

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-000087

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: **Horticulture New Zealand**
Appellant

and: **Waikato Regional Council**
Respondent

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

Dated: 28 September 2020

REFERENCE: Catherine Somerville-Frost (catherine.somerville-frost@chapmantripp.com)

Alana Lampitt (alana.lampitt@chapmantripp.com)

chapmantripp.com
T +64 9 357 9000
F +64 9 357 9099

PO Box 2206
Auckland 1140
New Zealand

Auckland
Wellington
Christchurch



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 Horticulture New Zealand (*HortNZ*) 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 Rule 3.11.4.9.

Relief opposed by Mercury

- 5 Mercury opposes the relief sought in relation to Rule 3.11.4.9 because it does not:
- 5.1 Promote the sustainable management of natural and physical resources;
 - 5.2 Promote the efficient use and development of natural and physical resources;
 - 5.3 Meet the reasonable foreseeable needs of future generations;
 - 5.4 Result in the most appropriate plan provisions in terms of section 32 of the RMA;
 - 5.5 Implement the Council's functions under section 30 of the RMA;
 - 5.6 Give 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; or
 - 5.7 Ensure consistency with good resource management practice.
- 6 Without limiting the generality of the above, the specific reasons for Mercury's opposition to the relief sought include that:
- 6.1 The Notice of Appeal seeks to amend the non-complying activity rule (Rule 3.11.4.9). The effect of HortNZ's relief is that any land use activity change not otherwise provided for by the rules, not just commercial vegetable production and dairy, is a non-complying activity.
 - 6.2 This relief substantially widens the application of the rule to any activity. The relief is inappropriate as it goes beyond the scope of PC 1, which relates to

water quality and land use change activities that involve increased discharges of the four contaminants targeted by PC 1. For example, were the Rule to be amended as sought by the Notice of Appeal, any activity not specifically addressed in the relatively limited eight prior rules would be classified as non-complying. This would capture a range of activities that are not subject to PC 1 and have no relationship to the four PC 1 target contaminants.

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

Address for service of Mercury:

Mercury NZ Limited
c/- Catherine Somerville-Frost / Alana Lampitt
Chapman Tripp
Level 34, PwC Tower
15 Customs Street West
PO Box 2206
Auckland 1140
Email address: catherine.somerville-frost@chapmantripp.com /
alana.lampitt@chapmantripp.com

Advice

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