

IN THE ENVIRONMENT COURT OF NEW ZEALAND
AUCKLAND REGISTRY

ENV-2021-

I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKAUROA ROHE

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

AND

IN THE MATTER of an appeal under clause 14(1) of the First Schedule of
the RMA

BETWEEN **WAIKATO REGIONAL COUNCIL**

Applicant

AND **WAIKATO DISTRICT COUNCIL**

Respondent

**NOTICE OF LUMSDEN FAMILY TRUST WISH TO BE PARTY TO
PROCEEDINGS
SECTION 274, RESOURCE MANAGEMENT ACT 1991**

21 July 2021

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NOTICE OF PERSON'S WISH TO BE PARTY TO PROCEEDINGS

Section 274, Resource Management Act 1991

To The Registrar
Environment Court
Auckland

Name of Person who wishes to be Party

- 1 The LUMSDEN FAMILY TRUST (**Lumsden**) wishes to be a party to the following proceedings: Clause 14(1) of the First Schedule, Resource Management Act 1991, Waikato Regional Council (**WRC**) appeal against part of the decision of Waikato District Council of a submission by Ambury Properties Limited (**Ambury**) in respect of the Proposed Waikato District Plan seeking the rezoning of land at Ohinewai.
- 2 Lumsden has not made a submission on the subject matter but has an interest greater than the public for the following reasons:
 - (a) Lumsden is the adjacent land owner to the rezoning. A dairy farm is operated from the Lumsden's land.
 - (b) Lumsden has been considered as an affected party to the Fast-Track consent that Ambury has submitted to the Environmental Protection Authority (**EPA**) in relation to constructing a foam factory with associated rail siding and road realignment. The rail siding plan requires land owned by Lumsden and Lumsden was asked to provide comments to the EPA.
 - (c) Issues raised in the appeal directly affect Lumsden's land: in particular drainage and flood risk to the Lumsden land.

Trade competition

- 3 Lumsden is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.

The Proceedings

- 4 Lumsden is interested in all the proceedings and in particular, amendments sought by WRC in relation to:
- (a) The National Policy Statement on Urban Development 2020 (**NPS-UD**).
 - (b) Public transport.
 - (c) Community severance.
 - (d) Natural hazards, flooding and drainage infrastructure.
 - (e) Staging of development, location of infrastructure and infrastructure upgrades.
 - (f) Ecological restoration.
 - (g) Rail siding and
 - (h) Wastewater upgrades.

Particular Issues

- 5 Lumsden is interested in the appeal as a whole and in the following particular issues:
- (a) Amendments relating to the Ohinewai Zone Provisions (**OZP**) to give effect to the NPS-UD, the Waikato Regional Policy Statement, and Part 2 of the RMA.
 - (b) Amendments to the OZP to ensure that public transport to service the Ohinewai Zone can be provided.
 - (c) Amendments to the OZP that relate to staging of the factory before residential and commercial development.
 - (d) OHI - Ohinewai Zone – Objectives and Policies
 - (i) Deleting Objective OHI-O1.
 - (ii) Amending Objectives OHI-O4, OHI-O4(1), OHI-O4(2) and OHI-O2.

- (iii) Inserting a new objective relating to natural hazards and risks.
 - (iv) Amending Policy OHI-P2(1) sequencing of Figure OHI-3 Staging Plan and Table OHI-1 and OHI-2.
 - (v) Changing “is to be” to “shall” in Policy OHI-P5(1).
 - (vi) Amending Figure OHI-3 Staging Plan.
 - (vii) Deleting “where practicable” from Policy OHI-P7 (1) and (2).
 - (viii) Amending the Neighbourhood Centre.
- (e) Table OHI-1 – Infrastructure upgrades
- (i) Amending OHI-1(2).
 - (ii) Amending OHI-1.
 - (iii) Amending OHI-1(17).
- (f) Table OHI-2 – Water and wastewater upgrades
- (i) Amending the wording of item (2)(2).
- (g) Adding a new Table OHI to include an upgrade of the existing WRC drainage system.
- (h) Amending the Information Requirement at OHI-INFO3.
- (i) Ohinewai Zone: Energy, Infrastructure and Transport
- (i) Amending Objective OHI-EIT-O7.
 - (ii) Amending to OHI-EIT-P16 and P17.
 - (iii) Amending to OHI-EIT-P19 and P20.
 - (iv) Replacing Objective OHI-EIT-P4(1).

- (j) Ohinewai Zone: Natural Hazards (OHI-NH)
 - (i) Amending the introduction, objectives, policies, rules, information requirements and associated methods for natural hazards.
 - (ii) Amending Policies:
 - (1) OHI-NH-PI(1);
 - (2) OHI-NH-PI(2);
 - (3) OHI-NH-PI(3);
 - (4) OHI-NH-P2(1);
 - (5) OHI-NH-P3(1);
 - (6) OHI-NH-P9(2);
 - (7) OHI-NH-P10.

- (k) PREC1 and C3 – Ohinewai Residential Precinct and Ohinewai Industrial Precinct:
 - (i) Amending PREC1-O1.
 - (ii) Amendments that ensure building platforms sit with the rules for each precinct and not just in the subdivision rules.
 - (iii) Amending PREC3-O2.
 - (iv) Deleting Objective PREC3-O3.
 - (v) Ensuring the use of industrial zoned land for commercial and other nonindustrial activities are avoided (includes PREC3-P2, PREC3-R13 and 14).
 - (vi) Amending Policy PREC3-P4(1).

- (l) Amending all rules (including matters of control/discretion and assessment criteria) as required to ensure that they achieve the objectives and policies as sought.

Relief sought

- 6 Lumsden conditionally **supports** the relief sought because:
- (a) Lumsden is the adjacent landowner to the rezoning.
 - (b) Giving effect to these amendments will provide future generations with a sustainable community and give effect to the provisions of the NPS-UD, the Waikato Regional Policy Statement, and Part 2 of the RMA.
 - (c) There needs to be an economic incentive and well-being element to the new development to justify the change in use of the land (i.e., from rural to industrial/residential). The economic well-being of the existing and new community needs to be established by the Foam Factory before the residential development is created to ensure there is a purpose to the rezoning. This staging will ensure that community infrastructure is built before new residents live in Ohinewai and their work, transport and well-being needs are catered for.
 - (d) Protection from flooding needs to be afforded to the neighbouring properties and Lumsden should not have to bear the effects of further flooding in an already vulnerable area. Provisions towards drainage, stormwater and flooding need to be protected against which assists in adapting to the effects of climate change. Lumsden is concerned that this development may cause future drainage issues. There needs to be an onus on Ambury to ensure climate change effects are avoided, remedied or mitigated.
 - (e) A lot of ecological work has gone into the area to enhance the ecological value and this should be continued with the new development.
 - (f) The rail siding is proposed to be through Lumsden's property. This needs to be changed or agreed with Lumsden.
 - (g) Wastewater upgrades are needed to service the rezoned area and should not be heavily reliant on the Huntly community facilities.
 - (h) Traffic needs to be managed for future use and safety and is not a financial burden on existing residents.

- (i) Lumsden is interested in any outcomes that could impact on its land or on the use and/or occupation of its land.

Dispute resolution

- 7 Lumsden agrees to participate in mediation or other alternative dispute resolution of the proceedings.



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Dr J B Forret and C F Muggeridge

Solicitor for Person wishing to be a Party

Date: 21 July 2021

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