

Under the Resource Management Act 1991

And

In the matter of Proposed Plan Change 2 to the Rotorua District Plan

**MEMORANDUM OF COUNSEL
For Rotorua Lakes Council
Dated 1 December 2020**

TOMPKINS | WAKE

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1. In accordance with the Minister's direction, the Hearings Panel circulated a draft recommendations report and draft provisions to the parties on 13 November 2020.
2. The Minister's direction provides for parties to make comments regarding "identification and correction of minor or technical errors or omissions".
3. We attach on behalf of Rotorua Lakes Council (Council) the following documents:
 - (a) A table of proposed amendments to the report and provisions;
 - (b) A copy of the draft report and provisions, on which we have shown our proposed amendments as tracked changes (in green).
4. Specific reasons are provided in the table for each proposed amendment. However the proposed amendments fall into the following general categories:
 - (a) Corrections are proposed to the appearances, and the record of submissions and evidence provided, to ensure that all submissions and evidence are accurately recorded: this will assist the Minister in satisfying the requirements of natural justice when making his decision.
 - (b) Minor typographical and cross-referencing errors are corrected to ensure that the plan change provisions are accurate and workable in practice.
 - (c) A small number of technical amendments to the stormwater provisions are proposed by Council's stormwater engineers to ensure that the provisions are certain and reflect engineering practice.
5. We wish to address two proposed amendments which may appear at first glance to go beyond "correction of minor or technical errors or omissions." First, during the course of the hearing the Council and Iwi Groups reached agreement regarding the non-notification provision to apply to any applications which relate to culturally significant sites, downstream water quantity, downstream water quality or Lake Rotorua water quality. Those provisions were found to be appropriate by the Commissioners at paragraphs 89 and 90 of the draft report. However, the draft

provisions propose to amend the non-notification provisions to refer to applications that are inconsistent with the Stormwater Management Plan. We consider that this proposed amendment was made in error, and accordingly seek that paragraph a. of the non-notification provisions be reinstated in the form contained in the Council's reply. We understand that Counsel for the Iwi Groups supports the reinstatement of these provisions.

6. Second, the draft report and provisions propose amendments to Policy 2a.1, Objective 3 and Policy 3.1 to refer to a Stormwater Management Plan to be prepared by Rotorua Lakes Council. Council acknowledges that it will require a stormwater discharge permit from the Bay of Plenty Regional Council (BOPRC) and that landowners will require subdivision consents from the Rotorua Lakes Council. However, Council considers that clarification is required as to how the Stormwater Management Plan fits within these statutory processes, to ensure that the new objectives and policies are lawful, certain, and workable in practice. Small amendments are therefore proposed to these provisions for clarification, but these changes do not affect the substance of what the provisions seek to achieve.

Dated this 1st day of December 2020

Theresa Le Bas.

Wendy Embling

Theresa Le Bas/Wendy Embling
Counsel for Rotorua Lakes Council