

**IN THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

**I MUA I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKAURAU ROHE**

ENV-2020-AKL-000084

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

AND

IN THE MATTER of an application under section 274 of the RMA

BETWEEN **FONTERRA CO-OPERATIVE GROUP LTD**

Appellant

AND

WAIKATO REGIONAL COUNCIL

Respondent

**NOTICE OF INTENTION BY MIRAKA LIMITED TO BE A PARTY TO THE
PROCEEDINGS UNDER SECTION 274**

Dated 29 September 2020

BUDDLE FINDLAY

NEW ZEALAND LAWYERS

Barristers and Solicitors

Auckland

Solicitor Acting: **Jennifer Caldwell / Mathew Gribben**

Email: jennifer.caldwell@buddlefindlay.com / mathew.gribben@buddlefindlay.com

Tel 64-9-358 2555 Fax 64-9-358 2055 PO Box 1433 DX CP24024 Auckland 1140

TO: the Registrar
Environment Court
Auckland

1. Miraka Limited ("**Miraka**") wishes to be a party to the following proceedings under s 274 of the Resource Management Act 1991 ("**RMA**"):

Fonterra Limited v Waikato Regional Council (ENV-2020-AKL-000084).

2. The proceedings concern an appeal lodged by Fonterra Co-operative Group Ltd ("**Fonterra**") against the decision of the Waikato Regional Council ("**Council**") on Proposed Plan Change 1: Waikato and Waipā River Catchments, to the Waikato Regional Plan ("**PC1**"). The Council's decision was publicly notified on 22 April 2020 ("**Decision**").

Nature of interest in the proceedings

3. Miraka is a commercially successful Maori-owned dairy processing and exporting company that operates a dairy processing plant located in Mokai, 30km north-west of Taupo. Miraka has over 100 milk suppliers largely located in the Upper Waikato catchment and within 85km of its processing plant.
4. Miraka made a submission about the subject matter of the proceedings. It also lodged a further submission on the original submission by Fonterra. Miraka was actively involved in the hearing before the Hearing Panel including providing legal submissions and expert evidence.
5. Miraka also has an interest in the proceedings that is greater than that of the general public due to it and its suppliers' location within the catchment of the Waikato River and the direct impact of the PC1 provisions on its business.
6. Overall, Miraka supports PC1 and its intended outcomes. In summary, Miraka's position before the Hearing Panel was:
 - (a) Protection of the environment and improvement of water quality in the Waikato and Waipā Rivers is of paramount importance and aligns with the concepts of kaitiakitanga and tikanga, which underpin Miraka's ethos and relationship with the natural environment;
 - (b) PC1 should be implemented in a fair and equitable manner, to ensure all sectors of the farming and wider community contribute to improving water quality and practice change;

- (c) A staged reduction in discharges is necessary to provide for the social and economic well-being of farmers and communities;
 - (d) Ensure PC1 manages all four contaminants in the same way, including by adopting Good Farming Practice and removing the 75th percentile approach for nitrogen, specifically in order to ensure farmers are not inequitably impacted by virtue of the bio-physical characteristics of their farms (such as soil and rainfall);
 - (e) The use of Farm Environment Plans, in conjunction with a qualified Certified Farm Environment Planner, will give flexibility to farmers to identify appropriate actions and practices which implement Good Farming Practice for each farm; and
 - (f) Improvements in farm practice and reductions in discharges will be supported by the use of sector schemes within PC1 and improvements in sub-catchment planning and management.
7. Miraka is not a trade competitor for the purposes of sections 308C or 308CA of the RMA.

Extent of interest in the proceedings

8. Miraka is interested in the parts of the proceedings that relate to dairy farming.
9. The parts of the proceedings Miraka is interested in are the appeal points in relation to:
- (a) Objective 2 and associated changes to Table 3.11-1 (including the amendments to PC1 to require less than 20% of the improvement needed to achieve the 80-year target and subsequent changes to Table 3.11-1);
 - (b) Objective 3;
 - (c) Policies 1, 2, and 4;
 - (d) Rules 3.11.4.3, 3.11.4.4, 3.11.4.7 and 3.11.4.9; and
 - (e) Schedules B, C, D1 and D2.
10. Miraka supports relief that provides greater clarity and improved workability to the provisions.

11. Miraka opposes the relief sought by the Appellant where it is inconsistent with Miraka's submission and case before the Hearing Panel and because the Decisions Version of PC1:

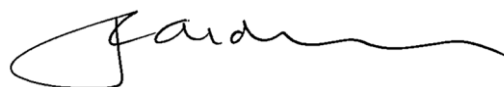
- (a) Appropriately gives effect to the higher order planning documents;
- (b) Protects and improves water quality over time;
- (c) Provides for the staged reduction in discharges; and
- (d) Emphasises a risk-based approach to managing land use with prioritised actions and tailored Farm Environment Plans.

Alternative Dispute Resolution

12. Miraka agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED this 29th day of September 2020

MIRAKA LIMITED by its solicitors and
authorised agents Buddle Findlay:



Jennifer Caldwell/ Mathew Gribben

Address for service of person wishing to be a party:

Miraka Limited
c/- Jennifer Caldwell / Mathew Gribben
Buddle Findlay
Level 17
188 Quay Street
Auckland

PO Box 1433, DX CP24024, Auckland 1140
Phone: 64 9 358 2555
Facsimile: 64 9 358 2055
Email: jennifer.caldwell@buddlefindlay.com/ mathew.gribben@buddlefindlay.com

Names and addresses of persons to be served with a copy of this notice:

Fonterra Co-operative Group Ltd
C/- Daniel Minhinnick
Russell McVeagh
Barristers and Solicitors
48 Shortland Street
Vero Centre
PO Box 8/DX CX10085
AUCKLAND

Phone: (09) 367 8000
Email: daniel.minhinnick@russellmcveagh.com

Waikato Regional Council
PC1Appeals@waikatoregion.govt.nz

Note to person wishing to be a party

You must lodge the original and one copy of this notice with the Environment Court within 15 working days after:

- (a) the period for lodging a notice of appeal ends, if the proceedings are an appeal; or
- (b) the decision to hold an inquiry, if the proceedings are an inquiry; or
- (c) the proceedings are commenced, in any other case.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

The notice must be signed by you or on your behalf.

You must serve a copy of this notice on the relevant local authority and the person who commenced the proceedings within the same 15 working day period. In accordance with the directions of the Environment Court (Decision [2020] NZEnvC 063, issued on 15 May 2020), the requirement to serve copies of section 274 notices on all other parties is waived and will be effected by the Court uploading copies to the Environment Court's website.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice

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