

**BEFORE THE ENVIRONMENT COURT**

**ENV-2020-AKL-000084**

**AT AUCKLAND**

**I MUA I TE KOOTI TAIAO**

**I TAMAKI MAKAUROU ROHE**

**IN THE MATTER**

of an appeal under clause 14  
of Schedule 1 of the Resource  
Management Act 1991

**BETWEEN**

**FONTERRA CO-  
OPERATIVE GROUP LTD**  
*Appellant*

**AND**

**WAIKATO REGIONAL  
COUNCIL**  
*Respondent*

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**NOTICE OF WISH TO BE A PARTY TO PROCEEDINGS BY THE  
DIRECTOR-GENERAL OF CONSERVATION**

**Dated: 29 September 2020**

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Department of Conservation

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## **Notice of person's wish to be a party to proceedings**

### **Section 274 Resource Management Act 1991**

To: The Registrar  
Environment Court  
AUCKLAND

1. The **Director-General of Conservation** (the **Director-General**) wishes to be a party to the following proceedings:

1.1. Fonterra Co-operative Group Ltd v Waikato Regional Council, ENV-2020-AKL- 000084.

2. The Director-General made submissions and appeared at the Council hearing on the Proposed Plan Change 1 to the Waikato Regional Plan (PC1). The Director-General also has an interest in the proceedings that is greater than the interest the general public has, specifically regarding conservation values and the implementation of the New Zealand Coastal Policy Statement (NZCPS).
3. The Director-General is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 (RMA).
4. The Director-General is interested in all of the proceedings.
5. The Director-General is particularly interested in the following issues:
  - 5.1. Objective 1
  - 5.2. Objective 2 and Table 3.11-1
  - 5.3. Objective 3
  - 5.4. Policy 2
  - 5.5. Rule 3.11.4.3
  - 5.6. Rule 3.11.4.4

- 5.7. Rule 3.11.4.7
- 5.8. Rule 3.11.4.8
- 5.9. Schedule B

6. The Director-General **supports or opposes** the relief sought.

***Relief supported***

- 7. The Director-General supports the relief sought by the appellant for the following provisions because:
  - 7.1. Objective 1 - The relief proposed by the appellant would improve consistency of plan terminology. Explicit inclusion of all water bodies by way of reference is a more holistic and integrated signal that the objective refers to the health and wellbeing of all waterbodies within the catchment.
  - 7.2. Policy 2 - The Director General supports relief point (A) and considers clearer policy guidance on what constitutes “significant reduction” and “reduce to lowest practicable level” would increase consistency of consenting, however this guidance must be appropriate in the context of the health and wellbeing of the awa. Relief point (B) is also supported and should not be exclusive
  - 7.3. Rule 3.11.4.3 – the Director-General is willing to consider alternative approaches to the stocking rate to ensure that it genuinely represents the lowest risk of diffuse discharges of contaminants. The Director-General is supportive of the need to ensure that a stocking rate is appropriate including potentially ensuring there is no intensification of stock numbers outside of the winter period.
  - 7.4. Rule 3.11.4.4 – The Director-General appealed this provision also sharing concerns with the lack of an upper limit for the stocking rate threshold, as well as non-compliance with Schedule C not being appropriate for a controlled activity. The Director-General considers that a restricted discretionary activity is more appropriate for higher levels of stocking and non-compliance with Schedule C but is willing to consider this alternative relief alongside a possible restricted discretionary rule.

- 7.5. Rule 3.11.4.8 - The relief proposed by the appellant is more equitable across sectors. The policy guidance requested by the appellant is more likely to ensure that CVP growth does not limit the effectiveness of PC1 or its ability to achieve the required reductions.

### ***Relief opposed***

8. The Director-General opposes the relief sought by the appellant for the following provisions because:

- 8.1. Objective 2 and Table 3.11-1- The relief sought by the appellant to reduce the required improvements in water quality from 20% to 10% only serves to prolong the time required to realise improvements in water quality. This essentially kicks the can down the line which is not appropriate given the state of declining freshwater biodiversity, wetlands, and the lakes of the region, which require urgent and significant improvements in freshwater quality.
- 8.2. Objective 3 - The Director-General is not opposed to recognising the social and economic needs of the communities in the catchment, but the Director-General opposes this relief unless the drafting will ensure that this does not occur at the expense of achieving water quality outcomes.
- 8.3. Rule 3.11.4.7 – The Director-General opposes changing the activity status to restricted discretionary and considers that full discretionary is an appropriately high activity status for activities which are likely to result in significant levels of diffuse contaminant discharge.
- 8.4. Schedule B - The relief sought by the appellant in relation to increasing the nitrogen leaching rate threshold would inappropriately skew the permitted levels of Nitrogen to be higher, adversely affecting the health and wellbeing of the awa and is opposed by the Director-General. It is also considered that catchment scale modelling is required to understand the effects of this amendment on water quality. Without this information the relief cannot be verified in the context of achieving the objectives of the plan.

9. The Director-General agrees to participate in mediation or other alternative dispute resolution of the proceedings.



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Dean van Mierlo  
Counsel for the Director-General

29 September 2020

Address for service of person wishing to be a party:

**Director-General of Conservation**

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18 Manners Street, Wellington 6011

*Contact persons*

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**Advice**

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