

**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 OTOROHANGA DISTRICT COUNCIL TO BECOME A PARTY TO
PROCEEDINGS UNDER SECTION 274 OF THE ACT**

Dated 29 September 2020

TOMPKINS | WAKE

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TO: The Registrar
Environment Court
Auckland

1. **OTOROHANGA DISTRICT COUNCIL** (“Otorohanga DC”) 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. Otorohanga DC is a local authority and a person who made a submission on PC1. It has an interest in the subject matter of the proceedings greater than the general public has given Otorohanga DC’s role as a territorial authority responsible for providing water, stormwater and wastewater services to its community.
4. Otorohanga DC is not a trade competitor for the purposes of ss 308C or 308CA of the Act.
5. Otorohanga DC is interested in those parts of the Appeal 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) Implementation Method 3.11.3.3.

6. Otorohanga DC's position on the Appeal and the reason(s) for that position are set out below.

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

7. In summary, the Appeal seeks amendments to Table 3.11-1 and to the explanatory provisions to delete the reference to a 20% reduction and replace with a 10% reduction (of the required change between current water quality and the long-term water quality).
8. Otorohanga DC supports the relief sought by the Appellant for the same reasons as set out in the Appellant's Notice of Appeal. Otorohanga DC holds resource consents for the discharge of wastewater from its wastewater treatment plant and discharge of stormwater. As stated in the Appellant's Notice of Appeal, the cost implications of increasing the expected level of reduction of the required change from 10% to 20% will be significant, if feasible at all. Such an additional financial burden on Otorohanga District's ratepayers is unwarranted.

Objective 3

9. The Appeal seeks the following amendments (shown in strike through and underlined text):

Waikato and Waipā communities are ~~assisted~~ enabled 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.

10. Otorohanga DC supports the relief sought by the Appellant for the same reasons as set out in the Appellant's Notice of Appeal.

Policy 12

11. The Appeal seeks the following amendments (shown in strikethrough and underlined text):

...

b. Where, despite the adoption of the Best Practicable Option, there remain significant residual adverse effects after reasonable mixing, measures, which may be staged over the duration of the consent, 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 significant residual adverse effects of the discharge(s) that will or may result from allowing the activity, provided that:

...

~~ii. the measure relates to the contaminant(s) giving rise to the residual adverse effects; and~~

~~iii. the measure occurs upstream within the same sub-catchment in which the primary discharge occurs and if this is not practicable, then upstream within the same Freshwater Management Unit or a Freshwater Management Unit located upstream; and~~

iv. the measure remains in place for the duration of the residual adverse ~~residual~~ effect and is secured by consent condition or another legally binding mechanism; and

c. For the purpose of establishing if a discharge will have a significant residual adverse effect, relevant considerations include:

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 after reasonable mixing, or the steady progression towards the 80-year water quality attribute states in Table 3.11-1 after reasonable mixing, including at downstream monitoring sites; and

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 ~~in either case~~

iii. in relation to c.i. and c.ii above, 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-
; and

...

12. Otorohanga DC supports the relief sought by the Appellant for the same reasons as set out in the Appellant's Notice of Appeal.

Policy 13

13. The Appeal seeks the following amendments (shown in strikethrough text):

When considering a resource consent application for point source discharges of nitrogen, phosphorus, sediment or microbial pathogens to water or onto or into land in the Waikato or Waipā River catchments, and subject to Policy 12, consider the contribution made to the nitrogen, phosphorus, sediment and microbial pathogen catchment loads in the Waikato River or Waipā River catchments and the impact of that contribution on the achievement of the short-term numeric water quality values in Table 3.11-1 and, where applicable, the steady progression towards the 80-year water quality attribute states in Table 3.11-1, taking into account the following:

...

- j. The application of reasonable mixing (in accordance with Policy 3.2.3.8) ~~may be acceptable as a transitional measure during the life of this Chapter;~~

14. Otorohanga DC supports the relief sought by the Appellant for the same reasons as set out in the Appellant's Notice of Appeal. Otorohanga DC is similarly concerned at the additional financial burden which may be faced for its ratepayers, even if it is feasible to meet the short-term quality targets in Table 3.11-1 at the end of the discharge pipe. It is appropriate that reasonable mixing be expressly provided for in Policy 13.

Policy 19

15. The Appeal seeks the deletion of Policy 19 in its entirety.
16. Otorohanga DC supports the relief sought by the Appellant for the same reasons as set out in the Appellant's notice of appeal.

Implementation Method 3.11.3.3

17. The Appeal seeks the following amendments (shown in underlined text):

Waikato Regional Council will establish and operate a publicly available accounting system and monitoring in each Freshwater Management Unit, including:

...

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.

18. Otorohanga DC supports the relief sought by the Appellant for the same reasons as set out in the Appellant's Notice of Appeal.

19. Otorohanga DC agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED this 29th 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 and served on:

The Council at: PC1Appeals@waikatoregion.govt.nz

The Appellant at: 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.