

**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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**MEMORANDUM OF COUNSEL FOR THE NZ TRANSPORT AGENCY IN  
RESPONSE TO COMMISSIONER'S MINUTE 5**

8 October 2018

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1. This memorandum of counsel is filed on behalf of the NZ Transport Agency ("**Transport Agency**") in response to the Commissioner's Minute 5, dated 7 October 2018.
2. Counsel make the following submissions in response to the directions issued by the Commissioner in that Minute:
  - (a) **Direction 1:** The purpose of the relevant paragraphs of Mr Milliken's Supplementary Evidence was to put on the record a response to the document presented to the hearing by Mr Haumoana White, which related to the 12 July meeting at the Pascoes' home. In particular, Mr Milliken sought to clarify that the purported record of agreed actions and positions was not in fact agreed to by the Project team attendees of the meeting.

If the Commissioner intends to disregard the document that Mr Milliken was responding to (as appears to be the case), the Transport Agency is content for Mr Milliken's evidence in response to that document to also be disregarded.

- (b) **Directions 2 and 3:** The Transport Agency supports the Commissioner's directions that further submissions be restricted to the matters specified in Minute 4, and that the hearing proceed as scheduled. Counsel note that the Transport Agency's updated documentation is primarily technical in nature, in relation to conditions and ecological matters. Counsel, and the Transport Agency, extend their condolences to Mr Gibbs.
- (c) **Direction 4:** Counsel note that Mr Hamill (the Transport Agency's freshwater ecologist) did not file further supplementary evidence, and will not be in attendance at the reconvened hearing.
- (d) **Directions 5 - 7:** The Transport Agency has no objection to the filing of Mr Thomas' evidence on Monday, or the arrangements to be made for Mr Thomas to answer questions via video conference.

The Transport Agency would have no objection to the late filing of evidence by Mr Silich (or other witnesses for Te Rūnanga o Ngāti Tama) in respect of the matters specified in Minute 4.

3. Counsel would be happy to address these submissions to the Commissioner at the reconvened hearing.

**DATED this 8<sup>th</sup> day of October 2018**

A handwritten signature in blue ink, appearing to read 'D G Allen / T J Ryan', with a long horizontal flourish extending to the right.

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