

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

**Decision No. [2020] NZEnvC 46**

IN THE MATTER of the Resource Management Act 1991

AND of the proposed direct referral of an application for resource consents for activities associated with Te Ahu a Turanga: Manawatū Tararua Highway Project

AND

IN THE MATTER OF an originating application under sections 281 and 291 of the Resource Management Act 1991 for waivers and directions

BETWEEN WAKA KOTAHI NZ TRANSPORT AGENCY

(ENV-2020-WLG-000014)

Applicant

AND MANAWATŪ-WHANGANUI REGIONAL COUNCIL

Regulatory Authority

Court: Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

Hearing: In chambers at Wellington

Date of Decision: 17 April 2020

Date of Issue: 17 April 2020

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**ORDER OF THE COURT**

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## Introduction

[1] The Court has read the *ex parte* notice of motion seeking waivers and directions filed by Waka Kotahi NZ Transport Agency (the Transport Agency) on 9 April 2020, and the accompanying memorandum of counsel.

[2] The waivers and directions sought relate to the proposed direct referral of an application for resource consents for activities associated with Te Ahu a Turanga: Manawatū Tararua Highway Project. That application was lodged by the Transport Agency with Manawatū-Whanganui Regional Council on 11 March 2020.

[3] For the reasons set out in the Court's Decision No. [2020] NZEnvC 44, the Court grants the waivers and makes the directions described below on an anticipatory basis, pursuant to section 279(2)(b) of the Resource Management Act 1991 (the Act).

[4] The Transport Agency has sought additional directions regarding timetabling. The Court is not making directions setting specific dates for procedural steps at this time, for the reasons set out in Decision No. [2020] NZEnvC 44, but will consider making further timetabling directions once the period for making submissions on the application for consents has closed. In the meantime, this order records below the Court's indicative comments regarding timetabling.

## Order for waivers and directions

[5] The Court makes the following orders:

### *Section 274 notices*

- (a) The requirement that a party lodge a signed original and one copy of their section 274 notice with the Court is waived.
- (b) Section 274 parties are directed to file electronically (via email) a copy of their section 274 notice, which may be signed or unsigned.
- (c) The requirement under section 274(2B) of the Act that a section 274 party serve a copy of their interested party notice on "*all other parties*" is waived.
- (d) Prospective section 274 parties are instead directed to serve their notice on the Transport Agency and Manawatū-Whanganui Regional Council only, with service on other parties to be achieved by filing their notice with



the Environment Court for publication by the Court on a dedicated page to be established for the proceeding on the Environment Court website.

- (e) Section 274 notices must otherwise meet the requirements of form 33 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003 and the Act, including the requirement under section 274(3)(b) that a party state, with reasons, whether the person supports or opposes the proceedings.

*Electronic filing and service*

- (f) The Court directs that:
- (i) all documents related to the proceeding may be filed with the Court electronically, via email;
- (ii) all documents may be served on the Transport Agency and Manawatū-Whanganui Regional Council electronically via email, or by post, at the following addresses:

Address for service	Waka Kotahi NZ Transport Agency	Manawatū-Whanganui Regional Council
<b>By email:</b>	<a href="mailto:david.randal@buddlefindlay.com">david.randal@buddlefindlay.com</a>	<a href="mailto:SJohnston@crlaw.co.nz">SJohnston@crlaw.co.nz</a>
<b>By post:</b>	David Randal, c/- Buddle Findlay, Aon Centre, 1 Willis Street, PO Box 2694, Wellington 6140	Shannon Johnston, c/- Cooper Rapley Lawyers, 227 Broadway Avenue, Palmerston North 4414

- (iii) service of all documents on any other party may be achieved by filing them in the Environment Court for publication by the Court on the dedicated page established for the proceeding on the Environment Court website.
- (iv) nothing in this direction precludes service in any other manner provided for in s352(1)(b).

**Timetable and case management**

*Direction*

[6] The Transport Agency is directed to file a further memorandum regarding timetabling as soon as it may practically do so following the close of the submission period.



*Indicative comments regarding timetabling*

[7] The Court makes the following indicative comments regarding timetabling:

- (a) The Court will look to have a prehearing conference in these proceedings no later than five working days after closure of the section 274 notice period (presently estimated to be 17 June 2020). The venue for and form (in person, AVL or otherwise) of the conference will be determined and details notified on the Court website as soon as practicable after the number, identity and addresses of submitters at the Council are known.
- (b) The purpose of the prehearing conference will be for the Court to make directions towards a hearing of the applications tentatively anticipated to commence on 24 August 2020.
- (c) At the prehearing conference all parties other than the Transport Agency (whose first tranche of evidence will have been filed by 12 June 2020) will be required to identify the specific issues they wish to advance at hearing together with the identity and contact details of all witnesses they wish to call.
- (d) Parties and witnesses must be available to participate in prehearing processes (exchange of evidence, mediation and expert witness conferencing) within the period between the conference and tentative hearing date and be available for a hearing for a reasonable period following that date.
- (e) Not less than two working days prior to the prehearing conference the Transport Agency shall file for publication on the dedicated page of the Court website a draft timetable for the exchange of evidence, mediation and expert witness conferencing. In the Court's view the exchange of evidence (other than the Transport Agency's rebuttal evidence) should precede mediation and expert witness conferencing.
- (f) Any other party seeking directions from the Court on any matter shall file notice accordingly for publication on the dedicated page of the Court website (which shall constitute service on the Transport Agency and Manawatū-Whanganui Regional Council in that respect notwithstanding the directions above), not less than one working day prior to commencement of the prehearing conference.

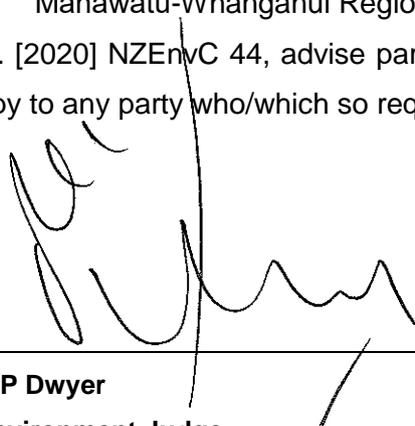


- (g) These comments are made on an indicative basis in light of the current COVID-19 Alert Level 4 situation. Final directions will have regard to any circumstances or disadvantages to any party which might arise as a result of that situation.

**Service of this order and availability of decision**

[8] Manawatū-Whanganui Regional Council is directed to serve a copy of this order on all parties who/which file a submission on the resource consent application, including those who/which have already filed submissions.

[9] Manawatū-Whanganui Regional Council is directed to keep a copy of Decision No. [2020] NZEnvC 44, advise parties that it is available for perusal, and provide a copy to any party who/which so requests.



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**B P Dwyer**  
**Environment Judge**

