

**ENVIRONMENT COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**I MUA I TE KOOTI TAIAO O AOTEAROA  
TĀMAKI MAKĀURAU**

**ENV – 2022 – AKL –**

**UNDER THE** Resource Management Act 1991 (RMA)

**IN THE MATTER OF:** an appeal under clause 14(1) of Schedule 1 of the RMA

**BETWEEN** **VAN DEN BRINK GROUP LTD**

Appellant

**AND** **WAIKATO DISTRICT COUNCIL**

Respondent

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**NOTICE OF APPEAL AGAINST THE DECISION OF THE  
WAIKATO DISTRICT COUNCIL ON THE PROPOSED WAIKATO DISTRICT PLAN**

Dated: 2 March 2022

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To: The Registrar  
Environment Court  
AUCKLAND

1. Van Den Brink Group ("VDBG") appeals against parts of the decision of the Waikato District Council (the "**Council**") on the Proposed Waikato District Plan ("**PWDP**").

**Background and decision appealed**

2. VDBG owns the following properties:
  - 11 Ryders Road (containing the former dairy factory)
  - 18 Ryders Road (containing the poultry abattoir)
  - 24 Ryders Road
  - 235A-E Whangarata Road
3. VDBG made a submission<sup>1</sup> and further submission<sup>2</sup> on the PWDP.
4. VDBG is not a trade competitor for the purposes of section 308D of the RMA.
5. VDBG received notice of the Council's decision on the PWDP on 17 January 2022 ("**Decision**").

**Parts of the Decision subject to appeal**

6. VDBG opposes those parts of the Decision and the PWDP described in Appendix 1 because those provisions:
  - (a) do not enable the effective and efficient use of commercial-zoned land;
  - (b) do not enable the effective and efficient use of industrial-zoned land; and
  - (c) consequently, do not address the concerns raised in VDBG's original submission so as to provide for the sustainable management of the Waikato District's natural and physical resources and thereby achieve the purpose of the RMA.

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<sup>1</sup> Submission #633

<sup>2</sup> Further Submission #1193

### **Specific grounds of appeal and provisions appealed**

7. The specific grounds of appeal, and the provisions appealed, are described in Appendix 1.


### **Relief sought**

8. VDBG seeks the following relief:
  - (a) Amendments to the PWDP as set out in **Appendix 1**, or amendments of similar effect;
  - (b) Such other relief, whether it be alternative, additional or consequential, as may be required to address the issues identified in this appeal; and
  - (c) Costs.

### **Attachments**

9. The following documents are attached to this notice:
  - (a) **Appendix 1:** Table of detailed reasons for appeal and relief sought;
  - (b) **Appendix 2:** A copy of VDBG's original and further submissions; and
  - (c) **Appendix 3:** A list of names and addresses of persons to be served with a copy of this notice.

**VAN DEN BRINK GROUP**

A handwritten signature in black ink that reads "Alan Henderson". The signature is written in a cursive style and is positioned above a solid horizontal line.

**Signature:**

Alan Henderson

**Date:**

2 March 2022

**Address for Service of**

**Appellant:**

PO Box 63007  
Manukau City 2241

c/- Alan Henderson

**Telephone:**

+64 021 749535

**TO:**

The Registrar of the Environment Court at Auckland

**AND TO:**

Waikato District Council

**AND TO:**

The relevant submitters on the provisions appealed

## **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 Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 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 attach 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.

### *Advice*

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

## APPENDIX 1 –REASONS AND RELIEF SOUGHT

Provision appealed	Relief sought	Specific grounds of appeal/reasons	Scope original/further submission
COMZ-S7 Building setback - waterbodies	Amend the setback rule from 27.5m to 10m as follows:  COMZ-S7 (i) <u>27.5 10 metres</u> from the bank of any river (other than the Waikato River and Waipa River);	The requirement for a 27.5 metre building setback is unreasonable in that it does not enable the effective and efficient use of commercial-zoned land. Furthermore, it is inconsistent with the 10 metre setback that applies to rivers in the General Industrial Zone and Heavy Industrial Zone (refer to GIZ-S7(1)(a)(iv) and (v) and HIZ-S9 (1)(a)(iv) and (v)). There is no appropriate resource management reason to differentiate the setback requirement in these zones, particularly given that commercial-zoned properties tend to be significantly smaller than industrial-zoned properties and therefore have less flexibility in terms of choice for the location of buildings.	Original submission 663  Further submission 1193
GIZ-S3 Building height	Amend the height rule so that it applies to all the General Industrial Zoned land in Tuakau as follows:  GIS-S3(1)(a)(ii) 18 metres if <u>en located on land in Tuakau that was formerly identified as the Whangarata Business Park Structure Plan Area in the Operative Waikato District Plan (Franklin Section) on Whangarata Road or Bollard Road in Tuakau; or</u>	It is apparent that the decision acknowledges the need to retain the 18 metre building height requirement that resulted from the former Franklin District Council's Plan Change 22 (Whangarata Business Park Structure Plan Area).  A number of subdivisions have occurred within this structure plan area which has resulted in some properties achieving indirect access to Whangarata Road and Bollard Road via right of way arrangements or new roads. Unless the rule is amended in terms of the relief sought (or similar), this would have the effect of requiring buildings on land that has indirect access to Whangarata Road and Bollard Road to comply with the more restrictive height limit of 15 metres in terms of GIZ-S3(1)(a)(i).  A default rule to 15m does not enable the effective or efficient use of this specifically identified area of industrial land. There is no resource management reason to limit	Original submission 663  Further submission 1193

Provision appealed	Relief sought	Specific grounds of appeal/reasons	Scope original/further submission
		height on land within the zone which does not have frontage to those identified roads.	

**APPENDIX 2**

**COPIES OF VDBG'S ORIGINAL SUBMISSION AND FURTHER SUBMISSION**



**APPENDIX 3**

**LIST OF NAMES AND ADDRESSES OF PERSONS TO BE SERVED WITH A  
COPY OF THIS NOTICE**