

# Proposed Waikato River Plan Change 1

## Submission for Waikato and Waipa River Catchments 2017

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## Introductory comments

1. Thank you for the opportunity to submit on the next steps for freshwater consultation document.
2. If required the New Zealand Institute of Forestry wishes to be heard in support of its submission.
3. NZIF is willing to consider appearing jointly with others making the same or similar submissions.
4. The specific provisions of proposed plan change 1 our submission relates to is 3.11.5.7 (Rule 7) and such other amendments to the proposed plan required to give effect to our primary relief; that the non-complying activity rule related to land use change be deleted.

## About the Submitter

5. The New Zealand Institute of Forestry (NZIF) was founded in 1927 and has 850 members who are the individual professionals in forestry in New Zealand. NZIF's objective is to advance the profession of forestry in New Zealand and to be an independent advocate for forestry.
6. NZIF is committed to serving the practice of forestry and the wider community through education, accountability and its code of ethics and performance standards. NZIF fulfils a quality assurance role, setting the benchmark for professionalism and the quality of advice and practice by which members and others in the profession are measured.
7. NZIF members are concerned with the professional management of all forests; plantation and natural, conservation, protection and commercial. Members can be found in forestry companies, consulting businesses, research institutes, educational facilities, government departments and providers of specialist services. The members' qualifications and areas of expertise reflect the diversity of disciplines involved in managing a modern forest resource; from traditional forestry degrees through science, economics, law, microbiology, hydrology, engineering and resource management. NZIF operates the scheme which controls the registration and conduct of forestry professionals, including consultants who provide forestry advice to the public.

## General Comments

8. NZIF contends the proposed plan represents the most recent example of regulatory disadvantage accruing to forestry which has characterised the Waikato Regional Councils approach under the RMA. The expectation in the proposed plan landowner, who have previously invested in forests, will continue with the activity in perpetuity, is symptomatic of a wider apparent assumption commercial forestry is not materially disadvantaged by regulatory constraint on land use change. As with WRC's Variation 5 affecting forestry in Taupo, the actions of the Council have been to advantage those land uses associated with greater than average adverse effects on water quality, and to corresponding disadvantage those whose land use choices have lower than average adverse effects.

9. NZIF contends Plan Change 1 (PC1) can not hope to achieve the objective of an improvement in the region's water quality in the manner proposed. In particular, we suggest PC1 will act to discourage afforestation to the extent such land use change represents a risk, if not outright loss, of capital value in the land planted. As proposed, PC1's discouragement of land use change to forestry will forego the associated net water quality improvements from such land use change. It will coincidentally forge the biodiversity and active recreational opportunities associated with commercial forestry. It will impede the Government's efforts to give effect to NZ's international obligation to reduce net greenhouse gas emissions, and the contribution the forestry sector could make to reduce the GHG emissions intensity of the economy more generally.

### 3.11.5.7 (Rule 7)

#### Oppose

10. Oppose the Non-complying activity rule – Land Use Change.

#### Relief Sought

11. Deletion of the Land Use Change Rule and such other changes to the Plan as to incentivise the shift to forestry (in all its forms) and other land uses which reduce the adverse effects of land use on the region's water quality.

#### Explanation

12. The rule regulates changes in the use of land for specified activities, from the activity occurring on the land as at 22 October 2016, as a non-complying activity. The change must exceed a total of 4.1 hectares. In essence, the rule targets change to farming from non-farming activities, and changes to dairy farming for existing non-dairy farming activities. It does not stop intensification of existing land use where the current land use equates to adverse environmental effects at a level below the maximum achieved between 2014-15 or 2015-16.
13. Any application for consent as a non-complying activity pursuant to s104D requires consideration of the objectives and policies. Policy 6 provides for any land use change consent which demonstrates an increase in diffuse discharges will generally not be granted. Unless a reduction in diffuse discharges can be demonstrated, the rule acts as a freeze on a number of existing uses, by locking in place, or grandparenting existing discharges as at 22 October 2016. In practical terms, any of the land use changes regulated by the rule will be unfeasible, (with the possible exception of land covered by Policy 16). Even in the case of land covered by Policy 16, the presumption is consent is required and the consent is subject to the implementation of Best Management Practices which are presumably more onerous than the Good Management Practices and Certified Industry Scheme requirements applying to land in other ownership.
14. Although conversion to forestry is not regulated per se, once land is converted 'down' to a lower discharging use, there is a risk subsequent plan changes will prevent it from being converted to a higher discharging use. A financially prudent land owner will be reluctant to devalue his or her land asset by changing from a land use with an assumed or actual lower sovereign risk to one with a greater sovereign risk.

**15. Proposed Rule 3.11.5.7 is opposed in its entirety.**

16. Without limitation:

- 16.1. The rule risks significantly affecting land values and providing a windfall gain to those with the highest discharges. Standard valuation methods used to value rural land extrapolate a capital value based on the returns from the 'highest and best use' of the land irrespective of its current use. Rule 3.11.5.7 has the practical effect of limiting the 'highest and best' use of land to those uses with the same or lower N leaching potential as the existing use. Perversely, land with the highest discharges will receive a high capital value per hectare while land with the lowest discharges will fall in value. As the plan only 'signals' rather than locks in a future change in allocation, individual property owners will be incentivised to continue land use activities where those activities are associated with higher assumed and actual adverse effects including N leaching potential, rather than change land use to an activity associated with a lower risk of loss of contaminants. Continuing such activities will be recognised by landowners as partially or fully shielding them from any future plan change which grandparents discharges. Landowners will therefore be reluctant to afforest and or will demand a greater return to justify the loss of opportunity-determined capital value.
- 16.2. The rule is inequitable as there is no limitation on increased intensification of an existing land use up to the maximal impact achieved by a property manager between the years 2014-15 and 2015-16.
- 16.3. PC1 reduces the incentive to convert land to a lower discharging activity or to operate in a manner which minimises discharges where the landowners financial interest is better served by retaining the capital value.
- 16.4. NZIF is concerned few if any landowners would be willing to voluntarily forgo the capital value associated with greater land use flexibility by changing from farming to forestry despite forestry's lower loss of contaminants, on average, above natural / background rates. The assumption land owners will act in their financial self-interest can be extrapolated from the distortionary influence on investment in forestry following enactment of the Climate Change Response Act 2008.
- 16.5. The rule amounts to a prohibition on change in activity where land was in forestry at 22 October 2016. Forestry is typically associated with the lowest or no loss of contaminants associated with artificially applied fertilisers, in particular N. There is therefore no, or at best very limited, scope to satisfy the Council any application for consent will not be contrary to policy 6. This is underscored by the requirement in Policy 16, changes in Maori-owned forest land will only be contemplated where the owners agree to apply the Best Management Practices, as distinct from the Good Management Practices or Certified Industry Scheme requirements applied to others undertaking the same activity.
- 16.6. The rule is inconsistent with and fails to support the statements in the background explanation "...achieving water quality restoration requires a considerable amount of land to be changed from land uses with moderate and high intensity of discharges to land use with lower discharges (e.g.

through reforestation).”

- 16.7. Constraint on land use change will constrain investment in forestry and reduce land values as pursuant to PC1, conversion will result in a loss of future allocation and at the risk of immediate opportunity value based devaluation from afforesting land.
- 16.8. To the extent PC1 allows existing land uses to continue despite adverse effects not being avoided, remedied or mitigated, PC1, will lead to gaming and a disincentive to utilise land for forestry. It therefore risks precluding the reasonable assumption of an opportunity for catchment water quality improvement through afforestation.
- 16.9. The rule is inconsistent with the CSG policy selection criteria it fails to “provide flexibility for future land use” except to the extent Policy 6 provides flexibility for treaty settlements land and multiple Maori owned land where the owner is granted consent in return for applying the Best Management Practices, (with the implications of BMP discussed above).
- 16.10. The rule is inconsistent with the explanation and background to PC1 which provides the no land use change approach is an interim rule. Setting a time limit that coincides with the end of the life of PC1 disassembles the expressed intention.

## Conclusions

17. NZIF opposes 3.11.5.7 (Rule 7)
18. NZIF is concerned this rule will result in further degradation
19. NZIF believe grandparenting of any type is poor legislation and inherently unfair to those who have well managed land, and in fact encourages future poor land management.

Yours sincerely



**James Treadwell**

President

NZIF