

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-000098

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: **Wairakei Pastoral 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 Wairakei Pastoral Limited 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 the definition and use of the term "water bodies" and Table 3.11-2.

Relief supported in part by Mercury

- 5 Mercury generally supports the Notice of Appeal's clarification sought regarding the definition and use of the term "water bodies".
- 6 The proposed clarification of the meaning of the term and the proposed consistent use of that term is supported because it:
- 6.1 Results in the most appropriate plan provisions in terms of section 32 of the RMA;
 - 6.2 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 the Waikato Regional Policy Statement; and
 - 6.3 Ensures consistency with good resource management practice.
- 7 Without limiting the generality of the above, the specific reasons for Mercury's support of the Notice of Appeal's relief are that:
- 7.1 The Notice of Appeal's reference to the phrasing set out at Clause 5 of Schedule C is a broad definition that is sufficient to include all tributaries of the Waikato River.
 - 7.2 It is appropriate to ensure that all types of water bodies are included in the definition of the term "water bodies" and that this term is used consistently throughout PC 1, including in Objective 1.
 - 7.3 A holistic approach to the Waikato River and all its tributaries as enabled through the Notice of Appeal's proposed definition and use of the term "water bodies" is consistent with Te Ture Whaimana o Te Awa o Waikato.

Relief opposed in part by Mercury

- 8 Mercury opposes the Notice of Appeal's sought deletion of the note below Table 3.11-2, because granting the deletion sought does not:
- 8.1 Result in the most appropriate plan provisions in terms of section 32 of the RMA; and/or
 - 8.2 Ensure consistency with good resource management practice.
- 9 Without limiting the generality of the above, the specific reason for Mercury's opposition of the Notice of Appeal's sought deletion of the note is that the note provides an important tool in the interpretation of the table. Furthermore, Mercury's Notice of Appeal (ENV-AKL-2020-000095) seeks the movement of the note to a more prominent location in the text preceding Table 3.11-2.

Mediation

- 10 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