

IN THE MATTER OF

The Resource Management Act 1991

AND

IN THE MATTER OF

Lake Rotorua Nutrient Management –
PROPOSED PLAN CHANGE 10 to the Bay of
Plenty Regional Water and Land Plan

**SUMMARY STATEMENT OF REBECCA BURTON
OF THE BAY OF PLENTY REGIONAL COUNCIL**

**Summary topic: Council Recommendations to
Submissions and Supporting Evidence**

Qualifications and experience

- 1 My name is Rebecca Burton and I am a Senior Policy Analyst at the Bay of Plenty Regional Council. My experience and qualifications are listed within section 1.2 of Councils Section 42A report.

Scope of Summary Statement

- 2 I will present to you a brief summary of Councils recommendations on a number of key issues raised by submissions and further submissions received on PC10.

Submissions Received and Key Issues Raised

- 3 A total of 92 submissions and 20 further submissions were received for Plan Change 10. Submissions received sought a range of outcomes relating to:
 - a. The science completed on lake water quality
 - b. Alternative options such as the use of sub-catchment plans
 - c. The use of OVERSEER[®] and Reference files
 - d. The use of nitrogen management plans as a regulatory tool.
 - e. The allocation methodology
 - f. The allocation provided to forestry and underutilised Māori Land
- 4 In addition to these key issues many submissions sought amendments to the content of the provisions within PPC10. The below provides a brief summary of Councils response to each of the key topics raised. In regard to Councils response to the allocation provided to Māori Land and forestry I refer to the statement provided by Ms Moleta.

Responses to Key Issues Raised

The Regional Policy Statement and Operative Regional Plan

- 5 The objectives, policies and methods of the Operative RPS and wider Regional Land and Water Plan do not form part of the plan change and are not open for submission. With the RPS being a higher statutory document its content such as the 435tN limit and 2032 timeframe is not able to be altered or influenced through a plan change to the regional plan.
- 6 It is considered that the submissions received relating to the Regional Policy Statement and Operative Regional Water and Land Plan are out of scope and are there recommended to be declined.

The need for a Regulatory Approach (Rules)

- 7 Prior to notification of PPC10 an analysis was completed identifying that the establishment of rules was the most efficient and effective approach to achieving the policies of the RPS.
- 8 The analysis identified that non-regulatory actions had the potential to create environmental risks, were constrained by resource consent requirements, were unable to be efficiently implemented or did not provide sufficient guarantee of nitrogen reduction to achieve a long term sustainable management and an increase in water quality.
- 9 There is a need to have a resource consent process for the management of nitrogen on farm enterprises to ensure any adverse effects are adequately managed. The use of a permitted activity status would imply Council is aware of all adverse effects and are able to manage these through permitted criteria. This is not the case for this type of activity with adverse effects differing from farm to farm.

The Management of Phosphorus by Plan Change 10

- 10 PPC10 upholds the requirements of the RPS by focussing on nitrogen reduction. Altering the Plan Change to include the management of phosphorus would not reduce the need for the nitrogen approach taken by PPC10 and the level of action required by the pastoral sector.
- 11 Section 5.3.3 of Councils Section 42A report provides a detailed explanation of Councils stance on the management of phosphorus by PPC10. I refer to the statements previously provided by Mr Lamb, Mr Bruere and Professor Hamilton which support this stance.

The Use of Sub-Catchment Plans

- 12 The development of sub-catchment plans that focus on nitrogen would require further research to identify sub-catchment boundaries. This would delay any action being taken to reduce nitrogen losses and reduce the ability for the RPS timeframe of 2032 to be achieved.
- 13 The use of sub-catchment plans to focus on phosphorus rather than diffuse nitrogen sources would not uphold the clear direction to reduce nitrogen given by the RPS.
- 14 A sub-catchment approach would be complex and difficult to administer for the Council, confusing for landowners, cause greater scientific uncertainty, and the trading of nitrogen would be less likely with this being constrained to each catchment, reducing the number of available participants.

- 15 Section 5.3.3 of Councils Sections 42A report provides a detailed explanation of Councils stance on the use of sub catchment plans by PPC10. It is recommended that submissions requesting sub-catchment plans rather than the approach taken by PPC10 as notified be declined.

Lake Rotorua Nitrogen Loads and Science

- 16 Significant levels of scientific research has been completed for PPC10. This research supports the sustainable load as outlined in the RPS, and the required level of nitrogen reduction. The evidence prepared by Mr Bruere, Professor Hamilton, Doctor Rutherford respond to these matters in more detail.
- 17 It is acknowledged that new science may become available in the future, influencing the nitrogen loads of Lake Rotorua, or requiring a change in focus of the regional plan to include phosphorus.
- 18 Plan Change 10 supports the use of adaptive management and has included Method 2 which provides for 5 yearly science reviews. This will inform future monitoring completed on the efficiency and effectiveness of the policy statement and regional plan as required by Section 35(2)(b) of the Act and future reviews of the RPS and regional plan.

The Use of OVERSEER[®] and Reference Files

- 19 Section 5.3.6 of Councils Sections 42A report provides a detailed explanation of Councils stance on the use of Overseer by PPC10. This stance is supported by the evidence statements provided by Mr Park and Mr MacCormick.
- 20 It is considered that OVERSEER[®] is the only tool available that is able to robustly calculate nitrogen losses from inputs. Providing reference files and a allocation methodology that takes into account new versions of OVERSEER[®] aligns with the intent of PPC10 to provide for adaptive management.
- 21 As outlined in the evidence provided by Mr MacCormick a review of the reference files was been completed in response to submission points. This has resulted in amendments being recommended to the reference files to ensure more alignment with the benchmark averages, this upholding the intent of PPC10.

Nitrogen Allocation

- 22 A number of submissions identified a general opposition to the allocation process and outcomes. A response to each of these issues is provided in 5.3.7 and 5.3.10 of Councils Section 42A report. The rebuttal statement prepared by Gemma Moleta also responds to further concerns raised in relation to underutilised Māori land.
- 23 The allocation system was identified through a lengthy engagement process as part of StAG and was based on the principles listed within RPS Policy WL5B.
- 24 In response to submissions requesting allocation be based on natural capital, economic modelling estimates that the farm system impacts of natural capital are more than twice as large as the sector range allocation approach taken by PPC10. Further analysis on why natural capital is not supported by Council is also provided in the rebuttal statement of Stephen Lamb and Sandra Barns.
- 25 My rebuttal statement also responds to evidence submitted on behalf of RLC which also requests the allocation methodology to be based on natural capital. In response to this I refer to Appendix 1 of my rebuttal statement and highlight the role RLC has had

through RTALSG and StAG in determining allocation approach for PPC10 and the use of Rule 11 as a baseline for the allocation methodology.

- 26 It is considered that the submissions and evidence received on allocation have not provided any further information that has not been considered by Council through the Plan Change process.

The Use of Nitrogen Management Plans

- 27 Nitrogen Management Plans are a key element of PPC10. They are designed to provide a measurable pathway from a property's start point to each required managed reduction target and the 2032 nitrogen discharge allowance for the property.
- 28 Compliance against an OVERSEER[®] value is not supported due to the need for compliance to be measurable, rather than a modelled nitrogen loss causing this to be impractical at a block level.
- 29 The adaptive management approach supports the use of five-year timeframes within which committed actions are identified and completed. Any committed actions will be reviewed every five years, and if required during the 5 year timeframe at the request of the applicant. Revisions have been proposed to further clarify this intent.
- 30 Submitters have asked that the name of the NMP be changed to more accurately reflect the intent of Plan Change 10. Altering the name to "Nutrient" Management Plan is supported and reflects the intent of the NMP to cover both Nitrogen and Phosphorus.

Trading of Nitrogen under Plan Change 10

- 31 The provision for trading aligns with the Integrated Framework as agreed to by Council and StAG and intends to help reduce the financial impact of the rules on the pastoral sector.
- 32 The restriction on trade prior to 2022 aligns with the timeframe provided to the Lake Rotorua Incentives Board to achieve a reduction of 100tN entering the Lake. The Incentives Scheme and this level of reduction is part of the community's contribution to achieving the sustainable lake load. The community is taking on a sizeable risk and is contributing significant funding to this Incentives Scheme.
- 33 Providing for trading prior to 2022 will reduce the efficiency of the Incentive scheme and impact the ability from the scheme to achieve its target.

Proposed New Rule Framework

- 34 Submitters 75, 66, and 53 have submitted in opposition to the rule framework. Each have provided a new rule framework to replace PPC10 with the intent to provide more clarity and consistency with the RPS and RWLP.
- 35 These rules seem to rely on the existing approach taken by Rule 11 of the regional plan by providing a cap and do not require a reduction in nitrogen losses from each property/farming enterprise. In addition the rules relate to all activities located within a farming/property enterprise, even those that are not considered to be rural production activities.
- 36 This approach does not align with the intent of the RPS to only manage losses from rural production activities and will not ensure the sustainable target of 435tN/yr is met. The proposed rules reduce the ability of Council to collect information on progress, monitor and enforce any benchmark allocated to each enterprise.

37 For these reasons the approaches suggested by these submitters are not supported.

Impacts on Population Growth and the operation of the Rotorua WWTP

38 The Rotorua Lakes Council (RLC) has placed a submission identifying the need for the plan change to provide for future growth within the District and to acknowledge the impacts that development has on the nitrogen load discharged from the WWTP.

39 Council acknowledges that Plan Change 10 may result in potential greater demand for rural subdivision within the groundwater catchment. Council also notes the flow on effect that will have on the District's Infrastructure such as the Wastewater Treatment Plant if such lots are to be reticulated.

40 Analysis has been completed by Council staff to determine if the NDA allocated to each enterprise will restrict future development within the rural layer managed by PPC10. Based on the current zones and housing density provided for by the Operative District Plan it has been identified that the majority of site are able to be developed and continue to comply with PPC10.

41 An accounting system has been developed with RLC to enable any shift in losses between the rural and urban sector, and the subsequent increased load treated by the WWTP to be acknowledged.

42 The addition of policies will ensure the impact of PPC10 and shift in nitrogen losses across sectors is considered in the assessment of the WWTP resource consent application, which will be a discretionary activity under Rule 37 of the regional plan.

43 Revisions to Method 1 and Schedule LR1 have also been recommended outlining how nitrogen will be allocated from a parent NDA across new lots to ensure the overall losses continue to be complied with. Further changes are suggested to Method 5 as part of my rebuttal statement to refer to the accounting system recently developed.

Economic impacts of Plan Change 10

44 A number of submissions were received in opposition to PPC10 and the proposed nitrogen allocation methodology due to the economic impacts at a farm, catchment, district and regional scale.

45 A number of studies have evaluated the Integrated Framework policy option with these showing impacts will be different for different farms, with some farms able to achieve the necessary nitrogen reductions without losses in farm profit.

46 No economic research has concluded that the rule framework will have a devastating effect across the farmer sector. The results of economic studies for the Rule Framework are consistent in showing mixed impacts on the profitability of farming in the Lake Rotorua catchment. I refer you to the statements provided by Mr Matheson, Ms Smith and Mr Doole for further detail on these studies.

47 Based on the research completed and the section 32 analysis the approach taken by PPC10 is the most efficient and effective option available that ensured the sustainable load was achieved within the timeframe specified by the RPS.

Responses to Individual submissions

48 A number of submissions were received relating to specific policies, methods, rules and Appendices of PPC10. Due to their specific nature these are not addressed by the key issues listed above.

- 49 A specific response has been provided to each submission point and further submission as shown in Appendix 3 of the section 42A report. Key changes resulting from these submissions include:
- a. Additional text or amendments to clarify the intent of a policy or rule or how the plan change will be implemented.
 - b. Amendments have been recommended to Rule LRR7 to ensure the intent of PPC10 is upheld and avoid adverse effects being generated from any unforeseen or unmanaged land use change.
 - c. A number of new definitions have been recommended to be included, and other definitions have been amended to ensure accurate interpretation and implementation of PPC10.
- 50 It is recommended that the Hearing Panel accept the proposed changes made by Council staff and the subsequent responses to each submission point.

Responses to evidence from/on behalf of submitters

- 51 The above issues have covered a number of topics included within my rebuttal statement.
- 52 In addition to these, specific responses have been made in my rebuttal statement to evidence submitted by Ravensdown and the Fertiliser Association New Zealand. A number of additional changes to policies, rules and schedules have been suggested for the Panel to consider in response to this evidence. It is considered that these changes are minor and further clarify the intent of Plan Change 10. Each of these are directly linked to a submission point as shown within the revised track change version of PPC10.
- 53 As part of completing the suggested revisions, an error was identified in Table LR5. The requested changes in response to submission point 56-32 (which was accepted by Council staff) was not completed accurately causing one cell to be missed out. This error has been noted and corrected in the revised track change of Plan Change 10 (Appendix 2 of my rebuttal statement).

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