

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Lake Rotorua Nutrient Management – Proposed Plan Change 10 to the Bay of Plenty Regional Water and Land Plan under Clause 8B of Schedule 1 to the Resource Management Act 1991.

Date: 13 March 2017

MEMORANDUM NO 9 – RELATING TO LATE FILING OF EXPERT EVIDENCE AND THE QUESTION OF SCOPE

Late Filing of Evidence

[1] We have received a further memorandum from Council dated 10 March 2017, and a memorandum from Federated Farmers dated 12 March 2017.

[2] The Council in their memorandum identified the following witnesses as being, in their view, expert witnesses who have filed out of time.

- [a] For Fonterra/Dairy NZ – Justine Young and Richard Allen
- [b] For Christopher Hook – Dr Philip Schofield
- [c] For The Fertiliser Association – Greg Sneath
- [d] For Ballance Agri-Nutrients – Kevin Wood
- [e] For CNI Iwi Land Management – Christine Bridget Robson
- [f] For Federated Farmers – Elizabeth McGruddy
- [g] For Timberlands – Colin Maunder
- [h] Lachlan MacKenzie

[3] We have perused the evidence, and prima facie accept the Council's challenge to their admissibility subject to the granting of leave to any party who wishes to do so, to file an Application to have the evidence admitted.

[4] We also propose to provide time to the Council to respond to any such Application and propose to hear such applications on Monday next week.

[5] We accordingly make the following directions:

[a] Any party whose witness has been identified above, may file an Application to adduce their evidence, by **12.00 noon on Wednesday, 15 March 2017**. Such Application is to address the following issues:

[i] Whether or not the witness is, in fact, an “expert witness”;

[ii] The reasons for the late filing;

[iii] Whether undue prejudice could be avoided in the event of the evidence being admitted.

[6] The Council may respond to any Application for Leave by **12.00 noon on Friday, 17 March 2017**.

[7] The Applications for Leave will be heard on **Monday, 20 March 2017, commencing at 10.00 am**.

Scope of Evidence

[8] On perusing submitter evidence, we have noted a number of matters being raised that appear outside of the scope of submissions.

[9] In the event that any witness seeks to amend Proposed Plan Change 10, that witness is to advise by memorandum, if they have not already done so in their evidence, the submission upon which the proposed amendment is based. This is to be filed no later than **12.00 noon on Friday, 17 March 2017**.

Retired Judge RG Whiting
Chairman
For and on behalf of the Hearing Commissioners
