

WCC

11 NOV 2010

EJM Wheeler Trust & Raumat Point Limited HENDERSON
C/- 145 Bethells Road
Bethells Beach
PO Box 95 165 Swanson
Auckland

10 November 2010

Eryn Shields
Team Leader
Auckland Council (previously Waitakere City Council)
1 Greys Avenue
Private Bag 92300
Auckland 1142

**Proposed Plan Change 36 – Rural Activities and Social, Cultural
and Economic Wellbeing of the People and Communities in
the Waitakere Ranges Heritage Area**

Please find enclosed by way of service a copy of an appeal to the Environment Court
by EJM Wheeler Trust & Raumat Point Limited in respect of Proposed Plan Change
36 to the Waitakere District Plan.

Also attached for your information is a list of the persons who are being served with a
copy of the appeal. We understand that this is a list of all persons who must legally
be served with a copy, however if there are other parties that we are obliged to serve
could you please provide us with a copy of their name and address.

Yours faithfully
EJM Wheeler Trust

Jim Wheeler

Raumat Point Limited

Bruce Armitage

Chief Executive	
Corporate Services	
City Services Moselle	<input checked="" type="checkbox"/>
Consultancy Services	
ECO - WATER	
Strategic Group	
Consent Services	
Field Services	

Form 7
Notice of appeal to Environment Court against decision on
proposed policy statement or plan

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

To the Registrar
Environment Court
Auckland, Wellington, and Christchurch

We, EJM Wheeler Trust and Raumatī Point Limited, appeal against part of a decision of Auckland Council (previously called Waitakere City Council) in relation to the following plan change: Plan Change 36 Rural Activities and Social, Cultural and Economic Wellbeing of People and Communities in the Waitakere Ranges Heritage Area.

We made a submission on that plan change.

We received notice of the decision on 19 October 2010.

The decision was made by Waitakere City Council (now called Auckland Council).

The parts of the decision that we are appealing are:

- The new Rule 5B.4 inserted into the Waitakere District Plan by the plan change, together with any consequential amendments that may be required; and
- Rules 7 and 8 of the Waitakere Ranges Environment as amended by the plan change, together with any consequential amendments that may be required.

The reasons for the appeal are as follows:

- The new rule 5B.4 sets out objectives and policies to be inserted into the District Plan and outlines, amongst other things, the importance of providing for appropriate non-residential activities in the Waitakere Ranges Heritage Area (WRHA), and that the failure to provide for future uses of rural land may result in dereliction, pressure for urbanization, decline of rural character and have other negative impacts. However, rule 5B.4 fails to adequately recognize that the Waitakere Ranges Environment comprises a significant area that is made up of existing and long standing working properties (including farms and lawfully established non-residential buildings and activities) rather than just residential lifestyle properties. The plan change focuses on appropriate property use for residential lifestyle properties but does not make adequate provision for working properties. Working properties also need to be supported, encouraged and protected from dereliction. For example, the potential to use (or recycle) lawfully established non-residential buildings for new uses such as accommodation, arts and crafts, local business and places for people to work without having to travel to an urban area provides for the social, cultural, economic and environmental wellbeing of the people and communities of the WRHA and contributes to the sustainable use of resources, but this is not adequately addressed in rule 5B.4.
- Rule 7 of the Waitakere Ranges Environment (as amended by the plan change) allows for home occupations, rural activities, production of arts and crafts and filming activities as Permitted Activities in the Waitakere Ranges Environment. However, Rule 8 of the Waitakere Ranges Environment requires a resource consent for all of these activities in relation to traffic generation except for home occupations. We believe that in any case where an activity is a permitted activity under rule 7, such as filming activities of less than 6 months duration which do not require the construction of any buildings, then that activity should not separately require a resource consent under rule 8 for traffic

generation so that all permitted activities under rule 7 should also be permitted activities under rule 8. In addition any activity requiring a resource consent under rule 7 should not be subject to a more onerous level of resource consent under rule 8 so that these two rules are aligned.

- Following the failure of Rule 5B.4 to recognise the nature of working properties (as compared to residential lifestyle properties) Rule 7 of the plan -- Non-Residential Activities in the Waitakere Ranges Environment -- does not recognise or make adequate provision for non-residential activities, or the expansion of those activities, in relation to working properties. Rule 7 therefore requires amending so as to provide for appropriate non-residential activities, or the expansion of those activities, in relation to working properties.

We seek the following relief:

- Amend rule 5B.4 so that it expressly recognises and makes provision for working properties (including farms and lawfully established non-residential buildings and activities) as distinct from the existing focus in that rule on lifestyle residential properties. In addition, delete the 3rd to last paragraph of this rule which states "Rules for non-residential activities should not be considered as part of any permitted baseline comparison with residential activities or subdivision in the Waitakere Ranges Heritage Area."
- Amend rule 8 of the Waitakere Ranges Environment so that if an activity is a permitted activity under rule 7.1 then that activity is also permitted under rule 8.1 and where any activity under rule 7 requires a resource consent amend rule 8 so that the activity does not require a more onerous level of resource consent under rule 8. By way of example, and without limitation, filming activities that are permitted under rule 7.1 should not be subject to a resource consent requirement under rule 8.1 for traffic generation.
- Amend rule 7.1 of the Waitakere Ranges Environment so that commercial overnight accommodation is a permitted activity in its own right when carried out from lawfully established buildings (other than garages or carports) and is not a sub-category of home occupations, and further provide that the number of persons that can be accommodated is defined by reference to the size of the building at a rate of one person for every 35 square metres of building floor space.
- Amend rule 7.1 of the Waitakere Ranges Environment so that any non-residential activity that was lawfully established on a site prior to the notification date of the plan change is a permitted activity on that site.
- Amend rule 7.1 of the Waitakere Ranges Environment so that any non-residential activity that is carried on within a lawfully established non-residential building (which does not include a garage, carport, garden shed or other building which is merely incidental to a residential dwelling) is a permitted activity if the activity meets the criteria of a home occupation except that:
 - The requirements that there be no more than five persons engaged in the activity and that a person residing on the site be engaged in the activity will not apply;
 - Heavy traffic vehicle generation will not exceed 4 heavy traffic vehicle movements per day for each activity carried out (rather than two per week for the home occupation); and
 - The requirement that the use of the site be secondary or incidental to the use of the site for residential purposes (as required by the current definition of home occupations) will not apply.
- Amend rule 7.3 of the Waitakere Ranges Environment by making this rule a controlled activity under rule 7.2 and by deleting the wording in rules 7.3 i) (a) and 7.3 ii) (b) and replacing that wording with: "any existing or new building(s) or additions to building(s) associated with the activity do not result in the non-residential buildings on the site having a building coverage of more than 15% of the net site area."

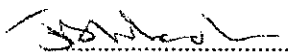
- Amend rule 7.3 of the Waitakere Ranges Environment by providing that non-residential activities carried out from lawfully established non-residential buildings not meeting the standards of Rules 7.1 and 7.2 (as amended above) are limited discretionary activities under rule 7.3 and make the necessary consequential amendments to rule 7.4.
- Amend rule 7.3 of the Waitakere Ranges Environment by adding a new rule in rule 7.3 making Filming Activities of a duration of greater than 6 months which involve the construction of a building to be a limited discretionary activity.
- Amend the Assessment statement at the end of Rule 7.3 (as amended) by adding the following words after the words "car parking": " , but also recognizing and accepting the nature, characteristics and type of the existing non-residential activity, "
- Amend rule 9 of the Waitakere Ranges Environment by providing that all permitted non-residential activities under rule 7 are permitted for the purpose of rule 9 and provide further that if a non-residential activity is a controlled or limited discretionary activity then the rules in Rule 9 should be consistent and be respectively controlled or limited discretionary.
- For the purpose of determining what is a non-residential building in relation to the above proposed changes make it clear in the District Plan that a non-residential building does not include any buildings that are (or were) solely incidental to residential buildings such as a garage, carport or garden shed.
- Such other consequential amendments to the plan change and/or the District Plan that are necessary or desirable to give effect to the proposed relief set out above.
- Costs.
- Such further or alternative relief as is just or necessary to give effect to this appeal.

We attach the following documents to this notice:

- a copy of our submissions
- a copy of the relevant parts of the decision;
- any other documents necessary for an adequate understanding of the appeal;
- a list of names and addresses of persons to be served with a copy of this notice.

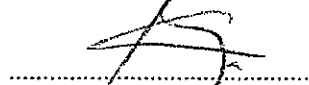
Signature of appellants:

EJM Wheeler Trust by:



Jim Wheeler

Raumati Point Limited by:



Bruce Armitage (Director)

Date 5 November 2010

Address for service of appellants: 145 Bethells Road, Bethells Beach, Waitakere, Auckland
(Postal Address: PO Box 95 165, Swanson, Auckland)

Telephone: (09) 8109 387 (Jim Wheeler) (09) 837 4372 (Bruce Armitage)

Fax/email: tehenga2004@hotmail.com barmitage@culleninvest.com

Contact persons: Jim Wheeler and Bruce Armitage