

IN THE ENVIRONMENT COURT
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKURAU

Decision [2025] NZEnvC 418

IN THE MATTER OF

an appeal under clause 14 of the First
Schedule to the Resource Management
Act 1991

BETWEEN

TAHAROA IRONSANDS LIMITED

(ENV-2025-AKL-000161)

Appellant

AND

WAITOMO DISTRICT COUNCIL

Respondent

Court: Environment Judge S M Tepania, sitting alone under s 279 of the
Act

Last case event: 5 November 2025

Date of Order: 23 December 2025

Date of Issue: 23 December 2025

CONSENT ORDER

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 amendment of the Rural Production
Zone chapter of the proposed Waitomo District Plan as set out in

Annexure A to this Order (additions shown in underline and deletions shown in strikethrough); and

(2) the appeal is otherwise dismissed.

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

REASONS

Introduction

[1] This consent determination relates to an appeal against the decisions of Waitomo District Council (**Council**) on the proposed Waitomo District Plan (**PDP**) in relation to submissions by Taharoa Ironsands Limited (**TIL**) seeking amendments to Rule RPROZ-R7.

Background

[2] TIL operates the regionally significant Taharoa Ironsand Mine on Taharoa C Block in Taharoa (**Mine**). In its submission and at the hearing, TIL sought to amend Rule RPROZ-R7, which restricts the number of residential accommodation units for security staff or caretakers in the Rural Production Zone, to allow for more than one residential unit and enable the units to be used for key operational staff.

[3] In the Decision Report for ‘Chapter 43: Rural Production Zone’, the Panel indicated that it accepted an “in part amendment to Rule RPROZ-R7”. While no amendments were made to the notified version of Rule RPROZ-R7, an accompanying advice note was incorporated into the decisions version of the PDP to address TIL’s submission in part.

[4] On 1 August 2025, TIL filed an appeal against the decisions version of the PDP. Consistent with the relief sought in its submission and at the hearing, the appeal sought to amend Rule RPROZ-R7 as follows (amendments henceforth show additions in underline and deletions in strikethrough):

One or more residential unit(s) providing residential accommodation per each individual zone for security or key operational staff or caretakers.

[5] TIL's appeal has been allocated to 'Topic 2.1 Rural Production Zone – Residential Accommodation'. There are no other appeals allocated to this topic.

[6] No person has given notice of an intention to join the appeal under s 274 of the Act.

[7] This consent order resolves TIL's appeal in its entirety.

Agreement reached

[8] Following direct discussions, TIL and the Council have agreed to amend the PDP as follows:

(a) Amend Rule RPROZ-R7 to provide a specific exemption from the rule for the Mine and to clarify that there is no limit on the number of residential units providing accommodation for key operational staff, security staff or caretakers:

One residential unit providing residential accommodation per each individual zone for security staff or caretakers, with the exception of the Taharoa Ironsands Mine (site RPROZ-1 as listed in RPROZ-SCHED 1) where there is no restriction on the number of residential units providing accommodation for key operational staff, security staff or caretakers.

(b) As a consequence of resolving the appeal, the parties have agreed to delete the following text in the advice note under Rule RPROZ-R11 which specifies that Rule RPROZ-R7 does not apply to the Mine:

Note: For the avoidance of doubt RPROZ-R1 to RPROZ-R11 apply to all sites identified in RPROZ-SCHED 1, with the exception of RPROZ-R7 which does not apply to the Taharoa Ironsands Mine (RPROZ-1).

[deletions marked as ~~strikethrough~~]

[9] The agreed amendments to Rule RPROZ-R7 and the consequential amendment to the advice note are set out in full in **Annexure A** to this Order. A

clean version of the agreed amendments to Rule RPROZ-R7 and the consequential amendment to the advice note are set out in **Annexure B**.

Section 32AA assessment

[10] The parties have considered the statutory framework applicable to plan changes under the Act and are of the view that the agreed amendments satisfy the relevant statutory requirements.

[11] Section 32AA of the Act requires a further evaluation of any changes to the PDP since the initial s 32 evaluation report and the Council's decision. A s 32AA evaluation report is set out in the affidavit of Alexander Michael Bell,¹ which is included in Annexure C to the consent memorandum dated 5 November 2025.

[12] In summary, the s 32AA assessment concludes:

- (a) The proposed amendment to Rule RPROZ-R7 and the consequential amendment to its advisory note provide a clear and efficient mechanism to recognise the unique operational characteristics of the Mine. The amendments clarify that Rule RPROZ-R7 does not apply to the Mine, ensuring that residential units and associated accommodation for key operational staff are expressly enabled without the need for unnecessary resource consent processes.
- (b) The amendments give effect to the relevant objectives (RPROZ-O1 and RPROZ-O4) by supporting the ongoing operation and growth of an established rural production activity that contributes to the district's economic and social wellbeing, while maintaining appropriate environmental safeguards.
- (c) Having regard to s 32AA of the Act, Mr Bell's further evaluation demonstrates that the amendment is the most appropriate way to achieve the relevant objectives of the PDP. It is efficient, effective, proportionate to the scale of the change, and carries no identified risk of

¹ Sworn 3 November 2025.

adverse effects. In Mr Bell's opinion, the amendment therefore satisfies the requirements of s 32AA and achieves the purpose of the Act.

Consideration

[13] The Court has now read and considered:

- (a) the consent memorandum of the parties dated 5 November 2025;
- (b) the notice of appeal dated 1 August 2025; and
- (c) the affidavit of Alexander Michael Bell sworn 3 November 2025.

[14] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this Order; and
- (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.

[15] The Court is satisfied that the agreement reached is one that represents the various interests of the parties. It is clear that the parties have considered other reasonably practicable options and have assessed costs and benefits in the s 32AA assessment.

[16] The Court concludes that the parties have taken a nuanced and balanced approach, and that the agreed amendments are the most appropriate way to achieve the purpose of the Act and the objectives in the Plan. Overall, the Court considers the sustainable management purpose, and the other relevant requirements of the Act are broadly met.

Orders

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

- (a) the appeal is allowed subject to amendment of the Rural Production Zone chapter of the proposed Waitomo District Plan as set out in Annexure A to this Order (additions shown in underline and deletions shown in strikethrough); and
- (b) the appeal is otherwise dismissed.

[18] Under s 285 of the Act, there is no order as to costs.



S M Tepania

Environment Judge | Kaiwhakawā i te Kōti Taiao



ANNEXURE A – Tracked change version of agreed amendments to the Rural Production Zone chapter of the PDP decisions version

(Underline (for additions) and strikethrough (for deletions))

1. Amend Rule RPROZ-R7 in Part 3, Area-Specific Matters, Zones and Precincts as follows:

RPROZ-R7.	<p>One residential unit providing residential accommodation per each individual zone for security staff or caretakers, with the exception of the Taharoa Ironsands Mine (Site RPROZ-1 as listed in RPROZ-SCHED 1), where there is no restriction on the number of residential units providing accommodation for key operational staff, security staff or caretakers.</p>
-----------	---

2. Amend advice note under Table 1:

RPROZ - Table 1 – Activities Rules

RPROZ-R1.	<p>Warehouses, cool stores and covered storage areas for the storage of products produced on site – where these are ancillary to the primary purpose of any scheduled activity</p>
RPROZ-R2.	<p>Offices, canteens, ablution facilities, medical rooms, recreational facilities, vehicle servicing depots, emergency service facilities and workshops ancillary to the primary purpose of any scheduled activity</p>
RPROZ-R3.	<p>Laboratories and research facilities ancillary to the primary purpose of any scheduled activity</p>
RPROZ-R4.	<p>Demolition and/or removal of buildings</p>
RPROZ-R5.	<p>Tanks, silos and stormwater ponds</p>
RPROZ-R6.	<p>Agricultural, pastoral and horticultural activities including stock underpasses, stockholding areas, loading facilities and pens</p>
RPROZ-R7.	<p>One residential unit providing residential accommodation per each individual zone for security staff or caretakers.</p>
RPROZ-R8.	<p>Vehicle parking and vehicle storage ancillary to the primary purpose of any scheduled activity</p>
RPROZ-R9.	<p>Helipads and facilities for their servicing and management ancillary to the primary purpose of any scheduled activity</p>
RPROZ-R10.	<p>Temporary overhead electrical and telecommunication lines subject to Council being formally notified of the route, voltage/type of the electrical or telecommunications link and the date by which it will be removed.</p>
RPROZ-R11.	<p>Accessory buildings ancillary to any permitted activity</p>

<p>Activity status: PER</p> <p>Where</p> <ol style="list-style-type: none"> 1. All of the performance standards in RPROZ - Table 2 are complied with; and 2. Where the building is listed in SCHED1 - Heritage Buildings and Structures, see the historic heritage chapter. <p><i>'Note: For the avoidance of doubt RPROZ-R1 to RPROZ-R11 apply to all sites identified in RPROZ-SCHED 1, with the exception of RPROZ-R7 which does not apply to the Taharoa Ironsands Mine (RPROZ-1).</i></p>	<p>Activity status where compliance is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>(a) The matters of discretion associated with any performance standard which cannot be complied with in RPROZ - Table 2.</p> <p>Activity status where compliance is not achieved with RPROZ-S8: NC</p>
--	--

ANNEXURE B – Clean version of agreed amendments to the Rural Production Zone chapter of the PDP decisions version

1. Amend Rule RPROZ-R7 in Part 3, Area-Specific Matters, Zones and Precincts as follows:

RPROZ-R7.	One residential unit providing residential accommodation per each individual zone for security staff or caretakers, with the exception of the Taharoa Ironsands Mine (Site RPROZ-1 as listed in RPROZ-SCHED 1), where there is no restriction on the number of residential units providing accommodation for key operational staff, security staff or caretakers.
-----------	--

2. Amend advice note under Table 1:

RPROZ - Table 1 – Activities Rules

RPROZ-R1.	Warehouses, cool stores and covered storage areas for the storage of products produced on site – where these are ancillary to the primary purpose of any scheduled activity
RPROZ-R2.	Offices, canteens, ablution facilities, medical rooms, recreational facilities, vehicle servicing depots, emergency service facilities and workshops ancillary to the primary purpose of any scheduled activity
RPROZ-R3.	Laboratories and research facilities ancillary to the primary purpose of any scheduled activity
RPROZ-R4.	Demolition and/or removal of buildings
RPROZ-R5.	Tanks, silos and stormwater ponds
RPROZ-R6.	Agricultural, pastoral and horticultural activities including stock underpasses, stockholding areas, loading facilities and pens
RPROZ-R7.	One residential unit providing residential accommodation per each individual zone for security staff or caretakers.
RPROZ-R8.	Vehicle parking and vehicle storage ancillary to the primary purpose of any scheduled activity
RPROZ-R9.	Helipads and facilities for their servicing and management ancillary to the primary purpose of any scheduled activity
RPROZ-R10.	Temporary overhead electrical and telecommunication lines subject to Council being formally notified of the route, voltage/type of the electrical or telecommunications link and the date by which it will be removed.
RPROZ-R11.	Accessory buildings ancillary to any permitted activity

Activity status: PER Where <ol style="list-style-type: none"> 3. All of the performance standards in RPROZ - Table 2 are complied with; and 4. Where the building is listed in <u>SCHED1 - Heritage Buildings and Structures</u>, see the <u>historic heritage chapter</u>. 	Activity status where compliance is not achieved: RDIS Matters over which discretion is restricted: (b) The matters of discretion associated with any performance standard which cannot be complied with in RPROZ - Table 2. Activity status where compliance is not achieved with RPROZ-S8: NC
--	---

ⁱⁱNote: For the avoidance of doubt RPROZ-R1 to RPROZ-R11 apply to all sites identified in RPROZ-SCHED 1.

