

In the Environment Court of New Zealand
at Auckland

I mua i te Kōti Taiao o Aotearoa
I te rohe o Tāmaki Makaurau

ENV-2020-AKL-000083

under: the Resource Management Act 1991

in the matter of: an appeal pursuant to clause 14(1) of the First Schedule
to the Resource Management Act 1991

between: **Oji Fibre Solutions (NZ) Limited**
Appellant

and: **Waikato Regional Council**
Respondent

Notice of Mercury NZ Limited's wish to be party to proceeding

Dated: 28 September 2020

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NOTICE OF MERCURY NZ LIMITED'S WISH TO BE PARTY TO PROCEEDINGS

Section 274, Resource Management Act 1991

To The Registrar
Environment Court
Auckland

1 Mercury NZ Limited (*Mercury*) wishes to be a party to the appeal by Oji Fibre Solutions (NZ) Limited (*Oji*) against a decision of the Waikato Regional Council on Proposed Plan Change 1 to the Waikato Regional Plan (*PC 1*).

Mercury's interest in these proceedings

2 Mercury made a submission and a further submission about the subject matter of the proceedings.

3 Mercury is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 (*RMA*).

4 Mercury is interested in those issues that may affect its ability to operate, maintain, upgrade and develop its renewable electricity generation assets (in particular the Waikato Hydro System), including those parts of the proceedings related to Policies 11, 12 and 13 concerning point source discharges.

Relief supported by Mercury

5 Mercury generally supports the relief sought in relation to Policies 11, 12 and 13 because it:

- 5.1 Promotes the sustainable management of natural and physical resources;
- 5.2 Promotes the efficient use and development of natural and physical resources;
- 5.3 Meets the reasonable foreseeable needs of future generations;
- 5.4 Results in the most appropriate plan provisions in terms of section 32 of the RMA;
- 5.5 Implements the Council's functions of section 30 of the RMA;
- 5.6 Gives effect to higher order planning documents under section 67(3) of the RMA including the National Policy Statement for Renewable Electricity Generation 2011 and Waikato Regional Policy Statement; and
- 5.7 Ensures consistency with good resource management practice.

6 Without limiting the generality of the above, the specific reasons for Mercury's support of the relief sought include:

- 6.1 The Notice of Appeal's relief sought with respect to regionally significant infrastructure (*RSI*) proposes amendments to Policy 11 to:
 - (a) recognise both the benefits of new/replacement RSI and the constraints faced by RSI; and

- (b) promote 'best practice' rather than implying a 'no net effects' approach.
- 6.2 Mercury supports this approach as it would enable the appropriate management of the effects of RSI, while recognising that RSI enables people and communities to provide for their social and economic wellbeing.
- 6.3 The Notice of Appeal's relief sought in respect of Policy 12 provides for voluntary, rather than mandatory, offsetting/compensation, and enables appropriate recognition and credit to provide for such measures where an applicant elects to propose them.
- 6.4 Policy 12's implied mandatory obligation to proposed offsetting and compensation measures in relation to any residual adverse effect is inappropriate. In particular, mandatory offsetting and compensation is inappropriate for activities that do not have significant adverse effects or do not contribute to the overall contaminant load of the contaminants within the scope of PC 1. The Notice of Appeal's voluntary approach to offsetting and compensation is consistent with section 104(1)(ab) of the RMA and provides sufficient recognition and encouragement for offsetting and compensation, where the specific circumstances of a proposal justify that outcome.
- 6.5 The Notice of Appeal's relief sought in respect of Policy 13 includes removing the cross reference to Policy 12. This relief will ensure that the reasonable and appropriate recognitions in Policy 13 are not unreasonably limited by or subject to Policy 12. Any conflicts between Policy 12 and 13 are better resolved in the context of a specific consent application, rather than through an explicit hierarchy included in PC 1.

Mediation

- 7 Mercury agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Signed for and on behalf of Mercury NZ Limited by its solicitors and authorised agents
Chapman Tripp



Catherine Somerville-Frost
Partner
28 September 2020

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Advice

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