

IN THE ENVIRONMENT COURT  
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA  
KI TĀMAKI MAKĀURAU

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 with respect to decisions on the Proposed Waikato  
District Plan

BETWEEN

**John Rowe**  
Appellant

AND

**Waikato District Council**  
Respondent

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NOTICE OF APPEAL TO THE ENVIRONMENT COURT

ON DECISIONS BY WAIKATO DISTRICT COUNCIL TO THE PROPOSED DISTRICT PLAN

DATED 28<sup>th</sup> February 2022

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**Julian  
Dawson**  
BARRISTER

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**TO:** The Registrar  
Environment Court  
Auckland

1. John Rowe appeals against decisions of the Waikato District Council on the Proposed District Plan contained Decision Reports 32: Miscellaneous Matters, Decision Report 22: Rural Zone, Decision Report 18: Country Living Zone and Decision Report 14: Residential Zone.
2. John Rowe made a submission on the Proposed Waikato District Plan (submitter #922).
3. John Rowe is not a trade competitor for the purposes of section 308D of the Act.
4. John Rowe received notification of the decision on 17 January 2022.
5. The decision was made by Independent Hearings Commissioners on behalf of Waikato District Council.
6. The particular parts of the decision John Rowe is appealing relate to decisions on:
  - (a) Transferable Rural Lot Subdivisions;
  - (b) General Subdivision Rules
  - (c) Boundary Relocation Rules
  - (d) Rural Hamlet Subdivision Rules
  - (e) Conservation Lot Rules

**The reasons for the appeal are as follows:**

7. John Rowe's reasons for appeal are that those parts of the decision being appealed:
  - (a) fail to promote the sustainable management of the natural and physical resources of the Respondent's District and does not achieve the purpose of the Resource Management Act 1991;
  - (b) do not manage the use of resources in a way that enables the community to provide for its social and economic wellbeing;

- (c) do not represent an efficient use and development of natural and physical resources;
  - (d) do not avoid, remedy or mitigate the adverse effects on the environment;
  - (e) do not represent the most appropriate way to achieve the objectives of the Proposed District Plan in terms of s32 of the Act;
  - (f) are contrary to Part 2 and other provisions of the Act;
  - (g) do not provide for the reasonably foreseeable needs for future generations; and
8. In addition to the above, for the specific reasons set out in **Appendix 1**.
9. John Rowe seeks the following relief:
- (a) That the Proposed District Plan be amended as shown in Appendix 1, or words to like effect; and
  - (b) Such other consequential relief as may be necessary to address its concerns set out in this notice; and
  - (c) Costs.
10. I attach the following documents to this notice:
- (a) a copy of my submission and further submission;
  - (b) a copy of the relevant decision;
  - (c) a list of names and addresses of persons to be served with a copy of this notice.

Dated: 28<sup>th</sup> February 2022

A handwritten signature in blue ink, appearing to read 'J.C. Dawson', with a stylized flourish above the name.

J.C Dawson – Counsel for John Rowe

**Address for service of appellant:**

Mr Julian Dawson - Barrister

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**Email:** julian@rmlawyer.co.nz

**Post:** PO Box 531, Whangarei 0140

### **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 the attachments included. 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.

**APPENDIX 1 –  
SPECIFIC REASONS FOR APPEAL**

Reference	Provision under Appeal	Specific Reasons	Relief Sought
#922.10	<b>Subdivision - General</b> 16.4.1RD1(a)(i)	<ul style="list-style-type: none"> <li>450m<sup>2</sup> minimum site size is too large and inefficient.</li> </ul>	<ul style="list-style-type: none"> <li>Amend to 400m<sup>2</sup></li> </ul>
#922.7	<b>Building Setbacks – All Boundaries</b> 22.3.7.1 P1(iii)	<ul style="list-style-type: none"> <li>There is no appreciable effect in landscape character or visual effects between 25m and 12m;</li> <li>There is no logical reason, or sound resource management principle to differentiate between sites greater than 6ha and less than 6ha.</li> <li>No rationale given in decision</li> <li>Very difficult to design a subdivision with this parameter</li> </ul>	<ul style="list-style-type: none"> <li>Amend  (iii) <del>25m</del> <u>12m</u> from the boundary of an adjoining site <del>that is 6ha or more;</del> (iv) <del>12m from the boundary of an adjoining site that is less than 6ha.</del></li> </ul>
#922.8	22.3.7.1 P2(iii)	<ul style="list-style-type: none"> <li>A 12m setback from other boundaries is arbitrary, inefficient and unnecessary;</li> <li>No rationale given in decision</li> <li>Very difficult to design a subdivision with this parameter</li> </ul>	<ul style="list-style-type: none"> <li>Amend  (iii) <del>12m</del> <u>5m</u> from every boundary other than a road boundary.</li> </ul>
#922.9	22.3.7.1 P3(iii)	<ul style="list-style-type: none"> <li>A 25m setback from other boundaries is arbitrary, inefficient and unnecessary;</li> <li>There is no logical or effects basis to have a 1.6ha site requirement;</li> <li>No rationale given in decision.</li> </ul>	<ul style="list-style-type: none"> <li>Amend  (iii) <del>25m</del><u>12m</u> from every boundary other than a road boundary.</li> </ul>
#922. 15	22.3.7.1 P4(iii)	<ul style="list-style-type: none"> <li>A 12m setback from other boundaries is arbitrary, inefficient and unnecessary;</li> </ul>	<ul style="list-style-type: none"> <li>Amend</li> </ul>

		<ul style="list-style-type: none"> <li>• There is no logical or effects basis to have a 1.6ha site requirement;</li> <li>• No rationale given in decision.</li> </ul>	<ul style="list-style-type: none"> <li>• (iii) <del>12m</del>5m from every boundary other than a road boundary.</li> </ul>
922.16	<b>Building setback – Sensitive Land Uses</b> 22.3.7.2 P1(iv & v)	<ul style="list-style-type: none"> <li>• Measurement point from either an Aggregate Extraction Area or Extractive Resource Area need to be clear.</li> <li>• Not considered in decision.</li> </ul>	<ul style="list-style-type: none"> <li>• Clarify so that measurement is from the edge of Area, not the title boundary.</li> </ul>
#922.1;	<b>Transferable Rural Lot Subdivision</b> 22.4.1.1 PR4(a)	<ul style="list-style-type: none"> <li>• Allows for transfer of existing development potential to more appropriate areas within the same zone. This includes existing/consented titles and development rights;</li> <li>• Move potential development from less intensively developed areas to more appropriate locations;</li> <li>• Incentivise the protection of high quality versatile soils and environmental values;</li> <li>• Provides environmental compensation for private protection, restoration and enhancement of environmental features;</li> <li>• Recognition of SNA's and the requirement to protect them imposes an unreasonable</li> </ul>	<ul style="list-style-type: none"> <li>• Include a TTR mechanism as a Discretionary/Restricted Discretionary mechanism in the district.</li> <li>• Identify appropriate landing places and opportunities.</li> </ul>

		<p>burden on landowners.</p> <ul style="list-style-type: none"> <li>• Landing locations are not “randomly” in rural areas, nor is it inefficient or inequitable if landing locations are identified and subject to consent requirements.</li> </ul>	
#922.2	<p><b>General Subdivision Rule</b> 22.4.1.2RD1(a)(iv)</p>	<ul style="list-style-type: none"> <li>• 2000m<sup>2</sup> is sufficient and appropriate for a building area and services. This is an efficient lot size and use of land;</li> <li>• 8000m<sup>2</sup> is wasteful and unnecessary.</li> </ul>	<ul style="list-style-type: none"> <li>• Amend (iv) The additional allotment must have a proposed area of between <del>8000m<sup>2</sup></del> <u>2000m<sup>2</sup></u> and 1.6ha.</li> </ul>
#922.13 & 14	<p><b>General Subdivision Rule</b> 22.4.1.2 RD1(a)(v)</p>	<ul style="list-style-type: none"> <li>• Rule is difficult to measure, uncertain and unclear;</li> <li>• Rule has no value and does not achieve the objectives and policies because it is arbitrary and does not practically achieve what is intended.</li> </ul>	<ul style="list-style-type: none"> <li>• Delete or amend.</li> </ul>
#922.3	<p><b>Boundary Relocation Subdivision</b> 22.4.1.4RD1</p>	<ul style="list-style-type: none"> <li>• Restriction of the opportunity to two Records of Title is inefficient and arbitrary.</li> </ul>	<ul style="list-style-type: none"> <li>• Delete or amend.</li> </ul>
#922.4	<p><b>Rural Hamlet Subdivision</b> 22.4.1.5(a)</p>	<ul style="list-style-type: none"> <li>• Restricting Rural Hamlets for a maximum number of 5 Records of Title is arbitrary and inefficient;</li> <li>• The Restricted Discretionary criteria are appropriate and sufficient to allow evaluation of a proposal, regardless of the number;</li> </ul>	<ul style="list-style-type: none"> <li>• Delete</li> </ul>

		<ul style="list-style-type: none"> <li>• Fails to recognise the benefits and landscape character that may arise</li> </ul>	
#922.12	<b>Rural Hamlet Subdivision</b> 22.4.1.5 NC1	<ul style="list-style-type: none"> <li>• Non-complying status is onerous, inappropriate and unnecessary. The Rural Hamlet opportunity is an appropriate mechanism that is provided for;</li> <li>• Non-compliance with 22.4.1.5 (a) can be appropriate evaluated as a discretionary activity</li> <li>• Rule fails to consider practical site specific or alternative layouts.</li> </ul>	<ul style="list-style-type: none"> <li>• Amend activity status to Discretionary</li> </ul>
#922.5	<b>Conservation Lot Subdivision</b> 22.4.1.6RD1(a)	<ul style="list-style-type: none"> <li>• Recognition of SNA's and the requirement to protect them imposes an unreasonable burden on landowners.</li> </ul>	<ul style="list-style-type: none"> <li>• Allow for an appropriate conservation lot mechanism including riparian planting, environmental enhancement and protection/enhancement of SNAs.</li> </ul>
#922.18	<b>Subdivision – Building Platform</b> 22.4.9 RD1(a)(ii)	<ul style="list-style-type: none"> <li>• Use of steeper land should be encouraged to avoid versatile soils;</li> <li>• No reason given in decision</li> </ul>	<ul style="list-style-type: none"> <li>• Amend to 1:6</li> </ul>
#922.19	23.4.2 RD1(a) & 24.4.2 RD1(a)	<ul style="list-style-type: none"> <li>• No rationale for the distinction between Countryside Living and Village Zones, minimum lot sizes of each don't work</li> <li>• Minimum lot size of 5000m<sup>2</sup> in the Countryside Living Zone is inefficient</li> <li>• 2000m<sup>2</sup> will retain character</li> </ul>	<ul style="list-style-type: none"> <li>• Amend both rules so that minimum lot size in Countryside Living and Village Zones (Rural lifestyle zone) is 2000m<sup>2</sup></li> </ul>



ATTACHMENT ONE

A Copy of My Submission and Further Submission

ATTACHMENT TWO

A Copy of the Relevant Decision

**ATTACHMENT THREE****Names and Addresses of Persons to be Served with a Copy of this Notice**

Waikato District Council	<b>Attention:</b> Sandra Kelly  <b>Email:</b> districtplan@waidc.govt.nz
Submitters Listed In Decision Reports 32, 22, 18 and 14	To Be Advised