

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

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

ENV-2022-AKL-000044

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 **KIWIRAIL HOLDINGS LIMITED**

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

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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-000044 by KiwiRail Holdings Limited ("**Appellant**") against parts of the decision (in particular Decision Report 13: Infrastructure) of Waikato District Council ("**Council**") on submissions on its Proposed Waikato District Plan ("**PWDP**").
2. POAL made a further submission in opposition to the relief sought in KiwiRail's original submission addressing 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. Future development of the Freight Hub is likely to include currently permitted structures, including for example gantry cranes etc, within 5m of an existing railway designation servicing the rail spur at the Freight Hub. Accordingly, POAL 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

¹ Further submission number 1087, dated 27 June 2019.

- 4.2 Does not relate to trade competition or the effects of trade competition.
5. POAL is interested in those aspects of the proceedings that seek to extend the application of the 5m building setback from the “rail corridor” to all zones within the PWDP including the General and Heavy Industrial Zones, as well as the amendment and/or insertion of new policies to provide policy recognition of that approach.
6. POAL opposes the relief sought by the Appellant on the basis that:
 - 6.1 It does not achieve an appropriate balance between addressing the potential effects generated by operation of the rail corridor and ensuring that effects generated by or on rail infrastructure are addressed within the corridor owned and controlled by the Appellant;
 - 6.2 It does not achieve an appropriate balance between enabling the continued efficient operation of the rail corridor and ensuring that the use of adjoining land is not unreasonably constrained; and
 - 6.3 Is not supported by sufficient evidence to justify the constraints proposed upon adjoining landowners.
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