

In the Environment Court of New Zealand  
at Auckland

I mua i te Kōti Taiao o Aotearoa  
I te rohe o Tāmaki Makaurau

ENV-2022-AKL-000063

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*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:* **Meridian Energy Limited**  
*Appellant*

*and:* **Waikato District Council**  
*Respondent*

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

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Dated: 22 March 2022

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**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 Meridian Energy Limited (*Meridian*) against a decision of the Waikato District Council on the Proposed Waikato District Plan (*PWDP*).

**Mercury's interest in these proceedings**

2 Mercury was a submitter on the PWDP, but did not make a submission about the subject matter of the proceedings. Mercury is a person who has an interest in the proceedings that is greater than the interest that the general public has.

3 Mercury is an electricity generation company operating hydro, wind and geothermal power stations across New Zealand. New Zealand has an ambitious electrification aspiration for the economy, and the development of renewable energy is integral to a lower emissions economy.

4 New renewable energy proposals are being considered nationwide, particularly wind energy facilities, including by Mercury. For example, since the closing of submissions on the PDWP, Mercury has acquired Tilt Renewables' New Zealand generation activities, current and future.

5 Mercury has a broad interest in ensuring that resource management plans appropriately address renewable generation activities.

6 While Mercury is a trade competitor to Meridian in a general sense, Mercury in this case supports Meridian's points of appeal and is therefore not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 (*RMA*).

7 Mercury is interested in all parts of the proceedings.

**Relief supported by Mercury**

8 Mercury supports the relief sought because it:

8.1 Promotes the sustainable management of natural and physical resources;

8.2 Promotes the efficient use and development of natural and physical resources;

8.3 Meets the reasonably foreseeable needs of future generations;

8.4 Results in the most appropriate plan provisions in terms of section 32 of the RMA;

- 8.5 Gives effect to the National Policy Statement for Renewable Electricity Generation (*NPSREG*);
  - 8.6 Gives effect to the Waikato Regional Policy Statement; and
  - 8.7 Ensures consistency with good resource management practice.
- 9 Without limiting the generality of the above, the specific reasons for Mercury's support of the relief sought by Meridian include:

**Rules EGEN – R6(1) and R8(1)**

- 9.1 The proposed non-complying rule is inappropriately restrictive and does not give effect to higher order provisions, for example Policy E3 of the *NPSREG* which provides that district plans "shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance and upgrading of new and existing wind energy generation activities".
- 9.2 Further the *PWDP* includes an objective to *increase* renewable electricity generation (Objective AINF-O5). The proposed non-complying rule is fundamentally contrary to that objective. A discretionary activity rule would more appropriately allow wind-farm activities and their effects to be considered.

**Rule AINF-R6(1) and/or proposed new rule - Minor upgrading of Wind Energy Facilities**

- 9.3 The proposed permitted activity standards do not appropriately accommodate wind turbine upgrades. The minor upgrade rule is focused on linear infrastructure and fails to address the particular attributes of wind turbines, and the needs of wind energy facilities (which continue to be subject to reasonably rapid technological change) more generally.
- 9.4 In the alternative, Mercury would support a separate permitted activity rule for minor upgrading of wind energy facilities.

**Rule EGEN – R3 (1)**

- 9.5 The height restriction of 20 metres in the General Rural Zone does not appropriately accommodate wind investigation structures. These structures must be at a greater height to obtain meaningful data.

**Rules MET - R1 (1) and MET - R2 (1)**

- 9.6 Similar to the above issue, the *PWDP* proposes a height restriction for meteorological structures that is impractical for obtaining meaningful data for wind farms.

**Policies ECO-P9 and ECO-P10**

- 9.7 The proposed policies provide for the management of indigenous biodiversity outside Significant Natural Areas through mitigation hierarchy and biodiversity offsetting. The proposed policies are more restrictive, and therefore inconsistent with, the objectives in the *PWDP*. The policies should be consistent with the objective which they seek to implement, and with the higher order documents as well.

**Mediation**

- 10 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



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Catherine Somerville-Frost  
Partner  
22 March 2022

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*Advice*

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