

**BEFORE THE ENVIRONMENT COURT  
AUCKLAND REGISTRY**

**ENV-2020-AKL-000092**

**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** **SOUTH WAIKATO 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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**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 *South Waikato District Council v Waikato Regional Council* (ENV-2020-AKL-000092).
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-3448560

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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: [marianne.mackintosh@tompkinswake.co.nz](mailto:marianne.mackintosh@tompkinswake.co.nz)

***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
Policy 12 a	<p><i>a. When considering resource consent applications 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, require demonstration that the proposed discharge represents the Best Practicable Option at the time resource consent is being considered, to prevent or minimise the adverse effects of the discharge <u>on the receiving waterbody, after reasonable mixing occurs in accordance with Policy 3.2.3.8.</u></i></p>	Support	<ol style="list-style-type: none"> <li>1. The assessment as to whether a point source discharge has adverse effects should be made 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> </ol>
Policy 12 b iv	<p><i>b. Where, despite the adoption of the Best Practicable Option <u>and after reasonable mixing occurs in accordance with Policy 3.2.3.8,</u> there remain residual adverse effects, measures should be proposed at an alternative location(s) to the point source discharge, for the purpose of ensuring positive effects on the environment <u>are sufficient over the duration of the consent to offset or compensate for any residual adverse effects of the discharge(s) that will</u></i></p>	Support	<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> </ol>

Provision	Relief sought by Appellant	HCC's position	Reasons
	<p><i>or may result from allowing the activity, provided that:</i></p> <p><i>iv. <u>the measure</u> <del>#</del> remains in place for the duration of the <u>residual</u> adverse <u>residual</u> effect and is secured by consent condition or another legally binding mechanism; and</i></p>		<p>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.</p> <p>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.</p> <p>4. Amendments to Policy 12 b iv improve clarity.</p>
<p>Policy 12 - Proposed new sub-clauses c (i) and (iii)</p>	<p><i><u>c. When considering measures for offsetting or compensating any residual adverse effects, relevant considerations include:</u></i></p> <p><i><u>i. The ability to stage offsetting over the duration of the consent, the timing of the stages proposed, and the level of investment required over that timeframe;</u></i></p> <p><i><u>iii. The extent to which measures also assist to achieve the objectives in Te Ture Whaimana o Te Awa o Waikato for the Waikato and Waipā Rivers.</u></i></p>	<p>Support</p>	<p>The matters listed in 12 c (i) are relevant, reasonable and legitimate considerations in this context.</p> <p>Proposed sub-clause 12 c (iii) complements, applies and is consistent with Policy 19, which seeks to advance achievement of Te Ture Whaimana objectives.</p>