

Ridgelines

24) Submission 1289 & others of R. A. Walden

- a) The appellant submitted that the proposed ridgelines are not substantiated by section 32 analysis.
- b) Nor are the proposed objectives and policies,
- c) The ridgelines notated on the submitter's property are unmeritorious, inaccurate and unreasonably prevent sensible land use based on the proposed provisions and definitions,
- d) The unmeritorious, inaccurate ridgelines that unreasonably prevent sensible land use based on the proposed provisions and definitions,
- e) include ridgelines where local characteristics mean that there are sites that are not visually obtrusive, visible against the skyline or even visible from outside the sites,
- f) The proposed ridgelines are inaccurate and are not appropriate method to achieve the desired outcomes.
- g) The effect of the ridgelines is to remove reasonable development opportunities on a permitted basis.
- h) That part 14 include a definition of ;'Significant Ridgeline Area" be amended and reworded as follows. "Significant ridgeline area means any significant ridgeline as identified on the planning maps. For the purpose of the development control rules, the significant ridgeline area includes all land falling within the 100m wide strip shown n the planning maps by way of a dotted line notation parallel to each defined ridgeline"
- i) Ridgeline in part 14 should be defined as a "Ridgeline is a long narrow elevation of the land surface often crested with steep sides and forming an extended upland between valleys or a valley and the coast in which the background is the sky when from any vantage point."
- j) Also similar submissions were in 2921/1, 2921/2, 2921/3, 2921/4, 2921/5, 2925

25) The reasons for the appeal are as follows:

The appellant repeats the general reasons for the appeal at 9 above

Particular Decisions Referred.

The respondent rejected the submissions if full or in part.

The appellant's reasons

The appellant repeats the general reasons for the appeal at 9 above

- a) Without derogating in any way from the general reasons for appealing as outlined above, the respondent's decisions do not address the particular submissions addressed below.
- b) The ridgelines as marked have not been subject to a RMA s 32 analysis.
- c) The ridgelines notated on the submitter's property are unmeritorious, inaccurate and unreasonably prevent sensible land use based on the proposed provisions and definitions.
- d) Many of the ridgelines are not visually obtrusive, visible against the skyline or even visible from outside the sites.
- e) The proposed ridgelines are inaccurate and are not appropriate method to achieve the desired outcomes.
- f) The effect of the ridgelines is to remove reasonable development opportunities on a permitted basis.

26) I seek the following relief:

- a) The appellant seeks that the plan be amended in accordance with the appellant's submission on ridgelines as outlined in the appellant's submission, including that:
- b) The ridgelines provisions be deleted from the proposed plan generally, and our land specifically, and/ or
- c) That any visual intrusion be encompassed within the relevant assessment criteria [where consent is needed for buildings] and / or if the ridgeline rule is retained then ridgelines be accurately defined and limited in definition to significant ridgelines where buildings will be silhouetted on skylines and
- d) In the case where buildings will be silhouetted on skylines, a controlled activity should be required.
- e) The ridgeline definition and rules should be amended so that the defined ridgeline on the planning maps is only a trigger mechanism and the matter whether a building has 'ridgeline effects' is determined by accurate survey information which is used as a means to create a deemed to comply standard and avoid unnecessary resource consent applications.
- f) That part 14 include a definition of : "**Significant Ridgeline Area**" be amended and reworded and included as follows. "*Significant ridgeline area means any significant ridgeline as identified on the planning maps. For the purpose of the development control rules, the significant ridgeline area includes all land falling*

within the 100m wide strip shown n the planning maps by way of a dotted line notation parallel to each defined ridgeline”

- g) Similar relief is sought in submissions 2921/1, 2921/2, 2921/3, 2921/4, 2921/5, 2925
- h) **Ridgeline** in part 14 should be included and defined as a “*Ridgeline is a long narrow elevation of the land surface often crested with steep sides and forming an extended upland between valleys or a valley and the coast in which the background is the sky when from any vantage point.*”
- i) Such further or other including consequential relief as the Court considers necessary or appropriate to give effect to the relief sought.

Subdivision

27) Submission 1289.

- a) The provisions for land use and subdivision in Parts 10 and 12 are inflexible and fail to provide for appropriate sustainable use of the land.
- b) The minimum area for lot size in Rural 1 is opposed on the basis that it is not appropriate to the existing lot size. A sliding scale approach in relation to parent lot size will provide better flexibility and support a more diverse range of activities.
- c) The minimum area should be 2 ha with an average lot size of 4 ha.
- d) The proposed provisions of 12.9.3 need amendment so that a number of linked provisions are better framed to achieve sustainable development.
- e) All areas need to be net site areas. (this seems to conflict with 12.9.3.3, which itself is not clear as to the reference to “gross area” and whether that is in relation to parent site of proposed sites.
- f) Rule 12.9.4 needs reframing.
- g) Remove subjective wording of clause 12.9.3 (3)
- h) Clause 12.9.3(2)(b) needs rewording as implies there is a connection between cessation of active farming and qualifying for consideration as a significant environmental feature but does not cross link into any consideration of proposed plantings.
- i) Amend clause 12.9.3.7 needs amending so that where land has already been voluntary protected by some legal instrument it may still qualify as part of a SEF process if a proposal increases the level of protection as vesting land in council as reserve.
- j) The plan esp. in part 2 should be amended to enable the planning techniques sought by the appellant to be applied to the site.
- k) Amend the proposed plan to achieve the lot densities as proposed by the appellant in Rural 1, and Residential 2A Bush Residential.
- l) Rule 12.9.4 needs amendment to enable cluster subdivision to occur without a requirement that all new lots have an equal undivided share in the residual lot.
- m) Delete the requirement that all areas be net site areas.
- n) The subdivision rules in the residential zones on Waiheke Island in relation to any lots over 6000m² should include a provisions for a bonus density regime.

- o) The minimum lot sizes for Rural 1 areas set out in table 12.1 be reduced and provide for a range of lot sizes with a minimum of 2ha and an average lot size of 3 ha.
- p) The SEF rules for Rural 1 in 12.9.3 and in table 12.2 be amended to provide for lot size areas in table 12.2 of 1 ha and 1.5 ha respectively, to also include provision for bonus density development in rural 1 sites over 4 ha and that table 12.2 and all relevant sections of the proposed plan provisions be amended accordingly by inclusion reference to such bonus density provisions and other than where cluster development is to be achieved by other than attached buildings a minimum building area of 350m² be provided to foster cluster development with the balance of the land area enabled as a single freehold lot with an additional dwelling on it enabled and the SEF definition and allied rules be amended accordingly.
- q) The submitters land be given a zoning of Island Residential 2A (bush residential) as in the separate section of this appeal.
- r) Provide for bridle trails as a condition of all subdivisions.

1) The reasons for the appeal are as follows:

The appellant repeats the general reasons for the appeal at 9 above

Particular Decisions Referred.

- a) Without derogating in any way from the general reasons for appealing as outlined above, the respondent's decisions do not address the particular submissions addressed below. The respondent decided:
- b) That the appellant's submissions on subdivision needed further research, were general, and that its decisions on density and cluster housing meant that a number of the amendments sought would not provide best possible outcomes for the land units in questions.

2) I seek the following relief:

- a) That appellant seeks the relief as set out in accordance with the submissions on this matter in its submission to the respondent's hearing.
- b) Such further or other including consequential relief as the Court considers necessary or appropriate to give effect to the relief sought.

Activity Lists & Tables

3) Submission 1289

- a) That the approach in the proposed plan of prescriptive activity lists and then deeming all activities outside such lists to be non complying is opposed.
- b) The activity tables for all land units should be amended to provide for residential uses as permitted activities.
- c) All buildings and additions to buildings should be provided for as a controlled activity in all places where the proposed plan makes them a restricted discretionary.
- d) For all zones the activity tables are amended to include the activities listed in the appellants submission to the respondent's hearing panel in its submission at p8 in addition to those already in the proposed activity tables. This should be for the proposed plan and the appellants land particularly however the appellant's land is ultimately in the proposed plan.
- e) Include a definition of sustainable farming and land management in the definitions.

4) The reasons for the appeal are as follows:

The appellant repeats the general reasons for the appeal at 9 above

Particular Decisions Referred.

- a) Without derogating in any way from the general reasons for appealing as outlined above, the respondent's decisions do not address the particular submissions addressed below. The respondent decided:
- b) The appellant appeals on the grounds that the rules provided are not the most appropriate for managing the respondent's duties and responsibilities.
- c) That the activities listed in the respondent's submission are activities that lead towards fulfilling Part II of the act.

5) I seek the following relief:

- a) The appellant seeks relief as set out in it's submissions as placed before the committee.
- b) The following activity list be included in the plan.
- c) Such further or other including consequential relief as the Court considers necessary or appropriate to give effect to the relief sought.

Recreation 3 Rangihoua Park

6) Submission

Submission 2289/1 Include a policy of extending Rangihoua park by the purchase of extra land for recreation 3

- a) As to 2908, the respondent seeks to avoid adverse impact of activities in the park. In particular consideration of effects only as they affect adjacent sites. It is submitted that it is more appropriate to consider sites within the greater catchment when considering the effects of activities.
- b) As to 2924. The submitter submits the establishment of a cross country course in and around parts of the park
- c) As at 2926. the submitter supports the continuation of bridle trails as marked
 - i) but seek that there be amendments to the trails to enable a rider to completely circuit the park without leaving it.
 - ii) That figure 10a.3 be amended by marking a linkage from the riding club area and the main entry road to the park around the base of the Maunga Rangihoua to link the bridle trail walkway at the area adjoining the recreation reserve and the Marshall property to connect with the easement from Trigg Hill Road (behind the applicant's property).
 - iii) Complete the circuit within the park in the area of Gordon's Road and O'Brien's Road.
 - iv) Bring the bridle trail within the park in the area of the Onetangi Road, taking the bridle trail behind the museum.
- d) As at 2925. There is a need to get horses off the Onetangi Road. This is relevant behind the cemetery and along to the bridle path below the quarry.

7) The reasons for the appeal are as follows:

The appellant repeats the general reasons for the appeal at 9 above

- a) As to 2289/1, the respondent has leased the substantial part of the park to the Waiheke Golf club (the golf club) who have commenced to establish an 18 hole golf course. This 18 hole course removes from wider public use the provision of open recreation space for activities other than golf. The purchase of extra land for the park will enable the 18 hole golf course and at the same time the wider public to similarly enjoy the open space of the area.
- b) The park has a number of heritage items which will be lost if the 18 hole course is constructed.

- c) As at 2908. The adverse activities in the park affect all who surround the park and overlook it, not just adjoining owners.
- d) As at 2924, 2926. The submitter submits that the bridle trails and activities of the wider public throughout the park are necessary to achieve the general purposes as above.
- e) As at 2925. Horses along the edge of the Onetangi Road are likely to be involved in an accident.

Particular Decisions Referred.

- f) Without derogating in any way from the general reasons for appealing as outlined above, the respondent's decisions do not address the particular submissions addressed below. The respondent decided: The respondent rejected the submissions in full or in part.

8) I seek the following relief:

- a) As to 2289/1 Indicate in the plan an intention of negotiating the purchase of further land to accommodate the variety of public uses.
- b) As to 2908, Delete the words adjacent sites in the statement under objectives and replace it with 'Sites within the catchments.'
 - i) At policy 2 similarly change the word adjacent to catchment.
 - ii) Add a further policy addressing the effects of lighting such policy reading to the effect, "By ensuring that any lighting will not spill off the site into other sites within the catchment.
 - iii) Add a further policy reading to the effect 'By ensuring that no light source will be visible outside the park'
 - iv) Add a further policy that there will be no discharge of illumination to the night sky.
 - v) Include other relevant criteria in the plan
- c) As to 2924 it is submitted that the park could accommodate a cross country course in and over parts of the park.
- d) As at 2926 See the diagram attached to the submission.
 - i) Recognise the bridle trail link from the rear of the riding club to the main road.
 - ii) Bring the bridle trail within the park along the Onetangi road.

- iii) Take the bridle trail behind the museum within the park.
- iv) Connect the bridle trail in the area of Gordon's road to the bridle trail in O'Brien's road all within the park.
- v) Link the bridle trail to the access way from Trigg hill Road.
- e) As at 2925. proved access behind the cemetery and along the edge of the Onetangi road o link up with the bridle trail below the Quarry in the Onetangi Road area.
- f) Such further or other including consequential relief as the Court considers necessary or appropriate to give effect to the relief sought.

Bridle Trails

28) Submission at sections 1289, 2922.

Submissions 1289, 2922, There is an absence of provision for bridle trails in the proposal. The proposal takes no regard to the operative plan or the considerable community of interest in the use and expansion of the extent of these trails. Bridle paths and trails should extend over Waiheke. They should be provided for in Eastern Waiheke as well as in Western Waiheke.

29) The reasons for the appeal are as follows:

The appellant repeats the general reasons for the appeal at 9 above

Particular Decisions Referred.

Without derogating in any way from the general reasons for appealing as outlined above, the respondent's decisions do not address the particular submissions addressed below. The respondent decided:

The respondent rejected the submissions.

30) I seek the following relief:

- a) In all relevant parts of the plan include the requirement that bridle trails will be included.
- b) In particular add objectives, policies, rules and assessment criteria in the various section of the plan to achieve the purpose of this submission.
- c) In subdivision section, provide for bridle trails in all subdivisions.
- d) In the connectivity and linkages section, require bridle paths to be taken into account and provided for,
 - i) In land form 1 – 7 inclusive. In recreational 1,2,3, Rural, 1,2,3.
- e) Amend 13.3.5 to include provision for bridle paths.
- f) Amend 13.4.6 to address bridle paths – by including and extending them.
- g) Such further or other including consequential relief as the Court considers necessary or appropriate to give effect to the relief sought.

Construction, Operation and Maintenance of Roads.

31) Submission 2294

Modify the Rules Activity Table at “Construction, Operation, and maintenance of Roads to ensure sound environmental outcomes by requiring that when works are carried out in the area around of or under roads, Culverts that enable fish to pass and functional fish by pass are constructed at the same time.

32) The reasons for the appeal are as follows:

The appellant repeats the general reasons for the appeal at 9 above

Particular Decisions Referred.

Without derogating in any way from the general reasons for appealing as outlined above, the respondent’s decisions do not address the particular submissions addressed below. The respondent decided:

The respondent rejected the decision.

33) I seek the following relief:

- a) Add the requirement at 5.8.1 that when works are carried out on a road in the area of waterways or streams or culvert pipes that pass under a road, functional and ecologically suitable fish by pass is constructed and maintained at the same time.
- b) Change the Activity table at rule 5.5.1 Construction ... to road network to “Restricted Discretionary”.
- c) Such further or other including consequential relief as the Court considers necessary or appropriate to give effect to the relief sought.

Part 4 – Section 4.4 Prohibited activities – villages – commercial and industrial

34) Submission 2290

- a) As to 2290 Large retail outlets such as the Warehouse, and food outlets such as McDonalds or similar, have a detrimental effect upon the amenity values and the wellbeing of the community.
- b) Further the large retail outlets adversely affect the amenity values provided by the small community type shops that tend to exist on Waiheke.
- c) The large retail outlets usually require the use of a motor car.
- d) They affect the economy of the island and Gulf as they tend to take the profits of their activities off the islands

35) The reasons for the appeal are as follows:

The appellant repeats the general reasons for the appeal at above

Particular Decisions Referred.

Without derogating in any way from the general reasons for appealing as outlined above, the respondent's decisions do not address the particular submissions addressed below. The respondent decided:

The respondent rejected the appeal

36) I seek the following relief:

- a) As to 2290. List as a prohibited activity the operation of large retail stores such as the warehouse, and large prepared food retail operations such as "Kentucky Fried".
- b) Such further or other including consequential relief as the Court considers necessary or appropriate to give effect to the relief sought.

Colours of Buildings

37) Submission 1289, 2920

- a) As to 2920 The rule at 10c.4.8 for the colour of buildings requires refining in order to differentiate between the variety of landscape found on the islands.
- b) 2920/5 The reflectivity levels proposed are a one size fits all generalization. They are inappropriate over all of the islands
- c) 2920/1 Further the rules written relate to “Settlements Areas’ with no definition of what is a settlement area.
- d) 2920/2 All of the landscapes on the island require control by policies objectives rules and assessment criteria. .
- e) 2920/ 3 Define the colour rule such that in landforms 1 to 7, Island residential 2, rural 1,2,3, Recreation 1,2,3, Conservation, Pakatoa, Rotorua, such that objects and structures in the landscape tend to merge. However in Island residential 1 allow for all the myriad of colours in the spectrum
- f) 2920/4 In accessory elements on structures, such as windows spouting etc, put in place a series of colours from the BS colour charts that do not include highly reflective colours for these structural elements.
- g) The proposed rule will not achieve the objectives as it is a rule of broad effect not refined for the discrete landscapes that exist in the Hauraki gulf.

38) The reasons for the appeal are as follows:

The appellant repeats the general reasons for the appeal at 9 above

Particular Decisions Referred.

- a) Without derogating in any way from the general reasons for appealing as outlined above, the respondent’s decisions do not address the particular submissions addressed below. The respondent decided:
- b) To reject the submission in all or in part.
- c) Colours of buildings in the landscape can have a serious detrimental effect on the landscape and seascape if not determined correctly.

I seek the following relief:

10c.4.8

Delete the words "in settlement areas" from the heading. Formulate Policies objectives rules and Assessment Criteria that apply to all land units. Formulate the rule such that objects and activities in the landscape tend to merge into the landscape in landforms 1 to 7, and Island residential², rural 1,2,3, Recreation 1,2,3 Conservation, Pakatoa Rotoroa. BUT In Island residential 1 allow for all the myriad of colours in the spectrum such that a colourful and vibrant effect is possible. .

Rule 10c.4.8.1

It is not appropriate to have accessory elements such as windows, window frames, barge boards, storm water guttering down pipes or doors of any colour. Some colours in particular the whites are visually dominant and adversely affect the efforts to merge or integrate the structures in the landscape. Put in place a series of colours from the BS colour charts that do not include highly reflective colours.

At 10c 4.8.1. 2. a. 1. I. and ii. The threshold reflectivity of 60% and 40 % as a reflectivity over al of the Islands is inappropriate as there will be situations where these thresholds will still allow the visual intrusion of the buildings where they are intended to merge or integrate into the landscape. Further there are areas where vibrant colours of buildings are appropriate. Put in place a number of levels of reflectivity suited to particular types of vegetative colour. Allowing the myriad of colours to occur in village centres, but ensuring a merging into the backdrop of vegetation of colour in more vegetated landscapes.

Such further or other including consequential relief as the Court considers necessary or appropriate to give effect to the relief sought.

Sale of Human Sexual Services

39) Submission 3704, 3705, 3708

- a) 3704/1 At 14.3.66. In the definition of “home occupation” add the words. “this does not include the sale of human sexual services”.
- b) 3705/1 At 14.3.108 Include under the definition of “residential uses” in part 14 the words, “this does not include the sale of human sexual services”.
- c) 3708 At 14.3.11 Add to the definition of “retail premises” the further qualification to the definition that ‘ it does not include any of the following. Sex premises whether for the retail of sexual services or the retail of goods targeted towards sexual activities of human.

40) The reasons for the appeal are as follows:

The appellant repeats the general reasons for the appeal at 9 above

Particular Decisions Referred.

Without derogating in any way from the general reasons for appealing as outlined above, the respondent’s decisions do not address the particular submissions addressed below. The respondent decided:

To reject in part or in full.

41) I seek the following relief:

- a) 3704 Add to the definition “home occupation” None of the following activities may be undertaken as a home occupation – the sale of human sexual services.
- b) 3705 Add the words in the appropriate place in the definition of residential uses. ‘Does not include brothel or the sale of human sexual services.
- c) 3708 Add to the definition of retail premises under the heading of what is not included. “Sex premises whether for the retail of sexual services or for the retail of goods targeted towards human sexual activities”.
- d) Such further or other including consequential relief as the Court considers necessary or appropriate to give effect to the relief sought.

I attach the following documents* to this notice:

A copy of my submission *or* further submission (with a copy of the submission opposed or supported by my further submission): - Submissions 1289, 2289, 2294, 2922, 2908, 2924, 2926, 2925, 2290, 2920, 2912, 2915, 3704, 3705, 3708,

A copy of the relevant decision (or part of the decision): - This is attached as a cd rom as issued by the respondent at the time of making its decision.

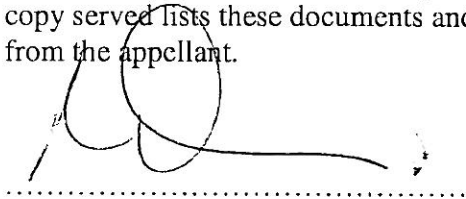
Copies of the above submissions and the decisions may be obtained on request from the applicant.

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.

- (1) Auckland City Council.
- (2) Vector Limited. C/- Russell McVeigh, Vero Centre, P. O. box 8 Auckland New Zealand – attention Daniel Minhinnick.
- (3) Helitrans
- (4) Waiheke Island Airpark Limited

*These documents must be attached and lodged with the notice in the Environment Court. The appellant does not need to attach a copy of a regional or district plan or policy statement. In addition, the appellant does not need to attach copies of the submission and decision to the copies of the notice served on other persons if the copy served lists these documents and state that copies may be obtained, on request, from the appellant.



Signature of Ronald A WALDEN

Date 30 July 2009

Address for service of appellant: 73 Onetangi Road, Onetangi, Waiheke Island, 1081, Auckland, New Zealand.

Telephone: 09 372 7486

Fax/email: 09 372 3019

Contact person: Ronald A Walden

Note to appellant

You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of being served with notice of the decision to be appealed. 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.

You must serve a copy of this notice on the local authority that made the decision and on the Minister of Conservation (if the appeal is on a regional coastal plan), within 30 working days of being served with a notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days after the notice is lodged with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, 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).

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you make a 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 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).

*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 (*or*) the decision (*or* part of the decision) appealed. These documents may be obtained, on request, from the appellant.

*Delete if these documents are attached to copies of the notice of appeal served in other persons.

Advice

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