

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2016-AKL-000110

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

A N D

IN THE MATTER of an appeal pursuant to section 156(3) of the LGATPA against a decision of the Auckland Council on a recommendation of the Auckland Unitary Plan Independent Hearings Panel ("**Panel**") on the proposed Auckland Unitary Plan ("**Unitary Plan**")

BETWEEN **GAVIN & CAROLYN SMART**

Appellant

A N D **AUCKLAND COUNCIL**

Respondent

**NOTICE OF INTENTION TO BECOME AN INTERESTED PARTY PURSUANT
TO SECTION 274 OF THE RMA BY HOUSING NEW ZEALAND
CORPORATION**

4 AUGUST 2017

**ELLIS GOULD
LAWYERS
AUCKLAND**

REF: Dr C E Kirman / A K Devine

**Level 17 Vero Centre
48 Shortland Street, Auckland
Tel: 09 307 2172 / Fax: 09 358 5215
PO Box 1509
DX CP22003
AUCKLAND**

TO: The Registrar
Environment Court
AUCKLAND


1. **HOUSING NEW ZEALAND CORPORATION** (“**the Corporation**”) gives notice under section 274 of the RMA that it wishes to be a party to these proceedings, being *Smart v Auckland Council* (ENV-AKL-2017-000110) (“**the Appeal**”).
2. The Appeal is in respect of the decision of Auckland Council (“**the Council**”) on recommendations of the Panel on Unitary Plan Hearing Topic 013 – Urban Growth and Topics 016/017 – Rural Urban Boundary (“**the Decision**”), specifically the Decision to adopt the Panel’s recommendation to delete any Rural Urban Boundary (“**RUB**”) at Waiheke in the Unitary Plan as a consequence of:
 - (a) The decision to shift the RUB mechanism from the Regional Policy Statement (“**RPS**”) to the District Plan; and
 - (b) The legal inability of the Unitary Plan process to impose district rules on the Hauraki Gulf Islands.
3. The Corporation is a person who has an interest in these proceedings that is greater than the interest the general public has for the following reasons, including (without limitation):
 - (a) The Corporation has landholdings on Waiheke Island in close proximity to the location of the RUB in the Unitary Plan as notified. Specifically, the Corporation owns a number of properties located on Waiheke, equating to 5,046m² of land. These property interests could potentially be affected by any changes to the planning provisions in relation to the Hauraki Gulf Islands. The details of the properties owned by the Corporation are set out in **Annexure A**.

- (b) Further, the Corporation has an interest in extensive areas of land within (as well as land outside) the existing urban areas of the Auckland Region, as defined by the RUB but also anticipates acquiring and urbanising tracts of land at the edge of the Auckland urban area (but beyond the RUB) over the life of the Unitary Plan. The placement of the RUB mechanism as a district rule in the Unitary Plan will enable land owners, including the Corporation to make private plan change requests to shift the RUB and urbanise such land, with reference to the RPS policy provisions regarding such changes.
- (c) The relief to be granted pursuant to the appeal must be limited to the mechanism to apply to the Hauraki Gulf Islands only and must have no implications for or impact upon the RUB provisions relating to the balance of the Region.
- (d) The Corporation's interest in the Appeal relates primarily to the interface between the new provisions sought in the Appeal and the RUB provisions relating to the balance of Auckland.
- (e) If the RUB is to be imposed on the Hauraki Gulf Islands through amendments to the RPS, that should occur in a manner that is consistent with the existing RPS provisions relating to the RUB and in particular the status of the mechanism as a district plan rule. The RUB can only be applied to Waiheke Island through a plan change that would amend the RUB maps, which are a district plan rule. Accordingly, if any RPS provisions are introduced through the Appeal, such provisions would need to be limited to policy provisions and should specify a timeframe within which a plan change altering the RUB maps to include the Waiheke Island RUB would be introduced.
- (f) If, in contrast, the Court wishes to implement for the Hauraki Gulf Islands a limit on the extent of the urban area which functions as a RPS provision, it should introduce a comprehensive set of RPS provisions relating to that separate mechanism:

- (i) Specifying that it relates solely to the Hauraki Gulf Islands;
 - (ii) Adopting a different name (e.g.: Waiheke Urban Limits) to distinguish it from the RUB;
 - (iii) Establishing the policy basis upon which a separate regime has been adopted for the Hauraki Gulf Islands and justifying its incorporation into the RPS; and
 - (iv) Introducing a map as part of the RPS to show the extent and location of that new limit.
4. The Corporation is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
 5. The Corporation is interested in the Appeal in its entirety.
 6. The Corporation opposes the relief sought in the Appeal to the extent that it is inconsistent with the matters set out at paragraphs 3(a)-(f) above, and for the reasons set out in those paragraphs.
 7. The Corporation agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED at Auckland this 4th day of August 2017

**HOUSING NEW ZEALAND
CORPORATION** by its solicitors and
duly authorised agents Ellis Gould



C E Kirman / A K Devine

ADDRESS FOR SERVICE: Dr Claire Kirman / Alex Devine, The offices of Ellis Gould, Solicitors, Level 17, Vero Centre, 48 Shortland Street, PO Box 1509, Auckland 1140, DX CP22003, Auckland, Telephone: (09) 307-2172, Facsimile: (09) 358-5215. Attention: C E Kirman / A K Devine, ckirman@ellisgould.co.nz / adevine@ellisgould.co.nz.

Note to person wishing to be a party

You must lodge the original and 1 copy of this notice with the Environment Court within 15 working days after—

- the period for lodging a notice of appeal ends, if the proceedings are an appeal; or
- the decision to hold an inquiry, if the proceedings are an inquiry; or
- the proceedings are commenced, in any other case.

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.

The notice must be signed by you or on your behalf.

You must serve a copy of this notice on the relevant local authority and the person who commenced the proceedings within the same 15 working day period and serve copies of this notice on all other parties within 5 working days after that period ends.

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).

Advice

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

Annexure A – Schedule of Properties owned by Housing New Zealand Corporation on Waiheke.

1.	NA 850/88, Lot 353 DP 14189
2.	NA 812/12, Lot 287 DP 14189
3.	NA1091/54, Lot 286 DP 14189
4.	NA832/228, Lot 288 DP 14189
5.	NA402/289, Lot 304 DP 14189