

BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991  
AND  
IN THE MATTER of appeals pursuant to Clause 14(1) of  
Schedule 1 of the Act in relation to the Bay  
of Plenty Regional Plan: Proposed Plan  
Change 10: Lake Rotorua Nutrient  
Management  
BETWEEN FEDERATED FARMERS OF NEW  
ZEALAND  
(ENV-2017- AKL-000146)  
NGĀTI UENUKUKŌPAKO IWI TRUST  
(ENV-2017-AKL-000147)  
Appellants  
AND BAY OF PLENTY REGIONAL COUNCIL  
Respondent

Environment Judge D A Kirkpatrick sitting alone under s 279 of the Act  
In Chambers at Auckland

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CONSENT ORDER

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[A] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeals are allowed in part subject to the amendments set out in **Annexure A** and **Annexure B** to this order.
- (2) the appeal by Ngāti Uenukukōpako Iwi Trust is otherwise dismissed.
- (3) the appeal by Federated Farmers of New Zealand is resolved in part.

[B] Under s 285 of the Resource Management Act 1991, there is no order as to costs.



## REASONS

### **Introduction**

- [1] There are 4 appeals relating to Proposed Plan Change 10; Lake Rotorua Nutrient Management (PPC10). This consent order relates to two of those appeals lodged by Ngāti Uenukukōpako Iwi Trust (NUIT) and Federated Farmers. Both appeals seek relief in regard to the provisions made for infrastructure and wastewater treatment.
- [2] This consent order relates to:
- (a) part of Federated Farmers appeal, and resolves the appeal in part and;
  - (b) all of the appeal filed by NUIT, and resolves this in full.
- [3] The appeals sought that the following provisions relating to infrastructure and the wastewater treatment plant be deleted from Proposed Plan Change 10 (PPC10):
- (a) Delete policies LR P18 and LR P19;
  - (b) Delete Method LR M1(c);
  - (c) Delete Method LR M5(g);
  - (d) Delete text added to Schedule LR One E; and
  - (e) Delete consequential changes to Rule 11 of the Regional Water and Land Plan.
- [4] Mediation took place on 27 February 2018 on this topic. As a result of the mediation process and the amendments agreed to in this order, the Appellants consider that their concerns on this topic are now resolved.
- [5] In making this order the Court has read and considered the appeal and the memorandum of the parties dated 1 June 2018.



[6] The parties who have given notice of intention to become a party under s 274 and who have an interest in this topic have signed the memorandum of the parties setting out the relief sought. They are:

- (a) Hurungaterangi Marae Trustees;
- (b) Ngati Te Roro o Te Rangi Hapu;
- (c) Ngati Tunohopu Hapu;
- (d) Ngati Tuteniu Hapu;
- (e) Rotorua District Council;
- (f) CNI Iwi Land Management Limited;
- (g) Lake Rotorua Primary Producers Collective;
- (h) Maori Trustee; and
- (i) Lachlan McKenzie.

[7] The Court is making this order under s 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order; and
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Act, and in particular Part 2.

### Order

[8] Therefore, the Court orders, by consent, that Proposed Plan Change 10 is amended as shown in **Annexure A** underline (for additions) and strikethrough (for deletions) (with a clean version attached as **Annexure B**).

[9] This consent order disposes in full the relief sought in the appeals in respect of the wastewater treatment plant topic.




[10] The appeal by Ngāti Uenukukōpako Iwi Trust is otherwise dismissed.

[11] The appeal by Federated Farmers of New Zealand is resolved in part.

[12] There is no order for costs in relation to this order.

DATED at Auckland this *26<sup>th</sup>* day of *June* 2018



D A Kirkpatrick  
Environment Judge



## ANNEXURE A

**(Underline (for additions) and strikethrough (for deletions))**

Amend Proposed Plan Change 10 as follows:

**LR P19** Acknowledge Account for the increased demand on infrastructure located ~~within the Lake Rotorua groundwater catchment~~ resulting from land use change, including from rural to urban use, through Method LR M5(g), as a consequence of urban growth ~~(and the consequential shift of losses between sectors) and reticulation of communities.~~

**LR M1** Regional Council will supply information to Rotorua District Council that:  
[...]  
(c) identifies the minimum nitrogen losses required to be allocated to each new lot in accordance with Method LR M5(g) with this providing for:

- Residual Losses from land;
- Losses from sewage disposal (either reticulated or onsite);
- Losses from general residential use.

**LR M5** Regional Council will:  
[...]  
(g) implement an accounting methodology for the shift in nitrogen losses resulting from land use change, including from between rural and to urban land uses. (including for the purposes of recognising changes to waste water discharge loads). The presence of an accounting methodology does not pre-determine any current or future consent process (including any consent conditions). The accounting methodology should recognise:

- 2001-04 is the baseline for accounting purposes;
- Reticulation-Land use change should not result in a net increase in nitrogen discharge-load to Lake Rotorua;
- Land use change (including subdivision) requires a sufficient nitrogen allocation (NDA or offset);
- Offsets within the groundwater catchment may provide opportunities for the reticulation of out-of-catchment communities, or urban infrastructure development;

### Schedule LR1 Methodology to determine Start Points, Managed Reduction Targets and Nitrogen Discharge Allocations

E. Amendment of Nitrogen Discharge Allocation  
[...]

- New lots created by way of subdivision will require a portion of the Nitrogen Discharge Allocation from the parent lot to be registered against each new title (Computer Freehold Register). This will need to be sufficient, in accordance with Methods LR M1(c) and LR M5(g), to provide for potential losses from sewage disposal, residential activity residual losses from the land, and losses from any area available for farming activity.



**Rule 11F Restricted Discretionary – Increased Discharges of Nitrogen and Phosphorus from Discharge Activities in the Catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti**

[...]

The Regional Council restricts its discretion to the following matters:

- (a) Measures to offset adverse effects on water quality, including surface water and groundwater.
- (b) Measures to fully offset the increase in the discharge of nitrogen or phosphorus from the activity within the same lake catchment.
- (c) Measures to avoid, remedy or mitigate adverse effects on aquatic ecosystems in streams and rivers.
- (d) Aspects of the activity that cause an increase the export of nitrogen or phosphorus from the activity.
- (e) Administration charges under section 36 of the Act.
- (f) Financial contributions under the Appendix 2 of this regional plan.
- (g) Information and monitoring requirements..
- (h) In the Lake Rotorua groundwater catchment: Measures to avoid, remedy or mitigate adverse effects on the cultural values of tangata whenua

*dh*



## ANNEXURE B – Clean version

Amend Proposed Plan Change 10 as follows:

- LR P19** Account for the increased demand on infrastructure –resulting from land use change, including from rural to urban use, through Method LR M5(g).
- LR M1** Regional Council will supply information to Rotorua District Council that:  
[...]  
(d) identifies the minimum nitrogen losses required to be allocated to each new lot in accordance with Method LR M5(g) with this providing for:
- o Losses from land;
  - o Losses from sewage disposal (either reticulated or onsite);
  - o Losses from general residential use.
- LR M5** Regional Council will:  
[...]  
(h) implement an accounting methodology for the shift in nitrogen losses resulting from land use change, including from rural to urban use. The presence of an accounting methodology does not pre-determine any current or future consent process (including any consent conditions). The accounting methodology should recognise:
- o 2001-04 is the baseline for accounting purposes;
  - o Land use change should not result in a net increase in nitrogen load to Lake Rotorua;
  - o Land use change (including subdivision) requires sufficient nitrogen allocation (NDA or offset);
  - o Offsets within the groundwater catchment

### **Schedule LR1 Methodology to determine Start Points, Managed Reduction Targets and Nitrogen Discharge Allocations**

#### F. Amendment of Nitrogen Discharge Allocation [...]

- o New lots created by way of subdivision will require a portion of the Nitrogen Discharge Allocation from the parent lot to be registered against each new title (Computer Freehold Register). This will need to be sufficient, in accordance with Methods LR M1(c) and LR M5(g), to provide for potential losses from sewage disposal, residential activity losses from the land, and losses from any area available for farming activity.

### **Rule 11F Restricted Discretionary – Increased Discharges of Nitrogen and Phosphorus from Discharge Activities in the Catchments of Lakes Okareka, Rotoehu, Okaro, Rotorua and Rotoiti**

[...]

The Regional Council restricts its discretion to the following matters:

- (a) Measures to offset adverse effects on water quality, including surface water and groundwater.
- (b) Measures to fully offset the increase in the discharge of nitrogen or phosphorus from the activity within the same lake catchment.
- (c) Measures to avoid, remedy or mitigate adverse effects on aquatic ecosystems in streams and rivers.
- (d) Aspects of the activity that cause an increase the export of nitrogen or phosphorus from the activity.
- (e) Administration charges under section 36 of the Act.
- (f) Financial contributions under the Appendix 2 of this regional plan.



(g) Information and monitoring requirements.

(h) In the Lake Rotorua groundwater catchment: Measures to avoid, remedy or mitigate adverse effects on the cultural values of tangata whenua

