

**BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND**

**ENV-2022-AKL-000047**

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

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

**AND**

**IN THE MATTER** an appeal under Clause 14(1) of the First  
Schedule of the Act

**BETWEEN** **BATHURST RESOURCES LIMITED AND BT  
MINING LIMITED**

**Appellant**

**AND**

**WAIKATO DISTRICT COUNCIL**

**Respondent**

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**NOTICE OF OHINEWAI LANDS LIMITED AND WAIKARE LAND  
LIMITED'S WISH TO BE A PARTY TO PROCEEDINGS**

**Dated: 21 March 2022**

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Solicitors on Record

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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. Ohinewai Lands Limited (**OLL**) and Waikare Land Limited (**WLL**) wish to be party to the following proceedings:
  - a. ENV-2022-AKL-000047- An appeal by Bathurst Resources Limited and BT Mining Limited (**Bathurst and BT**) against Waikato District Council's (**WDC**) decision on existing and future coal mining operations under the Proposed Waikato District Plan (**PWDP**).
2. OLL:
  - a. Is a person with an interest in the proceedings greater than the general public, being the owner of Future Urban Zone (**FUZ**) and Rural Zone land affected by the appeal; and
  - b. Made submissions and further submissions on the PWDP, including the Ohinewai Zone and Ohinewai FUZ affected by the appeal.
3. WLL is a person with an interest in the proceedings greater than the general public, being the owner of Rural Zone land affected by the appeal.
4. OLL participated in the District Plan hearing processes for the Ohinewai Zone (Hearing 19), Natural Hazards - Ohinewai - (Hearing 27), and Ohinewai FUZ (Hearing 25).

5. OLL sought, amongst other things, FUZ zoning of a parcel of land owned by OLL (parts of titles SA33A/52 and SA33A/444) which adjoins the Ohinewai Zone. The WDC decision approved that rezoning. The balance of OLL and WLL's land holdings are zoned Rural.
6. Bathurst and BT's proposed Coal Mining Area overlay appears to be located over parts of OLL's FUZ and Rural Zone land and over parts of WLL's Rural Zone land.

#### **Trade competition**

7. OLL and WLL are not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 (**RMA**).

#### **The Proceeding**

8. OLL and WLL are interested in all of the proceedings.

#### **Particular Issues**

9. OLL and WLL are particularly interested in the following issues:
  - a. The inconsistency between the proposed Coal Mining Area overlay and the Ohinewai Zone, FUZ, and Rural Zone, and the adverse effects coal mining would have on the activities intended for those zones under the PWDP;
  - b. The inconsistency between the proposed Coal Mining Area overlay and the ecological values of the local area (incl. Lakes Waikare, Rotokawau and Ohinewai) and the adverse effects coal mining would have on those ecological values; and
  - c. The restrictions that would be placed on the use of OLL and WLL's land because of the proposed Coal Mining Area overlay.

#### **Relief sought**

10. OLL and WLL oppose the relief sought under Bathurst and BT's Notice of Appeal and seek that the relief sought by Bathurst and BT is declined.

## Reasons for relief sought

### *General*

11. The general reasons for the relief sought by OLL and WLL include:
  - a. The outcome sought by Bathurst and BT:
    - i. Is inconsistent with the sustainable management purpose of the Act; and
    - ii. Would have an adverse effect on the use of FUZ land for future urban development and housing supply, and an adverse effect on the FUZ land and Rural Zone land for continued farming of productive rural land.
  - b. The Coal Mining Area overlay is inconsistent with the National Policy Statement on Urban Development (**NPS-UD**), the Waikato Regional Policy Statement (**WRPS**), the Future Proof Sub-regional Growth Strategy (**Future Proof**) and the Waikato 2070 Growth and Economic Development Policy (**Waikato 2070**).
  - c. Future coal supply should be sourced from existing (and expanded) coal mines rather than from proposed sites where coal mining operations are not already lawfully established.
12. Without limiting the generality of the reasons listed under paragraph 11, OLL and WLL's specific reasons include:

### *Rural Zone*

- a. The Coal Mining Areas mapped under the PWDP are limited to areas where extractive activities are already lawfully established (Policy GRUZ-P17). There is no lawfully established coal mining activity on OLL and WLL's Ohinewai land.
- b. If the Coal Mining Area overlay is added to the planning maps, new extractive activities and waste management facilities could be consented as restricted discretionary activities within the Rural Zone at Ohinewai (GRUZ-R40). That activity status is too permissive given the significant

adverse effects that coal mining would have on existing rural land uses and other environmental values.

- c. The Coal Mining Area overlay would impose unnecessary and significant limitations on the rural use of the site, including a minimum 500 metre setback between buildings for a sensitive land use (incl. residential activities) and the Coal Mining Area (GRUZ-S13).
- d. Coal mining would adversely affect farmland (an existing physical resource) by preventing the use of the soils for productive rural purposes.

*Future Urban Zone and Ohinewai Zone*

- e. The WDC determined that the urban rezoning of Ohinewai is appropriate,<sup>1</sup> and were “left questioning the consentability” of any coal mining proposal.<sup>2</sup>
- f. Coal mining is not an activity which is anticipated or provided for in the FUZ.
- g. The relief would be inconsistent with the objectives and policies for the FUZ which seek:
  - i. To identify and protect areas for future urban growth by maintaining their development potential (FUZ-O1 and FUZ-P1).
  - ii. That use and development which results in reverse sensitivity effects when urban development occurs is avoided (FUZ-P2).
  - iii. That extractive industry within the FUZ is avoided (FUZ-P3).
- h. The Coal Mining Area overlay would impose unnecessary and significant limitations on planned urban development in and around Ohinewai, including a minimum 500 metre setback between buildings for a sensitive land use (incl. residential activities) and the Coal Mining Area (FUZ-S9).

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<sup>1</sup> Decision Report 2 (Ohinewai Rezoning) Paras. 206-211.

<sup>2</sup> Decision Report 2 (Ohinewai Rezoning) Para. 211.

- i. Coal mining within Rural Zone areas adjoining the FUZ and Ohinewai Zone would have significant adverse effects on planned urban development.

*Land access*

- j. OLL and WLL have no intention of allowing access to their land for coal mining purposes.

*Coal Mining Areas – mapping*

- k. The precise location and extent of the proposed Coal Mining Area overlay at Ohinewai is difficult to discern from the map in Annexure 1 of the Notice of Appeal.

**Dispute resolution**

13. OLL and WLL agree to participate in mediation or other alternative dispute resolution of the proceedings.



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M J Doesburg

Solicitor for Ohinewai Lands Limited and  
Waikare Land Limited

Date: 21 March 2022

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