

Submission on Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments

FORM 5 Clause 6 of First Schedule, Resource Management Act 1991

To Chief Executive
Waikato Regional Council
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Name of submitter: J Swap Ltd

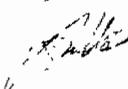
This is a submission on a change proposed to the following plan (the proposal):
Waikato Regional Plan.

J Swap Ltd could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal, submissions and decisions sought that J Swap Ltd's submission relates to are detailed in Table 1

J Swap Ltd wish to be heard in support of its submission.

If others make a similar submission, J Swap will consider presenting a joint case with them at a hearing.


Signature: _____

Date: 8 March 2017

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Introduction

This is a submission made by J Swap Ltd ("J Swap") to Proposed Plan Change 1 pursuant to clause 6 of the first schedule of the Resource Management Act 1991 (RMA).

J Swap owns the Swap Group of companies which has had a long association in contracting, quarrying, heavy haulage, bulk storage and stockfeed. Within the Waikato region, J Swap operate aggregate and mineral quarries at

- a. Tauhara Quarry, 423 Broadlands Road, Rotokawa 3378;
- b. Waotu Quarry, 408 Waotu South Road;
- c. Osterns Quarry, 890 Ororohanga Road (SH3), Otorohanga 3873 Te Kawa; and
- d. Taotaoroa Quarry, 410 – 568 Taotaoroa Road (edge of sub-catchment).

These quarries individually and cumulatively provide a supply of minerals and aggregates that is crucial for the continued development of the Waikato region and to enable people and communities to provide for their social, economic and cultural well-being. The quarries supply minerals and aggregate that is not only required to provide for building, construction and roading projects associated with growth, but also to maintain and redevelop existing infrastructure. Each of the J Swap quarries listed are reliant on existing consented or permitted surface and/or ground water takes in order to efficiently operate, and mitigate effects.

Because J Swap is a significant user and developer of natural and physical resources, the Resource Management Act 1991 (RMA) and related regulations (such as Proposed Waikato Regional Plan Change 1 (Plan Change 1)) represents a statutory regime that plays a significant role in J Swap Ltd business.

General Submission

J Swap acknowledges the work that Waikato Regional Council (Council) and the Collaborative Stakeholder Group (CSG) have put in to developing Plan Change 1.

J Swap in principal support the Vision and Strategy for the Waikato and Waipa Rivers (Vision and Strategy) and the direction it sets for restoring and protecting the Waikato and Waipa Rivers.

In respect of Plan Change 1, the issues J Swap is interested in include:

- That plan change 1 reflects the objectives of the National Policy Statement for Freshwater Management (NPSFM);
- Makes provisions for people and communities to continue to provide for their economic and social wellbeing, while giving effect the Vision and Strategy; and
- Ensuring the provisions for point source discharges will be practicable for industrial operators such as J Swap Ltd.

In light of the above, the specific parts of Proposed Plan Change 9 that the J Swap submission relates to are outlined in the following table.

Table 1: Specific Submissions on Plan Change 1

Amendments proposed to the text of Plan Change 1 are shown in red text with deletions ~~struck-out~~ and additions underlined.

For convenience, the amendments shown below are also shown in the attached marked up version of Plan Change 1.

SUBMISSION POINTS

| Page No. | Reference (e.g. issue, Policy, Objective, Rule, Method or Objective number) | Support/Oppose | Submission | Decision Sought Say what changes to the plan you would like |
|---------------------------|---|-----------------|--|--|
| Multiple | Various | Support in part | <p>J Swap Ltd supports the Vision and Strategy and Plan Change 1. However, we are concerned that the terminology used in Plan Change 1 is inconsistent with the NPSFM. This creates confusion for plan readers.</p> <p>The NPSFM defines the term “freshwater objective” and importantly, where a freshwater objective is not being met, Policy A2 of the NPSFM requires regional councils to set targets designed to meet the freshwater objective and take action to ensure those targets are met.</p> | Amend the text in Plan Change 1 to ensure that the definitions and terms in the NPSFM are applied consistently as shown in the attached marked up version of the document. |
| SECTION OBJECTIVES | | | | |
| 27 | Objective 2 | Support in part | <p>J Swap Ltd supports the intent of Objective 2 which, in part, seeks to ensure that people and communities can continue to provide for their social, economic and cultural wellbeing while the restoration and protection of the rivers is taking place. J Swap Ltd suggests a</p> | <p>Amend Objective 2 as follows: Objective 2: Social, economic and cultural wellbeing is maintained in the long term Waikato and Waipa communities and their economy benefit from the restoration and</p> |

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| | | | minor amendment to make the intent of Objective 2 clearer. | protection of water quality in the Waikato River catchment, which <u>and the restoration and protection is undertaken in a way and at a rate that enables the people and communities to continue to provide for their social, economic and cultural wellbeing.</u> |
| 27 | Objective 3 | Support in part | <p>J Swap Ltd supports the intent of Objective 3 to achieve 10 percent of the total required change sought by Objective 1, by 2026 but suggests a minor amendment to the text to improve the clarity and certainty of the objective.</p> <p>An amendment to this objective is also required to give effect to submission point 1 above.</p> | <p>Amend Objective 3 as follows:</p> <p>Objective 3: Short-term improvements in water quality in the first stage of restoration and protection of water quality for each sub-catchment and Freshwater Management Unit</p> <p>Actions put in place and implemented by 2026 to reduce discharges of nitrogen, phosphorus, sediment and microbial pathogens, are sufficient to achieve ten percent of the required change between current water quality and the 80-year <u>desired water quality states attribute^Δ targets^Δ</u> in Table 3.11-1. A ten percent change towards the long term <u>desired water quality states improvements</u> is indicated by <u>Objective 3the short term water quality attribute^Δ targets^Δ</u> in Table 3.11-1.</p> |
| 27 | Objective 4 | Support in part | <p>J Swap Ltd supports the intent of Objective 4 but suggests a minor amendment to make it clear which values and uses are being referred to.</p> <p>An amendment to this objective is also required to give effect to submission point 1 above.</p> | <p>Amend Objective 4 as follows:</p> <p>Objective 4: People and community resilience</p> <p>A staged approach to change enables people and communities to undertake adaptive management to continue to provide for their social, economic and cultural wellbeing in the short term while:</p> <p>a) considering the values and uses <u>identified</u></p> |

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| | | | | <p>in section 3.11.1 when taking action to achieve <u>Objectives 1 and 3</u>the attribute[^] targets[^] for the Waikato and Waipa Rivers in Table 11-1; and</p> <p>recognising that further contaminant reductions will be required by subsequent regional plans and signaling anticipated future management approaches that will be needed to meet Objective 1.</p> |
| Section Policies | | | | |
| 33 | 10 | Support in part | <p>J Swap Ltd supports the inclusion of Policy 10 to provide for point source discharges associated with regionally significant activities. However, in its current unqualified form, Policy 10 appears inconsistent with Objective 3, the NPSFM and the Vision and Strategy.</p> <p>This inconsistency can be rectified by making reference to Policies 11 & 12 as shown.</p> <p>In addition, the policy potentially implies that only existing regionally significant infrastructure and industry is provided for - expansion of existing activities, or new activities do not appear to be contemplated. Given the likely need for people and communities to find alternative means of providing for their economic and social wellbeing over time, J Swap Ltd considers it appropriate to amend the policy to ensure that expansion of existing and development of</p> | <p>Amend Policy 10 as follows:</p> <p>Policy 10: Provide for point source discharges <u>from activities</u> of regional significance</p> <p>When deciding resource consent applications for point source discharges of nitrogen, phosphorus, sediment and microbial pathogens to water or onto or into land, <u>subject to Policy 11 and Policy 12</u> provide for the:</p> <ul style="list-style-type: none"> a) Continued operation <u>and development</u> of regionally significant infrastructure'; and b) Continued operation <u>and development</u> of regionally significant industry'. |

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| | | | <p>new regionally significant industry or infrastructure is also provided for as long as the achievement of Objectives 1 and 3 is not compromised. J Swap Ltd notes that industrial development is also subject to Policy 6.14 of the Waikato Regional Policy Statement (Adopting Future Proof land use pattern).</p> <p>A definition of regionally significant industry is also required as the definition in the Waikato Regional Policy Statement directs that regionally significant industry will be identified in district and regional plans. J Swap Ltd has proposed a definition in the Definitions section below.</p> | |
| 33 | 11 | Support in Part | <p>J Swap Ltd supports the application of the best practicable option concept to point source discharges as it is consistent with the RMA and Policy A3 of the NPSFM and therefore an appropriate consideration when assessing the discharge of contaminants.</p> <p>J Swap Ltd also supports the use of offsetting. In order to achieve the reductions in loads of nitrogen, phosphorus, sediment or microbial pathogens likely to be required from industrial sites like J Swap Ltd quarries, offsetting would be a useful tool to have available. It would provide flexibility for industries such as J Swap Ltd to implement reductions where the greatest positive impact on the Waikato and Waipa Rivers can be achieved, for the least</p> | <p>Amend Policy 11 as follows:</p> <p>Policy 11: Application of Best Practicable Option and mitigation or offset of effects to point source discharges Require any person undertaking a point source discharge of nitrogen, phosphorus, sediment or microbial pathogens to water or onto or into land in the Waikato and Waipa River catchments to adopt the Best Practicable Option* to avoid or mitigate the adverse effects of the discharge, at the time a resource consent application is decided.</p> <p><u>Policy 11A: Offsetting the effects of point source discharges</u> Where it is not practicable to avoid or mitigate all any significant adverse effects, an offset measure may be proposed in an alternative</p> |

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| | | | <p>cost over time.</p> <p>J Swap Ltd does not consider it appropriate to combine these two concepts in a single policy as they are separate, albeit potentially related matters.</p> <p>J Swap Ltd therefore proposes Policy 11 is split into two policies to separate Best Practicable Option from offsetting. A consequential amendment to the title of Policy 11 is required together with a new Policy 11A and associated title.</p> <p>J Swap Ltd also proposes that re-numbered Policy 11A is amended to include new sub-clause d) to replace the sentence deleted in the chapeau (i.e. "ensure positive effects....to lessen any residual effects"...etc.). This improves the clarity and readability of the sub-clause and ensures the offset measure is monitored to confirm its effectiveness.</p> <p>J Swap Ltd also proposes amendments to sub-clause (e). A consent condition may not always be the most appropriate mechanism for securing an offset. For example, a covenant could be used which may provide greater protection for the offset measure than a consent condition.</p> <p>Further minor amendments are proposed as shown for clarity.</p> | <p>location or locations to the point source discharge, for the purpose of ensuring positive effects on the environment to lessen any residual adverse effects of the discharge(s) that will or may result from allowing the activity provided that the:</p> <ul style="list-style-type: none"> a) <u>The Primary discharge does not result in any significant toxic adverse effect at the point source-discharge location; and</u> b) <u>The Offset measure is for the same contaminant; and</u> c) <u>The Offset measure occurs preferably within the same or upstream of the sub-catchment in which the primary discharge occurs and if this is not practicable, then within the same Freshwater Management Unit[^] or a Freshwater Management Unit[^] located upstream; and</u> d) <u>The offset measure is monitored and results in a net reduction in adverse environmental effects on the Waikato or Waipa River catchment caused by nitrogen, phosphorus, sediment and/or microbial pathogens; and</u> <p><u>The Offset measure remains in place for the duration of the consent and is secured by consent condition or another legally binding mechanism.</u></p> |
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| 34 | 12 | Support in part | <p>J Swap Ltd supports the intent of Policy 12 but considers that stronger terminology is needed in order to give effect to the NPSFM and Vision and Strategy. J Swap Ltd proposes that the word “Consider” be replaced with “Assess.”</p> <p>An amendment to this objective is also required to give effect to submission point 1.</p> | <p>Amend Policy 12 as follows: Policy 12: Additional considerations for point source discharges in relation to water quality targets Consider <u>Assess</u> the contribution made by a point source discharge to the nitrogen, phosphorus, sediment and microbial pathogen catchment loads and the impact of that contribution on the likely achievement of the short term or targets^ in Objective 3 or the progression towards the <u>desired 80 year water quality state</u>targets^ in Objective 1, taking into account: c. The ability to stage future mitigation actions to allow investment costs to be spread over time and <u>contribute to meeting Objectives 1 and 3</u>the water quality targets^ specified above; and</p> |
| 34 | 13 | Support in part | <p>J Swap Ltd strongly supports the intent of Policy 13 as long term consent durations provide operational and investment certainty for its activities, however considers that a consent term of 35 years is warranted where the requirements of Policies 11, 11A and 12 are complied with.</p> <p>J Swap Ltd also suggests some minor amendments to improve the clarity and robustness of the policy.</p> | <p>Amend Policy 13 as follows: Policy 13: Point sources consent duration When determining an appropriate duration for any consent granted consider the following matters: A consent term exceeding 25 of 35 years, where the applicant demonstrates the approaches set out in that Policies 11, <u>11A</u> and 12, will be met<u>complied with</u>; and ...</p> |

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| 35, 36 | 16 | Support in Part | <p>The proposed plan change makes reference to Good Management Practice (GMP) in relation to Certified Industry Schemes and Best Management Practice (BMP) in relation to Policy 16. The inclusion of these terms suggest the plan could be interpreted as suggesting BMP and GMP are differing levels of obligation on resource users to avoid, remedy or mitigate the adverse effects of water use in each case. The reference to “good” and “best” management implies the obligation in these instances is different to the best ‘practicable’ option and at an extreme, that the obligation could be impractical.</p> | <p>Provide greater guidance on these terms or replace references to ‘BMP’ and ‘GMP’ with “BPO”.</p> <p>If necessary, amend the definition of BPO to include as a Schedule to the Plan, WRC’s ‘guidance’ material as representing the BPO in respect of diffuse source discharges.</p> |
| Implementation Methods | | | | |
| 38 | Monitoring and evaluation of the implementation of Chapter 11 | Support in Part | <p>The proposed plan change makes reference to working with industry to collate information on the functioning and success of any Certified Scheme. No methods or rules are proposed at this stage around existing infrastructure and treatment for regionally significant industry.</p> <p>The concern from J Swap as a regionally significant industry is that the history of the activity and the investment in infrastructure and treatment to minimise the effects on water quality are not taken into account in any future resource consent renewal process. Due</p> | <p>That any method or rule around consent renewal is assessed on a case-by-case basis for regionally significant industry – to take into account existing industry infrastructure investment to date.</p> <p>Regionally significant industry develops infrastructure on a business basis and this is generally for longer time periods than the duration of resource consent(s).</p> <p>Acknowledging this infrastructure investment will help lead to a balanced assessment of effects at the time of consent renewal notwithstanding the BPO and offsetting approaches discussed under Policy 11 above.</p> |

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| | | | to the nature of Regionally Significant Industries investment decisions in infrastructure and treatment made on extended timeframes than those permitted under the RMA. For Regionally Significant Industries to operate and provide economic and social benefits to the Waikato Region, continuity of the resource consents needs to be addressed in Plan Change 1 to the Waikato Regional Plan. | <p>3.11.4.11 Waikato Regional Council Will:</p> <p>a. Review and report...</p> <p>f. Recognise current infrastructure investment by Regionally significant industry, when assessing resource consent renewals for existing activities; and</p> <p>g. Recognise the level of treatment provided by Regionally significant industry infrastructure under any existing resource consents and apply a BPO approach when assessing resource consent renewals for those existing activities.</p> <p>The above should be encapsulated into a new Controlled Activity Rule, Rule 3.11.5.5 for renewals of resource consents associated with Regionally significant industries or relief to that effect is sought.</p> |
| Definitions | | | | |
| 83 | Regionally Significant Industry | Support | The definition of regionally significant industry in the Waikato Regional Policy Statement indicates that regionally significant industry is expected to be defined in regional plans (see page G-9 of the RPS). Regionally significant industry is referred to in Plan Change 1 but is not defined. J Swap Ltd therefore proposes a new definition for regionally significant industry. | <p>Include a new definition of regionally significant infrastructure as follows:</p> <p><u>Regionally significant industry</u> - means an economic activity based on the use of natural and physical resources in the region which have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits. Regionally significant industry includes:</p> <p>a) <u>Dairy manufacturing sites;</u></p> <p>b) <u>Meat processing plants;</u></p> <p>c) <u>Pulp and paper processing plants; and</u></p> <p>d) <u>Mineral extraction activities.</u></p> |

Consequential amendments to the Waikato Regional Plan

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| <p>90</p> | <p>3.5 Discharges Background and Explanation</p> | | <p>The sentence proposed to be included in Section 3.5 appears incomplete and refers to “Discharges associated with Farming Land Use” when Chapter 3.11 also has policies addressing point source discharges. J Swap Ltd considers that the text requires amendment to better reflect the actual intention of Chapter 3.11.</p> | <p>Amend the text of the Background and Explanation section as follows: <u>Discharges in the Waikato and Waipa River Catchments associated with Farming Land Use</u> <u>Chapter 3.11 addresses the use of land for farming in the Waikato and Waipa River catchments including associated diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens. Chapter 3.11 also contains objectives and policies that apply to point source discharges to land and water in the Waikato and Waipa River catchments.</u></p> |
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