

**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**

**WAIHEKE GOLF CLUB INC**

ENV-2009-AKL-000337

**R A WALDEN**

ENV-2009-AKL-000339

**WAIHEKE ISLAND RIDING  
CLUB INC**

ENV-2009-AKL-000340

Appellants

**AND**

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

Respondent

**BEFORE THE ENVIRONMENT COURT**

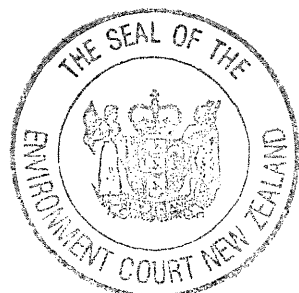
Environment Judge L J Newhook sitting alone under section 279 of the Act

**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 3 October 2011.
- [2] This consent order relates to appeals by the following parties against the proposed Auckland Council District Plan (Auckland City Hauraki Gulf Islands Section):
- (a) Waiheke Golf Club Inc (Appeal: ENV-2009-AKL-000337);



- (b) Mr R A Walden (Appeal: ENV-2009-AKL-000339); and
- (c) Waiheke Island Riding Club Incorporated (Appeal: ENV-2009-AKL-000340).

**[3]** The appeals relate to the following topics:

- (a) ENV-2009-304-000498: HGI – Open Space 3 (Rangihoua Park) – general;
- (b) ENV-2009-304-000499: HGI – Open Space 3 (Rangihoua Park) – bridle trails; and
- (c) ENV-2009-304-000500: HGI – Open Space 3 (Rangihoua Park) – golf course activity.

**[4]** Waiheke Island Riding Club Incorporated, Mr R A Walden, Waiheke Island Pony Club, Environmental Defence Society and Answer Services Holdings Limited gave notice of an intention to become parties to these appeals under section 274 of the Act, and have signed the memorandum of the parties setting out the relief sought.

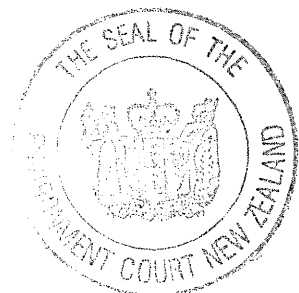
**[5]** The Court is making this order under section 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (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**

**[6]** Therefore, the Court orders, by consent, that:

- (a) The Auckland Council District Plan (Auckland City Hauraki Gulf Islands Section) is amended as set out in Schedule 1;



- (b) The appeals by the Waiheke Island Riding Club Incorporated and Waiheke Golf Club Incorporated are resolved in their entirety; and
- (c) There is no order for costs in relation to this order.

**DATED** at Auckland this *5<sup>th</sup>* day of *October* 2011



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L J Newhook  
Environment Judge



## SCHEDULE 1

Amend Part 10a.24 of the Plan as follows (deletions shown as strikethrough, additions underlined):

### 10a.24 Land unit - Open space 3 (Rangihoua Park)

#### 10a.24.1 Introduction

Rangihoua Park is a 110ha reserve which is owned by council. It is a significant part of council's open space strategy for Waiheke. Rangihoua Park currently contains the following activities:

- a golf course
- playing fields and associated buildings
- tennis courts
- picnic and BBQ area
- walking tracks, mountain bike trails and bridle trails
- a historic village and museum
- a lawn cemetery
- an equestrian area
- parking and vehicle access areas.

Included within the park are three streams, some wetland areas, two ponds and areas of planting. The main landscape feature in the park is Rangihoua Maunga. The park is located adjacent to the Rangihoua Creek and Putiki Bay estuary which is of ecological significance.

The land occupied by the park is of significance to iwi. The area was occupied by the ancestors of Ngati Paoa and the Putiki-O-Kahu Pa was located on the Rangihoua Maunga. The slopes of Rangihoua were cultivated for many generations and the terraces can still be seen. The Rangihoua area is waahi tapu, of spiritual significance to the tangata whenua.

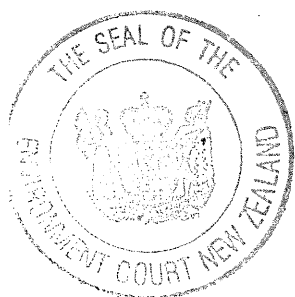
The park contains the following heritage items which are scheduled elsewhere in the Plan:

- an archaeological site on Rangihoua Maunga
- a building in the historic village.

#### 10a.24.2 Resource management issues

The significant resource management issues which need to be addressed in the Plan are:

1. How to manage the use of the park in an integrated manner which recognises the differing characteristics and differing scales and types of land use appropriate to various parts of the park.
2. How to manage the relationship between the park and surrounding land uses and water bodies (Rangihoua Creek and Putiki Bay) in order to avoid adverse effects and achieve positive benefits throughout Rangihoua Park.
3. How to recognise and protect the significant iwi values associated with the Rangihoua Maunga.
4. How to maintain and enhance the landscape and ecological values associated with the Rangihoua Maunga, the open space character of the park, the streams and pond, and the vegetated areas.
5. How to manage the range of community aspirations to use the park in a variety of ways including for active and passive recreation and for cultural activities.



### 10a.24.3 Objectives and policies

#### 10a.24.3.1 Objective

To recognise and protect the significant iwi values associated with the Rangihoua Maunga.

##### Policies

1. By involving iwi in the management of the Rangihoua Maunga.
2. By not providing for any activities, other than planting and maintenance of ecosourced species on the Rangihoua Maunga.

##### Explanation

The council has set up a kaitiaki management committee, called the Rangihoua and Tawapareira Reserve Management Subcommittee to manage the Rangihoua Maunga. The committee includes iwi and council representatives.

**Note:** The council has agreed to an approach with tangata whenua that limits access to Rangihoua Maunga to iwi approved people.

#### 10a.24.3.2 Objective

To maintain and enhance the landscape values and open space character of the park associated with the Rangihoua Maunga, the bush, and the streams and wetland areas.

##### Policies

1. By controlling the scale, form, colour and location of buildings within the park to ensure that the dominance of the natural environment is retained.
2. By recognising and protecting Rangihoua Maunga as the dominant landscape feature of the park.
3. By protecting the stream and bush areas from development.

##### Explanation

Rangihoua Park has considerable landscape values. It is important that any buildings that may be located within the recreation, cultural and heritage facilities and landscape amenity areas need to be sympathetic to the surrounding landscape.

#### 10a.24.3.3 Objective

To maintain and enhance the ecological values associated with the vegetation, streams, wetland areas, and the adjacent Rangihoua Creek and Putiki Bay.

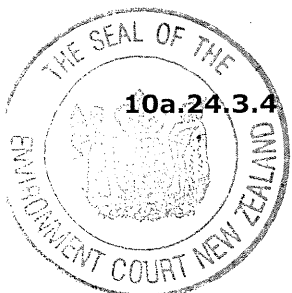
##### Policies

1. By requiring any planting to consist of ecosourced species.
2. By requiring planting along the stream banks within the park.
3. By controlling earthworks and vegetation clearance in order to limit sediment runoff into on-site streams and into Rangihoua Creek and Putiki Bay.

##### Explanation

Rangihoua Park has considerable ecological values. It is important that these are recognised and provided for by any future development of the park.

#### 10a.24.3.4 Objective



To provide for a range of types of community use as appropriate throughout the different parts of the park.

#### **Policies**

1. By providing for recreation and associated facilities in those parts of the park identified as most suitable for this purpose.
2. By providing for buildings and structures which will contribute to the community use of the park, at an appropriate scale and in appropriate locations.
3. By providing for the ongoing use and limited expansion of the lawn cemetery, and the historic village and museum.

#### **10a.24.3.5 Objective**

To provide for appropriate levels of public access to the park.

#### **Policies**

1. By providing for public access at appropriate locations.
2. By recognising the importance of linking walkways, mountain bike and bridle trails in the park with the wider network of walkways and trails.
3. By providing for the various recreational activities in a manner that avoids conflict or risks to public safety.

#### **10a.24.3.6 Objective**

To ensure that buildings and activities on the park do not adversely affect adjacent sites.

#### **Policies**

1. By setting appropriate noise standards for activities on the park.
2. By controlling the location of buildings with respect to adjacent sites.
3. By requiring parking areas to be set back from the park's external boundaries.

#### **10a.24.4 Resource management strategy**

The resource management strategy is to divide the park into the following five areas:

- recreation
- conservation
- Rangihoua Maunga
- cultural and heritage facilities
- landscape amenity.

These areas are identified on figure 10a.3 Rangihoua Park.

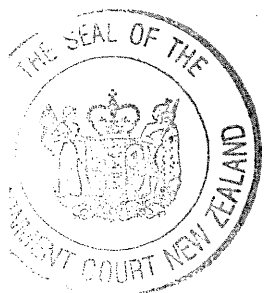
These areas recognise that different planning approaches are required for the various areas of the park. The characteristics of these areas are further described below.

##### **1. Area A - recreation**

This area includes the following:

- sports fields
- tennis courts
- golf course
- equestrian area
- associated buildings.

The planning approach for this area focuses on providing for recreation.



**2. Area B - conservation**

This area includes the three tributaries of Rangihoua Creek which flow through the park. The planning approach for this area focuses on protecting and enhancing the streams, including their banks.

**3. Area C - Rangihoua Maunga**

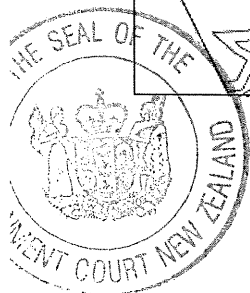
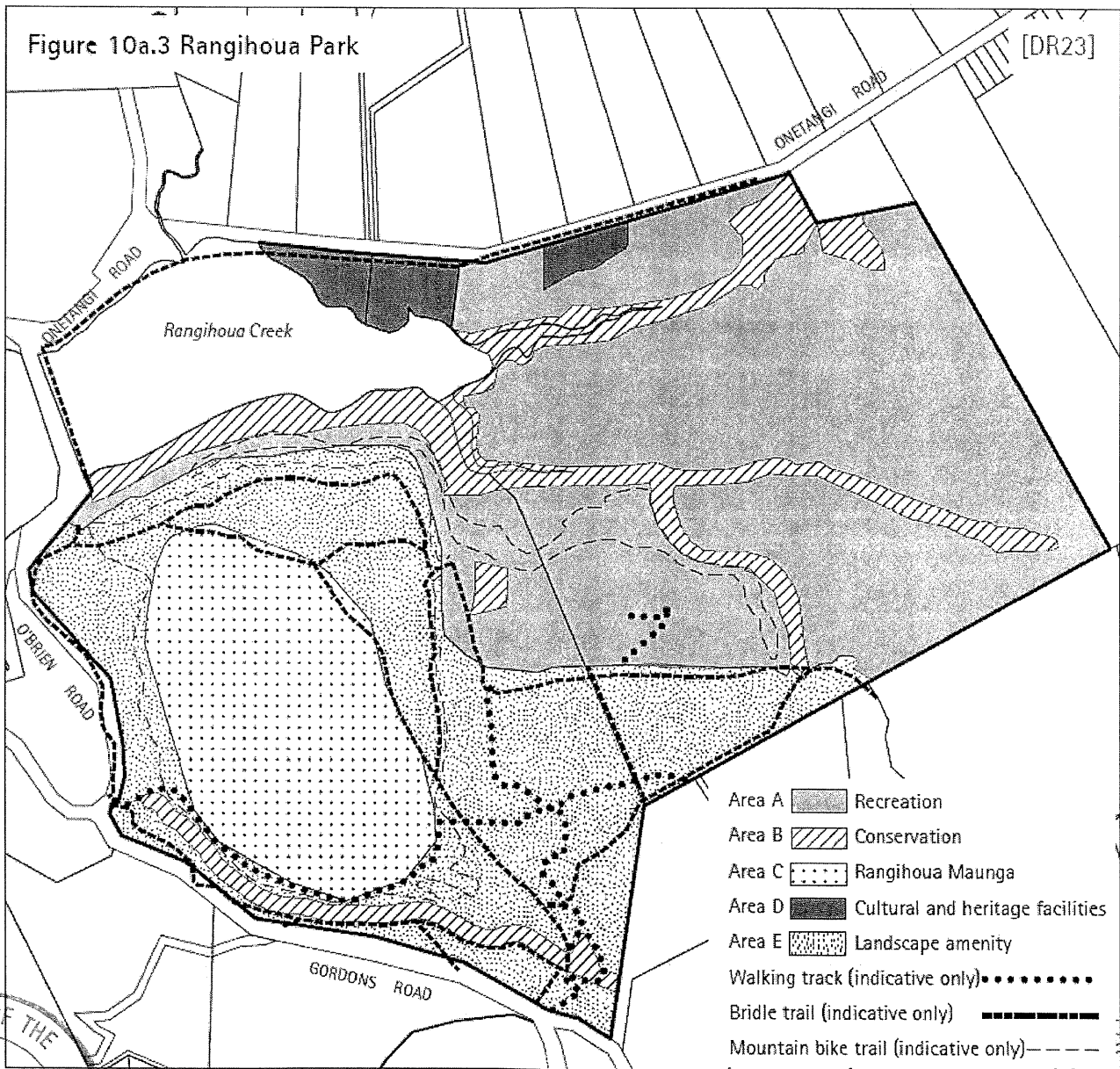
The planning approach for this area focuses on protecting the upper slopes of the Rangihoua Maunga to recognise and provide for its iwi values and also its dominance as a landscape feature within the park.

**4. Area D - cultural and heritage facilities**

This area includes the lawn cemetery, and the historic village and museum. The planning approach for this area focuses on providing for the continued operation and limited expansion of these facilities.

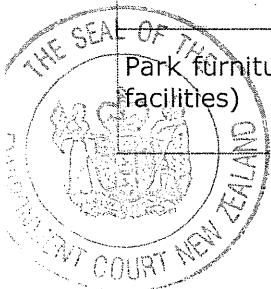
**5. Area E - landscape amenity**

This area is characterised by large areas of open space, bush and revegetated areas. It includes the lower slopes of the Rangihoua Maunga. The planning approach for this area focuses on maintaining the landscape amenity and providing for specific recreation opportunities, such as walking tracks, mountain bike trails and bridle trails.



### 10a.24.5 Rules - activity table

Activities	A	B	C <sup>2</sup>	D	E
The construction and relocation of buildings where the footprint of the building is over 50m <sup>2</sup> , including buildings used for any of the other activities listed in this table <sup>1</sup>	RD	NC	NC	RD	RD
The construction and relocation of buildings where the footprint of the building is ≤50m <sup>2</sup> , including buildings used for any of the other activities listed in this table.	P	NC	NC	P	P
Alterations and additions to the exterior of existing buildings including buildings used for any of the other activities listed in this table. However this does not apply to minor alterations and additions as defined in part 14 - Definitions <sup>1</sup>	RD	n/a	n/a	RD	RD
Carparking areas and vehicle access roads	P	NC	NC	P	P
Changing facilities	P	NC	NC	D	P
Clubrooms	P	NC	NC	P	P
Community facilities	P	NC	NC	P	D
Construction of a pedestrian and equestrian bridge over the streams	P	P	n/a	n/a	P
Equestrian activities (excluding the area leased by the Waiheke Golf Course)	P	NE D	NC	D	P
Golf course (in accordance with an approved development plan)	P	n/a	NC	D	D
Information centres	P	NC	NC	P	D
Mountain biking and horse riding trails (on council approved mountain bike trails, bridle trails and the equestrian area)	P	D	NC	D	P
Museums	NC	NC	NC	P	NC
Observation areas, viewing platforms and related structures	P	NC	NC	P	P
Organised sports and recreation and associated grounds and playing fields	P	NC	NC	D	P
Park furniture (including seats, rubbish bins, BBQs, lighting, signs and picnic facilities)	P	NC	NC	P	P



Planting and maintenance of ecosourced species	P	P	RD	P	P
Playgrounds (including playground apparatus)	P	D	NC	D	P
Stormwater retention ponds	P	D	NC	D	P
Toilets	P	NC	NC	P	P
Walking and jogging trails	P	D	NC	D	P

### Legend

Areas:

A - Recreation

B - Conservation

C - Rangihoua Maunga

D - Cultural and heritage facilities

E - Landscape amenity

P = Permitted

RD = Restricted discretionary

D = Discretionary

NC = Non-complying

n/a applies where it is not possible to undertake the activity within the defined area.

### Notes:

1. An explanation of the requirements associated with the construction, relocation, alteration and additions to buildings is outlined in clause 4.3.
2. The Rangihoua and Tawapareira Reserve Management Subcommittee, which includes tangata whenua representatives, has been set up to manage the Rangihoua Maunga. All activities within area C - Rangihoua Maunga require the approval of the tangata whenua through the Rangihoua and Tawapareira Reserve Management Subcommittee. This includes earthworks, vegetation removal and planting.
3. The activities of earthworks and vegetation clearance are treated as development controls and are therefore not listed in this table.
4. Approval from the council as landowner will need to be obtained in relation to all activities (including permitted activities) listed in part 10a.24.5 Rules – activity table. All such approvals must be granted or withheld in accordance with the Reserves Act 1977.



10a.24.6

### Rules - development controls

Refer to part 10c - Development controls for land units and settlement areas for the controls applying in this land unit. The development controls listed in that part apply to all activities whether or not those activities are otherwise permitted, restricted

discretionary, discretionary or non-complying. Infringements to these development controls will be considered as development control modifications as set out in clause 10c.3.

#### **10a.24.7 Assessment matters - restricted discretionary activities**

##### **10a.24.7.1 Buildings in areas A, D and E**

Refer to part 11 - Assessment matters for matters of discretion and notification requirements relating to applications for the construction and relocation of buildings and for exterior alteration and additions to existing buildings.

##### **10a.24.7.2 Planting and maintenance of ecosourced species in area C**

###### **Matters of discretion**

When considering an application for planting and maintenance of ecosourced species in area C (Rangihoua Maunga) the council has restricted its discretion to considering the following matters:

- The extent to which the planting adversely affects the visual, cultural and spiritual values of significance to tangata whenua.
- Any consultation undertaken with tangata whenua.

###### **Notification requirements**

Except as provided for by section 95A(4) of the RMA, such applications for a resource consent will be considered without public notification or the need to obtain written approval of or serve notice on affected persons, other than tangata whenua (in accordance with section 95A(3) and 95B(2) of the RMA).

#### **10a.24.8 Assessment matters - discretionary activities**

##### **10a.24.8.1 Artificial lighting and community facilities**

For applications for artificial lighting or community facilities as a discretionary activity, refer to part 11 - Assessment matters for assessment criteria.

##### **10a.24.8.2 Other discretionary activities**

The council's assessment of any other discretionary activity listed in clause 10a.24.5 will include consideration of the following matters:

###### **1. Noise**

Whether the activity gives rise to adverse noise effects experienced beyond the boundaries of the park.

###### **2. Intensity**

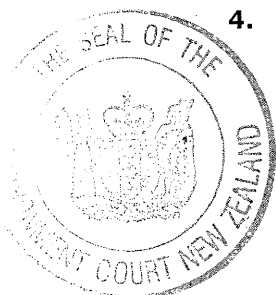
Whether the intensity and scale of the activity, in particular, the number of people involved, traffic generation, size and location of buildings and associated parking will be compatible with the character and amenity values of park.

###### **3. Activities**

- a. The extent to which any activity is consistent with any relevant open space strategy or reserve management plan.
- b. Whether the activity is consistent with the intent of the relevant objectives, policies and planning approach for the area.

###### **4. Tangata whenua**

The extent to which the activity adversely affects the visual, cultural and spiritual values of significance to tangata whenua. This will include consideration of any consultation undertaken with tangata whenua.



**5. Crime prevention through environmental design**

- a. The extent to which the activity provides or continues to provide for informal surveillance of public areas.
- b. The extent to which informal surveillance and clear visibility and clear lines of sight has been achieved through the location and design of any building, landscaping, fencing and other structures.
- c. Whether the proposed activity provides appropriate lighting of public and semi-public areas, including paths, parking areas, building entrances and exits.

**6. Landscaping**

Whether any proposed landscaping uses ecosourced species.

**7. Natural environment**

- a. The extent to which the activity gives rise to adverse effects on the natural environment, eg from vegetation removal, earthworks and the generation of wastewater (including stormwater).
- b. The effects of the proposed activity on the ecological values for the area.

**10a.24.9 Relationship with rules in other parts of the Plan**

Part 14 - Definitions must be referred to as it is likely to contain definitions of terms used in this part of the Plan.

The following parts of the Plan should also be referred to as they may contain rules which apply to a particular site or proposal:

Part 4 - General rules

Part 5 - Network utility services

Part 6 - Financial contributions

Part 7 - Heritage

Part 8 - Natural hazards

Part 9 - Hazardous facilities and contaminated land

Part 10c - Development controls for land units and settlement areas

Part 12 - Subdivision

Part 13 - Transport

**Insert a new definition in Part 14 of the Plan as follows:**

**Equestrian activity** means any activity involving the riding or leading of horses, including the teaching and learning of horse riding skills, and the showing of horses competitively (including trotting, galloping and cross-country jumping).

