

# Proposed Waikato Regional Plan Change 2: Taupo Overseer Version Streamlined Planning Process Schedule 1 Clause 83(1)(f) report

## Introduction

Step 7 of the Minister’s Direction for the Plan Change 2 Streamlined Planning Process is: “Provide for the Minister for the Environment’s consideration, the final report from Step 6 and all other documents required by clause 83(1) of Schedule 1 of the RMA”.

Schedule 1, Clause 83(1)(f) requires a summary document to be provided to the Minister showing how the proposed planning instrument complies with the requirements of—

- i. any relevant national direction; and
- ii. this Act or regulations made under it

## Section 32 Report

Appendix E1 of the Proposed Waikato Regional Plan Change 2 Section 32 Report briefly describes the legislation and national directions relevant to the plan change. Comments are made on:

1. Resource Management Act 1991
2. Ngāti Tūwharetoa Claims Settlement Act 2018
3. Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010
4. Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010
5. Deed between Her Majesty the Queen and Tūwharetoa Māori Trust Board 2007
6. National Policy Statement for Freshwater Management

Part B of the Section 32 Report discussed these matters and noted:

*The plan change will not change the way that land use is managed in the catchment in any significant way. It will not change the impacts of land use on Lake Taupō. On the contrary, the plan change aims to ensure land use continues to be managed in the way it has been since the Chapter 3.10 rules were established. Social costs of the plan change will be no more than minor. For these reasons, the plan change is consistent with the relevant provisions in the statutory/non-statutory framework described in Appendix 1 [this should have referred to Appendix E1].*

## Clause 8AA Resolution of Disputes

During the Plan Change 2 submissions process, it became apparent that a Clause 8AA Resolution of Disputes process should be used to address concerns expressed by three submitters and one late submitter with respect to Taupo Rules 3.10.5.4 and 3.10.5.5. This matter is discussed in detail in Appendix 1 to the Step 6 report. Appendix 1 noted that although these rules would cease to be functional after Overseer version 5.4.3 expires in December 2020, and therefore would be affected by the planning issue that Plan Change 2 sought to address, it was originally thought that a solution to the problem was beyond the scope of a Streamlined Planning Process. However, through the disputes

resolution process a relatively simple solution was found. The Step 6 Report recommends to the Minister that this solution be accepted.

Rules 3.10.5.4 and 3.10.5.5 were developed during the initial Environment Court process for the Taupo provisions, in response to appeals to the notified Regional Plan Variation 5 (Environment Court Decision No 123 [2011]). The provisions recognised that the effect of capping nitrogen on undeveloped and forested land left very few options for owners of this land to do anything other than retain the existing land use. Legal submissions to the Environment Court noted that the legal justification supporting Tūwharetoa's ability to access additional nitrogen was the Resource Management Act section 6(e), 7(a) and 8, which recognised the unique status of iwi.

It is therefore relevant in this Clause 83(1)(f) report to note, in relation to the recommended solution to Rules 3.10.5.4 and 3.10.5.5, the requirements of section 6(e), 7(a) and 8.

Section 6 requires all persons exercising functions and powers under the Act to recognise and provide for matters of national importance including (e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

Section 7 requires all persons exercising functions and powers under the Act to have particular regard to certain matters including (a) Kaitiakitanga.

Section 8 requires all persons exercising functions and powers under the Act to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

The Environment Court Decision to add Rules 3.10.5.4 and 3.10.5.5 to the Waikato Regional Plan was in response to submissions by Tuwharetoa Māori Trust Board, Lake Taupō Forest Trust and Lake Rotoaira Forest Trust, and N.Z. Forest Managers (the Trusts and N.Z. Forest Managers manage large areas of Tuwharetoa forested lands). The Lake Taupō Forest Trust and Lake Rotoaira Forest Trust, and N.Z. Forest Managers, were also submitters to Plan Change 2 and were actively involved in the resolution of disputes process. Given the Environment Court Decision, and given that a viable solution has been found that would allow Rules 3.10.5.4 and 3.10.5.5 to continue to function after Overseer version 5.4.3 expires, it would be appropriate on the basis of the Resource Management Act sections 6(e), 7(a) and 8 to make the change as recommended.