

IN THE MATTER

of the Resource Management Act
1991

AND

IN THE MATTER

of an appeal under clause 14 of
the First Schedule to the Act

BETWEEN

**WAIHEKE ISLAND COMMUNITY
PLANNING GROUP INC**

ENV-2009-AKL-000348

Appellant

AND

**AUCKLAND COUNCIL (formerly
Auckland City Council)**

Respondent

BEFORE THE ENVIRONMENT COURT

Acting Principal 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 amended notice of appeal dated 22 December 2010 and the memorandum of the parties dated 2 March 2012.
- [2] This consent order relates to the appeal by Waiheke Island Community Planning Group (**WICPG**) against a decision of the former Auckland City Council regarding the proposed Auckland Council District Plan (Auckland City Hauraki Gulf Islands Section) (Appeal Reference: ENV-2009-AKL-000348).
- [3] The following parties gave notice of an intention to become parties to the WICPG appeal under section 274 of the Act, and have signed the memorandum of the parties setting out the relief sought:

- (a) Answer Services Holdings Limited;
(b) Roger Bryant;



- (c) Elizabeth Waters;
- (d) Richard Wedekind;
- (e) Carol Weitzel;
- (f) Waiheke Island Sustainable Development Group; and
- (g) Man O'War Farm Limited.

[4] No other person has given notice of an intention to become a party under section 274.

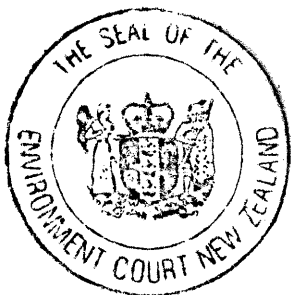
[5] The Court is making this order under section 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (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 WICPG appeal interests in the following topics are resolved in their entirety by this order:
 - (i) ENV-2010-304-000464 HGI – Network Utilities;
 - (ii) ENV-2009-304-000481 HGI – Development Controls – noise;
 - (iii) ENV-2009-304-000496 HGI - Assessment matters - Whole part 11; and
 - (iv) ENV-2009-304-000507 HGI - Miscellaneous text – definitions.



(c) There is no order for costs in relation to this order.

DATED at Auckland this

20th

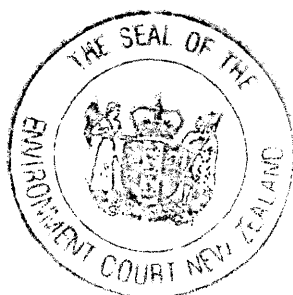
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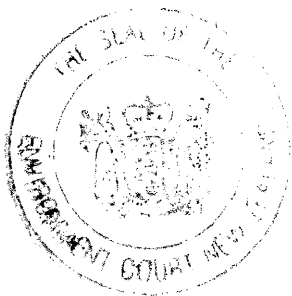
2012



L J Newhook
Acting Principal Environment Judge



SCHEDULE 1



Additions underlined, deletions strikethrough

Part 8 – Natural Hazards

8.3 Objectives and policies

8.3.2 Objective

To avoid the creation or exacerbation of the risks of natural hazards by human activities as far as is practicable

Policies

1. By controlling earthworks, and vegetation clearance (including riparian vegetation clearance), to avoid or mitigate the effect of activities which may exacerbate the risk of natural hazards.
2. By protecting hazard prone areas from activities which will accelerate erosion, inundation, and other natural hazards.
3. By limiting the extent of impervious surfaces to decrease the peaks in stormwater flow ~~occurring during~~ high rainfall.
4. By requiring development and activities to adapt to, or retreat from, areas likely to be severely affected by natural hazards.

8.3.3 Objective

To protect and, where appropriate, to enhance existing physical resources and natural defences which moderate the effects of natural hazards.

Policies

1. By protecting and, where appropriate, enhancing the natural defences (eg dunes) which provide protection from natural hazard events.
2. By avoiding the use of hard engineering structures (such as sea walls and groynes) as far as is practicable, especially those within the coastal environment (above mean high water springs) which adversely affect public access to coastal areas or landscape values.

8.4 Resource management strategy

The resource management strategy is to implement rules to avoid or mitigate natural hazards. The frequency and magnitude of these natural hazard events will vary and their effects on the environment, including people, property and infrastructure will vary as a result. The rules concentrate on avoiding or mitigating those natural hazards with a higher probability of occurring in shorter time frames (eg in the next 100 years), including flooding and erosion, coastal erosion, and land slippage. Provisions within the Building Code provide protection for buildings from other natural hazards such as high winds, earthquakes and land settlement. The development and subdivision of land subject to a natural hazard will be subject to appropriate limitations. The planning maps contain information on known natural hazard areas, but in the absence of information on the maps, the Plan sets imitations on activities in areas that have a high probability of being affected



by natural hazards. While there is debate, evidence suggests that climate change will result in an increase in the frequency and severity of natural hazards. These risks are managed through the rules during the resource consent process.

Part 10a – Land Units: objectives and policies

Landform 1 – Coastal Cliffs: 10a.2.3 Objectives

10a.2.3.1 To protect the natural character and visual prominence of the coastal cliffs from the adverse effects of activities and buildings.

10a.2.3.2 ~~and To,~~ where possible, enhance or restore, the natural character and visual prominence of the coastal cliffs, ~~from the adverse effects of activities and buildings.~~

10a.2.3.3 To protect coastal cliffs from the adverse effects of natural hazards.

Policies

1. By protecting the coastal cliffs from modification by activities and buildings.
2. By requiring new sites to be of a size and nature that avoids adverse effects on the natural character, landscape values, and the visual prominence of the land unit.

Landform 4 – Wetland Systems: 10a.5.3 Objectives

10a.5.3.1 To protect, the natural character and the ecological and hydrological values and functional integrity of wetland systems from the adverse effects of activities and buildings.

10a.5.3.2 ~~and To,~~ where possible, enhance or restore, the natural character and the ecological and hydrological values and functional integrity of the wetland systems, ~~from the adverse effects of activities and buildings.~~

Policies

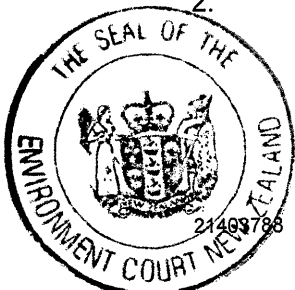
1. By protecting wetland systems from modification by activities and buildings.
2. By requiring new sites to be of a size and nature that avoids adverse effects on the natural character, ecological and hydrological values of the land unit.

Landform 5 – Productive Land: 10a.6.3 Objective

To provide for productive activities and to ensure that the open pattern and rural character of the landscape is maintained.

Policies

1. By providing for productive activities, such as pastoral farming, viticulture and horticulture to establish and operate within the land unit.
2. By limiting the non-productive activities that can occur so that the rural use and character of the landscape is maintained.



3. By requiring new sites to be of a size and nature which ensures that moderate to large scale productive activities can occur and which protects the open pattern and rural character of the landscape.

Landform 6 – Regenerating Slopes: 10a.7.3 Objective

To protect the ecological, natural character, landscape, ecological and visual amenity values of the regenerating slopes from the adverse effects of activities and buildings.

Policies

1. By limiting the activities that can occur to those which avoid adverse effects on the ecological, natural character, ecological landscape and visual amenity values of the land unit.
2. By ~~ensuring that the~~ managing the number, scale, form, colour and location of new buildings does not have to avoid remedy or mitigate adverse effects on the ecological, landscape, natural character, ecological and visual amenity values of the land unit.
3. By requiring new sites to be of a size and nature that protects the natural character, ecological and visual amenity values of the land unit.

Landform 7 – Forest and Bush: 10a.8.3 Objectives

10a.8.3.1 To protect, the ecological, natural character, landscape, conservation, and visual amenity values of forest and bush areas from the adverse effects of activities and buildings.

10a.8.3.2 and To, where possible, enhance or restore, the conservation, ecological natural character, landscape, and the conservation, ecological and visual amenity values of forest and bush areas. ~~from the adverse effects of activities and buildings.~~

Policies

1. By limiting the activities that can occur to those which avoid adverse effects on the natural character and the conservation, ecological and visual amenity values of the land unit.
2. By ensuring that the scale, form, colour and location of new buildings will not have adverse effects on the natural character and the conservation, ecological and visual amenity values of the land unit.
3. By requiring new sites to be of a size and nature that protects the natural character and the conservation, landscape, ecological and visual amenity values of the land unit.

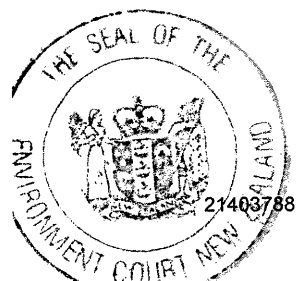
Island Res 2 – Bush Residential: 10a.10.3 Objectives and policies

10a.10.3.1 Objective

To provide for residential development and limit non-residential activities to a scale, location, intensity and appearance which is complimentary to the bush clad character of the natural environment.

Policies

1. By controlling the intensity of development and the bulk, scale and location of buildings to ensure that they are compatible with the natural and physical environment.



2. By assessing the design and appearance of buildings to ensure that they are integrated with the natural environment.
3. By restricting the type and intensity of non-residential activities to those which are compatible in visual amenity terms and in other generated effects (eg traffic, noise, hours of operation) with surrounding residential uses and the natural environment.

10a.10.3.2 Objective

To ensure that development of sites retains indigenous vegetation cover.

Policies

1. By requiring the maximum amount of indigenous vegetation to be retained.
2. By ensuring that any development is located on portions of the site that are of lower ecological value.

Land Unit – Rural 1 (Landscape Amenity): 10a.19.3 Objective

10a.19.3 Objectives

10a.19.3.1 To provide for rural activities and a limited range of non-rural activities while protecting the rural character and visual amenity of the land unit.

10a.19.3.2 To provide for rural activities that maintain the openness, patterns and features of the land unit in contrast to the intensity of development in neighbouring villages.

Policies

1. By providing for productive activities, such as pastoral farming and horticulture to establish and operate within the land unit.
2. By limiting the non-productive activities that can occur in the 'other areas' of the land unit to those which avoid adverse effects on the landscape and rural character, and on the general and visual amenity values of the locality.
3. By ensuring that the non-productive activities in the 'Onetangi Road' area will not have adverse effects on the rural character and the general and visual amenity of the land unit when viewed from Onetangi Road and surrounding locations.
4. By ensuring that the scale, form, colour and location of new buildings will not have adverse effects on the landscape, rural character and visual amenity values and the rural character of the land unit.
5. By requiring new sites to be of a size and nature that ensures small scale rural activities can occur and which maintains the rural character and visual amenity of the landscape.
6. By ensuring that the land unit continues to provide the clear distinction between its rural landscape and the characteristics of the neighbouring villages.

Land Unit - Rural 2 (Western Landscape): 10a.20.3 Objective

10a.20.3 Objective

To provide for and protect the rural-residential style of living while avoiding the adverse effects of activities and buildings on the natural character and landscape values of the land



1. By providing for rural and residential activities to establish and operate in the land unit.
2. By limiting the range of non-rural and non-residential activities that can establish within the land unit to avoid adverse effects on the landscape values and the general amenity of the locality.
3. By requiring new sites to be of a size and nature that ensures that small scale rural activities can occur and which protects the natural character, and landscape and amenity values of the land unit.
4. By ensuring that the scale, form, colour and location of new buildings will not have adverse effects on the natural character and landscape values of the land unit.
5. By providing for comprehensive development to occur at Thompsons Point.

Land Unit – Open Space 1 (Ecology and Landscape): 10a.22.3 Objective

10a.22.3 Objective

To facilitate the use and enjoyment of local parks and esplanade reserves for passive recreation while protecting the visual amenity and ecological values of the land unit.

Policies

1. By providing for passive recreation activities to establish and operate within the land unit.
2. By limiting the scale and intensity of the activities that can occur within the land unit to avoid adverse effects on the landscape, visual amenity and ecological values of the land unit.
3. By ensuring that the scale, form, colour and location of new buildings will not have adverse effects on the landscape, visual amenity and ecological values of the land unit.
4. By requiring that new planting on conservation and esplanade reserves to consist of eco-sourced species.

10a.22.4 Objective

To provide for marine recreation facilities that have a functional relationship to the sea, while protecting the high ecological, landscape and visual amenity values of the land unit.

Policies

1. By providing for marine recreation activities to establish and operate within the land unit.
2. By providing for clubrooms for an activity that has a functional relationship to the sea.
3. By considering alternative location(s) and ensuring that the location of the building will not have adverse effects on the landscape, visual amenity and ecological values of the coastal environment.
4. By ensuring that the scale, form, colour and location of any new buildings will not have adverse effects on the landscape, visual amenity and ecological values of the coastal environment.

Land Unit – Open Space 2 (Recreation and Community Facilities): 10a.23.3 Objective

10a.23.3 Objective



To facilitate the use and enjoyment of community facilities and sports parks for active recreation and community activities while protecting the visual amenity values of the land unit.

Policies

1. By providing for active recreation and community activities to establish and operate in the land unit.
2. By ensuring that the scale, form, colour and location of new buildings will not have adverse effects on the visual amenity values of the land unit.

Land Unit – Open Space 3 (Rangihoua Park): 10a.24.3.1 Objective

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 eco-sourced species on the Rangihoua Maunga.

10a.24.3.2 Objective

To protect, maintain and enhance the heritage, ecological, landscape and open space values 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 and character 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, wetland and bush areas from development.

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 eco-sourced species.
2. By requiring planting along the stream banks and wetland margins within the park.
3. By controlling earthworks and vegetation clearance in order to limit sediment runoff into on-site streams and wetland areas and into Rangihoua creek and Putiki Bay.

10a.24.3.4 Objective

To provide for a range of ~~types of~~ recreational and community activities, use as where 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 for the historic village and museum.

10a.23.3.5 Objective

To provide for appropriate levels of public access to and use of 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.

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.

Part 12 – Subdivision

12.3 Objectives and policies

12.3.1 Objective - natural character and landscape values

To preserve natural character, protect outstanding natural features and landscapes, and to maintain and enhance the amenity values of each of the islands by avoiding inappropriate subdivision and associated development.

Policies

1. By setting minimum sizes for new sites in all land units and settlement areas at a level appropriate with the need to maintain elements, patterns and features that contribute to the visual amenity, natural landscape character and amenity value of each land unit or settlement area.
2. By concentrating subdivision and development in either settlement areas, villages or where built form has already modified the natural character and the effect of further development can be mitigated.
3. By avoiding subdivision and development in the coastal environment where it would result in sprawling or sporadic development.
4. By limiting subdivision and associated development in areas with outstanding landscape value within the coastal environment so that natural character and landscape values are not adversely affected.



5. By limiting subdivision so that the natural features and character of the landscape are not adversely affected through inappropriate land use activities. This includes but is not limited to ridgelines, headlands, dunes and wetlands.

12.3.3 Objective - public access to and along the coastline

To ensure that subdivisions facilitate access to and along the coastline while not adversely affecting the natural character of the coastal environment.

Policies

1. By taking esplanade reserves or esplanade strips at the time of subdivision-
2. By requiring, at the time of subdivision, pedestrian links to and along the coastline from public places.
3. By facilitating, through subdivision, public access to the foreshore except where restrictions are necessary because of safety, security, damage to vegetation and wildlife, ~~conflict with~~ protection of traditional Maori sites, or other exceptional circumstances.
4. By using various measures including esplanade areas or financial contributions, or both, to achieve public access to the coast, rivers and lakes

12.3.4 Objective - access roads and tracks

To ensure that access provided as part of subdivision is designed and located to avoid adverse effects on natural character, landscape values and amenity values.

Policies

1. By requiring access arrangements to integrate with the natural landform wherever possible and minimise adverse ecological and visual effects.
2. By requiring the design and location of access to be defined at the time of subdivision to preserve natural character and landscape values.
3. By ~~restricting~~ managing vehicle access to buildings to avoid, remedy or mitigate ~~to address potential adverse effects of vehicle access~~ on natural character and landscape values.

