

In the Environment Court

ENV-2009-AKL-

In the matter of the Resource Management Act 1991

and

In the matter of an appeal on a proposed plan under Clause 14 of the First Schedule of that Act

between

The Salvation Army New Zealand Trust Board

Appellant

and

Auckland City Council

Respondent

Notice of Appeal against decisions on the Auckland City District Plan: Hauraki Gulf Islands Section – Proposed 2006

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The Salvation Army New Zealand Trust Board (**Army**) appeals against parts of the decision of the Auckland City Council (**Council**) on the Auckland City District Plan: Hauraki Gulf Island Section – Proposed 2006 (**Proposed Plan**) relating to the “Rotoroa Land Unit”.

Appellant’s Standing

The Army made a submission and four further submissions on the Proposed Plan. It is also the owner of Rotoroa Island (**Island**).

Date of the Receipt of the Decision:

The Army received notice of the Decision on 29 April 2009.

The parts of the decision appealed are:

- (a) Rule 10a.27.6 and Table 10c.5, which provide that the building coverage ‘per dwelling and associated residential accessory buildings’ for multiple dwellings located within the Conservation / Residential area on the Island must not exceed 300m² in order for the activity to ‘qualify’ for restricted discretionary status; and
- (b) Rule 10a.27.7.1 which includes ‘public access’ as a matter of discretion to be considered by Council when reaching a decision on any application for consent for multiple dwellings and associated residential accessory buildings.

Reasons for the Appeal:

The Army considers that:

- (a) The parts of the decision appealed will not achieve sustainable management in that they:
 - i. Will fail to provide for the social and economic wellbeing of the Army and the residents of the Island;
 - ii. Will not achieve the efficient use of natural and physical resources; and
 - iii. Are not necessary to, and in many cases will impede, the avoidance or mitigation of any potential adverse effects of residential development on the Island.

- (b) Further, the parts of the Decision appealed are not the most appropriate way to achieve the purpose of the Act in terms of section 32 thereof.

Building Coverage

- (c) With particular reference to Rule 10a.27.6 and Table 10c.5, and without limiting the generality of the reasons given above, the Army also considers that the Island is a discrete planning unit with unique characteristics, including in terms of the significant effort being made to replant large areas of land and enhance its ecological, visual and landscape qualities. As such, the comparisons drawn by the Hearings Panel with provision for dwellings located on other islands in the Gulf are not helpful and is not a valid reason for the restriction imposed.
- (d) Further, the Army does not agree with the Hearings Panel that the restriction is required to 'protect the unique landscape and coastal features of the island'.
- (e) In fact, the rule in issue may encourage the establishment of taller dwellings, rather than lower buildings which would better blend into the natural landscape, as residents will be forced to design multi-level dwellings to meet their need for sufficient floor space.
- (f) Further, the restriction on building coverage has the potential to seriously compromise the marketability of the proposed residential sites on the Island since many potential purchasers (many of whom are expected to have families) will be unable to establish dwellings large enough to accommodate their needs. The lessee of the Island, the Rotoroa Island Trust, is dependant on income from the sale of those sites to fund much of the ongoing operation and maintenance of the Island.

Public Access

- (g) With particular reference to Rule 10a.27.7.1, and without limiting the generality of the reasons given above, the Army is committed to facilitating public access to much of the Island. However, it will not be appropriate to provide access in close proximity to the multiple dwellings and associated residential accessory buildings. As such, the matter should not be required to be considered in the context of applications for those activities. The proposed assessment criterion is therefore inappropriate.

Relief Sought

The Army seeks the following relief:

Building Coverage

- (a) The removal of the reference to '300m²' from table 10c.5 and the substitution of '600m²'.

Public Access

(b) The deletion of the assessment criterion 'public access' from Rule 10a.27.7.1.

Alternative Relief

(c) In the alternative to the relief sought at paragraphs (a) and (b) above, such other relief as would meet the concerns set out in the Reasons for the Appeal above.

Costs

(d) In addition to the relief sought at paragraphs (a)-(c) above, the costs of and incidental to this Appeal.



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D McGregor / V Holm

Solicitors and duly authorised agents for the Salvation Army New Zealand Trust Board

19 May 2009

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Annexures:

- A. Copy of the Army's submission and further submissions.
- B. Copy of the evidence presented by the Army to the Council at the hearing.
- C. Copy of the relevant parts of the decision of the Council.
- D. Parties to be served with this Notice