

**IN THE ENVIRONMENT COURT
AT WELLINGTON**

**I TE KŌTI TAIAO O AOTEAROA
KI TE WHANGANUI-A-TARA**

Decision [2026] NZEnvC 131

IN THE MATTER

of four appeals under cl 14 of Schedule 1
of the Resource Management Act 1991

BETWEEN

TE RŪNANGA O RAUKAWA

(ENV-2021-WLG-000020)

NGĀTI TURANGA

(ENV-2021-WLG-000021)

ANDREW EDWARD DAY

(ENV-2021-WLG-000022)

WELLINGTON FISH AND GAME
COUNCIL

(ENV-2021-WLG-000023)

Appellants

AND

MANAWATŪ-WHANGANUI
REGIONAL COUNCIL

Respondent

AND

FEDERATED FARMERS OF
NEW ZEALAND
HORTICULTURE NEW ZEALAND
ROYAL FOREST AND BIRD
SOCIETY OF NEW ZEALAND INC
VIVIENNE TAUEKI

Section 274 Interested Parties

Court:

Environment Judge L J Semple
Environment Commissioner K A Edmonds

Hearing:

On the papers

Last case event:

1 April 2026

MWRC ONE PLAN: PROPOSED PLAN CHANGE 2 APPEALS



Date of Decision: 10 June 2026

Date of Issue: 10 June 2026

DECISION OF THE ENVIRONMENT COURT

- A. The March 2026 provisions, as amended in accordance with the directions set out in this decision at paragraphs [34], [35], [45], [46], [48], [54], [56] and [61], are approved.
- B. Costs are reserved in accordance with [75].

REASONS

Background

[1] The Court's Interim Decision was delivered on 9 December 2025. It directed the Council to provide a peer review of aspects of the use of Overseer and directed the legal and planning experts to work together to draft amendments to the One Plan provisions to give effect to the Court's determination.

[2] In response to the matters raised in the Court's Interim Decision, the following documents were provided to us:

- (a) a peer review of the Overseer reference file approach filed with the Court on 13 March 2026 (the Overseer Review)¹ in response to paragraph [415[(a)]] of the Interim Decision.
- (b) a memorandum of counsel for the Respondent filed with the Court on 1 April 2026 with:

¹ Jean-Paul Tavernet *Technical Report: Compatibility of the Reference File approach with Overseer version updating procedures* (Overseer Ltd, 6 March 2026) (Overseer Review).

- (i) amended PC2 provisions (March 2026 provisions).
- (ii) an updated s 32AA evaluation prepared by Mrs Foster (the s 32AA evaluation).

[3] The 1 April memorandum advised that the parties involved in the drafting process² had worked constructively together to address the matters set out in paragraph [415(b)] of the Court's Interim Decision with only a few matters where the parties had differing views on how to best address the issues raised. Where there were differences in opinion on the most suitable drafting, alternative options were provided.

[4] The memorandum also suggested that the Court might hear further from Te Rūnanga o Raukawa in March. The reporting date for these matters has now passed by some margin and it is important that these provisions are finalised and made operative. We have proceeded accordingly.

Overseer Review

- [5] The Interim Decision asked the Council to consider the extent to which:
- (a) the proposed approach taken in PC2 remains compatible with the internal model upgrading procedures currently used by Overseer Ltd, or whether further amendments are required.
 - (b) comparison with baseline values will be possible using the new Overseer Ltd system, recognising that data from 2012/2013 may not be available; and
 - (c) the reference file method will appropriately address existing consented activities and amendments to 75th percentile values.

² Wellington Fish and Game, Mr Andrew Day, Ngāti Turanga, Forest & Bird, Horticulture New Zealand the Regional Council. (Federated Farmers were excused from conferencing, indicating that they would abide the outcome of the conferencing process.)

[6] The Council was also directed to provide to the Court “a technical peer review of any reference file method included in PC2 undertaken by an appropriately qualified and experienced independent expert unless it has already been done”.

[7] In the Overseer Review provided to us, Dr Tavernet confirmed that the proposed reference file approach in PC2 is structurally compatible with Overseer’s version-upgrading procedures and Overseer’s standard deployment and governance processes.

[8] As Dr Tavernet explained, the reference files used for the CNLMs and 75th percentile figures retain their fixed inputs, so recalculated output values are automatically generated under each new model version. This ensures consistency with farm analyses across versions, which is the overarching goal of the approach.

[9] Dr Tavernet concluded that the method remains technically, and administratively workable and the proposed version control processes and traceability measures are considered to be effective. Dr Tavernet also advised that operational experience from Bay of Plenty Regional Council indicated that the approach will be straightforward to administer. No changes to the proposed process were recommended by Dr Tavernet on his review.

[10] We accept the confirmation from the Overseer Review that the reference file approach will work for the 75th percentile reference files, as well as for the Table 14.2 cumulative nitrogen leaching maximums (CNLMs), and that no issues arise in relation to implementation across Overseer versions. We find that no amendments to the provisions that specifically address Overseer are therefore required.

Paragraph [415(b)] matters

[11] Paragraph [415(b)] of the Interim Decision set out a series of questions the Court had relating to the proposed provisions. The 1 April memorandum provided us with commentary on each question together with a cross-reference to the relevant commentary in the March 2026 provisions which we found to be of assistance.

Whether Policy 5-8(a)(iia) should be recast given its role as an RPS Policy.

[12] Amendments to Policy 5-8 are now proposed that better reflect its role as a RPS policy which the regional plan must then implement. This is consistent with our analysis in paragraphs [322]-[326] of the Interim Decision.

[13] In her assessment of the amendments under s 32AA, Ms Foster describes the logic flow of the policy as:

- (a) nitrogen leaching limits are set in the regional plan rules.
- (b) intensive farming land use (IFLU) are to be regulated in accordance with the limits set in the rules (except as provided for by (iia) and (iib)).
- (c) (iia) provides for exceptions for existing IFLU ‘transitioning out’.
- (d) (iib) provides exceptions for all other IFLU; and then
- (e) (iii) provides regulation of new IFLU.

[14] We accept that this provides a better logic flow than the previous policy arrangement. Moreover, we agree that the deletion of the matters that were previously listed within the policy ensures that the focus is now squarely on ensuring existing IFLU activities reduce nitrogen leaching to the maximum extent reasonably practicable in the shortest feasible timeframe. We also note that the matters which were deleted are now more appropriately addressed through the regional plan, and in particular, within Policies 14-5 and 14-6.

[15] Policy 5-8(iib) now commences with the words “Only allow” to make it clear that exceptions to the limits should only be authorised in certain circumstances. The policy makes it clear that the test for decision makers must be whether an application for exception will reduce nitrogen leaching loss to the maximum extent reasonably practicable in the shortest feasible timeframe. Policy 14-6 which sits within the Regional Plan then particularises the matters that will inform that decision. We are satisfied that these amendments address the Court’s concerns.

[16] We note that Policy 5-8(a)(i)(D) now refers to ‘achievable’ in response to paragraph [116] of the Court’s Interim Decision.

[17] We find the revised Policy 5-8 more appropriate for an RPS policy and consistent with the Court’s Interim Decision.

Whether there are changes required to RPS Method 5-13 or other provisions as a result of conferencing.

[18] The Overseer Review confirmed that the reference file approach remains appropriate, with no recommended changes. No changes are, therefore, required to RPS Method 5-13. However, on review of the provisions, the parties have proposed two small amendments to make it clear that the Regional Council will be responsible for implementation of the reference file approach and that the reference file approach will apply to assessing compliance where CNLMs are specified in existing (or better described as historical) consents (in the fourth bullet point).

[19] We accept those changes as more clearly setting out what is required to implement the new regime.

Policy 14-5(d)

[20] The Interim Decision questioned:

Whether Policy 14.5(d) is to require that the nitrogen loss is to be 80% of the land’s nitrogen leaching baseline as in the Closing Provisions or the lesser of 80% of the land’s nitrogen leaching baseline or the 75th percentile nitrogen leaching loss for the relevant water management zone and, if the latter, whether the proposed reference file method is workable. The Court’s expectation, from the evidence heard, was that the 75th percentile “bottom line” would remain.

[21] In response, the Council has confirmed the intention is for the provisions to require nitrogen loss to be the 80% of the land’s nitrogen leaching baseline or the 75th percentile nitrogen leaching limit for the relevant water management zone, whichever is the lesser. This means that an applicant must demonstrate that they can achieve a 20% reduction or meet the 75th percentile limit, whichever is the lesser nitrogen leaching rate. The March 2026 provisions include proposed amendments to Policy

14-5(d) which make this intent clearer and we accept those clarifications.

[22] Other amendments to Policy 14-5(d) are also proposed. This includes specifying the timeframes for commercial vegetable growing (CVG) and other IFLU under Policy 14-5(d)(ii) and other IFLU under (iii) which require:

- (a) an application for consent to be lodged (within 12 months from the operative date of PC2); and
- (b) for the minimum nitrogen leaching reductions to be achieved within two years of the grant of consent.

[23] We are satisfied that these amendments are also appropriate.

Rationalising the expressions 'GMP', 'BMP' and 'additional measures'

[24] The Interim Decision noted the variable use of the terms Good Management Practices (GMPs), Best Management Practices (BMPs) and additional measures throughout the provisions and stated as follows:³

... we conclude that a focus only on the terminology of what might come into each of these categories will not take us far. It is clear to us that the intention is that a large spectrum of matters is identified that may be deployed as required. The important and overriding factor should be the achievement of the outcomes sought, that is to say, a reduction in nitrogen leaching to the maximum extent reasonably practicable in the shortest feasible timeframe.

Accordingly, we direct a review of the definitions of GMP and BMP and "additional measures where required" together with a reconsideration of their use throughout the provisions. Our preliminary view is that the terms might be more appropriately amalgamated. We would expect that any farming practice that would contribute to a reduction in nutrient discharges, whether included in industry guidelines or not, should be considered as part of the solution, without the need to necessarily categorise it as a GMP or BMP or additional measure.

[25] In response to that direction, the parties agreed that the focus of PC2 is on nitrogen reducing activities and that these activities will be inclusive of good management practices, best management practices, and additional measures, at

³ Interim Decision at [392].

different times depending on the circumstances of any particular IFLU activity.

[26] In order to provide for the range of practices that may be required within the plan framework, it is proposed that an Environmental Action Plan (EAP) be included within the provisions. Forming part of the proposed nutrient management plan (NMP), the EAP would set out the different nitrogen reducing practices to be adopted and would include both GMP and BMP as necessary.

[27] Ms Foster describes the requirement for the EAP to reduce nitrogen leaching loss to the maximum extent reasonably practicable in the shortest feasible timeframe as comprising:

- (a) Policy 14-6 clause (b) which requires the implementation of an EAP as a minimum requirement for all applications for consent.
- (b) Policy 14-6 clause (f) which states that discretionary activity applications for exceptions to the rule limits will only be considered where an EAP is implemented to ensure nitrogen leaching loss from the land is reduced to the maximum extent reasonably practicable in the shortest feasible timeframe. This gives effect to the intention stated in RPS Policy 5-8. The requirement of an EAP in this decision-making context is as a mandatory gateway requirement for consideration of discretionary activity applications.
- (c) The shortened list of matters in Policy 14-6(g) which particularises the matters to be given particular regard to in decision-making on applications for exceptions to the rule limits.
- (d) The requirement that applications must include an EAP as a component of a NMP as specified in Rules 14-1 and 14-2 (for existing IFLU that comply with the nitrogen leaching limits) and in Policy 14-6(m) and Rule 14-2A (for discretionary activity applications for exceptions). Rules 14-1 and 14-2 also require the IFLU activity to be undertaken in accordance with the EAP.

- (e) Policy 14-6 (h) and (i) which require implementation of the EAP through conditions of consent where discretionary activity consent is granted for exceptions.

[28] To give effect to that, a new definition of EAP is proposed as follows:

Environmental action plan means a programme of practices and measures included in a Nutrient Management Plan for reducing nitrogen leaching loss from the land, nutrient leaching and run-off, faecal contamination and sediment loss. These may include best management practices and good management practices.

[29] However, as Ms Foster explains in her s 32AA evaluation it is not considered appropriate to change all of the existing references in the provisions to ‘GMP’ and ‘BMP’ because there is either no scope to do so or the amendment would have implications beyond existing IFLU. We accept that.

[30] As such, alongside the new definition of an EAP, it was proposed to retain the existing Decisions Version definition of GMP and amend BMP as follows:

Good management practices refers to practicable measures and methods, including those established in industry-based standards and guidance documents, which are tailored for use at a farm level to minimise the effects of discharges to land and water.

Best management practices means measures, additional to good management practices that are tailored for a farming or growing system to minimise nitrogen leaching loss from the land ~~to the maximum practicable extent.~~

[31] The Interim Decision determined that reducing nitrogen leaching loss to the maximum extent reasonably practicable in the shortest feasible timeframe would require a variety of measures to be deployed. We are satisfied that the EAP has a clear focus on this objective and will enable a range of measures to be considered (subject to the comment below at paragraph [34]).

[32] We reiterate the concerns expressed in the Interim Decision that a “focus only on the terminology of what might come into each of these categories will not take us far” and that in our view “any farming practice that would contribute to a reduction in nutrient discharges, whether included in industry guidelines or not, should be

considered as part of the solution, without the need to necessarily categorise it as a GMP or BMP or additional measure”. We say again that the important and overriding factor should be the achievement of the outcomes sought, that is to say, a reduction in nitrogen leaching to the maximum extent reasonably practicable in the shortest feasible timeframe. We accept that focus is clear in the EAP.

[33] However, within that context we find the definitions of GMP and BMP add very little clarity and risk diverting the focus of plan users into categorising measures rather than pursuing all measures that would reduce leaching to the maximum extent reasonably practicable in the shortest feasible timeframe. That said, given the outcome is clearly stated in both the policy and rule framework we also see little downside in including the definitions, such as they are, within the provisions. Accordingly, we accept the March 2026 provisions in this regard.

[34] Given Policy 5-8(d)(i) requires all IFLU to be regulated to, as a minimum, implement GMPs, it is arguable that the reference to GMPs in the definition of the EAP should say “**must** include good management practices and **may** include best management practices”. We think this highlights the risks of a focus on categorisation of measures and undermines the intention of the EAP which is to encourage plan users to consider all methods and measures to achieve the maximum reduction in leaching which is reasonably practicable. On that basis we consider the last sentence is better deleted from the definition of the EAP and direct this change.

[35] Finally, we note that to be consistent with the overall policy environment described by Ms Foster, Policy 14-3 requires consequential amendment to also refer to best management practices. We direct this amendment.

Recasting Policy 14-6 (e) (b), (i) and (j)

[36] With respect to Policy 14-6 the Interim Decision noted that:

We have significant reservations as to the efficiency and effectiveness of both sets of provisions provided to the Court and particularly whether they provide the most appropriate method of giving effect to the settled objectives of the One Plan and the purpose of PC2.

As we noted in the synopsis, it is not possible to accurately measure or estimate the actual and potential effects of nitrogen leaching loss from individual farming activities on downstream groundwater and surface water quality limits in Schedule E or on cultural and other values in Schedule B. It is therefore important that policy wording does not lead to an expectation that these effects can and must be quantified and addressed for individual activities. We consider that some of the policies in both sets of provisions fall into this category.

The policy framework should provide appropriate guidance on the things that matter in making a decision. A list of everything that can or might be considered assists no-one.

[37] By way of additional guidance, at paragraphs [345] – [347] of the Interim Decision we referred to what appeared to us to be three primary parameters that would need to be provided to inform a decision-maker on an individual consent application:

- (a) The extent to which the SIN water quality target in Schedule E of the One Plan is exceeded in the targeted WMSZ. This has already been established by the Council and can be made available on the Council website.
- (b) The extent of non-compliance with the CNLMs, using a comparison between an activity's CNLM and the Table 14.2 value.
- (c) The contribution of nitrogen leaching loss to the land to cumulative nitrogen leaching loss within the WMSZ, which can again be assessed by comparing an activity's CNLM with a sub-catchment load estimated by the Council and which can be made available on the Council website.

[38] We commented that using (a), (b) and (c) together appeared to allow an assessment of the relative nitrogen contribution from an individual activity to the scale of the nitrogen water quality issue in the Water Management Sub-Zone (WMSZ). As set out in the Interim Decision, this would provide a useful basis for assessment against the existing surface water and groundwater strategies.

[39] In responding to that direction, Ms Foster gave evidence that Policy 14-6 has been restructured by grouping together five sets of matters:

- (a) requirements that apply to applications for consent for existing IFLU;
- (b) the circumstances where discretionary activity exceptions may be allowed;

- (c) matters to have particular regard to in determining discretionary activity applications for exceptions;
- (d) requirements for conditions; and
- (e) information to be included in applications.

[40] The proposed amendments provide that decision makers are required to have particular regard to six matters when considering whether to allow exceptions for existing land use activities that exceed the limits specified in Policy 14-5(d) as discretionary activities. These are set out in Policy 14-6(g) and comprise:

- (a) the state of the receiving environment;
- (b) the extent to which Schedule E soluble inorganic nitrogen (SIN) target for the WMSZ is met or exceeded;
- (c) the surface water management values for the relevant WMSZ, including values held by mana whenua, and the values described in Schedule B and in any relevant treaty settlement document;
- (d) the importance of ensuring the rate of reduction in nitrogen leaching loss required by conditions of consent is proportionate, relative to the extent of the activity's non-compliance with the CNLMs (or the 35% specified reduction value for the activity, in the case of CVG);
- (e) whether all practicable mitigation measures have been proposed or whether additional mitigation measures are required to further reduce nitrogen leaching loss; and
- (f) whether the required reduction in nitrogen leaching loss is achieved in the shortest feasible timeframe having regard to:
 - A. The risk and rate of nitrogen leaching;
 - B. The urgency required to address nitrogen leaching loss; and
 - C. The rationale for the timing and prioritisation of proposed

mitigation measures.

[41] Explanatory notes to the above suggest that explicit reference to values held by mana whenua is included in recognition that “implementation of method 5-15 can inform application of that policy”.⁴

[42] While the amendments made to Policy 14-6(g) are generally consistent with the Interim Decision, Policy 14-6(g)(iii), particularly with the addition of Policy 14-6(k) is discordant. Throughout the Interim Decision, the Court identified issues with assessing the effects of an individual IFLU on broader water quality issues. We said specifically at paragraph [404(d)]:

... it is unrealistic to expect that a meaningful and consistent assessment can be made of the effects of an individual IFLU on the ... relevant Schedule 2 cultural and other values and management objectives ... Accordingly, it is unrealistic to require that at the time of consent applications. That can only be done at the WMSZ level.

[43] The following paragraph in Ms Foster’s s 32AA evaluation appears to support our understanding of the intention for discretionary activity applications:

[18] Information Requirements for Discretionary Activity Applications:

The additional information required to be supplied with applications for discretionary activity applications are set out in Policy 14-6(m) (with a cross-reference in Rule 14-2A). The listed information is intended to assist evaluation applications for exceptions against the matters to be given particular regard in Policy 14-6. I note that the listed information includes two of the three considerations identified at paragraph [345] of the Interim Decision. The parties accepted at conferencing that the information describing an individual farm’s contribution of nitrogen loss would be difficult to quantify in a meaningful way given the small number of existing IFLU compared to total sources of contaminant in all water management sub-zones. The information could also minimise the impact of an individual IFLU’s contribution and distract from whether the IFLU is doing the best practicable [option] in terms of current practice and mitigations that could be implemented on the farm.

(footnote omitted)

⁴ Method 5-15 appears to wrongly refer to a link to Policy 14-6(h) when it should be Policy 14-6(g)(iii) and that requires correction.

[44] Despite that, Policy 14-6(g)(iii) and Policy 14-6(k) effectively require applicants to provide an assessment of:

... actual and potential effects of nitrogen leaching from the intensive farming land use activities on the environment, including an assessment of effects on the surface water management values for the relevant Water Management Sub-zone, including values held by mana whenua, and the values described in Schedule B and in any relevant treaty settlement documents.

[45] We accept that as part of identifying the state of the receiving environment under Policy 14-6(g)(i) it would be appropriate to reference the values of the relevant WMSZ. What is not consistent with the Interim Decision is requiring an assessment of the effects of an individual IFLU on those values. Accordingly, we direct the deletion of Policy 14-6(g)(iii) and an amendment to Policy 14-6(g)(i) as follows:

- (i) The state of the receiving environment (including with reference to the surface water management values for the relevant Water Management Sub-Zone)

[46] The same amendment should be made to Policy 14-6(m)(iii).

[47] We do not consider that there is reason to specifically reference mana whenua values when these are included within the scheduled values in each WMSZ.

[48] We also direct the deletion of Policy 14-6(k) in its entirety for the reasons set out above.

[49] We question the advisability of including Policy 14-6(j), (l) and (m) as part of the policy rather than as a part of the relevant rule framework but other than the amendment to Policy 14-6(m)(iii) do not direct any further amendment.

[50] We acknowledge the attempt at greater specificity in the new matter in Policy 14-6(g)(iv) in response to our Interim Decision at paragraphs [349]-[350]. The new provision ties the importance of ensuring the rate of reduction in nitrogen leaching loss required by conditions of consent is proportionate to the extent of non-compliance (either with Table 14.2 or, for CVG, the 35% specified reduction). That is to say the greater the non-compliance the higher the rate of reduction needs to be. We accept that.

[51] In paragraph [358] of the Interim Decision we questioned whether:

... a framework within which what is reasonably practicable in the shortest feasible timeframe can be assessed might be of assistance. That could include considering audited accounts and whether the costs of the mitigations are proportionate to the nature and scale of the activity and to the expected benefits in terms of reductions in risk of contaminant discharges. ...

[52] Ms Foster explained in her s 32AA evaluation that the response to this was found in proposed Policy 14-6(g)(vi) which provides as follows:

- (vi) whether the required reduction in nitrogen leaching loss is achieved in the shortest feasible timeframe, having regard to:
 - (A) The risk and rate of nitrogen leaching;
 - (B) The urgency required to address nitrogen leaching loss; and
 - (C) The rationale for the timing and prioritisation of proposed mitigation measures.

[53] She also noted that this approach is further reflected in Policy 14-6(i)(i), which specifies the following in its requirement for consent conditions:

Require the implementation of measures to ensure that nutrient leaching and run-off, faecal contamination and sediment loss from the land are minimised to the extent practicable and will not increase over the duration of the consent.

[54] We are not satisfied with the different approaches in the two policy provisions. We direct that for consistency “reduced” replaces “minimised” in Policy 14-6(i)(i).

[55] The 1 April memorandum advises that HortNZ indicated a preference for former Policy 14-6(i)(vii) relating to food security to be reinstated. The Court sees no reason to revisit the rationale in the Interim Decision relating to this matter.

[56] With respect to Policy 14-6(h)(ii) we note the reference to nutrient leaching and run-off, faecal contamination and sediment losses from the land not increasing over the duration of the consent. To be consistent with Policy 14-6(h)(i) we direct this to be reworded to refer to those parameters reducing.

[57] Policy 14-6(e) previously required that renewed consents for existing IFLU consents granted prior to public notification of PC2 could not authorise nitrogen

leaching loss greater than the limits specified in Table 14.2. The Interim Decision did not support this policy and questioned the departure from the Decisions Version. Clause (e) has been deleted, as directed.

[58] We accept the exception from preparing an EAP for applications that qualify for consent for Policy 14-6(f)(ii) and the explanation from the parties as to why that is. The point is that the requirement to reduce nitrogen leaching loss to the maximum extent reasonably practicable in the shortest feasible timeframe was never intended to apply to existing IFLU transitioning to non-intensive land use.

Whether the reference to NMPs in Rule 14-1(a) is undermined by the definition of “Nutrient Management Plan” and whether there is any scope to amend the definition if it is

[59] Our Interim Decision raised concerns with the definition of NMPs including the reference to a particular code of practice, which we identified could not easily be applied to CVG.

[60] At paragraph [396] of the Interim Decision, we specifically noted that the Code of Practice referred to in the definition would seem to be the Code of Practice for Fertiliser Nutrient Management dated March 2023 not the 2013 Code referred to.

[61] It is now proposed to amend the date of the Code to 2023 but we note the Code is still referenced as the Code of Practice for Nutrient Management (NZ Fertiliser Manufacturers’ Research Association 2023). This may be somewhat pedantic, but we can only find a document entitled Code of Practice for Fertiliser Nutrient Management (NZ Fertiliser Manufacturers’ Research Association 2023) which we assume to be the appropriate document. If this is correct, we direct the definition to be amended accordingly.

[62] While the parties considered more substantive changes to the operative definition of NMP would be useful, it was determined during conferencing that this would be out of scope given its wider application in the One Plan. We accept that.

[63] We note that a suggestion to reword the definition to refer to the preparation of a NMP in general accordance with the Code was supported by HortNZ on the basis that without it most CVG growers would have to follow the process set out in subclause (b). We accept that concern and refer back to the Interim Decision in which we noted that the Code cannot easily be applied to CVG. Against that, we are conscious that this is an operative definition, and we cannot make out of scope amendments, much as we might like to.

[64] It is clear to us that there will need to be further changes to the One Plan to more appropriately accommodate CVG. Unfortunately, those changes will have to follow at a later date and be made in the procedurally correct manner. All we can do at this juncture is to note the Court's disappointment that more than ten years after the Court first identified this issue, there has still been little progress.

[65] Given the inability to comprehensively alter the definition of NMP, it is proposed that Rule 14-1 be amended to refer to a scheduled list (Schedule ZC) of matters to be included in a NMP for existing IFLU. This includes matters relating to property and activity details, management practices and mitigations, identified risks and an EAP which sets out the responses to the risks identified. We understand that it is intended the specific Schedule ZC and related provisions will prevail for existing IFLU.

[66] We find the list of requirements in the new Schedule ZC to have suitable coverage for pastoral farming but share HortNZ's concern that adherence to the schedule may result in inappropriate and unnecessary information being required of CVG. We accept that some effort has been made to ameliorate this concern by adding the qualifier "as relevant to the intensive farming land use".

[67] With the directed amendments we are satisfied that this responds appropriately to the concerns raised in the Interim Decision.

[68] We also take this opportunity to impress on the Council the need to pay urgent attention to Overseer guidance for all IFLU activities to ensure consistency of approach to all consent processing and clarity for farmers and growers, consent

officers and compliance officers. Without such guidance problems are likely to continue.

Section 32AA Evaluation

[69] As the proposed 2026 provisions do not alter the Court's findings and outcomes in terms of the following considerations, Ms Foster has excluded them from her analysis:

- (a) the specified reduction pathways;
- (b) the use of Overseer as proposed within the provisions;
- (c) alignment with the 'natural capital' approach;
- (d) equity;
- (e) achievability of the identified pathway limits on most farms;
- (f) accounting for underlying biophysical characteristics; and
- (g) suitability of the approach for both pastoral IFLU and CVG.

[70] We agree with that approach. That leaves the following matters for review and assessment:

- (a) achieving the PC2 objectives;
- (b) giving effect to the RPS;
- (c) efficiency;
- (d) effectiveness and practicability of implementation;
- (e) environmental, economic, social, cultural benefits and costs;
- (f) economic growth and employment;
- (g) risk of acting or not acting where information is uncertain or insufficient;
- (h) section 30 functions;

- (i) giving effect to the NPS-FM & NZCPS;
- (j) will outputs be certain, consistently applied, verifiable, measurable, accessible for farmers, show relative change over time;
- (k) potential for legacy consents;
- (l) certainty of outcome;
- (m) information gathering for catchment planning; and
- (n) driving on-farm practice change.

[71] The table in Appendix 1 to Ms Foster's 32AA evaluation examines material amendments as a whole (not individually) on the basis the amendments work together to address the issues raised in the Interim Decision and to improve workability of the provisions. As such, they need to be read and considered together. We accept that approach.

[72] We do not replicate Ms Foster's findings but note that overall, she finds that the two sets of provisions will result in similar outcomes or that any differences have resulted in minor improvements. Overall, it was Ms Foster's view that the March 2026 provisions are the most appropriate way to achieve the One Plan and PC2 objectives. We accept that evidence.

[73] We conclude that the few amendments we have directed to the 2026 provisions do not run counter to what is in Ms Foster's s 32AA evaluation. They too are improvements from the March 2026 provisions put forward by the parties.

[74] We have set out in paragraphs [34], [35], [45], [46], [48], [54], [56] and [61] amendments that the Council is required to make to the March 2026 provisions. With those amendments, the March 2026 provisions are confirmed by the Court.

[75] Costs were reserved in the Court's Interim Decision. Costs are not normally awarded on plan appeals⁵ and we do not encourage any application in this case. If, notwithstanding that, any party seeks costs, then a memorandum setting out the claim

⁵ Environment Court Practice Note 2023, cl 10.7(f).

must be filed and served with 10 working days and any response must be filed and served within 10 working days after that. Any reply to matters raised for the first time in a response may be filed and served within a further 5 working days.

For the Court



L J Semple
Environment Judge

