

**SUBMISSION BY THE OIL COMPANIES: Z ENERGY LIMITED, MOBIL OIL NEW
ZEALAND AND BP OIL NEW ZEALAND LIMITED ON PROPOSED PLAN CHANGE
1 TO THE WAIKATO & WAIPA RIVER CATCHMENTS**

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**THIS IS A SUBMISSION BY THE OIL COMPANIES TO WAIKATO REGIONAL
COUNCIL'S PROPOSED PLAN CHANGE 1 TO THE WAIKATO & WAIPA RIVER
CATCHMENTS**

1. INTRODUCTION

- 1.1 The Oil Companies receive, store and distribute refined petroleum products.
- 1.2 The Oil Companies have bulk storage facilities and are owners of retail outlets and suppliers of petroleum products to individually owned retail outlets and commercial customers. The Oil Companies core business in the region relates to the operational and management of their individual service station and truck stop networks, commercial refuelling facilities including at airports.
- 1.3 The principal issue for the Oil Companies is the potential for the PC1 provisions to be applied to a broader suite of discharges than those intended to be targeted.

2. THE SPECIFIC PROVISIONS OF THE PROPOSED PLAN CHANGE THAT THE OIL COMPANIES SUBMISSION RELATES TO ARE SUMMARIESED AS FOLLOWS:

- 2.1 This submission relates specifically to the following general provisions of the Proposed Waikato Regional Plan Change 1:
 - Introduction to Chapter 3.11 (interpretation)
 - Policy 3.11.3.10 – 3.11.3.13 (interpretation and application)
 - Rules 3.11.5.1-3.11.5.7 (application)
- 2.2 The Oil Companies submission points on each of these matters, the rationale for the submission points and the specific relief sought is addressed in the following two schedules. In addition, in giving effect to the general and specific relief set out in the following schedules, the Oil Companies seek to ensure that the provisions of PC1 by this submissions:
 - (a) Address the relevant provisions in section 5-8 of the RMA;
 - (b) Implement the statutory tests in section 32 and the requirements in the First Schedule RMA;
 - (c) Address relevant statutory functions of the consent authority and the related statutory requirements for the Plan;
 - (d) Address the considerations identified by the Environment Court for planning instruments in decisions and subsequent case law; and
 - (e) Avoid, remedy, or mitigate the relevant and identified environmental effects.

1. THE OIL COMPANIES WISH TO BE HEARD IN SUPPORT OF THIS SUBMISSION.
2. IF OTHERS MAKE A SIMILAR SUBMISSION, THE OIL COMPANIES WOULD BE PREPARED TO CONSIDER PRESENTING A JOINT CASE AT ANY HEARING.
3. THE OIL COMPANIES COULD NOT GAIN AN ADVANTAGE IN TRADE COMPETITION THROUGH THIS SUBMISSION.
4. THE OIL COMPANIES ARE DIRECTLY AFFECTED BY AN EFFECT OF THE SUBJECT MATTER OF THE SUBMISSION THAT –
 - (A) ADVERSELY AFFECTS THE ENVIRONMENT; AND
 - (B) DOES NOT RELATE TO TRADE COMPETITION OR THE EFFECTS OF TRADE COMPETITION

Signed on behalf of Z Energy Limited, BP Oil NZ Limited & Mobil Oil NZ Ltd



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John McCall

8th March 2017

SCHEDULE ONE: INTRODUCTION & POLICIES

The specific part of PC1 that is subject of this submission is:

- Introduction to Chapter 3.11
- Policies 3.11.3.10 – 3.11.3.13

Reason for submissions:

- 3.1 It is understood by the Oil Companies that the proposed Plan Change primarily targets 'farming activities' (and their respective point and non-point source discharges) into both the Waikato River and Waipa River catchments. The section 32 Report and reference to Overseer Best Practice Data Input Standards (an agriculture management tool which models the cycling of nutrients within a farming operations) both suggest the Plan Change (*PC1*) is not attempting to capture and control, for example, stormwater and other discharges associated with the urban environment.
- 3.2 Some of the new policies are generic and the concern is that they could be applied more widely to more than farming discharges (e.g. dewatering and stormwater discharges associated with some urban activities).
- 3.3 The proposed introduction to Chapter 3.11 states, "Where there are any inconsistencies Chapter 3.11 prevails". In circumstances where an activity may be discretionary or non-complying pursuant to the Waikato Regional Plan an assessment of the relevant objectives or policies is required. What concerns the Oil Companies is that some of the proposed policies (specifically 10-13) of PC1 could potentially be applied to address other than farm related discharges (such as for a discretionary or non-complying activity involving dewatering or stormwater discharges) and which are otherwise currently adequately controlled by the Regional Plan.
- 3.4 The Overseers Best Practice Data Input Standard and Section 32 Report do not address stormwater as an issue PC1 is seeking to control. No justification is provided for controlling such discharges in policy terms. Moreover, the Section 32 Report recognises an urban water quality management framework already exists within the region. Rather PC1 appears to have been developed with the explicit intent to address and manage water quality issues associated with farming activities. Clearly the rules are targeted in that way.
- 3.5 This is reinforced in Chapter 3.11 (page 15) of PC1 also states, "The approach to reducing contaminant losses from pastoral farm land implemented by Chapter 3.11 requires..." and, "There are a number of existing provisions, including rules, in the Waikato Regional Plan that will continue to apply for point source discharge". To the

Oil Companies, this further clarifies the intent of the plan change is to control farming activities rather than, for example, the likes of stormwater or construction discharges.

Relief Sought: [where specific changes are suggested (in red), these are shown in underline and strikethrough]

- A. **Ensure that the proposed policy framework (particularly policies 10 – 13) is applied or targeted only to the rural environment/farming activities (as intended) to prevent the unintended application of the objectives and policies to urban activities (such as construction dewatering and stormwater discharges - which are already controlled by the Plan) or to impose an additional and unnecessary hurdle for other non-targeted discharges. Ensure the avoidance of hierarchical policies within the Regional Plan. This could be achieved through the changes as follows:**

Option A:

Retain Policies 3.11.3.10 – 3.11.3.13 without any modification and amend introduction to Chapter 3.11, as follows:

Area covered by Chapter 3.11/Nga Ria o nga Awa o Waikato me Waipa

This Chapter 3.11 applies to the Waikato and Waipa River Catchments. The map shown in Map 3.11-1 shows the general catchment boundary. This Chapter is additional to all other parts of the Plan. ~~Where there are any inconsistencies, Chapter 3.11 prevails.~~ This chapter only applies to discharges from pastoral farm land.

Option B:

Retain Policies 3.11.3.10 – 3.11.3.13 without any modification and include an introduction / advice note at the beginning of the Policies section (3.11.3), as follows:

3.11.3 Policies/Nga Kaupapa Here

The following policies apply to applications involving discharges from pastoral farm land only.

Option C:

Modify Policies 3.11.3.10 – 3.11.3.13 to ensure that they only apply to discharges from 'pastoral farm land', as follows:

Policy 10: Provide for point source discharges of regional significance

When deciding resource consent applications for point source discharges of nitrogen, phosphorus, sediment and microbial pathogens to water or onto or into land from pastoral farm land, provide for the:

- a. continued operation of regionally significant infrastructure; and*
- b. continued operation of regionally significant industry*

Policy 11: Applications to Best Practicable Option and Mitigation or offset of effect 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 from pastoral farm land to adopt the Best Practicable Option¹ to avoid or mitigate the adverse effects of the discharge, at the time a resource consent application is decided. Where it is not practicable to avoid or mitigate all adverse effects, an offset measure may be proposed in an alternative location or locations to the point source discharge, for the purposes of ensuring positive effect 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:

- a. Primary discharge does not result in any significant toxic adverse effect at the point source discharge location; and
- b. Offset measures is for the same contaminant; and
- c. Offset measures occurs preferably within the same 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
- d. Offset measures remains in place for the duration of the consent and is secured by consent condition.

Policy 12: Additional considerations for point source discharges from pastoral farm land in relation to water quality targets

Consider 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 targets in Objective 3 or the progression towards the 80-year targets in Objective 1, taking into account:

- a. The relevant proportion of nitrogen phosphorus, sediment or microbial pathogens that the particular point source discharge contributes to the catchment load; and
- b. Past technology upgrades undertaken to model, monitor and reduce the discharge of nitrogen, phosphorus, sediment or microbial pathogen within the previous consent term; and
- c. The ability to stage future mitigation actions to allow investment costs to be spread over time and meet the water quality targets specified above; and
- d. The diminishing return on the investment in treatment plant upgrades in respect of any resultant reduction in nitrogen, phosphorus, sediment or microbial pathogens when treatment plant processes are already achieving a high level of contaminant reduction through the application of the Best Practicable Option.

Policy 13: Point source consent duration

¹ As defined in the Resource Management Act 1991

When determining an appropriate duration for any consent granted consider the following matters:

- a. A consent term exceeding 25 years, where the applicant demonstrates the approaches set out in Policies 11 and 12 will be met and*
 - b. The magnitude and significance of the investment made or proposed to be made in contaminant reduction measures and any resultant improvements in the receiving water quality and*
 - c. The need to provide appropriate certainty of investment where contaminant reduction measures are proposed (including investment in treatment plant upgrades or land based application technology).*
- B. **Make** any additions, deletions or consequential amendments necessary as a result of the matters raised in this submission.
- C. **Adopt** any other such relief as to give effect to this submission.

SCHEDULE TWO: RULES

The specific part of PC1 that is subject of this submission is:

- **Rules 3.11.5.1 – 3.11.5.7**

Reason for submissions:

- 4.1 As currently drafted, the proposed rules primarily target 'farming activities' and their respective point and non-point source discharges into both the Waikato River and Waipa River catchments.

Relief Sought:

- A. **Retain** Rules 3.11.5.1 – 3.11.5.7 without any modification
- B. **Make** any additions, deletions or consequential amendments necessary as a result of the matters raised in this submission.
- C. **Adopt** any other such relief as to give effect to this submission.