

SUBMISSION ON PROPOSED WAIKATO REGIONAL PLAN CHANGE 1 – WAIKATO AND WAIPA RIVER CATCHMENTS

To: **Waikato Regional Council**
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Name of submitter: **BT Mining Limited**

This is a submission on the proposed Waikato Regional Plan Change 1 –Waikato and Waipa River Catchments.

Background

BT Mining Ltd

1. BT Mining Ltd is a joint venture company whose shareholders are Bathurst Resources Limited (**Bathurst**) - 65% and Talleys Energy Limited – 35%. BT Mining Ltd was incorporated to acquire and then own the business and assets of the Stockton, Rotowaro and Maramarua mines. BT Mining Ltd entered into a conditional agreement for the purchase of these mines with Solid Energy New Zealand Ltd (subject to Deed of Company Arrangement) in October 2016. The agreement is subject to a number of regulatory approvals which are currently being worked through.
2. Bathurst is a publicly listed New Zealand resources company with its operations currently in the South Island. It aims to be the leading coal producer providing coal for local cement manufacture, delivering energy for domestic dairy and food processing industries and, once markets improve, to export high quality metallurgical coal to international steel makers.
3. Responsible resource use lies behind all of Bathurst’s activities and its approach to sustainable development and management of its social and environmental performance. This means everything the company does is guided by a commitment to shareholders, employees, local communities, and, importantly, the environment. Bathurst’s commitment is backed by significant investment of time and money to ensure social and environmental impacts are managed from design and planning through to production and eventually rehabilitation of mining sites.

4. The ultimate aim is to ensure that Bathurst's operations enable society to meet its present needs without compromising the ability of future generations to meet their needs.
5. Bathurst has a Health, Safety, Environment and Community management framework to guide the company's decisions on responsible resource use and the impact of its activities. The framework has been developed generally in accordance with international standards to enable continuous improvement of Bathurst policies, standards and procedures to minimise risk to mine workers and the environment.
6. Within the Southland region Bathurst operates, through its subsidiary company Bathurst Coal Ltd, the Takitimu mine located at Nightcaps. Sub-bituminous coal from the open cut operation is transported by rail and road to a number of major industrial customers in the Southland, Otago and South Canterbury areas. The mine now produces around 240,000 tonnes of sub-bituminous coal per annum.
7. Bathurst also owns and operates, through Bathurst Coal Ltd, the Canterbury coal mine located near Coalgate, Canterbury. The mine was acquired in 2014 and is now undergoing rationalisation and reorganisation so that it can economically produce greater tonnages of coal.
8. Bathurst also has mines on the West Coast – Cascade and Escarpment mines – which are currently on care and maintenance until such time as international markets improve.
9. Currently annual production from operating mines is around 300,000 tonnes per annum. Coal from the mines is sold into the domestic industrial markets of Canterbury and Southland providing security of supply for industries critical to the ongoing economic health of those regions and the wider South Island.
10. Bathurst will provide the necessary technical and managerial skills required for the operation by BT Mining Ltd of the mines it is purchasing.
11. The Rotowaro mine commenced opencast mining operations in 1958 and currently produces 460,000 tonnes per annum. The mine sells to two large domestic customers as well as supplying coal to a number of small operators. The mine is a regionally significant

industry employing approximately 110 people. Coal mining operations at the Maramarua mine recommenced in 2015 after a brief period of inactivity. It is scheduled to produce in the region of 200,000 tonnes per annum. The mine sells to two large domestic customers and is a regionally significant industry employing 40 people.

Overall Comments on Proposed Plan Change No 1

12. We support the provisions in proposed Plan Change 1 that recognise and provide for the continued operation of regionally significant infrastructure and industry. In addition, it is important to make provision for growth of existing infrastructure and industry as well as the establishment of new regionally significant infrastructure and industry. If no provision is made for growth whether by expansion of existing industry or new operations establishing then it is hard to see how people in the Waikato region will be able to provide for their social and economic well-being over time given that it is highly unlikely that the population of the Waikato will decrease.

13. Best Practicable Option (**BPO**) is a term defined by the Resource Management Act 1991 and tested by caselaw and therefore its application is understood. The proposed Plan Change uses BPO but also uses terminology such as Good Management Practice and Best Management Practice (see Policy 16 for example). While the latter terms appear to relate solely to diffuse discharges nevertheless care needs to be taken in introducing additional definitions that will require legal interpretation. BPO is the appropriate standard to be applied and it is suggested that the other standards (which are not defined and therefore vague and open to differing interpretation) be discarded.

Specific Provision of Proposed Plan Change No 1

The specific provisions of the Proposed Plan that this submission relates to are:

Policy 10 – Provide for point source discharges of regional significance

Submission

14. As indicated above this Policy is supported but it is unclear whether the Policy as currently worded enables growth of existing regionally significant industry and/or the establishment of new regionally significant industry. There also appears to be no definition of “*regionally significant industry*” in the Plan and one should be added.

Decision Sought

- Add a definition to be inserted into the Glossary of Terms in the Regional Plan as follows:

“Regionally Significant Industry: means an economic activity based on the use of natural or physical resources in the region which have benefits that are significant at a regional and/or national scale. These may include social, economic or cultural benefits. Regionally significant industry includes:

- Dairy manufacturing;
- Meat processing;
- Pulp and paper processing;
- Mineral extraction.”

- Rewrite Policy 10 to read:

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

- a. Continued operation of regionally significant infrastructure and regionally significant industry;*
- b. The growth of regionally significant infrastructure and regionally significant industry;*
- c. The establishment of new regionally significant infrastructure and regionally significant industry.”*

Policy 11 – Application of Best Practicable Option and mitigation or offset to point source discharges

Submission

15. It is not clear from the wording of this Policy whether the intention is that even if BPO is applied in respect of a point source discharge if there are any residual adverse effects the consent holder will also be required to undertake an offset measure. The language used appears to be absolute *“avoid or mitigate all adverse effects”* (emphasis added) and excludes remediation.

16. BPO is already a high standard. To require more than BPO is to seek environmental betterment and it is inappropriate to place such an obligation and cost on one individual to achieve a societal goal. However it is appropriate to take into account offsetting measures proposed by an applicant which will have positive effects on the environment in assessing the overall effect of what an applicant is proposing.

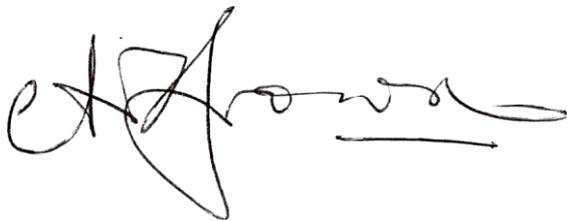
Decision Sought

Reword Policy 11 to read:

“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 to adopt Best Practicable Option as at the time the resource consent application is decided to avoid, remedy or mitigate the adverse effects of the discharge. An applicant may propose an offset measure in an alternative location or locations to the proposed point source discharge and the positive effects of that offset measure must be taken into account when assessing the overall effects of the proposed discharge and the conditions of any consent. Any such offset measure must:*

- *Be for the same contaminant or contaminants;*
- *Occur preferably within the same sub-catchment in which the primary discharge is proposed to occur but if this is not practicable within the same Freshwater Management Unit ^or a Freshwater Management Unit^ located upstream; and*
- *Remain in place for the duration of the consent and able to be secured by the conditions of the resource consent.”*

If any other person makes the same or similar submission we would consider making a joint case at any hearing.



Signature of submitter
(or person authorised to sign
on behalf of submitter)

March 2017

Date

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