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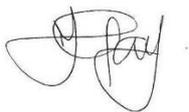
Waikato Regional Council Submission to Variation 1 of Waikato Regional Plan Change 1 - Waikato and Waipā River Catchments

Please find attached Waikato Regional Council's submission in regard to the Variation of Waikato Regional Plan Change 1 - Waikato and Waipā River Catchments (Variation 1).

This submission was formally approved by a meeting of Waikato Regional Council's Strategy and Policy Committee on 15 May 2018. I note that the Council also submitted on Proposed Waikato Regional Plan Change 1 – Waikato and Waipā River Catchments in March 2017, and that the submission points in this submission are in addition to (rather than replacing) the submission points made previously.

Should you have any queries regarding the content of this document please contact Andrew Tester directly on (07) 8584661 or by email (andrew.test@waikatoregion.govt.nz).

Regards



Tracey May
Director, Science and Strategy

Submission by

Waikato Regional Council

Submission to Variation 1 of Waikato Regional Plan Change 1 - Waikato and Waipa River Catchments.

SUBMITTER DETAILS

Waikato Regional Council

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I could not gain an advantage in trade competition through this submission

I am not directly affected by an effect of the subject matter of the submission that:

- (a) does not adversely affect the environment; and
- (b) does not relate to trade competition or the effects of trade competition.

FURTHER INFORMATION AND HEARINGS

- WRC **wishes to be heard** at the hearings for Variation 1 in support of this submission and is **not** prepared to consider a joint submission with others making a similar submission.
- WRC **could not** gain an advantage in trade competition through this submission.

Submission to Variation 1 of Waikato Regional Plan Change 1 - Waikato and Waipa River Catchments.

1. Introduction

This is a submission to Variation 1 of the Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments (Variation 1). Waikato Regional Council (WRC) also made a submission to proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments (Plan Change 1). This submission focuses on changes proposed as part of the Variation and includes additional implementation matters that have been identified since WRC submitted on Plan Change 1 in March 2017.

The matters identified in the WRC submission to Plan Change 1 were largely related to the following areas:

- The approach to Nitrogen management:
 - Monitoring and enforceability concerns of implementing a five-year rolling average
 - Ownership of the Nitrogen Reference Point (NRP)
 - Reassigning nitrogen between land parcels
- Commercial vegetable production
 - Ownership of the NRP
 - Commercial vegetable production and land use change prior to 2020
- Council as a provider of regionally significant infrastructure
- Inadvertent capture of certain activities by rule 3.11.5.7.

Key changes introduced by Variation 1 are:

- Amendments to reinstate the previously withdrawn provisions and area
- Amendments to key dates for landowners, including dates for property Registration and providing a Nitrogen Reference Point, as well as dates for Farm Environment Plans and stock exclusion
- Amendments arising from consultation with Pare Hauraki.

Section 2 of this submission provides a brief summary of the submission points made on the Variation, while Section 3 provides more specific detail.

2. Summary of key submission points

Overall, this submission provides support for the changes introduced by Variation 1, and also provides a mixture of support, and proposed amendments to various matters to improve implementation.

2.1 Amendments to reinstate the previously withdrawn provisions and area

The withdrawal of that part of the Plan Change 1 area that aligns with the rohe of Pare Hauraki meant that specific provisions relating to this area also needed to be withdrawn. This was primarily provisions relating to the Whangamarino Wetland, and a number of sub-catchments located within the withdrawn area.

Variation 1 seeks to reinstate this withdrawn area and associated provisions. This submission **supports** this reinstatement, as it will enable the full extent of the intended catchment to be covered by the Plan Change 1 provisions.

2.2 Amendments to change key dates and timeframes

The provisions of Plan Change 1 contain several specific implementation dates. These dates are within the anticipated 10 year life of the plan change. They relate to actions put in place and implemented by 2026 to reduce discharges of nitrogen, phosphorus, sediment and microbial pathogens, to achieve ten percent of the required change between current water quality and the 80-year water quality attribute targets. In relative terms, some of the dates identified in the provisions are in the near future.

The implementation dates were determined on the basis of Plan Change 1 being notified on 22 October 2016, and a decision being released within the statutory 2 year timeframe.

As a result of delays in the process (i.e. the withdrawal of a portion of Plan Change 1, subsequent consultation, and then the Variation 1 process), revised implementation dates are proposed as part of the Variation to ensure a fair and reasonable amount of time is provided. This submission **supports** the extension of dates, as it will provide more time for landowners and also WRC to prepare for the requirements of implementing Plan Change 1. It is, however, sought that the date of the NRP reference period (outlined in Schedule B) be reconsidered as part of these changes to dates.

2.3 Amendments arising from consultation with Pare Hauraki

Over the past year, engagement with Pare Hauraki has been undertaken by WRC. This engagement has resulted in the following changes being proposed as part of Variation 1:

- a. Amendments to the values section of Plan Change 1:
 - i. 'Hononga ki te wai, hononga ki te whenua – Identity and sense of place through the interconnections of land with water' to capture the full range of values iwi have for rivers, wetlands and springs.
 - ii. Amendments to Mana Atua - Intrinsic values Ancestry and History – “Ancestral and Historical connections between the rivers, wetlands, springs and Iwi”.
 - iii. Insertion of wai kino into use values - wai tapu.
- b. Inclusion of 'other iwi' alongside 'River Iwi' in relevant places.

This submission **supports** these amendments, which if adopted would apply to Plan Change 1 in its entirety.

2.4 Submission points relating to implementation

Plan Change 1 and Variation 1 provide a framework to address water quality issues in the Waipā and Waikato river catchments. As a part of implementing this framework WRC has been considering the detail of the provisions, and whether amendments could be made to improve the ease of implementation of the Plan, clarify any areas of doubt, and to update provisions as required as development of the implementation programme has progressed.

A number of amendments are proposed related to several policies, Schedules A and B to clarify their intent for users plan users, and to update the provisions to reflect progress in the development of tools to assist implementation of Plan Change 1.

3 Submission points

General submission points

#	Provision	Support/oppose	Discussion/reason	Decision sought
1	Map 3.11-1	Support	Inclusion of the previously removed area is supported as it will enable the Plan Change to function in its entirety as originally intended, capturing the full extent of the catchment.	Retain as notified
2	Provisions related to Whangamarino Wetland e.g. Objective 6	Support	Whangamarino Wetland is a Ramsar site of international importance. Reincorporating provisions related to this wetland supports the management of this wetland, seeking to halt as a minimum the decline in water quality over the next 10 years.	Retain as notified
3	Amendments to dates and timeframes e.g. Rules 3.11.5.2, 3.11.5.3, 3.11.5.5, Schedule A and Schedule B	Support with further consideration	<p>As the withdrawal of certain areas of Plan Change 1 and development of Variation 1 has delayed development of the Plan Change, Variation 1 proposes to push some dates out related to the provision of information to WRC. This is supported as it will provide an appropriate amount of time, taking into account the extended timeframes of Plan Change 1.</p> <p>There is also the opportunity to consider whether it is appropriate to amend the NRP reference period as part of these amended dates (Schedule B, clause e.).</p>	Retain the amended dates as notified, and also consider consequential amendments to the NRP reference period outlined in Schedule B.
4	Amendments arising from Consultation with Pare Hauraki e.g. 3.11.1. 3.11.1.1, 3.11.1.2	Support	These provisions have been developed through consultation with Pare Hauraki and promote a more complete understanding of the values and uses for the Waikato and Waipa Rivers.	Retain as notified

Implementation submission points

#	Provision	Support/oppose	Discussion/reason	Decision sought
5	Policies 2 and 3 and/or Schedule 1	Support with amendments	<p>Policies 2 and 3 address the need for a risk assessment, and tailored actions to address those risks, to be set out in Farm Environment Plans (FEPs), and/or resource consents, in order to maintain or reduce the loss of contaminants. The policies require those actions to be implemented within a specified timeframe but does not limit this in any way.</p> <p>To assist with the management of risk, these policies (and/or Schedule 1) should provide further guidance (criteria or principles) on what are acceptable timeframes for the completion of mitigation actions.</p>	Provide further guidance in Policies 2 and 3 and/or Schedule 1 for timeframes associated with identified mitigation actions.
6	Policy 2(d) and Policy 3(g)	Support with amendments	The specified policy provisions refer to tailored farm plans that require reductions in contaminant losses that are, amongst other things, proportionate to the “scale of water quality improvement required in the sub-catchment.” It is noted however that Nitrogen (N) and Phosphorous (P) have no sub-catchment targets, only main stem targets. To avoid a possible interpretation that N and P reductions are not required in the sub-catchments, it is requested that the specified clauses are amended accordingly.	Amend Policy 2(d) and 3(g) to refer to “water quality improvement required in the sub-catchment, Freshwater Management Unit (FMU) or catchment as appropriate.”
7	Policy 9(d)	Support with amendments	Policy 9(d) anticipates land-owners will group together to put mitigations in place. The policy suggests that such collective efforts are seen as valid means of meeting land-owner obligations under the requirements relating to FEPs. The clause refers to resultant reductions in discharges being “apportioned” to the landowners “in accordance with their respective contribution to the	Provide greater clarity and guidance as to how multiply developed mitigations are regulated, both in terms of satisfying the policy criteria applicable to an FEP and compliance with its requirements.

			<p>mitigation and their respective responsibility for the ongoing management of the mitigation”. It is unclear how this would work in practice from a regulatory perspective. For example:</p> <ul style="list-style-type: none"> - How apportionment would occur? - Who decides on apportionment? - Is compliance liability for the mitigation also apportioned individually or is it held jointly? <p>The Policy (or related provisions) should provide greater clarity and guidance as to how multiply developed mitigations are regulated, both in terms of satisfying the policy criteria applicable to an FEP and compliance with its requirements.</p>	
8	Section 3.11	Support with amendments	<p>This point concerns the way the Plan affects properties which are fully within the Waikato Region but which straddle the boundary between areas included as part of Plan Change 1 and those that are not included as part of Plan Change 1.</p> <p>Currently, the Plan Change 1 boundary generally follows the natural catchment boundary (with some minor exceptions along the boundaries with BOPRC and Auckland Council). However, property boundaries do not generally follow catchment boundaries. This results in there being many properties which straddle the boundary between the area regulated by Plan Change 1 and other areas (e.g. Paiko-Waitoa catchments, the western catchments and Lake Taupo Catchment). All of these areas are likely to be, or in the case of Taupo catchment are already, subject to future land use rules.</p> <p>If the practice continues that plan boundaries generally follow catchment boundaries, then there will inevitably</p>	Amend Section 3.11 “Area covered by Chapter 3.11” alternatives to the current boundary approach should be considered, which avoid the implementation issues that currently arise where properties straddle the Waikato River Catchment boundary.

			<p>be a number of properties that will be subject to two potentially quite different regulatory regimes. This is already the case for properties that straddle the Plan Change 1 area and Taupo catchment plan areas. This has potentially significant impacts on affected landowners, and potentially results in land-owners having to manage their activities differently across catchment boundaries in order to comply with two differing sets of regulatory requirements.</p> <p>(Note: Refer to similar approach for definition of “Enterprise”, submission point 15)</p>	
9	Rule 3.11.5.1	Support with amendments	<p>Currently Plan Change 1 and the Variation are silent on distinguishing the use of land for cutting and removing grass for hay, silage or disposal, from other arable land uses that often involve cycles of significant soil disturbance.</p> <p>By clarifying in Rule 3.11.5.1 that the cutting and removal of grass for hay, silage or disposal is an acceptable use of land, this will provide certainty for landowners and user of the Plan.</p>	Amend Rule 3.11.5.1 to specifically provide for the cutting and removal of grass for hay, silage or disposal.
10	Schedule A(f)	Support with amendments	<p>Schedule A (Registration) requires land-owners to register during a specified period of time and to provide the following information (clause f):</p> <p>“Where the land is used for grazing, the stocking rate of the animals grazed on the land.”</p> <p>Nitrogen Reference Points (NRPs) are required to be provided to the Council within the same time period. Stocking rate is one of the input parameters for the NRP. The request for this data is therefore unnecessarily</p>	Amend clause F to read: “Where the land is used for grazing <i>and no NRP is required under this Plan</i> , the stocking rate of the animals grazed on the land.”

			<p>duplicated for those parties who will need to register and provide an NRP.</p>	
11	Schedule B(d)	Support amendments with	<p>Schedule B(d) requires the NRP to be developed through Overseer “or other approved model”. This may result in data conflicts when implementing the Plan. The Plan approach relies on regulation to ensure that most land-owners do not increase their estimated N losses. Furthermore, some land-owners will need to reduce their N losses if they are part of the top quartile of N emitters.</p> <p>For the abovementioned reasons, it is important that all N loss estimates are comparable (ie assessed via the same methodology). Other models will produce results that are not comparable with those produced by Overseer. This could undermine implementation of the Plan.</p>	Amend Schedule B(d) to reference Overseer as the default model to be used.
12	Schedule B(d).	Support amendments with	<p>Overseer is a model that has been identified in Plan Change 1 to assist with NRP data. A new version of Overseer will be released in May 2018 – ‘Overseer FM’. Overseer FM will not support a file type format as the current version of Overseer (Overseer 6) does, but rather will be fully online. Overseer reporting (of model inputs and outputs) will be available via an API (application programming interface).</p> <p>Council staff, along with other regional councils, are currently working through legal and usability issues (with Overseer) around this proposed change. Regarding the change to Overseer FM – loss of file format and reporting through APIs, Schedule B of PPC1 specifies that “The Nitrogen Reference Point shall comprise the electronic output file from the Overseer model”. This will no longer</p>	Amend Schedule B(d) to accommodate changes to the Overseer business model and Overseer data being held on-line.

			be possible with Overseer FM. Schedule B should be amended to accommodate this change, or to provide ongoing flexibility as the Overseer software continues to develop.	
13	Schedule B and/or the policies of the Plan	Support with amendments	<p>The NRP is central to achieving the Plan’s objectives as they relate to the management of nitrogen. The Plan establishes criteria and a process for determining the NRP and those land-owners who are required to establish an NRP will be expected to manage their farming activities within it. Currently, there is no explicit ability to change an NRP from that which is initially determined in accordance with the Schedule 1 process. There are various possible scenarios where it may be appropriate later, to amend an NRP. For example:</p> <ul style="list-style-type: none"> - Where missing data initially necessitates an assumed “75%” value - Where more information/evidence comes to light - Where errors are made in the original establishment of the NRP <p>It is appropriate that the Plan includes the ability for the Council to amend an NRP where there is sound reason for doing so.</p>	Include a provision that enables the Council to amend an NRP where it is appropriate to do so.
14	Schedule B Table 1, Soil description	Oppose	Currently Schedule B specifies that Overseer uses Soil Order as it relates to the soil description parameter. This decision was made at a time when there was regionally incomplete SMAP (Soil Map) coverage but there was a need for consistency between Overseer budgets for the purposes of calculation and implementation of the 75%ile rule.	Change Table 1 in schedule B to specify the use of SMAP functionality instead of soil order.

			It is now expected that SMAP coverage of the Waikato and Waipa catchments will be complete by 1st March 2020. A change to Table 1 in schedule B is recommended to specify the use of SMAP functionality instead of soil order, reflecting the information that will be available.	
15	Definition – “Enterprise”	Support with amendments	The definition includes a provision that where more than 50% of the enterprise is within a sub-catchment then it is deemed to be in that sub-catchment for the purposes of the Plan. This accommodates the scenario where an enterprise spans the boundary of two sub-catchments and is relevant to the priority/tranche date for the enterprise. It does not cater for a situation, however, where an enterprise spans three or more sub-catchments. It is proposed that the definition be amended to address this situation.	Amend the last sentence of the definition to read: “An enterprise is considered to be within a sub-catchment if the greatest proportion of that enterprise is within the sub-catchment.”