

**BEFORE THE ENVIRONMENT COURT  
AUCKLAND REGISTRY**

**ENV-2020-AKL-000085**

**I TE KŌTI TAIAO O AOTEAROA  
TĀMAKI MAKAURAU 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** **WAIPA DISTRICT COUNCIL**

**Appellant**

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

**Respondent**

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**NOTICE BY HAMILTON CITY COUNCIL TO BECOME A PARTY TO PROCEEDINGS  
UNDER SECTION 274 OF THE ACT**

**28 September 2020**

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**TOMPKINS | WAKE**

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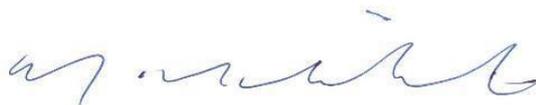
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**TO:** The Registrar  
Environment Court  
Auckland

1. **HAMILTON CITY COUNCIL** (“HCC”) gives notice under s 274 of the Act that it wishes to be a party to these proceedings, being *Waipa District Council v Waikato Regional Council* (ENV-2020-AKL-000085).
2. The Appeal challenges the decision by the Respondent on Proposed Waikato Regional Plan Change 1 - Waikato and Waipā River Catchments (“PC1”), “the Decision”.
3. HCC is a local authority and a person who made a submission about the subject matter of the proceedings.
4. HCC is not a trade competitor for the purposes of section 308C or 308CA of the Act.
5. HCC’s interests, positions and reasons in relation to the appeal are set out in Table 1 below.
6. HCC agrees to participate in mediation or other alternative dispute resolution of the proceedings.

**DATED** at Hamilton this 28<sup>th</sup> day of September 2020



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M Mackintosh / L Muldowney

HCC reference: D-3448806

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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: [simon@berrysimons.co.nz](mailto:simon@berrysimons.co.nz)

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***Advice***

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

**Table 1: Details of HCC’s section 274 party interests**

Provision	Relief sought by Appellant	HCC’s position	Reasons
3.11.3.3	<p><b>3.11.3.3 Accounting system and monitoring</b>  <i>Waikato Regional Council will establish and operate a publicly available accounting system and monitoring in each Freshwater Management Unit, including: ....</i></p> <p><i><u>e. Consulting with the owners and operators of regionally significant infrastructure that have point source discharge consents, in relation to the location of the environmental monitoring sites that will be used for the collection of data for monitoring and assessing progress toward achieving the Table 3.11-1 water quality attribute states. This consultation will include ensuring that the environmental monitoring sites are located in such a way as to not unfairly restrict the ongoing and future operations of such infrastructure and to recognise the requirement to undertake monitoring after reasonable mixing.</u></i></p>	Support	The proposed new requirement is reasonable and will provide the owners and operators of the relevant regionally significant infrastructure an opportunity to be heard in relation to the effects the location of the environmental monitoring sites may have on the operation of that infrastructure.
Objective 3	<p><i>Waikato and Waipā communities are <del>assisted</del> <b>enabled</b> to provide for their social, economic, spiritual and cultural wellbeing through staging the reduction of the discharges of nitrogen, phosphorus, sediment and microbial pathogens necessary to restore and protect the health and wellbeing of the Waikato and Waipā river catchments, and by the encouragement of collective community action for that purpose.</i></p>	Support	"Enabled" is a more appropriate word than "assisted" and is consistent with the wording of s5 of the Resource Management Act 1991.

<p>Policy 12 b iv</p>	<p>b. <i>Where, despite the adoption of the Best Practicable Option, there remain <u>significant</u> residual adverse effects <u>after reasonable mixing</u>, measures, <u>which may be staged over the duration of the consent</u>, should be proposed at an alternative location(s) to the point source discharge, for the purpose of ensuring positive effects on the environment sufficient to offset or compensate for any <u>significant</u> residual adverse effects of the discharge(s) that will or may result from allowing the activity, provided that:</i></p> <p>iv. <i># <u>the measure</u> remains in place for the duration of the <u>residual</u> adverse <del>residual</del> effect and is secured by consent condition or another legally binding mechanism; and</i></p>	<p>Support</p>	<ol style="list-style-type: none"> <li>1. The assessment as to whether there are residual adverse effects should be made downstream of the zone of reasonable mixing for the discharge, in accordance with Policy 3.2.3.8. Policy 3.2.3.8 recognises, and enables use to be made of, the receiving water's assimilative capacity, while also considering any effects of the mixing zone on other users of the water body and the extent of adverse effects within the mixing zone (Policy 3.2.3.8 (j) and (k)).</li> <li>2. If reasonable mixing in accordance with Policy 3.2.3.8 were not allowed, then those responsible for point source discharges would be faced with significant additional costs to achieve a much higher quality effluent at the point of discharge than if reasonable mixing were allowed. In the case of the Pukete Wastewater Treatment Plant, for example, this additional cost would amount to millions of dollars.</li> <li>3. Offset or compensation matters should be required only where the residual adverse effects are significant and allowed to be staged over the duration of the consent in response to growing contaminant load, which may occur, for example, because of urban growth.</li> <li>4. Amendments to Policy 12 b iv improve clarity.</li> </ol>
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<p>Policy 12 c i, ii and iii</p>	<p>c. For the purpose of establishing if a discharge will have a <u>significant</u> residual adverse effect, relevant considerations include:</p> <p>i. the extent to which any replacement discharge(s) fails to reduce the contaminant load of an existing discharge proportionate to the decrease required to achieve the short-term numeric water quality values in Table 3.11-1 <u>after reasonable mixing</u>, or the steady progression towards the 80-year water quality attribute states in Table 3.11-1 <u>after reasonable mixing</u>, including at downstream monitoring sites; and</p> <p>ii. in respect of a new discharge, whether any new discharge will increase the load of nitrogen, phosphorus, sediment and/or microbial pathogens contaminants to either the Waikato River or Waipā River catchments; and <del>in</del> <u>either case</u></p> <p>iii. <u>in relation to c.i. and c.ii above</u>, where the discharge is associated with the damming or diversion of water, whether it will exacerbate the rate or location of those contaminants that would otherwise have occurred without the damming or diversion, and if so, the extent of such increase or exacerbation- <u>;</u></p>	<p>Support</p>	<ol style="list-style-type: none"> <li>1. Offset or compensation matters should be required only where the residual adverse effects are significant.</li> <li>2. The assessment as to whether a discharge enables numeric water quality values to be achieved, or attribute states to be progressed towards, should be made downstream of the zone of reasonable mixing for the discharge, in accordance with Policy 3.2.3.8.</li> <li>3. The amendments to Policy 12c ii and iii improve clarity.</li> </ol>
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