

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**CIV-2016-404-002330
[2017] NZHC 1585**

IN THE MATTER of the Local Government (Auckland
Transitional Provisions) Act 2010 and the
Resource Management Act 1991

AND of an appeal under s 158 of the LGATPA

BETWEEN TRANSPOWER NEW ZEALAND LTD
Appellant

AND AUCKLAND COUNCIL
Respondent

AND HOUSING NEW ZEALAND
CORPORATION
FEDERATED FARMERS OF NZ INC
GREATER EAST TAMAKI BUSINESS
ASS INC
MAHUNGA DRIVE BUSINESS ASS
INC
ONEHUNGA BUSINESS ASS INC
ROSEBANK BUSINESS ASS INC
HUGH GREEN LTD
CDL LAND NZ LTD
MANUKAU HARBOUR
RESTORATION SOCIETY
VECTOR LTD
Section 301 parties

Hearing: On the papers

Judgment: 10 July 2017

FINAL JUDGMENT OF WYLIE J

This judgment was delivered by Justice Wylie
On 10 July 2017 at 3.30pm
Pursuant to r 11.5 of the High Court Rules
Registrar/Deputy Registrar

Date:.....

[1] I acknowledge receipt of the parties' joint memorandum dated 26 May 2017.

[2] Regrettably, the joint memorandum and the draft consent order were only brought to my attention by the Registry on the afternoon of 7 July 2017, and then only because I enquired as to the whereabouts of the same. I will be raising that issue with the Registrar.

[3] I have read the joint memorandum and the draft consent order.

[4] For the reasons set out in my interim judgment released on 28 February 2017, I am satisfied that the relevant parts of the Council's decision in relation to the national grid yard contained in the version of the Proposed Unitary Plan released on 19 August 2016 were in error on points of law.

[5] I consider that the amendments proposed by the parties and detailed in the draft consent order attached to the memorandum are consistent with the Resource Management Act 1991 and with the Local Government (Auckland Transitional Provisions) Act 2010.

[6] The Court has the power under r 20.19 of the High Court Rules 2016 to approve the proposed settlement. All interested parties have given their consent to the same, and I am satisfied that the orders sought fall within the scope of Transpower's appeal.

[7] Accordingly, I order as follows:

- (a) the consent order sought by the parties is approved; and
- (b) subject to the following amendments, I approve the draft consent order submitted with the joint memorandum. The two amendments are as follows:
 - (i) Vector Ltd is to be added to the intitulement to the draft consent order as a s 301 party; and
 - (ii) the spelling of the word chapter in proposed rule A14A is to be corrected.

[8] In the parties' initial memorandum dated 12 April 2017, Transpower, as the successful party, advised that it had agreed to let costs lie where they fall. That agreement was, however, expressed to be "on the basis of the agreements recorded in [that] memorandum".

[9] I did not approve the agreements contained in that memorandum. Transpower had not indicated its position in relation to costs in the latest memorandum dated 26 May 2017.

[10] If agreement has been reached in relation to costs, then no further steps are necessary.

[11] If agreement has not been reached, then I direct as follows:

- (a) any memorandum seeking costs is to be filed within 10 working days of the date of this final judgment;
- (b) any memoranda in reply are to be filed within a further 10 working days; and
- (c) memoranda are not to exceed five pages in length.

I will then deal with the issue of costs on the papers, unless I require the assistance of counsel.

Wylie J

Solicitors/counsel:
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