

**IN THE ENVIRONMENT COURT**

	<b>ENV-2015-AKL</b>
<b>IN THE MATTER</b>	of the Resource Management Act 1991
<b>AND</b>	
<b>IN THE MATTER</b>	of an appeal pursuant to clause 14(1) of Schedule 1 of the Act against a decision of Auckland Council in respect of Private Plan Change Modification 372 to the Auckland Council District Plan: Isthmus Section 1999
<b>BETWEEN</b>	<b>NGATI TE ATA WAIOHUA</b> <b>NGATI TAMAOHO TRUST</b> <b>Appellants</b>
<b>AND</b>	<b>AUCKLAND COUNCIL</b> <b>Respondent</b>
<b>AND</b>	<b>FLETCHER RESIDENTIAL</b> <b>LIMITED</b> <b>Plan Change Applicant</b>

**NOTICE OF APPEAL**

**To:** The Registrar  
  
Environment Court  
  
Auckland

1. Ngati te Ata Waiohua, Ngati Tamaoho Trust (the **Iwi Groups**) appeal against part of a decision of Auckland Council (**Council**) in respect of Proposed Private Plan Change 372 to the Auckland Council District Plan: Isthmus section 1999 (**Decision** and **Modification**).

2. Ngati te Ata Waiohua and Ngati Tamaoho Trust made submissions on PM372.
3. The Iwi Groups are not trade competitors for the purposes of section 308D of the Resource Management Act 1991.
4. The Iwi Groups received notice of the Decision on 9th of November 2015.
5. The Decision was made by Commissioners on behalf of Auckland Council.
6. The Iwi Groups largely support PM 372, save for the points of appeal listed below. The parts of the Decision that the Iwi Groups are appealing are:
  - a. References to “green stormwater infrastructure”
    - i. Introduction Clause 4(iv); and
    - ii. Assessment Criteria Clauses 6(ii), 9(v) and 12(viii)
  - b. Diagram F08-85 – Three Kings Concept Plan (**Concept Plan**):
    - i. Location of Whare Manaaki; and
7. The general reason for the appeal are that the Decision:
  - a. Has given inadequate consideration to Section 32 of the Act;
  - b. Is inconsistent with and could better give effect to the regional planning instruments;
  - c. Has inadequately provided for the purposes and principles of the Act; and
  - d. Should better take into account matters relating to Te Tiriti o Waitangi.
8. Without limiting the generality of the reasons given for this appeal above, the Iwi Groups are concerned with the following specific parts of the Decision, for the reasons described, and seek the following relief:

#### **References to green stormwater infrastructure**

9. The part of the Decision appealed is:
  - a. Introduction – Clause 4(iv); and
  - b. Assessment Criteria – Clauses 6(ii), 9(v), 12(viii)
10. The reasons for appealing this part of the Decision are:
  - a. The Iwi Groups noted through consultation and multiple hui with Fletcher that they preferred the use of wetland as part of the stormwater management system as they give better taiao and mauri tu outcomes.
  - b. The “green stormwater infrastructure” approach of the commissioners seeks to implement reed and grassed semi wet areas which is not supported by the Iwi Groups.
  - c. Dedicated wetlands will:

- i. achieve a better cultural outcome as it is the pivotal surface recognition of *“The Belt” - Te Tatua a Riukiuta*,
- ii. deliver a significant improvement to the biodiversity of the site,
- iii. celebrate the significance of the waiora contained within the aquifer and enhance the experience of manawhenua and visitors to the site and Te Tatua a Riukiuta.

11. The relief sought is:

- a. Adoption of the wetlands provisions in Fletcher Residential Ltd’s (Fletcher’s) final version of PM372 submitted to the Commissioners which specifically refers to wetlands and in particular:
  - i. A introduction – (4)(iv) – *“on site management of all stormwater through the use of a series of wetlands and soakage”*; and
  - ii. H Assessment Criteria: Residential 8b Zone – 3(ii) – *“the development of wetlands to serve as a functional stormwater management device and also create a high amenity with native planting within the area.”*
- b. Any further consequential amendments to references to the term *“green stormwater infrastructure”* in the Design Guide that are necessary to achieve consistency with the amendments resulting from (a)(i) and (ii) above.

### **Concept Plan**

12. The part of the Decision appealed is Diagram F08-85(a): Three Kings Concept Plan

#### *Location of the Whare Manaaki*

13. The reasons for appealing this part of the Decision are:

- a. The Iwi Groups seek to enable the Whare Manaaki to be located either in its current position in the Concept Plan or to be located in the Open Space 2 or Residential 8 B Zones (specifically where this applies to the Western park). This would be a sensitive and meaningful use of either location.
- b. A Whare Manaaki will enable mana whenua to rekindle their attachment to the land and connect meaningfully with the adjacent areas, and will create a key meeting place associated with Te Tatua a Riukiuta.
- c. Possible relocation of the Whare Manaaki will allow more choice and opportunities for mana whenua to establish a base where they feel it is most appropriate from which kaitiaki and manaakitanga roles can be carried out in future.

- d. Relocation of the Whare Manaaki to an area that has a clear back drop of the Maunga and is better connected to proposed walkways provides a more distinctive current connection to the significant Maori history of Te Tatua a Riukiuta.

14. The relief sought is:

- a. The Concept Plan should be amended so that the Whare Manaaki can be located either in its current position on the Concept Plan or in the Open Space 2 or Residential 8B Zones (specifically where this applies to Western Park).

15. The Iwi Groups also seek any consequential relief as required to give effect to the reasons for the appeal above.

16. The Iwi Groups attach the following documents to this notice:

- a. A copy of their submissions  
b. A copy of the parts of the Decision appealed; and  
c. A list of names and addresses of persons to be served with a copy of this Notice of Appeal.

DATED at Auckland this

17<sup>th</sup>

day of

December 2015



Bernie Chote

Representative of Ngati te Ata

Waiohua and Ngati Tamaoho Trust

Address for service:

Bernie Chote

Rangatu Ltd

88 Shackleton Rd

Mt Eden 1024

Email: [bernie@ranagtu.co.nz](mailto:bernie@ranagtu.co.nz)

Mobile: 0212-887-151

## **Advice to recipients of copy of notice of appeal**

### *How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,-

- (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

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.

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).

### *How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the appellant's submission and or the decision appealed. These documents may be obtained, on request, from the appellant.

### *Advice*

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