

BEFORE THE ENVIRONMENT COURT
AT WELLINGTON

ENV-2019-WLG-000118

I MUA I TE KOOTI TAIAO O AOTEAROA
TE WHANGANUI-A-TARA

IN THE MATTER of the Resource Management Act 1991 (“**the Act**”)

A N D

IN THE MATTER of an appeal under Clause 14(1) of the First Schedule of the Act in relation to the proposed Natural Resource Plan for the Greater Wellington Region.

BETWEEN **CENTREPORT LIMITED**

Appellants

A N D **GREATER WELLINGTON REGIONAL COUNCIL**

Respondent

**NOTICE OF INTENTION TO APPEAR
BY RANGITĀNE TŪ MAI RĀ TRUST AND RANGITĀNE O WAIRARAPA
INCORPORATED SOCIETY
Dated 9 October 2019**

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To the Registrar, Environment Court Wellington

This notice, notifies you that:

1. Pursuant to section 274 of the RMA, Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa Incorporated Society (“Rangitāne”) file this Notice of Intention to Appear on the appeal by Centreport Limited (“the Appeal”).
2. Rangitāne oppose the Appeal.

Grounds to be a section 274 Party

3. The Appeal relates to various decisions on the provisions of the Greater Wellington Regional Council Proposed Natural Resource Plan (“the Decision”), that Rangitāne submitted on or have also appealed.
4. Rangitāne:
 - (a) Are the representative groups for the iwi of Rangitāne who have Mana Whenua in the Greater Wellington area;
 - (b) Are not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991;
 - (c) Made submissions on the proposed natural resource plan;
 - (d) Are interested in all of the matters raised in the appeal;
 - (e) Are an iwi that has an interest in the Decision that is greater than the interest that the general public has given their cultural and spiritual relationships within the Greater Wellington area; and
 - (f) Filed an appeal against the decision on 18 September 2019.
5. Specifically, Rangitāne are interested in the following appeal points and the relief now sought as it differs from the submissions made by Rangitāne and parts of their appeal:

- (a) Objective O24: Contact recreation and Maori customary use
- (i) Rangitāne oppose the relief sought by the appellant to amend footnote 10(9) as follows:

Includes Wellington Harbour (Port Nicholson) and Te Awarua-o-Porirua. Excludes the ~~Lambton Harbour Area within the Commercial Port Area delineated in Maps 32, 33 and 34 (including the Lambton Harbour Area (Northern North Zone))~~.

- (b) Policy P27: High risk areas;
- (i) Rangitāne oppose the relief sought by the appellant to amend Policy P27 as follows:

Inappropriate use and development, including hazard mitigation methods, in **high risk areas** shall be avoided, remedied or mitigated except where: ...

...

- (b) ...mitigation or remediation measures can appropriately manage the risk to the development and/or residual risk ~~after hazard mitigation measures, assessed using a risk-based approach, is low, and~~
- (c) Policy P28: Hazard mitigation measures;
- (i) Rangitāne oppose the relief sought by the appellant to amend Policy P28 as follows:

Hard hazard engineering mitigation and protection methods shall be avoided except where:

(a) there is a functional or operational need to use hard hazard engineering mitigation and protection methods; or

(b) it is necessary to protect existing and planned future development from unacceptable **hazard risk**, assessed using the **risk-based approach** and;

(i) any adverse effects are no more than minor, or

(ii) where the environmental effects are more than minor the works form part of a **hazard risk management strategy**.

(d) Policy P40: Ecosystems and habitats with significant indigenous biodiversity values;

(i) Rangitāne oppose the relief sought by the appellant to amend Policy P40 to include the wording “from inappropriate use and development”.

(e) Policy P46: Managing adverse effects on sites with significant historic heritage value;

(i) Rangitāne oppose the relief sought by the appellant to amend Policy P46 to include the following wording:

(i) The use, development, operation, maintenance and upgrade of regionally significant infrastructure is provided for;

(ii) Appropriate use and development in the Lambton Harbour Area (Northern Zone) is enabled.

Note

Policy P46 does not require all matters listed in (a)-(j) to be met for a proposal to be considered appropriate.

(f) Policy P47: Appropriate demolition or removal;

(i) Rangitāne oppose the relief sought by the appellant to amend Policy P47 to include the following wording:

(a) has no on-going functional or economic use in its present state and/or configuration, or

(b) demolition of the structure is necessary to provide for the use, development, operation, maintenance and upgrade of regionally significant infrastructure, or.

(ii) Rangitāne oppose the relief sought by the appellant to amend Policy P47 to include the following wording:

(a) has no on-going functional or economic use in its present state and/or configuration, or.

(g) Policy P134: Public open space values and visual amenity;

- (i) Rangitāne oppose the relief sought by the appellant to amend Policy P134 to include the wording “avoided, remedied or mitigated”.
- (h) Policy P145: Reclamation, drainage and destruction;
 - (i) Rangitāne oppose the relief sought by the appellant to amend Policy P145 to include the following wording:
 - (b) ..., or
 - (c) the **reclamation, drainage or destruction** is associated with appropriate use and development in the Lambton Harbour Area (Northern Zone); and
 - (d) there are no practicable alternative methods of providing for the associated activity.
- (i) 5.7.2 Coastal management general conditions;
 - (i) Rangitāne oppose the relief sought by the appellant to amend coastal management general condition (u) to refer to the current Point Noise Management Plan for CentrePort Ltd.
- (j) Rule R149: Maintenance or repair of structures - permitted activity;
 - (i) Rangitāne oppose the relief sought by the appellant to amend Rule R149 to:
 - (A) Include the wording “and structures in the Commercial Port Area (in which case R173 applies)”; or alternatively
 - (B) Add a note to Rule R149 to say “Rule R173 applies to the maintenance or repair of structures in the Commercial Port Area”; and
 - (C) A consequential amendment to R174 deleting reference to Rule R149 as a controlled activity.

- (k) Rule R161: New structures, additions or alterations to structures outside sites of significance - discretionary activity;
 - (i) Rangitāne oppose the relief sought by the appellant to amend Rule R161 to include:
 - (A) The wording “Schedule F4 (coastal sites) (other than in the Commercial Port Area);
 - (B) Reference to Rule R173; and
 - (C) A Note identifying that Rule R161 applies to new structures and additions and alterations to structures in the Commercial Port Area.
 - (l) Rule R162: New structures, additions or alterations to structures outside sites of significance – non-complying activity;
 - (i) Rangitāne oppose the relief sought by the appellant to amend Rule R162 to include:
 - (A) The wording “Schedule F4 (coastal sites) (other than in the Commercial Port Area); and
 - (B) A Note identifying that Rule R161 applies to new structures and additions and alterations to structures in the Commercial Port Area.
 - (m) Rule R166: Seawalls outside sites of significance - discretionary activity;
 - (i) Rangitāne oppose the relief sought by the appellant to amend Rule R166 to include:
 - (A) The wording “Schedule F4 (coastal sites) (other than in the Commercial Port Area); and
 - (B) A Note identifying that Rule R161 applies to the placement of a new seawall, or the addition to or

alteration or replacement of an existing seawall in the Commercial Port Area.

- (n) Rule R167: Seawall inside sites of significance – non-complying activity
 - (i) Rangitāne oppose the relief sought by the appellant to amend Rule R167 to include:
 - (A) The wording “Schedule F4 (coastal sites) other than in the Commercial Port Area); and
 - (B) A Note identifying that Rule R161 applies to the placement of a new seawall, or the addition to or alteration or replacement of an existing seawall in the Commercial Port Area.
- (o) Rule R168: Maintenance or repair or alteration of structures in Schedule E1, Schedule E2, Schedule E3 - permitted activity;
 - (i) Rangitāne oppose the relief sought by the appellant to include a new Note to Rule R168 as follows:

Maintenance or repair or additions or alterations to structures, including heritage structures identified in Schedule E1-E3 inside a Commercial Port Area are either a permitted activity under Rule R173, a restricted discretionary activity under Rule R169 or a discretionary activity under Rule R171.

Amend Rule R168 to provide greater flexibility as to the types and extent of maintenance, repair and alterations that can be undertaken on Schedule E2 wharves.
- (p) Rule R169: Additions or alterations to structures identified in Schedule E1 and or Schedule E2 - restricted discretionary activity;
 - (i) Rangitāne oppose the relief sought by the appellant to amend Rule R169 to include reference to Rule R173;
 - (ii) Rangitāne oppose the relief sought by the appellant to amend Rule R169 to include the following wording:

8. Whether the additions or alterations are for the purpose of appropriate development in the Lambton Harbour Area (Northern Zone)

9. Operational and functional requirements of **regionally significant infrastructure**

Note

Maintenance or repair or additions or alterations to structures, including heritage structures identified in Schedule E1-E3 inside a Commercial Port Area are either a permitted activity under Rule R173, a restricted discretionary activity under Rule R169 or a discretionary activity under Rule R171.

- (q) Rule R171: Additions or alterations to structures identified in Schedule E1, Schedule E2 or Schedule E3 - discretionary activity;
- (i) Rangitāne oppose the relief sought by the appellant to amend Rule R171 to include reference to Rule R173 or restricted discretionary activity under Rule R169.
- (ii) Rangitāne oppose the relief sought by the appellant to amend Rule R171 to include the following wording:

Note

Maintenance or repair or additions or alterations to structures, including heritage structures identified in Schedule E1-E3 inside a Commercial Port Area are either a permitted activity under Rule R173, a restricted discretionary activity under Rule R169 or a discretionary activity under Rule R171.

- (r) Rule R172: Removal, demolition or replacement of a structure or part of a structure identified in Schedule E1, Schedule E2 or Schedule E3 - discretionary activity;
- (i) Rangitāne oppose the relief sought by the appellant to remove reference to Schedule E6 (Lambton Harbour Heritage Area) and Rules R152, R165, R149, R157, R153 and R173 from Rule R172.
- (ii) Rangitāne oppose the relief sought by the appellant to include reference to Rule R174 within Rule R172.

- (s) Rule R202: Maintenance dredging outside a Commercial Port Area or navigation protection areas - controlled activity;
 - (i) Rangitāne oppose the relief sought by the appellant to amend the wording of Rule R202 to include:
 - 5. Effects on sites and habitats identified in Schedule F2c (birds-coastal) or Schedule J (geological features)
 - (ii) Rangitāne oppose the relief sought by the appellant to include a new Rule identifying destruction, damage, disturbance or deposition associated with maintenance dredging inside a Commercial Port Area shown on Map 32, Map 33 and Map 34 or a navigation protection area shown on Map 49, in the coastal marine area to be a permitted activity provided that suggested conditions are met.
- (t) Rule R214: Reclamation and drainage for regionally significant infrastructure outside of sites of significance - discretionary activity;
 - (i) Rangitāne oppose the relief sought by the appellant to amend the wording of Rule R214 to include reference to:
 - (A) “Use and development inside the Lambton Harbour Area (Northern Zone)”;
 - (B) “Schedule F4 (coastal sites) (other than in the Commercial Port Area)”;
 - (ii) Rangitāne oppose the relief sought by the appellant to include a new Note to identify “for the avoidance of doubt, Rule R214 applies to reclamation and drainage for regionally significant infrastructure activities in the Commercial Port Area.”
- (u) Rule R215: Reclamation and drainage inside of sites of significance – non-complying activity;

- (i) Rangitāne oppose the relief sought by the appellant to remove reference to inside of sites of significance in in relation to Rule R125;
 - (ii) Rangitāne oppose the relief sought by the appellant to include a new Note to identify “for the avoidance of doubt, Rule R214 applies to reclamation and drainage for regionally significant infrastructure activities in the Commercial Port Area.”
- (v) Map 32: Commercial Port Area, Lambton Harbour Area and Port Noise Control Line - Lambton Harbour.
- (i) Rangitāne oppose the relief sought by the appellant amend Map 32 to make it clear that the Lambton Harbour Area (including the Northern Zone) falls within the Commercial Port Area.

Conclusion

6. Rangitāne agree to participate in mediation or other alternative dispute resolution of the proceedings and will abide by any further directions of the Court.

Dated: 9 October 2019



Aidan Warren/Kuru Ketu
Counsel for the Appellants

This document is filed by Aidan Warren of McCaw Lewis Lawyers. The address for service for Rangitāne is at the offices of McCaw Lewis Lawyers, Level 6, 586 Victoria Street, Hamilton 3240.

Documents for service may be left at the address for service, or may be:

- (a) Posted to Aidan Warren at PO Box 9348, Hamilton 3240; or
- (b) Emailed to Aidan Warren at aidan.warren@mccawlewis.co.nz and kuru.ketu@mccawlewis.co.nz.

