

**BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER        of the Resource Management Act 1991

AND                      of the proposed direct referral of applications for resource consents for activities associated with Te Ahu a Turanga: Manawatū Tararua Highway Project

BETWEEN              WAKA KOTAHI NZ TRANSPORT AGENCY  
  
(ENV-2020-WLG-000014)  
  
Applicant

AND                      MANAWATŪ-WHANGANUI        REGIONAL COUNCIL  
  
Regulatory Authority

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**MINUTE OF THE ENVIRONMENT COURT  
(13 MAY 2020)**

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[1] I refer to the memorandum filed by the Transport Agency dated 30 April 2020. This minute responds to the issues raised in that memorandum and the Transport Agency's earlier application for directions. The minute is drafted after discussion between myself, Commissioner Buchanan (who will likely manage mediation and expert witness conferencing processes) and Commissioner Bunting (who will likely sit on the hearing panel for these applications).

[2] We have determined that the most efficient way forward in this matter is for the Court to conduct an "initial mediation" chaired by Commissioner Buchanan as soon as reasonably practical after the closing of the s 274 notice date anticipated in the Agency's memorandum of 30 April 2020 (17 June 2020). The Court presently proposes that the initial mediation will take place at the Environment Court in Wellington on Monday and (if required) Tuesday 22 and 23 June 2020. I record in that regard:



- Normally a process such as this would take place in Palmerston North or some other convenient nearby venue such as Levin. The Court's ability to accommodate that is restricted by pressure on the Palmerston North Court in June and likely Covid protocols which require a larger venue. Part of the purpose of this minute is to give as much notice as possible to likely parties of the need to travel to Wellington;
- Due to the probable need to comply with Covid restrictions, participation at commencement of the initial mediation may be restricted to one person per party plus counsel with some flexibility thereafter for discussions between lesser numbers of parties. The Court will advise guidelines in that regard once the number of parties is confirmed;
- The initial mediation will substitute for and effectively act as a prehearing conference as well as a mediation. The members of the Court considered that this was a more efficient process than having a prehearing conference followed almost immediately by mediation;
- Commissioner Buchanan will chair the initial mediation. Any matters such as jurisdictional or vires issues which might arise will be referred to myself for determination or directions;
- The Transport Agency is to file a statement of issues arising out of submissions by 5.00pm Thursday 18 June which will inform the agenda for the initial mediation. The statement of issues should identify matters which the Transport Agency considers might be resolved at the initial mediation without the need for parties to prepare and exchange evidence;
- At the initial mediation all parties will be required to identify the witnesses they will call at hearing. Matters which might be resolved without the need for evidence will be dealt with and resolved (if possible) as part of the initial mediation;
- A copy of this minute will be forwarded to Manawatū-Whanganui Regional Council which is requested to send the same to all persons who have filed submissions on this application.

[3] It is anticipated that the following process will follow the initial mediation:

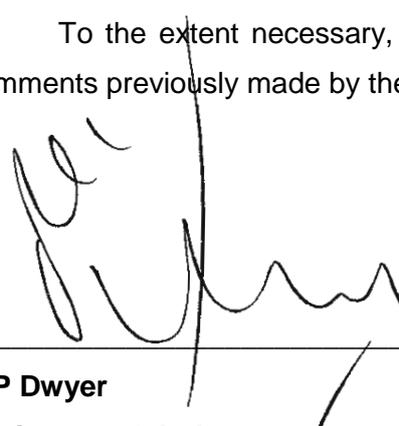
- Parties other than the Transport Agency who wish to present evidence at the Court hearing will be directed to lodge "will say" statements from their witnesses by midday, Friday 3 July 2020;



- Expert witness conferencing will be undertaken between Tuesday 7 July and Friday 17 July;
- Section 274 parties and Manawatū-Whanganui Regional Council will be directed to lodge and serve briefs of evidence on remaining matters in issue by Friday 31 July;
- A further mediation seeking to resolve remaining issues in dispute may be held on 5 and 6 August by agreement between parties;
- Rebuttal evidence from the Transport Agency to be lodged and served by Friday 14 August;
- Directions as to collation and provision of documents to be made by the Court in due course;
- Provisional hearing dates weeks of 24 August and 4 September.

It should be noted that these dates are provisional and are dependent on the Transport Agency's application being received by the Court no later than 26 May 2020 and consideration of any submissions/comments on the suggested process made by other parties at the initial mediation. It is anticipated that movement to Covid Level 2 will enable parties to readily obtain appropriate advice on all of these matters. One of the purposes of this minute is to give parties intending to call evidence or be represented at hearing as much notice as practicable to enable them to instruct witnesses/counsel. Preparation for those parties should commence sooner rather than later.

[4] To the extent necessary, these comments may be regarded as amending the comments previously made by the Court.

  
B P Dwyer  
Environment Judge

