Report No.	17-143
Decision Required	

IMPLEMENTATION OF INTENSIVE LAND-USE RULES UNDER THE ONE PLAN

1. PURPOSE

1.1. The purpose of this paper is to update Members on changes to intensive land-use consenting processes, required as a result of the recent Environment Court declaratory proceedings. The paper outlines the process we are to apply in considering consent applications, and our understanding of the likely implications of that process for applicants.

2. EXECUTIVE SUMMARY

2.1. The Environment Court's declarations, in effect, confirm that the One Plan requires all existing intensive land use in target catchments to meet the cumulative nitrogen leaching targets specified in Table 14.2 of the One Plan no later than 2020, and earlier in many areas. Throughout the Region, conversions to intensive land use can only be consented where they meet Table 14.2 for the full term of the consent. Exceptions will be difficult to justify.

2.2. A consenting process is now in place that aligns with the Court's direction. Revised application forms and guidance material have been prepared, and are attached to this Report.

2.3. Considerably more information will now be required for applicants to lodge an application for intensive land-use consent. Officers are working to make information we hold more readily available. Even so, many farmers will require input from several technical experts, and may struggle to gather the evidence required for a complete application.

2.4. Our current understanding is that a significant number of existing farms are likely to be unable to meet the One Plan's nitrogen-reduction requirements while remaining economically viable. No practicable consenting pathway exists for these activities. Further advice is being sought on likely social and macroeconomic impacts.

2.5. A plan change appears necessary to resolve this impasse. This would require additional resource, and would be at least a year away from becoming operative.

3. RECOMMENDATION

That the Committee recommends that Council:

a. receives the information contained in Report No. 17-143 and Annexes.

b. notes that consenting processes for intensive land-use activities (including applications forms and guidance material) have been amended, in line with the Environment Court's direction;

c. notes that preparation of an adequate application for Restricted Discretionary consent will be technically challenging for applicants;

d. notes that the circumstances under which a Restricted Discretionary consent can be issued are limited, and that no practicable consenting pathway appears to exist for a significant number of affected farms;

e. instructs Officers to investigate plan change options.

4. FINANCIAL IMPACT

4.1. Current work is being carried out within existing budgets. Should Council embark on a plan change process, significant costs will be incurred.

5. COMMUNITY ENGAGEMENT

5.1. The intensive land use policies and rules in the One Plan are contentious. Officers have kept famers informed of progress via the Council's Dairy E-news. Several workshops have been held with rural consultants, most recently on 27 July 2017. Further engagement with both groups is planned following this advice to Council.

5.2. Staff have also met with Federated Farmers, Horticulture New Zealand and the Federation for Arable Research.

5.3. Staff attended a farmers drop in day organised by Dairy NZ in Dannevirke.

5.4. The Chair, Chief Executive and Group Manager Strategy and Regulation have met with the Mayor of Tararua District Council and the Tararua Economic Impact Society

5.5. Officers responded in detail to a letter from Fish & Game and the Environmental Defence Society on June 8th setting out Council's detailed response to the planning and legal letter previously received from Fish and Game and the Environmental Defence Society.

5.6. The Chief Executive further wrote to Fish and Game and the Environmental Defence Society updating them on implementation and offering to meet. This letter is attached as Annex B. A response was expected from Fish and Game as this agenda item was being finalised.

6. SIGNIFICANT BUSINESS RISK IMPACT

6.1. Initiating a plan change process can be costly and is a significant step for Council. Whilst this paper does not recommend that Council notify a prepared plan change it does recommend to Members that officers be instructed to prepare options for plan change.

6.2. A plan change will likely require Council to consider how it funds a plan change and the pathway it chooses to consider in initiating a plan change.

6.3. In the meantime Council is faced with the potential for a legal challenge over progress with implementation given there are existing intensive land uses that are not currently consented and would appear unlikely or unable to be consented under the current plan.

7. BACKGROUND

7.1. This paper contains a long series of annexes. For clarity these annexes are listed below:

Annex A One Plan Chapter 14 rules and policies for intensive land use

Annex B Letter of 26th July to Fish and Game and the Environmental Defence Society

Annex C Planning opinion on consenting pathways for intensive farming - Enfocus

Annex D One Plan – Intensive Farming land use activities – van Voorthuysen

Annex E Application - overview

Annex F Application – cover sheet

Annex G Application – activity description

Annex H Application – activity assessment

Annex I Application – nutrient management plan

Annex J Application – guide

Annex K Application – guide to RMA

Annex L Application – measures not covered through Overseer

Annex M Memo on AEE – van Voorthuysen

Annex N GSL modelling – Barrie Riddler

Annex O Impact of One Plan rule – Terry Parminter

7.2. The One Plan is a combined regional policy statement and regional plan that sets out the policy and rules for managing natural resources in the Horizons region.

7.3. The plan became fully operative on 19 December 2014.

7.4. The majority of the plan has not been contentious and officers continue to implement the plan across a wide range of activities and generally with good community acceptance. Essentially the majority of the plan has become business as usual.

7.5. The most contentious area of plan during both its development and implementation have been policies and rules requiring land use consents for intensive agriculture. The rules are primarily designed to limit the loss of diffuse contaminants to water and have a strong emphasis on nitrogen leaching.

7.6. A number of other regional plans around New Zealand have sought to tackle the issue of diffuse nutrient loss. It would be fair to say that a number of these plans have been informed by the challenges faced in implementing the land use policies and rules in the One Plan in the way they are being designed.

7.7. The intensive land use rules were first considered by the One Plan commissioners but their decision was appealed to the Environment Court and then to the High Court. Ultimately it was the Courts that decided the final approach in the One Plan to the policies and rules for intensive land use.

7.8. Council was concerned to continue to progress improvements to water quality and also of the impact of the operative policies and rules on communities.

7.9. The policies and rules for intensive land use are attached to this report as Annex A.

7.10. The plan evaluation process that has been previously reported to Council has already identified weaknesses in the construction of the One Plan and the likely need for Council to consider a plan change in order to give effect to the National Policy Statement for Freshwater Management.

7.11. The Environment Court's declarations of 21 March 2017 clarified matters that must be considered in relation to intensive land-use consents under the One Plan. Council has previously been briefed on the substance of those declarations.

7.12. Applicants must satisfy a number of requirements before their resource-consent applications can be considered by Council. These include: undertaking an assessment of environmental effects (AEE), which takes into account cumulative effects; assessing the proposed activity against the relevant objectives and policies of the One Plan; consideration of alternatives; and an assessment against the National Environmental Standards for Sources of Human Drinking Water (NESHDW) 2007.

7.13. Council staff must then consider a number of factors in making a decision. We must make a robust assessment of the relevant objectives and policies of the One Plan and of the National Policy Statement for Freshwater Management (NPSFM); consider sections 105 and 107 of the Resource Management Act (RMA) 1991; and assess the effects against the NESHDW. We are to consider the environmental effects (including cumulative effects) of the application, and the extent of non-compliance with the cumulative nitrogen leaching

maxima (CNLM) identified in Table 14.2. In the event that CNLM are not achieved, Council is to assess the impact of the activity on Schedule B values and Schedule E targets.

7.14. Further, the Court instructed that numerical nitrogen leaching restrictions must be imposed as a condition of consent. Specific conditions relating to other contaminants, such as phosphorus and sediment, may also be required.

7.15. The Court made clear that Council *cannot* consider certain matters in determining an intensive land-use consent. Principle among these is the economic impact of any conditions imposed (such as reducing nitrogen leaching to the levels specified in Table 14.2). Put simply, economic and social effects are not matters over which discretion is reserved under the relevant rules; as such, they cannot form part of the decision-making process.

7.16. Changes to the consenting process to align with the Court's instructions have been a major focus for the Regulatory Group over the past four months. Work to date has confirmed the two major challenges presented by the One Plan's nutrient management framework: whether a viable consenting pathway exists for farms unable to meet Table 14.2; and, if such a pathway exists, whether applicants will be able to produce the information necessary to support such an application. These issues were outlined in Report 17-98, presented to this Committee on 7 June 2017.

7.17. As signalled to members in June, work has proceeded on three tracks:

- Ensuring process and documentation are legally robust and practically workable;
- Understanding what is required to generate a consent application that satisfies consenting requirements, and the likely impact on individual applicants and community as a whole; and
- Communication and engagement.

7.18. We indicated that, by the time this Committee next met, we would have completed work to revise consenting processes and documentation. We also undertook to update Members on the likely impact of those changes.

8. HORIZONS' OBLIGATIONS

8.1. This section addresses Council's statutory duty to give effect to its plan. Council is required to process consent applications, in accordance with the relevant legal and planning provisions, and to enforce others' compliance with those provisions. The following paragraphs outline the decision-making process we are required to follow. This advice is supported by the expert planning opinions of Mr Gerard Willis (Annex C) and Mr Rob van Voorthuysen (Annex D).

8.2. This section is *not* a commentary on the practicability of the plan as it stands. Whether the process described here provides a viable consenting pathway for affected properties is addressed separately, in Section 9 below.

8.3. Revised application forms and guidance material have been produced for intensive land-use consenting. These are attached as Annexes E-L. They have been externally peer reviewed to ensure they fulfil our legal obligations.

Applications that meet Controlled Activity requirements

8.4. The consenting process for activities – whether existing activities or conversions – that meet the Controlled Activity conditions remains relatively unproblematic. If intensive farming activities meet the matters of control listed in Rule 14-1 / 14-3, the Council *must* grant the resource consent and *may* impose conditions related to the matters of control.

8.5. The Court has instructed that all applications are to include an AEE and an assessment of the relevant objectives and policies of the One Plan and of the NPSFM. In accordance with

the NESHDW, applicants must also identify any human drinking-water sources that may be affected by the activity and the extent of any such effects. These requirements have been incorporated into the revised application forms.

8.6. It should be noted that, for activities in target catchments, the 'clock' on Table 14.2 starts on the date specified in Table 14.1 – not, for instance, on the date on which application for consent is lodged or when the consent is granted. The Mangapapa target catchment has just entered year 4; the Upper Manawatū target catchment is now in year 2. This is likely to have a limited impact in the context of Controlled Activities, but becomes more challenging in relation to applications for Restricted Discretionary consent (discussed below).

Applications that do not meet Controlled Activity requirements

8.7. Difficulties arise primarily in relation to activities that do not meet Controlled Activity requirements. Under the plan, all such activities are required to apply for a Restricted Discretionary consent. The Council can only decline consent, or impose consent conditions, in relation to the matters over which discretion is reserved.

Existing Use: clear Restricted Discretionary pathways

8.8. The One Plan's policies provide guidance as to how that available discretion should be exercised. The plan envisaged, and provides a pathway to consent for, existing operations that found themselves in the following situations when the rules came into effect:

- CNLM *are* met, but other matters of control (e.g. stock crossings) are not;
- CNLM *are not* met immediately, but will be met within four years;
- CNLM *are not* met, but half or more of the property comprises LUC IV to VIII and has an average annual rainfall of 1500mm or greater.

8.9. In each of these cases, an assessment of objectives and policies will be required, along with a thorough AEE. This will need to address particularly carefully the environmental effects associated with the Controlled Activity conditions that the applicant is unable to meet (e.g., the effects of a four-year delay in reaching the target nitrogen leaching levels). If the environmental effects can be shown to be acceptable, then a Restricted Discretionary consent may be granted.

Existing Use: Where no clear policy pathway exists

8.10. It is questionable whether a consent can be issued for an intensive land-use that neither meet Controlled Activity requirements nor fall into one of the categories listed at 8.8 above. This situation does not appear to have been foreseen in the One Plan's drafting – or, at least, it does not appear to have been foreseen that significant numbers of applicants would fall into it.

8.11. While the matters over which discretion is reserved under Rule 14-2 (and 14-4) include *the extent of non-compliance with the CNLM*, the challenge for planners is deciding how that discretion should be exercised. Any decision to grant consent where Table 14.2 is to be exceeded beyond the fourth year would hinge on reading Policy 14-6(c) separately from 14-6(b). There is an argument for this, but it is highly contestable.

8.12. Even were we to read Policy 14-6(c) separately from 14-6(b), a number of other directive policies in the One Plan (e.g. 5-7, 5-8, 14-5) make it difficult to justify exceptions. Since the activity (and its putative effects) departs from the framework envisaged by the plan, a more robust case would need to be made. The applicant will need to show that water quality is enhanced to meet either the Schedule E targets or the Schedule B values (that the targets are designed to protect). A series of questions are relevant in determining the sustainable limits for the resource including:

- The nature and cause of existing cumulative effects in the sub-zone;
- the significance of any such effects (impact on Schedule B values);

- the point at which those effects become unacceptable in that sub-zone;
- the reliability of the evidence regarding the cause and impact of existing effects;
- whether existing cumulative effects are already such that no further consent should be granted, or such that later consents should be granted with more stringent conditions;
- the likely nature and degree of the additional cumulative effect caused by the proposed land-use activities; and
- whether the cumulative effects of the additional nutrients can be adequately avoided, remedied or mitigated by way of conditions and adaptive management.

8.13. The responsibility for demonstrating these effects rests with the applicant. Moreover, any such application is likely to be notified. While a pathway *may* legally exist, it is likely to be *very difficult* in practice to apply. It will be viable for rare exceptions, if at all.

Conversions: Restricted Discretionary pathways

8.14. As has been noted above, if applications for new intensive land-use activities meet the Controlled Activity conditions, resource consent must be granted. This does not differ substantially from the situation with existing activities. It also makes no practical difference whether a proposed activity is inside or outside a target catchment.

8.15. If, however, a proposed conversion does not meet the Controlled Activity criteria, no provision exists to extend timeframes to meet CNLM. This is because the Policy 14-6(b) exceptions apply only to existing intensive land uses.

8.16. Consideration of any application for consent under Rule 14-4 (Restricted Discretionary conversion) is extremely difficult, due to the same directive policies mentioned in paragraph 8.12 above. If Schedule E targets are currently met in the relevant water management sub-zone, the applicant would have to show that water quality is *maintained* – that is, that the proposed activity does not make matters worse. If water quality in the catchment does not meet the Schedule E targets (which by definition includes, but is not restricted to, all target catchments), the applicant would need to demonstrate that the proposed activity could be operated in a way that *enhances* water quality.

8.17. Where CNLM are met, but other conditions are not, this would require a thorough AEE. That assessment would need to focus particularly on the areas of non-compliance (for example, fertiliser application, or how feedpads are used) and their associated effects. This should be achievable, albeit at increased cost. Indeed, the fact that Rule 14-4 (enabling a Restricted Discretionary pathway for conversions) exists alongside Policy 14-5(e) (requiring *all* conversions to meet Table 14.2) suggests that the plan's authors envisaged just this situation arising.

8.18. Where CNLM are *not* met, especially within a target catchment, it is very difficult to see how the proposed activity would enhance water quality – except, perhaps, if it could be demonstrated that the prior 'non-intensive' land use had a greater environmental effect (including, specifically, on Schedule B values and Schedule E targets) than the proposed 'intensive' activity. The considerations an applicant must address would mirror those outlined above at 8.12. The case, if anything, is more difficult because of Policy 14-5(e), mentioned above.

Industry compliance

8.19. These difficulties notwithstanding, the legal requirement for intensive land uses to obtain consent in order to continue to operate remains. Under the RMA, an existing activity may continue without consent for six months after a rule requiring consent come into effect (RMA section 20A). That period has now passed in all target catchments. All intensive land uses in those areas that have not yet sought consent are thus unauthorised.

8.20. This is tempered by the reality that the timeframes laid out in Table 14.1 for catchment consenting have proven to be unachievable. Neither Council nor industry has the resource to prepare and process resource consents at the rate the plan envisaged. Unforeseen difficulties with the rule framework only exacerbate this situation.

8.21. Given the practical difficulties with continued implementation of the consenting process, we are conscious that any regulatory action must be carefully considered. To this end, legal advice is presently being sought to provide guidance to staff.

9. APPLICANTS' ABILITY TO OBTAIN AND EXERCISE CONSENT

9.1. The next question to be addressed is the workability of the framework described above from an applicant's perspective. There are two dimensions to this: the feasibility of preparing a suitable application, and the feasibility of exercising the resulting resource consent. These will be addressed separately.

Obtaining consent

9.2. Applicants will need to include substantially more information in their consent applications than they have hitherto. This includes explicit assessment against the objectives and policies of the One Plan and the NPSFM, the NESHDW, consideration of alternatives, and an AEE.

9.3. These requirements apply to all consent applications – whether Controlled Activity or Restricted Discretionary, whether existing use or conversion. For activities that do not meet the Controlled Activity conditions, more information is required. The further the proposed activity departs from the plan's presumptions, the more scrutiny consent planners are required to exercise, and therefore the greater the need for supporting evidence.

9.4. The RMA requires (and the Court has confirmed) that AEEs are to be prepared by the *applicant*. The Court has instructed that AEEs are to consider both the effects of the individual operation to be consented, and cumulative effects across the catchment. Such effects may need to be considered at multiple scales: the farm's local tributary, the target catchment, the river system as a whole, and potentially the coastal-marine area.

9.5. Our understanding of catchment dynamics continues to evolve, and the pieces do not always fit together neatly. The very uncertainties that have opened a gap between Table 14.2 and current OVERSEER estimates are likely to make it difficult in the extreme for an individual applicant to demonstrate (for better or worse) the cumulative effect of land use on instream values – indeed, this is an area that remains challenging for Council itself, notwithstanding the substantial resource we dedicate to it.

9.6. Horizons may be able to assist by making the information it holds on cumulative effects more readily available to applicants, in the form of catchment summaries. We are presently working to produce such a summary for the Upper Manawatū catchment – both to assist applicants in that area and as a template for other catchments. This, tentatively, will cover state and trend of water quality indicators, and their consistency with One Plan targets; total nutrient and sediment loads, and source attribution. These summaries will have their limitations: we expect that applicants will have to undertake significant investigation to assess the effects of their particular operation.

9.7. It is estimated that a Controlled Activity application (pathway A) will cost around $10,000 to prepare (roughly three times the cost of preparing a Controlled activity consent application to date). This could still be completed by the farm consultant, after some training on planning and AEE matters.

9.8. Producing the necessary information to support applications for Restricted Discretionary consents is likely to require the involvement of technical experts such as planners and environmental scientists as well as a farm consultant. As a result, the cost to the applicant

is likely to be in the order of $20,000–30,000. Costs associated with notification (if required), and Council processing, would be in addition to that figure.

9.9. There remains some doubt as to whether it is technically *possible* to produce an AEE sufficient to support an application for an activity that is unable to reach the Table 14.2 maxima.

9.10. This represents a significant increase in cost and complexity for the applicant. Mr van Voorthuysen has expressed concerns about the workability of the process for applicants (attached at Annex M). This may be the direction that environmental regulation is inevitably taking. We have recently seen an example of an application for conversion of a medium-sized property to dairy in another region: it was several centimetres thick and represented the work of at least five different technical specialists.

Exercising consent

9.11. One inexorably arrives at the conclusion that, other than the small number to which Policy 14-6(b)(i) applies, the One Plan does require that all farms reduce their leaching to the levels specified in Table 14.2 within four years of the Table 14.1 dates. Should they fail to obtain consent, or fail to comply with nitrogen limits to be written into their consent, Council staff will be required to consider enforcement action.

9.12. This, of course, was broadly what the Court intended when it wrote this part of the plan. Judge Thompson stated in his 2012 decision on the then-proposed One Plan (paragraph 5-8):

"We will never know all there is to know. But what we undoubtedly do know is that in many parts of the region the quality of the natural water is degraded … We also know what is causing that decline, and we know how to stop it, and reverse it. To fail to take available and appropriate steps … would be inexcusable."

9.13. Whether the One Plan's policies are 'right' and Table 14.2 set at the correct level is a question for plan review. The reality in the interim is that significant numbers of farms are likely to have estimated nitrogen leaching rates well in excess of the relevant CNLM. What is the likely effect of having to change farming systems to achieve year 1 target leaching rates no later than 2020 (and earlier in many catchments)?

GSL modelling

9.14. Work conducted for Horizons by Barrie Ridler in 2016 suggested that for many farms, reductions in nitrogen leaching were possible without compromising profitability. A version of his report, redacted to remove details of specific properties, is attached at Annex N.

9.15. The key to this is farm-system optimisation. A series of measures aimed at making more efficient use of resources (reducing cow numbers, eliminating brought-in feed, increasing effluent area, grazing off, etc.) can produce better environmental and economic results.

9.16. A crucial caveat is that Mr Ridler's brief was *not* to model the effects of operating at any particular nitrogen-leaching rate. The study's purpose was to inform evaluation of how well the One Plan is meeting the intent of Policy 5-8 (achieve water quality strategies; recognise the productive capability of land; be achievable on most farms through good management practice; provide appropriate timeframes for large changes). For each of the three farms modelled in the Tararua District, the 'optimal' point identified by this study was well above Table 14.2. For the two farms modelled in the Rangītikei, the optimal level fell below Table 14.2. This is illustrated in Table 1 below:

Area	Base N-loss (kg/ha)	Optimised N-loss (kg/ha)	Change in profitability
Mangatainoka (dairy)	66	40	+22%
Mangatainoka (dairy)	62	45	+21%

Mangatainoka (dairy)	47	20	+30%
Rangītikei (dairy)	26	23	+27%
Rangītikei (dairy)	20	13	+437%

Table 1: Optimised N-leaching rates for five farms, GSL modelling

Farmax modelling

9.17. More recently, we commissioned Terry Parminter to investigate the financial implications for farmers of meeting the requirements set out in this paper (see Annex O).

9.18. Whereas Mr Ridler looked at optimisation of five specific dairy farms, Dr Parminter looked at six modelled scenarios: Four dairy farming systems under conditions typical of the Tararua District and two arable farm systems typical of the Rangītikei. A 'farm management' approach was taken, to determine the costs to individual farmers of obtaining and implementing their land-use consents. This analysis was reviewed by Dr Katie Bicknell (Lincoln University), and is a common approach to exploring the farm-level impact of policy changes.

9.19. The nitrogen-loss targets Dr Parminter uses mimic year 20 targets for soils typical of the area in question. Most of the reduction required is to reach the year 1 target, with the lid sinking relatively slowly (and slightly) after that.

Area	Base N-loss (kg/ha)	Target N-loss (kg/ha)	Change in profitability
Tararua (self-contained dairy)	32	18	-61%
Tararua (low-intensity dairy)	42	17	-42%
Tararua (medium-intensity dairy)	54	17	-24%
Tararua (high-intensity, irrigated dairy)	64	17	-25%
Rangītikei (arable, with livestock)	45	20	-48%
Rangītikei (arable, with potatoes)	50	19	-64%

Table 2: Change in profitability for six farm systems to comply with CNLM, Farmax

9.20. All farming systems were required to reduce their stocking rates to reach target nitrogen levels. All farming systems became less profitable, by between 24 and 64 percent (see Table 2 above). The arable farms modelled, and the two lower-intensity dairy systems, would struggle to survive; to do so, they would have to operate with significantly less debt than is typical. Return on investment would likely be insufficient to attract off-farm investment – restricting their ability to introduce the systemic changes necessary to operate at target leaching rates.

9.21. While the more-intensive dairy systems also became significantly less profitable, they would likely still be in a position to service their debts and deliver an adequate return on investment. This would involve measures such as installing a covered barn – so that even as they reduced stocking rates, these farms would become more capital-intensive.

9.22. Realistically, farms would likely need a number of years to put all the mitigations in place. This is not only due to the capital investment required; operating at a reduced stocking rate requires careful pasture management, implying a step up in monitoring infrastructure and probably also expertise. They would thus require a Restricted Discretionary consent.

Anticipated farm-scale effects

9.23. A large proportion of farms left to be consented (approximately 140) are in the Upper Manawatū. Most are likely to have estimated leaching rates well above Table 14.2; most will broadly mirror the two lower-intensity dairy systems modelled by Dr Parminter.

9.24. There are methodological differences between the reports. Both necessarily involve constraints and assumptions. This should not distract from the bigger picture. Accepting Mr Ridler's findings, affordable on-farm improvements to reduce nitrogen leaching will be possible in many cases. Driving reductions in nitrogen leaching to Table 14.2, however, would drive many farms well beyond the point of optimisation.

9.25. Dr Parminter's study suggests that many farms would not survive the magnitude and pace of change the One Plan requires. The farms likely to be more resilient, paradoxically, are the *more intensive* ones, even as stocking rates decline. Less intensive operations are unlikely to be able to attract the investment they need or provide their owners with financial security.

9.26. Although this is, perhaps, suggestive of the direction of travel of the industry nationally, at a local scale the rate of change could be expected to cause significant economic and social disruption. Those wider effects will be the focus of a further block of work currently being commissioned.

10. CONSULTATION

10.1. Planning aspects of this report have been informed by advice procured from Gerard Willis and Rob van Voorthuysen – both respected independent planning experts. Updated consent application forms and guidance material have been reviewed by Buddle Findlay to ensure it complies with the Court's directions. Our understanding of the likely impacts on typical farming operations draws on advice from Dr Terry Parminter, in particular, and also an earlier report produced by Mr Ridler.

10.2. We have sought to engage with representatives of Fish & Game and the Environmental Defence Society (including their planning practitioners) to check that our understanding of the process requirements aligns with theirs; they have not yet responded to that invitation.

11. NEXT STEPS

11.1. In his commentary on the recent Declarations (paragraph 185), Judge Thompson made it clear that, if Council had concerns about any part of the plan, it should propose changes to it. It seems hard to avoid the conclusion that a plan change is what we now face.

11.2. Issues go beyond the obvious difficulties with consenting dairy farms. Land treatment of Foxton's wastewater – in accordance with Policy 5-11 of the One Plan – is problematic because the proposed 'conversion' cannot meet CNLM as required by Policy 14-5. This seems a perverse outcome, and may affect other proposals to discharge wastewater to farm land.

11.3. We have previously advised the Committee that a broad programme of plan review will be necessary to fully give effect to the NPSFM, and to address unforeseen consequences of the way the One Plan was drafted. We may, in due course, wish to consider a fundamental rethink of the plan's approach to nutrient management. That, however, is several years' work and beyond the scope of this paper. It is necessary, but will not resolve the more immediate impasse we face with intensive land-use consenting.

11.4. Relatively small, targeted amendments could address the more pressing inconsistencies between objectives, policies and rules, providing a viable pathway to bring farms into a consenting regime. To achieve this reasonably swiftly, we must remain focused on addressing the immediate issues as surgically as possible – and set aside wider changes to the nutrient management framework or intended water quality outcomes for another day.

This means, among other things, continuing to work towards achieving Schedule E targets where they are not met, and maintaining them where they are.

11.5. Any plan change proposal must be supported by analysis of the policy's anticipated environmental, economic, social, and cultural effects. By convention, this includes consideration of the status quo. The information discussed in this paper will feed into that policy analysis. Further work is being commissioned to better understand effects on the horticultural sector, and on a wider social and macroeconomic scale.

11.6. The Resource Legislation Amendment Act 2017 introduced alternative processes for plan change – a 'streamlined' planning process and a 'collaborative' planning process. We are currently working through the details of those provisions, and will provide further advice to Council on the relative merits of the available options.

11.7. Whichever process we adopt, it is likely to be at least twelve months before any change could be made operative. No plan change that deals with nutrient management – however 'surgical' its intended effect – will be straightforward.

11.8. The major hurdle, in the interim, is how to deal with existing intensive land-use activities for which no viable consenting pathway presents itself. Management is seeking further legal advice on our best approach. We will keep Members informed of progress.

12. SIGNIFICANCE

12.1. This is not a significant decision according to the Council's Policy on Significance and Engagement. Triggering the Council's significance policy under the Local Government Act would mean a need for Council to consult on an issue. Triggering a plan change under the Resource Management Act results in the need for public consultation. Council has not triggered a RMA process via the recommendations in this report.

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ANNEXES

A One Plan Chapter 14 rules and policies for intensive land use
B Follow up letter to Fish & Game dated 26 July
C Planning opinion on consenting pathways for intensive farming
D Intensive farming land use activities
E Nutrient management consenting overview
F Application: Cover sheet
G Application: Activity description
H Application: Activity Assessment
I Farm nutrient management plan template
J Guide to preparing an AEE
K Statutory Provisions
L Mitigations outside OVERSEER
M Memo on AEE
N The feasibility of nutrient leaching reductions (redacted)
O An impact assessment of One Plan policies and rules