

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

Decision No. [2018] NZEnvC 204

IN THE MATTER of the Resource Management Act 1991
AND of an appeal under Clause 14 of the 1st
Schedule to the Act
BETWEEN EAST HARBOUR ENVIRONMENTAL
ASSOCIATION INCORPORATED (EHEA)
(ENV-2016-WLG-000030)
Appellant
AND HUTT CITY COUNCIL
Respondent

Court: Environment Judge B P Dwyer
Environment Commissioner K A Edmonds
Hearing: Following the hearing
Date of Decision: 16 October 2018
Date of Issue: 16 October 2018

SECOND DECISION OF THE ENVIRONMENT COURT



EAST HARBOUR ENVIRONMENTAL ASSOCIATION INCORPORATED (EHEA)
v HUTT CITY COUNCIL

Background

[1] On 3 October 2018 the Court issued a decision with its preliminary view on an application for the Court to exercise its powers under section 293 of the RMA to amend rules on vegetation clearance in the Landscape Protection Residential Activity Area, Hill Residential Activity Area, General Residential Activity Area and Special Residential Activity Area under Proposed Plan Change 36 (PC36) to the Hutt City District Plan.¹ The Court invited Hutt City Council and East Harbour Environmental Association Incorporated (EHEA) to respond with any comments on the Court's proposed directions for the wording of the proposal and its notification under section 293 of the RMA.

[2] Hutt City Council has no comments on the Court's proposed directions for the wording of the proposal, but the Council has some comments on the notification of the proposal under s 293 of the RMA. EHEA has no comments to add.

Outcome and Directions

[3] The Court confirms the wording of "the proposal" for amended rules in Proposed Plan Change 36 for the purposes of our directions under section 293 of the Resource Management Act 1991. "The proposal" is:

The insertion of the following into the Permitted Activity Rules of 4D 2.1 Hill Residential Activity Area (HRAA) and 4E 2.1 Landscape Protection Residential Activity Area (LPRAA):

(x) On sites less than 4,000m² the removal of vegetation (whether indigenous or exotic).

The insertion of the following into the Permitted Activity Rules of 4A 2.1 General Residential Activity Area (GRAA) and 4B 2.1 Special Residential Activity Area (SRAA):

(x) The removal of vegetation (whether indigenous or exotic).

[4] The Council seeks a change to specify public notification in the Hutt News, which is the paper the Council normally uses for notification purposes, rather than the Dominion Post.

[5] For cost and efficiency reasons the Council also proposes to send out the prescribed notice to all potentially affected parties with the next rates notice which is scheduled for 20 November. It seeks an amendment to the directions to facilitate that approach, which requires a small extension to the timeframe in paragraph 54(d).



[6] The Court agrees to the changes sought by the Council.

[7] The Court therefore makes the following directions to provide for public participation on the proposal:

- (a) Public notification of the process being undertaken shall be given by Hutt City Council (HCC) in accordance with the attached public notice in the Hutt News and on Hutt City Council's website.
- (b) HCC is also to notify potentially affected parties of the proposed amendments, being all landowners (whether public or private entities) directly affected by the proposed amendments, the East Harbour Environmental Association and parties to the appeal by EHEA.
- (c) The appeal notice from East Harbour Environmental Association Incorporated (EHEA) dated 12 July 2016 and which seeks amendments to specific provisions in the Hill Residential Activity Area (HRAA) and the Landscape Protection Residential Activity Area (LPRAA) in Proposed Plan Change 36 is to be drawn to the attention of potential submitters. That appeal notice is available on HCC's website.
- (d) Notification is to occur no later than 20 November 2018.
- (e) Any person shall have until 5 pm on the 20th working day after notification to file a submission with the Council supporting or opposing the proposed amendments.
- (f) HCC shall summarise all submissions filed with it and provide a copy of that summary and HCC's response to the matters raised in submissions to those submitters, all parties to the appeal by EHEA and to the Court no later than 30 working days after the submission period has ended.
- (g) The Environment Court will then use this information to determine the process that will follow, including in respect of representation at proceedings under s 274 of the RMA.
- (h) Once the summary of submissions and responses has been filed a pre-hearing conference will be convened, if required, to address any issues that may arise and make any directions necessary or desirable for consideration of the submissions. At that stage the Court will also make any directions necessary or desirable for progressing the hearing of the appeal by EHEA.

[8] The Council also seeks a minor change to the draft public notice to reflect that the physical address of the Council is now 30 Laings Road, Lower Hutt, and to delete



reference to the online tool (which is currently not available). The Court agrees to these amendments and modifies the public notice accordingly.

Dated at WELLINGTON this 16th day of October 2018

In the absence of Judge Dwyer on sabbatical leave,
for and on behalf of the Court:

K A Edmonds

K A Edmonds
Environment Commissioner



Section 293 proposal – Public Notice

The Environment Court has directed the Hutt City Council (“HCC”) (at HCC’s request) to consult on proposed amendments to Proposed Plan Change 36 to the District Plan.

Those proposed amendments, described as “**the proposal**” are:

The insertion of the following into the Permitted Activity Rules of 4D 2.1 Hill Residential Activity Area (HRAA) and 4E 2.1 Landscape Protection Residential Activity Area (LPRAA):

(x) On sites less than 4,000m² the removal of vegetation (whether indigenous or exotic).

The insertion of the following into the Permitted Activity Rules of 4A 2.1 General Residential Activity Area (GRAA) and 4B 2.1 Special Residential Activity Area (SRAA):

(x) The removal of vegetation (whether indigenous or exotic).

Documentation for Proposed Plan Change 36 can be inspected:

- at all Hutt City Council Libraries;
- at the Customer Services Counter, Council Administration Building, 30 Laings Road, Lower Hutt; and
- on the Council’s website: huttcity.govt.nz/district-plan-change-36.

That documentation includes an appeal lodged by East Harbour Environmental Association Incorporated (EHEA) on 12 July 2016 on other provisions of PC36 for LPRAA and HRAA.

Copies of the documentation can also be requested by contacting Hutt City Council:

- Phone: 04 570 6666;
- Email: district.plan@huttcity.govt.nz.

Submissions close on [*day and date to be inserted*] at 5pm

Any person may make a submission on the proposal. Submissions may be lodged in any of the following ways:

- Post: Environmental Policy Division, Hutt City Council, Private Bag 31912, Lower Hutt 5040;
- In Person: Council Administration Building, 30 Laings Road, Lower Hutt; and
- Email: submissions@huttcity.govt.nz.



Submissions must be written in accordance with RMA Form 5 and must state whether or not you wish to be heard in respect of your submission on the proposal. Copies of Form 5 are available from all of the above locations and on the Council's website.

The process for public participation in the consideration of this proposal under the RMA is as follows:

- after the closing date for submissions, HCC must prepare a summary of the submissions and its response to the submissions and to provide this to all submitters, the appellant and all parties to the EHEA appeal, and the Environment Court within 30 working days; and
- the Environment Court will then use this information to determine the process that will follow.

