

**NOTICE OF APPEAL TO THE ENVIRONMENT COURT  
AGAINST DECISION ON PROPOSED PLAN CHANGE 26  
AUCKLAND UNITARY PLAN  
CLAUSE 14(1) OF SCHEDULE 1, RESOURCE MANAGEMENT ACT 1991**

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**TO:       The Registrar  
              Environment Court,  
              Auckland**

- 1.**     The **St Marys Bay Association (SMBA)** appeals against a decision of Auckland Council on Proposed Plan Change 26.
- 2.**     SMBA made a submission on Proposed Plan Change 26.
- 3.**     SMBA is not a trade competitor for the purposes of s.308D of the Resource Management Act 1991.
- 4.**     The members of SMBA and are directly affected by the effect of the subject of the appeal that
  - (a) Adversely affects the environment; and
  - (b) Does not relate to trade competition.
- 5.**     SMBA received a notice of the decision on 29 January 2021 making the last day for lodging an appeal 12 March 2021.
- 6.**     The decision was under delegation by Hearings Commissioners appointed by Auckland Council. The decision that SMBA is appealing is:
  - The failure to add an appropriate protection into the assessment criteria of Rule D18.8.1.1 to ensure that there is enough space between residential buildings to allow for repairs, maintenance and painting.
- 7.**     The reasons for the appeal are as follows:
  - (a) The inner city suburbs of Auckland contain many dwellings where the side yard space between buildings is limited. Intrusions into that space by additions and alterations to existing buildings may adversely affect the ability of property owners to maintain or paint their buildings.

- (b) The submission, now an appeal, seeks to ensure that consideration is given to the space between buildings to ensure that repair, maintenance and painting of the buildings is physically possible.
- (c) Failure to include this provision as an assessment criterion where infringements to the side yard provisions are being considered is contrary to the sustainable management principles in Part 2 of the Act.
- (d) This failure has the potential to be an adverse effect on the wellbeing of people and the public in general which is contrary to the s.5 purpose of the RMA.

8. SMBA attaches the following documents to this notice:

- (a) A copy of the SMBA submission.
- (b) A copy of the relevant decision of Auckland Council.
- (c) A list of names and contacts for persons to be served a copy of this notice. This list is extensive and is yet to be obtained from the Consent Authority Auckland Council

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**Signed by Brian William Putt**  
**For and on behalf of St Marys Bay Association**  
**12 March 2021**

**Address for Service of the Appellant:**

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## **Advice to Recipients of Copy of Notice of Appeal:**

*How to become a party to proceedings*

*You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.*

*To become a party to an appeal you must:*

- *Within 15 working days after the period for lodging a Notice of Appeal ends, lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court and serve copy of your notice on the relevant local authority and the Appellant; and*
- *Within 20 working days after the period for lodging a Notice of Appeal ends, serve copies of your notice on all other parties.*

*Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions of s.274(1) and Part 11A RMA.*

*You may apply to the Environment Court under s.281 RMA for a waiver of the above timing or service requirements (see Form 38).*

### **Advice**

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