

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2016-AKL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of sections 174 and 181 of the Act

BETWEEN

WEITI DEVELOPMENT LP

Appellant

AND

AUCKLAND TRANSPORT

Respondent

**NOTICE OF APPEAL BY WEITI DEVELOPMENT LP AGAINST DECISION
CONCERNING REQUIREMENT FOR ALTERATION TO DESIGNATION**

12 FEBRUARY 2016

RUSSELL McVEAGH

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1. INTRODUCTION

Decision

- 1.1 Weiti Development LP ("**WDLP**") appeals against a decision ("**Decision**") by Auckland Transport ("**AT**") on a notice of requirement ("**NoR**") to alter Designation 167 - Weiti Crossing (Penlink) of the Auckland Council District Plan: Rodney Section ("**Penlink Designation**").
- 1.2 WDLP made a submission on the NoR, dated 1 April 2015, which is **attached** as **Annexure 1**.
- 1.3 The Decision was made by AT on 22 January 2016. A copy of the Decision is **attached** as **Annexure 2**. Notice of the Decision was received by WDLP on 22 January 2016.
- 1.4 Weiti is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 ("**RMA**").
- 1.5 The Decision is being appealed in its entirety.

2. BACKGROUND

- 2.1 WDLP has interests in a property of approximately 864 ha ("**Weiti site**"), adjoining the Penlink Designation.
- 2.2 WDLP is currently constructing the first stage of the development of its property, involving 83 dwellings. WDLP is seeking the enablement of a total of 1750 dwellings under the Unitary Plan.
- 2.3 WDLP has been working collaboratively with AT regarding the potential for the construction of the access road for WDLP's first stage of development to be coordinated with AT's development aspirations in relation to the development of Penlink under the Designation.
- 2.4 It is anticipated that WDLP and AT will be able to reach agreement for part of WDLP's access road to be located along the first approximately 2 km of the Designation alignment from East Coast Road to provide part of the enabling works for the Designation.
- 2.5 WDLP's submission supported the proposal, subject to appropriate conditions being incorporated to reflect the protections provided to adjoining landowners by Auckland Council ("**Council**") through agreements previously entered into with those adjoining landowners, including to safeguard access.
- 2.6 The NoR was heard by a panel of Independent Commissioners appointed by the Council on 22 September 2015. In summary, the Commissioners recommended that AT confirm the NoR subject to modified conditions ("**Council's Recommendation**").
- 2.7 The Decision confirmed the Council's Recommendation.

3. GENERAL REASONS FOR APPEAL

3.1 WDLP appeals the Decision because the Decision:

- (a) will not promote the sustainable management of resources, will not achieve the purpose of the RMA and is contrary to Part 2 and other provisions of the RMA;
- (b) will not meet the reasonably foreseeable needs of future generations;
- (c) will not enable social, economic and cultural well-being;
- (d) is inconsistent with the relevant provisions of other planning documents;
- (e) does not avoid, remedy or mitigate the adverse effects on the environment; and
- (f) is not reasonably necessary for achieving the objectives of AT.

4. SPECIFIC REASONS

Enabling works

4.1 Without limiting the generality of the reasons set out in section 3, the further specific reasons for WDLP's appeal are set out below.

4.2 The conditions of the Designation currently provide the ability for AT to provide an outline plan for Penlink in stages.

4.3 WDLP seeks that the conditions of the Designation provide the ability for enabling works to take place for part of the Penlink alignment under the Designation, in the form of the access road for development of the Weiti site, with the corresponding obligations in the balance of the conditions amended to relate to the section of the Designation to which those enabling works relate, rather than the Designation as a whole.

4.4 This will enable the early development of part of the Penlink project in an efficient manner with corresponding obligations that relate to the specific works, while also satisfying AT's obligations in relation to the requirement to provide access to adjoining properties (as discussed further below).

Access

4.5 While WDLP anticipates that the implementation of a jointly agreed design for access to the Weiti site (as contemplated above) will resolve WDLP's concerns in the long-term, the discussions between WDLP and AT are ongoing. It is therefore critical that the conditions address access to the Weiti site before, during and after the construction of Penlink.

4.6 This is particularly important given that access to the Weiti site has been severed as a result of the compulsory acquisition of part of the Weiti site for the purposes of Penlink.

4.7 The current conditions of the Designation do not provide adequate certainty that access will be provided to the Weiti site. In particular, the conditions of the Designation do not provide sufficient clarity that access is required to be provided to the Weiti site along and from the Designation route prior to the construction of the Penlink motorway, and that WDLP may construct that access at a time of its choosing.

5. RELIEF SOUGHT

5.1 WDLP seeks the following relief:

- (a) The conditions of the Designation are amended to provide the ability for an outline plan to be provided for enabling works to provide for a stage of Penlink (in the form of the access road for WDLP's development), with the balance of the conditions being amended to reflect that only those relevant to the particular stage of the overall development apply. (For example, consultation with affected persons at other parts of the route should not be required.)
- (b) The conditions of the Designation are amended to clarify that access is required to be provided to the Weiti site along and from the Designation route prior to the construction of the Penlink motorway, and that WDLP may construct that access at a time of its choosing.
- (c) Such consequential or related relief as may be necessary to give effect to WDLP's concerns.
- (d) Costs.

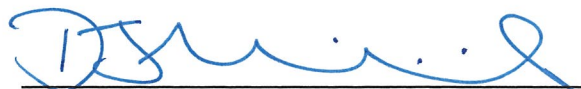
6. ATTACHMENTS

6.1 The following documents are **attached** to this notice:

- (a) a copy of WDLP's submission on the NoR in **Annexure 1**;
- (b) a copy of the Decision appealed in **Annexure 2**;
- (c) a copy of the Council's Recommendation in **Annexure 3**; and
- (d) a list of names and addresses of persons to be served with a copy of this notice at **Annexure 4**.

Signature:

WEITI DEVELOPMENT LP by its
solicitors and authorised agents Russell
McVeagh:



Bronwyn Carruthers / Daniel Minhinnick

Date:

12 February 2016

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Advice to recipients of copy of notice of appeal

How to become a party to proceedings

1. You may be a party to the appeal if—
 - (a) you made a submission on the matter of this appeal; and
 - (b) within 15 working days after the period for lodging a notice of appeal ends, you 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
 - (c) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.
2. 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).
3. 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.

How to obtain copies of documents relating to appeal

4. The copy of this notice served on you does not attach a copy of the appellant's submissions or the decisions appealed. These documents may be obtained, on request, from the appellant.

Advice

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