
**BEFORE THE ENVIRONMENT COURT
HELD AT AUCKLAND**

ENV-2016-AKL-232

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

AND IN THE MATTER OF of an appeal pursuant to section 156 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")

AND IN THE MATTER OF of Unitary Plan Hearing Topic 081

BETWEEN **BUNNINGS LIMITED**
Appellant

AND **AUCKLAND COUNCIL**
Respondent

**NOTICE OF INTENTION OF THE MINISTER OF DEFENCE TO
BECOME AN INTERESTED PARTY PURSUANT TO SECTION 274 OF
THE RMA AND SECTION 156 OF THE LGATPA**

7 October 2016

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To the Registrar
Environment Court
Auckland

1. **THE MINISTER OF DEFENCE** (“**the Minister**”) gives notice under section 274 of the RMA that he wishes to be a party to these proceedings, being *Bunnings Limited v Auckland Council* (ENV-AKL-2016-000232) (“**the Appeal**”).
2. The Appeal is in respect of the decision of Auckland Council (“**the Council**”) on a recommendation of the Panel on Unitary Plan Hearing Topic 081 - Rezoning and Precincts (“**the Decision**”), specifically the Decision to approve the Redhills Precinct.
3. The Appellant says in the High Court that the version of the Redhills Precinct Plan which has been included in the Unitary Plan is beyond the scope of submissions and by which it says it is unduly prejudiced. In this Court the Appellant seeks to substitute a different Redhills Precinct Plan.
4. The Minister through the New Zealand Defence Force made a submission on the Unitary Plan on a matter that relates to the Precinct Plan land area.
5. The Minister also has an interest in the proceedings that is greater than the interest of the general public because the Minister is a requiring authority with responsibility for the Whenuapai Air Base. The flight paths into and out of the Whenuapai Air Base cross the land the subject of this Appeal. Accordingly, the Minister has an interest in the planning provisions relating to this land.
6. The Minister is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
7. The Minister is interested in the Appeal in its entirety. In particular, but without limiting the generality of the above statement, the Minister has an interest in the height limits that would be applicable if the appellant’s relief were granted.
8. The Minister conditionally opposes the relief sought in the Appeal because:

- 8.1 The Minister has brought an appeal in the High Court (CIV-2016-404-2314) seeking that the height limits in the Redhills (and Westgate) Precinct incorporate the lower height limits imposed in the Obstacle Limitation Surfaces (effectively the flight paths) into and out of Whenuapai Air Base that reflect civil aviation requirements. The flight paths cross both Precincts. The Appeal seeks to substitute a Precinct Plan for Redhills and it is not clear if or how the matter of applicable height limits would be addressed if the relief sought in the Appeal were to be granted
- 8.2 Whenuapai Air Base is an operational New Zealand Defence Force facility having two confirmed designations (Designations 4310 and 4311) recognizing its national importance. The changing land use and intensification of development in the vicinity of the Whenuapai Air Base needs to be planned to accommodate its needs.
9. The Minister agrees to participate in mediation or other alternative dispute resolution of the proceedings.
10. The Minister notes that the pursuit of this appeal is dependent on the High Court holding that the recommendation of the Panel in regard to the Redhills Precinct Plan was outside the scope of submissions and that the Appellant is unduly prejudiced in terms of section 156(3) of the LGATPA.

7 October 2016



R H Dixon
Counsel for the Minister of Defence

The address for service of the Minister is Crown Law, Level 3, Justice Centre, 19 Aitken Street, Wellington 6011. Documents for service on the Minister may be left at this address for service or may be:

- (a) posted to the solicitor at PO Box 2858, Wellington 6140; or
- (b) left for the solicitor at a document exchange for direction to DX SP20208, Wellington Central; or
- (c) transmitted to the solicitor by facsimile to 04 473 3482; or
- (d) emailed to the solicitor at rosemary.dixon@crownlaw.govt.nz