

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

**I MUA I TE KŌTI TAIAO
TĀMAKI MAKAURAU ROHE**

ENV-2022-AKL-

UNDER the Resource Management Act 1991 ("RMA")

IN THE MATTER of an appeal under cl 14 of Sch 1 to the RMA against the decision of Waikato District Council on the Waikato District Plan Decisions

BETWEEN **MOWBRAY GROUP LIMITED**
Appellant

A N D **WAIKATO DISTRICT COUNCIL**
Respondent

NOTICE OF APPEAL BY MOWBRAY GROUP LIMITED

1 MARCH 2022

Barker & Associates Limited

REF: Fraser McNutt

**The offices of Barker & Associates
Limited, Planners, Waikato Mail
Centre, 298 Victoria Street,
Hamilton
P: 0274253902
E: fraserm@barker.co.nz
PO Box 9342
Hamilton 3240**

NOTICE OF APPEAL BY MOWBRAY GROUP LIMITED

TO: The Registrar
Environment Court
Auckland

MOWBRAY GROUP LIMITED (“**the Appellant**”) at the address for service set out previously below against part of the decision by Waikato District Council (“**the Respondent**”) on its Proposed Waikato District Plan (“**PWDP**”).

1. The Appellant has the right to appeal the Respondent’s decision on the Plan Changes to the Environment Court under clause 14 of Schedule 1 to the Resource Management Act 1991 (“**RMA**”) because it made submissions on the PWDP in respect of the matters subject to this appeal.
2. The Appellant is not a trade competitor for the purposes of section 308D of the RMA. In any event, the Appellant is directly affected by an effect of the subject of the appeal that:
 - 2.1 Adversely affects the environment; and
 - 2.2 Does not relate to trade competition or the effects of trade competition.
3. The Appellant received notice of the decisions on 17 January 2022 and understands that the appeal period closes 1 March 2022.
4. The Decision was made by the Respondent.
5. The **parts** of the relevant Decision that are being appealed are:
 - 5.1 Decision Report 28C: Zoning – Matangi Dairy Factory.
 - 5.2 More specifically the decision as it relates to the rezoning of the ‘**eastern strip**’ of rural zoned land¹ shown in figure 1 below.

¹ 1.72 We consider that the boundaries to the east proposed by the submitter are not appropriate and the PDP, as notified, provides a more satisfactory buffer by adopting the railway line as the limit of the Industrial Zone.



Figure 1 – Eastern Rural Strip

6. The reasons for the appeal are as follows:

6.1 Unless and until the aspects of the Plan Change referred to in 5.1 and 5.2 above are amended in accordance with the relief sought below, the Plan Change will not:

- (a) Promote the sustainable management of resources;
- (b) Otherwise be consistent with Part 2 of the RMA;
- (c) Represent an efficient use and development of natural and physical resources;
- (d) Avoid, remedy or mitigate the adverse effects on the environment; or
- (e) Be consistent with the balance of the Waikato District Plan.

In addition, and without limiting the generality of the above:

Decision Report 28C: Zoning – Matangi Dairy Factory

6.2 The Decision does not comment on or take into account the existing ownership structure of the relevant legal parcels of land, in relation to the exclusion of the eastern strip of rural land being zoned 'mixed use'.

- 6.3 The eastern strip, with exception of the railway line, is contiguous and enables the efficient use of land for future land use.²
- 6.4 Is not the most efficient and effective way in which to ensure the use of this land mitigates any potential adverse effects on the environment.
- 6.5 The eastern strip is of an unhelpful shape, diameter and length to allow for a sustainable use of land.
- 6.6 The eastern strip is bordered by an existing fence, mature tree line and is largely incapable to be incorporated into a neighbouring rural land use.
- 6.7 The decision references the railway line as a satisfactory limit to the industrial zone which is incorrect. The zone, as determined by the decisions version notified on the 17/1/2022 is Matangi Zone, a mixed use zone. This is important as the interface with the rural zone is different than if it was with a mixed use zone and should be considered further.

7. **The Appellant seeks the following relief:**

- 7.1 That the eastern strip be afforded the same zoning as proposed by the Appellant – ‘Matangi Zone’ (**MTZ**).
- 7.2 That the same MTZ planning framework as determined in the decisions notified on the 17th of January 2022 by WDC, be afforded to the eastern strip of land referenced in figure 1 and discussed above.

Further Relief Sought

- 8. In addition to the matters set out in paragraphs 1-7 above, the Appellant seeks the following relief:
 - (a) Any similar relief with like effect which addresses the Appellant’s concerns;

² See Matangi Zone provisions page 21-45

(b) Any consequential amendments which arise from the Appellant's submission, the reasons for the appeal or the relief sought; and

(c) Such other relief as the Court considers appropriate.

Mediation

9. The Appellant consents to engaging in mediation activity or any other resolution activity that maybe appropriate.

Costs

10. Costs of and incidental to the appeal.

11. The Appellant attaches the following documents to this Notice of Appeal:
 - 11.1 Copies of the Appellant's original submissions in the form of a summary as well as the original submission (**Annexure A/AA**).
 - 11.2 A copy of the Decision (**Annexure B**).
 - 11.3 A list of the parties to be served with a copy of this appeal (**Annexure C**).

Dated at Hamilton this 1st day of March 2022

MOWBRAY GROUP LIMITED by its
planner and duly authorised agent
Barker & Associates



FRASER MCNUTT

ADDRESS FOR SERVICE: The offices of Barker & Associates Limited,
Planners, PO Box 9342, Waikato Mail Centre, Hamilton 3240, 298 Victoria
Street, Hamilton 3204 Telephone: 0274253902. **Attention:** Fraser McNutt,
fraserm@barker.co.nz.

COPY TO: Waikato District Council
Submitters listed in **Annexure C**

Advice to recipients of copy of notice of appeal

How to become party to proceedings

If you wish to be a party to the appeal, you must:

- (a) 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
- (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

You may apply to the Environment Court under section [281](#) of the Resource Management Act 1991 for a waiver of the above timing requirements (see [form 38](#)).

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.

Advice

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

Annexure A - Copies of the Appellant's original submissions in the form of a summary in the planning evidence of Fraser McNutt.

Annexure B - A copy of the Decision

Annexure C - A list of the parties to be served with a copy of this appeal

Submitter Name	Email (address for service)
Heritage New Zealand Pouhere Taonga	<u>CMcAlley@heritage.org.nz</u>
Matangi Community Committee	<u>dan@landformsurveys.co.nz</u>
Amy and Andrew de Langen	<u>adponystud@hotmail.com</u>