

**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: Manawatu-Tararua
Highway Project

BY **NEW ZEALAND TRANSPORT AGENCY**
Requiring Authority

**JOINT MEMORANDUM OF COUNSEL FOR THE REPORTING OFFICERS
AND NZTA IN RESPECT OF SECTION 104D**

21 May 2019



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MAY IT PLEASE THE PANEL:

- [1] The reply submissions on behalf of the New Zealand Transport Agency (“NZTA”) submits the following in relation to the Panel’s task in assessing the effects on ecological values:

169. Counsel for the Councils maintain that the Panel must consider, in making its recommendations on the NoRs, the likelihood of later resource consent applications for non-complying activities passing through the objectives and policies gateway in s 104D of the RMA. Even if this exercise were possible in a practical sense, on the evidence before the Panel, it is not among the Panel’s functions described in s 171.

- [2] Counsel have discussed this matter and agreed to record that Counsel for the Councils did not refer to section 104D in legal submissions. The position of Counsel for the Councils, in relation to the assessment of ecological values, is found at paragraphs [191] – [199] of written submissions dated 3 April 2019.
- [3] Counsel for the Councils agree that it is not for the Hearings Panel under s 171 to assess the likelihood of later resource consent applications for non-complying activities passing through the objectives and policies gateway under s 104D.
- [4] Mr Percy and Ms Copplestone’s planning evidence and addendum evidence refer to section 104D, and written responses to questions of the Panel (dated 14 March 2019) also express opinion relevant to the gateway.

Dated: 21 May 2019

A handwritten signature in black ink, appearing to read 'Thaddeus Ryan', written in a cursive style.

David Randal / Thaddeus Ryan
Counsel for the NZTA

A handwritten signature in black ink, appearing to read 'Nicholas Jessen', written in a cursive style.

Nicholas Jessen
Counsel for Reporting Team