

**BEFORE THE TARANAKI REGIONAL COUNCIL AND NEW PLYMOUTH  
DISTRICT COUNCIL**

**MT MESSENGER BYPASS PROJECT**

In the matter of the Resource Management Act 1991

and

In the matter of applications for resource consents, and a notice of requirement by the NZ Transport Agency for an alteration to the State Highway 3 designation in the New Plymouth District Plan, to carry out the Mt Messenger Bypass Project

---

**MEMORANDUM OF COUNSEL FOR THE NZ TRANSPORT AGENCY: FINAL  
PROPOSED CONDITIONS AND MANAGEMENT PLANS**

31 October 2018

---

**BUDDLEFINDLAY**  
Barristers and Solicitors  
Wellington

Solicitors Acting: **Paul Beverley / David Allen / Thaddeus Ryan**  
Email: david.allen@buddlefindlay.com / thaddeus.ryan@buddlefindlay.com  
Tel 64-4-499 4242 Fax 64-4-499 4141 PO Box 2694 DX SP20201 Wellington 6140

1. This memorandum of counsel is filed on behalf of the NZ Transport Agency ("**Transport Agency**"), following the filing of closing legal submissions for the Transport Agency yesterday (30 October 2018).
2. At the time of filing those submissions, counsel signalled that the final proposed designation and resource consent conditions, and suite of management plans, would be filed today. Those documents are filed with this memorandum.
3. The following notes on the documents are provided to assist the Commissioner.

### **Final proposed conditions**

4. The version of the designation and consent conditions included with the Joint Witness Statement – Planning (dated 23 October 2018) ("**JWS – Planners**") provide the 'base' for the final proposed conditions. The conditions as proposed by the Transport Agency are in the left hand column. There are additional notes in some places setting out the views of the Councils and DOC (as recorded in the JES – Planners, and including where relevant alternative proposed wording) in the columns to the right.<sup>1</sup>
5. There are a small number of changes to conditions to the JWS – Planners version that are now proposed by the Transport Agency. For ease of reference, those changes are shown in yellow highlight. Those changes have been discussed with Mr Roan, but have not been discussed with or agreed by the Councils or DOC. The Transport Agency considers those changes are appropriate.
6. For the avoidance of doubt, the Transport Agency is preferring, as conditions of the alteration to the designation and to the resource consents, all those conditions as shown in the left hand column of the version of conditions being filed with this memorandum.<sup>2</sup>

### **Final proposed management plans**

7. A final proposed version of the full suite of completed management plans is also being filed with this memorandum. The management plans are:
  - (a) the Construction Environmental Management Plan ("**CEMP**"); and
  - (b) all the other management plans that are appendices to the CEMP,<sup>3</sup> including:
    - (i) the Ecology and Landscape Management Plan ("**ELMP**");

---

<sup>1</sup> In that respect, the attached version flags that Ms McBeth for NPDC is no longer pursuing the alternative wording for designation condition 40 in respect of operational lighting.

<sup>2</sup> Including on an *Augier* basis, if and where necessary.

<sup>3</sup> All the other appendices to the CEMP are also being provided with the CEMP.

- (ii) the Construction Water Management Plan ("**CWMP**");<sup>4</sup>
  - (iii) the Construction Dust Management Plan;
  - (iv) the Construction Traffic Management Plan;
  - (v) the Construction Noise Management Plan;
  - (vi) the Contaminated Land Management Plan; and
- (c) the Landscape and Design Environmental Management Framework ("**LEDF**"); and
  - (d) the three completed Specific Construction Water Management Plans (for the Fill Disposal Site; Northern Construction Yard; and Temporary Access Crossing).
8. Clean versions of all these management plans are attached. No changes to the previously filed versions have been made (other than to change the dates on all but the LEDF), except as discussed below.
9. The Transport Agency's position is that the clean version of all the attached management plans (and LEDF) are appropriate, reflect the final proposed conditions, and are ready to be approved by the Commissioner.<sup>5</sup>

#### *ELMP*

10. The 'base' version of the ELMP being lodged with this memorandum is the version filed with the Joint Witness Statement – Ecology (dated 23 October 2018) ("**JWS – Ecologists**"). Minor further changes have been made to that version, primarily to fix typos and layout / format issues, and to align the document (including the conditions tables in each chapter) with the final conditions.
11. These changes are reflected in the attached clean version. For completeness, and given these minor changes have been made to the JWS – Ecologists version, a 'compare' version of the attached clean version of the ELMP, showing all changes made to the JWS – Ecologists version as tracked, is also attached for information.

#### *CEMP and CWMP*

12. Minor changes have been made to the CEMP (as in, the front end document, rather than the appendices) and to the CWMP since the last version was filed. These changes align the documents (including the conditions tables chapter) with the final conditions.

---

<sup>4</sup> Counsel note in particular that the Construction Water Discharges Monitoring Programme is Appendix C to the CWMP.

<sup>5</sup> Noting of course that the Transport Agency would make the final decision on management plans as they apply to the alteration to the designation.

13. Of particular note is that section 8.4 of the CWMP has been updated to provide for annual monitoring to both TRC and DOC, to align with the agreed conditions, as follows.

**"8.4 Annual reporting**

*A summary monitoring report shall be prepared each year to set out the outcomes of all monitoring data with specific reference to all trigger level exceedances.*

*The summary report shall be prepared each year during works, covering the period from 1 May to 30 April. This report shall be submitted to TRC and DOC at the end of each earthworks season, no later than the end of May."*

14. The changes made to the CEMP and CWMP are not substantive or contentious and as such only clean versions of these documents are being provided.

**Conclusion**

15. If the Commissioner has any questions or concerns about the documents being filed with this memorandum, counsel would of course be happy to address those.

**DATED this 31<sup>st</sup> day of October 2018**



**D G Allen / T J Ryan**  
Counsel for NZ Transport Agency