

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal pursuant to clause 14 of the First Schedule of the Act

BETWEEN CNI IWI LAND MANAGEMENT LIMITED
Appellant

AND BAY OF PLENTY REGIONAL COUNCIL
Respondent

NOTICE OF PERSON'S WISH TO BE PARTY TO PROCEEDINGS
Section 274 Resource Management Act

To: The Registrar
Environment Court
PO Box 7147
Auckland 1141

The Lake Rotorua Primary Producers' Collective ("Collective") wishes to be a party to the following proceedings:

CNI Iwi Land Management Limited v Bay of Plenty Regional Council
ENV-2017-AKL-000148

The Collective made a submission about the subject matter of the proceedings.

The Collective is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.

The Collective is interested in all of the proceedings.

The Collective is interested in all of the issues raised by the Appellant and this includes an interest in the following issues:

1. The Collective comprises various farmers in the Lake Rotorua catchment. Plan Change 10 will have significant adverse and detrimental impacts on its members' farming operations as well as their economic and social wellbeing.
2. The Collective is very concerned about the ability of farmers to reach their nitrogen discharge allowances ("NDAs") and that they currently do not have a pathway for achieving them. The Collective is concerned that the NDAs are unlikely to be achievable on the basis of currently available technology.
3. The Collective is concerned about the nutrient management plan requirements in Plan Change 10. This includes the potentially significant nitrogen and phosphorous obligations that it will impose and the implications for the economic and social wellbeing of farmers in the catchment.
4. The Appellant says that it is committed to achieving the objectives in the Bay of Plenty Regional Policy Statement ("RPS") and supports the limit of 435t/N/yr by 2032 contained in Policy WL 3B. While the Collective acknowledges the need to give effect to the RPS, it considers that this can be achieved without the need to adopt rules at this stage which allocate the 2032 target to a property level. It also considers that PC10 does not give effect to the RPS.
5. The Collective supports the alternative proposal put forward by Federated Farmers (and has filed a section 274 notice in support of Federated Farmers' appeal) that includes achieving the 2022 catchment reduction target, allowing the science to be reviewed and enabling the National Policy Statement for Freshwater Management ("NPS-FM") to be given effect to. All without the need to allocate nitrogen to a property level.
6. The Collective is concerned that an alternative allocation regime (such as natural capital) is unlikely to address the Appellant's concerns (and it would not address the Collective's concerns). However, such assessments are difficult without details around methodology and

implications for each property in the catchment as well as economic, social and cultural implications for the community.

7. The Collective considers that it is premature to allocate nitrogen prior to the completion of a robust science review, a potential review of the incentives funding framework and in the absence of a community process (where the values, objectives, limits and targets can be considered).
8. The Collective supports a regime for the management of natural resources that is effects based, supported by robust science and other evidence and founded on a sound community process.
9. Central to the appeal are the Appellant's concerns about the allocation regime and restrictions in PC10 on the development of its Treaty Settlement Lands. Notwithstanding its view that it is premature to allocate nitrogen, the Collective acknowledges the nine principles in Policy WL 5B of the RPS, which include iwi land ownership, existing land use and existing on farm capital investment.
10. The Collective considers that Federated Farmers' proposal provides a more appropriate means (or framework) for addressing the concerns of owners of Treaty Settlement Lands. This includes:
 - a. In the interim (roughly the period to 2022) its proposal involves maintaining a downward trajectory in nitrogen reductions (through measures such as the Rule 11 benchmark and adoption of good management practice).
 - b. During this time there is some provision for development through matters such as the adoption of a "whole" farm approach (as opposed to "effective area"), recognition of offsets and mitigations outside of Overseer and facilitation of whole of community engagement, innovations and solutions.
 - c. In the medium to longer term, the concerns raised by the owners of Treaty Settlement Lands would be addressed in the context of the findings of a robust science review, the outcome of a potential review of the incentives funding framework and the implementation of the NPS-FM through a robust consultation and collaboration process with

the community (where values, objectives, limits and any allocation regime can be properly considered).

11. The Collective acknowledges that PC10 provides greater nitrogen allocation to those who have already invested in and developed their land, compared with underdeveloped or undeveloped land. However, it does not consider that this is a reason to further reduce the allocation to existing farmers in an effort to provide greater allocation for underdeveloped or undeveloped land. The Collective does not consider that such changes to PC10 would achieve a robust planning framework or achieve sustainable management.
12. The Collective is concerned that the allocation under PC10 does not provide sufficient nitrogen for existing farmers to continue to operate their farming enterprises. The Collective is very concerned that any allocation of the 435tN/yr target to a property level is likely to result in no land owner receiving sufficient allocation to be able to carry out their activity or use (and develop) their land as intended (or to its potential).
13. In respect of phosphorous, the Collective considers that all nutrients (as well as the source, transport and sink pathways) ought to be considered as part of the development of sub-catchment action plans (and as part of the implementation of the NPS-FM) as anticipated by its alternative framework. Phosphorous loss and mitigations also ought to be the subject of robust science investigation and evidence. Accordingly, the planning considerations ought to be broader than simply managing on farm phosphorous as suggested by the Appellant. It is concerned about the potential effects (and unintended consequences) of adding further property level phosphorous restrictions into PC10.
14. In summary, the Collective is in general agreement with the Appellant that PC10 will not promote sustainable management, is not consistent with the purposes and principles of the RMA, is not the most appropriate means of achieving the purpose of the RMA, does not give effect the RPS or NPS-FM and is not consistent with the Regional Water and Land Plan.
15. However, the Collective does not agree that a natural capital approach would better achieve these principles or give effect to these documents

(particularly in the absence of any details about methodology or any analysis of effects).

In terms of the relief sought by CNI Iwi Land Management Limited, the Collective conditionally supports the relief and conditionally opposes the relief because:

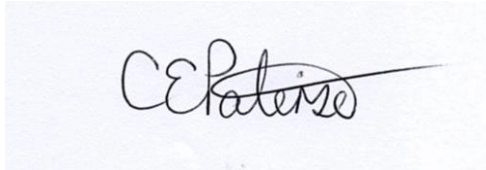
16. The Collective conditionally supports rejecting PC10 in its entirety because:
 - a. The Collective is concerned that PC10 is a flawed and risky approach for attempting to achieve the Regional Water and Land Plan TLI objective. The Collective is very concerned that PC10 will impose irreversible land use changes on farmers as well as impose significant and unnecessary costs on farmers and the wider economy and community.
 - b. The Collective does not support the underlying concepts and methodologies upon which PC10 is based.
 - c. The concerns raised by all sectors of the community (including owners of Treaty Settlement Lands) need to be considered, evaluated and accommodated through a robust community consultation and collaboration process (in light of the most up to date and robust science, economic and other evidence).
 - d. The Collective considers that substantial amendments to PC10 are required to achieve the water quality goals for least economic and social cost to the community.
17. However, the Collective considers that there needs to be an alternative framework that will enable robust community engagement and decision making (founded on sound evidence). This is what its alternative framework aims to enable.
18. The Collective does not support amending PC10 to adopt a natural capital based nutrient allocation regime and otherwise amending PC10 as proposed in paragraph 12(b) of the appeal for reasons including:
 - a. The Collective considers that it is premature to allocate nitrogen to a property level. It considers that Federated Farmers' alternative

framework (as explained in its notice of appeal and submission) provides a framework within which the science can be reviewed, incentives funding can be reviewed and a robust community process (where all members of the community consider water quality and quantity issues in an integrated and holistic way) is enabled through the implementation of the NPS-FM for the Rotorua lakes WMA.

- b. The Collective is concerned about the lack of detail or methodology about a natural capital approach. Without that detail it is not possible to assess such an approach. It is very concerned that adopting a natural capital approach for allocating nitrogen through PC10 would be a very risky approach that is not well understood or supported by science. The Collective is concerned that the effects are less well understood (or not possible to understand in the absence of detailed methodology) than the allocation methodology used in PC10 and it could result in worse environmental outcomes.
- c. Seeking the adoption of more stringent phosphorous obligations on properties, without properly understanding the science (including relationship between nitrogen and phosphorous, internal Lake load, and source, sink and transport pathways) is a risky approach that may result in adverse environmental, economic, social and cultural effects and is unlikely to achieve sustainable management.
- d. While the Collective supports the exploration of a range of flexibility mechanisms (including trade and transfer), opening up trading for properties that do not use Overseer and do not have an NDA (within the context of PC10 as is it currently worded) is unlikely to achieve sustainable management and may have unintended consequences and adverse effects (particularly as the implications for water quality are poorly understood).
- e. There is no (or insufficient) evidence that it would achieve sustainable management, be consistent with Part 2 of the RMA, give effect to the RPS or give effect to the NPS-FM.
- f. And for the other reasons set out in this notice.

19. It is noted that the Collective's opposition is with the methodology proposed for addressing the Appellant's concerns, as opposed to the validity of the concerns themselves. The Collective considers that the concerns ought to be addressed in a transparent way through a robust community process (as anticipated by implementation of the NPS-FM).

The Collective agrees to participate in mediation or other alternative dispute resolution of the proceedings.

A handwritten signature in black ink on a light blue background. The signature is written in a cursive style and reads "C. Paterson".

Signature of person wishing to be a party

Date: 16th October 2017

Address for service of person wishing to be a party:

PO Box 25 Ngongotaha, Rotorua 3041

Telephone: 073322818 or 0274545493

Fax/email: info@rotoruafarmers.org.nz

Contact person: Christine Paterson (Secretary)

Note to person wishing to be a party

You must lodge the original and 1 copy of this notice with the Environment Court within 15 working days after—

- the period for lodging a notice of appeal ends, if the proceedings are an appeal; or
- the decision to hold an inquiry, if the proceedings are an inquiry; or
- the proceedings are commenced, in any other case.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

The notice must be signed by you or on your behalf.

You must serve a copy of this notice on the relevant local authority and the person who commenced the proceedings within the same 15 working day period and serve copies of this notice on all other parties within 5 working days after that period ends.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.