

**Form 7**  
**Notice of appeal to Environment Court against decision**  
**on proposed policy statement or plan**

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

**To** the Registrar  
Environment Court  
Auckland

**I, Berin Smith, appeal against part of a decision of:** Auckland City Council on the Auckland City Council Proposed Hauraki Gulf Islands District Plan 2006 (the Proposed District Plan)

**I made a submission on that plan on:** 11 December 2006

**I received notice of the decision on:** 4 May 2009.

**The decision was made by:** Auckland City Council.

**The part of the decision that I am appealing is:**

The failure of Auckland City Council (whether unintentional or otherwise) to include all of the land currently occupied as Open Space 1.

The failure of Auckland City Council (whether unintentional or otherwise) to expressly provide for boat repair and maintenance activities and associated launching and retrieval at the site generally referred to as The Causeway, Waiheke Island. The Auckland City Council decision is set out in Decision Report No. 13 Section 4.2.2.3 (Page 5).

In particular, while the decision provides for “marine recreation facilities” in an area of land now zoned Open Space 1, it is not clear from the new definition of this activity whether it provides for boat repair and maintenance activities.

**The reasons for the appeal are as follows:**

- The Waiheke Boating Club Inc. (WBC), of which I am now the Vice Commodore and Club Captain, occupies an area of land at The Causeway, Waiheke Island, where it generally carries out the following activities:
  - boat launching and retrieval
  - boat repair and maintenance
  - clubhouse operation.
- The land to be included in the Open Space 1 zone (which appears to correspond with the boundaries of the parcel of land described as Section 1 SO 55851) does not appear to include all of the land currently occupied by the WBC. In particular the Open Space 1 zone does not include a formed hard stand area to the east of the existing club rooms.

- By failing to expressly provide for boat repair and maintenance activities in the Open Space 1 zone provisions, the decision fails to properly provide for an existing and historical use of the site that makes an important contribution to the maritime character and amenity of Waiheke Island and the marine-related recreational activities of the Waiheke Island boating community.
- In light of the historical use of the site for boat repair and maintenance activities and the characteristics of the surrounding neighbourhood, the decision fails to properly recognise that this activity is an appropriate use for the land.
- The decision fails to recognise that, following recently approved road stopping, Auckland City Council and the WBC are in the process of negotiating a lease that would provide for the continued occupation and use of the land by WBC for its activities, including boat repair and maintenance activities, and that both parties are proceeding on the basis that:
  - For the reason set out in the bullet points above, it is desirable to retain the WBC activities at the subject location; and
  - Subject to further agreement on WBC's operational and management plans, Auckland City Council's indication that is entirely amenable to an expansion of the existing repair and maintenance activities at the site.
- The decision fails to recognise the scarceness of coastal land available for boat repair and maintenance activities and the very significant financial and administrative difficulties that would be encountered by WBC in securing an alternative location.

**I seek the following relief:**

**1. Zone Map Amendment**

That the land included in the Open Space 1 zone be amended to include all of the land currently occupied by WBC.

2. That the Proposed District Plan be amended by one of the two amendments to the District Plan text listed below (or amendments with similar effect).

**Text Amendment 1**

Amend Table 10a.22.6 to include the following row (addition bold underlined):

*10a.22.6 Rules - activity table*

<i>Activity</i>	<i>Status</i>
<b><u>At The Causeway, Waiheke Island only, boat repair and maintenance activities and boat launching and retrieval associated with that repair and maintenance.</u></b>	<b><u>D</u></b>

**Or:**

**Text Amendment 2**

Amend the new definition of "Marine recreation facilities" as listed in Section 14 of the Proposed Plan as follows (addition bold underlined):

*means land or buildings used for marine recreation activities that have a functional relationship with the sea and, at The Causeway, Waiheke Island only, includes boat repair and maintenance activities and boat launching and retrieval associated with that repair and maintenance.*

*It must be for community use and includes clubrooms used by organisations such as boating clubs, sea scouts and surf life saving clubs.*

*It does not include retail premises.*

The effect of both of the above amendments is to expressly provide for boat repair and maintenance activities as a discretionary activity at The Causeway site rather than the entire Open Space 1 zone.

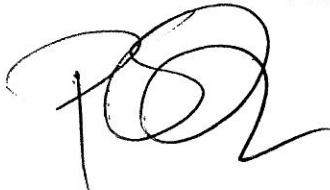
### **Mediation**

I am willing to enter into mediation or an alternative dispute resolution to resolve this appeal. In light of Auckland City Council's existing enthusiasm to facilitate the continued operation, and possible expansion of WBC's activities at The Causeway and the confinement of the resource management issues arising from the amendments identified above to that site, I am of the opinion that this matter can be resolved amicably and without significant effort by both parties.

### **Attachments**

I attach the following documents to this notice:

- Attachment 1 A copy of my submission.
- Attachment 2 A copy of the relevant part of Auckland City Council Decision Notice No. 13, including the relevant sheets of Appendix 2 of that Decision Report
- Attachment 3 An aerial photograph of The Causeway illustrating the extent of WBC's activities.
- Attachment 4 A list of names and addresses of persons to be served with a copy of this notice.



.....  
Berin Smith  
Signature of appellant

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29 / 7 / 2009  
Date

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