

BEFORE THE ENVIRONMENT COURT

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

AND of an appeal under section 156(1) of the
LGATPA

BETWEEN RYMAN HEALTHCARE LIMITED AND THE
RETIREMENT VILLAGES ASSOCIATION OF
NEW ZEALAND INCORPORATED

(ENV-2016-AKL-000230)

Appellant

AND AUCKLAND COUNCIL

Respondent

Principal Environment Judge L J Newhook sitting alone under section 279 of
the RMA

In CHAMBERS at Auckland

CONSENT ORDER

[A] Under s 279(1)(b) of the RMA, the Environment Court, by consent, orders
that:

- (1) the appeal is allowed in part subject to the agreed amendments to
the proposed Auckland Unitary Plan set out in Annexure A to this
order;

[B] Under s 285 of the RMA, there is no order as to costs.



REASONS

Introduction

- [1] This appeal relates to the decisions of the Auckland Council on the proposed Auckland Unitary Plan. Ryman Healthcare Limited and the Retirement Villages Association of New Zealand (Ryman and the RVA) appealed the Council's decision to reject part of the recommendation by the Auckland Unitary Plan Independent Hearings Panel in relation to Hearing Topics 059-063 (Residential zones).
- [2] The appeal relates to the description, objectives and policies; activity status and notification rules; standards; and matters of discretion / assessment criteria contained the Residential Single House Zone, the Residential Mixed Housing Suburban Zone, the Residential Mixed Housing Urban Zone and the Residential Terrace Housing and Apartment Zone.
- [3] The Proposed Plan is now operative in part and is named Auckland Unitary Plan Operative in Part.
- [4] The parties have reached an agreement that will resolve part of the appeal. The parts of the appeal that are resolved by this order are those set out in the following paragraphs of the Notice of appeal:

Objectives and policies in the Residential Single House Zone, Residential Mixed Housing Suburban Zone, Residential Mixed Housing Urban Zone and the Residential Terrace Housing and Apartment Building Zone:

- a. Paragraph 6.1(b)(ii) in regard to policy (5) (in part) but not policy (3)
- b. Paragraph 6.1(c)(ii) in regard to policy (5) (in part) but not policy (3)
- c. Paragraph 6.1(d)(ii) in regard to policy (6) (in part) but not policy (3)



d. *Paragraph 6.2*

Minimum dwelling size standard, matters of discretion and assessment criteria in the Mixed Housing Suburban Zone, the Mixed Housing Urban Zone and the Terrace Housing and Apartment Building Zone

a. *Paragraph 6.1(j)(iii)*

b. *Paragraph 6.1(k)(iii)*

c. *Paragraph 6.1(l)(ii)*

d. *Paragraph 6.1(n)(i) and (ii), in regard to the matters of discretion and assessment criteria for minimum dwelling size only*

e. *Paragraph 6.1(o)(i) and (ii), in regard to the matters of discretion and assessment criteria for minimum dwelling size only*

f. *Paragraph 6.1(p)(i) and (ii), in regard to the matters of discretion and assessment criteria for minimum dwelling size only*

[5] The parties have agreed to the following amendments to the Auckland Unitary Plan Operative in Part:

(a) Inclusion of an additional policy to the Residential Single House Zone (H3.3);

(b) Addition of a new Policy (6) in the Residential Mixed Housing Suburban Zone and the Residential Mixed Housing Urban Zone (H4.3 and H5.3) and renumbering the existing Policy (6) as Policy (7);

(c) Addition of a new Policy (7) in the Residential Terrace Housing and Apartment Building Zone (H6.3) and renumbering the existing Policy (7) as Policy (8);

(d) Amendment of assessment criteria in the Residential Mixed Housing Suburban Zone, Residential Mixed Housing Urban Zone and the Residential Terrace Housing and Apartment Building Zone to exclude reference to Retirement Villages (H4.8.2(3)(a)(viii), H5.8.2(3)(a)(viii) and H6.8.2(3)(a)(viii).



- [6] In making this order the Court has read and considered the appeal and the memoranda of the parties dated 15 September 2017 and 20 October 2017.
- [7] Housing New Zealand Corporation, Keith Vernon and the Knox Home Trust Board gave notices of intention to become parties to the appeal under s 274 of the Act. They agree with the order sought.
- [8] The Court is making this order under s 279(1)(b) of the RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297 of the RMA. The Court understands for present purposes that:
- (a) All parties to the proceedings have executed the memorandum requesting this order.
 - (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the RMA, including in particular Part 2.

Order

- [9] The Court orders, by consent, that the appeal is allowed to the extent that the Auckland Council is directed to amend the Auckland Unitary Plan Operative in Part as shown in **Annexure "A"** (additions are underlined and deletions are ~~struck through~~).
- [10] This order resolves part of the appeal.
- [11] There is no order as to costs in relation to this order.

SIGNED at AUCKLAND this 31st day of October 2017





Justice G. G. J. Newhook
Principal Environment Judge

"A"

1. Insert a new policy in Chapter H3 Residential Single House Zone as follows:

**Chapter H3 Residential - Single House Zone
H3.3 Policies**

...

(8) To provide for integrated residential development on larger sites.

2. Insert a new Policy (6) in the Residential Chapters H4 Residential Mixed Housing Suburban Zone and H5 Residential Mixed Housing Urban Zone and renumber the existing Policy (6) as Policy (7) as follows:

**Chapter H4 Residential – Mixed Housing Suburban
H4.3 Policies**

**Chapter H5 Residential – Mixed Housing Urban
H5.3 Policies**

(6) Recognise the functional and operational requirements of activities and development.

~~(7)~~(6) Encourage accommodation to have useable and accessible outdoor living space.

...

3. Insert a new Policy (7) in the Residential Chapter H6 Residential Terrace Housing and Apartment Building Zone and renumber the existing Policy (7) as Policy (8) as follows:

**Chapter H6 Residential – Terrace Housing and Apartment Building Zone
H6.3 Policies**

(7) Recognise the functional and operational requirements of activities and development.

~~(8)~~(7) Encourage accommodation to have useable and accessible outdoor living space.

...



4. For the provisions listed in paragraph 5, amend Assessment Criteria (3) as follows:

...

(3) for integrated residential development:

(a) the extent to which or whether the development achieves the purpose outlined in the following standards or what alternatives are provided that result in the same or a better outcome:

...

(viii) Standard H4.6.15 Minimum dwelling size (excluding retirement villages).

...

5. **Chapter H4 Residential – Mixed Housing Suburban**
H4.8.2 Assessment Criteria

Chapter H5 Residential – Mixed Housing Urban
H5.8.2 Assessment Criteria

Chapter H6 Suburban – Terrace Housing and Apartment Buildings
H6.8.2 Assessment Criteria

6. Make any consequential amendments as required.

