

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Resource
Management Act 1991

A N D

IN THE MATTER of an appeal pursuant
to Cl.14, First
Schedule of the Act

BETWEEN **ORAPIU LODGE
LTD**

Appellant

A N D **AUCKLAND CITY
COUNCIL**

Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT
AGAINST DECISIONS ON PROPOSED
HAURAKI GULF ISLANDS DISTRICT PLAN 2006**

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

TO: The Registrar
Environment Court
AUCKLAND

ORAPIU LODGE LTD appeals against decisions by Auckland City Council (“the Council”) on the proposed Hauraki Gulf Islands District Plan 2006.

Decision:

1. The appellant made submissions on the proposed district plan in respect of the provision for suitable land use provisions for the appellant’s land at Orapiu.
2. The appellants received the notice of the decision and an electronic copy of all decisions on 4 May 2009.
3. The decision was made by the respondent Council.
4. The decision which the appellant is appealing is the decision of the respondent dated 2 May 2009 in respect of the following provisions of the proposed plan:
 - (a) Part 2 - Resource Management Overview
 - (b) Part 3 – Strategic Management Areas
 - (c) Part 4.2 – Activities not otherwise specified
 - (d) Part 10 – Land Units
 - (e) Planning Maps

Reasons for the Appeal:

5. The reasons for this appeal are:
- (a) On the appellant's land, the Orapiu Lodge Ltd property at Orapiu Bay, Waiheke Island, three land unit notations are provided. The Visitor Facilities Commercial 4 notation is requested to be extended over that part of the site proposed to be zoned Productive Land under Land Form 5.
 - (b) The appellant seeks to enhance and modernise the visitor facility activities on the subject site as well as providing public access to an esplanade reserve to be vested.
 - (c) The appellant intends to demolish the outdated tourist lodge on the subject site and to re-use the site for a variety of visitor accommodation and holiday accommodation units to be located within the area presently zoned for Commercial 4 and Land Form 5. The development will be generally in accord with the attached plan – Attachment A.
 - (d) The proposed district plan does not adequately provide for tourism and recreational activities on Waiheke that have become important to the social, cultural and economic wellbeing of the island and its residents.
 - (e) The activity table in the Commercial 4 Land Form does not provide for any form of dwellings and the objectives and policies specifically discourage any form of residential units in Commercial 4. Dwellings are a necessary part of promoting tourists' opportunities on the island and should be provided for.

- (f) A rule which only allows one dwelling per site is too simplistic. It does not take into account landowners with larger tracks of land who wish to develop residential units yet do not wish to subdivide their property. A density provision which is an alternative option to subdivision would be appropriate in most landforms but particularly in the rural eastern part of the island in those parts of the coastline that are settled.
- (g) The proposed minimum subdivision size for land forms 4 and 5 are too restrictive and do not make provision for multi-unit development based within a conservation and environmentally beneficial framework.
- (h) The proposed productive land zoning of the subject site does not recognise the activity taking place on the site, nor does it recognise the unsuitable nature of the subject site for productive purposes. The site is better covered by an expansion of the Commercial 4 Land Unit for visitor facilities.
- (i) The plan provides for extensive protection of exotic trees in urban zones and within urban land units and does not take into account the ecological value that should be placed on indigenous vegetation rather than exotic tree protection.
- (i) Overall the subject site has not been accorded appropriate development opportunities in terms of Part 2 of the Act and the district plan fails to meet the purpose of the Act to that extent.

Relief Sought:

- 6. The appellant seeks the following:
 - (a) Provide for dwellings in the Commercial 4 – Visitor Facilities Land Unit – as a restricted discretionary activity.

- (b) Expand the Commercial 4 Land Unit to include all available flat land and the lower adjoining slopes of the company's land which are at present zoned Land Form 5 – Productive Land.
- (c) In keeping with the purpose and intent of s.77 of the Act, it is requested that Rule 4.2 is altered to require discretionary activity status for activities not otherwise provided for in the Plan. This is in keeping with the enabling and effects-based purpose of the Act in the proposed district plan.
- (d) Remove the general control over exotic trees in the Plan. The ecological direction of Waiheke should be to continue to place importance on indigenous biodiversity and vegetation. Protecting exotic trees over 8m in height is onerous and does not encourage new vegetation and ecological enhancement using indigenous species.
- (e) Establish density limits commensurate with the purpose of the Land Units for residential dwellings. Density limits should be the same as the provision for subdivision in each relevant Land Unit. The rule allowing only one dwelling on any site is onerous and does not allow for large scale lots. It does not promote or provide opportunities for appropriate development on such lots. Residential density consistent with the subdivision provisions of the Land Unit should be by way of controlled activity. Increasing density beyond the controlled provision should be available by way of a discretionary activity application to promote the use of clusters of buildings or similar multi-unit techniques that enable residential design to be related to the land capability of the relevant catchment.
- (f) Extend the building coverage limit for permitted or controlled activities in Commercial 4 Land Unit to 25%.

- (g) In the event that the requested rezoning is seen as inappropriate the appellant requests consideration for the identified area covered by Commercial 4 and Land Form 5 to be rezoned as Bush Residential with a special provision registering the potential for the subject site to provide for the form of development identified on the attached plan.

Attachments:

7. The following documents are attached to this notice:
- (a) A copy of the relevant submissions lodged by appellant
 - (b) A copy of the relevant extract of the decision of the respondent
 - (c) A list of names and addresses of persons to be served with a copy of this notice



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Brian William Putt for and on behalf of the appellant

Date: 24 July 2009

Address for Service:
Metro Planning Limited
P O Box 4013
Shortland Street
AUCKLAND 1140
Ph: (09) 303 3457
Fax: (09) 303 4176
Email: brian@metroplanning.co.nz