



**MAY IT PLEASE THE COURT:**

1. The Minister of Defence (the appellant) has prepared a notice of discontinuance pursuant to r 20.12 (2) of the High Court Rules 2016. This memorandum accompanies the notice and provides background information on the process to date for costs.

**Background**

2. On 15 September 2016, the appellant filed a notice of appeal under s 158 of the Local Government (Auckland Transitional Provisions) Act 2010 against the decision of the respondent to accept the recommendations of the Auckland Unitary Plan Independent Hearings Panel in relation to the permitted height limits set for the Redhills and Westgate Precincts.
3. The parties met in November 2016 to see if the appeal could be resolved. At that point, the parties did not reach agreement. The appeal continued to progress and has now been set down for a hearing on 26 September 2017.
4. In the meantime, the appellant and the respondent have now reached agreement on three minor alterations to the Redhills Precinct and the Westgate Precinct chapters of the Auckland Council Proposed / Operative Unitary Plan under clause 16 and / or clause 20A of the First Schedule to the Resource Management Act 1991. On that basis, the appellant withdraws the appeal by filing the attached notice.

**Costs**

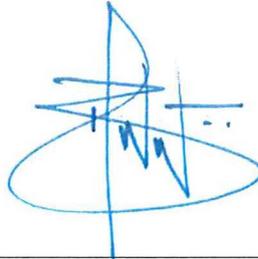
5. Rule 20.12 (2) of the High Court Rules states:

(2) The appeal is taken to have been dismissed, subject to the respondent's right to apply for an order as to costs, if the appellant signs, files, and serves on every other party a statement to the effect that the appellant abandons the appeal.

6. The appellant has entered into discussions on costs with the respondent and the s 301 parties. The appellant has reached agreement on costs with the respondent and three s 301 parties. The appellant is continuing to discuss costs with the remaining s 301 parties.

7. In the event that costs cannot be agreed, separate memoranda on costs as between the appellant and the s 301 parties will be filed.
8. The appellant asks that the following timetable for memoranda on costs be put in place (allowing time in the first instance for discussions on costs between the appellant and the remaining s 301 parties to proceed):
  - 8.1 Any memoranda on costs by a s 301 party to be filed and served by 28 July 2017;
  - 8.2 Any memoranda on costs by the appellant in reply to be filed and served by 11 August 2017.

5 July 2017



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Paul Radich QC  
Counsel for the appellant

**TO:** The Registrar of the High Court of New Zealand.

**AND TO:** The respondent

**AND TO:** The parties