

PROPOSED HAURAKI GULF ISLANDS PLAN
SUBMISSION IN SUPPORT OF NEW ZEALAND
WINEGROWERS: 24.08.2007

My name is **Chris Canning**. I am a resident of Waiheke Island and President of the **Waiheke Winegrowers Association Inc.**

I am here to speak in support of New Zealand Winegrowers on behalf of the Waiheke Winegrowers Association, whose members are also members of NZ Winegrowers, and whose numbers include:

30 commercial entities resident on Waiheke Island
employing 161 working owners and managers
and 455 part time and seasonal workers
representing 32% of the on-island workforce
and occupying 20% of the total land area of Waiheke

I am addressing the responses in the Planner's Report to submissions made in respect to Parts 1 to 3 of the Proposed District Plan. Specifically:

- the intention to remove Controlled Activities as a status under the Plan, and;
- to refuse recognition of Viticulture as a significant rural feature and activity on Waiheke Island

No part of a District Plan invites the question – "What is the purpose and intent of this Plan" – more forcefully than these parts which are under review today. We are not, therefore, inclined to be put off with the suggestion that these sections contain broad-scale policy definitions only. If the Devil is in the detail, it is these policy directions that will have put him there.

No plan has ever been drafted, I suggest, that has satisfied all opinions and all future potentialities.

However, any plan that steadfastly ignores current realities and prior experiences is *guaranteed* to fail.

What are the current realities and prior experiences with the District Plan?

I quickly canvassed some of our members. Here are some examples they gave:

- **7 years for consent to build a wine cellar and restaurant at the 'discretion' of local planners**
- **3 years of council-supported objections forcing a high cost Environment Court ruling which concluded that council's behaviour was oppressive and unconscionable – yet failed to award costs to the successful applicant**
- **During 15 years of negotiations, a sub-division applicant was forced to deal with 30 different council planners.**
- **4 years and \$55,000 in fees for consent to re-align a farm drain in order to plant vines**
- **6 months for consent to move a stockpile of soil following contouring to allow vines to be planted**

I will leave for another day the myriad of obstacles faced in trying to farm our land on a daily basis in a rural landscape that is treated as a city suburb.

Of course, this is only a very small sample. Planning delays and costs are proving to be a significant disincentive to investment and, in some cases, threatening the on-going commercial viability of existing businesses, suffocating enterprise and initiative in the local wine and tourism sector – a sector which provides the single largest source of local employment.

What can we identify arising out of the current plan, which already relies heavily on Discretion as its preferred planning tool, and that might be addressed in the Draft Plan?

- 1. Abuse of s92 information requests. No penalty applies to councils for time and cost delays**
- 2. s32 Analysis is ignoring economic and cost benefits of proposals when assessing effects**
- 3. Councils default to Public Notification in preference to the exercise of Discretion. Action defers to inaction and opponents' pressure – to the cost of the applicant**
- 4. Planning Consultancies perform council work without performance criteria or time limitations being imposed. No liability for performance or cost**
- 5. Objectors and complainants are given priority attention without any consequences for vexatious behaviour**
- 6. Failure to recompense successful applicants for costs unnecessarily incurred in Environment Court**
- 7. No ability for wronged parties to sue public employees for breach of trust, misfeasance and misleading or unethical behaviour**

8. **Ad hoc conditions being arbitrarily imposed without being provided for in legislation. Every application becomes a lottery**
9. **Unwillingness of the local authority to accept District Authority regulations and guidelines**
10. **Self-appointed pressure groups receiving government funding for objections, creating an industry of unelected planning 'commissars'**

How many of these failings will be corrected by the Draft Plan before us?

It is, of course, a trick question. The failings will be compounded.

So, what are the essential ingredients of a successful District Plan?

I suggest they are the three C's of good planning:

- Clarity
- Consistency
- Certainty

We know what a **Permitted Activity** is. Subject to any standards and conditions that might apply, it is an Activity that provides for the three C's of Clarity, Consistency and Certainty.

What are **Non-complying** and **Prohibited Activities**? They, too, are activities which provide Clarity, Consistency and Certainty.

And what are **Discretionary** and **Restricted Discretionary Activities**?

They are activities where the council may decline a resource consent or impose conditions at its whim. As we already know, current and prior experience would tell us that the conditions cannot be predicted, or appealed without extravagant cost – and "Discretion" has become a euphemism for "leave it to the lottery of Public Notification". Here is the

worst of all public planning: No Clarity, No Consistency and No Certainty.

So, what is a **Controlled Activity**? This is an activity where a Resource Consent is required and the council must grant the consent, BUT the council must specify in the Plan the matters over which it has reserved control. It is an activity with controls.

How does that shape up to the test of Clarity, Consistency and Certainty? Pretty damn well.

So why does the council wish to purge it from the District Plan?

Here's what the Planner says:

"The council cannot decline an application for a controlled activity. While the council may impose conditions that relate to the matters over which it has reserved control, it cannot impose conditions which require such significant modification as to fundamentally alter the proposal..."

"While the controlled activity approach does provide greater certainty to applicants, this needs to be balanced against the need to ensure good environmental outcomes."

In other words, we have no faith in our plan, or in our ability to draft clear, concise and consistent regulations, therefore, we will resort to making up the rules at the time. What a shameful abdication of responsibility. What a recipe for confusion, resentment and distrust of process.

Even the Planners appear to be momentarily embarrassed by their position.

"Other hearing reports will consider other submissions that seek a controlled activity status for specific activities" they say." If, as a result of these submissions, the council is persuaded that a controlled activity status provides an appropriate level of control for a particular activity, then it will be necessary at that time to consequentially amend clause 1.6.2 to include controlled activities. However at this time for the reasons outlined above it is recommended that the submissions seeking a controlled activity status, be rejected."

The sections that we are considering today are the sections covering the purpose and intent of the Proposed Plan. The Planners have made their intent known: they wish to deny provision for Controlled Activities. They wish to purposefully turn their back on Clarity, Consistency and Certainty in favour of the chaos that breeds universal dissatisfaction.

We respectfully seek the retention of the Controlled Activity status at clause 1.6.2 of the Draft Plan.

I come to the question of the acknowledgement, or lack thereof, of Viticulture when referring to the landscape and to the economic activities on Waiheke Island. Are we just being precious about our particular vocation? Is it no different to growing gorse or Californian thistles?

Is it true, as the Planner so forcefully states, that *"referencing wine would unnecessarily and inappropriately place an emphasis on this activity above others"*?

Well, it is certainly true that wine *is* referenced above others when it comes to activity on the island: by land area, by employment statistics, by its role in the tourism economy. Imagine the surprise of a visitor to the island, having read all the brochures, listened to the travel agents, estate agents and restaurant staff, to find upon driving through the Onetangi Valley and the rolling hills en route to Stony Batter that those are not vineyards that dominate the landscape; they are "landforms" unrecognised by the District Plan.

That visitor might assume that this is an encounter with a new version of the Emperor's Clothes.

The Planner's retort is that Viticulture is adequately covered by reference to Horticulture. By this logic, "Orchards" might be adequately covered by "Forests". They both contain trees.

Why the determination to put a blind eye to the dominant feature of the Waiheke landscape? Is it political? It is certainly a fierce determination.

Does it matter?

Yes, it does. Because a refusal to acknowledge Viticulture at this broad level of the Proposed Plan will lead to a failure to make correct judgements when it comes to the application of the Plan in detail.

The submission made by NZ Winegrowers has already outlined the special circumstances that apply to the economic establishment and sustainable management of winegrowing operations. I refer you to sections 2 and 3 of their General Submission.

Viticulture is a very particular category of rural activity, as is recognised by many District Plans throughout New Zealand. It is an activity that requires – dare I say it - careful planning.

The planting of a vineyard is a commitment to a timeframe-to-maturity of decades – not one season, or even less, one crop – but decades. It is a commitment to a living environment as well as a working environment; to a closely-monitored food-safe processing plant; to sales and marketing, brand establishment and customer servicing; to hospitality and tourism.

The Planner's view that this should not be acknowledged is not based on the quantum of vineyards on the island, it is based on the view that Viticulture is no different to grazing sheep or growing potatoes. If, instead of the 20% of land area, the winegrowers occupied 100% of the island, the Planners would still see no cause for mentioning it in their District Plan.

How can we have faith in such a Plan when it is so determined to ignore the realities it has to deal with?

Why does it matter?

It matters because a City Council is making judgements about the needs of a rural environment without taking any account of the special qualities of the main rural activity undertaken in that environment. Even worse, it is doing so when the Ministry for the Environment has been working with District Councils throughout the country to develop a nationally co-ordinated approach to the resource management issues of winegrowing. That plan will be launched by the Prime Minister in October.

The Ministry for the Environment recognises the special nature of viticulture. Hastings, Queenstown Lakes, Hurunui, Wairarapa, Gisborne, Tasman and Marlborough all recognise its special nature. They have already adopted provisions within their own Plans to cater for that special nature. As a result, the difficult and sometimes heart-stopping decision as to whether to invest in the one rural activity which (in Waiheke's case) can support families on the land, and boost the local economy around them, can be made with at least a modicum of Clarity, Consistency and Certainty.

We respectfully request that Viticulture be acknowledged at section 3.3.3 of the Proposed Plan for its particular relevance to the landscape and economy of Waiheke Island.

CHRIS CANNING

President

WAIHEKE WINEGROWERS ASSOCIATION INC.