

## Max Douglas: Additional Hearing Notes and Talking Points

### 1. Intro

My reaction at the start of this process was the BoPRC being in the middle of a very green, very conservation oriented process putting farmers in the cross hairs. If that had turned out to be true, I could easily be defending the right to use land as a farmer on land that isn't being used intensively.

Instead of a green oriented process laying waste to farmers, I found a pollution oriented approach laying waste to the lowest polluting land and dismissing past conservation efforts. The result is to assign as many pollution rights to the farmers (including us) as possible under the motive of affected as little as possible.

I guess this isn't an uncommon story, the highest polluters and users of resources being given the most pollution rights and access to resources in the future.

The rules were originally marketed as "in collaboration with the community". The primary polluters collective was engaged as the community, but as a local farmer, they don't represent me.

The PC10 rules, the process that developed the, and the community engagement are so one sided I have to take the position of defending conservation, not farming.

## 2. Section 32 Report Skims Over the Using Rule 11 Benchmarking

This is an intrinsic unfairness in PC10 that is hard to understand and not addressed by the Section 32 report, or any part of the consultation that occurred. At meeting and talking to people, they feel it is PC10 is unfair, but they can't explain why. It has taken me a long time to figure out what the issue was. I will attempt to explain.

I'll deal firstly with the detail that skimmed over, then come back to show how it is unfair.

### 2.1. Rule 11 and Plan 10

The section 32 report talks of "base lining off Rule 11" without giving the community an adequate explanation of how that base lining is being used with the N targets of the integrated framework.

As a result a subtle step is masked. That subtle step has the huge effect: historic conservation is "zero rated".

Rule 11:

- a mechanism to cap N
- does not assign a pollution right

#### 2.1.1. Small Steps

Breaking it down into atomic steps...

In the lack of description of what happened, two separate actions happen at the same time:

- base lining pollution rights off Rule 11
- setting a total pollution target

Breaking that down "base lining off Rule 11":

- taking the N numbers
- disregarding the reasoning behind the N numbers

#### 2.1.2. Rule 11 vs Plan 10

Under Rule 11:

- ALL N discharge caps limit N pollution into the lake. Whether its undeveloped land locked into a zero above rainfall N discharge or pastoral farmland
- bush and forestry are locked at zero above rainfall, and the benefit of the lost development opportunity is that the N load on the lake does not go up

Under PC 10:

- none of the NDA limits change how much N is going to go into the lake (450 tonnes is being allocated)
- bush and forestry are locked at a zero above rainfall for NO benefit to the lake or reduction in N pollution to the lake (450 tonnes is being allocated)

This subtlety I'm pointing out is that under PC10 is that the losers in the N allocation scheme cannot look at the loss and say "well at least our loss is cleaning up the lake".

Bush and forestry are not reducing N emissions into the lake. Their zero above rainfall allocation makes it easier for private land owners (pastoral farmers) as those private land owners have higher NDA.

There is no description of this in the section32 report.

### 2.1.3. The Unfairness in the Step

Rolling over the N numbers from Rule 11 into PC10:

- short changes the lowest polluters into a zero above rainfall NDA which has no effect on the total N going into the lake, ie. it is going to be 450 tonnes.
- gives the biggest polluters a the highest NDA

This is objectively unfair:

- accepting a low N cap under Rule 11 helped the lake, under PC10 a low NDA doesn't help the lake, it just helps other private land owners by allowing them a higher NDA

This ignores the history of the issue.

### 2.2. Disarming Conservation

People have chosen to leave stands of native bush undeveloped, planted trees, etc. From the point of view of conservation, they have done "the right thing", be it active or accidental conservation.

Under PC10, all of that conservation get a zero above rainfall NDA and the NDA it might have had is assigned to a high polluting section, like pastoral farming.

It's like PC10 is disarming the conservationists. Someone may have chosen active conservation, it is not going to matter under PC10, that conservation is being zero rated and all the NDA issued that possible can be issued.

#### 2.2.1 Example: Bob Retires Land

Worked example of how Rule 11 does NOT stop anyone from **contributing** to conservation, while PC10 takes peoples historic conservation and zero rates it.

Rule 11 does not apply yet, land owners can do what they want:

- 10 farmers are polluting at 100
  - o Total: 1000 units

Bob decides to switch to conservation before Rule 11:

- Bob volunteers to conserve: 0
- 9 farmers continue at 100
  - o Total: 900 units

Rule 11 comes in and everyone is capped at current pollution:

- Bob is locked into conservation: 0 pollution and 0 allocation
- 9 farmers continue at 100 pollution and 100 allocation
  - o Total: 900 units

Bobs Total N reduction: 100 ... or 10% compared to what it would have been if he had still been farming.

Bobs neighbour Ted decides to switch to conservation as well, so:

- Bob is locked into conservation: 0 pollution and 0 allocation
- Ted volunteers to conserve: 0 pollution and 100 allocation
- 8 farmers continue at 100
  - o Total: 800 units
  - o Conservation from historic potential of 1000: 20%
  - o Conservation from Rule 11 baseline of 900: 11%

Bob and Ted both reduced N emissions by 100 units compared to what it would have been if neither had ever retired their land to conservation.

Something like Plan 10 Draft Rules are Applied, with a target 450 NDA:

- 9 farmers are assigned 50 NDA each
- Bob is assigned a Plan 10 conservation NDA of 0

So:

- Bob is locked into conservation: 0 pollution and 0 NDA
- Ted volunteers to conserve: 0 pollution and 50 NDA
- 8 farmers continue at 50
  - o Total: 400 units
  - o Conservation from historic potential of 1000: 60%
  - o Conservation from Rule 11 of 900: 44%
  
- o Teds Conservation: 50
- o **Bobs Conservation: 0**

Rolling over a Rule 11 baseline, then drawing reductions from that, zero rate the early adopters of conservation and those who never developed in the first place.

### 2.2.2. Example: Bob Never Retired Land (and Even Stevens)

If, for example, Bob had never done any conservation it would look like this with a PC10 target of 450:

- 10 farmers are assigned 45 NDA each
- Bob volunteers to conserve: 0 pollution and 45 allocation
- Ted volunteers to conserve: 0 pollution and 45 allocation
- 8 farmers continue at 45
  - o Total: 360 units
  - o Conservation from historic potential and Rule 11: 64%
  - o Teds Conservation: 45
  - o **Bobs Conservation: 45**

The above is also how an “even stevens” approach looks.

### 2.2.3 Unfairness

The 450 tonne target comes from an exercise in conservation. The PC10 rules are stripping the historic conservation efforts from land owners.

This is disappointing because:

- a collaborative approach was supposed to have been taken, but the sectors of the community engaged have come up with rules promoting the position of polluters
- any effort people have put into conservation prior to the benchmark period is zero rated

### 2.3. Notes

Cherry picking the part of Rule 11 that the pastoral sector wants, the high N baselines, isn't fair.

When NDA is considered against the incentives scheme, rolling over Rule 11 baselines is a windfall to the pastoral sector.

As a drystock farmer, I don't think it's fair to give me a higher NDA by taking it away from people with forestry and bush.

### 2.4. Summary

Rule 11 is kind of acceptable. For the "greater good" of preventing an increase in pollution, pollution is capped. A case can be put forward for how it is reasonable, even if some people are affected more than others. The most widely felt losses are around lost opportunity. On reflection, locking people into zero above rainfall is pretty extreme though.

People are losing opportunity on one hand, but the lake and waterways are (hopefully) not getting worse on the other.

With Plan 10 rolling over the lost opportunity and zero rating the conservation efforts, the story goes down hill fast. Rule 11 conservation land (forestry/bush/scrub) is still locked into the low economic end of land use, but now in exchange for nothing; their loss is no longer contributing to a reduced pollution cap.

All of the available pollutions rights are divvied up, with the sectors polluting the most assigned the most.

### 3. Avoid the Worst of Rule 11: Zero Above Rainfall

It locks the following into zero above rainfall N land use:

- forestry: commercial stands of trees grown "naturally"
- bush and scrub: undeveloped land, either intentionally undeveloped or uneconomic land

These are considered to be at the lower end of commercial land uses.

Having a zero above rainfall land use from the point of view of nitrogen means you can't do much of anything on the land. Not even other stuff at the lower end of N discharge. Stuff that could be considered industrious, in that the land owner is working to support themselves or develop a business, but still low intensity, some examples:

- can't start a garden on a small piece of it and to feed yourself/family
- can't clear an area and try to start a horse trekking business
- set up a picnic area and try to attract tourists to a park like environment

#### 4. One Generation of Temporary NDA

Plan 10 rules use a grand parenting methodology to assign pollution rights, in line with RPS, Policy WL 5B points:

- (b) Extent of the immediate impact;
- (g) Existing land use;
- (h) Existing on farm capital investment; and

These policy points are about “existing” and “immediate”, making them statements relative to the present.

There is no RPS requirement to have these considerations applied until perpetuity. A generation is enough to consider present capital positions, land use and give farmers time to change.

#### 5. Overseer

Yeah, nah. Not for basic land use. If I want to optimise and go beyond a simple stocking table, sure, it becomes my choice at that point. BoPRC can use it behind the scenes to develop stocking tables if it wants. They can use to baseline properties individual properties to a stocking allocation.

#### 6. People and Process

The BoPRC undertook a collaborative engagement with the community at the start of the development of these rules.

The primary polluters collective was taken as representing the community. Looking at their own charter, they don't actually claim to represent the rural community. A bit of due diligence at the start by BoPRC staff might have identified they weren't engaging the community.