

Notice of appeal to Environment Court against decision on plan change

Clause 14(1) of Schedule 1, Resource Management Act 1991

- To the Registrar
- Environment Court
- Auckland

1. I, Lewis Sanson, Director-General of Conservation, appeal against part of a decision of the Whangarei District Council on the following plan change:

Private Plan Change 113 – Ruakaka Racecourse (PC113)

2. I made a submission on that plan change.
3. I am not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. I received notice of the decision on 20 March 2014.
5. The decision was made by Whangarei District Council.
6. The part of the decision that I am appealing is the Whangarei District Council's decision to include in PC113:

- 6.1 Rule REE1.2.1 which states:

Any Management Plan or development that would result in more than 350 residential units in total within the whole of the REE shall be a non-complying activity.

- 6.2 The rules that allow development to occur (permitted and/or discretionary activities), either in advance of or outside of a Management Plan, including the following rules: 2.4.1, 3.3.1, 3.2.2, 3.3.3, 3.4.1, 3.4.2, 4.3.1, 4.3.2, 4.3.3, 4.3.4, 4.4, 4.3.5, 5.3.1, 5.3.2, 5.3.3, 5.3.4, 5.3.5, 5.3.6, 5.3.7, 5.3.8, 5.3.9, 5.4 and 6.1.3 (hereinafter referred to as the "rules framework").

7. The reasons for the appeal are as follows:

- 7.1 Allowing up to 350 residential units, and unlimited visitor accommodation at the Ruakaka Racecourse will cause potentially significant adverse effects on the nationally important values of the coastal environment, including the

neighbouring conservation land: the Ruakaka Bream Bay Scenic Reserve and the Ruakaka Wildlife Refuge.

- 7.2 The rules framework allows development to occur at the Ruakaka Racecourse without an Ecological Plan that would enable the adverse effects on the environment to be appropriately assessed and responded to in the context of the details of the development proposed for the site and/or individual precincts.
- 7.3 The rules framework is inconsistent with the conclusions of the Hearing Panel that the Management Plan Technique would appropriately manage adverse effects on the sensitive coastal environment.
- 7.4 The rules framework is inconsistent with the Management Plan Technique of the Whangarei District Plan and rule 2.5 in particular and provides no incentive to utilise the Management Plan Technique.
- 7.5 The decision will allow potentially significant adverse effects on the coastal environment surrounding the Ruakaka Racecourse and does not promote the sustainable management of natural and physical resources as required by Part 2 of the Resource Management Act. In particular, the decision is:
 - 7.5.1 Contrary to section 5 of the Act, in particular section 5(2) (b) and (c);
 - 7.5.2 Contrary to section 6(a) of the Act by failing to recognise and provide for the preservation of the natural character of the coastal environment and the protection of the coastal environment from inappropriate subdivision, use, and development; and
 - 7.5.3 Contrary to section 6(c) of the Act by failing to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- 7.6 The decision does not give effect to the New Zealand Coastal Policy Statement, in particular Objectives 1 and 2, and Policies 11 and 13.

8. I seek the following relief:

- 8.1 That Rule REE 1.2.1 is amended by limiting the development to 100 residential units, including visitor accommodation as follows (amendments struck out and underlined):

REE1.2.1 Any Management Plan or development that would result in more than ~~350~~ 100 residential units (including visitor accommodation) in total within the whole of the REE shall be a non-complying activity.

- 8.2 That the rules framework is deleted and replaced with the following rules:

8.2.1 Rules requiring that if there is no Management Plan in place the existing Coastal Countryside Environment rules will apply for all development at the Ruakaka Racecourse.

8.2.2 Apply Rule MPT 2.5 to the Ruakaka Equine Environment so that any proposed activity that does not comply with an approved Management Plan, is a non-complying activity.

8.2.3 Rules requiring that a Management Plan that breaches the setback and other performance standards listed in the requisite policies for a precinct should be treated as a non-complying activity application.

8.3 Any other relief, including consequential amendments that the Court considers fit to address my concerns; and


8.4 Costs.

9. I attach the following documents to this notice:

(a) a copy of my submission

(b) a copy of the decision

(c) a list of names and addresses of persons to be served with a copy of this notice.



Nicola Douglas
Director, Conservation Partnerships, Kaihautuu-Kaahui Manutaataki
Hamilton, Department of Conservation
Acting under delegation from Director-General of Conservation

6 April 2014

Address for service of appellant:

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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in [form 33](#)) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

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 or service 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 the appellant's submission and the decision appealed. 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.

Contact details of Environment Court for lodging documents

The Auckland address of the Environment Court is:

8th Floor, District Court Building
3 Kingston Street
Auckland

Its postal address is:

PO Box 7147
Wellesley Street
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and its telephone and fax numbers are:

Telephone: (09) 916 9091
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