

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

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

ENV-2022-AKL-000073

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

A N D

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

BETWEEN **WAIKATO REGIONAL COUNCIL**

Appellant

A N D **WAIKATO DISTRICT COUNCIL**

Respondent

**NOTICE OF PORTS OF AUCKLAND LIMITED'S WISH TO BE A PARTY TO
PROCEEDINGS**

22 MARCH 2022

**ELLIS GOULD
LAWYERS
AUCKLAND**

REF: Daniel Sadlier

**Level 17 Vero Centre
48 Shortland Street, Auckland
Tel: 09 307 2172 / Fax: 09 358 5215
PO Box 1509
DX CP22003
AUCKLAND**

NOTICE OF PORTS OF AUCKLAND LIMITED'S WISH TO BE A PARTY TO PROCEEDINGS

TO: The Registrar
Environment Court
Auckland

1. Ports of Auckland Limited ("**POAL**") gives notice of its wish to be a party to the appeal ENV-2022-AKL-000073 by Waikato Regional Council ("**Appellant**") against parts of the decision (in particular Decision Report 29B: Flood Hazards, and Defended Areas) of Waikato District Council ("**Council**") on submissions on its Proposed Waikato District Plan ("**PWDP**").
2. POAL made a submission about the subject matter of these proceedings.¹
3. POAL is also a person who has an interest in the proceedings that is greater than the interest the general public has on the grounds that it owns and operates an inland freight hub at the Horotiu Industrial Park, the first stage of which became operational in 2019 and which continues to be developed ("**Freight Hub**"). The Freight Hub is built on a 33 ha site, has excellent road and rail connections and will improve access to overseas markets for Waikato-based exporters. The Freight Hub would be directly and adversely affected by the relief sought in the Appellant's appeal.
4. POAL is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 ("**RMA**"). In any event, POAL is directly affected by an effect of the subject matter of the appeal that:
 - 4.1 Adversely affects the environment; and
 - 4.2 Does not relate to trade competition or the effects of trade competition.

¹ Submission number 578, dated 23 September 2020.

5. POAL is interested in those aspects of the proceedings that relate to natural hazards, being the definition of "Flood Plain Management Area".

6. POAL opposes the relief sought on the basis that:

6.1 The Appellant seeks deletion of the words "*identified on the planning maps*" in the definition of Flood Plain Management Area as follows:

Means an area ~~identified on the planning maps~~ which is at risk of flooding in a 1% AEP flood event and is otherwise described in this District Plan as the 1%AEP floodplain.

6.2 The effect of the Appellant's relief would be that the actual extent of the Flood Plain Management Area is uncertain. A plan reader and prospective resource consent applicant could have no certainty as to whether a proposed site or activity will attract resource consent without first engaging significant technical expertise to determine the location of the 1% AEP floodplain.

6.3 POAL says that such a requirement inappropriately places the burden on landowners and applicants (rather than the Council and/or Appellant) to determine whether the Flood Plain Management Area rules apply to them, and whether or not consent is required. POAL says that outcome is onerous, inappropriate and inconsistent with the purpose and principles of the RMA and higher order planning instruments.

7. POAL opposes the relief sought by the Appellant because if the relief sought is granted, the PWDP:

7.1 Will be contrary to the sustainable management of natural and physical resources;

7.2 Will be inconsistent with the purpose and principles of the RMA;

7.3 Will in those circumstances impact on the ability of people and communities to provide for their social, economic and cultural wellbeing; and

7.4 Will not provide for the efficient use and management of natural and physical resources.

8. POAL agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED this 22nd day of March 2022

**PORTS OF AUCKLAND
LIMITED** by its solicitors and duly
authorised agents, Ellis Gould



D J SADLIER / A K DEVINE

ADDRESS FOR SERVICE: The offices of Ellis Gould, Solicitors, Level 31, Vero Centre, 48 Shortland Street, PO Box 1509. Auckland 1140, DX CP22003, Auckland. Telephone: (09) 307-2172, Facsimile: (09) 358-5215. **Attention:** Daniel Sadlier / Alex Devine; dsadlier@ellisgould.co.nz / adevine@ellisgould.co.nz.

Copy To: The Appellant
And To: Whangarei District Council
And To: Section 274 parties