

Notice of appeal to Environment Court against decision on Proposed Plan Changes, Whangarei
District Council
Clause 14(1) of Schedule 1, Resource Management Act 1991

To the Registrar
Environment Court
Auckland

We, Andre and Robin LaBonte (Appellant A who own 995 Cove Road, Waipu), and John and Catherine Wildermoth (Appellant B who own 1007 Cove Road, Waipu), appeal against parts of decisions of Whangarei District Council on the following Plan Changes to the operative Whangarei District Plan:

- Plan Changes 85 Rural Area and 85A Rural Countryside Environment as it relates to the decision to apply Rural Countryside Environment zoning to the identified properties owned by Appellants A and B, inclusive of the associated planning and resource maps that form part of the Council Decision on these Plan Changes
- Plan Changes 85 Rural Area and 85D Rural Living Environment, insofar as it is relevant to the appeal where Appellants A and B seek their properties to be rezoned to Rural Living Environment, inclusive of the associated planning and resource maps that form part of the Council Decision on these Plan Changes
- Plan Changes 85 Rural Area and 85A Rural Countryside Environment as it relates to subdivision, and in particular provisions listed under RCE.3.4.4 relating to environmental benefit subdivision
- Plan Change 87 Coastal Area, as it relates to provisions that may support environmental benefit subdivision provisions.
- Plan Change 114 Landscapes, as it relates to provisions that may support environmental benefit subdivision provisions.

Appellants A and B both made submissions on the above Plan Changes.

Appellants A and B are not trade competitors for the purposes of Section 308D of the Resource Management Act 1991.

Appellants A and B received notice of the Council Decision on 17th January 2018.

The Decision was made by Whangarei District Council.

The parts of the decisions on the Plan Changes identified above that Appellants A and B are appealing are:

- As to Plan Changes 85 Rural Area and 85A Rural Countryside Environment:
 - a) The Council Decision to reject the submissions of Appellants A and B seeking rezoning of the identified properties to Rural Living Environment
 - b) The Council Decision to introduce the environmental benefit provisions under RCE.3.4.4 insofar as it relates to the content of that provision

- Plan Change 114 Landscapes, as it relates to the Council Decision to introduce the environmental benefit provisions under RCE.3.4.4 of Plan Change 85A Rural Countryside Environment.
- Plan Change 87 Coastal Area, as it relates to the Council Decision to introduce the environmental benefit provisions under RCE.3.4.4 of Plan Change 85A Rural Countryside Environment.

The reasons for the appeal are as follows:

- The parts of the Council Decision referred to above are not considered to promote sustainable management of the natural and physical resources contained on Appellant A and B's properties, and the wider area as detailed below.
- For the purposes of this appeal, the application of the Rural Living Environment should be considered across all properties located on the northeastern side of Cove Road, between (but excluding) the existing Council Reserve known as the Waipu Cove Domain and Lot 1 DP58601 and Lot 3 DP134030 ('the identified properties').
- Appellants A and B believe that the underlying assessment of zoning for the identified properties, and the resulting Council Decision to zone the properties as Rural Countryside Environment, is not appropriate.
- Appellants A and B believe that, because of the nature of the surrounding environment and the extent of existing subdivision and land use development in this location, the appropriate zoning to be applied to the identified properties is Rural Living Environment.
- Appellants A and B acknowledge the inclusion of the environmental benefit provisions in the Rural Countryside Environment under RCE.3.4.4. However, the rule and associated criteria provided, inclusive of supporting objectives and policies, lacks clarity and certainty. Amongst other things, it does not promote restoration or rehabilitation of existing degraded areas that may be of high value, and does not recognise or link clearly to other provisions contained in the Council Decision on other Plan Changes.
- Appellants A and B believe that the provisions contained in Plan Change 114, as it relates to *inter alia 'promoting the conservation, enhancement, and rehabilitation of Outstanding Natural Features and Outstanding Natural Landscape'* should be reflected in the environmental benefit provisions under RCE.3.4.4 in the Rural Countryside Environment.
- Appellants A and B believe that the provisions contained in Plan Change 87, as it relates to *inter alia 'encourage the enhancement and rehabilitation of the Coastal Area'* should be reflected in the environmental benefit provisions under RCE.3.4.4 in the Rural Countryside Environment.

The following relief is sought:

- Rezoning of the identified properties inclusive of those owned by Appellants A and B as Rural Living Environment.

- Inclusion of environmental benefit provision under RCE.3.4.4 that provides more clarity and certainty for subdivision in the Rural Countryside Environment, and clearly links to the content of Plan Changes 87 and 114.
- Costs
- Any such other consequential remedies that would achieve the outcomes Appellants A and B seek.

Appellants A and B are willing to enter into mediation or other alternative dispute resolution on the matters contained in this appeal, and are willing to appear jointly with other parties as may be directed by the Court.

I attach the following documents to this notice:

- A copy of the LaBonte's original submission dated 4th October 2016 (Appellant A)
- A copy of the Wildermoth's original submission dated 4th October 2016 (Appellant B)
- A copy of the LaBonte's further submission dated 21st June 2017 (Appellant A)
- A copy of the LaBonte's written submission presented to the Hearings Panel of the Whangarei District Council dated 5th July 2017 (Appellant A)
- A copy of the relevant Councils Decisions
- A list of names and addresses of persons to be served with a copy of this notice



Signed by A Hartstone, Set Consulting Limited

On behalf of A and R LaBonte and J and C Wildermoth

1 March 2018

Address for service of appellants:

Andre and Robin La Bonte

P.O. Box 60

Waipu 0545

Telephone: (09) 432 0645 or 0274 305 600

E-mail: labonte@xtra.co.nz