

Date: 1st March 2022

Form 7

Notice of appeal to Environment Court against decision on the Proposed Waikato District Plan

To: The Registrar
Environment Court
Auckland, Wellington, and Christchurch

1. I, Ayesha Ashraf Choudhary of Khushwin Ltd appeal against a decision of Waikato District Council on the following plan: Proposed District Plan (PDP) zoning of 135 Hull Road, Waiuku.
2. I made a submission on that proposed plan, referenced as 715.1 by Khushwin Limited to amend the zoning of the property at 135 Hull Road, Waiuku from Rural Zone to Living Zone or Country Living Zone.
3. I am not a trade competitor for the purposes of section 308D of the Act.
4. I am not directly affected by an effect of the subject site of the appeal that –
 - a. Adversely affects the environment.
5. I received notice of the decision on January 17th, 2022 (online version).
6. The decision was made by Waikato District Council.
7. The decision that I am appealing is the PDP decision regarding the General Rural Zone (GRUZ) of 135 Hull Road, Waiuku.
8. A summary of the decision:
 - a. Council Hearings of Submissions on the Proposed Waikato District Plan. Report and Decisions of Independent Commissioners. Decision Report 280: Zoning – Rest of District. 17 January 2022 (Decisions Report).
9. The Decisions Report discusses the subject site at paragraph 4.70 (page 28) and outlines the following:
 - a. *Mr Choudhary of Khushwin Limited, the owners of the property at 135 Hull Road, Waiuku, spoke in support of their submission seeking rezoning of 42ha of land from Rural to Living or Country Living Zone. Mr David Lawrie filed a letter describing the site as adjoining the Auckland Council boundary to the north-west which is zoned "Residential – Large Lot". He noted that although the soils are labelled 'versatile' on Council's maps, the soils will be retired to pasture grazing, which will stop any spray and dust problems so close to a residential area. He further explained that cropping is no longer economically viable due to the topography and the land adjoining residential Waiuku (which is under the jurisdiction of the Auckland Council). He stated that the land area was rather small, and it was not economically sustainable to crop the land anymore. He considered that the rezoning proposal was not inconsistent with Objective 5.1.1 in the notified PDP as the site would provide an appropriate buffer between residential and rural land and has minimal impacts on the existing rural and urban character of the area because the re-zoning would blend into the existing environment. He considered that the proposal achieved the purpose of the RMA as it promotes the*

sustainable management of natural and physical resources and avoids any adverse effects of activities on the environment.

10. The Decisions Report discusses the subject site again at paragraph 24.1 (page 58) and outlines the following:

- a. *24.1 Khushwin Limited sought to rezone the property at 135 Hull Road, Waiuku from the Rural Zone to the Living Zone or the Country Living Zone. While we appreciate that the site is adjoining a large lot zoned Residential – Large Lot under the Auckland Unitary Plan, the site does contain high quality soils. We are therefore required by section 75(3)(c) of the RMA to give effect to the RPS, which (amongst other things) seeks, in Policy 14.2, to avoid a decline in the availability of high class soils. We agree with, and adopt, the reasoning in the section 42A report and consider that enabling development on this site will not give effect to the RPS, nor achieve the objectives in the PDP (particularly Objective 5.1.1). We therefore reject the submission from Khushwin Limited.*

11. Regarding the reference to the site containing ‘high quality soils’ (paragraph 24.1 in the Decisions Report) this information appears to be based on high level GIS map information, not site-specific information. It is also noted that the Regional Policy Statement (RPS) refers to ‘high class soil’ and not ‘high quality soil’. It’s understood the terms have different definitions, with ‘high class’ being the new term used in the RPS and PDP. While this may be a terminology error in the Decisions Report, it does raise the question of which definition was intended to be used in the Panel’s Decision.

12. Dr Reece Hill, Soil Consultant at Landsystems has prepared a desktop assessment into the subject site and the likelihood of ‘high class soils’ being on the subject site. Dr Hill summarises the following:

- a. *In the absence of property scale soil and LUC map information and based on my assessment using the regional information sources and Google map aerial photography (including street view), I can make the following comments.*
- b. *The NZLRI LUC map information indicates that there are most likely areas on the site that are not high class soils. Furthermore, the contours for the site, indicate that the area of LUC 4e4 is likely to be different to that indicated by the NZLRI LUC map information.*
- c. *The presence of high class soil on the site seems to have been made using regional scale information.*
- d. *It seems that the presence of any high class soil on the site determined the panel decision, rather than the site being entirely high class soil.*
- e. *There are likely to be areas on the site that are not high class soil. These are most likely limited to the northern end of the property. A rough estimate of the area is 8-10 ha.*
- f. *A property scale soil and LUC assessment would be required to confirm the presence of high class soils and areas that are not high class soil.*

13. The reasons for the appeal are as follows:

- a. Khushwin Ltd, did not understand the process or the need to carry out site specific evidence. It appears the decision to retain the GRUZ has been based on a lack of evidence.

14. I seek the following relief:

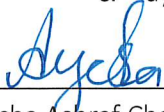
- a. The opportunity to complete site specific soil testing to determine if the site does indeed have high class soil. Khushwin Ltd has engaged Dr Hill to carry out site specific soil testing and reporting which is expected to be complete by March/April 2022.

15. I attached the following documents to this notice:

- a. A copy of my submission.
- b. A copy of the relevant decision.
- c. A copy of Dr Reece Hill's Memo dated 27th February 2022.
- d. A list of names and addresses of persons to be served with a copy of this notice:
 - i. Waikato Regional Council, c/- Lisette Balsom Private Bag 3038 Waikato Mail Centre Hamilton 3240.
 - ii. Mercury NZ Limited, PO Box 445 Hamilton 3240.
 - iii. Waikato District Council, Waikato District Council, Private Bag 544 Ngaruawahia 3742.

16. Address for service of appellant:

- a. Greenlane CA Limited, 97 Great South Road, Epsom, Auckland, 1051
- b. 027-290-7095
- c. ayesha@outlook.co.nz



Ayesha Ashraf Choudhary, director of Khushwin Limited

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