

**IN THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

ENV-2020-AKL-000102

**I MUA I TE KOOTI TAIAO O AOTEAROA
TĀMAKI MAKĀURAU**

UNDER the Resource Management Act 1991 (the
RMA)

IN THE MATTER OF an appeal under clause 14(1) of Schedule
1 of the RMA against the decision of the
Waikato Regional Council on Proposed
Plan Change 1 to the Waikato Regional
Plan

AND

IN THE MATTER of section 274 of the RMA

BETWEEN **FEDERATED FARMERS OF NEW
ZEALAND INCORPORATED**

Appellant

AND

WAIKATO REGIONAL COUNCIL

Respondent

**NOTICE OF WISH TO BE A PARTY TO PROCEEDINGS BY CNI IWI
LAND MANAGEMENT LIMITED**

29 September 2020

KĀHUI
LEGAL

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Counsel: J P Ferguson / T T H Hullena

**To: The Registrar
 Environment Court
 Auckland Registry**

And to: The Appellants

And to: The Respondent

Introduction

1. This notice is issued on behalf of CNI Iwi Land Management Limited (**CNI**).
2. CNI wishes, pursuant to section 274 of the Resource Management Act 1991 (the **RMA**), to be a party to the appeal against the decision of the Waikato Regional Council on Plan Change 1: Waikato and Waipā River Catchments (the **PC 1 Decision**) made by Federated Farmers of New Zealand Incorporated (**Federated Farmers**) on 8 July 2020 (the **Appeal**).¹

Nature of interest

3. CNI made a submission and further submission on Plan Change 1.
4. CNI has appealed the PC 1 Decision (ENV-2020-AKL-103).
5. CNI has an interest in the proceedings that is greater than the general public:
 - (a) CNI is responsible for the day to day management of over 170,000 hectares of land that was returned to CNI Iwi Holdings Trust pursuant to the Central North Island Iwi Collective Claims Settlement Act 2008.
 - (b) In this capacity, CNI is landowner of approximately 34,000 hectares of the land in the Waikato River Catchment (the **CNI Catchment Land**).

¹ ENV-2020-AKL-102.

- (c) The Appeal directly relates to the CNI Catchment Land.
 - (d) The central North Island iwi represented by CNI have a relationship with the CNI Catchment Land as it contains ancestral lands, waters, sites and waahi tapu and is a taonga.
6. CNI is interested in the Appeal as a whole.
7. CNI is not a trade competitor for the purposes of section 308D of the RMA.

Extent of interest and position in relation to relief sought

8. CNI is interested in the relief sought in the Appeal as a whole for the general reasons set out in the CNI Notice of Appeal (ENV-2020-AKL-103), including that:
- (a) CNI supports those aspects of the PC 1 Decision intended by the independent hearing panel to align the notified version of Plan Change 1 better with Te Ture Whaimana o Te Awa o Waikato (the Vision and Strategy for Waikato River) (**Te Ture Whaimana**);² and
 - (b) CNI opposes, and seeks consequential amendments to Plan Change 1, in relation to:
 - (i) the limitation of imperatives of Te Ture Whaimana in a manner that fails to recognise the particular historic disadvantage faced by owners of tangata whenua ancestral lands in accordance with the principles of the Treaty of Waitangi / Te Tiriti o Waitangi;³
 - (ii) the policy approach to the development of tangata whenua ancestral lands that:
 - (A) limits the application of Te Ture Whaimana to tangata whenua ancestral lands; and

² CNI Notice of Appeal (**CNI NoA**) at [9].

³ CNI NoA at [10].

- (B) removal of provisions that provide a clearer pathway for change in land use of tangata whenua ancestral lands;
 - (iii) the removal of the end date for land use changes requiring non-complying land use consent; and
 - (iv) modification of policy that would give effect to Te Ture Whaimana in the future.
- 9. In addition, CNI is interested in, and opposes, the relief sought in the Appeal for the following reasons:
 - (a) the relief does not promote the sustainable management of natural and physical resources;
 - (b) the relief is not consistent with the National Policy Statement for Freshwater Management 2020, Te Mana o Te Wai or the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (to the extent that those matters are determined to be relevant to Plan Change 1);
 - (c) the relief is not the most appropriate way to achieve the purpose of the Act or the purpose of Plan Change 1, being the full achievement of Te Ture Whaimana o Te Awa o Waikato by 2096; and
 - (d) without derogating from the generality of the above, in particular:⁴
 - (i) the intended limitation on flexibility of use of tangata whenua ancestral lands in the proposed amendments to Plan Change 1 sought in the Appeal , including those related to Objective 4 and Policy 18, do not align with Te Ture Whaimana;

⁴ References to particular provisions are references to the decision version of Plan Change 1 appended to the PC 1 Decision.

- (ii) the proposed amendments to Plan Change 1 sought in the Appeal, including the removal of the 2035 deadline in Policy 7 and/or its replacement with a '20-year' timeframe, will delay the achievement of Te Ture Whaimana by 2096; and
- (iii) the proposed amendment to rule 9 (3.4.11.9) and related amendments to rule 7 (3.4.11.7) sought in the Appeal that:
 - (A) provide for flexibility for land use changes including where the result would be to allow an increase in farming, and as such, increased intensity of leaching of each of the four contaminants; and
 - (B) remove the end-date of 1 July 2026,

do not provide for the achievement of Te Ture Whaimana.

Alternative dispute resolution

- 10. CNI agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Service

- 11. An electronic copy of this notice is being served today by email on the Waikato Regional Council at PC1Appeals@waikatoregion.govt.nz and by email on the Appellant.
- 12. Waivers and directions have been made by the Environment Court in [2020] NZEnvC 063 in relation to the usual requirements of the RMA as to service of this notice on other persons.

Attachments

- 13. Waivers and directions have been made by the Environment Court in [2020] NZEnvC 063 in relation to the usual requirements of the RMA to file a copy of the appellant's submissions and/or further

submissions on PC1, the Council's decision, and a list of the names and addresses of each person required to be served with the notice of appeal, and the date of service on each such person.

DATED at Wellington this 29th day of September 2020

J P Ferguson / T T H Hullena
Counsel for CNI Iwi Land Management Limited

THIS notice is filed by **JAMES PHILIP FERGUSON**, solicitor for CNI Iwi Land Management Limited, of the firm Kāhui Legal, Wellington. The address for service of CNI Iwi Land Management Limited is Level 11, Intilecta Centre, 15 Murphy Street, Thorndon, Wellington 6011.

Documents for service may be left at that address for service (Attn: J P Ferguson and T T H Hullena) or may be:

- (a) posted to the solicitors at PO Box 1654, Wellington 6140 (Attn: J P Ferguson and T T H Hullena); or
- (b) emailed to the solicitor at jamie@kahuilegal.co.nz and tyson@kahuilegal.co.nz.

Advice

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