

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2014-

**IN THE MATTER of the Resource Management Act 1991
("Act")**

AND

**IN THE MATTER of an appeal against a decision of the
First Respondent in respect of Proposed
Plan Change 113**

**BETWEEN PATUHARAKEKE TE IWI TRUST
BOARD INCORPORATED
Appellant**

**AND WHANGAREI DISTRICT COUNCIL
First Respondent**

**WHANGAREI RACING CLUB
Second Respondent**

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST
DECISION ON PROPOSED PLAN CHANGE 113**

**Tamatekapua Law
PO Box 106 454
Auckland City
Phone 09 336 1840
Fax 09 336 1841**

**Counsel: P J Kapua
K Dixon**

TO The Registrar
Environment Court
Whangarei

1. **PATUHARAKEKE TE IWI TRUST BOARD INCORPORATED** (“**the Appellant**”) appeal the decision of the First Respondent, the Whangarei District Council (“**the Council**”) to approve the Proposed Private Plan Change 113.
2. The Appellant made a submission on the Proposed Private Plan Change 113.
3. The decision being appealed was received by the Appellant on 20 March 2014.
4. The decision is appealed in its entirety.

Reasons for the Appeal

5. The reasons for the appeal are as follows:
 - a. The Proposed Plan Change:
 - i. Fails to take into account the principles of the Treaty of Waitangi contrary to section 8 of the Resource Management Act (“**the Act**”) 1991.
 - ii. Does not recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
 - iii. Does not have a particular regard to kaitiakitanga.
 - iv. Is contrary to resource management practice and principles.
 - v. Has been approved without appropriate consultation between the Respondents and with tangata whenua contrary to section 8 of the Act.

- vi. Will have significant impact on the ability of the Waitangi Tribunal to provide redress should the Appellant be successful in its claims currently filed in the Waitangi Tribunal.
- vii. Is, amongst others, contrary to section 5(2), 6(e), 7(a) and 8 of the Act as they relate to Maori.
- viii. Fails to address the complexity of and potential issues arising from the intensity of the proposed development of 350 dwelling units.

Relief sought

- 6. The Appellants seek the following relief:
 - a. That the Proposed Plan Change 113 be declined in its entirety;
 - b. In the event that the subdivision proposal is not declined in its entirety, that the provisions applying to the land, water, sites and taonga of tangata whenua be changed to recognise and provide for their relationship;
 - c. Such other orders, relief or other consequential amendments as considered appropriate or necessary by the Court to address the concerns set out in this Appeal; and
 - d. Costs of and incidental to this Appeal.

- 7. The following documents are attached to this notice:
 - a. A copy of the relevant decision;
 - b. A list of names and addresses of persons to be served with this notice.

Dated at Auckland this 2nd day of 2014



Prue Kapua/ K Dixon
Counsel for the Appellant

This **NOTICE OF APPEAL** is filed by **PRUDENCE JANE TAMATEKAPUA and KELLY-MAREE HANNAH DIXON**, Counsel for the **Appellant** of the firm of **Tamatekapua Law**.

The address for service of the **Appellant** is at the offices of Tamatekapua Law, PO Box 75-015, Manurewa, Auckland 2243.

Documents for service on the above named **Appellant** may be left at the address for service or may be:-

(a) Posted to the solicitor at Tamatekapua Law, PO Box 75-015, Manurewa, Auckland; or

(b) Transmitted to the solicitor by facsimile to facsimile number (09) 268 1850.

Advice to recipients of copy of notice of appeal

How to become a party to proceedings

You may be a party to the appeal if you made a 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 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

The copy of the notice is served on you does not attach a copy of the Appellant's submission and the decision (or part of 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 Unit of the Department of Courts in Auckland, Wellington, or Christchurch.

The Auckland address of the Environment Court is:

Level 2, Specialist Courts and Tribunals Centre
41 Federal Street (Corner Wyndham)

Auckland 1010

Its postal address is:

PO Box 7147
Wellesley Street
Auckland

And its telephone and fax numbers are:

Telephone: (09) 916 9091

Fax: (09) 916 9090