

**IN THE ENVIRONMENT COURT  
AUCKLAND**

**ENV-2020-AKL-000132**

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

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

**AND**

**IN THE MATTER** of section 274 of the RMA

**BETWEEN** **NEW ZEALAND TRANSPORT AGENCY**

Appellant

**AND** **WHANGAREI DISTRICT COUNCIL**

Respondent

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**NOTICE OF FONTERRA LIMITED'S INTENTION TO BE A PARTY TO  
PROCEEDINGS**

**5 AUGUST 2020**

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**Russell  
McAugh**

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**TO:** The Registrar  
Environment Court  
AUCKLAND

**FONTERRA LIMITED** ("**Fonterra**") wishes to be a party to an appeal by the New Zealand Transport Agency ("**Transport Agency**") against the decision of the Whangarei District Council on Plan Change 109 ("**PC109**") to the Whangarei District Plan ("**District Plan**").

**Nature of interest**

1. Fonterra made a further submission about the subject matter of these proceedings.
2. Fonterra is not a trade competitor for the purposes of section 308C or 308CA of the RMA.

**Extent of interest**

3. Fonterra is interested in part of the proceedings. The part of the appeal Fonterra is interested in relates to Rule TRA-R15 - Discretionary Integrated Transport Assessments ("**Rule TRA-R15**").<sup>1</sup>
4. The Decisions-version of Rule TRA-15 requires the submission of an Integrated Transport Assessment ("**ITA**") when a proposed activity (or activities) requires an increase of more than 100 car parking spaces. The Transport Agency is seeking amendments to Rule TRA-R15 to include additional ITA triggers (amongst other things) for industrial activities, specifically Gross Floor Area ("**GFA**") occupancy or vehicle generation, on the basis that these criteria better reflect actual trip generation characteristics.
5. Fonterra lodged a further submission supporting the notified wording of Rule TRA-R15.<sup>2</sup> This further submission opposed the changes sought by the Transport Agency to introduce the floor space criteria into the rule, on the basis that the District Plan already contains provisions to manage traffic issues at Fonterra's Kauri Manufacturing Site ("**Kauri Site**").
  - (a) The Strategic Rural Industries Zone ("**SRIZ**") includes a site-specific traffic generation rule for the Kauri Site. This rule requires a transport assessment statement where an activity cumulatively generates more than 1400 traffic movements per day (24-hour period).<sup>3</sup> Rule SRIZ.2.4 was agreed by Fonterra and the Transport Agency as part of the appeals process on the Rural Area Plan Changes.<sup>4</sup>
  - (b) The Decisions version of Rule TRA-R15 provides that an ITA is required where an activity (or activities) requires an increase of

<sup>1</sup> Originally TRA-R16 when notified.

<sup>2</sup> Further Submission 334, dated 27 August 2019.

<sup>3</sup> District Plan (Decisions-version), Rule SRIZ.2.4

<sup>4</sup> Consent Order (ENV-2018-AKL-000028), dated 4 December 2018.

more than 100 car parking spaces in accordance with TRA Appendix 1. The minimum on-site car parking requirements for the Kauri Site are nil,<sup>5</sup> which means that new activities on the Site will not trigger the ITA requirements under Rule TRA-R15.

- 6. While not opposed to the relief sought by the Transport Agency in principle, Fonterra is concerned that the proposed amendments to Rule TRA-15 will introduce uncertainty as to which rule is applicable to activities resulting in increased traffic generation at the Kauri Site. Without clarification as to which rule applies, it is possible that both rules would be considered to apply to the Kauri Site. This would result in more stringent consenting requirements for Fonterra, which are inconsistent with Rule SRIZ.2.4.
- 7. Fonterra therefore seeks that, should Rule TRA-15 be amended as sought by the Transport Agency, consequential amendments are also made to clarify that it does not apply to activities within the SRIZ. There are a number of other rules in the TRA Chapter that provide for such exemptions.<sup>6</sup>

**Relief sought**

- 8. Fonterra conditionally opposes the relief sought by the Transport Agency in relation to Rule TRA-R15. Fonterra seeks that, if Rule TRA-R15 is amended in either of the ways proposed by the Transport Agency, it is also amended to exclude the SRIZ, as follows (or alternative relief to similar effect):

TRA-R15	Discretionary Integrated Transport Assessments
All Zones except the Hospital Zone (refer to HOSZ-R19) <u>and the Strategic Rural Industries Zones</u>	Activity Status: Discretionary  An integrated transport assessment is required where:  [...]

- 9. Fonterra opposes the relief sought because, in its current form:
  - (a) it will not promote the sustainable management of the natural and physical resources within the Whangarei District, and is therefore inconsistent with Part 2 and other provisions of the RMA;
  - (b) it will not meet the reasonably foreseeable needs of future generations;
  - (c) it will not enable the social, economic and cultural wellbeing of the people of Whangarei;

<sup>5</sup> District Plan (Decisions Version), TRA – Appendix 1A, Table TRA 1. Minimum on-site car and bicycle parking requirements.  
<sup>6</sup> See for example Rules TRA-R10 and TRA-R11.

- (d) it does not avoid, remedy or mitigate actual or potential adverse effects on the environment; and
- (e) it is not the most appropriate way to achieve the objectives of the District Plan in terms of section 32 of the RMA.

**Alternative dispute resolution**

- 10. Fonterra agrees to participate in mediation or other alternative dispute resolution of the proceedings.

**FONTERRA LIMITED** by its solicitors and authorised agents Russell McVeagh:



**Signature:** D J Minhinnick / T W Atkins

**Date:** 5 August 2020

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**AUCKLAND**

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**TO:** The Registrar of the Environment Court at Auckland.

**AND TO:** The Appellant

**AND TO:** The Respondent

**Advice**

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