

Form 34
Notice of appeal to Environment Court (general)

To the Registrar
Environment Court
Auckland, Wellington, and Christchurch

We, Edward Arthur David and Anne Ruby Scott, appeal a decision (*or* part of a decision) on the following matter: Decision of Planners: Auckland City District Plan, Hauraki Gulf Islands – Proposed 2006. As amended by council decisions 2009.

I received notice of the decision on Friday 4th May 2009.

The decision was made by Graeme Mulholland; Chairperson of the Hearings Panel.

The decision (*or* part of the decision) that I am appealing is:
Submissions about designation of land at 29 Maungatawhiri road, Great Barrier to establish a synagogue and yeshiva with associated facilities.

The reasons for the appeal are as follows:

It would appear that the planners did not understand or appreciate our request for the following:

Synagogue/yeshiva

The term yeshiva refers to a place of learning/teaching (secular and spiritual), shabbaton refers to a gathering to exchange ideas and also learning.

Submission 2355/1

The planner has recommended that the submission by Edward and Anne Scott be rejected on the grounds specified 4.6.2 page238. The planner fails to recognise that the property is currently consented to operate a camp ground with up to 40 persons, four holiday cottages and two dwellings. I consider that the activities the Scott family are currently engaged in, and have been since before the advent of the Resource Management Act (RMA), represent the use of the block and or parts of it as a community facility.

The activity table, which specifically excludes community and educational facilities on all sites within landform 6, places us unfairly outside the law. We both provide an educational experience and a community facility, namely we practice Judaism, Jewish learning, operate an extensive library and support community activities, some with intermittent residential periods. Our activities are mainly based on environmental issues and in particular Torah based elements. We also operate gardens, an apiary and an orchard, I personally teach engineering skills and alternative energy systems. There is also an engineering workshop on the property. My wife holds a masters degree in nursing and also is active in the community. Perhaps our activities are illegal, it would be helpful if the planner could advise us.

My first question is, "If you can't teach or operate educational facilities targeted at environmental issues in landform 6, where can you carry them out?" Landform 6 should be admirably suited to this purpose. However, we have also applied to change the land use to "Productive land" as that is what it is at present. The land is productive in that it provides quantities of commercial firewood in a sustainable management

manner and also a native seedling supply, in addition to the horticultural activities mentioned above. All these activities are part and parcel of our "Jewish living experience".

Second, "why should the activity table specifically reject community activities in landform 6?" The planner specifically mentions in the summary that "these activities would be assessed on a case by case basis" and our property would be assessed for the suitability of the activity requested. This seems ludicrous when we can have visitors on the property legally with the consents we have already been granted. Yet if our visitors want to teach, be taught, discuss or in any way practice Judaism the activity effectively becomes an illegal activity and even more so if the tutor were to be in a paid employment or on a stipend. As far as the "community facility" is concerned, I am at a loss. It would appear that a property can only be considered a "community facility" if a planner so wishes it to be.

As we already have approval for accommodation why therefore can't individuals exercise their right to engage in faith activities of worship and the study of Torah?

On Great Barrier Island there is not a very large population of Jews and on occasions it is very difficult to find the numbers to form a minyan, (10 Men in orthodox 10 persons reform). This is due to the fact that in New Zealand in total, there are only approx 6000. As a people we are slowly recovering from the great Shoa and are making efforts to bring back into our fold the many who were alienated because of it. Currently the world Jewish population is only about 15 million, interestingly approximately the same as in 1939. It is our aim with the support of our Jewish community having access to what we propose at Amana (the Hebrew name of 29 Maungatawhiri Road) it would help us to achieve our objective. We would not place limitations on the activities that can be carried out at Amana, suffice to say that we would not condone any behaviour that offends. We actively pursue community harmony and supports inter faith relationships. The overall Jewish community involves members from Beth Shalom (progressive) and the Auckland Hebrew Community (Orthodox). The main Judaic communities in the Auckland region both groups are participant in the inter faith council.

My wife and I are members of Beth Shalom, the reform/progressive Jewish community in Auckland. We intend to establish a trust to operate the centre and propose this trust would be comprised of members from the Jewish community. It is our intention not to exceed the numbers of persons currently approved for on the block. We are prepared to either subdivide or operate a "tenancy in common agreement" to facilitate our aims. We also propose to covenant approx 10 acres of the property currently zoned forest and bush to a Jewish Conservation Trust.

The planners remark that we could make "an application for a resource consent for these activities that would be assessed on a case by case basis and the individual characteristics of the property would be assessed for the suitability of the activity requested" tells us that we can carry out what we want to do, provided that the planners approve. My enquiries however, lead me to believe that the resource consent process will cost between \$30,000 and \$100,000. I don't think this would be at all fair and certainly tilts the playing field well away from us in favour of the other religious institutions that established on the Barrier. We are reluctant to go down this road. Nor do we think it fair that the planners can ignore the tenets of the scheme and the RMA that actively promote "spiritual wellbeing of the community." and minority groups.

We believe we have paid a huge price to be where we are today, even though I was born in 1946 and was not part of the Shoa, I am mindful of the fact that I am very short of relatives. Most of them lived in Poland and unfortunately they were victims of Reinhard Heydrich's "Judenrein" (cleansed of Jews). My wife has a similar background, as we are both Ashkenazim. Our people paid heavily then and we are still paying. I ask why? Hitler made us pay for the privilege of contributing to society, in fact he made us pay whether we contributed or not. Never again will that happen. But it will not stop us contributing now wherever we can because that is our mitzvot, a duty we cannot ignore.

The scheme overall is flawed in that the “activity tables” it promotes, particularly in this case, specifically excludes activities that are “not provided for”. The planner appears to “assume” that unless an activity is “provided for” it must of necessity be “considered as non complying “. The next step in this illogical approach is that the activity becomes illegal. To us, this approach reeks of the fascism that was so destructive to mankind and particularly to the Jews and the other victims of the fascist regimes throughout history. You, as commissioners, may think this is a harsh statement but that is exactly what this scheme or rather the planners’ interpretation of it and the RMA does to us. By allowing the scheme to promulgate “approved “ activities at the whim of a planner to the exclusion of all others, you can be seen by me as successfully enshrining the policies of the Nazi regime without even knowing it. A regime that slunk into power by creating a beaurocracy that could only look upwards, to a powerful hierarchy, and not to the people who empowered them. This was known as “working to the fuehrer”. The parallel here is that all our beaurocrats are “working to the RMA and the scheme”; we as the humanity have taken a secondary role to the importance of the state in this case Auckland City Council. As I have said you will probably disagree with me, however I see parallels, maybe distorted by my history, but none the less dangerous parallels and precedents that will come back to haunt us.

When the RMA was touted before Parliament, it was described as “an enabling act “ that would “**enable all New Zealanders to fully enjoy and appreciate their environment heritage and lifestyle**”! **It has become anything but that.**

The emphasis of this plan needs to re-establish the rights and freedoms of the individual person, not the state. This has not happened, however what has happened is that the “unchallengeable rule of the state” has been reinforced. Although we haven’t as yet degenerated to the totalitarian “one man” rule of Adolph Hitler’s regime, we have vested far too much power in individuals employed by the state who can only be challenged by the person concerned expending vast amounts of money. Even then the planning system accepts no responsibility. This scheme is riddled with an astounding number of overlays, all contrived to give maximum leverage to the state. Fairness and fair play seem to have vanished. The scheme abandons the “plain English aspects of New Zealand common law”. The intent of the legislation was promoted not only to eliminate legal gobbledy gook but also to prevent the average person being assailed by an “overburden of weight of evidence”. Unfortunately the individual appearing for the state has no accountability whatsoever, as proven by the planners ignoring court orders as tendered in submissions to this Hearings Panel.

The planner in 4.8.2 of the analysis of our submission states when referring to the activity table, “ it considered that community facilities and educational facilities are not appropriate”. It would appear that the planner is ascribing to a printed activity table the power of thought and judgement; perhaps a lazy way of not taking responsibility or maybe the planner has had thoughtful conversations with the manual. Maybe the tables have some awe-inspiring appeal, like Mien Kemp.

The emphasis of this scheme needs to address freedoms and not abject compliance. It is very obvious to us that the whole tone and structure of the scheme is “compliance” driven with a punitive mean spirited streak thrown in as well. We ask you, as Commissioners, to address this element. If you do not do take this action you will be inadvertently perpetrating the legacy of the fascist regimes that caused so much pain and destruction. A maniac may have written mein kampf, but when he nearly achieved his aims it gives pause for thought.

We have shown in this submission that it is possible to do what we want to do. Indeed we are already doing it, maybe illegally, but none the less we will keep doing it.

We seek the following relief:

In essence, we are only asking to be able to **have a place in this Island community, that is of the same standing as other religious/spiritual groups and be able to say ‘this is our Synagogue, this is our yeshiva, we are free, we have paid a terrible cost for our survival and we are not hiding anymore’**. We asked in our submission, which was 2355/1 to be designated for the establishment of a synagogue and yeshiva (learning centre), the land area occupying approx 1 hectare, by either allowing subdivision or tenancy in common. We already have been granted resource consent and is in existance; 2 dwellings, 4

holiday cottages and a camp ground for 40 persons, which is in operation. Yet the visitors to this accommodation under the present district scheme are not permitted to gather for learning opportunities or practice as a spiritual community/shabbaton.

I attach the following documents* to this notice:

- (a) A copy of the relevant decision (*or* part of the decision);
- (b) A list of names and addresses of persons to be served with a copy of this notice.
- (c) Any other documents necessary for an adequate understanding of the appeal.

*These documents must be attached and lodged with the notice in the Environment Court. The appellant does not need to attach copies of these documents to copies of the notice served on other persons if the copy served lists these documents and states that copies may be obtained on request from the appellant.

Edward and Anne Scott
Signature of appellant
(*or* person authorised to sign
on behalf of appellant)

.....
Date

Form 34- *continued*

Address for service of appellant:

Telephone:

Fax/email:

Contact person: [name and designation, if applicable]

Note to appellant

You may use this form for any appeal for which you cannot identify a prescribed form.

You must lodge the original and 1 copy of this notice with the Environment Court. The notice must be signed by you or on your behalf. You must pay the filing fee required by regulation 35 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

Advice to recipients of copy of notice of appeal

How to become a party to proceedings

If you wish to be a party to the appeal, you must lodge a notice in form 33 with the Environment Court within 30 working days after this notice was lodged with the Environment Court.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (*see* form 38).

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington, or Christchurch.

Contact details of Environment Court for lodging documents

Documents may be lodged with the Environment Court by lodging them with the Registrar.

Form 34– *continued*

The Auckland address of the Environment Court is:

8th Floor, District Court Building
3 Kingston Street
Auckland

Its postal address is:

PO Box 7147
Wellesley Street
Auckland

And its telephone and fax numbers are:

Telephone: (09) 916 9091
Fax: (09) 916 9090

The Wellington address of the Environment Court is:

The District Court Building
43-49 Balance Street
Wellington

Its postal address is:

PO Box 5027
Lambton Quay
Wellington

And its telephone and fax numbers are:

Telephone: (04) 918 8300
Fax: (04) 918 8303

The Christchurch address of the Environment Court is:

83 Armagh Street (corner Durham Street)
Christchurch

Its postal address is:

PO Box 2069
Christchurch

And its telephone and fax numbers are:

Telephone: (03) 962 4170
Fax: (03) 962 4171



Date 05/05/09

\$ 551.00/100

For PSIS Limited

Chris R. Scott

a/c Payne Org.



PSIS Branch

Pay

Environment Court

Not Negotiable

The Sum of

Fiftyfive dollars only

Cheque Duty Paid Lic 4

EA & R SCOTT

⑈000278⑈ ⑈021242⑈ 0539038⑈01⑈



PSIS Branch

Pay

Environment Court

The Sum of

Fiftyfive dollars

Cheque Duty Paid Lic 4

Janice King

⑈000278⑈ ⑈021242⑈ 0539038⑈01⑈