

To the Hearing Panel - Proposed District Plan for Porirua

During the HS5 hearing on Monday 23 May 2022 there was some discussion about previous or existing examples of RMA decisions where conditions have been incorporated into subdivision district plan rules, or subdivision consents, that impose restrictions on future landowners in terms of land use matters, such as keeping of cats, managing weeds, etc.

This discussion was in the context of my submission point 168.95. With this submission point I sought amendments to rule SUB-R12 to include provisions relating to:

- controls over the use and control of pest plants;
- controls over the keeping of pest and predatory exotic animals; and
- mechanisms relating to monitoring, compliance, enforcement, penalty, prosecution provisions, etc.

With this email I have provided:

1. an example of such matters being incorporated into a subdivision consent by way of Environment Court consent order **Decision [2021] NZEnvC 149**;
2. an example of such matters being incorporated into district plan provisions via Environment Court proceedings **Decision [2020] NZEnvC 153**, and,
3. an example of such matters being incorporated into a subdivision consent by way of a consent application processed by a territorial authority **RC 16272**.

By way of a summary:

1. **Decision [2021] NZEnvC 149** – Appeals under s.120 of the Resource Management Act between Weston Lea Limited (ENV-2019-AKL-308) Appellant and Director-General of Conservation (ENV-2019-AKL-310) Appellant and Hamilton City Council Respondent. Accessible here:

<https://www.hamilton.govt.nz/our-services/planningguidanceandresourceconsents/publicly-notified-applications/2019%20Documents/Amberfield%20G1%20-%20Final%20Decision%20of%20Env%20Court%20-%20Weston%20Lea%20v%20HCC%202021.09.27.PDF>

- Conditions 138 and 139 requires registration of a consent notice relating to management of light levels from activities located in ‘Bat Priority Areas’.
- Conditions 140 and 141 requires registration of a consent notice relating to building setbacks adjacent to ‘Bat Priority Areas’.
- Conditions 146 and 147 requires registration of a consent notice prohibiting the introduction or keeping of cats or mustelids due to their potential to be predators of the long-tailed bat.

1. **Decision [2020] NZEnvC 153** – Appeal under s.156 of the Local Government (Auckland Transitional Provisions) Act 2010 (LGATPA) and the Resource Management Act 1991 Act between Cabra Rural Developments and Other Appellants and Auckland Council respondent. Accessible here:

<https://www.justice.govt.nz/assets/Documents/Publications/2020-NZEnvC-153-Cabra-Rural-Developments-Ltd-v-Auckland-Council.pdf>

- Various provisions relating to avoiding or mitigating effects on natural resources
- For example, Condition E39.6.4.4(12) that specifies registration of protective covenants and that all applications for subdivision consent:
 - “Must include a management plan that includes all of the following matters, which must be implemented prior to the Council issuing a section 224(c) certificate:
 - (a) the establishment of secure stock exclusion;
 - (b) the maintenance of the indigenous vegetation or wetland must ensure that all invasive plant pests are eradicated; and
 - (c) the maintenance of the indigenous vegetation or wetland must ensure animal and plant pest control occurs.”
- For example, Condition E39.6.4.5(7) specifies registration of protective covenants and that all applications for subdivision consent:
 - “Must include a management plan that includes all of the following matters, which must be implemented prior to the Council issuing a section 224(c) certificate:
 - (a) the establishment of secure stock exclusion;
 - (b) the maintenance of plantings that must occur until the plantings have reached a sufficient maturity to be self-sustaining, and have reached 80 per cent canopy closure. The survival rate must ensure a minimum 90 per cent of the original density and species;
 - (c) the maintenance of plantings must include the ongoing replacement of plants that do not survive;
 - (d) the maintenance of plantings must ensure that all invasive plant pests are eradicated from the planting site both at the time of planting and on an on-going basis to ensure adequate growth; and
 - (e) the maintenance of plantings must ensure animal and plant pest control occurs.”

2. **RC16272** – decision by Rotorua District Council granting consent to Oturoa Vista Limited for the creation of 33 rural residential lifestyle lots. Consent granted December 2021. Accessible here: <https://www.rotorualakescouncil.nz/repository/libraries/id:2e3idno3317q9sihrv36/hierarchy/our-council/consultation-and-public-notice/publicnotice/oturoa-vista-application-and-appendices/rc16272-subdivision-decision.pdf>

- Various provisions relating to avoiding or mitigating effects on natural resources
- For example, Conditions 8 and 46(vii) and (viii)
- Condition 8:
 - “That a pest management plan shall be prepared by a suitably qualified expert as outlined in the Wildlands Report titled “Oturoa Vista – Ecological Assessment” referenced 2737b and dated March 2018 and submitted to the

Manager, Planning and Development Solutions, Rotorua District Council, or their delegate, for approval.”

- Condition 46(vii): - to be registered as a consent notice
“That the owners and subsequent owners and any occupiers are not permitted to own, house, care for, free or feed any domesticated cats on these lots.”
- Condition 46(viii): - to be registered as a consent notice
“That the pest management plan shall be adhered to in accordance with Condition 8 of the subdivision consent.”

I trust the information I’ve provided addresses the Panel’s request and will assist in its consideration of my submission.

I’m happy to provide further assistance if that is required.

A handwritten signature in black ink, appearing to be 'Robyn Smith', written in a cursive style.

Robyn Smith
Submitter 168
25 May 2022