

BEFORE THE ENVIRONMENT COURT

Decision No. [2017] NZEnvC 024

IN THE MATTER of the Resource Management Act 1991  
AND of an appeal under clause 14 of the First  
Schedule to the Act  
BETWEEN PAUL HAMON AND GRACE BARNES  
(ENV-2016-AKL-000087)  
Appellants  
AND THAMES COROMANDEL DISTRICT  
COUNCIL  
Respondent

Court: Environment Judge M Harland on the papers under s 279 of the Act

Date of Decision: 28 February 2017

Date of Issue: 28 February 2017

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DETERMINATION OF THE ENVIRONMENT COURT

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A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed subject to the amendments set out in Annexure "A" to this order;
- (2) the appeal is otherwise dismissed.

B: Under s 285 of the Resource Management Act 1991, there is no order as to costs.



## REASONS

### Introduction

[1] On 9 June 2016 Paul Hamon and Grace Barnes filed this appeal against the decisions made by the Thames-Coromandel District Council in respect of Table 2 in Section 38.7 (Assessment Standards, Matters and Criteria) of the proposed Thames-Coromandel District Plan.

[2] The appellants had a site specific concern relating to sites identified on Planning Maps 11E (zone) and 11G (overlay) relating to the western side of Koromiko Drive in Coromandel Town. They sought an amendment to row 8 d) of Table 2 in Section 38.7 of the Proposed Plan, to insert the word "average" after "minimum".

### Consent Memorandum and Draft Consent Order

[3] On 20 January 2017 the parties filed a draft consent order in relation to this matter. The consent memorandum in support of the draft consent order had not been signed by s 274 parties David and Dorothy Weatherley, Grant and Sally Smith and Peter and Philippa Teklenburg.

[4] The Court directed that David and Dorothy Weatherly, Grant and Sally Smith, and Peter and Philippa Teklenberg provide a written response by 5.00pm Wednesday, 22 February 2016 advising whether they intend to pursue the appeal, sign the consent documents as filed on 20 January 2017, or withdraw their s 274 notices.

[5] On 14 February 2017 the Court received an email advising that Grant and Sally Smith would like to withdraw their s 274 party interest. On 20 February 2017 the Court received a fax from the Smith's and the Weatherley's stating that they "do not agree to this subdivision" and questioning why the Council has given consent to it. The fax goes on to advise that they "will not be taking any further action".

[6] In a Minute dated 21 February 2017 the Court stated that it would consider the consent order documentation shortly after 22 February 2017 if the Teklenbergs did not respond by that date.



[7] To date the Court has not received a response from the Teklenberg's.

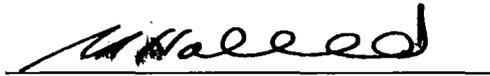
[8] Accordingly, the Court has determined to proceed and consider the draft consent order on the basis that Peter and Philippa Teklenburg have not complied with the Court's directions.

### **Determination**

[6] Therefore the Court orders, by consent, that the appeal is allowed to the extent that the Council is directed to amend row 8 d) in Table 2 of Section 38.7 of the proposed Thames-Coromandel District Plan as set out in Annexure "A" to this determination.

[7] This Order resolves the appeal by Paul Hamon and Grace Barnes in its entirety. It also resolves the s 274 interests of Ian and Patricia Whimp and Joan Knudsen in the appeal in their entirety.

[8] There is no order as to costs in relation to this order.



M Harland  
Environment Judge



**"A"**

<b>Table 1: Minimum lot area, lot density, and shape</b>		
a)	Minimum net lot area, except on the western side of Koromiko Drive, Coromandel Town	2,500 m <sup>2</sup>
b)	Minimum average lot density, except on the western side of Koromiko Drive, Coromandel Town	1 per 3,000 m <sup>2</sup>
c)	Minimum shape circle diameter	25 m
d)	Western side of Koromiko Drive, Coromandel Town:	
	(i) average net lot area; and	1,800 m <sup>2</sup>
	(ii) minimum net lot area (excluding any covenant area); and	1,500 m <sup>2</sup>
	(iii) minimum net lot area (where land includes a covenant area):	
	<ul style="list-style-type: none"> <li>where land is subject to a covenant area shown on DP 365937; and</li> <li>where a building is sited within a covenant area AB; BB; BH; V; W; X; Y; or Z shown on DP 365937.</li> </ul>	<ul style="list-style-type: none"> <li>a new lot shall include 'A and BB'; or 'B and AB'; or 'C and Z'; or 'D and Y'; or 'E and X'; or 'F and W'; or 'G and V'; or 'H and BH'; and</li> <li>no building shall be sited more than 20m west of the eastern boundary of the covenant area</li> </ul>

