

RMA Section 32: For discussion with StAG, 15 July, 2014

What is a section 32 analysis?

Section 32 is an important part of ensuring clear, robust decision-making. Section 32 provides a process for critical evaluation of proposals, including the appropriateness of objectives and the efficiency and effectiveness of options generated by the plan development process. It also provides a transparent way to assess the range of risks, costs and benefits of introducing new policies and rules.

Through its decisions on the Regional Policy Statement, Council considered rules will be necessary to deliver the sustainable nitrogen target for Lake Rotorua. These rules will replace existing provisions in the Regional Water and Land Plan and therefore a section 32 analysis is required.

As part of the section 32 assessment, staff will need to produce the following outputs as they draft the plan change provisions:

- Assessment of scale and significance
- Evaluation of the objectives
- Identification of reasonably practicable options for achieving the objectives
- Identification of the environmental, economic, social and cultural effects
- Assessment of the efficiency of the provisions
- Assessment of the effectiveness of the provisions
- Assessment of the risks of acting or not acting
- Examination the appropriateness of the provisions

Section 32 assessment of rules to manage nitrogen loss in the Lake Rotorua catchment

Staff will seek StAG input on the section 32 assessment. The immediate focus in starting the section 32 process will be:

1. Engaging a consultant (July 2014)

While staff are undertaking consultation on the draft rules and using feedback to draft rule provisions, they will need extra help managing the section 32 process. Writing the plan change and section 32 are parallel processes and the next six months will be resource intensive for rule writers.

2. Collating analysis we already have (July – August 2014)

There is a lot of existing research and analysis that will inform the next step of rule development. Staff have many sources to draw upon including:

- Literature
- RPS supporting documents
- Relevant Lake Science
- Consultant Work specific to Lake Rotorua rule development, e.g.
 - BECA Intervention Packages for Lake Rotorua, 2011
 - Farmer Solutions Project, 2012
 - Mōtū Potential impacts of nutrient discharge allowance allocation methods, 2013
 - Small Land Holdings, 2013
 - Using Overseer within Rules for the Lake Rotorua catchment, 2014

What must a section 32 include?

(1) An evaluation report required under this Act must—

(a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and

(b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—

(i) identifying other reasonably practicable options for achieving the objectives; and

(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and

(iii) summarising the reasons for deciding on the provisions; and

(c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

(2) An assessment under subsection (1)(b)(ii) must—

(a) Identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—

(i) economic growth that are anticipated to be provided or reduced; and

(ii) employment that are anticipated to be provided or reduced; and

(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and

(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

(3) If the proposal (an amending proposal) will amend a standard, statement, regulation, plan, or change that is already proposed or that already exists (an existing proposal), the examination under subsection (1)(b) must relate to—

(a) the provisions and objectives of the amending proposal; and

(b) the objectives of the existing proposal to the extent that those objectives—

(i) are relevant to the objectives of the amending proposal; and

(ii) would remain if the amending proposal were to take effect.

(4) If the proposal will impose a greater prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.

(5) The person who must have particular regard to the evaluation report must make the report available for public inspection —

(a) as soon as practicable after the proposal is made (in the case of a standard or regulation); or

(b) at the same time as the proposal is publicly notified.

(6) In this section, —

(a) objectives means, —

(i) for a proposal that contains or states objectives, those objectives:

(ii) for all other proposals, the purpose of the proposal

(b) “Proposal means a proposed standard, statement, regulation, plan, or change for which an evaluation report must be prepared under this Act

(c) “provisions means, —

(i) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change:

(ii) for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.