Expression of Interest Form

1 Tonne Nitrogen or Less

**For your Expression of Interest to be considered for an offer you must include:**

[ ]  This completed form signed in two places, including the acceptance of the Terms and Conditions of the Expression of Interest.

[ ]  Your Quality Assured Nitrogen Management Plan (you will have worked with your assigned Land Management Officer through the Regional Council’s Advice and Support Service to produce this). Please Attach.

[ ]  Your Incentives Summary Sheet (this can be provided by your assigned Land Management Officer once your Nitrogen Management Plan is completed). Please Attach.

Important Notes to those making an Expression of Interest

1. **Local Government Official Information and Meetings Act 1987**

The Lake Rotorua Incentives Scheme is governed by a Committee of the Bay of Plenty Regional Council (the Incentives Scheme). Information provided to the Bay of Plenty Regional Council may be released subject to the provisions of the Local Government Official Information and Meetings Act (1987). This legislation creates the expectation that all information held by a local government organisation is publicly available, unless one of a number of statutory reasons exists for withholding its release.

The grounds for withholding the information must always be balanced with the public interest of releasing the information. Although Bay of Plenty Regional Council cannot give any guarantees that information can be withheld, those making Expressions of Interest who are concerned about providing sensitive information are advised to discuss the matter with Incentives Scheme staff on 027 4561504 or e-mail jude.pani@boprc.govt.nz.

1. **Privacy Act 1993**

The Incentives Scheme may collect, use, hold or disclose personal information for the purpose of assessing your Expression of Interest. Individuals have the right, in accordance with the Privacy Act 1993, to request access to and correction of their personal information. While the provision of personal information is not mandatory, failure to provide the requested information could lead to a delay in considering the Expression of Interest or a decline of the same.

1. **All Nitrogen Purchases In-Lake**

The Incentives Scheme calculates the payment for the change in land use based on the volume of reduction in nitrogen leaching at the lake or “in-lake”. This is not nitrogen as measured at the root zone by OVERSEER, an attenuation factor is applied to the root zone loss to determine final nitrogen loss at the lake. The landowner can find more out about the attenuation factor on the Incentives Scheme website [www.lakerotoruaincentives.nz](http://www.lakerotoruaincentives.nz/). The Incentives Summary Sheet which you are required to attach to this form is prepared by the Regional Council and shows the amount of nitrogen available at the lake. Please note that once the payment is calculated, OVERSEER root zone nitrogen measurement is used in the legal agreements.

1. **No Commitment**

This document is an Expression of Interest to the Incentives Scheme. It does not constitute an offer by the Lake Rotorua Incentives Scheme or the Bay of Plenty Regional Council to enter into a contract of any sort. The submission of an Expression of Interest will not give rise to any contractual or other commitments by the Incentives Scheme to the parties lodging the Expression of Interest. Specifically, while the Incentives Scheme will consider all Expressions of Interest, it will have no contractual or other obligation to enter into a binding contractual relationship with any party lodging an Expression of Interest. The Incentives Scheme will not have any contractual or other commitments with any party lodging an Expression of Interest unless and until the parties have entered into a formal written contract, and then only on the terms contained within that contract. In submitting the Expression of Interest to the Incentives Scheme, you agree to the terms set out in this preliminary notice, and all other terms and conditions set out below.

Those lodging an Expression of Interest can withdraw it at any time. No commitment is made by either party until a formal written contract is entered into.

Details of Property and Landowner

Name of Landowner Company, Person/s, or Trust to which proposed deal relates:

Address of property(ies) to which proposed deal relates:

Legal description of property/ies to which proposed deal relates:

Please list any Trustees or Directors of Landowner:

*Note: Only the legal owners of the land may sell nitrogen to the Incentives Scheme.*

Contact for Expression of Interest

Name of Contact Person

Contact Person Address

Contact Person E-mail

Contact Person Phone

Details of Available Nitrogen

The reduction in Nitrogen leaching I propose to offer is (this is the amount of nitrogen below the provisional Nitrogen Discharge Allowance set by Proposed Plan Change 10):

*NB. This number must be shown to be available by your attached Nitrogen Management Plan and Incentives Summary Sheet.*

Eligibility Criteria

For your Expression of Interest to be eligible it must meet all of the Eligibility Criteria below, before proceeding please consider each criteria to make sure your Expression of Interest does meet them. If you are unsure you can contact Incentives Scheme staff on 027 4561504 or email jude.pani@boprc.govt.nz to get help.

Tick below to confirm each of the Eligibility Criteria are met:

[ ]  The land on which a Nitrogen reduction is proposed must be within the Lake Rotorua Groundwater Catchment and within the Bay of Plenty Region **(refer Appendix One).**

[ ]  The proposal submitted is to permanently reduce the relevant land’s Nitrogen Discharge Allowance in perpetuity.

[ ]  A Nitrogen Management Plan along with an Incentives Summary Sheet (prepared by the assigned Land Management Officer) is attached.

[ ]  Nitrogen offered for purchase is at least 40% of total provisional Nitrogen Discharge Allowance at the root zone, i.e. the Expression of Interest proposes to reduce the provisional Nitrogen Discharge Allowance at the root zone by at least 40%.

 *This provision is to ensure that Landowners are making significant change, in the context of the size of their farming enterprise, to benefit the lake.*

[ ]  The Expression of Interest is to reduce the relevant land’s provisional Nitrogen Discharge Allowance in perpetuity by not less than 150kg of nitrogen in-lake and no more than 1 tonne of nitrogen in-lake (i.e. between [     ] and [     ] using OVERSEER numbers).

[ ]  The farming enterprise to which the Expression of Interest relates requires resource consent under Proposed Plan Change 10 to the Bay of Plenty Regional Water and Land Plan.

[ ]  Your Expression of Interest demonstrates that it can be legally undertaken by the parties who have lodged it and all necessary Landowner consents have been, or will be, procured. This may include the consents of Landowners, banks and other parties due to the encumbrance on the land.

[ ]  You have accepted all of the Terms and Conditions in Part Two of this form and signed accordingly.

Other Details to Support Your Expression of Interest

*The Lake Rotorua Incentives Committee will consider your Expression of Interest and offer you a contract with payment based on their consideration of how your Expression of Interest fits within the attached Assessment Matrix* ***(refer Appendix Two).*** *Not all Expressions of Interest that meet the Eligibility Criteria will necessarily be made an offer for the nitrogen.*

*The Incentives Scheme will be limiting offers in 2017 for quantities of nitrogen under 1 tonne to no more than ten. All offers made as part of this Expression of Interest are full and final and are not open for negotiation. If successful, you will be made an offer set out in a set of legal documents. You will be provided sufficient time to obtain legal advice on that offer and the documents before the offer expires. Obtaining your own legal advice will be a condition of the offer. The template legal documents are attached in Appendix Three for you to consider prior to making your Expression of Interest. You may provide more information about your Expression of Interest which addresses the matters in the attached Assessment Matrix. If so, please provide the details about these in the box below. Things to think about include:*

* *Whether your proposal has co-benefits, e.g., social, economic, cultural, biodiversity*
* *Whether your proposal provides certain nitrogen, e.g. conversion of land use to trees provides much more certain nitrogen gains than land management changes such as lower intensity drystock farming or land uses not yet proven by science.*
* *Whether you consider your proposal will result in any un-intended consequences.*

Due Diligence Checks

*In accordance with the attached Assessment Matrix, a Due-Diligence check for all successful Expressions of Interest will be undertaken. This check will include looking at things such as previous environmental compliance, any previous contract performance with the Regional Council, relevant criminal convictions, company registration and confirmation of directors and trustees, GST registration (if relevant), confirmation of land ownership etc. If you have questions or concerns about this process please call Incentives Scheme staff on 07 347 6792 prior to lodging your Expression of Interest.*

I confirm that the information provided in this form is true and correct and that I am authorised to lodge this Expression of Interest as the landowner or authorised representative of the landowner:

*Signature* *Date* Click here to enter a date.

Part Two: Terms and Conditions

1. The party making the Expression of Interest may request access to the Advice and Support Service of Council which can provide free independent advice, including the development of a Nitrogen Management Plan (required to meet the eligibility criteria) and business decision making support. Access to this service can be arranged by contacting 07 921 3377 or e-mail adviceandsupport@rotorualakes.co.nz.

2. All Expressions of Interest must be submitted by post **or** e-mail, using this form and be accompanied with sufficient supporting documentation to enable the Lake Rotorua Incentives Committee to evaluate the proposal, to:

 Lake Rotorua Incentives Scheme

 POBox 544
Rotorua
New Zealand

 jude.pani@boprc.govt.nz

1. Expressions of Interest must be delivered to the e-mail or the address set out in clause 2 within the timeframe specified in clause 4.

4. **Timeframes**

|  |  |
| --- | --- |
| **Date** | **Action** |
| May 2017 | Expressions of Interest open. |
| July 2017 | Expressions of Interest close and evaluation process and Due Diligence checks commence. |
| August 2017 | Landowners informed of outcome of Expressions of Interest and offers made. |
| September 2017 | Offers close. |

5. The parties agree that the costs incurred by either party in entering in to the Expression of Interest process or a resulting agreement fall where they lie.

6. The party lodging the Expression of Interest may withdraw from the process at any time up until the signing of the legal documents confirming the deal.

7. The Lake Rotorua Incentives Committee reserves the right to accept and evaluate late Expressions of Interest at its sole discretion. Unless the Lake Rotorua Incentives Committee exercises its discretion to consider and evaluate late Expressions of Interest, all late Expressions of Interest will be excluded from further evaluation.

**Requests for additional information and communications generally**

8. The Lake Rotorua Incentives Committee reserves the right to seek additional information and clarification on all Expressions of Interest.

9. Requests for additional information, responses and communications between the party lodging the Expression of Interest and Lake Rotorua Incentives Committee are not required to be in writing.

10. Notwithstanding clause 9 above, the Lake Rotorua Incentives Committee reserves the right to require requests for information, responses and communications to be in writing if it is determined that the information and subject matter is of sufficient importance to warrant written confirmation.

**Clarification or changes to conditions of Expressions of Interest**

11. The Lake Rotorua Incentives Committee reserves the right to issue clarifications to the request for Expressions of Interest and these conditions and reserves the right to make changes to the conditions at its sole discretion.

12. All such clarifications and changes shall be in writing and any changes not made in writing will be invalid.

**Non-conforming Expressions of Interest**

13. The Lake Rotorua Incentives Committee reserves the right to accept and evaluate non-conforming Expressions of Interest at its sole discretion. Unless the Lake Rotorua Incentives Committee exercises its discretion to consider and evaluate non-conforming Expressions of Interest, all non-conforming Expressions of Interest will be excluded from further evaluation.

**Rejection of Expressions of Interest**

14. The Lake Rotorua Incentives Committee reserves the right to reject all or any Expressions of Interest at its sole discretion and nothing in this request for proposals shall oblige the Lake Rotorua Incentives Committee to enter into a contract with any party.

**Evaluation criteria**

15. The following criteria will be used to evaluate Expressions of Interest:

1. All Expressions of Interest must meet the Eligibility Criteria outlined in Part One of this form.

b) Compatibility with the Assessment Matrix in Appendix 2.

d) All aspects of the risk associated with the Expression of Interest including achievability of the proposed outcomes.

e) Other matters which the Lake Rotorua Incentives Committee considers relevant at its sole discretion.

16. The weight that the Lake Rotorua Incentives Committee gives to the evaluation criteria and other matters that it considers is ultimately at the sole discretion of the Lake Rotorua Incentives Committee and no party making an Expression of Interest shall have the right to challenge the Lake Rotorua Incentives Committee’s evaluation process, methodology and outcome.

17. The Lake Rotorua Incentives Committee reserves the right to offer deals to those parties whose Expressions of Interest represent the best value to it.

18. The Lake Rotorua Incentives Committee will not be bound to reveal to those lodging Expressions of Interest the reason why the Expression of Interest was not successful. Nor are they bound to release the reasoning behind any offer made or any details relating to the decision to make an offer.

**Process if successful**

19. Should an Expression of Interest, ensuing site visits, due diligence, discussions and negotiations be successful, the successful party will enter into a formal contract with the Bay of Plenty Regional Council.

**What it means to you if you are successful in your bid**

20. If an Expression of Interest is successful, an offer will be made by the Lake Rotorua Incentives Committee on behalf of Bay of Plenty Regional Council. This offer is non-negotiable and will have an expiry date sufficient to allow the successful party to gain independent legal advice. Offers will be made on the understanding that the successful party has obtained independent legal advice. The landowner is encouraged to commence taking this legal advice early in the Expression of Interest process.

21. The successful party will be required to demonstrate that the reductions in nitrogen discharge will remain in perpetuity.

22. The party lodging an Expression of Interest will enter into a contract with Bay of Plenty Regional Council requiring the successful party to perform the activities and works outlined in the successful proposal based on an agreed payment schedule.

23. The decision of the Lake Rotorua Incentives Committee in terms of the price offered for the deal is full and final. No discussion will be entered in to.

24. Depending on the land use and the resulting nitrogen discharge, the successful party may be required to obtain a resource consent in accordance with the final provisions of Proposed Plan Change 10 to the Bay of Plenty Regional Water and Land Plan.

**Template agreement (refer Appendix 3)**

25. The conditions of the template agreement are not-negotiable. If the successful party progresses to signing the deal these are the conditions under which the contract will be finalised. **The template provided in Appendix 3 is a draft template for your information only, please do not sign these as part of lodging this Expression of Interest.**

**Process if unsuccessful**

26. You will be notified as soon as possible of the result.

27. If there are further Expressions of Interest rounds, you may reapply with the same or altered proposal.

**General terms and conditions**

28. The Lake Rotorua Incentives Committee encourages creative approaches to reductions in nitrogen in the most cost-effective manner. The Lake Rotorua Incentives Committee will select the most competitive Expressions of Interest.

29. The Lake Rotorua Incentives Committee reserves the right to request that a party amends its Expression of Interest so as to achieve a position that enables the Lake Rotorua Incentives Committee to select the Expression of Interest. The party is not committed to amending the Expression of Interest as requested.

30. The Lake Rotorua Incentives Committee reserves the right to negotiate with other parties to meet their objectives.

31. The Lake Rotorua Incentives Committee reserves the right throughout this Expressions of Interest process to contact all parties making Expressions of Interest to discuss, assist and/or obtain further details in relation to Expressions of Interest or the potential development of Expressions of Interest.

32. For the avoidance of doubt, this Expression of Interest is not an offer from the Lake Rotorua Incentives Committee. This request for Expressions of Interest is an invitation to lodge an Expression of Interest and each Expression of Interest is an invitation upon which the Lake Rotorua Incentives Committee may rely on and offer a contract.

33. It is only once both the successful party and the Lake Rotorua Incentives Committee have executed the final agreement that the Lake Rotorua Incentives Committee commits itself to legally binding obligations. The Lake Rotorua Incentives Committee reserves the right to enter into an agreement or arrangement that differs in a material respect from that envisaged by this Expression of Interest process.

34. If the Lake Rotorua Incentives Committee discussions with those lodging Expressions of Interest or other circumstances make it necessary to extend the date by which the Lake Rotorua Incentives Committee selects competitive proposals, the Lake Rotorua Incentives Committee will inform all parties who have submitted an Expression of Interest. Where the date for the signing of the final agreement needs to be extended, the Lake Rotorua Incentives Committee will advise successful parties.

35. A decision to select a successful Expression of Interest may be conditional, for example, subject to certain revisions being agreed.

36. The lowest priced Expression of Interest or any particular Expression of Interest will not necessarily be negotiated on or accepted.

37. The Lake Rotorua Incentives Committee reserves the right at any time to:

* Reject any Expression of Interest that is inconsistent with the Lake Rotorua Incentives Committee goals;
* Seek additional Expressions of Interest;
* Proceed with an Expression of Interest but only after it has been revised and re-submitted;
* Not proceed with any or all components of a particular Expressions of Interest;
* Subject to the Lake Rotorua Incentives Committee notifying those parties making an Expression of Interest of such an intention, to cancel or re-hold the Expressions of Interest round or make such adjustments to the Expressions of Interest process as it considers appropriate.

38. The Lake Rotorua Incentives Committee is in no way contractually bound to follow the process set out in this Expressions of Interest process, which is simply indicative.

39. The Lake Rotorua Incentives Committee will not be liable in contract, tort, equity, or any other way whatsoever for any direct or indirect damage, loss or cost incurred by any party making an Expression of Interest in respect of the Expression of Interest process.

40. Nothing contained or implied in the Expression of Interest process, or any other communication by the Lake Rotorua Incentives Committee to any party shall be construed as legal, financial or other advice. The Lake Rotorua Incentives Committee has endeavoured to ensure the integrity of such information. However it has not been independently verified and may not be updated.

41. Expressions of Interest are submitted on reliance of the party lodging the Expression of Interest, their knowledge, skill and independent advice and not in reliance on any representations made by the Lake Rotorua Incentives Committee.

42. The Lake Rotorua Incentives Committee is a Committee of the Bay of Plenty Regional Council and being a public body it cannot guarantee the confidentiality of the content of any Expression of Interest.

43. As the Lake Rotorua Incentives Committee is a Committee of Bay of Plenty Regional Council references to the Lake Rotorua Incentives Committee in this document are deemed to be references to Bay of Plenty Regional Council and vice versa. The reason for the use of both terms in this document is that the Lake Rotorua Incentives Committee is mandated to undertake this Expressions of Interest for Bay of Plenty Council.

I agree to the Terms of Conditions of lodging this Expression of Interest as the landowner or the authorised representative of the landowner.

*Signature       Date* Click here to enter a date.