

**IN THE ENVIRONMENT COURT
AUCKLAND**

ENV-2016-AKL

IN THE MATTER of the Resource Management Act 1991

AND

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

AND

IN THE MATTER of Proposed Auckland Unitary Plan Hearing Topic
042 - Infrastructure

BETWEEN **VECTOR LIMITED**

Appellant

AND **AUCKLAND COUNCIL**

Respondent

NOTICE OF APPEAL TO ENVIRONMENT COURT BY VECTOR LIMITED

16 SEPTEMBER 2016

RUSSELL McVEAGH

B J Matheson / D J Minhinnick
Phone +64 9 367 8000
Fax +64 9 367 8163
PO Box 8
DX CX10085
Auckland

VECTOR LIMITED ("Vector") appeals against part of the decision of the Auckland Council ("**Council**") in respect of the Proposed Auckland Unitary Plan ("**Unitary Plan**").

Decision

1. Vector made a submission and further submission on the Unitary Plan. Vector is a member of the Auckland Utility Operators Group Incorporated ("**AUOG**"), which also made a submission and further submission, and through which Vector provided legal submissions and evidence.
2. Vector is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 ("**RMA**").
3. Vector received notice of the Independent Hearings Panel's ("**Panel**") recommendation on the Unitary Plan ("**Recommendation**") on 27 July 2016, and notice of the Council's decision on the recommendation ("**Decision**") on 19 August 2016.
4. Vector has a right to appeal the Council's decision under section 156(1) of the Local Government (Auckland Transitional Provisions) Act 2010 because the Council rejected a recommendation of the Hearings Panel in relation to a provision or matter Vector addressed in its submission on the Unitary Plan (submitter 2745 / further submitter 2881). The Council decided on an alternative solution, which resulted in a matter being included in the Unitary Plan.

Parts of the Decision that Vector is appealing

5. Vector appeals that part of the Decision relating to the permitted activity standards in E26.2.5.1(4) for the construction of electric vehicle charging stations within roads and unformed roads.

Reasons for appeal

6. The Council Decision rejects the Panel's recommended permitted activity standards for electric vehicle charging stations.
7. The Panel Recommendation was that recharging stations for electric vehicles should be provided for as permitted activities in roads and all zones subject to the following development standards:

Electric vehicle charging stations

- (26) Electric vehicle charging stations must be:
- (a) maximum height of 1.8m;
 - (b) maximum area of 1.5m²; and
 - (c) either have a socket connection, or a fitted cable management accessory.
8. The Council Decision rejects the Panel's Recommendation by imposing the following two additional controls:
- (4) Electric vehicle charging stations:
- ...
- (d) must not be located on an arterial road; and
 - (e) must be removed by the owner when the equipment becomes obsolete.

General reasons

9. Vector opposes the inclusion of development standard (d) above and considers that the exclusion of electric vehicle charging stations from the arterial roads is inappropriate, for the reasons set out below.
10. The exclusion of electric vehicle charging stations from arterial roads:
- (a) will not promote the sustainable management of resources, will not achieve the purpose of the RMA, and is contrary to Part 2 and other provisions of the RMA;
 - (b) will not meet the reasonably foreseeable needs of future generations;
 - (c) does not manage the use of resources in a way that enables the community to provide for their social and economic well-being;
 - (d) does not represent an efficient use and development of natural and physical resources;
 - (e) does not avoid, remedy or mitigate the adverse effects on the environment; and
 - (f) does not represent the most appropriate means of exercising the Respondent's function, having regard to the efficiency and effectiveness of other available means, and is therefore not appropriate in terms of section 32 and other provisions of the RMA.

Specific reasons

11. A focus of the Unitary Plan at policy level is to encourage renewable electricity technology.¹
12. However, the impact of the Council's decision to exclude electric vehicle charging stations from arterial roads will be that:
 - (a) The overall number of electric vehicle charging stations able to be provided for without requiring resource consent will be significantly reduced.
 - (b) For any charging stations proposed to be located in arterial roads, there will be additional costs and delays associated with the consenting process.
13. A large number of roads are identified as arterial roads, including at least 32 roads in the central city alone. The failure to provide electric vehicle charging stations in easily accessible sites throughout the city is not likely to meet the reasonably foreseeable needs of future generations and is not an efficient use of resources.
14. Requiring a resource consent for charging stations on those roads will discourage their implementation and may well reduce the uptake of electric vehicles if charging stations are not readily available or are only available on minor roads.
15. The Council has failed to consider the impact of preventing or hindering charging stations from establishing on such a large proportion of roads when deciding to reject the Recommendation.
16. The Decision states that allowing electric vehicle charging stations as a permitted activity on arterial roads would remove the ability to manage their location and ensure the efficient use of arterial roads provision.²
17. However, to the extent that the Council is concerned with the location of such stations, the establishment of any electric vehicle charging station requires approval from Auckland Transport as road controlling authority through the Corridor Access Request process under the Auckland Transport Code of Practice.

¹ Policies B3.4.2(1) and (2).

² Decisions Report, 19 August 2016, paragraph 32.2(d).

18. This was recognised in the Panel's Recommendation, which states:

... the standards proposed by Auckland Utility Operators Group will limit the scale of the EV chargers and **the Corridor Access Request process provides the ability for reasonable conditions to be imposed by the road controlling authority to manage works in the road.**

[emphasis added]

Relief sought

19. Vector seeks:

- (a) That E26.2.5.1(4) be amended as follows:

Electric vehicle charging stations

(26) Electric vehicle charging stations must be:

- (a) maximum height of 1.8m;
 - (b) maximum area of 1.5m²;
 - (c) either have a socket connection, or a fitted cable management accessory; and
 - (d) ~~must not be located on an arterial road; and~~
 - (e) ~~must be removed by the owner when the equipment becomes obsolete.~~
- (b) Such consequential or related relief as may be necessary to give effect to its concerns.
- (c) Costs.

Service

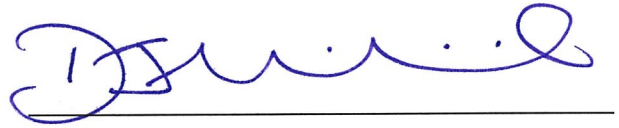
20. An electronic copy of this notice is being served today by email on the Auckland Council at unitaryplan@aucklandcouncil.govt.nz. Waivers and directions have been made by the Environment Court in relation to the usual requirements of the RMA as to service of this notice on other persons.

Attachments

21. Copies of the following documents are attached to this notice:

- (a) Vector's submission and further submission.
- (b) The relevant parts of the Recommendation.
- (c) The relevant parts of the Decision.

VECTOR LIMITED by its solicitors and
authorised agents Russell McVeagh:



Signature: Bal Matheson / Daniel Minhinnick
Date: 16 September 2016
Address for Service: C/- Daniel Minhinnick
Russell McVeagh
Barristers and Solicitors
48 Shortland Street
Vero Centre
PO Box 8/DX CX10085
AUCKLAND
Telephone: (09) 367 8000
Email: daniel.minhinnick@russellmcveagh.com

TO: The Registrar of the Environment Court at Auckland.

AND TO: Auckland Council.

Advice to recipients of copy of notice of appeal

How to become a party to proceedings

1. If you wish to be a party to the appeal, as per the requirements in Environment Court decision [2016] NZEnvC 153, within 15 working days after the period for lodging a notice of appeal ends you must:
 - (i) lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court by emailing unitaryplan.ecappeals@justice.govt.nz;
 - (ii) serve copies of your notice on the Auckland Council on unitaryplan@aucklandcouncil.govt.nz; and
 - (iii) serve copies of your notice on the appellant electronically.
2. Service on other parties is complete upon the Court uploading a copy of the notice onto the Environment Court's website.
3. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).
4. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

Advice

5. If you have any questions about this notice, contact the Environment Court in Auckland.

