

AUCKLAND COUNCIL

10 JUN 2011

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IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of an appeal under clause 14 of the First Schedule of the Act

BETWEEN

MICHAEL O'SHEA AND SEAN O'SHEA

ENV-2009-AKL-000232

Appellants

AND

AUCKLAND COUNCIL (formerly Auckland City Council)

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge L J Newhook, sitting alone under section 279 of the Act

IN CHAMBERS at Auckland.

CONSENT ORDER

**Introduction**

1. The Court has read and considered the appeal and the memorandum of the parties in support of the draft consent order dated 17 November 2010.
2. Gordon Barrett gave notice of an intention to become a party to this appeal, but has since withdrawn his interest. There are no other section 274 parties to this appeal.
3. All parties have signed the memorandum setting out the relief sought.
4. The Court is making this order under section 279(1)(b) of the Act, such order being by consent rather than representing a decision or determination on the merits pursuant to section 297. The Court understands that for the present purposes that:



- (a) All parties to the proceedings have executed the memorandum requesting this order; and
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Act, including Part 2 of the Act.

### Orders

5. Therefore, this Court orders by consent that:

- (a) Clause 1.6.2 of the district plan be amended to include the following paragraph after table 1.1 "Summary of types of activities":

Section 10 of the Resource Management Act permits certain existing uses, which were lawfully established, to continue despite contravening a rule in an operative or proposed district plan which subsequently comes into force provided the provisions of the Act (section 10) are satisfied.

This order resolves the relief sought in paragraphs 45-49, and 60 of the appellants' notice of appeal and resolves the appellants' interest in topic ENV-2009-304-456 – HGI - Existing use rights/compliance.

- (b) Reference 50-2 of Appendix 2d of the district plan be amended to state:

Stream margins, pasture (some grazed), kanuka, manuka,

Brown Teal, banded rail

This order resolves the relief sought in paragraph 4 of the appellants' notice of appeal (previously referenced as ENV-2009-AKL-231 – Michael O'Shea v



Auckland City Council) and resolves the appellants' interest in topic ENV-2009-304-471 – HGI - Heritage - site-specific.

- (c) Sheet 49 Map 1 of the proposed Auckland City District Plan: Hauraki Gulf Islands Section 2006 (**district plan**) be amended (as set out in the amended map sheet 49, referenced as "A", **attached** to this consent order) to reclassify part of the appellants' property at 339 Aotea Road, Great Barrier Island from landform 7 (forest and bush) to landform 5 (productive land)

This order resolves the relief sought in paragraph 20 of the appellants' notice of appeal and resolves the appellants' interest in topic ENV-2009-304-504 – HGI - Reclassification of land -landforms - site-specific.

6. There is no order as to costs in relation to this order.

DATED at Auckland this *27<sup>th</sup>* day of *May* 2011



L J Newhook  
Environment Judge



