

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2017-AKL-000167

UNDER the Local Government (Auckland Transitional Provisions)
Act 2010 ("LGATPA") and the Resource Management Act
1991 ("RMA")

IN THE MATTER of an appeal under section 156(1) of the LGATPA

BETWEEN **STRATEGIC PROPERTY ADVOCACY NETWORK**

Appellant

A N D **AUCKLAND COUNCIL**

Respondent

**NOTICE OF WISH TO BE A PARTY TO PROCEEDINGS UNDER SECTION
274 OF THE RMA BY THE WAITAKERE RANGES PROTECTION SOCIETY
INCORPORATED**

15 NOVEMBER 2017

**ELLIS GOULD
LAWYERS AUCKLAND**

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**NOTICE OF WISH TO BE A PARTY TO PROCEEDINGS UNDER SECTION
274 OF THE RMA BY THE WAITAKERE RANGES PROTECTION SOCIETY
INCORPORATED**

The Waitakere Ranges Protection Society Incorporated (“**WRPS**”) wishes to be a party to the notice of appeal ENV-2017-AKL-000167 dated 31 October 2017 by Strategic Property Advocacy Network (“**SPAN**”) to the Environment Court (“**the Appeal**”) against a decision of the Auckland Council (“**Council**”) on the Proposed Auckland Unitary Plan (“**Unitary Plan**”).

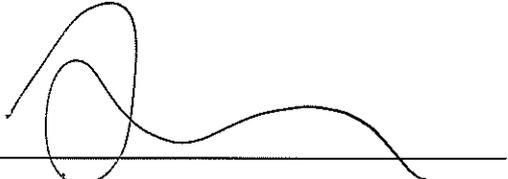
1. WRPS understands that the Appeal addresses the default status of certain subdivisions in the Waitākere Ranges Heritage Area Overlay (“**Waitakere Ranges Overlay**”) within the Unitary Plan. By way of background:
 - (a) In the Unitary Plan as notified, subdivision to a density beyond that expressly provided for in certain parts of the Waitakere Ranges was allocated an activity status of Prohibited Activity.
 - (b) In its recommendations on the Unitary Plan, the Independent Hearings Panel (“**Panel**”) recommended an activity status for such subdivision of Non-Complying Activity.
 - (c) The Panel’s recommendation was accepted by the Council in its decisions on the Unitary Plan.
 - (d) WRPS appealed that Council decision to the High Court, which upheld WRPS’s appeal in *Bunnings and Others v Auckland Council* [2017] NZHC 2141 (“**High Court Decision**”). The High Court Decision:
 - (i) Concluded that the Panel had applied an incorrect legal test in determining that a Prohibited Activity status should not be applied; and
 - (ii) Reinstated Prohibited Activity status for certain subdivisions in the Waitakere Ranges Overlay.
 - (e) The High Court Decision triggered appeal rights to the Environment Court under s 156(1) of the LGATPA, which have been exercised by SPAN.

2. WRPS lodged submissions through the Proposed Unitary Plan process regarding the subject matter of these proceedings, being the activity status of subdivision within the Waitakere Ranges. In particular, WRPS:
 - (a) Supported the provisions of the Unitary Plan that allocated Prohibited Activity status to certain categories of subdivision in the Waitakere Ranges; and
 - (b) Filed further submissions opposing relief sought by third parties that to remove the Prohibited Activity status for such subdivision.
3. WRPS has an interest in the proceedings that is greater than that of the general public:
 - (a) WRPS is a community-based organisation with a membership of over 500 individuals and families. WRPS was formed in 1973 in response to a proposal for a Council landfill in Bethells Valley. The aims of WRPS include ensuring protection of the landscape and ecological qualities of the Waitakere Ranges.
 - (b) WRPS's focus has been exclusively on the Waitakere Ranges and their foothills and coastal surrounds. WRPS has a long history of involvement in proceedings and processes regarding the planning framework for the Waitakere Ranges, including involvement in the proceedings which resulted in a Prohibited Activity status for certain subdivision in the Waitakere Ranges under the legacy Auckland Council District Plan (Waitakere Section).
 - (c) WRPS successfully appealed the Council's decision to revert to Non-Complying Activity status for subdivision and the Appeal has been filed in light of the High Court Decision which upheld WRPS's appeal.
4. WRPS is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
5. WRPS is interested in and opposes the Appeal in its entirety.
6. The grounds for WRPS's position are:

- (a) The grounds set out in WRPS's original and further submissions on the Unitary Plan.
 - (b) The relief sought in the Appeal is inappropriate in terms of section 32 of the RMA, contrary to the sustainable management of natural and physical resources and inconsistent with the purpose and principles of the RMA.
 - (c) Prohibited Activity status is appropriate for subdivision to a density beyond that expressly provided for in certain parts of the Waitakere Ranges and is the most appropriate way of giving effect to:
 - (i) The purpose and principles of the RMA;
 - (ii) The relevant regional policy statement provisions of the Unitary Plan; and
 - (iii) The objectives and policies relating to the Waitakere Ranges Overlay in the Unitary Plan.
7. WRPS agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED at Auckland this 15th day of November 2017

**THE WAITAKERE RANGES
PROTECTION SOCIETY
INCORPORATED** by its solicitors and
duly authorised agents Ellis Gould



D A Allan

ADDRESS FOR SERVICE: The offices of Ellis Gould Lawyers, Level 17, Vero Centre, 48 Shortland Street, PO Box 1509, Auckland 1140, DX CP22003, Auckland, Telephone: (09) 307-2172, Facsimile: (09) 358-5215. Attention: D A Allan, dallan@ellisgould.co.nz.

TO: The Registrar of the Environment Court at Auckland

AND TO: Strategic Property Advocacy Network

AND TO: Auckland Council

In accordance with and in reliance upon the Court's directions of 17 August 2016 (Decision [2016] NZEnvC 153), no other party to the appeal is being directly served.