

BEFORE THE ENVIRONMENT COURT

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

AND of an appeal under section 156(1) of the LGATPA

BETWEEN RYMAN HEALTHCARE LIMITED AND THE RETIREMENT VILLAGE ASSOCIATION OF NEW ZEALAND INCORPORATED

(ENV-2016-AKL-000230)

HOUSING NEW ZEALAND CORPORATION

(ENV-2016-AKL-000237)

Appellants

AND AUCKLAND COUNCIL

Respondent

Principal Environment Judge L J Newhook sitting alone under section 279 of the RMA

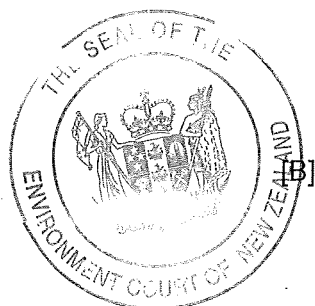
In CHAMBERS at Auckland

CONSENT ORDER

[A] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeals are allowed subject to the amendments to the set out in Annexure A this order;
- (2) the appeal by Housing New Zealand is otherwise dismissed.

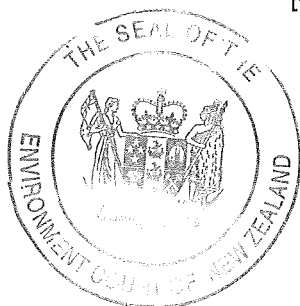
Under s 285 of the RMA, there is no order as to costs.



REASONS

Introduction

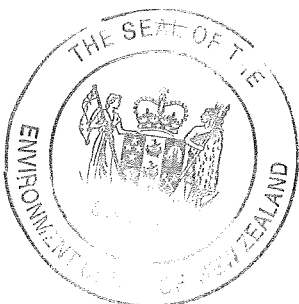
- [1] These appeals relate to the decisions of the Auckland Council on the proposed Auckland Unitary Plan.
- [2] Housing New Zealand Corporation (**HNZ**) and Ryman Healthcare Limited and the Retirement Village Association Incorporated (**Ryman and RVA**) appealed part of the Council's decision that rejected the recommendation by the Auckland Unitary Plan Independent Hearings Panel, summarised by the Council as the deletion of standards relating to reticulated water supply and wastewater network capacity, and moving the matters to assessment criteria.
- [3] The Proposed Plan is now operative in part and is named the 'Auckland Unitary Plan Operative in Part'. It is therefore that document which requires amendment.
- [4] The Hearings Panel recommended 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. The Council deleted the 'wastewater capacity' assessment criteria which applied across the residential zones and inserted 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.
- [5] HNZ and Ryman and the RVA lodged appeals on 16 September 2016 seeking inclusion of the Hearings Panel's recommendations of the wastewater capacity assessment criteria in residential zones.
- [6] Following Court-assisted mediation the parties have reached an agreement that will resolve the HNZ appeal in its entirety, and the Ryman and the RVA appeal in part.



- [7] Specifically, this Consent Order resolves the Ryman and RVA appeal points at paragraphs 6.1(n)(ii), 6.1(o)(ii) and 6.1(p)(ii) in relation to infrastructure and servicing matters.
- [8] In making this order the Court has read and considered the appeals and the memorandum of the parties dated 3 March 2017.
- [9] Keith Vernon gave notice of intention to become a party to both appeals under s 274 of the RMA and has signed the memorandum of the parties setting out the relief sought.
- [10] The Court is making this order under s 279(1)(b) of the RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297 of the RMA.
- [11] The Court understands for present purposes that:
- (a) All parties to the proceedings have executed the memorandum requesting this order; and
 - (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the RMA, including in particular Part 2.

Order

- [12] Therefore, under s 279 of the RMA, the Court orders, by consent, that amendments be made to the assessment criteria relating to reticulated water supply and wastewater network capacity contained in the Auckland Unitary Plan Operative in part as shown in **Annexure "A"** to this order. Specifically, the provisions to be amended are:



- H4.8.2(1)(a); H4.8.2(2)(i), H4.8.2(3)(k) (Mixed Housing Suburban Zone);
- H5.8.2(1)(a), H5.8.2(2)(i), H5.8.2(3)(k) (Mixed Housing Urban Zone); and
- H6.8.2(1)(a), H6.8.2(2)(j), H6.8.2(3)(j) (Terrace Housing and Apartment Buildings Zone).

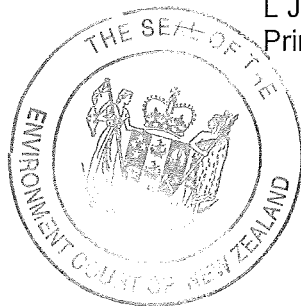
[13] This Order resolves the appeal by Housing New Zealand Corporation in its entirety. This Order also resolves the appeal by Ryman and the RVA in part.

[14] There is no order as to costs in relation to this order.

SIGNED at AUCKLAND this 17th day of March 2017



L J Newhook
Principal Environment Judge



"A"

1. Make the following amendment to the provisions listed in paragraph 2:

infrastructure and servicing:

- (i) Whether there is adequate capacity in the existing stormwater and public reticulated water supply and wastewater network to service the proposed development.
- (ii) Where adequate network capacity is not available, whether adequate mitigation is proposed.

2. **Chapter H Zones:**

H4 Residential – Mixed Housing Suburban Zone

H4.8.2 Assessment Criteria

- H4.8.2(1)(a)
- H4.8.2(2)(i)
- H4.8.2(3)(k)

H5 Residential – Mixed Housing Urban Zone

H5.8.2 Assessment Criteria

- H5.8.2(1)(a)
- H5.8.2(2)(i)
- H5.8.2(3)(k)

H6 Residential – Terrace Housing and Apartment Buildings Zone

H6.8.2 Assessment Criteria

- H6.8.2(1)(a)
- H6.8.2(2)(j)
- H6.8.2(3)(j)

