

**BEFORE THE TARANAKI REGIONAL COUNCIL AND NEW PLYMOUTH
DISTRICT COUNCIL**

MT MESSENGER BYPASS PROJECT

In the matter of the Resource Management Act 1991

and

In the matter of applications for resource consents, and a notice of requirement by the NZ Transport Agency for an alteration to the State Highway 3 designation in the New Plymouth District Plan, to carry out the Mt Messenger Bypass Project

**STATEMENT OF EVIDENCE OF SAM ROSS DIXON (STATUTORY PLANNING
ANALYSIS) ON BEHALF OF THE NZ TRANSPORT AGENCY**

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QUALIFICATIONS AND EXPERIENCE

1. My name is Sam Ross Dixon.
2. I am a senior resource management planner employed by WSP Opus in New Plymouth.
3. I hold a bachelor's degree in Resource and Environmental Planning from Massey University. I also hold certificate level qualifications in environmental management systems and auditing. I have practiced as an environmental planner, environmental advisor and project manager for the past 18 years within local government, consultancy and for private companies in the land development, resources and oil and gas sector. For the past 7 years I have been employed by WSP Opus in their New Plymouth office.
4. My experience with Resource Management Act 1991 ("**RMA**") statutory processes has involved a broad range of projects in the public and private sector. I have been responsible for both the preparation, and the processing, of Notices of Requirement ("**NoR**"), landuse and discharge consent applications for various transportation, water and building related projects for local government and the NZ Transport Agency ("**Transport Agency**"). My experience in the private sector has predominantly involved working directly for, or as a consultant to, oil and gas companies in Taranaki where I have advised on RMA statutory processes and environmental management and compliance.
5. I confirm that I have read the 'Code of Conduct' for expert witnesses contained in the Environment Court Practice Note 2014. My evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

EXECUTIVE SUMMARY

6. The purpose of my evidence is to provide my assessment of the NoR and resource consent applications, in light of the considerations set out in the relevant sections of the RMA. In doing so, my primary focus is in providing an assessment of the Mt Messenger Bypass Project ("**Project**") against the relevant statutory planning instruments.
7. Mr Roan presents in his evidence an overall planning assessment of the effects of the Project on the environment. Mr Roan also explains the

designation and resource consent conditions proposed by the Transport Agency for the Project.

8. In summary, I consider that the proposed works for the Mt Messenger Bypass Project, as set out in the NoR, AEE and supporting technical reports and expert evidence, address the matters set out in Section 171, 104D and 104 of the RMA and that:
- (a) The designation is necessary to protect the land required for the Project so as to enable its construction, operation and maintenance.
 - (b) The designation provides for land use under the District Plan, and additional resource consents are still required for works pursuant to sections 9, 12, 13, 14, and 15 of the RMA. The necessary resource consents have been sought in parallel with the designation as is appropriate.
 - (c) The AEE for the Project accompanies the applications and identifies, and assesses, the environmental effects of the Project. Mr Roan is presenting evidence on environmental effects and conditions. The AEE also includes a summary of the assessment of alternatives that was undertaken for the Project. Mr Roan is presenting evidence on the Assessment of Alternatives for the Project.
 - (d) In terms of the matters set out for consideration under s171(1) of the RMA, I have had particular regard to the relevant provisions of policy documents, the consideration of alternatives, reasonable necessity of the designation and other matters. In terms of the matters set out for consideration under s104D and s104 of the RMA, I have had regard to the relevant provisions of policy documents, actual and potential effects, and other matters.
 - (e) Documents relevant to my assessment include:
 - Resource Management (Measuring and Reporting Water Takes) Regulations 2010 ("**Water Takes Regulations**").
 - Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ("**NES Soil**").
 - National Policy Statement for Freshwater Management 2014 ("**NPS Freshwater**").

- New Zealand Coastal Policy Statement 2010 ("**NZCPS**").
 - Regional Policy Statement for Taranaki 2010 ("**RPS**").
 - Regional Fresh Water Plan for Taranaki 2001 ("**Fresh Water Plan**").
 - Regional Soil Plan for Taranaki 2001 ("**Soil Plan**").
 - Regional Air Quality Plan for Taranaki 2011 ("**Air Quality Plan**").
 - New Plymouth Operative District Plan 2005 ("**NPDP**" / "**District Plan**").
9. As detailed in the evidence of Mr Napier, Mr Kenderdine, Mr Roan, Mr McCombs, Mr Copeland and Ms Turvey, the proposed works will have positive effects and are reasonably necessary to enable the Transport Agency to meet both its statutory obligations and the Project objectives. The positive effects are also consistent with the relevant objectives and policies of the planning documents and other relevant strategic documents such as Tapuae Roa: Make Way for Taranaki: Taranaki Regional Economic Development Strategy (August 2017) and the Long Term Plans (2015-2025) for the Taranaki Regional Council ("**TRC**") and the New Plymouth District Council ("**NPDC**").
10. As detailed in the AEE and the extensive evidence provided on behalf of the Transport Agency in relation to potential adverse effects, the Project will avoid, remedy, mitigate or offset the effects in a manner that is consistent with the relevant objectives and policies of the planning documents.
11. Overall, I consider that the Project is consistent with the relevant objectives and policies of the planning documents and with the purpose and principles in Part 2 of the RMA. I have reviewed the Section 42A Reports from NPDC and TRC and find that, overall, there is agreement with the conclusion that I have reached.

BACKGROUND AND ROLE

12. In March 2017, the Transport Agency appointed an Alliance to progress the design (including options assessment), consenting and construction of the Project to improve the section of State Highway 3 ("**SH3**") between Ahititi and Uruti, to the north of New Plymouth.
13. I am familiar with the area that the Project covers, and the State highway and local roading network in the vicinity of the Project. I regularly travel north on

SH3 from New Plymouth for both work and pleasure. As a consequence of regularly traveling the route, and spending considerable time pursuing recreational activities in the general Project area, I consider that I have a very good understanding of the Project environment.

14. I have been involved in the Project since early 2016, prior to the appointment of the Alliance. At this point Opus was engaged by the Transport Agency to investigate and prepare a Detailed Business Case for a bypass of Mt Messenger. During 2016 I shared my local knowledge of the area with the Transport Agency and Project team. I also undertook a range of planning related tasks including constraints mapping and various inputs to an initial Multi-Criteria Analysis ("**MCA**"), statutory assessment and early stakeholder engagement with NPDC, TRC and Ngāti Tama.
15. Since the appointment of the Alliance in March 2017 I have continued to provide planning and local engagement support to the Project. I have worked with members of the Alliance design team and the various technical experts to identify and assess potential adverse effects. I attended all of the route selection MCA workshops in 2017 (MCA1 and MCA2) led by Mr Peter Roan and I have continued to support the community and regulatory engagement led by the Transport Agency.
16. In preparing this evidence, I have read all of the submissions lodged in relation to the Project and I respond to those submissions that raise statutory planning matters.

SCOPE OF EVIDENCE

17. The purpose of my evidence is to provide my assessment of the NoR and resource consent applications, in light of the considerations set out in the relevant sections of the RMA. In doing so, my primary focus is in providing an assessment of the Project against the relevant statutory planning instruments. Mr Roan presents in his evidence an overall planning assessment of the effects of the Project on the environment. Mr Roan also explains the designation and resource consent conditions proposed by the Transport Agency for the Project.

OVERVIEW OF THE NOR AND RESOURCE CONSENT APPLICATIONS

18. The Transport Agency proposes to designate land for the Project in accordance with s168 of the RMA. The Project also requires a number of

resource consents, which the Transport Agency is seeking under the relevant sections of the RMA.

19. The scope of the NoR and resource consents sought for the Project are outlined in section 2 of the AEE and are summarised briefly here.

Notice of Requirement

20. Pursuant to its requiring authority status, the Transport Agency has lodged a NoR with NPDC to alter the existing SH3 designation within the District Plan in accordance with s181 of the RMA. The alteration is to add land to the existing SH3 designation, being the land required for the construction, operation and maintenance of the Project, including key associated mitigation and offsetting activities.
21. The NoR includes plans showing the extent of the proposed designation. The extent of the proposed designation is also shown on drawings included in the drawing set.¹
22. A schedule of properties directly affected by the NoR, and which are proposed to be added to the designation, is included on the plans. The plans show the extent of the proposed designation and the schedule of properties attached to the NoR (included as Appendix B of the AEE). Under the altered (extended) designation, works will also be carried out on land within the existing SH3 designation. This land together amounts to the Project footprint.
23. In summary, the proposed designation directly affects nine private landowners (16 property parcels), covering 77.18 ha of land and 20.93 ha of existing road designated as SH3 (the existing designation).
24. Of the 77.18 ha of privately owned land affected by the designation, a little under half (approximately 36.7 hectares²) is Treaty Settlement land owned by Ngāti Tama, who have mana whenua over the Project area.

Applications for resource consents

25. The Transport Agency is seeking resource consents from TRC and NPDC for the construction, operation and maintenance of the Project, including the

¹ Refer drawings MMA-DES-PRP-C0-DRG-1000 to 1004 in Volume 2 of the AEE.

² Volume 2 drawing set: property designation plans sheet layout and property list.

associated mitigation and offsetting activities. The relevant statutory documents under which resource consents are being sought are:

- The NES Soil;
- The Fresh Water Plan;
- The Soil Plan; and
- The Air Quality Plan.

26. A list of the resource consents sought and the relevant Regional and District Plan rules is comprehensively set out in Table 2.2 of the AEE. In summary, the proposed activities and the resource consents required for the Project include:

Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES Soil)

- Disturbance of contaminated soils under the NES Soil (Regulation 11).

Regional Fresh Water Plan for Taranaki (Operative 2001)

- Take and use of water for construction-related purposes (Rule 16).
- Temporary weir to dam stream and establish a small headpond for taking water (Rule 20).
- Temporary and permanent diversion of watercourses within Project footprint (Rule 20).
- Placement of temporary weir (Rule 64).
- Removal, demolition and decommissioning of culverts in stream beds established for construction access (Rule 56).
- Construction, placement and use of culverts in stream beds (Rule 64).
- Construction, placement and use of bridge over stream bed (Rule 64).
- Planting and/or removal of vegetation (Rule 68).

- Realignment/modification of streams (Rule 76).
- Discharges of stormwater and sediment deriving from soil disturbance activities during construction (Rule 27).
- Groundwater take and diversion (no Rule in Regional Freshwater Plan).

Regional Soil Plan for Taranaki (Operative 2001)

- Clearance of vegetation associated with construction activities (Rule 2).

Regional Air Quality Plan for Taranaki (Operative 2001)

- Dust associated with earthworks (Rule 44).

Permitted Activities

27. The Project also involves a small number of activities that are permitted under the relevant statutory plans. These permitted activities are set out in Table 2.3 of the AEE and in summary include:

- Clean water diversions (Rule 21 of the Fresh Water Plan). Activities such as clean water diversions will lead to discharges of water into surface water across the Project area.
- Discharge of stormwater into or onto land associated with the operation of the road once completed (Rule 23 of the Fresh Water Plan). The operational discharge of stormwater will meet the permitted activity conditions. Stormwater will be treated in treatment wetlands and the discharge will be managed to ensure no significant erosion, scour or deposition will occur.
- Discharges of stormwater and sediment deriving from soil disturbance activities of 1ha or less. This may apply to smaller areas of earthworks, including as part of Preparatory Works (Rule 25 of the Fresh Water Plan).
- Discharges of stormwater and sediment deriving from soil disturbance activities of between 1 and 8ha (Rule 26 of the Fresh Water Plan). Smaller areas of earthworks, including as part of Preparatory Works (refer to Section 5.5.4 of the AEE), may be carried out in the early stages of the Project. Where these activities meet the conditions of

Rule 25 of the Fresh Water Plan, they can be undertaken as a permitted activity.

28. The AEE identifies, and the TRC's Section 42A Report concurs³ that there is no regional rule that addresses the proposed take and diversion of groundwater that will occur as a consequence of the cut excavations along the Project alignment and construction of the tunnel. These activities require consent under Part 3 of the RMA, meaning that s87B(1)(a) of the RMA applies. S87B(1)(a) provides that where there is no relevant rule in the regional plan or any proposed regional plan, the application for consent for that activity must be treated as an application for consent for a discretionary activity.
29. In my opinion the AEE identifies all of the resource consents and permitted activities that are likely to be required to construct and operate the Project. Overall, the activity status of the resource consent applications is discretionary. The TRC's Section 42A Report at paragraph 110 concurs with this assessment.
30. The Project involves a high level of design certainty - this is because construction of the Project is scheduled to commence this year. This higher level of design certainty is primarily due to the Alliance providing a collaborative expert alignment design process for the selected corridor that has progressed to a developed concept design stage as explained in Mr Boam's evidence. This provides a higher level of certainty that the design is feasible and can be constructed within the designation while avoiding, remedying, mitigating, offsetting and compensating adverse effects on the environment.
31. The higher level of design and construction methodology certainty has enabled the development of a comprehensive suite of management plans to be provided with the application. Mr Roan in his evidence provides a detailed outline of the management plan framework for the Project. He also sets out how those plans provide the overarching principles, methodologies and procedures for managing the effects of construction of the Project to achieve the environmental outcomes and performance standards required by the proposed conditions.

³ TRC s42A Report - Table 3, Page 42 "Summary of Activity Status under TRC Plans".

Term of consents

32. The Transport Agency is seeking resource consents for a duration of 35 years from the date of commencement, in respect of all consents required for the long term operation of the Project. The expiry date for each consent will be detailed in the proposed consent conditions. This duration of consent reflects the level of investment being made by the Transport Agency in the Project works and in my opinion is reasonable.

Lapse period of the NoR and Resource Consents

33. The application documentation states that Construction Works are expected to commence in 2018 and be completed in 2022. However, the Project is large and complex, and flexibility is required. An extended lapse period of ten years from the date of granting of the resource consents (refer RMA s125) has been sought by the Transport Agency for the resource consents (section 2.4 of the AEE).
34. I note that the TRC in its Section 42A Report (page 90) states that *"no lapse date is recommended, with the RMA default lapse date of 5 years considered appropriate"*. I could not find any assessment in the TRC's Section 42A report as to why this conclusion has been reached. While the Transport Agency intends to move forward with construction in the 2018 - 2022 period, a 10 year lapse period for the resource consents is in my opinion an appropriate period of time and is reasonable considering the scale and complexity of the Project. This is a large project for the region, and setting the default lapse period fails to reflect that.
35. For the designation the Transport Agency in section 2.4 of the AEE requested a lapse period under s184 of 10 years. While I think that is reasonable, and the NPDC s42A report also considers a 10 year lapse period is reasonable (para 355), I understand that the Transport Agency's legal submissions will address this matter further.

Approvals required under other legislation

36. In addition to the matters requiring consideration under the RMA, there are further statutory considerations that are relevant to the Project and these in summary include:
- Public Works Act 1981 - acquisition of land;

- Archaeological Authority under Section 44(a) of the Heritage New Zealand Pouhere Taonga Act 2014;
- Wildlife Act (1953) authority associated with protected species;
- Application under the Fisheries Regulations (1983) associated with the provision of fish passage in waterways affected by the Project; and
- Ngāti Tama Claims Settlement Act 2003 (in relation to the Conservation Covenant over their land).

37. Where other approvals are required they will be sought either in parallel to these RMA applications, or at a time that will permit construction to commence in accordance with the Project's construction programme. I do not provide any analysis of these approvals in my evidence.

THE STATUTORY FRAMEWORK

38. Section 11 of the AEE lays out in a comprehensive manner the statutory context and framework for the NoR and the resource consents for the project. In my opinion the AEE contains a comprehensive statutory planning analysis. The analysis was prepared by the Alliance planning team led by Mr Roan. I had no input into the preparation of the analysis contained within the AEE. I do however concur with that analysis as covering the relevant statutory planning matters that are pertinent to the Project. I note that the NPDC's Section 42A reporting officer also concurs with the statutory planning analysis contained within the AEE.
39. From my experience, designations are often used as a mechanism under the RMA to strategically plan for future public works by identifying the land required for such works within the relevant district plan, and to provide authorisation for the land use activities described. If confirmed, the designation protects the land and enables the works that are the subject of the designation to be given effect to.
40. As a requiring authority the Transport Agency is able to issue NoRs to designate land for public works. I discuss the necessity for the designation later in my evidence, but I note here that it will enable the Transport Agency to construct, operate and maintain the Mt Messenger Bypass as a new section of SH3.

The relevant provisions of the RMA

41. The RMA provisions relevant to the NoR are set out in Part 8 of the RMA. Specifically, s171, which sets out matters to be taken into account by the territorial authority when considering a NoR.
42. The provisions relevant to the resource consents are set out in Part 6 of the RMA. Specifically, s104, which prescribes matters to be taken into account when considering resource consent applications; s104B which sets out the determination of discretionary applications; and ss105 and 107, which relate to discharge permits.

Part 2 of the RMA

43. Sections 5 to 8 of the RMA (Part 2) establish the overriding purpose of the RMA and the matters that decision makers must *recognise and provide for, have particular regard to, or take into account*.
44. While the statutory assessment for a NoR and resource consent applications are both subject to Part 2 (purpose and principles) of the RMA and both require consideration of separate matters, as explained in the AEE, and accepted in the NPDC Section 42 Report at paragraphs 82 - 84, they are presently applied differently through case law.
45. Presently, consideration of notices of requirement require the traditional overall judgement approach under Part 2. However, for consideration of resource consents, reference back to Part 2 is a matter of last resort and only occurs if there is a gap, uncertainty/inconsistency in meaning or illegality in the relevant planning documents (i.e. the planning documents provide the effects assessment framework not Part 2). As the relevant case law is still being determined by the Courts (and will be outlined in legal submissions) out of an abundance of caution both approaches are assessed.
46. The RMA identifies a number of matters that are of special significance for resource management, which are set out in sections 6, 7 and 8 of the Act. These principles elaborate on the purpose of sustainable management (s5) by stating particular obligations for those administering and making decisions under the RMA.
47. This statutory hierarchy means that a stronger direction is given in relation to matters of national importance (section 6) as compared to other matters (section 7). The requirement to "*recognise and provide for*" matters in s6 requires the decision-maker to make actual provision for the listed matters.

The obligation to "*have particular regard to*" other matters in s7 requires those matters to be given genuine attention and thought although they may be rejected.

48. The requirement to "*take into account*" the principles of the Treaty of Waitangi under section 8 requires the decision-maker to consider the relevant Treaty principles, to weigh those up with other relevant factors and to give them the weight that is appropriate in the circumstances.
49. My assessment against these parts of the RMA, and the relevant provisions of the statutory policy statements and plans, is presented in my evidence below. Before I enter into this assessment, I have briefly laid out my opinion on the positive and adverse effects of the Project on the environment.

THE EFFECTS OF THE PROJECT ON THE ENVIRONMENT

50. Mr Roan is providing a comprehensive summary of the positive and adverse effects of the Project in his evidence through reference to findings of the various technical experts. I will not therefore provide a detailed analysis of the effects in my evidence other than to summarise here what I consider to be the key positive and adverse effects of the Project and to comment on the robustness of the Transport Agency's approach to identifying and assessing these effects.
51. In my opinion the key positive effects of the Project include:
 - (a) social and community benefits through improved road safety, resilience and journey time reliability resulting from the Project will improve the accessibility, connectivity, patterns of living and mobility of people and communities and in turn wellbeing and way of life;
 - (b) connectivity benefits for regional businesses through improved travel time reliability, safety and improved road geometry thereby contributing to a long-term transport solution connecting the Taranaki Region to the north;
 - (c) economic growth and productivity benefits for the local and regional economy with improved travel time reliability and route resilience that will support economic growth for businesses and increased tourism activity;
 - (d) Ngāti Tama have led the protection and restoration of biodiversity values and the removal of pests from the Parininihi land to the west of SH3 through the Tiaki Te Mauri o Parininihi Trust ("**the Trust**"). An aspiration

of the Trust has been to re-establish a self-sustaining population of Kōkako within the Parininihi land, which was progressed in mid-2017 with the release of 20 Kōkako. The proposed ecological mitigation and biodiversity offset package will lead to enhanced biodiversity values on land to the east of SH3, significantly expanding the area of pest management around the Parininihi land;

- (e) the conditions created in the pest management area will increase the likelihood of the survival and successful nesting of those Kōkako (and other animal species) that choose to move east from the release sites in the western Parininihi land. The Project alignment traverses land that has not had consistent stock exclusion and pest control and as a result, the ecological health of the area is severely diminished. Significant long term ecological benefits and in particular a net positive outcome in terms of biodiversity values through offsetting (planting and pest control) is therefore anticipated; and
- (f) recreational benefits provided through safer pull over and parking conditions for users of the Mt Messenger and Kiwi Road walking tracks that connect the coast with the hill country.

52. In my opinion, the key adverse effects of the Project include:

- (a) Ngāti Tama's cultural and spiritual values have the potential to be affected during construction of the Project;
- (b) terrestrial and freshwater ecological effects from the loss of habitat affected by the permanent road footprint (i.e. the road and its anticipated batters and cuts, spoil disposal sites, haul roads and stormwater ponds) and the construction footprint (construction access, laydown areas, temporary stormwater drains);
- (c) landscape and natural character effects associated with the introduction of a highway into two valleys that currently have a quiet, remote rural character, vegetation clearance, earthwork cuts and fills within bush covered gullies and the filling and diversion of watercourses within the Project area;
- (d) construction water discharges into the freshwater receiving environment, including sediment discharges; and

- (e) disruption to local land owners and local road users from construction activities including through construction traffic and changes to property access, along with construction noise, vibration and dust.
53. From my very first involvement with the Project in early 2016, it was evident to me that any options for the Project would have potentially significant positive transportation benefits, but would also have significant potential adverse cultural and ecological effects without comprehensive mitigation and offsetting.
54. In my opinion the Transport Agency and Alliance team have taken a comprehensive approach to assessing both the positive and adverse effects of the chosen alignment with particular regard being given to cultural, ecological and landscape values, as is appropriate in my opinion for the Project.
55. In my opinion the actual and potential effects on the environment have been robustly identified and assessed by the expert witnesses on behalf of the Transport Agency and adverse effects can be appropriately avoided, remedied, mitigated or offset while the Project will, overall, deliver significant positive benefits over the long term.

CONSIDERATION OF THE PROJECT AGAINST THE STATUTORY PLANNING INSTRUMENTS

Purpose and principles of the RMA (s5)

56. Section 5(1) states that the purpose of the RMA is to *promote the sustainable management of natural and physical resources*, with sustainable management defined in s5(2). Overall it is my opinion that the Project will achieve the purpose of the Act. My main reasons for this assessment include:
- (a) Ngāti Tama have a strong and longstanding connection with the wider Project area as outlined in the Ngāti Tama Cultural Impact Assessment and the evidence of Mr Dreaver. Mr Dreaver and Mr Napier in their evidence outline the Transport Agency's engagement process with Ngāti Tama, acknowledging Ngāti Tama's kaitiakitanga responsibilities and mana over the Project area. Should the Project proceed the Transport Agency will carry this engagement through the detailed design and construction stages via a Kaitiaki Forum. As discussed in Mr Dreaver's and Mr Napier's evidence the Transport Agency from the early stages of the Project made it clear to Ngāti Tama that they would not be seeking compulsory acquisition of Ngāti Tama's land. It will ultimately be up to Ngāti Tama to decide if the compensation package offered by the

Transport Agency is satisfactory for the acquisition of the land. That approach in my view recognises the mana of, and the significance of the land to, Ngāti Tama and achieves the purpose of the RMA.

- (b) The Project will significantly improve safety, travel times and resilience of travel over the existing Mt Messenger section of SH3 which is considered by the Transport Agency as substandard. SH3 is a key connection from the Taranaki region through to the Waikato and on to Hamilton, Tauranga and Auckland for Taranaki's primary sectors, tourism and recreation, and access to health and other social services. Enhancement of the SH3 connection, specifically the Mt Messenger bypass, is therefore directly linked to enabling the people and communities of the region to provide for their social, economic and cultural well-being and for their health and safety.
- (c) The Project will significantly improve the connectivity of freight to and from the Taranaki region, appropriately reflecting the Regional Route classification of SH3. As is detailed within the evidence of Mr Napier, Mr Boam and Mr McCombs the existing highway is no longer fit for purpose of its classification as a Regional Route due to a number of known problems, including a poor safety record, poor route resilience, and poor road geometry and associated low speeds.
- (d) While there will be adverse effects associated with the Project, as identified throughout the AEE and in the evidence of the various technical experts and summarised in Mr Roan's evidence, the focus has been to avoid, remedy, mitigate or offset effects as required by the RMA. This is perhaps best demonstrated in my opinion by the development of the ecological mitigation and biodiversity offset package for the Project. As detailed within the evidence of Mr MacGibbon the result of this process is a package which is expected to achieve a net gain in biodiversity within 10 to 15 years following construction.
- (e) The development of detailed conditions and methodologies for construction and a Construction and Environmental Management Plan (and other associated management plans) will in my opinion ensure that the life-supporting capacity of air, water, soil and ecosystems are safeguarded.
- (f) Once commissioned, the Project will help to sustain the potential of natural and physical resources to meet the foreseeable needs of future

generations by providing a modern, resilient and reliable road connection from Taranaki to the north.

Matters of National Importance (s6)

57. Matters of national importance, which are to be *recognised and provided for*, are set out in Section 6 of the RMA. The matters that are relevant for the project include:

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development...*
- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development:*
- (h) *the management of significant risks from natural hazards.*

58. I have outlined below the main reasons why I believe the Project has appropriately recognised and provided for the matters of national importance identified within the RMA that are relevant to the Project:

- (a) **Section 6(a)** - There are potentially significant effects of the Project on the natural character of wetlands, rivers and their margins however as outlined within the evidence of Mr Roan and Mr MacGibbon these effects have been considered throughout the Project's development, including most importantly via the alternatives assessment process. Mr Lister outlines in his evidence how the location and design of the chosen route option is considered to be appropriate from a natural character perspective, as it avoids the Waipingao Stream catchment (Parininihi) to the west which has very high natural character values. Based on the evidence of the technical experts and my involvement with the alternatives assessment process it is my view that the Project will mitigate and offset adverse effects on natural character by minimising

construction effects on natural stream environments where possible and constructing stream diversions with naturalised elements where effects are unavoidable.

- (b) **Section 6(c)** - As detailed within the evidence of the ecological experts the ecological values present in the Project footprint and adjacent forested and wetland areas are high, although considerably diminished from their full potential because of the long term and largely unchecked impact of farm livestock and animal pests. Mr Singers outlines in his evidence why the Mimi wetland is the area of greatest ecological significance in close proximity to the Project. In order to avoid adverse effects on the wetland, the Project was routed to the west of the wetland, with a bridge crossing a tributary to the wetland to avoid filling in this location. In addition, a comprehensive mitigation and biodiversity offset package has been developed as a core part of the Project. As outlined in Mr MacGibbon's evidence this is predicted to result in a net ecological benefit, which will enhance the biodiversity value of the Project area within the next 10-15 years, with significant enhancement thereafter.
- (c) **Section 6(d)** - From my own experience of accessing the Mt Messenger track and the Kiwi Road track from SH3, I believe that public access will be significantly enhanced as a result of the Project. Once the Project is complete, the track will have safer access off SH3 and be re-routed under the new SH3 bridge to allow for better and safer walking access at this location.
- (d) **Section 6(e)** - Ngāti Tama have significant cultural values associated with the Project area. The Transport Agency has undertaken extensive consultation with Ngāti Tama including involving Ngāti Tama representatives in the alternatives assessment process. My view is that because of its ongoing engagement with mana whenua and particularly Ngāti Tama, the Transport Agency has taken into account the principles of the Treaty of Waitangi, including recognition of the spiritual relationship that tangata whenua have with the environment and acknowledgement of Ngāti Tama's rangatiratanga and kaitiaki responsibilities in relation to the Project area. This collaborative process has significantly influenced the route selection and design, including the critical decision to avoid the western Parininihi land, setting the Project back from the Maunga (Mt Messenger), and using a tunnel under the ridgeline that divides the Mimi and Mangapepeke catchments.

Additionally the Transport Agency has recognised and provided for the relationship of Māori and their culture and traditions by confirming it will not seek to compulsorily acquire Ngāti Tama's land.

- (e) **Section 6(f)** - No known archaeological or other historic heritage sites will be affected by the proposed construction of the Project. The Historic Heritage Assessment (Technical Report 9) and the evidence of Mr Clough anticipates a low risk of adverse effects on historic heritage (archaeology) as a result of the Project. As is good practice for projects of this nature an Accidental Discovery Protocol will provide for the protection of unrecorded archaeological sites being uncovered during construction.
- (f) **Section 6(h)** - As is outlined in Technical Report 3 (Resilience Assessment) and Mr Boam's and Mr Symmons' evidence the Project will result in a significant improvement in resilience against natural hazards adversely affecting the route. This will be achieved through a number of means including avoiding areas of known geological risk (e.g. a significant landslide on the existing route), major improvements to the grades and curves of the road, and construction methods for cut slopes, embankments and culverts.

59. In conclusion, it is my view that the Project has appropriately recognised and provided for the relevant matters of national importance. I provide further assessment of matters of national importance below in my themed assessment of the relevant regional and district plan provisions and in my response to submissions.

Other matters (s7)

60. Section 7 of the RMA sets out the *other matters* to which *particular regard* must be had when a decision maker is exercising functions and powers under the RMA. The following matters are relevant to the Project:

- (a) *kaitiakitanga:*
- (aa) *the ethic of stewardship:*
- (b) *the efficient use and development of natural and physical resources...*
- (c) *the maintenance and enhancement of amenity values:*
- (d) *intrinsic values of ecosystems...*

(f) *maintenance and enhancement of the quality of the environment:*

(i) *the effects of climate change...*

61. In my assessment I would make the following points regarding these matters:
62. **Section 7(a)** - Ngāti Tama have kaitiaki (guardianship and stewardship) responsibilities across the Project footprint. I have been witness to how the Transport Agency has engaged with Ngāti Tama throughout the process, including encouraging and facilitating active participation and exercise of kaitiakitanga in relation to the Project. Further, as already explained, the Transport Agency will not seek compulsory acquisition of Ngāti Tama land for the Project. That is a significant recognition of their kaitiaki role. As explained in the evidence of Mr Napier and Mr Dreaver, the Transport Agency has also engaged with Ngāti Mutunga to the south and Ngāti Maniapoto to the north and Poutama.
63. **Section 7(aa)** - In my opinion the Transport Agency has acknowledged the sensitivity of the surrounding environment and the Alliance design team have responded appropriately by embedding the ethic of stewardship within the design process. Mr Boam reflects on this in his evidence when discussing the design process and the principle that the design team adopted of "*treading lightly on the land*". Most importantly the alternatives assessment process selected a route where the environmental effects could be avoided, remedied, mitigated or offset in a manner which will achieve a net biodiversity gain in the short to medium term. Other Project features, including the tunnel and bridge also avoid effects and in my mind demonstrate that the Transport Agency has given due regard to the ethic of stewardship.
64. **Section 7(b)** - My view is that the Transport Agency has had particular regard to delivering an efficient use and development of natural and physical resources through a robust route selection process that avoids the western Parininihi land, provides for a significant improved transport system over the existing Mt Messenger route and safely ties in with the existing SH3. I agree with the evidence of Mr McCombs and Mr Copeland that the Project will also help to ensure the efficient use and development of natural and physical resources by providing capacity to support transport growth within the Taranaki region and through improving resilience of the SH3 network.
65. **Section 7(c)** - Mr Lister discusses amenity values in his landscape and visual evidence and Mr Kenderdine outlines temporary construction activities and effects. The Project documentation outlines how amenity matters such as

noise, vibration, dust, and lighting will be managed within the relevant standards and controlled through relevant management plans. Long-term, existing access to recreational tracks will be enhanced and there are opportunities to enhance the amenity values through screen and amenity planting where the road will be viewed from existing dwellings. I believe that adequate regard has been given to amenity values through the design process and that suitable controls are proposed through conditions and management plans.

66. **Section 7(d) and 7(f)** - Since my early involvement with the Project it was acknowledged by the Project team that the area of interest held special ecological value. A response to this has been a comprehensive ecological restoration package which forms a core part of the Project. Overall I hold the view that the Project will maintain and enhance the quality of the environment over the long term within the Project area.
67. **Section 7(i)** - As outlined in Technical Report 2 (Traffic & Transport Assessment) the new road alignment will decrease carbon dioxide emissions associated with a shorter length of road and a reduced climb with flatter grades.

Principles of the Treaty of Waitangi (s8)

68. Section 8 of the RMA requires those exercising powers or functions under the RMA to *take into account* the principles of the Treaty of Waitangi. As outlined in Mr Dreaver's and Mr Napier's evidence the Transport Agency has engaged with tangata whenua, in particular with Ngāti Tama, throughout the process to address effects of the Project on tangata whenua or cultural heritage matters. I have had some involvement with supporting the engagement process and I have formed the opinion that the Transport Agency has genuinely worked with Ngāti Tama in good faith throughout the Project's development so as to enable both the Agency and Ngāti Tama to make fully informed decisions.
69. Overall I consider that the Transport Agency has engaged with tangata whenua in accordance with the principles of the Treaty of Waitangi. I note that this view is also shared by NPDC's reporting officer (para 370 of the Section 42A Report).

RELEVANT POLICY DOCUMENTS AND PLANS - THEMATIC ASSESSMENT

70. The Project AEE in Section 11 and Appendix A (objectives and policy assessment) provides a structured and comprehensive assessment of the

Project against the relevant national environmental standards, regional policy statement and plans and the operative district plan for the New Plymouth district. This is a very thorough assessment and I have not attempted to replicate it in my evidence. Instead I have provided below an integrated assessment against the key themes or issues of the relevant statutory planning provisions as they relate to the Project. These themes flow through the RPS and associated regional plans, and the District Plan. In my opinion the key issues/themes that are expressed within the planning documents that are particularly relevant to the Project are:

- (a) growth and development in Taranaki;
- (b) regionally significant infrastructure;
- (c) public health and safety;
- (d) natural hazards - avoiding and mitigating effects;
- (e) tangata whenua values and cultural heritage;
- (f) biodiversity & water quality; and
- (g) natural features, landscapes and amenity.

71. In my assessment below I identify these themes and I refer out to the various statutory plans, the Project technical reports and the evidence of others.

Growth and development in Taranaki

72. As is outlined in the Strategic Transport Assessment (Technical Report 1) and the evidence of Mr McCombs the SH3 route north of Taranaki has considerable strategic value to the region. As Taranaki's only arterial connection directly to and from the north, it is of particular importance to the economic well-being and wider future of Taranaki. The route connects Taranaki's oil and gas, agricultural, forestry and engineering products and expertise through to the main economic and transport hubs at Hamilton, Tauranga and Auckland. With continuing traffic growth and growing reliance on the route, there is an increasingly evident need to attend to the inadequacies and vulnerabilities of the Mt Messenger portion of the route in carrying freight and serving Taranaki's current and future needs.

73. The economics assessment for the Project (Technical Report 4) concludes that the Project will have *"significant overall net positive economic benefits for the New Plymouth District and the Taranaki region"*. The evidence of

Mr Copeland explains how the Project will result in additional expenditure, employment and incomes for Taranaki businesses and residents. Including both direct and indirect (or multiplier) economic impacts, the Project is expected to lead to 148 additional jobs, \$11.0 million per annum in additional wages and salaries and \$66.2 million per annum in additional expenditure on goods and services purchased from local Taranaki businesses.

74. Mr Copeland also identifies that when completed, the Project will lead to reductions in vehicle operating, travel time and road accident costs and improvements in route resilience, benefitting local residents and businesses and visitors to the New Plymouth District and wider Taranaki Region. The Project will also contribute a range of additional economic benefits including improvements in trip time reliability, increased regional economic growth, generated traffic, potential travel benefits, specific road user benefits for Taranaki businesses and lifeline economic benefits.
75. In addition the Social Impact Assessment (Technical Report 5) finds that from a social perspective, the Project will offer significant regional and local benefits once operational. Key regional benefits set out in that assessment include greater resilience in the road network to accidents and natural hazards, and improved capacity and ease of movement for both freight and people. That assessment also identifies various other benefits including growth and development and wellbeing improvements for Taranaki residents. Ms Turvey speaks to these matters in her evidence.
76. The RPS is a strategic document that sets out the direction of management for the use, development and protection of natural and physical resources in the Taranaki Region. The RPS identifies UDR Objective 1 as:
- "To recognise the role of resource use and development in the Taranaki region and its contribution to enabling people and communities to provide for their social, economic and cultural wellbeing."*
77. UDR Policy 1 states:
- "Recognition will be given in resource management processes to the role of resource use and development in the Taranaki region and its contribution to enabling people and communities to provide for their economic, social and cultural wellbeing."*
78. In my view, the Project is an important catalyst for the growth and development of the Taranaki region and it aligns with the strategic intent of the

RPS, which is to support the growth and development of the region. Overall, the Project will support the role of resource use and development in Taranaki and its contribution to the social, economic and cultural wellbeing of people and communities by improving the strategic connection from New Plymouth to the Waikato and beyond.

Regionally significant infrastructure

79. The RPS refers specifically to the importance of *"providing for regionally significant infrastructure"* with explicit reference to the poor *"route security and reliability issues"* associated with SH3. The RPS states in section 15.2:

"Taranaki is generally well connected and serviced from a roading infrastructural perspective relative to its size and population. However, there are roading and transport infrastructure issues that require ongoing attention if Taranaki is to meet its current and anticipated growth and development needs. Some of these issues concern route security and reliability (particularly in relation to State Highway 3 north and south and State Highway 43), network efficiency and capacity (for example in relation to our rural roads and urban New Plymouth) and safety issues such as passing opportunities, road and bridge widths etc. "

80. The RPS states in INF Objective 1:

"To provide for the continued safe and efficient operation of the region's network utilities and other infrastructure of regional significance (including where this is of national importance), while avoiding, remedying or mitigating adverse effects on the environment. "

As detailed in the Traffic and Transport Assessment (Technical Report 2), and the evidence of Mr McCombs and Mr Napier, SH3 north of Taranaki is no longer fit for purpose and does not meet the standard for its classification as a Regional Route. The Project addresses these deficiencies while avoiding, remedying, mitigating and offsetting adverse effects on the environment. In particular the Project will significantly improve the connectivity and safety of freight movements to and from the Taranaki region.

81. The RPS states in INF Policy 1:

"Provision will be made for the efficient and effective establishment, operation, maintenance and upgrading of network utilities and other physical infrastructure of regional significance (including where this is of national importance) and provision for any adverse effects of their

establishment to be avoided, remedied or mitigated as far as is practicable. "

82. INF Policy 1 supports the approach taken by the Project to establish, operate and maintain a new road alignment for SH3 as regionally significant infrastructure. The sensitivity of the surrounding environment and related effects of constructing the road has been a key consideration throughout the development of the Project (as reflected in the evidence of Mr Boam, among others). Where possible, areas with significant values (e.g. the western Parininihi land and the Mimi swamp forest) have been avoided and environmental effects of the preferred route remedied as far as practicable which is consistent with this policy.
83. The Project is consistent with The New Plymouth District Plan Objective 20, which is to *"ensure that the road transportation network will be able to operate safely and efficiently"*. As set out in the Strategic Transport Report (Technical Report 1), continued growth of the Taranaki region (and the importance of Auckland, Hamilton and Tauranga) has steadily added pressures and exposed shortcomings within the northern arterial connections serving New Plymouth and the wider Taranaki region. The main driver for the Project is to improve the safety and efficiency of SH3, which aligns with this district objective.

Public health and safety

84. Mr McCombs in his evidence details why the existing route has a poor safety record, with poor route resilience (road closures, with no suitable alternative routes) and poor road geometry and low speeds. The Project will deliver significant safety benefits and will improve the safety of road users. Delivering on this objective aligns with the objectives and policies of the relevant regional and district planning documents.
85. Construction safety risk will be low due to the remoteness of the site and the fact that interactions with the public are likely to be low, mainly due to the fact that the proposed alignment is entirely 'offline'. As is normally the case for road projects in order to avoid compromising public health and safety a Construction Traffic Management Plan (Volume 5 in the Application) will detail how construction traffic will be managed.
86. Hazardous substances and contaminated land are also public health and safety risks that have been considered by the Project.

87. The NES Soil establishes a nationally consistent set of planning controls and soil contaminant values, and is applicable to the Project. Investigations of historic and current land use activities has identified that the majority of the proposed alignment has not been subject to potentially contaminating activities (detailed in Technical Report 12 and the Contaminated Land Management Plan ("**CLMP**")). Waste disposal to land associated with potential farm dumps at the dry stock farms at the northern and southern ends of the proposed alignment and potential impacts as a result of fly tipping along existing SH3 have been identified. In terms of contaminated land that may be encountered in the Project footprint during construction, the CLMP sets out the mitigation measures for dealing with this.
88. Hazardous substances used on site will include fuel and oil and other construction related substances that are commonly used for civil infrastructure projects. These will be managed in accordance with best practice and health and safety legislation as should be expected. No sensitive activities, such as schools or residential activities are located in close proximity to the project area and risk mitigation and management measures will be in place in accordance with the Construction Environment Management Plan.⁴
89. The technical information provided with the Application and the evidence of Mr McCombs and Mr Milliken confirms in my view that health and safety risks to the public can be managed appropriately during construction, and once complete, the Project will improve road safety on SH3. The Project in my opinion is consistent with the provisions of the NES Soil and will deliver on the public health and safety objectives of the relevant regional and district planning documents. I note that the NPDC Section 42A Report has reached the same conclusion.

Natural hazards - avoiding and mitigating effects

90. Given the strategic significance of the SH3 connection north of New Plymouth, having a safe, reliable and resilient route for the long-term is critical. The Project in my opinion delivers on the objectives and policies of the RPS and the NPDP with regard to mitigating the actual or potential effects of natural hazards on people, property, infrastructure and the environment.

⁴ For example, separation from environmentally sensitive features such as water courses, storage of hazardous substances being secure, covered and within bunded areas, spill response and emergency response and incident management procedures being in place.

91. Section 11 of the RPS contains provisions concerning the reduction of risk to the community from natural hazards. HAZ Objective 1 states:

"To avoid or mitigate natural hazards within the Taranaki region by minimising the net costs or risks of natural hazards to people, property and the environment of the region. "

92. One of the objectives of the Project is to enhance resilience and journey time reliability of the State highway network. As detailed in the evidence of Mr McCombs the existing alignment of SH3 at Mt Messenger is prone to natural hazards that can affect road safety and result in traffic restrictions, delays and/or road closures for road users and surrounding communities. As a regular user of the route, I am personally familiar with these events; in particular slips that occur after storm events that impact on the safety and reliability of driving over Mt Messenger.
93. The Resilience Assessment (Technical Report 3) concludes that the construction of the Project will result in a significant improvement in resilience over the existing SH3 route to the potential natural stresses and shock challenges in the region, thereby lowering the effects of natural hazards on the route. It will achieve this through major improvements to grades and curves as well as design and construction of cuttings and embankments, engineered structures including retaining walls, stormwater culverts and a bridge and tunnel.
94. The alternatives assessment process took resilience into consideration, particularly geotechnical and hydrological resilience. As detailed in Mr Symmans' and Mr Boam's evidence the Project will establish an alignment that is resilient and minimises the risks posed by natural hazards.
95. The RPS in Section 7.2 also considers the implications of responding to climate change. CCH Objective 1 of the RPS states:

"To avoid, remedy or mitigate the adverse effects on the Taranaki environment arising from climate change"

96. The effects of climate change have been factored into the design of the Project in that emissions of CO₂ from vehicles travelling the new road alignment are expected to decline compared to the existing alignment due to the shorter length and lower grades. Additionally, the design of culverts and sediment control devices have factored in the anticipated increased incidence of high intensity rain events and flooding due to climate change.

Tangata whenua values and cultural heritage

97. Part C of the RPS and Objective 19 of the District Plan refer to resource management issues of significance to iwi authorities. These include provisions relating to taking into account the principles of the Treaty of Waitangi, recognising kaitiakitanga, recognising and providing for the relationship of Māori with ancestral lands, water, sites, wāhi tapu and other taonga, and recognising cultural and spiritual values of tangata whenua in resource management processes.
98. As already stated in my assessment against Section 8 matters Ngāti Tama have significant cultural values associated with the Project area and these are detailed in the Ngāti Tama Māori Values Assessment. The Transport Agency has undertaken extensive consultation with Ngāti Tama including involving Ngāti Tama representatives in the alternatives assessment process. I was able to participate in that process and my view is that because of its ongoing engagement with mana whenua and particularly Ngāti Tama, the Transport Agency has taken into account the principles of the Treaty of Waitangi, including recognition of the spiritual relationship that tangata whenua have with the environment and acknowledgement of Ngāti Tama's rangātiratanga and kaitiaki responsibilities in relation to the Project area.
99. Overall I hold the view that the Project is consistent with the objectives and policies relating to tangata whenua values as expressed in the various planning documents. I note the NPDC Section 42A Report has provided an analysis of cultural effects (para 118 - 145).

Biodiversity & Water Quality

100. As detailed in the technical reports and evidence of the various ecology experts the ecological values present in the Project footprint and adjacent forested and wetland areas are high, although considerably diminished from their full potential because of the long term and largely unchecked impact of farm livestock and animal pests.
101. With regard to water, the Mimi River and Tongaporutu River (which the Mangapepeke Stream discharges to) are identified in Appendix I of the RPS as being "river and stream catchments of high quality or high value for their

natural, ecological and amenity values". Appendix I of the RPS describes the values of the Mimi and Tongaporutu as:

"The Mimi River has recreational and fishery values associated with whitebaiting and a good diversity of native aquatic fauna including eels, whitebait, bullies and torrent fish. The stream has aesthetic and scenic values associated with good scenic values, steep cliffs with puketea forest, high ecological values in upper reaches and the estuary is an area of outstanding coastal value. Native vegetation has been retained within the catchment. "

"The Tongaporutu River has recreational and fishery values associated with a good diversity of native aquatic fauna including eels, whitebait, bullies and torrent fish and presence of threatened species, and recreational uses which include canoeing and whitebaiting. The Tongaporutu River is highly rated for aesthetic and scenic values, and the estuary is an area of outstanding coastal value. Water quantities and flows contribute significantly to high recreational, scenic and aesthetic values, and native forest is present in the upper reaches. "

102. I note here that I have had a personal association with the Tongaporutu River and its estuary for the past 12 or so years. I visit the river often with my family to fish, swim and paddle. On a personal level, I am therefore particularly interested in seeing that the Project results in positive biodiversity and water quality outcomes for the catchment.
103. There are provisions in the RPS that relate particularly to freshwater management and aquatic ecology including Section 6.1 (Sustainable allocation of surface water resources), Section 6.2 (Maintaining and enhancing the quality of water in our rivers, streams, lakes and wetlands) and Section 6.6 (Managing effects associated with the use and development of river beds).
104. Mr Hamill provides a comprehensive assessment of the effects of the Project on freshwater values. The adverse effects of the Project are also high and therefore a comprehensive mitigation and biodiversity offset package has been developed as a core part of the Project. This specifically includes a large scale riparian restoration proposal, based on the assessment and calculations carried out by Mr Hamill.
105. Overall, the mitigation and offset package is predicted to result in a net ecological benefit which will enhance the biodiversity value of the area within the next 10 - 15 years, with significant enhancement thereafter.

106. As described in Mr MacGibbon's evidence the proposed restoration and perpetual (until rendered unnecessary) pest management regime is consistent with best practice. In my opinion the restoration package is consistent with the various biodiversity objectives and policies of the RPS (and associated regional plans) and the New Plymouth District Plan. In particular I would point to Objective 16 of the New Plymouth District Plan which seeks to *"sustainably manage, and enhance where practical, indigenous vegetation and habitats"*. I would also point to BIO Objective 1 of the RPS which calls for the *"maintenance and enhancement of the indigenous biodiversity of the Taranaki region, with a priority on ecosystems, habitats and areas that have significant indigenous biodiversity values. "*
107. It is my view that while the potential adverse effects of the Project on biodiversity are high they can be offset so that there is a net gain in biodiversity within the Project footprint and that this approach is consistent with the policy intent of the RPS.

Natural features, landscapes and amenity

108. The RPS NFL Objective 1 is to *"protect the outstanding natural features and landscapes of the Taranaki region from inappropriate subdivision, use and development, and to appropriately manage other natural areas, features and landscapes of value to the region"*.
109. As identified within the AEE and the evidence of Mr Lister, there are no outstanding natural features or landscapes within the Project footprint that are afforded protection by the District Plan. However, it is acknowledged that the Project area does have other natural areas, features and landscapes of value as set out in the landscape, natural character and visual assessment reports (Technical Report 8a and the Ecological Reports 7a-7h) and in the relevant evidence.
110. As described in Section 9.9 of the AEE and the evidence of Mr Lister, the mitigation proposed is considered an appropriate response to the nature and scale of the Project and its effects on these landscape values (and an appropriate response to NFL Policy 3). It is noted that the design of the Project has been developed to:
- (a) Retain the key ridgelines defining the landscape by using a tunnel, and minimising effects on landform and bush;
 - (b) Include a bridge across the Mimi swamp forest area;

- (c) Minimise stream and valley crossings by keeping to the sides of the valleys;
- (d) Develop cut faces that echo natural slope angles;
- (e) Promote natural succession re-vegetation;
- (f) Integrate landscape and ecological rehabilitation;
- (g) Provide an opportunity for cultural expression and recognition; and
- (h) Promote a scenic journey experience.

111. Overall it is my view that the Project has had appropriate regard to the relevant landscape, natural feature and amenity objectives and policies within the statutory planning instruments and that potential adverse effects on landscape and natural values will be avoided, remedied, mitigated or offset.

Conclusion on assessment of the proposal against national, regional and district policy documents

112. Overall, I have concluded that the Project is consistent with the outcomes sought by the planning instruments which the NPDC and TRC are required to have particular regard to when considering the NoR. I note that the NPDC Section 42A Report concludes the same (para 346), but that the reporting officer holds reservations regarding whether the adverse effects on ecology and biodiversity can be adequately addressed, where the level of mitigation and offsetting proposed is anticipated to result in a 'no net loss' in biodiversity over the medium term (10 to 15 years) and whether Ngāti Tama consider that cultural effects have been adequately addressed. These matters are addressed in the Transport Agency's evidence and no doubt will be addressed at the hearing.

ALTERNATIVES CONSIDERATION

113. I participated in the two-stage MCA process that was undertaken to consider and evaluate options for the Project: the longlist and shortlist of corridor options. As Mr Roan describes in his evidence the options assessment was iterative in nature, increasing in the level of assessment detail commensurate with the stage of design detail and understanding of potential impacts of the options.

114. Mr Roan in his evidence describes the MCA process that was undertaken as "robust, consistent, and replicable" and from my experience I would agree with

this assessment. The process involved experts with relevant expertise, including representatives of Ngāti Tama to address cultural matters, and it informed the Transport Agency's decision making to identify the preferred Project option.

WHETHER THE ALTERATION TO THE DESIGNATION IS REASONABLY NECESSARY

115. Section 171(1)(c) of the RMA requires that when considering a notice of requirement the consent authority must have particular regard to whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought.
116. The Transport Agency's Project Objectives for the purposes of s171(1) of the RMA are set out in s3.4.3 of the AEE as:
- (a) To enhance safety of travel on State Highway 3;
 - (b) To enhance resilience and journey time reliability of the state highway network;
 - (c) To contribute to enhanced local and regional economic growth and productivity for people and freight by improving connectivity and reducing journey times between the Taranaki and Waikato Regions; and
 - (d) To manage the immediate and long term cultural, social, land use and other environmental impacts of the Project by so far as practicable avoiding, remedying or mitigating any such effects through route and alignment selection, highway design and conditions.
117. These objectives respond to the strategic importance of SH3 and to the transportation problems that are currently experienced on the Mt Messenger section of the highway. They also reflect the important cultural and natural environment values associated with the Mt Messenger area.
118. I consider that the work is reasonably necessary to achieve the objectives of the Project for the reasons that are comprehensively set out within the AEE and within the evidence of Mr Boam, Mr Napier and Mr McCombs.

119. My view is that the designation mechanism (rather than for example land zoning or landuse consent) under the RMA is reasonably necessary to achieve the Transport Agency's objectives because:
- (a) The application is for an alteration for an existing NoR (with the existing SH3 being designated in the District Plan) such that it:
 - (i) Maintains the current process within the District Plan; and
 - (ii) Ensures consistent planning provision for the Transport Agency and SH3.
 - (b) The designation mechanism reflects the significance of the infrastructure and transport route by transparently providing for it within the District Plan maps and schedules; and
 - (c) That the Transport Agency does not own all of the land along the Project footprint such that the designation will:
 - (i) Protect the land from other development; and
 - (ii) Provide certainty that the Project can be constructed, operated and maintained.
120. I note the NPDC Section 42A Report raises questions as to whether the Project is reasonably necessary to achieve the Project objectives, in the context of the assessment of alternative route options for the Project. I understand this will be addressed through legal submissions for the Transport Agency.

SPECIFIC DISCHARGE PERMIT MATTERS

121. The Project is seeking discharge permits for stormwater runoff from earthworks, and the discharge of dust during the construction of the Project. The Project has considered various methods to address the potential adverse effects of these discharges, and design and construction methods have been adopted, and construction management plans prepared, to ensure adverse effects are appropriately managed. The Air Quality Assessment (Technical Report 11) and the Construction Water Assessment Report (Technical Report 13) together with the evidence of Mr Ridley outline the measures proposed.
122. Section 105(1) relates to matters relevant to applications for a discharge permit. In summary, in considering an application to which Section 105 relates, the consent authority must have regard to the sensitivity of the

receiving environment, the applicant's reason for the proposed choice and any alternatives.

123. Overall I consider that the Project has given appropriate regard to the relevant matters in s105.
124. Section 107(1) provides that a discharge permit shall not be granted if, after reasonable mixing, the contaminant or water discharged is likely to give rise to any effects in receiving waters that would: cause conspicuous oil or grease films, scums or foams, or floatable or suspended materials; a conspicuous change in colour or visual clarity; emit objectionable odour; render fresh water unsuitable for farm animals; or have a significant adverse effect on aquatic life. As noted within the evidence of Mr Ridley the discharges are generally of a minor nature and stormwater and construction site related discharges will be treated prior to discharge such that the effects addressed by s107 will not occur.
125. Overall (relying on Mr Ridley) I consider that the Project complies with s107.

OTHER MATTERS

National and Regionally Significant Strategic Documents

126. There are a number of national and regional strategic documents that sit outside the statutory framework, but have nonetheless played a part in the project obtaining government funding and setting in train and influencing the Project design. These documents are summarised within the AEE at table 11.2 and include:
- (a) "Tapuae Roa: Make Way for Taranaki": Taranaki Regional Economic Development Strategy (August 2017). This identifies improvement of the northern highway as a 'one-off regional game-changer'.
 - (b) The Taranaki Regional Council Long Term Plan 2015-2025,
 - (c) Regional Land Transport Plan for Taranaki 2015-2021,
 - (d) New Plymouth District Council Long Term Plan 2015-2025,
 - (e) New Plymouth District Council Economic Development Strategy 2014-2024, which also provide strategic support to the Project.
127. Of note is the NPDC Long Term Plan 2015 - 2025 which identifies a number of key directions that are relevant to the Project including:

- *"Environment - enhance the natural environment with biodiversity links and clean waterways;*
- *Communities - strengthen and connect local communities;*
- *Industry - strengthen and manage rural economy, industry, the port and the airport;*
- *Talent - grow and diversify new economies that attract and retain entrepreneurs, talented workers and visitors; and*
- *Destination - become a world-class destination. "*

128. As identified in the AEE the Project positively responds to these directions by providing for enhancement of the strategic cross-boundary transport link leading to the north. The Project will contribute to enhancing Taranaki industry, including freight connectivity, encourage the growth and economic strength of all of the Taranaki region, provide positive social impacts for the local and regional community and enhance the entrance from the north for visitors to the region. The Project will also contribute to enhancing the natural environment at the northern entrance to Taranaki by offsetting adverse environmental effects through a comprehensive restoration package.

RESPONSE TO THE NPDC & TRC SECTION 42A REPORTS

129. I have read the NPDC and TRC Section 42A Reports. For the most part, I concur with the assessment and analysis provided in these reports where it relates to statutory planning matters. Where relevant I have made reference to the Section 42A Reports in my evidence. Overall I make the following summary observations in response to the Reports:

NPDC Section 42A Report

130. I note that the NPDC planning officer Ms Rachelle McBeth has adopted the assessment provided within Appendix A of the AEE as it relates to the policies and objectives identified within that assessment.

131. I note the conclusion that Ms McBeth has reached concerning her assessment of the project against national, regional and district policy instruments:

"Overall, I conclude that Mt Messenger Bypass is not in conflict with or opposed to the outcomes sought by the instruments to which we are required to have particular regard to, such that confirmation of the NoR should be precluded. The application of the mitigation hierarchy by the

RA, and the measures proposed within the application documents, has resulted in a proposal that is largely consistent with many of the instruments in question" (para 346).

132. As outlined in my evidence above I have reached the same conclusion.
133. Ms McBeth raises questions as to whether the Project is reasonably necessary to achieve the Project objectives, in the context of the assessment of alternative route options for the Project. I understand this will be addressed in legal submissions.
134. Ms McBeth also has reservations regarding whether the adverse effects on ecology and biodiversity can be adequately addressed, where the level of mitigation and offsetting proposed is anticipated to result in a 'no net loss' in biodiversity over the medium term (10 to 15 years) and whether Ngāti Tama consider that cultural effects have been adequately addressed. The 'no net loss' issue is addressed in the evidence of the ecology experts, while the cultural effects point is discussed primarily by Mr Dreaver. I understand these matters are likely to be addressed further at the hearing.

TRC Section 42A Report

135. I note the conclusion of the TRC Section 42A Report prepared by Mr Colin McLellan and Ms Katherine Hooper that:

"The proposed new alignment for SH3 at Mt Messenger will have positive social and economic effects for the wider Taranaki community.

In summary, with appropriate and effective offsetting, granting these applications as recommended is consistent with the RPS, and Regional Plans. The offsetting of effects enables the activities to occur in a manner which promotes sustainable management. " (para 312 and 313)

127. As outlined in my evidence above I have reached the same conclusion.

RESPONSE TO SUBMISSIONS

136. The Application was publically notified on 27 January 2018 at the request of the Applicant, with submissions closing on 28th February 2018. A total of 1177 submissions were received with 1154 of these in support, 20 in opposition and three neutral. 17 later proforma submissions in support were also received.

137. I have read the submissions received in relation to the Project. A large number of submissions have been received which raise similar issues in support of the Project.
138. I note that the vast majority of submissions made in support of the Project raise the importance of SH3 as a vital link between Hamilton, Tauranga and Auckland for the New Plymouth community and businesses. They acknowledge that the Project will significantly improve the safety of the Mt Messenger section of SH3 and will improve the reliability and resilience of the network. The SH3 Working Group (Submission 7647829) states that the positive transport effects *"will in turn contribute to positive local and regional economic growth and productivity improvements, along with improved social and community effects."* I agree with these submissions that the Project will result in positive transport, economic and social effects for the Taranaki region.
139. From my reading of the submissions there are a small number that explicitly challenge the Project's consistency with Part 2 of the RMA and the various planning instruments administered by the New Plymouth District Council and the Taranaki Regional Council. I respond to these submissions below.
140. I note that Mr Roan in his evidence has responded to submissions that have sought changes to management plans, consent conditions, and specific methodologies proposed for ecological monitoring and offsetting. I have limited my response to submissions that raise statutory planning matters.

Royal Forest and Bird Protection Society of NZ (Submission 7655466)

141. The Forest & Bird submission states that *"the proposal does not address the relevant legislative responsibilities of the New Plymouth District Council and Taranaki Regional Council"* and that:

"Forest & Bird consider the objectives and policies relating to natural values from the operative New Plymouth District Plan are of particular importance in assessing the effects of this project. In particular (but not exclusively) objectives 1, 14, and 16, and policies 14.1, 16.1, and 16.2. These provisions give effect to the RPS which sets out that the district council has the primary role for controlling land use activities to maintain indigenous biodiversity. These policies also provide for s6(c) of the RMA, which is a specific consideration under s171(1) which sets out that the territorial authority must, "subject to Part 2", consider effects on the environment of allowing the requirement.

Responsibilities of New Plymouth District Council to protect indigenous vegetation and habitats should be considered alongside the responsibilities of Taranaki Regional Council set out in the Taranaki Regional Policy Statement and Regional Plans. Forest and Bird seek that the district council consider these responsibilities when making their recommendation on the NOR and that the regional council likewise consider effects on biodiversity as a result of the activities under their functions through the regional consent applications. "

142. I disagree with Forest & Bird's view that the Project does not address the relevant legislative responsibilities and in particular the responsibility of the NPDC to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna (s6(c) of the RMA).
143. In particular I would point to Objective 16 of the New Plymouth District Plan: *"To sustainably manage, and enhance where practical, indigenous vegetation and habitats"* and the related Policy 16.2 which states *"Land use, development and subdivision should not result in adverse effects on, and should enhance where practical, the quality and intrinsic values of areas of indigenous vegetation and habitats. "*
144. It is acknowledged that the ecological values present in the Project footprint and adjacent forested and wetland areas are high, although considerably diminished from their full potential because of the long term and largely unchecked impact of farm livestock and animal pests. The focus throughout the Project has been to avoid, remedy, mitigate or offset potential effects, including effects on indigenous vegetation. In the first instance, a Project option has been selected that minimises ecological effects by avoiding particularly significant habitat (particularly the western Parininihi land).
145. A core part of the Project has been to develop a robust ecological mitigation and restoration package. This package achieves a net gain in biodiversity within 10 to 15 years following construction, which is consistent with the intent of Objective 16 of the District Plan and viewed as a whole, the Project will *"enhance where practical, the quality and intrinsic values of areas of indigenous vegetation and habitats"*.
146. District Plan Objective 14 relates to the preservation and enhancement of the natural character of wetlands, lakes, rivers. Objective 14.2 states, *"The natural character of wetlands and rivers and lakes and their margins should not be*

adversely affected by inappropriate subdivision, use or development and should, where practicable, be restored and rehabilitated".

147. As set out in Technical Report 8a and supported by the evidence of Mr Lister, the Project addresses adverse natural character effects on rivers and wetlands by a range of means including offsetting.
148. My response to the Forest & Bird submission is that the Transport Agency has appropriately recognised and provided for matters of national importance (in particular s6(c) matters) that are reflected in the objectives and policies of the RPS and the New Plymouth District Plan.

Te Korowai Tiaki o te Hauāuru Inc (Te Korowai)

149. Te Korowai Tiaki o Hauāuru (Te Korowai) is an incorporated society comprised of members that whakapapa to Ngāti Tama.
150. Te Korowai opposes the Application on the basis that it *"does not give effect to Part 2 of the RMA and is inconsistent with the relevant policy and planning instruments that express Pt 2 RMA values including matters of national importance"*. The Te Korowai submission states that the Project does not recognise or provide for ancestral relationships (6(e)), historic heritage (s6(f)), that it does not recognise kaitiakitanga (s7(a)) or the intrinsic values of ecosystems (s7(d)). The submission also states that the application breaches Treaty principles (s8) including the *"confiscation or taking of Treaty settlement land in breach of Treaty principles including the duty of good faith"*.
151. My response to this submission is that the Project is consistent with Part 2 of the RMA and the planning documents. As explained in the evidence of Mr Napier and Mr Dreaver (and outlined in Te Runanga o Ngāti Tama's CIA), the Transport Agency has engaged extensively and in good faith with Te Runanga o Ngāti Tama, as the mandated representative body for Ngāti Tama. This has ensured that the Transport Agency has a detailed understanding of the potential cultural effects of the project and their significance.
152. The recognition of the significance of cultural effects goes beyond more standard provisions through conditions (a Kaitiaki Forum and other associated provisions are proposed) to, uniquely in this case, as set out in the evidence of Mr Napier and Mr Dreaver, to the Transport Agency agreeing that it will not request compulsory acquisition of Ngāti Tama land involved in the Project. In other words it is accepted by the Transport Agency that the Project will not

proceed without the blessing of Te Runanga o Ngāti Tama, as the mandated representative body for Ngāti Tama.

153. In my opinion, that position provides significant recognition to Part 2, in particular ancestral lands and taonga, kaitiakitanga and also the principles of the Treaty of Waitangi. I also consider that the Project is consistent with the cultural objectives and policies in the relevant planning documents.

154. Finally, as explained in the evidence of Mr Napier and Mr Dreaver, the Transport Agency has made it clear any group that asserts customary interests in relation to the Project that it is willing to provide information and meet and discuss cultural issues. Further, the public submission and hearing process gives all parties the ability to raise issues of concern to them and have those issues considered, an opportunity Te Korowai has taken.

Sam Dixon

25 May 2018