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Department of
Conservation
Te Papa Atawhai

21 October 2019

Horizons Regional Council -
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To whom it may concern

Proposed Plan Change 2 – Horizons One Plan

Please find enclosed the submission by the Director-General of Conservation in respect of proposed plan change 2 to the Horizons One Plan. The submission identifies the Director-General's concerns with the proposed plan change, as well as identifying amendments which will partially address some of these concerns. The Director-General's primary concern is that the discretionary pathway may result in an increase in nitrogen to the already poor water quality of the region's lakes.

Please contact Angus Gray if you wish to discuss any of the matters raised in this submission (agray@doc.govt.nz).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Moana Smith-Dunlop', written over a horizontal line.

Moana Smith-Dunlop

Operations Manager Manawatū

Department of Conservation *Te Papa Atawhai*
Hamilton Shared Services
Private Bag 3072, Hamilton 3240, New Zealand
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TO: Horizons Regional Council
SUBMISSION ON: Plan Change 2 to the Horizons One Plan
NAME: Director-General of Conservation

ADDRESS: RMA Shared Services
Department of Conservation
Private Bag 3072
Hamilton 3240

1. I wish to be heard in support of my submission and will consider presenting a joint case if others make a similar submission.
2. Pursuant to clause 6 of the First Schedule of the Resource Management Act 1991 (RMA), I, Moana Smith-Dunlop, Operations Manager, Manawatū, acting upon delegation from the Director-General of the Department of Conservation (the Director-General), make the following submission in respect of the Proposed Plan Change 2 to the Horizons One Plan (Plan Change 2).
3. The Director-General supports in principle the update to the nitrogen allocation table 14.2 to reflect the latest version of OVERSEER. There has been no calculation of the likely impacts of this revised table or the proposed discretionary pathway. It is therefore unclear how the plan change will achieve the plan's objectives around water quality.

LAKES AND WETLANDS

2. The Director-General considers that the plan change overlooks the urgent need to reduce external nutrient loads to many of the lakes. Plan Change 2 contains no assessment of the effects on the lakes and wetlands in the region. There has been no catchment load calculated to inform likely impacts of Plan Change 2 on those water bodies.
3. The Director-General also considers that Plan Change 2 does not recognise or consider the risk to the already poor condition of many lakes. For lakes in the target catchments, almost all exceed One Plan targets and, in many cases, national bottom lines for nutrients and phytoplankton.
4. It is generally accepted that once lakes have 'flipped' to an alternative, phytoplankton-dominated, stable state, that restoration and management becomes a much more difficult and often expensive option. Many of the lakes are at risk of eutrophication and 'flipping' as a result of existing high nitrogen concentrations. It is unclear how the proposed plan change will address these issues as the policy and consenting framework will allow an unknown increase in nitrogen exceedances to the cumulative nitrogen targets to be granted.

COASTAL ENVIRONMENT AND NEW ZEALAND COASTAL POLICY STATEMENT 2010

5. Plan Change 2 must give effect to the New Zealand Coastal Policy Statement. The ultimate receiving environment for water from the entire Manawatu-Whanganui region and its catchments is at the coastal environment at the various estuaries, coastal lakes and river mouths. These areas contain numerous rare and threatened species and ecosystems including salt marshes, herb fields, shell banks, seagrass, īnanga, freshwater fish and a range of bird species.
6. At a regional scale, as identified in the One Plan, *“degraded coastal water quality and loss of biological diversity have resulted from land development and, more particularly, the efflux of contaminants from rivers, which often renders coastal water quality unsuitable for contact recreation”*.
7. The Director-General is concerned that allowing an unknown number of land use activities to exceed nitrogen allocation limits by an unspecified amount, for a potentially indefinite period of time could have adverse effect on threatened species and habitat in the coastal environment. Plan Change 2 does not give appropriate consideration to the relationship between freshwater quality and the water quality of the coastal environment.

NEW DISCRETIONARY CONSENTING PATHWAY

8. One Plan contains a nitrogen framework for existing intensive land uses to reduce nitrogen losses to improve water quality and support values. Plan Change 2 provides a pathway for intensive land use activities to exceed the limits imposed by this framework for individual properties through a consenting pathway. The cumulative effect of the granting of such consents would likely be to further increase nutrient levels in the receiving environment.
9. The Director-General considers that the discretionary pathway is ambiguous, lacks clarity and is too permissive. It provides for exceptions to the limits in table 14.2 so long as good management practices are implemented to reduce leaching, however Plan Change 2 does not provide any guidance on what reductions are necessary or whether these will collectively deliver the needed reductions in nutrients. This allows for granting of consents without full consideration or an understanding of the cumulative adverse effects of the activity on water quality.
10. **Attachment 1** identifies a number of the Director-General’s principle concerns with the policy framework as notified and the various ambiguities and issues. Relief is proposed to address some of the concerns, but the Director-General wishes to acknowledge that even with these amendments, Plan Change 2 will still likely result in adverse effects on water quality in the region and may not achieve the required national and regional freshwater outcomes.

GOOD MANAGEMENT PRACTICE AND BEST PRACTICABLE OPTION

11. The Director-General is concerned by the lack of guidance, specificity, or direction in relation to what constitutes good management practice and how it will be implemented to ensure water quality is maintained and enhanced in the region.
12. Plan change 2 includes the following new definition for “good management practice” (GMP): *“refers to the evolving practical measures and methods, including those established in industry-based standards, which are used at a sector or community level to minimise the effects of discharges to land and water”*. These practices are intended to be contained within a nutrient management plan *‘to be prepared in accordance with the Code of Practice for Nutrient Management (NZ Fertiliser Manufacturers’ Research Association 2007)’*. This Code of Practice was replaced in 2013 and the 2007 version appears to be unavailable.
13. The Director-General is concerned that the nutrient management plan template contained within the above code of conduct will not adequately manage the full suite of environmental effects associated with intensive farming land uses. The nutrient management plan is intended to manage the effects of nitrogen and phosphorus fertilisers only and does not adequately address other environmental effects such as sedimentation and pathogens in waterways.
14. The Director-General considers that Plan Change 2 needs to identify the minimum required good management practices required within the nutrient management plans. One method is to incorporate these minimum standards, information, assessments, and other details of farm management into a schedule like the approach undertaken in the Waikato Region with Plan Change One (Healthy Rivers) to manage and reduce contaminant losses.

STATUTORY ASSESSMENT

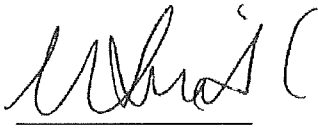
15. Plan Change 2 is inconsistent with the provisions of:
 - i. The purpose and principles of the Resource Management Act 1991 including sections 6(c), 6(e), 7(a), 7(f) and potentially 5 and 8.
 - ii. The National Policy Statement for Freshwater Management 2014 objectives AA1, A1, and A2.
 - iii. The New Zealand Coastal Policy Statement 2010 including objective 1 and policy 4.
 - iv. The Regional Policy Statement section of the Horizons One Plan, including objective 5-2, 5-4, policy 5-1, and policy 5-4.

RELIEF

16. The Director-General seeks the following general relief from Council:

- i. Address the concerns identified in Attachment 1 and grant the requested relief.
- ii. Amend the definition of 'Good Management Practice' to better identify what constitutes good management practice.
- iii. Include minimum requirements for what good management practices are required within nutrient management plans or a farm environment plan and what the anticipated environmental outcomes are.
- iv. Amend the provisions to provide better direction to plan users and guidance for decision makers when 'having regard to' the matters listed in proposed policy 14-6 (e)(i) through (v), and (f) (i) through (iii), when considering whether or not to grant a resource consent application. Provide direction on how these matters make an intensive land use activity appropriate or not and how this is linked to a reduction in nutrient leaching.
- v. Amend the provisions to provide greater direction for plan users and decision makers on what level of good management practice is required and what circumstances may trigger a higher level of management, and what must be achieved by particular timeframes over which the management practices are required as conditions of consent.
- vi. Amend the policies to identify the what level of reduction in nutrient leaching must occur over what time period and ensure clarity on how this would inform both applications for and decisions on land use consents. Provide direction on what level of reduction over what time period is considered appropriate when considering whether to grant or decline a discretionary consent.
- vii. Clarify and identify how Council will implement, monitor, and enforce a policy which directs an intensive land use activity to continue for no longer than five years.
- viii. Ensure that the proposed plan change does not further contribute to the degradation of the freshwater and biodiversity values of the coastal environment, coastal lakes, and wetlands in the Horizons region.
- ix. Amend the proposed plan change to give effect to the Resource Management Act 1991, the National Policy Statement for Freshwater Management 2014, the New Zealand Coastal Policy Statement 2010 and the Horizons Regional Policy Statement.

- x. Either amend the definition of nutrient management plan to refer to the latest 2013 version of the Code of Practice for Nutrient Management, or make the 2007 version available to the public.
- xi. Any other consequential amendments necessary to address the concerns raised in this submission.



Moana Smith-Dunlop

Operations Manager, Manawatū

ATTACHMENT 1: PROPOSED PLAN CHANGE 2 – HORIZONS ONE PLAN – SUBMISSION BY THE DIRECTOR-GENERAL OF CONSERVATION

PLAN PROVISION	POSITION	REASON FOR POSITION	RELIEF SOUGHT
<p>Policy 5-8</p> <p><i>"In order to give effect to Policy 5-7, the effects of intensive farming land use activities on groundwater and surface water must be managed in the following manner:"</i></p>	<p>Oppose</p>	<p>This included wording appears to intentionally constrain the scope of the proposed plan change amendments to give effect to RPS Policy 5-7 only.</p> <p>In practice, the effects of intensive farming land uses should be managed to give effect to all policies within the RPS, not only 5-7. Other particularly important provisions which must be given effect to when considering intensive land use activities include indigenous biological diversity, coast, and Te Ao Māori.</p>	<p>Delete proposed wording</p>
<p>5-8(a)(iia)</p>	<p>Oppose</p>	<p>The clause establishes the pathway for which allows for exceptions to clause (ii) and subsequently the table 14.2. The current wording is unclear, permissive, and will enable activities which will adversely affect water quality in the region.</p> <p>The proposed policy requires regulation of activities by implementing good management practices, to minimise non-compliance, but does not specify what degree of exceedance is appropriate. Minimising exceedance in the context of costs doesn't necessarily guarantee reductions will not impact water quality.</p> <p>The proposed policy directs consideration of the feasibility, practicality, and costs of achieving the nitrogen leaching maximums. This enables nitrogen exceeding consents to be granted on the basis of financial concerns. If consent-holders cannot afford the appropriate reductions in, or controls of their nitrogen exceedances, then it is unclear how water quality objectives will be achieved, or water quality outcomes provided for.</p>	<p>Amend policy to provide direction on what degree of good management practice is necessary, and what level of nitrogen reduction is acceptable, and how costs are balanced with environmental outcomes; and</p> <p>Delete subclause (A)</p>

5-8(a)(iib)		As identified in the general submission, there are concerns with the ability to implement, enforce or monitor this policy.	Delete subclause (iib); or Amend to clearly direct the process steps and timeframes for the implementation of this policy.
REGIONAL PLAN PROVISIONS			
14-6(b)	Oppose	This policy would be more effective and more likely to achieve water quality objectives if it required the implementation of a minimum standard of good management practice.	Amend policy to require implementation of the minimum level of good management practice required; and Insert wording as follows: “ensure implementation of good management practices to manage <u>minimise</u> nutrient leaching and run-off, faecal contamination and sediment loss, as part of any intensive farming land use”
14-6(d)(i)	Oppose	Proposed policy 14-6(d) directs that if an existing intensive farming activity exceeds the limits in Table 14.2 but implements good management practices to ‘further reduce nutrient leaching’ the decision maker must provide an exception. The amendments do not provide guidance on what level of reduction is necessary. This means exceptions will be provided for intensive land use activities which significantly exceed the nitrogen leaching limit, without any consideration of the quantum of that exceedance, the adverse effects of the exceedance, or what level of reduction is necessary, and over what timeframe. The policy wording “provide for” is directive and does not allow for the consideration of the effects of the activity on the environment, or the appropriateness of the land use activity when making decisions, it simply requires Council to provide for the activity, regardless of the significance of the nitrogen limit exceedance, or the adequacy of the mitigation.	Amend policy to identify what percentage or quantum of reduction in the nitrogen exceedance is to be considered appropriate before granting consent; and Identify over what timeframe these reductions are required and what milestones need to be achieved within that timeframe;
14-6(d)(ii)	Oppose	It is unclear how Horizons will be able to ensure the environment outcomes intended by this policy. There is no security in the way in which this transition will occur. Future landowners are not bound by a new low-intensity farming system. The legality of this provision is questionable.	Delete the policy; or Identify the appropriate mechanism by which the policy can guarantee the intensive land use is discontinued, or

<p>14-6(e)</p>	<p>Oppose</p> <p>The proposed policy is too ambiguous. It identifies that the decision maker must have regard to whether it is the best practicable option. It then requires plan users to have regard to the extent of exceedance. Without indicating what quantity of exceedance is appropriate, and what exceedance is inappropriate the policy creates a risk that significant nitrogen exceedances may be considered appropriate. The policy needs to clearly identify what quantity or percentage of exceedance a consent could be granted for.</p> <p>Similarly, the policy directs plan users to 'have regard to' the rate of reduction for any given year. There should be some indication of an appropriate rate of reduction or progress towards the target.</p> <p>Finally, the third matter to have regard to is whether further reductions are currently possible based on existing technologies. This is ambiguous and is not linked to any environmental outcome. It is not clear what the purpose or implications of this matter are, or how having regard to it will maintain or enhance water quality.</p> <p>It is not clear how the nature and characteristics of the land will be considered when determining whether or not to grant an intensive land use application. Some characteristics will compound nitrogen leaching, and these need to be identified as less appropriate to grant.</p> <p>The contribution of the progressive reduction in leaching is at odds with the policy framework. How can the contribution of the reduction improve water quality, when the reduction is necessary to mitigate an exceedance in the cumulative nitrogen leaching maximum, which in itself <i>degrades</i> water quality.</p> <p>The concerns identified 5-8(a)(iib) also apply to this policy.</p>	<p>that a future consent would be declined if the transition did not occur.</p> <p>Amend the provisions to provide better direction to plan users and guidance for decision makers when 'having regard to' the matters listed in proposed policy 14-6 (e)(i) through (v) when considering whether or not to grant a resource consent application. Provide direction on how these matters make an intensive land use activity appropriate or not and how this is linked to a reduction in nutrient leaching; and</p> <p>Delete clause (iv).</p>
<p>14-6(f)</p>	<p>Oppose</p>	<p>Delete; or</p> <p>Amend to clearly dictate the process/steps for the implementation of this policy.</p>

