

**IN THE ENVIRONMENT COURT  
AT AUCKLAND**

**ENV-2020-AKL-**

**I MUA I TE KOOTI TAIAO  
I TĀMAKI MAKAURAU ROHE**

**IN THE MATTER** of the Resource Management Act 1991 ("**RMA**")

**AND**

**IN THE MATTER** of an appeal under clause 14(1) of Schedule 1 of the RMA against a decision of Waikato Regional Council on Plan Change 1 to the Waikato Regional Plan

**AND**

**IN THE MATTER** of s274 of the RMA

**BETWEEN**

**THE APPELLANTS LISTED IN PARA 1.1**

**Appellants**

**AND**

**WAIKATO REGIONAL COUNCIL**

**Respondent**

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**NOTICE BY OJI FIBRE SOLUTIONS (NZ) LIMITED OF WISH TO BE PARTY TO  
PROCEEDINGS PURSUANT TO S274 OF THE RMA**

**29 SEPTEMBER 2020**

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**G K Chappell  
Barrister**

**Vulcan Building Chambers**  
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TO: THE REGISTRAR  
ENVIRONMENT COURT  
AUCKLAND  
[WRC.PC1appeals@justice.govt.nz](mailto:WRC.PC1appeals@justice.govt.nz)

## 1. INTRODUCTION

1.1 Oji Fibre Solutions (NZ) Limited (“**OjiFS**”) wishes to be party to the following proceedings relating to appeals against the decisions of the Waikato Regional Council on Proposed Waikato Regional Plan Change 1: Waikato and Waipa River catchments (“**PC1**”).

- (a) Waipa District Council v WRC (ENV-2020-AKL-000085);
- (b) Taupo District Council v WRC (ENV-2020-AKL-000086);
- (c) Waikato River Authority v WRC (ENV-2020-AKL-000090);
- (d) Hamilton City Council v WRC (ENV-2020-AKL-000091);
- (e) South Waikato District Council v WRC (ENV-2020-AKL-000092);
- (f) Royal Forest and Bird Protection Society of New Zealand Inc v WRC (ENV-2020-AKL-000094);
- (g) Director-General of Conservation v WRC (ENV-2020-AKL-000096);
- (h) Fonterra Co-operative Group Ltd v WRC (ENV-2020-AKL-000084);
- (i) DairyNZ Limited v WRC (ENV-2020-AKL-000097);
- (j) Wairakei Pastoral Limited v WRC (ENV-2020-AKL-000098);
- (k) Beef & Lamb New Zealand Limited v WRC (ENV-2020-AKL-000099);
- (l) Waikato and Waipa River Iwi v WRC (ENV-2020-AKL-000100);
- (m) Auckland Waikato and Eastern Fish and Game Council v WRC (ENV-2020-AKL000101);
- (n) Federated Farmers of New Zealand Incorporated v WRC (ENV-2020-AKL000102).

## 2. NATURE OF INTEREST

2.1 As the owner and operator of Kinleith Pulp and Paper Mill, Tokoroa. OjiFS is an entity with an interest in the proceedings that is greater than the general public.

2.2 OjiFS also made submissions and further submissions on PC1.

2.3 It is not a trade competitor for the purposes of section 308C or 308CA of the RMA.

**3. EXTENT OF INTEREST**

3.1 It is interested in those parts of the proceedings / particular issues set out in Table 1 below:

**4. POSITION AS TO RELIEF SOUGHT**

4.1 It supports / opposes or conditionally opposes the relief sought for the reasons set out in Table 1 and for the following reasons:

- (a) To the extent that the relief sought is consistent or inconsistent with the relief sought by OjiFS in its submission and appeal;
- (b) Because OjiFS seeks to achieve:
  - (i) an approach to the management of the four contaminants that is equitable and requires activities to internalise their adverse environmental effects irrespective of whether the activity is an existing or new activity;
  - (ii) A workable approach that achieves the long-term improvement objectives of PC1 while providing a clear consenting pathway for the continued operation and development of regionally significant industry that is not dependent on a no net effects approach.

**5. ALTERNATIVE DISPUTE RESOLUTION**

5.1 OjiFS agrees to participate in mediation or other alternative dispute resolution of the proceedings.

**DATED** this 29<sup>th</sup> day of September 2020



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G K Chappell

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Table 1

| Appellant name                                                                   | Provisions of plan                                                                                                                          | Oppose / support | Reasons                                                                                                                                                                                                                                                                           |
|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Waipa District Council<br>ENV-2020-AKL- 000085                                   | Policy 12<br>Policy 13                                                                                                                      | Support          | The relief sought is supported to the extent that it is not inconsistent with the relief OjIFS seeks in its own appeal and for the reasons set out in the notice of appeal which may apply equally to the management of industrial discharges at Kinleith Mill.                   |
| Taupo District Council<br>ENV-2020-AKL- 000086                                   | Policy 12<br>Policy 13                                                                                                                      | Support          | The relief sought is supported to the extent that it is not inconsistent with the relief OjIFS seeks in its own appeal and for the reasons set out in the notice of appeal which may apply equally to the management of industrial discharges at Kinleith Mill.                   |
| Waikato River Authority<br>ENV-2020-AKL- 000090                                  | Objective 1                                                                                                                                 | Oppose           | It is appropriate to limit objective one to natural wetlands. This is consistent with the NESFM and NPSFM.                                                                                                                                                                        |
| Waikato Regional Council<br>ENV-2020-AKL- 000089                                 | Policy 2 (a) and (b)                                                                                                                        | Support          | The relief sought is supported for the reasons set out in the appellant's notice of appeal.                                                                                                                                                                                       |
| Hamilton City Council<br>ENV-2020-AKL- 000091                                    | All relief as it relates to wetlands<br><br>Objective One<br><br>Policy 13<br><br>Policy 17<br><br>Glossary terms<br>Point source discharge | Support          | The parts of the appeal identified in column two are supported for the reasons outlined in the appellant's notice of appeal and as the relief is generally consistent with the NESFM and NPSFM.                                                                                   |
| South Waikato District<br>ENV-2020-AKL- 000092                                   | Policy 12<br>Policy 13                                                                                                                      | Support          | The relief is supported to the extent it is not inconsistent with OjIFS's appeal and for the reasons set out in the appeal.                                                                                                                                                       |
| Royal Forest and Bird Protection Society New Zealand Inc<br>ENV-2020-AKL- 000094 | Policy 12<br>Policy 13                                                                                                                      | Oppose           | The relief sought is opposed as it is appropriate to treat all point source discharges of the four contaminants (not just regionally significant infrastructure and regionally significant industry) in a manner that is equitable and consistent with the provisions of the RMA. |

| Appellant name                                                                                             | Provisions of plan                                              | Oppose / support      | Reasons                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Director General of Conservation<br>ENV-2020-AKL- 000096                                                   | New Objective A                                                 | Oppose in part        | The relief sought is opposed to the extent that OjiFS is concerned that the new objective potentially expands the scope of PC1, particularly with respect to the matters referred to in Policy 19.                                                                                                                                                                                                                                                                                                         |
|                                                                                                            | Policy 5<br>Policy 12<br>Policy 13                              | Oppose                | The relief sought is opposed for the reasons set out in OjiFS's notice of appeal.                                                                                                                                                                                                                                                                                                                                                                                                                          |
|                                                                                                            | Policy 17<br>3.11.3.2<br>3.11.3.3<br>New implementation methods | Oppose in part        | The amendments proposed are opposed if they apply to artificial / constructed wetlands.                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                                                                                                            | Table 3.11-1 (all)<br>Table 3.11-2                              | Conditionally opposes | The relief sought is opposed in part as OjiFS seeks to understand the implications for management of its discharges. The amendments sought are also opposed as they (a) have the potential to significantly broaden the scope of PC1; and (b) seek to pre-empt implementation of the NPSFM 2020. In particular, the NPSFM applies a consultative process to every step of the National Objectives Framework Process which would not occur if changes were made by way of the resolution of appeals to PC1. |
| DairyNZ Limited<br>ENV-2020-AKL- 000097<br><br>Fonterra Co-operative Group Limited<br>ENV-2020-AKL- 000084 | Objective 1                                                     | Oppose in part        | The relief is opposed to the extent that while clarity is appropriate, the Respondent's Decisions appropriately considered that the test of whether the objective is met is an issue of fact to be determined on a case by case basis, recognising that some reaches may not necessarily coincide with the areas where point source discharges occur.                                                                                                                                                      |
|                                                                                                            | Policy 1                                                        | Oppose                | The relief sought is opposed as it proposes a cumulative assessment of risk that is inconsistent with the RMA.                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                                                                            | Policy 2                                                        | Oppose in part        | The relief sought is opposed to the extent it is based on the current intensity of land use rather than BPO management.                                                                                                                                                                                                                                                                                                                                                                                    |
|                                                                                                            | Policy 3                                                        | Support in part       | The relief sought is supported to the extent that it seeks to address inequitable treatment                                                                                                                                                                                                                                                                                                                                                                                                                |

| Appellant name                                    | Provisions of plan | Oppose / support | Reasons                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------|--------------------|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                   |                    |                  | between land uses. However, rather than seek to constrain CVP by applying a “no land use change” approach, OjiFS considers that it is more appropriate to delete clause 2(c) of Policy 2.                                                                                                                                                                                                                                                                                                                                             |
|                                                   | Rule 3.11.4.3      | Oppose           | The relief sought is opposed as the ability to operate at a certain (unspecified) stocking rate does not encourage improved water quality through innovative management of activities. It also appears to seek to grandparent existing discharges by capping the amount of N losses relative to the previous years’ N losses in a manner that is not consistent with the provisions of the RMA.                                                                                                                                       |
|                                                   | Rule 3.11.4.4      | Oppose           | The relief sought is opposed as the ability to operate at a certain (unspecified) stocking rate does not encourage improved water quality, for example, through innovative management of activities.                                                                                                                                                                                                                                                                                                                                  |
|                                                   | Rule 3.11.4.5      | Support in part  | The relief sought is supported to the extent it seeks new thresholds on the basis that it is appropriate to apply rules that are reflective of the risk of the adverse effects of the activity.                                                                                                                                                                                                                                                                                                                                       |
|                                                   | Rule 3.11.4.7      | Oppose           | The relief sought is opposed as the ability to operate at a certain (unspecified) stocking rate does not encourage improved water quality, for example, through innovative management of activities.                                                                                                                                                                                                                                                                                                                                  |
|                                                   | Rule 3.11.4.8      | Oppose in part   | OjiFS opposes inequitable treatment of land uses but constraining land use change solely based on historic patterns is inappropriate and could discourage improved water quality through, for example, innovative management of activities.                                                                                                                                                                                                                                                                                           |
|                                                   | Schedule B         | Oppose           | The relief sought is opposed as it seeks to increase the nitrogen leaching rates that set the trigger for activity status in the plan in a manner that would result in, in combination with the other relief sought, many existing farming activities able to operate as permitted activities. This would have the effect of grandparenting many discharges in a manner that will fail to incentivise improved management. Further, increasing the percentiles creates a higher risk that the objectives of the plan will not be met. |
|                                                   | Schedule D         | Oppose           | The relief sought is opposed for the reasons outlined above and as it is inappropriate to set goals and principles based on “Industry Agreed Good Farming Practices” as this amounts to a form of self certification.                                                                                                                                                                                                                                                                                                                 |
| Wairakei Pastoral Limited<br>ENV-2020-AKL- 000098 | Objective 1        | Oppose in part   | If constructed wetlands are to be excluded from the definition of wetlands, it may be necessary to retain reference to the different types of waterbodies listed.                                                                                                                                                                                                                                                                                                                                                                     |
|                                                   | Policy 8           | Support          | The relief is supported for the reasons set out in the appeal to the extent not inconsistent with                                                                                                                                                                                                                                                                                                                                                                                                                                     |

| Appellant name                                      | Provisions of plan                                                                             | Oppose / support | Reasons                                                                                                                          |
|-----------------------------------------------------|------------------------------------------------------------------------------------------------|------------------|----------------------------------------------------------------------------------------------------------------------------------|
|                                                     | “Beyond the subcatchments” (para 19)                                                           |                  | OjiFS’s appeal.                                                                                                                  |
|                                                     | “Offsetting and compensation”<br>Schedule A<br>Clause 4 (d)<br>Policy 5                        | Support          | The relief is supported for the reasons set out in the appeal to the extent not inconsistent with OjiFS’s appeal.                |
|                                                     | Policies 2(e(ii), (f), and 10,<br>Schedule D1 (Part D)<br>Schedule D2 (Part D)<br>Table 3.11-2 | Support          | The relief is supported for the reasons set out in the appeal to the extent not inconsistent with OjiFS’s appeal.                |
|                                                     | Policy 19<br>Table 3.11.2 – note                                                               | Support          | The relief is supported for the reasons set out in the appeal.                                                                   |
|                                                     | Beef and Lamb New Zealand Limited<br>ENV-2020-AKL- 000099                                      | Policy 1         | Oppose                                                                                                                           |
| Waikato and Waipa River Iwi<br>ENV-2020-AKL- 000100 | Policy 3 and Rule 3.11.4.8<br>Flawed approach to CVP                                           | Support          | The approach to CVP may require other dischargers to disproportionately decrease in order to achieve the objectives of the plan. |



| Appellant name                                                    | Provisions of plan                                                                                                       | Oppose / support         | Reasons                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                   | 3.11.4.1<br>3.11.4.3, 3.11.4.4,<br>3.11.4.5, 3.11.4.6,<br>3.11.4.7<br>3.11.4.8<br>Schedule B<br>Schedule C, D1 and<br>D2 | Support                  | The relief sought is supported for the reasons set out in the appeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                                   | Table 3.11-2                                                                                                             | Conditionally<br>opposes | OjiFS seeks to understand implications of the relief sought for management of its discharges. To the extent that there are negative implications for point source discharges from regionally significant industry these changes are opposed.                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Auckland Waikato Eastern<br>Fish and Game<br>ENV-2020-AKL- 000101 | Former 3.11.1 –<br>values and uses for<br>the Waikato and<br>Waipa Rivers                                                | Oppose                   | The reasons given in the Decisions for not including section 3.11.1 are supported.<br><br>However, if the relief is granted and the section is to be reinstated incorporate all of former sections 3.11.1.1 and 3.11.1.2 and the changes to the section on commercial, municipal and industrial use sought by OjiFS's submission by including new text as follows:<br>"These industries contribute to the economic, social and cultural wellbeing of people and communities, and are the major component of wealth creation within the region. These industries and associated primary production also support other industries and communities within rural and urban settings." |
|                                                                   | Objective 1<br>Objective 2<br>Objective 3<br>Policy 3, 11, 16 &<br>19<br>Policy 4                                        | Oppose –                 | The relief sought is opposed for the reasons given in the Respondent's Decisions including that there is an insufficient evidential basis to broaden the objectives to include other contaminants.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                                                                   | Policy 8<br>Policy 10                                                                                                    | Oppose in part           | The relief sought is opposed as point source discharges are already required to adopt a BPO approach. In addition, the matters referred to in the policy are related to diffuse discharges.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                                   | Policy 11<br>Policy 12                                                                                                   | Oppose                   | The relief sought is opposed for the reasons given in the Respondent's Decisions and that there is an insufficient evidential basis to broaden the objectives to include other contaminants.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

| Appellant name                            | Provisions of plan         | Oppose / support      | Reasons                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------|----------------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                           | Policy 13                  | Oppose                | The relief sought is opposed on the basis that as these factors are part of an overall policy assessment, no further definition is necessary or appropriate.                                                                                                                                                                                                                                                                                                                                                                                |
|                                           | Policy 14                  | Oppose                | The changes proposed to consent duration for point source discharges are unnecessary and inconsistent with sustainable management. Case law has established appropriate factors for the consideration of consent duration.                                                                                                                                                                                                                                                                                                                  |
|                                           | Policy 15                  | Conditionally opposes | OjiFS seeks to understand the implications of the relief sought for management of its discharges. To the extent that there are negative implications for point source discharges from regionally significant industry these changes are opposed.                                                                                                                                                                                                                                                                                            |
|                                           | Policy 17                  | Conditionally opposes | OjiFS seeks to understand the implications of the relief sought for management of its discharges associated with its constructed wetlands. To the extent that there are negative implications for point source discharges from regionally significant industry these changes are opposed.                                                                                                                                                                                                                                                   |
|                                           | Table 3.11-1 (all)         | Opposes               | OjiFS seeks to understand the implications of the relief sought for management of its discharges including those associated with its constructed wetlands. The amendments sought are opposed as they (a) have the potential to significantly broaden the scope of PC1; and (b) seek to pre-empt implementation of the NPSFM 2020. In particular, the NPSFM applies a consultative process to every step of the National Objectives Framework Process which would not occur if changes were made by way of the resolution of appeals to PC1. |
|                                           | Table 3.11-2<br>Map 3.11-1 | Conditionally opposes | OjiFS seeks to understand the implications of the relief sought for management of its discharges. To the extent that there are negative implications for point source discharges from regionally significant industry these changes are opposed.                                                                                                                                                                                                                                                                                            |
| Federated Farmers<br>ENV-2020-AKL- 000102 | Objective 1                | Support               | The relief is supported for the reasons set out in appeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                           | Policy 1                   | Oppose                | The relief sought is opposed as the RMA requires all activities to avoid, remedy or mitigate adverse effects. To provide otherwise risks inappropriately grandparenting the effects of existing activities.                                                                                                                                                                                                                                                                                                                                 |
|                                           | Policy 15                  | Support               | The relief is supported for the reasons set out in the appeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                                           | 3.11.3.5                   | Oppose                | It is not appropriate to develop <u>industry agreed</u> GMP guidelines as this amounts to a form of self-regulation and is uncertain.                                                                                                                                                                                                                                                                                                                                                                                                       |

| Appellant name                  | Provisions of plan                          | Oppose / support         | Reasons                                                                                                                                                                                                                                                                           |
|---------------------------------|---------------------------------------------|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                 | New PA rule<br>3.11.4.3A                    | Oppose                   | The relief is opposed for the reasons outlined in the Respondent's Decisions                                                                                                                                                                                                      |
|                                 | 3.11.4.4<br>3.11.4.7<br>New rule 3.11.4.7A  | Oppose                   | The relief is opposed as discretionary activity status is commonly applied to existing activities where discharges need to be managed. The ability to decline a consent is appropriate in circumstances where the effects cannot be appropriately avoided, remedied or mitigated. |
|                                 | Tables (all)                                | Conditionally<br>opposes | OjiFS seeks to understand implications of the relief sought for management of its discharges. To the extent that there are negative implications for point source discharges from regionally significant industry these changes are opposed.                                      |
|                                 | New definition:<br>Good Farming<br>Practice | Oppose                   | It is not appropriate to develop <u>industry agreed</u> GMP guidelines, as this amounts to a form of self regulation and is uncertain.                                                                                                                                            |
| CNI Iwi<br>ENV-2020-AKL- 000103 | Policy 10                                   | Support                  | The relief sought is supported for the reasons set out in the Appellant's notice of appeal.                                                                                                                                                                                       |