

**BEFORE THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

ENV-2009-AKL-

IN THE MATTER of clause 14 of the First
Schedule of the Resource
Management Act 1991 and
Proposed Plan Change 3 to the
Auckland Regional Plan:
Coastal

BETWEEN **AUSTRALASIAN SOLVENTS
AND CHEMICALS COMPANY
P/L**

Appellant

AND **AUCKLAND REGIONAL
COUNCIL**

Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON
PROPOSED PLAN CHANGE 3 TO AUCKLAND REGIONAL PLAN:
COASTAL**

**GALLAWAY COOK ALLAN
LAWYERS
WANAKA**

Solicitor on record: Jan Caunter

P O Box 450, Wanaka, 9343
Ph: (03) 443 0044
Fax: (03) 443 6651
Email: jan.caunter@gcalegal.co.nz

TO: The Registrar
Environment Court
Auckland

- 1 **AUSTRALASIAN SOLVENTS AND CHEMICALS COMPANY P/L**
 (“**ASCC**”) appeals against a decision of Auckland Regional Council on the following:

Proposed Plan Change 3 to Auckland Regional Plan: Coastal (Wynyard Quarter)

2. It made a submission on that proposed plan change as submitter number 37
3. It received notice of the decision on or about 3 December 2008
4. Auckland Regional Council made the decision.
5. The decision that ASCC is the whole plan change insofar as it relates to the Respondent's failure to adequately provide for:
 - (a) the continued safe and efficient operation of the bulk liquids industry and downstream industry reliant upon bulk liquids;
 - (b) the efficient and cost effective relocation of the bulk liquid industry to another site prior to any redevelopment occurring; and
 - (c) continued and uninterrupted supply from the bulk liquid facilities at Wynyard Wharf, to enable it to carry on with its own business
6. The reasons for the appeal are as follows:
 - (a) ASCC is a specialist distributor of bulk, drummed and pack solvents, chemicals and resins, to a broad range of industries throughout Australia and New Zealand. It leases tankage from Marstel Terminal Limited at its terminals at Wynyard Wharf and Mt Wellington in Auckland
 - (b) ASCC's products are sourced from Singapore refineries and are shipped to New Zealand in large quantities by major shipping lines. In order to make that shipping economical, ASCC needs enough tankage to take large parcels of product in a minimum of 1500 tonne parcels of mixed product

- (c) The nature of the product that ASCC imports from overseas means it is heavily reliant on deep-water port facilities and the ability to transport product seamlessly and safely from large tankers to the bulk storage facilities. The location of Marstel's facilities at Wynyard Wharf is particularly important to its business.
- (d) It is concerned about the impact of the plan change on its business in New Zealand and all businesses reliant on the products it supplies.
- (e) If Marstel's terminals were to close or its ongoing business compromised in any way, this would immediately adversely affect ASCC's business profitability and would close its distribution network. It would also affect its customers' ability to source product for their businesses and their continuity of supply.
- (f) The bulk liquid terminals at Wynyard Quarter are regionally significant port related infrastructure completely dependent on port zoned land adjacent to a deep water berth for their operation. As such, relocation issues to alternative sites are extremely difficult to resolve. There are currently no viable relocation options available for the relocation of terminals in Auckland and it may be that relocation within Auckland is not possible. Shipping logistics mean that the plan change may result in the permanent removal of any ability to import or export bulk liquids through Auckland. The plan change should not be implemented based upon an assumption that the bulk liquid industry can or will relocate upon the expiry of leases.
- (g) The bulk liquid industry should be provided with the same recognition and protection in the plan change as the marine and fishing industries. The Council can make provision for the bulk liquid industry's long term protection and viability within this plan change or ensure that relocation issues are resolved prior to implementing this plan change.
- (h) The decision does not:

- recognise or assess the economic contribution of the bulk liquid industry and the potential adverse effects of the plan change on that economic activity;
- protect the bulk liquid industry from reverse sensitivity; or
- reflect that the plan change is not based upon any current risk analysis. The plan change should have been impossible to formulate without reference to appropriate risk analysis based upon internationally accepted criteria and taking into account the type and scale of activities and redevelopment proposed

(i) The lack of planning for the long term protection bulk liquid industry in Auckland does not meet the purpose of the Act. The plan change is incorrectly based on the closure of regionally significant port related bulk liquid infrastructure without certainty that relocation issues can be resolved and with evidence of the potentially large scale adverse economic effects for the wider region that may arise.

(j) ASCC opposes the plan change in total as it affects bulk liquids. Its implementation in its entirety, or implementation of the sections relating to the bulk liquid issues, will:

- Impact and disadvantage the existing, legal and compliant bulk liquid industry:
- Limit growth of, or cause contraction of the bulk liquid industry which is reliant on the Wynyard Quarter land-sea interface: and
- Impact and disadvantage downstream industries reliant on the existing bulk liquid industry thus negatively impacting economic activity, employment and growth.

7. ASCC seeks the following relief:

- (a) The plan change is rejected in its entirety;
- (b) Failing that, that the plan change not be implemented unless and until there is a viable commercial alternative (with all the necessary consent processes completed to enable the industry to operate unhindered) negotiated with the bulk liquid industry and that relocation implemented;

Advice to Recipients of Copy of Notice of Appeal

1. How to become party to proceedings

You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 30 working dates after this notice was lodged with the Environment Court. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

2. How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the Appellant's submission, the submissions of other parties and (or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the Appellant.

3. Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland.

Contact Details of Environment Court for Lodging Documents:

Documents may be lodged with the Environment Court by lodging them with the Registrar

The Auckland address of the Environment Court is:

8th floor District Court Building
3 Kingston Street
Auckland

Its postal address is:

P O Box 7147, Wellesley Street, Auckland

And its telephone and fax numbers are:

Telephone: (09) 916 9091

Fax: (09) 916 9090