

**BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOOTI TAIAO O AOTEAROA**

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

AND of an appeal under s 156(1) of the LGATPA

BETWEEN FULTON HOGAN LIMITED

ENV-2018-AKL-000149

Appellant

AND AUCKLAND COUNCIL

Respondent

Environment Judge M Harland sitting alone under s 279 of the Act  
In Chambers at Auckland

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**CONSENT ORDER**

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[A] Under s 279(1)(b) of the Resource Management Act 1991, the Environment  
Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Significant Ecological Area 5588 is  
amended as described in Annexure A to this order;
- (2) the appeal is otherwise dismissed.

[B] Under s 285 of the Resource Management Act 1991, there is no order as to costs.



## REASONS

### Introduction

- [1] Fulton Hogan Limited lodged a notice of appeal on 26 July 2018 in relation to the High Court Judgment that reinstated the Significant Ecological Areas Overlay under the Proposed Auckland Unitary Plan (Unitary Plan) to the southern part of its Clevedon Quarry site (Southern SEA). Section 156(1) of the LGATPA gave Fulton Hogan an appeal right against this decision to the Environment Court. That Southern SEA is part of the larger Significant Ecological Area 5588 identified in the Unitary Plan. The appeal relates solely to the Southern SEA.
- [2] The parties have agreed that this appeal can be resolved by consent. In summary, the agreement between the parties reflects:
- (a) That the southern SEA comprises a mix of vegetation communities; and
  - (b) The extent of the Southern SEA could be more accurately illustrated by the Revised Southern SEA which identifies the extent of vegetation that meets the qualifying criteria for the Significant Ecological Areas Overlay in Schedule 3 of the Unitary Plan. In particular, the Revised Southern SEA extent excludes previously mapped areas of exotic vegetation, mainly consisting of pine trees and privet. A map showing the amended extent of the Revised Southern SEA is attached to this order.
- [3] In making this order the Court has read and considered the appeal and the memorandum of the parties dated 15 October 2018.
- [4] The Environmental Defence Society Incorporated (**EDS**) and Royal Forest and Bird Protection Society of New Zealand Incorporated (**Forest and Bird**) have given notice of an intention to become parties under section 274 and have signed the memorandum setting out the relief sought.
- [5] The Court is making this order under s 279(1)(b) of the RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:



- (a) All parties to the proceedings have executed the memorandum dated 15 October 2018 requesting this order.
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction and conform to relevant requirements and objectives of the RMA, including in particular Part 2.

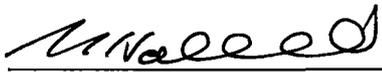
**Order**

[6] Therefore the Court orders, by consent, that:

- (a) Appeal ENV-2018-AKL-000149 by Fulton Hogan is allowed to the extent that Significant Ecological Area 5588 is amended as described in Annexure A.
- (b) Under s 285 of the RMA, there is no order as to costs in respect of [6](a) above.

DATED at Auckland this 31<sup>st</sup> day of October 2018





M Harland  
Environment Judge

