

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

ENV-2023-AKL-000166

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

IN THE MATTER OF

the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER OF

an appeal under clause 14(1) of Schedule 1
of the RMA

BETWEEN

FONTERRA LIMITED

Appellant

AND

WAIPĀ DISTRICT COUNCIL

Respondent

NOTICE OF LEE AND KRSTIN TURNER WHO WISH TO BE PARTY TO
PROCEEDINGS

Dated 8 October 2023

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 and standing

1. Lee and Kristin Turner wish to be a party to the following proceeding: ENV-2023-AKL-000166, filed by Fonterra Limited (**Appellant**) against parts of the decision (**Decision**) of Waipā District Council (**Respondent**) in respect of changes to the Waipā District Plan (**ODP**) under Proposed Plan Change 17: Hautapu Industrial Zones to the Waipā District Plan (**PC17**).
2. Lee and Kristin Turner made a submission on PC 17.
3. Lee and Kristin Turner is also a party which has an interest in the proceeding greater than the interest that the general public has because it is an owner of land within 'Area 6' which is the subject of the proceeding and stands to be directly affected by the relief sought under the appeal.

Trade competition

4. Lee and Kristin Turner are not a trade competitor for the purposes of sections 308C or 308CA of the Resource Management Act 1991 (**RMA**).

Our interest

5. Lee and Kristin Turner are interested in all aspects of the appeal including the reasons for the appeal and all relief sought under the appeal. We say:
 - a. Fonterra is incorrect in saying that Waipa Council's decision did not take into consideration any reverse sensitivity effects on its

Hautapu operation. Any future activities within Area 6 that require an air discharge consent which may, or may not, affect Fonterra, will be assessed via a Restricted Discretionary Land Use Consent under rule Rule 7.4.1.3(f) of the ODP. If Council deems Fonterra to be an 'affected party' to the activity then they will be notified and able to respond accordingly if Council deem it necessary.

- b. We feel it is very hypocritical of Fonterra to mention that the Waipa Councils decision;
- 'Will not promote the sustainable use of resources'.
 - 'Will not meet the social and economic wellbeing of the community' and
 - 'Does not avoid, remedy or mitigate the actual and potential adverse effects on the environment'

When, by Fonterra's own admission, nitrate levels in the ground water in the Hautapu area exceed safe levels for human consumption and require filtering as a direct consequence of Fonterra's activities;

- c. The Appellant is selective in its reliance on certain provisions within the Waikato Regional Policy Statement (**WRPS**) to support its contention that the Decision fails to give effect to the WRPS and fails to take into consideration all relevant provisions which are given effect to under the Decision;
- d. No relevant reverse sensitivity effects on the Appellant's operations arise from the land uses enabled within Area 6 under PC17;
- f. The relevant existing environment, including within the Dairy Overlay, contains land uses which are not 'dairy related'; and
- g. It further relies on the additional points set out below.

Relief sought

6. Lee and Kristin Turner oppose the relief sought by the Appellant because:
 - a. By extending the Dairy Overlay, Fonterra will have an unnecessary influence over new development in Area 6 which is simply not required as any potential affects on Fonterra's operation would be established and mitigated through a Restricted Discretionary Land Use consent through Rule 7.4.1.3(f) via Waipa District Council.
 - b. Is not the most effective way to achieve the objectives in the ODP
 - c. Will not achieve the purpose of the Resource Management Act
 - d. The Appellant sought two alternative forms of relief in its submission and evidence and legal submissions presented at the hearing on PC17 and was successful in securing what it describes in the Notice of Appeal as its 'less preferred alternative relief'. It is procedurally irregular and inefficient to use this Court's de novo hearing process to overturn an outcome sought by the Appellant at the first instance hearing;
 - e. The imposition of the Specialised Dairy Industrial Area Overlay (Dairy Overlay) over Area 6 will limit industrial land use within Area 6 to an extent that it will undermine the efficient supply of industrial zoned land and directly undermine the central policy reasoning behind PC17 which was to enable the 'migration' of industrial activities from Carters Flat to Hautapu;[3]
 - f. The imposition of the Dairy Overlay is not necessary to protect the Appellant's operations from the effects of land uses enabled within Area 6 under PC17 and will unnecessarily sterilise the intended land use opportunities within Area 6;
 - g. It does not give effect to the higher order planning instruments including the National Policy Statement-Urban Development (NPS-UD) and WRPS;

- h. It will not achieve the efficient use and development of natural and physical resources;
- i. It is not the most appropriate way to achieve the objectives of the ODP;
- j. It fails to achieve the sustainable management purpose of the RMA.

Dispute resolution

- 7. Lee and Kristin Turner agree to participate in mediation or other alternative dispute resolution of the proceedings.

Costs

- 8. Lee and Kristin Turner seek costs from the Appellant in relation to this appeal.



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Lee Turner

Dated 8 October 2023

Address for service:

221 Hannon Road, Cambridge

Advice

If you have any questions about this notice, contact the Environment Court in Auckland.