

**BEFORE THE ENVIRONMENT COURT  
AUCKLAND REGISTRY**

**ENV-2020-AKL-000083**

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

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

**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** **OJI FIBRE SOLUTIONS (NZ) LIMITED**

**Appellant**

**AND** **WAIKATO REGIONAL COUNCIL**

**Respondent**

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

**Dated 28 September 2020**

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**TOMPKINS | WAKE**

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**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 *Oji Fibre Solutions (NZ) Limited v Waikato Regional Council* ENV-2020-AKL-000083 (“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 of PC1 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 relating to:
  - (a) Objective 3;
  - (b) Policy 11;
  - (c) Policy 12;
  - (d) Policy 13;
  - (e) Policy 19; and
  - (f) Rule 3.11.4.9.
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.

**Objective 3**

7. The Appeal on Objective 3 seeks its amendment to better reflect:
  - (a) that the Waikato River has some assimilative capacity;
  - (b) the wider economic relationship of the community with the river;  
and,
  - (c) the community can 'continue to provide for' social, economic and cultural wellbeing.
  
8. SWDC supports the relief sought by the Appellant for the following reasons:
  - (a) For the reasons given in the Notice of Appeal;
  - (b) Objective 3 fails to appropriately provide for the social and economic well-being of the communities of the South Waikato;  
and
  - (c) Staging of the achievement of Te Ture Whaimana is not sufficient on its own to ensure and enable the continued social and economic wellbeing of the communities of the South Waikato.

**Policy 11**

9. The Appeal seeks to amend Policy 11 to provide a clear consenting pathway for the continued operation and development of regionally significant industry and infrastructure.
  
10. SWDC supports the relief sought by the Appellant for the following reasons:
  - (a) For the same reasons given in the Notice of Appeal;

- (b) Policy 11 fails to appropriately provide for the continued operation and development of industry or infrastructure in circumstances other than where it protects and restores the river; and
- (c) Policy 11 fails to recognise or clarify that Te Ture Whaimana o Te Awa o Waikato can be given effect to whilst providing for the continued operation and development of industry or infrastructure through the achievement of the water quality attribute states in Table 3.11.1.

### **Policy 12**

- 11. The Appeal seeks to amend Policy 12 to:
  - (a) Better reflect that not all effects associated with regionally significant industry and infrastructure can be avoided, remedied or mitigated;
  - (b) Delete clause (b) and replace with a clause that provides a consenting pathway that makes offsets/compensation optional for applicants, and, if adopted given credit for; and
  - (c) Provide for reasonable mixing, and recognising that offsets may occur at the same or alternative locations to the point source discharge.
- 12. SWDC supports in part the relief sought by the Appellant for the following reasons:
  - (a) For the reasons given in the Notice of Appeal; and
  - (b) Clarity is required to ensure that Policy 12 cannot be read to mean net nil effects are required.

**Policy 13**

13. The Appeal seeks to amend Policy 13 by:
  - (a) Removing the reference to Policy 13 being subject to Policy 13;
  - (b) removing the reference to Policy 12 in the context of offsetting/compensation in clause (e); and
  - (c) Amending clause (i) which refers to reasonable mixing by deleting the words “may be acceptable as a transitional measure during the life of this Chapter”.
  
14. SWDC supports the relief sought by the Appellant for the following reasons:
  - (a) For the reasons given in the Notice of Appeal; and
  - (b) Policy 13 fails to recognise or clarify that Te Ture Whaimana o Te Awa o Waikato can be given effect to whilst providing for the continued operation and development of industry or infrastructure through the achievement of the water quality attribute states in Table 3.11.1.

**Policy 19**

15. The Appeal seeks to delete Policy 19.
  
16. SWDC supports in part the relief sought by the Appellant 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.

**Rule 3.11.4.9**

17. The Appeal seeks to either delete Rule 3.11.4.9, or reinstate the expiry date of 1 July 2026, as notified.
18. SWDC supports in part the relief sought by the Appellant. It is appropriate that PC1 provide additional land use flexibility for farming, particularly to enable transitions or pay for high cost capital mitigations that better meet Objectives 1 and 2.
19. SWDC agrees to participate in mediation or other alternative dispute resolution of the proceedings.

**DATED** this 28th day of September 2020



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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](mailto:WRC.PC1appeals@justice.govt.nz) and served on:

The Council at: [PC1Appeals@waikatoregion.govt.nz](mailto:PC1Appeals@waikatoregion.govt.nz)

The Appellant at: [gillian@chappell.nz](mailto:gillian@chappell.nz)

***Advice***

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