

**BEFORE THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

ENV-2020-AKL-000085

**I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKĀURAU ROHE**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under clause 14 of Schedule 1 of the Act
against the decision of the Waikato Regional Council on
Proposed Plan Change 1 to the Waikato Regional Plan

BETWEEN **WAIPA DISTRICT COUNCIL**

Appellant

AND **WAIKATO REGIONAL COUNCIL**

Respondent

**NOTICE BY SOUTH WAIKATO DISTRICT COUNCIL TO BECOME A PARTY TO
PROCEEDINGS UNDER SECTION 274 OF THE ACT**

Dated 28 September 2020

TOMPKINS | WAKE

Solicitor: Marianne Mackintosh
marianne.mackintosh@tompinkswake.co.nz

Westpac House
430 Victoria Street
PO Box 258
DX GP 20031
Hamilton 3240
New Zealand
Ph: (07) 839 4771
Fax: (07) 839 4913
tompinkswake.co.nz

TO: The Registrar
Environment Court
Auckland

1. **SOUTH WAIKATO DISTRICT COUNCIL** (“SWDC”) gives notice under s 274 of the Resource Management Act 1991 (“the Act”) that it wishes to be a party to these proceedings, being *Waipa District Council v Waikato Regional Council* ENV-2020-AKL-000085 (“the Appeal”).
2. The Appeal challenges the decision by the Respondent on Proposed Waikato Regional Plan Change 1 - Waikato and Waipā River Catchments to the Waikato Regional Plan as amended by Variation 1 (“PC1”).
3. SWDC is a local authority and a person who made a submission about the subject matter of the proceedings, being those provisions identified in paragraph 5 below.
4. SWDC is not a trade competitor for the purposes of sections 308C or 308CA of the Act.
5. SWDC is interested in those parts of the Appeal, specifically relating to:
 - (a) References to 20% reduction in contaminant loads in the first 10 years in Table 3.11-1 and explanatory provisions (20% reduction);
 - (b) Objective 3;
 - (c) Policy 12;
 - (d) Policy 13;
 - (e) Policy 19; and
 - (f) Method 3.11.3.3.
6. SWDC’s position on the Appeal and the reasons for that position are set out in respect of each part of the Appeal below. For brevity, the

description of the relief sought in the Appeal has been paraphrased in this notice.

20% Reduction (Table 3.11-1 and explanatory provisions)

7. The Appeal seeks to remove all references to a 20% reduction in contaminant loads and replace it with 10% for the first ten years of implementation.
8. SWDC supports the relief sought by the Appellant for the following reasons:
 - (a) The provisions of the Decisions version of PC1 have not been modelled to determine the level of additional effects on the communities of the South Waikato, which were already severe.
 - (b) No modelling has demonstrated that a 20% reduction is either achievable or practical with the policy mix provided.
 - (c) The increase from 10% to 20% undermines the management of effects on communities by the staging approach set out in Objective 3.

Objective 3

9. The Appeal seeks to amend Objective 3 by replacing the word 'assisted' with 'enabled'.
10. SWDC supports the relief sought by the Appellant for the reasons given in the Appellant's Notice of Appeal.

Policy 12

11. The Appeal seeks to amend Policy 12 to:
 - (a) ensure the requirement to offset does not include effects that are 'de minimis' and relates only to 'significant effects';
 - (b) ensure that offsets need not be 'like for like';

- (c) explicitly enable the staged implementation of offsets;
 - (d) enable offsets upstream of the point of discharge within the same FMU;
 - (e) require offsets only for effects after reasonable mixing; and
 - (f) enable consideration of whether the point of discharge is nitrogen or phosphorus limited.
12. SWDC supports in part the relief sought by the Appellant for the for the following reasons:
- (a) Clarity is required to ensure that the provisions cannot be interpreted to require that all discharges of the four contaminants within the scope of PC1 by point sources must be offset to gain a 'net' zero discharge.
 - (b) It is appropriate that only 'significant effects' are to be offset, and only insofar as they do not meet long term targets.
 - (c) For the reasons given in the appeal, staging of offsets is appropriate and necessary.
 - (d) Reasonable mixing is industry standard practice, it is appropriate that only the residual effects after that point be considered for offsetting.

Policy 13

13. The Appeal seeks to amend Policy 13j to remove the qualification placed on the use of 'reasonable mixing'.
14. SWDC supports the relief sought by the Appellant for the reasons given in the Appellant's Notice of Appeal.

Policy 19

15. The Appeal seeks to delete Policy 19.

16. SWDC supports in part the relief sought by the Appellant for the for the following reasons:
- (a) The meaning and effect of Policy 19 is vague and unclear and requires either clarification or deletion; and
 - (b) Clarification of Policy 19 should ensure that its effect is proportional and clearly linked to the effects of either the related land use or point source discharge, or to enable voluntary mitigation actions to be considered in consent applications.

Method 3.11.3.3

17. The Appeal seeks to amend Method 3.11.3.3 to ensure that monitoring locations are selected in consultation with the owners and operators of Regionally Significant Infrastructure, that monitoring locations do not restrict Regionally Significant Infrastructure, and that monitoring occurs after the point of reasonable mixing.
18. SWDC supports the relief sought by the Appellant for the reasons given in the Appellant's Notice of Appeal.
19. SWDC agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED this 28th day of September 2020



M Mackintosh / K Dibley

Address for service: C/- Marianne Mackintosh
Westpac House
Level 8,
430 Victoria Street,
Hamilton 3204
PO Box 258
DX GP200031

Telephone: 07 838 6034

Email: Marianne.Mackintosh@tompkinswake.co.nz
Kirsty.Dibley@tompkinswake.co.nz

Contact Person: Marianne Mackintosh / Kirsty Dibley

In accordance with the Environment Court Decision No. [2020] NZEnvC 063 this notice is lodged with the Environment Court at WRC.PC1appeals@justice.govt.nz and served on:

The Council at: PC1Appeals@waikatoregion.govt.nz

The Appellant at: simon@berrysimons.co.nz

craig@berrysimons.co.nz

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.