

## Form 7

### Notice of appeal to Environment Court against decision on proposed City Plan

Clause 14(1) of Schedule 1, Resource Management Act 1991

To The Registrar  
Environment Court  
CX10086  
Auckland,

We, Brian Heywood, on behalf of **Tauranga Emergency Communications Group Incorporated (TECG)**, (also known as Branch 88 of The New Zealand Association of Radio Transmitters Incorporated, and Michael David Newman, on behalf of **The New Zealand Association of Radio Transmitters Incorporated (NZART)**, appeal against a decision of the Tauranga City Council on the Proposed City Plan.

We made a submission on that plan.

TECG received notice of the decision on Saturday 26 March 2011.

NZART received the decision on Monday 28 March 2011.

The decision was made by the Tauranga City Council.

The decision that we are appealing is:

The exclusion from the City Plan, in both the Residential and Rural Residential Zones, of rules which reasonably accommodate the essential needs of amateur radio service aerials and support structures.

The reasons for the appeal are as follows:

1. The proposed City Plan is the review of the existing operative District Plan. It was prepared to address changes in policy over the 10 years since the District Plan was approved. The City Planner when writing the Section 32 report on Network Utilities in the third and fourth paragraphs of Section 2 wrote:

### **Aerials not Provided for as Network Utilities**

Ham radio operators frequently have aerials located in the rear of their properties. Such aerials are not network utility operations as defined in the RMA nor the City Plan. There are other communication devices that may likewise not constitute a network utility and therefore not provided by Chapter 10 – Network Utilities and Designations and are subject to the relevant zoning provisions.

In certain circumstances activities such as these are exempted from certain requirements relating to overshadowing in relation to property boundaries. Refer to the Permitted Intrusion Rules in Chapter 4 – General Rules

2. No consultation occurred with any licensed Amateur Radio operators, their local or National bodies, nor did the Section 32 assessment of the Residential and Rural Residential Zones address the effects of the provisions of the proposed City Plan on their activities.
3. The action of rejection of the submissions of TEGC and NZART by the Tauranga City Council thus requiring any future aerial installation to be subjected to a separate Resource Consent Application is the scenario that Bathgate J clearly identified as unacceptable in his interim judgment on Page 7 (48) paragraph 4 H101/83 Planning Tribunal 22 December 1983.
4. The limitation to 9 metre height within the Residential Zone seriously inhibits the activities of licensed Amateur Radio operators in their communication and experimentation activities and in particular the ability of licensed Amateur Radio operators to engage in international communication, and to provide service in times of emergency.

We seek the following relief:

- a) The inclusion within the City Plan, in both the Residential and Rural Residential Zones, of rules which reasonably accommodate the essential needs of amateur radio service aerials and support structures, and
- b) In addition to the specific relief requested above, TEGC and NZART also seek such further or consequential relief as may be necessary to the provisions of proposed City Plan to give effect to

specific relief sought. Consequential amendments to effect this may be necessary having regard to the fact that proposed City Plan was originally drafted without consideration of its effects on Licensed Amateur Radio operators and the relief granted is affected by the various definitions and terminology used in the proposed City Plan.

We attach the following documents to this notice:

- a) a copy of our initial submissions, notes, PowerPoint presentation and submission for the hearing.
- b) a copy of the relevant decision.
- c) a list of names and addresses of persons to be served with a copy of this notice.



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Signature of Appellant

2<sup>nd</sup> May 2011

Address for service of appellant:

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Contact person:

Brian Heywood,

President

Tauranga Emergency Communications Group Incorporated

## ***Advice to recipients of copy of notice of appeal***

### ***How to become party to proceedings***

You may be a party to the appeal if you made a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in [form 33](#)) with the Environment Court within 15 working days (31 May) after the period for lodging a notice of appeal ends (10 May). No filing fee required.

You may apply to the Environment Court under [section 281](#) of the Resource Management Act 1991 for a waiver of the above timing or service requirements (**see** [form 38](#)).

### ***How to obtain copies of documents relating to appeal***

The copy of this notice served on you does not attach a copy of the appellant's submission and the decision appealed. These documents may be obtained, on request, from the appellant.

### ***Advice***

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.