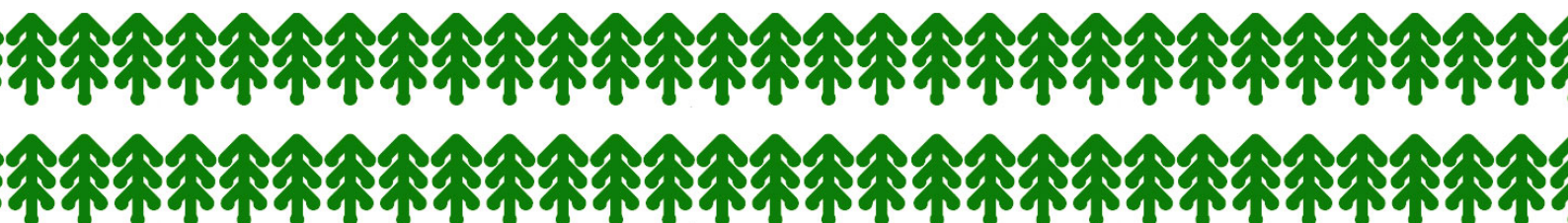




Submission on Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments

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Introduction

1. The New Zealand Forest Owners Association Incorporated (FOA) is the representative membership body for the commercial plantation forest growing industry. FOA members are responsible for the management of approximately 1.2 million hectares of New Zealand's plantation forests and over 80% of the annual harvest. FOA is submitting on behalf of their national membership.
2. This is a submission on the Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments notified on 21 October 2016 ("PC1").
3. The submitter could not gain an advantage in trade competition through this submission pursuant to s308C of the Act.
4. This submission relates to the entire contents of PC1.

General Submission

5. FOA opposes in principle the proposed approach of PC1. The objective of the approach is to solve problems caused by intensive land use by freezing land use as it was in 2016 and to hold leaching rates to a benchmark based on the years 2014-2016. What is proposed is a grand parented approach that rewards polluters and disadvantages those who have contributed least to the problem by placing the greatest constraints and therefore cost on them. We do not consider this an equitable solution or one that sends appropriate investment signals.
6. Forestry by virtue of being the productive land use that has contributed least to the water quality problems faces the greatest level of constraint, with PC1 effectively stripping all alternative land use options from the land. This will undoubtedly sheet home to reduced land values for all forest owners with land that has alternative land use options.
7. By contrast land owners with high contaminant land uses such as intensive dairy and horticulture, face very few constraints and will be rewarded by higher land values reflecting the premium this land holds now being the only land in the catchment that these activities can be undertaken on.
8. We are concerned that the approach will serve to deter further afforestation in the catchment, as the plan change signals additional constraints will be required in future to achieve long term goals for the river. The act of planting trees could therefore be associated with further loss of property rights in future as has occurred under PC1, and previously in the region under Variation 5 and 6. We are also concerned that the PC1 will create the perverse incentive for those in intensive land uses to continue practices that maintain high contaminant loss so as to preserve future property rights and therefore land value.

9. The submitter considers that the implementation methods are not the most appropriate way to achieve the objectives of the Plan.
10. Key issues associated with implementation of PC1 in its proposed form are:
- through application of the NRP the rules in PC1 foreshadow a grand parented allocation of discharge rights which will result in clear disincentives to adopt good or best management practices to achieve net reductions in discharges
 - the Plan does not require reductions except for the very highest dischargers, and therefore fails to require all land and water users to make a fair and reasonable contribution to the achievement of limits
 - the plan fails to adequately or appropriately recognise prior investment in measures that have led to improved water quality improvement and penalises early adopters of best practice
 - the plan fails to recognise and encourage those land uses providing benefits to water quality and penalises those land uses through stripping of property rights
 - the plan fails to require adoption of best practice farming methods that are already being successfully utilised by best practice farmers in the catchment to reduce contaminant loss
 - The proposed approach picks winners and is pitting sector against sector, with the unfortunate outcome that those who contributed most to the problem gain the most, and are incentivised to continue polluting to retain land use flexibility.
11. The principal changes that the submitter seeks to the PC1 are:
- a. An equitable regulation of diffuse sources of contaminants that requires the internalisation of adverse effects. This should include appropriate rules to control those activities and land uses that are contributing those most contaminants to the Waikato and Waipa rivers and reduce their contaminant loading
 - b. Ensuring that land use is not 'frozen', even on an interim basis
 - c. If an allocation regime is to be adopted in future it should be based on a consistent foundation (such as LUC) treating all land consistently.

Specific Comments

12. The specific sections of the plan that the FOA supports and opposes along with reasons and relief are outlined in the attached table.
13. Particular objections underpinning the FOA submission are that the proposed PCI provisions:

- a. Do not achieve the purpose of the RMA or promote the sustainable management of resources and are contrary to Part 2 and other provisions of the RMA
- b. Do not enable the social, economic and cultural well-being of the Waikato community and are not otherwise consistent with the CSG's policy selection criteria
- c. Do not have sufficient regard to the efficient use and development of rural land
- d. Are not consistent with the Regional Policy Statement, including the Vision and Strategy
- e. Are not consistent with s70
- f. Do not give effect to the NPS-FM
- g. Do not represent the most appropriate way of meeting the PC1 objectives, and means of exercising the Council's functions, having regard to the efficiency and effectiveness of the provisions relative to other means
- h. Do not discharge the Council's duties under section 32 of the Act.

At a higher level, the provisions of PC1 that the submitter supports and considers the approach should align with:

- a. Will promote the sustainable management of resources and are not contrary to Part 2 and other provisions of the RMA
- b. Will enable the social, economic and cultural well-being of the Waikato community
- c. Represent the most appropriate way of meeting the Proposed Plan objectives, and means of exercising the Council's functions, having regard to the efficiency and effectiveness of the provisions relative to other means.

14. Relief Sought

The submitter seeks the following decisions:

- a. That the proposed provisions of PC1 be amended to address the issues and relief raised in this submission (including within the attached table)
- b. Any other or consequential relief to PC1 including but not limited to any amendments to the Objectives, Policies, Rules, Assessment Criteria, Explanation and Reasons and such other provisions as to give full effect to the matters raised in this submission (including within Appendix One).

While specific relief is set out in the attached table in Appendix One there may be other methods or relief that address the submitter's concerns and the suggested revisions do not limit the generality of the reasons for this submission or the relief sought in this submission.

15. The submitter wishes to be heard in support of its submission.

16. If others make a similar submission, the submitter will consider presenting a joint case with them at any hearing.

A handwritten signature in black ink that reads "V. Comfort". The signature is written in a cursive, slightly slanted style.

Venise Comfort - Advisor
for David Rhodes - Chief Executive

Provision	Support or Oppose	Submission	Relief Sought
3.11.3 Policy 4	Support in part	<p>The policy appropriately recognises that existing and new low discharging activities should be enabled. Enabling and encouraging low discharge activities, such as forestry is surely the only logical path forward if the region is to meet the long term objectives and meet social, economic and cultural outcomes.</p> <p>Whilst we accept that in the longer term further actions and mitigations will be required by some land users, such as low leaching farming activities, we do not accept the need for low discharging activities to bear significant cost in the short term so as to shield high discharging activities from having to undertake actions.</p>	Amend policy 4 to enable low discharge land uses such as forestry. Ensure that mitigation actions are applied to all farming activities taking into account relative contributions and risk.
3.11.3 Policy 6	Oppose	<p>The approach of restricting land use change results in a grand parenting of existing discharges. This approach rewards the polluter and penalises those who contributed least to the problem. The policy effectively means that forestry, being the productive land use that has contributed least to the problem, is penalised by having no alternative land uses available. By contrast those who are polluting the most will have the greatest flexibility and options.</p> <p>The policy and associated rules will reduce land values for all land that is currently under forestry that has any alternative land use potential. Perversely it will increase the land value of land under vegetable cropping and intensive dairy by creating a monopoly situation where that is the only land now available in the region for that use. This is effectively taxing those land uses providing benefits and creates the wrong incentives to landowners.</p>	Delete Policy 6

		Landowners will be motivated to stay in the highest polluting land uses so as to retain future options, and therefore land value.	
3.11.3 Policy 7	Support in part	FOA supports in principle the intent of Policy 7 to introduce a more equitable approach in future reflecting the natural capital of the land. However FOA is concerned that firstly the policy has almost no weight given the current plan cannot dictate what future plan changes will contain. Secondly we are concerned that the considerable uncertainty at signalling future allocation, when combined with no concrete requirements for higher polluters to improve in this plan change, will create disincentives for land users to improve through fear of losing future land use options and therefore land value. This situation is exacerbated by the fact that the Waikato Regional Council has a history of taking a grand parenting approach to resource allocation – Variation 5, Variation 6 and now PC1.	Retain Policy 7 but amend it to include a clearer transition toward a non-grand parented approach to allocation within the life of PC1 to create certainty for land users.
3.11.5.3 Permitted activity – farming activities with a FEP under a certified industry scheme	Oppose	We are concerned that there are no specific requirements for improvement for farms operating under an industry scheme, other than those with N leaching above the 75 th percentile by 2026.	Replace rule 3.11.5.3 with appropriate rules to address those activities that are contributing most to water quality degradation.
3.11.5.4 Controlled activity rules – Farming activities with a FEP not under a certified industry scheme.	Oppose	FOA is opposed to the introduction of Nitrogen Reference Points (NRP's) used as a basis for setting discharge limits. This is a form of 'grand parenting' discharge limits which regulates land use activities in inverse proportion to their contribution to a problem. Those polluting the most are rewarded with the greatest flexibility of land use (and therefore increased land value) while those who have contributed the least to the problem are most constrained and will lose land value. When combined with the land use change rule (rule 7) the NRP creates a situation that only those polluting excessively will have the opportunity to	Delete reference to NRPs as a method for assessing compliance.

		change land use (by taking advantage of the head room created by their poor practice) which is again inequitable, not effects based and contrary to the approach of the RMA.	
3.11.5.7 Non complying activity rule – land use change		<p>The approach of restricting land use change is effectively ‘grand parenting’. This approach rewards polluters and penalises those who make a lesser contribution to the problem. The policy effectively means that forestry, being the productive land use that has contributed least to the problem is penalised by having no alternative land uses available. By contrast those who are polluting the most will have the greatest flexibility and options.</p> <p>The policy and associated rules will undoubtedly immediately reduce land values for all land that is currently under forestry that has alternative land use potential. Perversely it will almost certainly increase the land value of land under vegetable cropping and intensive dairy by creating a monopoly situation where that is the only land now available in the region for this use.</p> <p>This is the direct opposite to an ecosystem services approach (effectively taxing those providing benefits) and creates entirely the wrong incentives in terms of future land use choices.</p>	Delete rule 3.11.5.7 and replace it with robust BPO based rules that require those causing the adverse effects associated with their activities to avoid, remedy or mitigate those activities.
Part B, 5.1.5 Additional conditions for plantation forest harvesting	Support	HFM supports the proposed additional rules for plantation forest harvesting in the catchment. The fact that plantation forestry is the land use that is proposed to be the only productive land use that is completely locked with no alternatives under rule 3.11.5.7 would indicate that plantation forestry is the most preferred productive land use in terms of achieving water quality outcomes. Given plantation forestry has been regulated under Regional Plans since the outset of the RMA, and to date as far as we are aware any concerns that Waikato Regional Council have had with sub-standard operations have been able to be enforced via the existing rules, this would suggest the rules are sufficient. Additional requirements for companies to notify the Council of	Retain rule 5.1.5 (amendment to rule 5.1.4.11)

		commencement and provide a harvest plan are sensible additions to enable the Council to be more proactive in administering and enforcing the rules.	
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