

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O
AOTEAROA**

UNDER the Resource Management Act 1991

IN THE MATTER of an appeal under clause 14 of Schedule 1
of the Resource Management Act 1991
against a decision of the Waikato District
Council on the Waikato District Proposed
District Plan

BETWEEN **S Upton**

Appellant

AND **WAIKATO DISTRICT COUNCIL**

Respondent

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

Instructing Solicitor:

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To the Registrar of the Environment Court Auckland:

I Simon Upton appeal against a Waikato District Council decision on the Waikato District Proposed District Plan (“the Proposed Plan”).

I made a submission on the Proposed Plan and a further submission supporting part of a submission by the Waikato Regional Council.

I am not a trade competitor for the purposes of section 308D of the RMA.

I received notice of the decision on 17 January 2022.

The decision was made by the Waikato District Council.

The parts of the decision that I am appealing against are:

1. The decision of the Respondent to re-zone areas of land adjacent to the southern edge of Ngaruawahia from Rural Zone to Residential Zone.
2. The decision of the Respondent to re-zone another area of land in the same locality from Residential Zone to Rural Zone. This area is coloured green in Appendix 1.
3. The Respondent’s failure to give adequate consideration to and implement the March 2017 Structure Plan, in relation to the future development of land adjacent to the southern edge of Ngaruawahia. The notified location of the proposed additional Residential Zone did not accord with the Structure Plan. Council officers made a submission seeking to rectify that error. Ultimately the Council’s submission was rejected and a further Residential Zone boundary was adopted that still does not accord with the submissions lodged or the Structure Plan.
4. The Respondent’s failure to give adequate consideration to landform, landscape and visual effects when determining the extent and location of new Residential Zones at the southern edge of Ngaruawahia.

5. The Respondent's failure to give adequate consideration to the potential effects of allowing residential development adjacent to and near to a watercourse, in the terms of good planning practice, the implications of Te Mana O Te Wai, statutory regulations concerning interference with wetlands and the need to make planning provision for extreme rainfall and flooding events.

Reasons for the Appeal:

6. Appropriate consideration of the matters referred to in paragraphs 2-5 above would result in a decision to reduce the Residential Zone extension at the southern edge of Ngaruawahia to produce a better urban/rural development transition, better landscape and visual effects outcomes, better interaction between urban and rural activities and appropriate protections of, and from, watercourses and wetlands.

I seek the following relief:

1. Amendment of Planning Map 20.7 so that the extent of the Residential Zone is as shown in Appendix 2; or alternatively
2. If the relief in 1 above is not granted, amendment of Planning Map 20.7 so that the Residential Zone includes the area coloured green in Appendix 3 and excludes the pink hatched area shown in Appendix 3; and/or alternatively
3. Development controls are added into the District Plan provisions for development of the Residential Zone areas in Planning Map 20.7 to achieve the following:
 - (a) an appropriate transition from residential to rural environment;
 - (b) appropriate recognition of and response to the landform, landscape and natural features;
 - (c) ensure compatibility of rural and urban development and activities;
 - (d) appropriate management of development near to watercourses and wetlands

I attach the following documents to this notice:

- (a) Copies of my submission and further submission.
- (b) A copy of the Respondent's decision.
- (c) A copy of the landscape and visual effects evidence of Mr D Mansergh presented as evidence at the hearing of my submission.
- (d) A copy of the planning evidence of Mr G Eccles presented at the hearing of my submission.
- (e) A list of names and addresses of persons to be served with a copy of this notice.
- (f) Appendices 1-3 referred to in this Notice.

Dated: 28 February 2022



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P Lang, Counsel for the Appellant, authorised to sign on his behalf

Address for service: PO Box 19539 Hamilton 3244,

AND by email to p.lang@xtra.co.nz

AND to: uptonsd@gmail.com>

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, Wellington, or Christchurch.