In the Environment Court of New Zealand
at Auckland

ENV-2016-AKL-000225

in the matter of: the Local Government (Auckland Transitional Provisions) Act 2010 (*LGATPA*) and the Resource Management Act 1991

and:

in the matter of: an appeal under section 156(1) of the LGATPA against a decision of the Auckland Council on a recommendation of the Auckland Unitary Plan Independent Hearings Panel on the Proposed Auckland Unitary Plan

and:

in the matter of: Proposed Auckland Unitary Plan Hearing Topics 006 RPS Natural Resources and 035 Air Quality

between: **ACI Operations New Zealand Limited, trading as O-I New Zealand**
Appellant

and: **Auckland Council**
Respondent

Notice of Waste Management NZ Limited's wish to be party to proceedings

Dated: 7 October 2016

REFERENCE: Paula Brosnahan (Paula.Brosnahan@chapmantripp.com)
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Form 33

NOTICE OF PERSON'S WISH TO BE PARTY TO PROCEEDINGS

Section 274, Resource Management Act 1991

To The Registrar
Environment Court
Auckland

1 Waste Management NZ Limited (*Waste Management*) wishes to be a party to the following proceedings:

ENV-2016-AKL-000225 ACI Operations New Zealand Limited, trading as O-I New Zealand v Auckland Council.

2 Waste Management is a person who made a submission about the subject matter of the proceedings (submission number 877).

3 Waste Management is not a trade competitor for the purposes of section 308C of the Resource Management Act 1991.

4 Waste Management is interested in all the proceedings.

5 Waste Management is particularly interested in Auckland Council's decision to reject the Hearings Panel's recommendations to delete all references to the Auckland Ambient Air Quality Standards (*AAAQS*) from the Proposed Plan.

6 Waste Management has filed a notice of appeal seeking the same or similar relief as that sought by ACI Operations New Zealand Limited, trading as O-I New Zealand. Waste Management supports the relief sought because-

6.1 The AAAQS differ from the standards contained in the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (NES). There are no special circumstances in the Auckland region that would justify introducing regional air quality standards that differ from the New Zealand standards and guidelines. The NES is the most appropriate tool to manage air quality in Auckland.

6.2 The Panel determined that there was "insufficient justification" for including the AAAQS in the Proposed Plan, and that "reliance on national standards [provides] sufficient regulation for management of air quality in Auckland".[1]

[1] Auckland Unitary Plan Independent Hearings Panel "Report to Auckland Council Hearing Topics 006 and 035 – Air Quality" (July 2016), paragraph 2.2.

6.3 The AAAQS provisions in the Proposed Plan are unclear as to where, and in what circumstances, the AAAQS should be applied. For example, they do not specify that the AAAQS only apply where people can be exposed for the relevant averaging period (i.e. continuously for 24 hours).

6.4 The Council has failed to undertake an adequate assessment of the provisions, including the benefits and costs of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, as required by sections 32 and 32AA of the RMA.

6.5 The AAAQS provisions in the Proposed Plan are not clear as to where, and in what circumstances, the AAAQS should be applied. While intended to be objectives and policies, they read more akin to rules. For example:

(a) the provisions do not specify that the AAAQS only apply where people can be exposed for the relevant averaging period, contrary to the approach taken in the NES; and

(b) the objectives and policies are so directive, that they have the potential to be inappropriately applied to resource consents as "pass / fail" criteria.

6.6 In particular, in relation to the AAAQS for sulphur dioxide (SO_2):

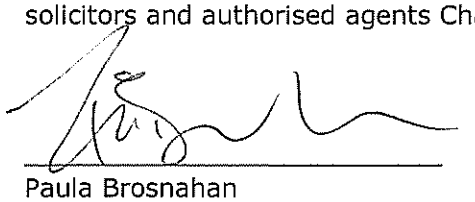
(a) The Panel determined that the health benefits of a 24-hour SO_2 standard are not clear and there is no precautionary justification for such a standard given the evidence that SO_2 levels are not high in Auckland, except near the Port. [2]

(b) The AAAQS for SO_2 is based on the World Health Organisation guideline. The World Health Organisation acknowledges the conservative basis on which the guideline value was set and indicates that it will be reviewed as more information becomes available. It is therefore not appropriate to include this standard in the Unitary Plan, which has a life of at least 10 years.

[2] Auckland Unitary Plan Independent Hearings Panel "Report to Auckland Council Hearing Topics 006 and 035 – Air Quality" (July 2016), paragraph 5.2.

7 Waste Management agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Signed for and on behalf of Waste Management NZ Limited by its solicitors and authorised agents Chapman Tripp



Paula Brosnahan
Partner
7 October 2016

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