

**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

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**JOINT MEMORANDUM OF COUNSEL ON BEHALF OF THE NZ TRANSPORT  
AGENCY AND THE DIRECTOR-GENERAL OF CONSERVATION SEEKING A  
DEFERMENT OF THE HEARING**

31 May 2018

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## **Introduction**

1. This joint memorandum is filed on behalf of the NZ Transport Agency ("**Transport Agency**") and the Director-General of Conservation ("**DOC**"). It proposes a four-week deferment of the hearing on the Mt Messenger Bypass Project ("**Project**") to allow for continuing discussions between the parties in respect of appropriately managing the ecological effects of the Project. An amended evidence exchange timetable is also proposed.

## **Background and current hearing schedule**

2. DOC filed a submission in opposition to the Project, raising a range of issues relating mainly to the ecological effects of the Project. Since that time, the Transport Agency and DOC have been discussing the Project's ecological effects, and how those effects should be addressed. Those discussions have included detailed expert-to-expert meetings, facilitated by the lead planners for the Transport Agency (Mr Roan) and DOC (Mr Inger).
3. While the discussions have been productive, the Transport Agency and DOC have not at this stage been able to reach agreement on what measures are required in order to appropriately address the ecological effects of the Project.
4. On Friday 25 May, counsel for DOC filed a memorandum. That memorandum summarised DOC's position as at that date, and encouraged the Transport Agency to seek a deferment to allow sufficient time to resolve, or substantially narrow, the issues.<sup>1</sup>
5. Also on Friday 25 May, the Transport Agency filed its evidence-in-chief, in accordance with the hearing timetable. The hearing timetable calls for:
  - (a) DOC (and all other parties) to file their expert evidence by Friday 1 June (tomorrow);
  - (b) the Transport Agency to file any rebuttal evidence by Friday 8 June; and
  - (c) the hearing to begin on Monday 11 June.

## **Proposed deferment and amended evidence exchange timetable**

6. Discussions on ecology matters between the Transport Agency and DOC are ongoing.
7. The Transport Agency and DOC consider it would be appropriate for those discussions to continue, with the aim of resolving or at least substantially narrowing the issues in contention between DOC and the Transport Agency

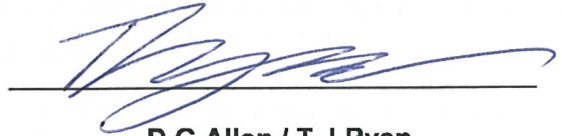
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<sup>1</sup> At paragraph 12.

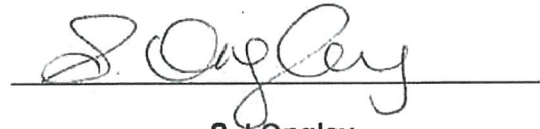
before the hearing begins. These discussions are complex enough that there is insufficient time for them to be completed before the hearing.

8. The Transport Agency and DOC also intend to involve other parties (including in particular Te Runanga o Ngāti Tama, New Plymouth District Council and Taranaki Regional Council) at appropriate times during those discussions. The intent of including other parties as appropriate is to reduce the ecological issues before the Commissioner during the hearing as much as possible. This approach also necessitates more time than is presently available.
9. On that basis, the Transport Agency and DOC jointly propose that the start of the hearing be delayed, and an amended evidence exchange timetable be put in place, as follows:
  - (a) **Friday 22 June** (by 4pm): Transport Agency to file supplementary evidence in respect of any update to the proposed measures to address the actual and potential ecological effects of the Project;
  - (b) **Friday 29 June** (by 4pm): Other parties including DOC to file their expert evidence (on ecology and all other matters);
  - (c) **Friday 6 July** (by 4pm): Transport Agency to file its rebuttal evidence (on all matters);
  - (d) **Monday 9 July**: Hearing to begin in New Plymouth.
10. In light of this proposed amended timetable, DOC proposes not to file its expert evidence on 1 June (tomorrow).
11. Counsel would be grateful if the Commissioner was able to confirm his agreement to the proposed deferment and amended timetable at his earliest convenience. If the Commissioner has any availability issues, or other concerns, counsel would be happy to discuss those, and potential alternative dates, with the Commissioner through the hearing administrator.
12. The Transport Agency regrets any inconvenience this proposed deferment causes to the parties and to the Commissioner. However, the Transport Agency and DOC consider that that additional time is necessary to allow for ongoing discussions, that those discussions may achieve agreement or will at least narrow key ecological issues saving hearing time, and that the intent of those discussions is consistent with the sustainable management purpose of the RMA.

DATED this 31<sup>st</sup> day of May 2018

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

A handwritten signature in blue ink, appearing to read 'S J Ongley', written over a horizontal line.

**S J Ongley**  
Counsel for Director-General of  
Conservation