

BEFORE THE ENVIRONMENT COURT OF NEW ZEALAND ENV-2022-AKL-0000
AUCKLAND REGISTRY
I MUA I TE KOOTI TAIAO O AOTEAROA
TAMAKI MAKAUROA ROHE

In the Matter of the Resource Management Act 1991 (**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 Perjuli Developments Limited

Appellant

And Waikato District Council

Respondent

**Notice of Appeal against Decisions on the Proposed Waikato District Plan by
Perjuli Developments Limited**

Dated 1 March 2022

To The Registrar
Environment Court
Auckland

Introduction

1. Perjuli Developments Limited (**Perjuli**) appeals against part of a decision of the Waikato District Council (**WDC**) on the Proposed Waikato District Plan (**PWDP**).
2. Perjuli is recognised as a submitter in opposition to the decision to map the borrow pits at 5851 Great South Road, Ngaaruawaahia, as a Maori Site of Significance (**MSOS**), per paragraph 7.7 of Decisions Report 7. Perjuli is the landowner of the site. The initial submission on the PWDP was made by Blue Wallace Surveyors Limited (**BWSL**), submitter 662 and further submission FS1287, but as the Decisions Report at paragraph 7.7 states Perjuli's opposition directly, Perjuli as owner of the site asserts standing as an appellant.
3. Perjuli is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. Perjuli received notice of the decision on 17 January 2022.
5. The decision subject to appeal was made by WDC.

Parts of Decision Being Appealed

6. The parts of the decision that BWSL is appealing against are:
 - a. Part 4, Schedule 3, ID 294 (relating to 5851 Great South Road, Ngaaruawaahia).
 - b. The identification of 5851 Great South Road, Ngaaruawaahia, property ID 1004594 as a SASM (Site or Area of Significance to Maori) on the planning map (per Figure 5, page 17, Decision Report 7).
 - c. Part 2, Objective SASM-O2, Part 2, Policy SASM-P2, Part 2, Rule SASM-R1. Part 2, Rule SASM-R4, Part 2, Rule SASM-R5.
 - d. Those provisions relating to SASMs generally.

Reasons for Appeal

7. Perjuli's reasons for the appeal are as follows:
 - a. Perjuli is the owner of the site at 5851 Great South Road, Ngaaruawaahia. Perjuli is aware through proceedings ENV-2021-AKL-000025 that the cultural significance of the site is contested, and that there is cultural evidence to support that the site and the borrow pits thereon are not of cultural significance. Perjuli believes there is insufficient evidence to support the site being declared to be of significance.
 - b. The site has been zoned for residential purposes, and the SASM classification will inhibit effective development of the land for residential purposes and so reasonable use of the land. The SASM classification for the site is inconsistent with higher order planning instruments, including without limitation the National Policy Statement on Urban Development 2020.
 - c. Provisions in the WPDP as to SASM classification do not recognise that the relative strength of claimed relationships needs to be assessed by a consent authority in certain circumstances: see *Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia Limited* [2020] NZHC 2768. The nature of a claimed relationship may need to be assessed.
 - d. There has not been a thorough and individualised assessment of the sites with SASM classification, but rather a blanket assessment largely based on 'desktop' analysis.
 - e. The decisions of WDC on this matter:
 - i. Fail to promote the sustainable management of the natural and physical resources WDC's district and does not achieve the purpose of the Act;
 - ii. Are contrary to Part 2 and other provisions of the Act; and
 - iii. Do not provide for the reasonably foreseeable needs of future generations.

Relief Sought

8. Perjuli seeks the following relief:

- a. That ID 294 relating to 5851 Great South Road, Ngaaruawaahia), and the associated descriptions and explanations, be removed from Part 4, Schedule 3 (Sites and Areas of Significance to Maaori);
- b. That the site at 5851 Great South Road, Ngaaruawaahia, property ID 1004594 not be identified as a SASM (Site or Area of Significance to Maaori) on the planning map (per Figure 5, page 17, Decision Report 7);
- c. That Part 2, Objective SASM-O2, be amended as follows:

*The connections between tangata whenua and their ancestral lands, water, sites of significance, waahi tapu, other taonga and taonga species are **recognised**, protected or enhanced, **with such recognition, protection, or enhancement to have regard to the nature and extent of the site and that connection.**;*

- d. Part 2, SASM-P2.

*(1) Ensure subdivision, use and development does not compromise, **or gives appropriate recognition to**, the cultural and spiritual significance of areas, including waahi tapu, urupaa, maunga and other landforms, mahinga kai, and indigenous flora and fauna. ;*

*(2) Areas and sites of significance to Maaori including waahi tapu sites and waahi tapu areas are **recognised, or** protected from adverse effects of development or activities on those sites **where such protection is appropriate having regard to the nature and extent of the site.**;*

- e. Part 2, SASM-R1.

That **“(v) Archaeological investigations”** is added under PER activity status.;

- f. Part 2, SASM-R4.

That “*taking into account the nature of the site and the nature and extent of any claimed cultural connection*” is added after RDIS (b);

g. Part 2, SASM-R5.

That “*taking into account the nature of the site and the nature and extent of any claimed cultural connection*” is added after RDIS (b);

h. Such consequential or other relief as is necessary to address the issues raised in Perjuli’s appeal; and

i. Costs.

9. The following documents are attached to this notice:

a. A copy of Perjuli’s Further submission and Tabled Evidence on the Proposed Plan, submitted by Blue Wallace Surveyors Limited (**Attachment A**);

b. A copy of the relevant part of the decision (**Attachment B**); and

c. A list of names and addresses of the persons to be served with a copy of this notice (**Attachment C**).

Signature:

Perjuli Developments Limited



By its solicitor, Thomas Gibbons

Date:

1 March 2022

Address for service:

C/- Thomas Gibbons Law, 14 Garden Place,
Hamilton

Mobile:

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Note to appellant

Appeals other than in relation to freshwater planning instruments

You may appeal only if—

- you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and
- in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

The Environment Court, when hearing an appeal relating to a matter included in a document under section 55(2B) of the Act, may consider only the question of law raised.

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*).

**How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not have attached a copy of the appellant's submission and (*or or*) the decision (*or part of the decision*) appealed. These documents may be obtained, on request, from the appellant.

*Delete if these documents are attached to copies of the notice of appeal served on other persons.

Advice

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