

**BEFORE THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

ENV-2020-AKL-000100

**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 **WAIKATO RAUPATU RIVER TRUST, RAUKAWA CHARITABLE TRUST, TE ARAWA RIVER IWI TRUST, TŪWHARETOA MĀORI TRUST BOARD AND MANIAPOTO MĀORI TRUST BOARD (“WAIKATO AND WAIPĀ RIVER IWI”)**

Appellant

AND **WAIKATO REGIONAL COUNCIL**

Respondent

**NOTICE BY SOUTH WAIKATO DISTRICT COUNCIL TO BECOME A PARTY TO
PROCEEDINGS UNDER SECTION 274 OF THE ACT**

Dated 28th September 2020

TOMPKINS | WAKE

Solicitor: Marianne Mackintosh
marianne.mackintosh@tompkinswake.co.nz

Westpac House
430 Victoria Street
PO Box 258
DX GP 20031
Hamilton 3240
New Zealand
Ph: (07) 839 4771
Fax: (07) 839 4913
tompkinswake.co.nz

TO: The Registrar
Environment Court
Auckland

1. **SOUTH WAIKATO DISTRICT COUNCIL** (“SWDC”) gives notice under s 274 of the Resource Management Act 1991 (“the Act”) that it wishes to be a party to these proceedings, being *Waikato and Waipa River Iwi v Waikato Regional Council* ENV-2020-AKL-000100 (“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. SWDC is a local authority and a person who made a submission about the subject matter of the proceedings (Objective 4, Policy 2, rules regarding farming activities, and land use change rule).
4. SWDC is not a trade competitor for the purposes of sections 308C or 308CA of the Act.
5. SWDC’s position on the Appeal and the reasons for that position are set out in respect of each part of the Appeal below. For brevity, the description of the relief sought in the Appeal is paraphrased in this notice.
6. SWDC is interested in those parts of the Appeal as follows:
 - (a) Objective 4;
 - (b) Policy 2;
 - (c) Rule 3.11.4.4;
 - (d) Rule 3.11.4.5;
 - (e) Rule 3.11.4.7;

- (f) Rule 3.11.4.8 and Policy 3(d) and new Tangata Whenua Ancestral Lands (“TWAL”) land use change rule;
- (g) Rule 3.11.4.9; and
- (h) Table 3.11-2.

Objective 4

- 7. The Appeal against Objective 4 seeks amendments to ensure that new impediments to the flexibility of the use of TWAL are minimised.
- 8. SWDC supports in part the relief sought by the Appellant for the following reasons:
 - (a) It is appropriate to improve land use flexibility, within the policy mix of PC1;
 - (b) The proposal would reduce the level inequity in PC1 between the use of TWAL and other land uses;
 - (c) The relief sought should be better articulated, particularly because the relief currently relates only to Chapter 3.11; and
 - (d) The relief generally more appropriately gives effect to Te Ture Whaimana - the Vision and Strategy.

Policy 2

- 9. The Appeal against Policy 2 seeks more amendments to better clarify Policy 9(b)(ii) specifically in relation to the circumstances where no reduction in Nitrogen Leaching Loss Rate (“NLLR”) from high N loss is appropriate.
- 10. SWDC supports in part the relief sought by the Appellant for the following reasons:

- (a) There needs to be a clearer link between Policy 2(b)(ii) and Policy 5, including outlining the expectations of when and how the two provisions work together;
- (b) The relief sought will improve fairness in the application and implementation of PC1 across stakeholder groups; and
- (c) The term 'substantial reductions' should be better defined.

Rule 3.11.4.4

- 11. The Appeal against Rule 3.11.4.4 seeks amendments to:
 - (a) include a requirement for general improvement in farming practice to reduce the four contaminants, and
 - (b) to include a requirement that farming practices will be implemented to reduce diffuse discharges within priority contaminants within relevant subcatchment.
- 12. SWDC supports the relief sought in (b) above as the relief sought will improve certainty because the amendment expressly addresses the relationship between Policies 2 and 4 (management of priority contaminants in sub-catchment in Table 3.11.2), and methods, where Farm Environmental Plans ("FEPs") are required.

Rule 3.11.4.5

- 13. The Appeal against Rule 3.11.4.5 seeks amendments to:
 - (a) include a requirement for general improvement in farming practice to reduce the four contaminants, and
 - (b) to include a requirement that farming practices will be actioned to reduce diffuse discharges of priority contaminants in the relevant subcatchment.

14. SWDC supports the relief sought in (b) above by the Appellant as the relief sought will provide better certainty by expressly addressing the linkages between Policy 2 and 4 regarding management of priority contaminants in sub-catchment in Table 3.11.2 and methods, where FEPs are required.

Rule 3.11.4.7

15. The Appeal against Rule 3.11.4.7 seeks amendments to:
 - (a) include a requirement for general improvement in farming practice to reduce the four contaminants;
 - (b) include a requirement that farming practices will be actioned to reduce diffuse discharges of priority contaminants in the relevant sub-catchment; and
 - (c) require significant reductions in NLLR from high loss activities.

16. SWDC supports in part the relief sought in (b) and (c) by the Appellant for the following reasons:
 - (a) It provides better certainty by expressly addressing the linkages between Policy 2 and 4 regarding management of priority contaminants in sub-catchment in Table 3.11.2 and methods, where FEPs are required.
 - (b) The term 'substantial reductions' needs to be better defined.

Rule 3.11.4.8 and Policy 3(d) and New TWAL land use change rule

17. The Appeal against Rule 3.11.4.8 and Policy 3(d) seeks amendments to delete Policy 3(d) and seeks amendments to Rule 3.11.4.8 as follows:
 - (a) Provide a Discretionary Activity provision for land use change for TWAL;

- (b) Recalibrate Table 1 to identify a maximum area limit of 716ha from identified subcatchments;
 - (c) Include a requirement that farming practices will be actioned to reduce diffuse discharges of priority contaminants in the relevant subcatchment; and
 - (d) Require significant reductions in NLLR from high loss activities.
18. SWDC supports in part the relief sought by the Appellant for the following reasons:
- (a) The reference in Policy 3(d) does not apply to other activities and its deletion would result in more equitable and effects-based provisions in PC1.
 - (b) With regard to (b), the relief generally more appropriately gives effect to Te Ture Whaimana - the Vision and Strategy;
 - (c) With regard to (c) and (d) above:
 - (i) Provides better certainty and expressly addresses the links between Policy 2 and 4 regarding management of priority contaminants in sub-catchment in Table 3.11.2 and methods, where FEPs are required.
 - (ii) The term 'substantial reductions' would benefit from additional clarity.

Rule 3.11.4.9

19. The Appeal against Rule 3.11.4.9 seeks an expiry date to the 'land use change' rule of 10 years after PC1 becomes operative.
20. SWDC opposes in part the relief sought by the Appellant as there may be unintended consequences if the rule expires prior to a new management framework being established.

Table 3.11-2

21. The Appeal against Table 3.11.2 seeks amendments to strengthen the link between PC1 objectives and policies and methods by:
 - (a) Showing relative reductions required at a whole of catchment, and at sub-catchment (when greater than whole of catchment);
 - (b) Identify priority contaminants for each sub-catchment; and
 - (c) Ensure any FEP sets out how actions and mitigations will contribute to improvements, and focus on priority contaminants.
22. SWDC supports in part the relief sought by the Appellant where it improves clarity and certainty.
23. SWDC agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED this 28th day of September 2020



M Mackintosh / K Dibley

Address for service: C/- Marianne Mackintosh
Westpac House
Level 8,
430 Victoria Street,
Hamilton 3204
PO Box 258
DX GP200031

Telephone: 07 838 6034

Email: Marianne.Mackintosh@tompkinswake.co.nz

Kirsty.Dibley@tompkinswake.co.nz

Contact Person: Marianne Mackintosh / Kirsty Dibley

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: maia@whaialegal.co.nz

Advice

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