

RD 1 Helensville

Mr Roger Kerr-Newell  
Chief Executive,  
Rodney District Council  
Private Bag 500  
Orewa

1 June 2010

Dear Mr Kerr-Newell,

I wish to make my objection to the stopping of part of Higham Paper Road; that is the portion of road known as Higham Rd, South Head and described as the parcel of land containing 6.6094 Ha being sections 1,2 and 3 on survey office plan 422172.

My reasons are as follows:

**The use of the road for roading purposes**

1. The Rodney District Council notice of intention states this road will be stopped because it “no longer requires this portion of road for roading purposes”. I have been unable to gain evidence from Rodney District Council to demonstrate that the Council has even considered whether this road will be required for future roading purposes, as is required by the Local Government Act 1974 and indeed by Rodney District Council’s Policy relating to unformed roads as below:

***“Uses of Council Unformed Roads: Guidelines for potential users” (Rodney District Council Booklet)***

***Stopping of roads***

*The essential precondition of any road stopping procedure is that the council must be satisfied that the road will never be needed for roading purposes in the future nor for access to coastal marine areas. “*

***“Stopping of Unformed Roads” (Rodney District Council booklet)***

*Following agreement from the directly affected landowner that the road stopping action may be requested, the matter is referred to the Council’s Engineering and Planning staff who will assess whether or not there is likely to be a future need for this road to be formed. Of necessity this assessment will be very conservative and in the event of any doubt as to the further requirements, the request will be rejected.”*

This road clearly leads to a coastal marine area, and I would suggest that this decision cannot be seen to be conservative by any stretch of the imagination. Why was the road closure request not rejected?

2. Further to this, there is growing pressure to provide greater access to the Kaipara Harbour, both from local peninsula residents as well as those in Helensville and the Western Corridor for whom it is these residents’ local harbour. This pressure is for vehicle, boat launching, and horse riding access as well as for walking. The proposed easement cannot cater for these wide ranging requirements, nor for aging people, those with small children or disabilities; however Higham Rd would be a relatively cost effective means of doing so. Mr Noel Higham

made a public statement at a hui held at Haranui marae on May 4<sup>th</sup> 2010, to the effect that it is this growing pressure to use the road that lead to the initiation of this current road stopping procedure. He also stated that the suggestion to advance this proposal was made to him by Council.

3. Indeed, it has come to light through meetings held about this road stopping process, that there are many South Kaipara residents who would use this road currently, were it open to the public and did not require a phone call to a private individual to ask for permission. Mr Higham stated in the Helensville Community news in June 2010 that “his family is happy to let people they know use the site provided there are no camps on”; however, this is the very crux of the issue. As the population has grown in this area it has become impossible for one family to get to ‘know’ every person who may wish to make use of this access. As the population of South Head, Helensville and Parakai increases which Rodney District Council is predicting in their Planning Rodney reports then this pressure will only continue to increase. There is clearly a future need for this road.
4. Western Ward Councillors are currently pressing a potential vehicle access through Te Rau Puriri Park, and whilst this may be worth considering as another potential access, it is important to recognize that currently there is only ONE formed vehicle access on a peninsula approximately 50km in length. Surely this community is deserving of more than 2 coastal access points?
5. Provision for this road was made in 1884. The land was walked over and surveyed and the most suitable place for future access chosen; as is evidenced by the very close alignment of the paper road to the farm track which I am assuming did not require a GPS system to put in. Had the proposed easement been more suitable, no doubt it would have been chosen; it wasn’t.

### **Public vs Private good**

1. I congratulate the Higham family for their very real generosity in making their private land available for many groups to camp on. This generosity has indeed been beneficial to many young people in this and surrounding areas; however, the fact remains that the camp on the Higham property is ‘private’ and the use of it cannot be considered ‘public’, as the rights over choosing who uses it are held by the landowner. There are provisions in the current by-laws to gain security for camps; it does not require the extreme and long term measures of closing a road which is not in the public good. Who is to say that the Higham family will even own this property in future generations? How can this decision protect the public interest for the future?
2. However, the road is crown land which offers a “right of passage to all members of the public who want to use it. The territorial local authority in which a road is vested holds title to the road in trust for the public and is obliged to see that the right of passage is preserved – not for the council or its ratepayers, but for the public”; (Hayes 2007, p.52) this includes rights for future South Kaipara residents also.
3. There is little benefit to the public in closing this road, and developing a costly walkway at the ratepayers expense when the option to stay with the present alignment offers a far better option. It is stable ground (it carries buses with ease) and the present farm track road only slightly diverts from the paper road making future formation relatively easy and cost effective.
4. The proposed easement crosses difficult terrain and the coast line it accesses is far inferior, choked with mangroves and swampy areas. It would require substantial money to be spent to

bring the area up to a reasonable standard for public recreational use. Whereas the paper road leads to a sandy attractive beach; similar to the size of Mission Bay which caters successfully for thousands of visitors.

5. The proposed easement denies the public the potential for future amenities such as boat launching, a future wharf, sufficient area for picnicking, and this area will not even cater well for swimming. All of the above activities with the exception of the wharf are catered for now at Higham Beach.
6. The proposed easement is also contrary to the NZ Coastal Policy and the Regional Coastal plan, which promote the importance of public access to and along the coast; and that this access should be enhanced in those places that are desirable and that provisions made for those people with disabilities. Council staff made this point clear in their recommendations to Councillors when considering the proposal.
7. Furthermore, an easement does not provide the public with the comprehensive rights which the public holds over the public unformed road nor is it a secure and enduring alternative.
8. The paper road ways were made available for access to Waahi Tapu and to provide access from across the harbour by water. As times have changed so too have requirements for our roads. However, the basic requirement to protect public assets for the good of the public has not, and was provided for in 1840 through Queen Victoria's instructions to Governor Hobson. *"The availability of natural and recreational areas for public use has to be beyond the fickle or capricious control of private individuals who may ration or exclude segments of public use. This is the basic rationale behind Queen Victoria's instructions to Governor Hobson. It is a timeless notion that remains valid".* [www.publicaccessnewzealand.com](http://www.publicaccessnewzealand.com)
9. Whilst I sympathise with the Higham family over their concerns for the security of their farming interests, these are 'private interests' separate from the interests of the public. I particularly appreciate being part of a society that protects the public interest above those of private individuals and their selected and exclusive community groups. Why then are our Councillors choosing to protect the interest of private individuals and select groups above the public, for whom they hold this road in trust?
10. This proposal has been actively promoted by our Western Ward Councillors under the banner of fulfilling the South Head Walkway Plan. Even though only 2 submissions actually objected to the proposal in the March 2007 Draft Walkway Plan to "investigate landswap options", there were very few submissions (21) to the actual Higham Rd section of the plan. This appears to be because most people did not understand the implications of these words, which are somewhat misleading.
11. It is also concerning that there appears to be some discrepancy between the content in submissions, as if some people were making submissions on very different information. The draft January 2007 plan contains very different information than the one endorsed by the Council in March 2007; and it is clear that Council staff had sought legal advice about Higham Rd closure. How is it that this "full story" was not made available to the public for the submission process?
12. 21 submissions is not a sufficient number for our councillors to so actively promote this particular proposal; especially in the light of the highly contentious Omokoiti and Wilson Road paper road issues. Is there some other political agenda here? How can we trust that these

Councillors will be able to consider objections with any sort of objectivity given their very public stance in promoting this proposal?

**My objection would be met by:**

Rodney District Council allowing this objection to the proposal and withdrawing its Notice of Intention to stop part of Higham Road, South Head.

**I wish to be heard in support of this objection.**

Whilst it is not required under the Local Government Act 1974 to hear objections I would request the Rodney District Council hold formal hearings; to hear any objections to the proposal and give all objectors an opportunity to speak to a panel of decision makers. Further to this, I would request that the Western Ward Councillors, who have publicly shown themselves on a number of occasions to be partisan to the advancement of the Road Stopping procedure, should be considered unsuitable to sit on the hearing panel.

Arohanui-Grace