

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

**I MUA I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKAURAU**

Decision No. [2020] NZEnvC 183

IN THE MATTER of the Resource Management Act 1991
AND of an appeal pursuant to s 120 of the Act

BETWEEN TE MANA O TE WAI HAPU INTEGRATION
ROOPU CHARITABLE TRUST & OTHERS
(ENV-2019-AKL-181)

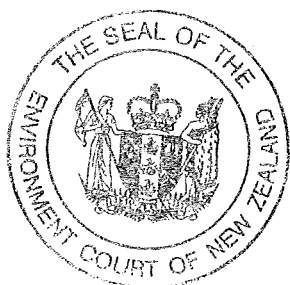
Appellants

AND NORTHLAND REGIONAL COUNCIL
Respondent

Court: Judge J A Smith sitting alone pursuant to s 279 of the Act
Hearing: in Chambers at Auckland, on the papers
Counsel: J Dawson for the First and Second Appellants
A Herbert-Graves for the Third Appellant
G Mathias for the Respondent
B Carruthers for the Applicant
No submissions for prospective Appellants Te Pokapu Tiaki Taiao
O Te Tai Tokerau Trust and R Oxborough
Date of Decision: 30 October 2020
Date of Issue: 30 October 2020

**DECISION OF THE ENVIRONMENT COURT
ON APPLICATION FOR STRIKEOUT**

A: The prospective appellants Te Pokapu Tiaki Taiao O Te Tai Tokerau Trust and R Oxborough are struck out. They may apply to become involved in the proceedings again if they file application within the next ten (10) working days.



B: The appeal otherwise remains on foot.

C: Costs are reserved.

REASONS

Introduction

[1] This issue was the subject of a callover in Whangarei Court in March 2020. At that time no appearance was made for Te Pokapu Tiako Taiao O Te Tai Tokerau Trust (**Te Pokapu Tiako**), prospective fourth appellant and R Oxborough, prospective fifth appellant. The Te Mana O Te Wai Hapu Integration Roopu Charitable Trust (**Te Mana O Te Wai Hapu**) and others, the first appellant, Sea Waters to the Sea, second appellant and Te Runga o Iwi O Ngāti Kahu as third appellant, all were represented at the hearing.

[2] These appellants did not appear on behalf of either the fourth or fifth prospective appellant. The Court ruled that, in the event that the fourth and fifth Appellants did not advise the Court by 2 September as to their interest in the matter, they faced the prospect of being struck out as appellants.

Progress

[3] The Court also directed that the matter proceed to a facilitated meeting, which occurred on 14 September. There were several delays in relation to the facilitated meeting due to COVID-19 alert levels. The meeting itself was able to proceed only with Commissioner Hodges, as Commissioner Prime was ill. The parties have subsequently referred to this as a cultural induction, nevertheless it appears to have been the facilitated meeting directed by the Court. It is clear that neither Te Pokapu Tiako nor Mr Oxborough attended that meeting, nor have they taken any action before or since to identify a continuing interest with the Court.

[4] By memorandum of 21 August 2020, the parties for the first, second, third appellant, the respondent Council and the Applicant sought that these two prospective appellants be struck out. The case is compelling for a strikeout of these parties, having not maintained any interest in the proceedings. Their interest in the appeal is, in any event, being maintained by the first to third appellants and I was advised that the public interests



that are raised by their appeal are adequately met by those with a continuing interest in the proceedings.

Decision

[5] Accordingly, the appellants are struck out. The appellants may apply to become involved in the proceedings again if they file application within the next ten (10) working days. This would need to be accompanied by affidavit explaining their reason for their non-compliance to date, and acknowledging that they would need to comply with further directions and are bound by actions that have occurred in respect of the proceedings to date.

For the court:





J A Smith
Environment Judge