

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2016-AKL- 000225

IN THE MATTER of the Local Government (Auckland Transitional Provisions) Act (“**the Act**”)

AND

IN THE MATTER of an appeal pursuant to section 156(1) of the Act

BETWEEN **ACI OPERATIONS NEW ZEALAND**

Appellant

AND **AUCKLAND COUNCIL**

Respondent

**NOTICE OF WISH TO BE PARTY TO PROCEEDINGS
UNDER SECTION 274 OF THE RESOURCE MANAGEMENT ACT**

TO: The Registrar
Environment Court
Auckland

1. The Auckland Regional Public Health Service (**ARPHS**) wishes to be a party to the following proceedings being an appeal regarding the proposed Auckland Unitary Plan ("**Unitary Plan**") lodged under s156(1) of the Act:
 - *ACI Operations New Zealand Limited v Auckland Council* - ENV-2016-AKL 000225
2. ARPHS has an interest in proceedings that is greater than the interest that the general public has. ARPHS provides public health services for the three district health boards (DHBs) in the Auckland region (Auckland, Counties Manukau and Waitemata District Health Boards). It has a statutory obligation under the New Zealand Public Health and Disability Act 2000 to improve, promote and protect the health of people and communities in the Auckland region.
3. ARPHS made submissions and participated in the hearings about the subject matter of the appeal.
4. ARPHS is not a trade competitor for the purposes of s308C of the Resource Management Act ("**RMA**").
5. ARPHS is interested in all aspects of the appeal that related to the decision by the respondent to reject the recommendation of the Independent Hearings Panel ("**Hearing Panel**") to delete the Auckland Ambient Air Quality Standards (AAAQS) and related recommendations in the Regional Policy Statement ("**RPS**") (B7 Natural Resources) and regional plan (E14 Air Quality).
6. ARPHS opposes the relief sought in the appeal, and supports the respondents' decisions at issue, on the following grounds:
 - (a) The relief sought by the Appellant does not promote the sustainable management of natural and physical resources and is otherwise inconsistent with Part 2 of the Act. In particular, the relief sought:
 - I. Does not adequately safe guard the life-supporting capacity of air
 - II. Does not meet the reasonably foreseeable needs of future generations

- III. Does not promote the efficient use and development of natural and physical resources
 - IV. Does not have particular regard to the maintenance and enhancement of the quality of the environment
 - V. Is contrary to good resource management practice
 - VI. Does not avoid, remedy or mitigate the adverse effects on the environment, and human health.
- (b) The respondent's decision to reject the Hearing Panel's recommendation to delete the AAAQS is supported as representing the most appropriate way to promote the purpose of the RMA, and give effect to relevant objectives and policies of the Regional Policy Statement ("RPS") section of the Unitary Plan, including avoiding, remedying, or mitigating adverse effects on human health.
- (c) The reasons the respondent gave in its decision to reject the Hearing Panel's recommendations are sound and supported by ARPHS.
- (d) Council has the ability under Regulation 28 of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (NES-AQ) to impose more stringent rules, and thereby more stringent air quality standards. The 2004 NES-AQ is out of date, and there is scientific justification to impose standards for all contaminants contained in the AAAQS including PM_{2.5}, sulphur dioxide and nitrogen dioxide.
- (e) The relief sought by the Appellant is inconsistent with the Council's functions under section 30 of the RMA, in particular:
- Section 30(1)(f) – the control of discharges of contaminants into air
 - Section 30(1)(fa)(iv) – if appropriate, the establishment of rules in a regional plan to allocate any of the following: ... the capacity of air... to assimilate a discharge of a contaminant.
7. ARPHS agrees to participate in mediation or other alternative dispute resolution regarding these proceedings.

Signature:

**The Auckland Regional Public Health
Service:**



Dr Julia Peters

Date:

7 October 2016

Address for service:

Private Bag 92605
Symonds Street
AUCKLAND 1150

Telephone:

(09) 623 4600

Facsimile:

+649 623 4645

Email:

ARPHSunitaryplan@adhb.govt.nz