

**BEFORE THE ENVIRONMENT COURT**

**Decision No. [2017] NZEnvC 028**

IN THE MATTER of the Resource Management Act 1991  
AND of appeals under clause 14 of the First  
Schedule to the Act  
BETWEEN WHANGAPOUA BEACH RATEPAYERS  
ASSOCIATION INCORPORATED  
(ENV-2016-AKL-000088)  
BACHCARE LIMITED, BOOKABACH  
LIMITED AND TRADEME LIMITED  
(ENV-2016-AKL-000114)  
NORTHERN LAND PROPERTY LIMITED  
(ENV-2016-AKL-000116)  
Appellants  
AND THAMES COROMANDEL DISTRICT  
COUNCIL  
Respondent

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

Date of Decision: 1 March 2017

Date of Issue: 1 March 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 appeals are allowed subject to the amendments set out in Annexure "A" to this order;
- (2) the appeal by Bachcare Limited, Bookabach Limited and TradeMe Limited is otherwise dismissed.

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

## REASONS

### Introduction

[1] Whangapoua Ratepayers Association Incorporated, Bachcare Limited, Bookabach Limited and TradeMe Limited and Northern Land Property Limited filed notices of appeal on the Thames-Coromandel District Council's decisions on the definition and activity status of visitor accommodation in the proposed Thames-Coromandel District Plan. The affected sections of the proposed Plan are:

- (a) Section 40 – Airfield Zone;
- (b) Section 41 – Coastal Living Zone;
- (c) Section 42 – Commercial Zone;
- (d) Section 44 – Extra Density Residential Zone;
- (e) Section 45 – Gateway Zone;
- (f) Section 48 – Low Density Residential Zone;
- (g) Section 51 – Pedestrian Core Zone;
- (h) Section 54 – Residential Zone;
- (i) Section 56 – Rural Zone;
- (j) Section 57 – Rural Lifestyle Zone;
- (k) Section 58 – Village Zone; and
- (l) Section 59 – Waterfront Zone.

[2] The Appellants sought amendments to amend:

- (a) the definition of 'Visitor accommodation' to ensure that the visitor accommodation rules did not apply to the rental of dwellings;
- (b) the number of tariff paid visitors permitted to stay onsite at any



- one time; and
- (c) the activity status for when the number of visitors staying onsite at any one time exceeds the limit and/or the activity does not occur in an existing dwelling, minor unit or accessory building from discretionary to restricted discretionary.

### **Consent Memorandum and Draft Consent Order**

[3] On 25 January 2017, following Court assisted mediation, the parties filed a draft consent order in relation to the visitor accommodation topic. Section 274 parties Federated Farmers of New Zealand and Mervyn Trebes signed the consent memorandum in support of the draft consent order. The consent memorandum recorded that Mervyn Trebes is extremely disappointed with the amendments to the Zone Rules and believes an opportunity was missed to regulate the adverse effects on the environment by all visitor accommodation providers. Nevertheless, he has signed the consent memorandum and agrees to the amendments to the Zone Rules as agreed between the parties.

[4] The consent memorandum in support of the draft consent order was not signed by s 274 parties Keith Vernon and Deidre and Ross Mear.

[5] These parties were requested to advise the Court whether they intended to pursue their interest, sign the consent documents, or withdraw their s 274 notices by 10 February 2017.

[6] On 3 February 2017 the Court received an email advising that Deidre and Ross Mear have no interest in the matters to be resolved by this consent order.

[7] To date the Court has not received a response from Keith Vernon.

[8] The Court notes that Keith Vernon was sent a notice of mediation on the visitor accommodation topic, but that he did not attend.

[9] Accordingly, the Court has determined to proceed and consider the draft consent order on the basis that Keith Vernon has not complied with the Court's directions and has demonstrated that he does not have an interest in the visitor accommodation topic by failing to attend the Court assisted mediation.



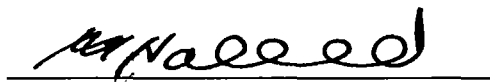
**Determination**

[10] Therefore the Court orders, by consent, that the visitor accommodation aspects of these appeals are allowed to the extent that the proposed Thames-Coromandel District Plan is amended as set out in Annexure A.

[11] This order resolves the appeal by Bachcare Limited, Bookabach Limited and TradeMe Limited in its entirety.

[12] This order resolves the visitor accommodation aspects of Northern Land Property Limited's appeal and Whangapoua Beach Ratepayers Association Incorporated's appeal.

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



M Harland

Environment Judge



"A"



## Proposed Thames-Coromandel District Plan

### Part VIII Zone Rules

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#### Section 40 Airfield Zone

##### 40.4 PERMITTED ACTIVITIES

##### RULE 5 Visitor accommodation

1. Visitor accommodation is a **permitted activity** provided:
  - a) There are no more than 12 tariff-paid visitors staying on-site at any one time; and
  - b) The activity occurs within an existing dwelling, minor unit or accessory building.
2. Visitor accommodation that is not permitted under Rule 5.1 a) and/or b) is a **restricted discretionary activity**.
3. The Council restricts its discretion to matters 2 and 3 in Table 4 at the end of Section 40.

##### NOTE

1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
  2. *An extension to a dwelling, minor unit or accessory building to accommodate visitor accommodation is not provided for under Rule 5.*
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#### Section 41 Coastal Living Zone

##### 41.4 PERMITTED ACTIVITIES

##### RULE 2 Visitor accommodation

1. Visitor accommodation is a **permitted activity** provided:
  - a) There are no more than 12 tariff-paid visitors staying on-site at any one time; and
  - b) The activity occurs within an existing dwelling, minor unit or accessory building.
2. Visitor accommodation that is not permitted under Rule 2.1 a) and/or b) is a **restricted discretionary activity**.
3. The Council restricts its discretion to matters 2, 3 and 11 in Table 5 at the end of Section 41.

##### NOTE

1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
  2. *An extension to a dwelling, minor unit or accessory building to accommodate visitor accommodation is not provided for under Rule 2.*
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## Section 42 Commercial Zone

### 42.2 PERMITTED ACTIVITIES

#### RULE 3 Visitor accommodation

1. Visitor accommodation is a **permitted activity** provided:
  - a) There are no more than 12 tariff-paid visitors staying on-site at any one time; and
  - b) It meets the standards in Table 3 at the end of Section 42.
2. Visitor accommodation that is not permitted under Rule 3.1 a) and/or b) is a **restricted discretionary activity**.
3. The Council restricts its discretion to matters 1, 2, 3 and 5 in Table 4 at the end of Section 42.

#### NOTE

1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
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## Section 44 Extra Density Residential Zone

### 44.4 PERMITTED ACTIVITIES

#### RULE 1 Visitor accommodation

1. Visitor accommodation is a **permitted activity** provided:
  - a) There are no more than 12 tariff-paid visitors staying on-site at any one time; and
  - b) The activity occurs within an existing dwelling, minor unit or accessory building.
2. Visitor accommodation that is not permitted under Rule 1.1 a) and/or b) is a **restricted discretionary activity**.
3. The Council restricts its discretion to matters 2, 6, 13 and 14 in Table 6 at the end of Section 44.

#### NOTE

1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
  2. *An extension to a dwelling, minor unit or accessory building to accommodate visitor accommodation is not provided for under Rule 1.*
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## Section 45 Gateway Zone

### 45.4 PERMITTED ACTIVITIES

#### RULE 2 Visitor accommodation

1. Visitor accommodation is a **permitted activity** provided:
  - a) There are no more than 12 tariff-paid visitors staying on-site at any one time; and
  - b) The activity occurs within an existing dwelling, minor unit or accessory building.
2. Visitor accommodation that is not permitted under Rule 2.1 a) and/or b) is a **restricted discretionary activity**.
3. The Council restricts its discretion to matter 3 in Table 5 at the end of Section 45.

#### NOTE

1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
2. *An extension to a dwelling, minor unit or accessory building to accommodate visitor*



*accommodation is not provided for under Rule 2.*

## **Section 48 Low Density Residential Zone**

### **48.4 PERMITTED ACTIVITY**

#### **RULE 1 Visitor accommodation**

1. Visitor accommodation is a **permitted activity** provided:
  - a) There are no more than 12 tariff-paid visitors staying on-site at any one time; and
  - b) The activity occurs within an existing dwelling, minor unit or accessory building.
2. Visitor accommodation that is not permitted under Rule 1.1 a) and/or b) is a **restricted discretionary activity**.
3. The Council restricts its discretion to matters 2, 3 and 8 in Table 4 at the end of Section 48.

#### **NOTE**

1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
2. *An extension to a dwelling, minor unit or accessory building to accommodate visitor accommodation is not provided for under Rule 1.*

## **Section 51 Pedestrian Core Zone**

### **51.4 PERMITTED ACTIVITY**

#### **RULE 5 Visitor accommodation**

1. Visitor accommodation is a **permitted activity** provided:
  - a) The activity occurs within an existing building; and
  - b) There are no more than 12 tariff-paid visitors staying on-site at any one time.
2. Visitor accommodation that is not permitted under Rule 5.1 a) is a **controlled activity** provided it meets the specific standards in Table 5 at the end of Section 51.
3. The Council reserves its control to all the matters in Table 6 at the end of Section 51.
4. A resource consent application under Rule 5.2 shall be assessed without public or limited notification under Sections 95, 95A and 95B of the RMA.
5. Visitor accommodation that is not permitted under Rule 5.1 a) and/or b) and is not a controlled activity under Rule 5.2 is a **restricted discretionary activity** provided it meets specific standard 10 (service lane) in Table 5 at the end of Section 51.
6. The Council restricts its discretion to all the matters in Table 7 at the end of Section 51.
7. Visitor accommodation that is not a restricted discretionary activity under Rule 5.5 is a **non-complying activity**.

#### **NOTE**

1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
2. *An extension to a dwelling, minor unit or accessory building to accommodate visitor accommodation is not provided for under Rule 5.*





## Section 54 Residential Zone

### 54.4 PERMITTED ACTIVITIES

#### RULE 1 Visitor accommodation

1. Visitor accommodation is a **permitted activity** provided:
  - a) There are no more than 12 tariff-paid visitors staying on-site at any one time; and
  - b) The activity occurs within an existing dwelling, minor unit or accessory building.
2. Visitor accommodation that is not permitted under Rule 1.1 a) and/or b) is a **restricted discretionary activity**.
3. The Council restricts its discretion to matters 2, 3 and 13 in Table 5 at the end of Section 54.

#### NOTE

1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
2. *An extension to a dwelling, minor unit or accessory building to accommodate visitor accommodation is not provided for under Rule 1.*

## Section 56 Rural Zone

### 56.4 PERMITTED ACTIVITIES

#### RULE 3 Visitor accommodation

1. Visitor accommodation is a **permitted activity** provided:
  - a) There are no more than 12 tariff-paid visitors staying on-site at any one time; and
  - b) The activity occurs within an existing dwelling, minor unit or accessory building.
2. Visitor accommodation that is not permitted under Rule 3.1 a) and/or b) is a **restricted discretionary activity**.
3. The Council restricts its discretion to matters 2, 5 and 6 in Table 7 at the end of Section 56.

#### NOTE

1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
2. *An extension to a dwelling, minor unit or accessory building to accommodate visitor accommodation is not provided for under Rule 3.*

## Section 57 Rural Lifestyle Zone

### 57.4 PERMITTED ACTIVITIES

#### RULE 3 Visitor accommodation

1. Visitor accommodation is a **permitted activity** provided:
  - a) There are no more than 12 tariff-paid visitors staying on-site at any one time; and
  - b) The activity occurs within an existing dwelling, minor unit or accessory building.
2. Visitor accommodation that is not permitted under Rule 3.1 a) and/or b) is a **restricted discretionary activity**.
3. The Council restricts its discretion to matters 2, 5 and 6 in Table 7 at the end of Section 57.

#### NOTE



1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
  2. *An extension to a dwelling, minor unit or accessory building to accommodate visitor accommodation is not provided for under Rule 3.*
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## **Section 58 Village Zone**

### **58.4 PERMITTED ACTIVITIES**

#### **RULE 4 Visitor accommodation**

1. Visitor accommodation is a **permitted activity** provided:
  - a) There are no more than 12 tariff-paid visitors staying on-site at any one time; and
  - b) The activity occurs within an existing dwelling, minor unit or accessory building.
2. Visitor accommodation that is not permitted under Rule 4.1 a) and/or b) is a **restricted discretionary activity**.
3. The Council restricts its discretion to matters 2, 3 and 12 in Table 4 at the end of Section 58.

#### **NOTE**

1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
  2. *An extension to a dwelling, minor unit or accessory building to accommodate visitor accommodation is not provided for under Rule 4.*
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## **Section 59 Waterfront Zone**

### **59.4 PERMITTED ACTIVITY**

#### **RULE 4 Visitor accommodation**

1. Visitor accommodation is a **permitted activity** provided:
  - a) It meets standard 14 (maximum lux level) in Table 4 at the end of Section 59; and
  - b) There are no more than 12 tariff-paid visitors staying on-site at any one time; and
  - c) No building is established under this Rule.
2. Visitor accommodation that is not permitted under Rule 4.1 a), b) and/or c) is a **restricted discretionary activity**.
3. The Council restricts its discretion to matters 1- 8 and 10-14 in Table 6 at the end of Section 59.

#### **NOTE**

1. *Rules controlling vehicle access, parking and manoeuvring are in Section 39 Transport.*
2. *An extension to a dwelling, minor unit or accessory building to accommodate visitor accommodation is not provided for under Rule 4.*

