

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2018-AKL-000149

**I MUA I TE KŌTI TAIAO
I TĀMAKI MAKĀURAU ROHE**

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 s156(1) LGATPA

BETWEEN **FULTON HOGAN LIMITED**

Appellant

AND **AUCKLAND COUNCIL**

Respondent

**NOTICE OF ENVIRONMENTAL DEFENCE SOCIETY INCORPORATED'S WISH TO
BECOME A PARTY TO PROCEEDINGS PURSANT TO SECTION 274 RESOURCE
MANAGEMENT ACT 1991**

16 AUGUST 2018

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NOTICE OF WISH TO BE A PARTY TO PROCEEDINGS UNDER S274 RMA BY THE ENVIRONMENTAL DEFENCE SOCIETY INCORPORATED

TO: The Registrar
Environment Court
AUCKLAND

1. The Environmental Defence Society Incorporated (**EDS**) wishes to be party to notice of appeal ENV-2018-AKL-000149 dated 26 July 2018 by Fulton Hogan Limited (**Appellant**) to the Environment Court (**Appeal**) against a decision of Auckland Council (**Respondent**) on the Proposed Auckland Unitary Plan (**PAUP**).

Appeal

2. The Appeal concerns the identification of the Southern Significant Ecological Area (**SEA**) at the quarry at McNicol Road, Clevedon (**Clevedon Quarry**), reinstated by virtue of the High Court's decision in *Royal Forest & Bird Protection Society of New Zealand Inc v Auckland Council* [2018] NZHC 1069; *Royal Forest & Bird Protection Society of New Zealand Inc v Auckland Council* [2018] NZHC 1244 (**High Court Decision**).

Interest

3. EDS was a submitter¹ and a further submitter² on the PAUP. It specifically addressed protection of Auckland's SEAs.
4. EDS was a s301 party to the subsequent High Court appeal by Royal Forest & Bird Protection Society Inc (**F&B**) of the Respondent's decision to delete identified SEAs where they occurred within the Special Purpose Quarry Zone.
5. EDS has an interest in the proceedings that is greater than that of the general public:

¹ Submission number 4735.

² Further submission number 1974.

- a. EDS is a not-for-profit national environmental advocacy group. It was established in 1971 with the objective of bringing together the disciplines of law, science, and planning to advocate for better environmental outcomes in resource management matters. It has been active in assessing the effectiveness of the RMA and statutory planning documents in addressing key environmental issues.
 - b. F&B's appeal of the Respondent's decision to delete identified SEAs where they occurred within the Special Purpose Quarry Zone was successful. As a result, those SEAs were reinstated in the PAUP overlay maps. EDS was a s301 party supporting that outcome. The Appeal has been filed in light of the High Court Decision which upheld F&B's appeal.
6. EDS is not a trade competitor for the purposes of s308C or s308CA RMA.

Position & Reasons

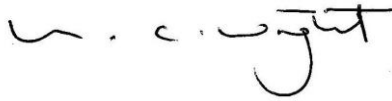
7. EDS is interested in and opposes the Appeal in its entirety.
8. The reasons for EDS's position are:
- a. The Southern SEA meets the PAUP criteria for SEAs (cf. NOA at [7(b)]).
 - b. The Appellant's contention that the Southern SEA could "compromise the efficient and effective development of the aggregate resource" (NOA at [7(a)]) is overstated and unfounded, consent can still be sought to undertake such development.
 - c. The relief sought would be inconsistent with:
 - i. Safeguarding the life supporting capacity of ecosystems under s5(2) RMA;
 - ii. The protection, as a matter of national importance, of areas of significant indigenous vegetation and significant habitats of indigenous fauna under s6(c) RMA;

iii. Council's obligation to maintain indigenous biological diversity under ss 30 and 31 RMA; and

iv. The relevant PAUP provisions requiring that SEAs are identified, recognised and protected.

9. EDS agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED at Auckland this 16th day of August 2018



Madeleine C Wright
Solicitor for EDS

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Advice to recipients

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