

**IN THE ENVIRONMENT COURT
WELLINGTON REGISTRY**

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

ENV-2023-WLG-000005

UNDER the Resource Management Act 1991

IN THE MATTER 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

**STATEMENT OF EVIDENCE OF KERRY STEWART PEARCE ON BEHALF OF THE
MANAWATŪ-WHANGANUI REGIONAL COUNCIL AND THE GREATER WELLINGTON
REGIONAL COUNCIL**

EROSION AND SEDIMENT CONTROL

Dated: 26 September 2023



Cooper Rapley Lawyers
227-231 Broadway Avenue
PO Box 1945
Palmerston North
DX PP80001

S Johnston / G Bailey
 06 353 5210
 06 356 4345
 sjohnston@crlaw.co.nz

TABLE OF CONTENTS

A. INTRODUCTION 1

B. CODE OF CONDUCT 1

C. SCOPE OF EVIDENCE..... 2

D. OUTSTANDING ISSUES 2

E. RESPONSE TO SECTION 274 PARTY EVIDENCE..... 3

F. CONDITIONS..... 3

G. CONCLUSION 4

STATEMENT OF EVIDENCE OF KERRY STEWART PEARCE

A. INTRODUCTION

[1] My name is Kerry Stewart Pearce. I am Director of Environmental Land Management Limited, which is subcontracted to Bryant Environmental Solutions Limited. I have been in that position since May 2005.

[2] I prepared a report on the application required by section 87F of the Resource Management Act 1991 on behalf of Manawatū-Whanganui Regional Council (**Horizons**) and the Greater Wellington Regional Council (**GWRC**), dated 28 April 2023 (the **s87F Report**).

[3] In my s87F Report, I reviewed the application from Waka Kotahi for resource consent applications lodged with Horizons and the GWRC relating to the Ōtaki to North of Levin Highway Project (the **Ō2NL Project** or **Project**). My s87F Report provided recommendations to improve or further clarify aspects of the resource consent application addressing erosion and sediment control (**ESC**).

[4] I confirm I have the qualifications and experience set out at paragraphs 6-10 of my s87F Report.

[5] On 8 August 2023, I participated in expert conferencing on erosion and sediment control/water quality producing a joint witness statement dated 8 August 2023 (the **ESC/Water Quality JWS**). I confirm the contents of the ESC/Water Quality JWS.

B. CODE OF CONDUCT

[6] I repeat the confirmation provided in my s87F Report that I have read and agree to comply with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. This evidence has been prepared in accordance with that Code. Statements expressed in this evidence are within my area of expertise, except where I state I am relying on the opinion or evidence of other witnesses.

C. SCOPE OF EVIDENCE

[7] My report will cover the following:

- (a) The extent to which issues identified in my s87F Report have been resolved through Waka Kotahi evidence, expert conferencing, mediation and the conditions filed on 4 September 2023;
- (b) Response to section 274 party evidence; and
- (c) Conditions.

[8] Since preparing my s87F report I have reviewed the following reports/information:

- (a) Statement of evidence of Gregor John McLean for Waka Kotahi dated 4 July 2023;
- (b) Section 274 party evidence; and
- (c) Conditions filed by Waka Kotahi on 4 September 2023 (**Waka Kotahi conditions**).

[9] In preparing this evidence I have reviewed and relied on the evidence of Mr Logan Brown, for Horizons and GWRC, regarding water quality.

D. OUTSTANDING ISSUES

[10] On review of the issues in dispute arising from my s87F Report, the ESC/Water Quality JWS, and the Waka Kotahi conditions, I am of the view that most issues relating to ESC have been addressed, other than the conditions for escalating responses to visual clarity exceedances. I discuss the relevant condition and management framework below.

[11] I note conditions RES1, RES8, and RES9 in the Waka Kotahi conditions, which have been amended to address issues I had raised with regard to ESC design, as-builts, and ESC monitoring.¹ These amendments involved:

¹ Section 87F Report, paragraphs [21] – [38] and [55] – [68].

- (a) Amendment to RES1 to include “equal to or greater than 100mm”;²
- (b) Amendment to RES8 to allow for different types of chemical treatment systems;³ and
- (c) RES9 including monitoring of all erosion and sediment control structures.⁴

[12] I agree with the use of GD05 standards in the resource consent conditions.

E. RESPONSE TO SECTION 274 PARTY EVIDENCE

[13] My s87F Report commented on submissions received on the application. Having reviewed the evidence filed by section 274 parties, there are no new issues that need to be addressed in relation to ESC.

F. CONDITIONS

[14] I have reviewed the Waka Kotahi conditions. I am generally satisfied with the conditions, with the exception of the visual clarity monitoring response.

[15] I am of the opinion that the conditions need to include a trigger for an escalating management response where there are repeated exceedances in visual clarity monitoring. This was referred to in the ESC/Water Quality JWS, which recorded:

Erosion Sediment Control Monitoring Plan – all agree that Schedule 8d) provisions should include requirements for escalating the response if there is poor performance of a device as indicated by repeated exceedances.

[16] While there are a range of management measures that can be adopted and these can be included in the various Management Plans, the identified response needs to be directed to be more significant with each exceedance, in order to address the ongoing poor performance of the sediment treatment device that is indicated by the repeated exceedances.

² Pages 67-68 of Waka Kotahi Conditions (Tracked Changes Version).

³ Page 70 of Waka Kotahi Conditions (Tracked Changes Version).

⁴ Pages 70-71 of Waka Kotahi Conditions (Tracked Changes Version).

- [17] A sediment treatment device may have a 'one off' exceedance that can be addressed by removing suspended sediment from the device through, for example, raising the decants and additional dosing of flocculent. However, this should not be the only and ongoing response to repeated exceedances in a particular treatment device. Repeated exceedances in visual clarity monitoring indicates there may be other issues with the sediment treatment device or in the contributing catchment that need to be investigated. Having an escalation in management response if there is poor performance of a device (indicated through repeated exceedances) will ensure any issues higher up in the contributing catchment will be addressed and the receiving environment will be protected from repeated sediment discharges.
- [18] I am comfortable with the management responses being specified in the Erosion and Sediment Control Monitoring Plan (Schedule 8);⁵ however, having reviewed Mr Logan Brown's evidence, I agree that the requirement (or trigger) to adopt an escalating response should sit within the conditions (RES1). These matters are further discussed in the evidence of Mr Brown.⁶

G. CONCLUSION

- [19] Other than the amendment to conditions I have sought above; I am satisfied that the matters raised through my review of the resource consent application have been addressed by Waka Kotahi. I rely on the evidence of Mr Brown with regard to the water quality outcomes related to ESC.

26 September 2023

Kerry Stewart Pearce

⁵ Page 94 of Waka Kotahi Conditions (Tracked Changes Version).

⁶ Statement of Evidence, Logan Brown, dated 26 September 2023, paragraph [36] – [40].