

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under clause 14 of the First Schedule
to the Resource Management Act 1991

BETWEEN **PETER AND SYLVIA AITCHISON**

Appellants

AND **WELLINGTON CITY COUNCIL**

Respondent

**NOTICE OF APPEAL UNDER CLAUSE 14 OF THE FIRST SCHEDULE TO THE
RESOURCE MANAGEMENT ACT 1991**

**BROOKFIELDS
LAWYERS**
AFD Cameron
Telephone No. (04) 499 -9824
Fax No. (09) 379- 3224
P O Box 25-306
Featherston Street
WELLINGTON

TO: The Registrar
Environment Court
WELLINGTON

1. Name of the appellants: Peter and Sylvia Aitchison ("the Aitchisons")

The Aitchisons appeal against a decision of the Wellington City Council ("WCC") in respect of proposed Plan Change 80 ("PC80") to the Wellington City District Plan ("the District Plan"). They made a submission on this proposed plan change.

2. Date of decision appealed against:

14 July 2014.

3. Date of decision received:

14 July 2014.

4. The decision was made by:

The WCC.

5. Trade Competition:

The Aitchisons are not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 ("RMA").

6. Description of the subject matter of the decision appealed:

PC80 relates to a number of matters which the WCC described as minor amendments to the District Plan in order to ensure its efficient functioning. This included a reduction in the height of accessory buildings. The Aitchisons sought a maximum height of three metres for accessory buildings as a permitted activity in all residential areas and an amendment to policy 4.2.4.1 to the affect that the scale and placement of accessory buildings can have a significant impact on the amenity of neighbouring properties. Their evidence at the hearing addressed the issue of height

generally as well as their site specific concerns. The amendments sought by the Aitchisons to the policy were accepted while the height limitation of 3 metres as a permitted activity was rejected.

7. The reasons for the appeal are as follows:

- (a) The decision in PC80 failed to address the Aitchisons concerns regarding the height of accessory buildings and in particular the height of any such buildings that may be erected at 1 Carlton Gore Road, Roseneath, Wellington as a permitted activity;
- (b) The relevant rules do not implement the policies, and in particular the policy in PC80 as amended in the decision;
- (c) The WCC failed to have regard to the efficiency and effectiveness of the approach to the relevant rules proposed by the Aitchisons taking into account the benefits and costs of those rules (to the Aitchisons in particular);
- (d) The WCC failed to have regard to the potential effect of activities on the environment as a consequence of the failure to limit the maximum height of accessory buildings to 3 metres as a permitted activity in residential areas and at least in relation to existing buildings that may be effected by the erection of accessory buildings at 1 Carlton Gore Road, Roseneath;
- (e) The decision in PC80 does not achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district;
- (f) The decision in PC80 does not have particular regard to section 7(b), (c) and (f) matters;
- (g) The decision in PC80 does not have regard to section 17 of the RMA (including related obligations on Councils); and

- (h) The decision in PC80 does not meet the purpose and principles of the RMA because it does not:
- (i) promote sustainable management of natural and physical resources; and
 - (ii) avoid, remedy or mitigate adverse effects of activities on the environment.

8. Relief Sought

8.1 The Aitchisons seek the following relief to give effect to the matters raised above:

- (a) The relief sought in their submission; or
- (b) Such other or further relief as may address the concerns expressed in the reasons for the appeal; and
- (c) Costs.

DATED the 25th day of August 2016.



AFD Cameron/MJ Slyfield
(Counsel for Peter and Sylvia Aitchison)

THIS NOTICE OF APPEAL is filed by **ANDREW FRANK DAVID CAMERON**, solicitor for the appellant. The address for service of the appellant is at the offices of Brookfields Lawyers, Tower One, 9th Floor, 205 Queen Street, Auckland.

Documents for service on the appellant may be left at the address for service or may be:

1. Posted to the solicitor at P O Box 25-306, Featherston Street, Wellington
2. Emailed to the solicitor at cameron@brookfields.co.nz
3. Transmitted to the solicitor by facsimile to (09) 379- 3224

ANNEXURES

- (a) A copy of the Appellants' submissions marked "A"
- (b) A copy of the WCC's decisions on submissions marked "B".
- (c) The name and address of the person to be served with a copy of this notice is Bruce Welsh whose address is 2/2 Rongotai Road, Kilbirnie, Wellington 6022 (contact details: email: bruce@rimu.org.nz; Phone: (04) 920- 1595)

Advice to recipients of copy of notice

How to become a party to proceedings

You may be a party to the appeal if,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, you 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, you serve copies of your notice on all other parties.

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

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 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 Attachments A or B of the appeal. 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.

Wellington Registry Contact Details

Street address

5th Floor, District Court Building, 49 Ballance Street, Wellington 6011

Postal address

P O Box 5027, Wellington 6145

Tel: (04) 918- 8300

Fax: (04) 918- 8480