

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

AT AUCKLAND

UNDER the Resource Management Act 1991

A N D

IN THE MATTER of an appeal under section 174 of the Act

BETWEEN LENDICH CONSTRUCTION LIMITED

(ENV - 2024 - AKL -)

Appellant

WAKA KOTAHİ NEW ZEALAND TRANSPORT AGENCY

Respondent

(Continued next page)

NOTICE OF APPEAL UNDER SECTION 174 OF THE ACT
ON BEHALF OF LENDICH CONSTRUCTION LIMITED

12 JULY 2024

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NOTICE OF APPEAL TO THE ENVIRONMENT COURT

**TO: THE REGISTRAR
ENVIRONMENT COURT
AUCKLAND**

1. **LENDICH CONSTRUCTION LIMITED** appeals against a decision of the Respondent to accept in part (**Decision**) the Auckland Council's recommendation (**Recommendation**) in respect of:
 - a. The Notice of Requirement to authorise the construction, operation and maintenance of an alternative state highway and associated infrastructure between State Highway 16 near Foster Road and State Highway 16 at Brigham Creek Interchange (**NOR S1 ASH**).
 - b. The Notice of Requirement to authorise the construction, operation and maintenance of a rapid transit corridor and associated activities between Matua Road, Huapai and Brigham Creek Interchange (**NOR S3 RTC**).
2. The Appellant made submissions on the whole of both NOR S1 ASH and NOR S3 RTC.
3. The Appellant received notice of the Decision on 20 June 2024.
4. The Decision was made by the Respondent.
5. The Appellant appeals the parts of the Decision relating to:
 - a. The location and extent of NOR S1 ASH as it relates to the Brigham Creek Interchange;
 - b. The location and extent of NOR S3 RTC as it relates to the Brigham Creek Interchange and/or the land at 186 Fred Taylor Drive;
 - c. The rejection of the Recommendation versions of Conditions 2A, 3, and 11; and
 - d. The lapse date.
6. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**Act**).

7. The reasons for the Appeal are because:
 - a. The NORs will not promote the sustainable management of natural and physical resources.
 - b. The NORs seek to designate the entirety of the land at 186 Fred Taylor Drive which is leased by the Appellant.
 - c. The NORs will generate significant adverse effects on the environment, including but not limited to a significant blight on the land leased by the Appellant.
 - d. The NORs will significantly constrain the Appellant's ability to continue to operate at and from 186 Fred Taylor Drive.
 - e. The NORs conflict with the objectives and policies of the Auckland Unitary Plan, including but not limited to Objectives B2.2.1(1) and B3.3.1(1) and Policies B3.3.2(1)-(4).
 - f. The Respondent has failed to give adequate consideration to alternative locations and designs of the Brigham Creek Interchange and related Rapid Transit Corridor that would reduce the severity of the impact on the Appellant and the adverse effects; and
 - g. The extent of the designation for the Brigham Creek Interchange and the Rapid Transit Corridor are not reasonably necessary for achieving the Respondent's objectives.

8. The Appellant seeks the following relief:
 - a. Amend the location and design of the Brigham Creek Interchange and associated Rapid Transit Corridor to avoid the land at 186 Fred Taylor Drive.
 - b. Amend Conditions 2A, 3, and 11 to reflect the Recommendation.
 - c. Reduce the lapse period to 5 years.
 - d. Or, in the alternative:
 - i. Order the Respondent to acquire the Appellant's leasehold interest in 186 Fred Taylor Drive and

reimburse all its costs to relocate to an alternative location; or

- ii. Refuse NOR S1 ASH and NOR S3 RTC.
 - e. Such further or other orders, relief, or consequential amendments that are necessary or appropriate to respond to the grounds of appeal; and
 - f. Costs of and incidental to the Appeal.
9. The following documents are attached to this Appeal:
- a. A copy of the Appellant's submissions on the NORs (**Attachments 1A – 1B**).
 - b. A copy of the Recommendation (**Attachment 2**).
 - c. A copy of the Decision (**Attachment 3**).
 - d. A list of the names and addresses of those who have been served with a copy of this Appeal (**Attachment 4**).

LENDICH CONSTRUCTION LIMITED, by its counsel:



Signature:

B S Carruthers

Date:

12 July 2024

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TO:

Registrar, Environment Court, Auckland

AND TO:

Those persons listed in Attachment 4

Advice to recipients of copy of Notice of Appeal

How to become a party to proceedings

If you wish to become a party to the appeal, you must,—

- (a) within 15 working days after the period for lodging a 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.

You may apply to the Environment Court under [section 281](#) of the Resource Management Act 1991 for a waiver of the above timing requirements (see [form 38](#)).

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.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington or Christchurch.

ATTACHMENT 1
COPY OF APPELLANT'S SUBMISSIONS

ATTACHMENT 2
COPY OF THE RECOMMENDATION

**ATTACHMENT 3
COPY OF THE DECISION**

ATTACHMENT 4**LIST OF PERSONS TO BE SERVED WITH A COPY OF THIS APPEAL****Waka Kotahi – New Zealand Transport Agency:**

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