

**BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND**

**ENV-2017-AKL-**

**IN THE MATTER OF** the Resource Management Act 1991 (the  
**Act)**

**AND**

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

**BETWEEN** **NGATI UENUKUKOPAKO IWI TRUST**

Appellant

**AND** **BAY OF PLENTY REGIONAL COUNCIL**

Respondent

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**NOTICE OF APPEAL**

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**TO:** The Registrar  
Environment Court  
**AUCKLAND**

1. **NGATI UENUKUKOPAKO IWI TRUST (Appellant)** appeals against decisions of the Bay of Plenty Regional Council (**Respondent**) on Proposed Plan Change 10 to the Bay of Plenty Regional Land and Water Plan (**Plan Change**).
2. The Appellant made further submissions on the Plan Change.
3. The Appellant is not a trade competitor for the purposes of section 308D of the Act.
4. The Appellant received notice of the decision on 15 August 2017.
5. The decisions were made by the Respondent.
6. The decisions appealed are as follows:
  - (a) The decisions to accept in part and only reject in part the parts of Rotorua Lakes Council's submission which sought the inclusion of objectives, policies and methods to recognise and provide for urban growth in the Rotorua district, and for consequent increased loads to the Rotorua Wastewater Treatment Plant that result in nitrogen entering Lake Rotorua, and to only accept in part the Appellant's opposing further submission.
7. The reasons for the appeal are as follows:
  - (a) The Appellant remains concerned that the Plan Change is being used to address increasing urban loading into the Lake and that the amendments to provisions made in response to the Rotorua Lakes Council's submission lead to this outcome.
  - (b) The Appellant disagrees that the Respondent's decision, which largely adopts the agreed position between the two Councils, is the most appropriate way of ensuring the potential impacts resulting from a

change of land use from rural to urban are addressed and managed. In particular:

- (i) While the Appellant does accept that there will be increased demand on the Rotorua Lakes Council's wastewater infrastructure as a result of rural to urban land use change, it does not support provisions which qualify the effects of such land use change (and changes to wastewater discharge loads) as merely being "consequential".
  - (ii) The application of new Policy LR P19 and new clause (g) to Method LR M5, particularly, create an expectation that the effects on Lake Rotorua from increased discharges from the Wastewater Treatment Plant as a result of shifting N losses between rural and urban uses are acceptable where there is no net increase in N discharge to Lake Rotorua. This should not be the case.
  - (iii) There has been inadequate consideration of the effects on Maori cultural values (including the effects on the mauri of the receiving environment) of the Plan Change resulting from increasing urban loading into the Lake from the shift in losses between sectors.
- (c) The Appellant remains concerned that the amended provisions will be applied to assist and justify Rotorua Lakes Council's future application to authorise discharges of wastewater to Lake Rotorua. That was not the purpose of the Plan Change.

8. The Appellant seeks the following relief:

- (a) That the amendments made by the Respondent to the Plan Change as a result of its decisions that are the subject of this appeal are deleted including any consequential changes to the Bay of Plenty Regional Land and Water Plan that were made as part of those decisions.

### **Further Reasons for the Appeal**

9. In addition to the matters set out in above, the further reasons for the appeal are that the Respondent's decision:
- (a) Will not promote the sustainable management of natural and physical resources and is contrary to Part 2 and other provisions of the Act;
  - (b) Will not avoid, remedy or mitigate adverse effects on the environment;
  - (c) Is inconsistent with and contrary to the relevant provisions of policy statements and plans, including objectives and policies in the Bay of Plenty Regional Policy Statement and Regional Water and Land Plan which recognise and provide for matters of significance to Maori; and
  - (d) Does not represent the most appropriate means of exercising the Respondent's functions, having regard to the efficiency and effectiveness of other available means and therefore is inappropriate in terms of section 32 and other provisions of the Act.

### **Further relief sought**

10. In addition to the matters set out in paragraph 8 above, the Appellant seeks the following relief:
- (a) Similar and / or consequential amendments to the Plan Change that would satisfactorily address the matters raised in this appeal; and
  - (b) Such other relief as the Court considers appropriate.

### **Attachments**

11. Copies of the following documents are attached to this appeal:
- (a) The Appellant's further submission (**Annexure A**);
  - (b) The relevant parts of the Respondent's decision (**Annexure B**); and

- (c) A list of the names and addresses of the persons to be served with a copy of this Notice of Appeal (**Annexure C**).

**Signature:** **NGATI UENUKUKOPAKO IWI TRUST** by its duly authorised agent:



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**Lara Burkhardt**  
Counsel for the Appellant

**Date:** 26 September 2017

**Address for service of Appellant:**

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**Advice to recipients of copy of notice of appeal**

*How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

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.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (*see* form 38).

*\*How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the appellant's submission or the decision appealed. These documents may be obtained, on request, from the appellant.

*Advice*

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington or Christchurch.

**Annexure A**

**A copy of the Appellant's further submission**

**Annexure B**

**A copy of the relevant parts of the Respondent's decision**

**Annexure C****Names and addresses of the persons to be served with a copy of this appeal**

The Chief Executive  
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