

BEFORE THE ENVIRONMENT COURT

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

AND

IN THE MATTER of an appeal under section 156(1) of the LGATPA against a decision of the Auckland Council

BETWEEN SFH CONSULTANTS LIMITED

ENV-2016-AKL-000202

Appellant

AND

AUCKLAND COUNCIL

Respondent

Principal Environment Judge L J Newhook sitting alone under s 279 of the Act
In Chambers at Auckland

CONSENT ORDER

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

- (1) the appeal is allowed subject to the amendments set out in Schedule 1 to this order; and
- (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] This order relates to an appeal by SFH Consultants Limited against a decision of the Auckland Council (**Council**) on a recommendation by the Independent Hearings Panel (**Panel**) on the Regional Policy Statement (**RPS**) of the proposed Auckland Unitary Plan (now the Auckland Unitary Plan (Operative in Part)).
- [2] SFH Consultants Limited appealed against the Council's decision to reject parts of a recommendation by the Panel in relation to *B2.5 Commercial and industrial growth* in the RPS, and to implement an "alternative solution" comprising of amendments to the objectives and policies.
- [3] In making this order the Court has read and considered the notice of appeal dated 15 September 2016 and the memorandum of parties dated 2 August 2017.
- [4] The following are parties to the appeal under s 274 of the Act and have signed the memorandum supporting the proposed order:
- (a) Kiwi Property Group Limited;
 - (b) Kiwi Property Holdings Limited;
 - (c) The National Trading Company of New Zealand Limited;
 - (d) Wairau Valley Commercial Property Owners Collective Incorporated;
 - (e) Stride Property Limited; and
 - (f) Stride Holdings Limited.
- [5] The Court is making this order under s 279(1)(b) of the Act, 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:



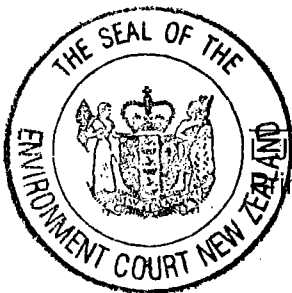
- (a) All parties to the proceedings have executed the memorandum requesting this order; and
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Act, including in particular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

Order

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

- (a) The appeal by SFH Consultants Limited is resolved;
- (b) The Council's decision is confirmed, subject to the amendments to the Regional Policy Statement Chapter B2 Urban growth and form in the Auckland Unitary Plan (Operative in Part) as shown in **Schedule 1** (additions underlined and deletions in ~~striketrough~~); and
- (c) Costs shall lie where they fall.

DATED at Auckland this 7th day of August 2017



[Handwritten signature]

Newhook
Principal Environment Judge

Schedule 1

Regional Policy Statement B2 Urban growth and form

B2.5. Commercial and industrial growth

B2.5.1. Objectives

- (1) Employment and commercial and industrial opportunities meet current and future demands.
- (2) Commercial growth and activities are primarily focussed within a hierarchy of centres and identified growth corridors that supports a compact urban form.
- (3) Industrial growth and activities are enabled in a manner that does all of the following:
 - (a) promotes economic development;
 - (b) promotes the efficient use of buildings, land and infrastructure in industrial zones;
 - (c) manages conflicts between incompatible activities;
 - (d) recognises the particular locational requirements of some industries; and
 - (e) enables the development and use of Mana Whenua's resources for their economic well-being.

B2.5.2. Policies

- (1) Encourage commercial growth and development in the city centre, metropolitan and town centres, and enable retail activities on identified growth corridors, to provide the primary focus for Auckland's commercial growth.
- (2) Support the function, role and amenity of centres by encouraging commercial and residential activities within centres, and ensuring development that locates within centres ~~in a manner that~~ contributes to all of the following:
 - (f) an attractive and efficient urban environment with a distinctive sense of place and quality public places;
 - (g) a diverse range of activities, with the greatest mix and concentration of activities in the city centre;
 - (h) a distribution of centres that provide for the needs of people and communities;
 - (i) employment and commercial opportunities;
 - (j) a character and form that supports the role of centres as focal points for communities and compact mixed-use environments;



- (k) the efficient use of land, buildings and infrastructure;
 - (l) high-quality street environments including pedestrian and cycle networks and facilities; and
 - (m) development does not compromise the ability for mixed use developments, or commercial activities to locate and expand within centres.
- (3) Enable the expansion of metropolitan and town centres having regard to whether it will do all of the following:
- (a) improve access to a range of facilities, goods and services in a convenient and efficient manner;
 - (b) maintain or enhance a compact mixed-use environment in the centre;
 - (c) retain or enhance the existing centre's function, role and amenity;
 - (d) support the existing network of centres and achieve a sustainable distribution of centres that is supported by sufficient population growth;
 - (e) manage adverse effects on the function, role and amenity of the city centre, and other metropolitan and town centres, beyond those effects ordinarily associated with trade effects on trade competitors;
 - (f) avoid, remedy or mitigate the effects of commercial activity on adjoining land uses;
 - (g) support medium to high intensity residential development; and
 - (h) support a safe and efficient transport system which is integrated with the centre.
- (4) Enable new metropolitan, town and local centres following a structure planning process and plan change process in accordance with Appendix 1 Structure plan guidelines, having regard to all of the following:
- (a) the proximity of the new centre to existing or planned medium to high intensity residential development;
 - (b) the existing network of centres and whether there will be sufficient population growth to achieve a sustainable distribution of centres;
 - (c) whether the new centre will avoid or minimise adverse effects on the function, role and amenity of the city centre, metropolitan and town centres, beyond those effects ordinarily associated with trade effects on trade competitors;
 - (d) the form and role of the proposed centre;
 - (e) any significant adverse effects on existing and planned infrastructure;



- (f) a safe and efficient transport system which is integrated with the centre; and
 - (g) any significant adverse effects on the environment or on natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage or special character.
- (5) Enable retail activities, where appropriate, on identified growth corridors in business zones, having regard to all of the following:
- (a) adverse effects on the function, role and amenity of the city centre, metropolitan and town centres, beyond those effects ordinarily associated with trade effects on trade competitors;
 - (b) adverse effects on the quality compact urban form including the existing and planned location of activities, facilities, infrastructure and public investment;
 - (c) effects on community social and economic wellbeing and accessibility;
 - (d) the efficient use and integration of land and infrastructure;
 - (e) effects on the safe and efficient operation of the transport network;
 - (f) effects of the development on the efficient use of any industrial land, in particular opportunities for land extensive industrial activities and heavy industry;
 - (g) avoiding conflicts between incompatible activities; and
 - (h) the effects on residential activity.
- (6) Enable commercial activities, where appropriate, in business zones in locations other than the city centre, metropolitan and town centres and identified growth corridors (~~in particular, in neighbourhood and local centres and on those major transport corridors not identified as identified growth corridors~~), having regard to all of the following:
- (a) the matters listed in Policy B2.5.2(5)(a) to Policy B2.5.2(5)(h) above;
 - (b) the extent to which activities would compromise the achievement of policies B2.5.2(1) and B.2.5.2(2): and
 - (c) the extent to which activities would compromise the hierarchy of locations identified in policies B2.5.2(1) to B.2.5.2(5).
- (7) Enable the supply of land for industrial activities, in particular for land-extensive industrial activities and for heavy industry in areas where the character, scale and intensity of the effects from those activities can be appropriately managed.
- (8) Enable the supply of industrial land which is relatively flat, has efficient access to freight routes, rail or freight hubs, ports and airports, and can be efficiently served by infrastructure.
- (9) Enable the efficient use of industrial land for industrial activities and avoid incompatible activities by all of the following:



- (a) limiting the scale and type of non-industrial activities on land zoned for light industry;
 - (b) preventing non-industrial activities (other than accessory activities) from establishing on land zoned for heavy industry; and
 - (c) promoting co-location of industrial activities to manage adverse effects and to benefit from agglomeration.
- (10) Manage reverse sensitivity effects on the efficient operation, use and development of existing industrial activities, including by preventing inappropriate sensitive activities locating or intensifying in or adjacent to heavy industrial zones.

