

**BEFORE THE ENVIRONMENT COURT**

**ENV-2016-AKL-000**

**IN THE MATTER**

of an appeal under clause 14(1) of Schedule  
1 of the Resource Management Act 1991

**BETWEEN**

**CLARE WARD FAMILY TRUST, M C & A  
E WARD, THEODORA C WARD, JOHN M  
WARD, P ANTHEA C WARD AND PHILIP  
WARD FAMILY TRUST**

Appellants

**AND**

**THAMES COROMANDEL DISTRICT  
COUNCIL**

Respondent

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**NOTICE OF APPEAL UNDER CLAUSE 14(1) OF SCHEDULE 1 OF THE  
RESOURCE MANAGEMENT ACT 1991**

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TO: The Registrar  
Environment Court  
**AUCKLAND**

1. We, Clare Ward Family Trust, M C & A E Ward, Theodora C Ward, John M Ward, P Anthea C Ward And Philip Ward Family Trust appeal against decisions of the Thames Coromandel District Council on the proposed Thames Coromandel District Plan (including Variation 1 to that proposed plan) (**Proposed Plan**).
2. We made submissions on the Proposed Plan.
3. We are not trade competitors for the purposes of section 308D of the Resource Management Act 1991 (**Act**).
4. We received notice of the decisions on 27 April 2016.

5. The decisions were made by the Thames Coromandel District Council (**Respondent**).
6. Some background, the decisions we are appealing, the reasons for our appeal and the relief we seek are set out below.

### **Background**

7. We own and farm substantial coastal rural landholdings at Port Jackson. Our landholdings comprise the properties at 486, 820, 1024, 1252, 1506, 1564 and 2611 Port Jackson Road.
8. Under the Proposed Plan our farms are all within the Rural Area and zoned Rural Zone. We support this zoning for our farms and the objective, policy and rule framework that applies in the zone. These provisions are intended to maintain the purpose of the zone for primary production activities, generally by permitting farming and production related activities, subject to certain restrictions.
9. However, parts of our farms have been identified as being within the Coastal Environment Line (**CEL**), and subject to Outstanding Natural Feature/Landscape (**ONFL**) and High Natural Character (**HNC**) overlays, which impose greater restrictions on the farming activities that are otherwise permitted in the Rural zone. Some areas of our landholdings are subject to all three overlays.

### **A. COASTAL ENVIRONMENT LINE MAPPING**

#### **Decision Appealed**

10. Decision Report 4 retained a modified CEL within the Proposed Plan.

#### **Reasons for Appeal**

11. Large areas of our landholdings are identified as being within the CEL. In some cases the CEL extends significant distances inland where there is minimal influence of coastal processes.

#### **Relief Sought**

- (a) Amend the CEL to exclude those parts of our land not influenced by coastal processes from the CEL; and
- (b) Make all necessary or consequential amendments to the relevant objectives, policies and other provisions of the Proposed Plan to support the amendment to the CEL sought in (a) above.

## **B. OUTSTANDING NATURAL FEATURE/LANDSCAPE MAPPING**

### **Decision Appealed**

12. Decision Report 6 retained a modified ONFL overlay within the Proposed Plan.

### **Reasons for Appeal**

13. All of our landholdings are identified as subject to the ONFL, yet extensive areas of the farms exhibit no outstanding landscape features other than farmland and stock.

### **Relief Sought**

- (a) Amend the ONFL to exclude those parts of our land that have been modified and maintained for farming from the ONFL; and
- (b) Make all necessary or consequential amendments to the relevant objectives, policies and other provisions of the Proposed Plan to support the amendment sought to the extent of the ONFL overlay in (a) above.

## **C. HIGH NATURAL CHARACTER OVERLAY MAPPING**

### **Decision Appealed**

14. Decision Report 31 retained a modified HNC overlay in the Proposed Plan.

### **Reasons for Appeal**

15. Our landholdings are identified as being within HNC units 27, 29, 30, 31, 32, 33, 34 and 35.
16. Areas of land within the HNC units on our landholdings comprise working farm areas (including cultivated/retained stands of bush used for stock shelter), which, consistent with the Commissioners' recommendations, ought to have been excluded from the HNC (Decision Report 31, para 4.34 et seq).

### **Relief Sought**

- (a) Amend the HNC overlay (Units 27, 29, 30, 31, 32, 33, 34 and 35) to exclude those parts of our land that is used as a working farm (including cultivated/retained stands of bush used for stock sheltering); and

- (b) Make all necessary or consequential amendments to the relevant objectives, policies and other provisions of the Proposed Plan to support the amendment sought to the extent of the HNC overlay sought in (a) above.

#### **D. CEL, ONFL AND HNC RULES AND SUPPORTING PROVISIONS**

##### **Decision Appealed**

17. Decision Reports 4, 6, 20 and 31 retained modified objectives, policies and rules in the Proposed Plan relating to the activities of Farming, Earthworks, Afforestation, Dwellings, Quarrying and Clearing Indigenous Vegetation in the Rural zone (within the CEL), and the ONFL and HNC overlay areas.

##### **Reasons for Appeal**

18. Those parts of our land zoned Rural within the CEL and the ONFL and HNC overlay areas are subject to more restrictive rules on the activities of:

- (a) Farming (buildings);
- (b) Utilities (Solar Panels, Wind Turbines, Telecommunication masts);
- (c) Earthworks;
- (d) Afforestation;
- (e) Dwellings;
- (f) Quarrying; and
- (g) Clearing Indigenous Vegetation,

that unreasonably and inappropriately restrict the primary activity for which our land is zoned (primary production), ignore the fact that farming requires people to live on or close to the land being farmed, and do not enable us to provide for our well-being or for our health and safety.

19. Farming (buildings): Buildings for farming purposes are required to meet certain materiality conditions within the CEL (Section 56, Rule 23), and are constrained in their size to no more than 50m<sup>2</sup> GFA and 5m height within the ONFL (Section 32, Rule 1) and HNC (Section 32A, Rule 1). Buildings not meeting these standards require restricted discretionary resource consent.

20. Farm buildings are essential to the activity of farming. They are generally likely to be large, utilitarian, and unaccustomed to design features. The requirement for them to be approved by way of resource consent (which may be refused), unreasonably impacts on the primary purpose of the Rural zone and results in unnecessary inefficiency and cost.
21. Utilities (Solar Panels, Wind Turbines, Telecommunication masts): The extent to which solar panels on existing buildings is provided for as a permitted activity is unclear (ONFL Section 32, Rule 4; HNC Section 32A, Rule 5). Wind turbines and telecommunication masts require resource consent in the ONFL (Section 32, Rules 4A and 7) and the HNC (Section 32A, Rules 7 and 8).
22. The ability to generate electricity for farming purposes using local, renewable resources at a small scale, and to be able to communicate effectively with the community and emergency services are essential activities that enable the sustainable use of Rural land for primary production. Requiring such structures to obtain resource consent (which may be refused), unreasonably impacts on the primary purpose of the Rural zone, results in unnecessary inefficiency and cost, and will not enable us to provide for our health and safety.
23. Earthworks: Earthworks for new farm tracks on operating farms (as opposed to maintenance of existing tracks) are not permitted in the ONFL (Section 32, Rule 2) or the HNC (Section 32A, Rule 3) and require a restricted discretionary resource consent, or non-complying resource consent if exceeding 200m<sup>3</sup> per site per calendar year.
24. The need for farm tracks to be cut and metalled, as a result of farm development or land erosion, is a common requirement on steep rural land, which ours predominantly is. The requirement for them to be approved by way of resource consent (which may be refused), unreasonably impacts on the primary purpose of the Rural zone and results in unnecessary inefficiency and cost.
25. Afforestation: The planting of exotic trees is not permitted without resource consent in CEL (Section 56, Rule 16), the ONFL (Section 32, Rule 12) and HNC (Section 32A, Rule 7).
26. The cultivation and harvest of exotic woodlots for stock shelter, erosion control, fire wood and building materials is a regular and accepted agricultural land management practice, and of critical importance for remote farms. The requirement for any woodlots to be approved by way of resource consent (which may be refused), unreasonably impacts on the primary purpose of the Rural zone and results in unnecessary inefficiency and cost.

27. Dwellings: The ability to construct new dwellings and second dwellings for farm workers and family is essential to the ability to continue farming operations in remote areas. All new dwellings in the CEL (Section 56, Rule 17), ONFL (Section 32, Rule 8) and HNC (Section 32A, Rule 6) now require resource consent as a restricted discretionary activity, while second dwellings are discretionary (or non-complying) - CEL (Section 56, Rule 29), ONFL (Section 32, Rule 8) and HNC (Section 32A, Rule 6).
28. More permissive rules (or definitive standards) to enable the establishment of new first dwellings on a farm, and second dwellings on an established farm for people involved in the operation of the farm ought to be included in the Proposed Plan. The significant consent thresholds are unreasonable and inappropriate and do not enable us to provide for our well-being or our health and safety.
29. Quarrying: Small farm rock pits and quarries, where the metal is used for track maintenance etc on the farm property, are a regular feature of farms in the Coromandel (and elsewhere), and an essential activity for farms remote from sources of metal.
30. Such activities fall within the definition of "Quarry" in the Proposed Plan (not "Earthworks" as suggested by the Commissioners (Decision Report 32A, para 4.52)), and for farms within the ONFL and HNC, will therefore require resource consent.
31. Such small existing farm quarries ought to be provided for. Requiring them to obtain resource consent (which may be refused), unreasonably impacts on the primary purpose of the Rural zone and results in unnecessary inefficiency and cost.
32. Clearing Indigenous Vegetation: The cutting of indigenous vegetation (e.g. ti tree) for use as heating fuel is an essential activity for farms remote from commercial supplies of firewood.
33. Firewood gathering is not protected by the permitted activity thresholds for Clearing Indigenous Vegetation in the ONFL (Section 32, Rule 3) or HNC (Section 32A, Rule 2) and will therefore require resource consent.
34. The ability to gather sufficient firewood for heating fuel from the farm itself should be provided for. Requiring a resource consent to be obtained (which may be refused), unreasonably impacts on the primary purpose of the Rural zone, results in unnecessary inefficiency and cost and will not enable us to provide for our health and safety.

### Relief Sought

- (a) Amend the rules for Farming (buildings), Utilities (Solar Panels, Wind Turbines, Telecommunication masts), Earthworks, Afforestation, Quarrying, Dwellings and Clearing Indigenous Vegetation in the Rural Zone (within the CEL), ONFL and HNC (as required) so that:
    - (i) our land can be effectively, efficiently and reasonably used for primary production activities; and
    - (ii) we can provide for our social and economic well-being and for our health and safety on our land.
  - (b) Make all necessary and consequential amendments to the relevant objectives, policies and other provisions of the Proposed Plan to support the amendments sought to the rules in (a) above
35. The following documents are attached to this notice:
- (a) A copy of our submissions on the Proposed Plan;
  - (b) A copy of the relevant decisions;
  - (c) A list of names and addresses of persons to be served with a copy of this notice.

**Signature:**

**CLARE WARD FAMILY TRUST, M C & A E WARD, THEODORA C WARD, JOHN M WARD, P ANTHEA C WARD AND PHILIP WARD FAMILY TRUST** by their authorised agent:




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**K R M Littlejohn**

**Date:**

13 June 2016

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### ***Advice to Recipients of Copy of Notice***

#### ***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.*

*To become a party to the appeal, you must:*

- a) within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and*
- (b) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.*

*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 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 relevant submissions or the relevant decisions. 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.*

**ANNEXURE (a) – SUBMISSIONS**

**ANNEXURE (b) - DECISIONS**

**ANNEXURE (c) – PERSONS TO BE SERVED**

No.	Name	On Behalf Of	Organisation	Address	Email
33	Neville Meredith Cameron			PO Box 3, Coromandel, New Zealand,	ncam@wave.co.nz
169	Dirk Sieling	Dirk and Kathy Sieling	Sieling Farms	PO Box 336, Whitianga, New Zealand, 3591	dirk@sieling.nz
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245	Liz Courtney			921 Kennedy Bay Road, RD 3, Coromandel, New Zealand, 3583	chrislizkbay@xtra.co.nz
256	Russell De Luca	Ross & Dee Mear and George Kerr	Russell De Luca Consultancy Ltd	196 Tuapiro Road, RD 3, Katikati, New Zealand, 3170	rdeluca@xtra.co.nz
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297	Lawrence and Robyn Winkler			2343 Arbot Road, Nanaimo, BC V9R 6S9, Canada,	drlwink@gmail.com
298	Dean Glen	Dean Glen, Claire Elliot, Sol Glen, Roy Glen and Black Jack Farms		400 Black Jack Road, RD2, Whitianga, New Zealand, 3592	dean.glen@gmail.com
320	Madeleine Wright	Environmental Defence Society Inc		PO Box 91736, Victoria Street West, Auckland, New Zealand, 1142	madeleine@eds.org.nz
348	John and Bev Sanford			318 Marshall Crescent, Thames, New Zealand, 3500	jsanford@xtra.co.nz
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385	Merrilyn Loudon	Rex and Merrilyn loudon		2800 Long Bay Road, Coromandel, New Zealand, 3581	rexandm@slingshot.co.nz
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399	William & Carrie Davies			9C Okahu Street, Orakei, Auckland, New Zealand, 1071	coastalforests@gmail.com
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421	Martin Williams	Tasman Buildings Limited	Shakespeare Chambers	PO Box 754, Napier, New Zealand, 4140	martin@shakespearechambers.co.nz
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441	Robyn Stewart			2850 Long Bay Road, RD1, Coromandel, New Zealand,	robanham@clear.net.nz
443	Kerry Watson	Waihi Gold Company Ltd trading as Newmont Waihi Gold		PO Box 190, Waihi, New Zealand,	kerry.watson@newmont.com
445	Alan Alfred Bartrom			321 Tiki Quarry Road, RD1, Coromandel, New Zealand,	aubiaab@hotmail.com
476	Trif Sitnikoff			105 Regent Heights, Thames, New Zealand,	triff@gmail.com
492	Richard and Brenda Kelsey			PO Box 155, Coromandel, New Zealand, 3543	brenda@cqc.co.nz
501	Robin Mahood	Kuaotunu Peninsula Tramping Group		11 Gracechurch Drive, Flatbush, Manukau, New Zealand, 2016	mahood@ihug.co.nz
524	John and Verona McLeod			1208 Kennedy Bay Road, RD3, Coromandel, New Zealand,	j.and.v.mcleod@xtra.co.nz
534	Greg Morton	Waikato Regional Council	Waikato Regional Council	Private Bag 3038, Waikato Mail Centre, New Zealand, 3240	greg.morton@waikatoregion.govt.nz
538	Simon Ritchie			507 Tapu Coroglen Road, Tapu, New Zealand,	simon_ritchie@wave.co.nz
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624	Chris Lux	James Lux, Kimberlea Lux		c/- Charles Verry, Peters, Verry and Associates, PO Box 528, Thames,	chrislux130@hotmail.com
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No.	Name	On Behalf Of	Organisation	Address	Email
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66	Merilyn Connolly	Kahutoroa Tukerangi	Whenua Kete Ltd	PO Box 6, Otorohanga, New Zealand, 3940	merilyn@whenuakete.co.nz
68	Merilyn Connolly	Kahutoroa Tukerangi and others - Matariki Islands North 1 and 2, and Matariki Islands South 1 and 2	Whenua Kete Ltd	PO Box 6, Otorohanga, New Zealand, 3940	merilyn@whenuakete.co.nz
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88	Richard Forbes	Sir Peter Vela Family Trust and Philip Vela Family Trust		C/- Boffa Miskell Limited, PO Box 91 250, Auckland, New Zealand, 1142	carey.pearce@boffamiskell.co.nz; richard.forbes@boffamiskell.co.nz
89	Kerry Watson	Waihi Gold Company Ltd		PO Box 190, Waihi, New Zealand, 3641	kerry.watson@oceanagold.com
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91	Tom Hollings	Coromandel Marine Farmers Association		PO Box 104016,Auckland,New Zealand,0654	tom@hrm.co.nz
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93	Jennifer Everitt and Carl Rathbone	The Cheeseman Family Trust		41A Church Street,Gate Pa,Tauranga,New Zealand,	jennieveritt@gmail.com
94	Chris Lux	James Lux, Kimberlea Wagner and others		Tokeroa Family Trust,C/- Charles Verry,PO Box 528,Thames,New Zealand,	chrislux130@hotmail.com
96	Madeleine Wright	Environmental Defence Society Inc		PO Box 91736,Victoria Street West,Auckland,New Zealand,1142	madeleine@eds.org.nz
101	Roland Gift and Louise Meldrum			C/- Michael White,Business One Ltd,PO Box 28,Thames,New Zealand,	rolandgift@hotmail.com; threestonebay@hotmail.com
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