

**BEFORE COMMISSIONERS APPOINTED BY TARARUA DISTRICT COUNCIL,  
PALMERSTON NORTH CITY COUNCIL, AND MANAWATŪ DISTRICT  
COUNCIL**

**IN THE MATTER OF**

The Resource Management Act 1991

**AND**

**IN THE MATTER OF**

Notices of requirement for designations under  
section 168 of the Act, in relation to Te Ahu a  
Turanga; Manawatū Tararua Highway Project

**BY**

**NEW ZEALAND TRANSPORT AGENCY**  
Requiring Authority

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**MEMORANDUM OF COUNSEL FOR  
THE NEW ZEALAND TRANSPORT AGENCY**

14 March 2019

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## **MAY IT PLEASE THE HEARING PANEL:**

1. This memorandum of counsel on behalf of the New Zealand Transport Agency (“**Transport Agency**”) accompanies further evidence being filed on behalf of two of the Transport Agency’s iwi partners in respect of this project, Ngāti Kahungunu ki Tāmaki Nui-a-Rua and Ngāti Raukawa.

### **Filing of additional evidence**

2. The memorandum of counsel for the Transport Agency dated 8 March 2019 foreshadowed that additional evidence was being prepared on behalf of Ngāti Kahungunu ki Tāmaki Nui-a-Rua and Ngāti Raukawa, but was not available to be filed on that date.
3. Counsel have now been provided with the evidence and are filing it, together with this memorandum, for the Hearing Panel’s consideration. The witnesses are:
  - (a) Jessica Kereama;
  - (a) Justin Tamihana;
  - (b) Morry Black;
  - (c) James Kendrick; and
  - (d) Greg Carlyon.
4. Counsel’s memorandum of 8 March 2019 explained the basis on which this evidence is being put forward; to reiterate, the evidence is provided on behalf of the iwi (rather than the Transport Agency), but under the umbrella of the Transport Agency’s evidentiary case.
5. It is important to emphasise again that some of the views expressed by the iwi witnesses in their written evidence do not necessarily reflect the position of the Transport Agency.

### **Waiver**

6. Counsel acknowledge that this evidence is filed after the date specified for provision of the Transport Agency’s written briefs of evidence (at paragraph 42 of the Hearing Panel’s first minute dated 28 January 2019).
7. Counsel respectfully ask that the Hearing Panel waive that timeframe in respect of this evidence, under section 37(1)(b) of the Resource Management Act 1991. Counsel can elaborate on these reasons if that would

assist the Hearing Panel but, in terms of the considerations in section 37A (and the Act more broadly):

- (a) It is clearly in the interests of the iwi and the Transport Agency to make this written evidence available for consideration by the Hearing Panel as part of its overall evaluation of the notices of requirement, and in the interests of the hearing process generally to allow the perspectives of these iwi to be considered.
- (b) In particular, waiving the timeframe would assist the Hearing Panel to comply with its obligations under Part 2 of the Act, including to recognise and provide for the relationships specified in section 6(e), have particular regard to kaitiakitanga (section 7(a)), and take into account the principles of Te Tiriti o Waitangi / the Treaty of Waitangi (section 8). To do so would also better inform the Hearing Panel's consideration of the notices of requirement in light of the purpose of the Act set out in section 5.
- (c) No participant in the upcoming hearing would be prejudiced by the Hearing Panel waiving the timeframe and accepting the late evidence, because:
  - (i) although the iwi are understood to have an interest in all of the matters raised in submissions, in general terms, no submitter has raised specific issues relevant to the position of Ngāti Kahungunu ki Tāmaki Nui-a-Rua or Ngāti Raukawa; and
  - (ii) the section 42A reporting team will have ample time to consider the evidence prior to their presentations near the end of the hearing, when they will update their assessments in light of information received since the section 42A report was prepared.

**DATED** this 14th day of March 2019



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**David Randal / Thaddeus Ryan / Frances Wedde  
Counsel for the New Zealand Transport Agency**