

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

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

ENV-2023-WLG-

Under the **RESOURCE MANAGEMENT ACT 1991**

In the matter of the direct referral of applications for resource consent 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

**NOTICE OF MOTION FOR PROCEEDINGS UNDER SECTIONS 87G AND 198E
OF THE RESOURCE MANAGEMENT ACT 1991**

Dated: 1 May 2023

BUDDLE FINDLAY

Barristers and Solicitors
Wellington

Solicitor Acting: **David Allen / Thaddeus Ryan**
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To: The Registrar
Environment Court
Wellington

INTRODUCTION

1. Waka Kotahi NZ Transport Agency (**Waka Kotahi**) applies under sections 87G and 198E of the Resource Management Act 1991 (the **Act**) for the resource consents and notices of requirement (together, the **Application**) necessary for the Ōtaki to north of Levin state highway project (**Ō2NL Project** or **Project**) to be determined by the Environment Court instead of by Greater Wellington Regional Council (**GWRC**), Manawatū-Whanganui Regional Council (**Horizons**), Kāpiti Coast District Council (**KCDC**) and Horowhenua District Council (**HDC**) (together, the **Councils**).
2. The Project involves the construction, operation, use, maintenance and improvement of approximately 24 kilometres of new four-lane median divided state highway (two lanes in each direction) and a shared use path (**SUP**) between Taylors Road, and the Peka Peka to Ōtaki expressway, (to the north of Ōtaki) and State Highway 1 (**SH1**) north of Levin.
3. The purpose of the Project is to provide essential transport, safety, connectivity and resilience improvements for users of SH1, while responding to projected population growth in the Horowhenua District and the resulting additional demand on local roads and the state highway network.
4. On 1 November 2022¹, Waka Kotahi lodged the Application with the Councils and requested, under sections 87D and 198B of the Act, that the Councils allow the Application to be referred directly to the Environment Court rather than determined by the Councils.
5. On 19 and 20 January 2023 the Councils granted the requests for direct referral pursuant to sections 87E and 198C of the RMA. The relevant letters are Exhibits LD1 and LD2 to the accompanying affidavit of Lonnie William D'Wayne Dalzell.
6. Waka Kotahi has considered the reports prepared by the Councils under sections 87F and 198D of the Act, dated 28 April 2023, and wishes to have the Application heard by the Environment Court.

¹ As mentioned at footnote 1 of LD2, the Councils treated the Application as formally lodged on the date on which payment of the lodgment fees was received. This was 9 November 2022 for Horizons and GWRC (see [5] of LD1) and 11 November 2022 for HDC and KCDC (see [2.1] and footnote 1 of LD3).

Grounds

7. The grounds for this application are as follows:
 - (a) The Ō2NL Project will be a key transport connection in the lower North Island (becoming SH1). It will provide safer and more resilient and reliable links, promote community connectivity and active modes of transport through the proposed SUP, reduce traffic in Levin's town centre, and act as an important economic stimulus for the Horowhenua and Kāpiti Coast Districts, and the Wellington and Manawatū-Whanganui Regions.
 - (b) Given the significant public interest in the Project, it is highly likely that appeals to the Environment Court from a first-instance council-level decision would be brought in any event. Direct referral of the Application will achieve time and cost efficiencies while at the same time ensuring all parties are able to participate effectively and will not suffer any undue prejudice.
 - (c) The additional grounds set out in the affirmation of Lonnie William D'Wayne Dalzell dated 27 April 2023, filed together with this notice of motion.
8. The Court has granted waivers and made directions to simplify the section 274 process and facilitate the electronic case management of this proceeding. The Court's waivers and directions have been made available to all submitters and are served on them again together with this notice of motion, because they have the effect of varying the requirements of section 274 of the Act.

Additional documentation

9. Accompanying or attached to this notice of motion are the following documents:
- (a) an affirmation by Lonnie William D'Wayne Dalzell dated 27 April 2023 in support of this notice of motion; and
 - (b) a list of names and addresses of persons to be served with a copy of this notice of motion (**Attachment 1**).

DATED this 1st day of May 2023



D Allen / T Ryan
Counsel for Waka Kotahi NZ Transport
Agency

The applicant's address for service is at the offices of Buddle Findlay (attention: David Allen), Level 17, Aon Centre, 1 Willis Street, PO Box 2694, DX SP20201, phone 64 4 499 4242, facsimile 64 4 499 4141, Wellington. Service on the applicant can also be effected by email to david.allen@buddlefindlay.com.

Advice to recipients of copy of notice of motion

How to become party to proceedings

You may be heard on the Application if you come within section 274(1) of the Resource Management Act 1991. If you are a trade competitor of Waka Kotahi, your right to be heard may be limited.

You may be heard on the Application as a party if, within 15 working days after this notice of motion was lodged with the court, you file, via email to EnvironmentCourt@justice.govt.nz, a notice (signed or unsigned) in Form 33 with the Environment Court and serve copies of your notice on Waka Kotahi and the Councils.

Advice

If you have any questions about this notice, contact the Environment Court in Wellington.