

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

**Lodgement: ENV – 2010-
Topic: ENV – 2010 -**

**IN THE MATTER of the Resource Management
Act 1991**

AND

**IN THE MATTER of an appeal against a
decision in respect of
Proposed Plan Change No. 35
to the Waitakere District Plan**

**BETWEEN The Waitakere Ranges
Protection Society
Incorporated**

Appellant

**AND Auckland Council (formerly
Waitakere City District
Council)**

Respondent

NOTICE OF APPEAL

**TO: The Registrar
Environment Court
AUCKLAND**

THE WAITAKERE RANGES PROTECTION SOCIETY INCORPORATED (“the Appellant”) appeals a decision of Waitakere City Council on Proposed Plan Change no. 35 to the Waitakere District Plan (“the Plan Change”).

1. The decision that is being appealed (“the Decision”) was received by the Appellant on or about 18 October 2010.
2. The Decision was made by Waitakere City Council. Under section 35 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009, Auckland Council has assumed the functions, duties and powers of Waitakere City Council.

3. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 ("the Act").
4. This appeal relates to the Plan Change in its entirety.
5. The grounds for the appeal are as follows:
 - (a) In the absence of the relief sought by the Appellant being granted, the Plan Change:
 - (i) Will not promote or be consistent with the purpose and principles of the Act;
 - (ii) Will be appropriate in terms of section 32 of the Act;
 - (iii) Will not be consistent with and give effect to the relevant national and regional planning instruments;
 - (iv) Will enable the generation of significant adverse effects on the environment.

In particular, but without limiting the generality of the above:

- (b) The Society opposes the proposal to create a rural village at Oratia, as:
 - (i) There is no need or planning rationale for a new rural village within the Foothills of the Waitakere Ranges to promote the sustainable management of Oratia as a community.
 - (ii) The Council's proposal fails to recognise the proximity of Oratia to the Metropolitan Urban Limit (MUL) and existing commercial/retail and employment centres within the urban areas of Waitakere City.
 - (iii) The proposed location for the village is immediately adjacent to the existing urbanised area within the MUL. As a result, any new village will in practice be an extension to the urban area rather than a "rural" village.
 - (iv) The proposed rural village is contrary to the purpose, objectives and other provisions of the Waitakere Ranges Heritage Area Act 2008

- (c) The Society is opposed to proposed policy 5B.3.1.6.4 which supports subdivision to a density equivalent to that allocated under the Oratia Structure Plan in a triangular area bounded by Pine Avenue, Forest Hill Road and Holdens Road.
6. The Appellant seeks the following relief:
- (a) With regard to the Oratia Local Area (5B.3.1):
- (i) Deletion of the reference to Oratia "village" in 5B.3.1.2 Clauses (ii) and (v) - Statement of Oratia's Existing Character and Amenity as the use of the term village overstates the extent to which Oratia has an existing commercial/retail/community focus, as it is more of a dispersed hamlet at present.
 - (ii) Deletion of Clause 5B.3.1.3 (v) in its entirety, to eliminate the concept of new commercial/retail activities being established in Oratia.
 - (iii) Deletion of the 5th paragraph under clause 5B.3.1.4 Issues, which commences with the following words "*An enhanced small-scale rural village and service centre can provide for the social, economic and cultural wellbeing of the community ...*"
 - (iv) Deletion of Objective 5B.3.1.5.2 Oratia Rural Village, which expresses a policy intent to provide for a rural village in Oratia.
 - (v) Deletion of Policy 5B.3.1.6.4 and the related explanation together with any associated rules or other provisions, which relate to subdivision of a triangular area bounded by Pine Avenue, Forest Hill Road and Holdens Road.
 - (vi) Deletion of Policy 5B.3.1.6.5 (iii), which refers to enabling development to progress (via subdivision) in the Oratia Rural Village Non-Residential Activity Overlay.
 - (vii) Deletion of Policy 5B.3.1.6.6 which specifies the policies for development of Oratia Village (a) to (g), and the methods of achieving that development (i) to (xi).

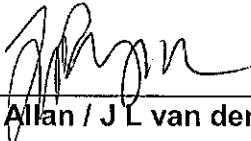
- (viii) Delete proposed new Rule 8B (and the related assessment criteria), which seeks to enable development of the Oratia Rural Village on three specified land areas shown as proposed amendments to Planning Map F8 (Oratia).
 - (ix) Delete the proposed amendments to Rule 7 - Building Coverage in the Foothills Environment that is intended to exempt buildings in the Oratia Village Activity Overlay Area from the building coverage limits of the Plan.
 - (x) Retention of the existing operative zoning on Planning Map F8 (Oratia), by deleting the proposed Oratia Rural Village Non-residential Activity Overlay areas in their entirety.
- (b) Any consequential relief required for consistency or completeness.
 - (c) Such other orders, relief or amendments as are considered appropriate, desirable or necessary by the Court to address the concerns set out in this appeal.
 - (d) Costs of and incidental to this appeal.

PROVIDED THAT if the relief set out above is not granted the Appellant seeks that the Plan Change be withdrawn or rejected in its entirety.

7. The Appellant attaches the following documents to this Notice of Appeal:
- (a) A copy of the Appellant's submission (**Annexure A**).
 - (b) A copy of the Decision (**Annexure B**).
 - (c) A list of names and addresses of persons to be served with a copy of this Notice (**Annexure C**).

DATED at Auckland this 24th day of November 2010

**The Waitakere Ranges Protection Society
Incorporated** by its solicitors and duly
authorised agents Ellis Gould



D A Allan / J L van den Bergen

ADDRESS FOR SERVICE: The offices of Ellis Gould, Solicitors, Level 31, 23-29 Albert Street, ANZ Centre, PO Box 1509, Auckland, DX CP22003, Auckland, Telephone: (09) 307-2172, Facsimile: (09) 358-5215.

ANNEXURE A

Copy of the Appellant's submission

ANNEXURE B

Copy of the Decision

ANNEXURE C

Names and addresses of persons to be served with a copy of this notice:

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 or 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.

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 (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.

The Auckland address of the Environment Court is:

Specialist Courts and Tribunals Centre
Level 2
41 Federal Street (cnr Wyndham Street)
Auckland 1010
New Zealand

Its postal address is:

DX: CX10086
Auckland
New Zealand

Its telephone and fax numbers are:

Telephone: (09) 916 9091
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