

**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 NZ TRANSPORT AGENCY**

Applicant

MEMORANDUM OF COUNSEL FOR THE APPLICANT

13 September 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 NZ Transport Agency (**Waka Kotahi**). It relates to the filing of evidence on behalf of the section 274 parties, and the Minute of the Court dated 12 September 2023.
2. The purpose of this memorandum is to confirm the position of Waka Kotahi in relation to:
 - (a) Section 274 party evidence received and anticipated;
 - (b) The waivers requested and granted for late evidence filing;
 - (c) Any impacts on hearing timeframes.

Evidence received and waivers granted

3. Evidence on behalf of the section 274 parties was due to be filed on 12 September 2023. As of today, Waka Kotahi has received statements of evidence from the following parties:
 - (a) Prouse Trust Partnership, Mr Stephen and Mrs Karen Prouse;
 - (b) Mr John Bent; and
 - (c) Kāinga Ora.
4. The Minute of the Court dated 12 September 2023 granted waivers of the Court's directions for filing evidence, extending the filing deadline to **4.00pm, Friday 15 September** for:
 - (a) the Royal Forest and Bird Protection Society Inc, and
 - (b) the NZ Equestrian Advocacy Network, Horowhenua Equestrian Advocacy Group and Kapiti Equestrian Advocacy Group (together, the **Equestrian Groups**),
5. The Court subsequently granted, via email on 13 September 2023, the request to extend the filing deadline for Ms Anna Carter's evidence (on behalf of the Prouse Trust Partnership) until **4.00pm, Friday 15 September**.

Further waivers and impact on timetable

6. In subsequent emails to the Court dated 12 September 2023, the Equestrian Groups have asked for a further waiver of the evidence filing deadline. No

specific alternative deadline has been requested by the Equestrian Groups; instead the Equestrian Groups have asked for "*the last date possible*".

7. The Equestrian Groups refer to a lack of feedback from Waka Kotahi following mediation. No formal agreement was reached at mediation. Counsel note, and respectfully agree with, the Court's comment that:

"If negotiations between the Equestrian Groups and WK have not resolved matters between the Groups should have been completing evidence as a matter of urgency based on their "bottom line" position".

8. The Court also commented that:

"If settlement is possible as is suggested by the Equestrian Groups' email of today, I suggest that WK conveys that to the Groups urgently".

9. Waka Kotahi has since been in contact with the Equestrian Groups; matters between Waka Kotahi and the Equestrian Groups remain unresolved.
10. Waka Kotahi therefore opposes the application by the Equestrian Groups for a further extension of the evidence filing deadline beyond that already directed. In opposing the application, Waka Kotahi notes the relatively confined timetable through to the hearing, with the evidence of the Councils to be filed on 26 September and Waka Kotahi reply evidence to be filed on 10 October.
11. For the avoidance of doubt, Waka Kotahi considers no amendments to the evidence exchange timetable as directed by the Court are necessary.

DATED this 13th day of September 2023.



David Allen / Thaddeus Ryan
Counsel for Waka Kotahi