

BEFORE THE BAY OF PLENTY REGIONAL COUNCIL

Independent Hearing Commissioner(s)

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER Lake Rotorua Nutrient Management –
Proposed Plan Change 10 to the Bay of
Plenty Regional Water and Land Plan.

SUMMARY OF EVIDENCE OF Bethany Bennie

Planner

2 March 2017

1.0 QUALIFICATIONS AND EXPERTISE

- 1.1 My name is Bethany Bennie, and I have been employed as a Planner at Boffa Miskell Limited (BML) for the past three years. I hold the qualification of Master of Planning Practice from the University of Auckland and I am an Intermediate Member of the New Zealand Planning Institute.
- 1.2 In this matter, I was engaged by The Fertiliser Association of New Zealand (FANZ) to prepare a submission on the Proposed PC10 (Lake Rotorua Nutrient Management) to the Bay of Plenty Regional Water and Land Plan (PC10) in April 2016 and a further submission in September 2016.
- 1.3 In this summary of my evidence, I have concentrated on the main issues of concern, being OVERSEER® Version Updates, Input Controls, Non-Complying Activity Status and Schedule LR Six. I have briefly summarised a number of other matters addressed in my evidence in Para 1.15 below.

OVERSEER® Version Updates

- 1.4 In its original submission FANZ sought that a generic reference to the most recent version of OVERSEER® be used throughout PC10, seeking that any figures/data subject to change by version updates should sit outside the Plan in a reference document. This is because once an OVERSEER® version is updated, the previous version is no longer available.
- 1.5 Council accepted this and developed reference files to manage the OVERSEER® version updates.
- 1.6 However, as discussed in my evidence, I do not believe the current wording of PC10 has adequately managed OVERSEER® version updates. I therefore seek the following:
- Clarity on how new Start Points, Managed Reduction Targets (MRTs) and Nitrogen Discharge Allocations (NDAs) can be

established under Schedule LR One and Schedule LR Five when both reference OVERSEER® 6.2.0.

- Clarity on the implementation of Rule LR R10(a). As the Plan currently reads, LR R10(a) requires a new 2032 NDA and a new MRT to be calculated in accordance with Schedule LR One. However, Schedule LR One requires benchmarks to be run through OVERSEER® 6.2.0. As this version of OVERSEER® is no longer available, LR R10(a) cannot be met.
- Replacing references to OVERSEER® 6.2.0 with a generic reference to 'the latest version of OVERSEER® ' in the following policies and schedules (suggested wording available in Appendix C of my evidence-in-chief):
 - a. Policy LR P3(c)
 - b. Policy LR P12 (as recommended in the Officer's Report)
 - c. Schedule LR One (A) & (B)
 - d. Schedule LR Five (A.2) & (A.3)
 - e. removing Table LR 4 from within the plan and sit it outside of the plan.
- Retaining the following references:
 - i. Table LR 1 and Table LR 2 referencing OVERSEER® 5.4. These tables are giving context to the values that informed the Integrated Framework and therefore the Plan Change.
 - ii. Table LR 3 referencing OVERSEER® 6.2.0. This table informs the reader of the sector contributions that again informed the Plan Change.

Input Controls

- 1.7 I oppose the use of 'input controls' in the rule framework as it is my understanding that an increase in nitrogen use by a farming activity

does not necessarily translate to an increase in the nitrogen loss from land.

- 1.8 I support output based management which addresses the losses from land as it is the loss which gives rise to the adverse environmental effects. This approach also allows for farmer flexibility and innovation in reducing nitrogen losses from farming activity.
- 1.9 I seek the following amendments to LR R1(a), LR R4(c), LR R5(a), LR R6(b), and LR R7(c):

There is no increase in the nitrogen loss from land due to increases in effective area, nitrogen inputs or stocking rates from 29 February 2016 ~~that may contribute to an increase in nitrogen loss onto, into or from land.~~

- 1.10 Rule LR 4(a) also implies an input control through reference to stocking rates in Schedule LR Two. However, it is recognised that where it is not warranted to conduct a detailed nutrient budget on a low intensity farm system or a small farm area, the option to have a 'look up table' of stocking rates is a simple pragmatic approach providing a surrogate for nitrogen loss values.

Non-Complying Activity Status

- 1.11 I seek that PC10 provides for a restricted discretionary or discretionary activity status to apply to activities that cannot meet the permitted and controlled activity standards. I seek this outcome for the following reasons:
- I understand that a non-complying activity status is often applied to activities that are not anticipated by a plan or where the effects require a higher level of identification or assessment. In regard to PC10 the effects of any activity that does not meet the relevant standards/conditions is not unanticipated or unknown as they are likely to be related to achieving the sustainable lake load of 435 tonnes of nitrogen per annum.

- The policy context in which a non-complying activity would be considered includes new Policy LR P11. This Policy seeks to 'avoid' the ongoing operation of farms without an NMP. This does not take into consideration the scale of the effects, which may not be 'minor' in terms of the 'eye of a needle' test but may not adversely affect the Council's ability to achieve the sustainable lake load of 435 tonnes of nitrogen per annum.
- I consider that the potential economic and social effects of declining applications for farming activities that may have a minimal effect on the overall lake load need to be considered. These may be far greater than the environmental effect.

1.12 I therefore consider it appropriate to:

- Apply a restricted discretionary status to activities that do not meet the permitted activity standards.
- Apply a discretionary activity status to activities that do not meet the controlled activity standards.
- Delete new Policy LR P11 as recommended by the Officer's report and include policies that provide a framework to consider innovation in managing nutrient run-off and reflect the changing nature of farming and management practices

Schedule LR Six

1.13 As currently worded Schedule LR Six, (5) (a) (ii) requires from the outset, the mitigations and pathway which will achieve the NDA allowance allocated to the property by 2032. Schedule LR Six (5)(a)(ii) states that future pathways 'must be able to be demonstrated as modelled probabilities'. It is not clear how these probabilities can be generated.

1.14 In light of the above, the following amendment to Schedule LR Six (5)(a)(ii) is suggested:

- (ii) A pathway including a schedule of mitigation actions, described land uses and OVERSEER® (or other model) input parameters that

demonstrates managed reduction to achieve the next Managed Reduction Target in accordance with LR P8.

(iii) A pathway demonstrating potential mitigation actions and/or adaptive management options to achieve future MRTs and the 2032 NDA in accordance with LR P8.

Other Matters

1.15 As per my evidence and associated appendices, I have sought a number of other changes to PC10 being:

- Clarification of the permitted activity requirements in the context of the policy framework;
- Amendment of Rule LR R2 to ensure that it is only the NDA's and MRO's from forestry/bush/scrub blocks that are not permitted.
- Amendment of Matter 1 of Rule LR R7 to require annual land use information records to indicate that the farm system remains consistent with the farm information used for the current OVERSEER® estimates.
- Deletion of Condition(iii) of Rule LR R8 to LR R11 or amend the wording at the of the rules to clarify that the written approval of the landowner is required.
- Amendment of the definition of 'Suitability Qualified and Experienced Person' to refer to the 'Certified Nutrient Management Adviser, certified under the Nutrient Management'.
- Amendment of the definition of 'Significant Farm System Change' to refer to farm '*system*' rather than '*practice*' and 'annual average nitrogen loss' instead of '*discharge*' and use this term consistently throughout the Plan (i.e. in Schedule LR One).
- Amendment of Schedule LR Two to clarify that Stocking Rate limits are default representations of the nitrogen loss value and

have been introduced for efficiencies in administration and capability to manage small properties. Also to provide the nitrogen loss value which provides for permitted activity land use under LR R4.

1.16 I am happy to discuss these if there are any matters of clarification required by the Panel.

Bethany Bennie

Planner

Boffa Miskell Limited

2 March 2017