cumulative effects was already built into the way rules were written (including by the use of different rule categories), others considered that addressing cumulative effects was difficult to achieve through implementation of rules and case-by-case decision-making. It was noted that by making a rule a permitted activity, it is assuming that the cumulative effects of that activity are acceptable. The use of thresholds in rules or policies can assist in defining the level of cumulative effects that is acceptable
- duration of consents: As a point for discussion, it was suggested that there should be guidance provided on whether the RMA maximum duration of 35years is Council's default position (unless there is a justifiable reason for not doing so) or whether there should be a scale of timeframes, based on specific criteria related to environmental effects. It is also noted that this issue is linked to providing business certainty for applicants
- coastal erosion structures: Policy guidance is needed which acknowledges local community perspectives, sea level rise, coastal adaptation and costs both of actions undertaken and enforcement. In addition, in terms of consistency, the relationship between the WRP, WRCP and District Plans needs to be clearly stated.
- stormwater impacts on neighbouring property: It was suggested that there was a need for policy guidance around "duty of care", particularly where activities may impact on neighbouring land
- landscape/ natural character and biodiversity: It was stressed that there is a need to consider the implications of the King Salmon Supreme Court case, in any policy development relating to the above matters. Further it was noted that other case law experience should also be drawn on through the review process.
- pest pathways: this is identified as an up-and-coming issue under the Biosecurity Act i.e., councils will be required to develop regional pest pathway plans – to "manage" the way pests get into a region. This will have a significant impact on statutory plans. Clarification of the interface between the plans and the Biosecurity Act, Pest Management Plans and associated pest pathway plans will be required.
- air discharges – the philosophy behind the policy approach needs to be reconsidered.

3.5 General Issues Raised about Rules

The fundamental purpose of rules was stated as being to simplify the consent process for applicants and for staff. It was also noted that if the WRP and WRCP are to be combined into one plan, there is a need to ensure the way rules are written is aligned and consistent.

From the interviews undertaken the preferred overall approach was to retain a mixture of activity and effects-based rules, to have fewer rules, and to ensure that rules were prioritised according to the key pressures within the region that need to be managed (rather than trying to having rules for all activities). This included the suggestion of removing redundant or seldom used rules, and reviewing whether a rule is the "right tool" for managing the outcomes sought, e.g., education is a key counter-balancing tool to rules.

Chapter 3.10 of the WRP is a stand-alone chapter focusing on the Lake Taupo Catchment. The related rules were inserted after the property-level diffuse nitrogen limit rules in Variation 5 were made operative. However, amongst staff interviewed, there was no support for developing different rules in different geographic locations. [NB: Staff implementing Chapter 3.10 were not interviewed for the purpose of this report, as two separate reports are in preparation (refer Appendix A).

Many commented on the usefulness of and preference for a hierarchy of "cascading rules" (including the use of flow charts being included in the plans or in the implementation plan). This would provide clarity on whether an activity fits within a particular activity class and if not where it would default to[18].

It is important to recongise that from a compliance perspective, if a rule or condition is breached then the consequence is that a person is exposed to the potential for court and criminal fines or convictions. Therefore it was stressed that rules should only be used if (a) it is practically able to be enforced; and (b) it is intended that any non-compliant activities/ consent holders would be addressed through enforcement actions (including the potential for criminal convictions). If a criminal conviction is not anticipated as a potential outcome of the rule, then the rule may fundamentally be the "wrong tool". Further to this it was emphasised that only rule "conditions" that can be enforced through the courts should be included in rules i.e., all permitted activity rules should be enforceable, able to be monitored and be defended in court.

It was also noted from an enforcement perspective that offences are built on ss 9, 13, 14, 15, RMA, but there are timing difficulties with some rules, e.g., s9 RMA restricts land uses, however a person may consider they are meeting the requirements for the permitted activity land disturbance rule, whereas staff know as soon as it rains there will be a sediment problem. However staff can only react after the event (through enforcement), which is not a proactive way of managing known anticipated effects.

[18] NB: RCS has prepared a series of flow charts detailing the complexity of which rule applies to certain activities. For examples refer to DM# 2486056 (relating to structure maintenance & obstruction/ bed material extraction); DM# 3169340 (referring to coffer dam construction; DM# 1130375 (referring to vegetation clearance).

A further commonly expressed theme was that the rules should be simplified and better use made of the differences between rule classes; i.e., to minimise the number of standards and terms/ conditions and where this is not practical, then to elevate the activity into a different class of rule. In the context of Judge Smith's recent comments that the WRP was too permissive, it may be timely to reassess the appropriateness of rule classes for all activities[19].

From the RCS perspective, it was noted that there are currently very few PA rules that apply to activities that they commonly undertake. This is due to current rule wording governing activities around rivers and streams, and to factors such as limits on physical works and catchment sizes. It was strongly suggested that there should be some RCS-specific PA rules (e.g., as per the Hawkes Bay Regional Plan rule 6.8.3) and that some of the existing discretionary rules covering routine activities should be controlled or permitted.

More specifically, in terms of the different activity classes of rules, the following comments were made:

- where activities are commonly occurring, reduce the emphasis on discretionary status e.g., it was noted that WRP Variation 6 rules reduced the level of discretion in decision-making and that staff supported this approach
- make more use of controlled and restricted discretionary rules, as these constrain the range of RMA issues staff have to consider
- default discretionary rules: while they provide a lot of flexibility, policy guidance is generally considered to be too broad to assist with decision-making. Case law is more useful in this context
- make more use of non-complying and prohibited rules, as these set limits/ thresholds on resource use (note: such rules must also be supported by policy). The non-complying activity class requires closer scrutiny of an activity, taking into account policy guidance
- a certificate of compliance cannot be issued for something that is not yet in place. Therefore care needs to be taken in the way performance criteria are written within permitted activity rules, to avoid referencing future effects.

With reference to standards and best practice guidance currently included in the WRP, staff generally regarded these as useful and that such information was at times used in a broader context than just the specific rules it referred to. In terms of the existing water quality standards it was suggested that these needed to be more prescriptive and set limits, while it was also proposed that standards should be set for water quality discharges (i.e., similar to those outlined in WRP section 6.4).

Various staff noted industry or council best practice guidance that was currently available and it was considered that every endeavour should be made to reference such guidance material in the plans, along with enabling flexibility for future updates to be taken into account. This was

[19] Refer Case Notes DM# 3114540 and Interview Notes DM# 3126456. The Judge was also critical of the use of management plans.

particularly emphasised by RCS as they are required to update guidance material every 5 years in accordance with their existing consent conditions. However it is also noted that there were some opposing views expressed, that sought to reduce reliance in the rules on such documents.

3.6 Views on Rule Writing

From the interviews undertaken there was a wide range of advice provided on how best to write rules. This feedback has been clustered under the following themes:

Focus on outcomes and implementation:

- before drafting the rule, define the outcome(s) being sought (and specify in the "implementation plan")[20]
- if a rule cannot be implemented by applicants and enforced by council, then it should not be a rule (i.e., other tools should then be considered for managing the issue)
- rules need to set up a framework that "makes it easy" to do what is required to meet policy objectives, and "makes it hard" to act contrary to policy.

Notification and Duration:

- define public or limited notification expectations as much as possible. This includes specifying the reasons for requiring notification for any controlled activity rules and updating current references to reflect recent RMA amendments
- avoid conditions that require WRC to be notified before works commence
- where appropriate provide guidance on duration of consents.

Wording:

- use very clear unambiguous wording and clear definitions to support i.e., terminology that is simple and easily understood (this includes avoiding any "interpretation conflicts" with glossary definitions)
- ensure rule clauses are not written as consent conditions, i.e., clauses need to be descriptors that place an activity into/ out of a certain rule class; in this respect a clear and consistent application of the differences between "conditions", "standards and terms" and "matters for control" is required

[20] NB: Attention was drawn to the title of a recent conference held by the International Erosion Control Assn: Cost and Complexity or Common Sense: Process vs Outcomes. It was suggested this could be the mantra for plan re-drafting.

- avoid the use of inconsistent terminology (describing the same matter) across different rules.

Cross-referenced material/ cross referencing other rules:

- include references to industry/ external and internal (council) best practice guidance (e.g., as per Hawkes Bay Regional Plan rule 8.8.3)
- review all advisory notes to ensure it covers advice only. In some existing instances, some items should be included into the rule directly
- avoid cross referencing other documents in permitted activity rules
- aim to cover all elements of an activity in a single rule (i.e., avoid cross-references to other rules as far as practical). This is not consistently applied to all rules at present.

Permitted activities:

- permitted activities should only be used for activities with minor effects
- if a permitted activity is expected to have any level of Council involvement (e.g., monitoring requirements), it should not be classed as a permitted activity as this work is not cost-recoverable
- clauses need to be enforceable and clearly able to be complied with
- clauses need to be easily understood and implemented by "applicants", so that they know what is expected of them and clearly how to comply
- clauses in permitted activities which focus on gathering information should be avoided, as this is not an efficient way to gather information (e.g., reporting back/ registering requirements, notification before commencing works). Problems include: that it may be interpreted as a non-statutory authorisation; the information is not generally recorded by staff in a useable manner; there is no way to know who has/ has not responded; can be a trigger that makes the activity illegal if it is not reported.

Controlled, restricted discretionary/ discretionary activities:

- there needs to be clarity between the purpose of "standard and terms" (used to help define whether an activity falls within this rule) and "conditions" (used to focus on what effects are to be managed through consent conditions). Currently this is not applied consistently through the plans (NB: WRP rule 7.6.3.4 is provided as a good example of clear distinctions). Standards and terms need to be quantifiable/ measurable and have clear boundaries, i.e., they should not be effects-based (as this requires a judgement call and potentially inconsistent determinations). They should not list effects that can only be assessed after the activity has taken place, as this does clarify which rule it fits under. The list of standards and terms should be kept as brief as possible, and if this is not possible then perhaps it should be elevated to another rule class
- to date, administrative matters (e.g., payment of annual charges) have been imposed as consent conditions irrespective of such matters not being identified in the rules.

However for the avoidance of doubt, this should be further investigated and possibly be included.

3.7 Overview of Interview Comments on Specific Rules

This section of the report provides a general overview of comments on rules, made by staff interviewed. Comments are clustered by themes (in no particular order) and include reference to suggestions for additional rules. Staff also reinforced that comments in this section should be read in the context of the lists of rule amendments reviewed in Part One of this report.

The detail on specific rules has been recorded in the two spreadsheets DM# 3113426 (WRP)[21] & DM# 3113425 (WRCP).

Farm/ Earthworks Rules

These two activity areas were identified as having a range of issues that need to be addressed. In particular it was considered that farmers required a greater level of certainty about what they need to do to comply with rules. In this context it is acknowledged that there is currently a wider discussion occurring internally about "farming to limits" and a "whole of farm" approach. Notwithstanding this internal discussion the following general comments were made:

- dairy effluent rules are not consistent, and it is difficult to prove compliance
- on-site storage (designed to meet specified standards) for effluent discharges should be required to address wet weather scenarios
- existing rules relating to fertiliser and livestock in streams are unclear and cannot be enforced
- reference should be made to industry guidelines (e.g., consideration should be given to use rules to leverage compliance with dairy industry code of compliance and "warrant of fitness" system)
- setbacks for intensive farming and/or cultivation should be specified to address impacts from aerosols and impacts of sediment on waterways
- off-target drift from agrichemical spray should be required to avoid impacts on riparian plantings
- a stronger approach should be taken to fencing waterways and management of sacrifice paddocks
- earthworks and clean fill/ overburden rules are very complex and currently circular, they very difficult to enforce, and complex due to overlaps with vegetation clearance rules; they do not consider the scale of activities

[21] As noted earlier this spreadsheet has built on the work undertaken for the Healthy Rivers project under DM# 2824331.

- for RCS activities, the rules are overly complex and the cross-referencing used does not work well
- significant gaps in farm/land use rules include:
    - the way gullies are defined and managed (including the management of "wet" or "seeping" areas)[22]
    - management of riparian margins is managed differently across a range of rules
    - land use conversions (e.g., pine to pasture) [23]
    - top soil management from subdivisions and cultivation
    - restricting soil disturbances in winter
    - intensive roofed animal housing
    - machine hygiene practices should apply to every rule that deals with soil disturbance
    - managing legacy contaminated sites

Water

From the interviews key themes included:

- there was support for the water quality management classes and standards, with the fisheries class being used often and the water levels class (3.2.4.7) considered to be redundant by RUD staff but critical for RCS staff
- the importance of water take and use policies and rules for controlling land use was noted (e.g., this will limit the expansion of dairy in over-allocated areas)

Matters that need to be addressed include:

- addressing "reasonable use" as per RMA s14(3)(b) i.e., recommend that there are limits placed to define "reasonable use". This section of the RMA also refers to "no adverse effects" therefore the question to be addressed is whether any take becomes an adverse effect when there is a state of over allocation
- interactions between ground and surface waters:
    - to maximise use of a finite amount of water, it should be a quick process to transfer from someone not using it to another person
    - the s136 reference (in the rule and advisory note) needs to clarify that a consent process is required
    - the wording relating to groundwater results in a default to non-complying (the reason being that it is restricted to the same aquifer/ same location or different location but replicated aquifer characteristics, however from a science perspective this is impossible to determine)
- new rule required for management of weirs and lake levels

[22] Refer to section 20 action 4.2.3 in the Waipa Catchment Plan DM# 2988622.

[23] Refer also to the Ngati Maniapoto Plan (currently work in progress)

- managing rainwater collection/ harvesting and perennial dams
- potable water reservoirs and swimming pool discharges.

River and Lake Beds

From the interviews there was strong support for rules on access, pumping and removal of obstructions. There was also support for the diagrams such as on p8 of the WRP. However it was also noted that plan writers need to better understand the different structures used by RCS and the respective operational constraints.

Matters that need to be addressed include:

- structures on flood plains
- all parts of standard 4.2.21 are not relevant for all rules which cross-reference the standard; and some standards cannot be complied with
- review definitions of:
    - wet and dry river beds (and review diagrams to recongise there is also an "in-between" state) and
    - artificial, modified and natural water courses
    - lengths used in rules (e.g., one bank kilometre, combined length)
    - channel training structure vs erosion control structure
- water class maps and livestock exclusion maps need to be up-dated and have better boundary definitions
- review existing rules for temporary coffer dams and maintenance of stopbanks

Wetlands & Biodiversity

The WRP provisions relating to drainage are considered to be woefully inadequate and very weak for protecting wetlands[24]. The WRP is also considered to be very weak on managing biodiversity interests.

Matters that need to be addressed include:

- improve the definition of wetlands, to be more specific and enforceable
- up-date and expand the table listing wetlands
- maps showing stock exclusion areas are inadequate; need to exclude stock from margins of all lakes
- new rule for drainage and stock exclusion around wetlands
- consider most appropriate way to incorporate biodiversity interests

Infrastructure/ Utilities

From the interviews there was support for retaining the "grand-parenting" rules for existing lawfully established structures. However issues raised included: an extension to cover all

[24] Refer also to the Ngati Maniapoto Plan (currently work in progress)

structures issued since the WRP was developed (to avoid the need to return for a consent once a structure is established in place but the existing consent expires); and difficulty in determining what has been "lawfully established".

A general observation was made that, infrastructure/ utility activities seemed to be either undertaken by large companies and/or public authorities, or were simple activities undertaken at an individual level.

Comments relating to activities undertaken by large companies or public authorities included:

- waste water treatment: gaps in rules currently include disposal of sludge and pump station spills. In terms of the latter activity an enforcement response is the only option due to the existing prohibited activity rule. However it is also acknowledged that no system is designed to be able to deal with a "no spill" management approach[25]
- stormwater discharges from industrial sites are not adequately covered in the plan
- dams: the current rules no longer align with recent changes to the Building Act, and accordingly need to be reviewed
- maintenance of utilities/ infrastructure: currently there is a lack of guidance for managing the maintenance of infrastructure, e.g., roads, power lines, railways, airport, stop banks etc. This includes a gap relating to discharges from potable water reservoirs (and swimming pools); and a gap in terms of dewatering associated with the installation or maintenance of underground infrastructure
- drilling rules need to specify the method for casing and sealing

In terms of smaller activities, comments made include:

- on-site sewage systems should require a site and soil assessment; and should address surface seepage/ run-off issues. In addition it was suggested that the nitrogen reducing waste water systems in Taupo should be re-considered
- culverts: the existing permitted activity rule needs to reference any associated damming/ diverting of water, and to specify a length of waterway that can be covered
- whitebait stands: determining the most appropriate management regime for these structures is a major area of work (this work is currently underway for the lower Waikato river area)
- new rules were also proposed to cover small closed landfills; stock truck effluent, shooting ranges, management of used tyres, and maintenance of stopbanks

[25] Refer also to the Ngati Maniapoto Plan (currently work in progress)

Geothermal

The main concerns with this area of the plan include:

- mapping: refinement is required for redefining the geothermal zones as they move over time. Consideration needs to be given to whether flexibility in these zones can be provided in the plan
- zone definitions: there is a lack of clarity around how geographic areas which do not fit within the protection or development fields should be addressed, i.e., whether they appropriately default to research fields
- clarification of some terminology, and access to data from consent holders

Coastal resources

As the WRCP is to be combined with the WRP, it is important to note that the WRCP is fundamentally a geographically based plan. Clearly there are some interface issues between the WRP and the WRCP such as activities that cross the line of MHWS (e.g., erosion management) or which require the management of the same activities in different areas (e.g., maimai or whitebait stands). Therefore as the plans are combined, the aim should be for consistent management approaches unless there is a critical reason for not doing so. A consistent approach to writing policies and rules is also required.

Particular concerns raised in respect to coastal management include:

- there is a need to review the rules derived from the previous NZCPS and determine if it is appropriate or necessary to retain them (including a review of the triggers within these rules)
- moorings, marine farming and erosion structures were identified as key areas that needed to be managed more effectively
- consistency of terminology used across different rules needs to be addressed, and clarification of the intent of specified timeframes
- new rules are required for: mangroves (taking into account the King Salmon Supreme Court case); prospecting and mining; and for structures over water that are attached to an existing structure (e.g., a pipeline attached to a bridge)
- in terms of refuelling activities, the appropriate linkage between plan rules and tier 1 oil spill plans needs to be clarified, and joint processes accordingly simplified
- seawalls need a specific rule (rather than the current generic discretionary one)
- WRP rules relating to wetlands should also apply to estuaries
- sea level rise and coastal adaptation need to be embedded into policy and rules
- marine biosecurity is an up-and-coming issue under the Biosecurity Act (refer also to comments on pest pathways under section 3.4 above)
- new rules required for biosecurity, including management actions, and the control of weeds and unwanted organisms.

Air

There is a need to review the approach taken to managing air and to be clear about the management outcomes being sought. The existing approach was based on provisions of the Clean Air Act, and it is now considered timely to reassess whether this approach is still the most appropriate. Currently the agri-chemical rules are focused on controlling herbicides in an agricultural context, this is too narrow and should be expanded to encompass the control of "environmental weeds" (e.g., for biodiversity purposes).

Other matters raised included:

- odour: this is identified as a difficult area to manage, and while the odour guidelines are useful, it is considered that a wider discussion is required on the role of rules and "other methods" in managing this area of work
- the regulatory controls for open burning of plastics and food waste need to be reconsidered (and should not be permitted activities)
- the permitted activity rule in the air chapter does not cover a comprehensive list of activities
- the agri-chemical rules and glossary definitions should be reviewed by an expert (i.e., there is no current in-house expertise in this area) with particular attention given to consistency of wording and compliance issues; obsolete terminology used; qualification requirements should not be referenced
- suggested new spray rule for ICM (and other public agencies/ groups). The existing reference to "public amenity areas" means that the PA rules are not applicable i.e., focus of rules needs to be broadened to include reference to herbicides/ fungicides used for amenity, public welfare, safety (e.g., roads), industry (e.g., rail, hydro), flood protection, environmental protection (e.g., old man's beard)
- notification requirements specified in rules and tables are too complex, do not use consistent wording and should be limited to directly affected parties
- the relationships between statutory plans and the EPA; and between plans and NZ Standard 8409:2004, and between the plans and the Regional Pest Management Plan, need to be clarified. The plans must not override national provisions nor be inconsistent with HSNO
- spray rules need to be reviewed and take into account the recent legal advice (obtained by Biosecurity staff) that consent conditions cannot override instructions on a herbicide label. Rules and consents must be compliant with EPA "permissions & conditions".

3.8 Key Themes Arising from Staff Interviews

From the interviews undertaken with key staff, the following general themes have been identified (NB: they are not listed in any order of priority). Comments on specific rules have been included into the excel spreadsheets **DM# 3113426** which details the comments made on specific WRP rules and **DM# 3113425** which details the comments made on specific WRCP rules. It is also acknowledged that these spreadsheets are complementary to the list of detailed comments on rules gathered internally and reviewed in Part One of this report[26].

Key themes arising from the interviews include:

i) plan philosophy: review the "enabling without bureaucracy" approach and ensure it is still appropriate; clarify the working relationship between the RPS and plans; investigate ways to incentivise compliance (including use of financial tools); consider the legislative position of RCS in terms of outcomes sought

ii) plan structure: focus the plan on policies and rules; support with an "implementation plan"; specify critical "other methods"

iii) policy and rule development process: specify the behaviours/ outcomes being sought by policies and rules; be cautious about unintended consequences; detail the economic impacts of policies and rules (for WRC and applicant)

iv) general issues re: policy: far stronger and more explicit policy guidance is required; a range of policy gaps were identified that would assist consent decision-making (e.g., "enhancement" and mitigation, duration of consents, implications from case law); clarify relationship with Biosecurity Act and associated plans; reconsider management approach to air discharges

v) general issues re: rules: fewer rules and prioritise to key management pressures within the region; ensure rules are the "right tool" for the problem being addressed; include "cascading" rules; rule clauses must be enforceable; reassess activity classes to ensure they are the most appropriate class (including making more use of controlled and restricted discretionary activities and reducing the emphasis on discretionary activities); reference best practice guidance in the plans/ rules; separate rules for RCS activities

vi) guidance for rule writing: before drafting be clear about outcomes being sought; if a rule cannot be enforced then other management tools should be used; specify provisions relating to notification and duration of consents; use clear terminology and consistent approaches to defining "conditions", "standards and terms" and "matters

[26] Refer section 2.3 of this report.

for control"; cross reference best practice guidance, avoid cross-referencing between rules; review permitted activities for appropriateness

vii) a number of resource areas were identified as having some fundamental or critical problems to be resolved. These priority areas have been summarised in section 4.2 of this report.

CONCLUSIONS

This report has assessed plan review information that has been gathered to date, and through staff interviews has built further on this earlier work. It draws out common themes, directions and work priorities to be considered in guiding the next stages of the plan review. This report is an internal document for use by staff working on the overall review project for the WRP and WRCP.

This report concludes by drawing together the results from the literature review (Part One) and the staff interviews (Part Two) and:

- identifies commonalities in the combined themes
- indicates some priority work areas; and
- lists additional work areas that were raised during the interviews.

4.1 Combined Themes from Literature and Interviews

The following table sets out the key themes which have arisen from:

- the literature review discussed in Part One of this report and
- the interviews results discussed in Part Two.

Topic	*Key themes from Literature Review*	*Key themes from Interviews*
Vision and Strategy for the Waikato River	There is a need to consider: • what level of "give effect to" is required • the status of the Waikato River • the application of Maatauranga Maori • the relationship values of the iwi and community with the Waikato River and its catchment • cumulative effects and precautionary approach.	
Strategic priorities for Council	• sustaining the values of land and water • not unnecessarily restricting regional development • incorporating co-governance principles	
Underlying approach to plan/ rules/ rule writing	There is a need to consider: • whether the "enabling" approach of the current WRP is still appropriate • and be clear about the purpose of having rules: (i.e., they are not only required by legislation, or used to prioritise environmental effects, but also provide security of business for applicants)	• if the underlying approach to the plans is "enabling without bureaucracy", then it is essential that the policies are written more strongly and in a way that clarifies how activities are to be managed and what matters need to be controlled. In addition, compliance implications for any "enabling" rule

	• whether rules should be activity based or effects based or a combination of both; and whether there needs to be different rules for different geographic areas • economic impacts on regional development and on consent holders • cost and practicality of compliance and environmental monitoring • relevance of existing rules that have not been used • statements of notification/ non-notification.	must be clarified • there is a need to consider the economic impacts of rules on Council and applicant, and a cost-benefit analysis should be applied to rules • Amongst those interviewed there was an inconsistent view on the relationship between the RPS and the plans i.e., whether the plan is a "stand-alone" document; and the relationship between the WRP/WRCP and other statutory plans such as the Pest Management plan. • There is a need to consider a more enabling approach for RCS activities
Alignment	There is a need to ensure rules: • are consistent across MHWS • have an appropriate hierarchy and avoid mismatches (such as circular links) or overlaps • take into account monitoring results undertaken to date (both from consent monitoring and RIG monitoring) • takes into account catchment management plans	There needs to be • consistency across MHWS • consistency across common activities • consistency in way standards and terms/ conditions of rules are written • a clear hierarchy of rules/ logical flow chart between rules. • monitoring results from consent monitoring should be sued to support rule writing • take into account catchment management plans
Plan Structure/ Implementation Plan		• strong support for a slimmer plan - focusing on policies and rules • strong request for parallel development of an implementation plan (covering a range of matters identified in interviews) • retain activity table at beginning of plan • ensure explanations provide rationale to assist with interpreting rules • retain critical "other methods"
Policy & Rule development process		• be specific about outcomes being sought and ensure most appropriate tool is used • develop more specific policy guidance. Further policy guidance sought in areas such as "enhancement", cumulative effects,

		duration of consents; landscape, natural character, wetlands and biodiversity (resulting from the recent Supreme Court determination) • assess and avoid potential unintended consequences • detail the economic impact for council and applicants • involve RUD & ICM staff in testing rules
General/ Technical issues re: rules	There is a need to: • provide clear definitions, i.e., avoid ambiguity • provide clear scope and intent • distinguish between rules and consent conditions – i.e., be clear about the role/ purpose of standards & terms, assessment criteria etc • ensure rule provisions can be complied with, monitored and enforced • manage cumulative effects • state specifics to be met, within a rule • permitted activity rules need to be simple, understood by all and have clear boundaries/ triggers for compliance	When writing rules it was suggested that there is a need to: • focus on outcomes being sought • if it can't be implemented, it should not be a rule • state notification requirements • use clear, consistent easily understood, enforceable terminology • include references to existing best practice guidelines[27] • cover all elements of an activity in a single rule • permitted activities should only be used for activities with minor effects i.e., If an activity requires Council involvement it should not be classed as a permitted activity • clarify intent of and be consistent re: use of standards and terms/ conditions
Gaps/ amendments in rules	• a wide range of new rules and amendments have been identified for further consideration • new rules are primarily activity-based • some existing rules are too permissive • permitted activity rules need to be "black & white", simple, give certainty to users, be easily understood, easily complied with and easily enforced	• as per column 1 comments • refer also to priority areas identified below

[27] Note: Judge Smith has been critical of the use of management plans in consent conditions, where consent conditions should have been used for compliance reasons.

From the above results it is clear that there are common themes arising from both exercises with the interviews providing more direct commentary on specific rules and specific barriers to implementation.

4.2 Priority Areas Identified from Literature and Interviews

From the interviews undertaken and drawing on the information from the literature review, the following key priority work areas have been identified:

Guidance for Policy and Rule Writers

As an initial step to rewriting any plan provisions, there is a need to develop guidance to ensure consistent approaches are taken to policy and rule development, including:

- common understanding/ principles – e.g., discuss and agree on common approaches to be taken to plan development, including contents of plans, relationship to RPS, how the Vision and Strategy for the Waikato River and Council's strategic directions should be addressed
- determine whether the current "enabling" approach is still appropriate for all activities, and what criteria might guide decisions on this at an activity level
- define criteria/ guidance for matters common to all chapters (e.g., cumulative effects, notification, purpose and scope of standards and terms, advisory notes)
- case law guidance (e.g., interpretations of "have regard to", King Salmon decision on "avoidance", enhancement and mitigation, specific activity guidance)
- further discussions with RUD and ICM staff regarding matters where differing opinions were expressed or unclear statements made and where it could be beneficial to determine common ground.

Priorities for Specific Topics

Specific resource areas where significant work may be required in the review process include:

- air module –general approach, and technical issues associated with agri-chemicals
- geothermal – zone and field definition, and access to data from consent holders
- farm activities – level of control and detail of expected actions
- land management - particularly gullies, perennial wet areas, drainage, overburden, wetlands, biodiversity, pest pathways
- river and lake beds – structures on flood plains, mapping and definitions of wet/dry, artificial/natural
- water – particularly water treatment overflows, run-off
- structures – maimai/ whitebait stands, dams
- coastal – particularly mangroves, marine farming, erosion structures, pest pathways.

4.3 Additional Work Proposed During Interviews

During the course of the interviews the following observations were also made for additional work to be undertaken:

- within the RUD and ICM teams additional people who were identified for further consultation as the plan review process proceeds are listed in Appendix B (NB: some addition staff were also identified in the interview notes for consultation on specific rules)
- it was suggested that plan development staff should also look at case law and plans from other regions to assess how emerging issues have been dealt with. In this context it was noted that RUD holds a register of cases affecting WRC work
- it was noted that the Incidence Response team gathers data on how/what/when complaints are made and use a prioritisation model to show priority area for response (as a way of managing level of service expectations). This data may also be of use as the plan review proceeds.

APPENDIX A: ANNOTATED BIBLIOGRAPHY

a. A review of whether the Waikato Regional Plan gives effect to the Vision and Strategy for the Waikato River

Guardians Establishment Committee, undated. *Restoring and Protecting the Health and Wellbeing of the Waikato River: Vision and Strategy of the Waikato River.*

> This document arose from an agreement between the Crown and Waikato-Tainui and involved a series of consultative processes. It is focused on addressing the degradation of the Waikato River and its catchments.
>
> *This Vision and Strategy seeks to make substantial progress in restoring the Waikato River within the next 20 years and to protect it from further degradation.* P 2.

Proffit, R., 2013. *Review of Waikato Regional Plan Against the Vision and Strategy for the Waikato River.* Opus International Consultants Ltd.

> This report reviews the WRP against the objectives and strategies of the Vision and Strategy for the Waikato River. It sought to determine where gaps or correlations existed, and to determine whether the WRP "gives effect" to the Vision and Strategy. The review concluded that the WRP would require amendment to address concepts such as maatauranga Maori, cumulative effects, the precautionary approach, and to give a clear directive on the status of the Waikato River and the approach to "degradation".

b. Plan effectiveness reviews for Regional Plan and Regional Coastal Plan

Britton, R. and Silver, G., 2013. *Review of the Waikato Regional Coastal Plan.*

> This report provides an overview of key legislative and policy changes that have occurred since the WRCP was proposed, and reviews the effectiveness and efficiency of the plan. It also identified future matters relevant for any future plan development. It involved a desk top review of documents and limited discussions with staff. The report concluded that it was difficult to adequately determine whether the plan had been effective or efficient in achieving its objectives. However the significant legislative changes that have occurred since the plan was proposed means there are a range of required amendments to be made.

GHD Ltd, 2011. *Waikato Regional Council: Waikato Regional Plan: Policy Effectiveness Review*.

This report provides a high level assessment of whether the WRP and WCP are effectively achieving the desired outcomes, whether there have been significant changes in policy direction and whether there are gaps in the plan relating to new or emerging issues. It involved a desk top review of a range of documents and workshops with staff. It highlights the likely scope and nature of changes to be made to the plans. The report concludes with a range of recommendations and tasks to be undertaken prior to any potential future plan amendments.

c. Reports on monitoring compliance with permitted activity rules

Morris, B., 2009. *Effectiveness of Permitted Activity Rules in the Waikato Region: Confidential report.* Brendan Morris Consulting Ltd. (#1528110)

This report provides an overview of compliance monitoring undertaken in respect to 6 permitted activity rules, and analyses the results combined with staff interviews to determine the effectiveness of the 6 permitted activity rules. It outlines the rationale for focusing on these 6 rules as priorities and provides insights into improving the effectiveness of permitted activity rules for the future. This report cross-references a range of qualitative and quantitative compliance monitoring reports related to the identified priority rules.

Further reports referenced and reviewed within the above review document included:

- Davies, A, Kaine, G, and Lourey, R., 2007: *Understanding Factors Leading to Non-compliance with Effluent Regulations by Dairy Farmers*. Environment Waikato Technical Report 2007/37 (#1210295), Hamilton.
- Fenton, T. and Kelly, J., 2007. *Environment Waikato Permitted Activity Rules Compliance Assessment Strategy*. Alchemists Ltd (#1172808), Hamilton.
- Hungerford, R., 2008: *Integrated Catchment Management Pilot Project: Evaluation Report*. Environment Waikato Technical Report 2008/49 (#1395339), Hamilton.
- Versus Research Limited, 2008: *Environment Waikato Clean Streams Project Survey of Farmers June 2007*. Environment Waikato Technical Report (#1200245), Hamilton.
- Versus Research Limited, 2008: *Environment Waikato Fertiliser Compliance Survey February 2008*. Environment Waikato Internal Report (#1301473), Hamilton.

d. Reports reviewing the Lake Taupo Catchment diffuse nitrogen rules

Hayward, N. and J. Young, 2014. *Case Study: Lake Taupo catchment property-level nitrogen discharge limits*. Prepared for the Collaborative Stakeholder Group Healthy Rivers: Wai Ora Project. Policy work stream report for discussion at CSG workshop 2. Waikato Regional Council. (#4-3034258)

This case study focuses on the parts of Chapter 3.10 of the Waikato Regional Plan that affect pastoral farmers in the Lake Taupo catchment, and which seek to manage non-point source discharges of nitrogen. In particular it addresses matters related to policy development and implementation processes. The report notes that council staff believe that implementation is progressing well, with all farmers having gained resource consents and operating their farm business within an environmental limit. The farmer group that were involved in policy development retain an active role working with council staff to develop efficient processes that suit farmers. To date there have been no instances of significant non-compliance with the rules. The report identifies success factors and council learnings from the policy development process, along with implementation support provided to farmers. The report also summarises a number of previous reviews undertaken of the cap and trade scheme.

Coup, M. and J. Young, 2014. *Case Study II: Implementation of Lake Taupō catchment property-level nitrogen discharge limits.* Prepared for the Collaborative Stakeholder Group Healthy Rivers: Wai Ora Project. Policy work stream report for discussion at CSG workshop 8. Waikato Regional Council. (#3124280)

This case study focuses on the Lake Taupō catchment property-level nitrogen discharge limits contained in Chapter 3.10 of the Waikato Regional Plan. It builds on the first case study (as annotated above) and specifically addresses implementation issues including practicality, effectiveness and enforceability. The report includes information from the Part 1 case study, as well as technical reports prepared for council and anecdotal evidence from farmers in the catchment. The report details a number of challenges in implementing the rules, including for example, benchmarking, resources required, costs, need to streamline approaches given farm practices, monitoring and compliance, interpretation of rules.

APPENDIX B: STAFF AND DOCUMENT REFERENCES AND INTERVIEW NOTES

Overview table of interviews and spreadsheets

Staff Interviewed for Part Two of this report included:

	Staff Members RUD	***Reference for interview notes***
1.	Grant Blackie	DM# 3140502
2.	Mark Brockelsby	DM# 3126458
3.	Barry Campbell	DM# 3117680
4.	Mark Davenport	DM# 3127815
5.	Rob Dragten	DM# 3127887
6.	Brent Fletcher	DM# 3147307
7.	Hugh Keane	DM# 3123701
8.	Amy King	DM# 3140267
9.	Patrick Lynch	DM# 3126456
10.	Amy Robinson	DM# 3147150
11.	Brent Sinclair	DM# 3140264
12.	David Stagg	DM# 3140262
13.	Ross Wightman	DM# 3118901
	Staff Members ICM	
14.	Leanne Lawrence	DM# 3188651
15.	Wendy Mead & Darion Embling	DM# 3190814
16.	Keri Nielson	DM# 3201397

Xcel spreadsheets containing detailed information on rules:

Focus	***Reference***
WRP Rules	DM# 3113426
WRCP Rules	DM# 3113425

Staff for Further Consultation: During the course of the interviews the following staff were identified as being additional resources for further consultation on details of rules. In some instances additional staff were also identified within the interview notes, with regard to specific matters.

Staff Member RUD		***Staff Member ICM***
Christin Atchinson	Rachael O'Donnell	Dave Hodges
Alan Campbell	Brian Richmond	Adam Munro
Megan Coup	Sheryl Roa	Emily O'Donnell
Derek Hartley	Trisha Simonson	Operations staff
Cameron King	Amy Taylor	

1. Grant Blackie: DM# 3140502

Areas involved in: land & soil – disturbances such as forestry, coal mines, state highways, quarries, subdivision, wind farms

Key Themes/ Rules	***Comments***
General	
Industry/ large activities	Industries are well covered in the rules for large activities. Most such activities are dealt with by professionals and as their risk management approach most prefer to get a consent if there is any doubt, usually comply.
Rural sector/ small activities & Cascading rules	Rural areas/ small activities are generally the problem area. Chapter 5 rules are too complicated and hard to understand. There is no cascading of rules e.g., P to C to RD to D etc. Would like to see a table of cascading rules – so a person knows if they don't fit in one class of rules they fall into next class
Rule no 5.1.4.14 Chapter 5	The limits for what is permitted is detailed in the CA rule i.e., below those limits are interpreted as being permitted. Identifies a wider issue of what should be permitted and what standards are required or a PA?
Gullies & diggers New rule	Biggest gap in plan relates to use of diggers in gullies this activity has had a massive impact on the environment in last 10 years – because now many have drains in them. There is no clear rule basis for addressing this area of work – e.g., is a gully part of the bed of a river/ stream? Is a wetland area/ stream that runs sometimes – are these areas beds of rivers? The definitions need to give a clear steer to defining importance of gully systems – it is considered that seepages, wet areas, swampy gully bottoms etc are key parts of the landscape for trapping sediment and dung, denitrifying nitrates, absorbing and detaining runoff from small to moderate rainfall events etc– i.e., mitigating the effects of pastoral and other land uses (as well as hotspots for biodiversity often) and so are disproportionally extremely important parts of the landscape that need to be protected and enhanced (and extended), not drained, grazed and totally stuffed. This issue is not just about developing a rule – its also about developing a package requiring education/ information/ best practice guidelines. Also suggest that this is part of a wider focus needed on land use and farming – i.e., can't look at one thing in isolation but also need to consider N/ cow numbers/ overseer/ etc etc
Riparian Management	Also a key issue – has two parts to it – a) looking after riparian/ wetland areas that currently exist; and b) creating new ones There has already been significant loss of riparian margins (and especially in gully systems). While rules may contribute to creating new riparian areas – also need

	other incentives Incentives also required to fill in some drains, re-create wetlands/seepage areas and replant some gullies E.g., Cambridge gully cleared for maize planting – economically driven – prosecution taken. Often landowners don't recognise them as stream beds or rivers.
Pine to pasture E.g., refer 5.1.5	Conversion of pine to pasture is a big issue – still a lot of the region that could be converted. Currently it's a PA to cut down trees, cultivation etc – but all very blurry. I.e., in Taupo can cut and replant without a consent, but query whether can rip out stumps – rules are vague in this area E.g. Pueto catchment 100ha cleared and planted as a Lucerne paddock – storm resulted in sediment flows that affected the Waikato River for 40 km However from a regulatory perspective – rules are unclear e.g. no upper limits for suspended sediment on some PA rules, sampling requirements difficult to achieve (e.g., due to timing of storm); other standards are weak; no definition of what "erosion sediment controls s" actually are/ what would be acceptable – very easy for defendant to bluff their way around this Refer also to 5.5.5 below
Best practice Guidance	Ideally would like to see rules refer to best practice guidance E.g., Erosion and Sediments Control Guidelines for Soil Disturbing Activities , 2009, WRC – note this should be updated around the same time that plan is proposed Other industry best practice guidance includes: NZ Forest Code of Practice NZ Forest Road Engineering Manual NZ Forest Environmental Code (?)
NES proposals	Forestry industry looking for a NES to lead to all forestry activities being PAs – Forest roading manual, forest code of practice, industry best practices, stalled at present due to changes RMA – outside that national standards – wasn't the right approach – sets up real inconsistencies with other land users. Three could be benefits – scope to have national standards. Could be useful to have NES for maintenance of state highways.
Infrastructure maintenance	In the absence of the NES for state highway maintenance as per above, WRP should have a PA rule for maintenance of national/ regional infrastructure (not private infrastructure e.g. all roads, power lines, railways, airport, stop banks etc. Existing infrastructure –must be able to maintain them. Critical to this rule would be definition of "maintenance" I.e., council doesn't need ot get involved in these sorts of activities as people undertaking are generally professional, its publically owned and operated infrastructure for the public good – quite different to joe blogs wants to do x,y, z just to make a private profit (NB: rules for new infrastructure – are working well)

Winter restrictions on land use activities	Many of the rules have no reference to the need to restrict soil disturbance activities in winter
Enforcement	To make effective enforcement - PA standards should be more specific In some areas where enforcement actions have been taken – knowledge of prosecution has changed farmers approaches.
Earthworks rules	There is an anomaly – in high risk erosion area – there is a cut-off of 25^0 slope – but on a 24^0 slope can do anything – also no upper limits on similar activities outside the high risk areas. Problem with permitted activities While this isn't a problem for little activities – for large activities that don't comply it creates a problem – i.e., rules should look at scale of activities. If the scale gets bigger going to normally have problems, particularly works outside of summer months.
Land use rules/ implementation	Policy needs to be supported by rules and other methods – there is a big awareness gap in knowledge of many farmers/rural contractors about the rules Other methods should be addressed in an implementation plan – i.e., so can priorities actions and budget for them
Specifics	
5.1.5	a) can stumps be removed? If someone buries material – won't see the problem for several years – no records are required to be kept b) suggest includes standards for erosion sediment controls. No standard for erosion and sediment control – they can argue if they made the slightest effort to prevent erosion that they have done something. b) last part – can't prove "effects on water bodies" i.e., for a PA standards should be more specific. To avoid adverse effects on water bodies – not easy to prove – hard to prove adverse effects – need a lot more certainty for enforcement. k) "permanent natural surface water body" - this is odd terminology and should say "water course" i.e., if discharge to a gully – does this breach this rule? m) "as soon as practicable and no later than 6 – 12 mths afterwards" - couple of problems – defining "completed" vs allowing for 12 months – i.e., sediment would be washed away within a couple of months (except for dry summer period). Real jumble – if you manage to complete your earthworks you don't have to manage exposed soil. No condition don't expose soil during winter o) Suspended sediment standards - these are fine – but would appreciate something easier such as "no conspicuous change" e.g., upstream and downstream - good to have things that are measurable. Both things can be measured

2. Mark Brockelsby: DM# 3126458

Key Themes/ Rules	*Comments*
General	
Purpose of Rules	An objective of the Plan should be to help staff and make the consent decision-making process simpler i.e., simplifying the consent process There are all sorts of areas where the plan could be more explicit re: boundaries between rule classes e.g., take out areas of discretion (where can be safely done) Don't add to list of things that need to be considered in deciding an application (e.g., "assessment criteria") – if anything, reduce them by using controlled and RDA status. Adding things to the long list we already have in the RMA, NPS, NES etc is not helpful Reduce reliance on guidelines within the statutory doc Use the plan to increase certainty in the consent process PAs should be so minor they don't need monitoring.
Writing Rules for Controlled Activities (& same issue for Restricted Discretionary Activities) e.g. 3.6.4.9	These rules have 2 parts: a) subject to standards and terms (S&T) and b) reserve control over certain matters A number of rules have problems in the S&T – but S&T are fundamental for RUG to help determine what rule an activity falls under i.e., the S&T are part of the definition of what falls under that rule But in Plan the way many S&Ts are written does not easily enable determination of whether a proposed activity will satisfy the S&T or not – hence, whether it fits under that rule or not. E.g., 3.4.6.9 S&T a) & b) relate to effects of the activity - and need a judgement call/ assessment – they read like consent conditions and create problems when staff have to tick off each S&Ts in order to say that an activity fits within this rule. E.g., if water in 3.6.4.9 a) is a concern – how can you meet that issue but still provide certainty within the rule E.g., 3.6.4.9 b) – will only know this if it occurs AFTER the activity is up and running
Role of Standards and terms	Role for S&T is to refine the category of activity that fits under the rule S&T are used to specify if an activity is in/outside this rule S&T need to be quantifiable and have clear boundaries S&T need to be measurable S&T need to include matters which help to define what fits into this rule. They should not be effects-based – as this complicates any assessment to be made on which rule applies to an activity and requires judgement calls (potentially inconsistent staff determinations). They should not list effects that can only be assessed after the activity has taken place, this complicates it as not sure if that will happen or not, and does not help you decide which rule it fits under. E.g., need factual statements such as X no larger than 4m

	Lists of S&T sometimes too long
Role of "reserve control over certain matters"	Role of these are to define what specific issues are relevant – i.e., it constrains what staff need to look at and consider in identifying effects and deciding on consent conditions For a CA – it will be granted because it has relatively minor effects – therefore focus is only on effects that are likely to be an issue (not a bunch of other stuff). If the list of things to consider is too long – then either it should be reduced - or perhaps should be in another rule category (RDA or Discretionary)
Role of consent conditions	For CA – can only impose consent conditions relating to those things listed under reserve control over certain matters For RDA – can only impose conditions relating to matters over which discretion is restricted. Therefore all matters that are expected to be addressed in a consent conditions need to be stated in rule. To date have determined that administrative stuff (e.g., payment of annual charges) is able to be imposed irrespective of not being identified in the list of "reserve control over certain matters" – but probably for the avoidance of doubt this should also be included [talk to Mark B for suggestions on this]
Permitted Activities (PAs)	The above issue doesn't apply as much to PAS because these rules state conditions that must be complied with and there is a legal onus on persons implementing the PA rules to comply with the conditions. – Notwithstanding this, PA conditions should still be as clear and enforceable as possible otherwise some conditions have the difficulty of determining whether an activity is compliant or not.
Reporting back conditions in PAS E.g., 7.6.1.2 4.2.6.1 4.2.9.2	PAs that require any reporting back or registering with Council are BAD ideas – because they consequently require systems to record such (which may be complex and costly) and often result in unintended consequences E.g., whitebait stands 4.2.6.1 [refer Rob D's notes for discussion on this] or small geothermal takes 7.6.1.2 – applies to 600-700 bores in Taupo – condition (l) requires them to tell us – but no-one told them they needed to tell us – and so no-one told council – suddenly none of the takes are authorised as they don't comply with this rule – and therefore all need a consent i.e., unintended consequence (due to another consent application this triggered this issue and council had to use s37 waivers) and we looked like a "bunch of wallies". Therefore if want to collect information – don't use a PA rule to gather it i.e., not an effective way to get it – use another way e.g., hiring a student to do a survey

	E.g., culverts rule 4.2.9.2 – at least 90% of the time this notification is not done and therefore not compliant with the rule and therefore should get a consent – also timeframe in this make compliance difficult What does Council do with this information if it is sent in? – generally filed and forgotten – there are no registers kept for recording this info It is not an efficient/ effective way to gather data PAs should be so minor they don't need monitoring or any kind of reporting from the PA "user".
Controlled Activities & Notification 4.2.5.2	Prefer to see more of these rules – makes job easier Notification provisions – definitely support and should be applied wherever possible Notification wording needs to be updated to refer to RMA changes since plan produced E.g., para at end of 4.2.5.2
PAs vs CAs	General comment: Some CAs would be better as PAs – PAs were developed 10+ years ago and reasonably conservative thresholds applied – all PAs and CAs should be reviewed as to appropriateness of category, and the wording of all PAs needs to be reviewed to ensure they reflect current practice, and fill any identified gaps.
Restricted Discretionary activities (RDAs) 7.6.3.4	If S&T used – same discussion as above applies E.g., 7.6.3.4 – is an example of good S&Ts – and clear distinction made from "control" matters No objection to seeing more RDAs – the benefit is that they are simpler - as they restrict the range of matters that consent process has to deal with – i.e., don't have to consider everything in RMA as is required for discretionary or non-complying rules. The risk is if you leave something out of the list – then consent conditions cannot address them. This risk is manageable.
Discretionary activities (DAs) & Assessment criteria 7.6.3.6	Keep wording of DAs as simple as possible With a DA – everything is on the table for consideration E.g., 7.6.3.6 – the assessment criteria have no statutory basis – question what status they have – e.g., are they binding? Does it mean other things are irrelevant or less important? What value do assessment criteria add? If they don't limit your discretion what is the point of them? If decide to keep assessment criteria – at the very least plan must state what their status is – e.g., a) state purpose is to assist staff in interpreting the rule? Or b) state purpose is to provide a non-exclusive checklist of things to be considered by staff or by applicant? At present confusing as to what to do with them but could be useful as guidelines – prefer they were taken out If keep - then there needs to be consistent use of them throughout plan

	Question: do they inadvertently limit the ambit of considerations? They currently often repeat what's already in RMA – but not in same language and therefore implies a subtly different meaning – was that the intent?
Non-complying activities	Plan could make much better use of these E.g. in RCP – strong <u>policy</u> guidance away from hard structures – but rules do not give the same message Need to match policy approach with rule classification From a statutory perspective not a lot of difference in way DA and N-C activities are dealt with but counter argument is that it sends a signal that a DA rule doesn't i.e. N-C puts a stronger emphasis on policy.
Prohibited activities	Personally would like to see more of these – as draws a line in the sand and provides a clear message e.g., could possibly have a prohibited rule in the water allocation space – i.e. there is no ceiling limit to the N-C area of activities – i.e. no clear upper limit is stated I.e., prohibited activities should look at scale of activity/ area where shouldn't be occurring – and set clear limits
Advisory notes 3.3.4.26	Generally helpful if they are written to assist in interpreting the rule. However in some instances notes in these areas – cover matters that would be better specified in the rule or in policy (i.e., scope issue) E.g.– 3rd bullet – does it have any statutory weight? I.e., not really enforceable.
Tables	If a table is inserted which assist staff with defining an activity into a rule class – then provided it is clear, defined thresholds – then it is useful.
Information Requirements	Lists at back of plan – never used these Most of this is covered on the consent application forms May be a useful checklist – but has no statutory role – rather its guidance for applicants (notwithstanding there is already Schedule 4 RMA and application forms covering this info).
Role of rules in managing cumulative effects 3.5.5.1	Definition of "effect" includes cumulative effects – so all rules capture this aspect Cumulative effects – also has a bearing on what class of rule applies to an activity E.g., dairy effluent to land 3.5.5.1 – everyone knows that cumulatively there is a significant effect – but as PA assumption is that there will be no regulatory control of that activity across the region and are effectively saying the cumulative effects of this activity is ok. Therefore cumulative effects of an activity should be a consideration in defining rule class. In terms of any DA – need policy guidance if want thresholds on cumulative effects – e.g., allocatable flows
Whole of farm consents	Components for this are already in the plan, mostly as permitted activities and RMA allows for combined consideration of activities – all the bits still have to be specified.

Specific Rules	
Dye tracer rule 3.5.9.1	Doesn't cater for similar innocuous discharges.
Existing lawfully established structures 4.2.5.1	"Grandfathering rules". The plan should deal with existing lawfully establish structures, subject to conditions. This needs to continue – but also need to decide where to draw the line (i.e., which activities can appropriately be "grandfathered"). Currently captures past consents (i.e., pre-plan notification) – but also needs to cover consents issued since plan date so that in 35yrs time when a culvert consent expires –it should be captured by this rule I.e. particularly relates to structures (and some diversions) as they don't change over time – this raises question of when consent expires what are you actually managing/ consenting again?
Geothermal Development/ research zones 7.6.1.4 & xref to Table 7-1 and 7-3	Problem relates to the wording in this rule description "water that has been shown to be strongly hydrologically connected…" If an application is lodged outside the mapped area – how do you deal with it? (This is one downside of linking our rules to lines on maps). I.e. how do you know in advance if it is "strongly hydrologically connected"? So if not dealt with under this rule then perhaps 7.6.3.7 – is it really a "research" zone? Definition of "research system" should be reviewed. Issue is potential overlap or uncertainty as to how a take outside a zone is supposed to be dealt with – definitions are not clear. On one interpretation, it can mean uncertainty as to the whether a proposed take is a discretionary activity or a non-complying activity. Does it fall to s87 RMA? (i.e. an activity not covered by the plan).
Geothermal maps	There is a problem with the lines on maps showing the zones when there is scientific uncertainty – i.e. in this example lines of electrical resistivity are at best an estimate – but the understanding of resistivity changes over time when new information is provided I.e., they also get out of date through natural processes but changing the plan to redraw them is a cumbersome, unclear and inflexible process. The key issue here relates to the linkage between the mapped systems and the rules that apply. Need discussion as to whether these maps should be in or out of rules in the plan – i.e., so they can be updated over time - is there a non-statutory way of managing this problem? Can it be referenced as a document outside the plan? Acknowledge there is a tension between certainty and flexibility in this situation.
Earthworks rules 5.1.4.13 & .15	Very complex – hard to determine which rule to use – seems to have a circular logic between the rules I.e. often both rules apply – or neither

3. Barry Campbell: DM# 3117680

Areas involved in: Industry (large factories); large discharges; composting; land irrigation; biosolids

Key Themes/ Rules	***Comments***
Default discretionary rules: e.g., 3.5.4.5	Good in that it provides lots of flexibility Bad in that there is no policy guidance in WRP for decision-making i.e., currently too broad- can be argued any what you like No guidance so vague, means in terms of processing consents a lot of flexibility – discretionary – no rules, lot case law - more out of the plan. Generally go to case law (because in line with most recent environmental intentions & effects) – WRP is largely irrelevant [Mark B has a register of cases affecting WRC work] Means that you focus on the facts of the case – focus on effects on environment. Discretionary double edge sword - focus on environmental effects and any appeals – nothing to hang on to in the plan - what is the effect of the discharge on the River S104 RMA says "have regard to" WRP – i.e., WRP has lesser importance – in dealing with such activities – largely ignore policies
Policies for discretionary rules	Policies need tightening immensely Policies need to align with the RPS Policies need to align with the Waikato – Tainui River Act – this has more influence over decisions now and it is part of the RPS Nothing gets declined based on reference to policies
Enhancement as a management approach	Policies not helpful, Policies do not support "enhancement" i.e., practice has moved away from "maintain and enhance" to "enhance" Useful if there could be policy guidance on what enhancement means and in what circumstances it should be applied Wording such as "preferably enhance" is not helpful – is it measured over whole region or the case in point? What if applicant "prefers" not to…
Best Practice	Most large companies have "best practice" approaches/ guidelines for their business or for the industry – more use could be made of this Last 10 years advances have been made for discharges by emphasising enhancement. That was the in-house policy, industry applicant would agree that upgrade was beneficial and would upgrade treatment. Had some big gains – but now tapered off in last few years partially because industry consider that non-point source discharges are main issue for WQ and farming has been allowed to continue - been given consents. Industry could increase in spend does not match costs for benefits in river (e.g., To get another level of improvement in their system an industry site could $50m spend but only remove small part of the load - which is then hidden by rest of catchment effects) Best practice guidelines should be cross-referenced into the WRP
Water allocation	Over allocated – good rules around that. Water allocation stuff highly evolved, working well – can't interpret, very difficult area, specialised. If they have an application that includes allocation then requests a report from relevant staff.

Advisory notes	Some of the advisory notes should be included into the rules - e.g., storage areas should not be able to leak (3.5.5.2 - .3)
Non-point source discharges	Non-point source discharges are increasing impacts on rivers faster than industry i.e., even though industries have reduced N inputs significantly rivers are getting worse – Nitrogen and Phosphorous are increasing at around 2% pa in lowland rivers Factories are still expanding and some new ones in the region – but they are also becoming more efficient Some catchments are difficult – e.g., Waitoa – they want to expand but no more surface/ ground water to allocate – and WRC may take some allocation back because catchment over allocated [variation 6 working well – talk to specialised team – Mark D]
WQ standards	Need to be strengthened – i.e., more prescriptive – e.g., include N, P limits in the standards – but not in policies (because each consent case is different) NPS for freshwater is a "line in the sand" regulation and has quite strong policies for "enhancing" WQ. Not clear in the past
WQ classes	Like strong policies around these – how the water classes interrupt circumstances "enhancing" Surface water class is vague – needs addition of detail similar to some of the other classes. E.g. fisheries BOD, Recreation impact etc really well described. Water classes – what's necessary to improve class. [Bill V could provide more specifics]
Standards and Terms for water discharges E.g., 6.4	A list of things that should be considered for water discharges would be useful - this would help staff in ensuring consistent approach to assessing consents in this area and getting to decisions – i.e., base on best practice for each industry e.g., identify where industry is on spectrum from archaic to best practices; identify what's happening for this river currently Guidelines for assessing odour E.g., 6.4 – is very helpful for air discharges – it provides a near perfect framework/ guidance for assessing odour in resource consents applications When doing compost consents e.g. leachate /odour – just go to 6.4.1 perfect assessing When get water – staff can assess consents differently. Could develop a very good framework how the outcomes of the limits, how the filter mechanisms were developed to get there. E.g., industrial plant for renewal – what state to compare to on spectrum to best practice, can it move on the spectrums and reduce N – nowhere to look for the best treatment for that industry. Provides a guidance framework if you follow the steps. (see comments in box below) [Bill V and Barry C could help develop these for discharges]
Industry Guidelines (guidelines for assessment)	Starting point is what's happening in the river – Use ANZEC guidelines pretty good for WQ, decision what level of water quality, everyone uses them, national standard – Decisions on what level

	of quality –huge number of parameters – WRP needs to recongise the guidelines are updated from time to time and most recent version should be used NZ Biosolids Guidelines – also used widely by industry – WRP should specifically reference these too – active body of researchers behind the scenes. Plans sort of references biosolids guidelines. When plan written biosolids pretty new
Farmer Guidelines PAs	PA rules need to be specific & v clear & prescriptive for farmers I.e., include guidelines into rules Pas should not rely on secondary documents – include as much as poss from the guidelines into the rules E.g., Dairy shed effluent & farm pond sealing – include into rules as much as poss.
Cumulative effects	For water discharges – very difficult to manage through consents – nothing in policy at present to assist – not sure how to deal with that Stumble through e.g. offsets.
Off-set Mitigation	Some consents have off-set mitigation conditions – would be helpful to have a policy directive on that as currently randomly applied Applicants oppose some offset conditions Offsets especially for water discharge – wording in consent conditions, Imaginative offsets DOC, F&G, F&B are all very aggressive on this Key issues is how to set a financial value on it – i.e., often a pragmatic $ amount agreed instead of having a hearing. No data no science that activity improve e.g. N removal
Compost consents 2 x PAs 5.2.8.1 5.2.8.2	Odour main issue – generally environmentally benign – so don't monitor unless receive complaints The 2 rules have an unfair discrepancy Generally want to encourage composting – some farmers use it to improve soil condition – but very rapidly exceed $20m^3$ 5.2.8.1 – covers up to $20m^3$ – generally private farmer – can have up to $200m^3$ v easily – but need consent if exceed 20m3 - doesn't mention green waste – could include animal waste. Need to split doesn't specify green waste – probably have small rule for animal and green waste (when combines). 5.2.8.2 – up to $1500m^3$ – tied to District Councils Option to fix is to add in a PA for small animal waste composting – similar quantities e.g., 20 – $50m^3$ And make existing 5.2.8.1 only green waste – and align quantities better with 5.2.8.2 – but need to ensure leachate and odour covered Should still be permitted – signal that don't want green waste to landfill – have mechanisms to stop odour e.g. compost better. Most fairly benign 5.2.8.1 should capture vermiculture up to $20m^3$ i.e., its already there so don't knock out by just referring to greenwaste – keep small quantities as food waste tend to have greater odour (note rule in air chapter re: odour

	still applies– no objectionable odour beyond the boundary 6.1.?). borderline – deminatative (?) effect - key things already there,– odour, leachate Also noted that need to provide protection to commercial sites – i.e., need to find balance between supporting commercial operators and not encouraging free farm alternatives 5.2.8.4 – works well because have ability to say no
Landfills/ Waste Minimisation Act	Note: they are having problems due to diversion of green waste, farm less organics going to landfill – beneficial things going (power generation), affecting quantity and quality of methane (and other) gases released (cost to reducer e.g. gas odour control) Waste Minimisation Act not really a consideration for RMA consents Should not have any waste minimisation directives in WRP.
Small landfills	Agree consideration should be given to a PA rule for small closed landfills – minor and benign sites which were closed long ago – and which have no identifiable effects that need to be monitored – e.g. Hatepe near Taupo Proposed PA rule for old landfill - should only apply to DC sites – not farm dumps/offal pits E.g., no seepage, odour or run-off and well capped & not allowing emerging rubbish through e.g., erosion i.e., not open to rain water or seawater intrusion. Not where the site is open (e.g., infiltration water/sea) "old closed landfill with no identifiable effect"
Biosolids from Sewage 3.5.6	Rules don't work well – poorly worded E.g., 3.5.6 heading can be interpreted differently – this is a problem then repeated in rule headings – intention of title was discharge of biosolids to land Matters in the heading need to be defined e.g., sludges not defined – but generally high organic content, high N & P – but v beneficial as soil conditioner Check definitions in all the 3.5.6 rules: Biomass/ biosolids/ sludge – all used interchangeably within industry circles – no defined line to determine differences between them [Barry C happy to help define]
3.5.6.2	Delete rule – its not relevant/ not helpful/ hard to interpret/ only used in a v small number of cases – prefer them to get a consent i.e., most sludges come from industrial/ sewage operations e.g., Fonterra irrigate approx 20 different types of discharges onto land using spreader trucks – sludges are mixed in with other stuff – they have a consent for this to be spread over several sites – so don't even try to use the PA – the specified conditions on their consent are stricter than those in this PA Don't monitor this rule
3.5.6.3	Delete "from activated Sludge treatment processes" from titles (for reasons above). activated sludge hard to interpret and in most cases need a consent any way. Mostly refers to sewage treatment

3.5.6.4	Delete "from activated Sludge treatment processes" from titles (for reasons above) Most discharges fit into this rule. Most consultants cant interrupt rule
Table 3.5 Pathogen & Contaminant levels	Useful – keep – Need to index to the index it to the Biosolids Guidelines – i.e., any changes to those guidelines are then applicable NB: sewage cannot comply with Copper and Zinc – and that triggers sewage into the discretionary category. Puts sewerage in discretionary activity- application rates.
Table 3.4 Nitrogen Loading	Is badly located in the WRP – needs to be co-located with the rules where it applies Quantities in this table need to be fixed as rates too high - amend as follows: Grazed pasture – 150 Cut and carry – 400 (and this should be defined to cover NO stock over the whole year) Pinus radiate – 100 Eucalyptus – 100 Maize silage – 250 I.e., current quantities don't make sense when compare to the Taupo sewage consents which is a highly managed and monitored scheme
3.5.5.2	Add a clause – 50kg N/ha in a single application - storage limiting to the 50kg N/ha Farms are checked for compliance with this rule – because of intensification – keep as PA – want to encourage this approach Unless feed pad sludge treated properly – then big problems arise Sludge definition needs to exclude animal waste
3.5.5.3	Keep pigs separate
3.5.5.4	Keep - deals with things outside Table 3.8
3.5.5.1 - .3	All these rules should have a requirement for a minimum storage quantity – and requirement that farmers can't irrigate every day especially when its raining/ sodden (i.e., problems are run-off and ponding) e.g., minimum of one weeks storage Advisory note should be included into the rule e.g. storage areas should not be able to leak – sealing permeability requirement Should also include a condition that states e.g., if storing in a non-concrete pit – should meet this standard (matched from guidelines) by(date). Tighter link to best practice for dairy shed effluent/standards/guidelines.
5.2.5.1 - .3	There is not a consistent way of using terminology in rules – clean fill, earth works, overburden Rules not consistent in terms of environmental effects – i.e., quantities based on crossing a boundary cf on site – quantities should have equity between them e.g., .1 has a limit of 25,000 whereas .2 has no limits I.e., causes a problem for industrial sites (e.g., bringing fill in to make a flat platform), roading cutting & where overburden may be used as fill on another site

	Aren't equitable – don't know why limit here and not others There are overlaps between the rules dealing with these issues 5.2.5.3 If high risk, large scale – discretionary, when compare to 5.2.5.4 low risk areas specifies 2,500 cubic meters

4. Mark Davenport: DM# 3127815

Areas involved in: Water takes/ allocation – 3.3 & 3.4

Key Themes/ Rules	***Comments***
General	
Water Management Classes and standards 3.2.4	Water management classes and standards generally work well 3.2.4.7 – is archaic and not used much [talk to Sheryl Roa] I.e., water levels do not impact on allocation takes because lake takes have non-complying status. This should stay as non-comp rather than prohibited as there are cases where it might be appropriate to take from a lake Fisheries class 3.2.4.5 used a lot – and these standards are repeated into consent conditions for any water take (i.e. in-stream fish/ invertebrate values etc catered for by them
3.3	Generally chapter is good – has good goal posts – very little is discretionary
Policy 12	Assessment criteria – needs to focus on end point that is desired – contradictions can lead to staff having to use discretion E.g. re: allocation – if aim is to reduce over-allocation then assessment criteria should point to this – could be tidied up in this respect Overall clear – but complex. See section below for detailed suggestions on Policy 12.
Cross referencing Policy to rules	Yes use a cross link to policy all the time – if policy is aiming to achieve x then need to make sure rules/ other methods fall out of it and support this direction. These newer rules are specific to what's intended and there is not a lot of discretion. (i.e. s104 & Part 2 RMA is used in analysis of discretionary activities – therefore other areas such as land use/ discharges are mostly discretionary and that may be a reason why they use policy less) Water take and use policies are a stronger driver for controlling land use (e.g. will limit the expansion of dairy in over-allocated areas)
Implementation Methods	Generally good – but in essence give Council an endless licence for unspecified work e.g. 3.3.4.5 – what specifically does this mean? Support taking these out of the statutory document and have in a parallel document with budgets and work priorities. Care needs to be taken that other methods don't include matters that would fit better into rules.
Water use rules	All working well, use them and there is a reason for all of them.
Cumulative effects & prohibited rule	Approach through the water allocation section of plan is working well – i.e. clear aim is to prevent/ reduce over-allocation – and achieved through setting thresholds However the interaction between surface and groundwater needs to be tightened e.g., refer discussion on 3.3.4.24 [Bruce Mc has notes on this and Hearing decision also refers to this]

	A prohibited or a non-complying activity rule could also be considered as a clear capping mechanism once thresholds reached. Commissioner in Matamata Land Company case highlighted that interaction between surface water and ground water is an interception issue, and that there is a loophole in cumulative effects in the ground water issue, see decision.
RMA s14(3)(b)	This section of act refers to "reasonable needs" for domestic and animal use – but also refers to "no adverse effects" – question that is raised is when the state is one of over allocation – does any take then become an adverse effect? Would be useful for plan to provide more clear guidance on this [acknowledge it may need a legal opinion] This section also refers to "individuals" - but in reality there are small clusters of people who share a bore/ share community takes – but currently plan doesn't recognise this i.e., include in rules the need for joint approaches i.e. for efficiency in infrastructure and in use and make them PAs.
harvesting/use of rainwater	Another matter that could be usefully addressed in any plan review is harvesting/use of rainwater, particularly from 'large' roof areas. In many small catchments (e.g., Pukekohe, other areas as well) surface water hydrology can be significantly impacted by such). It is a common area of enquiry, and definition really is needed. For the record, I believe we may well be required to regulate.
Specific	
Ground water take 3.3.4.24 & Policy 12	Discretionary – problem is when have to cross refer to Policy 12: Assessment criteria – large part of this is to do with the connection between surface and ground water – but how detailed this needs to be is ambiguous and complex. E.g. Policy 12w and advice notes need simplification to reinforce requirement for interception effects in entire catchment to be assessed. Appropriate supporting changes required to Method 3.3.4.7 together with a definition of Management levels (Table 3.6). Maybe ground water takes in over allocated catchments should be Non-Complying activities. Refer also to a commissioners decision (Matamata Land Company) which elaborates on the problem [ask Mark D for docs number as not currently lodged in system] – basically science says interception effects can be quite significant in terms of water flows – but Policy 12(w) and Method 3.3.4.7 point to ignoring this [talk also to Bruce Mc, Mark D, Geoff Smith, Ed Brown & Cameron King]
Transfers of water takes Rules 3.4.4.3 3.4.4.4	In terms of rules relating to transfers of ground and surface waters – 2 parts are missing: a) to maximise use of a finite amount of water - should be a quick process to transfer from someone not using it to another person; and

	b) the s136 reference (in rule and advisory note) needs to be clarified – i.e., it needs to specify that a consent process is required before the "written notice" can be issued (this has been a problem for a number of "applicants" who didn't realise they had to go through a consent process); and c) surface water is easy to follow – but groundwater – the wording is virtually impossible so it defaults to non-complying – the reason being that its restricted to same aquifer/ same location or different location but replicated aquifer characteristics – which from a science perspective is impossible. There is a need to reword the terms "aquifer characteristics" and probably also "within the same aquifer" - because geographical area of aquifer defined on surface is different from size/ shape of aquifer underground. [Bruce has details on this]
3.3.4, 3.3.19 & 3.3.20	[areas to be covered by Amy K] Question why there is a rule specific to dairy sheds? Particularly when there are around 4000 of them. Also, should have made them non-notified. However given rules are to expire by end of 2014 – no need to take these issues further (i.e. by 1 Jan 2015 all existing dairy shed water takes for shed wash down and milk cooling must have lodged their resource consent). New dairy conversions apply for a water take through the generic rules and will continue to do so. Just had specific rules for dairy sheds to 'grandparent' water to those existing farms.

5. Rob Dragten: DM# 3127887

Areas involved in: wide range of rules and from compliance/ enforcement perspectives

Key Themes/ Rules	***Comments***
General	
Define Outcomes	Need to have a clear picture of the types of situations where end users get involved – define the outcomes Council is seeking – then write rules to get these outcomes.
What makes a good rule	Needs to be easily understood Needs to be described in a way that encourages people to change their actions People who we want to implement the PA rules – currently just don't connect with them E.g., rules should be like the road rules – everyone knows about 100km limit - understood – feedback from device in vehicle – readily know whether they are complying or not Need to be clear – i.e., no debate whether complying or not Should be focused on whole of activity – i.e., cross references between rules makes for complex interpretations Existing rules are exceedingly complex (e.g., defining drain vs stream, headwater catchments) Note Judges have been very critical of complexity of PA rules Need to be careful about detail in rules – i.e., if we don't know what we want them to do/ or don't know how to achieve the conditions/ S&T – then we need a collaborative process to sort this out
Offence provisions	Link rules to requirements for taking offence actions E.g., 3.5.5.1 – refer below Offences are built on ss 9, 13, 14, 15, RMA Plans must be written with an idea of how to enforce the rules PA conditions must be enforceable and able to be measured Ultimate test – can it go before a judge and be defended E.g., s9 RMA restricts land uses – but the land use rules relating to disturbances – a person looks decides they can meet the conditions of a PA – except that staff know as soon as it rains there will be a sediment problem – but staff can only react after the event – i.e., not a proactive way of managing for known effects – but then relies on enforcement NB: breaking a consent condition is not unlawful in itself – e.g., taking water - consent requires them to notify council – it is not an offence if they don't do this - until they start taking the water i.e., consent is a shield against prosecution I.e., if we say a rule that you have to do "x" – and they don't – they are in effect "criminals" - so rules need to consider if this is the intent if any conditions are not complied with and by contrast if you don't want to make them a potential "criminal" then don't place that obligation on them.

	Therefore when designing rules important to understand they will be enforced under the Act not the plan and that the obligation is on council to prove a breach (i.e., that the person didn't comply with the PA) (evidence to prove it was permitted lies with the defendant) E.g., if prove they are not covered by a PA – then enforcement is taken under ss9, 12, 13, 14, 15 RMA E.g., Stock in waterways In order to enforce this rule – need demonstrate at a practical level (evidence) they weren't complying with the PA rule E.g., Most enforcement for dairy shed effluent taken under prohibited rule 3.5.5.6 – i.e., consent no longer a shield if they are not complying with conditions
Permitted Activity Rules	If an activity is something where this Council is expected to have control/ regulation in a hands on manner – then it needs to be consented I.e., when setting a PA – the question to be asked is what level of oversight is Council going to have on this activity I.e., managing compliance is impossible unless you know the activity exists – staff have no idea how many / who is operating under some of the PA rules, partly because most PA rules don't require anyone to tell the Council if they are using them, and partly because many rural landowners don't even know the rules exist. In fact, even for high profile rules like dairy effluent, most farmers don't know what the rules are. Council cannot recover compliance monitoring costs from resource user directly if they are operating under a PA. [Rob D has a legal opinion covering this if further arguments are required] Therefore it is difficult to fund/ resource activities dealing with PAs (other than through general rates) I.e., as a general rule a user pays approach is taken to resource users Also noted that the RMA has requirements under ss 9 – etc – for some activities to be PAs – otherwise a consent is required PAs need to provide more prescription in defining HOW "farmer" is to meet the standards in the rule. The alternative is having an effects based approach which requires the farmer to tell Council how they will meet the standards – this currently has problems as many farmers have no idea how to meet the standards. PAs that are very complex – should they be in another rule class I.e., some PAs are very complicated and its difficult to know if an activity fits under the PA or not. Even staff with all their expertise often have to debate whether it's a PA or not.
Codes of Practice	The dairy industry has been developing 3rd party audited self-managed processes and a WOF system. PA rules could build on this - i.e., providing strong steer to farmers that they should meet these industry guidelines & make it easy for farmers to "do the right thing". Rules need to set up a

	framework that "makes it easy" to do what is required to meet policy objectives, and "makes it hard" to act contrary to policy If 3rd party auditing was robust enough to ensure farmers meet good practise, WRC could have more of an auditing role E.g., PA for resource users who are members of a 3rd party audited programme– CA for other systems
"Whole farm consent"	If it is decided to go for a "whole of farm" consent – then it will make most of farm rules redundant e.g., would cover discharges to water, air, land; takes water; land use – dumps, feed pads, races; structures - bridges, culverts etc E.g., require them all to be put together in a farm plan – and with conditions
Implementation Guidelines	Implore that an implementation guide (mirroring the RPS example) is prepared alongside the review – the implementation methods need to be targeted to a person being responsible – and allocated budget estimates. i.e., • needs to state who is responsible for implementing the rule • what exactly will resource users need to do to achieve compliance (what infrastructure will they have to install, what practises will they have to stop or start) • what's the cost to WRC of implementing the rule, and how can that be funded. • what's the cost to the applicant of complying with the rule • need to be able to track progress • need to consider social impacts of imposing rules S32 analysis must consider financial impacts of rules – e.g., conservatively estimated at $300m to achieve effluent rule compliance (primarily around cost of installing sealed ponds) yet effluent contributes only a small proportion of effect of dairy farming
What goes into a plan?	Understand that Council is going to develop a comprehensive/ combined WRP & RCP – needs to be simplified – currently too wordy and too complicated Often hard to find the best rule as a fit for an activity Need a wider discussion about plans having anything in them other than rules & policies If approach is enabling without bureaucracy – be clear about that But rules are about fixing issues that will impact on the community and Therefore policies need to be clear about approaches being taken to controlling issues. Regulation is a cost imposed on an individual, for the benefit of the wider community. Need to be clear on both how much the rule will cost the individual, and exactly what benefit the community will get from that cost. Noted that Variation 6 has resulted in staff saying "no" more often than in the past – this is being interpreted as "toxic/ unhelpful". This may just be a reflection of transitioning from managing unconstrained to constrained

	resources. Cost of 1-1 interaction with staff is very expensive – more pressure on staff to justify their actions
Assessment Criteria E.g., 6.4	Most of these should be excluded from the plan – because they are too rigid over time i.e., what staff do now as best practice and/or new information comes to light – these change over time i.e., keep this information out of statutory documents
Other Methods 5.3.4.5	Remove any "other methods" that refer to "enforcement" as there are some conflicts with the RMA and some unintended constraints imposed by the way the method is written E.g., 5.3.4.5 i.e., defendant can use this as a way to constrain or other methods can be used by defendant to identify that WRC says it was going to do something and to date haven't done it – thereby reducing the arguments re: impacts of activities For example, don't say in the plan that we will use education first before enforcement, because in some situations the offending will be substantial enough that education is not appropriate, and enforcement is the right action.
Specific Areas	
3.5.5.1 & .2	3.5.5.1 PA for farm effluent discharges and 3.5.5.2 for feed pads – the conditions in the two rules are not consistent E.g., in 3.5.5.2 – requirement for 20m from a waterway – but where is the discharge covered, is it from the cow to the pad or from the irrigator to land? And what if there is no discharge occurring at the time you inspect, but the pad is closer than 20 m from a waterway? 3.5.5.2 is a mixture of a land use rule dealing with construction and location along with a discharge rule. 3.5.5.1 – has some problems (a) - does this mean that to land is OK? (b) – then has storage facilities i.e., run-off/ overland flow/ any other discharge is then captured by 3.5.5.6 – Prohibited activity (c) must be sealed – to meet this requirement need an engineered design & construction – but staff can't measure or prove 10^{-9} in existing ponds. There is no requirement for installing a pond i.e., assume s9 RMA covers it – yet once built – no idea if it meets standard (c) and by then its too late as its already been built – as a result staff have to consider that it is compliant as they cannot prove that it is unsatisfactory – but they have no idea if its leaching or not – and this raises question of how much leaching is OK and how much of a risk is this? Therefore rule needs to think about the situation on the ground – what tools do staff have to measure compliance/ does the rule support what you are trying to achieve?/ what realistic enforcement responses are able to be made?. I.e., enforcement tools available do not gel well with this rule. These rules need to be tightened up and evidence is there that N leakage is occurring

Background Info for effluent rules	Approx 4,000 farms in Waikato – 25% have no storage facilities; 50% have old barrier ditches or oxidation ponds; about 10% have modern storage facilities; some are well constructed at the time but there are no details on "as built" design parameters Average cost for a properly sealed pond for an average herd - $80 – 100,000 (more for bigger herds) Effluent is lost when it is applied to saturated soils, where it can run off, or be washed off in rainfall events. The presence of a pond allows for effluent to be stored when soils are saturated Effects from dairy effluent are more a local site issue – e.g., cow effluent on sealed surfaces (feed pad/ dairy shed) for approx 10% of nutrient flux But if a 100ha farm – it leaches approx 35kg.ha – a total of some 3.5 tonnes per yr Faecal/ ammonia/ pathogens/ BOD, turbidity, sediment etc – all have an acute effect in the near field [Ross W has some stats on discharges nutrients going into the Hauraki Gulf]
6.2.4.9 PA for agrichemicals	[Bruce holds details of this problem] Mismatch: e.g., situation where spraying property beside riparian planting – definition in glossary refers to significant off-target drift – but doesn't include effects on riparian vege
wetland issue 3.7.4.6 &.7	Rule states the cant deepen existing drains – but this can never be proved as no idea what level was before the activity occurs
Drilling 3.8.4.6 - .7	E.g., gold mine – method for casing a drill hole is to use grout – inserted either from top or bottom – but example of where it was inserted from top and went into a void – resulting in case not sealing properly, and groundwater leaking between aquifers, which led to aquifer depressurisation, ground subsidence, and– and houses and the surface sinking – the rule needs to specify method for sealing (i.e., from bottom – then if it doesn't reach the top – know you have hit a void)
Fertiliser 3.9.4.11	Rules needs major overhaul – clumsy and unclear – cannot gather evidence to know if rule applies or not However it has been effective in driving nutrient management plans f) … on request – cross refers to d) but d) doesn't match requirement of 3.5.5.1 j) – i.e., allows for 210kg/N/ha/yr before need to do a N management plan.
Whitebait stands 4.2.6.1	This rule needs a major re-look – needs collaborative approach with white-baiters and iwi Ss 59 – 62 of the Waikato Tainui Settlement Act recongises importance of customary activities – and Council cannot grant statutory authorisations if an activity interferes with customary activities [Rob holds legal opinion that consents possibly contravene this but a PA wouldn't] Currently council has no ability to decline a whitebait stand if it meets the

	conditions of the PA rule. Under plan a "stand" is a structure – for Maori a "stand" is an area/ place while a "bench" is a structure Current rule allows for people to build on a Maori "stand" - directly conflicting with the Settlement Act This relationship needs clarifying Local fishers (lower Waikato) have also advised that the rule is not practical – i.e., they use floating structures – and at $6m^2$ the size is unsafe because it rocks around (NB: rest of region specifies $4m^2$) Also the distance from the bank – not practical because of trees & sand bars – therefore want a greater distance from shore Therefore conflict between PA vs consent and between Maori and others. However Council is the only one with "permitting" role Condition j) requires "notification" with Council – people see this as a "right" to their structure – i.e., greater legitimacy to their structure than what it is. Requirement is to notify council 10 days in advance (intent was to avoid waahi tapu) – created obligation to maintain database but problems include: GPS not accurate, no cross correlation with iwi; multiple stands with the same number; some spots with a number but no structure; gives expectation that we are managing access to the fishery, but no way to fund any level of service There are approx 900 stands from Tuakau Bridge to the CMA boundary – approx 300 have dwellings attached – over 200 of these have 2 or more rooms – some are substantial - sleep up to 20 people – some also used for maimai/ bach etc – no rates/ not authorised/ no insurance etc & fiercely protective of no bureaucracy A GIS layer does exist - but many are not accurate locations MPI/ DOC/ LINZ/ WDC/ Wk-T/WRC – joint project looking at this issue and how to align responsibilities and manage this issue WRC focusing on sewage issue A solution for the lower Waikato – may inform other areas but other areas may need a different solution For iwi also concerned about "encroachment" While not environmentally significant issue it is a big issue for co-governance & users [Rob D & Bruce Mc are involved in this]
Bridges 4.2.8.1	This PA was looked at in monitoring exercise – not really used because bridges are never less than 10m. Need to consider either extending length or not – or whether rule is relevant to keep or not
Culverts 4.2.9.1 & .2	Cost of getting a consent for a culvert (approx $1200 – 1400) is greater (by 5 or6x) than cost of buying and installing the structure – hence most don't apply for a consent Limit of 100ha should be reviewed – is it too small? There are some circumstance when large culverts should be required to get a consent. Also rule needs to distinguish between culverts for a crossing (e.g., 3m

	wide) – or culverts to cover a stream (e.g., 17m wide to provide for an airstrip) i.e., need a limit on length of stream to be covered.
Structures rules re: RCS work	RCS need to be involved in plan review work NB: WRC holds the greatest no. of consents by any person/agency –need to consider what/whether anything should or could be changed to address their activities RCS frustrated that the plan does not recognise their mandate – e.g., clean a stream through wetland to Lake Waikare – got consent to clean the drain – but they didn't get a consent to "deposit" in the wetland
Livestock in beds/ banks rivers 4.3.5.4 & .5 Table 4-1	Words such as "minimised" and "as far as practicable" are not useful from a certainty perspective. It is also counter intuitive that it's a PA for some areas and discretionary in others, despite general expectation that is should not be allowed. Table 4-1 identifies priority areas – but in the rule it refers to mapped areas – but the maps don't match the areas listed in the Table i.e., misalignment leading to lack of clarity of where to apply this rule E.g., huge challenge for enforcement because of inconsistency between 2 streams on same property. [Rob also gave up on a project in Whaingaroa Harbour re: this activity]
Vegetation clearance 4.3.9.2	Reality is that this rule is that while staff know people cannot comply – they can't prove this until after they have done the works E.g., subdivision developments & sediment flows [Grant B for further info]
Soil Disturbance/ cultivation near waterways 5.1.4.11 & .12 5.1.5	5.1.4.11 requires that the S&T in 5.1.5 are complied with – but 5.1.4.12 allows cultivation close to a bed provided some conditions are met - but no cross ref to conditions in 5.1.5 means no requirement for sediment controls. Also from an enforcement perspective - it is also impossible to prove where sediment came from E.g., Reporoa land cultivated followed by a huge storm – rill erosion as tall as a person – 80 – 100ha land exposed at a time and no oversight of works– but no consent was required Any breach of s21 would have been very hard to enforce/ prove Earthworks rules rely on expert opinion to trigger the need for a consent Conditions 5.1.5 is also not clearly understood by rural farm contractors
Clean fill & overburden 5.2.5.1 - .3	Real challenge to prove if it is a PA or not i.e., obligation is on WRC to prove it doesn't meet PA conditions – but difficult to determine E.g., Whangamata – dumping and covering rubbish – but to prove would need to excavate Need to work with MFE on waste and levy applicable to clean fills
Dumps and offal holes 5.2.6.1 - .4	It is not known how big a problem this is in the region Now to what extent WRC should be trying to regulate Staff only respond if complaints made – possible to pick this up in a whole of farm consent approach? [talk to Marianna Tyler – currently doing research in this area – apparently

	approx 30-40% waste in the region doesn't end up in landfills]
Dust suppressants 5.2.9.1 & air discharges in 6.1	RUG get a lot of complaints re: dust, difficult to enforce, often from horse arenas and gravel driveways, even from gravel roads.
Prioritisation of land uses Table 5-1	Unclear who is doing any revision of this table – but clarification needed in terminology used e.g., are scrap yards also the same as wreckers yards? [talk to Jonathon Caldwell & Michelle Begbie]
Odour 6.1.8 All PAs in this chapter	Can be very difficult to manage – whether it complies with the PA rule depends on the FIDOL factors: frequency, intensity, duration, "objectionableness", location I.e., objectionable/ adverse effects – amalgam of FIDOL factors and judgement call by officers & requires several visits – but because PA cant charge for this work - huge among of work to prove this in court May need to review S&T and change to support enforcement more as it is a very vexed issue
New rule: Tyre Storage	This needs to be covered in the plan – issues are fire, decomposing, impacts on WQ and ground water While the risks are a grey area, better guidance in the plan is needed covering stockpiling & burying [talk to Rob or Patrick Lynch re: prosecution of tyre dump at Naike]
New Rules: structures on flood plains & cumulative effects	I.e., controls on the way in which infilling and structures go onto flood plains E.g., Paeroa – a farmer built a stop bank to protect their land – neighbour complained – retrospective consent – declined – so then staff had to go and require removal (after RCS had tentatively supported) e.g Cooks Beach – infill housing on back of property subdivide flood plain portion of land - partially surrounded by a "flood wall" council modelled the flood waters – and increase no more than 10mm in flood height – but WRC had to face costs to determine level of effect – level of effect insufficient to justify removing – so this sends message that incremental infilling of flood plains is OK i.e., cumulative effects needs to be addressed this is a real challenge for the future – incremental infilling/ diversions/ historical land use decisions/ increasing effects from climate change
Air controls	Need to have a conversation about what is Council's role in this area E.g., SWDC told to develop their own air management bylaws
Coastal erosion structures	E.g., Mokau – cost is $3-4m to build a viable solution – this is not affordable for community – so while Council can issue abatement notices etc – unsatisfactory structures are still occurring As sea level increases – there is going to be increasing pressures around coast – makes council look impotent if we do nothing, and look over zealous if we take enforcement action against landowners trying to protect their baches, but if we do nothing, debris from the illegal structures can end up all over the beach, and end effects from illegal

	structures can impact on neighbouring residents. Need clearer direction on how to manage this issue

6. Brent Fletcher:DM# 3147307

Areas involved in: Waste water

Key Themes/ Rules	*Comments*
General	
Land area	The threshold of 2,500m^2 works well assuming systems are properly installed and maintained. Recommend that this threshold is retained as everyone knows about this land area size (it was based on background work by Peter Cochrane on effects no environment – i.e., scientifically justified) On properties less than 2500 an improved system can be installed as a permitted activity but a new septic tank would need consent. In terms of on-site w/w/ discharges on properties with area less than 800m^2 , it is becoming marginal in terms of being able to physically fit an improved system and also be able to undertake other activity with overlap, or interference. Hence the caution when properties below 800m2 in area have new on-site systems. Auckland Plan uses a flow to area ratio to control this aspect. A ration less than 3.0:1 will default the activity to requiring consent.
Guidelines/ Education Information	Brent has developed a background document for users – to explain what the on-site waste water rules mean and how to meet the conditions. The handout assists inquirers to understand the rules and requirements of owners when installing new systems or whether the existing system they have in place needs to be changed when property is subdivided.
Technical documents 3.5.7.3 3.10.63	The AS/NZS 1547:2012 and TP58 (Auckland) - both include a requirement for a site and soil evaluation to identify restrictions of the site to deal with waste water – e.g., refer Appendices C & D of NZS1547, and Appendix E of TP58. Recommend that the WRP rules include this intent as a requirement in the rules (in a stronger manner than is currently stated) i.e. producing a Site and Soil Evaluation of should be a standard practice with new installations. In particular TAs should be required to do ensure developers undertake a Site and Soil Evaluation of a property as part of the subdivision consent application process to ensure that the subdivision can support on-site w/w systems at the density proposed. This is a preliminary level of investigation. E.g., 3.5.7.3 refers to best practice– Suggest that a cross ref is made to NZS1547 and or TP58 as being relevant industry guideline documents. (e.g. NZS1547 is quoted in the Taupo catchment on-site w/w rules). Note rule 3.10.6.3 refers to an older version of the NZS (1547:2010). This needs to be changed and preferable if it could refer to this standard or any subsequent revision. TP 58 is more robust and provides better technical information compared to the NZS but it is a huge document and is constrained by references to its own specific (Auckland Region) rules.

Subdivision	In general a subdivision is prepared by scraping all top soil off – re-contouring – putting some top soil back but selling rest off. Because topsoil has a critical job in terms of absorbing water, and it's a limited resource – it should not be a PA that is can be removed and on-sold, rather it should be required to be retained on site
RCP	Ensure that the sewage rules and effects match the controls in the WRP
Certificates of compliance E.g., 3.5.7.6	Be aware that a certificate of compliance cannot be issued for something that is not yet in place – therefore care needs to be taken in the way performance criteria are written E.g., refer 3.5.7.6 – PA sewage discharge from improved systems. This rule has effluent quality conditions to be met. A CoP cannot be issued for performance criteria of an activity yet to be commenced (would be ultra-varies).
Background Info	Some package plants are very expensive for little environmental gain – e.g., $15 – 30,000 – which is a significant cost for 1% of N input – equity issue as per the Taupo Catchment. It would be better to emphasise best practice guidelines to allow for some flexibility for the future. In reality very little difference between dairy effluent and human effluent (in terms of environmental effects) [Brent has a report on this] For rules to work well – they need to be implemented properly. There are approx 40 – 50,000 on-site waste water systems in the region – effects on near shore bay areas are low, but the issue of a system failure is significant health issue. Brent receives approx 1000 calls a/year and made approx 700 written responses in past year re: waste water. Most of the responses are explaining the on-site rules. Unless the rules are clear and understandable by the general public the demand for more information/ clarification will continue. NB: EBOP has a dedicated person for waste water – and they have a data base system with accredited people to install etc.
Specific	
New on-site systems & improved on-site systems 3.5.7.5 & 3.5.7.6	3.5.7.5 allows for 1.3m^3/day, averaged over any single month. 3.5.7.6 – has no minimum land area and allows for 3m^3/day (similarly). This is not logical i.e., improve the system but double the discharge – suggest quantities need to be reviewed. The Taupo Rules when written were not structured like this. Instead consistency with the NZ Standard for Domestic Wastewater Management (AS/NZS1547:2010) was maintained in that the Taupo rules (for new discharges) authorise only up to 2.0m3/day of discharge (monthly average).The NZ Standard provides guidance for discharges up to 14m3/week, which equates with 2m^3/day). Rule 3.5.7.6 should include a minimum area or flow to area ratio. Officers who deal with on-site w/w on a daily basis have an informal rule of thumb, in that we begin to get concerned, look more critically when a property approaches 800m^2 in area. The reason is that the smaller the

	site, the lower the factors of safety are in terms of sustainability in event of problems occurring because there is precious little room available. On a very small site (e.g. 600m^2) nearly the entire area not occupied by the dwelling and driveway, is dedicated to on-site w/w disposal. If the discharge area experiences problems or worse totally fails, the back yard becomes a septic bog with effluent surfacing and presenting an immediate public health risk. Furthermore it is a challenge to correct with the wastewater in use when ideally the system needs to be turned off and the ground allowed too dry out.
All waste water rules	The on-site rules are innominate regarding the most easily observable sign of system failure. There are criteria that prevent wastewater ponding on the disposal area or that leakage to the ground surface is not permitted. Such criteria needs to be in the rules to a) provide an observable indicator of system failure and b) To provide the WRC enforcement function with the ability to take action on observance of such symptoms.
Existing on-site systems (Grandparenting rule) 3.5.7.4	Recognises existing sewage discharges – but condition a) refers to 1.3m^3 The rule does not provide for other existing discharges that were authorised by former on-site rules that permitted discharges up to 3m$^{3/}$ day from improved systems This is an anomaly that the next generation of existing rules needs to capture (avoid). Questions are often raised about when does the status of an existing waste water discharge become "extinguished" (i.e. the rules are confusing about what triggers a lost status). Many hours of resource officer's time is spent dealing with enquires on this matter.
Improved on-site systems 3.5.7.6 & Standards and terms for air discharges 6.1.8	The odour from on-site waste water is not addressed – suggest a cross link needs to be considered so that odour discharges are included specifically into the waste water rules. [Brent has previously send Bruce detail on this # 1789378]
Taupo PA for N leaching 3.10.5.1	This rule appears to focus on farming activities in the first instance but also refers to other land uses. It is not immediately clear if waste water was intended to be captured under this rule. It is a confusing rule to try and understand just what it provides for. Advisory note a) mentions 75kg of N can be applied per year on land that is not used to graze stock, which could be misinterpreted to imply wastewater can be applied onto land at such rate; perhaps it can be? There should be a cross reference to the amount of nitrogen available by way of permitted activity rule 3.10.5.12, which clearly sets out the nitrogen that can be claimed for wastewater discharges, so long as the land was previously in farming/low nitrogen leaching activity.
Taupo rules 3.10.5.1 – PA N leaching 3.10.5.12 - standards for N leaching	There should have been an implementation team put together between the policy writers and the implementers so that the issues of uncertainty regarding how the rules should be implemented could be resolved timely and without lots of soul searching. As it was, implementation of the rules still involves varying interpretations. If experienced staff struggle with the rules then imagine what it's like for

3.10.6.3 – PA new N removing on-site waste water systems	the general public. It is a complicated set of rules to apply. Brent has developed some guidelines for implementing the rules [work in progress] i.e. covers what the rules say, and includes some comments about implementation and interpretation. [check with Brent re: copy of these]. As it has turned out for similar reasons for the failure of the controlled activity rule (see below, rule 3.10.6.5), the monitoring of the nitrogen improved systems never commenced. There was difficulty in convincing the Taupo District Council to get seriously involved in the implementation of the rules as intended (overseeing, monitoring and post installation sign-off) without funding from WRC, which was not budgeted for as never has been. The outcome indicates a possible lack of lobbying for on-site systems within WRC, or more to the point, that the types of effects from on-site systems that the Taupo rules were designed to control, were not really present. Nitrogen reducing wastewater systems are being installed in the catchment but there is no robust method of follow up to confirm the performance of the systems once in place nor are there any thorough checks being undertaken as to whether they have been correctly installed. Some on-site surveys in upper Acacia Bay, and Waitetoko-Te Rangiita over the last two years indicated that overall the improved types of systems seem to be working reasonably well. The studies however did raise awareness about the lack of regular maintenance being undertaken on the systems, which raises future issues of about on-site management sustainability in the catchment (i.e. systems do need to be maintained). In hindsight rather than applying nitrogen concentration limits on wastewater discharges (rule 3.10.6.3), WRC could have relied on the use on best practice principles (that includes regular maintenance) for the implementation and management of wastewater systems to obtain a similar outcome with a whole lot less cost, confusion, stress and time input.
PA new N removing on-site waste water systems 3.10.6.3	The phrase “established after the date of notification of this rule…” was put into the rule to cover those applications which were in progress when the Variation was proposed. Some however are interpreting this clause to mean that it also applies into the future with no end date. This needs clarification as I don’t consider that the window of opportunity holds forever.
CA – waste water in near shore zone 3.10.6.5	This CA requires on-site systems to be consented by June 2013 but to date no controlled activity authorisation have been processed under this rule. So far as I understand some post Taupo Variation monitoring work revealed there were no observable effects from the near shore systems. Suggest this rule should be deleted as it serves no useful purpose.

7. Hugh Keene: DM# 3123701

Areas involved in: stormwater, biosolids, waste water, erosion protection structures/ some water takes

Key Themes/ Rules	***Comments***
Enabling approach of the plan	Reinforce guidance that WRP is not being overly restrictive for minimal effects activities – i.e., retain enabling approach & emphasise again
Emerging Issue: Sludges - proposed new rule for TAs Refer 3.5.6.2 & 3.5.4.5	With respect to waste water discharges – the rules need improving - Several TAs use WWTP sludge (human waste) mixed with green waste and then use it on reserves as a soil conditioner - WRP needs to signal to councils that putting sludge into landfill is not sustainable. - Fonterra currently doesn't support human waste being put onto production land (e.g., 3.5.6.2) - TAs want to dispose of sludge in a more cost effective manner (i.e., rather than dewatering (expensive) and trucking to Tirohia or Hampton Downs) - There appears to be a growing need to accept sludge/biolsolids as a soil conditioner - New rule should focus on WWTPs sludge - e.g., if small community and no industrial inputs in the catchment - then heavy metals/ chemicals not such an issue - AAA Biosolids criteria – set out in the Collective Land Treatment Guidelines – provides clear guidance for human derived biosolids i.e., if mature stabilised human waste – then the risk should be very low - Acknowledge there is a public perception re: spreading this – but 2 WWTPs use crops for rye grass and lucerne for stock feed - Iwi generally supportive of disposal to land (rather than to water) - Rule to be supported by policy guidance for promoting sensible reuse of biosolids - Currently for this scenario staff use rule 3.5.4.5 – as existing biosolids rules exclude human derived waste - [Trisha Siminson has recent examples of a consent for waste water treatment & disposal of sludge]
Pump Station spills Clarification sought around rule 3.5.7.8	Currently the discharge of raw sewage to water is a prohibited activity under WRP 3.5.7.8. However at an operational level no sewerage system can be engineered to avoid spills at all times Therefore confusion over application of this rule in context of pump station overflows Should rule 3.5.7.8 or a new rule make provision for pump station overflows? Background: Is this rule overly restrictive - Pump stations are designed/ engineered to overflow – they are built to industry standards Operationally & design-wise it is not possible to store everything all the time – failures occur because of blockages, pump failure, stormwater ingress Hamilton has 130 pump stations – each can hold up to 4-6 hours - then if it spills this is to protect human health (i.e., to stop sewerage otherwise entering people's properties/ escaping from manholes/ backing up and pressurising lines)

	Currently WRC routinely investigates dry weather spills – because it is prohibited it is an unauthorised discharge – some have enforcement action (where clearly badly managed). Wet weather spill are also reported on. HCC currently looking at pump stations that regularly spill and upgrading them – but they still expect spills from time to time HCC also has a spill response management plan A new rule (controlled?)could - Require a spill response management plan - Require 6 hours storage - Be excluded from the prohibited activity rule (for certainty to TAS/ water care) - 2-3 times in a year due to malfunction after or during significant events Suggest also check other RPs – e.g., Auckland
On-site sewage treatment	WRC has in recent years (Bill Vant & John Hadfield) undertaken GIS community modelling on "tipping point" for septic tanks – when need to put in a reticulation systems considering increase in town size Impacts of septic tanks in near shore areas of Lake Taupo appear to be low TAs have a role in this arena under the Health Act and the Building Act – they need to each property has a suitable sanitary treatment system. – they need to be "at the table" for RM responses too
Pet lodges/ kennels Refer 3.5.4.5	Currently use rule, general discharges rule – gives authority for consent – suggest having a discussion on whether a specific rule for this activity is required (wash out or kennels or pet lodges discharges to land) Could be useful to have some more guidance on this/ description in plan of what the standards should be [talk to Brent Fletcher]
Dams Refer 3.6.4	The rules for dams and diverting no longer align with recent amendments to the Building Act (especially change from 3m height – to 4m in height) [talk to Owen Smith] Since 2008 WRC has responsibility for building consents for dams – this should be signalled in the WRP – i.e., update plan to make people aware of need for Building consent Also given the greater height – need to reconsider whether this should be a controlled activity (rather than a permitted activity) – be good to give community a steer. This needs more discussion (e.g., in Reporoa a dam built to 2m height failed twice)
Structure to protect a structure Refer 4.2.15.1 4.2.16.1	River and Lake Bed Structures: Could the erosion control/training structures e.g., PA rule 4.2.16.1 or 4.2.15.1 be amended to encompass the following scenario? This is related to a TA or NZTA activities Where there is an existing (possibly historic) structure (e.g., Te Aroha

	Railway bridge pilings) all ready in place – that is being affected by river bed erosion – TA applied for a consent to place a pole/ another diversion structure in front of the historic structure to divert the river currents around the older structure. While this is not a major problem - it would be helpful if glossary or existing PA rules could be amended to encompass it more readily (i.e., rather than dealing with it as a discretionary activity). (not looking for a new/ separate rule) Wonder if a structure to protect a structure – permitted activity – adding to existing authorised structure as long as don't go beyond a certain %
Repairing/ replacing a culvert E.g., 4.2.9.1 & associated rules 3.6.4.7 & .8 3.6.4.17	The current culvert PA rule allows for structure but not the associated dam/ divert of water – and activity/ effects doesn't match well with Rules 3.6.4.7 & .8 i.e., can this rule incorporate dam/ divert water for culvert replacement or repair for a temporary period of e.g., 2 days E.g., refer to the rules re: coffer dams 3.6.4.17 – copy this approach to make consistent [talk to Brian Richmond] If a culvert can be placed or replaced as a PA why can't the associated diversion works also occur as a PA?
Stormwater E.g., 3.5.11.4	Comment: can the plan through policy or rules reinforce that any activity (e.g., land disturbance; recontouring of land) on a property should not actively affect stormwater flows on downstream neighbours i.e. it is a natural law that S/w flows down gradient but activities should not be allowed to change/exacerbate/ increase such effects on neighbours This is partially an education message but is also a due care responsibility Can the message be embedded into e.g., 3.5.11.4 [talk with Brian Richmond]
Potable water reservoirs & Swimming pools	WTP Reservoirs contain chlorinated water and occasionally they need to be emptied – currently this discharge to land or if de-chlorinated (which is very expensive) discharge into water. There is no clear guidance in the WRP for this type of discharge. TAs see this as an important activity for them – they also periodically flush potable water lines (for maintenance reasons) & this is discharged normally to S/w outlets. Swimming pools are chlorinated water or salt water and occasional get discharged to the environment. Both discharges are 'contaminated' water. In a city large land areas not generally available and suspected it is discharged to S/w outlets To date WRC has provided pragmatic advice. As plan is silent on both these scenarios - suggested: • Check how other RCs deal with this issue • Clarify what the effects on natural water bodies are of an influx of chlorinated water

Dewatering Refer 3.5.4.4	TAs and utility operators periodically dig holes for infrastructure upgrades – e.g., laying new pipes Should this dewatering activity be a PA – it doesn't really fit under any other rules d) should be deleted – doesn't readily apply – but is used for awareness in case public rings in in past have taken "de minimus" approach, but utility operators are generally there as a temporary activity – it's essential to their maintenance/ upgrade of utilities – but don't think that this needs a resource consent Want to be enabling capture activities with minimal effects on the environment
Further work	Suggested that there should be a project to look at other plans and see how they deal with issues E.g., it could be helpful to have a table of activities generally covered by each of the PA rules (where appropriate to do so) E.g., provide a comprehensive list of activities in WRP that could be considered PAs?

8. Amy King: DM# 3140267

Areas involved in: water allocation + overlaps with other areas; particular focus on 3.3.4.19, 3.3.4.20 and 3.3.4.12 & 3.3.4.13, and Chapter 3.4 for transfer rules

Key Themes/ Rules	***Comments***
General	
Testing rules	RUG staff should be involved in "truthing" the rules i.e., to assess the challenges of implementing them – from a case experience perspective E.g., while variation 6 is not bad – there are some unhelpful clauses and some difficult areas for interpretation Staff have to defend or explain the rules to public – but often do not know how the rules came about or background reasons for conditions
Non-notification	E.g., rules .3.4.19 & 3.3.4.20 These rules do not have "non-notification" clauses – therefore for existing "illegal" takes – they must be granted (as they are CAs) but also many must be notified because of adverse effects being more than minor – this is farcical given the thousands of consents that are being dealt with and the potentially significant cost of hearings i.e., there is a mismatch in logic – because even if effects are significant – still have to approve – so query is what value does notification process add (for the most part it is expected either no comment or attempts to re-litigate variation 6) Therefore recommend when stating a CA rule – add in a non-notification clause or clearly record and justify decision making rationale for not including
Implementation plan	Support a parallel process to plan development to develop an implementation plan that captures the rationale behind the conditions & the intent of what they are trying to manage (i.e., different from a s32 justification) more of a working document that explains reasoning behind development of conditions Ensuring adequate resource is available to implement the rules as it was envisaged through the process is important.
Stock & domestic water	S14(3)(b) RMA allows water to be taken for "reasonable" domestic and stock purposes This has been built into variation 6 but there's so many different interpretations points for clarification I.e., recommend that a critical eye is put over the relevant rules to determine clarity and ease of enforcement of this (may need some legal opinion to assist) I.e., the starting point of what is "reasonable" is not clear and when articulating to people information available is often not clear enough to state "you are lawful to take [quantity]". E.g., if it is a bore take from groundwater - - clear that it can be taken for stock – but for surface water takes tricky to know if limits for that precise catchment have been met – or if there are any adverse effects E.g., "reasonable" - no recent data/ research on average requirements per stock unit or per person – varies by season and feed regimes, and by level of intensive farming etc

	Recommend clarify either in rule or policy what are limits on "reasonable use" [may be useful to check how other councils have analysed this if appropriate] case law may limit how one can "restrict" s14(3)(b)
Lucky/ unlucky farmers & economic impacts 3.3.4.28	Aspects of variation 6 have resulted in creation of lucky/ unlucky farmers First E.g., 2 PA rules for groundwater – allocation is on basis of a certificate of title – in Piako catchment (lucky) – lots of people have lots of titles – so lots of access to water compared to upper Waikato catchments (unlucky) where historically forestry blocks mean there could be 6 farms on 1 title I.e., allocation is not effects based – just lucky re: size of titles – this has created a perception of "unfairness & lack of sense" i.e., the unintended consequence of this is there is likely to be subdivision of titles purely to get access to more water Second e.g.,: standards 3.3.4.28 – CA for dairy sheds Re: riparian planting – some lucky some unlucky E.g., if take water from areas not on their own property – they don't have to do anything; by contrast if take is from their own property – then have to undertake riparian compensation I.e., extreme difference in scale of expected mitigation also depends on extent of waterway running through the farm I.e., unfair burden on some – cost differences range from \$0 – \$50 – 60,000 This is unintended consequence of a generic rule that doesn't allow much flexibility to staff Recommend that the economic impacts of such consent conditions are considered when writing rules, along with consideration of unintended consequences
Consideration of social, economic and cultural matters in allocation decisions E.g., Issue 3.3.1 (g)	If a farm is converted by 2008 – rules state can keep water already allocated But in 2009 – no guarantee for water takes and 1st in 1st served applies I.e., raises big question – under policy should decline – but what about all the contributing factors such as conversion process started before 2008, employment effects, social effects etc Acknowledge that these are factors that can be debated through the discretionary rule process & in particular the consent hearing process as is appropriate – but sometimes it is hard to see how far you should "weigh" these factors.
Information on water/ implementation commitments	When interpreting whether farms fit within stock drinking or PA rules, RUG is reliant on information about the amount of water in a stream however this is not readily available and must be calculated manually at present. Acknowledge there is work in progress re: having a system in place to provide for info on how much water is available for allocation – but RUG staff need info asap – therefore "information systems" need to be resourced and provided for as quickly as possible I.e., RUG staff are the ones "fronting" the changes to management

	approaches (set out by the rules) & tools to assist these changes should be available E.g., groundwater takes – very clear But surface water takes – reliant on a case-by-case assessment - huge assumptions need to be made because of lack of information – manual calculations take approx 2 hrs per enquiry or consent – not often helpful, especially as we need to cost recover such work. Because of the assumptions made – it will be a challenge to defend decisions if they are challenged in the future
Education	In terms of introducing new rules – education must be recognised and funded I.e., important to have the conversation at a farmer level as to why it's happening – this would help remove some of the "knee jerk" reactions when the "what" occurs E.g., it took approx 1 year to "tell the story" and deal with angry reactions, before they could proceed to getting the consent i.e., those most affected were not brought along on the journey of change through policy development, even though the industry had a voice. I.e., RUG job is way easier if there is already a level of understanding about why the change is happening Trust in staff has been an important part of implementing the new rules – and has involved a lot of effort from staff
Thresholds E.g., 3.3.4.19 & 3.3.4.20	The CA rule set a benchmark of 70l/cow – but 70l was based on an old assumption and it is unknown if it is correct/ realistic (current PhD study initial comments indicate that it may be too low) This raises a questions of how this may be dealt with in the future if it needs to be changed Recommend that any figures added into rule conditions are realistic and has research behind it to defend it (RUG staff need to be able to access this as well as identified above)
Efficiency	Dairy industry is particularly concerned about how they can get efficiency gains within their industry I.e., when setting a rule be clear about the behaviour change being sought – and make sure whether it is a rule or education that would best achieve the outcome being sought I.e., some policies are not well-aligned with the intent of the rules – e.g., need a consent for shed water – but if used for stock not accounted for i.e., no incentive to "re-use" water or look for on-site efficient use of water
Specific	
New rule: Rainwater collection	Needs a clear directive on how to manage rainwater collection from roofs I.e., RMA s14 states can't take water unless a rule in a plan allows it, it is consented, or for stock/ domestic purposes under s14(3)(b). However lots of situations where rainwater collected for a range of purposes and it's not currently captured in the existing PAs – this is

	inconsequential – so currently ignore it – as "stormwater" is either run-off to surface waters of to groundwater – but small areas have inconsequential effects on surface/ groundwater supplies In some cases farmers are likely to divert stormwater to effluent ponds for water storage – technically this is not currently covered in the rules I.e., remaining silent on this is unclear/ unhelpful and therefore recommend making a PA to capture - but perhaps look at having a limit on roof size (e.g., to limit capture from large areas such as glass houses) This is likely to be a pressure in the future under allocation constraints and there needs to be a consistent approach taken to managing this i.e., taking a "you can take that water because we don't care even though technically it's not legal" approach is not a good story for farmers to hear.
Existing and future damming perennial water Rule 3.6.4.5 & section 3.6.4 of WRP	Currently some existing damming of perennial water bodies are a PA – but there is a legacy of a lack of records/ no information on what are "existing legal structures" i.e., as implementer there is a lack of clarity on this Recommend keeping this rule but query if it can be clarified New structures are discretionary Flagging that this is going to be a pressure area for future given Variation 6 limiting access to water resulting in more storage being discussed – therefore recommend scrutiny of damming section of plan given the future potential proliferation of dams

9. Patrick Lynch: DM# 3126456

Areas involved in: compliance/ enforcement

Key Themes/ Rules	***Comments***
General	
Overview of enforcement approach	Refer Doc# 2309778 – draft ppt to HR team There is a loop that goes around the aim of what is looking to be achieved – from science input – to legislation/ plans/ consents – to compliance (see diagram in above doc ref)
Compliance theory/ strategies	Compliance is totally voluntary – some will always be compliant/ some will be compliant when supported by education/ information/ some will be compliant when reminded to do so; and some will need intervention (e.g., verbal, abatement, enforcement, formal warning, infringements, prosecution or outside pressures); lastly some are recidivist and will require repeated court action. Therefore challenge is to get everyone into the "compliant space" – to do that there also needs to be incentives/ recognition of existing exemplar compliant actions i.e., actions to change behaviours and move percentages of people into compliance area (refer 10% - 80% - 10% diagram in above ppt Doc# 2309778) RUG has prepared a series of internal compliance strategies – based on industry areas/ or works teams
Compliance and rules	From a compliance perspective 1st question is: should this be a rule I.e., if a rule is breached – then person is exposed to court/criminal conviction / fines Therefore if any condition cannot be met or is breached – do you anticipate taking this breach down an enforcement pathway. The list of factors that must be considered in this pathway are listed in ppt referred to above Doc# 2309778 (could be used to check rules against).
Good rules – examples 6.1.13.1 - .4 4.3.5.4	E.g., tyre burning – currently use NES - as higher up the chain E.g., tyre dumps – Plan currently silent on this activity – so defaults to RMA – and is it a discharge? Are tyres used for silage stacks OK? (there can be 500+ stockpiled) Ultimately tyres leach and breakdown – especially where exposed to water – currently they go to landfills – but they "float to the surface" over time and there is a cost for landfills Therefore what would be a good rule for managing tyres? Another example is stock in waterways – under the rule, depending on where in the region the incident is, there is a need to measure the WQ before and after the stock enters/ leaves – evidence in a picture (photo of stock in waterway) is insufficient for compliance action Therefore question is can the rule be written to enable a breach to be enforced and/or should this actually be a rule?

Characteristics of Good rules	Refer ppt above Doc# 2309778 Clear; simple and accessible –i.e., everyone knows where they stand; consistent; easy to educate; measurable, easy to enforce I.e., a person needs to KNOW what they are supposed to do under a PA rule and know readily if they comply or not If you apply those tests – some existing PA rules should be consented activities i.e., many farmers do not know what is in the PA rules (failure of Council to inform them and/or failure of farmers to become aware of it) If a person has to engage 1-1 with Council there is a far higher chance that they would know the conditions of their licence and comply with it Often its enforcement that triggers behaviour change
Implementation Guidelines	When developing rules need to have parallel development of an implementation plan – the latter needs to set out a clear understanding of how the rule would be achieved i.e., guidelines; how often it should be monitored; what should be monitored (i.e., currently not all conditions can be monitored); cost to Council of monitoring or education or other support work envisaged (i.e., level of service envisaged); cost to applicant to comply. If this is then done for all rules – the impact on work streams could be assessed/ prioritised
Rules vs consents	Leaning towards far fewer rules and that they are prioritised (as per implementation guidelines above) Acknowledges that this would increase the no. consents – but this also means that the user pays principles apply. I.e., currently general rates pay for any work in relation to PA rules
Rule writing 6.2.4.8-.11	Needs to address these questions: • Should the activity be in a rule • What is in existing rules that should be in guidelines instead • Can it be enforced • Is it an appropriate category – based on the expectation of the level of WRC involvement in environmental monitoring and compliance • Should PAs need to be monitored at all? E.g., spray drift rule – seasonal – lots of complaints – but level of proof very difficult – so low priority for staff – but this upsets community
Incidence Response	[talk to Derek H] This team gathers data on how/what/when complaints made – they use a prioritisation model to show priority area for response (as a way of managing level of service expectations) Risk to council and environment by non-attendance at “complaint events” (also issue of time delay due to size of region and nature of some complaints)

Environment Court feedback	J, Jeff Smith in recent sentencing (refer #3114540) - verbally stated that the Waikato plan was way too permissive (para 6 was closest comment he included in the written report – i.e., that PA needs review because it cannot be complied with) Suggestion that J Smith be "invited" to provide rule writing perspective around the country – e.g., what's working well/ not
Enforcement	Enforcement is specific to ss 9, 12, 13, 14, 15 RMA – provide the restrictions on resource use S338 – makes a breach an offence 339 – penalties for an offence ss12 – 15 – restrictions unless specifically authorised - therefore if a consent and conditions not complied with – then focus on ss 12 – 15 s 9 – reverse wording – i.e., if there is a rule/ consent – then need good conditions to prove breach. Have to have a good plan condition that has to have been breached
Whole of farm consent	At implementation level monitoring officers would need to have a wider level of technical skills – i.e., as 1 point of contact [talk to Brent S/ Grant B]
Policies	Limited use of these – focus is on offending against the RMA S9 sometimes more difficult though
Specific Rules	
Piggery Rules 3.5.5.1 - .4	Nowhere does it clearly say you can't spread effluent – rules go in a loop In this scenario – what is the breach?

10. Amy Robinson: DM# 3147150

Areas involved in: Coastal and interface issues with MHWS

Key Themes/ Rules	***Comments***
General WRP	
Activity Guide (front of plan)	Very helpful way to find section related to specific activities Need to add in reference to weirs (dealt with as diversions even though they are structures) and reclamations (currently reverts to a generic discretionary activity
Non-complying Rules	Support these rules – as - if we haven't already thought about the activity – then it should require closer scrutiny. Need to be accompanied by strong policy guidance.
Discretionary rules E.g., 4.2.4.4	Support such rules are they are "catch-all" rules (maybe some of these should be non-complying to trigger the need to assess the activity against the policy)
Specifics WRP	
Definition for High risk erosion areas	Needs to be clarified – e.g., b) refers to "coastal frontal dunes on East coast" - but most have been bulldozed so difficult to cross-apply the definition of "frontal dune" – and the definition doesn't then deal with modified dune systems d) refers to "coastal marine area of an estuary" - suggest deleting "of an estuary" i.e., this is a mixture of references to MHWS and CMA perhaps these rules could be written more simply
Moorings, Nav aids etc 4.2.13.1	Needs to be tightened - this rule is primarily about structures – but does not address location of permanent structures or potential to effectively exclude other users i.e., a recent application was for essentially ski lanes but would have blocked off a whole tributary.
4.2.13.5	Only 2 consented moorings in Taupo
Wetlands adjacent to the CMA	ensure that the rules/policies in the WRP that relate to wetlands marry up with the RCP and do not just apply to the freshwater wetlands
General RCP	
Old ARC area	New provisions required to cover new addition to the Waikato region's area.
Inconsistencies on wording	The rules have some inconsistent terminology e.g., "shellfish breeding bed" vs "high density breeding bed" i.e., need to check across rules that wording covering same topic is the same in the conditions of each rule Also hard to define what and where these "beds" are – need to consider whether relevant to include in a rule
Old RCA rules	These should be reviewed – and check whether triggers are appropriate to retain and if the activity is in the right "class" of rules

Rules that have timeframes in them E.g., 16.4.23	Lots of PA rules have conditions in them relating to timeframes – this is interpreted as: "if the project takes longer that the specified time e.g., 48 hours – then it needs a consent" Check use of all timeframes and assess if appropriate to keep – i.e., if PA can't tell if the effects are going to take longer than 48 hrs until after the activity has occurred. Make all timeframes consistent e.g., some 24 hrs some 48 hrs
Conditions vs Standards and terms E.g., 16.4.6 16.1.2	The distinction between a condition and a S&T and a consent condition needs to be clear and consistent with the WRP approach – currently there's a mismatch E.g., 16.4.6 needs more items specified in the "reserve control over" and some rules don't have the right matters listed NB: cannot reserve control over "location" A large number of activities do not meet standard and terms of rules and fall under the catch-all non-complying rule 16.1.2 – is this appropriate?, should we have more specific rules? Or more general rules?
RUG involvement in reviewing rules	Stressed need to involve RUG staff in reviewing/ editing/ rewriting rules
Policies	Not strong enough to help with decision-making especially if want to decline consents
Assessment criteria	Use for bigger activities only (notified applications)
Effects vs activity rules	Keep a mixture – useful to specify common activities Effects based rules reduces the number of rules required and makes one rule applicable to a range of similar activities Focus on priority activity areas rather than trying to have rules to cover everything in RMA/ NZCPS.
Rule book	Would be very helpful to have the rules in a format that can be lifted out of the plan – i.e., rules section only – this would be easier to carry out in the field/ on site
Social, economic cultural inputs	Policy is weak on how to deal with these matters in context of an activity and environmental effects
Sea level rise & adaptation	Plan needs to deal with this Coastal adaptation is a big issue for the future
Specifics RCP	
New rules required Prospecting and mining	These activities are not covered in the plan but prospecting generally occurs under a PA NB: s87A RMA has a prohibition for Coromandel area [Graeme Silver looking into this]

Moorings 16.4.6 – 16.4.9	All these rules need to be reconsidered. E.g., Nav Safety looking at option of getting a consent for whole zone and then leasing out moorings This area needs a lot of work Would like to see non-complying outside of zones as policy makes it extremely difficult to decline a discretionary activity; also like to see prohibited in Big Sandy Bay, Port Charles Overall approach needs to support getting moorings into zones rather than outside them. Difficult to decline out of zone moorings. Also, difficult to define an upper limit of moorings at one out of zone location at the consenting level (e.g., Cook's Beach) Consideration of when anchoring becomes mooring
New Rules Refuelling from structures or land	No rules currently cover this issue effectively so generally manage it under the generic discretionary rule for structures and use a consent condition to require a Tier 1 Spill Plan Consider making this a PA subject to a Tier 1 plan and a maximum limit on quantity fuel – e.g., if meet everything required for a Tier 1 Plan and that plan has been approved – then be a PA to avoid a double process (consent and Tier 1 approvals)
Marine farming 16.5.5A Policy 6.1.1C d) rule 16.5.5.A	Rule and policy are not aligned re: extensions to existing farms [talk to Christin Atchinson re: these rules] There is also confusion between the policy and rule directions i.e., the policy does not support the rule classes Depending on the judicial review outcome Policy 6.1.1C d) (marine farm natural character – effects of current farms (which are likely to be significant in respect to natural character in any case)) may be contrary to rule 16.5.5.A which provides for small extensions adjacent to already farmed areas.
Marina rules 16.4.9A & B	Not sure these are needed any more
New rules and policy for mangroves	The relevance of the King Salmon Supreme Court decision needs to be considered in this context i.e., mangroves are habitat to a range of species including at risk species – removing mangroves could be contrary to NZCPS policy 15 (refer also to the EC decision for Tauranga Harbour) I.e., need clear guidance on where it is OK to remove and where it is not
Maimai & whitebait stands 16.4.2 & 16.4.3	Needs a condition to control location – i.e., to keep to edges of harbours - not in middle of estuaries if it is to be a PA The conditions in these rules should be the same across both plans
Seawalls 16.4.24	If a structure straddles the boundary of MHWS – ideal if TAs would delegate responsibility for consents to WRC – i.e., one agency to deal with it – and RC has more expertise This would tighten up processing of a consent and make consistent approach (e.g., currently an application in - TCDC has made their consent

	"non-notified" whereas WRC has opted for notification given the public interest in beaches) Policy does not help support decisions on this activity Also would be helpful to have a specific rule for erosion protection structures rather than using the generic discretionary rule
Dune rehabilitation	It would be worthwhile considering a rule for dune rehabilitation/sand "push ups". The primary concern for high risk erosion areas is the discharge of sediments to the CMA – I don't think that this is a major concern for dune rehabilitation/ sand push ups above MHWS. But make consistent for RCP & WRP interface
Vehicle use rule 16.6.2	16.6.2 (m) authorises vehicle use in the CMA including in sensitive saltmarsh habitat and/or habitat for at risk/threatened species etc for maintenance of drainage canal outlets etc. – should there be further provisions for vehicles use in sensitive habitat e.g using wide tracked vehicles only/outside breeding / spawning seasons etc?
Vegetation rule 16.2.3	Need to address mangroves and issues in King Salmon decision
16.4.1A	From a practical perspective – some things in this rule are not complied with and should be amended to reflect current practice e.g., tell Harbour master rather than MNZ; and don't tell local marae.
New rule required Structures over the CMA	E.g., if there is already a bridge and a water pipe is being added to the existing structure – it's a waste of time to get a consent as tend to be *de minimus* – i.e., make a PA
Removal of sediment form waterways 16.6.7 & .8	Condition ii) and i) respectively need to exclude " muds and silts" – as these should not be placed on dunes/ beaches etc
Minor disturbances 16.6.10	Use this rule a lot "per discrete location" – what does this mean in practice
Discharge of hazardous substances 16.3.12	standard and terms are rarely met in respect to demonstrating consultation
Reclamations 16.6.19 & .20	This rule and glossary definition needs further clarification E.g., each nourishment by its nature is a reclamation – e.g., bird roost built in Paku Bay – but there are ephemeral i.e., designed to migrate
16.7.1 Natural Hazards & 16.8.1 exclusive occupation	These rules have not been used

11. Brent Sinclair: DM# 3140264

Key Themes/ Rules	*Comments*
General	
Process for policy & rule development	Assume that problem definition has happened • Then identify <u>what behaviours</u> we want people to exhibit in terms of addressing this issue/problem i.e., list out what are good behaviours – policy framework needs to be clear about this and what needs to be done differently from current practices (need to have this conversation for every rule area) • Then decide on <u>most appropriate tools</u> for getting this behaviour to change i.e., be clear about where rules fit and whether they are the <u>right tool/ best tool</u> to get behaviour change/ meet policy directive • Then make sure policy & rules are written so they are "effective" i.e., a lot of consents processes deal just with environmental effects – because the policy doesn't provide strong guidance • And assess the consequences of the rule (check this with RUG staff in particular) E.g., classic example is culverts – need a consent – but for farmer the cost of getting consents is same/ more than doing the works – i.e., a disincentive – therefore if we accept there is a need for culverts to be managed – what actually do we want the farmer to do? What does "doing it properly" actually entail? What other ways might this be achieved? Another example is stock in waterways: rule is unenforceable – but when people complain – staff can't do anything because it is not enforceable – this sends mixed messages of "behaviours" we want to see Another example is seawalls – policy guidance is critical in determining notification and in determining whether rule is non-complying or discretionary for example. I.e., policy needs to state clearly what specific guidance do you want decision-makers to follow
Policy development & rule classes & notification	Need to write policies so they address the behavioural changes/ directions we want to move in Currently too many generic policies Key policies should focus on outcomes for key activities (not just generic effects-based approaches) If a rule goes into a different class – there needs to be a stated reason as to why – i.e., by stating which "things" can be controlled or need to be controlled for an activity – it provides greater certainty to applicants Plan should be clearer re: non-notification situations
Implementation framework	There needs to be an implementation framework that focuses on: • What do we want people to do • What are the best tools • What else needed to support that approach (as per comments in 1st box above) Strong directive to keep implementation in the plan drafting loop

	Rules are only one component & the implementation framework to support the rules needs to be developed in parallel to rule development
Avoid, remedy, mitigate & off-setting	Would be helpful if plan gave more guidance on what effects do we want to avoid; what sort of effects would we expect to be remedied and how; and what would we want to actively seek mitigation for (and how) E.g., off-setting effects- this area needs more discussion and guidance in plan on how to get the balance right when applying it E.g., being specific about off-setting small effects to manage the impact of cumulative effects over time I.e., acknowledge importance of case-by-case assessment for off-setting - so how can policy help affirm the benefits of this approach?
Economic Value/ impact of consents	Need to determine what needs a consent and why & what things can we <u>add value</u> to rather than just costs There is nothing worse than having to be the "face" of a rule if you can't justify why a consent (piece of paper) is required (including its costs) Economic impact on the council (in terms of implementation) and on the potential applicant (application costs + implementation costs) should be considered transparently at rule drafting stage. I.e., are these costs justifiable and necessary for the outcomes being sought
Rethink charging basis	We need to think innovatively and develop a charging regime/ financial tools around advice to encourage people to "do the right thing" e.g., provide advice/ guidelines on putting in a culvert - require payment of $x for council to go and check a culvert has been installed properly – still less than getting a consent & farmer sees value on getting advice i.e., people have to be willing to pay for advice and see value in doing so so what financial tools do we have to make advice look "free" but costs you if it is done wrongly i.e., need to incentivise compliance e.g., check an activity is compliant – no cost – reinforces positive behaviours but if non-compliant – then there is a cost and consequences – aims to move towards complaint behaviours
Enforceability of rules	When writing rules, the rule writer needs to be very clear that if a person doesn't comply with the rule they are legally "criminals" i.e., if you don't envisage enforcing rules and don't envisage the possibility of prosecuting for non compliance – then maybe the rule is the wrong tool Don't include rules that are "unnecessary"
Consistency in decision-making	Two aspects to this • need clear directive polices and • manage consistency through an internal business approach

Cumulative effects	Policy guidance needs to be particularly strong to assist decision-makers to avoid one-off incremental decisions that result in cumulative effects
Social, economic and cultural issues	This area needs further discussion: As an observation: policy space typically focuses on the environmental area – there is not a lot of guidance on social, economic and cultural implications of decisions I.e., consent decisions are based on s104, subject to the provisions of Part II RMA (overall broad judgement) – there doesn't appear to be any reason why there can't be more policy directives about these other three areas E.g., a reasonable amount of experience and case law relating to Maori in the cultural space and a growing knowledge that requires application - question is whether there should be more commentary in the cultural space in addition to that which relates to Maori?
Prohibited and Non-complying rules & links to policy framework	Consider more use of prohibited activities – i.e., to provide strong and clear messages and upper thresholds E.g., dairy 2-pond systems – if the regional community don't want such activities in future then make that clear Consider more use of non-complying activities to identify activities that are not those that one wants to see happening, i.e., this is where policy becomes more critical in decision-making therefore rule framework must also match policy intent and policy framework must also clearly support behaviour changes
Specifics	
Moorings	This are in RCP needs fixing up – rule framework could help manage these more effectively – including use of occupation charges
Marine farming	Needs to be addressed – seems hugely inefficient in this space – what can rules do to help achieve efficiency/ change behaviours Rules need conditions targeted to the problems/ behaviours we want to change. A linkage with environmental monitoring, including more efficient funding of monitoring done by industry and WRC, could be addressed via the Plan.
RCP - erosion	The rules and policies need to guide how we want people to act – and make it easy for them to do so – question being what support is needed to get the best outcome E.g., Mokau seawall– enforcement alone is not likely to solve this issue – tools needed are more than just rules
Forestry	Can we better articulate what are the things we are trying to sort out – and better define the most efficient way to achieve this
Roading	Can we better articulate what are the things we are trying to sort out – and better define the most efficient way to achieve this

12. David Stagg: DM# 3140262

Areas involved in: discharges from industry (dairy, timber, meat), chicken farms, piggeries, landfills and air discharges

Key Themes/ Rules	***Comments***
General	
Relationship to RPS	Generally treat the WRP as a stand-alone document on the assumption that its role is to implement the RPS RPS adds no value in terms of implementation decisions Decisions generally based on science & Part 11 judgements The role between the 2 documents needs to be clarified It is also not helpful that the issues, objectives and policies in WRP are repetitive of the RPS but sometimes worded slightly differently (with no explanation of why the different wording applies)
Air chapter	Needs to be reviewed and aligned with what we want to achieve in air quality for the region Last time we took an empirical approach based on the Clean Air Act and reflected into the Plan (quite different from other parts of the plan) – it's very activity based rather than focused on contaminants While it works – needs to check if this approach still appropriate
Comprehensive rule for all activities on an industrial site	There doesn't need to be one rule for such sites – i.e., doesn't make much difference if need to refer to more than one rule to address the activities I.e., in practice wouldn't make much difference
Role of rules	Use rules to specify what we can cover But if it's a general discretionary rule – that is a trigger to staff that all effects are to be considered.
Odour	This is a big and difficult area of work and it important to have it well managed Can only use "nose" to measure effects – not easy to measure and response timing is a difficulty – e.g., can often take "hour(s)" to get to site where complaint is made Also a mismatch over who is required to get consents – i.e., while some required to get consents – farming activities aren't
Duration of consents	Currently there is no guidance on this This should be included to provide certainty to staff and applicants as to what length of time is considered to be appropriate I.e., 35 years is the maximum allowed in the RMA – but should this be the starting position/ used as the default? Or should there be a scale? E.g., when reviewing a consent it is unclear whether you can "pull back" on any of the conditions already granted i.e., by limiting duration the onus would be on "polluter" to demonstrate at intervals that their effects are still suitable for the environment – i.e., allowing the public process to check this at intervals less than 35 yrs

Mitigation	No guidance in plan on how to deal with adverse effects that haven't been completely avoided – e.g., what do you do with residual effects? Case law is not clear There should be some structure around compensation for residual adverse effects
Activity Table	Table of rules at front of plan - Keep – helpful
glossary	Suggest a double check is made between each rule and definitions in glossary – sometimes this leads to added complications for the rules
RUG staff involvement	Request to keep "implementers" in the process not only for rule development/review but also through the submission process (to ensure practical advice/ experience can be provided)
Reasons for rules	These are useful to help clarify the intent of the rule NB: some are not useful at all in this way
Specific	
Open burning 6.1.13.1	This rule currently allows for burning of plastics – it shouldn't (due to smell & smoke) It also allows burning of food waste –not readily combustible – should not be there
Standard conditions 6.1.8	a) discharge to air - "no adverse effects on human health/ flora/ fauna" – this is a very high threshold which is not achievable – revise
PA activities 6.1.9.1	These were derived from the Clean Air act – and lots of activities occur that are not on this list – making then "unauthorised" but because they are not problems staff don't pursue List needs to be more "inclusive" of like activities.
6.1.9.2	2 parts to this rule – don't understand it Mobile sources – needs explanation
New rule required "wet areas"	Wet areas need protection i.e., these are different from wetlands E.g., area at a bottom of a gully – may only have a watercourse in winter – currently these areas are being drained by farmers – but the cost/benefit is not there for them i.e., they want dry areas to farm – but it costs them more to drain it than they recover through farming it Need rules and education in this area.
Human effluent from overflow systems 3.5.5.5 & 3.5.7.8	All waste water systems have weak points in them and have dry weather and wet weather overflows. Currently the plan prohibits but staff know this happens regularly and it is a ubiquitous problem because the cost & challenges in designing a bullet proof system e.g., rain infiltration overloads the systems – leads to overflows; also pump failures/ blockages – it is reality of such systems At present only response is to enforce – suggest we need consents process so that there is a public process whereby the public & River Authority can have debate over what level of overflow is acceptable

Stormwater PA 3.5.11.4 & 3.5.11.7	PA discharges is allowed if interceptor in place and CA if "significant adverse effects" avoided This is a very high threshold E.g., timber treatment plants – copper, chrome, arsenic – either through a spillage or routine activities these materials inevitably end up in the environment But at the moment for such industrial sites we can't require a consent for stormwater discharges – therefore if they have a "problem" the onus is on WRC to prove effects are significant Currently most such sites are taking a conservative approach to site management and they include this in their consents - but it is not statutorily required E.g., Lake Waikare – build up in sediments in the lake from 2 nearby timber treatment sites I.e., appropriate to require stormwater consents for industrial sites E.g., 3.5.11.4 a) "high risk" g) high threshold and hard to prove c) 1ha "urban" is not defined – look at whether this covers industrial sites too – some sites larger than 1 ha i.e., want to require consents for industrial sites where chemicals are used e.g., dairy factories – chemicals/ milk/waste water – if any escape then can cause environmental problems therefore need to identify big industrial sites (dairy, meat, timber) and require them to get consents
Composting rule 5.2.8.2 & 6.1.9.1	NB: the odour rule is not ignored and its incorrect to state that effects of composting generally positive (as reported in another interview)
Fertiliser rule 3.9.4.11	Check definitions in glossary for appropriateness – i.e., tighten up
Piggeries/ chicken farms 3.5.5.3 & 3.5.5.4	Re: suggested new rule about free range – suggest this is not the issue – rather all rules need to be tidied up to incorporate this [involve Hamish Smith and David Stagg in any rewrite of these rules]
New Landfill rule	Potentially useful to have a PA rule for very small closed landfills i.e., theoretically at present they should get a consent – staff take a pragmatic approach.
New rule re: shooting ranges	This should be covered in the plan due to contamination of "shot"
New rules re: tyres	Storage and disposal of tyres over a certain number needs to have a consent
Odour guidelines 6.4	Useful guidance and can deviate if there is a good reason
Agri-chemical guidelines & rules	Generally good but needs to be tidied up – suggest need an expert to review (no-one internally available to do this)

	This is a very difficult work area but previous rules were developed in conjunction with other RCs, industry and pesticide action network E.g., "adverse effects" is a very high threshold which is hard to prove May be appropriate threshold for this activity? – support that the rule doesn't "outlaw" "chemical trespass" i.e., at a practical level how could you monitor/ enforce "trespass" i.e., rule reflects reality and we should wait for national guidance before banning (NB: a lot of people want to ban "trespass" but this is not realistic)

13. Ross Wightman: DM# 3118901

Areas involved in: farming/effluent/fertiliser/infrastructure

Key Themes/ Rules	***Comments***
PAs & monitoring 3.5.5.1 effluent 3.5.5.2 feed pads 3.9.4.11 fertiliser 4.2.8.1 Bridges 4.2.9.1 Culverts 4.3.5.4 stock in waterways	If you want to monitor something – don't make it a PA I.e., PAs should have such little effects that it shouldn't need to be monitored Not easy for farmers to understand what they need to do – not easy for WRC staff to implement Have looked at 17 PAs and in detail at 6 – none of the 6 should be PAs (except for bridges) [dairy effluent , culverts, stock in waterways, fertiliser] Bridges could stay as a PA but it is not highly used because cost exceeds cost of culverts. However keep as it does allow people to use in exceptional situations & environmental effects are low.
Glossary terms	FDE vs FAE – make all references consistent with the AgResearch way of referring to [Ross will help re-define/ supply the AgResearch references]. Farm animal effluent is technically wider that just dairy and includes sheep, alpaca etc.
Industry Guidelines Dairy Industry	Rules around farm activities should be controlled activities – not permitted, and if can't meet CA requirements – then discretionary. Within rule – reference industry guidelines e.g., Dairy NZ Code of Practice [Ross was involved in developing and reviewing these]. The DNZ approach includes using accredited designers for infrastructure; Practice Note 21 – outlines how to build a pond; Practice Note 27 how to put in infrastructure (e.g., feed pads); there is a Dairy Effluent WOF – which is monitored – at present only highlights risk areas. It would help if DNZ monitoring compliance was a pass /fail, that it was required to be undertaken 3-yearly, and that data had to be available to WRC, this would help WRC compliance team. There are all the tools out there for farmers to design a system they need. Ideally include Code of Practice and details from Practice notes into a CA rule, along with requirement to have a 3-yearly WOF (Ross expects there would be industry buy-in to this approach).
Setbacks	There are several rules which should include setbacks e.g., 3.5.5.1 & 3.5.5.2 These need to be cemented into rules - then if people can't meet them – goes to discretionary E.g., there are no setback for aerosols from effluent spreading (health & odour reasons) cf human effluent does have setbacks – perhaps this issue needs to be fronted I.e., this setback should be applied to any discharge which has faecal loading – including dairying and industrial discharges.
Farming to Limits	If you undertake farming to limits rule 3.9.4.11 will be redundant. This introduces a whole new concept into the way farms are managed. E.g., like the Lake Taupo rules. Suggest we need to apply rules similar to Taupo – in which case all farm rules need to be considered.

	3.5.5.1 – current approach to effluent rule is education as well as compliance – better if it could be "bundled" into a farm to limits approach Whole farm consent could be better terminology than "consent to farm" i.e., assess whole of farm activities at once.
Geographic differences	Different rules for different areas – too difficult a farmer can have several farms in different areas.
Advisory notes	All advisory notes should be checked for a) consistency with the rule and b) only offer help in interpretation I.e., some notes include matters that should be in the rule, or conflict with/confuse the meaning of the rule.
Policies/ ERAs/ explanations	Policies are helpful when talking to people, trying to get them to do things. Explanations/ERA are helpful if going to court but take up lots of space in the place, could put them somewhere else.
3.5.5.1 Effluent PA	Farmers need to know specifically what they need to do and how and then know that they comply - i.e., keep PAs black & white. Rule allows for 25mm – this is excessive – grass can only handle 8mm effluent roughly. Use industry guidelines to provide greater clarity and alignment (as discussed above). Existing condition c) is problematic, this can be measured for new infrastructure but not existing ones – see discussion on new rule below for suggested solution. Any changes to this clause need to retain the $1 \times 10^{-9m/sec}$. A reason to keep this level of permeability is that for an average herd of 300 cows on a 100ha farm leaching can be 3 tonnes N/yr from whole farm. If the storage pond is sealed to $1 \times 10^{-9m/sec}$ then the additional leaching will be about 30kg N. However, if it is sealed at $1 \times 10^{-8m/sec}$ then the leaching would be about 300kg N. This is an additional 10% over and above the diffuse discharge on the paddocks, and it becomes a point source. This rule should not be PA – all dairy effluent should have a consent – then farmers have this in front of them and are more likely to comply. Acknowledge this would be "heinous" to implement – but could aim to implement over 5 years (approx 4,100 dairy farms in region – only 270 currently consented).
New rule – effluent storage & management	In Waikato – approx 25% farms have little/ no storage and are therefore non-compliant on wet days; 50% have old storage systems – predominately holes in the ground and unsealed; 25% may be OK. Possible solution is to have a new rule requiring storage capacity on site for farm effluent - which specifies a sunset clause for existing old systems e.g., 5 years would be reasonable – and then they have to upgrade to a system designed by an accredited engineer (as per Dairy NZ discussion above).

	There is currently a "Dairy Effluent Storage Calculator" used by all councils except NRC – it sets out how much storage is required for farm type/ size etc. The DNZ Code of Practice already has storage requirements specified in it – so it would be useful to embed these into the rules (may not need to embed the calculator into the rules as any accredited person would already be using it). Therefore new rule should include: Take 3.5.5.1 add Code of Practice requirement for storage & standards for storage design and add sunset clause for phasing out old systems.
3.5.5.2 Feed pads etc PA	Delete clause f) in total Delete clause c) last sentence The location specifications in these two clauses don't make sense – i.e., it is a discharge rule that then controls land use – if effluent is collected and distributed in accordance with the rest of the rule – this location requirement is not necessary. Also in places like AkaAka they can't meet the requirement of more than 20m away from surface water due to the frequency of drains. There is an overlap between this rule and 3.5.5.1 as mostly the effluent from feedpads goes into the effluent storage system anyway and is covered by that rule. Condition a) - the sealing requirement is not well understood – David Houlbrook from AgResearch has done a paper on this - unsealed stand-off pads are the 2nd highest risk for N loss – after 2 pond systems. Use the guidance on Practice Note 27 from Dairy NZ Amend rule by taking: Current conditions, delete clause f), delete last sentence of clause c), add PN 27, and 5 year sunset clause to phase out old systems (similar to 3.5.5.1). This rule should also have a setback stated in clause c) which requires a 20m buffer from surface water when applying effluent to land. This rule could also have a setback clause, but it would be for the application of the effluent (e.g., from dwellings or surface water), not the location of the feedpad itself.
Table 3-7 N loading Grazed pasture	The paragraph at the bottom of this table starting "for the avoidance of doubt…." Has an inherent problem – sludge is often very liquid and piles up/ ponds/ runs-off – talk to Ben Franks for more details on this. Reconsider whether this rule/ Table should cover sludge?
3.5.5.6	Used for prosecutions [Pat Lynch] – no more detail needed in this rule.
3.9.4.11 Fertiliser PA	This rule is not well understood by farmers. Also this is a bigger issue than just this rule – see discussion above on farming to limits [Talk to John Palmer, Alan Campbell, Bala T, Don Harford]
4.2.8.1 Bridges PA	This rule is OK.

4.2.9.1 and 4.2.9.2 Culverts PA	A monitoring report has been done on this rule – it is used a lot but clearly an issue for fish passage. Needs to be supported with education [Ask Bruno re: effects on fish from non-complying culverts] i.e., to check if this should remain as a PA or not
4.3.5.4 Stock in waterways PA	As a PA this is very difficult to monitor. Clause c) not able to be monitored. Clause b) refers to "remedied as soon as practicable" which is meaningless. Better to make this rule a CA and tie to Fonterra's requirement for fencing of waterways [see their website for more details] I.e., support Fonterra's approach with a rule (all Dairy companies now have a Waterways accord). However there will be push-back from dry stock farmers - so if they don't have a fence – they may have to get a consent (discretionary?) In glossary fence needs to define for the purpose of this rule it includes anything that keeps animals out of waterways – i.e., has to be flexible to cover the operational needs of farmers in flood plain areas [Ross W would help prepared this definition]
4.3.5.5 Stock in waterways DA	There has never been a consent issued under this rule.
5.1.4.12 Cultivation PA	This relates to Pukekohe Project and to Waikato maize Current practice of cultivating up to bank edge or within 2m of a waterway is way too close. Farmers are not aware of 2m setback. I.e., need to define bed in terms of it use within this rule - or apply a specific setback distance – [check with Pukekohe Project or industry to see what best practice guideline is for this – talk to Ross Abercrombie & Reece Hill].
5.2.6.1 Dumps PA 5.2.6.2 Offal PA	Cross ref this to the project being run by Marianna Ross not aware this is a problem in the region, but recongises would have an effect on ground water. Dumps could be monitored by plane. In terms of offal most animal industries have collection services and/or disposal codes of practice. Hard to see from planes for monitoring.
5.2.8.1 Composting PA	Limit is too low, could be bigger. Also sludge from an effluent pond used for composting along with greenwaste would not be covered by this rule.
5.2.9.1 Dust suppressants	Rarely used – but keep.
New rules: Roofed animal housing structures	Aka herd houses and barns – odour (ammonia) is biggest effect. Would be good to have guidance on siting on farms (e.g., away from neighbours). Setbacks for intensive agriculture need to be considered – see discussion on setbacks above.
New rules: Stock truck effluent	Stock truck effluent is currently covered by 3.5.5.1 but it's not a good fit to deal with this issue. Need a new rule about where they can discharge. Most trucks have 200L tanks but they are known to empty it on roadsides, which may be OK if in dry periods, this complies with discharge to land

	rule. [Isy Kennedy to assist in drafting rule] However this is really a trucking industry problem and should be addressed by them.
New rules: Human effluent from pump stations overflow	Cannot be addressed as a rule – i.e., instead should look at requirement for levels of redundancy within a system i.e., back up pumps, storage, external power systems, alarms etc.
New rules: Sacrifice paddocks	I.e., stock in a paddock for an extensive period – destroys soil structure – amount effluent very high Rule needs to include setbacks - e.g., 20m from waterways; away from boundaries; rehabilitation requirements (e.g., crops/ regrassing).
New rules: Cemeteries	Certainly N & chemicals - however significant tangata whenua issues re: location. Considers this to be a land use decision and unclear if a rule is needed.

14. Leanne Lawrence: DM# 3188651

Areas involved in: consents for ICM activities related to river, drainage and flood maintenance

Key Themes/ Rules	***Comments***
General	
Background	ICM now covers previous RCS, Biosecurity & Biodiversity groups The focus of this interview is on the RCS components of ICM – so for ease references continue to be made to RCS RCS – holds 170 individual resource consents – largest consent holder in the region – e.g., structures, pumps, river & flood maintenance activities Currently pay around $53,000 for annual consent charges As a result of the comprehensive consents and the associated required monitoring/ mitigation and enhancement plans, RCS has begun to gather a significant amount of data on environmental effects – therefore in a better position now than when the previous rules were written. This information should be reflected into the re-drafting of the rules.
Unique position of RCS	RCS is a part of Council RCS works under legislative mandate of Soil Conservation and Rivers Control Act, Public Works Act and Drainage Act as well as RMA and LGA. RCS provides a critical service to ratepayers – their position is therefore different from the general public/ farmers/ developers This unique position should be recognised and the rule approach should be simplified to recongise works commonly done and undertaken in accordance with the best practice guidelines manual that is currently required through consent conditions to be updated every 5 years.
Costs to ratepayers/ need for economic analysis	The current costs to ratepayers of consent applications and annual charges, is questionable – a cost-benefit assessment of this should be undertaken. NB: currently there are around 10 “comprehensive consent suites” each having 2 – 6 individual consents, and focused on a geographic area. The process for getting these consents varied between 12 months and 7 years – costing from $50,000 – 200,000+++. It is queried whether this is value for money given the controls and guidance provided through the other pieces of legislation that RCS must also comply with, and the best practice guidelines manual that is used. These costs are imposed through general and targeted rates – and are significant costs before any works are started. The costs are very difficult to justify to communities. Economic analysis is required of impact of consent process and consent conditions i.e., RCS have a legislative duty to manage a whole range of environmental and social factors
PA rules generally	Currently RCS activities can fit into very few PA rules because the nature of the works (in and around rivers and streams) and other factors such as limits on physical works and catchment sizes. Therefore this can trigger

	short-term consents which have conditions that reflect the existing best practice guidelines manual. Suggest making some RCS –specific PA rules (NB: often describe PAS as a pre-written consent – i.e., operations staff still need to comply).
Philosophical approach to rule writing	Need to weigh up legal requirements of RMA with the best outcomes for the environment. In this context economic implications should be considered. i.e., RCS works support $billions for the economy of the region. Currently lengthy challenges are addressed through the consent process – this should be addressed at the plan level (more cost-effective) Attn drawn to the title of recent 2014 conference of the International Erosion Control Assn: Cost and Complexity or Common Sense: Process vs Outcomes Suggest this should be the mantra for plan re-drafting
Rule development & layout	Rules should be simplified – especially PA rules – these should be easily understood by operational staff. Rules hierarchies should be clear and easy to follow (refer to complexity in flow charts referred to below) Request that RCS staff be involved in testing any new rules drafted, from an operational and workability perspective. i.e., rules need to be practical at an operational level Refer to layout of rules in Hawkes Bay RP – consider using this format
Hawkes Bay RP rules for RCS works	Refer to example rule in Hawkes Bay RP – this approach is supported – can the re-drafters include this approach to RCS activities in the WRP? i.e., refer to their rule 6.8.3
Implementation	Use of diagrams supported to explain terminology used – use more of this and co-locate with rule where possible Use more flow charts to show relationships between rules. For examples refer to **Doc # 2486056** (relating to structure maintenance & obstruction/ bed material extraction); **Doc# 3169340** (referring to coffer dam construction; **Doc # 1130375** (referring to vegetation clearance)
River and Lake beds chapter	Key chapter for RCS works – the 2 diagrams on p8 are very helpful – keep these Plan writers need to understand what different structures used actually look like and what they are used for.
Notification requirements	A lot of PA rules especially in chapter 4 require notification to WRC before commencing. Either a) make all the time periods consistent or b) prefer they were deleted. Currently the information is not really used therefore seems to be no real point in having this as a requirement.

Cross –referencing 4.2.21 – suspended solids standards 4.2.19.1 – gradient control structures	The less cross-referencing within a rule the better e.g., standards in 4.2.21 – easier to have one rule covering all relevant matters, than the current cross-referencing system. At an operational level the cross-referencing means that several bits of the plan have to be photocopied and sent to field staff – adds to complexity of using these rules "on the ground". Also some parts of this standard are not relevant across all the rules RCS uses. Some standards RCS cannot comply with, resulting in a lot of one-off consent applications. This approach does not recongise the difference between the general public and RCS's daily activities and their legislative responsibilities. 4.2.19.1 – another example of cross referencing adding complexity and hidden fishery timing restrictions
Differentiate between wet and dry river beds	Request review these definitions and associated rules and assess if there is opportunity to differentiate between wet and dry beds. Locate diagrams of river beds etc with the rules (for ease of finding) Refer 4.1 (p.4-8) – these two pictures also have an in-between state – i.e., in low flow periods can there be a distinction between works in dry channel parts vs works in low flow channel? i.e., some dry areas are still technically within the "bed of a river" and are subject to the fishery timing constraints.
Best practice guidelines	Sets out methodologies and environmental protection measures (currently being updated) – they are required through consent conditions to be updated 5-yearly and to be based on monitoring results. Hawkes Bay's rule 8.8.3 refers to a code of practice – can the WRP cross-refer to the best practice guidance in a similar manner?
Specific	
3.5.4.4 Discharges to water	Generally OK for pumping
3.5.10.1 & .2 Take, diversion, discharge water from drainage and flood schemes	Covers RC pumping activities – works well - however (d) – some artificial drainage systems or water courses can't always comply (i.e., no natural channel at headwaters, e.g., Hauraki Plains)– this clause is not typically an issue and is not monitored There is also a difficulty with seasonal constraints in cross ref to water management classes i.e., winter is best planting season Suggest deleting (d) because these systems have been operating / established for decades and no new effects are being caused.
3.6 Damming and diverting	This series of rules have multiple issues Refer to **Doc# 3169340** flow chart related to these rules – showing complexity of which rule might apply e.g., temporary coffer dams are put in to block flows to inspect or maintain pumps/ floodgates etc – temporary can cover a period of 2 weeks to 2 months

3.6.4.17 Coffer dams	Suggest a new rule for temporary coffer dams Currently 3.6.4.17 is very hard to comply with NB: the difference between artificial and natural water courses needs to be clarified, in terms of which rules are supposed to apply
3.6.4.6 Existing stopbanks	There is around 900km of stopbanks – this rule doesn't allow for maintenance of stopbanks Refer to memo about cross-over of rules **Doc# 2247794**
3.7.4.6 & 3.7.4.7 New drains and drainage of Wetlands	These work OK
4.2.5.1 Existing structures	Simplify language – e.g., say on beds of a river – rather than "encompassed by s13 etc) –no reference made to s13 *of the RMA.*
4.2.21 Suspended solids Standards	Many rules in chapter 4 refer to this standard. The standard has a "hidden timing constraint" – that is not explicit in the actual rule itself. Delete from standard and include specifically into the rule - where it is appropriate/ necessary. The standard is poorly written - confusing and unclear – e..g., what does a 24 hour period actually mean from an operational perspective? Standard c) (i & ii) – while appreciate the reasons for timing constraints around fisheries exclusion areas the problem is that this conflicts with the best timing for planting
Water class maps	These maps need up-dating and need a higher level of clear definition on the ground. i.e., some of the boundaries are non-sensical for stock exclusion e.g., refer to Kopuatai wetland boundaries
4.2.9.1 & .2 Culverts	Support catchment sizes Request that this two tier PA approach be applied to other structures too
4.2.15.1 Erosion control structures	Refer **Doc # 2303621** for memo on interpretation of this rule Condition c) has an interpretation problem – "one bank kilometre" and "combined length" can be interpreted in various ways in practice. Also typo: "or" vs "of"
4.2.16.1 Channel training structures & 4.2.15.1 Erosion control structures	Need to define what a "channel training structure" is and how or if it differs from an "erosion control structure". i.e., suggest combining these rules as a PA to avoid the current cross-over between them Also review if they need to be so restrictive i.e., from a construction point of view a channel training structure may have less environmental impacts. Rule writers need to understand <u>what</u> these structures are and their <u>purpose</u> (and what environmental effects need to be controlled). Involve operational staff when re-writing these rules.

4.2.18.1 Access for maintenance purposes	Very important rule for asset protection – keep – consider being more explicit about roads, tracks, buildings as well (to ensure better linkage to District Plans)
Table 4-1 List of water courses	Table is not accurate – therefore either make it completely accurate or use a broad definition in the glossary (as per existing definition of rivers control scheme – which also covers Drainage Districts)
4.2.19.1 Gradient control structures 4.2.16.1 Channel training structures	This rule is extremely permissive (but helpful to RCS) – compare this approach to that in 4.2.16.1 – this is not a consistent approach to the level of control Only conditions a) – c) are unique to this rule I.e., should 4.2.16.1 be a PA
4.3.5.4 & .5 Livestock in waterways	Issue for RCS is livestock exclusion maps - e.g., Kopuatai –the SEA maps are not accurate to the boundary of the wetland, encompassing farmland within the SEA. These maps and definitions need to be made clearer. NB: grazing on stopbanks is very important to RCS – it is controlled through licences with "grazers" which have restrictive conditions appropriate to each site leased. (i.e., controlled through other legislative tools)
4.3.6.1 Extraction for maintenance of existing structure	Refer to flow chart in **Doc# 2486056** 3-4 different rules could be used for RCS works
4.3.7.1 Sand and gravel extraction	Very restrictive for RCS but OK on balance for public acting under this rule
4.3.8.1 Introduction and planting of plants	Common practice for RCS is layering of trees and anchoring their trunks – again affected by hidden timing clause in Standard 4.2.21. Winter is however best time to plant trees – therefore RCS cannot comply with this rule within watercourses classed as fisheries class waters. Also suggest that (f) is not relevant and should be deleted
4.3.9.2 Vegetation clearance	Refer to flow chart **Doc # 1130375** 3 different rules could apply – again reference is made to Standard 4.2.21 - in this standard the suspended solids discharges are very restrictive e.g., crack willow is identified as a pest species in the Pest Management Plan – and it contributes to erosion, but RCS cannot meet standard 4.2.21 and therefore needs to get a consent each time a site is identified as needing clearance.
4.3.9.3 Vegetation clearance	Talk to Carolyn Gabolinscy (RUD) when rewriting this rule. There has been trouble prosecuting under this rule. In both the title and text it should refer to "natural state water bodies and/or wetlands" (not just "and")
4.3.10.1 Removal of obstructions	This is critically important for RCS Clause g) is difficult due to the cross reference to standard 4.2.21 Clause k) introduces timing restrictions (i.e., currently restricts to winter, but doing these works in winter means more problems with erosion/ flooding etc

Chapter 5	Rules in this chapter are unnecessarily complex
5.1.4.11 – 5.1.4.15 Soil disturbance/ tracking/ vegetation clearance	For RCS works (and general public works) - this series of rules are overly complex
5.1.4.11 Soil disturbance/ tracking/ vegetation clearance	The cross reference does not work well – needs to be simplified and make all conditions explicit (not hidden)
5.1.4.14 Soil disturbance/ tracking/ vegetation clearance in HREA	Definition of High Risk Erosion Areas – is complex and difficult to explain or to implement
5.4.1.12 Soil cultivation adjacent to water	This rule is badly implemented and needs to be tightened up e.g., consider including a HREA limit on it Also restrict soil cultivation next to council drainage assets (artificial drains) i.e., currently rule only applies to bed of a river or lake
Figure 5-1 page 5-18 Application of rules to water bodies	This is incorrect in terms of overlapping definition of a bed – the HREA on the left hand side of this diagram should not start until half way up the bank, as technically this is still within the "bed".
5.2.5.1 & 5.2.5.4 Overburden & cleanfill (and associated rules in hierarchy)	Overburden vs cleanfill – rules are so similar it is suggested that they are combined
5.2.5.7 Sediment from artificial watercourses	Cleaning out artificial drains: suggest simplifying the rule Clause b) limit on $10m^3$ is bureaucratic and not realistic Clause a) (ii) - RCS work is bound to be in a flood plain
6.2.4.8 & .9 Spray rules	RCS cannot use 6.2.4.8 because it would hardly ever apply to RCS because clause a) refers to "public amenity areas" (defined in glossary) – which is precisely where RCS does its works 6.2.4.9 – This rule is very helpful Requires notification according to Table 6.4 – can this table be packaged differently to make it look easier? clause f(i) which refers to 6.2.7 – can this be simplified?
Glossary	Improve definitions relating to artificial vs modified and natural water courses. Refer to commentary on **Doc # 3029133** which gives an example of interpretations at a practical level.

15. Wendy Mead & Darion Embling: DM# 3190814

Areas involved in: ICM - biosecurity pest plant activities

Key Themes/ Rules	***Comments***
General WRP	
Background	Operate under the Regional Pest Management Plan – which is prepared in accordance with the Biosecurity Act Work with rules around agrichemicals
Overall comment on Agrichem section	"Dog's breakfast" No-one seems to know what the rules actually mean – how they are written is inconsistent; they are not being complied with; no checks done on compliance Involve Wendy in any re-drafting
Terminology	Defunct terminology e.g., references to OSH (should be Worksafe NZ [under MBIE]; references to ERMA should be to EPA) Several references to "Growsafe" – this is a brand and should not be used Glossary definition of "agrichemicals" does not cover any of biosecurity's interests (see comments on scope below)
Scope of rules	Rules are focused on controlling herbicides in an agricultural context – (e.g., see reasons about supporting agriculture under Objective 6.2.2) but this is incomplete i.e., biosecurity uses sprays to control "environmental weeds" i.e., those weeds that are a threat to the environment e.g. for biodiversity purposes (as opposed to crops) Other agencies involved with same focus include DoC, District Councils, Transit, community groups The rules don't sit well for these sorts of activities undertaken by agencies/ organsied community groups. Focus of rules need to be broadened to include reference to herbicides/ fungicides used for amenity, public welfare, safety (e.g., roads), industry (e.g., rail, hydro), flood protection, environmental protection (e.g., old man's beard)
Policy 1	The explanation refers to "encouraging" – council shouldn't be doing this
Other implementation methods	6.2.4.2 – don't currently do this - suggest remove all actions unless council is committed to doing them 6.2.4.3 – statutory doc is not the right place for this 6.2.4.4 – no known MOUs with other agencies 6.2.4.7 – don't do either of the 2 actions – sometimes Districts have a list – but this would be an admin nightmare at a regional level
Implementation Plan	Support - especially if used to make rules clearer and easier to understand
Notification	All references to notification requirements should be limited directly to "directly affected parties", i.e., the use of "anyone" is too loose (and hard to comply with)
Legal problem experienced	Legal advice is that consent conditions cannot override instructions on a herbicide label The HSNO act sets labels on herbicides and requires that all operators are

	compliant with the instructions Council went through process of getting 4 herbicides that they use re-assessed by EPA and "permission under conditions" were issued for their use. Consents must be compliant with EPA "permissions & conditions" In light of this, the rules may only need to focus on notification i.e., due to the central government rules around how and what herbicides can be used (through HSNO Act)
Relationship between Plans and EPA; and Plans and NZS	This is a key issue that needs to be sorted out, i.e.HSNO Act has rules around chemicals, ratings for toxicity etc and EPA approves them for acceptable activities; also approves labels for how a herbicide is to be used The plans must not override these provisions nor be inconsistent with HSNO. There is also a NZ Standard on management of agrichemicals – NZS 8409:2004. The relationship between this and the plan rules also needs to be clarified.
Qualifications for staff/ contractors	NB: Wendy and legal team are currently working on issue of qualifications (i.e., work in progress). Suggest that this should not be specified in a statutory document Qualifications are also covered in the NZ Standard 8409:2004.
New Addition to Chapter 5: Soil Disturbance:	Machine Hygiene Practices Request that reference to "Keep it Clean: machinery hygiene guidelines" is included into every rule that deals with soil disturbance – especially targeted to farmers and contractors The guidelines are national ones produced by National Pest Control Agency (NPCA) and supported by Local Govt, MPI, Fed Farmers & rural contractors Assn. The guidelines are a key tool for managing pest pathways. The guidelines are also referenced in the RPMP. The PRMP also has a provision that people can't knowingly move pest around the region. [Pest pathways is an up and coming issue under the Biosecurity Act i.e., councils will have to develop regional pest pathway plans – to "manage" the way pests get into a region. RC role in this management is still being sorted out but it is a big issue. This will have big impact on WRP & RCP and clarification of the interface between the plans and Biosecurity Act and associated plans will be needed.]
Specific WRP	
6.2.4.8 Hand held spray 6.2.4.11 discretionary rule	Clause a) refer to "public amenity area" – as this is where council (and other agencies such as DoC, District Councils, Transit, community groups) want to spray – it therefore triggers a consent i.e., the PA does not apply to them By contrast – a helicopter can go do anything – as there are not control s on that activity i.e., logic and consistency needs to be re-considered The advisory note specifies that this rule does not apply to weed wipers/

	hand distributed granular herbicides – unclear whether this is a rule gap or whether defaults to 6.2.4.11 discretionary activity – which is a high level requirement for basic activities
6.2.4.9 Widespread application	Clause (f) is a problem – the rule is designed around large-scale crop spraying - perhaps it should specify that or specify an area scale that the rule applies to Currently Biosecurity do not prepare a spray plan unless it is specified in consent conditions Suggest (f) should be deleted – i.e., if you comply with everything else in the rule – there is no need for a plan i.e., query value of having the plan and how does council know about them? Notification and clause g) should suffice (in lieu of (f))
New rule	There should be a PA for all agencies responsible for public areas, subject to the other conditions in rule 6.2.4.8 but covering hand spraying as well as wider scale spraying with other equipment
Table 6-4 Notification requirements	The whole table is way too complex and should be streamlined There are inconsistencies between the requirements set out for first and second groups e.g., 1st group – requires "agreement" between parties – this will never happen, it also has a circular logic in it; reference to "someone" should be more specific to "neighbour"; 2nd group can have either verbal or written; this grouping also refers in 1,a) to "<u>any other</u> person requiring notification" - this is far too broad
General RCP	
Marine biosecurity	This is an up and coming issue under the Biosecurity Act i.e., councils will have to develop regional pest pathway plans – to "manage" the way pests get into a region. RC role in this management is still being sorted out but it is a big issue. This will have big impact on WRP & RCP and clarification of the interface between the plans and Biosecurity Act and associated plans will be needed.
Specific RCP	
16.2.1 Removal of vegetation	This rules doesn't recongise biosecurity interests – e.g., can pull out a weed but have to leave it in CMA Triggers need to get a consent for weeds that Biosecurity are obligated to control under Regional Pest Management Plan (PRMP) – prepared under Biosecurity Act i.e., need to include reference in the rule to "removals" authorised in accordance with PRMP e.g., see rules in Bay of Plenty's RCP MPI directs councils to remover certain "weeds" (e.g., sea spurge) – the plan doesn't recongise this role and the links to the Biosecurity act
New rules	Need to consider new rules to address unwanted organisms and Biosecurity's responsibilities under the Biosecurity Act
16.2.8 Introduction of plant pests	This is not consistent with the Biosecurity Act nor the RPMP i.e., needs to comprehensively refer to all pests and unwanted organisms, alternatively delete as it is already illegal under the Biosecurity Act

16. Keri Nielson: DM# 3201397

Areas involved in: ICM – wetland and drainage activities

Key Themes/ Rules	***Comments***
General	
Way rules are written	Need to be easily understood, not open to interpretation and enforceable
Wetlands	Plan provisions (around drainage) are woefully inadequate/ very weak for protecting wetlands
Glossary 3.7.8 – examples of wetlands	Need a better definition of wetland e.g., the photos of what rule applies to in 3.7.8 is not sufficient
Recognition of RCS responsibilities	Make rules simpler for RCS, i.e., covering routine activities (and reduce significant costs for ratepayers) Some of the existing discretionary activities should be controlled or permitted for routine activities undertaken by RCS – especially where there are best practice guidelines i.e., reflect the same approach that is currently provided for the stop bank maintenance rule 3.6.4.6 & .7 and apply the same approach to other routine activities More information is now known about the impact on the environment, due to the monitoring undertaken.
Waipa Catchment Plan	Refer **DM# 2988622** Action 20 under section 4.2.3 – WRP is weak on seep and biodiversity
Ngati Maniapoto Plan	This is work in progress – ask Keri for a final copy This plan has raised a number of issues that relate to the WRP review Issues raised include: • PA for drainage should be reviewed – concerns about eels and native fish species i.e., include some controls around when and what controls should be in drainage to address fish mortality (NB: RCS does drainage activities in a very different manner to the average person – see best practice guidelines – within rules - RCS role needs to be considered separately from general public) • Sewage inputs into rivers (especially from towns) (acknowledged this may be covered by Healthy Rivers) • Land conversions • Activities affecting wetlands/ proximity to wetlands • Fish spawning areas • Contaminated sites – WRP is weak on legacy areas and need to consider if rules are adequate
Non-regulatory Methods 5.1.4.4 & .5 Incentives and Farm Plans	These are very useful tools. Keen to keep critical non-regulatory methods in the WRP. This is a stronger place to specify WRC intent – and avoids "budget cuts" issue if left only to annual plans i.e., need to provide continuity across political terms – and the benefits from the programmes set up under these methods are substantial for WRC Need strong rules to incentivise good practice but also using non-

	regulatory financial incentives is a big part of RCS work (e.g., targeted rates/ direct incentives) Financial incentives have helped significantly in getting great gains in soil conservation NB: the Waipa Catchment Plan is strongly based on methods 5.1.4.4 & .5. This plan prioritise most important areas for incentives to be used – this plan will become a model for all other areas in the region. WRP should support this approach by retaining these two methods as they are key components in facilitating land use change.
Testing rules	Keri requested involvement in testing any rule changes relating to wetlands, drainage and stock exclusion activities.
Specific	
Standards for Min/ Max flows and levels 3.2.4.7	Minimum lake levels set for some lakes – weirs are installed to maintain that level. The list of lakes is not accurate – some weir levels have been raised/ some lakes have additional weirs i.e., need to update list of weirs + list of lakes Need to provide some regulatory "strength" for council staff to "require" reinstatement of weirs, where landowners have altered them i.e., there is no clear enforcement mechanism to enforce these lake levels WRC does not hold good information on the consequences of any change in level. Levels are currently measured at clay sill or culvert or weir – so if these are removed difficult to know what the level should be e.g., suggest a non-complying rule is required to change any lake level
3.7.4.6 & 3.7.4.7 Drains/ drainage of wetlands	Both rules are inadequate
3.7.4.5 – water levels to be set for peat lakes and wetlands 3.2.4.7 – standards for min/ max flows and levels	This is a method about lakes and levels – council has done a lot of work in this area – Suggest removing from this table and adding into 3.2.4.7 Suggest a new rule about maintaining these levels
3.7.4.6 Drains	Very problematic i.e., intention of the plan was to identify wetlands and protect by minimising drainage. However rule is very difficult to enforce. There is an issue around existing drains in that it is impossible to "prove" "deepening" of a drain. The outlets for all peat lakes have been surveyed (at a cost of approx $40,000) so council holds information on drain levels and can prove by survey if they have been deepened. BUT the cost of doing this across every drain within the 200m buffer zone would be approx up to a $1million – and then could still be challenged in court because incremental change of a few cms per year could be occurring and council unlikely to enforce against that Refer to Keri for DM# - for examples of blatant problems

Table 3.7.7 Table of wetlands in region for rule 3.7.4.6 (Drains)	The rule is connected to table of wetlands – there are a lot of significant wetlands that have not been specified in this table. The result has been that there has been massive drainage occurring elsewhere and WRC cannot do anything about it as the wetlands are not listed, and therefore the activity is permitted. Need a new rule that is clear for landowners and is able to be enforced e.g., do nothing within the 200m buffer without a consent
4.3.5.4 Stock exclusion	This rule is inadequate for protecting wetlands Priority 1 areas are mapped but the lines do not make sense. There are large areas of wetlands which are not included in the stock exclusion maps/ priority areas The maps are not readily accessible to people; the suspended solids levels are impossible to measure; and it is not enforceable
4.3.5.5 Stock exclusion DA	This rule cross references Table 4-1 – but there are only 12 lakes identified as priorities – while there is over 100 lakes in the region Staff have a hard time convincing people to exclude stock from margins of all lakes – and a 1-wire electric fence is insufficient / inadequate for lakes and wetlands This is a big are of public complaints – and as rules are not enforceable, often left to RCS staff to "negotiate" with landowners re: fencing and using "incentives $" for activities that should be funded by/ responsibility of the landowner

APPENDIX C: OVERVIEW OFLITERATURE REVIEW COMMENTS ON RULES

The following overview of comments on rules made by staff, is taken from the literature review in Part One of this report. Comments from the interviews are recorded in excel spreadsheets DM# 3113425 & DM# 3113426.

1. General comments made by staff:

- RUD only monitors compliance with consent conditions – also governed by funding available for monitoring
- Other methods generally supported and considered important support for compliance
- Stormwater – additional rules required
- Protection of watercourses, wetlands, wet gullies etc is far too weak within the plan generally.
- Free-range piggeries – need to be addressed

2. Chapter 3: Water Module

Reference	***Topic***	***Comments made***
3.2.4.1 – 3.2.4.5	water classes	used in consideration of consents – provides useful guidance/ limits – fundamentally working well
3.2.4.6	suspended solids standards	although targeted at a permitted activity, is used a lot to set consent conditions (some minor improvements could be made)
3.2.4.7	Standards for maximum and minimum flows and levels	these are not used very much –may be used for compliance and enforcement (Mangatawhiri River has been superseded by Table 3.5 – so is not longer valid)
3.5.11.4 & .5	Discharge of stormwater	PA - generally OK but clarification of conditions required. I.e., The rule is too permissive as it allows discharges from hazardous facilities as long as there is an 'interceptor' and no significant adverse effects, which is a very high threshold. Effects of this magnitude are not even allowed by the RMA anyway refer section 107 (1) g). The definition of 'urban area' captures Fonterra Lichfield as the roads that service it are 80 km.
3.5.11.6 - .8	Other stormwater	generally work but some clarification of conditions is required.

	discharge	
3.5.12	List of High risk facilities	generally work but some clarification of conditions is required.
3.5.4.5	Discharges	DA: This rule is used all the time as it is the "catch all" rule. The rule is fine but could be reworded to remove any confusion as to what exactly a "condition" is (for example is a "condition" a standard and term in a controlled activity?). Better for the rule to read - "or does not comply with any permitted or controlled rule
3.5.4.6	Discharges	N-C: The rule although not used a lot has a clear purpose but some of its wording makes it uncertain in its application. In particular, the rule refers to wetlands which meet the criteria in Appendix 3 of the RPS - however these criteria are not "black and white" - they require interpretation and are subject to judgement. Hence, what falls within this rule may not be clear. Also, what are "cave entrances"? Does this include dry entrances or just where there is water? And if someone piped the discharge into the cave, avoiding the entrance, would this comply with the rule?
3.5.5.1	Farm Effluent Discharges	PA: This rule has raised the profile for FDE application but it fails to give certainty to the farmers, it is poorly understood and difficult to enforce. Canterbury and Southland are considered by industry to have better rules.
3.5.5.2	Discharges of feed pad & stand-off pad effluent	PA: Requires change as there is a conflict with 3.5.5.3 as the wording allows for discharges from piggeries to land if the controlled activity loading rate is complied with. Not working well farmers do not understand the reason for the sealing rule. This rule has raised the profile for FDE application but it fails to give certainty to the farmers, it is poorly understood and difficult to enforce.
3.5.5.3	Discharge of pig effluent	CA: Some of the conditions are the same as for the PA rule 3.5.5.1 and have the same problems. In addition free range piggeries are not captured, but they can impact on water quality in similar ways to intensive dairy farming.
3.5.5.5	Discharge of treated effluent	DA: Regularly implement this rule for the oxidation pond systems. Allowing these systems is unlikely to be achieve improvement / restoration of water quality in Waikato Region. Oxidation ponds are largest source / footprint of nutrient loss from these farms (DairyNZ research). However it is difficult to decline applications via this rule and supporting policy. Industry are discouraging direct discharges from oxidation pond systems. Barrier ditch discharges are also authorised by this method and are common on Hauraki Plains - unsealed and provide less effective treatment than oxidation ponds. Therefore t his rule is not working well and is no longer appropriate given national policy, industry view, and JMA responsibilities. There are approximately 300 of these systems remaining in region (9% of dairy farms). Key issues are: increased inputs due to feedpads, increased herd size, poor maintenance and inadequately sized ponds. They often fail 100 g/m3 for SS and BOD. Consideration should be given to rules that promote phasing out of these systems (including barrier ditch systems) e.g. specify strict discharge quality standards, or prohibit them in sensitive catchments.
3.5.5.6	Discharge of untreated animal effluent	PR: needed as back stop and is used in the prosecution process.
3.5.6.2 -.4	Discharges of sludges	PA, CA, DA: These rules have been rarely used.

	etc	
3.5.7.4 - .6	Discharge of Domestic Sewage	PA: Generally workable, but further clarification required on conditions, especially definition of "potable".
3.5.7.8	Discharges of untreated human effluent	PR: A new rule is required to address pump station overflows –as this is not provided for in this rule.
3.5.8.1 - .2	Well and aquifer discharges	PA/ CA: PA regularly used and considered to be very successful, whereas CA for same activity is rarely used.
3.6.4.10	damming of perennial water	PA: has been rarely used.
3.6.4.11	existing diversions and discharges	CA: has been rarely used.
3.6.4.12	wetland and lake level structures	CA: is working well, but only used occasionally.
3.6.4.13	Stopbank diversions/ discharges	DA: occasionally used but needs clarification to remove ambiguity. The discretionary status creates expectation that private stopbanks or diversions are generally acceptable however granting such consents can lead to cumulative effects s e.g. cooks beach. Implementation would be more effective if methods and policies discouraged or more tightly controlled private flood protection to avoid cumulative effects e.g. At cooks beach where several small bunds are likely to be impacting on flood flows.
3.6.4.14 - .17	Dams	DA, N-C, CA: These rules have been rarely used.
3.7.4.6	New drains & deepening of drain inverts	DA: has been rarely used.
3.7.4.7	drainage of wetlands	DA: rare for consent application to be made but illegal drainage is common and results in significant further loss of wetlands. Suggest that drainage of wetlands should not be promoted and that tighter controls for wetland drainage activities are

		recommended.
3.8.4.3 - .6	Drilling	PA, DA: no information on these, not aware of rules being used.
3.8.4.7	Drilling below water table	CA: approx 400 consent s issued per annum. Considered to be a very effective rule.
3.8.4.8 & .9	Drilling below water table	DA, N-C: are used and are considered to be working well.
3.9.4.11	Fertiliser application	PA: while this is used as an education tool it is vague and has no set limits. It needs revamping.

3. Chapter 4: River and Lake Bed Module:

4.2.11.	Fords	DA: rarely used but considered to be working well.
4.2.14.1	lines cables pipelines, ropeways etc	PA: There is no idea of how much this rule is being used. However it is not considered to be specific enough about what it encompasses e.g.,, someone wants to put in waka ama lanes covering 4 hectares and they think they can do it under this rule.
4.2.15.1 &.2	Erosion control structures	PA, CA: the word "combined" in section 1 should be changed to "contiguous" so that it is clearer. Generally the CA is working well.
Rule 4.2.16.1	Channel training structures	CA: is rarely implemented.
4.2.17.1	Monitoring and sampling structures	PA: unable to assess workability
4.2.18.1	Maintaining access for river control	DA: occasionally used – generally working well.

	purposes	
4.2.20.3	Removal or demolition of structures	CA: Rare that this rule is implemented on its own. Removal or demolition of structures is usually associated with construction or replacement of structures therefore single consent issued under controlled activity bridge or culvert rule.
4.2.4.4	Structures: Beds of Rivers and Lakes	DA: Imperative to have a catch all rule like this to capture activities not explicitly identified. Generally working well.
4.2.5.1 & .2	Existing Lawfully Established Structures	CA, PA: PA rule provides an appropriate level of control for existing structures therefore question need for resource consent to alter existing structure. Most s13 structures are entirely replaced or minor alterations required (PA rule applies).
4.2.8.1	Bridges	PA: At 10m it is cheaper to install a culvert so rarely used.
4.2.8.2	Bridges	CA: Regularly implemented. It is a straightforward, clear rule. Challenge for farmers is to assess 1 in 50 year flood event themselves. WRC (RCS) does this for application.
4.2.8.3	Bridges	RDA: rarely implemented as mostly use CA rule.
4.2.9.1 & .2	Culverts	PA: Rules are widely used but monitoring suggests that they are not complied with as farmers do not understand the importance of culvert placement for fish passage or erosion. Could work if supported by implementation package.
4.2.9.3	Culverts	CA: regularly implement this rule. It is a straightforward, clear rule and generally works well. Challenge for farmers to assess catchment area. WRC provides assistance in this regard and does so for evaluation process.
4.3.10.1 (?)	removal of obstructions	PA: this rule seems to be working well, may reduce erosion and sedimentation issues on streams by making it easier for some parties e.g., RCS to remove stream blockages/obstruction in a timely manner without consent delays/costs.
4.3.4.4	Bed disturbance	DA: rarely used but a useful catch all method, used when an activity is not covered by any of the other s13 methods.
4.3.5.4	livestock on beds and banks	PA: Very difficult to monitor as stock are spooked by the use of aerial monitoring methods.
4.3.5.5 & .6	livestock on beds and banks	DA, N-C: these rules have not been implemented. Infrequently receive enquiries about this rule but encourage farmers to avoid stock access to waterway at all times. Developing a consent and then monitoring would be a challenge. This method conflicts with industry accord requiring farmers to fence waterways. Wording is unclear and confusing for planners and landowners.
4.3.6.1	Extraction of Bed Material	PA: fundamentally a good idea to permit maintenance of legally authorised structures, but requires tweaking of words and conditions, for example heading to rule includes 'extraction of bed material' but conditions of rule exclude 'extraction of bed material'.

4.3.6.2	Extraction of Bed Material	CA: probably working ok.
4.3.9.2	vegetation clearance	PA: this rule is used in relation to unauthorised activities, complaints etc, some parties (i.e., RCS) have identified when consents are required due to non-compliance issues with this rule. Condition i) concerning sediment discharges is problematical to implement and requires tweaking.
4.3.9.3	vegetation clearance	DA: this rule fails in regards to 'non-significant ' wetland protection, what is a wetland, what could be a wetland etc, also requires a technical determination of 'significance' to interpret the rule.

5. Chapter 5: Land and Soil Module

5.1.4.11	Roading/ Tracking / Vege Clearance	PA: this rule has been used for compliance etc but whole framework for rules around earthworks is a bit too complex and does not have clear cascades/linkages between rules that are obvious to the non-expert user. Tweaks are required if not a re-write.
5.1.4.12	Soil Cultivation Adjacent to Water Bodies	PA: is used for enforcement. Set back is too small and not complied with. Not working as causing issues in Franklin.
5.1.4.13	Roading/ Tracking / Vege Clearance	DA **:** working OK
5.1.4.14	Roading/ Tracking / Vege Clearance	CA: Coastal uses this rule for earthworks associated with dune restoration or seawall construction. A consent requiring rule that contains the limits which determine if a an activity is permitted can be confusing. The definition of HREA needs to be improved – e.g., where the coastal frontal dunes have largely been flattened it can be difficult to determine when to apply this rule.
5.1.5	Conditions for PA rules, and Standards and Terms for CA rules	used frequently in relation to permitted activities, determining compliance and standards required. The table requires tougher and more prescriptive standards wherever possible.
5.2.5.1 - .6	Overburden/ cleanfill Disposal	PA, CA, DA: overlaps currently exist between cleanfill, earthworks and overburden rules - requires more work to remove all overlap.
5.2.5.7 & .8	Discharge of Sediment and Vegetation	PA, CA: rules working fine.

5.2.6.1 & .2	Dumps/ offal holes	PA: Rarely implemented, unable to assess workability. Abatement Notices periodically issued. Mostly used in relation to incidents of commercial enterprises 'dumping' on land to avoid incurring usual associated costs.
5.2.6.3 & .4	Dumps/ offal holes	CA: these rules have not been implemented.
5.2.7.1 & .2 & .3	Landfills	DA, CA**:** Rules seem to work. Might be worth having a PA rule for very small closed landfills.
5.2.8.1 & .2	Composting	PA: Rules seem to work but usually ignored as composting is usually beneficial.
5.2.8.3 & .4	Composting	CA, DA: Rules seem to work.
5.2.9.1 & .2	waste oil and dust suppressants	PA, N-C: Not an issue other than waste oil is now processed so that it has no greater level of contamination than virgin oil.