

4 September 2019

Amanda Cropp
Christchurch business bureau chief
amanda.cropp@stuff.co.nz

REF: OIA-5485

Dear Amanda

Request made under the Official Information Act 1982

Thank you for your email of 23 July 2019 requesting the following information under the Official Information Act 1982 (the Act):

How much has NZTA paid to law firms since from the beginning of 2017 until the present day (July 23, 2019)?

Please name the individual law firms and the amounts paid to each.

What services did Meredith Connell provide for the fees it was paid?

How much related to legal advice about the revocation of transport service and passenger service licences?

How much was for services relating to the Transport Agency's Regulatory Non-Compliance Project?

On what basis is Meredith Connell employed by NZTA – e.g. does it have a fixed term or an open-ended contract?

What other expenses has the Transport Agency has incurred as a direct result of the Regulatory Non-Compliance Project:

- a. expenses associated with rectification or re-certification work as a result of certifications having been revoked;*
- b. expenses for the services heavy vehicle specialist certifiers allocated to the project;*
- c. expenses for the services repair certifiers allocated to the project;*
- d. expenses for the services of external consultants allocated to the project.*

How much has NZTA recovered from:

- Suspended heavy vehicle certifiers for recertification of vehicles?*
- Suspended vehicle inspectors and vehicle inspection organisations to cover the cost of rechecking WOFs and COFs?*

How much will NZTA attempt to recover from suspended heavy vehicle certifiers for recertification of vehicles, and suspended vehicle inspectors and vehicle inspection organisations to cover the cost of rechecking WOFs and COFs?

What status does Meredith Connell hold in terms of deciding whether to take compliance action?

Who makes the decision whether to issue a notice of proposal to revoke a licence – is it NZTA staff or Meredith Connell?

If it is Meredith Connell making the call on what compliance action to take, how long does NZTA expect it will be before its staff return to making those decision

In accordance with your request, please find your questions and my responses in turn below:

How much has NZTA paid to law firms since from the beginning of 2017 until the present day (July 23, 2019)?

Please name the individual law firms and the amounts paid to each.

In order to provide a clear answer, some additional context and explanation of our methodology is required, as well as a caveat.

Our records show that the Transport Agency has paid a total of \$35,670,357 in legal costs between 1 January 2017 and 23 July 2019. This total includes payments made to barristers, as well as law firms. In addition, these totals will also include disbursements in some cases. Disbursements could include document service costs, barristers and Queen's Counsel and expert costs, where the firm is simply passing through the cost with no additional margin. In calculating this figure, we have excluded payments to trust accounts – which covers property and other settlements.

In responding to your request for a list of individual law firms and the amounts paid to each, we have applied a materiality threshold of \$100,000, i.e. we have included law firms that received more than \$100,000 in fees in the period. The list of firms and amounts paid to each can be found in attachment one.

We must also caveat that there may be a small variance in the exact sums paid due to differences in firms' business-as-usual accounting and rounding practices, as well as coding errors at the Transport Agency. We have tested these figures with the firms and the variance is <5%.

Meredith Connell has informed us that ~10% of the fees paid to them total disbursements (described above). These costs are not "paid" to Meredith Connell but they act on the Transport Agency's behalf and transfer the payments on to the provider of each service.

What services did Meredith Connell provide for the fees it was paid?

Meredith Connell provided business-as-usual legal advice, specialist regulatory advice and litigation support as part of the Regulatory Non-Compliance Programme and the review of 850 open compliance files, as well as ongoing assurance and advisory support with the enforcement of our future state role as a regulator.

How much related to legal advice about the revocation of transport service and passenger service licences?

We are not able to separate out and provide specific figures for Transport Service and Passenger Service Licences.

How much was for services relating to the Transport Agency's Regulatory Non-Compliance Project?

The amount as at 23 July 2019 is \$1,825,988.50.

On what basis is Meredith Connell employed by NZTA – e.g. does it have a fixed term or an open-ended contract?

The Transport Agency is a party to the All of Government External Legal Suppliers contract. Meredith Connell is on the panel of External Legal Service suppliers under that contract. The Transport Agency engages law firms on the panel in accordance with the terms of the All of Government contract.

What other expenses has the Transport Agency has incurred as a direct result of the Regulatory Non-Compliance Project:

- a. expenses associated with rectification or re-certification work as a result of certifications having been revoked;*
- b. expenses for the services heavy vehicle specialist certifiers allocated to the project;*
- c. expenses for the services repair certifiers allocated to the project;*
- d. expenses for the services of external consultants allocated to the project.*

All expenses incurred by the Transport Agency as a direct result of the Regulatory Non-Compliance Review can be found in the table below:

Expenses incurred as a direct result of the Regulatory Non-Compliance Review	
a. expenses associated with rectification or re-certification work as a result of certifications having been revoked	\$14,601,132.90
b. expenses for the services heavy vehicle specialist certifiers allocated to the project;	\$3,967,592.32
c. expenses for the services repair certifiers allocated to the project;	\$40,120.36
d. expenses for the services of external consultants allocated to the project.	\$10,115,148.48
e. expenses relating to Warrant of Fitness services	\$474,511.11
f. expenses relating to services of course providers	\$3,760.63

How much has NZTA recovered from:

- Suspended heavy vehicle certifiers for recertification of vehicles?*
- Suspended vehicle inspectors and vehicle inspection organisations to cover the cost of rechecking WOFs and COFs?*

The Transport Agency has not recovered any costs to date.

How much will NZTA attempt to recover from suspended heavy vehicle certifiers for recertification of vehicles, and suspended vehicle inspectors and vehicle inspection organisations to cover the cost of rechecking WOFs and COFs?

The Transport Agency is not yet in a position to confirm what actions are, or will be, taken with regards to cost recovery.

What status does Meredith Connell hold in terms of deciding whether to take compliance action?

If Meredith Connell's legal advice is sought, they provide documentary and file analysis, outline relevant legislative rules, and suggest compliance action recommendations to be considered by the Transport Agency decision maker. All compliance enforcement decisions are made by the Transport Agency, not Meredith Connell.

Who makes the decision whether to issue a notice of proposal to revoke a licence – is it NZTA staff or Meredith Connell?

All regulatory compliance enforcement decisions are made by delegated Transport Agency decision makers.

If it is Meredith Connell making the call on what compliance action to take, how long does NZTA expect it will be before its staff return to making those decision.

As advised in the previous answer, Meredith Connell does not make enforcement decisions. All compliance enforcement decisions are made by the Transport Agency.

Please note, this response will also be published on the NZ Transport Agency website at: <https://www.nzta.govt.nz/about-us/news-and-media/official-information-act/official-information-act-oia-responses/>.

If you would like to discuss this reply with the NZ Transport Agency, please contact Andrew Knackstedt, Senior Media Manager, by email to Andrew.Knackstedt@nzta.govt.nz or by phone on 04 894 6285.

Yours sincerely



Kane Patena
General Manager Regulatory