
In the matter of: Clauses 6 and 8 of Schedule 1 – Resource Management Act 1991 – Submissions on publicly notified plan change and variation – Proposed Plan Change 1 and Variation 1 to Waikato Regional Plan – Waikato and Waipa River Catchments

And: **Wairakei Pastoral Ltd**

Submitter

And: **Waikato Regional Council**

Local Authority

REBUTTAL EVIDENCE OF DWAYNE CONNELL-MCKAY

Block 3 Hearing Topics

Dated: 19 July 2019

REBUTTAL

BLOCK 3 HEARING TOPICS

1. BACKGROUND

- 1 My name is **Dwayne Connell-McKay** I have the qualifications and experience recorded in my statement of evidence filed in relation to the Block 1 Hearing Topics.
- 2 My rebuttal evidence has been prepared in accordance with the Code of Conduct for expert witnesses as set out in Section 7 of the Environment Court of New Zealand Practice Note 2014.
- 3 Relevant to my expertise, I wish to rebut the evidence of the following expert witnesses:

Name	Submitter
Ms Young	Dairy NZ
Ms Kissick	Department of Conservation (DOC)
Ms McArthur	DOC
Ms Marr	Auckland / Waikato Fish and Game Council
Mr Willis	Fonterra Co-operative Group Ltd
Ms Hardy	Miraka Limited
Ms Taylor	Ravensdown Limited
Mr Kivell	South Waikato and Matamata-Piako District Councils
Ms Kydd-Smith	Waikato and Waipa River Iwi

2. MAKING REDUCTIONS IN DIFFUSE DISCHARGES VIA CATCHMENT WIDE RULES AND THE NRP

TOPIC C1. DIFFUSE DISCHARGE MANAGEMENT

4 Ms McArthur (DOC) in para 13 of her evidence suggests retaining the notified Policy 7. I have reviewed the JWS and understand that the sub-catchment nutrient 'thresholds' could be used to provide limits and targets for Table 3.11-1 as loads of TN and TP as requested in my Block 1 evidence. The inclusion of loads can occur now, and provide direction for Farm Environment Plan (**FEP**) development to meet the 10-year objective in PC1. I do not consider that PC1 needs to provide allocation direction ahead of national discussions and potential updates to the NPS-FM.

4.1 I disagree with Ms McArthur's conclusion to retain policy 7 and prefer my recommendation to delete Policy 7, as it does not support the achievement of outcomes anticipated within the lifespan of this plan change.

TOPIC C9. FARM ENVIRONMENT PLANS

5 In their evidence, Ms Young (Dairy NZ), Mr Willis (Fonterra), Ms Hardy (Miraka) and Mr Eccles (Federated Farmers), all provide evidence in support of permitted activity rules that rely on a FEP. I have addressed this in my previous written evidence and in response to questions from the Panel in Block 2. For the same reasons previously given I disagree with the evidence given by the above witnesses.

6 In Appendix 1 of his evidence Mr Willis (Fonterra) includes an amended Schedule 1 to direct the development of a FEP under a permitted activity rule. I have reviewed this evidence and I prefer the amended rules and Schedule 1 included in my evidence.

6.1 As identified in my Block 3 evidence I consider Schedule 1 needs to include:

- (a) Requirements to focus on water quality improvements within the sub-catchment as identified in Table 3.11-1 and the relevant policies, rules and consent conditions.
- (b) A risk assessment that is based on the concept of Vulnerable Land and an appropriate process for identifying Vulnerable Land.
- (c) That Good Farming Practices (**GFP**) to be used should be benchmarked, with goals for improvements and a rationale for their selection.

- (d) The critical elements of an adaptive management approach as required by the relevant policies, rules and consent conditions.

These above elements in my opinion are critical to ensure implementation of FEP's contributes significantly to PC1 being able to effectively achieve Objective 3.

- 6.2 In his amended Schedule 1 Mr Willis seems to have included other matters relating to compliance and operational matters, relating to other permitted and consented activities, and with other parts of the operative Waikato Regional Plan, such as water takes. These amendments would seem to go beyond the scope of PC1 and Chapter 3.11 as notified.
- 7 Ms Marr (Fish & Game) in para 8.28 of her evidence raises concerns of the ability of GFP's, implemented via FEP's to achieve the short-term goals specifically in relation to the water quality of the sub-catchment and the lack of oversight by council staff. I disagree with this conclusion and consider that the policy/rule framework submitted in my Block 2 evidence, combined with the amended Schedule 1 submitted in my Block 3 evidence, will work collectively to address water quality issues of the sub-catchments whilst also ensuring council staff have sufficient oversight.

TOPIC C10. MISCELLANEOUS

- 8 In paras 7.1-7.15 Ms Hardy gives evidence on possible definitions for 'Enterprise' and 'Property'. I prefer the separate definitions as notified in PC1. I consider the primary issues associated with the two terms have also been removed by redrafting the rule provisions as per my Block 2 evidence (Appendix 1); removing 'Enterprise' from being a permitted activity.

3. MANAGING POINT-SOURCE DISCHARGES

TOPIC C6 URBAN/POINT-SOURCE DISCHARGES

- 9 In para 45 of his evidence Mr Kivell discusses the manner in which Policy 17 could be used by both the regulator and an applicant. I agree that the policy as notified is not explicit in its scope, and with Mr Kivell's conclusion in para 46:

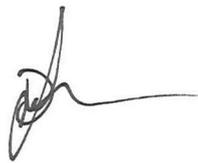
"...the policy should not afford the opportunity when considering a consentable activity to relitigate the Vision and Strategy, when this has/should have been considered when determining the final content and scope of PC1."

4. PRIORITISATION AND SUB-CATCHMENT PLANNING

- 10 In para 44 of her evidence Ms Kydd-Smith (River Iwi) recommends the deletion of Policy 9- I prefer my Block 3 evidence to retain Policy 9 and amend it such that it directs and explicitly supports a regulatory approach to Sub-catchment management.

5. MANAGING WHANGAMARINO WETLAND

- 11 Ms Kissick (DOC) in para 189 of her evidence and Ms Taylor (Ravensdown) in para 5.4 of hers, both seek to utilise the 75th percentile nitrogen leaching value as an environmental limit. As per my Block 2 evidence, I disagree with retaining the 75th percentile as an environmental limit, and instead prefer the evidence provided by both Mr Williamson and Mr Conland in their Block 2 evidence on behalf of WPL to include an assessment of Vulnerable Land within PC1.



Dwayne Connell-McKay

Director-Thornton Environmental

19 July 2019