

**In the Environment Court of New Zealand  
Christchurch Registry**

**I Te Kōti Taiao O Aotearoa  
Ōtautahi Rohe**

**ENV-2020-CHC-42,49,50,  
54,56,57,67,76**

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Under the Resource Management Act 1991 (the Act)

In the matter of an appeal under clause 14(1) of the First Schedule of the Act

Between **New Zealand Transport Agency**  
Appellant and section 274 party

And **Marlborough District Council**  
Respondent

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**Memorandum of counsel for New Zealand Transport Agency in  
response to the Case Management Memorandum**

Dated 14 August 2020

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**May it please the Court**

- 1 The Court's Minute of 16 June 2020 directed the Marlborough District Council ('**the Council**') to lodge and serve a case management memorandum, and directed parties to file responses to that case management memorandum by Friday 14 August 2020.
- 2 Waka Kotahi NZ Transport Agency ('**Waka Kotahi**') has considered the case management memorandum filed for the Council on 31 July 2020 and identified a number of errors and omissions.
- 3 In particular, Waka Kotahi considers that the table of topic and subtopics<sup>1</sup> produced by the Council to guide mediations does not accurately and completely record Waka Kotahi's interests in these proceedings.
- 4 In addition, Waka Kotahi seeks that the Council consistently use the shortened version ('Waka Kotahi') throughout the table. Currently, there is a mixture of references to NZTA, NZ Transport Agency and Waka Kotahi.
- 5 Waka Kotahi has communicated these concerns with the Council, and understands that the Council is in the process of updating the table of topics and subtopics to include the amendments detailed (in red) in **Appendix A** of this memorandum. These amendments would rectify Waka Kotahi's concerns.

**Dated 14 August 2020**



**Nicola McIndoe**

Counsel for the New Zealand Transport Agency

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<sup>1</sup> Referred to at [42] of the Case Management Memorandum dated 31 July 2020, and available on the Marlborough Regional Council Website at <https://www.marlborough.govt.nz/your-council/resource-management-policy-and-plans/proposed-marlborough-environment-plan/decisions-on-the-pmep/appeal-process/correspondence-with-the-environment-court>.

## Appendix A – Amendments sought to Marlborough District Council’s table of topics and subtopics

Topic	Sub-topic	Provision	Appellant	Section 274	
3  Natural Character	3.3  Management of adverse effects on natural character	Volume 1: Issue 6B; Objective 6.2; Policies 6.2.1-6.2.8; Methods 6.M.1, 6.M.3, 6.M.4; AER 6.AER.2  <a href="#">Proposed Policy 6.2.X</a>	Friends of Nelson Haven and Tasman Bay ENV-2020-CHC-33 Marine Farming Association Incorporated and Aquaculture New Zealand ENV-2020-CHC-74 The New Zealand King Salmon Co. Limited ENV-2020-CHC-51 Environmental Defence Society ENV-2020-CHC-67 Trustpower New Zealand Limited ENV-2020-CHC-68 Trustpower Limited ENV-2020-CHC-50 Port Marlborough New Zealand Limited	King Family Trust Apex Marine Arapaoa Marine Farmers Aroma Beleve Limited et al CBRA Clearwater & Talley's EDS Friends of Nelson Goulding Trustees Guardians J V Meachen <a href="#">Waka Kotahi</a>	Just Mussels et al KCSRA KPF Investments et al MFA & AQNZ MoC Fish and Game NZKS Forest & Bird Save the Wairau Trustpower Trustpower Wakatu

Topic	Sub-topic	Provision	Appellant	Section 274	
			ENV-2020-CHC-49 Royal Forest and Bird Protection Society of New Zealand Incorporated ENV-2020-CHC-64		
4 Landscape	4.4 Management of adverse effects on ONFL and landscapes of high amenity value	Volume 1: Issue 7A; Objective 7.2; Policies 7.2.1-7.2.12; Methods 7.M.3-7.M.9  <a href="#">Proposed Policy 7.2.X</a>	Friends of Nelson Haven and Tasman Bay ENV-2020-CHC-33 Marine Farming Association Incorporated and Aquaculture New Zealand ENV-2020-CHC-74 The New Zealand King Salmon Co. Limited ENV-2020-CHC-51 Environmental Defence Society ENV-2020-CHC-67 Royal Forest and Bird Protection Society of New Zealand Incorporated	King Family Trust Apex Marine Arapaoa Marine Farmers Aroma Beleve Limited et al Clearwater & Talley's CBRA EDS Federated Farmers Friends of Nelson Goulding Trustees Guardians J V Meachen Just Mussels et al	Kāinga Ora KCSRA KPF Investments et al MFA & AQNZ MoC Fish and Game NZKS Forest & Bird Save the Wairau Te Ātiawa Ngāi Tahu KCSRA Transpower Trustpower Wakatu

Topic	Sub-topic	Provision	Appellant	Section 274
			ENV-2020-CHC-64 Transpower New Zealand Limited ENV-2020-CHC-68 Trustpower Limited ENV-2020-CHC-50 Aroma (N.Z.) Limited and Aroma Aquaculture Limited ENV-2020-CHC-45 Goulding Trustees Limited and Shellfish Marine Farms Limited ENV-2020-CHC-47 One Forty One ENV-2020-CHC-54	<a href="#">Waka Kotahi</a>
15 Waste & Discharge to Land	15.1 Stormwater	Volume 1-Chapter 16-& Volume 2-Chapter 2- new policy & rules- stormwater discharge to land  <a href="#">Method 16.M.16</a>	Minister of Defence ENV-2020-CHC-76 Trustpower Limited ENV-2020-CHC-50	Forest & Bird Port Marlborough Trustpower <a href="#">Waka Kotahi</a> <a href="#">NZ Transport Agency</a>

Topic	Sub-topic	Provision	Appellant	Section 274
		<a href="#">Rule 2.16.3 and Standard 2.17.3.5</a>	<a href="#">New Zealand Transport Agency ENV-2020-CHC-56</a>	
16 Transportation	16.1 Noise sensitive activities setbacks in all zones	<p>Volume 1: New policies to issue 17D— Road noise</p> <p>Volume 2: Standard 24.4.1.14</p> <p>Volume 2: New Rules all zones— setbacks from road and rail, <a href="#">and a new appendix in Volume 3</a></p> <p>Volume 2: New Rules for Rural Zone, Coastal Environment Zone, Urban Residential 1, 2 &amp; 3 Zones, Coastal Living Zone, Business 1&amp; 2 Zones—acoustic mitigation for noise sensitive activities</p> <p>Volume 2: Standard 24.4.1.14— noise</p>	<p>New Zealand Transport Agency ENV-2020-CHC-56</p> <p>Kiwirail Holdings Limited ENV-2020-CHC-57</p>	<p>Kainga Ora</p> <p>Waka Kotahi</p> <p>Kiwirail</p> <p>MoC</p> <p>MoD</p> <p>Ngai Tahu</p> <p>Federated Farmers</p> <p>EDS</p> <p>Marine Farming Assn</p> <p>OVG</p> <p>One Forty One</p> <p>Forest &amp; Bird</p> <p>Trustpower</p> <p>Port Marlborough</p> <p>NZKS</p> <p>MFA &amp; AQNZ</p>

Topic	Sub-topic	Provision	Appellant	Section 274
16 Transportation	16.2 Safety and access to State Highways	<p>Volume 2: Standard 2.33.4.3— vehicle access</p> <p>Volume 2: Standard 2.36.1.4, 2.37.2 &amp; 2.37.4.3—signs</p> <p>Volume 2: New Standards Sections 17.2.3.4 &amp; 18.2.3.4— Outdoor lighting</p> <p>Volume 2: Chapter 24— Introduction &amp; Standards 24.3.1.4 &amp; 24.4.1.14 -Subdivision</p> <p>Volume 2: Standard 24.3.1.4— Access to State Highways</p> <p>Volume 3: Appendix 17-Roading Hierarchy</p> <p>Volume 3: New Overlay Maps- Limited Access Roads</p> <p>Volume 1: Method 17.M.16— Limited Access Roads</p> <p>Volume 1: Policy 17.5.6-Safety &amp; Accessibility</p> <p><a href="#">Policy 17.6.1</a></p>	<p>New Zealand Transport Agency ENV-2020-CHC-56</p> <p>Kiwirail Holdings Limited ENV-2020-CHC-57</p> <p><a href="#">ONEFORTYONE ENV-2020-CHC-54</a></p> <p><a href="#">Port Marlborough New Zealand Limited ENV-2020-CHC-49</a></p>	<p>Kainga Ora Waka Kotahi Kiwirail MoC MoD Ngai Tahu Federated Farmers EDS Marine Farming Assn OVG One Forty One Forest &amp; Bird Trustpower Port Marlborough NZKS MFA &amp; AQNZ</p>

Topic	Sub-topic	Provision	Appellant	Section 274
		<a href="#">Standard 2.36.1.1</a> <a href="#">Standard 2.36.1.6</a> <a href="#">Standard 2.36.1.12</a>		
16 Transportation	16.3 Construction and Maintenance	Volume 1: Policy 5.2.3 Maintenance and upgrade works Volume 1: Policy 13.10.5— Assessment criteria Volume 1: Method 17.M.15-- potential damage to roads Volume 2: New permitted activities--discharge of stormwater to land Volume 2: Rule 2.7.2 and Standard 2.9.2--Gravel extraction Volume 2: Rule 16.1.26—lawfully established structures Volume 2: Rule 16.2.2.2— maintenance repair replacement of structures	New Zealand Transport Agency ENV-2020-CHC-56  Kiwirail Holdings Limited ENV-2020-CHC-57  <a href="#">Minister of Conservation</a> <a href="#">ENV-2020-CHC-42</a>	Kainga Ora Waka Kotahi Kiwirail MoC MoD Ngai Tahu Federated Farmers EDS Marine Farming Assn OVG One Forty One Forest & Bird Trustpower Port Marlborough NZKS MFA & AQNZ



Topic	Sub-topic	Provision	Appellant	Section 274
		<a href="#">Rule 2.9.1</a>		
16 Transportation	16.6 Other	<p>Volume 1: Policy 8.3.8-- ecologically significant marine sites</p> <p>Volume 2: Rule 2.2.12 &amp; Standard 2.3.11—network utility</p> <p>Volume 2: Rule 2.7.1— dewatering and diversion of water</p> <p><a href="#">Volume 2: Rule 2.2.25</a></p> <p>Volume 2: New rule to section 2.7 and new standard—construction of a temporary dam</p> <p>Volume 2: New rule to section 2.7—removal of vegetation or bed material</p> <p>Volume 2: Rule 2.11.1-- except temporary coffer dams</p> <p>Volume 2: Chapter 25--Definitions -- definition of Mobile source and consequent amendment to &amp; Rule</p>	<p>New Zealand Transport Agency ENV-2020-CHC-56</p> <p>Kiwirail Holdings Limited ENV-2020-CHC-57</p>	<a href="#">Waka Kotahi</a>

Topic	Sub-topic	Provision	Appellant	Section 274
		2.21.2 -Definition of dam and damming -Definition of land transport -Definition of local road Volume 2: New Standard to 3.3.8 & new rule to 3.4—plantation forestry Volume 2: Rules 2.39.1, 2.39.4, 2.39.5 & Standard 2.40.1-Network utilities		
19 Utilities	19.1 National Grid	Volume 1 Objective 4.2 & Policies 4.2.2, <a href="#">4.2.4</a> & 4.2.3 & Methods 4.M.9 & 4.M.11 Volume 1-Policies 6.2.1 & 6.2.2 & 6.2.3 Volume 1- Policies 7.2.5 & 7.2.6 Volume 1- Policy 8.3.3 Volume 1-Policy 10.1.5 Volume 1-Policy 13.1.1 Volume 2-New Standard-2.13.x & 2.15.x Volume 2-New Standards- 2.40.x & 2.41.x Volume 2-	Transpower NZ Ltd ENV-2020-CHC-68  Environmental Defence Society ENV-2020-CHC-67	EDS HNZPT Horticulture NZ Ngai Tahu Kainga Ora MoC Federated Farmers OneFortyOne

Topic	Sub-topic	Provision	Appellant	Section 274
		Standard 3.1.16 Volume 2- Standard 3.1.64 Volume 2- Standard 3.3.16 Volume 2- Standard 3.3.52 Volume 2- Standard 3.6.15-new non-complying rule Volume 2- Standard 4.1.14 Volume 2- Standard 4.1.58 Volume 2- Standard 4.3.14 Volume 2- Standard 4.3.49 Volume 2-New Standard 4.6.x Volume 2- Standard 7.1.12 Volume 2- Standard 7.3.20 & 7.3.10 Volume 2-Standard 12.1.30 Volume 2- Standard 12.3.20 & 12.3.20 Volume 2-Standard 16.2.9-Cook Strait cable		Forest & Bird Wakea Kotahi