

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Topic 080 – Rezoning and Precincts – Hunua Ranges Regional Park – submission 879-1 by Waytemore Forests Limited and others

Minute of the Chairperson

To: Waytemore Forests Ltd

And to: Auckland Council

I refer to the memorandum of counsel for Waytemore Forests Limited and associated submitters (“Waytemore”) dated 11 December 2015 in relation to the zoning of the north-western part of the Hunua Ranges Regional Park, as identified on attachment 1 to submission 879-1.

I decline, at this stage, to strike out the evidence on this issue led by the Auckland Council or otherwise direct that it not be read, as sought by Waytemore.

I **direct** that the Auckland Council respond to the content of Waytemore’s memorandum by **15 January 2016**.

I make no further directions, at this stage, in respect of evidence on behalf of Waytemore. To assist counsel, I add that it appears to me that the evidence for Topic 013 of Mr Tollemache dated 1 December 2014 and that of Mr Reidy dated 9 December 2014 is sufficient to provide a basis on which the Panel can determine this issue. If the response of the Council includes any relevant evidence, then leave will be granted to lodge late rebuttal evidence to address that.

As well as the matters raised by counsel for Waytemore, and to assist in the preparation of a response, I note the following:

1. It does not appear to me, based on the material I have, that any of the matters listed in paragraph 14.17 of the joint evidence report of Stewart, Reidy, Deverall and Cox came into existence after 9 December 2014 or would otherwise not have been known to the Council or to Mr Reidy or counsel calling him to give evidence on Topic 013 by that date.
2. The forestry right held by Waytemore has been in existence for 11 years and has a further 84 years to run, well beyond the planning horizon. Without having seen it, I assume that, like most such rights, it constitutes a registrable interest in the land: see section 3, Forestry Rights Registration Act 1983.
3. As Mr Tollemache’s evidence notes, the forestry right was granted by one of the Council’s predecessors, the Auckland Regional Council. His evidence suggests that the grant was consistent with a long-term approach to the management of the land as a catchment area.

4. The relevant designations affecting the land, being those of the Council (601 for the regional park) and Watercare Services Ltd (9500, 9501, 9541, 9542 and 9543 for water supply purposes), provide protection for both the requiring authorities (through s176 RMA) and those with an interest in the land (through s185 RMA).
5. The agreement (Lease/Licence) between the Council and Watercare in respect of the land presumably takes account of other interests in the land, including the forestry right held by Waytemore.
6. The forestry right pre-dates the Regional Parks Management Plan 2010. The management plan expressly acknowledges the forestry right in the table at pages 261-262 and indicates areas of exotic tree planting on maps 5.2 and 5.3 which presumably are co-extensive with the areas covered by the forestry right. The management plan only refers to the forestry right in the context of seeking improved public access to the exotic forest area.
7. While objective 13.5.4 of the management plan is *To avoid further alienation of regional park land by no longer entering into leases*, the associated policy 13.5.4.2 is *to Liaise with existing lessees to ensure that the terms and conditions of the leases are adhered to, and to discuss issues of mutual concern*. Although not strictly a lease, I expect that these provisions would also apply to the forestry right. I also expect that the forestry right confers rights and imposes obligations on both parties.
8. The reference to reliance on existing use rights in paragraph 14.17 of the joint evidence report is problematic given that forestry activities do not involve continuous activity on land, with gaps sometimes being longer than 12 months such that any existing use rights may lapse.

21 December 2015



Judge D A Kirkpatrick
Chairperson
Auckland Unitary Plan
Independent Hearings Panel