

BEFORE THE WHANGAREI DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of proposed plan change 129 Notable and Public Trees to the Whangarei District Plan under part 1 of schedule 1 of the Resource Management Act 1991

SUBMITTER GEK Property Nominees (Northland Hospitals) Limited

Submitter no. 032

SUBMISSIONS OF COUNSEL FOR GEK PROPERTY NOMINEES (NORTHLAND HOSPITALS) LIMITED

Dated 22 November 2018

Glaister Ennor

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MAY IT PLEASE THE HEARING PANEL:**Introduction**

- 1 GEK Property Nominees (Northland Hospitals) Limited (**GEK**) made submissions and further submissions on Plan Change 129 Notable and Public Trees to the Whangarei District Plan (**Plan Change**).¹
- 2 GEK is directly affected by the Plan Change. It is the registered owner of the property at 174 Bank Street, Whangarei (legally described as Lot 1 DP 37723) which contains two jacarada trees that are proposed to be scheduled as notable trees under the Plan Change.² For completeness, we note that these trees are currently scheduled under Part E, Chapter 59 of the Whangarei District Plan.³

Submission and Further Submission

- 3 GEK's submission on the Plan Change sought:
- (a) amendments to Objective NPT.1.3.3, Policy NPT.1.4.1(b) and Policy .1.4.1(e);
 - (b) amendments to the activity status of NPT.1.5.1, NPT.1.5.2, and NPT.1.5.3 with consequential amendments to the assessment criteria in NPT.1.7.1; and
 - (c) the deletion of tree no. 389 from NPT.1.9.1.
- 4 GEK's further submission in support of part of the submission by Landowners Coalition Inc sought an increase in the minimum STEM score required for a tree to be scheduled from 100 to 126.⁴

Position on the Plan Change

- 5 GEK has reviewed the planner's report under section 42A of the Resource Management Act 1991 and wishes to record its agreement with and support of the following proposed changes to the Plan Change that have been recommended by the reporting planner:

¹ Submitter no. 032; further submitter no. X051

² Tree no. 389

³ Tree no. 389

⁴ Submitter no. 027, submission point h

- (a) the addition of the word “appropriately” to NPT.1.3.3; and
- (b) the addition the word “inappropriately” to NPT.1.4.1(b).

6 While not relevant to its submission, GEK also agrees with and supports the re-framing of NPT.1.5 as a list of permitted activities.

7 GEK otherwise maintains its position set out in its submission in respect of activity status and the scheduling of the jacaranda trees on its property.

Activity Status

8 I submit that the activities listed NPT.1.5 would be more appropriate as restricted discretionary activities.

9 The actual and potential effects of the activities – particularly those relating to pruning and maintenance and activities within the root zone notable trees – can be anticipated with such certainty that the Whangarei District Council does not require unfettered discretion to consider an application for resource consent. This is evidenced by the provisions of Chapter D13 Notable Trees Overlay of the Auckland Unitary Plan: Operative in Part (**AUP**), which attributes restricted discretionary activity status to:

- (a) tree trimming or alteration that does not comply with Standard D13.6.1; and
- (b) work within the protected root zone not otherwise provided for.⁵

10 The matters of discretion and assessment criteria in rule D13.8 are comprehensive, and sufficient to establish whether consent should be granted.

Jacaranda Trees

11 The two jacaranda trees at 174 Bank Street are located within GEK’s property. They form part of the front yard landscaping associated with Radius Potter Home, an aged care facility providing rest home and private hospital care. While they are visible from the street (due to the lack of fencing along the boundary of the property) they do not serve any public purpose.

⁵ AUP, D13.4.1(A6) and (A9) respectively

12 Notwithstanding the STEM score assessed by the Council's consultant arborist, GEK submits that the trees lack any particular significance that warrants scheduling.

Dated 22 November 2018

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

V J Toan

Counsel for GEK Property Nominees (Northland Hospitals) Limited