

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

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IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

**of an appeal under section 174 of the
Resource Management Act 1991**

BETWEEN

**Denise Lyn Civil, Ian Donald Shepherd
Civil and Michael Charles Tisdall as
trustees for the Puriri Springs Trust**

Appellant

AND

Waka Kotahi NZ Transport Agency

Respondent

Notice of Appeal against a Decision on a Notice of Requirement

Counsel for Appellant

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Notice of Appeal against a Decision on a Notice of Requirement

To: The Registrar, Environment Court, Auckland

1. Denise Lyn Civil, Ian Donald Shepherd Civil and Michael Charles Tisdall as trustees of Puriri Springs Trust (the Trust) appeal the decision of Waka Kotahi NZ Transport Agency in respect of the notice of requirement for a designation for the construction, operation and maintenance of a new state highway and associated activities between Warkworth and north of Te Hana (Requirement) (the Project).
2. The Trust made a submission on the Notice of Requirement (NoR).
3. The decision was served on the Trust on 10 June 2021.
4. The decision was made by Waka Kotahi NZ Transport Agency under section 172 of the Resource Management Act 1991 (the Act).
5. The Trust is not a trade competitor for the purposes of section 308D of the Act.
6. The Trust is the owner of a farm at 109 Kaipara Flats Road, Warkworth (the Land).
7. The Trust is appealing the whole of the decision and in particular those aspects affecting the Trust's land as detailed in this notice.
8. The reasons for the appeal are as follows:
 - (a) The Requirement crosses land owned by the Trust, including the Land;
 - (b) The Requirement includes an interchange at Warkworth, which is envisaged as a systems interchange. This interchange is over-designed, unnecessarily large and as a result will have a significant impact on the Land and amenity of the immediate area;
 - (c) The interchange is currently designed to locate on an area of prime soils on the Land. In that regard, no proper consideration is given to the regional plan provisions in Chapter B 9 of the Auckland Unitary Plan;
 - (d) A service interchange would be more suitable and appropriate to serve the Warkworth Community;
 - (e) A service interchange could locate on the western side of the left branch of the Mahurangi River and avoid the need to use the Land and prime soils on the Land altogether;

- (f) The Requirement divides the Trust's Land and the Decision makes no provision for access between the severed parcels of land;
 - (g) The decision wrongly rejects or amends a number of conditions recommended by the Hearing Commissioners for Auckland Council, including in particular the following conditions:
 - (i) Condition 1, addressing the relationship with resource consents for the project;
 - (ii) Condition 1A, addressing removal of the designation from land not required for the Project;
 - (iii) Condition 29, deleting requirements to the Schedule for the CNVMP and the requirement to consult with the owners and occupiers of site subject to noise and vibration exceedance;
 - (iv) Condition 30, deleting the requirement for certification by the Council's Team Manager of the CNVMP;
 - (v) Condition 40, deleting the requirement to consult with affected landowners whose property access is affected when preparing the SSTMP;
 - (vi) Condition 49A deleting the requirement to incorporate affected landowner feedback into the Urban and Landscape design Management Plan;
 - (vii) Condition 99 deleting the requirement for certification of the Noise Mitigation Plan by the Manager, Auckland Council;
 - (viii) Condition 101 requiring ongoing management of all landscape planting beyond 5 years;
9. In relation to each of the above conditions the reasoning of the Council's Hearing Commissioners is sound and the deletions and amendments to the recommended conditions in the decision are not warranted.
10. The Trust seeks the following relief:
- (a) The removal of the NoR from the Land;
 - (b) Amendment of the requirement to remove the systems interchange and include a service interchange at Warkworth located on the western side of the river;
 - (c) Inclusion of conditions of the designation requiring detailed design and provision of both temporary and permanent access between severed parcels of the Trust's Land, such provision to be agreed in

writing with the affected landowner and installed in accordance with that agreement so as to:

- minimise disruption to farming activity on the Land during construction of the motorway; and
- ensure efficient farm operations post construction;

(d) Reinstatement of the Hearing Commissioners recommended conditions referred in paragraph 8 above;

(e) Such further or other relief as the Court sees fit;

(f) Costs.

The following documents are attached to this notice:

(a) a copy of the Trust's submission;

(b) a copy of the decision;

(c) a list of names and addresses to be served with a copy of this notice.



J.M. Savage
Counsel for the Trust

30 June 2021

Address for service
Michael.savage@parkchambers.co.nz

Advice to recipients of copy of notice of appeal

How to become a party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must, -

- (a) Within 15 workings after the period for lodging of the notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with

the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and

- (b) Within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274 (1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under s 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

The copies of the documents listed in this appeal may be obtained from the appellant on request.

Advice

If you have any questions about this notice contact the Environment Court in Auckland.

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Submission on Resource Consent Application



1.0 SUBMITTER DETAILS

Name of submitter(s)
(please write all names in full) Denise Lyn Civil, Ian Donald Shepherd Civil and Michael Charles Tisdall for the Runn Springs Trust.

Physical Address: 109 Kaipara Flats Road, Warkworth Postcode: 0981

Address for service: (if different) 48 Prospect Terrace, Mt Eden, Auckland Postcode: 1024

Telephone (day): [] Mobile: (021) 496 3759 Fax: []

Email: ivil@xtra.co.nz.

2.0 APPLICATION DETAILS

Application Number: BUN 60354951 LUC 60354955 LUC 60355185
LUC 60354952 WAT 60356979 WAT 60355184

Name of applicant:
(please write all names in full) DIS 60354951 DIS 60355186
The New Zealand Transport Agency

Address of proposed activity: The land to the west of SH1 between Wyllie Road, Warkworth and Te Hana. Postcode: []

Description of proposed activity:
The designation, design, construction and operation of a new four lane motorway including bridges, culverts and tunnels and associated infrastructure.

3.0 SUBMISSION DETAILS

My/our submission: (please tick one)

Supports the Application Opposes the Application Neutral regarding the Application

The specific parts of the application to which my/our submission relates to are: (use additional pages if required.)

See attached.

PO098.3 06/07/10

3.0 SUBMISSION DETAILS contd

The reasons for my/our submission are: (use additional pages if required.)

See attached

The decision I/we would like the Council to make is (including, if relevant, the parts of the application you wish to have amended and the general nature of any conditions sought):

See attached

4.0 SUBMISSION AT THE HEARING

- I/we wish to speak in support of my/our submission.
- I/we do not wish to speak in support of my/our submission.
- If others make a similar submission, I/we will consider presenting a joint case with them at the hearing.

Signature of submitter(s) or agent of submitter(s)

<i>Dennis Cive</i>

Date:	21 June 2020
Date:	
Date:	

IMPORTANT INFORMATION

The Council must receive this submission before the date and time indicated. A copy of this submission must also be given as soon as reasonably practicable to the applicant at the applicant's address for service.

All submitters will be advised of hearing details at least 10 working days before the hearing. If you change your mind as to whether you wish to attend the hearing, please phone the Council so that the necessary arrangements can be made.

PRIVACY INFORMATION

The information you have provided on this form is required so that your submission can be processed under the RMA, so that statistics can be collected by the Council. The information will be stored on a public register, and held by the Council. The details may also be made available to the public on the Council's website. These details are collected to inform the general public and community groups about all consents which have been issued through the Council. If you would like to request access to, or correction of your details, please contact the Council.

The specific part this submission relates to are: -

1. The whole of the designation and the proposed methods of managing the design, construction and monitoring process.

Reasons: -

- The proposal includes a motorway interchange for Warkworth that is over designed, unnecessarily large, and will have adverse effects on the environment and amenity of the immediate area.
- The proposed design of the Warkworth interchange is unnecessarily large and impacts on the immediate environment in an adverse manner.
- The proposal is contrary to the purposes and principles of the Resource Management Act (RMA) 1991.
- The proposal contravenes S 171 (1)(c) of the RMA.
- The location of the designation boundary is not reasonably necessary for achieving the objectives of the NZTA in vicinity of the proposed Warkworth interchange.
- The application is flawed.
- The AEE and supporting reports are riddled with errors, inaccuracies and inconsistencies which put into question the veracity of the outcomes and conclusions.
- The AEE omits a number of factors that should be considered.
- There is no provision for cycleways.
- There is no provision for interchange at Warkworth to service south Warkworth.
- The proposal does not provide for the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers.
- The project is ill conceived and the proposed alignment has not been inadequately investigated and does not take into account site specific circumstances.
- The proposal is indicative only in terms of the design proposal and alignment. This is not sufficient to adequately assess the definitive effects on the environment and the affected parties.
- The application is incomplete.
- The proposed motorway will have major adverse effects on the environment.
- The proposed motorway does not avoid any adverse effects.
- The proposed motorway does not adequately mitigate or remedy the potential adverse effects.
- The application does not adequately address the effects of stormwater management.
- The application does not adequately address the effects of noise.
- The application does not adequately address the effects of dust nuisance.
- The application does not adequately address the effects of on flora and fauna.
- The application does not adequately address the effects of light from the project.
- The application does not adequately address the effects of the project on the waterways in the vicinity.
- The application does not adequately mitigate the social impact of the project.
- The application does not adequately address the effects of on the rural environment.
- The application does not provide any certainty to the use of severed lands.
- The application does not adequately address the local economic impacts of the project.
- The proposal does not adequately address the visual effects of the project.
- The proposal does not enhance the landscape.
- The proposal is contrary to Section 6 of the RMA 1991.
- The proposal does not have any provision for a walkway along the banks of the Mahurangi.
- The proposal is contrary to Section 7 of the RMA 1991.
- The proposal does not provide for the maintenance and enhancement of amenity values, the quality of the environment.
- The proposal is contrary to the Auckland Unitary Plan.
- The proposal is contrary to section B9 Rural Environment in the Auckland Unitary Plan.
- The AEE and supporting documents down play the actual and potential effects on the environment.
- The proposal is contrary to the intent and provisions of the Forestry Act 1949.

And

2. The proposed conditions.

Reasons: -

- The proposed conditions are inadequate and inappropriate.
- The proposed conditions do not identify what is to be achieved and leave the outcome to a series of Management Plans prepared by the Contractor/Authority without further stakeholder input.
- Management Plans are not an appropriate way to achieve the desired environmental outcomes.

The relief sought is: -

1. Decline the application.

Failing that: -

2. Require the Authority to design the alignment as an actual proposal, fixed by a standard Condition 1 with the Warkworth interchange redesigned so that it fits in the area to the west of the Mahurangi River with the river being the designation boundary.
3. Require the Authority to submit the proposed management plans as part of this application so that they can be assessed by the Council and stakeholders at this stage of the process.
4. Require the Authority to include in the application the omissions outlined above.
5. Limit the ability of the Authority to damage the environment and destroy the riparian margins of the Mahurangi River, mature trees and ecological habitats.
6. Apply stronger conditions than have been proposed to better improve the effects of the proposal on the social, economic, visual, cultural and general amenity of the area and people affected by the proposal.

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Submitter Name	Address for Service
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Spark Attn: Graeme McCarrison CC: Chris Horne	chris@incite.co.nz
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