

**BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND**

**ENV-2022-AKL-000047**

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

<b>UNDER</b>	the Resource Management Act 1991
<b>IN THE MATTER</b>	of an appeal pursuant to Clause 14(1) of Schedule 1 of the Act
<b>BETWEEN</b>	<b>BATHURST RESOURCES LIMITED AND BT MINING LIMITED</b>
	<b>Appellant</b>
<b>AND</b>	<b>WAIKATO DISTRICT COUNCIL</b>
	<b>Respondent</b>

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**NOTICE BY AMBURY PROPERTIES LIMITED OF WISH TO BE PARTY TO  
APPEAL PURSUANT TO SECTION 274 OF THE RESOURCE MANAGEMENT  
ACT 1991**

**Dated 22 March 2022**

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**S J Berry / O C Manning**

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**To:** The Registrar  
Environment Court  
DX CX 10086  
PO Box 7147  
AUCKLAND

1. **AMBURY PROPERTIES LIMITED ("APL")** wishes to be party to the following proceedings:

The appeal lodged by **BATHURST RESOURCES LIMITED and BT MINING LIMITED ("BATHURST")** under Clause 14(1) of the First Schedule to the Resource Management Act 1991 against parts of decisions of the Waikato District Council on the Proposed Waikato District Plan.

2. APL has an interest in the proceedings that is greater than the general public because the appeal seeks greater provision for protection of and enabling extraction of coal resources in the Waikato Region, including on APL land.
3. APL is not a trade competitor for the purposes of section 308D of the Act.
4. APL is interested in the parts of the appeal that relate to coal lying beneath land owned by APL at Ohinewai, which has recently been rezoned to enable the development of The Sleepyhead Estate. In particular, APL is interested in the appeal insofar as it seeks to make provision for future coal mining operations, including recognition of the location of "regionally significant coal deposits" including privately owned coal and further mapping of coal mining areas. The appeal specifically seeks the identification of an "Additional Proposed Coal Mining Area" which is close to Lake Waikare and Lake Rotokawau, and partly across APL land, as depicted on Drawing 01057-10 in Annexure 1 to the Bathurst notice of appeal.

#### **APL's land at Ohinewai and The Sleepyhead Estate**

5. APL owns 178ha in landholdings at Ohinewai which is bounded by Tahuna Road to the south, Lumsden Road to the west, and Balemi Road to the north, on the eastern side of the Waikato Expressway as shown in the plan attached as **Appendix A** ("APL land").
6. APL purchased the landholdings in order to seek rezoning and carry out the development of The Sleepyhead Estate, which will involve an industrial component comprising the Sleepyhead factory, the rail siding, and other industrial users; a business component which will comprise provision for local convenience needs; and a residential component which will provide for housing, including housing available for Sleepyhead staff and workers. The development will also include recreational areas and open space.

### **Mineral interests in APL's land**

7. APL's land is subject to mineral interests, including coal resources and other aggregates, the rights to which were recently acquired by APL.

### **The Ohinewai rezoning**

8. On order to facilitate this development, APL sought a rezoning of the APL land via submissions to the Waikato District Plan ("WDP") Review process. The Waikato District Council ("WDC") agreed to 'carve out' and consider the Ohinewai rezoning separately and to make a 'stand-alone' decision separate from the rest of the WDP given the significance of the proposal.
9. Part of that process involved the re-notifying of all submissions seeking relief in relation to the Ohinewai rezoning and calling for further submissions in relation to that relief. Bathurst did not lodge any further submissions.
10. WDC approved the rezoning of Ohinewai on 24 May 2021 as follows:
  - (a) 68 hectares of industrial zoned land under the Ohinewai Industrial Precinct (of which 37 hectares will comprise the Sleepyhead Factory);
  - (b) 13 hectares of business/commercial zoned land under the Ohinewai Business Precinct;
  - (c) 52 hectares of residential zoned land under the Ohinewai Residential Precinct; and
  - (d) 55 hectares of public open space.
11. Appeals against the rezoning decision were lodged but these were settled, and the Environment Court issued a consent order approving the rezoning on 23 February 2022.<sup>1</sup> The new Ohinewai zonings are therefore operative.

### **APL's position**

12. The Bathurst appeal seeks recognition of existing and future coal mining operations in the WDP maps. This includes an identified additional coal mining area which overlays APL land and in the vicinity of APL land.
13. APL opposes the relief sought by Bathurst on the basis that granting such relief would be contrary to the purpose and the RMA and sound planning practice for the following reasons:

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<sup>1</sup> [2022] NZEnvC 022.

- (a) Insofar as the Bathurst appeal relates to the APL land at Ohinewai, the new zoning is operative, and the Environment Court has no jurisdiction to impose any further or different provisions.
  - (b) The mineral interests underlying the APL land are owned by APL which has no interest or intention to access the coal. Including a notation in the WDP would serve no purpose and would have the potential to raise false expectations and cause confusion.
  - (c) To the extent that such a notation would have the potential to hinder the development of The Sleepyhead Estate due to potential coal extraction processes, it would be contrary to the purpose of the RMA.
14. APL agrees to participate in mediation or other alternative dispute resolution of this proceeding.

Dated at Auckland this 22 day of March 2022

**AMBURY PROPERTIES LIMITED** by their solicitors and duly authorised agents  
**BERRY SIMONS:**



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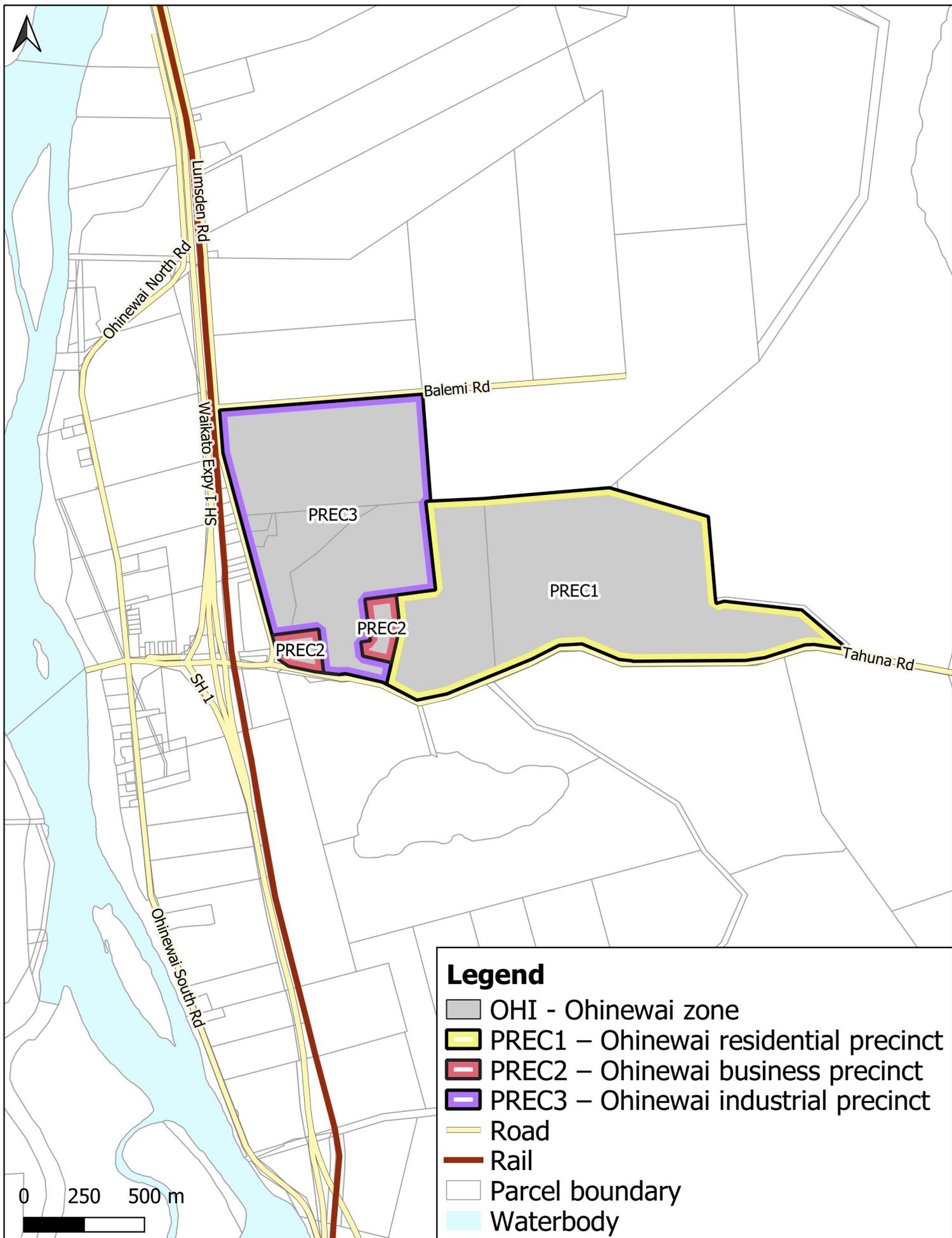
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## **Appendix A**

Plan of APL land



**Legend**

- OHI - Ohinewai zone
- PREC1 – Ohinewai residential precinct
- PREC2 – Ohinewai business precinct
- PREC3 – Ohinewai industrial precinct
- Road
- Rail
- Parcel boundary
- Waterbody



**Proposed District Plan  
Ohinewai Zone Decision map**

Created By: BI/GIS department  
 Created For: Planning department  
 Date Created: 04-May-2021  
 Projection: NZTM GD2000  
 Ref: ME27796

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