

Form 7

Notice of appeal to Environment Court against decision on proposed policy
statement or plan or change or variation

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

To the Registrar
Environment Court
Auckland, Wellington, and Christchurch

I, *Jillian Barbara Shaskey on behalf of Bowrock Properties Limited*, appeal against part of a decision of *Waikato District Council* on the following plan:

- *Proposed Waikato District Plan – Decisions Version*

I made a submission on that plan. I am not a trade competitor for the purposes of section 308D of the Act.

I received notice of the decision on *17th January 2022*.

The decision was made by *Waikato District Council*.

The part of the decision that I am appealing against is:

- *The exclusion of a portion of my property located on Tauwhare Road, Tauwhare in the Waikato District from being re-zoned from Rural to Rural Lifestyle Zone.*
- *My submission to rezone my entire property from Rural to Country Living Zone (Rural lifestyle zone) (see Attachments A1 – A4) was accepted by the hearing commissioners and the Waikato District Council (see Attachment B). However, when referring to the decisions version of the planning maps it appears one parcel has been left out of the rezoning.*
- *My property is made up of two contiguous lots - Lot 3 DP 325499 (approx. 19.67ha) and Lot 32 DP 81580 (approx. 0.4791ha) which together comprise 20.0791ha (more or less) (see below – property highlighted in yellow, Figure 17). The decision refers to rezoning 20 ha of land; however the planning maps still show the smaller lot - Lot 32 DP 81580 as being in the Rural Zone (see below and also Attachment B) and not the Rural Lifestyle Zone.*

The specific matter that forms the subject of this appeal is:

- *The omission of Lot 32 DP 81580, held in title SA64B/134 (see small square in the highlighted area top left of Figure 17) on the planning maps from being*

rezoned from Rural to the Rural Lifestyle Zone.

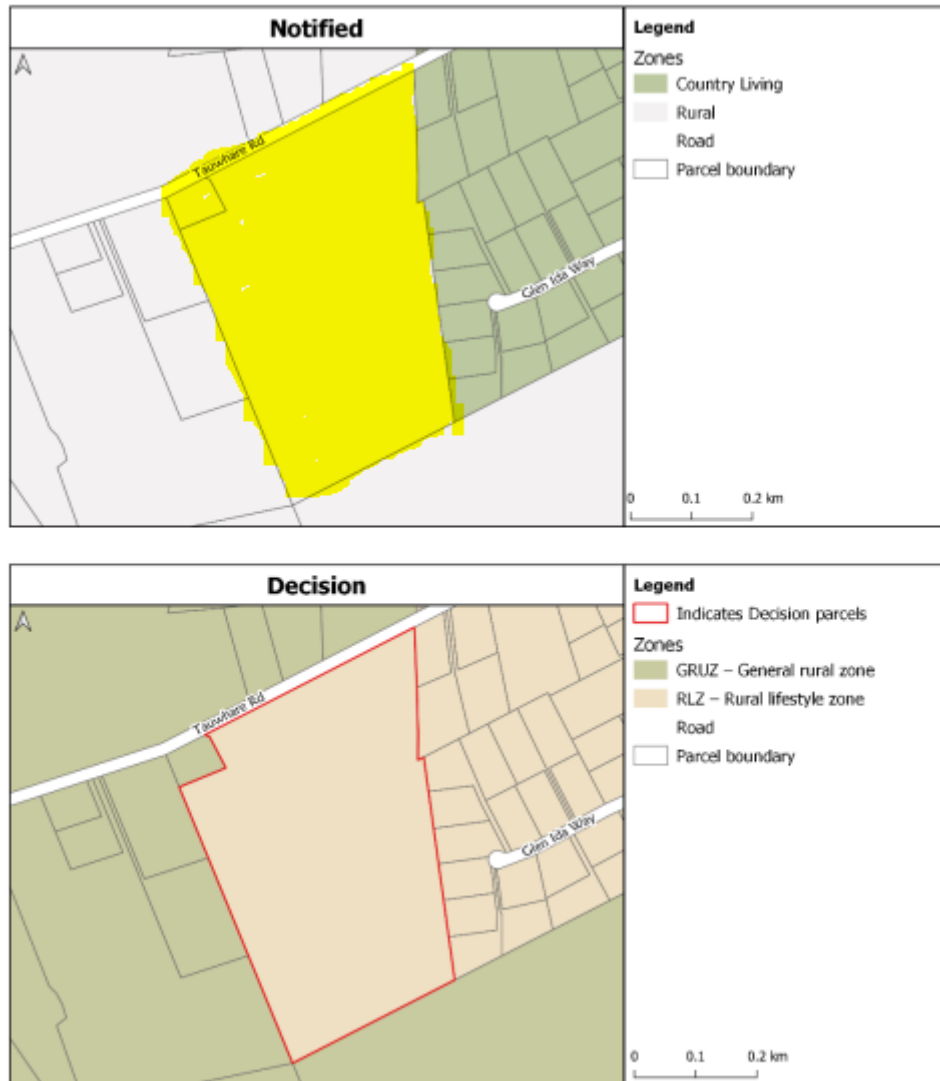


Figure 17: Zoning Tauwhare Road

The reasons for the appeal are as follows:

- *The 0.4971ha parcel that remains zoned Rural is not of a size that can be used for traditional rural purposes. The reasons outlined in the planning evidence presented in support of my submission cover this issue in detail, and I consider that the omission of Lot 32 DP 81580 from rezoning was an oversight by Waikato District Council, rather than a decision to retain this small parcel in the Rural zone.*

I seek the following relief:

- *That Lot 32 DP 81580, held in title SA64B/134 is rezoned from Rural to Rural Lifestyle Zone so that my entire property falls within the Rural Lifestyle Zone.*

I attach the following documents to this notice:

- (a) a copy of my submission and relevant evidence presented at Hearing in support:
- (b) a copy of the relevant part(s) of the decision:
- (c) a list of names and addresses of persons to be served with a copy of this notice.

*These documents constitute part of this form and, as such, must be attached to both copies of the notice lodged with the Environment Court. The appellant does not need to attach a copy of a regional or district plan or policy statement. In addition, the appellant does not need to attach copies of the submission and decision to the copies of the notice served on other persons if the copy served lists these documents and states that copies may be obtained, on request, from the appellant.

Date: 23.02.22



On behalf of Jill Shaskey – Bowrock Properties Limited

Signature of appellant:
(**or** person authorised to sign
on behalf of appellant)

Address for service of
appellant:

*Place Group Limited
The Brewery Building, 14 Anzac
Parade, Hamilton 3204*

Or

*Place Group Limited
PO BOX 7004*

Telephone: 027 607 5071
Fax/email: hannah@placegroup.co.nz
Contact person: *Hannah Palmer – Environmental Consultant, Place Group Limited*

Attachment A – Copy of Bowrock Property Ltd submissions and evidence relevant to appeal (copies may be obtained on request)

A1 – Original Submission

A2 – Further Submission

A3 – Hearing 25 evidence package

A4 – Hearing 25 rebuttal evidence

**Attachment B – Copy of relevant part of the decision (Waikato District Plan
Decision Report 280: Zoning Rest of District)**

Tauwhare

- 4.65 Ms Hannah Palmer filed evidence on behalf of Bowrock Properties Limited and spoke to its request to rezone 20ha on Tauwhare Road from Rural to Country Living Zone. She considered that rezoning the subject site would be a natural extension of the Country Living Zone on the eastern boundary of the site. Ms Palmer explained that the site cannot be used for traditional rural purposes due to the adjoining rural-residential properties and reverse sensitivity complaints as well as its size not being economically viable in the long term. She summarised the findings of the technical reports which demonstrated that the site was suitable for rezoning and development. She also outlined the main effects and mitigation measures for contamination, three waters servicing, geotechnical, transport, economic, landscape, amenity and character. Ms Palmer considered that these technical reports demonstrate that, subject to appropriate mitigation, there were no site constraints or transport issues that would prevent the site from being developed in accordance with the proposed provisions of the Country Living Zone, or under amendments sought in other hearings.⁴⁷
- 4.66 Ms Palmer concluded that while the subject site did not fit neatly into the policy framework due to it being located outside of an identified growth area, the rezoning to Country Living is a pragmatic solution to the key issues currently being experienced. Furthermore, she considered that the section 32AA report demonstrates that rezoning the site is appropriate and feasible.⁴⁸
- 4.67 Ms Palmer also filed rebuttal evidence addressing the reasons for rejecting the request set out in the section 42A report. In particular, she considered that the reporting officer had placed too much weight on the strategic direction set for urban growth in higher order documents, particularly Future Proof and Waikato 2070 (including Section 6C Map 6-2 in the WRPS), and the overall approach to growth management within the Waikato District. Ms Palmer observed that Future Proof and Waikato 2070 are dynamic rather than static documents noting that and provision exists to consider rezoning proposals outside of these areas, particularly where there is strong evidence to do so.⁴⁹

⁴⁶ Evidence in chief of Judith Makinson on behalf of Diamond Creek Farm Limited, Paragraphs 28-29, dated 17 February 2021.

⁴⁷ Evidence in chief of Hannah Palmer on behalf of Bowrock Properties Limited, Section 8, dated 17 February 2021.

⁴⁸ Ibid, Section 10.

⁴⁹ Rebuttal evidence of Hannah Palmer on behalf of Bowrock Properties Limited, Section 3.34, dated 10 May 2021.

- 4.72 Ms Laura Galt filed evidence on behalf of HCC that addressed all of the rezoning requests that HCC filed further submissions on. In terms of the submissions seeking rezoning from Rural to Country Living Zone (such as the submissions from G & M Burnett, M Smith, HPL, Bowrock Properties, and A & C Gore); Ms Galt opposed any further expansion of the Country Living Zone within Hamilton's Area of Interest. She considered that there was often a disconnect between the expectation for levels of infrastructure service versus the ability to fund those services. She outlined concerns with cross-boundary impacts on infrastructure within Hamilton, particularly transport, three waters and social infrastructure. She observed that when the Country Living Zone is located adjacent to existing urban areas, it precludes future urban expansion.
- 23.2 Bowrock Properties Limited sought to rezone 20ha of land on Tauwhare Road from the Rural Zone to the Country Living Zone. We agree with Ms Palmer that rezoning this site would be a natural extension of the Country Living Zone, given that the sites on the adjoining eastern boundary are already zoned as Country Living Zone and have been developed accordingly. Given the length of boundary shared with rural-residential properties, we believe that the site will not be able to be used sustainably for primary production. We agree with Ms Palmer that the rezoning to the Country Living Zone is a pragmatic outcome which will achieve the objectives in the PDP and satisfy the principles listed in Section 6A of the RPS. We therefore accept the submission from Bowrock Properties Limited and have rezoned the site as Country Living Zone.



Figure 17: Zoning Tauwhare Road

Submitter: Bowrock Properties Limited for PAUA Architects**Submission number: 393**

Submission number	Further submitter name	Further submitter oppose/support	Summary of decision requested	Decision	Decision report where this subject matter is addressed
393.1			Amend the zoning of Lot 3 DP 325499 and Lot 32 DP 81580, Tauwhare Road, Tauwhare from Rural Zone to Country Living Zone or Village Zone.	Accept	Decision Report 280: Zoning - Rest of District
FS1277.78	Waikato Regional Council	Oppose		reject	
FS1035.102	Pareoranga Te Kata	Oppose		reject	
FS1379.107	Hamilton City Council	Oppose		reject	
FS1388.112	Mercury NZ Limited for Mercury E	Oppose		reject	

Attachment C – List of names and addresses of persons to be served with a copy of this notice

Name	Address	Preferred method of contact
Waikato District Council	Attention: Sandra Kelly Sandra.Kelly@waide.govt.nz Cc: districtplan@waide.govt.nz	Email
Waikato Regional Council	Waikato Regional Council c/- Lisette Balsom Private Bag 3038 Waikato Mail Centre Hamilton 3240 Lisette.balsom@waikatoregion.govt.nz	Email
Pareoranga Te Kata	Pareoranga Te Kata 10B Kepler Street Ngaruawahia pt4@students.waikato.ac.nz	Email
Hamilton City Council	Hamilton City Council Private Bag 3010 Hamilton 3240 Attn: Lance Vervoort c/o.laura.galt@hcc.govt.nz	Email
Mercury NZ Limited for Mercury Energy	Mercury NZ Limited ("Mercury") PO Box 445 Hamilton 3240 Attn: Fraser Graafhuis c/o.fraser.graafhuis@mercury.co.nz	Email

Notes for all appeals

Your right to appeal may be limited by the trade competition provisions in Part 11A of the Act.

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.

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 Act 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 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).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Schedule 1 form 7: replaced, on 3 September 2020, by regulation 7(3) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2020 (LI 2020/180).