

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKAURAU ROHE**

ENV-2020-AKL-

IN THE MATTER of the Resource Management Act 1991 (the Act)

AND

IN THE MATTER of an appeal under Clause 14 of the First Schedule of the Act against the decision of the Waipa District Council on Waipa District Council Proposed Plan Change 13

BETWEEN **PAPAMOA TA LIMITED PARTNERSHIP**

Appellant

AND **WAIPA DISTRICT COUNCIL**

Respondent

**NOTICE OF APPEAL AGAINST DECISION ON PROPOSED PLAN CHANGE
13 WAIPA DISTRICT COUNCIL**

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**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON
WAIPA DISTRICT COUNCIL PROPOSED PLAN CHANGE 13**

Clause 14(1) of First Schedule, Resource Management Act 1991

To: The Registrar
Environment Court
Auckland

INTRODUCTION

- 1 PAPAMOA TA LIMITED PARTNERSHIP (**Papamo**) appeals against part of a decision of Waipa District Council (**WDC**) on Proposed Plan Change 13: Uplifting Deferred Zones (**PC13**).
- 2 Papamo made a submission on PC13.
- 3 Papamo is not a trade competitor for the purposes of section 308D of the Act.
- 4 Papamo received notice of the re-notified decision on 20 September 2021.
- 5 The decision subject to appeal was made by WDC.
- 6 Papamo appeals against parts of the decision. Reasons for appeal and relief sought are set out below.

PARTS OF THE DECISION BEING APPEALED

- 7 The part of the decision that Papamo is appealing against is the layout of the Te Awamutu T6 Growth Cell Structure Plan (**T6 Growth Cell**).

REASONS FOR APPEAL

- 8 The reasons for the appeal are as follows:
 - (a) The T6 Growth Cell was originally notified to the community for consultation, and the current owner of the land located to the West of the T6 Growth Cell (164 St Leger Road) (**Land**) objected to the

structure plan and the location and size of the stormwater reserve. Following public consultation and notification of PC 13, Papamoa identified errors that relate to the land within the T6 Growth Cell.

- (b) There are future plans to develop this Land with residential housing.
- (c) At paragraphs 1.8.55 and 1.8.56 in the Decision Version of PC13, the Commissioner stated that the submitter introduced expert evidence at the hearing with no opportunity for that evidence to be considered by Council experts.
- (d) The submitter provided expert evidence to WDC on 11 June 2021, which was prior to the hearing, as per the evidence timetable set out in WDC's Notice of Hearing. WDC acknowledged receiving the expert evidence and that expert evidence was available to the Commissioner before the hearing. WDC exercised its right of reply on the day of the hearing. The Commissioner and WDC had ample time to review the evidence and provide a decision based on that evidence. The decision does not consider the merit of Papamoa's expert evidence and instead indicates that it has not been considered by Council's experts due to a lack of time.
- (e) The Decisions Version of PC13 did not consider Papamoa's evidence which demonstrates that:
 - (i) The current location of the stormwater reserve in the T6 Growth Cell is located in an area that is elevated. Stormwater can be managed on each lot (an at source system) which would reduce the size of the stormwater reserve in the T6 Growth Cell. This management system will allow for the T6 Growth Cell stormwater reserve to be removed and the area returned to its previous status of being available for residential development. The developable area that will be available if this option is granted is shown in Appendix 1.
 - (ii) If an on-lot stormwater management system is not used, a communal stormwater reserve can be utilised. A communal stormwater system will reduce the area needed for stormwater management on the Land to 1.6ha and the remaining area returned to its previous status of being available for residential development. The communal area is shown in Appendix 2.

- (iii) A combination of an on lot stormwater system and a communal stormwater reserve could also be used and result in a reduction of the current stormwater reserve area in T6 Growth Cell.
- (iv) The layout of the local roads internal to the site can be removed to allow for flexibility for development. The road typologies and connectivity locations within the existing road network are not sought to be altered as part of this process.
- (v) An overlay and/or rule can be added to the T6 Growth Cell to assist with the changes to stormwater and the location of roads to ensure demand for stormwater and roading is achieved at resource consenting time.
- (f) Adopting Papamoa's evidence will allow for the Land to be utilised more effectively as residential land while providing for stormwater and appropriate roading. These changes will also give effect to the National Planning Standards for Urban Development.

RELIEF

9 The Appellant seeks the following relief:

- (a) That an amendment be made to the T6 Growth Cell such that stormwater will be subject to an approved Stormwater Management Plan that provides firstly for:
 - (i) stormwater to be fully managed on each individual lot; or
 - (ii) stormwater to be managed partially by way of a communal stormwater system. The Location of a communal stormwater reserve is shown in Appendix 2 and is approximately 1.6ha in size; or
 - (iii) a combination of both on lot stormwater management and a communal stormwater reserve
- (b) That with the above changes, the current T6 Growth Cell stormwater reserve area is reduced.
- (c) The T6 Growth Cell provisions should indicate that the communal stormwater reserve is indicative only and will retain its underlying zoning in the event that an approved on-lot stormwater

management system is approved through a Stormwater Management Plan for the Land.

- (d) That the roads are removed from the Land (west of St Ledger Road).
- (e) That an overlay and/or rule is added to the T6 Growth Cell that identifies:
 - (i) “Any application for resource consent to develop the property must provide an expert stormwater management report that can demonstrate how stormwater will be managed within the Growth Cell”
 - (ii) “Any application for resource consent to develop the property may require a transportation assessment that recommends appropriate roading.”
- (f) Costs.

ATTACHED DOCUMENTS

10 The following documents are attached to this notice:

- (a) a copy of the Appellant’s submission (with a copy of the evidence provided when called for by WDC);
- (b) Appendix 1 and 2;
- (c) a copy of the part of the decision;
- (d) a list of names and addresses of persons to be served with a copy of this notice.



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Charlotte Muggeridge

Solicitor for Appellant

Date: 28/10/2021

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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.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, 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
- within 20 working days after the period for lodging a notice of appeal ends, 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 Act.

You may apply to the Environment Court under section 281 of the Act 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 have attached a copy of the appellant's submission and the 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.