

List of documents relating to the transcription of judicial decisions

Document number	Document description	Status
1	Business Case – Evidence Recording and Transcription	Parts withheld under s (9)(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions.
2	Environment Courts Discovery People and Processes Stream	Parts withheld under s 9(2)(a) to protect the privacy of natural persons.
3	Tribunals Unit, Discovery Synopsis	Parts withheld under s 9(2)(a) to protect the privacy of natural persons. Parts withheld under s 9(2)(h) to maintain legal professional privilege.
4	Coronial Services Unit Discovery	Parts withheld under s 9(2)(a) to protect the privacy of natural persons.
5	Responsiveness Service Standards Maori Land Court	Released in full.
6	Responsiveness Service Standards Special Jurisdictions	Released in full.
7	Responsiveness Service Standards District Courts Contemporaneous	Released in full.
8	Responsiveness Service Standards District Courts Non-Contemporaneous	Released in full.
9	Responsiveness Service Standards High Court Contemporaneous	Released in full.
10	Responsiveness Service Standards High Court Non-Contemporaneous	Released in full.



Evidence Recording and Transcription

Business Case

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Executive Summary

In February 2004 approval was obtained for \$31.460 million in funding (\$26.001m operating and \$5.459m capital) to extend digital evidence recording to additional courts, and to change the manner in which transcription is managed. The purpose of this business case is to facilitate a drawdown of the funds as specified in CAB Min (04) 13/3 point 14:

"agreed that drawdown of the funding for the Evidence Recording Initiatives be subject to a report back to the Minister for Courts, the Minister of Finance and the Minister of State Services on the results of a detailed business case for expanding evidence recording and transcription services in the courts, including the costs and benefits of various service delivery options and a detailed implementation plan."

Three documents are needed to fulfil this requirement; a detailed business case (this paper), the detailed implementation plan and the report to the Ministers.

This business case is composed of the following main sections:

- **Business Needs and Benefits**, which assesses the fiscal and non-fiscal benefits that will flow from this project;
- **Service Delivery Options**, which describes the various configuration and implementation alternatives available to the Ministry to achieve the project goals and recommends an option;
- **Costs**, which analyses the financial and organisational costs and risks associated with each option;

After exploring a wide range of options, including the do nothing and outsourcing options, this Business Case recommends a Transcription Service Centre option for meeting the requirements for transcription. This option proposes to implement evidence recording, transcription and contemporaneous delivery by creating a specialist function within the Ministry focused on delivering the appropriate service to the courts. This is done by designing new systems, approaches and structures, using new and existing staff in court premises, in regional transcription centres, in a centralised team environment, or a combination of all three.

This approach remains within the \$31.460 million over 5 years of original funding. It delivers fiscal benefits of \$1.3 million per annum. It also contributes to the goal of achieving justice services that are more equitable, credible and accessible.

Changes to appropriations to put into effect the operating costs are as follows:

Vote Courts	\$m – increase/(decrease)					GST
	2004/05	2005/06	2006/07	2007/08	2008/09 & Outyears	
<i>Departmental Output Classes:</i>						
Higher Court Services (funded by revenue Crown)	0.013	0.625	1.274	1.279	1.279	Incl.
District Court Services (funded by revenue Crown)	0.042	2.113	4.306	4.323	4.323	Incl.
Specialist Courts, Tribunals and Other Authorities Services (funded by revenue Crown)	0.018	0.917	1.870	1.877	1.877	Incl.
Total Operating	0.073	3.655	7.450	7.479	7.479	

It is recommended that the Minister for Courts, the Minister of Finance and the Minister of State Services:

- **Note** Cabinet has agreed to increase funding to provide digital audio technology to improve evidence recording and contemporaneous transcription in a number of High and District Courts.
- **Note** Cabinet has approved changes to appropriations to put in effect the operating costs of the decision above.
- **Note** Cabinet has agreed to the drawdown of funding subject to a report back to Ministers on the results of a detailed business case and implementation plan
- **Agree** To the drawdown of funding for the Evidence Recording initiatives as set out below:

All figures are \$m, GST inclusive where applicable					
Vote Courts	2004/05	2005/06	2006/07	2007/08	2008/09 & Outyears
Operating Balance Impact		3.351	6.984	7.004	7.004
Debt Impact	1.694	3.378	0.204		
No Impact	0.073	0.304	0.466	0.475	0.475
Total	1.767	7.033	7.654	7.479	7.479

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1 Document Context and Purpose

1.1 Context

The former Department for Courts took an evolutionary approach to the use of evidence recording and transcription technologies, with the introduction of MSR/CAT on a limited basis followed by the introduction of the DAT product FTR. Both of these technologies enable Courts to proceed at "normal speaking speed", whereas the previous technology (TRS) requires a slower process with pauses to enable an in-court transcriber to keep up.

There is still a significant gap between the service commitment the Ministry has to the judiciary and the service it currently delivers for contemporaneous transcription.

In February 2004 approval was obtained for \$31.460 million in funding to extend digital evidence recording to additional courts, and to change the manner in which transcription is managed.

1.2 Purpose

The purpose of this business case is to facilitate a drawdown of the funds as specified in CAB Min (04) 13/3 point 14:

"agreed that drawdown of the funding for the Evidence Recording Initiatives be subject to a report back to the Minister for Courts, the Minister of Finance and the Minister of State Services on the results of a detailed business case for expanding evidence recording and transcription services in the courts, including the costs and benefits of various service delivery options and a detailed implementation plan."

2 Business Needs and Benefits

2.1 Summary of Business Needs and Benefits

Criteria	Need/Benefit
Gives effect to significant ministerial requirement or part of a significant public initiative	Cabinet has agreed to this initiative subject to the provision of this Business Case and an Implementation Plan
Directly supports a strategic objective	Supports the long term outcome for justice services to be more equitable, credible and accessible
Provides non-financial benefits	Will lead to a better experience for witnesses and improved quality of evidence, better working environment for judges, alignment with justice systems in other OECD countries, and the follow-on benefits resulting from fewer appeals
Provides financial benefits	Savings of \$1.3m per annum in ongoing costs from replacing obsolete systems, reduced witness and juror expenses and reduced appeals

2.2 Business Needs

Providing transparent, timely and accurate recording and transcription of proceedings in court is both a legislative necessity and a key underpinning of the justice sector outputs. As noted in the original business case, the Judge has an obligation under statute to provide a record of proceedings in court, and this is given effect in section 60 of the District Court Act 1947:

“At the hearing of any proceedings in a Court in which there is a right of appeal without leave, the (Judge) shall, unless the parties have agreed not to appeal, make, or cause to be made a note –

Of the facts in evidence, and
Of any question of law or equity raised at the hearing; and
Of his decision thereon and of his determination of the proceedings.”

There are similar provisions for recording and transcription contained in –

- Crimes Act 1961 Sections 353 and 392
- Court of Appeal (Civil) Rules 1997
- High Court Rules

The making of a recording and the capacity to subsequently transcribe it is a necessary minimum. The Crown funds the Ministry of Justice to provide administrative support to enable the Judiciary to meet this requirement. This legislative requirement is linked to the second of the two justice sector long-term outcomes, notably:

“A fairer, more credible and more effective justice system, being a system in which people's interactions are underpinned by the rule of law and justice services are more equitable, credible and accessible.”

A detailed description of the current systems can be found in Appendix 1. The following table summarises the status and limitations of the current systems.

System	Natural speed?	Operators	Contemporaneous transcript?	System status
TRS	No – limited to around 100 wpm	One per proceeding; specialised and expensive training	Yes	DOS operating system nearing end of life
MSR/CAT	Depends on operator and training	Two per proceeding; highly specialised and very expensive training	Yes	High training costs for operators
DAT	Yes	Two to four per proceeding; simpler training	Yes, and allows for non-contemporaneous as well	Current technology
Audio Tape	Yes	One per proceeding; very simple training	No	Past the end of its economic life; highly unreliable

The mix of systems over various jurisdictions results in additional management and support, additional people costs and additional risks.

2.3 Business Benefits

There are a number of benefits that have been identified for this project, and the purpose of this section is to explain what the benefits are, how they will be achieved and their quantifiable impact. The benefits fall into three areas:

1. **Positive fiscal benefits** that will come from improvements to the Ministry's efficiency, allowing more effective use of existing resources;
2. **Cost avoidance** that will occur if the improvements can be used as a mechanism to prevent the Ministry suffering fiscal loss;
3. **Non-economic benefits** that come from improvements in levels of service, quality, openness and other intangible factors within the Justice system.

Each of these benefits will be examined in turn, along with their impact on the different components of the project.

2.3.1 Positive Fiscal Benefits

These benefits are focused around the financial gains that can be made from improvements to systems and processes.

2.3.1.1 Replacement of Obsolete Systems

The first of these gains is the ability to dispense with the current analogue recording systems, which impose a significant load on local courts. Nationally the costs of operating and maintaining tape evidence recording systems will vary from court to court depending on the age of the hardware and the level of usage. In many small courts where systems are used on an infrequent basis the maintenance and replacement costs will be minimal.

The following table is an estimate of national annual costs of operating and maintaining tape evidence recording systems based on the percentage of hearing days in individual courts. The costs have been allocated according to court size.

Cost Description	Court Size	Total Annual Cost
Hardware Replacement	Large Court	140,000
	Medium Court	122,500
	Small Court	63,000
Maintenance	Large Court	8,200
	Medium Court	7,100
	Small Court	3,700
Tape Purchases	Large Court	16,500
	Medium Court	14,300
	Small Court	7,400
Hardware Management Time	Large Court	9,900
	Medium Court	8,600
	Small Court	4,400
Tape Record Management Time	Large Court	42,500
	Medium Court	37,000
	Small Court	19,000
TOTAL		504,100

Due to the total replacement of all these obsolete systems, these benefits are realised in all options.

2.3.1.2 Efficiency Improvements

In earlier iterations of this business case and supporting papers within the Ministry, there has been much discussion about the positive benefits that would accrue from being able to accelerate the hearing of evidence to normal speaking speeds. As noted in the first section of this paper, older technologies force witnesses to speak at a slower than normal pace so that the transcribers are able to transcribe proceedings, whilst DAT-based solutions allow evidence to be given at normal speeds.

In previous papers calculations have been put forward that show a 12% increase in trial speed due to this effect:

The risk of proceeding without having a firmer base for estimating the benefits was considered to be too great. An approach was devised using information from the crown books and the transcript of trials to compare the difference between trials supported by TRS compared to trials supported by audio digital technology. The process was labour intensive and covered

trials from Wellington (chosen because it was the simplest option for testing the technique), Napier (because it was the original pilot site) and Auckland (because by repute it had had the most difficulties with the technology).

The results across the three Courts were very similar. In simple terms the exercise showed that there was a substantial difference between the use of TRS and audio digital. Overall it showed that there was a reduction in the amount of time for evidence to be given in the order of 30% where audio digital was used. However, this does not mean that the trial was 30% shorter. The analysis of the crown books showed that on average the amount of trial time taken up the giving of transcribable evidence was in the order of 40% of total trial time. The result is therefore that on average, the use of audio digital technology lead to a reduction in trial time in the order of 12%.

Time Saving: There is time saving because of the speed of information presentation. Feedback from Crown Prosecutors is that in an FTR courtroom they will get through around 100 pages of evidence/argument each day, whereas in a well-run TRS court they will get through around 40 - 50 pages. That time saving is most valuable in longer cases.

If all other aspects remain constant (i.e. additional information is not presented, and no additional cross examination etc results), that will translate into a faster throughput of longer cases, with a greater number of hearings being able to be dealt with by the same number of judges. There is feedback that if the hearing proceeds more smoothly, the transcript is available in a timely fashion, then the decision writing (where reserved) is facilitated. This projected decrease in hearing times impacts two areas of cost for the Ministry:

- The use of judicial resources (and the use of courtrooms);
- The payment of external parties such as witnesses, jurors and counsel.

2.3.1.3 Use of Judicial Resources

It is the view of the Ministry that decreasing trial times by 12% is a tangible benefit that will flow from the project. This does not translate into a corresponding increase in trial throughput, nor a significant change to judicial numbers in the way outlined in the first business case.

Since these original calculations were made, the Baseline Review Project has looked closely at the use of judicial resources and the factors that drive it. The business process modeling undertaken for the baseline review indicates that external factors – notably the actions of defence counsel, prosecution and the defendant – have a very large impact on the use of judicial and courtroom resources, and that these factors are largely outside the control of the Ministry.

An example of this effect in action is that trials are scheduled, witnesses and juries arranged, judges and courtrooms scheduled, prosecution and defence appear – and the defendant pleads guilty at the first

opportunity. Effectively, the time and resources that have been allocated to the trial are now wasted and there is only limited opportunity to utilise the now-vacant courtroom and judge.

The analysis indicated that large-scale changes in the use of judicial resources are extremely difficult to achieve given the external factors involved, and that re-use of resources was highly dependent on the vagaries of scheduling within the jurisdiction. If we then apply these findings to the evidence recording project, we can make the following conclusions in regard to the use of judicial resources:

- Decreasing the length of time taken to hear evidence will have a worthwhile impact on the speed of proceedings, and this will result in a 12% reduction in the weighted average time taken to hear a matter;
- Judges, however, have very variable utilisation rates due to the external constraints in the justice system, and there is still the need to write decisions on the result, determine sentence and other related penalties/ awards. Any improvement in hearing time must be multiplied by their likely utilisation level, meaning a target of half the original 12% projection is more likely;
- Even when utilisation is improved, making effective use of the newly available time is heavily dependent on being able to schedule matters more quickly, otherwise the opportunity to re-use the resources will be lost. Depending on the jurisdiction, the location and the queue of cases, around half the freed-up time will be lost to the system.

In other words, while a 12% increase in utilisation is theoretically possible, in real life this may well translate to 3%, a figure which is still highly dependent on external factors over which the Ministry has little control. Therefore, it is the view of the Ministry that increasing judicial utilisation should not be used as a key plank of the business case given that there can be little confidence in delivering the proposed goal.

2.3.1.4 Witness, Interpreter and Jury Costs

There are some tangible costs that are directly related to the length of time taken to give evidence. The first of these are witnesses, who are paid by the Ministry to appear in court; lay witnesses received \$25 per half day, while specialist witnesses receive payments based on the Witnesses and Interpreters Regulations:

For a period that does not exceed 1 hour, a fee of not less than \$16.50 but not more than \$68.00:

For a period that exceeds 1 hour but does not exceed 5 hours, the fee prescribed by paragraph (a) of this subclause plus a fee of not less than \$9.50 but not more than \$48.00 for each additional hour:

For a period that exceeds 5 hours, a fee of not less than \$68.00 but not more than \$305.00.

The Ministry's average annual cost and cost variance is based on expenditure in the relevant cost codes for the five financial years, 2000 to 2004 inclusive, in the table below:

Cost Description	Average Annual Cost	Variance	Potential Savings x 12%
Witness Fees & Expenses District Court	\$1,571,700	22%	\$188,600
Witness Fees & Expenses High Court	\$534,900	45%	\$64,188
Interpreters Fees	\$545,400	55%	\$65,448
TOTAL			\$318,263

Jurors are also paid by the Ministry, although this is by the half-day rather than as an hourly rate. For this reason, the impact of a 12% reduction in overall hearing time is only felt when the fixture is two days or more. Given the way the costs are broken down in the Ministry's accounting system, applying the weighted average length of trial in the District and High courts means that a 12% reduction is feasible in 80% of cases, for a 9.6% reduction in expenses. These can be calculated as follows:

Cost Description	Average Annual Cost	Variance	Potential Savings x 9%
Juror Fees	\$4,658,000	10%	\$419,220
Juror Expenses	\$1,135,000	16%	\$102,150
TOTAL	\$5,793,000	13%	\$521,370

The average annual cost and cost variance is based on expenditure in the relevant cost codes for the six financial years, 1999 to 2004 inclusive.

As can be seen, a reduction in the length of time taken to give evidence has tangible benefits of approximately \$839,600 per annum to the Ministry. These benefits apply to all options.

2.3.2 Cost Avoidance

As noted above, there is an ongoing risk to the Ministry in not recording evidence for 100% of hearings. The risk is primarily that the decision may be appealed as a result of no evidence having been recorded, or because the evidence has been lost.

When talking to operational staff it is clear that there are lapses of evidence recording technology or human capability, and that these have not resulted in re-hearings of the proceedings within the same court, but have resulted in appeals to higher courts. Most examples of evidence recording failure were of Judge's decisions or directions not being recorded. In those instances the Judges recreated their notes from memory, which is not ideal.

The Ministry's research discovered two documented cases in the last year where lost or non-recorded evidence resulted in appeals being filed. This data probably understates the issue, however, there is no specific recording of appropriate information in the CMS system. Assuming there are two of these appeals from the District Court (where there are the greatest gaps in evidence recording) to the High Court each financial year, and a three-day fixture results, there is a direct cost to the Ministry, calculated as follows:

Item	Per day	Three day	Two appeals
Judicial costs	\$ 1,502	\$ 4,507	9,014
Fixed costs	\$ 765	\$ 2,294	4,588
Jury costs	\$ 744	\$ 2,232	4,464
Total per appeal		\$ 9,033	18,066

It is important to note that these are the fiscal costs for the Ministry only; adding the additional Crown costs incurred by the Police, Corrections and Crown Law – as well as the additional legal aid bills – can easily multiply the direct costs by a factor of three, depending on the type of case. We can assume, therefore, that a cost of \$50,000 per annum can conservatively be avoided with better evidence management.

2.3.3 Non-Economic Benefits

There are a number of non-economic benefits that stem from better quality evidence recording and transcription. In fact, as noted above, these benefits are not only the major goals, but are the primary justification for the project:

Quality of hearing:

- The pace at which counsel and witnesses can speak is at normal speed, enabling witnesses, for example, to present their evidence at a pace with which they are comfortable, making the court appearance process less traumatic.
- Because witnesses and counsel are not being interrupted by the Judge and asked to speak more slowly, their train of thought is not disrupted. Feedback indicates that this allows cross-examination to flow, provides less opportunity for "re-thinking" and enables juries (or judge alone) to better assess the evidence as a coherent, rather than "stop-start", story. Where "stop-start" evidence is interpreted for those for whom English is a second language, the result is described as "tortuous".
- The improvement in the quality of hearing facilitates the decision making process (by either jury or judge). The information "hangs together" better, and gaps and inconsistencies are more evident.
- Overall, the improved quality of hearing contributes to improved justice outcomes through improved credibility of the courts system, particularly for lay users (jury, witness, members of the public in attendance).
- When there is contemporaneous transcription, the Judge is freed from making copious long hand notes, and also from being the "speed regulator"- i.e. constantly needing to tell the witnesses or counsel to "stop" or "slow down". This means the Judge is able to participate more freely in the substantive aspects of the hearing, including asking questions of witnesses and counsel, thereby not only clarifying issues for him/herself but also assisting the jury with appropriate focus. Once again this will improve the quality of the hearing where currently there is no contemporaneous transcription, particularly in respect of the focus on substantive matters. In civil (including family), the Judge will be able to observe the witness as evidence is given (rather than taking notes), thus making more informed judgements as to witness credibility.

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- In the District Court without contemporaneous transcription it is difficult to have a hearing, move straight onto the next, and then have to write more than one decision - particularly if the events in cases have similarities, it is difficult over time to keep them apart. Having a transcript where those facts can be checked and hence simple details written accurately would help the credibility of the system and reduce the trauma for the participants. Where an oral decision is likely or desirable to be delivered immediately after the conclusion of a hearing, contemporaneous transcription will enable the judge to make notes or even craft a decision as the hearing is progressing.
 - Transcripts taken using TRS, because of the shorthand used, are not suitable to be given to jurors. The provision of longhand transcripts from audio records assist juror deliberation.
 - In the High Court there is no system of recording the hearing, other than a manual record taken by the Judges Associate. This leaves the presiding judge vulnerable.

Value of Transcript:

- Judges in appeal and civil courts are reporting that an additional value of a quality transcript is that it helps inform the decision deliberation process. Judges (and others) are able to review what was actually said, and having more fully participated in the discussions during the hearing, are able to take all matters into account as the decision is made. That is true also in the Appeal Courts. It is expected that the demand will be for having the transcript as a written record that can be referred to, and annotated as necessary for prompting questions or reference.
- Counsels' closing addresses to the jury are currently not recorded. Where allegations of counsel incompetence are made and on other points of appeal, the availability of a complete record of the case will have significant advantages on appeal.

Summary of Benefits

1. Better quality of participation for witnesses due to the ability to present evidence at natural speaking speed, and therefore better quality of evidence as a result;
2. More just outcomes for both complainants and respondents due to better quality evidence being presented in court;
3. Higher confidence in the justice system due to better quality transcripts and better evidential storage;
4. Better working environment for Judges, as the need to take copious hand-written notes as a transcript will disappear, and a resulting decrease in OOS-related issues;
5. Better judicial outcomes due to the reduction in note-taking, allowing judges to concentrate on the matter in front of them rather than the record of proceedings;
6. A justice system more in line with jurisdictions in other OECD countries.

3 Scope

The scope of the project can be summarised in the following table -

In Scope	Out of Scope
Implementation of DAT and contemporaneous transcription in 20 District Court courtrooms	Implementation of any recording and transcription service for the Court of Appeal (separately funded)
Implementation of DAT and contemporaneous transcription in 17 High Court courtrooms	Implementation of any recording and transcription service for the Supreme Court (separately funded)
Implementation of DAT and non-contemporaneous transcription in 7 fixed Maori Land Courts and an additional 7 mobile units for Maori Land Court	Contemporaneous transcription for the Maori Land Court (fixed and mobile)
Implementation of DAT and non-contemporaneous transcription with 10 mobile units for Administrative Tribunals and authorities	Contemporaneous transcription in the Administrative Tribunals
Video evidence recording and videoconferencing prototype	Implementation or rollout of video evidence recording and videoconferencing

4 Options

4.1 Approach

In looking at the business drivers for this project, it was apparent that there are a large number of options that present themselves. However not all options are equally viable, nor will they deliver all of the business benefits sought, albeit that a large number were assessed to varying degrees by the Ministry. The options considered are described below:

4.2 Option 1 – Status Quo

This option maintains the existing technology and processes and will not address the issues that exist for the Ministry and the delivery of justice services with the current infrastructure, notably:

- The current mix of systems does not provide consistency of evidence recording and transcription service delivery and quality across all courts and jurisdictions;
- The cost of keeping older machinery running is high, and likely to grow over time;
- The use of systems unable to keep up with normal spoken evidence in court means that the quality of that evidence is undermined;
- There is a negative impact on victims and witnesses caused by the need to conform to existing slower methods of giving evidence;

-
- The mix of systems means that the Ministry's obligations and its service agreements with the judiciary can not always be met;
 - The gap between the service provided in NZ compared with international best practice is significant and widening over time;
 - The risk of retrials due to lost or insufficient recording will continue;
 - Significant staff training problems that will increase over time.
 - The Ministry is unable to use opportunities to leverage off new technologies which may lead to improvements to Court services and efficiencies

This option has been discarded due to these issues, and by agreeing to this initiative (Subject to this Business Case and an Implementation Plan), Cabinet has agreed to the discarding of this option.

4.3 Option 2: Incremental Change

This option is the implementation of evidence recording, transcription and contemporaneous delivery, whilst making the most minimal changes to the Ministry's structure and existing working relationships. The goal of this option would be to implement new systems and approaches whilst avoiding as much HR risk as possible:

All hearings that meet the agreed criteria are recorded using DAT technology, and transcribers continue to participate in court sittings in much the same way they do now. Where there is a requirement for contemporaneous transcription, the reporter is present in the court building, whilst non-contemporaneous material is transcribed back at the transcriber's desk. The majority of evidence is transcribed within the court in which the proceedings took place, and there is only limited work redistribution between courts. Backup copies of the DAT audio files are held offsite, but local courts take responsibility for the storing and management of the master record of evidence. Transcribers continue to use the existing management and reporting structures of their local court.

Analysis

This option is optimised around making minimal impact on the Court Reporter role, and leaves both the day-to-day activities and management structures intact. It also preserves the existing evidence management methodologies by making local courts responsible for the master records, as only backup copies are sent to a national evidence archive.

Advantages

- Makes minimal low-risk HR changes
- Builds on the existing DAT implementations
- Preserves the working relationships of transcribers in their local courts

This option is relatively easy to implement and implies low HR risk. The improved DAT system can be deployed into courts progressively, and the transition and training impact on staff is minimal.

Disadvantages

This approach exhibits poor load flexibility as there is little workload balancing between courts. It may also exacerbate existing recruitment and retention problems in some areas, as the only way to deal with

a growth in transcription demand is to employ additional staff in heavily loaded courts. There is no guarantee that suitable staff can be found in a timely manner, which in turn will aggravate resource shortages in that area. Increasing facilities to house additional personnel will need to occur in a wide number of locations – some of which may be disproportionately expensive compared to other options. While this approach may be adequate for the existing methods of evidence recording, there are concerns about the flexibility to handle new types of evidence and systems, as any significant changes will require a nationwide transition and training programme. It also holds the greatest challenges in terms of facilities.

Costs

The costs for this option are calculated using three different options; effectively, that an average of 80%, 60% or 40% of evidence that is transcribed must also be contemporaneously delivered. The staffing costs associated with these options are as follows:

Average Contemporaneous - %	80%	60%	40%
Non Contemporaneous - %	20%	40%	60%
Transcription Resource Hours Needed / Hearing Day	8.80	7.60	6.40
Transcriber Hours pa	139301	120305	101310
Transcriber FTE	127	109	92
Expressed as Proportion of 100% Contemporaneous	88%	76%	64%
Scheduling Effectiveness	50%	50%	50%
Transcription FTE Resources Needed	253	219	184
Current FTEs	80	80	80
New FTEs required	173	139	104

The limited work distribution between staff members and the necessity to house staff within their home courts will inevitably cause some premises issues. We have assumed for the purposes of the business case that new space will be needed in a variety of courts to accommodate the growth in staff numbers, and that this space is available at normal commercial rates. The breakdown of the cost impact is then as follows:

Average Contemporaneous - %	80%	60%	40%	
Transcription FTE Resources Needed	253	219	184	
Current FTEs	80	80	80	
New FTEs required	173	139	104	
Total FTEs in new premises (new staff only)	173	139	104	
Total one-off costs	\$ 13,010	\$ 2,254,299	\$ 1,804,968	\$ 1,355,636
Total ongoing costs per annum	\$ 3,064	\$ 530,913	\$ 425,090	\$ 319,267
Median annual IT costs per FTE	\$ 6,500	\$ 1,126,283	\$ 901,790	\$ 677,297

Salary costs per FTE, annual	\$ 37,595	\$ 6,514,250	\$ 5,215,816	\$3,917,382
On-costs per FTE, annual	25%	\$ 1,628,562	\$ 1,303,954	\$ 979,345
Total salary and on-costs		\$ 8,142,812	\$ 6,519,770	\$4,896,727
Total establishment costs		\$ 2,254,299	\$ 1,804,968	\$1,355,636
Total annual costs - premises, IT, salary, on		\$ 9,800,008	\$ 7,846,650	\$5,893,291
Additional courtrooms	54			
DAT cost per courtroom - capex	\$ 50,381.30	\$ 2,720,590	\$ 2,720,590	\$2,720,590
Depreciation	\$ 16,793.77	\$ 906,863	\$ 906,863	\$ 906,863
Telecommunications (opex) per annum per court	\$ 12,000.00	\$ 648,000	\$ 648,000	\$ 648,000
Total capex spend		\$ 4,974,890	\$ 4,525,558	\$4,076,226
Total opex spend		\$ 11,354,872	\$ 9,401,513	\$7,448,155

The cashflow implications of the various transcription service levels with this option are as follows:

80% Option						
Financial Year	2004/05	2005/06	2006/07	2007/08	2008/09	Total
Operational expenses	\$ 122,921	\$ 11,274,992	\$ 11,274,992	\$ 11,274,992	\$ 11,274,992	\$ 45,099,969
Capital expenses	\$ 1,333,658	\$ 2,398,724	\$ 1,199,362			\$ 4,931,744
	\$ 1,456,579	\$ 13,673,717	\$ 12,474,354	\$ 11,274,992	\$ 11,274,992	\$ 48,698,055

60% Option						
Financial Year	2004/05	2005/06	2006/07	2007/08	2008/09	Total
Operational expenses	\$ 101,799	\$ 9,337,556	\$ 9,337,556	\$ 9,337,556	\$ 9,337,556	\$ 37,350,222
Capital expenses	\$ 1,214,474	\$ 2,184,359	\$ 1,092,180			\$ 4,491,012
	\$ 1,316,273	\$ 11,521,915	\$ 10,429,735	\$ 9,337,556	\$ 9,337,556	\$ 41,841,235

40% Option						
Financial Year	2004/05	2005/06	2006/07	2007/08	2008/09	Total
Operational expenses	\$ 80,677	\$ 7,400,119	\$ 7,400,119	\$ 7,400,119	\$ 7,400,119	\$ 29,600,475
Capital expenses	\$ 1,095,290	\$ 1,969,994	\$ 984,997			\$ 4,050,281
	\$ 1,175,967	\$ 9,370,113	\$ 8,385,116	\$ 7,400,119	\$ 7,400,119	\$ 33,650,756

As can be seen, there are considerable financial impacts from agreeing the ratio of work that requires contemporaneous transcription.

Benefits

Benefits are in two areas; fiscal benefits that will come from improvements to systems, and non-financial benefits that will come from service improvements. The parameters for each benefit class are given in the later Benefits section of this document.

4.4 Option 3: Transcription Service Centre

This option implements evidence recording, transcription and contemporaneous delivery – by creating a specialist function within the Ministry focused on delivering the appropriate service to the courts. The goal of this scenario is to implement new systems, approaches and structures to ensure the required service delivery levels are met in an efficient manner. The scenario is as follows:

All material hearings are recorded using DAT technology, with the recordings stored on centralised servers in different parts of the country. Transcribers work in a variety of locations; some will work in their local court, as they do now, while others will work in new regional transcription centres. These will be located outside the existing court premises to ease the premises pressure in busy locations such as Auckland and Manukau. Every member of the court reporting team is able to work on any transcript from any court, although "virtual teams" specialising in (say) High Court work are envisaged. There are no restrictions on the geographic location of team members and there is full workload balancing between different team members. A new team leader and line management structure is required, with transcribers no longer reporting through local court managers. The technology allows complete geographic flexibility, with functions such as storage, backup and disaster recovery handled centrally.

Analysis

This option is optimised around greatest efficiency and throughput within the existing recording and transcription business processes. The technology allows a high degree of flexibility as to where staff members are located, enabling a smooth transition from the existing HR structures to the new approach.

Advantages

This option allows great flexibility in the way workloads are balanced across the country, and allows for the creation of "transcription centres" outside the main centres, thus potentially easing the staff recruitment and retention problems evident in some of the major cities. The transition can be managed incrementally, and given that the approach is evolutionary rather than revolutionary, the implied HR risks are low if a coherent change management strategy is used. The throughput per staff member is likely to be higher in this option than in the Option 2.

Disadvantages

This approach will have significant setup and ongoing costs associated with the new transcription centres, along with significant HR transition and retraining costs. The biggest issue is the fundamental change in the court reporter role, which will evolve from being court-centric to workflow centric, and this may create some HR issues unless managed carefully and consultatively. There is also the risk that future changes to technology will reduce the peak numbers of staff required by this option, leaving some transcription centres understaffed and therefore uneconomic from the Ministry's viewpoint. Given the relatively long leases that will need to be taken for new premises, this may result in a long-term financial drain on the Ministry's operational funding, given that the premises cannot easily be used for other core business activities.

Costs

The costs for this option are calculated using three different options; effectively, that an average of 80%, 60% or 40% of evidence that is transcribed must also be contemporaneously delivered. The staffing costs associated with these options are as follows:

Staffing Analysis			
Average Contemporaneous - %	80%	60%	40%
Non Contemporaneous - %	20%	40%	60%
Transcription Resource Hours Needed / Hearing Day	8.80	7.60	6.40
Transcriber Hours pa	139,301	120,305	101,310
Transcriber FTE	127	109	92
Expressed as Proportion of 100% Contemporaneous	88%	76%	64%
Scheduling Effectiveness	75%	75%	75%
Transcription FTE Resources Needed	169	146	123
Current FTEs	80	80	80
New FTEs required	89	66	43

The primary difference between this and Option 2 is that scheduling effectiveness is better, due to the ability to spread work transparently between staff members, rather than constraining transcribers to proceedings within a single geographic court.

There are currently 80 staff members employed as transcribers by the Ministry, and given the load-balancing nature of this option all existing staff will be able to work on matters as they arise. This means that the different options will require between 43 and 89 new FTEs.

Assuming that all of the new FTEs are located in new transcription centres and 70% of the current staff transition to the centres over a period of time, the costs of premises and associated facilities, along with the additional staff, are as follows:

Average Contemporaneous - %	80%	60%	40%	
Transcription FTE Resources Needed	169	146	123	
Current FTEs	80	80	80	
New FTEs required	89	66	43	
Total FTEs in new premises (new plus 70% existing)	145	122	99	
Total premises one-off costs	\$ 12,761	\$ 1,848,425	\$ 1,555,604	\$1,260,783
Total premises ongoing costs per annum	\$ 3,064	\$ 443,819	\$ 373,271	\$ 302,722
Median annual IT costs per FTE	\$ 6,039	\$ 536,563	\$ 397,515	\$ 258,467
Salary costs per FTE, annual	\$ 37,595	\$ 3,340,300	\$ 2,474,677	\$1,609,054
On-costs per FTE, annual	25%	\$ 835,075	\$ 618,669	\$ 402,264
Total salary and on-costs		\$ 4,175,375	\$ 3,093,346	\$2,011,318

Total establishment costs		\$ 1,848,425	\$ 1,555,604	\$1,260,783
Total annual costs - premises, IT, salary, on		\$ 5,155,757	\$ 3,864,132	\$2,572,508
Additional courtrooms	54			
DAT cost per courtroom - capex	\$50,381.30	\$ 2,720,590	\$ 2,720,590	\$2,720,590
Depreciation (opex)	\$16,793.77	\$ 906,863	\$ 906,863	\$ 906,863
Telecommunications (opex) per annum per court	\$12,000.00	\$ 648,000	\$ 648,000	\$ 648,000
Total capex spend		\$ 4,569,016	\$ 4,275,194	\$3,918,373
Total opex spend		\$ 6,710,620	\$ 5,418,995	\$4,127,371

The cashflow implications of the various transcription service levels with this option are as follows

80% Average Contemporaneous Option						
Financial Year	2004/05	2005/06	2006/07	2007/08	2008/09	Total
Operational expenses	\$73,160	\$3,655,610	\$ 7,449,210	\$ 7,478,780	\$7,478,780	\$26,135,540
Capital expenses	\$1,693,540	\$ 3,378,370	\$203,750			\$5,275,660
	\$1,766,700	\$7,033,980	\$7,652,960	\$7,478,780	\$7,478,780	\$31,411,200

60% Option						
Financial Year	2004/05	2005/06	2006/07	2007/08	2008/09	Total
Operational expenses	\$ 59,079	\$ 5,418,995	\$ 5,418,995	\$ 5,418,995	\$ 5,418,995	\$ 21,675,982
Capital expenses	\$ 1,156,111	\$ 2,079,388	\$ 1,039,694			\$ 4,275,194
	\$ 1,215,190	\$ 7,498,384	\$ 6,458,690	\$ 5,418,995	\$ 5,418,995	\$ 26,010,254

40% Option						
Financial Year	2004/05	2005/06	2006/07	2007/08	2008/09	Total
Operational expenses	\$ 44,997	\$ 4,127,371	\$ 4,127,371	\$ 4,127,371	\$ 4,127,371	\$ 16,554,481
Capital expenses	\$ 1,076,655	\$ 1,936,478	\$ 968,239			\$ 3,981,373
	\$ 1,121,653	\$ 6,063,849	\$ 5,095,610	\$ 4,127,371	\$ 4,127,371	\$ 20,535,854

4.5 Option 4 – Outsourcing

This option is for the outsourcing of recording and transcription services to a third-party organisation, either following a Ministry implementation of DAT, or including the implementation in the outsource agreement.

Advantages

- Fixed cost approach for the Ministry
- Builds on existing DAT implementations
- May allow existing DAT equipment to be sold to the successful supplier

Disadvantages

- Significant HR issues around transition of staff to an external organisation
- Quality and service metrics would have to be set very carefully to ensure expectations are met
- Legislative issues in some jurisdictions – legislative change almost certainly required
- Very few New Zealand organisations can offer this service
- May not be cheaper than an in-house solution
- Guidance from the judiciary and stakeholder groups indicates that transcription and management of evidence is the Ministry's core business
- Costs for a full outsourcing solution were difficult to estimate without going to the market. This is because the business processes of evidence recording and transcription are unique, so there are few direct comparisons that could be used for costing purposes in New Zealand.
- A search of the international literature failed to identify a single example of a comparable approach
- Experience in the Environment Court indicates there are risks to the Ministry around the financial viability of any outsource supplier
- The need to ensure a level of security to preserve the confidentiality of the information leads to higher cost, higher risk and greater complexity.

The issue of outsourcing – either at a service level, or at a business process level – was discarded for these reasons

4.6 Assessment Criteria

The three remaining options were assessed against the criteria and a preferred option identified. Assessment criteria are expanded in Appendix 3 – Option Evaluation, and a summary is presented below -

1. The evidence recording system must record 100% of hearings in each agreed case, and store it in a manner that meets the Ministry's legal obligations;
2. The evidence recording and transcription system must be able to transcribe a subset of the total hearings recorded according to pre-defined business rules or at the direction of a Judge;
3. It must allow for both contemporaneous and non-contemporaneous transcription of evidence with equal facility;
4. The solution must be fiscally prudent and fit within the \$31.460 million in funding approved in the original business case;
5. Any technology system changes must respect the current and future technology directions of the Ministry, must not be counter-productive to achieving other related business goals, and must provide a "forward path" to ensure the technology can be leveraged in the future;
6. Any organisational or HR changes resulting from the solution must be low risk for the Ministry and its staff members, and contribute to raising the capability of the Ministry.

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Criteria	Option 1 Status Quo	Option 2 Incremental Change	Option 3 Transcription Service Centre
100% evidence recorded	N	Y	Y
Ability to transcribe to service levels	N	Y	Y
Contemporaneous and non-contemporaneous transcription	Y	Y	Y
Within \$31.460m budget	Y	N	Y
Enable a technology forward path	N	N	Y
Low risk organisational and HR changes	Y	Y	Y

4.7 Recommended Option

The recommended option is Option 3 – Transcription Service Centre

4.8 Costs

Costs associated with Option 3 are summarised in the following table:

Impact on the Provisions						5 Year Total
\$000's	2004/05	2005/06	2006/07	2007/08	2008/09	
Net operating impact (GST incl)		3,351.16	6,983.57	7,003.97	7,003.97	24,342.66
Net capital impact (GST excl)	1,693.54	3,378.37	203.75	0.00	0.00	5,275.66
Costing Information	2004/05	2005/06	2006/07	2007/08	2008/09	
Personnel		1,918.62	3,711.33	3,711.33	3,711.33	13,052.61
Operating		636.80	1,228.31	1,195.50	1,195.50	4,256.12
Depreciation on New Capital		423.38	1,267.88	1,318.92	1,318.92	4,329.19
Total Expenses (Excl. GST)		2,978.80	6,207.62	6,225.75	6,225.75	21,637.92
GST on Revenue		372.35	775.95	778.22	778.22	2,704.74
Total Output Appropriation		3,351.16	6,983.57	7,003.97	7,003.97	24,342.66
Capital Expenditure	1,693.54	3,378.37	203.75			5,275.66
Capital Charge on New Capital	67.74	270.62	413.90	422.05	422.05	1,528.63
GST	5.42	33.83	51.74	52.76	52.76	196.50
Total Capital charge (GST Inclusive)	73.16	304.45	465.64	474.81	474.81	1,792.87

5 Risks

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6 Approach

The purpose of this project is to deliver the business benefits associated with higher quality evidence recording in the justice system. To do this, aspects of the project need to have their requirements clarified and agreed by the Ministry, the judiciary and stakeholders, which has not occurred to date. An

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example is that while the policy around contemporaneous transcription has been written and disseminated (see Appendix 2), the metrics around service levels have not been clarified.

It is clear from our international research that New Zealand is falling behind the best practices exhibited in OECD countries, so it is prudent to roll out the sections of the project with agreed requirements while consultation is undertaken, rather than delay matters further.

Our preferred approach is therefore as follows:

- Irrespective of the solution chosen, work needs to occur in a minimum of 54 courtrooms to allow the project to proceed. This covers items such as upgrades to sound systems, internal wiring and the like. Given the lead-times from suppliers and the need to minimise disruption to the business of the courts, this will be scheduled and begun as soon as possible;
- Concurrently, consultation will be undertaken with the judiciary and other stakeholders, particularly sections of the Ministry's staff. This will be open-ended consultation aimed at achieving consensus on the options, the service levels and the transition plan, so that a final system selection can be made.
- Also concurrently, the alternative of audio/visual enablement for evidence recording will be prototyped. It would be short-sighted not to undertake an assessment before purchasing decisions are made. There are a number of issues that need to be clarified in such a system – from legislative and premissis impacts to staff training requirements and usability tests – and the best environment to assess the issues is within a court environment. This prototype can then inform the debate on final system selection.

This approach will be detailed more thoroughly in the Implementation Plan document.

7 Project Governance

7.1 Project Roles

This project is a significant project for the Ministry and following table summarises the governance roles:

Role	Key Responsibilities
Project Owner (Liz Sinclair - Deputy Secretary Operations)	<ul style="list-style-type: none">• Chair of Steering Committee• Endorse recommendations and decisions• Report to EMT as required
Project Sponsor (Tony Fisher - General Manager District Courts)	<ul style="list-style-type: none">• Champions the project at senior level• Assists with issue resolution and risk management• Oversight of project spend against budget
Judicial Reference Group	<ul style="list-style-type: none">• Provide advice to the project regarding strategic and operational issues and decisions that may impact on the work of the judiciary either directly or indirectly.• Provide a point of collaborative problem-solving where the project and the judiciary can explore options and ideas before directions and solutions are finalised.• Act as a point of contact and communication from the project to the wider judiciary and from the wider judiciary to the project.
Project Steering Committee	<ul style="list-style-type: none">• Overall direction, guidance and support• Monitoring of the project to ensure successful delivery of project outcomes within scope and budget
IM&TGC	<ul style="list-style-type: none">• Oversight of the IT workstream of the project according to IM&T Governance Guidelines
Independent Quality Assurance	<ul style="list-style-type: none">• Provide independent advice to the Project Owner• Submit formal IQA Reports as agreed
Central Agencies (Treasury and State Services Commission)	<ul style="list-style-type: none">• Oversight of the project in accordance with Guidelines for Managing and Monitoring Major IT Projects

7.2 Business Case Updates

Following the video prototype, finalising the business requirements and the vendor selection process the detailed costs and timings will be finalised. At that point the Business Case will be updated (scheduled for April 2005) and approval for any differences in costings and the timing of costings will be sought.

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Appendix 1: Current Systems

There are four systems of evidence recording in use by the Ministry:

- **TRS (Transcript Recording System)** – a DOS based word processing system.

TRS requires a transcriber to be in the courtroom typing the evidence as it is spoken. An experienced operator can record at approximately 100 words per minute, while the average speaker articulates between 150 and 200 words per minute. Consequently, courtroom participants are required to speak at a measured pace to assist the court reporter to transcribe proceedings. There is also a need for frequent pauses in proceedings to enable the court reporter to catch up.

TRS uses a number of abbreviations as part of the effort to minimise disruption. As a consequence, the transcript can be awkward to read out in Court (as is often required) and can be difficult for a jury to follow, should the judge require copies to be provided to the jury.

This technology impacts the hearing time and can reduce effectiveness by as much as 30%, and generally reduces the quality of evidence by requiring stop/start presentation.

- **MSR/CAT (Machine Shorthand Recording/Computer Aided Transcript)** - as the name suggests, this is a partially automated shorthand process.

MSR/CAT was the preferred technology when the former Department for Courts' evidence recording strategy was agreed in 1996. This is an automated shorthand technology that allows the delivery of evidence to proceed faster than with TRS. Two operators are required in the courtroom. One creates an electronic shorthand record as the evidence is given, which goes to a computer for instantaneous transcription into English. The second operator edits the transcript as it appears on the screen. Although MSR/CAT operators are able to achieve a higher word per minute speed, proceedings are still required to be paced according to the skill level of the operator. An experienced operator can record at approximately 200 words per minute. (Training an operator takes 12 to 18 months). Polytechnics training is no longer available in New Zealand for MSR/CAT so any new competent operators will be overseas trained.

- **Digital audio technology (DAT)** – a Windows based process that records all proceedings for transcription at a time and venue to be determined by the business owner.

DAT has been used in New Zealand courtrooms since 1999 and allows the real time recording of evidence. Unlike the other technologies, transcripts created using DAT are made outside the courtroom. The result is transferred electronically between the courtroom and the transcription staff member, and copies of the transcript are printed in the courtroom. As with MSR/CAT, the use of this technology avoids the disruptive effects of TRS and provides a significantly better quality transcript. In order to provide a contemporaneous transcript (i.e. within 30 minutes), teams of two operators are needed to keep up with the pace of the examination in court. Transcription using DAT can be undertaken at any location, via the

Ministry's network. The Employment Court (in the process of merging into the Ministry) currently uses DAT

- **Non-contemporaneous Recording and Transcription**

District Court proceedings that are not required to be transcribed immediately are recorded on Lanier machines which use traditional analogue audio tapes, including proceedings that are typically only transcribed if the particular case is appealed. This technology is also used to record those aspects of jury trials that are not transcribed unless appealed, for example opening and closing addresses.

Lanier has reliability limitations. It is vulnerable to human error and stoppages can go undetected because of the relatively unsophisticated and manual monitoring regime. There is no provision for back up support for Lanier. The Ministry is currently vulnerable to the age and reliability of its Lanier recording machines. The replacement of the Lanier machines is urgent in many courts.

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Appendix 2 – International Trends

The Ministry surveyed the literature from other countries to establish how our current methods of managing evidence compared to international standards, and the directions evidence recording would be taking in the future.

A number of trends were evident from our research:

- New Zealand lags a considerable distance behind Australia, the United Kingdom and the United States in evidence recording. The use of DAT-style technology is now very widespread, and almost without exception the older shorthand-based transcription systems have been phased out in most jurisdictions;
- The move from traditional forms of evidence recording – particularly shorthand and its equivalents – to DAT-based systems seems to be almost always supported by a business case. While these business cases are not generally publicly available, the documentation around the projects seems to indicate that the primary motivator for implementation was better judicial outcomes, rather than pure cost-savings or efficiency gains. These seem to be seen as intended but secondary consequences of achieving better quality evidence presentation and recording in court;
- Most countries are already implementing the modern systems discussed in this paper, with a trend towards integrating electronic filing of court documents, electronic presentation and recording of evidence in court, and remote appearance of witnesses. In a number of examples, the extension of the core electronic evidence recording system – by adding electronic document filing, for instance – brought significant efficiency gains and cost savings, particularly for registry staff, but these could not have been realised without the evidence recording component being present;
- There is widespread recognition that changes to the structural underpinnings of the court system cannot be made overnight, as one paper notes, “the court system cannot turn on a dime”. Most projects, therefore, assume multi-year implementations of different phases of the “digital courtroom” according to a long-term strategy agreed at a political level.

It is clear that New Zealand has some distance to go before our strategy or implementations reach international best practice standards. And given the last point above – courts cannot be expected to change overnight – it’s a necessity that the solution implemented in this project take us in the right direction as quickly as possible.

Appendix 3 – Option Evaluation

To be able to assess the various options for service delivery we need to break the issues of evidence recording into the components of **recording**, **transcription** and **timeliness**. How we approach each of these components will have implications for the final system selection.

Obligations, Commitments and Expectations

There are legislative obligations for evidence recording and transcription. Beyond the obligations, there are commitments the Ministry has made, particularly to the judiciary, which must be honoured. And there are expectations held by the judiciary and a wide range of stakeholders – from counsel to witnesses, defendants to prosecution – that need to be clarified and incorporated into appropriate service levels. Each of the service components – recording, transcription and timeliness – need to be assessed in the light of the Ministry's obligations, commitments and expectations.

Evidence Recording

The area of evidence recording and storage is where most of the Ministry's obligations lie, as there are long-standing conventions backed by legislation. The obligation to record the proceedings of any hearing in any court that is subject to appeal without leave is wide-ranging and unequivocal. And the commitment to and expectation of both the judiciary and every stakeholder in the justice system is that this will occur.

There is evidence, however, that the Ministry is falling some way short of meeting these obligations. This is not through deliberate actions, but simply because the number and types of matters heard in the various courts has risen over the years. It is incumbent upon the Ministry to ensure that all evidence is recorded in accordance with the relevant Acts and Rules. This gives rise to the first criteria on which we need to base our final system selection:

The evidence recording system must record 100% of hearings in each agreed case, and store it in a manner that meets the Ministry's obligations.

Transcription

There is a long history of evidence being recorded in New Zealand courts without verbatim transcriptions being completed, and there are a set of explicit and implicit business rules that govern the decisions over what is transcribed. Some examples of the business rules in action are:

- There may be an appeal against a criminal conviction in the District Court. Under normal circumstances the evidence in the original hearing will have been recorded but no transcription made; if the conviction is appealed, the evidence is then transcribed and sent with the file to the appellant court.
- There is not an automatic requirement to transcribe all hearings in the Civil and Family jurisdictions (although there is a requirement to record them). However if any matter is appealed, a transcript must be made from the recorded hearing to enable an appeal to proceed.

These business rules are in the form of formal policy directions and instructions, and as implicit understandings between the Ministry and judiciary based on many years of court practice. In effect, there are fewer legal obligations around transcription, but there are long-standing commitments and expectations that need to be met. So the second criterion for system selection is:

The evidence recording and transcription system must be able to transcribe the total hearing recorded in accordance with pre-defined business rules or at the direction of the presiding judge.

Timeliness

There are requirements for both contemporaneous (real-time) and non-contemporaneous transcription in the courts. In the appeals instances given above, transcription does not need to occur as evidence is presented in the original hearing, as it is not known whether the decision will be appealed or not. However some proceedings – such as jury trials – require that the evidence is transcribed immediately so it is available for the Judge, counsel and (if directed by the Judge) the jury to assist them with reaching a verdict.

Once again, there are both formal business rules and implied commitments that govern which proceedings are immediately transcribed. The third criteria for system selection is:

The evidence recording and transcription system must allow for both contemporaneous and non-contemporaneous transcription of evidence with equal facility.

Balancing Factors

It is clear that all the Ministry's obligations must be met by the proposed system and that previously-made commitments on evidence recording and transcription must be honoured. The ability of the Ministry to meet the explicit and implicit expectations of the judiciary and stakeholders must be balanced against other organisational and financial priorities.

There are three criteria that need to be assessed in the light of the project's goals, notably:

The solution must be fiscally prudent and fit within the \$31.460 million in funding approved in the original business case;

Any technology system changes must respect the current and future technology directions of the Ministry, must not be counter-productive to achieving other related business goals, and must provide a "forward path" to ensure the technology can be leveraged in the future;

Any organisational or HR changes resulting from the solution must be low risk for the Ministry and its staff members, and contribute to raising the capability of the Ministry.

HR Capabilities

The nature of court reporting – sitting in court, transcribing evidence as it is presented – has evolved over the last decade as technology such as DAT has been adopted. It may well be that the role of transcribers will evolve further as a result of improvements to evidence recording and transcription systems.

In the original business case, some 60% of the budget was allocated to staffing costs and associated training and change management. And it is apparent that in implementing an improved system, there needs to be people-centric change rather than technology centric change.

For instance, most modern DAT-style evidence recording systems allow staff to be located remotely from the court. This may mean they are in the same building, but it can mean that they are in an entirely different town. The correct application of the technology will allow a degree of flexibility and better skill utilisation that can provide significant benefits to the Ministry in skill sharing and knowledge management, and these benefits need to be capitalised upon by the project.

Given that the HR component is such a significant part of the proposed solution, it is clear that the various issues over consultation, change management, training and transition need to be carefully managed to ensure risks to the Ministry – particularly in staff retention – are minimised.

Appendix 4: Video Evidence Recording & Videoconferencing Pilot

Future Directions

Internationally, court room services are clearly moving towards electronic submittal, hearing and recording of evidence, with an increasing degree of integration between systems such as videoconferencing, computer-based presentation of evidence to judges and jurors, and evidence recording and archiving. From researching the literature, it appears that New Zealand is some distance from the best practices in "digital courtrooms" used in Australia, the UK and the United States. It's also worth noting that case studies indicate the primary drivers for overseas projects has been the desire to deliver better quality outcomes in the justice sector, with a secondary goal of improving and smoothing the flow of work through the courts.

It is apparent that the types of evidence presented in court may well undergo a transformation in the years ahead. With the pervasive growth of computing in public and private life, there may well be a requirement to present anything from recorded video to text and instant messages, transcripts of chat groups to a wide range of computer files. It may well be that very little of this evidence will appear in court in conventional oral or written form, and it is unlikely that any list we could compose today of the different evidence types would be accurate, let alone comprehensive. For this reason, any system that records and transcribes evidence must be sufficiently flexible to allow for evidence types that have not yet been presented in court.

In addition, it is a requirement that the system take account of the convergence of technology. For instance, the ability of courts to hear evidence remotely via videoconferencing links will inevitably become more important in the future, particularly in cases involving highly skilled experts overseas, or where it is desirable to separate witnesses and defendants for reasons of security. This means that the technology direction of the evidence recording solution must not be in conflict with the implementation of videoconferencing in the justice sector, and vice versa.

Given the criteria for system selection it is highly likely that the solution can provide a platform for additional business benefits – such as videoconferencing – to be achieved, whilst ensuring that further technological developments can be easily incorporated.

Future Digital Courtroom Scenario

The defendant, witnesses, counsel and the judge are all recorded using digital video technology, and the images are available for immediate playback to the judge, jury and counsel at the discretion of the judge. The video record of evidence is also available to the jury in the jury room, again at the discretion of the judge. The video files are recorded to a computer system in the courtroom and periodically copied across the Ministry's network to an offsite centralised archive for storage, backup and disaster recovery. Depending on the agreed

service level, a paper-based transcript is made of proceedings. The transcript can be made contemporaneously or non-contemporaneously by transcribers outside the court. The design of the system allows for videoconferencing, so there may be no requirement for a witness to be present in the court where the hearing is taking place, and the videoconference transcript is automatically recorded as part of the video evidence.

Analysis

This scenario avoids some of the cost and resourcing issues associated with contemporaneous transcription by moving evidence recording from text-based to video-based. Instead, it adds technology cost and complexity whilst delivering additional benefits – such as videoconference appearances from witnesses and defendants – that are not possible today. Fewer additional staff will be required as the main driver for staff growth – contemporaneous production of typed transcripts – can be lessened with in this scenario.

The Pilot

It is proposed to pilot the above scenario in an actual courtroom as part of this project in order to -

- Demonstrate the effectiveness of video conferencing and video hearings in support of case management
- Gain the confidence of the judiciary in the use of video conferencing and video hearings
- Monitor the impact of video conferencing and video hearing technology on the Court administration
- Gain the support of other agencies through the practical use and potential benefits of this technology
- Inform the creation of any inter-agency standards for videoconferencing
- Measure the wider impacts on the Ministry through the national roll out of video conferencing and video hearing technology in the areas of -
 - Premises
 - Business processes and workflow
 - Human resources
 - Information technology
- Inform the evaluation of RFP responses for DAT.

Appendix 5: Evidence Recording in District Courts Policy

Introduction

The Courts Division has a responsibility to provide evidence recording and transcription services in the District Court.

The services are provided using court reporting staff employed by the division

Those staff are also required to provide other typing services to judges and the administration.

Evidence recording and transcription services will always be provided. The method used to deliver this service will be dependent on available resources.

Evidence Recording Policy

The following indicates the general intention of the Courts Division in respect of delivering these services:

1. **All District Court Jury Trials and Preliminary Hearings**

These categories of case will have evidence recorded and transcript provided using a verbatim recording process, which provides an immediate transcript.

The equipment used will either be electronic typewriter or PC or MSR/CAT equipment (where this is supplied).

The reporter(s) involved will be a typist(s) with the appropriate skills. Any rulings or directions given by the presiding judge during the course of the trial will either be taken down in shorthand or tape recorded and typed back on the day the ruling is given, or if that is not possible, the following day.

2. **All District Court (Excluding Family Court) Hearings Where The Hearing is Scheduled to be One, Day or Longer (Case Length Determined from Application for Hearing or at Pre-Trial Conference)**

This category of case will, where resources permit have evidence recorded and transcript provided using a verbatim recording process which provides an immediate transcript.

The equipment used will either be electronic typewriter or PC or MSR/CAT equipment (where this is supplied).

In the event that resources are not available, the service provided will be as described for category 3.

Courts administration is to advise the executive judge (or hearing judge) of any inability to provide an immediate transcript for Category 2 cases. This allows for an opportunity to establish which cases should receive priority in terms of the provision of an immediate transcript.

3. **All Family Court Hearings Where Hearings are Scheduled to be One Day or Longer**

Evidence will usually be taken using sound recording equipment.

There may be cases where an immediate transcript is required. This should be discussed at the pre-trial conference and the administration advised and wherever possible, resources will

be made available.

4. **All District Court (Including Family Court) Hearings Where Hearings are Scheduled to be Less Than One Day**

Evidence for this category of case will be recorded using one of the following systems

Pen Shorthand; MRS/CAT equipment (where this is supplied); Sound Recording.

Notes:

- 1) These recording options are not listed in order of priority and it is for the court administration to determine, depending on the resources available, which of these methods of recording is appropriate.
- 2) There may be cases in this category where it is appropriate to consider using a recording process which provides an immediate transcript rather than the standard recording options. The division will endeavour to meet requests for service subject to resources being available. Reasonable notice is to be given if an immediate transcript for Categories 3 and 4 is required- Notice should not be less than three weeks and should be by way of a direction from the executive judge or hearing judge.

5. **Other**

The following will also be recorded:

- Decisions in formal proof cases (in all jurisdictions);
- Reasons for judgment or decision in every contested or defended matter;
- Notes on sentencing;
- Rulings during the course of trial or hearing;
- Summing up in jury trials;
- Evidence in paternity cases.

Category 5 will be recorded using:

- Sound Recording;
- File Notation;
- Pen Shorthand;
- MSR/CAT equipment (where this is supplied);
- Electronic typewriter or PC.

Transcripts

Transcripts for material recorded in Categories 2, 3 and 4 will be provided as follows:

- a) Categories 2 and 3
In cases where an immediate transcript is not provided, on appeal or following a request from, or direction of a judge.
- b) Category 4

The following will always be transcribed:

- Judges' notes on sentencing where a sentence of 12 months or more is imposed, or where a sentence of less than 12 months is imposed and the judge has imposed conditions pursuant to Section 77A or 77B of the Criminal Justice Act 1985;
- Formal decisions in the Family Court;
- Oral decisions in contested/defended matters;
- Evidence in paternity cases.

Other than appeals against sentence only, transcripts will be provided for all other matters when an appeal is filed or following a judge's direction.

NB: For appeals against sentence only, full transcript will be provided only on request of an appeal Court.

c) Category 5

The following will always be transcribed:

- Judges' notes on sentencing when appeal against sentencing only is filed.

Transcript Delivery

The division will endeavour to produce transcripts within the various timeframes and to the quality standards identified in the current Management Plan. *(Note: Standards yet to be defined)*

Reserved Decisions

The division will endeavour to produce draft and final transcripts of reserved decisions within the various timeframes and to the quality standards identified in the current Management Plan. *(Note: Standards yet to be defined)*

General

The division is required to comply with the conditions outlined in the current Justice Employees Collective Contract (General) and also with the requirements of the Health and Safety in Employment Act 1992.

ENVIRONMENT COURT DISCOVERY PEOPLE AND PROCESSES STREAM

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OFFICIAL INFORMATION ACT
RELEASED UNDER THE

1.0 CURRENT 'AS IS' STATE

1.1 INTRODUCTION

The NTS team instituted a discovery process to assess the viability of transferring some, or all, of the transcription services currently provided by Adept, an out-sourcing agency based in Christchurch, through to the NTS.

The legal requirements for transcription of Environment Court hearings appear to be covered under s 278 of the Resource Management Act 1991 which states:

Environment Court has powers of a District Court

[(1) The Environment Court and Environment Judges have the same powers that a District Court has in the exercise of its civil jurisdiction [including, without limitation, the power to commission a report from an independent expert on any matter raised in an appeal, as provided for by rules 342 to 348 of the District Courts Rules 1992].]

The District Court Rules 2009 in relation to transcripts of evidence states:

District Courts Rules 2009

14.14 Order for transcript of evidence

14.14.1 The court may, on application by any party, make an order requiring a transcript to be made of the whole of the evidence given at a hearing before the decision-maker.

It should be noted from the above extracts that it does not specify that transcription should be done contemporaneously only that evidence can be transcribed on request.

Other legislation regarding transcription of evidence is included in the Garrow & Turkington interpretation of the relevant section of the Evidence Act 2006 which states:

The Evidence Regulations have now been introduced and are set out in full in the Evidence Act 2006 tab, Garrow and Turkington's Criminal Law, Volume 2. Section 135 of the Evidence Act 2006 now allows for the provision of transcripts to juries and is now commonplace, especially in longer trials. The normal practice is for the transcript to be made available at the close of proceedings on each day so there is the opportunity for counsel to check it overnight. Checking is usually done by all counsel and the Judge, with the assistance of the stenographer, before Court the following day and the transcript is then made available to the jury.

The purpose of the discovery approach is to ensure that the NTS and Special Jurisdictions (in this particular case, the Environment Court) has a complete and detailed understanding of the factors supporting or inhibiting this proposal so a considered recommendation can be made.

Adept were approached to provide NTS with a breakdown of the Environment Court work they transcribe but I have had no reply to my request at this point. Mike Tinkler, Regional Manager for the Christchurch Environment Court advises he has a spreadsheet which itemises all

invoices received from Adept for transcription work and he cross-references this by checking page counts, days utilised etc with the actual transcript.

Environment Court transcription requests are 99% non-contemporaneous:

- 99% non-contemporaneous
- 1.0% contemporaneous

Environment Court hearings take place both on Ministry premises and offsite, consisting of:

- 80% on Ministry premises
- 20% offsite at various units, including hotels, conference rooms and conference centres.

1.2 ENVIRONMENT COURT BACKGROUND

The Environment Court Unit provides administrative and registry support services to the Environment Court.

This Unit was established in September 2002, following a review of the structural and organisational requirements of the Special Jurisdictions Group which culminated in the then Tribunals Division being split into a Tribunals Unit and an Environment Court Unit.

The Environment Court Unit has registries in Auckland, Wellington and Christchurch. Sittings by the Court are conducted throughout the country. A National Manager leads the Unit and is supported by a Manager in each of the three registries and by a Judicial Resources Manager based in Wellington. A Legal and Research Counsel is based in each registry, to support the resident judiciary.

The Environment Court is constituted under the Resource Management Act 1991. It is a specialist court of record consisting of at present 8 Environment Judges (one of whom is appointed as the Principal Environment Judge) and 7 Alternate Environment (part-time) Judges. They are all warranted District Court Judges. 15 Environment Commissioners and 5 Deputy Environment Commissioners are also appointed to sit as members of the Court.

Except for proceedings that relate to interim or full enforcement orders or matters that purely involve questions of law that a Judge sitting alone can determine, sittings are usually constituted by one Environment Judge and two Environment Commissioners sitting together. An Environment Commissioner may themselves sit alone and exercise such express powers as are conferred upon them by the Principal Environment Judge either generally or in relation to a particular matter.

Lawyers usually represent parties before the Court, but anyone may appear in person, or be represented by any other agent. Most of the Court's work involves public interest questions.

Because of the importance and complexity of the subject matter of the proceedings, oral decisions are rarely given, and decisions are usually reserved – and a written judgment delivered at a later date.

Environment Judges also sit in the District Court from time to time, to hear prosecutions laid by Regional and District Councils under the Summary Proceedings Act.

1.3 ENVIRONMENT COURT HEARING MANAGERS

Part of the initial discovery work for Environment Court involved an extensive survey sent to all Environment Court Hearing Managers (HMs). Each HM works with one Judge, travelling on circuit with him/her. The HM's perform a range of tasks, including:

- Administration support for their Judge
- Case management and file maintenance
- Hearing management and Court Registrar duties
- Travel and venue bookings
- Organising evidence and transcription information including distribution of transcripts

Of the 8 Hearing Manager's nationally, all 8 returned completed surveys. The survey questions covered court processes, technology requirements, current transcription support provided, and transcription standards in use.

2.0 GENERAL PROCESSES CURRENT STATE

2.1 INTRODUCTION

The first step in establishing a current state for general processes was the collation of responses received from the 8 HM's. Differences between Environment Court 'as is' processes and NTS 'as is' processes are identified with the word (*variance*).

The variances are then listed in numerical order and solutions provided for each (see section 3.0 - Review of Variances (Minor & Major) and Appendix 5.1.3 - Variances & Solutions - General Court Process Variances)

2.1.1 GENERAL COURT PROCESSES

- (a) Case numbers are in the format ENV-Year-Region-Case Number. For example, a Christchurch Environment Court case number will be in the format ENV-2010-CHC-000123. The case numbers differ from those presently used by Court Reporters in that the region is identified by an abbreviation of the unit, e.g., CHC-Christchurch, Auckland-AKL, and Wellington-WLG. The six figure case number is shown in CMS but HM's tend to eliminate the zero placeholder, i.e., 123 as opposed to 000123.

(*Variance*)

(*Refer Training Requirements*)

- (b) All HM's have access to CMS and utilise it for all case details, but do not use it for transcription support requests.
- (c) HM's all travel with their Judge when out of region fixtures are heard. If an HM cannot travel, another HM is rostered. This also applies for sick, annual, bereavement, or emergency leave. HM's travel, on average, for one week per month although this is variable and can involve split days i.e. not consecutive.
- (d) Visiting Environment Court Judges are housed in any spare judicial chambers or offices. Alternatively, specified Environment Court Judge's offices are available in some regions. Where a registry has an Administration Team Leader, they usually have responsibility for looking after any visiting Judge. Contact with Judges should, in all cases, be through their Hearing Manager.

- (e) All Hearing Managers have used Mobile Evidence Recording Kits (MERKs) and FTR. Support is offered by Adept and includes providing assistance or feedback on courtroom set-up, assessing which microphones are needed, and connecting a MERK kit to the Ministry network in order to avoid the use of T3G cards.

(Variance)

(Refer training requirements)

2.1.2 SCHEDULING PROCESSES

- (a) Notice of Environment Court hearings ranged on average from two to three months. There is a proviso that the Environment Court must advise parties of a hearing at least 15 working days prior to the date.
- (b) A six-monthly 'indicative roster' is compiled by the 59(2)(a)
constantly updates this roster indicating hearing weeks and judicial availability. It would be helpful for NTS schedulers to have access to this roster.
- (c) Environment Court Judges preside over an average of 2-3 hearings per month.
- (d) Whether a hearing is to be contemporaneously transcribed is decided by the Judge in line with the needs of the case, e.g., degree of difficulty. Contemporaneous transcription is the exception, rather than the rule, and 24 hours and 2-5 day turnaround times are the most common. This choice has historically, in most cases, been decided on a cost for transcription basis.

Transcription requests are made on the Adept Booking Sheet (*see Appendix 5.1.4*) and is found on the MoJ intranet/Special Jurisdictions/Environment Court site.. There are no transcription choices available on this sheet and the HM manually enters the turnaround required.

It is not uncommon for a Judge, after hearing evidence, to give an Oral Judgment at the conclusion, and these are transcribed as a separate document from the evidence.

(Variance - training requirement - non-contemp request?)

Appendix 5.1.5 shows the workflow process for contemporaneous transcription.

- (e) The length of an Environment Court hearing on average is one (1) week.
- (f) Courtrooms are allocated once there is a confirmed date based on the availability of all parties. The location can be selected based on the vicinity of the incident because of the number of witnesses to be called from a particular area.
- (g) Courtrooms are booked by the HM's through the relevant Court Managers. The HM will contact the courthouse nearest to where the Judge has requested the hearing to be held. They speak with the Court Manager or scheduler responsible for the allocation of courtrooms. They advise them of the date of the hearing and enquire regarding availability. If a courtroom is available, confirmation will be given, but often the court cannot give a definitive date and therefore an off-site (non-court) location is then chosen. Environment Court have their own dedicated courtrooms in Christchurch, Wellington and Auckland and it is only when hearings are to be heard outside these areas that difficulties can be experienced in sourcing a courtroom. *(Variance)*
- (h) It should be possible for Courtroom bookings to be confirmed as parties must be advised at least 15 days before a hearing. NTS could take from this that they will have

definite confirmations of any transcription requests where evidence is being called 15 days in advance of the hearings, or more.

- (i) The nature of transcription (contemporaneous or non-contemporaneous) does not dictate the location requested.
- (j) Short notice locations changes are a rare occurrence and do not affect Adept because of the portability of MERKS.
(Variance)
(Refer training requirements)
- (k) Adept apparently receive an e-copy of the 'Indicative Roster' and are therefore aware of when hearings are set down and they (i.e. Adept) contact the relevant Hearing Manager on the date to confirm it is proceeding and that the turnaround time requested in the Adept Booking form is still the same. (Variance)
(Refer training requirements)

2.1.3 HEARING PROCESSES

- (a) For locations (e.g., off-site) most used for Environment Court hearings, see document prepared by [refer Environment Court Discovery Technology Stream document.] 59(2)(a)
- (b) All HM's advised that they travel with their Judge to hearings and arrive at the allocated courtroom at least one hour before the hearing commences.
- (c) Prior to hearing commencement all HM's follow a similar procedure. They set up the courtroom equipment, do a sound check, advise Adept that sound check has been completed and request they check sound quality. They also undertake general housekeeping duties i.e., providing water, glasses, tissues etc.
(See Appendix 5.1.5 Courtroom Set-up)
(Variance)
(Refer training requirements)
- (d) HM's are responsible for all court taking duties although the HM's, when at an off-site location, often have to undertake administrative duties for the Judge, i.e. photocopying, distribution of data to counsel etc which requires them leaving their PC and therefore unable to enter lognotes. (Variance - Risk)

2.1.4 AUDIO AND LOG NOTE (ANNOTATION) PROCESSES

- (a) Hearing audio is monitored by all HM's. Additionally, Adept regularly monitor hearings. The HM does this to ensure that recording is in fact occurring, whilst Adept ensure that archiving is occurring and they are receiving the audio.
- (b) All HM's take log notes (annotations) in court. These are annotations done on FTR/MERK. Sitting sheets are done in Word or handwritten.
- (c) All HM's have used a MERK or FTR and are experienced using log notes. Adept said that annotations are "often inadequate and a particular problem for them but nothing has been done to rectify this."
(Variance)
(Refer training requirements)

- (d) HM's do not physically back-up any audio, e.g., by burning to disk. Once the MERK recorder shows that the disk drive is full, audio is deleted from it. HM'S rely on the physical laptop storing all audio. *(Variance)*
- (e) Audio difficulties, e.g, difficulty hearing a witness, are dealt with by advising the HM by email or instant messenger. In most cases the HM will then advise the Judge, otherwise the HM deals directly with the witness.

2.1.5 TRANSCRIPTION PROCESSES

- (a) No transcription work is undertaken by HM's.
- (b) Environment Court Administration Support staff are responsible for the transcribing of all Reserved Decisions and these constitute 95% of transcription requirements for the Environment Court.
- (c) The average page count for contemporaneous transcription is approximately 100 pages. This can be verified by the NTS Business Performance Analysis document prepared by the NTS Business Performance Manager, 59(2)(e)
- (d) Adept does not print to the courtroom. In hearings, audio is automatically sent by ATR to the Adept server and is then transcribed by Adept. If the turnaround is 24 hours and Adept receive the first block of audio at 10.10 am, the expectation is that transcription will be available by 10.10 am of the next day at the latest. The transcript is e-mailed by Adept to the Hearing Manager. Printers for all EC dedicated courtrooms will need to be identified to enable NTS to add these to the i-print server to enable court reporters to print directly to these printers. This would apply only to ETR courtrooms. *(Variance)*
- (e) Printed copies of the transcript are provided to the Judge and two Commissioners, but often Commissioners will prefer to receive their copy by e-mail. An emailed version (PDF) is also sent to all parties by the Hearing Manager.

2.1.6 TRANSCRIPTION REQUESTS

- (a) Contemporaneous transcription is only 1.0% of EC transcription, with the other 99% representing non-contemporaneous requests. One exception to this would be the rare occasion when a Ruling is given in Court and the Judge requests this be transcribed urgently. A non-contemporaneous urgent request would be required in this instance and the present NTS SLA for this is 1 hour.
- (b) Work that is transcribed non-contemporaneously includes Notes of Evidence, Oral Judgments, Rulings, Directions and on the odd occasion a minute. Because minutes are generally very short it would be more time effective to have this transcribed by the Judge's PA or an Administration Support person. *(Variance)*
- (c) Requests for all transcription from Adept are sent approximately one week prior to the hearing, or as soon as date of hearing is confirmed. This booking form can be found in *Appendix 5.1.4.*
- (d) Contact with the HM in court is by email or AMSN Messenger.

- (e) Non-contemporaneous turnaround times are normally 24 hours or 3-7 days and this is reflected on the Adept booking form and the choice, in most cases, is dictated by the Adept costings. This booking form can be found in *Appendix 5.1.4*.
- (f) The number of non-contemporaneous requests made by the Environment Court can be seen in the NTS Business Performance Analysis document.
- (g) Separate emails/booking sheets are sent for each transcription request from Adept.
- (h) File preparation consists mainly of witness and exhibit lists but some HM's will include a glossary of words if a hearing has particularly difficult technical terms. Because of the nature of Environment Court hearings it is quite often difficult to provide details of a hearing as expert/technical witnesses give evidence and the form of the evidence is usually unknown at the outset. HM's endeavour to source any difficult words they hear and note these on the logsheet.
(Variance)
- (i) Environment Court case files are not available to transcribers but a suggestion was made that in courts where there are Court Reporters based, that a Court Reporter view the file and prepare a glossary for use by the CR's. (Variance - will this be possible)

2.1.7 TRANSCRIPTION QUALITY AND AMENDMENTS

- (a) Transcripts are reviewed firstly by the HM before passing on to the Judge.
- (b) Adept carry out all quality control measures. (Refer to the workflow process in *Appendix 5.1.5*.)
- (c) There are rarely amendments in any transcript type other than misspellings. Most amendments are queried by counsel and the HM emails Adept and they check the audio and transcript and amend where necessary.
- (d) Master transcripts are sent to all parties at the conclusion of a hearing. These are sent by email in PDF form.

2.1.8 STANDARDS AND TEMPLATES

- (a) At present Adept hold all the standards templates, i.e. 'Transcript of Proceedings' (NOE), 'Oral Decision' (Oral Judgment) and Minutes. On viewing of the statistics sheet provided by Adept to the Environment Court, these are the only requests other than Notes of Evidence. (Variance)
- (b) No current formatting guidelines for the Environment Court are held by Adept.
(Variance)
- (c) Definitions of non-contemporaneous request types (as per Adept definitions/waistbands). (A detailed explanation of non-contemporaneous requests is shown in *Appendix 5.1.2*.)
 - i. Transcript of Proceedings: This is a transcript of evidence given and the template for NTS standards would be known as 'Notes of Evidence'.
 - ii. Oral Decision of the Environment Court: These are self explanatory and to retain consistency of NTS standards, the waistband would be called 'Oral Judgment'.

- iii. Minutes: Adept intituling shows 'Minute of the Court' in the waistband. To retain consistency with NTS standards this would become 'Minute' in the waistband.

A brief discussion was held with [redacted] and [redacted] of the Environment Court and the subject of the term 'Decision' v 'Judgment' use was discussed. It was explained to Judge Thomson that Phase 1 of the ERT Project the Judicial Review Group (JRG) which consisted of 3 High Court Justices and 4 District Court Judges decided that to retain consistency in national standards/templates, the word 'Judgment' would replace the word 'Decision' in all judicial judgments given. Naturally this would apply only to anything being transcribed by NTS but has no impact on any work being undertaken by Justices JA's or Judges PA's. [redacted] was not averse to the term Judgment replacing Decision.

59(2)(a)

59(2)(a)

2.1.9 PEOPLE IMPLICATIONS

As processes are defined, potentially affected staff within the Environment Court need to be identified.

HEARING MANAGERS (HM'S)

The highest impact will be in this role because HM's are responsible for all hearing management and registry duties and that is where most change will occur.

PRESENT RESPONSIBILITY

Scheduling of hearings. This is presently done by sending a booking form to Adept.

IMPACT OF INTEGRATION

The Adept booking form fields that are relevant for NTS transcription are: Venue, Judge, Commissioner 1, Commissioner 2, Hearing Manager, case file number, hearing duration, and turnaround time.

This booking form information would now be entered into TSM and, apart from the initial learning phase of TSM, there would be little impact on time, nor a need for any further information to be provided by the HM. All the above fields are covered in TSM. The only TSM field they would be unfamiliar with would be the 'audio details' field which they would be trained to use.

PRESENT RESPONSIBILITY

Courtroom set-up. HM's are responsible for the set-up of all recording equipment in the courtroom, i.e., MERK, FTR. (Refer to *Appendix 5.1.5 - Process Workflow Courtroom Set-up*).

IMPACT OF INTEGRATION

Based on the above, a major impact will be in the area of audio retrieval from MERK equipment, particularly in a remote location, but also in non-FTR courtrooms. A Technology Process workstream document is being prepared by [redacted]; and will present all scenarios regarding the use of MERK kits both on Ministry premises and off-site.

59(2)(a)

PRESENT RESPONSIBILITY

Lognote annotations. All HM'S are responsible for this task and are not aware of the requirements surrounding accurate and standardised log notes as there is little training given in this field. NTS will remedy this situation with full training on lognote requirements and their

replacement as the 'Crown Book'. Whilst the Crown Book was kept mainly for Criminal proceedings, for consistency standards, these requirements now form part of the NTS standards.

The requirement to keep the Crown book is from the Crimes Act. Consistent practice prior to FTR was that the Crown book was a large bound book where all Criminal proceedings were handwritten into. With the advent of FTR it was deemed that the lognotes could be used as the official "Crown Book". These notes are retained by each Court and bound or held in East light folders. This practice varies from Court to Court. (Below is an extract from the Crimes Act 1961)

Record of proceedings

(1)

It shall not in any case be necessary to draw up any formal record of the proceedings on a trial for crime; **but the Registrar of the Court before which the trial takes place shall cause to be preserved all indictments and all depositions transmitted to him. He shall keep a book to be called the Crown Book, which shall be the property of the Court and shall be deemed a record thereof, and its contents shall be provable by a certified copy or extract without production of the original.**

(2)

The Registrar shall cause to be entered in the Crown Book a statement of the following particulars:

(a)

The name or names of the committing [District Court Judge] or Justices [or Community Magistrate or Community Magistrates], and the charge on which the accused was committed, or, if the accused was not committed, the name of the prosecutor:

(b)

If the indictment is [filed] by leave, the name of the Court or other authority granting such leave:

Provided that the absence of such a statement, or any mistake therein, shall not be a ground of objection to the proceedings; but the Court to which the Crown Book belongs may, and shall on the application at any time of either the prosecutor or the accused, order a statement of those particulars to be entered, or amend the statement where it is erroneous or defective.

(3)

In the Crown Book there shall also be entered the name of the Judge of the Court, and a memorandum of the substance of all proceedings at every trial and of the result of every trial.

(4)

Such entries, or a certified copy thereof or of so much thereof as is material, may be referred to in any proceeding by way of appeal.

(5)

A certificate of any indictment, trial, conviction, or acquittal, or of the substance thereof, made up from the memorandum in the Crown Book, shall be received in evidence for the same purpose and to the same extent as certificates of records, or the substantial parts thereof, are receivable.

(6)

Any erroneous or defective entry in the Crown Book may at any time be amended by the Judge who presided at the trial or, if that Judge is not available, by any Judge.

(7)

If the trial takes place before any Court other than that to which the accused was committed for trial, or before which the indictment was [filed], a statement shall be made in the Crown Book of the order under which the trial is held, and by whom or where it was made.

(8)

Nothing in this section shall dispense with the taking of notes by the Judge presiding at the trial.

IMPACT OF INTEGRATION

As part of NTS training requirements, all HM's would be trained in lognote protocols, but we can expect there to be opposition to changing the way lognotes have been kept before. There may also be opposition to the fact that lognotes must be done in all instances. This is a change management aspect to be addressed prior to, and during, training. We have witnessed the same with the integration of Phase 1 courts with the same reasons, e.g., "Don't have the time," "Not like District Court, don't have a Court Attendant," "Judge requires other work to be done therefore impeding the HM's ability to record lognotes accurately."

PRESENT RESPONSIBILITY

Non-contemporaneous requests: These are requested from Adept usually by sending the Adept Booking Form, but also requested by e-mail, in advance, and all details and turnaround time are included in the request. Adept transcribe and email the completed transcript back to the Hearing Manager. If amendments are required, it is at the discretion of the HM whether they send them back to Adept to be amended, or if they are minimal amendments, they are often done by the HM or a PA. If an urgent request for non-contemporaneous transcription is made this has been based on a 24 hour turnaround and Judges are advised of this.

IMPACT OF INTEGRATION

It will be a requirement that all non-contemporaneous requests are entered into TSM. These requests would be minimal and would involve only Rulings and Directions made during a hearing that the Judge requires immediate transcription of. HM's would need to specify whether the request is urgent i.e. 1 hour turnaround, or the normal 2 day turnaround standard presently used by the NTS for Rulings.

PRESENT RESPONSIBILITY

General HM duties. These duties consist of the co-ordination of all matters referred to the Judge including scheduling, court taking, circuit support, assembling all hearing information and reports and ensuring files are complete and accurate.

IMPACT OF INTEGRATION

Because of NTS reporting procedures, this will enable the HM's and their Manager's to have access to statistics related to their duties and should be helpful in the long term.

2.1.10 TRAINING REQUIREMENTS

A major element of the integration of Environment Court transcription requirements into the National Transcription Service will be the training of all staff responsible for any aspect of transcription. These are:

- Environment Court Regional Managers
 - Hearing Manager's (HM's)
 - Court Reporters
- (a) All HM's to undertake NTS Court Taker Module training which encompasses all aspects of TSM, GroupWise Messenger, FTR, including lognote (annotations) and courtroom set-up requirements.
- (b) Regional Managers to undertake TSM training only, as their main use of TSM would be requests for transcription in the event of a Hearing Manager being unavailable for some reason. For the Regional Managers, it would be FYI purposes only.
- (c) Court Reporters would require training for Environment Court template use and formatting guidelines and the idiosyncrasies of Environment Court transcription.

All training will be carried out by the NTS Training Team at a venue(s) to be decided.

2.1.11 MISCELLANEOUS

- (a) FTR version 4.2 is used on MERKS (Christchurch, unsure of other units).
- (b) FTR version 5.3 is used by Adept for transcription purposes.
- (c) Adept have a fluent Maori transcriber (casual) who is called in when Adept are transcribing anything with Te Reo being spoken.
- (d) Court Reporters need CMS access to Environment Court jurisdiction. This can be enabled through a CMS change control.

3.0 REVIEW OF VARIANCES

3.1 POTENTIAL IMPLICATIONS

A review of the differences (variations) and the potential implications of those variances on the National Transcription Service's ability to pick up the transcription work for the Environment Court in the future are reviewed below.

The variances identified are of, in most cases, a minor nature and could be simply rectified within the current NTS model.

Variances identified that are of a procedural nature, would require the agreement of the Environment Court to change a number of those procedures to better fit the NTS model.

3.2 MINOR VARIANCES

- (a) Change control required for CMS access for all Court Reporters to the Environment Court database for reference purposes.
- (b) Sound check time frame (i.e., minimum of 60 minutes prior to hearing) to be implemented. As per NTS training standards.
- (c) Log note training for all HM's to conform with NTS standards.
- (d) No audio back-up done by Environment Court would be rectified when TSM/TFM access is provided but only for particular courtroom types i.e. FTR enabled.
- (e) File preparation, in some cases, would need to be more intensive for NTS standards than is presently provided to Adept.
- (h) Adept do not print to courtrooms. NTS will provide this option and print to the courtroom at 1.00 pm, or the lunch time adjournment, and the end of day, or on request.

3.3 MAJOR VARIANCES

- 59(2)(a)
- (a) The standardisation of all Environment Court templates. These will be designed and implemented in consultation with the Chief Environment Court Judge. EC National Manager, [redacted]
 - (b) Formatting guidelines introduced as per the NTS Style Guide. This style guide brings together all existing National Transcription Service standards into a single reference document. The standards in the document are sourced from the NTS standards, the Ministry of Justice style guide, and various government agencies e.g. Ministry of Health.
 - (c) Service levels to be applied to all transcript types. These are known as Responsiveness Service Standards on the NTS intranet and they outline the response time from NTS for delivery of evidence to the Judge. These standards will be decided in consultation with the Chief Environment Court Judge and others.
 - (d) Training in all aspects of TSM. TSM (Transcription Service Manager) was developed by the NTS to enable NTS to share work as a national transcription team. It is used to create and edit jobs (requests for transcription work), allocate and schedule NTS Court Reporters, manage transcription 'turn' activity, record when jobs are completed, notify when a completed transcript is available, organises and tracks transcription work and stores the original draft of a completed transcript.

4.0 RECOMMENDED APPROACH TO INTEGRATE

4.1 PROPOSED APPROACH

Based on the elements outlined above, the range of approaches and supporting methodologies required to complete the work stream are described as follows:

4.1.1 OBJECTIVES

This is essentially linking the Environment Court transcription requirements with the NTS in order to allow Court transcription support to be managed and provided by the NTS. This includes facilitating the technical connection, ensuring roles and responsibilities for requesting and supplying transcription support are clear, arranging the necessary training, and ensuring the change operates as smoothly as possible.

MINIMISING AND MANAGING IMPACT ON STAFF

Reviewing and outlining any possible changes that will impact on staff, possibly causing a change in their job description or responsibilities, and to ensure Environment Court employees have successful co-existent relationships with NTS employees and to ensure 'buy-in' to the changes.

MINIMISING IMPACT ON COURT PROCESSES AND ASSOCIATED RELATIONSHIPS

The potential for Environment Court staff, in particular Hearing Managers, to have to implement changes and any impact that may have on their working relationship with their Judge(s).

INTRODUCTION OF NATIONAL STANDARDS AND QUALITY REQUIREMENTS

NTS would, in consultation with the Environment Court, seek to have standardised templates and formatting guidelines introduced and Service Level Agreements implemented.

IMPLEMENTATION OF TSM/TFM AND NTS SUPPORT & OPERATIONAL ACTIVITY

This would involve the raising and managing of change controls for both TSM and GroupWise messenger and enabling this access. Implementing new processes. In particular this would be file structure, transcription requests and scheduling requirements.

TRAINING

'Just in time' training in the use of the new processes would be implemented approximately two weeks prior to using the new skills and will cover FTR operations, lognote (annotation) requirements, TSM, folder access, and more.

BUSINESS CONTINUITY PLAN

NTS would take responsibility for developing Business Continuity Plan requirements once a Court is integrated (an 'integrated' court is one which is operating TSM successfully).

BRIEFING OF REGIONAL MANAGERS

Regional managers will be briefed as to the timing of integration so they are able to gain a sense of impact on staff and operations. It is also an opportunity to ensure expectations (CSU and NTS) are aligned.

4.1.2 RESPONSIBILITIES

NTS BUSINESS ADVISOR

- (a) Responsibility for a comprehensive evaluation of options and definition of requirements for the technology aspects.
- (b) Responsibility for the support and development of transcription business processes and the business systems that support these including the TSM/TFM system.
- (c) Facilitate the evolution of the systems and processes to ensure close alignment between them and business needs.
- (d) Ensure the standardisation and implementation of processes, templates, formats and business systems across the Environment Court.

NATIONAL TRAINING ADVISOR AND TRAINERS

- (a) Review and update training material on TSM in line with NTS/EC processes
- (b) Coordinate just in time onsite TSM/FTR training for each site.
- (c) Execute the onsite training for each site.
- (d) Provide site reviews advising of attendance to the training and feedback on the effectiveness of such.

BUSINESS PERFORMANCE ANALYST

- (a) The provision and management of performance monitoring systems and the implementation.
- (b) Inclusion of Environment Court as part of the national quality assurance framework.
- (c) Coordinate with the units on business unit reporting.

NTS REGIONAL OPERATIONS MANAGERS

- (a) Assist in the establishment of reporting processes.
- (b) Work collaboratively to ensure a consistent approach that is wholly aligned to operational and business directions of the NTS.

NTS INTEGRATION MANAGERS

- (a) To be the main point of contact between the Regional Managers and key EC staff at all sites.
- (b) Responsible for taking a lead role in the integration of the Environment Court transcription requirements into the NTS.
- (c) Responsible for the change management activity with the impacted staff.
- (d) Responsible for conducting initial briefings and forming close working relationships.
- (e) To communicate/update the appropriate staff with any issues or risks associated with each Environment Court unit that may have an impact on any future operations of that unit.

4.1.3 ENVIRONMENT COURT FIT WITH CURRENT NTS MODEL

The purpose of the discovery approach was to assess the viability of transferring some, or all, of the transcription services currently provided by Adept to the Environment Court through to the NTS and to ensure that the NTS and the Environment Court had a complete and detailed understanding of the factors supporting or inhibiting this proposal so a considered recommendation could be made.

The first step in establishing a current state involved the emailing of a questionnaire to all Hearing Managers (HM's) and the collation of responses received. Responses were received from all 8 Environment Court Hearing Managers.

A report was then compiled which showed the variances between the Environment Court and the current NTS model and this was presented to a meeting of the NTS Management Team in June 2010.

As outlined in Section 3.0 Review of Variances, the variances were listed on a minor and major basis.

After discussion the decision was made to move forward from the discovery phase and a document would be compiled based on the data received and what any changes would mean to both the Environment Court and the NTS. This approach should cover:

- (a) Technology (fit with current NTS technology & long term end point)
- (b) People (impact and implications)
- (c) Processes (fit with current NTS model, compromises to be made)

4.2 PEOPLE

ENVIRONMENT COURT HEARING MANAGERS

As processes were defined, potentially effected staff within the EC have been identified. The greatest impact will be for the role of Hearing Manager as they are primarily responsible for the technology and scheduling aspects as these directly relate to NTS transcription requirements.

SCHEDULING

Where previously the HM's created a booking form and/or email which was sent to Adept this function would now be done by the use of the NTS TSM/TFM system.

COURTROOM SET-UP

An area of impact has been identified with the present courtroom set-up and NTS requirements. This will be particularly apparent with the set-up of MERK equipment in a remote location and also in non-FTR courtrooms where contemporaneous transcription is required. The present system in place between the HM's and Adept is shown in the Adept flowchart in *Appendix 5.1.5*.

The NTS would require a more standardised approach particularly in relation to sound check timeframes, printer tests, and GroupWise Messenger usage for identification of NTS transcription staff, and this is shown in the ENV-NTS flowchart in *Appendix 5.1.5*.

Another identified area of impact here will be with annotations. There would be an expectation that NTS log note (annotations) standards are followed and adhered to.

NON-CONTEMPORANEOUS REQUESTS

The impact here will be that all EC staff will be required to enter all non-contemporaneous requests into TSM.

4.3 PROCESSES

GENERAL COURT PROCESSES

Court Reporters would need access to the Environment Court jurisdiction in CMS. This can be done by CMS Change Control for all Court Reporters nationally. Court Reporters currently have access to the Criminal, Civil and Family jurisdictions in CMS.

SCHEDULING PROCESSES

Notice of Environment Court hearings (i.e., confirmed dates) range from three weeks to three months with the average being 2.5 months. These would be notified via TSM.

The NTS model would prefer that all hearings, whether contemporaneous or non-contemporaneous, are recorded in FTR format, i.e., either courtroom-enabled FTR or MERKS. It would be preferable for HM's to explore FTR courtroom availability when setting down hearing dates, and if not available, a non-FTR enabled courtroom should be utilised which has access to the MoJ network, thereby allowing audio to be linked with the NTS servers.

NTS would ask that HM's advise NTS as soon as a hearing is confirmed. Traditionally, when a hearing is being set down, discussion is had with the respective Judge and a tentative date is then arranged. HM's then arrange a courtroom/venue and when these are confirmed a confirmed date is then entered on the file.

HEARING PROCESSES

COURTROOMS

Hearing Manager's would be expected to do courtroom set-up at least one hour prior to the hearing commencing to enable sounds checks to be completed.

NTS would need to ensure that all courtroom printers used by ENV staff are linked to the NTS Print Solution. Hearing Manager's would proceed as follows:

- (a) Set up and start recording equipment.
- (b) Enter intituling on log notes as per NTS standards, including Court Taker's name.
- (c) Sound check to be done for all microphones in the courtroom, and each microphone identified, i.e., Judge's mic, witness mic, etc.
- (d) Open TSM and identify who lead Court Reporter is for the hearing.
- (e) Advise Lead Court Reporter via GroupWise Messenger and ensure the sound check is available.
- (f) When advice received from Lead that sound check is acceptable, ask for a printer check to ensure printer is linked and working correctly.
- (g) Accurate log notes to be kept during hearing.

TRANSCRIPTION PROCESSES

Templates will need to be developed for Environment Court transcription. These should be:

- (a) Notes of Evidence template
- (b) Directions template
- (c) Rulings template
- (d) Minute template

As the Environment Court have a number of oral judgments (decisions) these would, as per standard NTS practice, be transcribed on the JDS judgments template and then sent to the requestor, who in all cases will be the Hearing Manager. The Hearing Manager will decide on who is required to have a copy of the judgment.

Apart from the JDS Judgments template, the rest would then need to be loaded onto the NTS templates shared drive.

PRINTERS

All courtrooms that are used for hearings should be identified and printer numbers obtained to enable NTS to add these to the NTS i-print Solution which is accessible to all NTS Court Reporters.

SERVICE LEVEL AGREEMENTS (RESPONSIVENESS SERVICE STANDARDS)

Agreements will need to be executed for both contemporaneous and non-contemporaneous service level agreements, both FTR and Olympus transcription.

ENVIRONMENTAL PROTECTION AUTHORITY (EPA)

On 3 June 2010, Nick Smith, Minister for the Environment announced the establishment of a new standalone Environmental Protection Authority (EPA) to perform environmental regulatory functions.

The question was raised by _____, as to whether NTS could undertake the transcription requirements of this new authority. Transcription is presently done by Adept, an out-source agency in Christchurch. 59(2)(a)

BACKGROUND

The EPA will be responsible for projects that are of national significance. In most cases when a resource consent under the Resource Management Act (RMA) is lodged, in the first instance, it would go to the local authority. However, when a project is deemed as being 'too big, too important' a 'Call in' is requested and the application is referred to the Minister for the Environment to approve on a yes or no basis. If the answer is yes, the application then proceeds as follows:

- The matter is sent to an independent board of inquiry for consideration and decision.
- A Board of Inquiry is set up and this is run by the EPA.
- The Inquiry is usually chaired by a current or retired Environment Court Judge and a board chosen by the Minister, and the hearings supported by Environment Court Hearing Managers..
- The Minister may also refer the matter directly to the Environment Court for determination.

There are presently two of these board of inquiry's set down for 2010.

The first is Contact Energy's proposal for the Tauhara II Geothermal Development Project in Taupo. This will be chaired by EC Judge Whiting (with four board members) and commences on 13 September 2010. From 13 Sept-23 Sept evidence will be taken, then one week adjournment resuming on 4 October for a further 7 weeks or until completion. A total of 9 weeks. . The venue has yet to be confirmed.

The second is Contact Energy's Hauauru ma Raki wind farm proposal in the Waikato and will be chaired by EC Judge Smith (with three board members) and commences on 27 September 2010. The inquiry is being heard in the Tuakau Town Hall on the basis of three weeks evidence, one week adjournment, 2 weeks evidence, one week adjournment, 2 weeks on, one off, and then one week only.

An extract from a Minute issued by the Judge states:

- *All evidence filed in Eastlight folders, with seven hard copied being filed.*
- *Evidence to be tabulated and indexed.*
- *Each witnesses evidence is to be paginated and indexed and all attachments or exhibits are to be tabulated, paginated, and indexed.*
- *All evidence is to be single-sided*
- *Where possible evidence shall be filed electronically*
- *All expert witnesses shall provide an executive summary at the beginning of their evidence.*
- *For those technical reports that lend themselves to this approach, the applicant is to present to the Board of Inquiry a brief statement of evidence providing personal details, and enlarged executive summary cross-referencing the reports already submitted with the application document and a specific response to any points raised by submitters not addressed in the report.*

All people proposing to give evidence before the Board are to keep their evidence as focussed and brief as possible. Where there is lengthy evidence, then an Executive Summary at the beginning of the evidence is to be provided.

It is proposed that at the substantive hearing parties opening their case are limited to four hours. Cross-examination of a witness by any party is limited to two hours. Contact Energy's closing is to be limited to four hours.

SUMMARY

Matters such as these have been in existence for a few years now. Each inquiry generates a memorandum of understanding (MoU) between the MoJ/Environment Court and the EPA to provide support to the hearing process. The MoU might also include Environment Commissioner, Environment Judges PA support and Environment Court legal and research support and transcription support. Within the MoU there is cost recovery provisions and the judges and staff keep time sheets that form the basis of a cost recovery process. The actual cost to the MoJ for transcription is recovered also. Any costs recovered by MoJ from the EPA are in turn recovered from the applicants by the EPA. The rationale for providing MoJ support is essentially to enable a seamless support to the EC Judge be they undertaking Environment Court work or Board of Inquiry work.

At present Adept is providing transcription requirements to the EPA via the contract with the Environment Court. When that contract expires in December 2010, this service would no longer

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be available to the EPA under the present scenario, and it is envisaged they, that is the EPA, would put out a tender for transcription services.

estimates there could be one or two inquiries per calendar year.

In addition to the two mentioned above a third is anticipated to be called in August 2010. The proposed SH20 Waterview extension. The hearing for this is likely to commence early 2011 and will likely be heard in the new Gen-i facility.

Along with transcription requirements for Environment Court, business analysis of the EPA would be required if NTS were to undertake their transcription requirements.

RECOMMENDATION

This would be that we put 'on hold' any decision regarding the undertaking of transcription requirements for the EPA until such time as the technology requirements presently being developed for the Coronial Services Unit and Environment Court (Gen-i Towers), are ratified.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

5.0 APPENDICES

APPENDIX 5.1.1 ENVIRONMENT COURT HEARING MANAGERS

Hearing Manager	Location	Judge	Survey
	Auckland	R G Whiting	Y
	Auckland	J A Smith	Y
	Auckland	M Harland	Y
	Auckland	L J Newhook	
	Wellington	C J Thompson Principal Environment Court Judge	Y
	Wellington	B P Dwyer S E Kenderdine (Alternate)	Y
	Christchurch	J E Borthwick	Y
	Christchurch	J R Jackson	Y

Note: Environment Court has a Judicial Resources Manager

APPENDIX 5.1.2 DEFINITION OF TYPES OF PROCEEDINGS

Proceeding Type /Term	Definition
Transcript of Proceedings (Notes of Evidence)	These are hearings held in a courtroom or a venue approved by the Judge. They are all non-contemporaneous with 90% of them requiring a 24 hour or 3-7 day turnaround. The terms 'Notes of Evidence' is the standard NTS waistband for these types of hearings and this is consistent throughout the Supreme, High and District Court jurisdictions.
Oral Decision (Oral Judgment)	These are Oral Judgments given by the Judge 'in Court' and will usually follow Notes of Evidence and are transcribed as a separate document. 95% of judgments are reserved (Reserved Decisions) and in all cases are transcribed by a PA.
Minute	Minutes are usually done 'in chambers' and refers to memoranda filed by parties, for example, to vary the timetable of a hearing, request for an indication of case duration etc.
Directions	These are 'requests' by a Judge. For example, a report to be prepared prior to a hearing.

APPENDIX 5.1.3 – VARIANCES & SOLUTIONS

As part of the discovery process the definition of variances (differences) between the 'as is' Environment Court present state and the current NTS 'as is' model should be identified and a review of these differences, and the potential implications of those differences on the National Transcription Service's ability to pick this work up, should be undertaken. The numbers in brackets (i.e. (2.1.1a)) indicate the variance identified in (2.0 - General Processes Current State)

GENERAL COURT PROCESSES VARIANCES

- (a) **Variance:** (2.1.1a) ENV case numbers.

Solution: NTS transcribers will require access to ENV case numbers in CMS through a change control. Training required in use of six number format for TSM.

- (b) **Variance:** (2.1.2g) Courtrooms are booked by the HM's and the Judicial Resource Manager, through the relevant Court Managers.

Solution: NTS preference would be for FTR courtrooms to be used, where possible, for ease of transcription. What is the possibility of all District Courts having a nominated ENV courtroom (FTR-enabled) and priority given to the ENV for the use of this courtroom?

- (c) **Variance:** (2.1.3c) Prior to commencement of court etc, in particular sound checks.

Solution: NTS would require sound checks to be done at least 30 minutes before the commencement of a hearing.

- (d) **Variance** (2.1.4c) All HM's who have used a MERK are experienced at using log notes.

Solution: Although everyone has used log notes, their log notes are not of the standard set by NTS and more training would be required.

- (e) **Variance:** (2.1.4d) HM's do not back-up any audio.

Solution: If all ENV transcription work is undertaken by NTS this would not be an issue as TFM backs up all audio, but for off-site hearings it is a major problem and does not conform with MoJ standards for the storing of all court recordings.

- (f) **Variance** (2.1.5g) Printing to courtroom.

Solution: All courtrooms where hearings have been heard previously would need to be added to the printer list.

- (g) **Variance** (2.1.6i) File preparation.

Solution: NTS would require file preparation to be more intensive than is being done presently.

- (h) **Variance** (2.1.8b) No formatting guidelines.

Solution: NTS requirements are for formatting guidelines to be in place for all transcription as per the NTS Style Guide.

APPENDIX 5.1.4 – ADEPT BOOKING FORM

**ADEPT
HEARING DETAILS**

DATE COMMENCING:	<i>Monday 13 October 2009</i>
START TIME	<i>10am</i>
VENUE:	<i>Auckland</i>
JUDGE:	<i>Jackson</i>
COMMISSIONER 1	<i>Oliver</i>
COMMISSIONER 2	<i>Dunlop</i>
HEARING MANAGER:	

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SUMMARY:

1. Topic: Objectives, Policies and Rules for Plan Change 6 - Long Bay Structure Plan

Topic Number: ENV-2006-304-000404

Appeals by submitters on proposed policy, statement or plan pursuant to Clause 14, First Schedule of the Resource Management Act 1991

(1) **Long Bay-Okura Great Park Society Inc v North Shore City Council**

Court Reference: ENV-2006-AKL-000894

(2) **Auckland Regional Council v North Shore City Council**

Court Reference: ENV-2006-AKL-000901

(3) **Landco Limited v North Shore City Council**

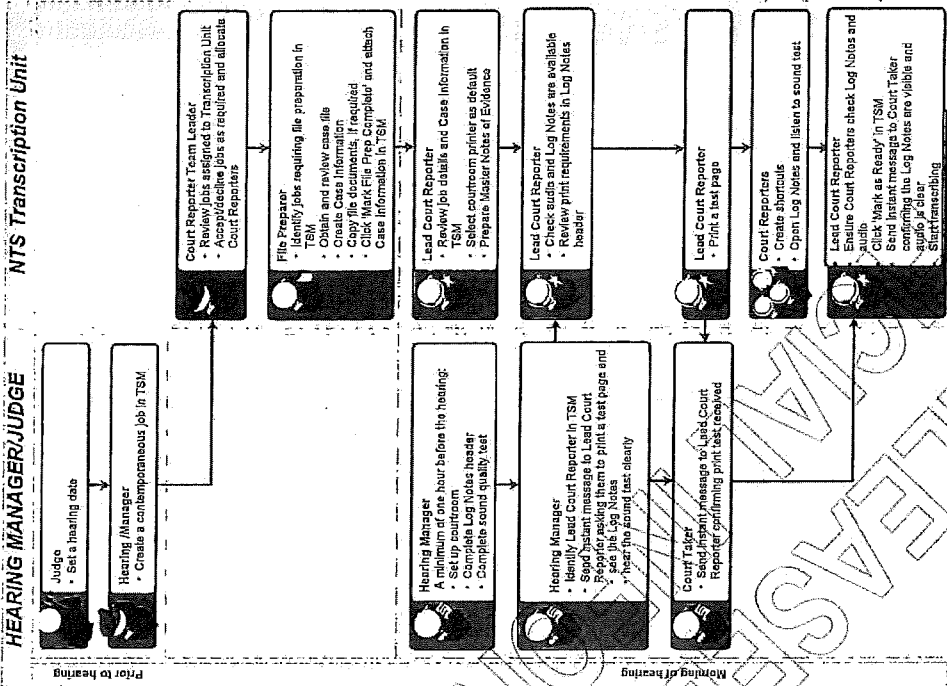
Court Reference: ENV-2006-AKL-000902

(4) **Singleton & others v North Shore City Council**

Court Reference: ENV-2006-AKL-000903

This will take the four days allocated, normal turnaround please

CORONERS – NTS – PROPOSED CONTEMPORANEOUS TRANSCRIPTION PROCESS



ENVIRONMENT COURT – ADEPT – 'AS IS' CONTEMPORANEOUS TRANSCRIPTION

