

**BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND**

**ENV-2018-AKL-000149**

**I MUA I TE KŌTI TAIAO  
I TĀMAKI MAKAURAU ROHE**

**IN THE MATTER** of an appeal under section 156(1) of the Local  
Government (Auckland Transitional Provisions) Act 2010

**BETWEEN** **FULTON HOGAN LIMITED**  
*Appellant*

**AND** **AUCKLAND COUNCIL**  
*Respondent*

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**SECTION 274 NOTICE**

**ON BEHALF OF THE ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INC.**

**16 AUGUST 2018**

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**To:** The Registrar  
Environment Court  
Auckland

## **Introduction**

1. The Royal Forest and Bird Protection Society of New Zealand Incorporated (“**Forest and Bird**”) wishes to be a party to the appeal by Fulton Hogan Limited (“**Fulton Hogan**”) in respect of the Auckland Council’s decision on the Proposed Auckland Unitary Plan (“**Unitary Plan**”).
2. Forest and Bird:
  - a. made a submission on the matters included in this appeal; and
  - b. has an interest greater than the public generally:
    - i. Forest & Bird was the appellant in respect of Auckland Council’s decisions on the Auckland Unitary Plan that resulted in the deemed “alternative solution” that the Fulton Hogan appeal relates to (*Royal Forest & Bird Protection Society of New Zealand Inc v Auckland Council* [2018] NZHC 1069; *Royal Forest & Bird Protection Society of New Zealand Inc v Auckland Council* [2018] NZHC 1344).
    - ii. Forest & Bird is New Zealand’s largest nature conservation non-government organisation with more than 70,000 members and supporters; and has been active in RMA processes, including the Auckland Unitary Plan process, for many years to achieve improved outcomes for nature conservation.
3. Forest and Bird is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. Forest and Bird is interested in all of the matters appealed by Fulton Hogan.
5. Forest and Bird opposes the appeal because the grounds of appeal are unfounded. In particular:
  - a. The Southern SEA at Clevedon Quarry meets the criteria to be a significant ecological area under the Unitary Plan, and as such should retain the SEA overlay; and

- b. Fulton Hogan's assertion that the SEA overlay could compromise the efficient and effective development of the aggregate resource at the Clevedon Quarry is incorrect, in that consent can still be sought to undertake such development.
- 6. Forest and Bird also opposes the appeal because the relief sought would be inconsistent with:
  - a. the Council's obligation to maintain indigenous biodiversity (s30(1)(ga) and s31(1)(b)(iii) RMA),
  - b. the protection, as a matter of national importance, of areas of significant indigenous vegetation and significant habitats of indigenous fauna (s6(c) RMA).
  - c. Auckland Unitary Plan (regional policy statement) provisions requiring that significant ecological areas are recognised and protected.
- 7. In relation to the relief sought by Fulton Hogan at paragraph 8 of its appeal:
  - a. Forest & Bird opposes the relief sought at paragraph 8(a), on the grounds that the Southern SEA meets the Unitary Plan criteria for significant ecological areas, and as such, the SEA overlay should remain on the site.
  - b. Forest and Bird also opposes any consequential relief and any costs award.
- 8. Forest and Bird agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Dated 16 August 2018



**Sally Gepp / Peter Anderson**  
Counsel for the Royal Forest and Bird Protection Society of New Zealand Inc