IN THE ENVIRONMENT COURT
AUCKLAND REGISTRY

ENV-2016-AKL-

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

AND

IN THE MATTER of an appeal under section 156(1) of the LGATPA against a decision of the Auckland Council on a recommendation of the Auckland Unitary Plan Independent Hearings Panel ("**Hearings Panel**") on the proposed Auckland Unitary Plan ("**Proposed Plan**")

AND

IN THE MATTER of Proposed Plan Hearing Topic 059 – 063 Residential Zones

BETWEEN **HOUSING NEW ZEALAND CORPORATION**

Appellant

A N D **AUCKLAND COUNCIL**

Respondent

NOTICE OF APPEAL (RE TOPIC 059-063 RESIDENTIAL ZONES)

DATED: 16th September 2016

ELLIS GOULD
SOLICITORS
AUCKLAND

REF: Dr Claire Kirman / Alex Devine

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TO: The Registrar
Environment Court
AUCKLAND

1. Housing New Zealand Corporation ("**the Appellant**") appeals against part of a decision of Auckland Council ("**the Council**") on the proposed Auckland Unitary Plan ("**Proposed Plan**").

2. The Appellant has the right to appeal the Council's decision to the Environment Court under section 156(1) of the LGATPA because the Council rejected recommendations of the Hearings Panel in relation to provisions or matters relating to the Proposed Plan:

   (a) that the Appellant addressed in its submission relating to the residential provisions in the Proposed Plan (submission number 839; FS 3338); and

   (b) that resulted in alternative solutions being included in the Proposed Plan.

3. The Appellant provides further details of the reasons for its Appeal below.

4. The Appellant is not a trade competitor for the purposes of section 308D of the RMA. In any event, the Appellant is directly affected by effects of the subject of the Appeal that:

   (a) adversely affect the environment; and

   (b) do not relate to trade competition or the effects of trade competition.

5. Notice of the decision that is being appealed, being the decision on Proposed Plan Hearing Topic 059-063 Residential Zones ("**the Decision**"), was received by the Appellant on or about 19 August 2016.

6. The Decision was made by the Council.

7. The provisions and parts of the Decision that are being appealed are the rejection by the Council of the Hearings Panel's recommendations pursuant to Hearing Topic 059-063 summarised by Council as the deletion of standards relating to reticulated water supply and waste water network capacity, and moving the matters to assessment criteria.

8. The reasons for this Appeal are:

   (a) The Appellant lodged original submissions dated 28 February 2014 and further submissions dated 22 July 2014 (collectively, "**the**

Submissions") which sought, amongst other things, amendments to the provisions addressing the residential provisions.

(b) The Hearings Panel's recommendations upheld the Submissions in recommending the deletion of a standard relating to reticulated water supply and wastewater network capacity and moving the matter to assessment criteria which applied across the residential zones.

(c) The Decision rejected the Hearing Panel's recommendations by deleting the 'wastewater capacity' assessment criteria which applied across the residential zones and inserting new matters of discretion and assessment criteria which seek to address issues of capacity in the existing stormwater, public reticulated water supply and wastewater networks in the Mixed Housing Suburban, Mixed Housing Urban and Terrace Housing and Apartment Buildings zones.

(d) The Council has argued that the deletion of the 'wastewater capacity' assessment criteria was in part because it appeared to be a drafting error. In contrast, the Appellant considers that the amendments to the Proposed Plan amount to a substantive change to the provisions in that:

(i) The Council's Decision Version rejected the Panel's recommended 'wastewater capacity' assessment criteria which applied across the Residential zone provisions.

(ii) The Council's Decision Version has proposed the insertion of new assessment criteria – which now seeks to address issues of capacity in the existing stormwater, public reticulated water supply and wastewater networks.

(e) Unless and until the Proposed Plan provisions regarding reticulated water supply and wastewater network capacity, specifically H4.8.1(1)(b); H4.8.1(2)(c); H4.8.1(3)(c); H4.8.2(1)(a)(i); H4.8.2(2)(i)(i); H4.8.2(3)(k)(i); H5.8.1(1)(a); H5.8.1(2)(c); H5.8.1(3)(c); H5.8.2(1)(a)(i); H5.8.2(2)(i)(i); H5.8.2(3)(k)(i); H.6.8.1(1)(a); H.6.8.1(2)(c); H.6.8.1(3)(c); H6.8.2(1)(a)(i); H6.8.2(2)(b)(i); and H6.8.2(3)(j)(i), are deleted in their entirety and the Panel's Recommendation of the 'wastewater capacity' assessment criteria, specifically H4.8.1(1)(a);

H4.8.2(1)(a)(i); H5.8.1(1)(a); H5.8.2(1)(a)(i); H6.8.1(1)(a); and H6.8.2(1)(a)(i), are reinstated, the provisions will not:

(i) promote the sustainable management of resources;

(ii) otherwise be consistent with Part 2 of the RMA;

(iii) be appropriate in terms of section 32 of the RMA; or

(iv) be consistent with the balance of the provisions of the Proposed Plan.

9. The Appellant seeks the following relief:

(a) That the Decision subject to this Appeal be disallowed.

(b) Inclusion of the Hearings Panel's recommendation of the wastewater capacity assessment criteria.

(c) Such other orders, relief or other consequential amendments as are considered appropriate or necessary by the Court to address the concerns set out in this Appeal.

(d) Costs of and incidental to the Appeal.

10. The Appellant **attaches** the following documents to this Notice of Appeal:

(a) Copies of the Appellant's original submission relating to the relevant Proposed Plan provisions (**Annexure A**).

(b) A copy of the Hearing Panel recommendations version of the relevant Proposed Plan provisions (**Annexure B**)

(c) A copy of the relevant parts of the Decision (**Annexure C**).

(d) A record that Auckland Council has been served with a copy of this Notice in accordance with the decision of the Environment Court granting waivers (Refer: [2016] NZ EnvC 153) in respect of the requirement to serve a copy of any Notice of Appeal on a submission on the provision or matter to which the appeal relates (**Annexure D**).

DATED at Auckland this 16th day of September 2016

Housing New Zealand Corporation by its solicitors and duly authorised agents Ellis Gould

Dr CE Kirman / AK Devine

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