

IN THE MATTER of the Resource Management Act 1991

AND

**IN THE MATTER of the hearing of submissions on Proposed Plan Change
1 (and Variation 1) to the Waikato Regional Plan**

TOPIC 2

**BY FEDERATED FARMERS OF NEW ZEALAND INC,
FEDERATED FARMERS OF NEW ZEALAND (WAIKATO
REGION) 1999 INCORPORATED, FEDERATED FARMERS
OF NEW ZEALAND – ROTORUA TAUPO PROVINCE
INCORPORATED, FEDERATED FARMERS OF NEW
ZEALAND (AUCKLAND PROVINCE) INCORPORATED**

(“FEDERATED FARMERS”)

Submitter with ID: 74191

**To WAIKATO REGIONAL COUNCIL
(“WRC”)**

**STATEMENT OF REBUTTAL EVIDENCE OF GRANT ROBERT ECCLES
FOR FEDERATED FARMERS ON HEARING TOPIC 2**

17 May 2019



169 London Street
PO Box 447
Hamilton
Telephone: 021 110 3554
Email: mmeier@fedfarm.org.nz

STATEMENT OF REBUTTAL EVIDENCE OF GRANT ROBERT ECCLES

Introduction

1. My full name is Grant Robert Eccles. My qualifications and experience are set out in my primary evidence.
2. This rebuttal evidence contains my response to the planning evidence filed by:
 - (a) Ms Corina Jordan for Beef + Lamb New Zealand Limited.
 - (b) Dr Philip Mitchell for Oji Fibre Solutions (NZ) Ltd.
 - (c) Mr Mark Chrisp for Theland Tahī Farming Group, Southern Pastures Limited Partnership, and Ata Rangī 2015 Limited Partnership.
 - (d) Mr Ian Mayhew for Waikato Regional Council as submitter.
3. I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses as set out in the Environment Court's Practice Note 2014, and I agree to comply with it. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on the evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Evidence of Ms Jordan

4. At a high level, Ms Jordan's evidence sets out an alternative PC1 framework that introduces the use of Land Use Capability ("LUC") as a proxy for N allocation for low intensity farming activity. A low intensity farming activity could, as a permitted activity, emit up to 30% over its LUC derived N limit.
5. At the other end of the scale, higher N loss farming activities would continue to be required to obtain a NRP but would have to reduce N losses to a level less than the as-notified NRP derived 75th percentile, tentatively proposed as the 60th percentile by Ms Jordan. The intention is to create headroom for the low N loss activities to increase to LUC derived N limits.
6. The framework also proposes that in addition to maximum instream loads for N, Table 3.11-1 should also include a N "zone load" for all sub-catchments and FMUs.
7. Broadly I agree with the thrust of Ms Jordan's framework that there should be flexibility for low N loss farmers and that high N loss farms should have to reduce. That was also the thrust of the alternative framework I helped to prepare for

Federated Farmers¹. However, I am concerned that Ms Jordan's framework "jumps the gun", and focuses too much on N and allocation of it at this point in time.

8. PC1 is not a N allocation exercise, in the manner that other plans around the country have been (for example, Plan Change 10 in the Lake Rotorua catchment that is currently before the Environment Court). PC1 has been developed (and assessed against s32 of the RMA) as an explicitly transitional plan change that seeks to control discharges of four specified contaminants to meet 10 year reduction targets that will set a direction of travel aimed at achieving ambitious (and currently contested) 80 year targets. To that end, PC1 is acknowledged as the first step in a longer term process which will require a further plan change(s) at some point in the future.
9. The transitional nature of PC1 also reflects the fact that the science associated with understanding the current and future sources of contaminants as they may affect the Waikato and Waipa Rivers is evolving and is in its infancy, particularly when compared to scientific knowledge of other water bodies in New Zealand (for example, Lake Rotorua). This is reflected by the range of views put forward through PC1 submissions as to science matters such as the N load to come and the relationship between N and the other three contaminants of relevance (P, E coli and sediment).
10. If there is a concern that if the NRP approach is adopted now through PC1 it will effectively lock in a grandparenting based allocation method in the future, I consider that concern to be unfounded. In my view, whatever approach is finally adopted for PC1, it does not tacitly or otherwise cement any particular allocation methodology in the future. Such methodology will need to be developed and tested against the requirements of whatever relevant legislation and participatory process exists at the time and will need to take account of scientific knowledge and other developments (including national guidance) that occur in the meantime.
11. At paragraph 97 of her evidence, Ms Jordan sets out that the use of grandparenting by PC1 (ie the process of using a defined benchmarking period in the past to establish a current NRP for a property) is contrary to the Vision and Strategy, the Waikato RPS and the Waikato Regional Plan as in her view it rewards high emitters and sustains their prosperity in the short term.

¹ The Federated Farmers framework allowed for low emitters to "come up" as a controlled activity, provided that a Simplified Farm Environment Plan was prepared that considered all four of the contaminants of relevance under PC1, not solely N.

12. I could agree with that analysis if high N loss farms were not required to meaningfully reduce N discharges under PC1 (and the other three contaminants through FEPs). However, that is clearly not the case. The requirement to reduce N discharges to (at least) the 75th percentile of the dairy NRP curve for each FMU for any activity currently over that level, as well putting in place measures to reduce the other three contaminants that are the subject of PC1, represents a N reduction that is modelled across the Waikato Region (including all sectors) to have significant adverse economic effects (particularly in terms of costs on the dairy sector).
13. I also disagree with the analysis at paragraph 100 of Ms Jordan's evidence that the PC1 proposed allocation framework prioritises and provides for unsustainable land use activities, and unfairly restricts or limits access to natural resources, in contravention of Objective 3.2² of the Waikato RPS and section 5 of the RMA.
14. Firstly, echoing the points I raise above, PC1 does not establish an allocation framework (in the sense of fixing a catchment N load and allocating it to a property level) and does not attempt to assess what land uses are or are not sustainable in the catchment, nor does it seek to govern access to natural and physical resources. PC1 establishes transitional measures for existing uses to reduce their discharges of the four contaminants of issue in the catchment, in order to initiate water quality improvements in the Waikato River. My view is the opposite of Ms Jordan's – by initiating the improvements that will inevitably arise (if by nothing else than requiring 1000's of farm operators to prepare FEPs) PC1 will give effect to Objective 3.2 of the RPPS and the natural resource aspects of section 5.
15. At paragraphs 116 to 117 of her evidence, Ms Jordan explains why she considers that the NPS-FM requires N to be allocated in over allocated catchments and how this justifies creating headroom then allocating N to encourage primary production towards higher quality soils. I do not agree with her analysis of Objective A2, Policy A1 and Objective A4 of the NPS-FM in arriving that this conclusion.
16. There is nothing in the NPS-FM which requires N to be allocated in over allocated catchments. Over allocation is to be avoided and, as explained above, I consider that PC1 is the transitional phase to reducing N and achieving the Vision & Strategy.

² Objective 3.2 seeks to maintain and enhance:

- Access to natural and physical resources to provide for regionally significant industry and primary production activities that support such industry; and
- The life supporting capacity of soils, water and ecosystems to support primary production activities

It is necessary to take a staged approach due to the evolving nature of the science and the significant and severe economic and social cost that would result if the 80 year targets were to be achieved in a shorter timeframe. In my opinion, the approach is PC1 is consistent with the NPS-FM.

17. Ms Jordan makes various references in her evidence to the Beef + Lamb proposal being more efficient and effective than PC1. For example, at paragraph 40 Ms Jordan states that the Beef + Lamb approach will more effectively and efficiently give effect to the RMA and the NPS-FM. In my opinion, effectiveness ought to be measured against whether the proposal will achieve the 10 year targets and efficiency ought to be measured against whether the proposal will be the lowest cost means of achieving the 10 year targets.
18. I have not seen any analysis or modelling in the Beef + Lamb evidence to suggest that the proposal will achieve the 10 year targets. The proposal relies on reductions from higher N loss activities to more than offset increases from low N loss activities. The proposal also relies on all activities achieving reductions in the other contaminants through Schedule C (setbacks and stock exclusions) and FEPs. However, there is no requirement for low N loss activities to obtain a FEP and there is the ability for land use change from forestry to drystock under the permitted activity rule without any control over the other contaminants (save through compliance with Schedule C).
19. In these circumstances, there is a risk that N reductions are not enough to offset N increases and achieve a 10% overall reduction, or that other contaminants increase as a result of the application of the permitted activity rule.
20. Dr Doole modelled significant economic costs for the dairy sector as a result of PC1.³ Under the scenario of no iwi land development, the cost to the dairy sector was estimated to be \$80m (and 796 job losses) compared with \$24m (and 196 job losses) for the sheep, beef and grain sector. Dr Doole's evidence is that higher levels of N abatement from the higher N leaching activities are expected to incur greater cost.⁴ Accordingly, I would expect that an outcome of the Beef + Lamb proposal is that the costs for the dairy sector, and intensive drystock sector, would be much higher compared with PC1. I am not able to assess the extent to which these may be partially offset by benefits to the extensive drystock sector but given the small

³ Table 6 of McDonald, G and Doole, G "Regional and national level economic impacts of the proposed Waikato Regional Plan Change No. 1 – Waikato and Waipa Catchments" 12 August 2016, Doc # 8954531.

⁴ Statement of Evidence of Graeme John Doole dated 3 May 2019 at para 2.2.

proportion of the extensive drystock land use in the catchment, it is difficult to see how they would be offset.

21. In my opinion, the effects on water quality and economic and social costs are something that would require careful consideration. In the absence of any modelling of these for the Beef + Lamb proposal, it is not possible to assess the effectiveness and efficiency of the proposal, or compare this against the effectiveness and efficiency of PC1.

Evidence of Mr Chrisp

22. Mr Chrisp sets out a range of concerns with the rule framework of PC1, and in particular the land use change rule. I agree with most of Mr Chrisp's evidence, however where I feel the need to comment is with regard to the proposed wording of Rules 3.11.5.7A and B in Attachment A to Mr Chrisp's evidence.
23. In my view, while I support the intent of the rules (being to provide a more suitable pathway for land use change than the as-notified non-complying status), I consider that the restricted discretionary rules as proposed by Mr Chrisp are too narrowly focused on performance with regards to N emissions and compliance with the NRP for the property or enterprise in a particular set of circumstances. A land use change proposal that exceeded the NRP would still revert to non-complying status. I anticipate that the effect is that very few land use change proposals would be provided for (as it would only be a small number of owners of very large land holdings that would be able to internally offset the increase in N on the part of their property or farm enterprise where the land use change occurs).
24. As such the rules do not cater for situations where N discharges from a land use change proposal may not comply with the NRP, but may result in a decrease in discharges from one or more of the other three contaminants of relevance to PC1. Conceivably, one or more of the other three contaminants may be more of an issue in a sub-catchment than N.
25. Accordingly, I continue to hold the opinion that the modified Rule 3.11.5.7⁵ as sought in the Federated Farmers submission is a more appropriate method of providing a non-notified pathway for land use change while allowing for consideration of the proposals' performance with regards to all four contaminants of relevance.

⁵⁵ Change the as-notified activity status from non-complying to discretionary, and introduce information requirements around discharges and management of all four contaminants, particularly where N limits are sought to be exceeded.

Evidence of Dr Mitchell

26. Dr Mitchell expresses in his evidence a view that a more stringent regulatory framework than that proposed by PC1 needs to be adopted to achieve the outcomes sought. This is best summarised by the following paragraph (1.5) from his evidence:

In my opinion, the key focus for the PC1 policy framework should be on improving the quality of existing diffuse discharges and in that regard, the majority of diffuse discharges should be regulated by resource consents rather than being undertaken as permitted activities. Hard edged regulation for diffuse discharges is essential to ensure that reductions in nitrogen, phosphorus, sediment and microbial pathogens actually occur within a reasonable timeframe to restore and protect the Waikato and Waipā Rivers.

27. My concerns with the adoption of a hard edged regulatory approach at this stage as espoused by Dr Mitchell are that it ignores:

- (a) The clear risk of regulatory failure associated with the ability of industry and WRC to cope with the consenting requirements if the majority of farming activities require resource consent.
- (b) The economic and other (eg social) costs of such an approach, which have not been assessed and need to be well understood before any such decision could be made, noting that the as-notified PC1 framework has been modelled as having significant economic costs and may well overshoot the transitional 10 year targets.
- (c) That the science is still in its infancy so the water quality and environmental effects of imposing more stringent reductions and requirements are not well understood.

28. In section 32 RMA terms, putting in place a harder edged framework at this transition stage without further assessment of costs and benefits in my view generates a clear risk of acting in the face of incomplete information.

Evidence of Mr Mayhew

29. At paragraph 19 Mr Mayhew sets out his recommendation for a revised version of Policy 1 that addresses his concerns with regards to clarity and implementation of the recommended version of Policy 1 as set out in the 42A report.

30. My concern with Mr Mayhew's proposed wording for Policy 1, from a contaminant reduction perspective, is that it:

(a) Retains at b(ii) the 42A recommendation requiring N reductions for those farms where the NRP is between the 50th and 75th percentile leaching value (as set out in my Block 2 evidence this recommended change has unassessed consequences in economic terms and I do not support it).

(b) Retains at b3 reference to generally not granting land use change consents unless the application demonstrates clear and enduring reductions in diffuse discharges of the four contaminants (my concerns with this include that it may not be possible or practical in every case for reductions in all four contaminants to be achieved, may impose excessive cost and depending on the sub-catchment characteristics reductions may not actually be warranted).

31. Accordingly, my view remains that the amendments proposed in my evidence dated 10 May 2019 are more appropriate.

G.R. Eccles

G Eccles