

**Before the Independent Commissioners of the Northland
Regional Council (NRC)**

In the Matter of the Resource Management Act 1991

And

In the Matter of 24 individual applications for new and
increased groundwater takes from the
Aupōuri Aquifer subzones: Waihopo,
Houhora, Motutangi, Paparore, Sweetwater,
Ahipara, and Other, for irrigation.

Summary Statement of Evidence of

Martell Leticia
for the Aupōuri Aquifer Water Permit Applicants

Dated: 31 August 2020

1. EXECUTIVE SUMMARY

- 1.1. My full name is Martell Letica. I am the Principal Planner at Williamson Water & Land Advisory Limited (WWLA).
- 1.2. In this matter, I have been engaged by the 24 individual applicants to prepare and present Planning evidence.

Background

- 1.3. During the time that these applications were lodged, I was employed by WSP Opus Limited in Whangarei.
- 1.4. I was involved in the preparation of applications APP.039859.01.01 (Te Aupouri Commercial Development Limited) and APP.020995.01.04 (Te Make Farms Limited and Te Rarawa Farming Limited) as a peer reviewer only and then took over responsibility of managing these applications once they were lodged with the Northland Regional Council (the Council) such as responding to requests for further information.
- 1.5. In November 2019 I took up employment with WWLA and have been involved in the management of all 24 applications since.

Code of Conduct

- 1.6. I acknowledge that we are not before the Environment Court. However, I have read the Code of Conduct for Expert Witnesses within the Environment Court Consolidated Practice Note 2014 and I agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. To the best of my knowledge, I have not omitted to consider any material facts known to be that might alter or detract from the opinions expressed in this evidence.

2. EVIDENCE STRUCTURE

- 2.1 I have avoided repetition of Planning evidence by structuring my evidence to attend to those matters that I consider are deficient within the s42A report and which have been further addressed by submitters.

3. REASONS FOR APPLICATIONS FOR RESOURCE CONSENT

- 3.1 The s42A report contains a reasonable summary of the applications and the reasons for them.
- 3.2 As per my earlier evidence, applications were lodged and received for processing by NRC across a period of time where the Proposed Regional Plan had been in different states, including notified, decision, and appeal versions.
- 3.3 As a result of the transition of the PRP, the applicable rule number changed from Rule C.5.1.10 to C.5.1.12 and some applications have not referenced this correctly. There were also substantial changes made to the objectives and policies of the PRP from its notified version to the July 2019 version and this is discussed below in Section 4 below.

- 3.4 The proposals to take and use groundwater were also assessed against rules in the Regional Water and Soil Plan for Northland (operative as at 28 August 2004) (RWSP) due to the status of the PRP and were all assessed as Discretionary activities pursuant to Rule 25.03.01.
- 3.5 However, Discretionary rule C.5.1.12 is not under appeal and therefore is the operative rule for the matter at hand.

4. DESCRIPTION OF THE ENVIRONMENT

- 4.1 The receiving environment has been described adequately in the s42A and application documents.

Submissions

- 4.2 Section 3 of the s42A report addresses the submission process, including a summary of the basis for the decision to limited notify and decision-making surrounding acceptance of submissions received.
- I have nothing further to add with regard to the assessment at Sections 3.1, 3.2, and 3.3 of the s42A, except to enter Annexures A and B which were Assessment of applications against available Iwi Environmental Management Plans and which have been approved by the relevant Iwi Authority to be used in such circumstance; and
 - Legal opinion on the matter of strike-out under Section 41D RMA of submissions or part thereof submissions.

Effects Assessment

- 4.3 The key effects raised by Council's Consultant Planner and Hydrogeologist in Section 4 of the s42A,
- 4.4 I am in agreement with the effects assessment and conclusions contained in the s42A report so do not enter any further analysis.

Management and Mitigation Measures

- 4.5 The framework of management and mitigation proposed at Section 6 of the s42A report is appropriate for the actual and potential effects of the proposals and does not depart significantly from what has been proposed in the applications. Mr Williamson has also concluded that the locations and amount of monitoring is not inappropriate.
- 4.6 Where I have a difference in opinion, I have made amendments directly in the proposed Groundwater Monitoring and Contingency Plan's and have included comments to explain the recommended changes and these were appended as Annexure C.
- 4.7 I do not depart from the GMCP's I have prepared, including that;
- The GMCP and consent conditions attend to the concerns specifically raised by Department of Conservation on behalf of the Director-General of

Conservation but I would be open to discussing additional measures if these were presented;

- That the relief sought by the Ministry of Education need not be specifically provided for and that the GMCP fundamentally requires avoidance of the effects of lowering groundwater levels of the Aupouri aquifer such that existing efficient bore takes operating as a permitted activity or in accordance with resource consent conditions cannot access groundwater of the quantity authorised.

Relevant Statutory Provisions;

4.8 The s42A report contains an assessment of the relevant statutory provisions at Section 7 and I note the exceptions I made to this, including that;

- The Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 (herein referred to as 'Regulations') is relevant. The proposals, in particular the proposed conditions, are consistent with the Regulations;
- Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007 (herein referred to as 'NES-SHDW') is relevant. The proposals are not contrary to the NES-SHDW as a decision to grant, subject to the GMCP, would not result in a community drinking water supply becoming unsafe for human consumption following existing treatment; and
- The RMA describes an Iwi Management Plan as "*... a relevant planning document recognised by an iwi authority and lodged with the council*". Section 2 of the RMA defines an iwi authority as "*the authority which represents an iwi and which is recognised by that iwi as having authority to do so*". As such, only Te Iwi o NgaiTakoto Environmental Plan 2017 can be considered from a statutory analysis perspective. This does not suggest that other Iwi Management Plans are irrelevant, in fact, they are important for the wider analysis against Part 2 and for assessment cultural effects and I have assessed that the Consultant Planner has done so within their s42A report.
- I also enter at this point that the status of the PRP objectives, policies, and other relevant matters has been sufficiently addressed in the s42A report.

National Policy Statement for Freshwater Management

- DoC consider that it is appropriate to consider the NPS-FM2020 and directs readers to Section 88A(2) RMA. However, s88A(2) RMA relates to the status or classification of an activity and therefore rightly refers to a plan or proposed plan not a policy statement because a policy statement does not contain rules.
- However, while the RMA reference is incorrect, I do agree that it would be remiss not to consider the NPS-FM2020 amongst existing policy direction for the management of freshwater.

- The NPS-FM 2020 is structurally different to the NPS-FM with a new, and quite strong, direction to regional councils to set long-term visions (Clause 3.3) for freshwater, which must be set as objectives in its regional policy statement and are to be applied to each FMU established for the region. The NPS-FM 2020 details the process to achieve this, including through engagement with communities and tangata whenua.
- Currently, Policy H.4.4 specifies allocation limits (i.e., take limits) for aquifers. The take limits for the Aupouri Aquifer sub-units reflect minimum groundwater levels to prevent saline intrusion (Objective F.1.1(6)) while adherence to proposed conditions and the GMCP is consistent with Clause 3.16(3)(c) of the NPS-FM2020.
- In concluding this brief analysis; while the environmental flows and levels in Appendix H.4 of the PRP have been set to achieve the environmental outcomes relating to freshwater quantity in Objective F.1.1 of the FMU, the Regional Policy Statement does not contain long-term visions. Therefore, there is a gap that exists under the regional planning framework as exists currently that this consent process cannot plug without fully undertaking the future-visioning anticipated by the NPS-FM2020.

Resource Management (National Environmental Standards for Freshwater) Regulations 2020

- 4.9 It is possible that Mr Christie was meaning to reference the NES with regard to s88A RMA, given there are rules in this document as relate to 'natural wetlands'.
- 4.10 The only possible relevant provision under the NES to these proposed activities is Regulation 52(2).
- 4.11 It is my understanding of the freshwater reform package that natural inland wetlands are to be identified by the regional council. As is currently understood, there are no takes or uses within 100m of a Top 150 wetland for these applications. Whether there are 'natural inland wetlands' within 100m of the taking and use of groundwater has to be established by regional council, excepting wetlands on DoC estate.

Proposed Draft Conditions

- 4.12 The proposed draft conditions described at Section 8.2 and appended as Attachment 1 of the s42A report are generally accepted with some minor changes as is demonstrated in the documentation at Annexure D.
- 4.13 As noted, the changes are minor. However, the proposed change at Condition 5(a) may be considered more substantial. The change has been proposed in recognition that the term 'full irrigation season', unless fully defined elsewhere, would have to be defined as having to have taken water from the 'full irrigation season' as applies to that particular crop. The change recognises that all or part of the volume set out as Stage 1 allocation may be taken during this time. It would also be accepted to revert back to the original wording, provided a clear definition of 'full irrigation season' was given.

- 4.14 I also am suggesting that the term 'minimum 12-months' in the Condition 5(a) as relates to the 'Middle Group' does not necessarily need to apply given that much of the baseline has been obtained from the monitoring that the current consent holders (known as MWWUG) have carried out as part of their GMCP conditions. That is unless it is difficult to distinguish the baseline needed compared to the baseline that has so far been established.

Term of Consent

- 4.15 The assessment of consent term contained in Section 8.3 of the s42A report is accepted on the basis that there is a clear policy direction in the planning documentation that consistent consent expiries across freshwater management units is an anticipated environmental management tool for the Council.
- 4.16 It is taken that the errors surrounding consent terms for Waikopu Avocados Ltd (APP.040610.01.01), Henderson Bat Avocados Ltd (APP.017428.02.01), Avokaha Ltd (APP.008647.01.06) and KSL Ltd (APP.039628.01.04) have been read.