

Plan Change 10 Hearing

Record of Discussions between Bay of Plenty Regional Council and Rotorua Lakes Council

TOPIC: Provisions relating to WWTP infrastructure

1 Introduction

Rotorua Lakes Council has a strong interest in seeing the waste water treatment systems recognised in relation to the improvements in water quality that they have brought historically to Lake Rotorua. Further to this the Rotorua Lakes Council wishes to see that the proposed Rotorua Wastewater Treatment Plant (RWWTP) is able to meet future consent conditions. Without prejudicing the resource consenting process, an important aspect for the future operation of the RWWTP will be the ability to reflect changes from rural to reticulated urban land use in an accounting mechanism.

The following matters have been discussed between Rotorua Lakes Council and Bay of Plenty Regional Council.

- 1) A mechanism to account for reticulation of rural land when developed for urban use
- 2) Policies recognising the integrated nature of infrastructure and benefits of wastewater treatment
- 3) Additional matters for amending NDAs: Schedule LR One
- 4) The need or otherwise for a Restricted Discretionary Activity Rule for the WWTP

The principle forum for discussion was a voluntary conference held in Rotorua on 23 March 2017. Of the expert planners, that conference was attended in person by Mr Eccles and Mr Banks for RLC, and Mr Lamb for BOPRC. Three staff from RLC also attended the conference in person (Ms Lowe, Ms McGregor, and Ms Dahm).

This statement records proposed amendments that are agreed between RLC and BOPRC as a result of the conference and subsequent email and telephone discussions. Areas of disagreement and the reasons why are also recorded.

These are discussed in the section below and summarised in Appendix 1.

It is noted that there are further submitters on the matters discussed here (as proposed by Rotorua Lakes Council) however the further submissions focus on opposition to WWTP discharge, the inappropriateness of policies addressing land use, support for enabling frameworks, and general opposition to elements of PPC10. The recommendations in this document clarify matters already recommended for inclusion (such as through the Section 42A Report). They do not specifically relate to the matters raised by the further submissions.

2 A mechanism to account for reticulation of rural land

The Regional Council and Rotorua Lake Council have, under the banner of the Rotorua Lakes Programme, developed a nutrient accounting mechanism to recognise urban growth and the transition of rural land to reticulated urban land. The reticulation of houses that operate septic tanks has a benefit to Lake Rotorua in terms of reduced nitrogen. This benefit also extends to other lake catchments.

The addition of extra load to the sewerage system places pressure on the consent limit (current or future) for the WWTP. To recognise the benefit and to acknowledge the urban growth pressures facing Rotorua the accounting mechanism noted above was developed.

This provides an opportunity for any future WWTP consent limit to potentially be based on allowing increased loads but on the basis of there being no net increase in the total load of nitrogen to the Lake. Staff of both councils have agreed that the accounting mechanism that has been developed would be better suited to a Memorandum of Understanding between the partners under the Rotorua Te Arawa Lakes Programme. This will be progressed through to approval by Rotorua Te Arawa Lakes Strategy Group (who already considered the accounting mechanism at their meeting of 10 March 2017). Consideration was given to adding, for example, an advice note with the name of the MOU if it is completed and signed before decisions on PPC10 are made.

Rotorua Lakes Council sought the addition of the detail of this accounting mechanism into PPC10 (see Appendix to the Evidence in Chief of Mr Eccles). This was not supported by the Regional Council as in their view the detail is likely to have the effect of locking in numbers that may not be appropriate. The Regional Council recommended through Ms Burton's rebuttal evidence that an addition to Method LR M5 may be appropriate. This provision read:

LR M5 Regional Council will:

(g) Develop within the Rotorua Te Arawa Lakes Programme an accounting methodology for the shift in nitrogen losses between rural and urban land uses (including for the purposes of recognising changes to waste water discharge loads).

Following discussion between Rotorua Lakes Council and the Regional Council some key 'bottom lines' were recognised in terms of how the accounting mechanism could be recognised in Plan Change 10 as follows:

- (i) An accounting mechanism has been agreed between the Councils; and
- (ii) Its existence needs to be clearly referenced in the Plan Change so that it is not "lost" over time; and
- (iii) The mechanism needs to be implemented.

It was further agreed that the method LR M5 could be made more positive in relation to the developed state of the accounting methodology and that text could be added to provide more certainty to the community about the accounting mechanism. This recommended text does not alter the intention of Ms Burton's recommended approach.

Recommended text:

LR M5 Regional Council will:

(g) Implement the accounting methodology agreed by the Rotorua Te Arawa Lakes Programme for the shift in nitrogen losses between rural and urban land uses (including for the purposes of recognising changes to waste water discharge loads).

The accounting methodology recognises that:

- *2001-04 is the baseline for accounting purposes*
- *Reticulation should not result in a net increase in nitrogen discharge to Lake Rotorua*
- *Land use change (subdivision) requires a nitrogen allocation*
- *Offsets within the groundwater catchment may provide opportunities for the reticulation of out-of-catchment communities, or urban infrastructure development.*

Mr Eccles and Mr Banks believe that for clarity and certainty the method also needs to make more specific reference to the title of the document that records the agreed accounting methodology. Mr Lamb does not believe this is necessary as the respective organisations that will implement the

methodology, and thus have principle interest in the method, are well aware of where the methodology is recorded. Further to this, the mechanism as a MOU has not yet been adopted by RTALSG and the document's title and date are not yet available.

3 Policies recognising the integrated nature of infrastructure

Rotorua Lakes Council sought the addition of policies that highlighted the place of community infrastructure – specifically the RWWTP in contributing to Lake Rotorua's water quality. This was accepted in part in the Section 42 Report (page 55) and two policies were recommended for addition.

Rotorua Lakes Council sought an additional, more specific policy to recognise the benefits of wastewater reticulation and treatment to all the Rotorua Lakes, and to the health and wellbeing of the community. The Regional Council's view is that this steps away from the purpose of PPC10. See also paragraph 182 of the Section 42A Report.

The two policies recommended under the Section 42A Report were:

***LRP18** Acknowledge the 435tN/yr sustainable load for Lake Rotorua provides for nitrogen losses from all sectors located within the Lake Rotorua groundwater catchment and provide for the shift of losses between these sectors to reflect land use change resulting from urban growth*

***LRP19** Acknowledge the increased demand on infrastructure located within the Lake Rotorua Groundwater Catchment resulting from future potential land use change.*

Following discussion between Rotorua Lakes Council and the Regional Council it was **agreed** that the two recommended policies could be re-worded slightly (swapping material between the two policies and making some additions) to address Rotorua Lakes Council's concerns to a greater degree.

The two amended policies as now recommended are:

***LRP18** Acknowledge the 435tN/yr sustainable load for Lake Rotorua provides for nitrogen losses from all sectors located within the Lake Rotorua groundwater catchment including urban and waste water discharges.*

***LRP19** Acknowledge the increased demand on infrastructure located within the Lake Rotorua Groundwater Catchment resulting from land use change resulting from urban growth (and the consequential shift of losses between sectors) and reticulation of communities outside the Lake Rotorua Groundwater Catchment.*

This does not however extend as far as Rotorua Lakes Council's desire to see a specific policy relating to the benefits of the RWWTP: "*Acknowledge the benefits of municipal wastewater reticulation and treatment to the overall water quality of the Rotorua lakes, and to the health and wellbeing of the community*".

Mr Eccles and Mr Banks remain of the view that the above policy is necessary and appropriate. In their view it is consistent with equivalent policy recognition of municipal water extraction infrastructure provided in Proposed Plan Change 9 to the Bay of Plenty Regional Water and Land Plan (RWLP), reflects the status of the WWTP as regionally significant infrastructure, and acknowledges the WWTP as a constituent part of the environment that contributes nitrogen discharges to Lake Rotorua. Mr Lamb's view is that, as noted above, this steps away from the purpose of PPC10.

4 **Additional matters for amending NDAs: Schedule LR One**

Schedule LR One, section E contains a number of matters about amending nitrogen discharge allocations (NDA). An additional matter was recommended for inclusion (submission point 33-10). however a further point raised by Rotorua Lakes Council was inadvertently overlooked.

Following discussion between Rotorua Lakes Council and the Regional Council it was **agreed** that this additional bullet point should be recommended for inclusion in Schedule LR One, section E as follows:

Recommended text:

- *The complete or partial sell down of the Nitrogen Discharge Allocation for a property may result in that property losing the ability to be subdivided in the future, unless the nitrogen deficit is addressed.*

The above text differs slightly from that proposed in Mr Eccles EIC page 17, but has the same effect ie to alert landowners to the implications for future subdivision of selling nitrogen discharge allowance

5 **Restricted Discretionary Activity Rule for WWTP**

Prior to PC10, an increased discharge of nitrogen or phosphorus arising from the upgrade of the Rotorua WWTP would be treated as a Restricted Discretionary Activity under Rule 11F (subject to meeting the relevant criteria) of the RWLP and a Discretionary Activity under Rule 37 (the overall discharge from a WWTP).

Consequential changes to the RWLP proposed by PC10 remove the word “Rotorua” from all Rule 11 A to F provisions - including the Rule 11F text, thereby excluding the Rotorua WWTP from consideration under that Rule.

The consequential changes mean that an application to increase the discharge of nitrogen or phosphorus from the Rotorua WWTP as part of the consent renewal and upgrade process would automatically have to be considered as a full discretionary activity under the “catch-all” Rule 37 of the RWLP.

Mr Eccles and Mr Banks hold the view that exclusion of any consenting associated with the Rotorua WWTP from initial consideration as a restricted discretionary activity is contrary to the recommended Policy LR P17 set out in the s42a Report, and does not reflect the value of RLC’s ongoing significant investment in wastewater infrastructure, its essential importance to Rotorua’s urban community and the benefit reticulation ultimately has on lake water quality. Accordingly, Mr Eccles and Mr Banks remain of the view that Rule LRR 14 as set out in Appendix 2 to the EIC of Mr Eccles is required.

Mr Lamb believes that it is appropriate that the amendment to Rule 11F remains, as any consenting related to the Rotorua WWTP would in any event be classified as a discretionary activity under the bundling principle. No waste water discharge application would be considered solely under Rule 11F. The “increase in nitrogen and phosphorus” would always be a subset of a Rule 37 Discretionary activity and therefore there is no reason to retain the application of Rule 11F. The proposed wording if accepted would also reduce Rule 11F’s general application to only “Municipal Waste Water treatment Plant” discharges – leaving any other discharges to be assessed under Rule 37. Further guidance on managing contaminants in nutrient sensitive catchments for any consent application is also now provided by the RPS which has become operative subsequently to Rule 11.

Appendix 1: Recommended Amendments

Current (Section 42A Report and Rebuttal evidence)	Recommended Amendments
<p>LR M5 Regional Council will: (g) Develop within the Rotorua Te Arawa Lakes Programme an accounting methodology for the shift in nitrogen losses between rural and urban land uses (including for the purposes of recognising changes to waste water discharge loads).</p>	<p>Agreed by RLC and BOPRC:</p> <p>LR M5 Regional Council will: (g) Implement the accounting methodology agreed by the Rotorua Te Arawa Lakes Programme for the shift in nitrogen losses between rural and urban land uses (including for the purposes of recognising changes to waste water discharge loads). The accounting methodology recognises that:</p> <ul style="list-style-type: none"> • 2001-04 is the baseline for accounting purposes • Reticulation should not result in a net increase in nitrogen discharge to Lake Rotorua • Land use change (subdivision) requires a nitrogen allocation • Offsets within the groundwater catchment may provide opportunities for reticulation of out-of-catchment communities, or urban infrastructure development. <p>Proposed by RLC - not agreed by BOPRC:</p> <p>Reference in the above method to also include specific reference to the title of the document containing the agreed accounting methodology.</p>
<p>LRP18 Acknowledge the 435tN/yr sustainable load for Lake Rotorua provides for nitrogen losses from all sectors located within the Lake Rotorua groundwater catchment and provide for the shift of losses between these sectors to reflect land use change resulting from urban growth</p> <p>LRP19 Acknowledge the increased demand on infrastructure located within the Lake Rotorua Groundwater Catchment resulting from future potential land use change.</p>	<p>Agreed by RLC and BOPRC:</p> <p>LRP18 Acknowledge the 435tN/yr sustainable load for Lake Rotorua provides for nitrogen losses from all sectors located within the Lake Rotorua groundwater catchment including urban and waste water discharges.</p> <p>LRP19 Acknowledge the increased demand on infrastructure located within the Lake Rotorua Groundwater Catchment resulting from land use change resulting from urban growth (and the consequential shift of losses between sectors) and reticulation of communities outside the Lake Rotorua Groundwater Catchment.</p> <p>Proposed by RLC - not agreed by BOPRC:</p> <p><u>LRP20 Acknowledge the benefits of municipal wastewater reticulation and treatment to the overall water quality of the Rotorua lakes, and to the health and wellbeing of the community.</u></p>

<p>E. Amendment of Nitrogen Discharge Allocation</p> <p>Not included</p>	<p>Agreed by RLC and BOPRC:</p> <p>E. Amendment of Nitrogen Discharge Allocation</p> <ul style="list-style-type: none"> • The complete or partial sell down of the Nitrogen Discharge Allocation for a property may result in that property losing the ability to be subdivided in the future, unless the nitrogen deficit is addressed.
<p>Rule LR R14</p> <p>Not included</p>	<p>Proposed by RLC - not agreed by BOPRC</p> <p>Restricted Discretionary – Increased Discharges of Nitrogen and Phosphorous from a Municipal Wastewater Treatment Plant in the Lake Rotorua groundwater catchment.</p> <p>The increase in the discharge of nitrogen or phosphorous from a:</p> <ol style="list-style-type: none"> 1. Point source discharge of contaminants to water; or 2. Point source discharge of water to water; or 3. Point source discharge of contaminants to land in circumstances where the contaminant may enter surfacewater or groundwater; <p>in the Lake Rotorua groundwater catchment</p> <p>Is a restricted discretionary activity.</p> <p>Bay of Plenty Regional Council restricts its discretion to the following matters:</p> <ol style="list-style-type: none"> a) Measures to avoid, remedy or mitigate adverse effects on aquatic ecosystems in streams, rivers and lakes. b) Aspects of the activity that cause an increase in the export of nitrogen or phosphorous from the activity. c) Administration charges under section 36 of the Act. d) Financial contributions under section 10 of this Regional Plan. e) Information and monitoring requirements.