

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2024] NZEnvC 250

IN THE MATTER of an appeal under clause 14 of Schedule
One to the Resource Management Act
1991

BETWEEN DOUGLAS COLIN WALLACE
(ENV-2024-AKL-000133)
Appellant

AND TAUPŌ DISTRICT COUNCIL
Respondent

AND CONTACT ENERGY LIMITED
Section 274 Interested Party

Court: Chief Environment Court Judge D A Kirkpatrick, sitting alone
under s 279 of the Act

Last case event: 27 September 2024

Date of Order: 15 October 2024

Date of Issue: 15 October 2024

CONSENT DETERMINATION

A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment
Court, by consent, orders that the appeal is allowed and Taupō District
Council is directed to:

WALLACE V TAUPŌ DISTRICT COUNCIL



- (a) amend the Taupō District Plan maps to rezone the land at 208 Tukairangi Road from Rural Lifestyle Environment to General Rural Environment in accordance with Appendix 1 to this order; and
- (b) make any consequential changes to the numbering of plan provisions or to the relevant planning maps resulting from the above amendment.

B: The appeal is otherwise dismissed.

C: Under s 285 of the RMA, there is no order as to costs.

REASONS

[1] This appeal concerns a geographically confined part of the Council's decision to approve Plan Change 42 to the Taupō District Plan (**PC42**) relating specifically to Mr Wallace's land at 208 Tukairangi Road, Taupō (the **land**).

[2] PC42 is a plan change initiated by the Council to review the Rural Chapter of the Taupō District Plan. One aspect of PC42 involves dividing the Rural Environment zone into a General Rural Environment zone (**GRE**) and a Rural Lifestyle Environment zone (**RLE**) in order to recognise and maintain the distinct established characters of open space for primary production and rural lifestyle living in specific locations.

[3] In order to determine which areas within the Rural Environment should be zoned GRE or RLE, the Council developed seven criteria to select the rural lifestyle clusters that would be zoned RLE. Those criteria, as set out in the Council's evaluation report under s 32 of the Act, are:

1. There is a presence, or there are existing clusters, of smaller/lifestyle lots;
2. Areas have not been selected where there are physical constraints such as topography, geography or infrastructure;
3. RLE zoning will only be applied to lots smaller than 30ha unless a lot is completely surrounded by smaller rural lifestyle blocks;
4. Overlays such as Outstanding Natural Landscapes will be taken into account;

5. Proximity to Taupō township;
6. RLE zoning will not be applied where properties are accessed from State Highways; and
7. Properties subject to the D1 Geothermal Rule have been excluded.

[4] Although Mr Wallace's land met these criteria, it was proposed to be zoned GRE in PC42 as notified based on pre-consultation discussions between the Appellant and the Respondent.

[5] Mr Wallace made a submission seeking the front portion of the land that adjoins the road to be zoned RLE but was generally opposed to that zoning for the remainder of the land. His key concern related to reverse sensitivity effects, particularly in relation to dwelling setbacks, noise and effects on watercourses.

[6] In its decisions on submissions, the Council disagreed with Mr Wallace's submission and all of the land was confirmed to be zoned as RLE on the basis that it met the required area threshold and that split zoning of a single site was not considered best practice, noting that RLE zoning does not preclude the land from being utilised for rural purposes.

[7] Mr Wallace appealed that aspect of the decision, seeking that the land either be rezoned as sought by his submission or revert entirely to GRE zoning.

[8] Contact Energy Limited gave notice of an intention to become a party under s 274 of the Act. Contact Energy opposed the relief to split the zoning across the property but supported the relief to rezone the property entirely as GRE.

[9] As the appeal is confined to a discrete geographical area, the parties have now agreed that it can be resolved by rezoning the entirety of 208 Tukairangi Road as GRE.

[10] Reviewing the notice of appeal, the relevant parts of the Council's decision and its evaluation report under s 32 of the Act, and the joint memorandum of the parties, for the purposes of s 32AA of the Act the Court is satisfied that this outcome is an appropriate way to achieve the purpose of the Act and the objectives of PC42 and of the District Plan.

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

- (a) no parties have indicated any opposition to the proposed consent order;
- (b) the Council and the other parties who have signed the joint memorandum seeking the consent order are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction and conform to the relevant requirements and objectives of the RMA including, in particular, Part 2.

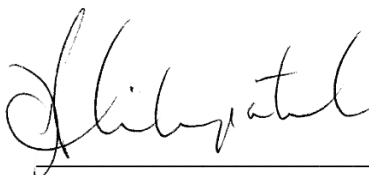
Order

[12] For those reasons, the Court orders by consent under s 279(1)(b) of the RMA that the appeal is allowed and Taupō District Council is directed to:

- (a) amend the Taupō District Plan maps to rezone the land at 208 Tukairangi Road from Rural Lifestyle Environment to General Rural Environment in accordance with Appendix 1 to this order; and
- (b) make any consequential changes to the numbering of plan provisions or to the relevant planning maps resulting from the above amendment.

[13] The appeal is otherwise dismissed.

[14] Under s 285 of the Act, there is no order as to costs.

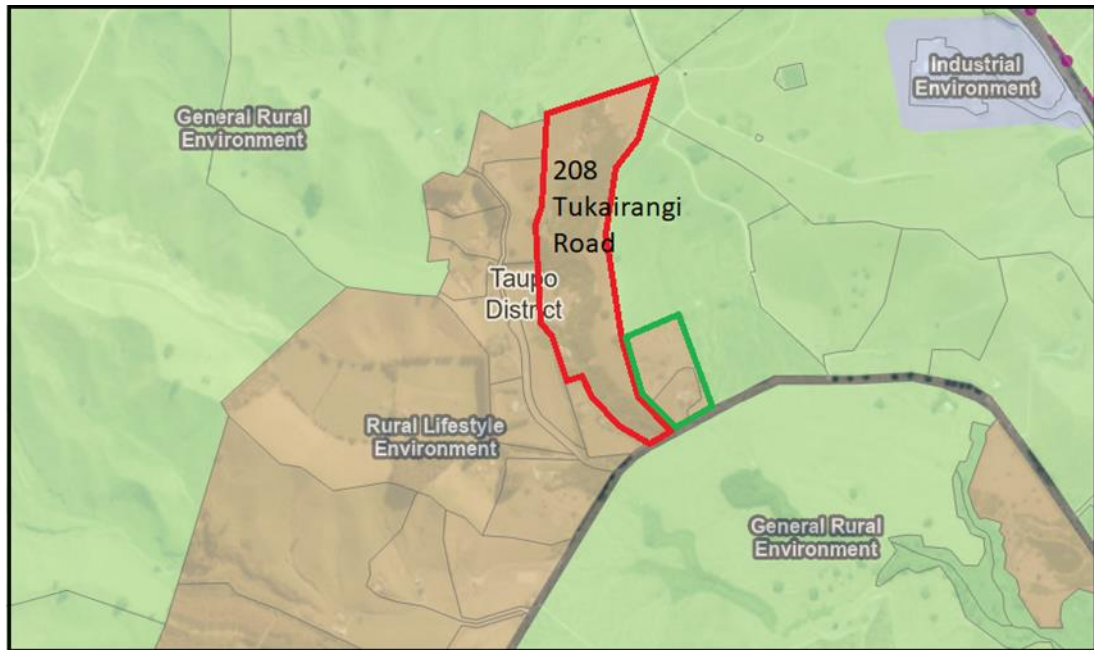


D A Kirkpatrick

Chief Environment Court Judge



Appendix 1 – Agreed changes to Plan Change 42



Red outline: Rezone 208 Tukairangi Road to General Rural Environment

Note: Sites in green outline also under appeal by Contact Energy