

**BEFORE THE ENVIRONMENT COURT**

IN THE MATTER of the Resource Management Act  
1991 ("the Act")

AND

IN THE MATTER of an appeal under Clause 14 of the  
First Schedule to the Act

BETWEEN KEITH VERNON

ENV-2016-AKL-000084

Appellant

AND THAMES-COROMANDEL DISTRICT  
COUNCIL

Respondent

Environment Judge D A Kirkpatrick alone under section 279 of the Act  
In Chambers at Auckland

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**CONSENT ORDER**

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- A. Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that the appeal points raised in paragraphs [81] – [89] of the Further Submission to Mr Vernon's Notice of Appeal dated 23 June 2016 on the proposed Thames-Coromandel District Plan are allowed subject to the agreed amendments set out in **Annexure A** this order.
- B. Under s 285 of the Resource Management Act 1991, there is no order as to costs.



## REASONS

### **Introduction**

- [1] This appeal relates to the Thames-Coromandel District Plan ("PDP") and Variation 1 to the PDP.
- [2] The appellant appealed a range of provisions of the PDP, including the following provisions, which were allocated to the Coastal Living topic (Topic Number: ENV-2016-341-000013) for case management purposes:
- (a) Section 41.4, Rules 6, 11 and 16 in relation to Noise;
  - (b) Section 41.9, Table 4 in relation to maximum site coverage; and
  - (c) –Section 38, Table 2, in relation to the minimum lot size in the Coastal Living zone.
- [3] Burfoot Limited has given notice of its intention to become a party under section 274 of the Act.
- [4] The parties have now reached an agreement that will resolve the appeal points raised in paragraphs [81] – [89] of the Further Submission to Mr Vernon's Notice of Appeal dated 23 June 2016 in their entirety.
- [5] In making this order the Court has read and considered the appeal and the memorandum of the parties dated 23 May 2017.
- [6] The Court is making this order under s 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:
- (a) All parties to the proceedings have executed the memorandum requesting this order.
  - (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act, including in particular Part 2.



**Order**

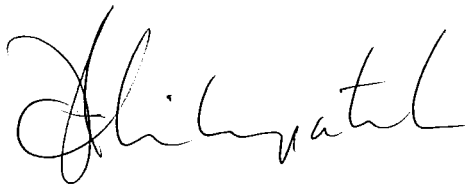
[7] Therefore the Court orders, by consent, that the Appeal is allowed to the extent that the Thames-Coromandel District Council is directed to amend the PDP shown in **Annexure A** to this order, being:

- (a) Amendments to Advice Note 1 to Section 41.4, Rule 6;
- (b) Amendments to Advice Note 2 in Section 41.4, Rule 16; and
- (c) Amendments to Standard 10 in Section 41.9, Table 4.

[8] This Order resolves the appeal points raised in paragraphs [81] – [89] of the Further Submission to Mr Vernon's Notice of Appeal dated 23 June 2016 in their entirety.

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

DATED at Auckland this *26th* day of *May* 2017



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D A Kirkpatrick  
Environment Judge



## Annexure A

### Amendments to Section 41 - Coastal Living Zone

1. Amend Advice Note 1 to Section 41.4, Rule 6 as follows:

*1. After 10 pm, the Council may apply excessive noise provisions under sections 326–328 of the RMA if noise, particularly electronically amplified noise, is excessive for the location and event. Notwithstanding any of the standards contained in this rule, every occupier of land and every person carrying out an activity under this rule has a general obligation to adopt the best practicable option to avoid unreasonable noise under section 16 of the RMA. Further, the Council may direct an occupier of land or other person responsible for producing noise to reduce excessive noise pursuant to sections 326 328 of the RMA.*

2. Amend Advice Note 2 in Section 41.4, Rule 16 as follows:

*2 Rule 9 Rule 11 in this section controls noise from a 'Home business'.*

3. Amend Standard 10 in Section 41.9, Table 4 as follows:

Table 4 - Standards		
1.	Front yard	3 m
2.	Beachfront yard	7.5 m
3.	Garage door yard	5 m
4.	Conservation Zone yard	5 m
5.	Industrial Area yard	5 m
6.	Side/rear yard	1.5 m
7.	Maximum building height, excluding 9 below	8 m
8.	Maximum height in relation to boundary of the lot	2 m & 45°
9.	Maximum height of any new dwelling or dwelling addition within 121-159 Captain Cook Road, Cooks Beach, seaward of the Cooks Beach Wall Amenity Line	4 m
10.	Maximum site coverage	350 %
11.	Maximum fence height	2 m
12.	Maximum solid fence height in a front yard, or a side yard within 10 m from the front boundary that adjoins a public walkway or Recreation Area	1.2 m
13.	Maximum lux level received at any point beyond the site, as measured vertically in accordance with professional illumination engineering practice	1 lux

