

AUCKLAND COUNCIL

13 DEC 2010

~~HENDERSON~~

CIVIC - SHANN Mc AULEY

IN THE MATTER

of the Resource Management Act
1991

AND

IN THE MATTER

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

BETWEEN

BERIN SMITH

ENV-2009-AKL-000335

Appellant

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 memoranda of the parties in support of the draft consent order dated 28 October 2010 and 3 December 2010.
2. No person has given notice of an intention to become a party under s274.
3. 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 confirm to relevant requirements and objectives of the Act, including Part 2 of the Act.

Orders

4. Therefore, this Court orders by consent that:

- (a) The decision of the Auckland City Council dated 4 May 2009 on the appellant's submissions to the proposed Auckland City District Plan: Hauraki Gulf Islands Section 2006 is amended as set out below:

- (i) Objective 10a.22.4 is amended to state:

10a.22.4 Objective

To provide for marine recreation facilities that have a functional relationship to the sea while protecting the high ecological and visual amenity values of the land unit.

Policies

1. By providing for marine recreation activities to establish and operate within the land unit.
2. By providing for clubrooms for an activity that has a functional relationship to the sea.
3. By providing for minor boat repair and maintenance activities and associated facilities to operate at the south-eastern side of the Ostend Domain Reserve, Waiheke Island only, in a manner that does not have ~~significant~~ adverse effects on the visual amenity of the surrounding area and the ecological values of the coastal environment *that are "any more than minor"*.
4. By considering alternative location(s) and ensuring that the location of the building will not have adverse effects on the visual amenity and ecological values of the coastal environment.
5. By ensuring that the scale, form, colour and location of any new buildings will not have adverse effects on the visual amenity and ecological values of the coastal environment.



- (ii) Rule 10a.22.6 "Rules – Activity Table" is amended so as to include the following new 'discretionary' activity:

At the south-eastern side of the Ostend Domain Reserve, Waiheke Island only, boat repair and maintenance activities and boat



launching and retrieval associated with that repair and maintenance, where this occurs ancillary to marine recreation facilities.

- (iii) New clause 11.4.3 "Boat repair and maintenance activities at Ostend Domain Reserve" is added in section 11.4 "Specific assessment criteria for particular discretionary activities" of the district plan:

11.4.3 Boat repair and maintenance activities at Ostend Domain Reserve

The council's assessment of an application for boat repair and maintenance activities will include consideration of the following matters:

1. The extent to which the proposed activity affects the ecological values of the coastal environment.
2. The extent to which the proposed activity incorporates management measures to avoid adverse effects within the coastal environment including, but not limited to, effects resulting from painting, anti-fouling and engine repair activities.

Provided that this clause (11.4.3) only applies to boat repair and maintenance activities and boat launching and retrieval associated with that repair and maintenance, where this occurs ancillary to marine recreation facilities at the south-eastern side of the Ostend Domain Reserve (refer to rule 10a.22.6 Rules – activity table).

(b) The appeal is otherwise dismissed.

(c) There is no order as to costs.

DATED at Auckland this

9th

day of

December

2010



L J Newhook
Environment Judge



