



ENVIRONMENTAL MANAGEMENT POLICY

Farm Environment Plan Auditing – Non Compliant Audits

The Farm Environment Plan Auditing – Non-Compliant Audits Policy sets out Opuha Water Ltds approach in addressing non-compliant Farm Environment Plan Audits

Approved by the Board of Directors, 25 August 2020

Contents

*This document sets out Opuha Water Ltds approach in addressing non-compliant Farm
Environment Plan Audits of shareholders and water users*

	3
Introduction.....	3
Purpose.....	3
Definitions	4
Scope	5
Policy Review	5
General	5
‘C’ Grade Audits	5
‘D’ Grade Audits due to Exceeding Nitrogen Loss Target	6
‘D’ Grade Audits due to Exceeding GMP Nitrogen Loss Target	6
All other ‘D’ Grade Audits	6

This document sets out Opuha Water Ltds approach in addressing non-compliant Farm Environment Plan Audits of shareholders and water users

Introduction

Opuha Water Ltd (OWL) encourages all shareholders to meet or exceed the industry agreed Good Management Practices (GMP) by administering the Farm Environment Plan (FEP) and Farm Management Plan (FMP) process.

This includes developing FEPs/FMPs, undertaking FEP/FMP updates and organising the Auditor contracted by OWL to conduct FEP audits in accordance with the requirements of the Canterbury Land and Water Regional Plan (CLWRP) and the Canterbury Certified Farm Environment Plan Auditor Manual (Auditor Manual).

Land use consents (LUC) contain a condition of equivalent intention to;

'The farming activity shall be managed:

- a. to achieve and maintain a Farm Environment Plan audit grade of "A" or "B", as assigned in accordance with Part C of Appendix CRCXXXXXX; and*
- b. such that it is not assigned a "C" or "D" grade.*

Therefore, when an Audit is carried out, and a C or D grade is issued, the property is regarded as non-compliant with the condition and therefore the LUC.

In the case of a non-compliant Audit, Environment Canterbury (ECan), as the regulatory authority, requires an action plan to be provided to address the non-compliance with regard to the LUC. ECan then requires that a re-audit is carried out in accordance with the Auditor Manual. Should the re-audit grade be a C or a D, ECan will issue an Abatement Notice to require compliance with the LUC. There are significant penalties under the RMA for breaching a LUC or an Abatement Notice, including conviction and imprisonment of up to two years and/or a fine of up to \$300,000 if the breach is committed by a person or, if the breach is committed by a company, a fine of up to \$600,000. If the breach is an ongoing one, it could attract further fines of \$10,000 per day.

OWL is committed to improving on-farm environmental practices within the scheme, and considers non-compliant Audits to be a serious reputational risk, and threat to this commitment. Additionally, in the interest of other shareholders who are heavily investing time and resources to implementing GMP on farm, OWL considers it appropriate that firm action is taken to ensure any incidence of non-compliance is rectified promptly.

This policy, therefore, outlines a commitment to addressing non-compliance. In particular, it specifies timeframes that are more stringent than those outlined in the Auditor Manual. The consequences of non-compliance under this policy are also significant. While the cessation of supply of water is a 'last resort' for OWL, should Audit non-compliance not be addressed, such action is considered appropriate.

Purpose

This policy specifies the approach OWL will take in addressing any non-compliant FEP Audits of OWL shareholders/water users.

The purpose of the policy is to ensure consistency of action taken by OWL in response to non-compliant Audits that can be communicated and applied to shareholders and that supports improvement in environmental performance and audit results.

Definitions

Accredited Farm Consultant	<p>A person who holds a Certificate of Completion in Advanced Sustainable Nutrient Management in New Zealand Agriculture from Massey University and who:</p> <ol style="list-style-type: none"> 1. has been certified by the New Zealand Institute for Primary Industry Management as meeting the criteria for a 'Certified Dairy Farm System Consultant'; or 2. is a Certified Nutrient Management Adviser under the Nutrient Manager Adviser Certification Programme Ltd; or 3. holds any other qualification that has been approved by the Chief Executive of Environment Canterbury as being an equivalent standard with respect to the knowledge and competencies required.
Audit	<p>An assessment of the performance of a farming activity against the objectives and targets of a Farm Environment Plan, and includes identifying any remedial actions to be carried out to achieve the objectives and targets of the Farm Environment Plan, and an overall grading (grades A-D) based on the assessment of the farming activity.</p> <p>The frequency and cost of the Audits to shareholders is determined by the audit grade the shareholder or water user receives, as detailed in the 'OWL Environmental Management Strategy' and 'OWL Policy: Farm Environment Plans and Auditing – Fee Charging Model'.</p> <p>Audits will be carried out on all shareholder and water user FEPs. Audits will be undertaken by a Certified Farm Environment Plan Auditor, in accordance with the requirements of the CLWRP and individual resource consents.</p>
Business day	<p>Any day of the week, except a Saturday, Sunday or statutory holidays, on which banks are open in Timaru.</p>
Certified Farm Environment Plan Auditor (Auditor)	<p>means a person who either:</p> <ol style="list-style-type: none"> a. is approved by the Chief Executive of Environment Canterbury as meeting the following criteria and is registered on the Environment Canterbury website as a Certified Farm Environment Plan Auditor or b. is an auditor who is operating under an International Standards Organisation accredited audit programme that has been approved by the Chief Executive of Environment Canterbury as including audit criteria equivalent to that set out in Part C of Schedule 7; <p>and</p> <ol style="list-style-type: none"> 1. has at least 5 years' professional experience in the management of pastoral, horticulture or arable farm systems; and <ol style="list-style-type: none"> i. holds a Certificate of Completion in Advanced Sustainable Nutrient Management in New Zealand Agriculture from Massey University; or ii. holds a tertiary qualification in agricultural science or demonstrates an equivalent level of knowledge and experience; and 2. is a current member of professional institute relevant to auditing that requires members to subscribe to a code of ethics and has a procedure in place for dealing with complaints made against members; and 3. demonstrates, to the Chief Executive of Environment Canterbury, proficiency in the auditing of Farm Environment Plans against the matters set out in Part C of Schedule 7.
Farm Environment Plan (FEP)	<p>An environmental risk-management tool which helps farmers recognise on-farm environmental risks, and sets out a programme to manage those risks. FEPs are unique to a property and reflect the local climate and soils, the type of farming operation, and the goals and aspirations of the land user. Environment Canterbury requires all shareholders who trigger the need for a land use consent to hold a FEP.</p>

Good Management Practice (GMP)	The practices described in the document entitled “Industry-agreed Good Management Practices relating to water quality” - dated 18 September 2015.
Water supply agreement (WSA)	The terms and conditions that apply to all supply of water by OWL to shareholders or other person receiving irrigation water (a water user).

Scope

This policy is applicable to all shareholders and water users who are required to hold a LUC to farm and therefore a FEP.

This policy is consistent with [The Terms and Provisions for Supply of Water \(“Water Supply Agreement” \(WSA\)\)](#) that applies to all OWL shareholders and water users, and links to regulatory requirements to hold FEPs or FMPs set by the CLWRP.

Policy Review

The Board may in its sole discretion (subject to the Constitution and the Companies Act 1993) review, update amend or replace this policy at any time.

General

As per OWL’s ‘Farm Environment Plans and Auditing – Fee Charging Model’, OWL tenders for auditor(s) and enters into a contractual arrangement with the successful tenderer. Shareholders who otherwise arrange their own audits shall pay all costs associated without subsidy, and any disagreement/disputes will be resolved as per the Auditor Manual procedures.

Following the Audit visit by the Auditor, a draft report is provided to the shareholder and they have the opportunity to raise any concerns directly with the Auditor. The final Audit report is provided by the Auditor to OWL who will undertake the following action(s) in response to any non-compliant grade.

‘C’ Grade Audits

1. In the case where a ‘C’ grade is issued;
 - a. The shareholder must, within 15 business days, develop and submit a written action plan (and location maps as appropriate) to address all issues identified in the Audit report, with defined timeframes for completion (Action Plan). All actions in the Action Plan must be completed within 6 months.
 - b. In exceptional circumstances OWL may, in its sole discretion, allow limited additional time for the actions in the Action Plan to be completed.
 - c. The shareholder will be re-audited by an Auditor after 6 months. This will be at the shareholder or water user’s sole cost.
 - d. If an Action Plan is not submitted or the re-audit report shows that the Action Plan has not been implemented and/or another ‘C’ or a ‘D’ grade is issued, the re-audit report will be provided to the OWL Board. A written notice of breach of the WSA will be issued to the shareholder or water user, and that notice will require the breach to be remedied within 20 business days.
 - e. The shareholder or water user will be re-audited by an Auditor after 20 business days. This will be at the shareholder or water user’s sole cost. The re-audit will only assess the issues(s) which resulted in the C grade, and any subsequent actions identified.

- f. If the WSA breach is not remedied to the satisfaction of the Auditor at re-audit and therefore OWL, the supply of water to the shareholder or water user will cease until such time as the breach is remedied and results in a compliant re-audit. In the event that OWL is the relevant consent holder, Environment Canterbury will be notified of the breach. In the event that the shareholder holds an individual consent to take water, OWL may be required to notify Environment Canterbury and will use reasonable endeavours to consult with the shareholder prior to engaging with Environment Canterbury.

‘D’ Grade Audits due to Exceeding Nitrogen Loss Target

2. In the instance where a non-compliant ‘D’ grade is issued due to exceedance of the consented N loss target and the shareholder is unable to rectify the grade due to the retrospective nature of the Overseer budget, the following shall apply:
 - a. If this is the first ‘D’ grade the shareholder or water user has received for the above breach, they must submit a scenario Overseer budget prepared by an Accredited Farm Consultant to OWL within 20 business days. That scenario Overseer budget must demonstrate that they will be compliant for the next assessed year. The shareholder or water user will be re-audited 12 months from the Audit date, at the shareholder or water user’s sole cost.
 - b. If the shareholder or water user receives a second non-compliant grade due to N loss exceedance at the 12 month re-audit date in clause 2.a above, the OWL Board will be notified. The OWL Board will issue a written notice of breach of WSA, and the supply of water to the shareholder or water user shall cease until such time as OWL is satisfied (in its sole discretion) that the shareholder or water user is more likely than not to achieve a compliant audit (‘A’ or ‘B’ grade) at a second re-audit to take place 12 months from the original re-audit date.

‘D’ Grade Audits due to Exceeding GMP Nitrogen Loss Target

Land use consents (LUC) contain a condition of equivalent intention to;

For the purpose of Objective 5A (Management Area: Nutrients) in the FEP prepared in accordance with Condition (2), the consented nitrogen loss limit is:

Target 1a. Nitrogen losses from farming activities are at or below the:

- a.
 - b. *From 1 July 2020, Baseline GMP Loss Rate or Good Management Practice Loss Rate (which ever is the lesser)”*
3. In the instance where a non-compliant ‘D’ grade is issued due to exceedance of the GMP Nitrogen Loss Target, OWL recognises that due to uncertainties in the Farm Portal, the GMP Loss Rate derived by the Portal may be erroneous. In this instance, OWL will implement the process and Audit frequency prescribed in the Auditors Manual (i.e. OWL will not impose more stringent Audit requirements).

All other ‘D’ Grade Audits

4. In the case where a ‘D’ grade is issued, excluding for non-compliance for exceedance for N loss targets:
 - a. The Audit report will be provided to the OWL Board. A written notice of breach of WSA will be issued to the shareholder or water user and that notice will require the breach to be remedied within 20 business days.
 - b. The shareholder will be re-audited by an Auditor 20 business days after the written notice of breach, or longer as advised by the Auditor. This will be 100% shareholder cost.
 - c. Should the re-audit result in a ‘C’ grade, the process for ‘C’ grade Audits will be followed (policy 1 above).
 - d. Should the re-audit result in a ‘D’ grade, the OWL Board will be notified and the supply of water to the shareholder or water user will cease until such time as the breach is remedied and results in a

compliant Audit. In the event that OWL is the relevant consent holder, Environment Canterbury will be notified of the breach. In the event that the shareholder holds an individual consent to take water, OWL may be required to notify Environment Canterbury and will use reasonable endeavours to consult with the shareholder prior to engaging with Environment Canterbury.