

Proposed Auckland Unitary Plan

Outcome of High Court judicial review proceedings brought by Bunnings Limited and advice of Environment Court right of appeal

Auckland Council gives notice that the judicial review proceedings brought by *Bunnings Limited* have been determined by the High Court, and the decision gives rise to a right of appeal to the Environment Court in relation to certain aspects of the Auckland Council's decision on Redhills Precinct.

Background

On 6 September 2017 the High Court released its decision in *Bunnings Limited v Auckland Council & Ors* [2017] NZHC 2141, issuing a declaration that 'the Panel made an error of law by recommending the inclusion of arterial roads, amendments to the alignment of those arterial roads relative to the alignment of the collector roads shown in the submissions, and the new arterial connection to the roundabout as part of the precinct plan, without identifying those recommendations as beyond the scope of submissions made on the PAUP'.

The effect of the declaration is that, when making its decision to accept the Panel's recommendations on Redhills Precinct, the Council accepted an 'out of scope' recommendation which gives rise to a specific right of appeal under section 156(3) of the Local Government (Auckland Transitional Provisions) Act 2010 (LGATPA).

A copy of the decision from the High Court can be downloaded from the Council's Unitary Plan Appeals webpage at <http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/unitaryplan/Pages/paupappeals.aspx>.

Information about rights of appeal and timeframes

Section 156(3) of the LGATPA provides a right of appeal to any person who "is, was, or will be unduly prejudiced" by an out of scope recommendation. Any person who satisfies the criteria set out in section 156(3), and who wishes to file an appeal, must do so within **20 working days** of the date of this public notice.

Any person considering filing an appeal with the Environment Court is encouraged to first seek legal advice.

The Council's Unitary Plan Appeals webpage at <http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/unitaryplan/Pages/paupappeals.aspx> and the Environment Court's website at <https://www.environmentcourt.govt.nz/auckland-unitary-plan-appeals/> provide useful information about appeals, including advice as to how to make an appeal and a copy of the relevant notice of appeal for section 156(3) appeals (which can be downloaded from the Court's "Auckland Unitary Plan Appeals" webpage).

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Find out more: phone 09 301 0101
or visit aucklandcouncil.govt.nz