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

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Presentation
for
CNI Iwi Holdings Limited (CNIIHL)

CNIIHL Context for interacting with Plan Change 10

Alamoti Te Pou - role within CNI
[SLIDE 1-12]

1. As set out in CNIIHL's submission, CNIIHL holds one of the most significant land holdings in the catchment, of over 3000ha. These lands comprise part of the CNI 2008 Settlement for lands wrongly taken by the Crown. As a result of the Settlement CNIIHL is a significant land owner and is charged with the task of fully realising the economic potential of the CNI Forests Land, in a sustainable manner, and having regard to the cultural and environmental features of the land.

2. CNIIHL aspires to diversify its income portfolio and spread its income risk by engaging in a range of land use activities on our land. This places CNI in quite a different position to many other landowners within the District who wish to maintain their current uses. It is this perspective that we feel has been absent from the discussions leading up to this plan change.

3. Specifically CNIIHL does not consider that its voice was represented by those parties who took part in the collaborative process ahead of the plan change. Certainly our perspective was not represented by:
    - the foresters,
    - Te Ture Whenua Maori Land interests,
    - Te Arawa Lakes Trust,
    - Te Tumu Paeroa/the Maori Trustee
    - or any iwi representatives (whether or not the iwi is part of the CNI Collective).

    The iwi members of CNIIHL participate through an agreed structure where only the board of directors of CNIIHL as a whole (with each iwi appointing two directors) decides how CNIIHL acts and is represented. This was the process CNHIIHL used for the comments on the draft plan, and the submission and the further submission on the proposed plan.

4. Council states that[1] "*StAG was a key element in the rule development process*". CNIIHL understands that, but is advising the commissioners that although we participated at all wider stakeholder opportunities, with a consistent message, our voice was not heard in that process. As a result we

[1] paragraph 7 of Mr Lamb's rebuttal evidence for the Council

are faced with trying to "turn the ship around" at a late stage in the process, something we were hoping would not be necessary.

5. The CNI 2008 settlement was for lands wrongly taken. When those lands were returned in 2009, they were then almost immediately subject to constraints on alternative land uses. As a result CNI is limited to uses chosen for the land during a time that the lands were not in CNIIHL control. It may sound provocative but it is our strongly held view that the constraints being placed on this land perpetuate the injustice that the 2008 settlement was intended to remedy.

6. The effect of the proposed Plan Change on CNIIHL is to constrain its land use solely to forestry. This reduces the value of the land, reduces lease income, and imposes a significant cost on CNIIHL. I have estimated the lost opportunity cost at $43M.

7. It is our view that this proposed change provides for the social and economic well-being of one section of the community at the expense of another. Critically for us, that other sector of the community appears to have been consistently at the table when we have not. That is not equitable or fair.

We have sought advice from Ms Robson on this matter and she has produced evidence which I understand you have read. I will now hand over to Ms Robson. **[SLIDE 13]**

8. My name is Bridget Robson. I have filed evidence dated 6 March on behalf of CNIIHL. My qualifications and experience are set out in paragraphs 1 and 2. As I set out in that evidence, my field of expertise is principally in policy design and development and it is in that context that I give this evidence. I apologise for any confusion created by my filing of general rather than expert evidence and hope that the explanation provided by our memorandum of 15 March clarifies the reason for that approach.

9. All policy creates winners and losers. One of the requirements of the RMA is that those winners and losers are well identified in the section 32 process, so that a clear-eyed assessment of the compromises can been made. CNIIHL's submission and my evidence outline a number of flaws in the policy design and development which in my opinion have led to a sub-optimal planning outcome. Very broadly these relate to the choice of policy approach, the processes used to develop PPC10, and the use of modelling to underpin that policy approach. Not all of these are well-captured in the section 32.

10. In my opinion Council's macro level choices for policy will not support sustainable resource use or efficient use and development of natural and physical resources. The way it relies on a particular model unsuited to this purpose will make the policy regime very difficult to implement successfully.

Choice of allocation as a policy regime

11. Starting with the RPS requirement to meet a specific numeric Nitrogen goal for Lake Rotorua led Council to choose allocation as its policy methodology. Allocation and tradable permits require accurate measurement of both the initial problem, and of any changes to the size of the problem over time, because any post-allocation adjustments will be costly, either as compensation, or through undermining property rights (which such permits are).

12. To develop a working allocation regime requires firstly that the total Nitrogen contributions by party are accurately characterised, and secondly that portions of that total are accurately allocated to the various parties. If there are no means to get competent data (which I consider is the case here), then an allocation-based policy cannot be implemented, due to lack of appropriate tools.

13. This form of Cap-allocate-and-trade provides incentives do not support actively reduce N leaching. This is because once N becomes an asset, landowners will look for a return from it and will likely exhibit economically motivated behaviours, which may not be consistent with environmental direction sought by this PPC. Even within a sinking lid approach, land users could well "farm to their cap", leasing temporary surpluses or intensifying the farming operation to the cap, rather than reducing N leaching overall, thus not to the objective of improving water quality. In my opinion this is a fundamental flaw of the proposed plan change approach.

Policy choice match to process choice

14. I consider that Council's poor macro policy choice was compounded by an unsuitable process choice. Council elected to use a collaborative stakeholder process for policy and rule development. Collaborative processes require cooperation, toward a common goal. Allocation inevitably triggers competition. In my experience a collaborative process will struggle when the underlying position of group members is necessarily one of competition, even when parties are asked to "leave their hat at the door". This becomes more problematic when those within the collaborative group have widely differing resources to bring to the table, and differing views on their rights, as in this case. Here, group members were selected by Council on the basis that they had some interest in the lake. Some had millions of dollars of land value and land use at stake. Others' primary interest was a clean lake and they were agnostic about who would win or lose in any allocation process. These affect the group dynamic. Further influences on the group dynamic are that some parties had access to significant national-level resources and had previous experience of similar processes elsewhere in New Zealand. For others, the concepts were brand new. In these circumstances collaboration can quickly be heavily weighted to favour outcomes suited to those with most resources.

15. Although PPC10 creates a series of losers, Council needed to be alert to a risk that some groups might influence the process to minimise their loss and at the expense of public interest. In Lake Rotorua, the creation of a nutrient allocation market that provides the most significant polluters with the greatest amount of currency in that market could be seen as doing that. Public interest is that land-based businesses reduce Nitrogen externalities rather than continuing to socialise that cost, including by relying on other land owners having to cover their excess. However the StAG agreed to a rule framework developed by a subgroup, the Lake Rotorua Primary Producers Collective and their advisors, which was made up of those contributing the most pollution to the catchment.

16. Risk of capture is exacerbated when regulatory agencies rely heavily on information from the community being regulated. In PPC10 BOPRC relied heavily on economic and nutrient modelling sourced primarily from the dairy industry.

17. From my review of the process it is not clear whether the Council took any steps to identify whether or how the policy outcome might be skewed, or how that risk might be managed. No checks or

balances to identify or manage such regulatory capture are apparent from my review of the evidence before you.

StAG views, wider community views

18. From my reading of information provided to you, it appears that the Council has on occasion conflated the views of the "collaborative" group with the views of the wider community:

> **PPC10 has been through an extensive process commencing from 2013 with the development of StAG. Engagement with this group identified the integrated framework and an appropriate way forward for nitrogen allocation, sector averaging, nitrogen management plans. (s42A, 4.5.1 para 39)*
>
> *In addition to this, numerous workshops, Hui and open days were completed, and a draft plan change was notified to the community twice to provide feedback.*

This statement does not make clear that the views of the StAG and the views of the wider community bifurcate. 75% of the wider community believed that grandparenting was unfair, inequitable and rewarded polluters, however the collaborative group (StAG) arrived at a variant on grandparenting. Thinking that the collaborative group was a suitably representative microcosm of the community is a mistake that should not have been made.

19. Policy developers need to assess and proactively describe how regulatory capture risks would be recognised, avoided or mitigated. And check that the resulting rule regime did not advance sector private interest at the expense of other interests. For example what was the potential for special interest capture, and what safeguards were put in place to ensure it didn't happen? There is no evidence that these risks were explicitly recognised, identified, avoided or mitigated in the StAG TOR, the section 32 or Section 42A report. If anything capture has been facilitated by allowing into the collaborative process:
    - concentrated interest groups with a significant financial stake
    - in technically complex policy areas where asymmetric information is prevalent

Alternatives to allocation

20. I also note in my evidence that it does not appear that Council put meaningful consideration into assessing alternatives to allocation, such as pollution fees. It is not apparent in the s32(1)(b)(i) assessment of alternatives. Such an approach would drive pollution-reduction behaviour, has the capacity to respond to the need for adaptive management, and goes at least part way to internalising costs that have previously been socialised, thus tackling the fairness and equity issues.

Build on Rule 11

21. As I set out in my evidence I consider Council made a number of decisions when formulating PPC10 which have led to a sub-optimal plan. The first was using the land use pattern of Rule 11 as the Plan Change 10 benchmark.[2]

[2] Mr Lamb acknowledges this in his rebuttal evidence (paragraph 18) where he states: *"The land value in the Lake Rotorua catchment is influenced by the presence of Rule 11. This is an existing imposition and restriction on land use and therefore this is the status quo position from which the PPC10 policy is assessed".*

22. The 2003 Section 32 report for Rule 11 and the 2009 Review of the same explicitly identified that Rule 11 was an interim measure, to "hold the line" on nitrogen emissions. The review report identified that the rule was flawed, inequitable, ineffective, and inappropriate in achieving behaviour change:
    The known inequities created by Rule 11 need to be addressed. In particular, the aspect of Rule 11 which ties permitted land use to recent productive use rather than land use capability or best practice land management. The replacement plan was meant to use method 41(3)(c)-(h) of the RWLP, which has no presumption of a Rule 11 start point.

23. The PPC10 section 32 report only assessed economic effects on the basis of land use at 2004, thus only those compromises that affect pastoral farmers were counted. It is my view that using the land use of an interim rule, as the basis for assessing a new regime which has significant additional economic effects, was not appropriate for the s32 analysis.

24. PPC10 builds directly on the Rule 11 grandparenting. Wealth transfer considerations of continuing down a grandparenting type approach were pointed out in the Motu report used as a source for Council's initial policy development direction[3]:
    - *If stringent environmental targets are chosen, allowances will be valuable and allocation rules will **alter wealth significantly**.*
    - *Costs are likely to **affect the values of different land parcels.** The constraints create economic restrictions that **potentially affect different sectors or socio-economic groups differently** (or disproportionately).*
    - *Free allocation of nutrient allowances is the key instrument for **moving costs away from those who would otherwise bear them**. Once a cap is converted into tradable allowances, those who receive them hold **a valuable asset** and those who need to buy them **face an additional cost**. Thus the questions of how allowances are initially allocated … are critical to the final distribution of net costs.*

25. Ms Barnes' evidence states that this allocation system *move[s] an open access resource into a private property rights system with attendant problems of determining and administering property rights.*

26. Despite these warnings, the wealth disparities are embedded by the proposed change. The trading system will purchase N from those who have been allocated it (c. $400/kg). The plan rules will allow trading of N by those who have been allocated it at c. $200/kg. The Plan thus gifts N valued at $200 - $400/kgN to some land at a rate of about 72.5kg/Ha. To change 100 Ha from dairying to forestry would net that farm $1.45m now, or the ability to trade later of $0.725m. *I accept Ms Barn's rebuttal that the difference between those who have and those who have not is $1.45m, not the $2.8m my EiC suggests*.

27. Contrast this with land presently in trees but suitable for dairy farming. The owners of this land would have to purchase nitrogen units. Leaving aside that this is a non-complying activity, and trading happens after 2022, the same type of land as the current dairy farmer has must find that $0.725m to $1.45m to change to that land use.

[3] Nutrient Trading in Lake Rotorua: Cost Sharing and Allowance Allocation Suzi Kerr and Kelly Lock Motu Working Paper 09-09

28. Plan Change 10 removes optionality and lease bargaining capability. The owner of land with a forest crop on it does not get NDA of 62kg/Ha @$400/kg AND their land value drops from unimproved dairy of (say) $20K/Ha to $3K/Ha. CNIIHL has 600Ha of such land. The owner of land with a cow crop has an asset worth $25.6m more than the owner of land with a tree crop on it (Land value drop of $10.2m and no NDA of $14.9m). CNIIHL also has 1917Ha of LUC 6. This is not allocated NDA of 23kg/ha @$400/kg which is worth= $17.6m. A conservative estimate of opportunities forgone is therefore $43m. Council takes no account of this in the s32 analysis.

29. The wealth transfer that this process sets in train is one whereby approximately 9% of land use in the catchment acquires 52% of the tradeable resource, worth millions of dollars, the apportionment strategy of which prevents other land users from exercising their ability to flexibly use their land at all.

30. Locking patterns of land use into those occurring now, rather than allowing a fluid response to markets is contrary to New Zealand's economic model. It attaches what are presently externalised costs as a value to some properties, purely because they are creating those externalities. It contributes to inefficient use of resources and subsidises particular land uses in particular locations. It vests very large amounts of public money to a group whose activity is recognised as a significant contribution to the nitrate problem.

31. Some allocation regimes, such as land use suitability, would mean that some land owners would end up with stranded assets. Council could have created a policy route to provide for movement from a high polluting regime to a low one; an "exit with dignity" strategy. But the policy regime should certainly not support the creation of further assets that will be stranded.

Effectiveness of Rule 11

32. The PPC10 Section 32 report uses Rule 11 as its baseline. It will lock land use into its current form, for no other reason than that **is** its current form. In terms of Māori Land the section 32 contends that:

    *Rule 11 has restricted intensification of farming practices in the Lake Rotorua catchment through benchmarking farms **based on** annual average 2001-2004 nitrogen discharges **and requiring that these do not increase**. The effect of this has been to **halt increases** in the amount of nitrogen entering the lake from pastoral land.*

33. Part of the reason given for building on Rule 11 was that while it had succeeded in halting land use intensification, it had not been effective in achieving the RPS 435t limit, therefore further change was needed. From my review I can find no systematic or methodical compliance assessments of Rule 11, to be able to confirm that compliance with its rules occurred. Rule 11C, which required that all farms provide benchmark data to Council came into effect in December 2005. No dairy farm complied with it at that time. The full information required for dairy benchmarking was provided to Council in 2013[4], by most dairy properties. In March 2017 four of the 26 dairy properties still have not provided this information. It is my understanding that some of these farms have been given a retrospectively assessed benchmark of at least 125kgN/Ha.[5]

[4] Email A McCormack
[5] E.g. farm 21 table pg 104 of BOPRC compendium of 23 March - S Barns rebuttal evidence appendix 11

34. It appears that a large proportion of the highest leaching farms flouted the existing rules[6]. Council's assertions that the previous policy was successful suggest a lack of awareness of problems with that policy and its implementation. If Council has not identified problems in implementing Rule 11, it seems unlikely that potential problems for PPC10 will be identified or addressed.

35. There have been increases in the extent and intensity of high-leaching activities over the last twenty years. The largest total contribution of N and the greatest intensity of contribution come from dairy farms. From 1996 to 2008 dairying increased in area **SLIDE 14.** Regarding intensification, it is difficult to see how Council can assert that Rule 11 has halted this. There was limited or no benchmarking data available to the Council from the 2001-2004 period. Nationally there has been considerable within-sector intensification in dairying, both per cow and per hectare from 2001 to 2017. Dairy NZ evidence puts this at 34%[7] per cow over 20 years. From 2005 to 2013 this would suggest an increase of about 20%[8]. Rule 11E required consent for any increase of intensification over 10%. No dairy farm has sought such consent[9]. There has also been an increase in cows per hectare, supported by N fertiliser and brought in feed. From my review there is no evidence that Rule 11 has halted within-sector intensification, or halted increases in the amount of nitrogen entering the lake from pastoral land. In my view it is inappropriate to use it as the status quo position.

2. Using a model beyond its scope of competence SLIDE 15

36. Council contends that the proposed change is based on a robust science platform. As set out in my evidence I hold some significant reservations about that. As will be clear from the evidence you have already heard, the scientific analysis relies very heavily on the model Overseer for allocation purposes to accurately characterise individual property N emissions, and to establish the stocks and flows of N into the Lake, via the ROTAN model.

37. The Overseer model was designed for doing comparative present time assessments on a single property. Council experts (Rutherford and McCormack) have confirmed this in their evidence. It was not designed to, and nor can it, precisely or accurately model N stocks and flows in an absolute sense. **SLIDE 16** As such I believe it is not appropriate for the policy purpose to which is has been put.

38. I believe confidence in the model outputs as an absolute assessment of the quantity of N leached is misplaced.

    SLIDE 17-19

    The model owners will not allow independent parties to scrutinise its algorithms and assumptions, or to stress test them. This is contrary to good scientific practice. Any model that is used for a high stakes public policy setting must, in my view, be open to public scrutiny of its workings. That its owners will not allow such scrutiny significantly reduces the confidence that can be afforded to it.

39. The model used (Overseer) cannot generate credible assessments of nitrogen inputs to the lake on an individual property basis. Even if all properties in the catchment had their nitrogen outputs modelled, the gross contribution could only be an approximation. There is no known tool that will accurately

[6] implied or stated in BOPRC McCormack and Barns evidence, on the dates that data was received by Council
[7] 259 kg MS per cow to 346 kg MS per cow, Mueller evidence
[8] Straight-lining the 39% increase over 20 years that Dairy NZ explained has occurred.
[9] Email A McCormack

characterise per-property nitrogen pollution contributions to the lake. As such there is no realistic platform on which to properly found an allocation regime.

40. In my assessment, to create a regime that tells landowners that it is acceptable to manage their land, such that a certain level of nitrogen is leached from it, and they can trade the nitrogen they do not need, when there is a huge but unknown error factor is inappropriate. The entire total and/or the proportions of that total are likely to change as a result of better information. That would mean that the total pool to allocate and the proportions allocated to each landholder would need to change. This requires that the response must be able to adapt to the needs for pollution reduction. Adaptive management and allocation are not compatible. It is simply not possible to know whether the cap is accurate and thus the quantum allocated per farmer is correct, or how much it will cost to get there. One option to mitigate risks associated with a change in a cap would be to reserve some allocative capacity for vintage or unaccounted N. But this is not a feature of the plan.

41. Council's response to the concerns about accuracy is to suggest an adaptive management approach is used to correct errors. This seems to be at odds with the basic thrust of the plan change. The rationale for selecting a cap, allocate and trade approach is because Council requires certainty about limit and contribution to that limit. If that certainty cannot be achieved, then it is my view that the benefits of the approach are overtaken by its negative features, namely the counterproductive behaviour it drives, of "Strategic behaviour" that preserves individual or sectors' position, especially regarding trading.

42. Council do not seem to have assessed the aggregate effect of the risks of: imperfect and imprecise information; sticky markets; significant wealth transfer; or gaming, against the efficient or effective functioning of an allocation system which has the purpose of reducing N inputs to support a sustainable TLI of 4.2 for Lake Rotorua. If they had, I expect that this would have shown allocation was so seriously flawed it would have to be regarded as a non-viable policy regime.

4. Ignoring a relevant Treaty settlement

43. The Rule 11 Review highlighted RMA s8 as an outstanding issue:

    Rule 11 constrains multiply-owned Māori ancestral land to the extent that it prevents reasonable use and development of land. Rule 11 does not 'credit' landowners of Māori Land for the extent to which a property has minimised the amount of nitrogen discharged. There is a question as to whether the rule framework properly … applies the principles of the Treaty of Waitangi as required by sections 6 and 8 of the RMA.

44. The section 42A on section 8 only covers the Te Arawa Lakes Settlement 2006, not the CNI Forests Iwi Collective Deeds of Settlement Act 2008. Council's analysis of the effects of the rules on under-developed land say this about adverse effects on CNIIHL:

    Staff are unaware of the Crown's settlement negotiation basis in reaching the particular settlement agreement it did on the Central North Island forests. It is assumed due diligence processes would have identified any restrictions on land use that would influence value.

45. Two things. Firstly, this does not acknowledge that a negotiator in 2008 would see that Rule 11 was interim and that a full stakeholder process (Method 41) would be used to develop a replacement. Thus

it is not clear why a settlement due diligence process would have concluded that restrictions on land would be permanent. Secondly, Council appear throughout this process to have considered CNI land as forestry, and CNIIHL as a forester. I understand that CNIIHL has advised on a number of occasions that they own the land, not the trees[10] and in that sense, they are a landlord and those with the tree crop are lessees. In the interpretation of the CNI Forest Land Collective Settlement Act 2008 it clearly states *CNI forest land…(b) to avoid doubt, does not include (i) any trees on that land;…* Rebuttal evidence from Mr Kingi para 43-45 appears to misunderstand CNIIHL's contention is this regard. Mr Maunder, representing foresters is minuted at the first meeting of StAG advising that foresters are crop owners not landowners, and that it would be appropriate to talk to the land owners, for whom this PPC had greater impact, rather than the foresters. Foresters and landowners interests in this plan change do not entirely coincide, which Mr Maunder tried to make clear. Council's rebuttal to my evidence advises that Council was fully aware that foresters and land owners with forest crop on their land are different. However rebuttal on consultation Appendix 1 of Council's compendium of 23 March does not accord with that contention:

> "*… comments have been received relating to low levels of engagement with Māori (both at an Iwi or Hapu level and with Māori Trusts)* ***and with the forestry sector (in particular CNI****, also representative of Māori trusts and/or Iwi).*

5. Ignoring best and highest use for land

46. The plan change does not analyse the most efficient use of land, or consider the long-term benefits of land use flexibility. This is due to its starting point of Rule 11 land use, its early-chosen intent to use allocation, and the nature of the economic modelling used. The plan change's heavy reliance on the Overseer model does not identify a need for interoperability with other models for non-pastoral land uses. It provides no pathway for changing land uses. Particularly it provides no route for changing between non-pastoral uses. Thus, instead of providing for efficient use of land resources, it will result in enduring rights for those who are presently emitting the most nitrogen. This will create perverse outcomes compared to the objective of reducing N pollution.

47. The effect of the PPC is that all underutilised land in the Lake Rotorua catchment will be locked into a land use that is not at its highest and best use. This includes 5000Ha of Maori land, and 2500Ha of CNIIHL settlement land. The current land users, whose use has contributed to the water quality issues, are using their land at (or beyond) its optimum land use. Landowners, particularly Maori land owners that have not contributed to the water quality issues in the same way are being locked into a future of suboptimal land use.

48. This PPC disproportionately affects Maori landowners, including CNIIHL. In the S42A report para 76, section 5.3.7 Council states:

> "*It is not considered to be equitable to ask them [current land users] to then further reduce that reduced level in order to provide development opportunities for other land uses that do not currently exist under the operative plan***.',**

It appears that no comparable check was done for land owners of underutilised Maori land, to see whether their permanent loss of optionality was an equitable outcome. No such assessment was done in any of the STAG process, the s32 report or before PPC10 had been notified. It was not a feature of

[10] (in submission on the draft and proposed plans)

the 2015 Report on Economic Impacts of Rotorua Nitrogen Reduction. In May 2016 funded a report on underutilised Te Ture Whenua Maori Land in association with Te Tumu Paeroa. This report identified that the effect on profitability from land use change if assessed prior to rule 11 would be an average net decrease of $36/Ha ($180,600/annum). Or if rule 11 grandparenting is taken as the baseline $12/Ha ($60,000). This 2016 report did not consider the effects on settlement land.

6. Using additional criteria to choose policy

49. In formulating the proposals for PPC10, Council was required to work to certain higher order regulatory and policy instruments, namely the NPS-FM, and the RPS. Council compromised the policy choice process by adding four extra criteria to those of RPS Policy WL 5B, and giving them the same weight. These extra criteria had no formal status and should have carried no weight. Instead, they appear to have contributed significantly to the policy chosen, in section 10.2.1 of the s32. The policy direction chosen is seriously at odds with what most stakeholders sought in their feedback to Council:

    1. *Those with high nitrogen losses tended to support grandparenting and/or sector ranges based on historic land use* [9% land]
    2. *Those with low nitrogen loss tended to support equal averaging or land use capability (natural capital) and believe that sector-averaging allocation rewards the polluters*
    3. *Pre-2001 mitigation, such as retiring land, needs to be recognised*
    4. *Concern about the impact of the rules on ability to develop Māori Land*
    5. *Unduly onerous nitrogen constraint on undeveloped land*

    Council's response to this wider community feedback was:

    1. *Completion of an NDA economic analysis report August 2015.* Elucidates the costs to those receiving the greatest allocation, but does not identify the income forgone by those without allocation.
    2. *Selection of preferred approach:* That preferred by 9% of the catchment landowners.
    3. *Staff working with Te Tumu Paeroa and Te Arawa to increase understanding of the issues for undeveloped Māori land.* This not assess the effect on CNI.

Conclusion Slide 20 - 21

50. It is my assessment that the proposed plan change is fundamentally flawed. In my view Council has chosen an allocation approach without the necessary means to implement that approach, because it relies on a model not fit for that purpose. It also perpetuated a flawed system by starting from the Rule 11 regime, which was intended to be interim only - because of its many well described flaws.

51. The collaborative process Council used to arrive at an allocation regime is heavily suggestive of governance capture, the allocation tools are inadequate for the task being asked of them, and the plan change will likely lead to unintended and perverse consequences as a result of the wealth transfer incentives created by the regime.

52. The fundamental approach to allocation set out in the policies and rules for PPC10 (which is based on averaged sector contributions) should in my view be replaced with one that uses polluter pays principles and practices. Should Council persevere with an allocation regime, CNIIHL believes the only fair way to do so is to base it on land use suitability. Any such regime must also zero-base, rather than start from a Rule 11 premise.

53. The use of the Overseer model should be restricted to that of a non-regulatory decision support tool.

Unused at this point = slide 23-28