

Whangarei District Council Submission Hearing, Monday 3rd July 2017.

Notes for submission on PC114, Outstanding Landscapes

Submission 027 Grant Edge

I own a property within the basic permitted Living 3 environment which will under PC114 become instead the most restrictive category ONL within a Coastal Area. I currently have the right to build a house there, in the future I won't, and there will be strict regulations on the future use of my land. Clearly this is a significant impairment of my accepted property rights. PC114 promises unknown but significant future costs for development and a likely detrimental effect on the value of the property and its ease of sale. Materially speaking I am a serious loser. The original draft plan even had us moving from Living 3 to a non-complying environment, a ridiculous prospect illustrating the zealotry with which this change was being pursued. I believe we have Glen to thank for toning this down slightly at least, and it is appreciated.

My 6000 sq metre property has frontage on one of the main roads in the Whangarei Heads area with residential units either side and opposite. It is part of a residential subdivision approved by the WDC and paid for. An expensive consented driveway leads in to a presumed building site. No more outstanding now than it was when it was approved the property will be entirely reclassified ONL within the Coastal Area. When I asked a NRC employee about the mapping I was told

“ there may be a shift for this particular site for development being more restricted because there doesn't appear to be any development already on the land in that buildings with plantings and introduced grasses are excluded”

In other words, because my property looked mostly green on an old satellite photo they simply grabbed the lot. 30 metre concrete driveways and a massive retaining wall obviously don't count as, or hint at development. To be fair I did receive a site visit on request. The point is the mapping process was always going to be subjective and contentious and as a result people with a host of different circumstances all end up subject to the one heavy handed and arguably punitive set of rules. I did say that our property was no more outstanding than when it was subdivided in 2006 but in fact thanks to the hundreds of hours we have spent clearing invasive weeds and replanting it is in far better condition since we bought it last year. By contrast the adjacent council reserve is a disgraceful mix of pampas, gorse, wild ginger and tobacco weed. Council documentation makes me feel like I am the heinous landowner who needs to be prevented from inappropriate action on every second page while the Council is guilty of decades of inappropriate inaction.

It's all very well for the Council to say its hand was forced by the RMA and RPS and that someone else did the mapping and so on. But it is the Council which has the opportunity to make these changes tenable to those affected. So how is this shaping up?

In Glen's 90 page Hearing report he devotes all of one and a half pages to the subject of Landowner Compensation. My submission included covering the cost of Resource Consent applications, but this should not be confused with Compensation. I am not asking for something, rather I am asking, having accepted serious restrictions to my erstwhile legal land use that I am not penalised further. The Council wants to exercise major control over my property and it wants me to pay for the privilege. And RMA law notwithstanding I would not be at all surprised if it made a wee profit out of me as well. My submission was dismissed simply on the basis that there is no legal requirement for the Council to assist. In other words "let's do the bare minimum we can get away with" This attitude is reflected in the Council's PC114 Evaluation Report, Section 32, which I would summarise as

"We don't have to pay for it. We are aware it might be unfair to landowners and although the RMA and the RPS say we can pay for it, we still don't want to."

The WDC, according to Glen's report, "did turn its mind to non-regulatory measures to support landowners". Well in fact they were obliged to consider this because these options are clearly laid out for them, for example in the RPS which states

"particular consideration should be given to these measures where development pressure is low and development incentives are likely to be less effective." Unfortunately this magnanimous mind turning seems to have amounted to bugger all.

What might the Council offer us?

Perhaps a contribution to the Landscape Assessment requirement that they are set to impose on us. 10% ? 20% ? If you want this done then you pay for it. 100% pay for it. That's not greed on my part, I'm not getting anything out of it, I don't need it now and I probably wouldn't be needing it under PC14. Geologically there are very limited options for a house site on my property, if a Landscape architect were to reject our chosen site for visibility reasons the property would effectively become worthless. I think that would be unlikely but under PC114 it certainly could happen. And we would have to pay just to find out....

The other possibility was a rates rebate. Sounds almost reasonable. But this rebate would be in exchange for land covenants. Talk about kick em when they're down, this is just plain greedy. The RPS doesn't say you have to claw something back in return for a rebate. We don't need this kind of opportunism. Any rebate should be proportionate to the percentage of the property reclassified ONL. The rebate should be significant because if the Council

won't cover Resource Consent costs, that's the only way a Landowner will ever accumulate enough to offset those costs..

The RMA

We know the RMA authorises local bodies to waive any costs and fees. We know the WDC does not wish or intend to do this. I believe however that charging for Resource Consent applications in this case is in fact certainly against the spirit of the RMA and probably in contravention of the Act itself. RMA Section 36, Administration Charges , which covers Resource Consent applications amongst other things says:

(b) a person or persons should only be required to pay a charge-

(i) to the extent that the benefit of the local authority's actions to which the charge relates is obtained by those persons as distinct from the community as a whole

(Page 102 Section (4))

It is clear to me that the chief beneficiary of my Resource Consent action is not me, I only stand to gain at the very best that which I am already legally entitled to do....as a result of the Council's actions in moving the posts. The main beneficiary by far is the community, because it is the community as a whole which the Council claims to be acting on behalf of. Those persons who don't want to see my house from 40 km away on top of the Brynderwins etc etc. You may have read about them. The community as a whole is the reason for PC114. So whether or not this becomes a legal argument it should be obvious that that the spirit of the RMA considers that if the community as a whole benefit then the community as a whole should be paying the cost. Is this not just common sense and what any reasonable person would call a fair argument?

Which pretty well sums up my submission. The Council claims it is bound to protect certain landscapes for the benefit of everyone but its method is to recover the cost of this from a small number of ratepayers who it has already severely penalised by imposing land use restrictions far removed from those we have legally planned for and expect, then charging those affected to be allowed to work under those restrictions. On what planet can this be fair? Its so simple; We all benefit, we all pay. Stop hiding behind the " there's no current funding facility" nonsense and just do the right thing and cover our costs. If the current budget doesn't cover it then add a rates surcharge to cover peoples' aesthetics, just as you do with our waste. Most reasonable landowners are willing to concede some land rights

for the perceived good of the community but this involves a great deal of trust in the Council, and I'm not reading much in the current proposed plan to inspire confidence.

Thank you for your time and consideration.