

BEFORE THE ENVIRONMENT COURT

ENV-2024-AKL-

I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under Clause 14 of Schedule 1 of the Act against the decision of the Taupo District Council on Proposed Plan Change 42 to the Taupo District Plan

BETWEEN IAN BRITTEN

Appellant

AND TAUPO DISTRICT COUNCIL

Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON PROPOSED
PLAN CHANGE 42 TO THE TAUPO DISTRICT PLAN**

Dated 29 July 2024

Scott Devonport
Planning Consultant

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To the Registrar

Environment Court

Auckland

1. Ian Britten appeals against parts of the decision of Taupo District Council (**TDC**) to approve Proposed Taupo District Plan Change 42 – General Rural and Rural Lifestyle Environments (**PC42**) to the Taupo District Plan (**TDP**).

Background

2. Cheal Consulting (on behalf of Mr. Britten) made a submission dated 8th day of December 2022 on PC42.
3. Mr. Britten is not a trade competitor for the purposes of s308D of the Resource Management Act 1991 (**RMA**).
4. Mr. Britten received notice of the decision on 22nd day of July 2024.
5. The parts of the decision Mr. Britten are appealing are set out below.

REASONS FOR APPEAL

General reasons for appeal

6. While generally supportive of PC2, Ian Britten considers that in its current form, parts of PC42:
 - a) Do not promote the sustainable management of the natural and physical resources in the Taupo District or the Taupo District, and is therefore contrary to or inconsistent with Part 2 and other provisions of the RMA;
 - b) Do not meet the reasonably foreseeable needs of future generations;
 - c) Do not enable the social, economic, and cultural wellbeing of the people of Taupo District or the Waikato Region;
 - d) Do not avoid, remedy, or mitigate actual and potential adverse effects on the environment; and
 - e) Are not appropriate in terms of s 32 of the RMA.
7. The parts of PC42 which are the subject of Mr. Britten’s appeal, and the specific reasons for the appeal are set out below.

Consideration of Site-Specific Characteristics

8. Mr. Britten's submission was seeking a Rural Lifestyle Environment zone rather than a General Rural Environment zone.
9. Mr. Britten's site was considered as not suitable for Rural Lifestyle Environment under PC 42 as the panel considered it did not comply with two of the seven criteria, being:
 - a) not part of an existing cluster of smaller/lifestyle lots
 - b) each of the two sites being in excess of 30ha.
10. Mr. Britten provided additional evidence as requested by the panel that appears to have not been considered.
11. The site is significantly affected by Land Improvement Areas (**LIA's**) that restrict pastoral productive land to each site as follows:
 - a) 40 Hepina Heights – 22.4ha of unencumbered pastoral land and 35.3ha of LIA protected vegetation.
 - b) 41 Hepina Heights – 8.72ha of unencumbered pastoral land and 27.7ha of LIA protected vegetation.
 - c) Total land area available of pastoral productive land on each site is well below the 30ha threshold directed under PC42 as being suitable for Rural Lifestyle Environment.
12. The site was considered as not being part of an existing cluster of lifestyle lots which is contrary to the existing environment:
 - a) The sites are located at the end of the private road that has five lifestyle lots between 4ha – 6.25ha.
 - b) The sites have 10 directly adjoining lifestyle size allotments along the southern and eastern boundaries.
13. The sites have subsequently had an approved subdivision consent (RM240162) to enable the site to be subdivided into five allotments, three of the sites being 4ha size which further reduces the balance productive rural land that TDC are seeking to protect.

14. The sites are not considered as Highly Productive Land under the NPS-HPL that seeks to protect high value productive land.
15. The sites have significant separation from any other larger rural productive land due to the natural setbacks and protection offered by the LIA areas that create ongoing natural barriers through dense and protected vegetation.
16. The panel noted that if the physical features matched the title boundaries, then the potential for rezoning would have been more sympathetic:
 - a) The site characteristic and natural features should be the predominant consideration and not based on cadastral title boundaries given these can change easily through a boundary adjustment.
 - b) The physical features are protected through legal mechanisms to ensure the LIA cannot be removed and therefore these should have been given greater weight by the panel.

RELIEF SOUGHT

17. Mr. Britten seeks the land unaffected by the LIA's to be rezoned as Rural Lifestyle Environment.

ATTACHEMENTS

18. The following attachments are provided:
 - a) A copy of Mr. Britten's submission and further information provided to the hearing panel including details on the LIA;
 - b) A copy of TDC's decision; and
 - c) A copy of the recently approved subdivision consent (RM240163)
 - d) There are not considered to be any submitters that require service of this appeal given this is a site-specific appeal.

Dated at Taupo this 29th day of July 2024



On behalf of Ian Britten

Address for service of the appellant:

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Documents for service on the appellant may be:

- (a) Left at the address for service; or
- (b) Posted to the 2/20 Totara Street, Taupo 3330

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 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).

Advice

If you have any questions about this appeal, contact the Environment Court in Auckland.