

**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

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**REBUTTAL EVIDENCE OF SIMON CHRISTOPHER PARK  
ON BEHALF OF THE BAY OF PLENTY REGIONAL COUNCIL**

**Evidence topic: The use of OVERSEER<sup>®</sup> and reference files**

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## **Qualifications and experience**

1. My full name is **SIMON CHRISTOPHER PARK** and I am a director of Landconnect Ltd (formerly 'Headway Ltd'). I am contracted by Bay of Plenty Regional Council to provide advice on nutrient management issues within the Rotorua Te Arawa Lakes Programme. This is a contract that I have held in various permutations since 2006.
2. My field of expertise is the application of nutrient management knowledge within a RMA planning framework. My background, experience and qualifications are set out in the full version of my evidence in chief, which I confirm but do not repeat here. Likewise, I confirm my compliance with the Expert Witness code of conduct as set out in full there. I am authorised to provide this evidence by the Regional Council.

## **Scope of Rebuttal Evidence**

3. I respond to Ms Bethany Bennie's evidence in support of Fertiliser Association of New Zealand (FANZ), regarding OVERSEER version management:
  - (a) References to 'the most current version of OVERSEER'
  - (b) Greater clarity on the use of OVERSEER and version management.
4. In responding to Ms Bennie, I also address Mr Chris Hansen's evidence (in support of Ravensdown Limited) regarding 'the most current version of OVERSEER'. I do not address the technical causes and consequences of differences between OVERSEER versions (specifically para 50 of Mr Hansen's evidence, which is addressed in Mr MacCormick's rebuttal evidence).

## **References to the most current version of OVERSEER**

5. Ms Bennie addresses OVERSEER version updates in her evidence (para 23-37), arguing that PC10 should adopt a consistent and more explicit policy of always using 'the most recent version of OVERSEER'. This approach would diverge from PC10's 'hybrid' approach that I covered in my EIC (para 33), where a specific OVERSEER version (6.2.0) is used 'once only' in a comprehensive nitrogen (N) allocation exercise, with all subsequent and future uses of OVERSEER relying on the most current version of the day. The Schedule Five reference file method is the system that aims to coherently link the 'once only' allocation usage with ongoing monitoring and compliance uses of OVERSEER. The reference file system achieves this by expressing allocations as percentages of the sector reference file(s) which can be readily converted to kilograms of N using the most current reference file(s). This N value will be directly comparable to any performance (or predictive) OVERSEER file that is also the most current version.

6. To maintain the integrity of PC10's N allocation system (Schedule One), it is necessary to specifically refer to OVERSEER version 6.2.0. In other words, v6.2.0 'anchors' the N allocation scheme and enables the rural part of the sustainable N load to be fully allocated across all rural land. This v6.2.0 allocation exercise has already been carried out across all rural land blocks (i.e. OVERSEER blocks) and recorded in a detailed Excel spreadsheet. This includes rural land that was never benchmarked under Rule 11, generally because the property was small or was outside the surface catchment covered by Rule 11. The blocks on non-benchmarked land were determined by Council staff using the same principles by which OVERSEER blocks are set up i.e. areas of land with similar land use, soil, slope and cadastral unit. Therefore a v6.2.0 allocation can be determined without rerunning OVERSEER 6.2.0, and the reference file system will enable that to be expressed in the most current OVERSEER version. In some cases, GIS analysis may be required e.g. for newly subdivided land.
7. If there was no explicit anchoring of the PC10 N allocation in a single version, then it would risk inviting landowners to relitigate their N allocation (I acknowledge that Ms Bennie does not suggest this). Such relitigation would be tempting when a future OVERSEER version appeared more favourable to an individual or group of similar landowners. However, it would also distort the proportionality of the original allocation scheme which Council considers to be fair, having balanced many factors.
8. Ms Bennie specifically questions (para 36) the workability of Rule R10 which provides for N transfers as a controlled activity after 1 July 2022. Following the same logic as I note above (my para 6 to 6), it is not necessary to re-run OVERSEER v6.2.0 as any N re-allocation from source to destination land can be determined using the relevant combination of the v6.2.0 allocation spreadsheet data, reference files and GIS.
9. While I defend the need to specifically refer to version 6.2.0 in terms to the allocation scheme, I accept that PC10 does not explicitly state that all other PC10 uses of OVERSEER (i.e. implementation) should always use the most current version. The nearest such statement is in the Introduction to Schedule Five, as follows:

*It is therefore appropriate to adopt an OVERSEER ® methodology that:*

  - *Enables the latest version of OVERSEER ® to be used for every assessment and so takes advantage of the best available science...*
10. Ms Bennie identifies (her para 37) several PC10 provision that should be amended to focus on the most current OVERSEER version. If the Panel agrees that the PC10

hybrid approach to OVERSEER versions remains valid, then I suggest clarifying this by amending Policy P3(c) as follows:

*The most current version of OVERSEER<sup>®</sup>, ~~6.2.0~~ except for nitrogen discharge allocation purposes where version 6.2.0 applies, and...*

Similar amendments are appropriate to Policy P12<sup>1</sup> so that it reads:

*Use the most current version of OVERSEER<sup>®</sup> to determine nitrogen losses from land except for nitrogen discharge allocation purposes where version 6.2.0 applies.*

For consistency, a further minor amendment is needed within the Introduction of Schedule Six (regarding the Reference file method), by adding the bracketed and underlined text as follows:

*It is therefore appropriate to adopt an OVERSEER<sup>®</sup> methodology that:*

- *Enables the latest version of OVERSEER<sup>®</sup> to be used for every assessment (except for nitrogen discharge allocation purposes where version 6.2.0 applies) and so takes advantage of the best available science.*

11. The other PC10 provisions that Ms Bennie seeks to amend (Schedule One A & B; Schedule Five A2 & A3; removal of Table LR 4) are not supported. My reasons are outlined above (para 5 to 8) i.e. the references to OVERSEER version 6.2.0 are important in underpinning PC10's N allocation regime which is explicitly based on that specific version.

### **Greater clarity on the use of OVERSEER and version management**

12. More generally, I agree with Ms Bennie that PC10 could be clearer on how OVERSEER is used and reference files will function over time as OVERSEER is updated. For example, the role of the N allocation spreadsheet (para 6 above) is not described in PC10. As a key author of Schedule Five, I acknowledge my role in this matter. I also note that (i) the reference file method is novel amongst regional plans; (ii) a degree of methodological complexity is inevitable, especially given the complex allocation regime, and; (iii) the regulatory use of OVERSEER is an evolving field of planning practice, as canvassed by Freeman et al, 2016.
13. PC10 has erred on the side of providing certainty to landowners by including the reference file method within the plan i.e. Schedule Five plus the Perrin Ag 2016 report incorporated by reference. This rationale is expanded further in Council's rebuttal evidence by Ms Burton. There are some risks in 'helpfully' explaining complex plan

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<sup>1</sup> P12 is numbered as per the PC10 Track Changes Version 5 – the PC10 notified numbering was P13

provisions within the plan itself e.g. potential contradictions between informal language and specific policy and rule wording.

14. I therefore suggest that further explanation and clarification of OVERSEER and reference file uses is pursued within the 'Rule Implementation Plan' required by PC10's Method M5. This work would be assisted by liaison with primary industry representatives from Fertiliser Association of New Zealand and other agencies. The M5 wording (Track Changes Version 5) supports this approach, with clause (a) aiming to '...to ensure accurate and consistent interpretation and implementation by Council and the public'. I consider that no further amendment to PC10 is needed to enable the subsequent and desirable explanation of OVERSEER and reference file usage via the Rules Implementation Plan.

**Simon Park**

**Date:** 5 March 2017

## **References**

Freeman M, Robson M, Lilburne L, McCallum-Clark M, Cooke A, & McNae D (2016): Using OVERSEER® in regulation - technical resources and guidance for the appropriate and consistent use of OVERSEER® by regional councils, August 2016. Report prepared by Freeman Environmental Ltd for the OVERSEER Guidance Project Board

Perrin Ag Consultants Ltd (2016): Methodology for and output from further revision of NDA reference files. Report to Bay of Plenty Regional Council dated December 2016.