

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2016-AKL-

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

AND

IN THE MATTER

of Proposed Auckland Unitary
Plan ("PAUP") Hearing Topic
081 Rezoning and Precincts

BETWEEN

**DAVID ALISON and
GERARD MURPHY**
43 Wood St, Freemans Bay

**BRENDAN DRURY and LIZ
ADAMS**
32 Wood St, Freemans Bay

**WILL TIPPING and
KIRIANA TIPPING**
30 Wood St, Freemans Bay

**PETER WITHEL and
SARAH WITHEL**
3 Ryle St, Freemans Bay

**ALISON LEVERSHA and
NEIL MACLENNAN**
40 Wood St, Freemans Bay

DARRYL GREGORY
23 Arthur St, Freemans Bay

Appellants

AND

AUCKLAND COUNCIL

Respondent

**APPLICATION FOR WAIVER UNDER SECTION 281 OF THE RESOURCE
MANAGEMENT ACT 1991**

To: The Registrar
Environment Court
PO Box 7147
Wellesley St
Auckland

1. Pursuant to section 281(1)(a)(ii), David Alison, Gerard Murphy, Brendan Drury, Liz Adams, Will Tipping, Kiriana Tipping, Peter Withel, Sarah Withel, Alison Leversha, Neil Maclennan, and Darryl Gregory ("Appellants") seek a waiver of the time within which an appeal must be filed under section 156(3) of the Local Government (Auckland Transitional Provisions) Act 2010 ("LGATPA").
2. The Appellants make this application on the following grounds:
 - (a) The period for filing an appeal under section 156(3) of the LGATPA expired on 16 September 2016.
 - (b) The High Court appeal (CIV-2016-404-2326) and judicial review proceedings (CIV-2016-404-2327) relied on by the Appellants were not filed until 16 September 2016. The Appellants and their advisors therefore did not have the opportunity to consider these proceedings until after the appeal period had expired.
 - (c) It is respectfully submitted that an appeal under section 156(3) of the LGATPA should not be time barred by section 156(5) of the LGATPA where a recommendation of the Independent Hearings Panel was found to be out of scope after the period for filing appeals provided in section 156(5) has expired.
 - (d) It is respectfully submitted that there are no parties who will be unduly prejudiced by the late filing of this appeal, as these proceedings must be placed on hold pending the outcome of the proceedings referenced above. Despite the Court's waiver of the usual service requirements for Proposed Auckland Unitary Plan appeals,¹ the Appellants propose to serve Housing New Zealand and the owners of 34 Wood St (in addition to Auckland Council) to ensure that there is no prejudice to these parties.
3. The Appellants therefore respectfully requests that the Court exercise its discretion to grant a waiver of the time frame for filing an appeal under section 156(3) of the LGATPA.

DATED at **AUCKLAND** this 3rd day of October 2016



S J Simons / R M Steller

Counsel for David Alison, Gerard Murphy, Brendan Drury, Liz Adams, Will Tipping, Kiriana Tipping, Peter Withel, Sarah Withel, Alison Leversha, Neil Maclennan and Darryl Gregory

¹ *Re Auckland Council* [2016] NZEnvC 153

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