

**SUBMISSION ON PROPOSED PLAN CHANGE 10 (LAKE ROTORUA NUTRIENT
MANAGEMENT) TO THE BAY OF PLENTY REGIONAL WATER AND LAND PLAN PURSUANT
TO CLAUSE 6 OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991**

To: The Chief Executive
Bay of Plenty Regional Council
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Hereafter, collectively referred to as the Oil Companies

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A. INTRODUCTION

1. The Oil Companies receive, store and distribute refined petroleum products. The Oil Companies have commercial, shore and marine based storage facilities and are also owners of retail outlets and suppliers of petroleum products to individually owned retail outlets.
2. Increasingly, service stations and truck stops supply diesel exhaust fluid (*DEF*) which is used to enable heavy vehicles to meet new emission standards. DEF is carried in dedicated tanks on vehicles (separate to fuel) and is injected into exhaust gases to convert nitrogen oxides into harmless nitrogen gas and water vapour.
3. DEF contains nitrogen in the form of urea. Mitigation measures, for instance appropriate drains with shut off valves, are therefore typically required at sites where DEF is available to appropriately minimise risk associated with the storage and any potential spills.
4. The comments on these provisions are therefore focused on the key issues to the Oil Companies as they relate to discharges from areas outside the rural zones.

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

5. The submission relates primarily to the intended application of the proposed Plan Change 10 (*PC10*) provisions with corresponding comments addressing the title of the proposed plan change, the introductory text and the accompanying maps. The submission also addresses the proposed consequential amendments to the Operative Regional Water and Land Plan (*RWLP*) resulting from proposed PC10.
6. The specific provisions submitted on, the rationale for the Oil Companies' submission on each of these matters, and the relief sought is contained in the following schedules.
7. In addition to the specific outcomes sought in the attached Schedules, the following general relief is sought:
 - a) Achieve the purpose and principles of the Resource Management Act 1991 (RMA) and consistency with the relevant provisions in Sections 6 - 8 RMA;
 - b) Assist the Council to carry out its functions of achieving the integrated management of the effect of the use, development or protection of land;
 - c) Meet the requirements of the statutory tests in section 32 of the RMA;
 - d) Address, as relevant, the considerations identified by the Environment Court for planning instruments in decisions such as Long Bay-Okura Great Park Society Inc v North Shore City Council (and subsequent case law);
 - e) Avoid, remedy or mitigate any relevant and identified environmental effects;

- f) Make any consequential relief as required to give effect to this submission, including any consequential relief required in any other sections of the Proposed Plan Change that are not specifically subject of this submission but are required to ensure a consistent approach is taken throughout the document; and
- g) Any other relief required to give effect to the issues raised in this submission.

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

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



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 Mark Laurensen
 Senior Planner

Dated this day of 27 April 2016

<p>SCHEDULE ONE PC10 - PART II INTRODUCTION</p>

A. The specific part of PC10 that is subject of this submission is:

- The name of the plan change, which is opposed in part
- Introductory text, which is supported in part
- Map LR1, which is supported in part

B. The reason for the submission:

Title

PC10 is titled Lake Rotorua Nutrient Management. It is however apparent from reviewing the provisions and the Section 32 report and from discussions with Council staff that the plan change is specific to controlling nitrogen loading in identified rural land in the Lake Rotorua groundwater catchment.

Plan users would be better able to identify whether the provisions of PC10 are relevant to a particular activity if it was more accurately titled Nutrient Management - Lake Rotorua Groundwater Catchment (Rural zones).

Introduction

The above amendment should be further reinforced at paragraph 1 of the introductory text which as notified states:

These plan change provisions apply to the Lake Rotorua groundwater catchment, as shown in Map LR1.

In light of the intended application of these provisions to rural zones only, the following revisions to the introductory text would be appropriate (additions are underlined and italicised):

These plan change provisions only apply to particular rural areas of the Lake Rotorua groundwater catchment, as shown in Map LR1. These provisions do not apply to the balance of the catchment.

Map LR1

Corresponding amendments to Map LR1 are also proposed. As notified, Map LR1 is titled Lake Rotorua Nutrient Management – Groundwater Catchment Boundary and Rural Land. The perimeter of the Lake Rotorua catchment is outlined in blue with rural land identified by a green overlay. Small areas of rural land not subject to the rules are also delineated with the accompanying legend establishing that they are not affected

by the proposed rules. No such overlay is provided for urban areas within the catchment. It is therefore not explicitly clear that the provisions do not apply to the areas within the Lake Rotorua Groundwater Catchment Boundary that are not identified by an overlay.

To show that areas outside the mapped rural overlays are excluded from these provisions it is proposed that a new overlay be created titled 'Urban land not subject to Lake Rotorua Nutrient Management Rules' and that it applies to the balance of areas not otherwise identified by the rural overlays.

C. Relief sought (*Additions are underlined and italicised with deletions in strikethrough*)

1. Rename the plan change Nutrient Management - Lake Rotorua Groundwater Catchment (Rural zones) to better reflect the intended application of the provisions.
2. Amend paragraph 1 of the introduction to better reflect the intended application of the provisions. The following wording is proposed but alternative wording may achieve the same outcome:

'These plan change provisions only apply to particular rural areas of the Lake Rotorua groundwater catchment, as shown in Map LR1. These provisions do not apply to the balance of the catchment.'

3. Amend Map LR1 such that the urban areas are identified by an overlay with a corresponding legend stating that 'urban areas are not subject to Lake Rotorua Nutrient Management Rules'.
4. Adopt any other such relief, including additions, deletions or consequential amendments necessary to give effect to these submissions as a result of the matters raised.

SCHEDULE TWO
CONSEQUENTIAL CHANGES TO THE BAY OF PLENTY REGIONAL WATER AND LAND PLAN

A. The specific part of PC10 that is subject of this submission is:

- The approach to referencing PC10 and Lake Rotorua/the Lake Rotorua groundwater catchment in the consequential changes to the RWLP, which is opposed

B. The reason for the submission:

Amendments are required throughout the document titled 'Consequential changes resulting from Proposed Plan Change 10 (Lake Rotorua Nutrient Management) to the Operative Bay of Plenty Regional Water and Land Plan' to ensure that appropriate provisions remain for activities within the Lake Rotorua catchment not captured by the provisions of PC10.

As set out in Schedule 1, it is understood that the provisions of PC10 are not intended to capture activities in urban areas within the Lake Rotorua groundwater catchment. Therefore, consequential amendments proposed by Council introducing references such as 'excluding Lake Rotorua groundwater catchment' or deleting references to the Lake Rotorua catchment are not appropriate as the changes do not recognise the limited application of the PC10 provisions. Any exclusions relating to the PC10 provisions should be specific to the mapped rural zones in the Lake Rotorua groundwater catchment.

This could be achieved by amending paragraph 9.4 of the consequential changes, as follows:

9.4 Discharges of Nitrogen or Phosphorous from Land Use and Discharge Activities in the Rotorua Lakes Catchments

1 This section applies to discharges of nitrogen and phosphorous from land use and discharge activities for all of the Rotorua Lakes catchments, excluding identified rural areas of the Lake Rotorua groundwater catchment as shown on Map LR1 addressed - ~~The Lake Rotorua groundwater catchment is now covered as a result of a Plan Change 10,~~ in Part II LR and Part III LR of this Regional Plan.

2 References to Lake Rotorua, where no longer relevant have been struck as follows Lake Rotorua

There are a number of other similar references which require amendment, including the title of Table 36 which should be amended as follows:

Table 36 – Rules in Rotorua Lakes (excluding identified rural areas of the Lake Rotorua groundwater catchment as shown on Map LR1).

Similar amendments are required throughout the document to ensure that provisions continue to apply to activities in urban areas of the Lake Rotorua groundwater catchment which are not captured by PC10. Examples are listed below but the Oil Companies note that this is not a complete list:

- paragraph 3 on page 205 of the RWLP
- paragraph 2 on page 206 of the RWLP
- references to Part III LR at Rule 30A, 32, and 37

To avoid unintended consequences, it is also necessary to reinstate deleted references to Lake Rotorua throughout the provisions. This will ensure that appropriate consenting pathways are retained for activities in urban areas of the Lake Rotorua groundwater catchment. For instance, a new DEF installation at a truck stop in the Lake Rotorua groundwater catchment may otherwise be interpreted as requiring a regional consent if Rule 11A is not applicable. There is no justification for such an approach which appears to be an unintended consequence of PC10.

C. Relief sought (*Additions are italicised and underlined with deletions in strikethrough*)

6. Amend Section 9.4 to better reflect the intended application of the provisions. The following wording is proposed but alternative wording may achieve the same outcome:

9.4 Discharges of Nitrogen or Phosphorous from Land Use and Discharge Activities in the Rotorua Lakes Catchments

1 This section applies to discharges of nitrogen and phosphorous from land use and discharge activities for all of the Rotorua Lakes catchments, excluding identified rural areas of the Lake Rotorua groundwater catchment as shown on Map LR1 addressed - ~~The Lake Rotorua groundwater catchment is now covered as a result of a Plan Change 10,~~ in Part II LR and Part III LR of this Regional Plan.

~~2 References to Lake Rotorua, where no longer relevant have been struck as follows Lake Rotorua~~

7. Redraft the amendments in the ‘Consequential changes resulting from Proposed Plan Change 10 (Lake Rotorua Nutrient Management) to the Operative Bay of Plenty Regional Water and Land Plan’ to recognise that the PC10 provisions only apply to particular rural areas within the Lake Rotorua groundwater catchment and to ensure that appropriate provisions are retained for activities within the Lake Rotorua groundwater catchment not captured by the provisions of PC10.

8. Adopt any other such relief, including additions, deletions or consequential amendments necessary to give effect to these submissions as a result of the matters raised.