

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Resource Management Act 1991 (“the Act”)

AND

IN THE MATTER of a reference pursuant to clause 14 of the First
Schedule to the Act

BETWEEN **WILLIAM FRANCIS CARLIN**

Appellant

AND **AUCKLAND CITY COUNCIL**

Respondent

NOTICE OF APPEAL

William Francis Carlin
11 Robley Crescent
Glendowie
Auckland 1071



**TO: The Registrar
Environment Court
AUCKLAND**

I, William Francis Carlin appeal against parts of the decisions of the Auckland City Council on the Auckland City District Plan. – Hauraki Gulf Section (“the District Plan – HGI”).

I made a submission on the District Plan-HGI and presented evidence to the Council’s Hearings Committee. The decision to reject my submission was made by the Hearings Committee. I was identified as submitter 109 in the decisions.

**The date of the decision appealed against was 2 May 2009.
The date the decision was received by me was 4 May 2009.**

The parts of the decision that I am appealing are the Council’s rejection of my submission that a portion of my property, outside a conservation covenant under Section 77 of the Reserves Act 1977 (hereafter called the “conservation covenant”) registered on part of the land at 375 Aotea Road, Great Barrier Island and outside the part of the land protected by other protective mechanisms under Section 38 of the Reserves Act 1977, should not be zoned or classified as Landform 4 (Wetland Systems) or Landform 6 (Regenerating Slopes) and the rejection of my submission that the Significant Ridgeline area be removed from my property, in the non conservation covenant area and the area protected by other mechanisms under Section 38 of the Reserves Act.

General Reasons

**The general reasons for my appeal are as follows:
The Council’s decisions described above:**

- (i) are inconsistent with the relevant provisions of the Resource Management Act 1991 (“the Act”) including the purpose and principles of the Act under Part 2;**
- (ii) will not promote the sustainable management of natural and physical resources;**
- (iii) are inappropriate and inconsistent;**
- (iv) are contrary to good resource management practice.**

Specific Reasons for my Appeal

In particular without limiting the generality of the reasons for the appeal outlined above, the Council’s decisions do not appropriately address the specific issues identified below.

Landform 4 (Wetland Systems)

- 1. The portion of my property classified as Landform 4 (Wetland System) does not generally meet the criteria for Wetland Systems set out in the Section 10.a.5.1 of the Plan. It does however meet the criteria for Landform 5 (Productive Land) set out in 10.a.6.1 of the Plan.**

2. **The portion of my property classified as Landform 4 (Wetland System) has been used for general grazing for decades including up to the present. It includes drainage ditches. It is the general lack of maintenance of the drainage ditches which has created the so called Wetland System on my property. It is therefore a completely artificial construct and not a natural wetland.**
3. **The vegetation of the so called Wetland System is a virtual monoculture of rushes providing strong evidence that it is not a natural wetland.**
4. **Many other similar areas of Great Barrier Island are not classified “Wetland Systems” but rather “Alluvial Flats” or “Productive Land”. The Council decisions, therefore, relating to my property are inconsistent and arbitrary as well as being contrary to Part 2 of the Act.**

LandForm 6 (Regenerating Slopes)

1. **The portion of my property outside the conservation covenant or other protective mechanisms under the Reserves Act 1977 (Sec 38) classified as Landform 6 (Regenerating Slopes) does not readily meet the criteria for regenerating slopes set out in Section 10.a.7.1 of the Plan. It does however generally meet the general criteria for Landform 5 (Productive Land) set out in 10.a.6.1 of the Plan.**
2. **The portion of my property outside the conservation covenant or other protective mechanisms under the Reserves Act (Sec 38) has been used for grazing for many decades and has been cleared many times including in recent decades. The land is flat to gently rolling, with some steeper slopes, and is not subject to erosion in general if managed along prudent land use standards. It is some of the most productive land on my property and should be allowed for productive uses accordingly.**
3. **It is the Council’s road management practices which threaten the sustainability of the portion of my property outside the conservation covenant or other protective mechanisms under the Reserves Act (Sec 38) by diverting storm water from the road onto the land without my permission causing erosion and allowing the dumping of road spoil on the land (also without my permission) covering regenerating vegetation.**
4. **Other areas on Great Barrier Island similar in vegetation cover and use to that portion of my property outside the conservation covenant or other protective mechanisms under the Reserves Act (sec 38) have been classified Productive Land rather than Regenerating Slopes. The Council decision relating to my property is therefore inconsistent and arbitrary as well as being contrary to Part 2 of the Act.**

Significant Ridgeline Area

- 1. The portion of my property outside the conservation covenant shown on sheet 49 Map 1 as “significant ridgeline area” is not significant in terms of visibility or prominence from almost any vantage point.**

- 2. The portion of my property outside the conservation covenant shown as a significant ridgeline area has had many land uses over time including pastoral farming and a dwelling and has accordingly been cleared partially from time to time. The area is currently generally a mix of regenerating shrubland and grasses and has no special features. It is not an area of significant vegetation cover or visual amenity greater than numerous other similar hills in the vicinity or around the island generally. Indeed it is not even a prominent ridgeline within my property where more prominent ridgelines with greater natural cover are not deemed “significant”.**

- 3. The Proposed Plan does not provide an accurate or specific definition of “significant ridgeline”. Rather it generically describes significant ridgeline areas as being within 100 metres of mapped ridgelines and then includes development controls that would apply accordingly. Consequently it is impossible to judge whether the identified significant ridgeline area on my property, falling outside of the existing conservation covenant area, is appropriate for the relevant controls. This sets up a completely arbitrary and inconsistent set of planning controls.**

- 4. The significant ridge area on the hill top shown on planning map Sheet 49 Map 1 for my property and the adjacent road and lands outside the conservation covenant is dominated by the main island road running generally up the ridge. The other land in the significant ridgeline area but outside my property generally is a mixture of pastoral and mixed shrubs. The road and the pasture / mixed shrub lands have a significant impact on the visual landscape far in excess of the proposed controls on the lands within 100 metres of the proposed significant ridgeline. Therefore the area that this appeal relates to is not a generally natural landscape. Natural landscapes seem to be the target of the significant ridgeline controls. Thus the land subject to the appeal does not require any additional visual protection other than through mechanisms such as those already provided for in the Operative District Plan - HGI.**

- 5. The Council’s decision on my submissions concerning the significant ridgeline areas on my property in part says “ However, the panel also acknowledges that further work is required in order to refine the control, and in particular, the selection of significant ridgelines.” This admits to**

uncertainty with respect to identifying significant ridgelines yet the Council goes ahead and places a significant ridgeline area notation on my property outside the conservation covenant placing additional development controls beyond the general scheme which creates great uncertainty. This is contrary to good resource management practice and Part 2 of the Act.

I seek the following relief:

1. The portion of my property placed in the Landform 4 (Wetland Systems) should be changed to Landform 5 (Productive Land).
2. The portion of my property outside the conservation covenant under Section 77 of the Reserves Act 1977 or other protective measures under the Reserves Act (Sec 38) placed in Landform 6 (Regenerating Slopes) should be changed to Landform 5 (Productive Land).
3. The portions of my property outside the existing conservation covenant or where subject to other protective measures under the Reserves Act (Sec 38) which is shown as a significant ridgeline area should have that notation removed.

I attach the following documents to this notice:

- (a) a copy of my submission
- (b) a copy of the relevant decision
- (c) a list of persons to be served with a copy of this notice:

M.P.J. O Shea – P.O. Box 9 Claris Great Barrier Island
Micheal O Shea – P.O. Box 9 Claris Great Barrier Island
Helen O Shea – P.O. Box 9 Claris Great Barrier Island
AUCKLAND CITY COUNCIL



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Signature of appellant

17 July 2009

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Date

Address for service of appellant:

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Auckland 1071**

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carlinz@xtra.co.nz

Contact Person

N/A