



Waikato River
Authority

To:

Chief Executive

Waikato Regional Council

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Healthyrivers@waikato.govt.nz

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

Submission from the Waikato River Authority

The Waikato River Authority makes the attached submission on Proposed Plan Change 1 – Waikato and Waipa River Catchments. Attached are:

- A completed version of Form 5 as provided on the Waikato Regional Council website; and
- A document containing the detail of the submission.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Bob Penter', with a stylized flourish at the end.

Bob Penter

CEO

Attachments

- Form 5
- Detailed submission

Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments.

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

SubForm	PC12016	COVER SHEET	
FOR OFFICE USE ONLY			
		Submission Number	
Entered		Initials	
File Ref		Sheet 1 of	

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

SUBMISSIONS CAN BE	
Mailed to	Chief Executive, 401 Grey Street, Private Bag 3038, Waikato Mail Centre, Hamilton 3240
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	healthyivers@waikatoregion.govt.nz <i>Please Note: Submissions received my email must contain full contact details. We also request you send us a signed original by post or courier.</i>
Online at	www.waikatoregion.govt.nz/healthyivers
We need to receive your submission by 5pm, 8 March 2017.	

YOUR NAME AND CONTACT DETAILS		
Full name: Bob Penter		
Full address: Waikato River Authority, PO Box 9338, HAMILTON 3204		
Email : bob@waikatoriver.org.nz	Phone: 07 839 7966	Fax

ADDRESS FOR SERVICE OF SUBMITTER		
Full name: As above		
Address for service of person making submission		
Email	Phone	Fax

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:
(a) adversely effects the environment, and
(b) 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.

THE SPECIFIC PROVISIONS OF PROPOSED PLAN CHANGE 1 THAT MY SUBMISSION RELATES TO

*Please state the provision, map or page number e.g. Objective 4 or Rule 3.11.5.1
(continue on separate sheet(s) if necessary.)*

Please see attached submission document

I SUPPORT OR OPPOSE THE ABOVE PROVISION/S

(select as appropriate and continue on separate sheet(s) if necessary.)

- Support the above provisions
- Support the above provision with amendments
- Oppose the above provisions

MY SUBMISSION IS THAT

*Tell us the reasons why you support or oppose or wish to have the specific provisions amended.
(Please continue on separate sheet(s) if necessary.)*

Please see attached submission document

I SEEK THE FOLLOWING DECISION BY COUNCIL

(select as appropriate and continue on separate sheet(s) if necessary.)

- Accept the above provision
- Accept the above provision with amendments as outlined below
- Decline the above provision
- If not declined, then amend the above provision as outlined below

Amend as follows: Please see amendments requested in the attached submission document.

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

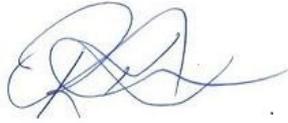
Yes, I have attached extra sheets. Please see attached submission document.

No, I have not attached extra sheets.

SIGNATURE OF SUBMITTER

(or person authorised to sign on behalf of submitter)

A signature is not required if you make your submission by electronic means.

Signature 

Date: 2 March 2017

Personal information is used for the administration of the submission process and will be made public. All information collected will be held by Waikato Regional Council, with submitters having the right to access and correct personal information.

PLEASE CHECK that you have provided all of the information requested and if you are having trouble filling out this form, phone Waikato Regional Council on 0800 800 401 for help.

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

Role of the Waikato River Authority

The Waikato River Authority (WRA) is a statutory body formed under the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010, and with additional responsibilities arising from the Nga Wai o Maniapoto (Waipa River) Act 2012 (the Acts).

The purpose of the WRA is to:

- set the primary direction, through the Vision and Strategy, to achieve the restoration and protection of the health and wellbeing of the Waikato River for future generations
- promote an integrated, holistic, and coordinated approach to the implementation of the Vision and Strategy and the management of the Waikato River
- fund rehabilitation initiatives for the Waikato River in its role as trustee for the Waikato River Clean-up Trust.

Other functions of the WRA of relevance to this current process include:

- engaging with and providing advice to local authorities on amending Resource Management Act 1991 planning documents to make them give effect to the Vision and Strategy
- engaging with and providing advice to the range of agencies with responsibilities relating to the Waikato River, including, local authorities and biosecurity, conservation, and fisheries agencies, to achieve an integrated, holistic, and coordinated approach to the implementation of the Vision and Strategy and the management of the Waikato River
- engaging with and providing advice to the Environmental Protection Authority
- monitoring of the implementation, effectiveness, and achievement of the Vision and Strategy, including any targets and methods
- reporting at least every 5 years to the Crown, Waikato-Tainui, and the other appointers on the results of its monitoring
- periodically reviewing the Vision and Strategy and, at the WRA's discretion, recommending amendments to it to the Crown, Waikato-Tainui, and the other appointers
- requesting call-ins under the Resource Management Act 1991; and
- the appointment of commissioners to sit on hearings committees or boards of inquiry when required to do so.

Under the Acts the Waikato and Waipa catchments are defined as:

Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

Waikato River,—

- (a) in sections 3, 4, 8, and 88, means the Waikato River and its catchment:
- (b) in sections 9, 16, 17, 20, 22, 23, 26, 32, and 44 and Schedules 1 to 6, means—
 - (i) the body of water known as the Waikato River flowing continuously or intermittently from the Huka Falls to the mouth of the Waikato River shown as located within the areas marked “A” and “B” on SO plan 409144; and

- (ii) all tributaries, streams, and watercourses flowing into the part of the Waikato River described in subparagraph (i), to the extent to which they are within the areas marked “A” and “B” on SO plan 409144; and
- (iii) lakes and wetlands within the areas marked “A” and “B” on SO plan 409144; and
- (iv) the beds and banks of the water bodies described in subparagraphs (i) to (iii):
- (c) in sections 35 to 38, 40, 42, 45, 47, 56 to 64, 66, 69, 72, 80, and 93 and Schedule 7, means—
 - (i) the body of water known as the Waikato River flowing continuously or intermittently from Karapiro to the mouth of the Waikato River shown as located within the area marked “A” on SO plan 409144; and
 - (ii) all tributaries, streams, and watercourses flowing into the part of the Waikato River described in subparagraph (i), to the extent to which they are within the area marked “A” on SO plan 409144; and
 - (iii) lakes and wetlands within the area marked “A” on SO plan 409144; and
 - (iv) the beds and banks of the water bodies described in subparagraphs (i) to (iii)

Nga Wai o Maniapoto (Waipa River) Act 2012

Waikato River

- (a) means the body of water known as the Waikato River flowing continuously or intermittently from Te Taheke Hukahuka to Te Puaha o Waikato to the extent to which it is within the areas marked “A” and “B” on SO plan 409144:
- (b) includes the Lower Waipa River to the extent to which it is within the areas marked “A” and “B” on SO plan 409144

Waipa River

- means the body of water known as the Waipa River flowing continuously or intermittently from its source at Pekepeke to its confluence with the Waikato River to the extent to which it is within the areas marked “A” and “C” on SO plan 409144.¹

On the basis of its purpose, roles, and geographical interest the WRA has an interest in Proposed Waikato Region Plan Change 1 greater than the general public.

The WRA has applied the following principals in relation to resource use, allocation, and limits within the Waikato River.

- Limits on resource allocation or use, such as for water allocation or contaminant loss, should be set at a level that at a minimum provides for the achievement of the objectives of the Vision and Strategy;
- These limits should be set with recognition of lag times, where historical or current contaminant losses are yet to be exhibited in the river either in part or in full;

¹ These will be collectively called “the Waikato River” throughout the remainder of this document unless it is appropriate to differentiate the Waipa or lakes, wetlands etc from the whole.

- Once limits are set, any over-allocation or over-use shall cease in the shortest reasonable time;
- No new allocation or use shall be allowed to occur that would exceed agreed limits;
- A precautionary approach shall be taken to limit setting where decisions may result in significant adverse effects on the river, in particular where those effects threaten irreversible damage to the river.

Role of the Authority in Healthy Rivers Plan Change Process

The WRA's position since establishment has been to take a high level role in resource management decision making processes and involvement in the Healthy Rivers Plan Change has primarily been as an observer.

WRA has had an ex-officio seat (with no voting rights) on the iwi steering group Te Ropu Hautu throughout the Healthy Rivers Plan Change process. The purpose of this group was maintaining an overview and provide integrated direction to the project team responsible for reviewing the Waikato Regional Plan as it relates to the effects of discharges on the health and wellbeing of the Waikato and Waipa Rivers.

The WRA has assessed the proposed Plan Change against a number of other regional Plans that are addressing similar issues and believes that the proposed policies, rules, and methods fall within the range of approaches currently used in New Zealand to address water quality issues.

Submission

On the basis that:

- The Vision and Strategy is the primary resource management document for the Waikato River and the objectives contained within it must be given effect to (unless there is a stronger provision in a National Policy Statement); and
- The WRA is the authoritative body tasked with advising agencies with responsibilities relating to the Waikato River and the implementation of the Vision and Strategy;

the WRA makes the following submission.

1. The Plan change, as proposed, implements in part the Vision and Strategy in that it:
 - Addresses four contaminants from a significant and previously unmanaged source that have a negative impact on the health and wellbeing of the Waikato River and that prevent the objectives of the Vision and Strategy being achieved;
 - Is one of a number of regulatory and non-regulatory methods by which the Vision and Strategy can and will be implemented and given effect to;
 - Is being promulgated as an initial step in addressing these contaminants and contaminant sources as part of a longer term, coordinated and holistic approach, and
 - At the least “holds the line” (protects) in relation to these contaminants within the Waikato River and, in some instances, will lead to a degree of restoration being achieved.
2. The proposed timeframe of 80 years to achieve the relevant goals of the Vision and Strategy is considered acceptable given the current state of the Waikato River, currently available options for restoration, and the desire to achieve restoration in a manner that recognises the impacts on the community. The WRA expects that this timeframe will be reviewed as Regional Plans are reviewed or new information becomes available, and that with the benefit of improved information or restoration options, any opportunities to deliver the outcome in a shorter timeframe will be taken.

In relation to implementing actions that prevent the deterioration of the current water quality in lakes, the WRA suggests that an alternative risk/information based approach be taken and supported within this Plan Change. This would allow action to begin immediately to protect those lakes that currently have high water quality, and those lakes where data collection, analysis, and planning for their protection and restoration has already occurred. There are concerns that as the Plan Change currently stands lakes are not addressed in a fashion that gives effect to Objective f of the Vision and Strategy (the adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River, and in particular those effects that threaten serious or irreversible damage to the Waikato River).

3. The proposed Plan Change should, with the exception of the following submission points, be accepted in full and no amendments made that could increase either timeframes for restoration of the Waikato River or the achievement of the objectives of the Vision and Strategy, nor allow any further degradation of the Waikato River in relation to the contaminants and contaminant sources addressed by the Plan Change.
4. The WRA would be supportive of amendments to the Plan Change that provide clarity and transparency in relation to activities required to be undertaken by land managers and monitoring and compliance activities, where these do not impact the achievement of the objectives of the Vision and Strategy nor compromise the proposed timeframes for doing so.

Specific Submission Points

Contaminant Limits

5. The proposed Plan Change does not currently contain an explicit statement that further degradation of water quality or increases in load for the contaminants addressed by the Plan Change shall not occur. Such a statement should be added as a policy.
6. Limits for the contaminants addressed by the Plan Change are not clearly indicated. Setting of limits is a requirement of the National Policy Statement for Fresh Water 2014. At the least, limits should be set at current contaminant levels for all sub-catchments along with a clear directive that these contaminant levels shall not increase.
7. We suggest that existing water quality states are listed in Table 3.11-1 along with the clear directive included that FMU's shall not go backwards (i.e. increase contaminant loads).

Point source discharges

8. The point source policy, rules, and methods should be reviewed and amended to ensure this pathway for contaminants does not increase the contaminant load to the Waikato River. Targets for reduction in the load from these sources should be considered and, if appropriate, added to the Plan Change. This could include a method to encourage best practice storm water technologies to be adopted in urban areas.
9. Policy 11 makes offset mitigation optional (uses the word 'may'), and only specifies a lessening of adverse effects through offset mitigation. We would like to see Policy 11 amended to explicitly require offsets (rather than 'may'), and to result in a net contaminant loss improvement.
10. Policy 12 should be strengthened to include a provision stating that no further degradation shall be permitted.

Farm Environment Plans

11. The WRA would like the plan change to provide more certainty that Farm Plans will be implemented as this is a key requirement if the target of a 10% water quality improvement is to be met within 10 years. We suggest a requirement for farm plan actions related to the four contaminants to be implemented within a specified timeframe.
12. The implementation aspects of the Farm Environmental Plans, especially in relation to the management of contaminants other than nitrogen, could be strengthened to ensure there is a transparent process to ensure accountability and compliance with such plans.
13. We note that Rule 3.11.5.3 (7) which allows for FEP's to be amended is not backed up with the review procedure in Schedule 1 that it refers to.

Monitoring and review

14. Mechanisms are required to ensure monitoring and review of the impact of those activities with a permitted activity status that will add to the contaminant load to the Waikato River. This will provide confidence that these do not take the Waikato River as a whole, or at a sub-catchment level, over current levels or limits (see point 5).
15. The monitoring provisions of the Plan Change should be strengthened to ensure they consider progress against implementation and giving effect to the Vision and Strategy, including but not limited to including the relationship of iwi with the Waikato River, and the use of maatauraunga maaori and cultural health indicators. These could be supported by methods for reporting to the

community on the implementation of the Plan Change, and how well it is progressing against giving effect to the Vision and Strategy.

16. The plan change should also be strengthened with a policy for review of methods in FMU's where water quality limits are breached or where monitoring trends show that the 10% improvement target is unlikely to be met.
17. In relation to points 5-7 inclusive, the Plan Change should be amended to ensure there are clearly understood mechanisms that allow any cumulative increase in contaminant loads to be managed.

Strengthening of provisions relating to lakes and wetlands

18. Lakes and wetlands are key components of the Waikato catchment. These are under sustained pressure due to drainage, encroachment of pasture, and due to them acting as a sink for contaminants lost from surrounding catchments. A number of lakes are recognised as highly impacted and not meeting community values, including the relevant objectives of the Vision and Strategy. A small number of lakes retain high water quality and biodiversity values – this includes dunes, volcanic and a number of peat lakes.
19. Significant work has been undertaken within the region to identify issues and opportunities for a range of lakes, including through the Shallow Lakes Management Plan. We note that this plan was developed with the intention that water quality targets and limits would be set for lakes through the Healthy Rivers Plan change. We also note that the Vision and Strategy has an objective regarding the use of the precautionary principle.
20. We understand that lakes FMU was not included as part of the mitigation modelling undertaken by the Community Stakeholder Group and there is a lack of evidence that mitigations required as part of plan change 1 will be enough to halt the water quality decline in lakes. The plan change as it relates to lakes should be strengthened to ensure water quality in lakes (where the 4 contaminants is the primary issue) doesn't decline in the next 10 years.
21. The WRA is concerned that on reading the proposed Plan Change the level of focus given to the lakes within the catchment is significantly less than that of other waterways (i.e. the Waikato and Waipa Rivers and their tributaries) and there is a lack of evidence to suggest that the approach and rules within the plan change would prevent lake water quality from declining further over the life of this Plan. The proposed programme of work (gather data, develop action plan) and time frames (at some point in the life of the Plan) are long term and do not indicate a precautionary approach is being taken.
22. It may be more appropriate to take a risk based approach to direct the focus and action in relation to protecting lakes and wetlands from any further degradation, with the WRC to develop a programme of works and timeframes for delivery that show which lakes and wetlands will be progressed within the next 10 years, based on the risk to current water state and current level of knowledge of issues and action required that is available. For example, the high quality peat lakes at Ohaupo would be ones where protective actions could be taken immediately given the risk to current state and the amount of knowledge already available.
23. The WRA wishes to raise the following concerns:
 - Lakes seem to be being treated as a homogeneous group (e.g. grouping peat lakes together, riverine lakes together, etc) rather than recognising the differences between them in scale, water quality, and risk. No attempt would seem to have been made to prioritise action depending on the level of risk or available information associated with specific lakes, or lake types;

- Lower water quality targets for lakes would seem to have been accepted (e.g. D band values) where these may not be appropriate for a number of the lakes within the region. For lakes that currently have water quality measures of swimmability higher than a D band but lower than the swimmable target, the WRA would expect a target to be set higher than their current state, to achieve swimmability in the long term. For Lakes where natural peat staining would limit clarity this should be accounted for in the clarity target.
- The Plan Change lacks clarity as to the priority to be given to lakes – Plan Change indicates lake FMUs will be priority 1 (and therefore action in those catchments will occur within the shortest timeframe) however maps provided indicate many lakes (e.g. high quality peat lakes especially such as Lake Maratoto, Lake Rotopiko and Lake Rotomanuka), are in priority 3 areas. WRA submits that ALL catchments or sub-catchments within which a lake exists should be explicitly identified as being Priority 1 catchments, with timeframes for Farm Plans, stock exclusion etc associated with this priority applied;
- Specific provisions such as setbacks are used in the context of lakes (and wetlands) when they would seem more relevant to rivers (flowing water). The WRA would like to see more specific provisions in the Plan relating to lakes. For example, the stock exclusion requirements currently proposed are inappropriate for lakes and wetlands (1-3m for stock exclusion, 5m for cultivation). These should be reviewed using nationally available recommendations and the setback increased substantially.
- Clarity is required as to whether the proposed stock exclusion requirements set a lesser timeframe than existing requirements (in the operative Regional Plan) that currently require exclusion from lakes.

24. In relation to wetlands, the WRA submits that the definition of wetland should be broadened to ensure that degraded wetland areas are captured. The current definition includes *“permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals are adapted to wet conditions”*. What were once ‘natural wetlands’ if repeatedly grazed do now not support ‘a natural ecosystem of plants and animals’, hence it could be argued that degraded wetlands are not a ‘natural ecosystem’ and therefore outside of the definition.

WRA submits that the definition of wetland should be changed to: *“Permanently or intermittently wet areas, shallow water, and land water margins that support plants that are adapted to wet conditions”*.

25. This same definition should then be applied to rules relating to the drainage of wetlands, as contained within the operative Regional Plan.

Summary

In summary, the WRA gives overall (but qualified) support for the Plan Change as proposed. As the authority with responsibility for the Vision and Strategy, the WRA believes the Plan Change generally takes appropriate steps to give effect to the Vision and Strategy in action required and timeframes. The WRA believes there is the potential for a more rapid approach to be taken to the protection and restoration of wetlands and lakes and, where this is possible, this should occur.

Should amendments be made to the proposed Plan Change that would either:

- prevent the objectives of the Vision and Strategy being achieved, or
- result in the timeframes for achievement being increased;

the WRA would need to review the amendments and reconsider whether it was able to continue to support the Plan Change.

The Waikato River Authority wishes to be heard in support of this submission