
In the matter of: Clauses 6 and 8 of Schedule 1 – Resource Management Act 1991 – Submissions on publicly notified plan change and variation – Proposed Plan Change 1 and Variation 1 to Waikato Regional Plan – Waikato and Waipa River Catchments

And: **Wairakei Pastoral Ltd**

Submitter

And: **Waikato Regional Council**

Local Authority

REBUTTAL EVIDENCE OF NICHOLAS ASHLEY CONLAND
Block 3 Hearing Topics

Dated: 19 July 2019

REBUTTAL

BLOCK 3 HEARING TOPICS

1. BACKGROUND

- 1 My name is **Nicholas Ashley Conland**. I have the qualifications and experience recorded in my statement of evidence filed in relation to the Block 1 Hearing Topics.
- 2 My rebuttal evidence has been prepared in accordance with the Code of Conduct for expert witnesses as set out in Section 7 of the Environment Court of New Zealand Practice Note 2014.
- 3 Relevant to my expertise, I wish to rebut the evidence of the following expert witnesses:
 - 3.1 Mr Allen for Fonterra;
 - 3.2 Mr Willis for Fonterra;
 - 3.3 Mr le Miere for Federated Farmers;
 - 3.4 Mr Milner for Federated Farmers;
 - 3.5 Dr Whatley for Beef and Lamb NZ;
 - 3.6 Ms Young for DairyNZ;
 - 3.7 Mr Edlin for Waikato Regional Council (**WRC**);
 - 3.8 Mr Dragten for WRC;
 - 3.9 Mr Gasquoine for WRC.
- 4 I have reviewed their Block 3 evidence with regards to Schedule 1 and in particular the introduction of Setbacks, Good Farm Practice (**GFP**), Benchmarks for GFP and Implementation of mitigation actions.

2. MAKING REDUCTIONS IN DIFFUSE DISCHARGES VIA CATCHMENT WIDE RULES AND THE NRP

TOPIC C9. FARM ENVIRONMENT PLANS

- 5 In the evidence of Mr le Miere undertook an assessment of the costs of setbacks, referring to the setback distances considered in the Wairakei Pastoral Limited evidence in Block 1 and Block 2.
- 6 I have reviewed the GIS methodology employed by Mr le Miere and the cost elements. Mr Ford explores these elements further in his rebuttal evidence. However, I note that the method and costs are not conservative and in practice riparian areas are often left to regenerate after stock exclusion and initial planting. Also the valuation for riparian areas needs to be tempered with the reason why they are excluded in the first place. That is, they are generally not the most usable land areas, being steep slopes and Vulnerable Land adjacent to water bodies that is highly connected to surface water.
- 7 The environmental benefits of setbacks were provided in the Block 2 evidence of Dr Neale who noted “the riparian setbacks specified in Schedule 1 (1, 3 or 5 metres) are well below the distances considered to have meaningful effects on stream outcomes” (para 22.2).
- 8 In my Block 2 evidence I highlighted the recent longitudinal study on riparian management that I followed for scenario development and mitigation planning. I found that “the current requirements for riparian and stock exclusion are ... too narrow to result in the benefits observed in the literature”¹ (para 163).
- 9 Lastly from a farm operational perspective, wider riparian areas mean reduced costs on bank, fence and bed maintenance as the watercourse resumes a natural distribution within the riparian margin and overland sediment loads are avoided.

Good Farm Practice

- 10 The evidence provided by Ms Young, Mr Milner and Mr Dragten all consider the components of GFP as it relates to preparing a Farm Environment Plan (**FEP**). They respectively discuss how GFP components should be included in the FEP.

¹ A Meta-Analysis on Nitrogen Retention by Buffer Zones – Oct 2018 (Elena Valkama, * Kirsi Usva, Merja Saarinen, and Jaana Uusi-Käimppä).

- 11 While inclusion of GFP in Schedule 1 is accepted, I note their evidence does not include the risk assessment and management elements for a robust FEP. These include:
- 11.1 A determination of Vulnerable Land areas;
 - 11.2 Identification of critical water quality issues for the sub-catchment relative to Table 3.11-1;
 - 11.3 Assessment of environmental risks and potential mitigations using a decision support tool;
 - 11.4 Adaptive management to evaluate the performance of the FEP;
 - 11.5 Performance targets to focus the FEP on outcomes.
- 12 These are described in my Block 3 evidence as important elements of a FEP.

Benchmarks for GFP

- 13 The evidence provided by Mr Allen, Mr Willis and Mr Edlin includes examples of minimum standards (for compliance) for GFP. Mr Allen acknowledges “resistance to setting any minimum standards is not, in our view, consistent with a real commitment to change. “Tailored” FEPs should not be used as a smokescreen for inaction on what is clearly just poor farming practice” (para 3.4).
- 14 I support minimum standards as a ‘benchmark’ for GFP attainment, however the benchmarks (minimum standards) need to be considered relative to the following:
- 14.1 The NRP calculation in OVERSEER assumes GFP benchmarks are already in place which is not always the case;
 - 14.2 The benchmarks should be empirical; and
 - 14.3 The benchmarks should be linked to diffuse discharges from farming activities.

FEP Implementation

- 15 Mr Gasquoine raises concerns in his evidence (para 12) that the notified version of Schedule 1 will promote FEPs that are inflexible and require reviews under s 128 of the RMA for changes to mitigation actions.

- 16 Mr Gasquoine prefers the Schedule 1 in the Block 3 Section 42A Report that focuses on GFP to provide mitigation actions that are “system or ‘practice’ tweaks which farmers were more likely to make” (para 12a).
- 17 His evidence later acknowledges that mitigation actions (based on GFP) may still require “a formal review and potential costly consent change” (para 12b) and that “the GFP approach is not going to be a concept that all farmers accept.” In my view, GFP benchmarks are an essential component of FEPs that will work effectively in practice.
- 18 Schedule 1 in the notified and Block 3 Section 42 Report versions both fail to provide clear direction for mitigation actions in a FEP. A lack of clear direction will in my view lead to increased non-compliance and variations to FEP. I therefore recommended in my Block 3 evidence that FEPs should include the following elements:
- 18.1 Focus on critical water quality issues in Table 3.11-1;
 - 18.2 Risk assessment – for diffuse discharges;
 - 18.3 GFP benchmarks – based on GFP principles;
 - 18.4 Mitigation effectiveness – based on monitoring;
 - 18.5 Mitigation triggers – based on the adaptive management cycle; and
 - 18.6 Mitigation actions – to meet performance targets.

3. CONCLUSIONS

- 19 Following my review of the Block 3 evidence I consider that the amended Schedule 1 in the evidence of Mr McKay is the most appropriate for a FEP.
- 20 To focus mitigation actions solely on GFP means the (modelled) water quality improvements to achieve the 10-year targets may not be met.

Nicholas Conland

Director, Taiao Natural Resource Management Limited

19 July 2019