

IN THE ENVIRONMENT COURT
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU

IN THE MATTER OF the Resource Management Act 1991

AND of an application by Allied Asphalt Limited under s87G of the Act for a direct referral to the Environment Court for an order granting the applicant's resource consent applications to construct and operate a new asphalt plant at 54 Aerodrome Road, Mt Maunganui, together with an application for consent to authorise the continued operation of the existing asphalt plant on the site pending construction of the new plant

(ENV-2023-AKL-000160)

MINUTE OF THE ENVIRONMENT COURT

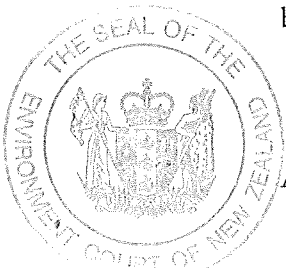
(13 September 2023)

Background

[1] The Environment Court has received a notice of motion from Allied Asphalt Limited (**the applicant**) seeking a direct referral under the Act.

[2] As the Court understands the legislation, the Court is now required to progress the matter towards a hearing in terms of Part 11 of the Act. The Court wishes to make timetabling orders.

[3] Given that the parties are not aware of the evidence supporting the applicant's case (as they would be if the matter had proceeded to a council hearing in the first instance), the simultaneous exchange of evidence would not enable other parties to be aware of matters called in support by the applicant.



ALLIED ASPHALT LIMITED

[4] Accordingly, it is intended that the applicant be required to circulate its evidence in the first instance.

[5] Thereafter, it appears that there should be an opportunity for all other parties to file their evidence and also an opportunity given for parties to comment on evidence between those parties after that is circulated. Thereafter, the applicant should have an opportunity to file evidence in reply.

Section 274 notices

[6] Any person who made a submission to the Bay of Plenty Regional Council and/or the Tauranga City Council on this matter and who wishes to participate in the Environment Court proceeding is required to file with the Court, **by 5:00pm on 29 September 2023**, a notice of wish to be a party to the proceeding in accordance with s274 of the Act. They will also need to serve a copy of their s274 notice on Allied Asphalt and the Consent Authorities by then.

[7] Further requirements for any s274 notices are addressed in a separate Minute.

Directions

[8] The Court proposes to convene a pre-hearing conference by Audio Video Link (via Microsoft Teams) **on or after 16 October 2023** to discuss timetabling issues in preparation for a hearing. The Court will address any waiver issues at this conference.

[9] The Court intends to make directions on the following matters at the pre-hearing conference:

- (a) the extent to which the s274 parties propose to conduct a single case;
- (b) whether mediation is required and, if so, the date for completion;
- (c) whether expert witness caucusing is required and, if so, the date(s) for that to occur;
- (d) the date by which the applicant is required to circulate to all other parties its evidence in support of the application;

- (e) the date by which all other parties (including the Bay of Plenty Regional Council and the Tauranga City Council) are required to circulate to all other parties and the applicant their evidence;
- (f) the date by which those parties mentioned in paragraph [9][e] above must serve any rebuttal evidence commenting on any other evidence circulated under paragraph [9][e] above, such copies also to be circulated to the applicant;
- (g) the date by which the applicant is required to circulate its rebuttal evidence;
- (h) which party will prepare, and the date for filing with the Court of, four extra copies of all evidence, to be assembled into folders with separating and full indexing, together with electronic copies as per the Court's Practice Note;
- (i) given that the Court intends to read the evidence of each witness prior to that witness giving evidence unless an application is made to and granted by the Court for the witness to read their evidence in full, the date by which any such application must be filed and circulated;
- (j) the commencement date for the hearing of the application; and
- (k) any other preliminary matters.

Notice of pre-hearing conference

[10] A notice confirming the date and time of the pre-hearing conference will be issued in due course. I **direct** the Registrar to issue a copy of this Minute to the applicant, the Bay of Plenty Regional Council and the Tauranga City Council, all persons who filed a submission, and Mr Olliver (as Friend of the Submitters).





MJL Dickey
Environment Judge