

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments (“Proposed Plan or PC1”)

AND

IN THE MATTER of submissions and further submissions by The Primary Land Users Group (PLUG)

STATEMENT OF PRIMARY EVIDENCE OF BRUCE CAMERON AS THE ELECTED CO-CHAIR OF PLUG.

15 FEBRUARY 2018

1. SUMMARY

1.1 PLUG is an incorporated society formed in response to members concern that adoption of PC1 will result in disproportionate and unjustified financial hardship within sections of the rural community. We suggest adoption of the Proposed Plan without amendment risks uncertain environmental outcomes inconsistent with the requirements of the Waikato Settlement Act.

We consider PC1 to have resulted from a flawed ‘collaborative’ process. The Proposed Plan does not adequately represent the views of the community as a whole. The proposal to grandfather diffuse nitrate discharge based on retrospectively prescribed levels of discharge was supported by a simple majority of those allowed to participate in the CSG process. As such PC1 cannot be presumed to represent a community consensus and disproportionately disadvantages those who have proactively managed the off-site environmental effects of their activities in the past. The prospect of it acting to discourage better management of offsite discharges pending the required review of PC1 in 10 years cannot be discounted.

PC1 proposes management of specified diffuse-source contaminants without adequate regard for the actual and potential differences in local receiving environment. Subjectively defined

“Farm Environment Plan” obligations leave PLUG members unclear as to the full extent of their obligations and offer an uncertain basis for the future investment required for maintenance and expansion of the region’s economy.

The proposed Plan imposes different (subjective) standards based on the cultural and other affiliations of individual property ownership. Depending on how those obligations are interpreted, there is a risk of inequitable allocation of the costs of achieving water quality improvement in the catchment.

PLUG members are concerned that PC1 could unreasonably curtail the economic returns available to the regions primary sector land users and the region’s economy as a whole. The decision to allocate NRP rights to the land holder could be highly problematic in practical terms if it constrained normal changes in land use, for example where horticultural production migrates within the landscape as a form of practical pest management.

2. INTRODUCTION

2.1 My name is Bruce Cameron

Qualifications and experience: I am a sheep and beef farmer I am a member and co-chair of PLUG.

Purpose and scope of evidence

Provide a context for PLUG’s submissions in opposition to PC1.

Highlight the need for regulation that achieves a balance between the social, economic and ecological aspects of sustainable management commensurate with a robust regional economy.

To contrast the consensus-based collaboration of community groups like PLUG with ‘collaboration’ as practiced by WRC and the CSG.

Membership

PLUG’s membership is a cross-section of the region’s major forms of primary productive land use.

We have engaged periodically with other sector land user groups in an effort to understand and promote regulation that achieves the broadest range of the community’s diverse interests.

PLUG’s Principle Concerns

Collaboration:

WRC's adoption of PC1 is based on the proposed Plan's content having been determined by 'collaboration' between the members of the "Community Stakeholder Group" (CSG). PLUG considers the CSG process is not 'collaboration' and the decisions of the group unrepresentative of the community as a whole.

PLUG membership is drawn from those in the region concerned that the representation and decision-making of the CSG did not adequately accommodate the views of directly affected and minority interests.

PLUG suggests the restricted representation and decision-making by 'majority vote' makes the decisions of the CSG unrepresentative of the regional community as a whole and potentially unsound.

Grand parented Nitrogen Reference Point (GNRP)

The CSG voted to impose restrictions on land use and land use change based on 2014/15 or 2015/16 diffuse N discharges (a property owners Grandparented Nitrogen Reference Point). (GNRP). The Section 42A review of PC1 describes the inequity of this decision as 'perceived' (para 129) notwithstanding the measurable loss in equity and constraints on economic opportunity associated with that regulatory approach.

P.L.U.G. is opposed to regulation based on a GNRP, as outlined in our submission. As actual and potential investors we have highlighted in discussions with Council the potential for perverse environmental and economic outcomes over time. In particular we have drawn attention to:

- Uncompensated reductions in capital value, including contrasting PC1 proposals with the regulation of exactly the same effects and land uses in the Taupo catchment. In the case of Taupo (Variation 5) some of those 'perceived' as being disadvantaged were compensated from central and local government sources to an amount exceeding \$80 million.
- Disproportionate reductions in the capital value of properties engaged in the same activity and located in the same sub-catchment. Actions by individual property owners that reduced diffuse N discharges prior to 2014-2016 are disadvantaged through substantial uncompensated reduction in the capital value of their property and reduced operational flexibility. There is no discussion and potentially no understanding of the business risk associated with reduced operational flexibility given the Waikato Regions economic dependence on open export commodity markets.
- The 80 year time frame for restoration of catchment water quality, with clear indications of further and additional regulatory constraint on diffuse N losses in subsequent Plan revisions. PLUG members have assumed that PC1s GNRP will be interpreted by officers as a precedent governing future plans for reasons including (i) reference to Variation 5 (Taupo) as a precedent other than in relation to compensation payable, (ii) GNRP-based regulation presumably being 'perceived' as equitable.
- The environmental risk associated with the value of GNRP incentivising property owners to maximise their diffuse N losses irrespective of any other business consideration. In

essence, GNRP-based regulation is likely to motivate a “use it or lose it” investment paradigm.

Productive rural land use is not a one size fits all. Soil type and assimilative capabilities, rainfall and topography are all fundamental in the decision making process and there are many mitigation strategies available to reduce diffuse nitrogen and other offsite discharges. Exploration and adoption of those options will be discouraged where that could result in loss of N discharge rights in future plans.

Robust Regional Economy

The Vision & Strategy for the Waikato Catchment envisages a robust economy in addition to and arising from PC1 regulation. PLUG contends that inadequate consideration has been given to this obligation, notwithstanding social and economic considerations being recognised components of “sustainable management” under the Resource Management Act. Individuals motivated by perceived risk to the existing capital value of their property will seek to maintain GNRP irrespective of the direct economic returns from such land management. The risk is regulation will result in misdirected investment putting at risk the regional and national economy over time.

The regulatory risk posed by PC1 as a precedent for future regulation is that it will act to discourage diversified and innovative land use. It could stifle the normal ebb and flow between land uses and intensity of land use arising from changing demand and pricing for the regions primary sector outputs.

Best Practicable Option (BPO)

PLUG members have generations of experience in determining the optimal use of their properties. All owners of productive land can be assumed able to take account of multiple and sub-catchment specific geophysical, regulatory, existing infrastructure and market considerations as well as their personal circumstances.

PLUG has every confidence that the regions land owners will continue to make optimal determinations for their particular circumstance within the confines of sustainable management, provided regulation motivates that outcome. PLUG has repeatedly requested quantified “guidance” from WRC as to the requirements of FEP’s. This information is needed in order to assess the practicality of the specific regulatory requirements inferred but not detailed by the form of the proposed plan. Quantified guidance is needed to test WRC’s assumptions as to the regional economic and social costs of the proposed plan based on PLUG member’s practical experience.

Quantified guidance could have formed a basis for the development of practicable land use based on sub-catchment constraints. This information has not been forthcoming, at least in clear and unambiguous terms, making it impossible for PLUG members to assess the merits and reasonableness of the proposed Plan. In the absence of any clear evidence to the contrary, PLUG members have to assume PC1 will constrain the optimal economic and social use of private productive land holdings.

PLUG has requested WRC replace the GNRP obligations in PC1 with a BPO expectation. We interpret BPO obligations (as provided for in the RMA) placing an emphasis on the practicable, enabling resource users to debate options and expectations secure in the knowledge that the final obligation won't be so unreasonable as to preclude the landowner's reasonable use of their property.

The Section 42A report can be interpreted as discounting the alternative regulatory approaches proposed by submitters for reasons including the lack of detail and development of those alternatives. The Section 42A report is in our view imposing an unreasonable burden of expectation on submitters operating without substantial and public resources and in the absence of clear guidance from Council on "Farm Environment Planning".

PLUG considers the Section 42A criticisms of poorly developed regulation could be applied with equal validity to PC1. In the absence of clear and quantified guidance as regards FEP's, "Good Management Practice", "Certified Industry Scheme's" and "Best Management Practice" cannot be interpreted.

The specification of some of the regulatory obligations implied by PC1 have added to members concern at the reasonableness and economic impact of the proposed plan. The requirement for fencing up to 25 degrees is in our assessment an example of a FEP obligation that needs serious re-consideration. The arbitrary assignation of 25 degrees threshold is not only unwarranted and unprecedented - it is impractical and completely unaffordable for extensive drystock properties. A more nuanced approach, of extrapolating the potential for adverse offsite effects based on the intensity of farming practice, sub-catchment soil type, the impact of past management on the immediate and local sub-catchment water quality and the overall reasonableness (as judged against fencing requirements proposed in the NPS FW) to be more appropriate.

Policy 16

PLUG understands the motivation for Policy 16 is to recognise constraints on the development of Treaty Settlement land. Since water quality must be maintained or improved, the unintended consequence is to commensurately constrain other landowners from maximising the potential of their properties and enjoying reasonable use of their land. This is inequitable and risks creating a precedent across the country.

PLUG submits that treaty settlements are the responsibility of the Crown and the cost of any perceived shortfalls should not be borne by private property owners.

The RMA requires councils to take into account Maori cultural values and aspirations but not at the expense of everyone else. A more modest recognition of those values and aspirations would still meet the purpose of the Act.

PLUG suggests that the above uncertainty and potential inequity could be resolved through the adoption of BPO land use practices, applicable for the life of the plan. Improvements in water quality would occur where those not currently applying BPO practices would be expected to improve over the life of the Plan. Future improvements (post PC1) would occur depending on the identification and development of practicable improvements in practice.

Koi / Sub-catchment Management

PLUG submitted seeking a sub-catchment approach to the regulation of the region's water quality. We remain of the view that greater specificity is required in land use regulation than implied by PC1's imposition of a GNRP and provision for individualised FEP obligations. A sub-catchment approach is compatible with BPO-based regulation and not incompatible with proposed FEP requirements recognising that:

- Regulation of the region's water reflects sub-catchment scale differences now by way of WRC's long-standing prescription of "Freshwater Management Units" (FMU). FMU's presumably reflect at some level the natural difference in water quality arising from bio-geographical characteristics of sub-catchments in the region.
- WRC has managed the region's water quality on a sub-catchment basis for many years as illustrated by Regional Plan Variation 5 and the differential management of the Taupo catchment on the basis of unique and iconic status of the sub-catchment that is Lake Taupo.

- Sub-catchments such as Waipa are naturally higher in sediment due to the underlying geology of the catchment itself. It is reasonable to presume that applying the same FEP requirements for avoiding sediment generation in the Waipa catchment would achieve less sediment load reduction than those same requirements applied elsewhere in the catchment. In the absence of regulatory discretion based on natural catchment differences, the FEP obligations in PC1 will either impose ineffective obligations on property owners in the Waipa sub-catchment or excessive and therefore unjustified obligations in the more geologically resilient parts of the Waikato.

- Regulation of land uses to redress unacceptable water quality caused by some unrelated factor such as the presence of pest fish is futile and therefore illogical. As drafted, PC1 could require the costly management of sediment, irrespective of the off-site discharge of the 'improved' water quality to a sediment-laden sub-catchment. This is the situation that confronts those managing properties draining to lakes and wetlands infested with Koi pest fish. In the absence of any provision in PC1 to the contrary, the assumption is that the same FEP obligations will be imposed in koi-contaminated sub-catchments as in all others, notwithstanding the fact that a better environmental outcome could be achieved through sub-catchment management targeting pest fishes where that represents BPO management.

- Imposing the same regulatory obligations in sub-catchments with high water quality as sub-catchments where intensification has degraded the water quality is to indirectly cross-subsidise pollution. PLUG considers it inequitable and inconsistent with sustainable management of the environment to impose an excessive obligation on one property owner in order to maintain overall water quality despite continued poorer environmental practices elsewhere in the catchment.

Costs of Plan Development Processes Unreasonable.

PLUG is a voluntary, member-based incorporated society formed in response to community disquiet as to the direction of regulation of productive, rateable property. Our activities are self-funded through membership and subscription. PLUG's activities offers no benefit to members other than the uncertain prospect of avoiding costly and unreasonable regulation rendering productive land incapable of reasonable use.

PLUG accepts that resource use is a privilege and that reasonable regulation of land use offers both public and individual benefit. We do not consider it reasonable that the cost and effort of involvement in RMA processes is made more difficult for submitters and individuals than it could be, for example through the promulgation of PC1 for submissions ahead of the

“Guidance” needed for its interpretation by the individual and specific to the property affected.

Recent communication’s from WRC as to FEP guidance suggest a belated realisation by officials that definitive description of land owners FEP obligations is beyond the current capacity of Regional Council staff and that reliance may be placed on central government prescription of good farming practice currently under development.

PLUG does not criticise the use of the best available information from whatever source (including Central Government) but is frustrated at the implication that the full costs and an accurate Section 32 appraisal of PC1 remains some time away. We have relatedly requested that PC1 processes be curtailed pending a clearer understanding of the regulatory imposition needed to achieve the V&S and in anticipation of greater national direction.

We understand that the segregation of these hearing by topic is an increasingly common approach. PC1 is committed to continued participation to the fullest extent possible but would wish some allowance be shown by the hearings Commissioners in light of the protracted and costly engagement required of us as a voluntary and self-funded organisation to get to this stage in proceedings

Bruce Cameron

Co-Chair

PLUG