

**BEFORE THE ENVIRONMENT COURT**

ENV-2010-AKL-000279

**IN THE MATTER** of a referral of objections to the proposed stopping of Higham Road pursuant to section 342 and Schedule 10 of the Local Government Act 1974 by the Auckland Council (formerly the Rodney District Council)

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MINUTE FOLLOWING PRE-HEARING CONFERENCE – 29 NOVEMBER  
2010

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Minute issued: 29 November 2010



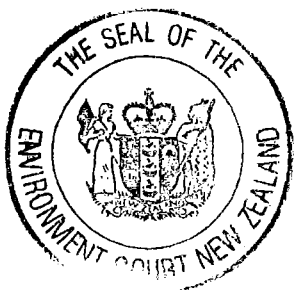
[1] On 29 October 2010 the Court received a referral from the then Rodney District Council of objections to its proposal to stop two portions of the unformed road, known as Higham Road, near South Head in the Rodney District. Higham Road traverses farm land owned by interests associated with the Higham family and, although unformed in the strict sense, is used as an accessway to the coast by those who know it, and in particular to a beach camp area used by school and other groups from time to time. There is a suggestion that as part of the overall proposal, the Higham interests will agree to the grant of an easement along the boundary of their property sufficient for a 20m wide road to provide alternative access to the coastline.

[2] The Council received some 160 objections to the proposal, and some 30 submissions in support. The objections were not upheld by the Council – hence the referral to the Court. Many of those who oppose the proposal, and who wish to participate in the proceeding before the Court, have formed themselves into the South Head Action Group Inc (SHAG), and are represented by Mr Young.

[3] From the Council's perspective, matters have been complicated by the creation of the Auckland 'Super City', which came into being on 1 November 2010. The Auckland Council has now assumed the functions of the former Rodney District Council, which promoted the road stopping, and of the former Auckland Regional Council, which was one of the objectors to it. The Auckland Council now owns the land on which the unformed road stands, but the functions of managing the roading system has devolved upon Auckland Transport, a council controlled organisation.

[4] Against that background, the Court held a pre-hearing conference on 29 November to attempt to set out a direction for the future conduct of the proceeding and the resolution of the issues about the proposed road stopping.

[5] Given the highly compressed timeframes, it is hardly surprising that Mr McNamara advised that the Auckland Council has not had the opportunity to consider its position and decide whether it now supports the position of either of the two former Councils, or wishes to put forward some different proposal.



Additionally, the Council wishes to have input from the Rodney Local Board. That will take a little time to work through and the Court, and the other parties, understand and accept that.

[6] SHAG, and indeed the other parties, are of course interested in seeing the outcome of those internal processes, but in the meantime SHAG in particular wishes to have access to information about the decision-making processes of the former Rodney Council which, thus far, they have not seen. With the usual reservations about matters possibly the subject of legal privilege, the Auckland Council has no difficulty with that.

[7] Mr Michael Webber, who is an objector and also a licensed surveyor, suggested that it would be useful to peg the line of the road proposed to be stopped so that its actual position and dimensions could be apparent to all. That was accepted as a potentially useful step, but one perhaps better pursued when it is known whether the Council wishes to proceed.

[8] There is an issue too about apparent mail delays in the Court receiving notices from parties wishing to become parties to the proceeding in terms of s274 of the RMA. For reasons I need not again elaborate upon, the Court is having difficulties with the timely delivery of incoming mail. I record that the other parties advise that they have no objection to the granting of waivers of time for those notices if they are received within 7 – 10 days of the due date. It can be assumed that waivers will be granted accordingly.

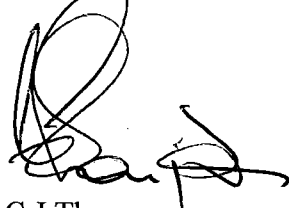
[9] Mr Young will attempt to consolidate the addresses for service of the parties he represents (being SHAG and various others) and advise that address to the other parties. Similarly, Mr Berman, who was representing the Higham interests, will attempt to consolidate the addresses for service as many of the supporting parties as possible, and advise that to the other parties. It is agreed that wherever practicable, email correspondence is to be preferred.



[10] In summary, the end result of discussions at the PHC was a preliminary timetable, as follows:

- The Council is to provide the information requested in paras 4, 5 and 6 of Mr Young's memorandum of 29 November 2010 by 5pm on Monday 6 December 2010, subject to the withholding of any matters covered by legal privilege.
- The Council is to advise all parties of its position on the proposed stopping, not later than Friday 25 February 2011.
- Within 10 working days after the Council advises its position, a further PHC will be arranged, possibly by way of a telephone conference, to set further procedural steps and a timetable.

Dated at Auckland this 29th day of November 2010



C J Thompson

Principal Environment Judge

