

**IN THE ENVIRONMENT COURT
AT WELLINGTON**

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

IN THE MATTER of a 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 NEW ZEALAND TRANSPORT
AGENCY-WAKA KOTAHI
(ENV-2023-WLG-000005)
Applicant

**MINUTE OF THE ENVIRONMENT COURT
(19 OCTOBER 2023)**

[1] This minute addresses a number of issues in preparation for next week's hearing in Levin.

Conditions

[2] Attached to Ms McLeod's 10 October 2023 rebuttal evidence at Appendix A is a set of revised draft conditions.

[3] Ms McLeod advised that the left column of these conditions includes the further amendments she has made in response to the evidence filed by the s 274 parties and the Councils and that it is these conditions which she supports.



[4] In a second column, are the amendments to the conditions suggested by the s 274 parties and the Councils whether supported by Ms McLeod or not.

[5] We note that a substantial number of these second column amendments have been proposed either by Mr St Clair the planner for the Regional Councils or Ms Anderson, the planner for the District Councils.

[6] From our initial assessment of the differences between the McLeod set of conditions and the St Clair/Anderson set, we found some of the differences to be confusing in the way that they have been expressed and as well that there appears to be the potential for some narrowing of these differences.

[7] In the interests of optimising the time available for the hearing, the three planners are therefore directed to conference with the objective of endeavouring to narrow to the extent possible the differences in the two sets of conditions following which an amended set is to be prepared.

[8] This amended set of conditions (with any comments) is to be provided to the Court and the parties by the start of the second day of the hearing (25 October, 2023).

Flooding

[9] We note the outstanding disagreement between Waka Kotahi and the Regional Councils on the achievement of hydraulic neutrality under the design flood for the Project.

[10] Mr Craig in his rebuttal evidence has attached a series of maps showing the updated envelope of flooding effects from having added the additional culverts to the model for the Prouse property and just south of culvert 35.8.

[11] To assist us in our scoping of the extent and degree of these flooding effects, at the start of the presentation of the evidence on flooding at the hearing, it would assist us if Mr Craig could first talk us through each of these flooding maps.

Acoustic Standard

[12] In the Draft Conditions, the definition of Best Practicable Option refers to

Condition DRN3 and New Zealand Standard 6806:2010. A copy of this standard was not included in the documents provided to the Court on the basis of copyright issues.

[13] As this Standard is key to the way in which traffic noise is to be managed through the proposed conditions, four copies of this standard are to be provided to the Court irrespective of any copyright issues. This is a particularly significant instance of “outside” documents being referred to in conditions. There should be no impediments on availability of such documents to persons wishing to check compliance matters. Counsel will be required to address the Court on that issue.

Iwi Witnesses

[14] We note from Waka Kotahi’s 18 October 2023 memorandum that no party has requested cross examination of any of the iwi witnesses.

[15] This raises the issue of how the parties propose that the Court decides on any unresolved issues between the iwi parties if there is no cross examination.

[16] All counsel are directed to reconsider their positions on the cross examination of the iwi witnesses and advise the Court in that regard at the commencement of the hearing.

Court’s Questioning Of Witnesses

[17] Waka Kotahi has provided the Court with a list of the witnesses the parties seek to cross examine and requested the advice of the Court as to the witnesses it wishes to question.

[18] The Court has yet to complete its reading of the evidence and is not in a position to advise if it will or will not have questions for these witnesses. The Court will keep the matters of any witnesses it does not need to question under ongoing review and advise the parties of witnesses in that category when it is in a position to do so.

[19] Those witnesses should be alerted to the possibility that they may potentially be required for questioning by the Court which, given the AVL technical constraints of the venue, would need to be in person. The Court will adopt a practical approach

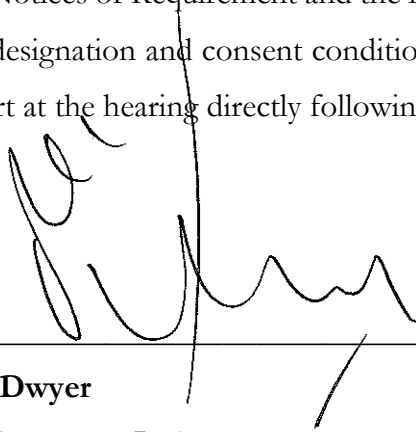
to arrangements for questioning of such witnesses (if required).

[20] Mr Bent previously indicated that he could provide his questions in writing for any witnesses not called by any other party and his practical approach is appreciated. We note that at the recent PHC he indicated to us that he was hopeful that his issues of concern could be resolved directly with Waka Kotahi ahead of the hearing. If that has not been achieved Mr Bent is directed to provide his questions to the Court and other parties at the commencement of the hearing.

Hearing Opening

[21] The iwi parties participating in the hearing process are directed to consult on a representative (or representatives) to open and close the hearing with a karakia and advise the outcome of that consultation to the Registrar prior to commencement of the hearing.

[22] Each of the Councils is directed to prepare a brief statement of its position on the Notices of Requirement and the resource consent applications and the content of the designation and consent conditions with these statements to be presented to the Court at the hearing directly following Waka Kotahi's opening legal submission.



B P Dwyer
Environment Judge

