



## RESOURCE MANAGEMENT ACT 1991

### Submission on Application for Resource Consent (RC230217)

By Sarah Taylor and James Dale

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Submitter: Waka Kotahi NZ Transport Agency  
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Pursuant to Section 96 of the Resource Management Act 1991 (RMA), **Waka Kotahi NZ Transport Agency** (Waka Kotahi) hereby makes this **neutral** submission on an application (RC230217) by Sarah Taylor and James Dale (the applicant) for a two-lot subdivision each approximately 4ha in size as well as the establishment of a residential platform on the new Lot 2. The site is located at 176 Queensberry Terrace, Luggate. The property is legally described as Lot 10 DP328097 and contained in Record of Title 114451.

#### **Waka Kotahi NZ Transport Agency's submission is:**

##### **Reverse Sensitivity**

Reverse sensitivity is the legal vulnerability of an established activity to complaint from a new land use. Reverse sensitivity arises when new sensitive land-uses (e.g., residential activities) locate near a lawfully established activity that may emit some adverse effects (e.g., noise). For land transport network operators, including Waka Kotahi, there is a risk that new activities (such as accommodation providers, houses and schools) that choose to locate near to established roads or railways may object to the effects of the land transport network (such as noise and vibration) and take action against the operator. The same issues arise around ports, airports and other infrastructure.

The meaning of "effect" is defined in Section 3 of the RMA. The Environment Court has held that reverse sensitivity is an adverse effect under the RMA. It follows therefore that there is a duty, the same as with any other adverse effect, to avoid, remedy or mitigate reverse sensitivity effects, in order to achieve the RMA's purpose of sustainable management.

Landowners, therefore, have a duty to mitigate the effects of their activities on the State highway network. As the effects of a State highway usually extend beyond the road designation, it is appropriate to control the establishment of new activities close to State highways to reduce potential conflicts and manage reverse sensitivity effects.

The NZ Transport Agency has developed a stepped approach to protect sensitive activities. This approach is based around buffer and effects areas. To achieve a reasonable level of acoustic amenity, all noise sensitive activities in rural areas should be located outside of a 30m buffer area. Beyond the buffer area new buildings containing noise sensitive activities within a 100m of the highway need to be designed and constructed to achieve reasonable indoor acoustic amenity.

The application, as notified proposes to subdivide Lot 10 DP328097 into two lots. Lot 1 will contain the existing buildings on site and is located some distance from State Highway 6 (SH6). A new building platform is proposed for Lot 2. The new building platform will be located towards the top of the site and close to the boundary of Lot 1. If located as shown in the application plans the residential building will be located some 300m away from the sealed edge of the highway and should not be subject to highway noise.

However, the reduction in the size of the lot adjacent to the State highway from 8 ha to 4 ha reduces the choice of where a building platform could be located on site and as a result a building platform could be located within a 100m of the State highway. Therefore, if in the future, the location of the building platform is changed or an additional building platform proposed, these changes may result in the residential dwelling being located close to SH6 with the potential for reverse sensitivity effects from highway noise.

As a result, Waka Kotahi would seek to have a consent notice registered on the certificate of title to Lot 2 that addresses the potential reverse sensitivity effects from highway noise as follows:

*Any dwelling or other noise sensitive location on the site in or partly within 100m of the edge of the State Highway 6 carriageway must be designed, constructed and maintained to achieve an indoor design noise level of 40 dB LAeq(24hr) inside all habitable spaces.*

#### **The reasons for this submission are:**

Waka Kotahi has statutory functions, as defined in section 95 of the Land Transport Management Act. In submitting on this proposal, Waka Kotahi is seeking to give effect to the following statutory functions:

- To contribute to an effective, efficient, and safe land transport system in the public interest;
- To manage the State highway system in accordance with relevant legislation; and
- To assist, advise, and co-operate with approved organisations (such as regional councils and territorial authorities).

Waka Kotahi submits that the proposed land use activity has the potential to have an adverse effect on the efficiency and safety of the land transport system.

#### **Waka Kotahi NZ Transport Agency wishes the consent authority to:**

If the consent authority is of a mind to grant consent to this proposed activity, the condition as listed above is included as part of the consent.

Waka Kotahi NZ Transport Agency **does not** wish to be heard in support of this submission.

Waka Kotahi NZ Transport Agency could not gain an advantage in trade competition through this submission.

Dated at Dunedin this 6 day of December 2022.

**Julie McMinn**

Consultant Planner

Pursuant to authority delegated by Waka Kotahi NZ Transport Agency

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