

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

**I MUA I TE KŌTI TAIAO O AOTEAROA
TE WHANGANUI-A-TARA ROHE**

ENV-2023-WLG-000005

Under the **RESOURCE MANAGEMENT ACT 1991**

In the matter of the direct referral of applications for resource consents and notices of requirement under sections 87G and 198E of the Act for the Ōtaki to North of Levin Project

By **WAKA KOTAHI NEW ZEALAND TRANSPORT AGENCY**

Applicant

MEMORANDUM OF COUNSEL FOR THE APPLICANT

25 August 2023

BUDDLE FINDLAY

Barristers and Solicitors
Wellington

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MAY IT PLEASE THE COURT:

1. This memorandum of counsel is filed on behalf of Waka Kotahi New Zealand Transport Agency (**Waka Kotahi**) in relation to various procedural and other timetabling matters following the conclusion of the first week of Court assisted mediation.

Timetable

2. On 5 July 2023 counsel filed a memorandum setting out a proposed timetable through to hearing. In its Minute dated 7 July 2023, the Court directed that any party seeking change or refinement of the proposed timetable do so by midday on 12 July 2023.
3. In its memorandum of 17 July 2023 Waka Kotahi considered the responses filed on behalf of Horizons Regional Council, Greater Wellington Regional Council, Horowhenua District Council and Kāpiti Coast District Council (the **Councils**) and various section 274 parties in accordance with the 7 July Minute. In that memorandum Waka Kotahi concluded "*Waka Kotahi considers that the timetable appended as Appendix C to its memorandum of 5 July 2023 remains appropriate and reasonable for all parties.*"
4. Since then, Waka Kotahi and the Councils have progressed this process based on that timetable. They therefore agree to the 5 July timetable being confirmed. All parties have kept to the expert conferencing timeframes and are presently keeping to the mediation timeframes.
5. Council respectfully requests that the Court direct that the timetable from Appendix C of its memorandum of 5 July 2023 is confirmed with one minor amendment as Project Iwi Partner mediation is now within the set mediation period. An updated timetable is as set out in **Appendix A** to this memorandum.

Reporting memorandum

6. To assist the Court and all parties in planning for the upcoming hearing Counsel respectfully requests that the Court directs that:
 - (a) Waka Kotahi and the Councils are to file a joint memorandum by 4pm on 15 September 2023 setting out:
 - (i) The issues in dispute to be resolved at the hearing (including those raised in any section 274 party evidence);

- (ii) The likely time required for the hearing (and a proposed hearing schedule); and
 - (iii) Any other matters to enable the efficient delivery of the hearing.
- (b) Any section 274 party that considers that an issue has been missed, mis-identified, or that additional time is required for the hearing, must inform the Court, and all parties with the issue (or time required) and clear particulars as to the rationale for it by 4pm 20 September 2023. The Court can then make any directions as to the hearing that it sees fit.

Site visit

- 7. Counsel understands that the Court is open to a site visit in the week before the hearing and it would like opening submissions to be filed in advance of the site visit. Counsel proposes that:
 - (a) The Court directs that:
 - (i) Any party who wishes to propose a location (which the Court must be able to safely access) for the Court to view inform counsel for Waka Kotahi by 4pm 13 September 2023, along with a clear explanation of what they want the Court to look at/consider at the location;
 - (ii) Waka Kotahi will:
 - (1) collate a map and table of the site visit for the Court containing all matters in (a) along with any locations it, and its Project Iwi Partners wish the Court to visit;
 - (2) provide the Court with a proposed itinerary for the site visit (which will take a whole day); and
 - (3) liaise with the registrar to provide safety clothing as required, a driver (who will be a person with no involvement with the hearing) and a van for the site visit; and
 - (iii) Waka Kotahi will file its opening legal submissions by 3pm on Tuesday 17 October 2023; and
 - (b) The site visit occurs on either 18, 19 or 20 October 2023 (with the hearing commencing on Tuesday 24 October 2023).

DATED this 25th day of August 2023.

A handwritten signature in blue ink, appearing to read 'D. Allen' or similar, written in a cursive style.

David Allen / Thaddeus Ryan
Counsel for Waka Kotahi

APPENDIX A – UPDATED PROPOSED TIMETABLE

Process step	Date
Waka Kotahi evidence filed	Tuesday 3 July [<i>complete</i>]
Expert witness for s274 parties and councils 'will say statements' filed and served ahead of conferencing	Wednesday 19 July
Expert conferencing:	Weeks of 24 July (technical) and 7 August (any overflow technical and planning)
Court-assisted mediation (including with Project Iwi Partners)	Week of Monday 21 August (with 28 and to 29 August potential reserve days depending on Commissioner availability)
Section 274 Party evidence to be filed and served	Tuesday 12 September
Councils' evidence to be filed and served	Tuesday 26 September
Waka Kotahi reply evidence to be filed and served	Tuesday 10 October
Hearing <i>HDC Council Chambers, Levin</i>	From Tuesday 24 October 2023 for 9 days

