

# Alan G. W. Webb

Barrister

COPY

12 August 2009

The Registrar  
Environment Court  
Level 8  
District Court Building  
3 Kingston Street  
**AUCKLAND**

**By Courier**

Dear Sir/Madam

## **NOTICE OF APPEAL – TAKANINI STRUCTURE PLAN**

I have been retained by Marko Properties Limited and **enclose** for filing a notice of appeal in respect of the decision by the Auckland Regional Council relating to Takanini Structure Plan issues.

I confirm that copies of the annexures will be forwarded shortly. I also note that this appeal relates to the same matters raised in the notice of appeal filed by the Cosgrave Residents & Landowners Association.

I also **enclose** my office account cheque in the sum of \$500 being the filing fee.

A copy of the appeal has today been served on the Auckland Regional Council by facsimile and post and will also be served on the other parties as required.

Yours faithfully



**Alan Webb**

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cc Auckland Regional Council  
By facsimile/post

Marko Properties Limited  
By email

BEFORE THE ENVIRONMENT COURT

ENV-2009-AKL-

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal against the decision of the ARC in respect of PPC 11 and to the ARPS - Extension to the MUL, TSP Area 2A, Plan Change 12 to the ARPS; and Proposed Variation 2 to the PARP: ALW - Extension of the UAQMA, TSP Area 2A, Part 2B and 2C; pursuant to Clause 14(1) of Schedule One of the Act

BETWEEN MARKO PROPERTIES LIMITED

Appellant

AND AUCKLAND REGIONAL COUNCIL

Respondent

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NOTICE OF APPEAL

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**TO:** The Registrar  
Environment Court  
**AUCKLAND**

1. Marko Properties Limited ("**MPL**") appeals against the decision of the Auckland Regional Council ("**ARC**") on Proposed Private Plan Change 11 ("**PPC11**") to the Auckland Regional Policy Statement ("**ARPS**") - Extension to the Metropolitan Urban Limits ("**MUL**"), Takanini Structure Plan ("**TSP**") Area 2A, Plan Change 12 to the ARPS, and Proposed Variation 2 to the Proposed Auckland Regional Plan ("**PARP**");

Air, Land and Water (“ALW”) – Extension to the Urban Air Quality Management Area (“UAQMA”), TSP Areas 2A, Part 2B and 2C (“Variation 2”).

2. MPL has signed an unconditional agreement for MPL or its nominee to purchase land owned by Area 2A Holdings Limited within the subject area. John Rennell/Area 2A Holdings Limited made a submission on PPC11, PC12 and Variation 2. MPL (and/or its nominee) therefore files this appeal as a successor to John Rennell/Area 2A Holdings Limited pursuant to ss2A and 273 of the Act.
3. John Rennell/Area 2A Holdings Limited received notice of the ARC’s decision on PPC11, PC 12 and Variation 2 on 2 July 2009.
4. The decision was made by the ARC.
5. The decision that MPL is appealing is the decision of the ARC to reject PPC11, PC 12 and Variation 2, in particular (but not limited to) the extension of the MUL to Area 2A of the TSP Area, and the decision of the ARC to reject the extension of the UAQMA to Area 2A of the TSP Area consequential upon the rejection of the MUL extension (“Decision”).

### **Reasons for Appeal**

6. The reasons for the appeal are as follows:
  - (a) The Decision:
    - (i) Does not promote the purpose of the Act being sustainable management of natural and physical resources and is contrary to s5 of the Act;

- (ii) Does not amount to or promote the efficient use and development of resources and is contrary to s7(b) of the Act;
- (iii) Is otherwise contrary to the purpose and principles in Part 2 of the Act;
- (iv) Will generate significant adverse effects on the environment and in particular the ability to provide for growth within the TSP Area; and

Without derogating from the generality of the above:

- (b) The Decision is inconsistent with the Strategic Policies and Methods in the ARPS as amended by proposed Plan Change 6 (“PC6”) and in particular the Strategic Policies for Urban Containment in Policy 2.6.2.
- (c) The Decision was made by the ARC for three reasons namely:
  - (i) Potential reverse sensitivity effects in relation to Ardmore Aerodrome (part of Area 2A is within the proposed Outer Control Boundary (“OCB”) for the Aerodrome);
  - (ii) The proposed land use mix, (which proposed to provide for residential activity only on Area 2A and not employment activities which are proposed to be provided for in other areas of the TSP Area);
  - (iii) The lack of certainty around the management of stormwater discharges from the proposed development (because the increase in residential densities requires a Variation to the existing Catchment Management Plan (“CMP”) discharge consent which has been applied for

by the consent holder Papakura District Council (“PDC”) but not yet authorised by the ARC. This is because PDC are currently preparing additional information regarding the coastal outfall component of this Variation).

- (d) Notwithstanding the reasons set out in paragraph (c) above for declining to extend the MUL to Area 2A and other areas and therefore consequentially declining to extend the UAQMA, the ARC acknowledges in its decision that Area 2A and other areas in the TSP Area are appropriate for urbanisation.
- (e) The Decision acknowledges that Area 2A and other areas in the TSP Area have been identified as future urban areas for development within Schedule 1 of PC6 to the ARPS.
- (f) The Decision failed to have regard to the evidence called that any effects of aircraft noise in the OCB could be adequately mitigated with acoustic insulation and ventilation measures.
- (g) The Decision failed to have regard to the evidence called by PDC of a proposed plan change to provide for employment activity in Area 6 of the TSP.
- (h) The Decision failed to have regard to the evidence called that Area 2A and other areas within the TSP Area can be serviced for stormwater discharge and that the Variation to the CMP sought by PDC while not yet granted is imminent.

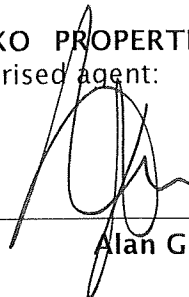
### **Relief Sought**

- 7. MPL seeks the following relief:
  - (a) Disallow the Decision; and

- (b) Make any consequential amendments to PPC11, PC12 and Variation 2 arising from the above; and
  - (c) Grant such other or further relief is necessary in the circumstances; and
  - (d) Costs
8. MPL attaches the following documents to this Notice:
- (a) A copy of the submission and further submissions by Area 2A Holdings Limited on PPC11, PC12 and Variation 2.
  - (b) The Decision.
  - (c) A list of the names and addresses of persons to be served with a copy of this Notice.

**Signature:**

**MARKO PROPERTIES LIMITED** by its  
authorised agent:



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**Alan G W Webb**

**Date:**

12 August 2009

**Address for service:**

Mr Alan Webb  
Quay Chambers  
Level 7, 2 Commerce Street  
PO Box 106215  
**AUCKLAND CITY 1143**

**Telephone:**

(09) 3775070

**Facsimile:**

(09) 3775071

**Email:**

[webb@quaychambers.co.nz](mailto:webb@quaychambers.co.nz)

### **Note to appellant or person seeking inquiry**

You may use this form to lodge an appeal and to request an inquiry.

You must lodge the original and one copy of this notice with the Environment Court within 15 working days of receiving notice of the decision. The notice must be signed by you or on your behalf. You must pay the filing fee required by Regulation 35 of the Resource Management (Forms, Fees and Procedure) Regulations 2003.

You must serve a copy of this notice on the consent authority within 15 working days of receiving notice of the decision.

If the notice relates to a recommendation of a hearing committee on a restricted coastal activity, you must also serve a copy of this notice on the Minister of Conservation on the same day as the notice is lodged with the Environment Court.

You must also serve a copy of this notice on the applicant or consent holder and on every person who made a submission on the application or review of consent conditions within five working days of lodging it with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address and date of service for each person served with this notice.

However, you may apply to the Environment Court under Section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (*see* Form 38).

### **Advice to recipients of copy of notice**

#### *How to become party to proceedings*

You may be a party to the appeal if you lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court within 30 working days after this notice was lodged with the Environment Court.

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 or inquiry*

The copy of this notice served on you does not attach a copy of the relevant submission and the relevant decision. These documents may be obtained, on request, from the appellant.

#### *Advice*

If you have any questions about this notice, contact the Environment court Unit of the Department for Courts in Auckland, Wellington or Christchurch.

### **Contact details of Environment Court for lodging documents**

Documents may be lodged with the Environment Court by lodging them with the Registrar.

The **Auckland** address of the Environment Court is:

8<sup>th</sup> Floor  
District Court Building  
3 Kingston Street  
Auckland

Its postal address is:

PO Box 7147  
Wellesley Street  
Auckland

Its telephone and fax numbers are:

Tel: (09) 916 9091  
Fax: (09) 916 9090