

**BEFORE AN INDEPENDENT HEARING PANEL
OF THE WAIKATO REGIONAL COUNCIL**

IN THE MATTER OF

the Resource
Management Act 1991
(RMA)

AND

IN THE MATTER OF

of the Proposed Waikato
Regional Plan Change 1:
Waikato and Waipā River
Catchments

**STATEMENT OF REBUTTAL EVIDENCE OF JOSEPH SCOTT EDLIN ON BEHALF OF
WAIKATO REGIONAL COUNCIL AS SUBMITTER**

Technical – Block 3

DATED 19 July 2019

Table of Contents

Introduction	3
Code of Conduct	3
Scope of Rebuttal	3
Evidence of Stuart Ford	3
Evidence of Andrew Barber	6
Evidence of Damien Farrelly	7
Evidence of Helen Marr	9

Introduction

1. My full name is Joseph Scott Edlin. I hold the role of senior resource officer in the Healthy Rivers Implementation team at Waikato Regional Council. An outline of my role, qualifications and experience is provided in my Block 3 evidence in chief dated July 5th, 2019.

Code of Conduct

2. I confirm that I am familiar with the Code of Conduct for Expert Witnesses as set out in the Environment Court Practice Note 2014. I have read and agree to comply with the Code. Except where I state that I am relying upon the specified evidence or advice of another person, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of Rebuttal

3. This statement of evidence in rebuttal outlines my response to Block 3 evidence in chief filed by:
 - a. Stuart Ford on behalf of Horticulture New Zealand.
 - b. Andrew Barber on behalf of Horticulture New Zealand.
 - c. Damien Farrelly on behalf of Horticulture New Zealand.
 - d. Helen Marr on behalf of Auckland/Waikato Eastern Fish & Game Councils.

Evidence of Stuart Ford

4. This section responds to paragraph 44, 45 and 47 of Mr Ford's Block 3 evidence.
5. Paragraph 44 of Mr Ford's evidence states:

"This approach was discussed at a meeting in Pukekohe between Waikato Regional Council (WRC) staff and representatives of the CVP sector at the end of 2018. The feedback that we received from that meeting from the WRC staff was that they saw real merit in what we proposed and that we should meet again to further develop the approach. We then got notice from the WRC staff that they were too busy to meet again and that we should continue to advocate our approach in the hearings."

6. This paragraph refers to a meeting held in Pukekohe between Waikato Regional Council (WRC) implementation staff and representatives of the commercial vegetable production (CVP) sector in 2018. The meeting was related to general matters in the PC1 process, but also touched on the use of a nitrogen proxy tool.
7. I confirm that this meeting did occur and that I was present. However, I do not agree with Mr Ford's recollection of what was discussed, or the outcome stated. Given the meeting was held without prejudice my rebuttal is focussed on the merits of the proxy tool approach.
8. Horticulture New Zealand (HortNZ) provided a verbal overview of their nitrogen proxy tool referenced in Mr Ford's evidence. WRC was open to discussing the concept of a proxy tool but did not confirm a commitment to developing the concept. At the time it was unclear how HortNZ wished to use the proxy method in PC1. Specifically, it was not clear as to whether the proxy method was to be used to establish and/or measure compliance against a nitrogen limit in regulation, a nutrient accounting method, or a support tool for its growers. HortNZ agreed to provide WRC with a more technical overview of the proxy approach for consideration. This overview was provided to WRC in December 2018.
9. After reviewing the technical overview, it was still unclear to WRC as to how the proxy was intended to be used. In any event, WRC did not consider the approach to be appropriate as a substitute for the nitrogen reference point (NRP) or nitrogen limits within PC1.
10. Whilst APSIM is likely more accurate and workable than OVERSEER for horticulture growers, it is still a model and its outputs not certain. This uncertainty is likely exacerbated by the proxy model approach of squeezing complex farms into more simplified reference modelled scenarios.
11. Consequentially, the proxy outputs are unable to adequately demonstrate that a grower is or is not operating within regulated limits. The reasons for this are covered in more detail in Mr Lynch's Block 3 evidence regarding using Overseer in PC1.
12. WRC considers that the proxy tool's most useful function appears to be as a decision support tool for assisting growers through the farm environment plan process.

13. WRC are not opposed to supporting the development of such decision support tools in future and welcome communication from HortNZ on the matter.

14. In paragraph 45 Mr Ford states:

“The next time that the approach was presented was in the CVP forum. Although there was significant agreement on HortNZ approach at the first day of the CVP forum at the second day the WRC staff turned up with a completely different mindset and approach to the HortNZ solution. That is why the forum ended up with no general agreement on an appropriate approach. While the WRC staff are perfectly entitled to change their view on the HortNZ proposed solution it is difficult to understand how we could have got so far before they changed their position. “

15. I confirm that I attended the CVP forum’s as a representative of WRC. In my view, much of what Mr Ford says in this paragraph is speculative rather than evidence relating to the issues to be resolved by the Hearing Panel. However, I wish to correct the record.

16. I disagree that there was “significant agreement” by WRC for the HortNZ approach. My recollection is that there were reservations held by WRC and other submitters regarding the approach after the first forum. Again, it was unclear as to whether HortNZ wished to use the proxy approach as a means of replacing nitrogen limits, nutrient accounting, or a voluntary tool.

17. After further discussion, it became clearer (although still somewhat ambiguous) that HortNZ intended to use the proxy in the place of the NRP. WRC maintained its original position but remained open to discussion on the matter.

18. In paragraph 47, Mr Ford continues:

“It is disappointing to me that the WRC’s officers have not to date and are either unwilling or unable to evaluate the full range of possible decision support tools that are available to model the four contaminants. Rather they seemed to be wedded to the concept that Overseer is the preferred decision support tool. This is despite the fact that it is entirely inadequate for the purpose of modelling at least the CVP sector.”

19. This statement is incorrect. Council as proponent (via the s42A2a report) has recommended that CVP should not be committed to using Overseer when calculating a nitrogen reference point. This position was also proposed by Council as submitter during CVP caucusing.
20. Schedule B in the Block 3 s42A report (and PC1 as notified) still provides for the approval of alternative models when calculating an NRP. Like all parties, HortNZ are welcome to request APSIM or any other model be approved by the Chief Executive of WRC. This makes it unnecessary for them to be specifically provided for in PC 1 as sought by HortNZ.

Evidence of Andrew Barber

21. This section responds to paragraphs 19 to 24 of Mr Barber's evidence in chief.
22. I agree with Mr Barber's suggested change to the definition of certified farm environment planner (CFEP) in paragraph 19.
23. I agree that the *Advanced Sustainable Nutrient Management* qualification from Massey University is not specifically tailored to horticulture systems¹. The nutrient management principles taught at this course can be universally applied to all farming types, however the use of OVERSEER forms a significant component of the course and I recognise that at this time the use of OVERSEER in horticulture is problematic.
24. I agree that provision c. in the s42A² definition of a CFEP is not specific. This largely reflects the limited number of industry recognised qualifications and the need to build further capacity in this area for rural professionals.
25. I disagree with the need to include a separate definition of CFEP for CVP. My primary reason being that there is sufficient scope within the CFEP definition outlined in the s42A report to cater for the unique skills and qualifications of those practitioners in the horticultural sector.

¹ Paragraph 21. Block 3 evidence of Andrew Barber

² Para. 249. Block 3 s42A report.

26. I disagree with the inclusion of certification being held by an entity as an alternative to a person, my reasons being the same as that outlined in the Officer's recommendation in paragraph 246 of the s42A.
27. I disagree with the relevant experience proposed being at least 2 years. Although I recognise the experience may be different to other farming sectors, I do not believe that 2 years appropriately reflects the scale and complexity of the risks and mitigations associated with contaminant losses from CVP. In my view, the experience level of a CFEP developing CVP FEP's should be 3 years as proposed for other sectors.

Evidence of Damien Farrelly

28. This section responds to paragraphs 26, 34, 35, 50, and 51 of Mr Farrelly's evidence in chief.
29. Paragraph 26 of Mr Farrelly's evidence states:

"I agree that changes can be made to the FEP without requiring sign-off from the CFEP, and without triggering amendments to a resource consent. FEPs should evolve as farmers and growers adopt good management practices and should be flexible enough for farmers and growers to amend and update as appropriate"

30. This statement is consistent with paragraph 186 of the s42A report. I agree with Mr Farrelly in that there are benefits to a flexible FEP approach and I agree that changes to an FEP could be made without requiring "sign-off" from the CFEP.
31. That said, I am not supportive of an approach that enables FEP's to be updated by the farmer without the adequacy of these changes being validated at some level. In my opinion, if the on-farm skills of a CFEP are required to assist farmers to develop an FEP that is consistent with Schedule 1, then any material changes to FEP's requires some form of review by a suitably qualified person.
32. I understand that the approach outlined in Mr Dragten's report³ recognises that the FEP process is iterative. It is supported by scheduled reviews by a CFEP that includes an assessment of the robustness of farm practice and FEP content against the objectives and

³ Section 3.4.5 – Page 17 of Rob Dragten

principles in Schedule 1 and specifying changes to actions and practices to achieve these where needed.

33. This review process provides a greater level of assurance that changes to an FEP or on-farm practice that are not consistent with GFP will be identified and addressed at audit. Consequentially, the qualifications and experience required of auditors should be similar to that of the CFEP providing “sign-off” in the first instance.

34. It remains unclear as to what relevant qualifications Mr Farrelly desires FEP auditors to have, or whether the NZGAP standards HortNZ support will comply with Schedule 1.

35. Mr Farrelly outlines in paragraph 47:

“All certified growers are independently (3rd party) audited by JAS-ANZ (Joint Accreditation System of Australia and New Zealand) certification bodies, and they must continuously meet requirements of GAP standards to maintain certification”

36. Mr Farelly then expresses concern⁴ that:

“the definition for CFEPs being extended to include FEP auditors, and believe that they should have different definitions with different roles/responsibilities. “

37. I do not agree with Mr Farelly that there needs to be a separation of CFEP and auditor roles. I agree with Mr Dragten⁵ in that there will be a limited pool of rural professionals with appropriate qualifications and experience to adequately assess GFP on farm. It is unclear how an auditor with lesser experience and qualifications than a CFEP could assess whether a farm was at or moving towards GFP.

38. Mr Farelly states in paragraph 50:

“While there are a number of advisers who provide support and assistance to growers seeking to comply with NZGAP standards, there is currently no desire to develop an

⁴ Paragraph 35

⁵ Section 3.4.5 – Page 16. Block 3 evidence of Rob Dragten

adviser certification programme, and instead NZGAP endorses advisers with minimum competency and experience requirements.”

39. Again, the role of “advisers”, including their competency and experience remains unclear. If their role in a Sector Scheme was equivalent to the advisory role of a CFEP, I would anticipate a level of expertise and qualifications that would ensure an equivalency of outcome. I do note that Mr Farrelly endorses the definition provided by Mr Barber for CFEP (CVP).

40. In paragraph 51 Mr Farrelly goes on to say:

“The GAP audit identifies any issues in an FEP as well as robustness of relevant components (e.g. nutrient management plan), therefore using the outcomes approach and focus, there is less emphasis required on the qualifications of persons preparing FEPs.”

41. It is unclear if the “outcomes approach” Mr Farrelly is referring to is the GFP objectives and principles-based approach outlined by Mr Dragten, or if Mr Farrelly is specifically referring to the assessment of actions within an FEP. In my opinion, the greater the reliance on expertise to interpret an outcome, the more important the qualifications and experience of that person is.

42. It remains uncertain if the use of “preparing” also means “auditing” in lieu of a flexible approach to FEPs. I find it difficult to reconcile a flexible approach with a reduced emphasis on the quality of the auditor relative to the CFEP.

43. In my view, a flexible GFP approach to FEP’s requires that CFEP’s are appropriately qualified to ensure the integrity of FEP content. If that FEP content is to be edited by farmers, then there must be an appropriate review of these changes. In my opinion, this lends itself to an audit process by which auditors are sufficiently qualified to objectively assess FEP content.

Evidence of Helen Marr

44. The following rebuttal evidence relates to paragraph 8.16 and Appendix 2 of Helen Marr’s Block 3 evidence in chief.

45. In paragraph 8.16 Ms Marr states:

“...In my opinion, in the situation of the Waikato and Waipā catchments, where urgent and meaningful reduction in contaminant losses are required, it is more appropriate to err on the side of prescription and set clear directive requirements for considerations of contaminant loss and minimum performance standards for activities that generate those contaminants. These ‘minimum standards’ do not need to replace the higher level ‘principles and objectives’ of GFP, but can work alongside them. Where better techniques or criteria are developed to achieve a ‘principle or objective’ of Schedule 1, then those better techniques can be used alongside the specific requirements of the ‘minimum standards’. This is a more appropriate balance between flexibility and prescription for the Waikato and Waipā catchments, in my opinion.”

46. I agree with Ms Marr that clear directive minimum performance standards are an appropriate means of balancing farm environment plan (FEP) flexibility and prescription. I also agree that these minimum standards need not replace the principles and objectives of GFP, rather they can work alongside them. This is consistent with my Block 3 evidence.
47. However, it is not clear to me whether the standards proposed by Ms Marr are intended to be minimum standards of practice, minimum content of an FEP, or a combination of the two. Where the intent is the former, and there is an expectation that the farmer will comply with these, then I am of the opinion that the wording of these standards must be more prescriptive and without subjectivity as outlined in evidence by Mr Lynch.