

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(3)] 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**)

BETWEEN **Kevin OGrady**

Appellant

AND **AUCKLAND COUNCIL**

Respondent

NOTICE OF APPEAL

Dated 16 September 2016

To: The Registrar
 Environment Court
 Auckland

1. I, Kevin OGrady appeal against a decision (or part of a decision) of the Auckland Council (the **Council**) on the proposed Auckland Unitary Plan (**Proposed Plan**).
2. I have the right to appeal the Council's decision –
 - (a) under section 156(3) of the LGATPA because the Council accepted a recommendation of the Hearings Panel, which is beyond the scope of the submissions made on the Proposed Plan. The Council's decision resulted in a provision being included in the Proposed Plan. I am or will be unduly prejudiced by the inclusion of the provision .
3. I provide further details of the reasons for my appeal below.
4. I am not a trade competitor for the purposes of section 308D of the RMA.
5. I am directly affected by an effect of the subject of the appeal that—
 - (a) adversely affects the environment; and
6. I received notice of the decision on 19 August 2016.
7. The decision (or part of the decision) that I am appealing is:
 - *The inclusion of 12, 12A, 14 and 14A Huka Rd Birkenhead in the Residential Terrace Housing and Apartment Buildings zone based on the recommendation of the Hearings Panel;*
 - *The zoning of these four properties in PAUP 2013 prior to the recommendation of the Hearings Panel was Residential Single House .*
8. The reasons for the appeal are as follows:
 - (a) *The only other property in Huka Rd zoned as Residential Terrace and Apartment Buildings zone is no 10 Huka Rd.*
 - (b) *10 Huka Rd had not been built on due to the natural terrain and difficult contours of the land which all sit well below road level by at least 3 levels. While this allocation looks acceptable from plans, it is necessary to view the actual physical site to appreciate the different impacts that each individual site will have on the surrounding area and street scape.(Refer attached map)*
 - (c) *As these four properties were not originally included in Residential Terrace Housing and Apartment zone, there was no reason to raise an earlier submission.*
9. I seek the following relief:
 - (a) *That the properties of 12, 12A, 14 and 14A Huka Rd be zoned as Residential Single House zone*

10. An electronic copy of this notice is being served today by email on the Auckland Council at unitaryplan@aucklandcouncil.govt.nz. and the Environment Court at unitaryplan.ecappeals@justice.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.

11. * I attach the following documents† to this notice:

- (a) a copy of the relevant part of the decision (as per zoning map)
- (b) * any other documents necessary for an adequate understanding of the appeal;
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- (c) List of names and addresses of persons served / to be served with a copy of this notice.
Auckland Council.
Private Bag 92300
Victoria Street West
Auckland 1142.

† These documents constitute part of this form and, as such, must be attached to the notice lodged with the Environment Court. The appellant does not need to attach a copy of the Unitary Plan. In addition, the appellant does not need to attach copies of the submission and decision to the copies of the notice served on the Council and (if relevant) the Minister if the copy served lists these documents and states that copies may be obtained, on request, from the appellant.

Kevin OGrady

Signature of appellant (or person authorised to sign
on behalf of appellant)

Date 16 September 2016

Address for service of appellant: 29 Huka Rd Birkenhead 0626

Telephone: 09 418-4083

Fax/email: kogrady@xtra.co.nz

Contact person: *Kevin OGrady*

Note to appellant

You may appeal only if—

(a) the Council rejected a recommendation of the Hearings Panel in relation to a provision or a matter you addressed in your submission on the proposed plan and the Council decided on an alternative solution that resulted in a provision being included in the proposed plan or a matter being excluded from the proposed plan; or

(b) you are, were, or will be unduly prejudiced by the inclusion of a provision in or the exclusion of a matter from the proposed plan in relation to which the Council accepted a recommendation of the Hearings Panel that the Hearings Panel had identified as being beyond the scope of the submissions made on the proposed plan.

Your right to appeal may be limited by the trade competition provisions in Part 11A of the RMA.

You must lodge the original notice with the Environment Court, and serve a copy on the Council (by email to unitaryplan@aucklandcouncil.govt.nz), within 20 working days after the Council notifies its decisions in relation to the recommendations of the Hearings Panel under section 148(4)(a) of the LGATPA (i.e. by no later than **16 September 2016**).

You must pay the filing fee required by regulation 15 of the Resource Management (Forms, Fees, and Procedure for Auckland Combined Plan) Regulations 2013 at the time you lodge this notice with the Environment Court.

If your appeal concerns a regional coastal plan provision / the coastal marine area, you must serve a copy of this notice on the Minister of Conservation within 5 working days after this notice is lodged with the Environment Court.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003).

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may become a party to the appeal if you are one of the persons described in section 274(1) of the RMA.

To become a party to the appeal, you must, within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003) with the Environment Court by email (to unitaryplan.ecappeals@justice.govt.nz) and serve copies of your notice by email on the Auckland Council (to unitaryplan@aucklandcouncil.govt.nz) and the appellant.

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 RMA.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003).

Advice

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

