

Notice of appeal to the Environment Court against a decision on the Proposed Thames-Coromandel District Plan

- **To the Registrar**
- Environment Court
PO Box 7147
Wellesley St
Auckland

The Opoutere Ratepayers & Residents Association (“ORRA”) appeals against parts of the decision of the Thames Coromandel District Council in respect to the following planning instrument;

-The Proposed Thames- Coromandel District Plan (“the Plan”)

ORRA filed a written submission on the Plan on 7 March 2014. On 7 May 2015 ORRA appeared before the District Plan Hearings Panel, presented another written submission which responded to the issues that had arisen since it filed its initial written submission and spoke to both submissions.

On or about 10 June 2015 it provided to the Hearings Panel the decision of *ORRA-v-Waikato Regional Council NZEnvC 105 dated 9/6/15* in which the Environment Court expressly found that Opoutere should be earmarked in the Waikato Regional Policy Statement (“WRPS”) as an area of ecological significance and be included in the WRPS as an Outstanding Natural Feature and Landscape (“ONFL”)

ORRA is not a trade competitor for the purposes of s308D of the Resource Management Act 1991.

ORRA received notice of the decision on Monday 2 May 2016.

The decision was made by the Thames Coromandel District Council (“TCDC”).

The decision (*or part of the decision*) that ORRA is appealing is:

- The rejection of Opoutere as an Outstanding Natural Feature and Landscape.
- The failure to expressly identify Opoutere as an area of ecological significance and/or earmark it for ecological restoration.

The reasons for the appeal are as follows:

1. TCDC erred in fact and in law in rejecting Opoutere as an ONFL and in failing to expressly identify Opoutere as an area of ecological significance.
2. TCDC failed to take into account and/or gave insufficient weight to the provisions of the New Zealand Coastal Policy Statement (“NZCPS”) as it was required to do by s75(3)(b) of the RMA.

3. TCDC failed to take into account and/or gave insufficient weight to the provisions of the Waikato Regional Policy Statement ("WRPS") as it was required to do by s75(3)(c) of the RMA.
4. TCDC failed to take into account, *at all*, the decision of the Environment Court referred to above, namely *ORRA-v-WRC NZEnvC 105 9/6/15* in which, after a three day hearing, the Environment Court expressly directed the Waikato Regional Council to include Opoutere in the WRPS as an ONFL and to specifically identify it in the WRPS as an area of ecological significance.

Self evidently if Opoutere has been found by the Environment Court to be an ONFL and an area of ecological significance at regional level then it must be all of that and more at a district level. The doctrine of *res judicata* applies.

5. It failed to properly consider and /or gave insufficient weight to the ecological significance of Opoutere to the Coromandel region.
6. It failed to properly consider and/or gave insufficient weight to the historical / heritage significance of Opoutere to the Coromandel region.
7. It failed to consider, at all, ORRA's expert's landscape assessment dated 15 March 2012 which had been expressly preferred by the Environment Court in the decision referred to above over the landscape assessments on which TCDC did rely.

ORRA seeks the following relief:

1. That Opoutere be expressly identified in the Plan as an ONFL .
2. That the Plan be made to specifically identify areas of ecological significance and that Opoutere be one such area identified.

The following documents are available on request from ORRA:

- (a) A copy of ORRA's expert landscape assessment dated 15 March 2012.
- (b) A copy of ORRA's submission on the Plan dated 7 March 2014.
- (c) A copy of ORRA's written submission presented to the Plan Hearings Panel dated 7 May 2015.
- (d) A copy of the decision of the Environment Court in *ORRA –v-Waikato Regional Council* as referred to above.

.....
Signature of appellant
(or person authorised to sign
on behalf of appellant)

2/6/16
.....
Date

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Note to appellant

You may appeal only if—

- you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and
- in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

Your right to appeal may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.

The Environment Court, when hearing an appeal relating to a matter included in a document under section 55(2B), may consider only the question of law raised.

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 made a submission or a further 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 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

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).

**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.

Advice

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