

# PROPOSED WAIKATO REGIONAL PLAN CHANGE 1 WAIKATO AND WAIPĀ RIVER CATCHMENTS



Submission form on publicly notified – Proposed  
Waikato Regional Plan Change 1 – Waikato and  
Waipā River Catchments.

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

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## SUBMISSIONS CAN BE

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Delivered to	Waikato Regional Council, 401 Grey Street, Hamilton East, Hamilton
Faxed to	(07) 859 0998 <i>Please Note: if you fax your submission, please post or deliver a copy to one of the above addresses</i>
Emailed to	healthyrivers@waikatoregion.govt.nz <i>Please Note: Submissions received by email must contain full contact details.</i>
Online at	www.waikatoregion.govt.nz/healthyrivers
<b>We need to receive your submission by 5pm, 8 March 2017.</b>	

## YOUR NAME AND CONTACT DETAILS

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## TRADE COMPETITION AND ADVERSE EFFECTS (select appropriate)

- I could /  could not gain an advantage in trade competition through this submission.
- I am /  am not directly affected by an effect of the subject matter of the submission that:
- adversely effects the environment, and
  - does not relate to the trade competition or the effects of trade competition.

Delete entire paragraph if you could not gain an advantage in trade competition through this submission.

**PLEASE INDICATE BY TICKING THE RELEVANT BOX WHETHER YOU WISH TO BE HEARD IN SUPPORT OF YOUR SUBMISSION**

- I wish to speak at the hearing in support of my submissions.
- I do not wish to speak at the hearing in support of my submissions.

**JOINT SUBMISSIONS**

- If others make a similar submission, please tick this box if you will consider presenting a joint case with them at the hearing.

**IF YOU HAVE USED EXTRA SHEETS FOR THIS SUBMISSION PLEASE ATTACH THEM TO THIS FORM AND INDICATE BELOW**

- Yes, I have attached extra sheets.  No, I have not attached extra sheets.

**SIGNATURE OF SUBMITTER**

Signature:  Date: 8-3-2017

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## Submission. PC1 - Malcolm Lumsden

### Opening Commentary

As submitters we are going to the time consuming task of submitting on a plan that is both incomplete and confusing. We have been told that rhetoric will not be accepted by the hearing committee and that we should submit entirely on the plan provisions. The latter I will do, but I will not revile from making some observations as to the process. The following points attempt to summarise my concerns;

- The PC1 we are submitting on is incomplete as we are informed that Council staff are busy drafting submissions that will make important changes to the draft plan and these won't be seen until submissions close. So as submitters we are going to the time consuming task of submitting on a plan that is incomplete, and that critical components were never clarified during a very confused consultation process that was run more to tick the boxes than provide certainty of direction.
- For me, a critical part of my own catchment area has removed from the proposed plan. My Farming business is adjacent the Partial withdrawal area which runs directly through our Lake Waikare catchment area. My discharges flow into the withdrawn area. There is no certainty that following Consultation with Hauraki IWI that the plan rules for that area will not be changed. How will these be adopted into the PC1? This means that I will have to submit again although as a submitter outside PC1A area. I object to this uncertainty causing additional costs and confusion.
- We are without any knowledge as to how the proposed 2017 **National Freshwater standards** yet to become law may impact on the proposed plan. The new Freshwater Standards are now open for submission at the time of writing this submission. Government is looking to introduce them into law latter in the year following a submission process. Is PC1 in tune with these, or are we either below or exceeding the proposed National guidelines. It would have been more constructive to have removed the undue haste from this process by WRC and resolved all matters so we could consider the plan as a whole and measure the standards sought by the WRC against the new National Water Quality standards.
- It is unclear as to how any differing standards adopted for the partial withdrawn area PC1A and the National Water Quality standards will be incorporated into PC1 without an addition cost input.
- The plan is extremely prescriptive and attempts to allow for micro management by council staff of individual farming business. It focuses on measuring inputs rather than outputs. It is also open to a lot of staff interpretation and intrusion into normal business management decisions. This is completely unwarranted and doomed to fail as Council will never have enough staff to carry out this intent. It will stifle innovation and I predict will ultimately lead to open hostility and rebellion from the rural sector.

- There is no simple process for dealing with disputes where staff exercise their power to make changes to farm plans or consent conditions at their discretion.
- Prescriptive farm plans for example that stipulate feed levels and feed purchases do not recognise seasonal variability. In mid-January this year I had to for the first time ever buy in feed to keep my herd going due to drought. That was an animal welfare matter. If this wasn't in my farm plan, what would I do? Send cows to slaughter? This is the danger of attempting to micro manage an industry that is weather dependent.
- There is no clarity in terms of consents durations and requirements for reviews. This cannot be. The setting of consent terms is fundamental to provide for certainty of investment where contaminant reduction measures are proposed (including investment in fencing, treatment plant upgrades or other land based changes that require long term capital expenditure).
- For landowners, critical components that were never clear during the consultation process, may now be changed by Council. The rhetoric around the consultation process was based on "doing nothing was not an option" rather than providing precise information that landowners could understand. I refer directly to the Farm Plan requirements and matters of what is required and the cost of compliance.
- With regard to the requirements on landowners for farm plans, there are not enough "experts" to fulfil this task which will be very expensive and there is no guarantee of when it will need to be repeated. I venture to suggest much of the requirements are unwarranted and totally unnecessary and will use up funds that could be better spent making on farm improvements.
- Water quality reports show improving trends. No attempt has been made to deal with the urban discharges.
- There is a growing disquiet that some groups may be subject to differing requirements under the plan. All landowners must be treated equally.
- I attended a number of meeting called "Consultation" on the PC1 proposal. I could not get clear critical information at those meetings and when points were raised there seemed to be a moving feast of views as to what was applicable. For example I asked the presenter at a council meeting what area was used for winter crops the catchment when they presented a slide to say winter cropping would be banned under the PC1 change, in but they could not answer. Again with the slope issue, the whole matter was fudged when questions were asked. The answer given was mitigation would be required, but what mitigation was not answered. Both of these proposed changes are major intrusions into current farm management practices and landowners deserve a degree of clarity and certainty given the potential impact on current farm practices.
- I sought clarity as to whether a letter sent to a Taupo landowner requiring his full farm accounts would be a requirement for all landowners under PC1. That farmer had received no grants from Council. The answers were all over the place with the CEO saying no, to staff saying yes and a lot of back sliding around the process. This creates

uncertainty and it is of concern that any plan should be written specifically to allow for all manner of staff interpretations as they see fit.

- In relation to information required by Council for a consent [or farm plan as this is a consent under another name] such information is subject to public scrutiny and will be subject to an OIA request. So if sensitive commercial or private information is sought by Council, then there needs to be some parameters around such. If Council gets itself into a Privacy Act case, there will be no winners. It is my and others intention to partition Government on measures to limit how Councils gather and manage private or sensitive commercial information in light of the PC1 proposal.

**In conclusion**, this plan is in my opinion deeply flawed. E.coli is the major factor in determining the healthy swimability of rivers. The Councils definition of 365 days swimability was at variance with the River Authority. Phosphate is a key substance impacting rivers and is easily measured on farm with the Olson P test. The suggested \$40M cost of implication, and subsequent excessive on farm management implications of farm activity will destroy the productivity of the Waikato economy.

In the end the plan must meet a number of tests.

Is it Equitable?

Is it Practical?

Does the Community support it?

Is it enforceable?

Does it allow the community to provide for their future economic wellbeing while achieving realistic environmental outcomes?

I submit that this Plan fails each of the above tests.

Everyone must have a part to play in improving water quality. This plan fails that test by concentrating on one sector. This plan is based on controlling every farm activity rather than getting farmers on board and setting obtainable goals. It is doomed to fail and it will ruin this region as one of the important economic regions of NZ. Despite the rhetoric about consultation, the Community at large and a large portion of the rural community have little comprehension of the longer term implications having been blinded by the Publicity claims that the river is a disaster zone when it is not.

Whilst I support the Governments 2017 Freshwater policy, I cannot support this plan as a goal to achieve that objective. I attach the proposed 2017 Freshwater Policy, a Council report on the condition of the river that does not show the quality of the river has been improving, and a WRC letter demanding a farmers full personal accounts.

While doing nothing is not an option, producing such a fundamentally ill-conceived ideology based solution is equally not an option. Starlin tried to control all farm activities. Russia nearly starved as a result. I strongly believe we can do better for

M J & E L LUMSDEN

Section number of the Plan Change	Support /Oppose	Submission	Decision sought
Policy 6 page 32 and 45	I oppose the provision.	Restricting Land use change under rule 3.11.5.7. It will be almost impossible to get a resource consent for a non-complying activity under this rule.	I submit rule 3.11.5.7 be deleted and be replaced with a rule that allows a discretionary activity
Policy 7 page 32	Oppose B	Rules should apply equally to all land users	Delete
Rule 3.11.5.2 Page 40 requiring resource consent for cultivation or grazing of slopes above 15 degrees	oppose	Rule is too intrusive and unworkable. Council has never been able to give a definitive answer as to how this will be applied leading to real uncertainty. A 14.5 degrees is the slope for wheelchair ramps at rest homes. Most farms have parts of land area over this slope. This rule creates uncertainty and is in my opinion unworkable in most on farm situations as the so called mitigation requirements have not been clarified. Mitigation for example not to graze such areas a certain times of the year on a dairy farm by a consent imposition will have very significant adverse implications for on farm management that Council hasn't thought through because the plan drafters have no farm management expertise.	the rule be amended so that cultivation and grazing activities are managed through Industry-agreed good management practices with the goal of minimising the adverse effects such as the loss of sediment and nutrients.

Policy 10 page 33	Support but amend	<p>The flood control scheme is a major infrastructural asset that impact on the lower region, but benefits the wider economy and provides protection for national infrastructure. The scheme managers have no control over the nature of the receiving waters, partially during flood conditions. Therefore the primary function of flood control and drainage cannot be compromised by the inability of asset controllers to manage the nature of the receiving waters. As with all such infrastructure compromises exist and in the north Waikato, Lake Waikare is such a compromise. The flood scheme would never have been constructed without the use of lake Waikare and the Whangamarino swamp as storage areas for peak flood events as ground condition prevented the full containment of waters in the Waikato river. Equally drainage scheme structures have no control over the quality and volume of their discharges and must operate to meet the service provision they were commissioned for by the community.</p>	<p>Reword to include "that nothing in this plan shall take precedent over the ongoing use of the regions significant flood control and drainage structures operational requirements'.</p>
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<p>Matters of Control Page 43</p>	<p>Oppose in part Seek new conduct requirements and an appeal/ resolution process</p>	<p>It is improper for Council to give itself/staff an open hand to decide the contents of a farm Environmental Plans (i), the term of any resource consent (v), and a free hand under (vi) to decide what information they think may be required. In (vii) and (VIII) staff can do as the see fit. This does not sit well with my experiences with examples where staff have regrettably sometimes displayed unreasonableness in the eyes of ratepayers with their actions on issues relating to consent matters. In doing this they have claimed independence from any sanction by the elected Council. This has been a bone of contention for many ratepayers who feel that their elected Council is there to represent ratepayers.</p> <p>This new rule process places enormous power in staff hands and the potential for any such perceived unreasonableness or abuse of power in administrating Consent matters must be addressed. Such unreasonable has been seen in the lists of experts that council will accept information from on farmer's behalf. The refusal to accept opinions from individual far more qualified in there relevant staff is an unchecked abuse of power.</p> <p>There has to be some guidelines to provide for some certainty and cost effectiveness of the process, and a more prescriptive management document needs to be completed to provide clear guidelines for landowners and staff as to how these matters are administered, staff discretion limits, and performance requirements, all of which are needed to provide landowners with some certainty through the process.</p>	<p>That given the extensive power able to be exercised by staff, limitations and performance requirements along with a <b>clear code of conduct</b> as to how all matters are dealt with when administering this rule, including the dealing with what is reasonable rather than allowing complete staff discretion on (i), (v), (vii), and (viii).</p> <p>I seek a clear and <b>effect appeal process</b> to be inserted into "Matters Of Control" so differences between staff and landowners over the contents of their farm plans/consents can be heard by an independent panel of adductors in a cost effective and timely manner.</p>
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Section number of the Plan Change	Support /Oppose	Submission	Decision sought
Schedule B page 47 Use of overseer	I oppose the extent of the provisions.	I oppose the use of overseer because of the variability of its performance. While it can be used as a management tool, no Court will accept it as an enforcement tool and that view is shared by most in the industry. It is simply unreliable	PC1 should carry a definitive statement as to the use of overseer and the parameters surrounding its use. It is a guide tool only.
Schedule B Page 47 Item G Records	I oppose the extent of the provision in G	I totally oppose the provision G i re annual accounts. There has been controversy over the supply of full annual accounts as asked for from Taupo Farmers. No definite answer has been forthcoming on this matter. Instead I understand staff will themselves decide what information they think they should have. That is not acceptable and Council will risk breaches of the privacy act. Annual accounts will show only confusion – for example how do you deal with 50/50 sharemilker situations. Or what about a farmer who owns several farms but has one set of accounts. Council will never have the resources to audit all farm activities and does not need to.	Very clearly specify the limits on information staff can require under these provisions and how such information is collected and managed. Unless this becomes very clearly laid out, mayhem will result for no gain other than non- productive employment.
Schedule B Page 47	I oppose the extent of the provision G ii	There is no justification for stock sales receipts as all that is required is the annual stock reconciliation pages from the annual accounts. Stock numbers vary during any season on any farm. There depending on the season is sometimes an issue of boner cows carried into June which impact the reconciliation and can cause confusion in the hands of untrained observers, or equally early sales due to drought. There is also a problem in that annual accounts may not show numbers grazed on another property owned by the same farmer, or numbers owned by sharemilker. Even MPI can't get stock numbers reconciled under Nait.	I suggest that the landowner supply only the annual stock reconciliation from his accounts. Over time this will show any trends in stock numbers. This can be supplied by his accountant direct to WRC

Schedule B g iii Page 47	clarify	Fertiliser type and amount is simply a printout from the Fertiliser supplier accompanying the nutrient report. Farmers who purchase and apply fertilizer themselves only have a record of the bulk purchase, not a receipt of application. Council may succeed in getting bulk amounts purchased by individual farmers , but will never succeed in micro management	Printout of purchase from Fertiliser suppliers to farmer supplied by accountant to WRC
Schedule B Page 47 g ii	Simplify	Council could ask for monthly production. That is not necessary and so again I suggest this info be annual and provided by the farmer's accountant. That will allocate amounts to supply nos	total milk solids for the year as a single figure from his company's end of season statement supplied by accountant for each supply number
Schedule B Page 47 G ii	Clarify	Feed may be transferred between farms owned by the same farmer so is not sold or purchased and no record will be in annual accounts. So that creates an issue maybe.	Stock feed sold or purchased supplied from accounts by accountant
Schedule C Stock exclusion	Insert new National freshwater requirements	Stock exclusion rules that have been announced in the national freshwater management policy should be reflected here. They make more sense and would ensure consistently with other regional plans	Substitute for National Freshwater policy guidelines

Section number of the Plan Change	Support /Oppose	Submission	Decision sought
Schedule 1 Farm environment plans 3 Page 51	oppose the extent of provisions.	This requires a lot of work and again I believe some of the requirements are from desktop dreamers who have little else to do. I believe alot of this information will never be used by Council as they will never have the resources to micro manage this and the ratepayers will never be able to fund such a program. The question again does the end justify the means in terms of gaining environmental outcomes	Support (a) and (b)and (e) only
Schedule 1 pt 4 P. 53	oppose	Simply excess paperwork	delete
Schedule 1 pt 5 P 53	Oppose	Would rather see Olson P test dealing with Phosphate	Deal with Olson P rather than N

Section number of the Plan Change	Support /Oppose	Submission	Decision sought
Schedule 1 Farm environment plans  P. 51	Oppose lack of clarity.	There is no indication of the duration of such plans. Given the huge cost impost on the landowner, that need to be some certainty	Place time indication of life of plan given staff seek elsewhere to have a free hand on the length of consents
Schedule 1 Farm environment plans  Page 51, 52, 53	Oppose extent of detail required	The sheer cost of such plans begs the question if the end justifies the means. How is such a wealth of information going to improve water quality? Estimates vary but place cost around \$70000 up to \$100000  <b>Such money would be better spent on farm dealing directly with on farm environmental improvements. Dairy farmers do not have the surplus resources to pay for this cost. There are not enough "qualified experts" to carry out this requirement Council does not have the resources to implement or audit.</b>	Reject the extent of this requirement as being excessive and overly costly with no indication of environmental improvement
Schedule 1 Farm environment plans Part 2 a,b,	Oppose	Remove as all this is covered in the national Freshwater Policy	Remove and include that property owners must meet the min standards of the proposed National Freshwater Policy

<p>Schedule 1 Farm environment plans Part 2 c (i)</p> <p>P. 51</p>	<p>oppose</p>	<p>Such implementation of building or constructing dams or ponding areas would require a separate resource consent</p>	<p>Remove @ C (i) as it is impractical and can be covered in a simpler version under farm management</p>
<p>Schedule 1 Farm environment plans Part 2 c (ii)</p> <p>P. 51</p>	<p>Support</p>	<p>Easily implemented and should be part of normal farm practice</p>	<p>support</p>
<p>Schedule 1 Farm environment plans Part 2 c (iii)</p> <p>P. 52</p>	<p>Oppose</p>	<p>Beyond the average farmer to identify. Measures better suited under a general farm management requirement about managing livestock.</p>	<p>Remove and build into general farm management requirement to manage runoff of effluent from stock handling facilities</p>

Schedule 1 Farm environment plans Part 2 c (iv)  P. 52	oppose	Again a pie in the sky requirement that is unworkable. Most farmers deal with these issues on a daily basis	Change to " Manage areas where effluent accumulates to ensure effluent does not contaminate surface or Groundwater"
Schedule 1 Farm environment plans Part 2 c (iv)  P 52	See as excessive	Do not need such a rule as should be part of good management and this is really getting into micro- management Farmers have an overriding duty to mitigate such areas without having to list everything	Cover in general farm management as indicated above in (iv)
Schedule 1 Farm environment plans Part 2 (d)  P 52	oppose	Coverd in Best farm practice under industry guidelines How are you going to get any 2 experts to agree on what is really subjective matter when using best practice guidelines and on farm experience already covers this This is creating an issue that is already covered in practice	Remove
Schedule 1 Farm environment plans Part 2 (d)  P 52	Oppose	Way to much control here These requirements are extreme and prudent management experience should cover. The setback requirements are covered elsewhere	Reduce requirements to (1), (d) and (f)