

BEFORE THE ENVIRONMENT COURT

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

AND of an appeal under section 156(1) of
the Local Government (Auckland
Transitional Provisions) Act 2010
against a decision of the Auckland
Council

BETWEEN SMITH AND CAUGHEY LIMITED
(ENV-2016-AKL-000184)
Appellant

AND AUCKLAND COUNCIL
Respondent

Principal Environment Judge L J Newhook sitting alone under s 279 of the
Resource Management Act 1991

IN CHAMBERS in Auckland.

CONSENT ORDER

[A] Under s 279(1)(b) of the Resource Management Act 1991, the Environment
Court, by consent, orders that:

- (1) the appeal is allowed subject to the amendments set out in Annexure
A to this order;



(2) the appeal is otherwise dismissed.

[B] Under s 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This order relates to the resolution of the appeal by Smith and Caughey Limited against a decision by the Auckland Council on a recommendation by the Auckland Unitary Plan Independent Hearings Panel on the Proposed Auckland Unitary Plan (now the Auckland Unitary Plan (Operative in Part)).

[2] Smith and Caughey appealed against the Council's decision to reject a recommendation by the Hearings Panel as that recommendation related to Hearing Topic 050 – City Centre and, specifically, Queen Street Valley Precinct.

[3] The parties have now reached an agreement to amend the relevant rule relating to the Queen Street Valley Precinct, which will resolve this appeal in its entirety.

[4] The Court has read and considered the notice of appeal dated 12 September 2016 and the memorandum of counsel dated 27 March 2017.

[5] There are no interested parties under s 274 of the RMA involved in this appeal.

[6] 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 RMA.

[7] 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 requirement and objectives of the Act, including in particular Part 2.

Order

[8] Therefore, the Court orders the following, by consent:

- (a) The Respondent's decision is confirmed, subject to the amendment to Activity table I210.4.1 in Chapter I210 Queen Street Valley Precinct in the Auckland Unitary Plan (Operative in Part) as shown in **Annexure A**.
- (b) Save to the extent of the amendment allowed, the appeal is otherwise dismissed.
- (c) There are no issues as to costs.

DATED at Auckland this *3rd* day of *April* 2017



A handwritten signature in black ink, appearing to read "L J Newhook", is written over a horizontal line.

L J Newhook
Principal Environment Judge

Annexure A

Text to be inserted underlined

Chapter I Precincts

I210. Queen Street Valley Precinct

I210.1. Precinct description

...

I210.4. Activity table

The provisions in any relevant overlays, zone and the Auckland-wide apply in this precinct unless otherwise specified below.

Table I210.4.1 specifies the activity status of development activities in the Queen Street Precinct pursuant to section 9(3) of the Resource Management Act 1991.

Table I210.4.1. Activity table

Activity		Activity status
Development		
(A1)	...	P
(A3)	<p>The total demolition or substantial demolition (more than 30% by volume), or any demolition of the front façade of a building constructed prior to 1 January 1940, <u>excluding the buildings substantially located on Computer Freehold Register Identifiers NA386/116, NA988/291, NA37/143, NA2D/160 (North Auckland), which include:</u></p> <ul style="list-style-type: none"> <u>(a) the Lippincott Building;</u> <u>(b) the former Civic Tavern (also known as the former United Services Hotel);</u> <u>(c) the Original Smith & Caughey Premises [c. 1880] and 1921 Addition;</u> <u>(d) the Mahoney Building; and</u> <u>(e) the McArthur Warehouse.</u> <p><u>Except that the Lippincott façade (extending from the parapet to the footpath) of the Smith and Caughey buildings facing Queen Street shall be subject to rule I210.4.1(A3).</u></p>	RD

