

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of appeals under clause 14 of the First Schedule to the Act

BETWEEN

**RENAISSANCE
AOTEAROA
FOUNDATION**

(ENV-2009-AKL-000399)

RON WALDEN

(ENV-2009-AKL-000339)

Appellants

AND

**AUCKLAND COUNCIL
(as successor to
Auckland City Council)**

BEFORE THE ENVIRONMENT COURT

Environment Judge L J Newhook sitting alone under section 279 of the Act

IN CHAMBERS at Auckland.

CONSENT ORDER

Introduction

[1] The Court has read and considered the notices of appeal and the memorandum of the parties dated 13 December 2011.

[2] This consent order relates to the appeals by Renaissance Aotearoa Foundation and by Ron Walden against the proposed Auckland Council District Plan (Auckland City Hauraki Gulf Islands Section) (Appeal References: ENV-2009-AKL-000399 and ENV-2009-AKL-000339 respectively).

[3] Both the Renaissance Aotearoa Foundation and Walden appeals raised issues relating to the following topics:



- (a) ENV-2009-304-000468: HGI – significant ridgelines – general; and
- (b) ENV-2009-304-000469: HGI – significant ridgelines – site specific.

However the Renaissance Aotearoa Foundation appeal no longer remains active in relation to the topic ENV-2009-304-000469: HGI – significant ridgelines – site specific.

[4] No person has given notice of an intention to become a party to the Renaissance Aotearoa Foundation appeal under section 274 of the Act.

[5] The following parties have given notice of an intention to become a party to the parts of the appeals that are to be resolved by this consent order, and have signed the memorandum of the parties setting out the relief sought:

- (a) Waiheke Island Community Planning Group; and
- (b) Environmental Defence Society.

[6] The Court is making this order under section 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (a) All relevant parties to the proceedings have executed the memorandum requesting this order;
- (b) All relevant parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act 1991, including in particular Part 2.


Order

[7] Therefore, the Court orders, by consent, that:



- (a) The text of proposed Auckland Council District Plan (Auckland City Hauraki Gulf Islands Section) be amended as set out in attachment 1;
- (b) Planning Maps Sheet 7, map no. 1 of the proposed Auckland Council District Plan (Auckland City Hauraki Gulf Islands Section) is replaced with the map in attachment 2;
- (c) Planning Maps Sheet 11, map no. 1 of the proposed Auckland Council District Plan (Auckland City Hauraki Gulf Islands Section) is replaced with the map in attachment 3;
- (d) The topics ENV-2009-304-000468: HGI – significant ridgelines – general and ENV-2009-304-000469: HGI – significant ridgelines – site specific are resolved in their entirety;
- (e) The appeals by Renaissance Aotearoa Foundation and Ronald Walden are otherwise dismissed; and
- (f) There is no order for costs.

DATED at Auckland this 18th day of January 2012



L J Newhook
Environment Judge



ATTACHMENT 1

The Auckland Council District Plan (Auckland City Hauraki Gulf Islands Section) be amended as follows (deletions strikethrough and additions underlined):

Rule 10c.4.7 is amended as follows:

10c.4.7 Ridgeline control

Methodology: when determining compliance with the rules below the height of the building is measured perpendicular to the height of the significant ridgeline or protected vegetation.

10c.4.7.1 Permitted activities

The following are permitted activities:

Any building within a significant ridgeline area identified on the planning maps must be which is constructed and located so that:

1. The building is below the significant ridgeline at that point; or
2. The building is below the top of protected vegetation (located on the same site as the building) that either screens the building or forms a backdrop against the ridgeline at that point.

Protected vegetation means any vegetation that is protected by:

- The vegetation protection rules in clause 10c.5.1; or
- The rules for ecologically significant sites in clause 7.11.4; or
- A legal covenant with council under the Land Transfer Act 1952.

10c.4.7.2 Restricted discretionary activities

The following are restricted discretionary activities:

Any building within a significant ridgeline area identified on the planning maps which is constructed and located so that:

1. The building is no more than 4m above the significant ridgeline at that point; or
2. The building is no more than 4m above the top of protected vegetation (located on the same site as the building) that either screens the building or forms a backdrop against the ridgeline at that point.

Protected vegetation is defined in Clause 10c.4.7.1 above.

Matters of discretion



The council has restricted its discretion to considering the following matters:

- Visual impact on ridgeline from public places (including roads) and the coast
- Building design and external building colour
- Consistency with rule intention (i.e. as described by explanation)

Assessment criteria

The council's assessment of an application under clause 10c.4.7.2 will consider the matters set out in clause 10c.4.7.4.

10c.4.7.3 Discretionary activities

The following are discretionary activities:

Any building within a significant ridgeline area identified on the planning maps which is constructed and located so that:

1. The building is more than 4m above the significant ridgeline at that point;
or
2. The building is more than 4m above the top of protected vegetation (located on the same site as the building) that either screens the building or forms a backdrop against the ridgeline at that point.

Protected vegetation is defined in clause 10c.4.7.1 above.

The council's assessment of an application under clause 10c.4.7.3 will include consideration of the matters set out in clause 10c.3.1 and clause 10c.4.7.4.

10c.4.7.4 Assessment criteria

The council's assessment of an application for a development control modification under the ridgeline control rule will include consideration of the following matters:



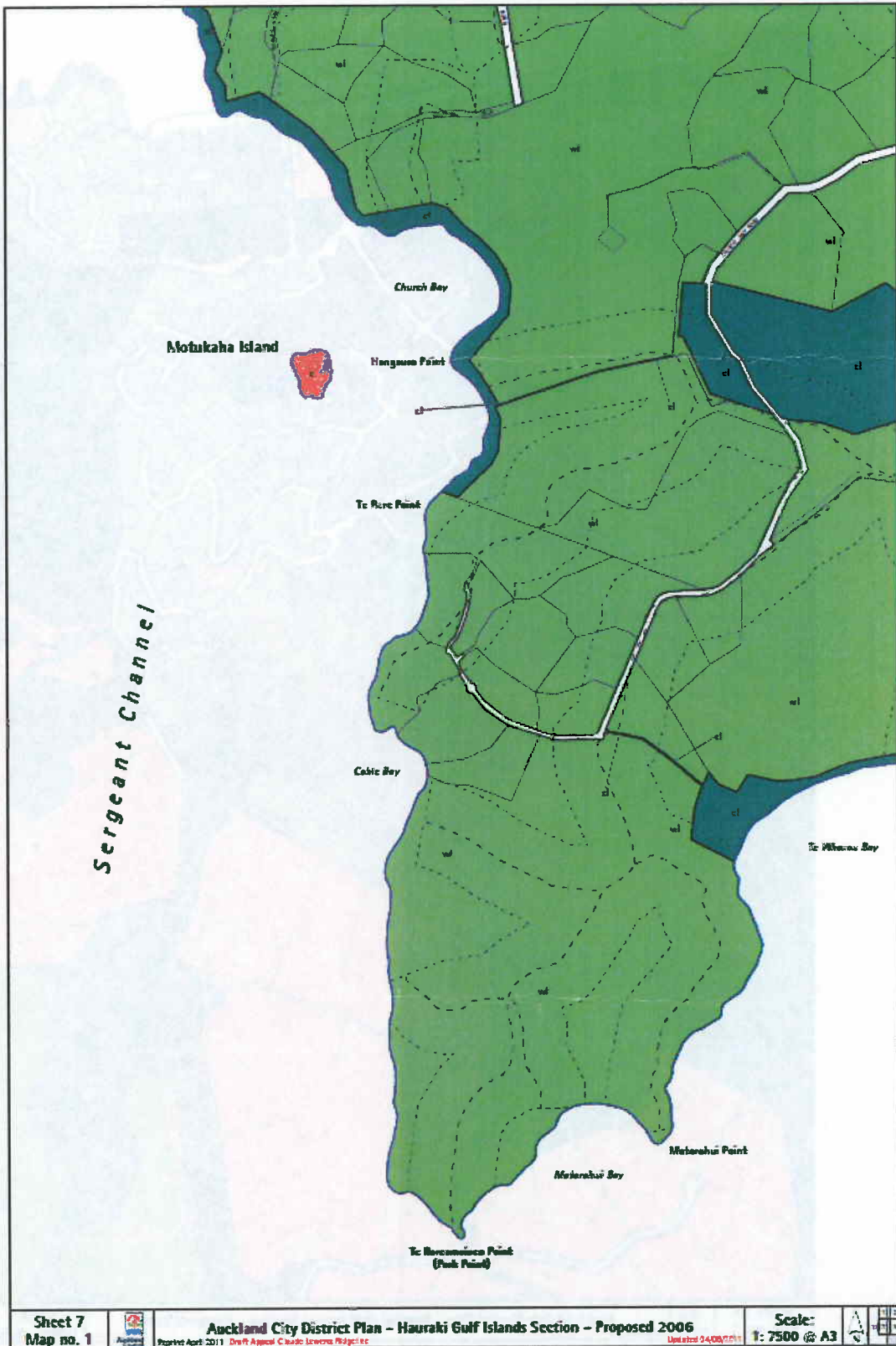
1. The extent to which the building/s interrupt views of the ridgeline, as viewed from public places (including roads) and the coast
2. Whether the building/s has an external colour that is integrated with the ridgeline and surrounding landscape when viewed from public places and the coast. The council will refer to clause 10c.4.8 for guidance in assessing this matter
3. Whether the building/s uses design elements such as building modulation, eaves and low reflectivity glass to reduce the visual impact on the ridgeline when viewed from public places and the coast
4. Whether the development is consistent with the intention of the ridgeline control rule having regard to the explanation

Explanation

Buildings that protrude above significant ridgelines can compromise the visual landscape qualities of the ridge and appear visually obtrusive giving rise to adverse visual effects. The location and height of buildings within 100m either side of a significant ridgeline is therefore controlled to manage the adverse visual impact that can occur when a building protrudes above the ridgeline when viewed from public places and the coast.



ATTACHMENT 2



ATTACHMENT 3

