

BEFORE THE ENVIRONMENT COURT

ENV-2010-AKL-

IN THE MATTER

of the Local
Government Act 1974

AND

IN THE MATTER

of a referral of
objections on the
proposed stopping of
portions of Higham
Road pursuant to
section 342 and
Schedule 10 of the Act

BY

**RODNEY DISTRICT
COUNCIL**

**MEMORANDUM OF COUNSEL AND APPLICATIONS FOR DIRECTIONS ON
BEHALF OF RODNEY DISTRICT COUNCIL**

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MAY IT PLEASE YOUR HONOUR

1. The Rodney District Council (**Council**) has proposed to stop parts of Higham Road, South Head, pursuant to section 342 and Schedule 10 of the Local Government Act 1974. These have been lodged with the Court under clause 5 of Schedule 10 on 29 October 2010. This memorandum briefly explains the background to this matter and suggests that certain directions be made.

Background


2. At its meeting held on 18 December 2008, the Council approved in principle the stopping of portions of unformed (paper) road running through the Higham farm, conditional upon the Higham family granting a. easement in gross along the southern boundary of Lot 3 Deposited Plan 26061. it was proposed to form a 4m wide pedestrian accessway within this easement area.
3. The proposed road stopping was notified and objections were received. The Council established a Sub-Committee (**Sub-Committee**) to hear objections and make a recommendation to the Council.
4. The Council received around 161 objections against, and 30 submissions supporting, the proposed stopping. The parties are listed in the **attached** Annexure. We note that in some cases, it is not clear whether the party is objecting or opposing. This can be clarified through the process envisaged by the suggested directions set out below.
5. Before the Sub-Committee finished its deliberations, an alternative to the proposed public pedestrian easement was offered by the Higham family. This alternative involved upgrading the 4 metre wide pedestrian walkway originally proposed, to a 20 metre wide road (within the same proposed easement area).
6. The Sub-Committee subsequently recommended that the objections not be upheld and that the Council should adopt the alternative, and progress with the road stopping along with the proposed new access road on the southern boundary.
7. The Council has resolved to proceed as recommended by the Sub-Committee. Accordingly, under clause 5, schedule 10 of the Local Government Act 1974,

the Council is referring the objections to the Environment Court for the Court's consideration.

Suggested next steps – directions

8. Given the number of potential parties and the proposed modification to the alternative access arrangements, we respectfully suggest that mediation would be of assistance. In our submission, it would be appropriate that those parties that submitted in support of the proposed road stopping, be allowed to join these proceedings under section 274 of the Resource Management Act 1991.
9. Accordingly, the Council respectfully suggests that the following directions be made:
 - (a) By Friday 26 November the objectors must advise the Court (and the Council) in writing, whether they:
 - wish to be heard, or if their objection is withdrawn; and
 - are willing to participate in Court-assisted mediation.
 - (b) By Friday 26 November 2010 any submitter who wishes to do so, may notify the Court (and the Council) in writing, whether they:
 - wish to become a party to these proceedings; and
 - are willing to participate in Court-assisted mediation.
 - (c) By Friday 10 December 2010 the Council reports to the Court with a suggested process and timetable.

DATED this 29th day of October 2010



Gerald Lanning
Counsel for the Rodney District Council

Annexure

List of the names and contact details of the persons whose objections have been referred to the Court, along with those persons who made submissions, and who will be served with this Memorandum and Application.