

Before the Environment Court

ENV-2016-AKL-

In the matter of the Resource Management Act 1991 ('the RMA')

And

In the matter of an appeal under clause 14(1) of the First Schedule of the
RMA

Between **JOHN DAVID NORTH**

First Appellant

And **MARY CATHERINE VARNHAM and PAUL
WARREN O'REGAN**

Second Appellants

And **THAMES-COROMANDEL DISTRICT COUNCIL**

Respondent

**NOTICE OF APPEAL AGAINST DECISION ON PROPOSED THAMES-
COROMANDEL DISTRICT PLAN**

Dated 13 June 2016

To: The Registrar
Environment Court
Auckland

1. **John David North (First Appellant)** and **Mary Catherine Varnham** and **Paul Warren O'Regan (Second Appellants)** (together, the **Appellants**), appeal against part of a decision made by Thames-Coromandel District Council (**Council**) on the Proposed Thames-Coromandel District Plan (**Proposed Plan**).
2. The First Appellant made a submission on that part of the Proposed Plan concerning zoning of land in Hahei. The First Appellant's submission was made on behalf of the Hahei community as represented by the over 300 persons listed in the submission.
3. The Second Appellants also made a submission on that part of the Proposed Plan concerning zoning of land in Hahei.
4. The Appellants received notice of the decision on or about 29 April 2016.
5. The decision was made by the Council.
6. The Appellants are not trade competitors for the purpose of section 308D of the RMA.
7. The part of the decision the Appellants are appealing is the decision to include a structure plan, namely the "Hahei Entrance Interim Structure Plan" (**Hahei SP**) in the Proposed Plan.

Reasons for appeal

8. The reasons for the appeal are as follows:
 - (a) The decision to include the Hahei SP fails to achieve the purpose and principles of the RMA as set out in Part 2.
 - (b) The Council has failed to prepare the Proposed Plan in accordance with the matters set out in s 74 RMA.

- (c) The Council has failed to comply with its obligations under s 32 and s 32AA.
- (d) The decision to include the Hahei SP in the Proposed Plan is contrary, and fails to give effect, to the Waikato Regional Policy Statement, including, without limitation, Policy 3.12, Policy 6.1 (particularly 6.1.7, 6.1.8 and 6.1.9), Policy 6.3 and Policy 6.10.
- (e) The Council failed to give adequate consideration to the adverse effects associated with the Hahei SP, and proceeded on inadequate information as to the nature and scale of those effects.
- (f) Development enabled by the Hahei SP will have significant adverse effects on the environment, including, without limitation, significant adverse effects on traffic for which appropriate mitigation is not provided.
- (g) The Council's decision to include the Hahei SP failed to take any or adequate account of the submissions or evidence of the Appellants, and failed to provide adequate reasons for rejecting the Appellants' submissions, in breach of cl 10(2) First Schedule, RMA.
- (h) The Council's decision to include the Hahei SP in the Proposed Plan represents a significant departure from the notified version of the Proposed Plan which was not the subject of adequate consultation with the affected community, including the Appellants.
- (i) Inclusion of the Hahei SP in the Proposed District Plan undermines, predetermines, and is likely to significantly compromise, the outcome of the Hahei Community Plan which is presently being undertaken, and the wider structure planning exercise that the Commissioners appointed by the Council recognised is required. It is premature for the Hahei SP to proceed ahead of the wider structure planning exercise which will allow for appropriate community consultation, assessment of effects associated with development and an appropriate assessment of costs and benefits as required under the RMA and with appropriate identification of and provision for infrastructure required to service development of the area as a whole.

- (j) The Appellants rely on their original submissions as further reasons for the Appeal.
 - (k) The Hahei SP is not the most appropriate way to achieve the purpose of the RMA and the relevant objectives and policies of the Proposed Plan, and does not represent the optimal planning outcome for the area.
9. The Appellants seek the following relief:
- (a) The removal of the Hahei SP from the Proposed Plan;
 - (b) The land affected by the Hahei SP to be zoned Rural.
10. I attach the following documents* to this notice:
- (a) A copy of the First Appellants' submission;
 - (b) A copy of the Second Appellant's submission;
 - (c) A copy of the relevant decision;
 - (d) a list of names and addresses of persons to be served with a copy of this notice.

Dated this 13th day of June 2016.

Signature of First Appellant

Signatures of Second Appellants

Address for service of First Appellant:
72 Pa Road, Hahei, RD 1, Whitianga
Telephone: 07 866 3310
Email: j.t.north@xtra.co.nz

Address for service of Second Appellants:
81 Awa Road, Wellington 6022
Telephone: (04) 380 9707
Email: paul@oreganlaw.co.nz
Contact person: Paul O'Regan

Note to appellant

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 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 30 working days after this notice was lodged with the Environment Court.

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 appellant's submission and (or or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

- * Delete if these documents are attached to copies of the notice of appeal served on other persons.

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington, or Christchurch.