

IN THE ENVIRONMENT COURT  
AT WELLINGTON

I TE KŌTI TAIAO O AOTEAROA  
KI TE WHANGANUI-A-TARA

IN THE MATTER of a proposed direct referral of applications for resource consents and notices of requirement under sections 87G and 198E of the Resource Management Act 1991 for the Ōtaki to North of Levin Project

BY WAKA KOTAHI NEW ZEALAND  
TRANSPORT AGENCY  
Applicant

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MINUTE OF THE ENVIRONMENT COURT  
(11 APRIL 2023)

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[1] The Court acknowledges receipt of the memorandum from counsel for Waka Kotahi dated 5 April 2023.

[2] I am aware of the Court's obligation to avoid unreasonable delay. The Court has initially met that obligation by issuing anticipatory directions as per its minute of 23 March 2023.

[3] I make the following observations about the requested timetable:

- In determining whether or not to make the directions sought it is necessary to have regard to the interests of all potential parties to the proceedings, not just Waka Kotahi. Making directions of the kind requested in this instance in the absence of any discussion with potentially



affected parties might create an impression that not all interests have been taken into account;

- Nothing in the memorandum identifies a need to complete mediation at the speed sought by Waka Kotahi, notwithstanding it's understandable wish to have this matter dealt with as speedily as can be reasonably achieved;
- The request for mediation processes to commence within five working days of anticipated s 274 filing date does not, in my view, give enough time for s 274 parties to consider all other 274 notices which might be filed, identify areas of common interest, instruct advisors/counsel and adequately prepare for mediation;
- It is not practicable for the Court to arrange Commissioner availability, venue availability and make timetabling arrangements for mediation until all s 274 notices have been considered, the numbers participating in mediation ascertained and areas of common interest and/or mediation topics identified;
- The fact that there are 16 directly affected and 23 near neighbour submissions suggests that there is a swathe of submissions raising direct effects on individual properties, all of which may require individual mediations and more time than currently proposed;
- My experience is that in some (but not all) instances mediation may be most efficiently be undertaken after expert witness conferencing;
- Declining to make the directions sought would not preclude Waka Kotahi from negotiating directly with any potential s 274 parties now in an endeavour to resolve matters at issue.

[4] Having considered all of the above matters I decline to make the timetabling orders sought.

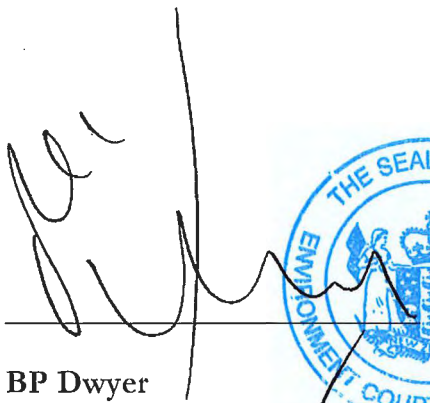
[5] The notice of pre-hearing conference will advise s 274 parties that at that conference they will be required to:

- Advise if they are instructing counsel;



- Identify any expert witnesses they are to call at hearing, together with those witnesses' areas of expertise, contact details and confirmation of availability to prepare briefs of evidence and participate in expert witness conferencing during the pre-hearing window.

[5] Counsel for Waka Kotahi and the local authorities are requested to urgently advise the Court Registry – C/- Jennifer Gerritsen; email [Jennifer.Gerritsen@justice.govt.nz](mailto:Jennifer.Gerritsen@justice.govt.nz) or ph (04) 918 8334 - with the most convenient date for a pre-hearing conference between 21-23 June 2023 to enable enquiry to be made as to court room availability on those dates. At the same time enquiry will be made as to possible hearing dates from late August onwards.

  
BP Dwyer  
Environment Judge

