

Project Agreement with respect to Wellington Northern Corridor RoNS

Kāpiti Coast Water Supply Project – Impact Remediation

NZ Transport Agency (NZTA)

Kāpiti Coast District Council (KCDC)



PROJECT AGREEMENT IN RESPECT OF THE KĀPITI EXPRESSWAY

Date: 13 day of November 2012

PARTIES

NZ Transport Agency a Crown Entity established under section 93 of the Land Transport Management Act 2003, and its successors at law (*NZTA*).

Kāpiti Coast District Council a territorial authority, and its successors at law (*KCDC*).

BACKGROUND

- A The NZTA wishes to construct, operate and maintain the MacKays to Peka Peka Section (Kāpiti Expressway or Expressway) of the Wellington Northern Corridor Road of National Significance (Wellington RoNS).
- B The Kāpiti Expressway forms an approximately 16 kilometre length section of the Wellington RoNS. It covers the improvements planned for the State highway corridor from Raumati at the southern end, continuing through Paraparaumu and Waikanae, to Peka Peka in the north.
- C The Kāpiti Expressway will predominantly follow the path of the previous but withdrawn Sandhills Motorway designation and will deliver:
- a four lane highway with four full or half interchanges at Poplar Avenue, Kāpiti Road, Te Moana Road, and Peka Peka Road respectively,
 - construction of new local roads and access roads to maintain local connectivity, and
 - an additional crossing of the Waikanae River.
- D The NZTA lodged a Notice of Requirement and associated resource consent applications with the Environmental Protection Authority (EPA) on 20 April 2012.
- E KCDC has a Water Supply Project in progress, which is based on the concept of River Recharge with Groundwater (RRwG). This solution was selected by KCDC in August 2010 after assessing 41 water supply options. The RRwG solution utilises groundwater from the deep Parata aquifer (the aquifer) in the Waikanae Zone and KCDC's existing borefield infrastructure, plus new groundwater bores and associated pipelines.
- F KCDC through the Water Supply Project, has identified new groundwater bore locations to provide water supply to the Kāpiti Coast District (the District). Some of these identified proposed bore and pipeline locations and some of the existing KCDC borefield infrastructure, conflict with the proposed location of the Expressway (refer to plans in Attachment One for details of these existing and identified proposed bores and pipelines).

- G The Expressway construction may have an impact on groundwater aquifers and affect the Water Supply Project's ability to meet the community's water supply needs.
- H KCDC has raised a number of issues in relation to the Kāpiti Expressway and how it may impact or be affected by the Kāpiti Coast Water Supply Project being:
- The ability to access information that would benefit the Water Supply Project surface and groundwater modelling;
 - The ability for KCDC to access existing and identified proposed bore locations, monitoring wells and connecting pipelines;
 - The ability for KCDC to replace existing and identified proposed bores, monitoring wells and pipelines that may be compromised by the Expressway project.
- I It is on this basis that the parties wish to establish a process within which to consider and address the potential need to remedy or mitigate any impact that the Expressway project may have on both the water supply planning undertaken by KCDC and the future water supply needs of the District.

THE PARTIES AGREE as follows:

1. Purpose of Agreement

- 1.1 This Agreement sets out a process to enable the parties to determine:
- (a) How surface and groundwater modelling information which may benefit either the Expressway project or the Water Supply Project, may be shared between the parties.
 - (b) In what circumstances access to existing and identified proposed water bores, monitoring wells and pipelines located outside the proposed Expressway designation might be provided for during and after construction of the Expressway project.
 - (c) In what circumstances access to existing and identified proposed water bores, monitoring wells and pipelines, located in the proposed Expressway designation might be provided for during and after construction of the Expressway project.

2 Parties' Objectives

- 2.1 The parties' objectives as they relate to this Agreement are to:
- (a) Ensure adequate water supply to the Kāpiti Coast District during and after construction of the Expressway project; and
 - (b) Ensure adequate water supply to the Expressway project during its construction.



3 **Parties Obligations**

3.1 The parties recognise that the NZTA and KCDC have obligations:

- (a) Arising from their respective statutory roles and responsibilities;
- (b) In the case of the NZTA:
 - (i) to the Minister of Transport; and
 - (ii) obligations under the Local Government Act 2002 not to interfere or affect KCDC's potable water supply without the prior written approval of KCDC
- (c) In the case of the KCDC:
 - (i) to the ratepayers and residents of Kāpiti Coast District,
 - (ii) obligations under the Local Government Act 2002 to maintain existing water supplies, and
 - (iii) obligations under the Health Act 1956 in regards to providing a safe drinking water supply

3.2 The parties' obligations under this Agreement are conditional on:

- (a) Resource Management Act 1991 (*RMA*) approvals required for the Kāpiti Expressway and the Water Supply Project being granted;
- (b) The NZTA deciding, in its sole discretion, to proceed with construction of the Kāpiti Expressway; and
- (c) KCDC deciding in its sole discretion, to proceed with the Water Supply Project.

3.3 The parties agree that surface and groundwater information, along with other project information, will be shared between the parties as it becomes available and in a timely and reasonable manner, and as a minimum at monthly Alliance Management Team and/or NZTA meetings.

3.4 The parties agree that where existing and/or identified proposed water production bores, monitoring wells and pipelines (as identified in Attachment One) are destroyed or are no longer accessible as a result of the Expressway project, the NZTA will bear the cost of replacing these with the same levels of water production and standard of service.

3.5 The parties agree that where access to existing and/or identified proposed bores, monitoring wells and pipelines (as identified in Attachment One) is compromised by the Expressway project, the NZTA will bear the cost of replacing the water bore, monitoring well or pipeline to provide at a minimum the same security of supply that would have been otherwise enjoyed without the Expressway project. The known conflicts are:

- (a) Proposed new pipeline between bores kb7 and k12 on Smithfield Road,
 - (b) Proposed new pipeline between bores k4 and k5 on Ngarara Road,
 - (c) Proposed new pipeline along the proposed Expressway route from bore s1 on Greendale Drive and bore k10 on Te Moana Road,
 - (d) Existing pipeline between bores k4 and k5 on Ngarara, and
 - (e) Existing bore and monitoring well k10 on Te Moana Road.
- 3.6 The parties agree to jointly determine solutions to any potential conflicts between the location of the Expressway and its associated infrastructure and the location of the identified and/or proposed water production bores, monitoring wells and pipelines (as identified in Attachment One).
- 3.7 The parties agree that when the Expressway project is completed, the NZTA will provide KCDC 'first right of refusal' to transfer ownership and management of the Expressway project water bores to KCDC. This will include an allowance for access.

4 Force majeure

- 4.1 Neither party shall be liable for any failure or delay in performance under this Agreement to the extent that such failures or delays are proximately caused by conditions beyond the parties' reasonable control which the party claiming the benefit of this force majeure clause is unable to overcome by the exercise of reasonable diligence and at a reasonable cost; including but without limitation:
- (a) An Act of God, fire, earthquake, storm, flood or landslide
 - (b) Explosion, public mains electrical supply failure or nuclear accident
 - (c) Sabotage, riot, civil disturbance, insurrection, epidemic, national emergency (whether in fact or law) or act of war (whether declared or not, but does not include any event which the party claiming the benefit of this force majeure clause could have prevented or overcome by exercising a standard of reasonable care or reasonable endeavours.

5 Dispute Resolution

- 5.1 If any dispute arises under this Agreement, the parties agree to comply with the following provisions of this clause before commencing any other form of dispute resolution (including court proceedings).



- 5.2 Any party claiming that a dispute has arisen under this Agreement between the parties shall give written notice to the others of the dispute and require representatives of all the parties' representatives to meet together to attempt to settle the dispute. The other parties shall, upon receipt of such notice, promptly ensure that their representatives attend such meeting and attempt to resolve the dispute.
- 5.3 The parties shall use their reasonable endeavours to ensure that the parties representatives who attend a meeting under clause 5.2 shall, within 10 business days after the giving of the notice, seek to resolve the dispute.
- 5.4 The parties shall within a further period of 10 business days (or within such longer period as the representatives may agree is appropriate), use their reasonable endeavours to agree, in good faith, on a process for resolving the whole or part of the dispute through means other than litigation or arbitration (including, without limitation, further negotiations, mediation, conciliation or independent expert determination).
- 5.5 In the unlikely event that agreement is not reached through escalation, the parties shall agree to arbitration on the following basis:
- (a) The arbitration shall be conducted by a sole arbitrator in New Zealand pursuant to the Arbitration Act 1996;
 - (b) The parties' respective responsibilities for the costs of the arbitration shall be determined by the arbitrator; and
 - (c) The parties shall be bound by the decision of the arbitrator.

Provided always that the arbitrator shall have no jurisdiction in relation to any dispute that concerns the operation (including, without limitation, the exercise or non-exercise) of any statutory function, obligation or power of either the NZTA or KCDC.

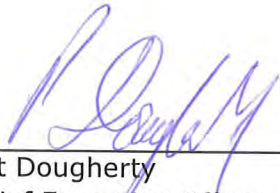
- 5.6 The parties acknowledge that any negotiated or arbitrated outcome will need to be consistent with any conditions imposed on any designations, resource consents or other statutory authorisations obtained for the Project and with the statutory functions, obligations and powers of the NZTA and KCDC.

Signed on behalf of the
NEW ZEALAND TRANSPORT AGENCY
by



Rod James
State Highway Manager, Wellington

Signed on behalf of the
KĀPITI COAST DISTRICT COUNCIL
by



Pat Dougherty
Chief Executive Officer, Kāpiti Coast
District Council



Attachment One: Existing and Identified Proposed Bores and Pipelines

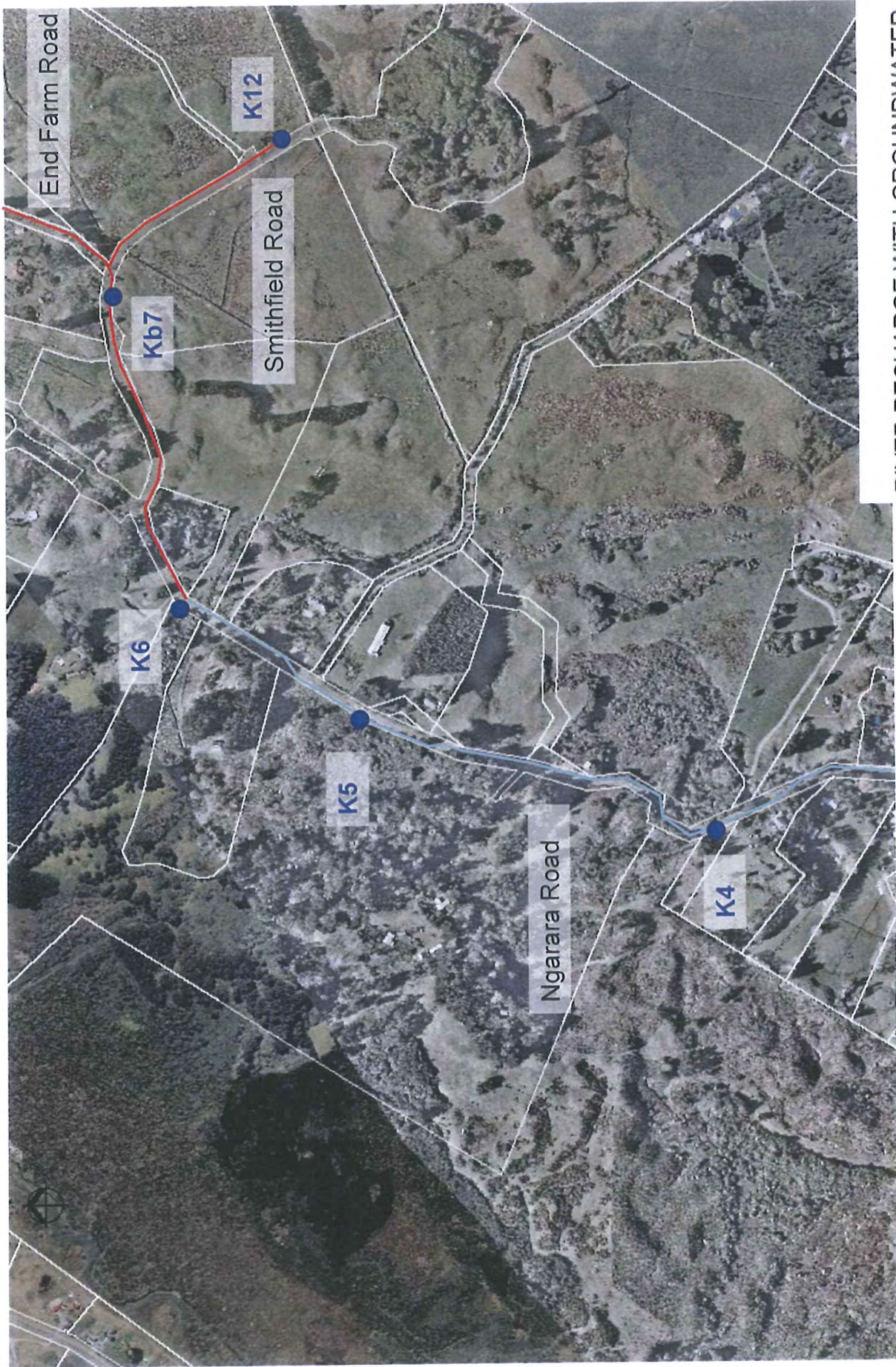
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RIVER RECHARGE WITH GROUNDWATER

SCALE A3: 1:5,000
 CH2M HILL
 PROJECT No. 6515959
 C.A.D FILE No. 6616969-CK-10

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RIVER RECHARGE WITH GROUNDWATER



RIVER RECHARGE WITH GROUNDWATER

PLAN 4 of 4 FIGURE 5
N.T.S

SCALE A3: 1:5,000

PROJECT No. 6519959
CAD FILE No. 6516969-CK-10



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Table 1: Well Construction Details

Well ID	K10	K10_obs s	K10_obs d
Well ID (other)	Market Garden		
Grid Reference	R26 814-356		
E	2681447.36		
N	6035591.86		
Well Type	Production	Monitoring	Monitoring
Driller	Drillwell Holdings	Drillwell Holdings	Drillwell Holdings
Date completed	Aug-04	Apr-04	Apr-04
Distance to pumping well (m)	0	6	6
Well diameter (mm)	250	20	20
Depth drilled (m bgl)	123.0	123.00	123.00
Well Depth (m bgl)	97.0	12.00	85.00
Casing length	64.0	10.00	80.00
Casing material	steel	pvc	pvc
Top of Header	60.0	-	-
Screen top (m bgl)	71.5	10	80
Screen bottom (m bgl)	95.5	12	85
Screen length (m bgl)	37.0	2.00	5.00
Screen diameter (mm)	250 tele	20	20
Screen slot size (mm)	1.5	1.0	1.0
Screen type	wirewedge stainless lockabel flange and plate	pvc	pvc
Well head		lockable well cap	lockable well cap
SWL (m bgl)	flowing artesian	-	-
RL ground (m, amsl)	3.49	3.49	11.79
RL top of casing (m, amsl)	not levelled	11.79	11.79
RL water level (m, amsl)	flowing artesian	-	-

bgl below ground level

amsl above mean sea level





LEGEND

- ◆ PRODUCTION WELL
- △ SHALLOW MONITORING WELL (<15m)
- ▲ MID-DEPTH MONITORING WELL (around 40m)
- ▲ DEEP MONITORING WELL (>60m)

Author's	Tab	Designed	MR
CAD File		Drawn	PK
Job/DOC/42743770		Revised	BC/A10
Scale		Checked	
Original size		Approved	
Status		Date	JUNE 04

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Client



Project
**WAIKANAÉ BOREFIELD
SUPPLEMENTARY WATER SUPPLY**

Title
**WAIKANAÉ BOREFIELD BORE K10
COMPLETION REPORT
BORE LOCATION**

Drawing Number
FIGURE 2

Rev
A