

Draft Rule Structure for Consultation

1. Suggested land use activity classes

The Resource Management Act has a hierarchy of activity classes that relate to the effect being managed. For the Lake Rotorua catchment, the main effect being managed is the annual nitrogen loss from land use, measured in kilograms of nitrogen per hectare per year (kg N/ha/yr).

The suggested activity classes for land uses in the Lake Rotorua catchment are separated by a combination of annual nitrogen loss and property area:

Class	Class Definition	Nitrogen loss from:
Permitted	No consent needed but must meet conditions stated in the regional plan	<ul style="list-style-type: none"> • Properties up to 2 ha • Properties between 2ha and 40ha that discharge less than 10kg N/ha/yr • Forest
Controlled	Resource consent needed and must be granted with the scope of any conditions stated in the regional plan. Consent duration will be 20 years.	<ul style="list-style-type: none"> • Properties larger than 40 ha or properties 2-40 ha discharging over 10kg N /ha/yr that have approved Farm Nutrient Plans and show managed reduction to allocated Nitrogen Discharge Allowances
Non Complying	Resource consent needed and may be declined – the toughest category other than prohibited activities	<ul style="list-style-type: none"> • Properties that do not meet above rule requirements. • Properties that have increases in nitrogen loss that are not offset
Additional option to consider		
Restricted Discretionary	Resource consent needed and can be declined. Consent duration will be 5 years and will only be granted if catchment target is tracking satisfactorily.	<ul style="list-style-type: none"> • Properties that are larger than 40 ha or properties 2-40 ha discharging over 10kg N /ha/yr that do not show managed reduction

Views on this and alternative approaches for the activity classes will be sought from the community through the consultation process. Alternatives may include:

- different consent duration lengths
- different permitted activity area and nitrogen loss thresholds
- including the restricted discretionary activity.

2. Draft Implementation Guidance

- **Resource consents will be required on all properties larger than 40 hectares or leaching more than 10kg N/ha/yr**

Stock intensity tables are being developed to help land owners determine whether they are likely to be operating under 10 kg N/ha/yr.

- **Nitrogen Discharge Allowances will be allocated to all properties requiring resource consent**
Nitrogen Discharge Allowances (NDAs) will be attached to the land, even if the land is sold. If a property with an NDA is subdivided, an appropriate pro-rata split of the NDA would occur. It may be possible to lease NDA for a fixed term and, while this has not been assessed yet, it may accommodate dairy grazing and similar activities.
- **NDAs will be based on sector averaging and ranges within those sectors as shown in the table below:**

Sector	N loss range*
Dairy: <i>includes</i> the effective pasture area in the milking platform, fodder and effluent but <i>excludes</i> runoff (e.g. dairy support) and forest.	30-40kg N/ha/yr
Drystock: <i>includes</i> the effective pasture area in sheep, beef, horticulture, cropping and dairy support but <i>excludes</i> forest.	10-20 kg N/ha/yr
Forest: <i>includes</i> native bush as well as forestry.	3 kg N/ha/yr

*NB: The N loss figures in this table are based on Overseer version 5.4.11. These will need to be adjusted to reflect the higher levels generated by Overseer 6.1.2, while retaining the same relativity between sectors.

The NDA allocated for each property will fall within the above ranges and be determined by a proportionate Rule 11 range (i.e. 'grandparenting within a sector' range). The figures are still being refined but the concept is: high nitrogen loss properties will be allocated the highest value in the sector range, medium nitrogen loss properties will receive 75% of their Rule 11 benchmark and low nitrogen loss properties will receive the lowest value in the sector range.

The reasons for adopting this allocation approach are provided in section 3. Views on alternatives will be sought from the community through the consultation process. For example:

- using a fixed average for each sector
- using a single range for all pastoral sectors e.g. 10-40kgN/ha/yr.

- **NDAs will be calculated by determining the effective land use area of dairy, drystock and forest for each property at a specified date**

A flexible approach will be taken here and individual farmers could indicate their preferred starting point through the Farm Nutrient Plan (FNP) process, as long as the Rule 11 benchmark was / is not exceeded.

- **Overseer will be used to help monitor compliance with the FNPs and NDAs**

Overseer is endorsed by the Environment Court. In time, industry prepared alternatives may become available. Regional council would need a process to approve such alternatives.

- **Rule compliance will be assessed against nitrogen loss over a three year rolling average**

- **Farm Nutrient Plans according to a schedule of minimum criteria will be a condition of all resource consents**

The minimum information requirements for FNP are likely to include:

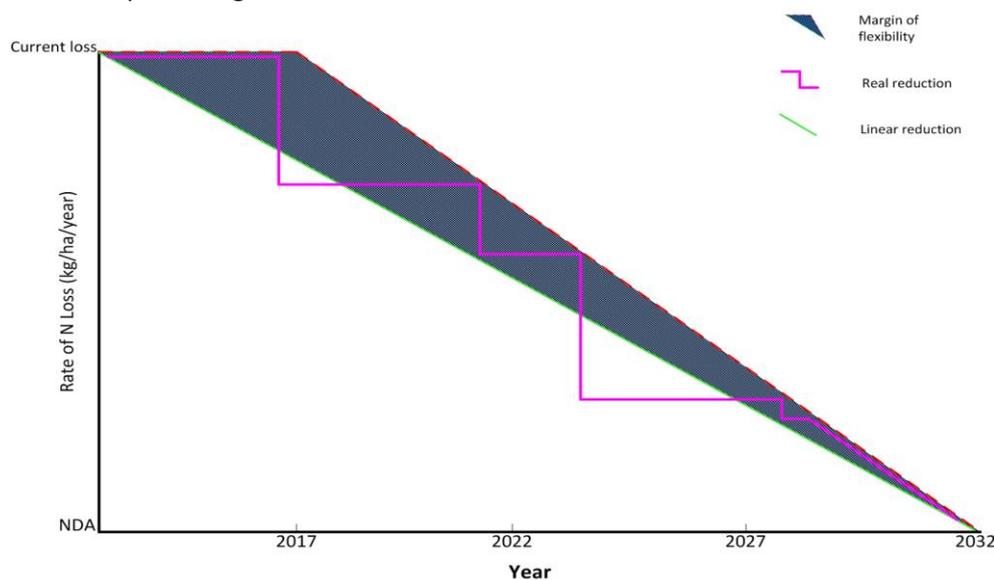
- Benchmark / current rate of N loss
- NDA
- A pathway of managed reduction (showing target reductions by certain dates with a built in margin of flexibility)
- Mitigations to achieve the NDA (supported by an Overseer file where appropriate)

Discussions are underway with DairyNZ and Beef & Lamb NZ on the possible adaptation of their industry farm plan templates: Sustainable Milk Plan (SMP) and; Land and Environment Plan (LEP). The adaptations will depend on the FNP minimum requirements.

- **Farm Nutrient Plans will need to be prepared by council approved certified nutrient management advisors and the latest Overseer Best Practice Data Input standards will need to be complied with**
- **Properties that go over the catchment boundary will only receive an NDA for the part of the property within the Lake Rotorua groundwater catchment (not applicable to permitted activities)**
- **Landowners with multiple properties in the Lake Rotorua catchment may apply for one resource consent to manage those properties as a ‘package’**
- **Farm Nutrient Plans for controlled activities will demonstrate managed reduction**

In relation to nutrients and water quality, “managed reduction” means planned progressive lowering of excess nutrient losses: where a target date exists, the progressive lowering is to reach the nutrient limit by that date.

For applicants showing managed reduction, a margin of flexibility will be provided. The margin of flexibility could be expressed in percentages or a set number of kilograms of nitrogen loss as shown in the conceptual diagram below.



- **The consent duration for controlled activities that meet the managed reduction criteria will be 20 years**

- **Non complying rules will apply to properties that do not meet the permitted and controlled activity conditions including those who do not chose to demonstrate managed reduction.**
- **If the overall catchment target for 2022 (70% of required reduction) is not met, the Regional Council reserves the power to decline consent applications for non-complying activities unless applications demonstrate managed reduction to achieve the required NDA by 2032**
- **Non-complying proposals, such as for increased nitrogen losses, would face a high justification threshold and only be granted in exceptional circumstances.**

It is logical to provide a non complying activity class rather than the inflexible prohibited status.

- **Reporting and monitoring responsibilities are summarised in the table below:**

Reporting (Applicant)	Monitoring (Council)
<p><i>Permitted</i></p> <ul style="list-style-type: none"> • Need to submit information annually. <p>A template will be provided and will be similar to existing Rule 11 requirements. The consent holder does not need to run this information through Overseer.</p> <p><i>Consented</i></p> <ul style="list-style-type: none"> • Submit information yearly as required by the FNP <p>Properties operating outside the margin of flexibility for controlled activities will be subject to more regular information reporting requirements</p>	<ul style="list-style-type: none"> • Implement a regime that monitors the aggregate progress towards achieving the lakes sustainable limit. • Monitor permitted rule compliance using the information submitted for permitted activities, run a proportion through Overseer to ensure compliance. • Council has not monitored permitted activities in the past but it will be necessary to ensure the catchment is progressing to meet the lake’s sustainable limit. • Check compliance with FNPs for consented activities every 3 years from the date consent is granted. • All consents will be reviewed prior to 1 December 2032

3. Nitrogen Allocation Approach

The Regional Policy Statement requires that the sustainable limit of 435 tN/yr be allocated amongst land use activities in the Rotorua catchment. The sustainable limit available to be allocated to pastoral land use activities is 256 tonnes which requires a 270 tonne reduction relative to current nitrogen losses. The current nitrogen sources (based on ROTAN modelling) and the reductions to meet the sustainable limit are summarised below:

Source of nitrogen	Nitrogen Load to Lake Rotorua (tN/yr)		
	Current input	Reduction by 2032	Distribution of the sustainable limit
Pastoral land use (dairy, drystock and lifestyle)	526	270	256
Forest and native bush	75	0	75
Other (urban, sewage, geothermal and rain)	154	50	104
TOTAL	755	320	435

The broad framework for achieving the sustainable limit was agreed by StAG and BOPRC in July and September 2013. It requires a reduction of 140 tN/yr through the allocation of nitrogen discharge allowances¹. Consideration has been given to how to allocate the nitrogen discharge allowances amongst pastoral land use activities within the catchment.

There are a variety of ways to allocate nitrogen. The main allocation methods, from the national and international literature, are:

Allocation Approach	Explanation
Grandparenting	Allocation is based on existing discharges benchmarked under Rule 11. To achieve the 140 tN/yr reduction, a 27% reduction would need to be applied to each benchmark.
Pastoral averaging	This is where the total pastoral load to be allocated (386 t) is divided by the pastoral catchment (21,175 hectares) to give an average N leaching of 18kg/ha. Every pastoral landowner in the catchment would receive 18 kg/ha.
Sector averaging	This method allocates an averaged level of nitrogen discharge rights across specific types of land use or "sectors" e.g. dairy and drystock.
Land use capability	This approach assesses the physical quality of the land, soil and environment. Higher nitrogen limits would be allocated to more versatile classes of land, thus improving overall efficiency of land use in the long run.
Input based limits	Focuses on controlling the inputs to land use operations by directly managing the amount of nutrients being applied on land. For example, controlling stock numbers, fertiliser and feed application rates.
Output based limits	Based on the greatest units of output leaving a property (e.g. milk solids, timber, kg of meat). An example would be allocating to a landowner based on how many kg of milk solids or revenue produced per 1 kg of nitrogen leached.

Any allocation approach is going to have implications for:

¹ 100 tN/yr will be achieved through a \$40m Incentives Scheme, and 30 tN/yr will be achieved through a gorse conversion programme.

- Public and private equity
- Economic viability of various sectors
- Future land use patterns
- Future land and urban development opportunities
- Social, cultural and economic development.

Therefore, the allocation approach needs to be aligned to the characteristics of the Lake Rotorua catchment and its community. The Regional Council and the Lake Rotorua Catchment Stakeholder Advisory Group assessed each of the allocation approaches outlined above, using two sets of criteria. The criteria were:

- The principles and considerations of allocation are set out in Policy WL 5B in the Regional Policy Statement
- Guidelines developed by the Lake Rotorua Catchment Stakeholder Advisory Group

Both the RPS criteria and Stakeholder Advisory Group guidelines as well as the detailed assessment can be found at <http://www.rotorualakes.co.nz/vdb/document/672>.

Through this process, a combination of sector averaging and grandparenting were identified as the appropriate approaches for this catchment. The draft rule structure is based on a combination of these two allocation approaches.