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| **MT MESSENGER BYPASS**  **Section 42A Hearing Report** | |
| **DSN17/44711**  **LUC18/47193** | **Notice of Requirement to Alter a Designation for the construction, operation and maintenance of the Mt Messenger Bypass, including request for a waiver of the Outline Plan requirement**  **Land Use Consent to disturb potentially contaminated soil** |

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| **Applicant / Requiring Authority:** | New Zealand Transport Agency c/- Mt Messenger Alliance |
| **Site Address:** | State Highway 3 (Mt Messenger, between Uruti and Ahititi, North Taranaki) and adjacent properties (relevant legal descriptions below and detailed in Table 1 of this report) |
| **Legal Description:** | SECS 35, 38, 50, 51 & 55 BLK VIII MIMI SD;SECS 16, 17, 18, 19, 20 & PT SEC13 BLK XII MIMI SD; SEC 9 SO 457513; SEC 1 SO 313242; LOT 1 DP 5816; SEC 1 SO 313243; LOT 1 DP 16494; State Highway 3 |
| **Site Area:** | 98.1103ha (77.1778ha of private land) |
| **Environment Area:** | Rural |
| **District Plan Overlays:** | Planning Maps B10 & C10:   * SH3 is designated for Roading Purposes – DP Ref N36 * Priority Water Body |
| **Proposal:** | To designate land for the construction and operation of the Mt Messenger Bypass – a new section of State Highway 3, approximately 6km in length located east of the existing highway corridor  Land Use Consent to disturb soil under Regulation 11 (Discretionary Activity) of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 |
| **Date notice served and land use consent lodged:** | 15 December 2017 |
| **Submission period:** | 28 January to 27 February 2018 |
| **Request for further information:** | 22 March 2018 |
| **Date requested additional information received:** | 6 April 2018 |

# EXECUTIVE SUMMARY

The New Zealand Transport Agency (“NZTA”) has served a Notice of Requirement with New Plymouth District Council for the construction and ongoing operation of a new section of SH3 at Mt Messenger, between Ahititi and Uruti in North Taranaki. In addition to the Notice of Requirement, 58 resource consents from the Taranaki Regional Council, and a resource consent from New Plymouth District Council to disturb potentially contaminated soil, are required. All district and regional planning processes under the Resource Management Act 1991 were publicly notified together in January 2018 and will be considered in a joint hearing commencing on 11 June 2018 at New Plymouth District Council. 1177 submissions were received.

The Mt Messenger Bypass project seeks to address the operational constraints of the existing alignment to provide a safer, more efficient and resilient modern highway. This is anticipated to result in transport, economic and social benefits with SH3 being regionally significant infrastructure. However, if not managed appropriately the project would generate significant adverse effects on ecological and landscape values, and other aspects of environmental quality. Cultural values are central to the project with the proposed alignment traversing Te Runanga o Ngāti Tama Treaty of Waitangi cultural redress land.

NZTA selected the proposed route in consultation with the public and following a detailed multi criteria analysis of a number of routes. A range of technical experts and Ngāti Tama have provided input to the route selection and proposal. The proposed alignment sits east of the existing road over Mt Messenger, within the two catchments of the Mimi River to the south, and Mangapepeke Valley to the north. Construction involves a 240m long tunnel and 120m long bridge. Approximately 40 hectares of indigenous vegetation and 3.5km of stream length would be affected and significant earthworks are proposed within an environment with geotechnical challenges. A mitigation and offset package is proposed to address the significant ecological effects of the proposal, and NZTA consider this would result in net biodiversity gains within 15 years. Negotiations between NZTA and Ngāti Tama around the use of Ngāti Tama land, and whether the cultural effects of the proposal are addressed, continue.

This report relates to the Notice of Requirement and land use consent to disturb potentially contaminated soil, and will be considered alongside a report prepared by Taranaki Regional Council. This report considers a wide range of environmental effects, and concludes that most effects have been, or can be, satisfactorily managed, however the following principal areas of concern remain in relation to the proposed designation:

1. Further discussion and analysis is necessary under s171(1)(c) and Part 2 of the Resource Management Act 1991. There are reasons to believe that an on-line route option could be feasible, satisfy NZTA’s objectives, and that this could have reduced effects on Matters of National Importance under the Act compared to the selected route option.
2. There is an absence of certainty about the nature, extent and delivery of the mitigation and offset package to address significant ecological effects, such that ecological experts engaged by the Council, the Department of Conservation, and the Royal Forest and Bird Protection Society of NZ are not satisfied that there will be a ‘no net loss’ in biodiversity. Threatened and At Risk species are within the project area.
3. The project is fundamentally reliant on NZTA reaching agreement with Ngāti Tama to place the road through Ngāti Tama owned land. This issue, and whether cultural effects on Ngāti Tama are satisfactorily addressed, has not been resolved at the time of finalising this report.

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# PURPOSE OF THIS REPORT

1. This Hearing Report has been prepared to assist the Independent Commissioner in the consideration of the Mt Messenger Bypass proposal, subject to Section 42A of the Resource Management Act 1991 (“RMA”). This report is to consider whether or not the Council recommends to the Requiring Authority (“RA”) that the designation be confirmed, modified, subject to conditions or withdrawn; and whether the resource consent be granted or refused. It is not a decision, and the recommendation should not be construed as such. This report relates only to the (“NoR”) and resource consent application lodged with New Plymouth District Council (“NPDC”). Although both regional and district RMA planning processes will be heard during the same ‘joint’ hearing process, Taranaki Regional Council (“TRC”) will issue a separate Section 42A report in respect of the resource consent applications lodged with them for the Mt Messenger Bypass project.
2. The statutory provisions under the RMA which will be applied and considered for the purposes of this report are:

* Section 104 and 104B regarding assessment of a land use consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (“NESCS”);
* Sections 171, 181(2) and 184 of the RMA regarding assessment of a NoR to alter a designation;
* Section 176A(2) regarding the RA’s request to waive the Outline Plan requirement; and
* Section 37 regarding whether 18 late submissions be accepted.

# REPORT PREPARATION

1. This report has been prepared by Rachelle McBeth, NPDC Senior Environmental Planner Consents, and has been reviewed and approved by Rowan Williams, NPDC Planning Lead.
2. I, Rachelle McBeth, hold a Masters (Hons) degree in Geography from the University of Auckland. I have been employed by New Plymouth District Council in the regulatory area since 2002. The last twelve years have been spent in the planning team, where I have assessed and reported on a wide range of subdivision and land use consent applications and designations. These have included infrastructure projects and other developments involving ecological and landscape matters, heritage and cultural items, soil contamination, a wide range of activities involving multiple traffic and transport related issues, residential and rural amenity and numerous applications relating to the bulk and location of buildings. I am an Associate Member of the New Zealand Planning Institute.
3. Reports and/or comments have been received from the following Council officers and external consultants with respect to this application:

* Verbal internal advice from Council’s Iwi Liaison Lead Aroha Chamberlain, Manager Transportation Carl Whittleston
* A transportation and constructability review by Consultant Infrastructure Engineer, Graeme Doherty (AECOM Consulting Services (NZ) Ltd) – Appendix A
* A geotechnical review by Consultant Geotechnical Engineer, Russell Allison (AECOM Consulting Services (NZ) Ltd) – Appendix B
* A hazardous substances and soil contamination review by Council’s Consultant Environmental Scientist, Sarah Knowles (AECOM Consulting Services (NZ) Ltd) – Appendix C
* A review of landscape, natural character and visual impact documents by Consultant Landscape Architect, Richard Bain (Blue Marble) – Appendix D
* A review of the Historic Heritage Report by Consultant Archaeologist Daniel McCurdy (Geometria) – Appendix E
* A review of Ecological Reports by Consultant Ecologists at Wildland Consultants Limited– Appendix F
  + William Shaw - Project lead, peer review
  + Kelvin Lloyd - vegetation, flora, offsetting
  + Tim Martin - vegetation, synthesis of disciplines
  + Nick Goldwater - aquatic habitats
  + Jacqui Wairepo - herpetology
  + Brian Patrick - terrestrial invertebrates
  + Rachel McClellan - avifauna
  + Kate Richardson - avifauna
  + Kerry Borkin - bats
* A noise review prepared by Consultant, Nigel Lloyd, Acousafe – Appendix G

1. The report has been prepared in consultation with TRC given the undertaking of both Councils to the Mt Messenger Alliance (“the Alliance”) to carry out a joint process and to achieve integrated management for the consenting of the Mt Messenger Bypass project.

# SITE DESCRIPTION

1. The site location is approximately 57km north of New Plymouth and 184km south of Hamilton, between the two small settlements of Uruti and Ahititi. The two small settlements are either side of Mt Messenger, with Ahitihi to the north and Uruti to the south; each being a small cluster of dwellings with a school but with no shops.
2. Figure 1 below has been copied from the project documentation to show the locality of the project:

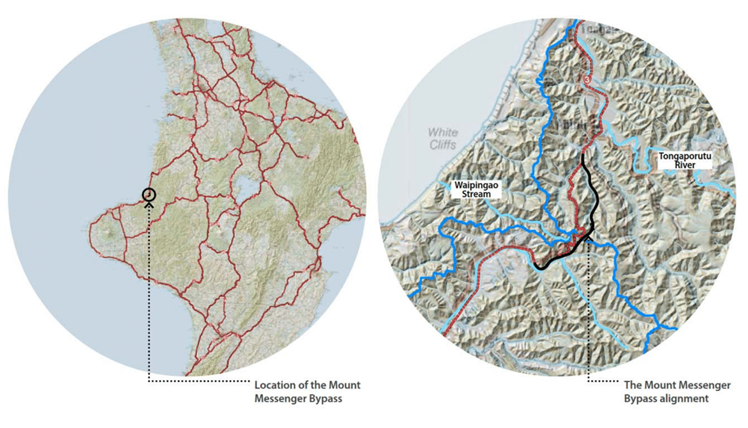


Figure 1: Location of Mt Messenger

Source: P151 of the AEE

1. The project alignment is within two separate river catchments; the Mangapepeke to the north and the Mimi to the south. The Mimi River flows into the Parininihi Marine Reserve 21.5km downstream (west) of the Mimi Swamp Forest and near the Whitecliffs. The Mangapepeke Stream is a tributary of the Tongaporutu River, to the north. Figure 2 below shows these river catchments as well as the topography of the area and the existing and proposed state highway route.

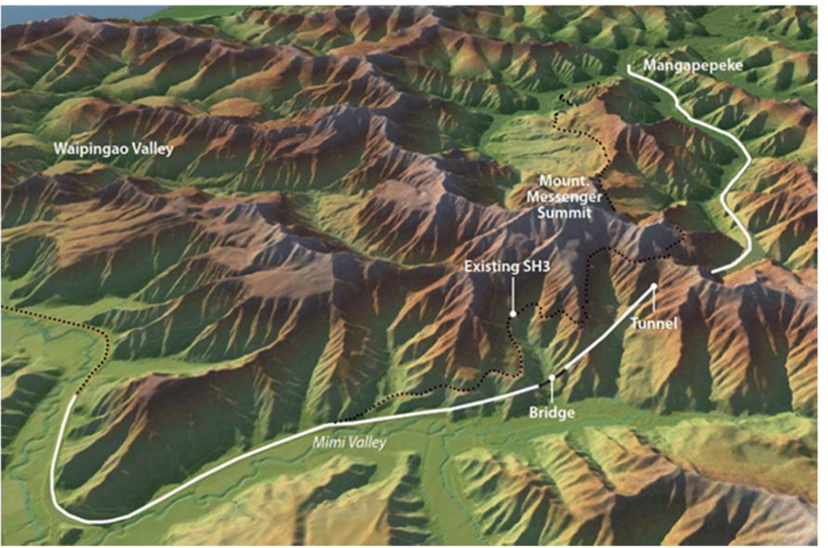
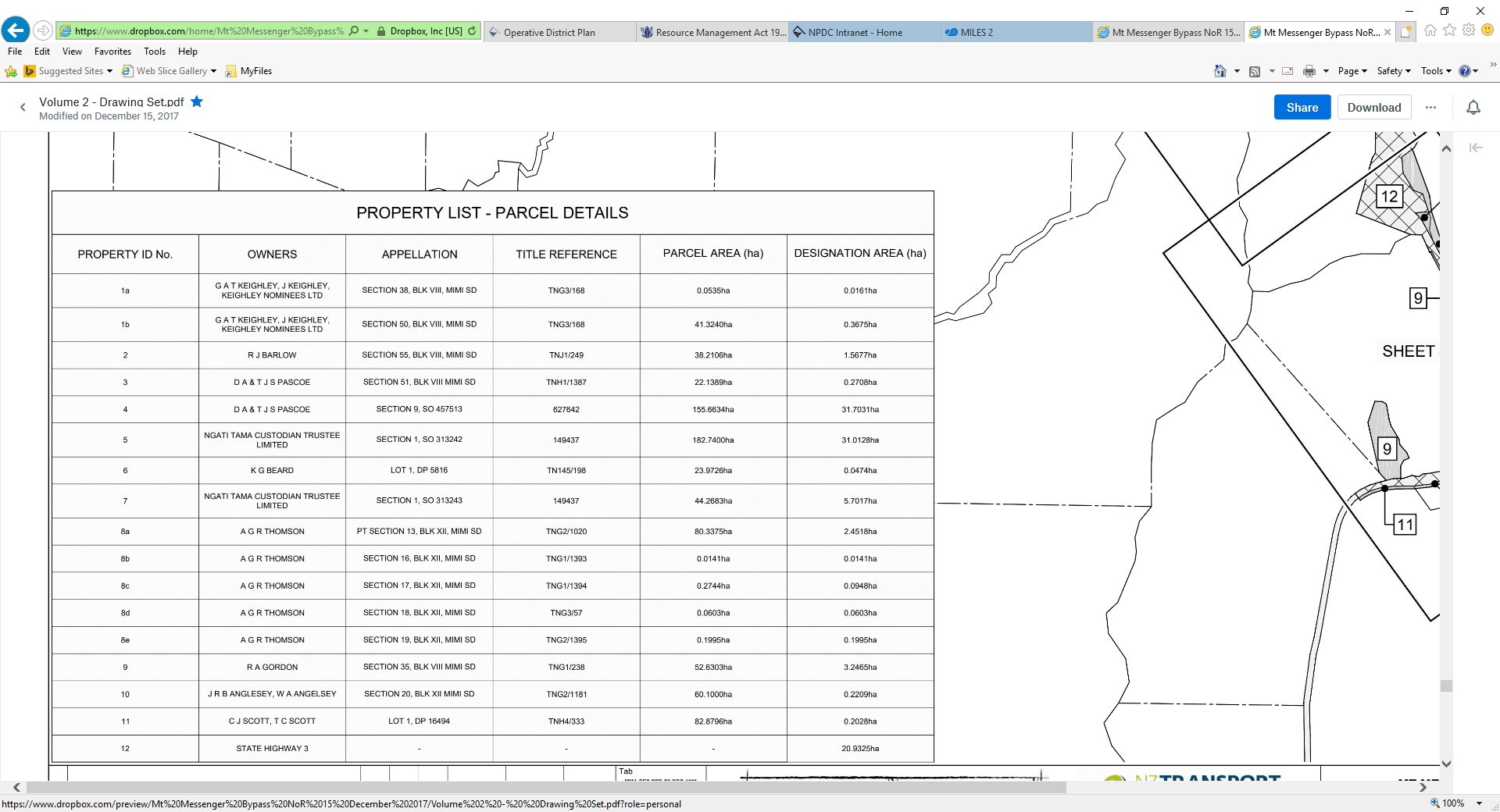


Figure 2: Proposed Mt Messenger Bypass alignment (shown in white).

Source: P152 of the AEE

1. The project area contains the Mimi Swamp Forest; a wetland of high ecological significance. There is a dominance of indigenous vegetation within and adjacent to the project alignment, which provides habitat for indigenous birds (including kiwi and kōkako), bats, herpetofauna (frogs and lizards), and terrestrial invertebrates.
2. There is reason to believe there may be contaminated soil within the project footprint, as a result of historical farming and roading activities.
3. There are no known archaeological sites or other historic heritage features identified within the footprint of the project alignment, however the existing Mt Messenger road is a piece of pre-1900 infrastructure and there are archaeological and historic heritage values associated with this section of the road.
4. The land where the proposed new stretch of road would be constructed consists of 20.93ha of land already within the designation corridor and 77.18ha of private land, being sixteen private properties in the ownership of nine private landowners. Private land is affected to varying degrees, as shown in Table 1 below (copied from the designation plans).

Table 1: Land parcels affected by the Mt Messenger Bypass

Source: Volume 2 – Drawing Set: Property Designation Plans Sheet Layout and Property List

1. The Mt Messenger Bypass project is located within the rohe of Te Runanga o Ngāti Tama in North Taranaki, and the iwi have provided the name “Te Ara o Te Ata” for the project. Ngāti Tama also own a significant portion of the land through which the project would be constructed. This land was returned to Ngāti Tama through the Treaty Settlement process, was previously Department of Conservation (“DoC”) land, and is subject to conservation covenants.
2. The project sits within a wider forested area from the coastal Whitecliffs in the west, inland to lowland mountains; a wider area containing significantly large forest conservation areas (including Whitecliffs and Mt Messenger; combined these areas are referred to by Ngāti Tama as ‘Parininihi’). The subject and surrounding area contains high quality indigenous biodiversity, ecology, natural character and landscape values. The area west of the existing roading corridor has been subject of effective pest control whereas the land east of the corridor has had less and has been impacted by livestock. The Parininihi land west of SH3 is of particularly high ecological health due to pest management undertaken by Ngāti Tama. In 2017 kōkako were released back into this area. The forest east of the existing corridor, where the proposed bypass would be located, has not been subject to the same level of pest management and subsequently has relatively reduced ecological integrity, although this forest is still considered to be an area of high ecological value.
3. The project locality is sparsely populated. The land is within the Rural Environment Area in the District Plan and farming is the most common land use evident. Landscape and natural character in the wider area consists generally of a mix of pastoral land on the flats, being at relatively lower elevations, on gentle topography and of modified landscape character, and steeper slopes with high naturalness characteristics. ‘Vegetation’, ‘low density’ and ‘spaciousness’ are the dominant elements considered in the District Plan to define rural character in the immediate area. In the wider surrounding area the characteristics of ‘production orientated’ and ‘working environment’ additionally apply.
4. North and south of the corridor SH3 follows lowland areas separated by steep, topographically complex hill country. The geology of the subject area includes soft sandstone and mudstone, volcanic ash, and alluvial deposits, resulting in geotechnical challenges for road construction and maintenance. SH3 is the main road connecting the Taranaki and Waikato Regions. Alternative routes between the regions when the road is closed are limited and significantly inconvenient.
5. Recreational opportunities in the area include tramping, hunting and whitebaiting. The Messenger Track and Kiwi Track are both accessed from the southern side of Mt Messenger SH3, although parking and signage is poor and only low levels of recreational activity occurs.
6. A site visit was carried out on the 19 September 2017, prior to the NoR and applications being served and lodged on the Councils. The Alliance hosted the NPDC and TRC planners and experts. The site visit entailed a project briefing in the Uruti Community Centre followed by traversing by minivan the existing SH3 corridor over Mt Messenger, and stopping to view the proposed new route from a number of public locations. A route walkover was not possible at this time due to access restrictions however some private land was entered via the rest area at the highest point of the road, east along the access track to the property at 2750 Mokau Rd. Later, the group walked down the eastern side of the existing road via the Kiwi Track down into the wetland area. Finally, we were taken over private land south of Mt Messenger to view the Waipingau Valley, which was not selected as the preferred area for the new road, but this informed consideration of the options assessment.
7. On 23 March 2018 I visited the Pascoe property and walked both the proposed route of the new road and the haul road with four members of the Mt Messenger Alliance, along with TRC Rivers Manager Daniel Harrison, landowners Tony and Debbie Pascoe, and Warren Petersen (Clifton Community Board member). Good views over the affected Ngāti Tama land were available and I could see where the alignment is proposed in relation to the existing rest area.

# PROJECT BACKGROUND

1. With the Mt Messenger area consisting of steep and densely forested hill country, there has been a history of difficulties for navigation. Prior to European settlement trails were possibly navigated by Māori through the area although no pre-European archaeological sites are recorded within the project footprint or along the existing road. The Historic Heritage Assessment (“HHA”) provided with the AEE reports that around 1890, to support European settlement, a new road was made over Mt Messenger which was muddy, narrow, winding, steep and difficult to negotiate. Around 1900 the worst parts were metalled and in 1935 the route was designated as state highway.
2. The AEE identifies that the existing road is not fit for purpose because there are significant lengths with no or only limited shoulders that allow little room for error, breakdowns or passing, and the Mt Messenger tunnel is narrow which limits the size of loads able to be carried. The route is also vulnerable to interruption and closure by landslips and rockfalls. Section 3 of the AEE details the background to the planned roading project and notes:

*“Where most of the 240km length of SH3 between New Plymouth and Hamilton traverses open country with average travel speeds between 75 and 85km/h, the local section of SH3 over Mt Messenger, however, is a markedly different standard of road, being characterised by a torturous alignment, narrow widths, steep grades, and restricted forward visibility.”*

1. SH3 is of strategic importance for connecting Taranaki to the north, through the Waikato and on to the economic and transportation hubs of Hamilton, Tauranga and Auckland. The AEE considers that:

*“This route connects Taranaki’s oil and gas, agricultural, forestry and engineering sectors to markets in the north, and provides vital tourism linkages and access to health, cultural and other services. This connectivity is essential for the people and communities of Taranaki to provide for their social, economic, and cultural wellbeing.”*

1. SH3 is classified as a Regional Road in the NZTA’s One Network Road Classification. Regional Roads are ‘major connectors’ between regions, which “make a major contribution to the social and economic wellbeing of a region and connects to regionally significant places, industries, ports or airports.” Furthermore, SH3 plays a lifeline role within the wider North Island state highway network, as an alternative route where SH1 and SH4 are closed.

1. Section 3.4 of the AEE outlines the history of developing a solution to the problems at Mt Messenger, which goes back to the 1970s and 80s when corridor investigations were carried out by the Ministry of Works and Development. In 2002 TRC established the SH3 Working Party to respond to ongoing concerns about route security, safety and efficiency of SH3 between Taranaki and Waikato. Options were looked at in the Mt Messenger area but no funding was obtained to carry out a project. In June 2014 the former government announced funding to accelerate a package of regionally important state highway projects through the Accelerated Regional Roading Package (“ARRP”) and in 2016 the former Minister of Transport Simon Bridges announced that the Mt Messenger project would be funded as part of the ARRP, signalling a construction start date of late 2018/early 2019.
2. In March 2017 the Alliance was formed to complete a detailed options assessment, and to progress design, consenting and construction of major roading improvements at Mt Messenger. The project sits within a wider SH3 upgrade which includes improvements at the Awakino Tunnel (in Waitomo District) and general corridor improvements around and between Mt Messenger and Awakino.
3. Peter Roan of the Alliance instigated meetings with the NPDC and TRC in April 2017, before the route selection was finalised, and has met with and informed the Councils on a regular basis. Prior to lodgement, NPDC and TRC agreed with the Alliance to run a joint process as provided for under Section 102 of the RMA. Pre-lodgement, the two Councils, at the Alliance’s suggestion, engaged technical experts to review technical reports anticipated to be lodged in support of the AEE.
4. NZTA has carried out extensive stakeholder engagement and public consultation during the route selection period and this is detailed in Section 7 of the AEE. Stakeholder engagement and public consultation has been ongoing since March 2015. Until the completion of the consultation round ending January 2017, the options considered were west of the existing corridor and improving the alignment within the existing designation boundaries, as shown in Figure 3 below.

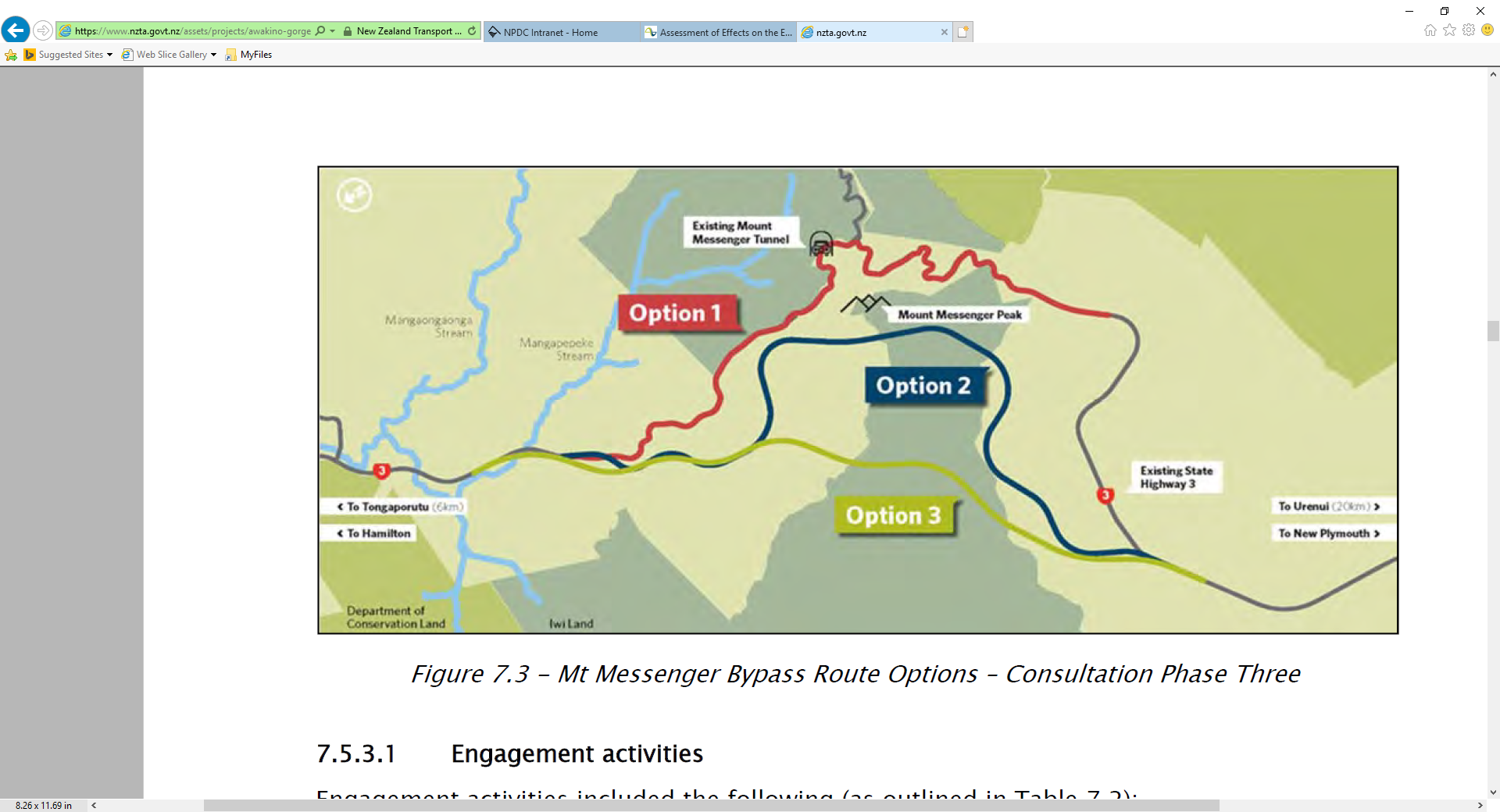


Figure 3: Mt Messenger Bypass options considered in public consultation November 2016 – January 2017.

Source: P130 of the AEE

1. The AEE states that feedback from DoC highlighted the importance of the biodiversity values of the western Parininihi land. Feedback from Ngāti Tama also identified that western options were over land with higher cultural values. Feedback from transport users supported the most western route and highlighted the importance of route resilience and minimising operational costs. The western Parininihi land also has very high landscape values, being subject to the Regionally Significant Landscape overlay in the District Plan. In response to the cultural, ecological and landscape concerns raised, further consultation from June 2017 included an alignment east of the existing corridor, as shown in Figure 4 below.

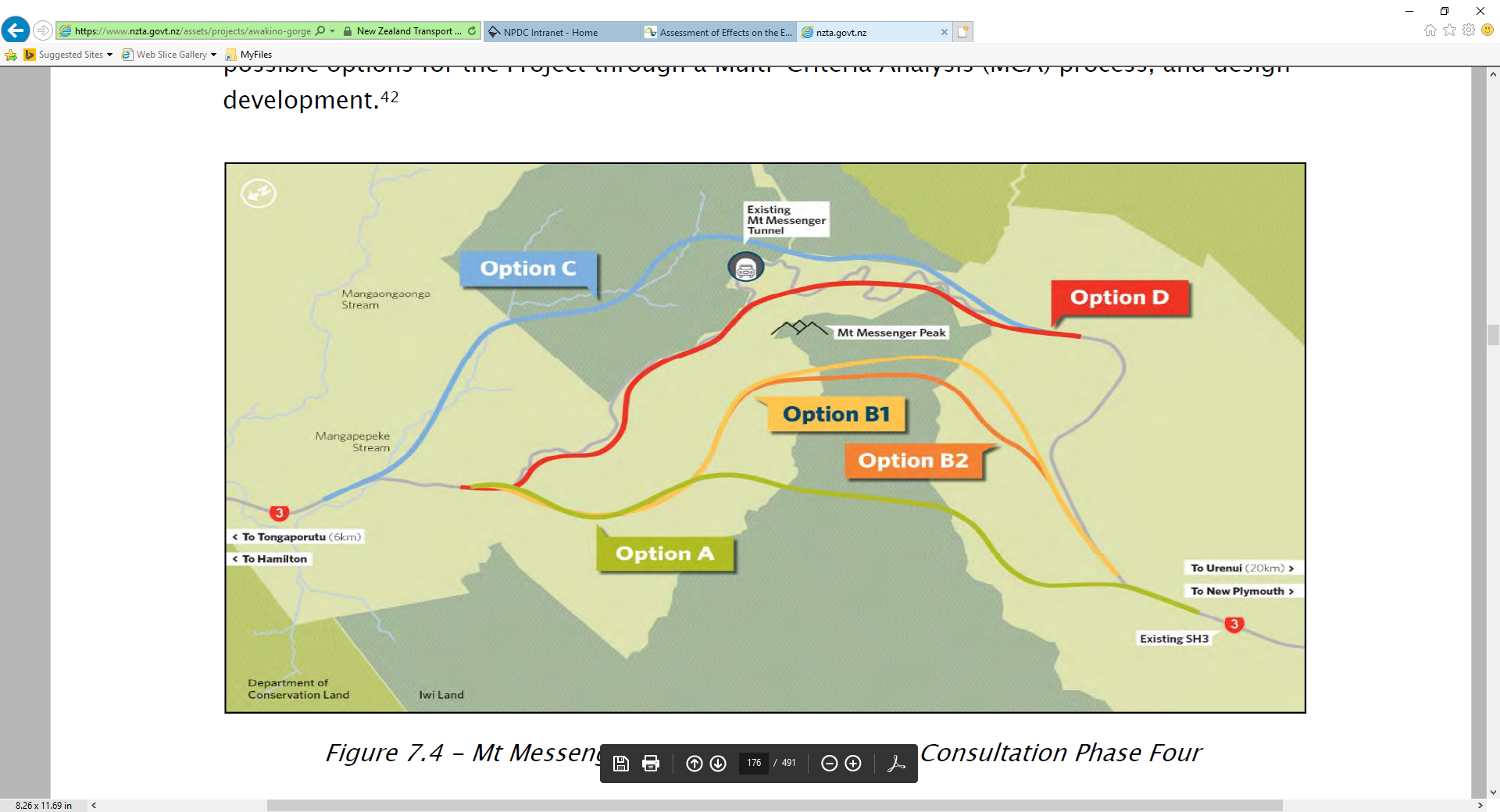


Figure 4: Mt Messenger Bypass options considered in public consultation June 2017.

Source: P133 of the AEE

1. Section 6 of the AEE and Volume 4 (Consideration of Alternatives) documents the options assessment process undertaken by the Alliance, being the Multi-Criteria Analysis (MCA). Volume 4A – Longlist Report pertains to 24 options considered (12 corridors, each with an earthworks option, and a bridges and tunnels option). Volume 4B – Shortlist Report progressed from the earlier Longlist MCA and pertains to five shortlisted options (as shown above in Figure 4). The MCA will be considered later in this report.
2. An announcement was made by the former Minister of Transport Simon Bridges on 31 August 2017 regarding the selection of the preferred option, generally along the alignment shown as Option C above in Figure 4 (but referred to as an ‘E’ option in the MCA and from here on in this report), to be funded through the ARRP and National Land Transport Fund to a cost of $200 million.

# PROPOSAL

1. The NZTA proposes to alter the existing State Highway 3 (SH3) designation (District Plan reference N36), to undertake roading improvements between Uruti and Ahititi in North Taranaki. A NoR and a number of resource consent applications have been lodged with NPDC and TRC in relation to the project. These have been accompanied by a detailed Assessment of Environmental Effects (“AEE”).
2. The Mt Messenger Bypass project seeks to provide an improved alignment by bypassing the existing steep, narrow and winding section of Mt Messenger, which has a poor safety record, poor route resilience, poor road geometry and low driving speeds; and instead provide a safer more resilient new section of highway, approximately 6km in length.
3. The proposed new route would be located east of the existing road and would have two lanes (one in either direction). It would include a tunnel (approximately 240m in length) and a bridge (approximately 120m long). Construction of the project would occur over an area of approximately 36 hectares: 19 hectares comprising road alignment and 17 hectares to enable construction.
4. The proposal involves significant earthworks (approximately 890,000m3 of excavation and 835,000m3 of on-site fill). Surplus material will be deposited at a nearby site at 2397 Mokau Rd, at the southern end of the route and this site is included within the designation footprint. Rock cuttings to a depth of approximately 60m and earth embankments up to 40m in height are proposed. Some of the earthworks are proposed to be carried out in areas where there is a potential for soil contamination due to previous hazardous activities associated with farming and roading activities. Considerable engineering works are required, such as retaining embankments, mechanically stabilised earth embankments, stream diversions and stormwater treatment and facilities, and associated with the bridge and tunnel.
5. The construction and operation of the Mt Messenger Bypass will impact on a large area of habitat for indigenous birds, bats, herpetofauna, and terrestrial invertebrates. The project entails the removal of 19.5 hectares of primary indigenous forest, 13.8 hectares of secondary indigenous forest, and a mixture of indigenous and exotic vegetation in the valley floors. The route seeks to avoid significant trees, however 17 large emergent podocarp trees, identified as significant by project ecologists, would be removed. Construction also involves diverting and altering watercourses and would result in the permanent loss of some 3.47km of stream.
6. The proposal includes draft conditions with an emphasis on management plans to manage activities associated with the construction of the project, and to manage adverse effects on the environment. Page 237 of the AEE explains that the Construction Environmental Management Plan (“CEMP”) is the overarching management plan which sets out the framework to manage the activities associated with construction of the Mt Messenger Bypass. The CEMP sets out the principles and general approach (including methods and tools) to managing the effects on the environment. Sitting beneath the CEMP are the proposed detailed and specialised management plans:

* Ecology and Landscape Management Plan (“ELMP”)
* Construction Water Management Plan (“CWMP”) and Specific Construction Water Management Plans (“SCWMP”)
* Pest Management Plan (“PMP”)
* Dust Management Plan (“DMP”)
* Contaminated Land Management Plan (“CLMP”)
* Accidental Discovery Protocol (“ADP”)
* Construction Traffic Management Plan (“CTMP”)
* Construction Noise Management Plan (“CNMP”)
* Landscape and Environmental Design Framework (“LEDF”)

1. Integral to the proposal is a mitigation and biodiversity offset package which aims to achieve a net gain in biodiversity within 10-15 years of the completion of construction. The package has an emphasis on pest management in a wider area but also includes swamp forest and wetland plantings, seedling plantings on the basis of 200 seedlings per significant tree removed, habitat replacement planting, riparian planting and stream restoration, and roadside rehabilitation plantings.

# ASSESSMENT OF ENVIRONMENTAL EFFECTS

**(INFORMATION PROVIDED BY THE MT MESSENGER ALLIANCE)**

1. The applicant has provided an AEE, including draft designation and resource consent conditions and (Volume 1 of the application/NoR documents). It is accompanied by drawings (Volume 2), two reports on the consideration of alternatives (Volume 4A and 4B - longlist and shortlist reports), and the draft CEMP (Volume 5). In addition, the AEE is supported by the following technical information (all dated December 2017 – Volume 3):

* *Māori Values Assessment in relation to the Parininihi Te Ara o Te Ata Project, dated December 2017, prepared by Te Runanga O Ngāti Tama;*
* *Strategic Transport Assessment (Technical Report 1), prepared by Traffic Design Group;*
* *Traffic and Transport Assessment (Technical Report 2), prepared by Opus International Consultants Ltd;*
* *Resilience Assessment (Technical Report 3), prepared by Tonkin + Taylor Ltd;*
* *Economic Effects Assessment (Technical Report 4), prepared by Brown, Copeland & Company Ltd;*
* *Social Impact Assessment (Technical Report 5), prepared by Opus International Consultants Ltd;*
* *Recreational Effects Assessment (Technical Report 6), prepared by Rob Greenaway & Associates;*
* *Assessment of Ecological Effects – Vegetation (Technical Report 7a), prepared by NSES Ltd;*
* *Assessment of Ecological Effects – Freshwater Ecology (Technical Report 7b), prepared by River Lake Ltd;*
* *Assessment of Ecological Effects –Invertebrates (Technical Report 7c), prepared by Dr Corinne Watts;*
* *Assessment of Ecological Effects – Herpetofauna (Technical Report 7d), prepared by Ecology New Zealand Limited;*
* *Assessment of Ecological Effects – Avifauna (Technical Report 7e), prepared by Tonkin & Taylor Ltd and Enviroservices Ltd;*
* *Assessment of Ecological Effects – Bats (Technical Report 7f), prepared by Ecology New Zealand;*
* *Assessment of Ecological Effects – Marine Ecology (Technical Report 7g), prepared by Opus International Consultants Ltd;*
* *Assessment of Ecological Effects – Ecological Mitigation and Offset (Technical Report 7h), prepared by Opus International Consultants Ltd, including Appendix A Biodiversity Offset Calculation Report, prepared by Nicholas Singers Ecological Solutions Ltd.*
* *Landscape, Natural Character and Visual Assessment (Technical Report 8a), prepared by Isthmus Group, including Appendix A Graphic Supplement;*
* *Mount Messenger Bypass Landscape and Environmental Design Framework (Technical Report 8b);*
* *Historic Heritage Assessment (Technical Report 9), prepared by Clough & Associates;*
* *Environmental Noise and Vibration Assessment (Technical Report 10), prepared by Mashall Day Acoustics Ltd;*
* *Air Quality Assessment (Technical Report 11), prepared by Mt Messenger Alliance;*
* *Ground Contamination – Preliminary Site Investigation (Technical Report 12), prepared by Tonkin + Taylor Ltd;*
* *Construction Water Assessment Report (Technical Report 13), prepared by Ridley Dunphy Environmental Ltd and Mt Messenger Alliance; and*
* *Geotechnical Appraisal Report (Technical Report 14), prepared by Tonkin & Taylor Ltd.*

1. The application/NoR documents above have been accessible to the public via the NPDC website since February 2018. The following reports were provided post-lodgement, and updated to the Council website as they became available, and also became included in the application/NoR documentation:

* *Ecology supplementary report – Vegetation, February 2018, prepared by NSES Ltd;*
* *Ecology supplementary report – Freshwater Ecology, February 2018, prepared by River Lake Ltd;*
* *Ecology supplementary report – Terrestrial Invertebrates, February 2018, prepared by Dr Corinne Watts;*
* *Ecology supplementary report – Herpetofauna, February 2018, prepared by Ecology New Zealand Limited;*
* *Ecology supplementary report – Avifauna, February 2018, prepared by Environmental Services Ltd;*
* *Ecology supplementary report – Bats, February 2018, prepared by Ecology New Zealand Limited;*
* *Ecology supplementary report – Ecological Mitigation and Offset, February 2018, prepared by Mt Messenger Alliance;*
* *Ecology supplementary report - Biodiversity Offset Calculation, February 2018, prepared by Nicholas Singers Ecological Solutions Ltd;*
* *Ecology and Landscape Management Plan, March 2018, prepared by Mt Messenger Alliance;*
* *Letter containing response to request for further information under Section 92, dated 6 April 2018;*
* *Updated Construction Water Management Plan, May 2018;*
* *Draft Fish Rescue and Recovery Protocols (Appendix D of the draft ELMP), May 2018;*
* *Draft Stream Ecological Design Principles (Appendix E of the draft ELMP), May 2018.*

1. The AEE acknowledges the significant cultural and ecological effects associated with the project and considers that the proposal is likely to have adverse effects which are more than minor, and proposes to avoid, remedy, mitigate and offset effects. The AEE considers the project will deliver many benefits.

### Review of expert reports

1. Pre-lodgement, at the Alliance’s suggestion, Council engaged experts who reviewed draft technical reports and provided draft reviews which were shared with the Alliance. Reviews have been carried out by the Council experts listed in paragraph 5 above and copies of written comments are attached to this report as Appendices A to G. The majority of the questions and concerns raised by Council’s engaged experts early on remained unaddressed at lodgement, however I considered that the information as lodged was adequate for acceptance under Section 88 of the RMA. Prior to notification the information concerns were communicated with the Alliance in a consultative manner. Many of the matters were expected to be better understood following field surveys which were taking place at the beginning of 2018. Consideration was given to placing the application on hold under Section 92, however while matters remained unaddressed, there was an understanding between the Alliance and Councils that the Alliance would progress these matters ahead of the hearing and so, along with TRC, we proceeded with notification in January, anticipating more detail to follow prior to decisions being made on the project.

### Request for further information

1. A formal request for information under Section 92 (“RFI”) was made on 22 March 2018, which was largely a consolidation of previous informal communications. The response to the RFI was received on 6 April 2018 which becomes part of the application documentation. The response was made available to general public via the NPDC website and submitters were notified that additional information was available.

# CONSENTS REQUIRED

1. The RA has lodged the NoR (alteration), including a request for a waiver of outline plan of works (on the basis that sufficient information is contained within the NoR). The NoR is subject of this report.
2. The project documentation states that following construction of the new road, the designation footprint will be reduced; however the anticipated removal of land from the designation does not need to be considered as part of the NoR.
3. The RA, under Section 176A(2) requests NPDC waives the Outline Plan requirement. The waiver request is subject of this report.
4. Resource consent has been applied for, to the NPDC, for Land Use Consent to disturb soil under Regulation 11 (Discretionary Activity) of the NESCS. This resource consent is subject of this report.
5. Resource consents have been applied for, for the following activities, to TRC:

- Application 17-10429-1.0(A)

To dam, take and use surface water from the Mangapepeke Stream and Mimi River, and to erect and use temporary weirs on the bed of the Mangapepeke Stream and Mimi River associated with constructing the Mt Messenger Bypass, and to divert, take and use groundwater as a consequence of excavations and tunneling associated with constructing and operating the Mt Messenger Bypass

- Application 17-10429-1.0(B)

To divert, disturb, realign and modify sections of the Mangapepeke Stream, Mimi River and their tributaries associated with constructing and operating the Mt Messenger Bypass

- Application 17-10429-1.0(C)

To install, use and remove temporary culverts in the Mangapepeke Stream, Mimi River and their tributaries for the purpose of constructing the Mt Messenger Bypass

- Application 17-10429-1.0(D)

To install and use culverts in the Mangapepeke Stream, Mimi River and their tributaries and to install a bridge over a tributary of the Mimi River associated with constructing and operating the Mt Messenger Bypass

- Application 17-10429-1.0(E)

To discharge to land, water and to air from soil disturbance and earthworks, to undertake vegetation clearance, and to undertake riverbed planting associated with constructing and operating the Mt Messenger Bypass

The above TRC consents will be heard as part of this joint process and are anticipated to generate 58 consent documents.

1. Land acquisition, access easements and other property rights matters are required as well as approvals under the RMA, in relation to the revised road corridor. These involve ongoing consultation and negotiations with landowners, which may be finalised at a later date, and are not required to be finalised prior to decisions being issued for the designation and resource consents. Table 2.4 of the AEE lists approvals required under other legislation; Public Works Act 1981, Heritage New Zealand Pouhere Taonga Act 2014, Wildlife Act 1953, Freshwater Fisheries Regulations 1983 and Ngāti Tama Claims Settlement Act 2003 (and right of way easements over Ngāti Tama Treaty Settlement land need to be addressed under the Conservation Act 1987, Reserves Act 1977 and New Zealand Walkways Act 2003). These additional approvals are being sought either in parallel to the RMA processes or at a later time.

# STATUTORY ASSESSMENT FRAMEWORK

## Notice of Requirement

1. A NoR for a designation may only be issued by a RA. NZTA is a RA (network utility operator) approved under Section 167 of the RMA. Gazette notices confirming this have been provided.
2. Section 181(1) of the RMA provides for a RA that is responsible for a designation to, at any time, give notice to a territorial authority of its requirement to alter the designation. Given the range and scale of effects on the environment the project may generate, Section 181(2) applies and the alteration will be assessed as if it were a requirement for a new designation. Sections 168-179 of the RMA, with necessary modifications, apply.
3. When considering a requirement for a designation a territorial authority must have regard to the matters set out in Section 171 of the RMA. Section 171(1)(a) states:

*When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to any relevant provisions of—*

*(i) a national policy statement:*

*(ii) a New Zealand coastal policy statement:*

*(iii) a regional policy statement or proposed regional policy statement:*

*(iv) a plan or proposed plan*

1. Under Section 171(1)(a), the following planning documents are applicable:

* National Policy Statement for Freshwater Management 2014
* New Zealand Coastal Policy Statement 2010
* Regional Policy Statement for Taranaki 2010
* Regional Freshwater Plan for Taranaki 2001
* Regional Soil Plan for Taranaki 2001
* Regional Air Quality Plan for Taranaki 2011
* New Plymouth District Plan 2005

1. The Resource Management (Measuring and Reporting Water Takes) Regulations 2010 is not considered here but may be relevant to the TRC consents. The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 is assessed in an integrated manner within this report; it is not relevant to this Section 171(1)(a) assessment but it is relevant under Section 104(1)(b)(i).
2. Section 11 of the AEE contains an assessment of the proposal against these planning instruments, and they are discussed further in paragraphs 332-346 of this report.
3. Part 2 of the RMA is fundamental to the assessment of the NoR. The AEE assesses the project against Part 2 in pages 255-261 after establishing that the NoR is subject to the traditional ‘overall broad judgement’ approach (which I agree with). My analysis is found at paragraphs 356-373 of this report and assess the proposal against the following sections:

*Section 5 – Purpose of the Act*

*Section 6 – Matters of National Importance to be recognised and provided*

*Section 7 – Other Matters the Council shall have particular regard*

*Section 8 – the Council shall take into account the principles of the Treaty of Waitangi*

1. Section 171(1)(b) states:

*When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to* *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—*

*(i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or*

*(ii) it is likely that the work will have a significant adverse effect on the environment*

1. With regards to Section 171(1)(b) of the RMA, the Alliance has reported on the MCA process carried out. This is contained in Volume 4 – Consideration of Alternatives (including Volume 4A – Longlist Report and Volume 4B – Shortlist Report). A summary of this assessment and my conclusions regarding its adequacy, is discussed further in paragraphs 96-101 of this report.
2. Under Section 171(1)(c) the Council must also 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. The project objectives listed in the AEE are:

*1. To enhance safety of travel on State Highway 3;*

*2. To enhance resilience and journey time reliability of the state highway network;*

*3. 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*

*4. 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.*

1. An assessment of whether the works and designation are reasonably necessary for achieving the project objectives is provided within the accompanying Form 18 and pages 265-267 of the AEE. This is discussed in paragraphs 101-110 of this report.
2. With regards to section 171(1)(d) of the RMA (any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement), an assessment of other matters is provided on page 267 of the AEE and includes strategic economic and transportation documents. This is discussed further in paragraphs 349-353 of this report.
3. Under Section 171(1B) of the RMA the Council may consider *“any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority”*. This is discussed in paragraphs 113-117 of this report.
4. Under section 171(2) of the RMA, the territorial authority may recommend to the RA that it:

*a) confirm the requirement;*

*b) modify the requirement;*

*c) impose conditions; or*

*d) withdraw the requirement.*

To assist the Hearing Commissioner to make a recommendation under Section 171(2) the key purpose of this report is to:

a) Assess the application against the requirements of Section 171 of the RMA;

b) Suggest further conditions and amendments to conditions to be imposed on the designation to ensure the adverse effects of the project are appropriately managed; and

c) Identify the issues and concerns raised in submissions on the application.

I make a recommendation on the NoR at paragraph 384 of this report.

1. Section 184 (1) is also relevant if a decision is made to confirm the requirement. This section deals with lapse periods and states:

*184 (1) A designation lapses on the expiry of 5 years after the date on which it is included in the district plan unless—*

*(a) it is given effect to before the end of that period; or*

*(b) the territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period for the purposes of this subsection; or*

*(c) the designation specified a different period when incorporated in the plan*

NZTA has sought a 10 years lapse period for this alteration of designation under Section 184 of the RMA, to allow flexibility to carry out this large and complex project. This is considered at paragraph 355.

## Request for Waiver of Outline Plan requirement

1. N36 is a designation with the status of “Carry forward” and no conditions are attached to the existing designation. However it is considered that the proposed works are in accordance with the purpose of the designation, listed in Appendix 4 of the District Plan as “Roading Purposes.”
2. Section 176A of the RMA specifies that an Outline Plan of Works (OPW), for works to be constructed on designated land, must be submitted to the Territorial Authority by the RA to enable the Territorial Authority to request changes before construction is commenced.
3. The RA has requested an OPW waiver under section 176A(2) relative to works within the altered designation, on the basis that sufficient information is contained within the detail of the NoR. An assessment of whether the NoR documentation includes sufficient detail on matters that an OPW must show in accordance with Section 176A(3) is relevant and this occurs at paragraph 354 of this report.

## Territorial and Regional Authority Functions

1. Section 30 sets out the functions of regional councils, and Section 31 the functions of territorial authorities, under the RMA. Whilst NPDC has responsibilities in respect of natural hazards, management of contaminated soil, indigenous biological diversity, and control of effects of activities in relation to the surface of water in rivers, TRC has more specific functions relating to soil, water quality and quantity in water bodies and coastal water and the ecosystems within them, the coastal marine area, taking/using/damming/diverting water, discharges to land, air and water and also has functions relating to natural hazards. There is some overlap between the functions assigned to territorial and regional authorities and I note both Section 30(1)(a) and Section 31(1)(a) seek to achieve integrated management of natural and physical resources. Both Councils have responsibilities in relation to natural hazards, biodiversity, tangata whenua and control of effects of activities in relation to rivers, however NPDC does not manage instream habitat. The Mt Messenger Bypass project, a large linear project traversing two river catchments, where the effects of the land use have the potential to impact on stream and coastal values, in my view requires an integrated approach between Councils. I consider it appropriate to rely on TRC to regulate effects on streams and watercourses (which if appropriately managed will avoid adverse effects in the coastal environment), stormwater effects, and air quality effects. With respect to the proposed vegetation clearance, based on what the regional plans and District Plan regulate, TRC’s focus would be on land stability whereas NPDC’s focus is on indigenous biodiversity.

## New Plymouth District Plan

1. The NoR, unless withdrawn, will prevail over District Plan rules. Section 171(1) requires particular regard to be had to relevant provisions of the District Plan or proposed plan when considering the effects on the environment of allowing the requirement. I therefore set out relevant District planning provisions for context.
2. The New Plymouth District Plan (District Plan) became operative on 15 August 2005. The subject land is within the Rural Environment Area and is not subject to operative significance overlays; however a significant portion of the proposed bypass route would traverse an area identified by the Council’s District Plan Policy team as “Likely Significant Natural Area (“LSNA”). LSNAs currently have no legal status in the District Plan but are being considered for inclusion in the future.
3. The District Plan is currently being reviewed and it is likely that a Proposed District Plan will be publicly notified end of 2018/beginning of 2019, giving immediate legal effect to any provisions regulating activities affecting Significant Natural Areas (“SNA”). In the case of the Pascoe land at the northern end of the alignment, I am aware that Council’s planning policy team intends to recommend that areas of indigenous vegetation are considered as SNAs in the imminent proposed District Plan, based on the significance criteria in the District Plan and following site visits with expert ecologists. I also note that the title of the land south of the Pascoe land, owned by Ngāti Tama Custodian Trustee Ltd, is subject to conservation covenant which indicate the high ecological values of the land.
4. A large land area on the western side of the state highway (not affected by the project, but earlier considered in the MCA), is subject to the Regionally Significant Landscapes and Significant Natural Area overlays. The Mimi River is a Priority Water Body. The Mangapepeke Stream is not shown on the District Plan maps; however it is a tributary of the Tongaporutu River, which is also a Priority Water Body. The Mimi and Tongaporutu River mouths are Regionally Significant Landscapes, but are located at least 9km downstream. The existing designated roading corridor is classified as a State Highway. No other District Plan overlay considerations apply to the designation footprint or immediately surrounding area.
5. The NOR provides no assessment of the project against specific rules of the District Plan, however I note the project may not meet all District Plan provisions for a permitted activity in respect of noise, lighting, traffic generation (for construction traffic accessing sites from the state highway), earthworks, hazardous substances and the erection of structures. These matters would be dealt with within the designation.
6. The District Plan notes that a district plan must give effect to and must not be inconsistent with any regional policy statement. The District Plan objectives and policies were formulated having regard to the RPS. The relevant District Plan Policies and Objectives are listed in Appendix H of this report. Of particular relevance to this project, I note Objective 16 of the District Plan seeks to sustainably manage, and enhance where practical, indigenous vegetation and habitats. Policy 16.1 states that development should not result in adverse effects on the sustainable management of, and should enhance where practical, SNAs. SNAs are identified using the criteria stated in Appendix 21 of the District Plan, and any currently unprotected (legally) SNAs are shown on the planning maps. Where vegetation is legally protected, or has not been included in Appendix 21, it is not considered SNA for the purposes of being assessed under Rule OL60 of the District Plan (which regulates indigenous vegetation disturbance within SNAs). However, regardless of whether indigenous vegetation is listed in the District Plan as SNA or not, Council has responsibilities under Part 2 and Section 31 of the RMA to maintain and enhance indigenous vegetation and habitats. Objective 16 is relevant to the assessment of this proposal, and reflects Part 2.

## National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011

1. The Council’s functions under the RMA include a requirement for “the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land” (section 31(1)(b)(iia)). The Council carries out this function through the implementation of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (“NESCS”). The policy objective of the NESCS is to ensure that land affected by contaminants in soil is appropriately identified and assessed when soil disturbance and/or land development activities take place and, if necessary, remediated or the contaminants contained to make the land safe for human use.
2. The NESCS achieves its objective by either allowing certain activities on land affected or potentially affected by soil contaminants if permitted standards are met, or controlling such activities through resource consents. Under regulation 5(7), the NES applies to land if an activity or industry on the Hazardous Activities or Industries List ("HAIL") has been, is, or is more likely than not to have been, undertaken on that land.
3. The project documentation includes a Preliminary Site Investigation (PSI) which had the aim of confirming current and historic activities that have occurred along the proposed alignment, and of assessing the potential for these activities to have resulted in ground contamination.
4. The subject site is considered to be a HAIL site under the NESCS due to the historical activities associated with fly tipping (illegal dumping of waste), farm dumps, storage of fuels, chemicals and wastes associated with farming, and possible structures with asbestos-containing materials. There have also been spills along the existing SH3 where motor vehicle accidents have occurred. The NESCS therefore applies within the project footprint.
5. The PSI concludes that a Detailed Site Investigation (DSI) would need to be carried out to characterise the impact (if any) of the identified potentially contaminating activities that have occurred within isolated locations along the proposed alignment. Under Regulation 8(3) disturbing the soil of the piece of land is a permitted activity where specified requirements are met. The soil disturbance associated with the proposal is likely to exceed the permitted quantity stated in Regulation 8(3) and therefore a resource consent will be required under the NESCS. As a DSI has not been yet been undertaken, the earthworks associated with the proposed alignment will require resource consent as a ***Discretionary Activity under Regulation 11 of the NESCS***.
6. Changing the use of land is a permitted activity under Regulation 8(4) of the NES where a PSI exists that states that it is highly unlikely that there will be a risk to human health if the activity is carried out on the piece of land. Despite the potential for encountering contaminated soil, the PSI concludes that through the implementation of a Site Management Plan for Ground Contamination, there will be appropriate controls in place during the soil disturbance works including stabilisation of the disturbance areas at the completion of works. In addition, the applicant will provide the required reporting to Council. The applicant considers the proposed change in use can be undertaken as a ***Permitted Activity under Regulation 8(4)*** of the NES Soil.
7. Section 43D of the RMA prescribes the relationship between an NES and designations. An existing designation takes precedence unless it lapses or is altered to an extent that the conditions of the NES are relevant. It is considered that any consent requirements would sit outside the designation and a separate consent would be required under the NESCS.
8. Soil disturbance under the NESCS as a Discretionary Activity requires assessment under Sections 104 and 104B of the RMA, where Section 104 is subject to Part 2 of the RMA. Pages 255 – 256 of the AEE states the approach taken by the RA to Part 2 provisions in light of the Davidson case (*RJ Davidson Family Trust v Marlborough District Council* [2017] NZHC 52). This case law states that there is no need (or ability) to refer back to Part 2 when determining a resource consent application under section 104. Presumably the NESCS will have been developed having regard to Part 2. Irrespective of this, the NESCS addresses a relatively discrete issue in terms of triggers for consent, such that in practical terms there may be limited need to consider broader Part 2 matters.
9. I accept the RA’s assessment of current case law as to the relevance of Part 2 to the NESCS consent that *“The applications for resource consent are not to be subject to the ‘overall broad judgement’ approach. Instead, Part 2 of the RMA is to be applied only where there is "invalidity, incomplete coverage or uncertainty of meaning" in the relevant planning instruments, as that phrase has been applied through Environment Court case law following Davidson.”* I am not aware of invalidity, incomplete coverage or uncertainty of meaning within the NESCS, given its relatively narrow scope which I have referred to above.
10. The AEE then states that the RAs statutory analysis proceeds on the basis of no traditional Part 2 analysis being relevant in respect of the resource consent applications after the *Davidson* analysis. It further notes that it is possible the current position will alter, or be further clarified, through a Court of Appeal decision on *Davidson* before the applications and NoR are determined. For completeness I consider the NESCS aspect of the project against Part 2, within the same analysis of Part 2 for the NoR.
11. NZTA has sought a 10 years lapse period for this resource consent under Section 125 of the RMA, to allow flexibility.

## Statutory Acknowledgement Areas

1. A statutory acknowledgement is an acknowledgement by the Crown that recognises the mana of a tangata whenua group in relation to specified areas - particularly the cultural, spiritual, historical and traditional associations with an area. These acknowledgements relate to 'statutory areas' which include areas of land, geographic features, lakes, rivers, wetlands and coastal marine areas, and only relate to Crown-owned land.
2. Three iwi authorities are considered to have an interest in the Mt Messenger area, based on the areas of interest identified through the Treaty Settlement process:

- Ngāti Tama Claims Settlement Act 2003: Schedule 2 – Mount Messenger Conservation Area as shown on SO 14706

- Ngāti Mutunga Claims Settlement Act 2006: Schedule 3 – Mount Messenger Conservation Area as shown on SO 324311 and Mimi River within the area of interest as shown on SO 336081

- Ngāti Maniapoto – Office of Treaty Settlements has written to NPDC in relation to an Agreement in Principle for an area of interest including Mt Messenger at its southern end.

1. Based on the above, there is some overlap in Maori interests within the project locality. The project footprint itself directly impacts land returned to Ngāti Tama by the Crown.

# NOTIFICATION AND SUBMISSIONS

1. A notification decision was made by myself on 26 January 2018 in respect of the NoR and NESCS resource consent**.** In the notification decision I found that the effects of the proposal were potentially more than minor. Furthermore, the RA requested that the NoR and resource consent be publicly notified. The NoR and application, along with the TRC consents, were publicly notified in the Taranaki Daily News and Waikato Times on Saturday 27 January 2018, with the newspaper notice directing the public to the full public notice on the NPDC website. Submissions closed at midnight on Tuesday 27 February 2018. I also served notice of the resource consent application and NoR, having regard to section 2AA of the RMA, to those persons prescribed under section 10 of Resource Management (Forms, Fees, and Procedure) Regulations 2003 and section 95B of the RMA, with specific parties considered affected under Section 95E also being directly notified.
2. At the close of submissions, 1177 submissions had been received by the Council; 20 in opposition, three neutral, and 1154 in support. 1126 of the 1154 submissions in support, as well as 18 late submissions (also all in support), are on forms containing the same text, which states:

*“We support the Mt Messenger bypass project and the option proposed.*

*State Highway 3 is a vital link to the north for us and our family, for the wider community and for the people and businesses of Taranaki.*

*We consider that the project will significantly improve the safety conditions of State highway 3 over Mt Messenger and will make the highway a more reliable route.*

*The project designs appear to address the requirements for a modern highway and are also sensitive to the environment.*

*We urge the Council to grant the RMA applications so that construction can start on this regionally important transport infrastructure project.”*

1. The 20 submissions in opposition, and 3 neutral submissions, and those in support who raised matters in a different manner to that stated above, are summarised below. A full list of submitters is available on request.

|  |  |  |  |
| --- | --- | --- | --- |
| **Submitter No.** | **Name & Address** | **Matters raised in submission** | **Status of submission** |
| **962** | Te Runanga o Ngāti Tama | Seeking to avoid, remedy or mitigate the cultural effects on Ngāti Tama in a manner that meets the requirements of the RMA and achieves a standard that accords with the Treaty of Waitangi.  Working with NZTA on cultural recognition within the project design, cultural indicators, participation in ecological restoration aspects and other matters.  Still in discussions with NZTA about how the cultural effects of the project on Ngāti Tama are to be addressed. If the cultural effects are not appropriately addressed, the alternative (online) alignment is more appropriate. Noted that there is no commonly accepted methodology for addressing cultural effects, particularly in a manner that takes into account or accords with the Treaty of Waitangi. This presents a difficulty when considering measures to address the cultural effects. Considers that substantive measures are needed to avoid, remedy or mitigate the adverse effects on Ngāti Tama. | Neutral  Wish to be heard |
| **943** | Carla White, Tiaki Te Mauri o Parininihi Charitable Trust | The Trust works closely with Ngāti Tama and wishes to ensure the effects of the project on Parininihi and the taonga bird and other native flora and fauna are fully avoided, remedied or mitigated.  In the event that Tiaki Te Mauri o Parininihi Trust’s interests are not considered through the engagement between NZTA and Ngāti Tama, this submission intends to provide a basis to consider its interests more directly. | Neutral  Wish to be heard |
| **796** | Powerco  Withdrawn | Seeks to ensure their existing assets that traverse the site are accessible and/or safely relocated throughout the construction period.  Suggests a Network Utility Management Plan condition be included as part of any recommendation to approve the NoR. | Neutral  ~~Wish to be heard~~  Withdrawn |
| **245** | John Charles Washer | Concerns over the option selected, that the route includes a tunnel, increase in the cost of the project and the mental pressure this may cause on the affected landowners. | Oppose  Does not wish to be heard |
| **764** | Evan John Lobb | The existing highway should be upgraded, including more passing lanes on SH3.  Concerns over the destruction of 40ha of native bush and the wildlife that are sustained by the bush and streams. Concerns about adverse effects on existing food and recreation opportunities in the Tongaporutu catchment from silt.  Concerns over the impact on the Pascoe family who have farmed the land where the proposed bypass is to be constructed.  Highlights the possibility of continual roading costs as the terrain is steep and will likely erode over the months and years ahead. | Oppose  Wish to be heard |
| **799** | Ross Graeme Soffe | Acknowledges roading problems associated with Mt Messenger but has concerns over the route selection process including predicted costs, political decisions, and questions whether the selected route, with the associated environmental effects, is justified.  Concerns over the impact on the Pascoe family who have farmed the land for decades. Considers the location of the proposed bypass has high natural values.  Raises that the timing of kōkako release may have had an impact on the route selection.  Concerned that the chosen option is more environmentally damaging and more expensive than the public’s preferred option. | Oppose  Wish to be heard |
| **802** | Saralie Mills Cryer | Objects to the unnecessary tunnel being built causing excessive damage to native bush.  Considers the alternatives to be satisfactory.  Concern that the runoff from the proposed road will cause extra flooding to their house and other properties in Ahititi | Oppose  Wish to be heard |
| **839** | Emily Tuhi-Ao Bailey | Concern about cultural effects; that Poutama and Ngati Mutunga haven’t been fully consulted nor have they consented, and there is no detail about how effects on Ngāti Tama are to be mitigated.  Concerned that NZTA will not do what they promise.  Concerned about adverse ecological and environmental effects and does not believe that the planting and pest control proposed will mitigate the destruction the indigenous complex vegetation community – and the fauna that reside within, including the destruction of underground tunnels utilised by eels, which have been virtually destroyed in Taranaki.  Roads bring pollution, litter, noise and pest plants and animals.  Not convinced about the claimed positive effects.  Considers improvements should be limited to the existing corridor.  Submits that the world is changing with respect of fossil fuels and the project is a waste of money.  Increasing speeds on the road is not supported as it will increase accidents and lessen respect for what’s ‘out the window’.  Does not support destroying this beautiful part of Taranaki – one of the last remaining real wilderness areas in the region. | Oppose  Wish to be heard |
| **849** | Tom Kay, Forest and Bird Protection Society NZ | Proposal does not address the relevant legislative responsibilities of the NPDC and TRC.  Concern that the proposal and draft conditions haven’t adequately assessed the project’s impact on freshwater biodiversity and does not reflect the level of action recommended by ecologists.  Concerns on the significant adverse effects on biodiversity and associated values, including (but not limited to) substantial effects on terrestrial vegetation, indigenous bat habitat and freshwater ecology. | Oppose  Wish to be heard |
| **862** | David Speirs, Department of Conservation | Site is located in an area of high ecological value. Supportive of the eastern corridor over other options considered and appreciates consultation and ongoing ecological work is taking place, but currently the proposal would have significant adverse effects on the ecological and landscape environment and wildlife (including vegetation, marine and freshwater values, invertebrates, herpetofauna, bats and avifauna).  Not satisfied that the proposed conditions will result in a no net loss in biodiversity. Suggests amendments/additions to the consent conditions contained in the applicants AEE.  Seeks a comprehensive management approach commensurate to the level of the adverse effects, prioritising measures to avoid, remedy and mitigate effects, with residual effects being offset or where offset is not attainable, through environmental compensation. | Oppose  Wish to be heard |
| **870** | Stephen Jason Nigel Pok | Raises no specific matters | Oppose  Wish to be heard |
| **871** | Rob Enright, on behalf of Te Korowai Tiaki o te Hauauru Inc | Opposes the entire proposal. Members of Te Korowai (whose members whakapapa to Ngāti Tama) are directly affected by the significant adverse cultural, landscape and biodiversity effects arising from the proposal.  Does not give effect to Part 2 of the RMA: does not recognise ancestral and contemporary relationships with lands, waters and taonga, maunga, ngahere, awa and waahi tapu and historic heritage.  Does not protect outstanding landscapes, including cultural landscapes and features from inappropriate development and does not protect biodiversity including taonga species of native flora and fauna.  Does not recognise kaitiakitanga or the intrinsic value of ecosystems.  Breaches Treaty principles and Treaty settlement legislation and deed of settlement for return of Ngāti Tama land as cultural redress, including the Whitecliffs and Mt Messenger land areas.  Is inconsistent with relevant planning instruments.  Provides inadequate consideration of alternatives.  Engagement with Te Runanga o Ngāti Tama has been on a without prejudice and non-committal basis – lack of clarity as to the nature of cultural mitigation or offsetting.  Concerns over whether mitigation or offsetting is adequate to address the matters raised which are of significant public importance.  Concern that NZTA engagement with adversely affected hapu of Ngāti Tama, including Te Korowai has been flawed, inadequate, has not adhered to best practise, and has breached Treaty principles of engagement.  Serious adverse cultural impacts identified in the Maori Values Assessment prepared by Ngāti Tama have not been addressed.  Concerns about the options assessment.  Concerned that the assurances from NZTA that it will not use compulsory acquisition provisions under the Public Works Act to acquire Ngāti Tama land have been inaccurate/misleading because the designation is for a “public work” | Oppose  Wish to be heard |
| **872** | Russell Gibbs, Poutama Kaitiaki Charitable Trust | Submission demonstrates Poutama as having mana whenua in the area.  Significant environmental cultural and environmental effects. The mitigation and biodiversity offset package does not provide for outcomes to Poutama.  Outlines consultation and states Poutama are now in a position to complete a cultural assessment. | Oppose  Wish to be heard |
| **932** | Tony James Sofus Pascoe | As landowner, he has tried to preserve the environmental and ecological life in the Mangapepeke Valley. The valley has been in the family since the 1950s and is enjoyed by many.  Concerns over the destruction of native bush to build the bypass and the effects this will have on the native life of the valley, including the river.  Concerns over the effects on bird life, native bats, lizards and fish.  Concerns over the effects of dust in dry weather and mud in wet periods and how the increase in noise will affect the ecosystem.  Concerned about traffic safety from travelling near the valley floor; lack of sun, black ice, heavy rain and potential heavy fog will increase treacherous road conditions.  Potential risk of flooding.  Considers the consultation with NZTA and Property Group has been poor. | Oppose  Wish to be heard |
| **936** | Debbie Ann Pascoe | Has lived on the property for 29 years and the property is a special place enjoyed by children and grandchildren.  Concerned about adverse effects on the ecological environment and the wildlife.  Considers other options considered would affect less native bush.  Concerns around flooding as the area is prone to this – why would a new road be placed in a valley that floods often?  Concerns about big cuttings resulting in slips. | Oppose  Wish to be heard |
| **938** | Helen June Piper | Fog will be a huge issue especially in the tunnel and large vehicles won’t be able to travel in it.  Where will the fill go?  Concerned about where the fill will come from and where the soil from the swap will be disposed of.  Concerned about effects on rare native bats.  Does not think the right option was selected. Should seek a route preventing damage to farmland and wildlife.  A passing lane will be required.  Concerns over the valley being a huge catchment for water and flooding which will be a huge issue.  Considers a road without a tunnel is necessary | Oppose  Wish to be heard |
| **942** | Dawn Jennifer Bendall | Concerns over the destruction of native bush and wildlife.  Valley has a high water table (25m swamp) and massive fog issues and will need tonnes of fill.  Old tunnel has restricted Taranaki from moving houses and has affected other industries so a tunnel is detrimental.  Significant effect on farmers who rely on the vast farmlands for cattle farming to make an income – concerns there is insufficient compensation and railroading the farmers with limited support and communication is intolerable. | Oppose  Wish to be heard |
| **944** | Sydney Arthur Baker | Concerns about the destruction of the native bush and rare wildlife.  Concerns around the high water table and fog issues in the valley, flooding and slips.  Concerns the tunnel will continue to restrict large cargo transportation and going over the top would provide a better scenic view. Suggests passing lanes. | Oppose  Wish to be heard |
| **945** | Brenda Kathryn Lacy | Concerns around lack of research into the conditions of the valley where the road is being built.  Area is prone to black ice and fog and there is never sunlight.  Concerns around the effects on the native bush and rare wildlife including avifauna, native bats, lizards and fish.  Concerns about ground settlement/earth stability. | Oppose  Wish to be heard |
| **946** | Ian Bryan Arms | Concerns around the adverse ecological effects to the native bush, rare native wildlife, the wetland and from diverting streams. Are there measures taken to relocate the wildlife?  Concerns about native bats and the dachtylanthus, an endemic parasitic plant that is thought to be pollinated by native bats.  With the severe weather events becoming worse in recent years, what will the flow on effects be to the surrounding environment and ecology?  Concern that removing trees and bringing in fill will increase peak flood flow and erosion.  Concerned about the effect this will have on the road, and to the farms and houses down river and whether run-off will destroy aquatic life downstream.  Concerns around the high water table and fog issues in the valley.  Concerns about the effects of black ice and fog which is common in the area.  Concerns that the road may not hold up over future years with slips and erosion from severe weather events.  Questions why a road would be built over a wetland when there are other options. | Oppose  Wish to be heard |
| **950** | Gordon and Joy Keighley | Alternative route options will destroy less vegetation and would not be a gully road as the proposal suggests.  Concerns about the water run off as the valley floor will be built up. As the culvert is not being upgraded, there is potential for flooding onto the Keighley farm (which is directly downstream) and Ahititi village.  Concerns about the sediment contamination into the stream.  Concerns around traffic movements while the bypass is being constructed. | Oppose  Wish to be heard |
| **304** | Urs Signer | Considers that the destruction of indigenous forest is not in line with progressive thinking. Considers that building more roads and burning more fossils has created the climate chaos which is starting to emerge.  Questions the necessity of the proposal and whether it is simply to appease the trucking industry.  Considers that the current road is satisfactory and that the few minutes to be gained on the journey in no way justifies the level of spending or the destruction of indigenous forest required.  Concerned about: the adverse effects on biodiversity; the destruction of a carbon sink; the destruction of bird habitat; and the well-being of the Mangapeke Stream and Mimi River | Oppose  Wish to be heard |
| **858** | Ronald James Newman | Has been involved with the landowners (Pascoes) for over 40 years. Has worked for them and in the area shearing, fencing and conducting pest control work (possum, deer, goat hunting).  Pascoe farm has a unique ecosystem as the farm has avoided the use of fertiliser, drainage and tree felling and instead has been farmed in an organic manner to protect the surrounding natural environment.  Concerned about the adverse ecological effect of destroying 40ha+ of virgin forest particularly on fish and birds – highlights that this cannot be reversed.  Considers that the building of the road in this location will never work as a large amount of water flows into this catchment whenever it rains.  Considers that the fill required to construct the road will never settle and that road slumping will be a constant problem.  Concerned about the forced eviction of the Pascoe family where Tony has lived his entire life.  Improving the current road would be a much better option than the one proposed. There may be some delays but it would be a small price to pay for saving a unique ecosystem and the home of a family who have lived in and looked after the area for generations. | Opposes  Does not wish to be heard |
| **63** | Tom Cloke, Road Transport Association | The association represents general good transport operators and supports the project.  Have for a long time advocated for the upgrade of SH3 north of New Plymouth in order to better serve the demands of a modern society.  Considers the current road no longer fit for purpose and that the new road will reduce costs.  Benefits will include: less fuel burn; reduced travel times; easier gradients; enhanced connections into and out of New Plymouth; and straighter alignments.  Considers that the mitigation measures suggested by the project team will eliminate or minimise any potential negative effects. | Support  Wish to be heard |
| **348** | Mike Nield, State Highway 3 Working Party | Long advocates for improvements to this vital inter-regional corridor.  Considers the current road no longer fit for purpose.  The project will remedy the existing operational problems on Mt Messenger resulting in a safer road, with improved resilience, which will reduce travel time and costs.  Considers that these positive effects will contribute to positive local and regional growth and productivity.  Acknowledges the adverse effects of the proposal. But considers that the adverse effects can be adequately avoided, remedied or mitigated to no more than minor levels through the conditions recommended on the NoR by Council. | Support  Wish to be heard |
| **611** | Roger Francis H Maxwell | Considers that the project can be completed with minimal adverse effects on the environment.  Considers the route will bring long-term benefits for Taranaki and New Zealand; and that the applicants have made adequate provisions in their application to avoid or mitigate any adverse effects on the area from the project. | Support  Wish to be heard |
| **787** | Freight Bulk Transport Hldgs Ltd | Current route identified as a health and safety hazard for the company.  New route will be more efficient and save costs.  Considers that the new tunnel will be of a sufficient size to transport houses  Project will open up connectivity and improve freight connections.  Congratulates the design team for the bridge over the wetland – because their company support anything that supports and protects the natural environment. | Support  Wish to be heard |
| **797** | Emma Coote, Tegel Foods Ltd | Tegel is the second largest employer in the region.  Current road causes issues and disruptions – causing significant financial implications and compromising the sustainability of operations in Taranaki. .  Concerns over the safety of the existing road due to steep grades, narrow widths and restricted visibility.  Supports the upgrade as it will create a more reliable and safe road network.  Considers the upgraded route is essential for the economic sustainability of the region, but are also mindful of ecological and landscape significance of the potentially affected area. They are therefore supportive of all steps taken to safe guard the natural area and preserve it for future generations. | Support  Wish to be heard |
| **210** | Gaynor Joan Andrews | Fully supports the application.  Mt Messenger is a vital link north and traffic is held up on the current road daily. | Support  Does not wish to be heard |
| **222** | Nelson John Rolfe Andrews | Fully supports the application.  Family has been travelling the road for over a century and a decent northern route is well overdue. | Support  Does not wish to be heard |
| **280** | Scott Jamie Prestidge | Fully supports the application.  Considers that the adverse environmental impact will be minimal in comparison to the safety benefits and productivity increases the new road will bring to the region.  Considers this road corridor as vital and that the road in its current condition results in many goods being damaged in transport | Support  Does not wish to be heard |
| **378** | Kevin Thomas | Strongly supports the northern route by passing Mt Messenger.  Company staff travel the road weekly, and he and his family often travel the road too.  The route will increase the safety of the road and open up the northern corridor for the entire Taranaki region. | Support  Does not wish to be heard |
| **382** | Steven Barham | Regular road user – supports the project.  Route will improve the safety and reliability of the road and will also make for an easier, less stressful drive.  Hopes Council fully supports the option, and grants the RMA applications, so that work can begin as soon as possible. | Support  Does not wish to be heard |
| **508** | New Zealand Automobile Association | Endorses the project option proposed.  The project will significantly improve the safety, resilience and journey experience for motorists travelling on SH3 over Mt Messenger.  Considers that the project will help make the highway a more reliable route and enable it to better handle the elevated heavy traffic that occurs when SH1 is closed.  Considers that the highway has been designed to meet modern highway requirements and is appropriately focussed on resolving cultural and environmental concerns.  Considers the proposal to be an urgently needed, regionally and nationally important transport infrastructure project. | Support  Does not wish to be heard |
| **446** | Ann Elizabeth Howell | Supports the project and the option proposed. | Support  Does not wish to be heard |
| **349** | Gregory Dean Thomas | Supports the entire proposal.  Proposed road will have significant economic benefits for the region and the country. | Support  Does not wish to be heard |
| **347** | Ian Wilson, J Swap Contractors Ltd | Supports the building of the bypass.  Essential for the movement of freight and public transport.  Freight demand predicted to increase substantially over the next few years. Tourism is also becoming a valuable asset to the country. Thus, we require a reliable infrastructure route to ensure tourists and freight can arrive in the region.  The resilience of the chosen route is paramount and the current road would not deliver this in the future. | Support  Does not wish to be heard |
| **419** | Alex Mackenzie | Supports the project and the option proposed. | Support  Does not wish to be heard |
| **428** | Darrell Pearce | Great idea – nice and flat, no windy road. The highway will protect the wet land and consent should be approved | Support  Does not wish to be heard |
| **433** | Adam Jasinski | New road will make travel safer and smoother.  Big trucks will avoid tight corners and improve the confidence of other road users in turn. | Support  Does not wish to be heard |
| **426** | Christine Cambie | Suggests a walk or cycle track alongside the new road | Support  Does not wish to be heard |
| **425** | Teresa Bowe | Supports bypass around Mt Messenger | Support  Does not wish to be heard |
| **423** | John Allan Hill | Would be interested in what option NPDC would support in providing access to the Washer-Beard properties | Support  Does not wish to be heard |
| **536** | Gary Cleland | No matters raised | Support  Does not wish to be heard |
| **703** | Belinda Gay Whittaker | Supports the Mt Messenger bypass.  Considers that we need a more reliable, soft route. | Support  Does not wish to be heard |
| **709** | Eilish Hagenson | Supports the bypass project and the option proposed | Support  Does not wish to be heard |
| **711** | Roy Thomas | In principle, supports the proposed scheme as is and supports consent being granted.  Road improvements are needed and will bring significant benefit to the region through a more reliable and consistent northern route.  Satisfied that the proposal addresses the necessary environmental concerns.  Mt Messenger area is a strikingly beautiful area of native bush. Due care needs to be taken to ensure that construction does not negatively impact the native bush, beyond what is reasonable.  Reducing traffic on the current road will be a good thing and help counter the effects of the new road. | Support  Does not wish to be heard |
| **798** | Karin Jury | In favour of the bypass going ahead.  Will greatly improve access in and out of Taranaki – current Mt Messenger road has been a hindrance for many years. | Support  Does not wish to be heard |
| **801** | JD Hickman Ltd | Submitting on behalf of JD Hickman Ltd and also JD Hickman Storage and Distribution Ltd.  Logistics provider with over 100 staff.  Company has upward of 15 trips per day over Mt Messenger.  Existing road no longer suitable. The narrow, steep, winding roads were designed for much smaller vehicles than todays’ configurations.  New road will reduce fuel burn, reduce tyre wear, reduce noise, and reduce the risk of accidents occurring and the associated environmental contamination – all of which are issues caused by the current road.  New road will bring economic benefits due to improved travel times, larger cargos and productivity improvements.  Considers the proposal to be forward thinking as it addresses the issues raised above, and takes into consideration how to protect the environment.  The project will bring safety, environmental and economic benefits which are long overdue for the Taranaki region | Support  Wishes to be heard |
| **861** | Jonathan Bhana-Thomson | Submission on behalf of NZ Heavy Haulage Association.  Mt Messenger tunnel has long been a physical barrier on the transport of large loads.  Have assessed the project from their perspective and consider that the various effects of the construction have been analysed and mitigated.  The benefits will be significant for the economy and the Taranaki region, and will help to improve the resilience of the road.  Supports the scheme proposed which requires the Notice of Requirement to be approved. | Support  Does not wish to be heard |
| **884** | Alan James Knewstubb | Frequent road user – for over 40 years. Owns land north and south of Mt Messenger. States that the road has remained relatively unchanged – apart from minor adjustments in the 70’s and 90’s.  The road is a vital link between Taranaki and the rest of the country – which is no longer fit for purpose.  Traffic volumes have increased as has the size and number of trucks passing over. Modern trucks struggle to keep on the correct side of the road.  The shorter distance and flatter contour will save carbon emissions; reduce vehicle wear and tear; and reduce fuel spills.  Environmental changes will be mitigated with planting, wetland restoration and pest control. A bridge is being built to limit wetland damage. | Support  Does not wish to be heard |
| **901** | Brian Philip Phelan | SH3 vital link to the north for people and businesses of Taranaki.  The project will improve safety and create a reliable route.  Important for a good access when SH1 needs an alternative route.  Congratulates the planners of this project, what a change to the environment! States that in the 1920’s it took relatives 3 weeks to travel from Mahoenui to New Plymouth. | Support  Does not wish to be heard |
| **961** | Sandford Livestock Ltd | Current road is steep, with many sharp corners. If there are problems with livestock, they typically occur here as the livestock struggle to maintain their footing.  New route will be smoother for the stock and will help to reduce any possible animal welfare issues. | Support  Wishes to be heard |
| **958** | Lee Cooper, Sandford Bros Ltd | Taranaki company which has been in business for over 90 years, travelling over Mt Messenger on a daily basis, moving stock food, fertiliser and metal in and out of the region.  Current road is far from user friendly and is a major health and safety concern.  Welcomes the new route as the new layout will be more efficient and will reduce the gradient of the road – resulting in huge cost savings.  The proposed route will improve freight connections and will provide continuity into and out of Taranaki. | Support  Wishes to be heard |
| **957** | Pacific Fuel Haul Ltd | Highway between Te Kuiti and New Plymouth is vital.  New route would be better for the environment, and better for health and safety and financial stability for everybody coming in and out of Taranaki. | Support  Does not wish to be heard |
| **1040** | Graham Symons | SH3 is a vital link north for the company and customers. | Support  Wishes to be heard |
| **547** | TIL Logistic Ltd | New route offers the opportunity to create a safe and secure route north of Taranaki.  It will provide improved access for visitors and locals and will bring economic benefits not just to Taranaki, but wider New Zealand. | Support  Wishes to be heard |
| **46** | Ross Calgher | Road should go ahead, it’s a better and safer road. All North Taranaki roads should be upgraded. | Support  Does not wish to be heard |
| **357** | Ieuan John Honnor | Do it once, do it well. Make sure it is reliable. Do it now. | Support  Does not wish to be heard |
| **432** | Leslie (Les) Gordon and Susan (Sue) Mary Sharp | Project should proceed at the earliest possible opportunity. NZTA have considered the available options and have produced a good solution. NZTA have also planned to construct the new road with minimal environmental impact, consistent with getting the job done. | Support  Wish to be heard |

## Late submissions

1. Following the close of the submission period, 18 late submissions were received. The Commissioner may decide, under delegated authority, whether the late submissions are accepted and considered alongside those received within the legal timeframe. A decision is required under Section 37 of the RMA as to whether to extend the 20 working day submission time period. Those who lodged late submissions were written to and advised that I do not have the authority to accept late submissions as this is a decision made by the Commissioner; they were invited to provide a written reason for the late submission to assist the Commissioner in deciding whether or not the late submission would be accepted. None of the late submitters responded to this so no explanations are available.
2. In my view, it is reasonably inconsequential whether the late submissions are accepted because they raise no matters additional to those raised by other submitters. 1126 submissions were received during the submission period with the same written comments as the 18 late submissions. I am aware of no special circumstances existing to warrant an extension of time for receipt of late submissions and do not consider an extension should be applied in this instance.

### Developments since notification

1. Since the close of submissions, Peter Roan of the Alliance has continued to meet with myself and Mr McLellan from TRC to keep us informed on developments with submitters and other matters. Supplementary ecological reports have been provided as stated in paragraph 40. These reports were made available to general public via the NPDC website and submitters were notified that additional information was available. A number of technical meetings (in person and on teleconference calls) have taken place between Council engaged ecological experts (Wildland Consultants) and Alliance ecologists over whether an approach can be agreed upon with respect to the ecological and biodiversity mitigation and offsetting proposal. I am aware the RA has liaised separately with DoC, Mr and Mrs Pascoe, Ngāti Tama and Nga Hapu o Poutama and continue landowner negotiations.
2. Given the time constraints and reporting requirements, the very technical nature of the issues of concern with respect to science and engineering, and that NZTA continued dialogue with tangata whenua groups (Ngāti Tama and Poutama) and DoC to attempt to resolve submitter concerns, no pre-hearing meetings were held under Section 99 of the RMA. I suggested to NZTA that there could be benefit in a meeting with Te Korowai (who represent some hapu within Ngāti Tama) to better understand their submission. However, NZTA determined to continue to liaise with Ngāti Tama as the mandated group because they were satisfied all members of the iwi were invited to attend hui-a-iwi to learn about and discuss the project.

# ASSESSMENT OF ALTERNATIVES AND REASONABLE NECESSITY OF PROJECT FOR ACHIEVING OBJECTIVES

1. An assessment of alternatives helps to articulate how the RA has reached a determination on a preferred option and in some cases, how adverse effects may have been avoided. Undertaking an options assessment is good practice, and in this case is required by Section 171(1)(b) of the RMA due to NZTA not currently having all the property interests necessary to carry out the proposed works; also because it is likely that the project will have significant effects on the environment if adequate mitigation and offsetting does not occur.
2. Chapter 6 of the AEE summarises the process followed by NZTA in considering alternatives for the project. It advises that a robust and detailed two-staged multi-criteria analysis (“MCA”) was carried out in 2017. Detailed supporting documentation is provided in Volume 4A – Longlist Report pertaining to 24 options considered (MCA1 - 12 corridors, each with an earthworks option, and a bridges and tunnels option) and Volume 4B – Shortlist Report. The Shortlist step (MCA2) progressed from the earlier MCA1 and pertains to five shortlisted options (as shown earlier in Figure 4).
3. From Volumes 4A and 4B it is evident that NZTA carried out a detailed MCA process. The process, at both the MCA1 and MCA2 stages, involved workshops attended by technical experts and Ngāti Tama representatives. In MCA1, the 24 options were assessed and scored against nine assessment criteria: constructability; transport; resilience; landscape; historic heritage; community; property; ecology; and cultural heritage. MCA2 included the same assessment criteria except that ecology was split into terrestrial and aquatic. Costs were not considered at the MCA1 stage (but are provided in the MCA1 report, based on the knowledge at that time of what the options might cost). Based on the outcome of MCA1, and including affordability considerations, 5 options were taken forward into the MCA2 stage (three west of the existing state highway, an on-line route (Option Z), and an eastern option (Option E)). During the period between MCA1 and MCA2, design investigation and refinement or optimisation work continued.
4. Volumes 4A and 4B include detail about the selection and refinement of the options, MCA methodology and results including assessment criteria, scoring and weighting. They also include appendices containing background papers and scoring results. Page 111 of the AEE explains that during the workshops, technical experts and Ngāti Tama assigned scores on a 9 point scale (-4 to +4, plus ‘fatal flaw’), where 0 was a neutral or baseline score based on the continued operation of the existing road. The options were scored on the basis of standard mitigation, and fatally flawed options were those where it was considered that even ‘bespoke’ mitigation or offsetting could not avoid, remedy, mitigate or offset effects.
5. The MCA does demonstrate how adverse effects have been avoided in respect of the rejection of route selection over the western Parininihi land, thus avoiding adversely affecting very high cultural, ecological and landscape values west of the existing road, where the land is subject to District Plan overlays including SNA, Regionally Significant Landscapes and Waahi Taonga /sites of significance to Maori sites and archaeological sites.
6. In my view, it is not Council’s role to state whether we agree with the option selected, rather to consider whether adequate consideration has been given to alternatives. I am satisfied with respect to what Section 171(1)(b) of the RMA requires. However, I do not think it has been clearly demonstrated why the proposed route was selected instead of an on-line option. An on-line option would have reduced environmental effects compared to the eastern proposed route and I consider a key issue for the hearing of the NoR is to understand why the on-line route was rejected in MCA2. I therefore have reservations over whether Section 171(1)(c) is satisfied, regarding whether the works and designation are reasonably necessary for achieving the objectives of the RA, given the scale of environmental effects associated with the proposed route and due to the availability along the existing corridor to upgrade the road, which would involve only minor alterations to the designation boundaries. Assessment of the project under Section 171 is subject to Part 2 of the RMA. Section 6 resources are affected by the proposal (6(a), 6(c), 6(e), and 6(h)). Cost issues are relevant to Part 2; under Section 5 sustainable management includes communities managing resources to provide for their economic wellbeing. The use of public money is relevant to the extent it may provide justification for route selection. Cost is not the only consideration and the cheapest option is may not necessarily be the best option when considering the nature and impact of effects on the environment and the importance of resources which are affected, however it is difficult to know how much weight to put on costs. Effects on matters of national importance are considered alongside cost matters under Part 2.
7. The proposed route (Option E in MCA 2) is a hybrid of MCA1 options B, F & G; it was not considered in its current form in MCA1. The project teams’ understanding of the environmental conditions at Mt Messenger and the challenges including costs associated with route options has evolved during and between the MCA1 and MCA2 and is continuing to evolve. Assessment and weighting of values and scoring changed between the two stages. Clarification and further detail was sought in the RFI on a number of matters to better understand the selection of Option E over Z, and therefore to be in a position to assess whether the designation and work are reasonably necessary.
8. The conclusions listed in pages 23 – 24 of the Shortlist Report sets out the positives and negatives of the 5 options considered in MCA2 and considers the following in relation to Options E and Z:

*“Option E:*

* *Is located on land with lower ecological value than the western Parininihi land (although it does have the longest length of affected stream).*
* *Is located on land with lower landscape value than the western Parininihi land*
* *Is the best transport outcome of Options E, P and Z in relation to the transport weighting applied to the MCA2 raw scores (noting there is no difference in the overall transport criterion score).*
* *Requires multiple bridges and sequencing at the northern end which affected the constructability score.*
* *Avoids culturally sensitive ridges. However, it affects the largest area of Ngāti Tama land, and Ngāti Tama have indicated that any land take is a significant issue for them.*
* *Is more compatible with the statutory provisions than Option P, but slightly less compatible than Option Z).*
* *Presents significant opportunities for enhancement across the eastern valley.*

*Option Z:*

* *Is located adjacent to Parininihi land in an area of lower ecological and landscape value.*
* *Has the lowest transport benefits of the three options when weighting is applied (noting the overall transport criterion score is the same).*
* *Requires the smallest area of Ngāti Tama land take however, Ngāti Tama noted that the tunnel in close proximity to the maunga (Mt Messenger) was almost a fatal flaw.*
* *Presents complex constructability issues due to multiple interactions with existing SH3, with consequential impacts on SH3 operability during construction.*
* *Is considered the most compatible of the options with key statutory plan provisions (noting also that the existing designation over much of the corridor would also assist in the consenting process).*
* *Is the best performing MCA outcome when taking overall scores into account.”*

1. The RA considers the land subject to the Option E route has lower ecological value than the western Parininihi land. Wildland Consultants consider that it is likely that the health of the forest to the east of SH3 compared to west of SH3, if it is degraded, could be rapidly improved within 5-10 years if a pest control plan was implemented, and therefore question the considerable weight that is applied to differences in forest health either side of the state highway. However, aside from the ranking of ecological values, the MCA considered a range of other values including the higher cultural and landscape values west of SH3, and I support the outcome of MCA2 in that it did not select one of the three western options. In my view the main focus for the hearing with respect of options assessment and reasonable necessity for the project and designation centres on Options Z and E. I explore this in more detail in respect of transportation, constructability and resilience matters.
2. Section 6 of the AEE concludes by explaining that cost was a determining factor. Figure 6.3 of the Longlist Report (MCA1) shows Z options costing at or below $250 million, but Table 6.3 of the AEE presents Option Z following the MCA2 as costing over $360 million; the most expensive option of the five routes considered in MCA2. In question 11c of the RFI I asked why the costing of Z options was different in the MCA1 and MCA2, and the response stated that *“between the Longlist information preparation and the Table 6.3 of the AEE significant work was undertaken to establish geotechnical and other constraints to inform the design and costing refinement. (…) The northern side of Option Z has a significant landslide feature and the design resolution of that was not as well defined at the early Longlist process.”* The RFI response further advises that a large amount of the difference in cost between Option E and Z is due to the requirement for significant ground improvement where the road crosses this large landslide, and because Option Z would require long bridges on the southern approach with complex interaction with the existing road. Further information to verify cost differences between the Option E and Z routes would be helpful and I encourage the RA to outline this in evidence.
3. In Appendix M of the Shortlist Report (final MCA scoring results), Option Z (online route) is ranked 1st equal in the raw scores, 1st with the ‘RMA’ weighting, 1st with ‘Environment’ weighting, and 3rd with the ‘Transport’ weighting. Having read the Longlist and Shortlist Reports, and in light of review comments received from Mr Doherty, in the RFI I asked questions to better understand why Option Z scored so low with the Transport weighting. I also asked about percentage weightings within the transport sub-criteria, about weightings’ alignment with project objectives, and how shoulder widths, passing lanes and route lengths affected calculations.
4. The RFI response does attempt to clarify and explain matters raised with respect to the MCA and selection of Option E. Some of the responses to the RFI explain the rationale for scores, methods and ratings, and conclude that suggested different approaches would not have affected the overall scores. However:
5. With regard to the statement that Option Z would require long bridges on the southern approach with complex interaction with the existing road, Mr Doherty considers these interactions are manageable. He also notes the total length of bridges in Option E (5 bridges in total) equates to 862m, whereas the total length of bridges in Option Z (3 bridges in total) equates to 580m. Mr Doherty considers this suggests that the costs for bridges would be higher in Option E, than Option Z. I encourage the RA to explain this in evidence.
6. One of the challenges identified for the alternative of improving the existing ‘online’ corridor is that the existing route is subject to a large scale landslide north of the existing Mt Messenger tunnel. This landslide is approximately 1km wide by 0.5m long and is considered by the RA to be actively moving. NZTA, through selecting Option E, sought to avoid investing in roading infrastructure that is more likely to be disrupted in the event of a large earthquake. Section 3.2.3 of Technical Report 14 (Geotechnical) and page 5 of Technical Report 3 (Resilience) briefly consider this landslide.

In considering the Options Assessment, a key factor in selecting the proposed route instead of doing online improvements was this landslide and the costs associated with significant ground improvements. Noting that page 5 of Technical Report 3 states *“North Taranaki is an area of low to moderate seismicity for New Zealand”* and page 6 states *“Earthquakes of 1000 year to greater than 2500 year return periods of about M6.0 are likely to affect the large scale landslide and other existing landslips along the route”*, I asked Mr Allison to consider the response to Question 11a and 11c of the RFI and comment on how significant the landslide is, and whether its presence should be considered a key determining factor in route selection.

In investigating this landslide, Mr Allison requested geotechnical reports prepared prior to the MCA which were referenced in Volume 4 of the application/NoR documents. These were provided and considered by Mr Allison, and were accompanied by an explanatory email from Peter Roan of the Alliance dated 4 May 2018 (I attach Mr Roan’s email as Appendix B IV. I have not attached all geotechnical reports but these are available if the Commissioner wishes to have them provided). Mr Roan’s email states *“In terms of design for Option Z, and to ensure that a resilient alignment was possible, the design along the northern section of Option Z included a soldier piled retaining wall along the area of geotechnical risk (approximately 1.5 km of this section of the alignment). … At the shortlist option stage, the Option Z cost estimate was $382.5M (cf $199.6M for Option E).  In this estimate some $112M was allowed for construction of the retaining wall referred to above (i.e. the retaining wall made up about 30% of the cost).”*

The 4 May email from Mr Roan also states *“taking into account this significant cost differential, and also the matters highlighted through the MCA process such as the complex constructability issues, and the scoring on cultural values due to proximity to the maunga, the Transport Agency determined that it would not progress further consideration of Option Z.”*

I also suggested to Mr Roan that maintenance records related to the active landslide could useful information, if they NZTA have had to do repairs on that stretch of road over previous years due to the landslide, then that might further demonstrate the resilience/cost risks. In his 4 May 2018 email Mr Roan stated *“We have not looked into this in detail and do not really consider it to be a relevant consideration.  The incorporation of the significant retaining structure into the design for Option Z was to account for the possibility of a significant landslide event and the need for resilience in relation to such an event, rather than to respond to more ‘regular’ and localised land slippage as might be accounted for in recent maintenance work.”*

Mr Allison considers that the plans showing the Option Z alignment and the “active” landslide were useful and the mapped scarps were evident to him on a site visit. However, having considered all information provided to date, there is still an absence of detail in the submitted documents with regard to the degree of activity of the landslide and the level of engineering required to mitigate its impact.  Mr Allison suggests the RA should provide further information about whether the area has been surveyed and whether maintenance records of this section of the highway would demonstrate that the landslide is active.

1. With regard to why particular weightings were applied to the transport sub-criteria and with respect to project objectives, particularly in consideration of shoulder widths and passing lanes, Mr Doherty has reservations about the scoring and considers Option Z should have been scored higher. The RFI response does not adequately explain why and how weightings were applied. It states *“The transport expert developed a system that she used consistently and transparently across all options. Operational efficiency and travel time savings were collectively considered to reflect the project objective of drivers’ journey experience.”* Mr Doherty advised it would be helpful to understand how these weightings were derived by the transport expert and whether they are related to other requirements of NZTA such as correlated to the Land Transport Management Act or Government Policy Statement or something else.
2. Mr Doherty does not agree with the approach taken with regards to route length at the MCA2 stage. Option L was the only option considered in MCA1 to rejoin the existing SH3 as far north as Tongaporutu. All other options in MCA1, and all MCA2 options, are located between Uruti and Ahititi. I sought an explanation as to why in Table 2.1 of the Shortlist Report, the route length considered is between Uruti and Tongaporutu (question 19h of the RFI). In the RFI response NZTA explained that they sought consistency with the MCA1 assessment. However Mr Doherty considers this is inconsistent with NZTA codes and practices, and the assessment of travel time should have occurred over the length of the project, which at the shortlist stage was Uruti to Ahititi. He considers this would change the scoring of the travel time criterion within the transport criteria and give Option Z a higher score.
3. Mr Doherty also considers there could be good reason to investigate a full tunnel option because it meets all the project objectives and has the smallest construction footprint of all the options. In response to RFI question 13 as to why a tunnel beneath Mt Messenger was not an option in the MCA, NZTA advised *“tunnels closer to the summit of Mt Messenger were considered (see Option Z). In particular tunnels close to the maunga were not preferred by Ngāti Tama on cultural grounds. A full tunnel alignment beneath Mt Messenger was not considered on cost grounds.”* It would be helpful if Ngāti Tama could verify this to be a critical factor. Mr Doherty considers this explanation with respect to costs is at odds with the Longlist Report stating cost was excluded from the assessment criteria.
4. The scale of work would be considerably less for Option Z compared to Option E. Option Z would have a reduced quantity of earthworks, smaller number of bridges, and smaller area of site clearance. Although the number of interactions with the state highway would be less for Option E than Option Z, Mr Doherty considers the interactions could be managed and that options that minimise the quantum of work should have been scored higher in terms of constructability. Question 16 of the RFI requested a comparison of the constructability challenges of Option Z compared to Option E, but this was not provided. It is difficult to determine whether the work associated with Option E is reasonably necessary without comparing with construction challenges associated with Option Z.
5. In question 12 of the RFI I also sought details to clearly show a comparison of the following factors:

* Land area required to be acquired
* Area of native vegetation clearance
* Number of significant trees to be felled
* Stream length affected
* Volume of earthworks
* Area of temporary works footprint
* Constructability challenges

The RFI response stated *“To the degree necessary this material appears in the specialist reports attached to the MCA Longlist and Shortlist Reports. Much of this information is too technical for the level of assessment required for a robust MCA process – see the technical expert reports for the level of information provided.”* Mr Doherty and I have studied the technical reports, and the RFI questions were posed because it was not clear to us why Option E was selected over Option Z. I understand there is a risk in taking a simplistic approach but consider it reasonable to request to see key factors for Options E and Z alongside each other to inform a comparative analysis. This would allow for a more informed consideration under Section 171(1)(c) of the RMA.

1. Mr Doherty also has reservations about the scoring of operational maintenance, operational resilience, travel time savings, and overall considers Option Z should have been scored more highly in MCA2.
2. Option Z would have increased constructability challenges over Option E, and NZTA consider *“Off-line options would have greater ability to be established to a higher standard than the online options (which are restricted to the existing designation, which in some sections are relatively constrained).”* Question 20 of the RFI sought to better understand why an offline option would allow for a higher standard road, but the response did not explain why. I encourage the RA to elaborate on this in evidence.
3. Some submitters express concerns over the alternatives assessment. The Te Korowai submission considers there was inadequate consideration of alternatives. Ross Soffe has concerns over the route selection process, predicted costs, political decisions, and questions whether the selected route, with the associated environmental effects, is justified. John Washer, Helen Piper, Debbie Pascoe and Gordon and Joy Keighley consider an alternative route should have been selected. Evan Lobb and Emily Tuhi-Ao Bailey consider that improvements should be limited to the existing corridor. Urs Signer questions the necessity of the proposal and whether it is simply to appease the trucking industry. He considers that the current road is satisfactory and that the few minutes to be gained on the journey in no way justifies the level of spending or the destruction of indigenous forest required. The Ngāti Tama submission considers that the alternative (online) alignment may be more appropriate if effects are not avoided, remedied or mitigated.
4. I conclude this assessment of the S171(1)(b) and (c) tests by restating that in my view adequate consideration has been given to alternative sites, routes or methods of undertaking the work, as required by the process related test in Section 171(1)(b) of the RMA. However my reservations related to the merit-based Section 171(1)(c) test, regarding whether the works and designation are reasonably necessary for achieving the objectives of the RA are outlined as follows:
   * I agree that an upgrade to SH3 at Mt Messenger is necessary for the RA to achieve their objectives (stated in paragraph 59);
   * Whether the works occur along the existing or proposed route, there would be significantly improved transportation outcomes and both main options could achieve the project objectives;
   * An online route is ranked first with the raw, ‘RMA’, and ‘environment’ weightings, and third with the ‘transport’ weighting. Mr Doherty considers the online option should have been scored higher with the ‘transport’ weighting;
   * A number of questions were asked in the RFI to better understand the ranking and weighting carried out in the MCA; however many of the concerns raised remain and the RA is encouraged to address these at the hearing;
   * The RA explains the selection of the proposed route over the online route was influenced by an active landslide located north of the tunnel which is approximately 1km by 0.5km. To create a resilient online route a retaining wall of $112 million was allowed for in the cost estimate of Option Z.
   * Mr Allison considers there is still an absence of detail in the submitted documents with regard to the degree of activity of the landslide and the level of engineering (and hence cost) required to mitigate its impact. The RA is encouraged to inform the hearing as to the significance of the threat to resilience posed by the landslide, and why more cost-effective solutions to address this are not considered;
   * The RA acknowledges that Option Z would have a smaller environmental impact than Option E. The existing road already creates adverse effects on Section 6 RMA Matters of National Importance and these effects would be widened by an online route; however the proposed route creates new and more significant effects on Section 6 matters which are likely to be harder to mitigate or offset.
   * I question the considerable weight that is applied to differences in forest health either side of the state highway; Wildland Consultants consider that if the eastern forest is significantly degraded, it could be rapidly improved within 5-10 years if a pest control plan was implemented.
   * The RA is encouraged to provide further information to the hearing regarding constructability challenges.
   * Ngāti Tama are encouraged to advise whether Option E is preferred in terms of its distance from the peak of Mt Messenger, and to clarify the relative cultural effects for the online and proposed routes. The RA’s explanation as to cultural effects resulting from an on-line route is potentially at odds with the Ngāti Tama submission which states an on-line route may be appropriate.
   * If these cost, constructability and cultural matters can be satisfactorily addressed, then I consider this provides an explanation as to the reasonably necessity for seeking an off-line option.
   * In my view Option E has not been demonstrated to be better than Option Z, in terms of environmental effects, cost and feasibility. The issues I raise here are to provide prompts for key areas to be addressed.

# ASSESSMENT OF ENVIRONMENTAL EFFECTS

1. This report will now assess the actual and potential effects on the environment from the proposed designation under the following headings:

* Positive effects
* Cultural effects
* Historic heritage effects
* Earthworks and construction
* Natural hazards
* Soil contamination
* Hazardous substances
* Traffic and transport
* Social effects
* Amenity effects
* Lighting
* Visual amenity
* Property access
* Noise and vibration
* Landscape, natural character and visual effects
* Recreation effects
* Ecological effects

1. The approach undertaken in the following assessment of these topics is to summarise the assessment made by the RA, summarise relevant issues raised by submitters, identify relevant provisions of relevant planning documents (in particular the District Plan) that could provide guidance, assess the effects (where appropriate, in consideration of expert opinions), and discuss proposed conditions. Areas are identified where the RA or submitters could provide more information by way of evidence on effects and mitigation in order to assist forming an opinion on the significance of effects and the effectiveness of the mitigation proposed.

## Section 171(1B)

1. The RA considers a number of positive effects will be created by the project. Despite significant adverse cultural and ecological effects, the RA considers the project will deliver cultural and ecological benefits. It is difficult to view the offsetting proposed as benefits, where offsetting and compensation are mechanisms to address unmitigatable adverse effects. Section 171(1B), only inserted to the RMA last year, states that effects to be considered under subsection (1) may include any positive effects on the environment to offset or compensate for any adverse effects that may result from the activity enabled by the designation. I recognise this statutory language now includes positive effects in the context of offsetting and compensation and can therefore understand the RA identifying these effects as project benefits. However, I do not consider them to be strictly positive or to be benefits. Rather they are a mechanism to address direct effects that are unable to be dealt with through the regular means of on-site avoidance, remediation or mitigation. In order for offsetting and mitigation associated with the project to be seen as positive effects, for example in relation to the ecological effects, there would need to be assurances as to the detail, delivery, certainty and timing of offsets; this is critical to considering whether offsets and compensation are truly positive effects. It is difficult to reconcile the desired outcome of net gain in biodiversity with the potential mortality of Threatened-Nationally Critical long-tailed bats or At Risk herpetofauna and avifauna.

## Positive Effects

1. Technical Report 1 (Strategic Traffic Assessment) details the operational demands and characteristics of SH3 and page 4 considers that *“fundamentally, this section of SH3 is of an inadequate standard in relation to its importance and function.”* The proposal seeks to better provide for the existing travel demands north to and from Taranaki as well as the ongoing anticipated growth. The RLTP considers that Taranaki is generally well connected and serviced from an infrastructural perspective relative to its size and population, but Mt Messenger (as part of the SH3 Mt Messenger to Awakino Gorge Corridor) is identified as a particular issue that requires attention if Taranaki is to meet its current and anticipated growth and development needs, and to continue to significantly contribute to national growth and productivity. Identified inadequacies include a road alignment with sharp curves, poor forward visibility, steep grades, a lack of resilience and ongoing incidents at this portion of the inter-regional route. I agree with the RLTP that upgrading the route is a positive step in securing and ensuring the future dependability and performance of SH3 in serving Taranaki’s needs.
2. Pages 32-37 of the AEE outline the benefits anticipated to arise should the Mt Messenger Bypass proceed. I acknowledge and attribute significant weighting to the positive effects, and briefly outline them here:

* Enhanced safety conditions on SH3 at Mt Messenger: improved forward visibility; passing opportunities; minor reduction in route length; improved geometry (no curves requiring reduced speed advisory signage, flatter grades, wider shoulders, wider lanes, side barriers); reduced driver frustration; safer access to recreational walking tracks; and increased safety for active users such as cyclists.
* A more resilient highway: fewer closures, faster recovery and improved journey time reliability; less susceptible to crashes due to improved gradient, wider shoulders and safety barriers; reduced risk associated with natural hazards including reduced likelihood of accident or disruption due to land slips, improved stormwater management to reduce localised flooding and disruption due to flooding, earthquake learnings from Canterbury and Kaikoura incorporated into modern design, designed to limit the exposure of the alignment to liquefaction and lateral spreading in the alluvial valleys (lower Mihi and lower Mangapepeke),
* Reduced road length from 7.4km to 6km, resulting in journey time savings for light vehicles of approximately 4 minutes, and for heavy vehicles approximately 6 minutes 40 seconds.
* Improved connectivity for freight, residents, and visitors/tourists to and from the Taranaki region.
* A highway that accommodates over-dimension loads, increasing the size of freight able to be transported into and out of Taranaki. A road with the ability for trucks to turn around in the unlikely event of a road closure.
* Improved safety, resilience and reliability are anticipated to contribute to local and regional economic growth and productivity. The economic benefits anticipated are detailed in Technical Report 4 (Economic Effects Assessment), and include: lower vehicle operation costs (due to reduced grades, shorter route length, lower maximum elevation, and the ability to maintain a higher speed; reduced vehicle operation costs associated with taking an alternative route when SH3 is closed); reduced monetary costs to communities (such as vehicle operating costs, travel time savings, accident costs and maintenance costs); increased attractiveness of the region for business and residential development; per annum benefits associated with construction of 74 jobs, $5.5million in additional wages and salaries, and $33.1 million in additional expenditure on goods and services purchased locally.
* To address significant cultural effects, the project seeks positive outcomes for Ngāti Tama. The RA has demonstrated a commitment to engagement with Ngāti Tama to ensure their traditional associations with the wider Parininihi areas are recognised and provided for. Opportunities to enhance mana and kaitiaki responsibilities of Ngāti Tama are indicated in section 1.5 of the ELMP, although verification from Ngāti Tama is requested as to whether this is appropriate to the Runanga. There is insufficient certainty at this stage about likely outcomes to classify this as a positive effect.
* While the project generates significant ecological effects, the RA seeks to address these through a mitigation and biodiversity offset package. Some of the measures proposed are considered to create positive effects, and these include: pest management over an area of 1085ha, focusing on controlling rats, possums, mustelids, feral cats, feral pigs, goats to very low densities in perpetuity (mice and wasps are not included) and will exclude farm livestock; restoration planting of 6ha of swamp forest; planting 200 seedlings of the same species for every significant tree to be felled; riparian planting and stock exclusion to restore approximately 9km of stream banks; and restoration planting of 9ha of disturbed areas. The AEE considers there will be landscape and visual benefits resulting from the proposed biodiversity offset works, which will result in enhanced amenity values for road users. I wish to qualify this by stating that delivery, certainty and timing of offsets will be critical as to whether these are positive effects.
* Reduced CO2 emissions from vehicles due to reduced grades, shorter route length, lower maximum elevation, and the ability to maintain a higher speed.
* Social benefits arising from employment opportunities and economic benefits.
* Social benefits related to improved accessibility, connectivity, and mobility for people and communities: improved access and journey experience to essential facilities in the Waikato, such as Waikato hospital (the nearest tertiary hospital); improvement in the journey experience through reduction in driver frustration; improved response times for emergency services leading to improved outcomes and reduced perception of isolation; and wellbeing benefits for people and communities from improved safety conditions.
* Page 41 of the AEE talks about avoidance of adverse effects on natural character and ecological values resulting from not selecting a route west of the existing road. I do not consider that avoided effects are relevant to the discussion of project benefits.

1. 1154 submissions were received in support of the proposal by the close of submissions, and in addition 18 late submissions were in support. Whether the 1126 submitters whose submissions included the same text were informed as to the scale of potential adverse environmental effects is questionable; however I consider this volume of submissions in support to be a testament to the perceived benefits of the project.
2. A number of submissions cast doubt on the positive effects of the project. These will be discussed in the relevant effects assessment sections below. For example, concerns about fog and ice in terms of traffic safety within the Mangapepeke Valley will be addressed in the Traffic and Transport section below, and concerns about flooding risk will be addressed in the Earthworks and Natural Hazards sections.

## Cultural Effects

1. Parininihi, including Mount Messenger, has cultural significance for more than one tangata whenua group. Land within and surrounding the project area is owned by Ngāti Tama Custodian Trustee Ltd, and Te Runanga o Ngāti Tama (“Runanga”) has statutory acknowledgement under the RMA. Mt Messenger is also at the northern end of Ngāti Mutunga’s area of interest, in particular affecting the headwaters of the Mimi Stream, and the southern end of Ngāti Maniapoto’s area of interest. I note the AEE states that Ngāti Maniapoto have deferred to Ngāti Tama in relation to this project, and that the Ngāti Mutunga area of interest is adjacent to, but outside the project area. The submission lodged by Poutama Kaitiaki Charitable Trust (“Poutama”) considers that Poutama has mana whenua in the area.
2. Page 138 of the AEE outlines engagement with key stakeholders and NZTA have engaged with Ngāti Tama, Ngāti Mutunga, Ngāti Maniapoto (as iwi authorities) and Nga Hapu o Poutama (as a party with cultural interest in the local area). In addition to the key stakeholder engagement, NZTA ‘cast a wide net’ through the pre-lodgement public consultation rounds and sought feedback from anybody who wished to provide it. The public consultation was widely publicised and feedback actively pursued. The public consultation and notification allowed for any person to raise cultural or other concerns.

### Submitters

1. Neither Ngāti Mutunga nor Ngāti Maniapoto lodged submissions in relation to the project’s public notification under the RMA.
2. The following submitters have raised matters concerning cultural effects:

* Ngāti Tama lodged a neutral submission which identifies the project affects the cultural values of the iwi and the Runanga continue to work with NZTA towards addressing the effects.
* The submission in opposition by Te Korowai Tiaki o te Hauauru Inc (“Te Korowai”) considers that the proposal does not recognise ancestral and contemporary relationships with lands, waters and taonga, maunga, ngahere, awa and waahi tapu and historic heritage and does not protect outstanding landscapes, including cultural landscapes and features from inappropriate development and does not protect biodiversity including taonga species of native flora and fauna.
* The Te Korowai submission expresses concerns over the lack of NZTA engagement with adversely affected hapu of Ngāti Tama.
* The Poutama submission states that while the AEE acknowledges significant environmental and cultural effects, the proposal does not provide for outcomes to Poutama.
* Emily Tuhi-Ao Bailey is concerned that Poutama and Ngāti Mutunga haven’t been fully consulted with and have not consented, and that there is no detail about how effects on Ngāti Tama will be mitigated.
* The submission from Tiaki Te Mauri o Parininihi Charitable Trust seeks to ensure the effects of the project on Parininihi and the taonga bird and other native flora and fauna are fully avoided, remedied or mitigated.

1. It can be challenging to determine which iwi authorities, groups representing hapu for the purposes of the RMA, or other tangata whenua groups to consult, particularly where a number of groups overlap in interests in a particular locality, as is the case in the Mt Messenger area. Furthermore, it can be challenging if cultural values of one group are inconsistent with another’s. With respect to the three iwi authorities who have been through or are going through the Treaty settlement process (as listed in paragraph 87), it is appropriate that the formal management bodies of these iwi should be consulted with as representatives. With respect to groups or individuals who do not align or agree with mandated iwi, the public notification process allows the opportunity to participate as submitters, and the Councils and RA should explore whether cultural concerns raised can be addressed.

### Ngāti Tama

1. Ngāti Tama have prepared a Māori Values Assessment (“MVA”) which is included in the project documentation. The MVA outlines the iwi’s historical associations with the land, provides insight into the cultural and spiritual importance of this area and sets out cultural effects on Ngāti Tama. The area affected by the project has been and remains an area of major importance to Ngāti Tama in terms of rohe, traditions, customs and identity.
2. Land within the proposed designation footprint includes land vested in Ngāti Tama through the Ngāti Tama Claims Settlement Act 2003 as ‘cultural redress’. Land west of the existing road, which was subject to considerable focus in the MCA, is also cultural redress land. Cultural redress included the transfer of parcels of Conservation land areas, including areas referred to as ‘The Whitecliffs Site’; and ‘The Mount Messenger Sites’. These sites are shown in the MVA and Ngāti Tama refer to these areas as ‘Parininihi’.
3. Representatives of Ngāti Tama participated in the MCA process for the route selection. Volumes 4A (Longlist Report) and 4B (Shortlist Report) both include Ngāti Tama cultural reports. The MVA and the cultural reports within Volumes 4A and 4B identify that:

* The cultural redress land is important given its Treaty settlement and raupatu (confiscation) background. Further, the land has strong value as a place for customary and kaitiaki values and practices. The project puts Ngāti Tama in a very difficult situation.
* Ngāti Tama understands the need for a safe and efficient state highway but seeks to ensure that impacts on the relationship of Ngāti Tama with their rohe are fully considered and addressed.
* Ngāti Tama have entered discussions with NZTA in good faith to see if there are ways of dealing with cultural concerns.
* Ngāti Tama participated in the MCA to understand and provide their cultural input into the different options.
* The MVA states *“From what we have observed through the process, it has given us some confidence and trust in the experts and people involved in the project. We have been pleased to hear the approach of ‘treading as lightly as possible on the whenua’ and can see that the experts are advocating for the ecological values of the area.”*
* The project name ‘Te Ara o Te Ata’ is a name provided by Ngāti Tama. Te Ata is a local taniwha which manifests on the coast of Parininihi (Whitecliffs) and is of major significance to Ngāti Tama.
* The iwi has expressed a clear concern about the project and objection to the potential impacts on the mauri of the area and Ngāti Tama.
* Within the MCA, all proposals that involve the taking of Ngāti Tama land are fatally flawed and conflict with Ngāti Tama mana and cultural values, undermine the Treaty settlement, and reinforce past raupatu.
* The option preferred by Ngāti Tama through the MCA was the online route due to it affecting less Ngāti Tama land and avoiding the more established bush and awa.
* The traditional practice of muru provides a conceptual framework for considering means of addressing such impacts and to avert the negative and potentially long-term consequences of such land take and associated effects.

1. While there has been considerable engagement, and dialogue continues, paragraph 54 of the MVA states:

*“In the context of this Project, we note the following points:*

*a. The principles of the Treaty of Waitangi are relevant. The impacts on our ancestral whenua, waterways and ngahere, including the Treaty settlement land, causes offence and in our view represents a breach of Treaty principles to protect us in the use and possession of our taonga;*

*b. The impacts on the mauri of the whenua and Ngāti Tama contravene our mana and kaitiaki rights and responsibilities and are difficult for many of our people to accept and reconcile;*

*c. Without properly addressing the impacts, this would leave an ongoing sense of failure to uphold our mana and kaitiaki responsibilities, and can have ongoing impacts, and could act as a constant source of ‘whakama’ and ‘riri’ for our people.”*

1. The MVA does not address cultural effects on any other Māori groups, although I note Ngāti Tama cultural reports considered in the MCA identify that in relation to the Mimi River, the iwi have kaitiaki responsibilities in relation to the awa and their neighbouring whanaunga iwi Ngāti Mutunga.
2. The submission lodged by Tama Hovell on behalf of Ngāti Tama states:

*“There is no issue with the level and nature of consultation with NZTA in relation to this project. The consultation process that the Runanga has experienced has been very positive and the Runanga has been fully supported through the consultation process.”*

### Governance of Te Runanga o Ngāti Tama

1. Within Ngāti Tama there is an additional factor relating to the governance of the Runanga. Following the NoR being publicly notified I became aware of a letter dated 7 June 2017 to the Council’s Chief Executive from Lisa White on behalf of herself, Amos, and Tahu White. I understand Lisa, Amos and Tahu White are elected Runanga board members who are currently suspended, and are represented in the Te Korowai submission. The letter outlines that the Runanga is not functioning as it should and Lisa, Amos and Tahu White have commenced litigation to address the dysfunction in governance. The letter says that until the legal Statement of Claim to the High Court (proceeding CIV-2017-443-15) regarding their suspension is heard, there is no-one properly or legally appointed to address whether Ngāti Tama are affected under the RMA.
2. The governance issue within the Ngāti Tama Runanga is appropriately being dealt with by the High Court. It is not for the Council to get involved in mandate disputes and whether the Runanga has the mandate to speak for all iwi members. It is my understanding that the Runanga’s discussions with NZTA, and the statements made in the MVA and their submission, seek to address the significant cultural effects on all members of Ngāti Tama. A number of publicly notified hui-a-iwi have been held in relation to this project so that the Runanga could capture the views of the iwi. If bodies such as Councils cannot rely upon the apparent authority of office holders to speak for an organisation, it is difficult to place weight the views of their individual members or groups of members.
3. It would be preferable that a decision from the High Court is made prior to consideration of the NoR. It would be helpful if Te Korowai could provide an update of the status of this proceeding. This does raise concerns with respect to whether the statements provided by the Runanga through the MVA, the written submission, and verbal submissions to the Commissioner, should be accepted as authoritatively speaking for the iwi, or hapu within Ngāti Tama. I note that through the public notification process for the NoR all members of Ngāti Tama had the opportunity to lodge a submission and Te Korowai took this opportunity. Although the Council cannot be involved in mandate disputes, we do have the role to hear all submissions and the RMA public notification process allows for this. The submission from Te Korowai outlines concerns relating to cultural effects and these are for submitters to explain in their verbal submissions, in addition to any matters raised by the Runanga.

### Te Korowai submission

1. The submission by Te Korowai considers that the proposal does not recognise ancestral and contemporary relationships with lands, waters and taonga, maunga, ngahere, awa and waahi tapu and historic heritage. Pages 256-261 of the AEE provides an assessment against Part 2, in which NZTA acknowledges Ngāti Tama’s kaitiakitanga responsibilities and mana over the project area. In my opinion, the engagement between NZTA and Ngāti Tama demonstrates recognition of Ngāti Tama relationships with these, and the project seeks to minimise adverse effects on them. The project is located in a geologically and ecologically complex area and it is not possible to avoid all adverse effects. Therefore, in recognition of Ngāti Tama’s kaitiakitanga responsibilities and mana over the project area, NZTA has endeavoured to work with the Runanga to seek outcomes which avoid, remedy and mitigate cultural effects, and where this is not possible due to the particular challenges of the environment, to discuss offsetting effects.
2. The Te Korowai submission further considers that the proposal does not protect outstanding landscapes, including cultural landscapes and features from inappropriate development and does not protect biodiversity including taonga species of native flora and fauna. I respond to this as follows:

* One outcome of the MCA is that the route selected does not directly impact on the highly prized land west of SH3. In addition to higher ecological values resulting from concentrated pest control and the reintroduction of kōkako, that area is a Regionally Significant Landscape in the District Plan and contains increased levels of archaeology due to early occupation being concentrated nearer to the coast. However, it is acknowledged by NZTA, and I agree, that improvements to an online corridor would have reduced cultural, ecological and landscape effects.
* The District Plan and the expert landscape and historic heritage reports have not identified the landscape characteristics of the project footprint as outstanding. Te Korowai are encouraged to provide details about landscape and cultural landscape values within the project area.
* Although not SNA in the current District Plan, it is considered that there are high ecological values within the project area. Whilst not all flora and fauna specimens will be protected from effects of the project, the project design seeks to minimise these (for example by altering the alignment where possible to avoid significant trees) and conditions can be considered requiring pre-construction salvage and relocation of indigenous flora and fauna.
* I do not consider that an improved state highway, given all of the earlier identified positive effects, is “inappropriate development”, provided it is carried out in a manner which is sensitive to the environment which it is located within.

1. The submission by Te Korowai identified a lack of clarity as to the nature of cultural mitigation or offsetting. Clarification and transparency were requested in the RFI and the Alliance responded by stating *“The mitigation measures necessary to address the cultural effects of the Project must properly be determined in consultation with Ngāti Tama. That consultation is ongoing and includes the development of proposed conditions. The Transport Agency will provide an update on these matters in due course.”*
2. In question 37 of the RFI I noted to the RA that the Te Korowai submission suggested the RA enter into cultural mitigation and offsetting agreements with relevant hapu including members of Te Korowai as representatives of affected hapu. I asked the RA what, if any, consultation has taken place at the hapu level and if the RA was considering operating at the hapu level. The RA replied that *“The Transport Agency has engaged in detail with Te Runanga o Ngāti Tama, as the mandated representative body for Ngāti Tama. Te Runanga o Ngāti Tama has been carrying out its own engagement and consultation with iwi members, including hui with iwi on the Project in December 2017.”* I have been advised that the Alliance attended and presented to a hui a iwi convened by the Ngāti Tama Runanga on Saturday 28 April 2018. The invitation to the hui was extended to the members of Te Korowai.  30 – 40 people attended the session. No one from the Te Korowai Group attended but according to Mr Roan a copy of the presentation delivered at the hui by the Alliance has since been provided to a representative from Te Korowai (Mr Allen White).  The Alliance understand that the Runanga will hold another hui a iwi later in May and will again invite the Te Korowai group to attend.  I also understand that representatives from the Runanga and NZTA are seeking to meet with representatives of the Te Korowai group directly to ensure that they have direct information on the project and on the discussions that have occurred to date.

### Poutama

1. NZTA have engaged with Nga Hapu o Poutama as a party with cultural interest in the local area. There is no Treaty settlement or acknowledgement by the Crown that recognises Poutama as an iwi, however the Poutama submission states they ‘are an autonomous tuturu iwi’. It is not Council’s legal function to determine mana whenua; that is a matter for a different forum. I believe NZTA have engaged in good faith with Poutama, having identified that they have cultural interests in the area and historic interest in matters concerning SH3. However, I am not clear on what the cultural effects related to the bypass project are which Poutama would seek to have addressed. Poutama are encouraged to inform the hearing of the cultural (and other) effects and how they consider the effects might be addressed.

### Addressing cultural effects

1. The AEE states that the project would have “major and ongoing cultural effects.” Pages 186-187 of the AEE considers the cultural effects of the project and how they might be mitigated. It explains that a key aim of discussions with Ngāti Tama has been to seek to minimise effects on Ngāti Tama’s cultural values. NZTA considers that the project presents a number of unique design opportunities to recognise Ngāti Tama’s culture and relationship to the land and the environment, and for Ngāti Tama to express their mana whenua and kaitiakitanga. The AEE states that ongoing engagement with the Runanga will occur as the project progresses to ensure that Ngāti Tama’s aspirations are incorporated into the project development and into designs, and will continue through construction and operation.
2. The Ngāti Tama submission states:

*“Based on the constructive engagement to date, the Runanga has resolved to take a position that neither supports, nor opposes the project, but focuses on seeking that the cultural effects on Ngāti Tama are avoided, remedied or mitigated (including by offsets) in a manner that meets the requirements of the RMA and achieves a standard that accords with the Treaty of Waitangi.”*

1. The submission identifies that there is no commonly accepted method for substantively addressing cultural effects, particularly in a manner that takes into account or accords with the Treaty of Waitangi, and this presents a difficulty for the Runanga in considering measures to address the cultural effects. The submission considers that this project brings in the RMA Treaty of Waitangi provisions, and I take into account the principles of the Treaty of Waitangi at paragraphs 358-370 of this report.
2. The Ngāti Tama submission states that the iwi are working with NZTA on cultural recognition within the project design, cultural indicators, participation in ecological restoration aspects and other matters. The AEE identifies that there are opportunities for cultural expression through the project design, particularly around the bridge and tunnel. At the time of lodgement no draft conditions were included requiring cultural protocols to be adhered to, although such inclusion is clearly intended as the draft conditions state “Cultural protocols - to be developed with TRONT”. Therefore, there is a lack of detail around what this might look like and in the RFI I requested further information in this regard. The response to the RFI was that NZTA remains in active discussion with Ngāti Tama representatives in respect of cultural protocols, an update will be provided in due course, and that a proposed condition is being prepared as part of this process.
3. I note some development in terms of detail within the draft ELMP submitted March 2018. Pages 4 - 5 of the ELMP outline how kaitiaki inputs will be gained to ensure NZTA works collaboratively with the Rununga and ongoing engagement occurs. Further examples of matters that may be progressed through a Kaitiaki Forum are identified and include:

* The representation of cultural artwork in Project designs.
* Development and implementation of the pest management programme.
* The development and implementation of cultural indicators and cultural monitoring.
* Tikanga and cultural practice in relation to Project activities.

1. It would be preferable if these matters could be agreed prior to the hearing. I do not consider this would be appropriate to leave any further detail to a later approval which could potentially rely on a third party’s agreement. Page 188 of the AEE states *“while the Transport Agency relies on the Public Works Act to acquire land, it also recognises the potential effects of the acquisition process on Ngāti Tama and it will not use the compulsory acquisition provisions of the Public Works Act to acquire Ngāti Tama’s land. Mitigation for loss of control over land will be achieved through mutual agreement with Ngāti Tama on the land acquisition process.”* The Runanga submission states that if the cultural effects are not appropriately addressed prior to the Hearing, the submission considers that the alternative (online) alignment is more appropriate. At the time of finalising this report, I am aware of recent developments relating to draft conditions in relation to a kaitiake forum. I do not however recommend any conditions in this regard because this is being negotiated between the Runanga and NZTA. Agreement from the Runanga is considered critical and I am supportive of conditions relating to Ngāti Tama involvement in the development and implementation of management plans and cultural protocols.
2. The submission by Tiaki Te Mauri o Parininihi Charitable Trust is neutral but seeks to ensure the effects of the project on Parininihi and the taonga bird and other native flora and fauna are fully avoided, remedied or mitigated. The Trust guides and supports conservation work at Parininihi, includes people from Ngāti Tama and the wider community, and aims to restore and protect the values of Parininihi by undertaking a major long-term ecological management project that includes pest control, species recovery and translocations. In 2017 20 kōkako birds were released at Parininihi Forest, west of SH3. The returned birds are descendants of Tamanui, the last kōkako of Taranaki who was removed 18 years earlier to a captive breeding program carried out by DoC. The Trust also support kiwi and other species of flora and fauna at Parininihi, and in my view the submission reflects that the ecological values of the project and wider area are not separate from cultural values. The health of the forest between SH3 and The Whitecliffs is exceptional, largely due to the work of the Trust, and the biodiversity values associated with this area were a key consideration in the options assessment and the decision not to carry out the roading project west of SH3.
3. Should the NoR be confirmed, in my view it is essential that conditions be imposed to ensure the appropriate organisations have stewardship opportunities; to input into the avoidance, remediation and mitigation of adverse effects on taonga bird and other native flora and fauna. Along with DoC and Ngāti Tama, I consider biodiversity outcomes would be enhanced through the experience and knowledge within Tiaki Te Mauri o Parininihi Charitable Trust and suggest conditions could be in place which provide opportunities for the Trust to participate/co-operate. The Kaitiaki forum mentioned above may be the appropriate avenue for this participation, if the Trust wishes to be involved.
4. Te Korowai and Poutama are encouraged to present to the hearing, whether and how they consider cultural effects may be addressed by NZTA.

## Historic Heritage Effects

1. The AEE is supported by an HHA (Technical Report 9) which has been peer reviewed by Geometria (Mr Daniel McCurdy). The HHA outlines the historical background (Maori then European) and notes of the project area, that being inland it was less desirable for habitation than the coastal plains where the majority of settlement was focused. It also identifies that the Tongaporutu River was one of Taranaki’s few navigable rivers and that there were Maori foot-tracks including a known one which linked the coast to the heavily forested interior via the Mangaongaonga Stream valley east of Mt Messenger.
2. There are no archaeological sites located on the project alignment in the District Plan. The HHA states that the New Zealand Archaeological Association (“NZAA”) database shows approximately 20 recorded archaeological sites within a 7km radius of Mt Messenger, and almost all of these are located on or close to the west coast. Although no known Maori archaeological sites are in close proximity to the project alignment, it is considered that due to the nature of Maori settlement patterns, which might include a broad territory, usually coastal in orientation but with access to numerous inland resources, there is the potential to encounter settlement remains in the footprint.
3. With respect to Maori occupation, Geometria consider *“While it* (land within the project area) *was certainly unfavourable for settlement, it was clearly not a complete barrier. The rugged terrain offered land suitable for defensive purposes and numerous examples exist of northern Taranaki pa or settlements in extremely rugged and nearly inaccessible back country environments, often having been established specifically to exploit the very nature of the terrain to advantage. Such sites are often “retreat” or “refuge” pa, known through oral tradition (…) to have been used as retreat positions for women, children and elderly during times of war. There are a number of sites very close to the project area in similar terrain to what the HHA refers to as “unsuitable for Maori settlement”.”*
4. To help inform the archaeological potential of the area, the RFI sought further detail about the nearby confiscation line created by the 1863 New Zealand Settlements Act, which resulted in land seizure having a devastating effect on iwi settlement patterns in the area. The RFI response stated that this will be addressed in evidence.
5. Geometria identified that the HHA suggests that the area was primarily a source of raw materials, and if this was the case then one would expect associated archaeological sites in the vicinity of the resource locations. The RFI asked for further detail to better understand what archaeological features could be present in the project area, and greater detail on the archaeological potential, or significance of these features. The response was that: *“The reference to raw resources relates to the hunting and gathering of birds, rats, and plant materials - Mahinga kai. Activities such as these rarely leave archaeological traces that are likely to survive. Occasionally the archaeological remains of tracks, isolated camp sites, or refuge Pa may be found in less hospitable areas of settlement. The archaeological evidence of raw material gathering is usually found back in the settlement sites as bird bones, pollen and phytoliths contained in midden sites.”* Mr McCurdy is satisfied with this response, and concurs that the likelihood of mahinga kai presenting archaeological traces is very low.
6. The HHA and Geometria review considered the likelihood of encountering pre-1900 remains relating to European settlement in the project area. The hilly and densely forested terrain made it difficult for European settlers in the 1800s to navigate but Maori tracks that had been well-worn during the land wars had consolidated into well-worn footpaths around Mt Messenger. For several decades following European settlement wheeled transport in and out of North Taranaki was only possible along a poorly maintained coast road. The road was driven over Mt Messenger in 1896.
7. Geometria identified that existing SH3 is pre-1900 infrastructure which has archaeological and historic heritage values associated with it. Further information was requested in the RFI regarding its significance and how the proposed road construction might impact on heritage values, including the Mount Messenger Tunnel with its high contextual, historic and social value, moderate cultural and aesthetic value, and the possibility of encountering and disturbing remnants of papa kilns, original burnt papa roading surface or papa quarry sites within the wider project area. The RFI response was that the proposed works will not affect the existing Mt Messenger road or tunnel. It identifies that continuous road maintenance, widening and alteration over the Mt Messenger section of SH3 throughout the 20th century is likely to have removed any evidence of these kilns and quarries in the roadside banks, and confirms that the RA’s heritage expert has found no evidence of kilns or quarry sites along the existing road. Mr McCurdy considers this response adequately addresses his earlier concerns regarding pre-1900 infrastructure along the existing road.
8. Farms are known to have established in the Mangaongaonga Valley, the valley east of the proposed alignment in the Mangapepeke Valley, that date to around 1900, which suggests possible early remains relating to pre-1900 European settlement. However the HHA considers the risks of encountering archaeology relating to pre-1900 farming along the project route in the Mangapepeke Valley is low.
9. The HHA included a desktop study and a walkover of the project alignment in the Mimi Valley and no historic heritage features were identified along this southern end of the alignment. It also reports on a walkover of the Ngāti Tama land within the Mangapepeke Valley, however it did not report on visual inspection of the northern (Pascoe) property. Although the HHA considers that the Pascoe property is unlikely to have been used for significant occupation because of frequent flooding and steep inaccessible valley sides, it notes that the valley may have been used by Maori to access inland areas. Geometria identify the Pascoe property as an area of interest archaeologically due to the landscape being more suitable for early occupation than the surrounding rugged terrain. In the RFI I indicated that an archaeological survey of the entire selected route should be carried out to validate assumptions made in the HHA. The RFI response states that an archaeological survey of the Pascoe land within the Project area has now been undertaken, and that no archaeological or other historic heritage sites were identified within the footprint of the Project route within the Pascoe land, either through historical information, previous investigations, or the field survey.
10. When I visited the site on 23 March 2018, I learned that the Pascoe dwelling had earlier been located further up the valley – the old coal range, some old bottles and pottery were visible on the grass. I discussed this with Mr McCurdy who advised the mark on the pottery would be from 1914 but that doesn’t mean the site wasn’t occupied before then, and it should be investigated prior to earthworks. I encourage the RA to advise whether this previous house site was specifically considered in the archaeological survey of the Pascoe farm, and if not, recommend designation conditions requiring further investigation if the NoR is confirmed.
11. Section 7.7 of the HHA states that while no known archaeological sites will be affected by the proposed works, and an Archaeological Authority under the Heritage New Zealand Pouhere Taonga Act 2014 (“HNZPTA”) is therefore not required, there is the potential to encounter archaeology within the Project alignment and to avoid any delays, in the event that unidentified subsurface features be exposed by the proposed works, it recommends *“an application should be made for an authority under Section 44(a) of the HNZPTA to cover all works undertaken for this project. This will be obtained before any earthworks are carried out. The conditions of the authority are likely to include archaeological supervision of preliminary earthworks, and procedures for recording any archaeological evidence before it is modified or destroyed. This approach would have the advantage of allowing any archaeology uncovered during the development of the property to be dealt with immediately, avoiding delays while an Authority is applied for and processed.”*
12. I am satisfied that the low likelihood of unknown physical heritage features in the project footprint being encountered may be addressed through proposed designation conditions 29 and 30. These conditions are on the basis of an Accidental Discovery Protocol (“ADP”) being in place, and/or obtaining an authority from Heritage New Zealand. The draft designation conditions set out the requirements for an ADP, and the relationship between the ADP and the archaeological authority that is anticipated to be sought for the Project.
13. If the NoR is confirmed, I do recommend an additional condition relating to accidental discovery; requiring Council to be advised of any finds, because it is important for the Council to be informed and to keep updated records.
14. The Te Korowai submission indicated that the project may fail to protect cultural landscapes. It is not clear whether this is related to archaeology or not. It is possible evidence may be presented at the Hearing in this regard. No other submissions raised concerns regarding impacts on historic heritage/archaeology. Heritage New Zealand were directly notified of the application and did not lodge a submission.

## Earthworks and Construction

1. The project alignment is within two separate river catchments, in topographically complex hill country, and the geology of the area includes soft sandstone and mudstone, volcanic ash, and alluvial deposits. The alignment will traverse steep terrain, bisect valleys and ridges, and generate cuts of up to 60m in height and embankments up to 40m in height (but typically less than 5m high). The proposal involves significant earthworks (approximately 890,000m3 of excavation and 835,000m3 of on-site fill).
2. The “Erosion and Sediment Control Conceptual Plans for Main Construction Works” sheets contained in Volume 2 – Drawing Set indicate the location of cut and fill areas along the proposed route, including provisional fill sites. The CEMP provides a framework for the management of construction activities, of which earthworks and associated matters are a significant aspect.
3. This section of my Section 42A report assesses the proposed management of earthworks and considers earthworks with respect to: the New Plymouth District Plan; construction noise from construction vehicles and the effects of this on nearby residents; construction traffic hauling cut and fill which may impact on the continued operation of the active state highway and private property access; the visual effects of earthworks from roads, other public places, and private land; and how the RA intend to manage earthworks to minimise any adverse effects.

### Earthworks under the **District** Plan

1. The District Plan is concerned with the effects associated with earthworks in terms of visual effects with respect to amenity and rural character, impacts on identified features such as waahi taonga/sites of significance to Maori, archaeological sites, Outstanding or Regionally Significant Landscapes and Priority Waterbodies, as well as land stability and natural hazards. Slope and land stability are assessed in the Natural Hazards section at paragraphs 197-215 below.
2. District Plan Rule Rur60 states that earthworks within 6m of the bank of any watercourse are permitted by the District Plan where they are permitted by a rule in a Regional Plan or a resource consent issued by TRC. Based on this, and given the consents for the project lodged with TRC, I largely rely on TRC to address effects of the proposed earthworks on watercourses. Dust is also a matter regulated by TRC but it may be appropriate for me to comment on these effects as they relate to amenity and in the interests of integrated management between TRC and NPDC matters.
3. Rule Rur62 of the District Plan relates to the maximum quantity of earthworks, measured in non-compacted form, and states that 20m3 of excavation and filling per 100m2 of site area may be carried out in any 12 month period as a permitted activity. I understand that if the proposed earthworks occurred outside the designation process that a resource consent would be required by this rule. It is not necessary to scrutinize quantities relative to sites to establish compliance with the District Plan because the effects resulting from the earthworks should be addressed through conditions, including being subject to the CEMP.
4. As a Restricted Discretionary Activity under Rule Rur62, the District Plan would require an assessment of: the extent, location and timing of excavation and filling; adverse visual effects on adjoining sites, roads and public areas; proposed measures for, and timing of, restoration, rehabilitation and/or screening; the adverse effects on Outstanding or Regionally Significant Landscapes and on the natural character of Priority Waterbodies; and the effect on the ability to maintain rural character.
5. Typically in processing consents under Rule Rur62, Council would seek conditions to ensure earthworks are completed and reinstated in a timely manner. Rule Rur63 requires that all bare earth shall, as soon as is practicable, but not later than six months from the date of disturbance, be: 1) stabilised so that no earth moves off-site or presents a danger to life or property; and 2) vegetated, sealed, paved, metalled or built over. The assessment criteria of Rule Rur63 refers to natural hazards in addition to the matters listed in Rur62.

### Earthworks effects on Regionally Significant Landscapes

1. The AEE states that a range of potential adverse effects have been avoided through the route selection and project design process. As recognised within the MCA, and earlier identified in this report, routes affecting the large area of Parininihi land on the western side of the state highway were seriously considered in the MCA, and this land is subject to the District Plan Regionally Significant Landscapes (and Significant Natural Area) overlays. Despite no such overlays affecting the eastern Parininihi land subject to the NoR, there are significant values within the proposed footprint and the effects of the earthworks and other aspects of the proposal on these values will be discussed in later sections. The proposed alignment sits low within the landscape and I consider it avoids directly impacting on significant features identified in the District Plan, including but not limited to the Regionally Significant Landscapes.

### Earthworks effects on waahi taonga/sites of significance to Maori and/or archaeological sites

1. Page 76 of the AEE identifies that protocols to recognise Ngāti Tama’s kaitiaki responsibilities will be developed and they will cover aspects such as cultural monitoring of earthworks. I support this but do note that under the District Plan the earthworks would be a permitted activity under Overlay Rules OL81-82 and OL85 relating to earthworks, vegetation clearance and the erection of structures on or in proximity to waahi taonga/sites of significance to Maori – because there are no sites listed in the District Plan affected by the project.

### Earthworks management

1. Pages 76 – 77 of the AEE state the project *“intention has been to balance the engineering and construction requirements, programme implications and likely environmental effects to achieve a methodology that, as far as practicable, avoids or, where avoidance is not possible, remedies or mitigates adverse effects. This included consideration of the following:*

* *The location and extent of construction yards, laydown areas and construction access tracks/haul roads. The intent was to minimise disturbance and vegetation clearance in sensitive environmental areas, and as far as practicable avoid locating construction activities in or in close proximity to sensitive features;*
* *Construction of bridge and tunnel works to minimise impacts on sensitive environmental areas and habitats;*
* *Construction programme and timing of particular activities to take advantage of seasonal weather conditions or minimise disruption to ecological breeding and migration patterns where feasible; and*
* *Transport Agency construction guidelines and standards that seek to avoid and minimise adverse environment effects.”*

1. Pages 78 – 80 of the AEE explain that the construction management splits the footprint into two regions, being the Northern Region within the Tongaporutu catchment (Chainage 0 to 3635 (the tunnel)), and the Southern Region within the Mimi Catchment (Chainage 3635 to 5955). The regions are further broken into zones, and for each zone, there is an overview of the main construction features and activities. Pages 80 – 82 of the AEE present the proposed staging of construction works, identifying that a number of zones within the project will be under construction at a time. The last four pages of the Drawing Set (Volume 2) contain “Construction – Stage 1-4” plans which show the construction stages and areas affected as the project progresses.
2. The construction footprint allows for haul roads to transport the large quantities of earth. It is anticipated that the Northern Region cuts and fills of structural fill are balanced in the Northern Region, with buttress fill to be imported from the Southern Region once the tunnel and bridge are complete. Excess fill from the Southern Region is anticipated to amount to approximately 145,000m3 of structural fill and likely to be moved to the Northern Region or taken to a nearby spoil disposal site. Much of the excavated material will be reused in road and embankment construction, however some may be unsuitable for these purposes and require removal off-site. Even if all fill is suitable, there may be surplus. Similarly there could be a deficit of suitable fill which would require additional fill to be sourced from further afield than the project area. This is not unusual for a project of this nature.
3. The CEMP and CWMP provide details relating to erosion and sediment control, including works on slopes and construction staging. Page 17 of the CEMP states *“An overriding principle for the Project has been to minimise the land disturbance required in order to reduce construction related sediment from entering streams and watercourses and, in turn, the downstream coastal receiving environment.”* Despite intentions to minimise land disturbance, the project inherently involves significant quantities of excavation and fill which if not managed properly could create significant adverse environmental effects. Page 30 of Technical Report 13 (Construction Water) states that erosion and sediment control plans are conceptual at the consenting stage but *“provide sufficient information and confidence to illustrate that the sediment generation and yields arising from the construction works can be managed effectively.”*
4. Page 33 of Technical Report 13 (Construction Water) states that earthworks and construction activities will be staged and sequenced to limit the area of exposed soil required to complete an element of the work. Open earthworks areas will be progressively stabilised to reduce the potential for erosion to occur. It states that areas not worked for more than a 14 day period will be stabilised to ensure areas are not left exposed for long periods of time. Stabilisation may include use of mulch and/or other woody organic matter, geotextile and the use of hard fill material. Stabilisation will particularly apply at stockpile areas and batter establishment to reduce both erosion and dust generation.
5. SCWMPs will apply to each area of work, to take into account the environmental and ecological values of the specific work areas and determine the most effective and appropriate form of erosion and sediment control devices and management practices for the discrete location or activity. Page 33 of Technical Report 13 states that a proactive risk management approach to erosion and sediment control is proposed; *“whereby prior to construction works commencing, the site conditions and associated resources will be assessed for the exposure risk and relevant SCWMP updated as required. While for all locations, the full suite of both structural and non-structural erosion and sediment controls will apply, for higher risk sites, there will be a more significant monitoring presence, ensuring progressive stabilisation continues to occur and working within more defined fine weather windows. This risk management approach will be outlined in the final CWMP and specific procedures will detailed within the relevant SCWMPs.”* The SCWMPs will be subject to inputs from various parties and it is intended that this will allow for innovative practices, continuous improvement in response to monitoring, and to result in enhanced outcomes particularly in sensitive locations.

### Earthworks in proximity to Priority Waterbodies

1. The Mimi River is a Priority Water Body in the District Plan and the proposal includes a 120m long bridge spanning a high-value Mimi valley swamp forest area which is part of the Mimi headwaters. The AEE considers this area will be avoided by the project footprint although the bridge will span a tributary. This avoidance will be achieved by carrying out the bridge construction in the manner described on page 59 of the AEE: *“The bridge design of steel piers and steel superstructure will enable the bridge components to be lifted in place and the bridge constructed from the abutments with large cranes. As such, access to the valley floor below and the construction of large staging platforms will not be required, minimising effects on this environment.”*
2. The bridge is therefore proposed to be constructed in a manner that requires minimal vegetation clearance and earthworks. However, the bridge abutments are in close proximity to the wetland area and in the RFI the RA was asked to address the concern that there is little in the way of buffering should sediment and erosion controls fail, particularly given the steep terrain and unstable geology. The RFI response stated that due to the geology in the area, there is an abundance of sediment in freshwater systems throughout the Project area. I have discussed this response with TRC who do not dispute it. Further, the draft CWMP includes best practice erosion and sediment controls, and also contains incident response measures in Section 10, including where erosion and sediment control measures fail. The draft CWMP includes mitigation measures to be taken to minimise the adverse effects on the environment and corrective actions to rectify the situation should measures fail.
3. The District Plan guides us to consider the effect of earthworks on the natural character of Priority Water Bodies. With respect to the Mimi Stream, I consider the bridge structure spanning the edge of the tributary/headwaters will detract from the natural character of this currently unmodified area (although I note the bridge would be located 60m from the existing road corridor so there is some modification in the immediate area), but the location and design seeks to minimise the impact, and the earthworks and footings associated with the bridge are considerate of the sensitive receiving environment.
4. The Mangapepeke Stream is not shown on the District Plan planning maps; however it is a tributary of the Tongaporutu River, which is a Priority Water Body. The Mimi and Tongaporutu River mouths are also Regionally Significant Landscapes. In terms of what matters the District Plan addresses, I do not have concerns regarding adverse effects on the natural character of Priority Waterbodies within the Tongaporutu catchment or the landscape values of the river mouths because while the proposed works affect the natural character of tributaries to the scheduled Priority Waterbodies, the effects are considerably upstream of the scheduled features. While poor management could result in downstream effects on scheduled Priority Waterbodies, the RA and TRC consider effects on the watercourses can be effectively managed through conditions.

### Social effects associated with earthworks

1. The Social Impact Assessment (“SIA” - Technical Report 5) identifies that the project could result in negative effects on a local scale during construction, encompassing properties in the immediate vicinity of the project and the settlements of Uruti and Ahititi. It identifies effects on the way of life and wellbeing of the local community due to disruption to local land owners and local road users affected by construction traffic and associated traffic management measures. The existing road will remain open during construction, and the proposed CTMP is considered to result in any temporary effects of construction traffic on the existing SH3 alignment being appropriately managed.
2. The SIA also identifies that construction activities may affect the quality of the environment due to localised effects during construction, including dust and construction noise and vibration, which could reduce environmental quality for local residents. The AEE and Technical Report 11 (Air Quality) show that there is the potential for significant amounts of dust to be generated from the proposed construction activities during dry, windy weather conditions unless appropriate dust controls are implemented. Most of the surrounding area is not sensitive to amenity effects of dust. However, three residential receptors are in proximity and the RA proposes dust control methods to minimise the risk of nuisance and aesthetic effects. Dust is principally a TRC matter to address, although the District Plan earthworks rules seek to address effects of earthworks on amenity.
3. A draft Dust Management Plan (“DMP”) has been developed and with this in place the RA considers any residual effects of dust are unlikely to be offensive or objectionable or be of concern for roof drinking water supply. Temporary construction related dust effects at the three sensitive residential dwellings are expected to be minor due to separation distances between residential dwellings and earthworks areas. In addition, possible contaminated soil locations are such that any potential for odour effects is very low. Similarly, the separation distances between construction vehicle operating areas and dwellings are such that they would not be impacted by exhaust emissions. Overall, the RA considers any effects of construction related emissions to be minor. The AEE considers these effects will be appropriately managed by the DMP and CNMP, within the CEMP.

### Construction noise

1. District Plan Rule Rur88 requires noise to comply with NZS 6803:1984. Council accepts that this standard is outdated and considers it appropriate instead to consider construction noise in relation to NZS 6803:1999, which is the standard referenced in NZTA’s ‘State Highway Construction and Maintenance Noise and Vibration Guide’. This standard has an emphasis on noise management planning and maintaining community relations. Page 227 of the AEE states: “*The long-term duration” criteria from NZS 6803:1999 are most appropriate for this Project given the long duration of works. The Standard does not anticipate that full compliance with the construction noise criteria will necessarily be achieved at all times and at all receivers. Where compliance is not possible, it focusses on the implementation of the best practicable option (BPO) for construction noise management and mitigation.”*
2. Technical Report 10 (Noise and Vibration) and the AEE identify the sensitive receptors, which are few due to the remote location of the site:

* 3072 Mokau Road (Pascoe) at the northern end of the alignment would be vacant during construction and no assessment of construction noise and vibration has been made for that dwelling.
* 2750 Mokau Road (Beard) – The Beard’s dwelling is accessed via the rest area south of the tunnel on the existing alignment and the proposed tunnel is located approximately 400m west of the dwelling. Construction is proposed for the tunnel around the clock and general construction activities are proposed for Monday to Sunday 6:30am to 9:00pm. The dwelling at No.2750 is shielded by topography and it is expected that both day-time and night-time noise limits will be complied with.
* 2528 Mokau Road (Thomson) - Construction noise is predicted to comply with the day-time limits; however there is the potential that construction works outside Monday to Saturday 7:30am to 6:00pm will exceed the construction noise limits.
* 2397 Mokau Road (Gordon), approximately 1.5km south of the base of Mt Messenger has been identified as a fill site. This land has recently had plantation forestry felled. There is a dwelling on this site and a possibility for exceedance of the daytime criteria of NZS6803:1999.

1. The owners/occupiers of 2397 did not lodge a submission on the NoR, and Mr Thomson at 2528 Mokau Road submitted in support of the proposal. The notification letter to the occupier of the dwelling at 2397 was ‘returned to sender’ and I queried whether the dwelling was lived in and whether an agreement was in place with the owner regarding the spoil area and dwelling. In an email from John Clemo dated 20 April 2018 the Alliance responded by stating:

*“Regarding your query about the current occupier of the dwelling, the dwelling is rented out by the landowner (however we are unsure as to whether there is currently a tenant in the house).  Regardless, we would note that the Transport Agency is currently in negotiations with the landowner about renting this house over the duration of the construction works.  While there is currently no agreement in place with the landowner, we believe that an agreement will be reached before construction commences.  We will update you on this when we are able to.”*

1. Technical Report 10 and the CNMP have been reviewed by Nigel Lloyd of Acousafe and his review comments are attached at Appendix G. Mr Lloyd has considered the above email response, the RFI response and Technical Report 10. Mr Lloyd considers it important to ensure appropriate controls are in place to manage noise effects on the dwelling at 2397, unless it has been demonstrated that no party outside the project will be residing there. Mr Lloyd stated: “*It is clear from the assessment that has been undertaken that the construction noise limits could be exceeded at 2397. Relying on the CNMP will mitigate the adverse construction noise impact but, because no assessment of the noise has been undertaken, it is unclear whether the construction noise represents a significant impact on health and amenity effect for residents of this dwelling.”*
2. To manage noise effects during construction at No’s 2428 and 2397, a CNMP has been drafted, in accordance with the requirements of NZS 6803:1999, and draft conditions require compliance with the CNMP. The CNMP details mitigation measures, including the management and communication procedures for any night works affecting these receivers. It also includes proactive noise monitoring and reactive complaint procedures that must be followed. If the NoR is confirmed, I agree with the proposed noise designation conditions which specifically reference the New Zealand Standard being in the CNMP, with one addition described in the following paragraph.
3. With the adoption of a CNMP and appropriate scheduling night works so that general compliance with the limits is achieved, the AEE considers construction noise effects associated with the project will be minor. In relation to the spoil area at 2397 Mokau Road, the CNMP includes the recommended mitigation of the Alliance's noise expert which is that if exceedances occur, the following measures are implemented:

* the spoil site only operates Monday to Saturday 7:30am to 6:00pm (no Sunday or night works at this spoil site);
* a solid site hoarding is constructed; and
* there is appropriate on-site management to avoid unnecessary noise.

Given Mr Lloyd’s view regarding the potentially significant impact on health and amenity effect for residents of 2397 Mokau Rd, if the NoR is confirmed, I would like to see the above recommended mitigation included in designation conditions, in addition to inclusions in the CNMP. I suggest the first bullet point should be expanded to include public holidays.

1. The District Plan does not consider vibration effects. Vibration effects from construction are considered to be minor due to separation distances to dwellings, and page 174 of the AEE states that construction vibration effects to 3 residential receptors are not adverse. Technical Report 10 (Noise and Vibration) considers construction vibration levels are predicted to comply with the NZ Transport Agency guidelines. No submitters raised concerns about construction vibration.

### Visual effects (earthworks)

1. With regard to the visual effects associated with the proposed earthworks, the wider surrounding area is sparsely populated with a low number of dwellings having views of the project area. Earthworks may be visible from local farms as identified in page 216 of the AEE as the dwellings at 2528, 2750 and 3072 Mokau Rd. No submission was received from the neighbour at 2750 (Beard), and the owner at 2528 (Thomson) submitted in support. 3072 Mokau Rd is currently owned/occupied by Debbie and Tony Pascoe who are significantly affected by the proposal, and would be required to be off-site for the during of the construction period (as discussed at paragraphs 242-245). I consider visual effects from these three adjoining sites to be minimal, with good separation distances between dwellings and the project area and with natural shielding being provided by the surrounding topography. The AEE does not consider the proposed spoil site at 2397 Mokau Rd in terms of visual effects of earthworks; this work site may be visible from the dwelling at No.2397 and the RA would require agreement from Mr Gordon to use this site for spoil disposal. I understand an agreement is anticipated, therefore indicating likely acceptance by the owner of any visual effects.
2. Page 217 of the AEE considers that much of the work occurs out of public view and in remote areas not visible from the SH3 corridor. For the most part works will take place within valleys and will not be prominently visible. Motorist travelling along SH3 will see the spoil site at 2397 Mokau Rd, albeit fleetingly, and I consider this a minor effect. Views from walking tracks in the vicinity are unlikely due to the nature of the topography and forest, and views from those travelling along the state highway will be fleeting. However the scale of the project is significant and landscape and natural character values exist in the project area; the landscape and visual effects and effects on natural character will be addressed later in this report, at paragraphs 254-270.
3. While profiles showing completed works are provided (the typical cut slope and embankment designs are summarised in pages 53 – 59 of the AEE) it is noted that designs are currently preliminary and profiles may change as the design development progresses, or in response to changes. Whilst I consider it appropriate to allow for adaptive management within designation conditions, conditions should specify outcomes sought, and in respect of changes to the landform resulting from cut slopes and embankments, it is important that the landscape principles identified in the LEDF are integral to outcomes. I consider stronger conditions are required in respect of landscape effects resulting from earthworks, and will address this later under the Landscape Effects section (paragraphs 254-270).

### Construction traffic

1. In terms of traffic effects on the roads from heavy vehicles, pages 84 - 85 of the AEE states that site access arrangements for construction have been designed to provide direct access to key work areas, including the bridge and tunnel, to enable work to be undertaken concurrently in several construction zones. A number of temporary site accesses will be required from SH3 into construction areas and these are considered in Technical Report 2 (Traffic and Transport) and in the CTMP. An alternative was considered to start at each end and join in the middle, relying on only two site access points to obtain access from the existing highway. However, the proposal to have a number of access points is preferred by NZTA to allow accelerated construction of the bridge and tunnel (which will facilitate the transport of material from the southern to northern construction regions and minimise the transportation of fill on public roads). This approach also minimises unnecessary traffic on the temporary access tracks, enabling their widths to be kept to a minimum; and enables the most efficient sequence for the tie-ins of the new road to SH3 by keeping them free of construction traffic and minimising the duration of potential disruption and traffic impacts.
2. Site access points are shown in Appendix B of the draft CEMP. The response to question 26 of the RFI states that the form and function of access points will be developed with consideration to all relevant management plans, regulatory requirements, road safety practices for temporary traffic management, and where required for semi-permanent or long-term installations developed and audited as if they were permanent works. Page 224 of the AEE states that the site accesses will be controlled, so that access will only be possible for those authorised to access the site, and that they will be developed so as to ensure good visibility to and from the accesses, in line with the approach design speeds. Where necessary LED warning signs will be used to warn road users, and where appropriate, the access points will be sealed for the first 10m onto the site to prevent detritus spreading onto SH3. In addition, a stopping bay at the southern approach to the site provides trucks with an area to pull over while drivers check that relevant accesses are clear. The traffic assessment presented in Technical Report 2 concludes that the site accesses can be appropriately managed to ensure the safety of SH3 users.
3. Page 223 of the AEE outlines the anticipated traffic movements associated with construction, and states that *“the amount of truck traffic can be expected to fluctuate between 60 and 160 movements per day, with an overall average of around 80 movements per day.”* Despite the project being constructed off-line, some delays for motorists travelling the state highway will be inevitable given the increased construction traffic activity and access point interactions. This is likely to become particularly tiresome for frequent motorists and local drivers. I note that District Plan rules Rur101 and Rur102 relating to traffic generation, exclude traffic generated by construction work. However, under Rule Rur93 and Appendix 23 of the District Plan (Traffic and Transport), where vehicle access points are proposed onto state highway, there are minimum sight distances and other controls specified to ensure safe access occurs. Resource consents under District Plan traffic generation and vehicle access point rules, in relation to state highways, are typically processed in consultation with NZTA, with their traffic safety expertise relied upon to achieve safe interactions with the state highway.
4. A key requirement of NZTA is to ensure the state highway remains open as much as possible during construction as it is the key route north from New Plymouth. The CTMP contains appropriate controls such as flashing beacons and speed restrictions to be implemented as required. Where appropriate, access points will be sealed for the first 10m to prevent the tracking of debris onto the SH3 network. I consider NZTA are experts in managing interruptions to the state highway and adverse effects on the operational highway will be managed as far as practicable to ensure traffic flows. The on-line options considered within the MCA would have significantly increased challenges in terms of constructability and interactions with active traffic lanes.

## Natural Hazards

1. Section 2 of the RMA defines “natural hazard” as *“any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment.”* In 2017 the RMA was amended to add Section 6(h) to Part 2, adding an explicit mandate for decision makers to manage risks from natural hazards. The existing alignment of SH3 at Mt Messenger is prone to natural hazards and resilience is an important factor to consider in a project to improve a highway in a challenging environment. The AEE addresses natural hazards in numerous ways; supported by Technical Reports 3 (Resilience), 11 (Air Quality), 13 (Construction Water), and 14 (Geotechnical). I rely on TRC to consider natural hazards with respect to sedimentation and flooding.
2. Technical Report 3 (Resilience) assesses the route resilience for the operational phase of the project in relation to natural shocks and stresses including land stability, flooding/storms, earthquake, weather, high winds, wildfire, volcanic activity and increasing extreme weather frequency/intensity due to climate change (including flooding and drought). The report describes the Taranaki region as sitting *“within a complex landscape, with many natural hazards. The region and local communities are built within the influence of the Mt Taranaki and Taupo Volcanic Zone, earthquake fault lines and in areas prone to severe weather rolling off the Tasman Sea.”* The report identifies that *“Natural hazard challenges are by their very nature, uncertain, dynamic, and exist in perpetuity. While assumptions can be made based on history and good science about the expected probability and magnitude of consequences of events, we ultimately do not know precisely when an event will occur and what the full impacts will be.”*
3. Landslips are a feature of the existing highway affecting route resilience and posing a threat to human life and property. Debris is often seen at the base of cuts along the existing highway, although this rarely significantly affects the carriageway. The RA also considers there is an active large landslide to the north of the tunnel (as already discussed at paragraph 105 and 107b). Some submitters raised concerns regarding the potential for slips as a result of the large cuttings associated with the project. However, the AEE considers that earthworks designs for the proposed route will be to modern standards, with the risk of failure being significantly reduced. This includes consideration of appropriate gradients of the cuttings, and for steep cuts, the design provides for any slip material to be captured in the verge and not fall onto the road carriageway. As a result the likelihood of landslips adversely affecting human life and property, and disruption to the transport network, is anticipated by the RA to decrease.
4. The Resilience and Geotechnical reports have been peer reviewed by AECOM and some questions were asked in the RFI relating to seismicity, cut slope and tunnel stability, and the rockfall assessment. Upon receipt of the response to the RFI, these matters are considered to be addressed although Mr Allison has some suggestions for the detailed design stage (see Appendix B II) and in relation to earthworks and long term maintenance of embankments constructed over this soft ground (Appendix B III).
5. Technical Report 14 (Geotechnical) summarises the geotechnical considerations affecting the design and construction of the Mt Messenger Bypass, considering soils and rocks for static and seismic conditions. The report outlines designs for cuttings in the soft rocks of the Mt Messenger Formation including the use of batter slopes, rock fall catch-ditches and debris barriers, rock fall drapes and soil nailing. It identifies how stability and settlement on weak soils during and post-construction, and ground deformations, may be managed, including by staged construction with reinforcement and preloading in combination with wick drains. Maintaining stability on embankments during construction will be a main focus and two mechanically stabilised earth (“MSE”) embankments will provide additional stability where steeper embankments will be required and are subject to space constraints (to avoid areas of high ecological values). Options for foundations for the bridge over the wetland in the Mimi catchment are considered in terms of soil cover and strength of the bedrock being suitable for shallow foundations, or whether piled foundations will be required. Intrusive investigations of the rock through which the tunnel will be excavated will be required, although preliminary assessments have been made and options are discussed in the geotechnical report.
6. Mr Allison considers that the Alliance has a general understanding of the geotechnical characteristics of the project area, however notes that at various sections of the geotechnical report, the understanding is based on limited investigations and there are gaps in understanding. He considers that assumptions made with regard to groundwater levels and flows appear reasonable but without specific data on groundwater there are risks that additional engineering may be required. He also considers the potential for liquefaction is likely to be greater than indicated (and higher than for the existing route) and this may also require additional engineering solutions. He notes from the geotechnical report that further investigations are planned to determine the geotechnical conditions at the cuttings, embankments, bridge, tunnel, retaining walls, culverts and potential borrow/disposal areas. Mr Allison considers that the level of detail in the preliminary design is sufficient and it is acceptable to leave further detail to detailed design stage, but that detailed design should be peer reviewed because of the nature and complexity of the project.
7. Technical Report 3 notes there is a low to moderate risk of earthquakes affecting the North Taranaki region but the project will benefit from modern design, and lessons learned from recent experiences in Canterbury and Kaikoura. The design will limit the exposure of the alignment to liquefaction and lateral spreading in the alluvial valleys of the lower Mimi and lower Mangapepeke.
8. The AEE states that detailed and site specific designs will be carried out during a detailed design stage, in accordance with standard geotechnical guidelines and accepted New Zealand design criteria and standards. I accept that due to the inaccessible nature of the terrain, and high ecological and cultural values, that intrusive investigations have not been carried out to enable a full understanding of the geotechnical characteristics along the entire project footprint. Further, I understand that it is typical for detailed design to follow the consenting stage, as well as the likely need to respond to findings on-the-ground once the project commences. If the NoR is confirmed, I recommend a peer review process is required by way of designation condition, so that the Council can be satisfied that the engineering solutions proposed are adequate to address the complex geotechnical issues and associated natural hazards.
9. Technical Report 3 concludes that “*the probability of disruption along the proposed Project route through natural stresses and shocks will be low, as resilience enhancements will mitigate the risk of potential land instability, earthquake vulnerabilities and potential flooding. These improvements will be managed through a sound engineering geological and geotechnical assessment of site conditions closely integrated with appropriate geotechnical investigations, followed by the application of current, more advanced engineering design practice. … The construction of the Project will thus result in a significant improvement in resilience over the existing SH3 route to the potential natural stresses and shock challenges in the region. It will achieve this through major improvements to grades and curves throughout the proposed route as well as design and construction of cuttings and embankments, engineered structures including retaining walls, stormwater culverts and a bridge and tunnel.”*
10. Mr Allison considers that from an engineering perspective the project has many geotechnical challenges but that the project is feasible within the proposed footprint, and that engineering solutions are available. He does note that there is a risk that as more geotechnical information becomes available, that the cost of earthworks and ground improvement may increase.
11. With respect to the potential for flooding/storms to adversely affect human life, property, or other aspects of the environment, submitters raised concerns on this matter. Gordon and Joy Keighley who farm land north of the project area, with the Mangapepeke Stream running through their farm, expressed concern about water run off as the Mangapepeke valley floor will be built up. The Keighleys also have concerns around sediment contamination into the stream, as does Evan Lobb who links this to silt impacting on food sources in the Tongaporutu catchment. Ian Arms, Sydney Baker, Dawn Bendall, Sarah Cryer and Helen Piper also expressed concerns relating to the high water table, that the proposed route is swamp, peak flood flow and flooding, and erosion. Tony and Debbie Pascoe who farm and live in the affected Mangapepeke Valley, upstream of the Keighleys, raised the risk of flooding and alert that the valley floods often.
12. The AEE considers flooding and I understand this to be more a matter for TRC to address than NPDC, given their speciality relating to rivers. In terms of the operational highway, the AEE states that the carriageway has been designed to a level above the design storm flood level. All drainage features have been designed to convey stormwater runoff to reduce the potential for localised flooding, with conveyance capacity designed to the required modern highway design standards. The analysis includes an allowance for future climate change and is anticipated by the RA to result in a decrease in the likelihood of disruption due to flooding. It is my understanding that the project does not aim to fix existing flooding issues in the Mangapepeke, but due to the proposed management of earthworks and watercourses within the project footprint, there will be no exacerbating of the existing flooding issues, and there is expected to be some improvement.
13. Construction activities of this scale and in this location, involving earthworks and vegetation clearance, have the potential to generate landslips, subsidence, and sedimentation. Technical Report 13 (Construction Water Assessment) and pages 230 – 234 of the AEE address these matters. The CEMP seeks to ensure erosion control, sediment and water management are managed effectively. I rely on TRC to scrutinise the effectiveness of the proposed measures in respect of waterbodies.
14. The AEE and Technical Report 3 address weather; in particular fog, frost, snow and wind. Some submitters raised concerns relating to the site specific weather conditions including fog, lack of sun on the valley floor, and the potential for black ice. Page 178 of the AEE states that an analysis of risk due to frost / icing has been undertaken considering sun angles and shading, and the project alignment generally follows a north - south arrangement and so receives sun through the day, regardless of season. I consider NZTA are experienced at managing highways in a range of weather conditions and operational measures such as grit for ice conditions are available. Graeme Doherty of AECOM agrees that this is an operational matter for NZTA to address, should the need arise. The design geometrics seek to remove water from the carriageway to avoid it accumulating and icing on the road. With respect to fog, the AEE states that fog conditions may occur infrequently along the project alignment but as this risk already exists along SH3 there is little change expected to the likely effects and risks. I consider there may be an increased likelihood of fog conditions with the route travelling near the valley floor rather than at a higher elevation, however driver responsibility and the need to drive to the conditions come into play, and overall the improved alignment will make driving in fog conditions safer.
15. Technical Report 3 considers wind and notes that storms and adverse weather conditions resulting in high winds may bring down trees and large vegetation from high slopes resulting in road restrictions or closures. This can also impact on human life and property. Wind throw is also an edge effect identified by Wildland Consultants in relation to ecology. However, Technical Report 3 reports that large trees being brought down by high winds affecting the existing SH3 are infrequent and no incidents have been recorded in the last five years. Wildfire is also briefly considered in the report which states that rural fires affecting the route are rare and there are no records in the last five years of wildfires affecting the roading network.
16. Hazards associated with volcanic activity are considered in Technical Report 3. Both the existing and proposed routes have been assessed in terms of resilience to volcanic activity and both are considered to have a low risk. Impacts and consequences from volcanic eruptions are very significant but it is not considered that the project creates any change with respect to this natural hazard.
17. The AEE states that “safety in design” and “whole of life” have been integral to the design development process, seeking a design approach to enhance safety and reduce environmental effects, including those related to natural hazards, through the design, construction, operation and maintenance phases. The MCA was supported by resilience considerations and inputs were received from experts experienced in geotechnical, geological, earthquake and civil engineering and stormwater management. Design considerations associated with the selected route include pavement and surfacing, stormwater collection and treatment, landscaping, structures including retaining walls and the tunnel, and traffic design including barriers and signage.
18. Fire hazard is addressed in the AEE in relation to the tunnel. The tunnel will include a fire-rated emergency egress passage for pedestrians, and fire hydrant water tanks will be located above the tunnel at the existing rest area at the SH3 Mt Messenger summit.
19. Tsunami risk is not considered in the AEE and I find this acceptable given Taranaki’s lower risk of earthquakes and tsunami relative to other locations in New Zealand, and the distance of over 4km to the coast from the project area. Similarly risks associated with geothermal areas are not considered and I am not aware of geothermal activity in the project vicinity.

## Soil Contamination

1. This section of my Section 42A report, paragraphs 216-221, relate to assessment under the NESCS. Pages 229 – 230 of the AEE outline the proposed management of potentially contaminated land, based on the more detailed Technical Report 12 which is a Preliminary Site Investigation (“PSI”) under the NESCS. According to the PSI, the following known activities could have resulted in ground contamination along the project alignment:

* Fly tipping has occurred at locations along existing SH3, particularly at the summit rest area;
* Farm dumps at the rural properties at the northern and southern ends of the Project alignment are likely. Illegal dumping of material has been reported;
* Storage of fuels, chemicals and wastes associated with farming operation; and
* Possible structures containing asbestos-containing materials.
* There have also been reports of spills along existing SH3 where accidents have happened.

1. Technical Report 12 considers that the potential effects of contaminating activities are likely to be isolated to near surface soils, which are likely to be removed during construction. Appendix A of the PSI includes a map showing the locations of potential contamination. The PSI concludes that it is highly unlikely for any contamination to be at a sufficient level to pose a risk to human health and the environment upon completion of the construction works. To address the risk posed by contaminated soils encountered during construction, it is proposed that works be subject to a CLMP; a draft CLMP is presented within the CEMP. The CLMP would address management, monitoring and reporting requirements with respect to contaminated land encountered during construction. Conditions are proposed requiring adherence to the CEMP and CLMP within the draft resource consent conditions (conditions 7-23).
2. The PSI and CLMP have been reviewed by Sarah Knowles of AECOM who considers that the approach proposed in the PSI is reasonable. AECOM concur with the assessment in Section 6.1 of the PSI against the NESCS; that the soil disturbance is a Discretionary Activity under Regulation 11, and the change of use is a permitted activity under Regulation 8(4).
3. However Ms Knowles does identify information gaps and requirements the Council should consider imposing though consent conditions to ensure that potential adverse effects of the project on human health and the environment, with the implementation of the CLMP, will be appropriately addressed. Ms Knowles’ letter dated 3 May 2018 is included at Appendix C of this report and I summarise the following key points:

* The PSI submitted lacks information on local hydrogeology. The RA/Applicant proposes a Detailed Site Investigation (“DSI”) be prepared which may result in the CLMP needing to be updated. Site specific geology/hydrogeology information available from the site investigation and/or geotechnical works completed and information of the farm water supplies should be included in the DSI.
* The DSI needs to be carried out to characterise the impact (if any) of the identified potentially contaminating activities that have occurred at isolated locations along the alignments and this requirement is included in the CLMP. Ms Knowles notes that:
  + the map showing locations of potential contamination (Figure 2 of Appendix A of the PSI) shows very general areas and recommends an updated plan showing specific areas to be investigated should be provided.
  + The CLMP refers to Contaminated Land Management Guidelines No. 5; however, the Council would seek to review sample intensity and how depth of sampling required will be determined.
  + The CLMP should specifically address potential petrol sources (Section 4.2 CLMP).
  + Section 4.4 of the CLMP should detail the specific sources of criteria to be used; as the intention is to relocate most soil on site, the Council should review the criteria for determining suitability to remain.
  + Section 5.3 relating to the how impacted soil on site will be managed would depend on the contaminants and the site setting and would need to be subject to approval.
* Changes to Tables 3.1 and 3.2 of the CEMP, and Section 2.2 of the CLMP, relating to legislative requirements, regulations, standards and guideline documents are recommended.
* The glossary in the PSI and CLMP define ‘CLMP’ and state the CLMP is “also referred to as a Remediation Action Plan”. Ms Knowles points out that a remediation action plan (“RAP”) has a different purpose to a management plan. It is my understanding that the need for a RAP would be identified through the DSI, once contamination conditions are known.
* Ms Knowles considers the suitability of the proposed conditions and identifies that the nature and scale of contamination (if any) is unknown, and therefore she recommends a two-step certification process of the CLMP. The first step would be to update the CLMP based on the matters raised in her review. The second step would be to update the CLMP based on the findings of the DSI. Ms Knowles therefore does not support the process proposed by NZTA in proposed consent condition 9, that *‘If the Consent Holder has not received comments from the NPDC Manager within 15 working days of providing the CLMP, the Consent Holder may finalise and implement the CLMP accordingly”.*
* Ms Knowles also recommends that consent condition 22 specifically refers to the CLMP including requirements resulting from the DSI.

1. I conclude that with appropriate conditions, the granting of the resource consent under the NESCS would be appropriate, should the NoR be confirmed. Given Council’s functions under the NESCS, I consider the finalisation and review of the CEMP and the CLMP should be subject to Council certification rather than the Council only being able to comment. My comments regarding the management plan process proposed are at paragraphs 317-323 of this report.
2. The Council would seek the following conditions be imposed on a resource consent under the NESCS:

*Prior to any soil disturbance in any area identified in Appendix A, Figure 2 of Technical Report 12 (Ground Contamination - Preliminary Site Investigation) submitted with the application, the consent holder shall provide the Council with an updated Contaminated Land Management Plan (“CLMP”), prepared by a suitably qualified and experienced practitioner, relating to soil disturbance works. The Planning Lead (or Nominee) shall have the CLMP reviewed by a suitably qualified and experienced practitioner to ensure the adequacy of the CLMP, and the CLMP shall be approved by the Council prior to soil disturbance commencing.*

*The CLMP required under Condition (above) shall include:*

1. *The results of pre-works sampling, presented as a Detailed Site Investigation under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011;*
2. *Recommendations arising from the Detailed Site Investigation required under Condition (above)(a);*
3. *The measures to be undertaken in the handling, storage and disposal of all contaminated material excavated during the construction works;*
4. *The soil validation testing that will be undertaken;*
5. *The soil verification testing that will be undertaken to determine the nature of any contamination in excavated spoil and the potential reuse or disposal options for that spoil;*
6. *Measures to be undertaken in the event of unexpected contamination being identified during construction activities, including measures to:*

*• Assist with identification of unknown contaminated material;*

*• Stop work or isolate the area once any such material is identified;*

1. *The measures to be undertaken to:*

*• Protect the health and safety of workers and the public;*

*• Control stormwater;*

*• Remove or manage any contaminated soil;*

1. *These measures shall include appointment of a suitably qualified contractor to implement the actions identified in the CLMP.*

*All soil disturbance works in any area identified in any area identified in Appendix A, Figure 2 of Technical Report 12 (Ground Contamination - Preliminary Site Investigation) shall be undertaken in accordance with the CLMP.*

*No later than three months, following the completion of soil disturbance works* *in any area identified in Appendix A, Figure 2 of Technical Report 12 (Ground Contamination - Preliminary Site Investigation) submitted with the application, the consent holder shall submit to the Planning Lead (or Nominee) a report prepared by a suitably qualified and experienced practitioner, relating to soil disturbance works, which describes the following:*

1. *Confirms that the consent holder considers the soil existing on the site is within the guideline levels as specified in Regulation 7 of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health;*
2. *Outlines the remediation works undertaken, if any;*
3. *Confirms that there were no environmental incidents during the works or details what the environmental incident was and the measures take to mitigate effects; and*
4. *Confirms the disposal location of the surplus soils (including landfill receipts) and provides any verification test results undertaken and/or photographic evidence. Where disposal is not to landfill, a site plan showing disposal sites shall be provided showing the areas filled with soil that comply with the regulations but exceed background concentrations.*

## Hazardous Substances

1. Page 106 of the AEE outlines that a range of construction machinery and plant will require a regular supply of fuel and oils. Provision will be made for refuelling on-site, requiring the storage and use of hazardous substances. Flocculants, cleaning products and adhesives would also be stored on-site.
2. In 2017, Sections 30 and 31 of the RMA were amended to remove the control of hazardous substances as an explicit function of councils. The intent of the change is to ensure Councils only place additional controls on hazardous substances if they are necessary to control effects under the RMA that are not covered by the Hazardous Substances and New Organisms Act 1996 (“HSNO”) or Health and Safety at Work Act 2015 (“HSW”). In most cases HSNO and Worksafe controls are adequate to avoid, remedy or mitigate adverse environmental effects (including potential effects) of hazardous substances. However, Councils still have a broad function of achieving integrated management, and may use this function to place extra controls on hazardous substance use under the RMA, if existing HSNO or Worksafe controls are not adequate. Because hazardous substances provisions remain in the District Plan, resource consent applications continue to be required and assessed in accordance with the operative plan provisions.
3. The District Plan has rules relating to the establishment of hazardous facilities, on an “effects ratio” basis, whereby a numerical value reflecting appropriate levels of risk is used to determine consent status and assessment of a proposed hazardous facility. District Plan policies and objectives relating to hazardous substances seek to protect the quality of the environment and the health and safety of people from the risks associated with the storage, use, disposal and transportation of hazardous substances, in consideration of location and design of hazardous facilities.
4. The AEE contains no assessment of the hazardous substances aspect of the proposal against the District Plan, but states that the management of hazardous substances, including the transport, storage, handling and disposal will be undertaken in accordance with the Hazardous Substances and New Organisms Act 1996, associated regulations, and industry guidelines. The CWMP addresses the management of non-sediment contaminants such as concrete, while the CEMP addresses the management of hazardous substances. Page 283 of the AEE states that *“Management of hazardous substances associated with the construction period, including the storage, use, transportation and disposal of these substances, will be undertaken in a manner which avoids, remedies or mitigates adverse environmental effects as set out in the CEMP (and the CWMP in relation to non-sediment contaminant management).”*
5. No sensitive activities, such as schools or residential activities are located in close proximity to the project area, and the proposed management specifically addresses impacts on water courses (which TRC may wish to provide comment on). Risk mitigation and management measures would be in place in accordance with the CEMP, including 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. Sarah Knowles of AECOM has considered the proposed management of hazardous substances. Ms Knowles notes that no bulk fuel storage is expected for the project and mobile refuelling will occur. Mrs Knowles states: *“As long as the mobile refuelling is undertaken away from environmentally sensitive areas and the storage of remaining hazardous substance is undertaken in the dedicated areas in the work yards (as is indicated in Section 5.3 of the CEMP) the HSNO and HSW controls will be adequate to avoid, remedy or mitigate adverse environmental effects of hazardous substances.”* Therefore, no additional designation conditions are considered necessary in relation to hazardous substances.
6. Ms Knowles does recommend some minor changes to the CEMP relating to citing the correct legislation and regulations. These are shown in section 1.0 of Ms Knowles’ 9 May 2018 letter (Appendix C) which the RA would need to update prior to finalising the CEMP.

## Traffic and Transport

1. On pages 175 to 182 the AEE assesses the transport and traffic effects, based on Technical Reports 1 (Strategic Transport) and 2 (Traffic and Transport). Pages 171 – 172 of the AEE considers that all permanent traffic and transport and resilience effects are more than minor positive effects, including:

* Enhanced security and operational reliability of SH3, a vital strategic link connecting Taranaki to the north.
* Significant improvement in safety and a reduction in the frequency of crashes.
* Travel time reductions and improved journey reliability for vehicles, including freight, between Taranaki and Waikato.
* Improved travel time reliability and certainty for all road users, and more efficient freight movement with associated economic benefits.
* Increased average speeds.
* Enhanced conditions for cyclists, tourists, and users of local walking tracks.
* Enhanced route security and the resilience of the state highway network.
* Reduced risk of landslips or rockfall.
* Modern stormwater conveyance and reduced risk of carriageway flooding.
* Designed to reduce risk of earthquake damage.
* Higher safety standards resulting in fewer crashes.
* Fewer road closures will facilitate increases in freight along SH3.

1. As previously advised, 1126 people lodged a submission supporting the project, whose *“designs appear to address the requirements for a modern highway”,* and to provide *“a vital link to the north for us and our family, for the wider community and for the people and businesses of Taranaki.”* These submissions state that the *“project will significantly improve the safety conditions of State highway 3 over Mt Messenger and will make the highway a more reliable route.”* The RA seeks to deliver a modern highway to replace the existing route which is no longer fit for purpose.
2. Technical Reports 1 and 2 have been reviewed by Graeme Doherty of AECOM, who agrees with the conclusions reached related to removing an impediment to, and improving the quality of, access to and from New Plymouth and the wider Taranaki Region along the SH3 route to and from the north. It is Mr Doherty’s opinion that a new route to improve the road at Mt Messenger is necessary to meet the stated objectives.
3. Mr Doherty did raise a few minor traffic design questions which I posed to the RA in the RFI. Firstly, I queried whether the 1.2m shoulder width within the tunnel was wide enough to provide mobility impaired access and egress. The RFI response stated that the tunnel egress passage, including access into the egress passage, will be designed in accordance with the Building Code. I have discussed with Council’s Building Services Coordinator (Damien Morresey) who has confirmed that a 1.2m wide shoulder would comply with the Building Code providing no more than 170 people were within the tunnel. If NZTA maintain a 1.2m wide shoulder is sufficient in the tunnel I request they confirm that no more than 170 people will be in the tunnel at any one time.
4. In the RFI I also asked whether the 1.2m wide shoulder in the tunnel is of sufficient width for safety purposes, given the correlation to near side shy line requirements adjacent to the barrier protection within the tunnel and the 100 km/hr design speed. NZTA confirmed that the overall width of the carriageway is not diminished at the tunnel; although the shoulder width reduces slightly compared to the carriageway either side of the tunnel, sufficient shoulders provision is made for vehicle breakdown/manoeuvring space, but a formalised median has been proposed to better delineate and separate opposing traffic through the tunnel. Furthermore, reduced shoulder widths are hoped to discourage motorists stopping unnecessarily within the tunnel. LED studs are proposed along the median and edge lines to create a well-defined and channelised roading environment, and the RA is satisfied that the proposed carriageway arrangement satisfies the Transport Agency functional requirements of operation, safety and maintenance. However, Mr Doherty considers *“the response regarding the width of the shoulders is at odds with the Transport Agency’s own standards in relation to safety. Both Austroads Parts 3 and 6 recommend a 1.5m shoulder width and this is the width that should be built.”* The RA is encouraged to demonstrate in evidence how the proposed carriageway arrangement at the tunnel satisfies the Transport Agency functional requirements of operation, safety and maintenance, in consideration of Austroads Parts 3 and 6. If this cannot be demonstrated then I would recommend a condition requiring a revised layout for the tunnel to include 1.5m shoulders and without compromising the desire for a well-defined and channelized roading environment.
5. A number of submissions made comments on safety of the new route. Emily Tuhi-Ao Bailey dos not support increasing speeds on the road as it will increase accidents. Urs Signer questions the necessity of the proposal with the current road being satisfactory. On the other hand, freight companies (Freight Bulk Transport Hldgs Ltd and Sandford Bros Ltd) submitted that the current route is identified as a health and safety hazard for the company (including being difficult for livestock being transported to maintain their footing). JD Hickman Ltd, a company that accounts for over 15 trips per day over Mt Messenger, considers that the current narrow, steep, winding road was designed for much smaller vehicles than todays’ configurations, and the new road will reduce fuel burn, reduce tyre wear, reduce noise, and reduce the risk of accidents occurring. Tegel also noted concerns over the safety of the existing road due to steep grades, narrow widths and restricted visibility, and submitted that there are often disruptions causing significant financial implications and compromising the sustainability of operations in Taranaki. J Swap consider the bypass is essential for the movement of freight and public transport, and that we require reliable and resilient infrastructure to ensure tourists and freight can arrive in the region. The New Zealand Automobile Association (“AA”) submission considers the proposal to be an urgently needed, regionally and nationally important transport infrastructure project. The response to public notification was overwhelmingly in support from the heavy haulage industry and safety was mentioned in many submissions.
6. Submitters raised weather concerns with the new route; that safety would be reduced due to black ice and fog in the valley. Page 179 of AEE considers this, and I have already discussed this above in paragraph 210. In the RFI I asked the RA to respond to these submitter concerns and the reply was that black ice and fog is not considered to be an issue along the new route, and that the issue will be further addressed in evidence. Graeme Doherty made the following comment about fog and black ice:

*“Fog is known to occur in the valleys either side of Mt Messenger and on occasion the summit is shrouded in cloud or mist. It is primarily the responsibility of drivers to drive to the conditions. With regard to black ice, the Transport Agency should be able to confirm whether this occurs and what their response would be (eg gritting) as the Agency responsible for the safe operation of the state highways.”*

1. I conclude the improved geometrics, straighter alignment and provision of increased shoulders will improve safety of SH3 at Mt Messenger, with safety being a key outcome sought by the road upgrade. I have confidence NZTA would manage operational concerns raised by submitters, should they arise, as they do in a range of locations with a variety of weather conditions.

## Social Effects

1. Pages 184 – 185 of the AEE and Technical Report 5 (Social Impact - SIA) consider the proposal’s effects on ‘way of life’, ‘economic growth and development’, ‘wellbeing’, ‘quality of the environment’, and ‘community’, at both the regional and local level. I concur that the social effects with respect to way of life and wellbeing, and growth and development, would be significant and positive on a regional scale.
2. On a local scale the SIA identifies that the project could result in negative social effects during construction for people living in the immediate vicinity and in the nearby surrounding area. In particular these effects may include disruption to local land users and road users resulting from construction traffic, and localised dust, noise and vibration effects. These effects have already been discussed as they relate to earthworks, and I am comfortable with the approach that these effects be managed through robust management plans. It is helpful that the project is contained within valleys and located in a sparsely populated area, so that the number of neighbours who may experience these construction effects is small.
3. I wish to highlight the social benefits of the proposal to Taranaki people who need to access essential facilities in Waikato, particularly Waikato Hospital which is the nearest tertiary hospital. Improving access and the travelling experience for people in compromised health who journey over Mt Messenger, and those accompanying unwell friends and family on this journey, would be a positive outcome. I am not surprised to read the interviews conducted for the SIA found that people feel vulnerable and uncomfortable using the existing SH3 route over Mt Messenger. Wellbeing benefits further include increased peace of mind when loved ones are travelling near Mt Messenger, with the proposed route not being steep or winding.
4. Page 172 of the AEE considers that all permanent social effects are more than minor positive effects, including:

* Improved accessibility, connectivity, and mobility for people and communities.
* Enhanced conditions for economic growth, employment and benefits for people and communities.
* Wellbeing benefits for people and communities from improved safety conditions.

1. A number of submissions in support of the proposal noted the benefits they hope the Mt Messenger Bypass would provide. Steven Barham, for example, considers the proposed new route will improve the safety and reliability of the road and will also make for an easier, less stressful drive. The AA submission considers the project will significantly improve the safety, resilience and journey experience for motorists travelling on SH3 over Mt Messenger. I do not contest the social benefits anticipated.
2. I wish to highlight a social effect which is identified in the SIA and AEE, but which in my view warrants a more in-depth consideration; the social impact on principally affected landowners whose land the route traverses. At the southern end of the route the project requires the use of part of the farm at 2528 Mokau Road. Mr Thomson, the owner of this farm, submitted in support of the NoR, so I do not perceive there to be a negative social impact on the owners/occupiers of this site. Moving northwards, Ngāti Tama land would be required; the Runanga have submitted neutrally and the effects on them are considered under the cultural effects section above, and whether the project has regard to the Treaty of Waitangi in paragraphs 358 following. The effects on Ngāti Tama as landowner are not resolved at the time this report is being finalised. Between the Ngāti Tama land and the northern tie-in with the existing SH3, the construction footprint is within the lower Mangapepeke Valley, owned and farmed by Tony and Debbie Pascoe.
3. The AEE assumes that the land owners at 3072 Mokau Road, Debbie and Tony Pascoe, will relocate from this site during construction, and that regardless of whether they are relocated or not, the assessment concludes that construction effects such as air quality, traffic and noise at their dwelling will be no more than minor. The plans show the preferred site yard and offices would be located where their dwelling currently sits.
4. When I walked the route 23 March 2018, Mr and Mrs Pascoe pointed out a number of places significant to their family, such as where horses and other family pets are buried. Mr Pascoe’s submission states that the farm has been in his family since the 1950s and Mrs Pascoe’s submission advises she has lived there for 29 years. Their submissions describe how special the valley is to them and the people they have shared it with. It is evident to me that Mr and Mrs Pascoe are deeply connected with land over which the proposed road would travel, and that the prospect of the bypass over their farm is distressing. Several submissions in opposition highlight concerns relating to *“the mental pressure this may cause on the affected landowners”* (submitter John Washer) and concerns over the impact on the Pascoe family who have farmed the land for decades (submitters Evan Lobb and Ross Soffe). Dawn Bendall submitted that there is a significant effect on farmers who rely on the vast farmlands for cattle farming to make an income, that there is insufficient compensation offered, and she is concerned that the railroading the farmers with limited support and communication is intolerable. Ronald Newman stated he is concerned about the forced eviction of the Pascoe family where Tony Pascoe has lived his entire life. These submissions reflect a more than minor effect on ‘way of life’ and ‘amenity’ for the Pascoes, and on ‘wellbeing’ and ‘community’ due to adverse effects on local social cohesion – many people within the community which the Pascoe’s belong are upset about the impact of the proposal on them.
5. On page 47 of the SIA it states *“Concern and anxiety cannot be fully avoided or mitigated as individuals have different reactions. However, the accelerated nature of the project has the potential to provide certainty to people that the project will go ahead as opposed to a long drawn out process.”* Whilst this may apply to the wider neighbourhood, I consider the SIA has failed to acknowledge the significant social impact on the Pascoe’s amenity, way of life and wellbeing. In the RFI I advised the RA that I considered this a deficiency and invited further assessment. The response received stated that the RA considered the SIA to be a detailed assessment of the local social impacts of the project, capturing the impacts on landowners. Page 51 of the SIA does identify the loss of social cohesion from land acquisition; however it makes no assessment of the proposal on the Pascoe’s specifically and rates the loss of social cohesion from land acquisition as a medium impact reduced to minor due to the compensation provided through the Public Works Act process. The RFI response considers that the *“issues associated with land acquisition and the disruption such acquisition may cause are addressed through the separate Public Works Act acquisition and compensation process. This process has commenced in respect of the Pascoes' property, and discussions between the Transport Agency and the Pascoes are ongoing. The Transport Agency intends to provide an update in respect of the treatment of the Pascoes' property at, or prior to, the hearing.”*
6. I agree that the Public Works Act is the process to acquire and financially address the land acquisition, but consider the NoR also should consider the effects on affected parties’ ability to provide for their social, economic, and cultural well-being. I understand the role of the designation process in order to provide for wider public infrastructure, but consider the RA should acknowledge the significant impact on Mr and Mrs Pascoe and the community that supports them. I do not think the effects on Mr and Mrs Pascoe can readily be mitigated or offset by way of conditions to the designation, therefore the severity of these effects will need to be considered in evaluation of the overall merits of the proposal.

## Amenity Effects

1. The proposed construction sites have the potential to create temporary adverse effects on the amenity values of neighbours and motorists and measures are proposed so that these effects are minimised or mitigated. Traffic, noise, vibration, dust, and lighting will be undertaken within the relevant standards and controlled through the application of the CEMP and other management plans. Traffic, noise, vibration and dust have been addressed above under the Earthworks Effects section. There are very few dwellings in the general vicinity of the project footprint and the project will be largely contained within the Mimi and Mangapepeke Valleys, affecting few properties. Amenity effects were raised in only two submissions; Tony Pascoe noted concerns over the effects of dust in dry weather and mud in wet periods, and Gordon and Joy Keighley about traffic movements while the bypass is being constructed. I consider with appropriate conditions that these effects can be reduced to an acceptable level.

## Lighting

1. Temporary construction lighting is proposed at construction yards and active working areas to enable construction during the hours of darkness, especially during the winter period. Page 91 of the AEE states that construction lighting, including light spill will be managed through considering the selection, layout and arrangement of temporary lighting including shrouding and spectrum limits to minimise impacts on adjacent ecological habitats and any residences, seeking separation between the night time work and any residential boundary; and reducing construction yard lighting to low levels for security purposes when yards are not in use. Glare from any lighting will be kept below the recommendations in AS 4282 – 1997 “Control of the Obtrusive Effects of Outdoor Lighting”. If the NoR is confirmed, I recommend this standard be specifically referenced in a designation condition, as follows:

*Construction Lighting*

*The requiring authority shall implement procedures at all times during construction to manage lightspill (if any) to residential properties from any night lighting that is required on the site, in accordance with AS 4282 – 1997 “Control of the Obtrusive Effects of Outdoor Lighting”.* *Construction lighting shall also be managed in a manner which reduces light overspill on nocturnal fauna.*

1. Page 297 of the AEE states that permanent lighting will be provided at the two local road intersections and the tunnel, which will be lit at all times to provide for the safe and efficient operation of the network. I question the necessity of permanent lighting at the two intersections; very few properties are accessed from the existing corridor proposed to be bypassed and unnecessary lighting would, in my opinion detract from rural character (to a minor extent) and be inconsistent with other local roads accessed from SH3. Wildlands raise concerns about the effects of lighting on bats and I think the necessity for lighting and the impact of lighting on bats should be addressed at the hearing. I understand the lighting is proposed at the intersections to be in accordance with NZTA guidelines, but consider in this case it may be appropriate to depart from the guidelines in this respect. I understand that the tunnel lighting would be internal and consider it would be helpful to have this clarified, to ensure light spill is kept to a minimum, and to consider whether the proposed lighting is likely to impact on bats.
2. The AEE considers that lighting will be designed to avoid adverse effects on receptors, which will include the properties at either end of the alignment. Lighting will be designed to meet AS/NZS1158 ‘Category V’ requirements. If lighting is considered appropriate, I am satisfied that the measures proposed for temporary and permanent lighting would not result in unacceptable adverse effects on amenity values at residential dwellings, but if confirmed, I recommend the following condition:

*Operational Lighting*

*Following completion of construction, no operational lighting shall be installed at the tie-ins with the two new local road intersections. The tunnel may only be illuminated from within the tunnel to reduce effects on bats and other nocturnal fauna.*

Or, if it is considered that tie-in lighting is required, and the tunnel should be externally lit, I recommend the following condition:

*Lighting installed at the tie-ins with the two new local road intersections and at the tunnel shall be designed and screened to minimise the amount of light overspill and illumination received at residential dwellings and to reduce effects on bats and other nocturnal fauna. The Requiring Authority shall demonstrate that:*

*a) All lighting designed in accordance with "Road lighting Standard AS/NZS1158"; and*

*b) Written verification from an ecologist that the lighting has been designed to minimise adverse effects on nocturnal fauna.*

## Visual Amenity

1. Amenity effects include scenic amenity and the RA considers the bypass will enhance driver experience. This, and visual amenity for rural residents and recreational users within the Mimi and Mangapepeke catchments is addressed in the landscape effects (paragraphs 254-270) and recreation effects sections (paragraphs 271-284). In summary, the proposal provides opportunities to enhance the amenity values through screen and amenity planting where the road will be viewed from existing dwellings.

## Property Access

1. With regard to property access affected by construction works, designation condition 32 states *“The Requiring Authority will ensure that reasonable vehicular access is maintained during the Project to the properties currently served by the section of SH3 that will be bypassed or otherwise affected by the Project.”* There is only a low number of affected properties and the most likely affected (Bear, Thomson and Russell) either did not submit or submitted in support of the NoR. I see no reason why property access to any of the properties will not be able to be maintained and consider the proposed condition to be satisfactory. Property access at the operational phase will be addressed via the revocation process.

## Noise and Vibration Effects

1. Noise and vibration effects resulting from construction have been discussed above in paragraphs 183-189, in respect of earthworks, including construction and construction traffic. At the operational phase, noise and vibration is anticipated to be very similar to the existing road noise and vibrations.
2. Given the remoteness and population density of the area surrounding the project footprint, the AEE considers that there are only three noise sensitive receivers located near the new operational alignment, being three dwellings at 3072, 2750 and 2528 Mokau Rd. Predicted noise levels would decrease at both 2750 and 2528 Mokau Rd. 3072 Mokau Rd is the Pascoe dwelling and it is uncertain whether the same dwelling will be relocated back onto the site upon completion of the project, or whether a different house would be established, or no house. In any case, predicted noise levels from SH3 traffic, at the location of the existing dwelling, would increase by a small amount at No.3072 (from 51 to 54 dB LAeq(24h)). This is likely to be a *just perceptible* increase but acceptable due to the low overall traffic noise level received. Nigel Lloyd concurs with the AEE that the operational noise effect is minor in relation to 3072 Mokau Rd.

## Landscape, Natural Character And Visual Effects

1. Technical Report 8a (Landscape, Natural Character and Visual Assessment) details the landscape, natural character and visual values of the project and surrounding area, and assesses effects on these values, with the use of photo simulations. Technical Report 8b presents the LEDF which informs the assessment of landscape, natural character and visual effects and describes the design outcomes sought so that adverse effects on these values are avoided, remedied and mitigated. The Council engaged Landscape Architect Richard Bain (bluemarble) to review Technical Reports 8a and 8b, the landscape aspects of the AEE, the landscape and visual expert report appendixes to the Longlist and Shortlist Reports (MCA), the ELMP, and the response to the RFI. Written correspondence received from Mr Bain is attached to this report at Appendix D.
2. The project alignment is contained within two valley systems, being the well-defined Mangapepeke Valley in the north, and the broader upper Mimi Valley in the south. At the northern and southern ends of the alignment, the landscape comprises pastoral flats contained by these two valleys, with a gentle topography, and modified landscape character reflecting use as farmland. As the proposed alignment progresses from the flats up each valley, in a southerly direction up the Mangapepeke, or a northerly direction up the Mimi, the slopes become steeper and covered in indigenous forest, and the environment has higher naturalness characteristics.
3. Technical Report 8a attributes the following landscape and natural character values:

* Lower Mangapepeke Valley: moderate – low landscape and natural character.
* Upper Mangapepeke Valley: moderate – high landscape and natural character.
* The area of the Mimi Valley affected by the Project, being the northern part of the upper catchment: overall is of moderate landscape and natural character value, (due to the modified nature of the adjoining valley flats and the presence of SH3 on the flanking hills to the west).
* Recognises the Parininihi landscape to the west of the existing SH3, away from the project alignment but over which options were considered in the MCA, is scheduled in the District Plan as a regionally significant landscape.

1. Overall, the AEE considers that landscape effects are considered to be moderate, while natural character effects are moderate – high in the upper Mangapepeke, moderate in the lower Mangapepeke, and moderate - low in the Mimi. Mr Bain does not dispute the values or assessment summarised here.
2. Pages 209 to 219 of the AEE assess the landscape, natural character and visual effects of the project with respect to physical landscape, landscape character, natural character of streams and wetlands, associative landscape values (cultural associations), and visual amenity to and from the project area for viewing audiences (rural residents and the travelling public). The assessment addresses the Mangapepeke and Mimi catchments separately.
3. Landscape effects identified include the introduction of a new highway into two quiet rural valleys, the clearance of 44ha of vegetation (of which 33ha is indigenous), significant earthworks including batters cut into the side slopes of valleys and fills placed into gullies, the creation of permanent disposal areas, and the crossing, filling and diversions of 3.47km of streams, affecting the natural character of watercourses. Approximately 890,000m3 of excavation and 835,000m3 of on-site fill are anticipated. Rock cuttings to a depth of approximately 60m and earth embankments up to 40m in height are proposed. In a memo dated 17 October 2017, titled “Landscape Clarifications” attached to Mr Bain’s review (Appendix D of this report), Mr Bain states a specific concern that cut and fill batters are arguably the most prominent element of the proposal with the potential to detract from the surroundings and user experience, and that they warrant particular attention. The Alliance Landscape Architect Bruce McKenzie is in agreement about this and considers the scale of the natural terrain of the surrounding landscape with very steep terrain and strong contrasts in elevation will contextualise the cuts; the steeper cut angles mirror the larger spurs they are connected to, and the chosen alignment helps in this regard.
4. Potential adverse effects on significant landscape areas and features were avoided through route selection carried out under the MCA. Routes west of the existing SH3 were considered; however the proposed eastern route avoids the intact wilderness area of the Waipingao Valley, the area west of Mt Messenger that is of particular significance to Ngāti Tama (and the wider community reflected in the Parininihi Protection Project), the ‘Regionally Significant Landscape’ identified in the District Plan, and the landmark peak of Mt Messenger. Specific bridge design south of the tunnel is proposed to avoid adversely affecting the high quality Mimi swamp forest. Mr Bain has reviewed the landscape and visual expert report appendixes to the Longlist and Shortlist Reports and notes regarding the MCA, that *“Route options E and Z are the two most favourable routes as they are set ‘low’ in the landscape, avoiding ridge-lines and are therefore more favourable. Nonetheless, these options still present signiﬁcant landscape issues.”* Mr Bain considers that the route selection process took appropriate cognisance of landscape values.
5. The LEDF (Technical Report 8b) conveys the following overarching landscape design principles aimed at avoiding, remedying and mitigating adverse landscape, natural character and visual effects:

* Physical landscape effects minimised by the alignment “Keeping low in the landscape”.
* The surrounding landscape and its scenic amenity is emphasised: “Letting the landscape speak”.
* The design seeks to “Integrate the Landscape and Ecological” outcomes of the project, responding to and reflecting the natural character of the area, the natural ecological, patterns and processes, and integrating with the biodiversity outcomes that will come from the ecological mitigation package.
* Lastly, “Recognising culture” whereby a design development process is proposed which enables Ngāti Tama to express their mana whenua and kaitiakitanga over the Parininihi land.

1. Volume 2 (Drawing Set) particularly on the preliminary landscape concept drawings, MMA-DES-UDL-DRG-1000 to MMA-DES-UDL-DRG-1010 show the proposed route and landscape design. The RA considers the four design principles above are given effect to by:

* Retaining the key ridgelines defining the landscape by using a tunnel, and minimising effects on landform and bush;
* Including a bridge across a tributary to the Mimi swamp forest;
* Minimising stream and valley crossings by keeping to the sides of the valleys;
* Developing cut faces that echo natural slope angles;
* Promoting natural succession re-vegetation;
* Integrating landscape and ecological rehabilitation;
* Providing an opportunity for cultural expression and recognition; and
* Promoting a scenic journey experience.

1. Page 52 of the LEDF provides a visual simulation for the 3 proposed water tanks in the existing Mt Messenger rest area with screen planting. Page 53 shows the proposed tunnel control building with consideration being given to reduce clutter, keep low in the landscape, and planting to reduce visual impacts.
2. Mr Bain’s review of Technical Report 8a including photo simulations states that the 3d graphics showing the landscape effects are illustrative and helpful, and that the images from five indicative viewpoints clearly illustrate the visual change that is likely to occur. Mr Bain concurs that overall, the landscape and visual effects of the Project have been appropriately addressed through the mitigation measures.
3. Mr Bain’s review of Technical Report 8b considers that the LEDF is a lengthy document which thoroughly describes the project and assesses landscape context, design objectives and principles, design approaches and landscape concept plans. Mr Bain notes that structures (including a bridge, tunnel, tunnel portals, tunnel control building, hydrant tanks, culverts and safety barriers) are important and require integrated design consideration. He considers that the photos and sections used illustrate well how cut and ﬁll batters will be treated in various circumstances, and that these are important as they are likely to be the most visible effects, which can be difﬁcult to mitigate. Designs around streams, wetlands and swales are considered to be illustrated well. Mr Bain considers that the LEDF is important and useful for describing and understanding how the project can integrate with the environment, and that the principles described are extensive, best practice and realistic (albeit likely difﬁcult to achieve is some instances). Furthermore, that the LEDF provides reassurance that landscape effects are considered holistically and comprehensively within the project.
4. Mr Bain considers that although the LEDF does not offer precise resolved detail, it sets the parameters for good landscape outcomes. However, the project does carry signiﬁcant risk in terms of the effectiveness and timeframes for landscape mitigation. Mr Bain states:

*“The landscape documents include an extensive range of mitigation recommendations. Some of these are presumed to be imbedded into the construction methodology (such as cutting of slopes) while others require remediation such as vegetative restoration. The scale of this Project is large and the landscape effects signiﬁcant. The landscape reports are exemplary in their range and quality. However, I do not consider that it is clear in the consent conditions that all landscape matters are adequately addressed. There seems to be only one condition that refers explicitly to landscape, namely the requirement for an Ecology and Landscape Management Plan (ELMP). This plan appears to be mostly related to ecology with the only reference to landscape being Item 25 (i) “Landscaping design and treatments (landform and planting), including rehabilitation of all areas used for temporary works and construction works”. (…) While some of the landscape mitigation measures may be embedded into other conditions, in my opinion there is a risk that the conditions do not adequately ensure that the Project’s potential adverse landscape effects are ameliorated.”*

1. Mr Bain also notes that the LEDF is a ‘living document’, which he agrees with, but recommends greater certainty within the consent conditions. I consider that if the NoR is confirmed, the conditions attached need to state the landscape, natural character and visual outcomes to be achieved, namely the following proposed mitigation points that Mr Bain considers are critical to reducing landscape effects:
2. Cut and fill batters to tie into natural landforms in the area – techniques should be employed to reflect natural rock faces as appropriate and treatments should be implemented to assist in the natural re-colonisation (revegetation);
3. Options to further reduce the use of rock drapes will be investigated in detailed design;
4. Avoiding “engineered” landform modification and blending earthworks in with the immediate landform context including the form and contouring of permanent disposal areas;
5. Detailed design of highway furniture, barriers, lighting (if any) and signage – with particular emphasis on simplifying such elements and minimising visual clutter;
6. Consideration of rehabilitation and mitigation/offset planting that reflect the wider ecological conditions of the site including eco-sourcing of seed, coordination with the Project ecological restoration experts and participation with Ngāti Tama;
7. Maintenance of access to the conservation estate as appropriate;
8. A planting programme including staging, integration with construction programme and wider maintenance programme;
9. Design and finish of co-designed cultural expressions particularly for the tunnel portals and bridge areas and any other ancillary structures as appropriate;
10. Providing for views from the bridge, and for pedestrian and cycling access including through the tunnel;
11. Architectural form appropriate to nearby ecologically sensitive areas and the finish of the bridge appropriate to the rural landscape context;
12. Provision for cycling within the carriageway shoulder;
13. Consideration of stopping places as appropriate and where practical; and
14. Avoidance and retention of significant trees and areas of vegetation wherever possible.

Mr Bain considers that the following mitigation points are critical to reducing natural character effects:

1. Minimising construction effects on natural stream environments in the Mimi Valley and rehabilitating with riparian planting following construction;
2. Constructing stream diversions (where impacts are unavoidable), with naturalised elements reflecting the characteristics of the existing streams, within the Upper Mangapepeke Valley; and
3. Ecological restoration along the Mangapepeke Stream corridor within the designation.
4. In the RFI I suggested that revised and suitably detailed conditions were necessary to specifically address the above mitigation items. The RFI response considered each of the bulleted matters and referred to where in the LEDF, CEMP and ELMP such detail sat. Mr Bain reviewed the revised ELMP (dated March 2018) which is significantly expanded from what was lodged in December 2017, as well as the RFI response and provided further written comments (final two pages of Appendix D of this report). Mr Bain notes that the ELMP is primarily an ecological management plan but notes it is informed by Technical Reports 8a and 8b. Although Clause 2.4 of the ELMP provides a summary of the landscape values and Clause 2.5 a summary of landscape effects, the ELMP is primarily focused on ecology and there is little mention of how aesthetic qualities, legibility, distinctiveness, and memorability are managed. Mr Bain considers *“the ELMP is an extensive ecological mitigation plan that makes fleeting reference to landscape.”* Reference is made to the LEDF in regard to its objectives and Chapter 4 of the ELMP refers to landscape values but only ecology is addressed in any significant detail. 4.3 states that the LEDF is a living document to inform the development of the detail design in order to integrate landscape character and context.
5. Overall Mr Bain considers the LEDF fully expresses landscape principles, which he agrees with, but without revised conditions there is a lack of confidence that the described landscape principles will transfer into reality. I agree with Mr Bain that conditions related to the LEDF and the requirement for Landscape Plans (with cross sections) referenced in consent conditions would be appropriate designation conditions, should the NoR be confirmed. Conditions that I consider appropriate are presented at the end of this report.
6. DoC and Te Korowai raised concerns over landscape effects, and I encourage them to elaborate on this in evidence. Tegel Foods Ltd submitted in support of the proposal and encouraged mindfulness in relation to (ecological and) landscape effects.

## Recreation Effects

1. Technical Report 6 (Recreation) considers the potential effects of the project on recreation and tourism values. Pages 166 and 186 of the AEE summarise the recreational opportunities within the existing environment and assess the effects of the proposal on these. Recreational opportunities in the immediate area include walking, hunting and whitebaiting. Technical Report 6 also discusses the rest area near the Mt Messenger summit, use of waterways in the wider area, and tourism.

### Walking tracks

1. The Messenger Track and Kiwi Track are both accessed from the southern side of Mt Messenger SH3, although parking and signage is poor. The Messenger Track is west of SH3 and joins the Whitecliffs Walkway near the coast. The Kiwi Track is east of SH3, dropping steeply into wetland and across private land to access pig hunting areas in the Mt Messenger Conservation Area to the east. Low levels of recreational activity occurs on these walking tracks; there are no counts of recreational users but Technical Report 6 cites DoC estimates to be in the low hundreds of visits per year in the Mt Messenger area. The construction of the Mt Messenger Bypass will take place near the entry points to the Kiwi Road and Messenger Tracks, however the existing SH3 route will remain operational during construction and Technical Report 6 states that there will be no construction effects on the track *entry points* to these two walking tracks.
2. The Messenger Track to the west would be unaffected by the proposal. However, the bypass route does cross the Kiwi Road Track immediately east of the track starting point and without the provision of temporary access the Mt Messenger Conservation Area will be inaccessible from the west. The nearest alternative access is via Mangaonga Road in the north, but there is no maintained track. Technical Report 6 considers the following mitigation:

* This area will not be affected for the full duration of the construction period;
* Access should be provided when possible and as safety permits;
* The track may need to be diverted in the immediate vicinity of the construction site.
* Communication with stakeholders is proposed: access changes to be advised to DoC for on-line track information updates to their website, and pig hunting groups in the area should be directly notified.

1. I do not see anything in the CEMP specifically regarding communicating about restrictions to recreational opportunities during construction, and recommend that if the designation is confirmed, that Section 6 (Stakeholder Communications and Engagement) of the CEMP be expanded to specifically include methods of communication to affected recreational users, with targeted stakeholders stated. Even with the notifications being made, there is a possibility that hunters or walkers could arrive unaware of the construction impacting access. I note from time to time National Parks and other conservation areas are subject to temporary track closures, and given the low user numbers and intention to communicate to stakeholders, do not consider this would be a significant impact on recreational users of the Kiwi Track. However, ideally access is provided for at all times and Technical Report 6 identifies the need to maintain access during construction if recreational effects during the construction period are to be neutral. The RA proposes designation condition 31, which states *“The Requiring Authority shall, as far as reasonably practicable, maintain access to existing recreation facilities of the Kiwi Road and Mt Messenger Tracks during construction.”* I support this approach and the proposed condition.
2. The AEE states that on completion of the construction, improved parking and access to Kiwi and Messenger tracks will be provided. Page 186 of the AEE states *“The Project will provide safer conditions for users of the Mt Messenger and Kiwi Road walking tracks to pull over and park This will be an improvement on the existing configuration, where informal parking areas on the side of SH3 lack any safe connection to the start of the track and lack safe entry and exits for vehicles. The Kiwi Road track will also be re-routed under the new bridge to enable safe passage across the new road.”* In the RFI I sought details to identify the access to and location of the proposed parking area for accessing walking tracks on the southern side of Mt Messenger. The response to the RFI stated that this is under development with input from the Walking Access Commission, DOC and Ngāti Tama and further information will be provided prior to the hearing. I do not consider that the details of this parking and access area need to be determined prior to the hearing, but I do recommend a designation condition which specifies the number of spaces to be provided and a timeframe and standards (preferably all weather and with low visual impact) for the carparking area to be formed. It would also be helpful to know whether the area proposed would be within the proposed designation area or on land proposed to be subject to revocation. If on land to be revocated, it would be appropriate to include input from NPDC in its development.
3. Submitter Christine Cambie suggests a walk or cycle track alongside the new road. Road cycling along the state highway itself will be safer with the proposed shoulders, compared to the narrow shoulders on the existing route. The provision of increased shoulder widths is supported in terms of the New Plymouth District Council Cycle Strategy (2007) which identifies sections of SH3 to have inadequate shoulder room in places to safely accommodate cyclists.
4. Picking up on Ms Cambie’s suggestion, there is potential for a soft trail for mountain bikers, trail runners and walkers – this is not something offered up by the RA however I understand it is being considered in the location of construction haul roads. Assuming this could be achieved at a low cost, I encourage the RA to progress this idea. The walking tracks in the area are steep and technical whereas alongside the project alignment the land will be a gentler grade. I recommend that if the designation is confirmed, that the RA include provision of a walking and cycling trail within the restoration planting area proposed alongside the new road. Consideration and provision of this could sit within the ELMP and provide an additional recreational benefit to both local people and travellers.
5. I note page 19 of the AEE states that there is a right of way easement pursuant to the New Zealand Walkways Act 1990; the right of way easement was entered into between Ngāti Tama and the Crown, acting through the Minister of Conservation, granting public access over the area, prior to the vesting of land in Ngāti Tama through the settlement legislation. I have deduced the easement relates to the Kiwi Track, but it would be helpful if the RA could confirm the location of the easement. Question 144 of the RFI enquired about public access and the response only related to the Pascoe land.

### Rest area

1. The existing route has a rest area near the summit, just south of the Mt Messenger Tunnel, which provides an opportunity for motorists to stop and enjoy scenery, use picnic tables, and read heritage information. It also offers respite from the winding road which can contribute to carsickness. The proposal includes the use of this area for the proposed tunnel emergency water supply, reducing the ability to provide the rest area. Construction activities at the existing rest area will need to allow for access to the Beard property. Technical Report 6 states there will be no construction effects on access to the summit rest area, however noting the drawings of the hydrant tanks on page 52 of the LEDF, some construction activities will occur here and following the installation of the hydrant tanks, there will be limited space for rest area facilities. I am not concerned about the reduced provision of rest area here – there are other stopping places north and south of Mt Messenger and upon completion of the project the rest area will no longer be along the state highway route. I do however recommend that within the new stretch of road, the RA provides a rest area. This recommendation is included in the revised conditions at the end of this report.

### Waterways

1. The Mimi River and Tongaporutu River have recreational and fishery values associated with whitebaiting and other aquatic species, and aesthetic and scenic values. The Tongaporutu River is used for canoeing pursuits.
2. One submitter, Evan Lobb, raised concerns about adverse effects on existing food and recreation opportunities in the Tongaporutu catchment from silt. By managing the proposal in accordance with a robust CEMP and CWMP, the RA and TRC do not anticipate adverse effects on these waterbodies, which might in turn impact on these recreational values.
3. Mr and Mrs Pascoe’s submissions talk about the Mangapepeke Valley being a special place enjoyed by many. The proposal includes stream diversions of the Mangapepeke Stream on Ngāti Tama land (including significant fill areas) and Pascoe land, as well as the introduction of a highway. The existing natural character of this waterway will be altered and any recreational activities that may presently occur will be affected. The affected land within the Mangapepeke Valley is private land and there is currently no public access along the stream of the Pascoe’s farm. It is understandable that the Pascoes would be disappointed about the impact on their ability to share this special place with friends and family. In terms of impact on recreational values, the effects are limited to private access, and mitigation by way of a riverside/roadside soft trail as suggested in paragraph 277 above could be considered to address this.

### Tourism

1. Page 27 of the AEE states *“While tourism currently plays a relatively minor role within the region’s economy, it has the potential to increase in significance. The Lonely Planet publication recently listed Taranaki as the second best region in the world to visit. SH3 plays a vital role in connecting Taranaki to the tourism market.”*
2. Page 5 of Technical Report 6 (Recreation) refers to Venture Taranaki Trust’s *Taranaki Regional Visitor Strategy 2010-2015* in terms of the majority of visitor flows to Taranaki being made by road and the identification of the need for an improved northern gateway. In August 2017 the document *Tapuae Roa: Make Way for Taranaki* (Taranaki Regional Economic Development Strategy) was released which identifies the northern highway as a challenge to providing connections. An upgrade to SH3 at Mt Messenger would be consistent with Tapuae Roa, given the identification of tourism of being a key sector for the Region. Tapuae Roa identifies improvements to Taranaki’s northern gateway to be a “One-off regional game-changer”. A number of submitters identify the benefits an upgraded road would provide with respect of tourism.

## Ecological Effects

1. The project area is within the North Taranaki Ecological District and sits within a wider area of forested indigenous vegetation, from the coastal Whitecliffs in the west, inland to lowland mountains and being a wider area containing significantly large forest conservation areas. The subject and surrounding area contains high indigenous ecological and biodiversity values. The Parininihi land west of SH3 is of particularly high ecological health due to pest management undertaken by Tiaki Te Mauri o Parininihi Charitable Trust and Ngāti Tama. In 2017 kōkako were released back into this area and since then there has been some breeding success. The forest east of the existing corridor, where the proposed bypass would be located, has not been subject to the same level of pest management, and has been impacted by livestock. Subsequently, the project ecologists consider the ecological values to be of relatively reduced integrity relative to the land west of the road corridor.

### Expert reports

1. Technical Reports 7a-7g relate to the following aspects of ecology: vegetation; freshwater ecology; invertebrates; herpetofauna; avifauna; bats; and marine ecology. Technical Report 7h relates to ecological mitigation and offsetting. These reports detail the ecology and ecological values of the wider project area, assessment methods, provide assessment and survey results, classify species, assess the unmitigated effects of the proposal, and propose measures for addressing potential adverse effects. At the time the RA was finalising the AEE and technical reports for lodgement, there remained information gaps due to seasonal constraints to survey work and the northern part of the Mangapepeke Valley being inaccessible due to access permissions. Between 22 February and 9 March 2018 supplementary reports for the vegetation, terrestrial invertebrates, avifauna, freshwater ecology, bats, herpetofauna, ecological mitigation and offset, and biodiversity reports were received at the Council.
2. The AEE provides an overview of each of the technical reports. A revised draft ELMP was provided to the Council in March 2018 and contains a significant amount of detail prepared to identify how the RA would avoid, remedy, mitigate and offset potential adverse effects on the ecological, landscape and biodiversity values of the land within the project area and surrounding area (although as already noted the ELMP focuses on ecological more than landscape matters). The ELMP outlines how the project will be carried out to avoid, remedy, mitigate, and offset effects on ecological and landscape values and what mitigation and offset measures would be implemented as part of the mitigation and biodiversity offset package. The ELMP (March 2018) considers findings from the supplementary ecological reports and presents a package which has evolved from what was proposed in the AEE (December 2017). In many respects information in the ELMP supersedes the information presented in the AEE; although the general structure of the mitigation and offsetting package remains in terms of being a combination of restoration planting, mitigation planting, riparian management and pest control, the figures calculated are altered to reflect the findings of the field survey work carried out by project ecologists over the 2017/18 summer.
3. I have not had Technical Report 7g (Marine Ecology) reviewed. The Project footprint is located some distance from the coastal marine area, approximately 9.2km and 21.5km from the Tongaporutu and Mimi estuaries, respectively. While the catchments where construction will be located discharge to the Tongaporutu River to the north and Mimi River to the south, both of which eventually discharge to the coastal environment and accordingly, effects on the coastal environment associated with the project have been considered. Page 269 of the AEE concludes that effects of discharges from the works in the coastal marine area (namely sediment) are not anticipated to be measurable. Within the context of the wider catchments and the overall marine environment, the Project footprint is small. Earthworks associated with the Project will impact on 0.05%-0.06% of the catchment area. High sediment loads in these catchments are common, especially after significant rainfall. Thus, even in the absence of erosion and sediment controls, sediment yield from earthworks associated with the Project would be expected to be a small increase of 0.3% against background sedimentation levels. Overall, the Project would be expected to have little to no adverse effect on the values identified. Furthermore, in Technical Report 7g the RA considers that there will be no adverse effect on the coastal environment with the erosion and sediment controls in place. I note the DoC submission raises concerns about the marine environment. As TRC consider that the discharge of stormwater and sediment can be carried out in a manner that avoids, remedies and mitigates potential and actual adverse effects on aquatic ecosystems, effects on marine ecology are not anticipated. Management of the coastal marine area is primarily a function of TRC, but under Section 171 of the RMA relevant provisions of various documents, including the NZCPS, have been considered.

### Ecological values of the project ***area***

1. An overview of the ecological values is provided in pages 154 to 158 of the AEE. I highlight the following ecological features:

* The project area includes podocarp, broadleaved forest largely in the Mimi catchment and the upper Mangapepeke Valley, and podocarp, broadleaved, beech forest within the lower Mangapepeke Catchment and northwards. At Risk – Declining species (kohurangi) and small populations of two regionally distinctive species (swamp maire and thick-leaved kohukohu)) are within the project footprint.
* The Mimi and Mangapepeke waterways have good water quality and provide high quality habitat for freshwater fish and invertebrates.
* North Island long-tail bats (Threatened-Nationally Critical), are present in the project area. Central lesser short-tailed bats (At Risk – Declining) may be in the area however this has not been confirmed.
* According to herpetofauna records, goldstripe gecko (At Risk – Relict), striped skink (At Risk – Declining), copper skink (Not Threatened), forest gecko (At Risk – Declining), Hochstetter’s frog (At Risk – Declining) and Duvaucel’s gecko (At Risk – Relict) have all been found within a 50km radius of the wider project area, however only copper skinks have been found by project ecologists.
* The project area includes good habitat for avifauna and the following At Risk species have been recorded in the project footprint and proposed pest management area:
* Fernbird
* North Island Brown Kiwi - it is anticipated that the road alignment is likely to encroach or bisect territories of between 10-15 pairs of kiwi
* North Island Robin
* Long-tailed cuckoo
* Whitehead
* Pipit
* Black Shag
* North Island Kōkako (At Risk – Recovering) were released in the western part of Parininihi in 2017. Kōkako are not anticipated to disperse east of the existing SH3 during the construction period although there is a small possibility this could occur.
* The primary forest provides good habitat for invertebrate fauna, with deep leaf litter layers and an abundance of dead wood and plant hosts including epiphytes. Two Vulnerable species of peripatus (velvet worms) have been found in the project footprint.

### Effects on ecological values

1. Pages 190 to 203 provide a summary of the actual and potential ecological effects of constructing and operating the project, based on the assessments presented in Technical Reports 7a to 7g. The ecological effects which need to be addressed are briefly listed as follows:

* The removal of approximately 40ha of native vegetation, including threatened and regionally distinctive species.
* Disturbance, loss and fragmentation of habitats and the creation of edge effects.
* Potential for the introduction of pest plants and animals.
* Loss of 17 significant emergent forest trees (or more depending on how they are defined to be significant) including epiphytes which grow on the trees and provide habitat and food for a range of potential bird, lizard and invertebrate species.
* Direct impacts on fauna (including mortality and injury) associated with vegetation clearance, earthworks and lost habitats.
* Potential effects on threatened fauna species, including kiwi, bats and herpetofauna.
* Loss of 3.47km of stream habitat and adverse effects on fish species (a matter for TRC to principally consider).
* Potential for increased sediment discharge to streams (a matter for TRC).

### Effects management

1. Pages 203 to 207 summarise the management measures, mitigation and biodiversity offset package that the AEE considers are core to the project, and concludes that these measures *“will appropriately address all of the ecological effects of the Project and over time, deliver significant ecological benefits.”* The AEE states that the package has been designed to achieve a net gain in biodiversity within 10 to 15 years following construction.
2. The management, mitigation and offset package is briefly outlined here:

* Pest management over an area significantly wider than the project area is proposed to be carried out. The NoR as lodged in December 2017 proposed a 560ha pest management area (PMA) as a key component of the mitigation and biodiversity offset package. The RA now proposes a 230ha core area and 855ha buffer area (a total area of 1085ha). The objective of this part of the package is to reduce major introduced mammalian predators and herbivores (including livestock) from the PMA to generate biodiversity benefits across a wide range of plants and animals. Section 9 of the ELMP contains the Pest Management Plan, including expected results and outcomes, and states that pest management is proposed in perpetuity, or until such time as pest management in the form we know of it today is no longer necessary to sustain the levels of biodiversity created. The Alliance ecologists consider this measure will result in permanent ecological benefits within the PMA, and when combined with the pest management already occurring at Parininihi, some wider benefits will also accrue such as increasing the area of suitable habitat for kōkako. Figure 9.1 of the ELMP shows the preferred location for pest management to occur; in the upper Mimi catchment east of SH3, it includes a small area of Ngāti Tama land in the northwest corner and a larger block of DOC managed Mt Messenger Conservation Area to the south of the Ngāti Tama block. The response to question 85 of the RFI includes *“Importantly, the PMA is located immediately to the east of Parininihi, a 1500ha area of pest managed forest which, combined with the PMA, forms a significant contiguous pest controlled area of habitat for bats.”*
* Planting 200 seedlings of the same species for every significant tree that will be removed within the project footprint. The ELMP considers this is likely to result in a total of 3,400 seedlings to replace 17 significant trees.
* 6ha of swamp forest restoration planting and 8.38ha of dryland mitigation planting, most likely to take place within the Mangapepeke Valley.
* Stream restoration in accordance with scores derived from the Stream Ecological Valuation (SEV) method (shown in Table 2.3 of the Ecology Supplementary Report – Ecological Mitigation and Offset (February 2018)) including 8627m stream length/8157m2 stream area offset for 3822m/3361m2 impacted stream. Stream restoration work is proposed to consist of planting a 10m wide riparian margin each side of the channel and fencing to exclude livestock. In a teleconference on 1 May 2018 I was advised by project ecologist Roger McGibbon that of the 8.627 km of stream riparian fencing and planting, 5.5km would be carried out outside of the designation, on private land within the Mimi catchment, and agreements with landowners are anticipated to be finalised shortly.
* Roadside rehabilitation planting of steep cut faces, constructed fill embankment slopes and stream diversions.
* Page 204 of the AEE states that the level of offsetting required will be determined by using a biodiversity offsets calculation model, which was selected in consultation with DoC experts. The response to question 120 of the RFI states that following the completion of construction, the biodiversity offset calculation would be rerun based on the actual areas of vegetation removal from the project, and based on this, appropriate measures would be put in place (i.e., more or less mitigation/offsetting may be required than anticipated). Table 2.1 of the Ecology Supplementary Report – Ecological Mitigation and Offset (February 2018) shows levels of mitigation/offset treatment updated since lodgement in December 2017, and are based on the Alliance’s current knowledge, which is anticipated to evolve as the project progresses.

1. Section 3.1 of the draft ELMP (March 2018) relates to the general approach and guiding principles the RA intends for the project. It explains that while there is no statutory hierarchy for the application of the RMA terms ‘avoid, remedy, mitigate’, international guidelines on the management of ecological effects promote an effects management hierarchy that prioritises the sequence with which management of the effects should be approached: Avoid ⇨ Remedy ⇨ Mitigate. The term ‘mitigate’ in the RMA does not include “biodiversity offsetting” (mitigation relates to the reduction of effects at or on the site where the effects were created whereas offsetting provides new positive effects at another location (ideally close by)). The development of offsetting in the New Zealand context has led to an extended effects management hierarchy or order of priority: Avoid ⇨ Remedy ⇨ Mitigate ⇨ Offset ⇨ Compensate. I agree with the RA’s approach to consider offsetting and compensation on the basis that it is not possible to avoid, remedy or fully mitigate the net residual ecological effects within the project footprint, and the RMA is not a "no effects" statute. I also note the new ability as of 18 October 2017 provided by Section 171(1B) of the RMA, which states that the effects to be considered under Section 171(1) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by the RA.
2. The DoC submission considers that ecological effects may not be fully offset, and that compensation may be required. It states:

*“Although at a high level I support the Applicant’s proposal to proceed with the alignment option east of SH3 over other proposed options, I still consider that the proposal will have significant adverse effects on the environment. A comprehensive management approach commensurate to the level of the adverse effects should be taken, prioritising measures to avoid, remedy and mitigate effects. Any residual effects should be dealt with through offset, or if offset is not attainable, through environmental compensation.”*

1. It appears to me from the above statement from the DoC submission that DoC supports the RAs general approach and guiding principles with respect to the effects management hierarchy. The hierarchy is expressed within the ELMP strategy and framework (Section 3 of the ELMP) which first considers avoidance and minimisation of effects, followed by rehabilitation and restoration measures and the mitigation of effects, then considers offsetting of residual ecological effects. Compensation is not included in the ELMP as an effects management tool the RA intends to implement. I understand “Compensate” in this context to refer to less conventional approaches, such as cash payments towards achieving a benefit, where mitigation and offsetting may not be possible.
2. In the RFI I noted that the DoC submission suggests an offsetting and compensation approach in relation to unavoided and unmitigated effects on bats and lizards, and queried whether the RA was exploring this approach. The RA responded that ecologist Mr Chapman considered that with the implementation of the methods in the ELMP, all potential adverse effects on herpetofauna can be adequately addressed, and that the proposed approach to avoiding and mitigating potential adverse effects on bats is appropriate and robust. I therefore understood upon receipt of the RFI response that compensation is not considered necessary by the RA. I again note Section 171(1B) and that compensation may only be considered if proposed or agreed to by the RA. However I have since been informed that compensation is now being considered to resolve DoC concerns relating to bats and herpetofauna, and it is anticipated that draft conditions developed with the input of DoC will be presented prior to or at the hearing to address this.

### Remaining areas of concerns

1. A principal “effects issue” in contention for the NoR is associated with the significance values attributed to ecological components within the project area by the Alliance ecologists, and the extent, nature and details of the proposed ecological mitigation and offset package. While this has been subject to great consideration, discussion and development, there remains disagreement between the RA and submitters and Council experts. Since the close of submissions, the RA has liaised separately with DoC and Council engaged ecological experts (Wildlands) over whether an approach can be agreed on. Also note the number and nature of the questions asked about ecology in the RFI (questions 49 to 141), and the RFI responses to understand the concerns raised regarding the ecological effects.
2. Despite the reduced level of pest control east of SH3, the project alignment traverses Ngāti Tama land which is subject to Conservation Covenants, and Mr and Mrs Pascoe’s farm which NPDC seeks to include areas of as SNA when the Proposed District Plan is publicly notified later this year. The affected forest is considered to be an area of high ecological value and Wildland Consultants consider the Alliance ecologists have understated ecological values. This is a significant issue as improvement of the health of this and surrounding forest is a major component of the mitigation package.
3. Section 5.3 of the Wildlands review (dated May 2018 and found at Appendix F of this report) explains there is a lack of quantitative data on differences in forest condition and tree health between the eastern and western sides of SH3 (e.g. foliar browse index, seedling ratio index), and this information is required to assess whether the significant adverse ecological effects of the project will be addressed. Similarly more data on the condition/health of the forest in which pest control would be undertaken would inform the magnitude of ecological gain that could be made by implementing pest control.
4. Technical reports 7a-7g have been prepared by specialist ecologists with no overarching consolidation. Effects on specific ecological components appear to be considered in isolation. Wildlands consider the ecological value of vegetation communities needs to consider fauna values (otherwise it is not an ecological assessment but strictly a botanical assessment). Concerns expressed from Wildlands in respect of values assessments include that a vegetation type likely to support At Risk reptile species is assessed as being of Low ecological value. Similarly, vegetation that may support bat roosts (e.g. treefern scrub) is assessed as being of Low ecological value.
5. The concerns raised by Wildlands regarding the assessments of ecological values were communicated to the Alliance through the provision of review documents dated October 2017 and January 2018 (Appendix F of this report), and questions were then formally asked in the RFI. At the time of finalising this report, Wildlands remained of the opinion that the extensive high quality hillslope forest within the project footprint warrants higher value ascribed to it, and Kahikatea-swamp maire forest is considered by Wildlands to be of “very high” ecological value.
6. Section 3.3 of the May 2018 Wildlands review (Appendix F) details serious concerns regarding the loss of ‘significant trees’ and whether the proposal to plant 200 seedlings for each significant tree felled goes far enough. Wildlands state a number of reasons why they do not agree with the definition the project ecologists are using for ‘significant tree’ and indicate that hundreds (or thousands) of other affected trees could be regarded as significant. The RA is encouraged to provide further detail as to how the significant tree criteria were developed and applied. With regard to the Wildlands concern about substitution with other species if suitable planting sites are not available, I can report that I have been verbally advised by project ecologists that this a mistake and they intend to update the ELMP to correct this error because they are confident suitable planting sites exist. At section 3.19 of the Wildlands review (May 2018), the following performance measures are suggested to address significant tree loss:

*For each significant tree felled, 200 saplings of the same species are present within areas of indigenous plantings 10 years following planting. 90% of these saplings are in good health, and either two metres tall, or emergent above the height of surrounding competing vegetation.*

1. The Wildlands review (May 2018) identifies the following matters with respect of the Draft ELMP (March 2018), that the Council would like to see addressed prior to the finalisation of the ELMP:
2. Section 3.4 notes that the conservation status of long-tailed bats has not been updated from “Threatened- Nationally Vulnerable” to “Threatened-Nationally Critical”. The RFI response (question 77) does not acknowledge the change of threat status but states that *“In any case, the ‘very high’ value assigned to long-tailed bats remains the conclusion as stated in the Bat Technical Report and Supplementary Bat Report”*. However it would be appropriate to update the ELMP to reflect the correct status to avoid any downplaying of risks posed by the project to this species.
3. Section 3.5 considers the general statement that invertebrate fauna is “typical of communities inhabiting primary forests” is poorly supported, and it is considered that targeted surveys of Lepidoptera, including forest ringlet butterfly (conservation status “At Risk”) would be appropriate. The RFI response (question 111) directs attention to Section 4.4.3 of the ELMP which explains the intention to address potential adverse effects on the forest ringlet butterfly by harvesting, cultivating and returning host species for this butterfly.
4. Wildlands consider Table 2.3 of the ELMP (Actual and potential adverse ecological effects) fails to list “mortality during construction, especially vegetation clearance” as an adverse effect of construction for herpetofauna. This eventuality is addressed in the Lizard Management Plan (Section 7 of the ELMP), but Wildlands consider Table 2.3 should specifically list this.
5. In Section 3.7 Wildlands question the RAs claims about the ecological connectivity provided by the proposed 240m tunnel.
6. While the AEE addresses light spill during construction, Wildlands question how light spill from the operative new road would be managed, particularly with regards to bats and other nocturnal fauna, e.g. kiwi and geckos. Page 297 of the AEE states that permanent lighting will be provided at the two local road intersections and the tunnel.
7. In Section 3.9 Wildlands identify that plantings have the potential for failure and questions how this will be dealt with to reach ‘no net loss’, particularly with a species like mānuka where 1:1 ratio of replanting is proposed. Question 123 of the RFI identified that for much of the vegetation to be cleared in the Mangapekepeke Valley (comprising mānuka scrub, mānuka-tree fern communities, pole-sized trees of rewarewa, kahikatea, and rimu) the proposed plantings would not replace vegetation loss until similar maturity is reached. Wildlands consider ratios should allow for the time lag between planting and when ecological equivalency is reached; for mānuka scrub with pole-sized rewarewa, kahikatea, and rimu, a ratio of 1:2 would be more appropriate. The RFI response considers that dryland planting should be viewed within the wider package which includes pest plant and animal management and livestock control at the planting sites. Project ecologists are confident that this will provide adequate mitigation for the removal of these communities in the medium term, however Wildlands contend that a higher ratio is appropriate.
8. 3.10 relates to kiwi protection fencing. Wildlands point out that reference to kiwi fencing is absent from the Avifauna Management Plan in the ELMP and it should be included with respect to both temporary construction zones and at the operational highway phase to prevent road kill. I understand the RA and DoC have had discussions about kiwi protection fencing and I encourage the RA to provide an update on this. It would also be helpful for DoC to advise whether they are happy with the measures proposed.
9. Wildlands consider the statement in Section 3.4 of the ELMP that *“planting will resemble what is removed in the matter of a few years”* is a gross understatement of the time required to replace the lost vegetation. A more likely timeframe is considered to be 100-200 years.
10. Section 3.12 of the Wildlands review notes a lack of evidence for the suggested poor health of the forest canopy within the project footprint. Wildlands identify statements regarding likely ecological gains which they consider to be misleading; the Mangapepeke could not be converted back to a fully forested valley, being dissected by the proposed road which would separate habitats and create new edges.
11. The RA is encouraged to clarify and ensure the extent of plantings required to achieve stream restoration outcomes are completely separate from, and in addition to, the extent of plantings required to mitigate for forest and wetland loss. Similarly, it is recommended that the RA confirm that existing areas of pest control adjacent to the site are not relied upon because the proposal needs to result in ecological gains that are additional and solely attributable to the mitigation package for the project.
12. Section 3.15 of the Wildlands review considers the 5m allowance for edge effects. Question 122 of the RFI identified that five metres is considered an insufficient measure for assessing edge effects. The RFI response stated that *“this 5m edge effects margin (on top of the Additional Works Area, which is considered to be conservatively applied) provides for total loss within this area for the purpose of the biodiversity offset calculation. While edge effects can extend beyond this area, they may only have a partial effect on biodiversity, so assuming total loss is considered to be a conservative way to calculate biodiversity loss. This is one of the most conservative approaches for addressing edge effects for any large infrastructure project in New Zealand. Indeed, for most large projects, while edge effects are acknowledged, they are not factored into mitigation measures”.* Edge effects have been discussed between Alliance and Wildlands ecologists following the RFI and in a teleconference on 1 May 2018 it was agreed that quantification of net forest edge created would be useful. It was also agreed that the Alliance would calculate and present net change in forest edge length due to the project in evidence, as well as clarify the approach taken to edge effect compensation.
13. Appendix A (the Ecology Constraints Map) is missing from the ELMP and when it is provided this will need to be reviewed.
14. Section 3.16 of the Wildlands review (May 2018) notes confusion about the extent and treatment of high value ecological areas adjacent to the project footprint. A lack of consistency is identified between Figures 4.1 and 4.2 of the ELMP, Table 2.1 of the ELMP, and Technical Report 7a. While in some places in the documentation it is shown that most of the route passes through vegetation that is of high ecological value, mapping identifies only small areas of high value. This is important because margins for vegetation clearance for the additional works area (AWA) will be restricted to five metres, but in areas of lower ecological value, the margin of clearance for the AWA will be 20 metres. Wildlands consider a five metre margin for the AWA is justified for all habitats of “high ecological value” and it is unclear why only a small subset of high ecological value areas are shown on the map.
15. In relation to the translocation of At Risk or regionally distinctive epiphytes, Wildlands encourages further consideration be given to how epiphytes and their hosts can be salvaged intact. Wildlands suggest setting the objective that the number of individuals lost by vegetation clearance be successfully re-established through plantings.
16. In Section 3.18 of their May 2018 review, Wildlands consider mitigation planting and note concern that areas identified for mitigation planting include some existing areas of indigenous vegetation. To claim an area as mitigation planting would only be justified where current vegetation is dominated by exotic species. Where indigenous vegetation is already regenerating naturally, little gain will be made by planting, versus retirement from grazing. Wildlands recommend mapping areas and providing criteria for where planting is needed, at what density relative to existing vegetation, and a range of other considerations.
17. Wildlands consider that to address effects of road construction on bats:

* Willow removal associated with riparian margins should be subject to the bat management plan, or alternative measures such as poisoning trees and leaving them standing should be considered.
* Mortality through vehicle strike should be listed within the summary of effects on bats in Section 5.6 of the ELMP.
* Trees with a diameter less than 50cm should not be excluded from consideration of high risk roosting trees because trees as small as 15cm diameter could be used by bats for roosting. Identifying high risk roosting trees based on the five sub-criteria provided at Section 5.7.2 of the ELMP (e.g. bat droppings, hollow trunks), regardless of tree diameter may be more appropriate.
* Lighting should be designed to minimise adverse effects on bats.
* The Bat Management Plan should address the following effects identified in the ELMP: loss of unoccupied and occupied roosts; mortality due to the operation of the road; the effects of night work and lighting, vibration and noise.
* Post-construction monitoring is recommended for bats.

1. With regard to the Avifauna Management Plan, at Section 3.21 of their May 2018 review, Wildlands consider that:

* Section 6.1.3 of the ELMP should include whitehead, long-tailed cuckoo and kōkako in the list of ‘key threatened and at-risk species of interest (…)’
* Given the conservation importance of kōkako in North Taranaki, Section 6.3 of the ELMP should include kōkako as a significant species to manage in a manner similar to kiwi, despite the low likelihood that birds are found within the project area.
* Provision of kiwi protection fencing, and the issue of dispersing juvenile kiwi, should be addressed in the Kiwi Management Plan. This plan should also include sufficient experience, in addition to training, as a requirement for project personnel authorised to handle kiwi.
* Measures proposed to respond to the unlikely event that sedimentation controls fail and adversely affect the Mimi Swamp Forest and high value wetland birds should be included in the Avifauna Management Plan.
* During expert discussion project ecologists indicated they intend to undertake monitoring of the six pairs of fernbird in the Mimi catchment during and post-construction. This should be added to the Avifauna Management Plan.

1. In relation to the Lizard Management Plan, Section 3.22 of the Wildlands review identifies:

* The Lizard Management Plan is likely to change in response to consultation with DoC and DoC requirements.
* This plan should address indigenous frogs.
* Section 7.1 of the ELMP states *“Some of the lizard species present in the wider Project area are also likely to benefit from the broader pest management, restoration planting and other general measures…”* Wildlands question how lizards would benefit from restoration plantings compared with the status quo of not felling habitat, when some of the restoration plantings are in existing areas of indigenous vegetation that may already be lizard habitat (e.g. mānuka scrub). Furthermore, restoration plantings lack the structural diversity and complexity of micro-habitats which have been formed over many decades and even centuries. It may be appropriate to remove the wording above about the project creating benefits to lizards.
* Section 7.3 should be amended to state: “Lizard injury or death, including during vegetation clearance and construction activities”.
* Section 7.4.3 of the ELMP relates to the identification of lizard habitats and refers to the Ecology Constraints Map in Appendix A which has not yet been provided. Wildlands consider it is imperative that areas of early successional vegetation dominated by mānuka and/or kānuka which are potential habitat for arboreal gecko species, be valued as vegetation types in consideration of the associated fauna values that may be present. Wildlands note that elsewhere in the project documentation mānuka and/or kānuka has been assigned low ecological value which does not reflect associated fauna values. Wildlands consider that trees and areas with higher likelihood for lizards to be present should be marked-up on-site and to ensure contractors are aware that lizard protocols apply.
* Wildlands seek to understand the rationale for the proposed use of Artificial Cover Objects (ACOs).
* Wildlands suggest further justification is required as to why Section 7.4.4.3 of the ELMP considers that in the four weeks prior to clearance, a two-night survey of medium or high risk habitats for all areas in the project footprint is adequate. Wildlands also seek clarification of whether the protocol is to be a ‘two-night survey’ or ‘20 person-hours of nocturnal searching per hectare’, as these are both stated as being the preferred protocol.
* The protocols in the Lizard Management Plan refer to high risk trees. Wildlands consider clarification is required regarding the identification of high risk trees in inaccessible areas, and how they will be identified as clearance progresses throughout the project footprint.
* Wildlands consider provisions should be included in the protocols for log stack deconstruction to be supervised by a herpetologist prior to chipping.
* Table 7.1 of the ELMP specifies the lizard salvage methodologies based on risk level of potential lizard habitat. Wildlands consider this table would be more helpful if it included details of the vegetation types of each habitat risk class.
* Section 7.4.7 of the ELMP relates to release sites and the use of pens. Wildlands suggest the RA should justify that pens will be the appropriate size, clarify how the number of lizards to be released into each pen will be determined, and the triggers for the selected use of pens should be stated. The Lizard Management Plan should demonstrate how the pens will be rodent proof.
* Wildlands acknowledge that post-translocation monitoring of herpetofauna is challenging but suggest useful measures for monitoring.

1. Section 3.23 of the Wildlands review (March 2018) relates to the Freshwater Ecology Management Plan. It notes concern about the lack of alternatives for stream restoration works if landowner negotiations are unsuccessful. Wildlands identify that the total stream length required will not be known until final offset requirements are calculated. They consider it is important that any tributaries earmarked for restoration purposes do not already have indigenous woody vegetation along their riparian margins (there needs to be a clear benefit as a result of restoration works). Ecological gains will be higher if restored reaches are contiguous with forested areas rather than being planted in isolation, so a map showing the areas should be provided for Council to review. Wildlands consider pukeko should be surveyed prior to riparian planting and if in high numbers may need to be controlled by shooting (this should be added to Section 4.6.4.6 of the ELMP). Performance targets are specified by the project ecologists.
2. Section 3.24 of the Wildlands review (March 2018) relates to the Pest Management Plan. Wildlands consider that evidence is required to verify that a 1000 hectare area of pest control will result in long-tailed bats increasing in number. Wildlands have doubts about the claimed spill over (positive) effects for bats as they are not aware of evidence for the halo effect applying to bats. They note that other studies of the effects of predator control on long-tailed bats have taken place at locations removed from the effects of infrastructure (e.g. the only key change was a positive reduction in pest numbers) so the evidence should consider other adverse effects on bats associated with the project (e.g. loss of roost trees, habitat fragmentation, proximity to infrastructure, lighting).
3. Page 79 if the ELMP states *“the extension of the PMA to 1085ha has been proposed in part to improve the likelihood of increased kiwi recruitment.”* However Wildlands question whether the PMA will be large enough to manage a viable population of brown kiwi. Wildlands question how a claimed increased abundance of habitat can be achieved for the project when there will be a net loss of indigenous habitats and the loss of key ecological features such as emergent trees and stream habitats.
4. The ELMP sets performance targets for four forest bird species, which Wildlands consider are appropriate, although they note it could be extended to other key species of interest. Wildlands also have some comments about adaptive pest management responding to monitoring targets. Wildlands consider *“the approach to managing outcomes needs to not only be adaptive but also needs to be flexible if it is shown that achieving a particular outcome is not possible. Decisions regarding the adequacy of the adaptive management approach, and any alterations to proposed management tools, approaches or outcomes, should be made by independent experts, based on annual reports on pest control operations and outcome monitoring results.”*
5. The end of Section 3.24 of the Wildlands review (May 2018) outlines recent expert discussions around how to specifically address the significant proportion of habitats to be removed, where it will not be safe or accessible for herpetologists to undertake salvage work in. ‘Pest animal exclusion pens’ have been discussed as part of a compensation and mitigation package addressing effects on indigenous lizards. The RA is encouraged to provide details about this in evidence.
6. Wildlands consider that performance measures should apply to every component of the mitigation package. The ELMP specifies maintenance in terms of years, however Wildlands consider that the maintenance programme needs to be continued until the agreed performance measures have been met. I agree with the submission by Forest and Bird which states *“there needs to be clear direction in the conditions to implement the avoidance, remediation and mitigation recommendations, and this direction must be set out in the decision on the application, not by some future process. However, the level of detail included in the draft conditions is not reflective of the level of action recommended by ecologists in Technical Reports 7a – 7g, or of that described in the offset package (7h) and AEE, to ensure adequate avoidance, remediation, mitigation, or offsetting of the adverse effects of this project. … Forest and Bird seeks the recommendations of ecologists in Technical Reports 7a – 7h are implemented in full through clear, directive and enforceable conditions.”*
7. Wildlands have therefore raised a number of detail matters in their review of the draft ELMP (March 2018) and I would seek these be considered for incorporation into the ELMP before it is finalised. Given the number and seriousness of these concerns, I am uncomfortable with the proposal for consent conditions relating the finalisation and review of management plans which do not allow for Council to be the certifier. This is discussed later at paragraph 317 and following.
8. Wildlands consider that the mitigation and offset package may place an “*over-reliance on the pest management plan to address adverse effects that could have been addressed through the restoration of habitats to replace areas of vegetation loss, on a like-for-like basis.”* Wildlands consider it likely that some of the areas proposed for restoration planting are already areas of indigenous vegetation and that the project will result in a net loss of indigenous vegetation, with respect to both extent and ecological functioning. They suggest the loss of older hillslope podocarp broadleaved forest could be addressed by plantings instead of relying on pest control. Wildlands also consider that the area of proposed pest control is too small to result in the prescribed outcomes for that pest control (e.g. a population of longtailed bats that is increasing in size).
9. In Section 4 of the Wildlands (May 2018) review, some concerns are noted about the responses to the RFI. They note errors, responses seemingly based on expert opinion and not scientific evidence, responses that do not answer the question, responses that refer the reader to documents that have not been provided (notably the Ecology Constraints Map), responses that acknowledge that the mitigation package is reliant on adjacent areas of existing conservation management to “form a significant contiguous pest controlled area”, and responses that confirm the understatement of ecological effects.
10. From the original application documents, the RFI response, receipt of the expanded ELMP and supplementary ecology reports in February/March 2018, and from discussions between project and Wildland ecologists, a great deal of detail has been provided about how the RA considers ecological effects can be addressed. While some earlier raised concerns have been addressed, numerous areas of concern remain. Therefore, at the time of finalising this report I have reservations over whether the significant ecological effects created by the project will be avoided, remedied, mitigated or offset to the extent that there would be a ‘no net loss’ in biodiversity values within 10 to 15 years.
11. A number of detail and technical questions remain unanswered, however principle areas of concern relate to:

* The lack of qualitative data to support assumptions about the health and condition of the project and offsetting areas in terms of canopy and understory.
* The definition of significant trees and whether the effects on them can be mitigated or offset.
* The ratio for replanting of species removed.
* The acknowledgment and assessment of edge effects.
* The understatement of ecological values.
* Whether the level of mitigation and offsetting is sufficient.
* The location of mitigation and offsetting works and whether these will result in ecological gains that are additional and solely attributable to the mitigation package for the project.
* Whether the pest management approach is likely to meet mitigation outcomes stated.
* Details about performance targets and monitoring requirements.
* Lack of certainty about the ability of offsetting and mitigation to be implemented in a legally certain and timely manner.

1. A number of submission relate to the project’s impact on ecological values of the area. The Tiaki Te Mauri o Parininihi Charitable Trust lodged a neutral submission but wishes to ensure the effects of the project on Parininihi and the taonga bird and other native flora and fauna are fully avoided, remedied or mitigated. The Trust is encouraged to advise the hearing whether it consider the measures proposed in the ELMP will achieve this. Most submitters in opposition as well as some in support raised concerns over the ecological effects, and those that wish to be heard in support of their submissions are also encouraged to consider the expanded ELMP (March 2018) and advise the hearing whether the proposed management is considered appropriate and addresses their concerns.
2. The DoC submission states that they are not satisfied that the proposed conditions will result in a no net loss in biodiversity and suggests amendments and additions to the RAs proposed conditions. I understand that DoC and project ecologists have had a number of meetings to discuss this and I expect DoC will provide evidence at the hearing to advise whether they remain of the opinion stated in their written submission. The RA have advised that some aspects of the reporting will be significantly revised following stakeholder consultation.

1. The Forest and Bird submission raises concern that the proposal and draft conditions have not adequately assessed the project’s impact on freshwater biodiversity and does not reflect the level of action recommended by ecologists. They have concerns over the significant adverse effects on biodiversity and associated values, including (but not limited to) substantial effects on terrestrial vegetation, indigenous bat habitat and freshwater ecology. I encourage Forest and Bird to consider the revised ELMP and advise whether this now reflects the level of action recommended by ecologists and whether their concerns over ecological effects have been addressed.
2. Section 6 of the Wildlands May 2018 review suggest *“the following additional mitigation and offset measures which would substantially increase the likelihood that the adverse ecological effects of the project could be addressed:*

* *Increase the extent of pest management to a minimum of 3000 hectares, additional to areas of existing pest animal control.*
* *Plantings to ensure no net loss in area of indigenous vegetation, with a minimum of 1:2 loss to replacement ratio for all scrub/shrubland/forest habitats.*
* *Restoration of hillslope forest to offset the loss of 19.85 hectares of hillslope podocarp broadleaved forest (possibly by fencing and retirement from grazing of a much larger area).*
* *Define significant trees as per the Applicant’s three point definition, with 200 seedlings of each of these species planted.*
* *Retro-fitting any existing perched or broken culverts along the route to facilitate upstream fish passage.*
* *Adequate measures to reduce the mortality of kiwi due to vehicle collisions.”*

# CONDITIONS

## Ecology conditions

1. Section 8 of the Wildlands May 2018 review discusses the conditions proposed in the AEE and makes a number of suggestions. Proposed designation conditions 25 and 28 specify area sizes for different aspects of the mitigation and offset package, such as a 1085ha PMA and 6ha of swamp forest restoration planting. Wildlands note that it may not be appropriate for the designation conditions to state the extent of mitigation works required because until the project footprint has been fully surveyed the extent of mitigation works required has uncertainty associated with it. In fact in the RFI response it states that at the completion of construction, the biodiversity offset calculation would be rerun based on the actual areas of vegetation removal from the project. Therefore it may be more appropriate to have conditions to direct how and when the offset calculation will be rerun and what is expected to result. Wildlands also suggest that ratios should be stated so that the final extent of loss can be offset by the appropriate quantum of mitigation. This would at least provide some certainty as to the extent of mitigation required, if not the location and detail.
2. Wildlands consider that consent conditions should include:

* No net loss of indigenous vegetation on an area basis.
* Plantings to replace vegetation loss should be ‘like for like’.
* Mitigation planting should only occur where it would result in an increase in the extent of indigenous vegetation; not in areas with existing or regenerating vegetation.
* A pest management plan shall achieve measurable biodiversity gains, with the area to be determined by the area requirements of the indigenous fauna that is adversely affected by the route.
* The core area of intensive pest control should include all introduced mammals (including mice), pest plants and wasps.
* Important details contained in the ELMP would be more appropriate as conditions, for example, relocation of affected brown kiwi, fences around construction areas then along the new road to protect kiwi, and what actions are required if an established kōkako breeding pair was found within the project footprint.
* All pre-construction, during-construction and post-construction monitoring. This is particularly important for:
* Bats, avifauna and lizards.
* Pre-construction survey and post-construction monitoring of translocated *gahnia* species (habitat for forest ringlet butterfly) and epiphytes.
* Pre-construction baseline survey and post-construction monitoring of forest condition (to ensure vegetation condition improvements occur as the mitigation package intends, and if not, requiring that an alternative approach to mitigating effects is implemented).
* Measurable performance targets should apply to every component of the mitigation package. i.e., “80% canopy cover 10 years following planting in the zones where trees and shrubs are planted; Kahikatea forming 65% of the tree canopy (ie. 65% of the area where trees are planted, excluding those areas where trees are not planted) by year 35”; “20% increase in relative abundance for tui, bellbird, kereru, and kiwi within 12 years”; “For each significant tree felled, 200 saplings of the same species are present within areas of indigenous plantings 10 years following planting and 90% of these saplings are in good health, and either two metres tall, or emergent above the height of surrounding competing vegetation.”
* All designation conditions regarding herpetofauna should refer to both lizards and frogs.
* Timing for planting and establishment of planting, specifying duration of maintenance required. For example, restoration planting for significant trees felled could be deemed complete when these plantings reach an average height of 2m, or when ‘canopy closure’ has been completed. (Canopy closure could be defined in the designation condition as 85% cover by indigenous species.)
* Requirement for the regular compilation of pest management and outcome monitoring reports (e.g. annual), which document the results of outcome monitoring, and proposes alterations as required to achieve performance measures.
* A condition requiring the restoration of wetlands affected by failure of sediment or erosion controls.

1. Although freshwater management and indigenous freshwater biodiversity are typically matters for TRC, I note the proposal is to provide fish passage in perpetuity up the Mangapepeke Stream. The mechanism TRC would use to ensure fish passage is intact is related to monitoring consents, and the regional consents have an expiry. This creates concerns in the long-term about fish passes being blocked and unmaintained and this going unchecked. Having discussed this with TRC I suggest a condition on the designation could be appropriate instead of, or in addition to, conditions of this nature on TRC consents, to reflect the perpetual nature of the mitigation/offsetting. I note proposed designation condition 25(f) relating to fish passage and request the RA to advise whether this would address long-term maintenance provisions for fish passage structures.

## Management Plans

1. Page 237 of the AEE explains that the CEMP is the overarching management plan which sets out the framework to manage the activities and effects on the environment associated with construction of the Mt Messenger Bypass. The CEMP sets out the principles and general approach (including methods and tools), and sitting beneath and within the CEMP are proposed detailed and specialised management plans (as listed in paragraph 37). The purpose of the plans is to ensure that construction activities are appropriately managed during all stages to avoid, remedy, mitigate or offset effects associated with the project. A draft CEMP was provided at lodgement (refer Volume 5), and the AEE considers plans will be finalised prior to the commencement of construction to meet the requirements of the proposed designation and resource consent conditions. Then NZTA (through the Mt Messenger Alliance) would undertake all construction activities in accordance with the provisions of the relevant designation or resource consent conditions, the CEMP and management plans.
2. Whilst I am comfortable with an adaptive management plan approach, I do have concerns with respect to the proposed conditions relating to finalising and altering of management plans. The proposed conditions would require the RA to provide the Council with updated management plans, which the Council may comment on within 15 working days, and the RA would take Council comments into account before finalising the plans. In my opinion the post-approval process would be more robust if Council as consent authority holds the ultimate “certifying” responsibility for ensuring that management plans fulfil their intended functions. The Council seeks to retain its role as independent “certifier”. This is particularly important because the RA seeks a waiver of the Outline Plan requirement. In the RFI I raised this concern and requested NZTA provide a view on whether the Council’s preferred approach is acceptable, or if NZTA disagrees, to please provide reasons for maintaining the proposed approach. In the RFI I also stated that given that expert input will be required in certifying management plans, and given the complexity of the project, a longer period than 15 working days to consider these plans may be required. Council would endeavour to respond in a reasonable timeframe but a 15 working day turnaround would be unachievable in many instances.
3. NZTA replied to the management plan concerns in the RFI by stating that: “*The Transport Agency has provided updated management plans, in particular the ELMP, to the Council (and other parties). Discussions on these management plans is continuing with the Council and submitters. The intention is that fulsome, complete management plans will be provided in evidence (if not before depending on the outcome of discussions). If consents are granted and the NoR is confirmed, that will be on the basis that the actions set out in those management plans will be carried out (as required by the proposed conditions). The management plans will be finalised based on the versions provided at the hearing – only substantive changes (that would lead to increased effects) will require certification. In finalising the management plans, the proposed conditions provide for the Transport Agency to take into account any comments made by the councils. This is an appropriate resource management practice, allowing for decision making at the primary stage, rather than relying on delegation of a detailed certification power to the Council(s). 15 working days is a reasonable period of time for the councils to comment on the process of finalising management plans, in light of the intention that robust drafts will be considered at the hearing.”*
4. I agree it would be preferable that management plan details are determined prior to a decision being made on the NoR, rather than relying on a later post-approval process. However, at the time of finalising this report, and Council’s expert reviewers have not seen the fulsome, complete management plans, so it is difficult to determine their effectiveness. Some plans remain fluid (in particular the ecology matters within the ELMP which is considered pivotal to consideration of the NoR). I am concerned that providing them as evidence at the Hearing would not provide sufficient time for the Council and experts to consider the details and to request changes. There is also a lack of certainty that NZTA can provide suitable offsets on third party land, and I am not aware of any existing legal mechanisms being in place to allow the use of third party land.
5. I also note that within the management plans they are described as live documents that will be reviewed and updated. Proposed conditions would require substantive changes to be certified by Councils, but there may be uncertainty around what changes are substantive and requiring certification. I therefore have concerns around the process for finalising and altering management plans, and consider these should be subject to Council certification.
6. Because in my experience NPDC plays a certification role in relation to conditions requiring management plans, in the RFI I asked the RA to provide examples of cases in New Zealand, of large state highway projects through sensitive areas, where management plan conditions similar to the approach suggested in designation conditions 5 to 14 had been used, where the consent authority has no certifying role and where a 15 working day timeframe is stipulated. This matter was not responded to but I consider it may be helpful to consider the approaches taken in conditions for other large roading projects in recent times:

* The NZTA NoR to the Waikato District Council for an alteration of designation for the Huntly (central) Section of the Waikato Expressway (where key areas of consideration related to management plans and biodiversity mitigation, offsetting and environmental compensation, and where DoC and Forest & Bird had reached agreement in terms of the mitigation, offset and environmental compensation approach); conditions stipulated management plan objectives, and required the certification of management plans by the Council. Rather than a 15 working day timeframe, a ‘reasonable timeframe’ is stipulated and an Outline Plan process is still required.
* For the Transmission Gully Proposal, NoR conditions resulting from the Board of Inquiry process required a CEMP to be certified by Councils. The first step was to provide Councils with an initial/draft consultation document no less than 20 working days prior to submitting for certification, which would allow Councils time to consider the detail and make comments. Where comments and inputs received are not incorporated, the conditions require NZTA to provide clear explanations why. Outline Plans are also required.
* Christchurch Southern Motorway conditions provide for an independent certifier of the CEMP, and a 20 working day turnaround for the certification process. Outline Plans were not required for the construction works.

1. I am not opposed in principle to relying on a third party certifier, providing they are independent and qualified and experienced, but consider it is a role more properly fulfilled by the Council as consent authority, particularly if there is to be no Outline Plan process (a matter that I have reservations about in any event). I think Councils should hold the ultimate “certifying” responsibility for ensuring that management plans fulfil their intended functions. If the Council/Commissioner is satisfied by the close of the Hearing that the management plans presented are fulsome and complete, there still remains the possibility of the RA determining that future changes are not substantive and Council certification would not be required. I note Designation Condition 13 addresses *“the event of any dispute, disagreement or inaction arising about the implementation of the management plans”* and proposes a process of resolution, however this does not address disagreements regarding content of management plans.

## Communications management

1. Communications management is important mitigation for construction effects and in my view a specific condition is required. Section 6 of the CEMP relates to stakeholder engagement, and draft condition 33 relates to complaints. Draft condition 16 refers to communications and interface procedures, complaints management and methods to engage with stakeholders. Specific outcomes are not stated in the drafted conditions. Section 6 of the CEMP does state methods but I consider it preferable to include conditions relating a Communications and Public Liaison within the CEMP.

## Outcomes to be specified within conditions

1. Some of the conditions proposed do not identify the performance standards that are to be met in the management plan. It would be easier to monitor conditions and/or certify management plans if it was clear what was to be achieved. Lack of performance standards creates the potential for the management plan to be subject to delegation of the decision maker’s role, which would defeat the purposed of the public decision making process. In my view, the management plans do contain a great deal of detail which is key to achieving desired outcomes. However, the overarching objectives and some of the key detail covered in the management plans needs to be stated in conditions. For example, with regard to lighting, proposed designation condition 16 requires the CEMP to include details of construction lighting, and while the CEMP refers to AS 4282 – 1997 *“Control of the Obtrusive Effects of Outdoor Lighting”*. I think that if the NoR is confirmed, this standard should be specifically referenced in the designation condition. In particular I consider the ecological outcomes sought should be listed in conditions. I have proposed a number of conditions in this regard. I also expect the RA to present revised conditions, including performance standards, at or before the hearing.

## Other comments on conditions

1. Designation Condition 15 states *“The Requiring Authority shall finalise a CEMP to provide an overarching framework to ensure that the Project remains within the limits and standards required by these conditions and that Works appropriately avoid, remedy, mitigate or offset more than minor adverse effects on the environment.”* I question the inclusion of the words “more than minor” and consider these should be removed.
2. It is recommended the RA provide additional evidence at the hearing to clarify the establishment of a Kaitiaki Forum, and to update whether an agreement has been reached with Ngāti Tama as to mitigation, offset and compensation of cultural effects. Careful wording of conditions requiring a forum will need to ensure third party agreement is not required. In the absence of agreement with Ngāti Tama there is uncertainty around whether proposed conditions to address cultural effects are deliverable.
3. As discussed in paragraphs 231-232, consideration should be given to a condition requiring a revised layout for the tunnel to include 1.5m shoulders, without compromising the desire for a well-defined and channelized roading environment.
4. If the NoR is confirmed, I recommend conditions which seek to ensure the outcomes described in the LEDF with respect to addressing landscape, natural character and visual effects. Conditions are proposed to ensure built structures appear in accordance with plans and drawings submitted in the LEDF, and to ensure mitigation measures proposed are enforceable.
5. With respect to the NESCS consent, I have recommended consent conditions at paragraph 221.
6. At the end of this report I recommend alternative conditions to those proposed in Appendix D of the AEE.

# NATIONAL, REGIONAL AND DISTRICT POLICY ASSESSMENT

1. As required by section 171(1)(a) of the RMA, I have considered the relevant objectives and policies within the following national, regional and district planning documents:

* New Plymouth District Plan 2005
* Regional Policy Statement for Taranaki 2010
* National Policy Statement for Freshwater Management 2014
* New Zealand Coastal Policy Statement 2010

1. I have also considered the following relevant Regional Plans, but rely on TRC to provide further assessment against these regional documents:

* Regional Freshwater Plan for Taranaki 2001
* Regional Soil Plan for Taranaki 2001
* Regional Air Quality Plan for Taranaki 2011

1. The Forest and Bird submission states that the proposal does not address the relevant legislative responsibilities of the NPDC and TRC with respect to District and Regional plans. The AEE contains the statutory context and assessment and Appendix A of the AEE presents an objectives and policy assessment in tabular form. I have compared the objectives and policies of the above documents against the identification and assessment of relevant matters in the application/NoR documents. Here I identify some policy matters that do not appear to have been addressed which may be relevant matters for the decisions and recommendations on this project.

## New Plymouth District Plan

1. Pages 292 to 298 of the AEE assesses the proposal against the New Plymouth District Plan under the headings: Efficient operation of the road transportation network; Natural hazards; Tangata whenua issues; Indigenous vegetation; Natural character; Public access to waterbodies; Rural character; Amenity, including noise and lighting; Public Health and Safety; and Heritage. The final table in Appendix A of the AEE assesses each objective and policy considered by the RA to apply. I adopt the assessment in Appendix A insofar as the objectives and policies included; I concur that the project proposes to be carried out in a manner that is not contrary to what the District Plan seeks to achieve with respect to rural character, amenity, health and safety, archaeological sites and sites of significance to Maori, landscape protection, natural hazards, natural character, tangata whenua and the safe and efficient operation of the road transportation network.
2. With respect to SNAs, recent work carried out by the District Plan review team identifies additional SNAs to be included in the next generation District Plan. Noting the age of the operative District Plan and the work carried out in relation to understanding the ecological values of the indigenous vegetation on the Pascoe farm, I consider the operative District Plan to be deficient in terms of the SNA overlay. However, this assessment of the NoR does consider the high ecological values present on the Pascoe land.
3. In addition to the objectives and policies assessed in the AEE, I consider the following to also be relevant:

* Policy 10.1 states that hazardous facilities should be located so that any risks to the environment, including to people, are minimised.
* Policy 10.2 states that hazardous facilities should be designed, constructed and managed to prevent or mitigate adverse effects and unacceptable risks to the environment, including people.

*Comment: Based on the review by Sarah Knowles of AECOM, I consider that any hazardous substances associated with the project will be located, designed, constructed and managed in a manner that avoids, remedies and mitigates risks to the environment and people.*

* Policy 12.2 states that the ability of natural features and systems to provide a defence against natural hazards should be recognised and the integrity of these features and systems protected where appropriate.

*Comment: I consider this policy is applicable with respect to the removal of vegetation on steep terrain which could reduce resistance to erosion and landslides. The cut slopes proposed will be engineer designed to respond to the unique geotechnical and other characteristics of the subject land and would be stabilised. The proposed earthworks may also impact on flooding likelihood and magnitude if not managed appropriately. However, the Alliance is confident that proposed construction staging and stormwater management will result in no exacerbation of flood hazards and other downstream effects, and anticipate some improvements in this regard.*

* Policy 14.1 states that the natural character of the coastal environment should not be adversely affected by inappropriate subdivision, use or development and should, where practicable, be restored and rehabilitated.

*Comment: The project area is upstream approximately 20km from the coastline. As the RA and TRC consider it is possible to manage effects of the proposal on streams and watercourses, then I consider if these are appropriately managed, adverse effects on the natural character of the coastal environment will be avoided.*

* Objective 15 is to protect and enhance Outstanding Landscapes and Regionally Significant Landscapes within the district and Policy 15.2 states that subdivision, use and development should not result in adverse visual effects on, and where practicable should enhance these landscapes: Scheduled landscapes include the coastal terrace between Mohakatino and White Cliffs; White Cliffs and associated conservation forest; and the Mohakatino, Tongaporutu and Mimi River Mouths.

*Comment: I consider this objective is relevant with respect to the MCA which considered route options west of the existing state highway which would have potential to adversely impact on Outstanding and Regionally Significant Landscapes listed in the District Plan. Through the route selection process, visual effects on these landscapes have been avoided.*

* Policy 16.1 states that land use, development and subdivision should not result in adverse effects on the sustainable management of, and should enhance where practical, significant natural areas.

*Comment: As with avoiding landscapes subject to the District Plan overlays, the route selection has resulted in an alignment which avoids impacting SNA areas west of SH3. Whilst the route is proposed to traverse land NPDC intends to become SNA in the next generation District Plan, the area of bush affected is for the most part an edge of a larger indigenous forest and the proposal includes provision for the sustainable management of forest values of the wider area (although the nature and extent of the management measures remains in contention).*

* Objective 17 relates to Outstanding Natural features and has relevance to the Tongaporutu Coast and Whitecliffs coastal cliffs.

*Comment: It is worth noting that the MCA also avoided a new road being in proximity to the coast (Option L ruled out in MCA1).*

* Policy 19.1 states the use of land for traditional Maori activities should be recognised and provided for.

*Comment: The Historic Heritage Assessment considers the area may have been traditionally used for resource gathering but I am not aware of any specific traditional activities that it would be appropriate to recognise and provide for. Submitters with cultural interests in the project area are encouraged to comment on this policy.*

* Policy 20.1 states that the movement of traffic to and from a site should not adversely affect the safe and efficient movement of vehicles, both on-site, onto and along the road transportation network.
* Policy 20.2 – states that the safe and efficient operation of the road transportation network should not be adversely affected by land use activities that have insufficient or substandard parking or loading areas.

*Comment: The Construction Traffic Management Plan is considered adequate to manage traffic and parking effects resulting from traffic generated by the project. The TMP addresses site access and provides on-site dedicated car parking available for staff.*

## National Policy Statement for Freshwater Management 2014 (amended 2017)

1. Control of the taking, use, damming, and diversion of water is a function which is the responsibility of TRC unless it is in relation to the surface of water. District Councils are required by the RMA to give effect to the NPS Freshwater through plans and policy statements; the operative plan does not give effect to the NPS but the next generation New Plymouth District Plan intends to do this. For the purpose of the assessment of the NoR, I have considered all objectives and policies for potential applicability.
2. Pages 268-269 of the AEE assesses the proposal against the relevant objectives and policies of the NPS Freshwater, identifying Objectives A1 and A2 as being of relevance to the proposal. I adopt the assessment on pages 268-269 insofar as the objectives and policies included; I concur that the project proposes to be carried out in a manner that is consistent with what the NPS Freshwater seeks to achieve. In addition to the objectives and policies assessed within the AEE, I consider the following to also be relevant:

* Objective B1 is to safeguard the life supporting capacity, ecosystem process and indigenous species when taking, using damming or diverting water.

*Comment: The Project includes a range of measures to safeguard aquatic ecosystems and to sustainably manage the taking, using, damming or diversion of water associated with the Project.*

* Objective B4 states that the values of wetlands and outstanding freshwater bodies shall be protected

*Comment: Adverse effects on the Mimi Swamp Forest wetland are anticipated to be avoided through the bridge design and the management of land use activities in proximity to this wetland. In addition, further adverse effects will be mitigated through the ecological restoration of particularly swamp forest planting through the Mangapepeke Valley and riparian planting along 8.9km of streams in the Mangapepeke and Mimi catchments.*

* Objective C1 is concerned with improving the integrated management of freshwater

*Comment: The applicant has prepared a suite of management plans in order to avoid, remedy, mitigate or offset the actual and potential adverse effects of the proposed Project (page 237 of the AEE). In addition, territorial and regional authorities are in discussion with one another and are considering aspects of the proposal for which they have different responsibilities. Integrated management is sought to be achieved.*

## New Zealand Coastal Policy Statement 2010

1. Control of the use of land in relation to the coastal marine area is a function for which TRC has responsibility. The Mt Messenger Bypass project itself does not traverse the coastal environment, however some elements of the project could influence that environment, particularly at the Mimi and Tongaporutu river mouths. Accordingly NZCPS is relevant to this assessment. The key effect of the bypass project on the coastal environmental stems from sediments generated by construction related activities which might enter the Mimi River or Mangapepeke Stream; these matters are addressed in the TRC consents. However, for the purpose of this assessment, the project has been considered against all objectives and policies of the NZCPS for relevance to the proposal. I agree with page 269 of the AEE that Policy 22 is particularly relevant. In addition to this, I consider the following to also be relevant:

* Objective 1 is concerned with safeguarding the integrity, form and functioning of the coastal environment and sustaining its ecosystems
* Policy 11 is concerned with protecting indigenous biodiversity in the coastal environment
* Policy 13 is concerned with the preservation of natural character in the coastal environment
* Policy 14 is concerned with the restoration of natural character in the coastal environment
* Policy 22 requires subdivision, use and development to not significantly increase sedimentation in the coastal marine area

*Comment: Both the Tongaporutu and Mimi River mouths are identified as Significant Coastal Areas in the New Plymouth District Plan. Erosion and sediment control measures, as outlined in the CWMP are in place to ensure that sediment discharges to waterways which discharge to the coastal environment are minimised (p. 232 AEE). Effects of discharges from the project works on the Coastal Marine Area are not anticipated to be measurable at the CMA.*

* Objective 3 states that the principles of the Treaty of Waitangi shall be taken into account, the role of tangata whenua as kaitiaki recognised and provided for; and tangata whenua should be involved in the management of the coastal environment

*Comment: NZTA has been in consultation with (particularly) Ngāti Tama from the early stages of the Project.*

* Policy 3 states that a precautionary approach shall be taken toward activities whose effects are uncertain, unknown, or little understood but potentially significantly adverse.

*Comment: A precautionary approach would be considered appropriate because the effects on the coastal environment from works associated with the Project are uncertain, but potentially significantly adverse (p. 29 Technical Report 7g – Marine Ecology) if left unmitigated.*

* Policy 4 provides for the integrated management of natural and physical resources in the coastal environment

*Comment: A suite of management plans have been prepared in order to ensure the integrated management of natural and physical resources during the implementation of the project.*

* Policy 15 is concerned with protecting natural features and landscapes within the coastal environment

*Comment: The MCA has resulted in an alignment which avoids being in close proximity to the coast.*

* Policy 23 concerns the discharge of contaminants

*Comment: The Construction Water Management Plan (CWMP) and specific construction water management plans (SCWMP) for particular areas, will control and manage the discharge of sediment, contaminants and other material into the waterways located within the Project footprint (p. 99 AEE). Stormwater and other waste water will be adequately treated before it is discharged.*

## Regional Policy Statement for Taranaki

1. Pages 269-285 of the AEE assesses the proposal against the relevant objectives and policies of the Regional Policy Statement for Taranaki 2010 (“RPS”) under the headings: Recognising the role of resource use and development in Taranaki; Supporting regionally significant infrastructure; Avoiding and mitigating the effects of natural hazards; Treaty of Waitangi, tangata whenua and cultural heritage; Indigenous biodiversity; Natural character of waterbodies; Natural features and landscapes; Land disturbance and soil conservation; and Public health and amenity values. The first table in Appendix A of the AEE assesses each objective and policy considered by the RA to apply. I adopt the assessment in Appendix A insofar as the objectives and policies include, excepting I note the consistency with the policies and objectives relating to “Indigenous biodiversity: Maintaining and enhancing indigenous biodiversity” are in question due to remaining concerns as to the level of biodiversity mitigation and offsetting required to address the project’s ecological effects. I concur that it is proposed that the project be carried out in a manner that is not contrary to what the RPS seeks to achieve with respect to managing the use, development and protection of natural and physical resources in the region.
2. In addition to the objectives and policies assessed within the AEE, I consider the following to also be relevant:

* Maintaining healthy soils – Objective 1 and Policy 1

*Comment: The preliminary site investigation undertaken by the applicant identified HAIL activities that have potentially been carried out within the site. The applicant considered that the potential effects from the contaminated soils were restricted to the top layer of soil, which will be removed prior to construction works. The Contaminated Land Assessment concluded that it is highly unlikely for any contamination to be at a sufficient level to pose a risk to human health (p. 230); however a DSI is proposed and works would be subject to the CLMP. Hazardous substances management in accordance with the CEMP and CWMP.*

* Land drainage and associated diversion of water – Objective 1 and Policy 1

*Comment: Permanent stormwater drainage along the alignment will generally be completed during or prior to ground improvements and earthworks (p. 100 AEE). Stormwater will be contained, treated and detained in constructed wetlands before being discharged to the receiving environment (p. 67 AEE). Effects associated with the diversion of water are the responsibility of TRC.*

* Protecting the natural character of the coast – Objective 1, Policies 1, 2 and 4.

*Comment: The project area is upstream approximately 20km from the coastline. As the RA and TRC consider it is possible to manage effects of the proposal on streams and watercourses, then I consider if these are appropriately managed, adverse effects on the natural character of the coastal environment will be avoided.*  *The Tongaporutu River mouth and Mimi River mouth are considered Significant Coastal Areas under the New Plymouth District Plan (Appendix 20).*

* Energy Objective 1 and Policy 4

*Comment: Powerco and Chorus have infrastructure within the designation however NZTA has proposed a condition which ensures existing network utility assets are accessible and/or safely relocated throughout the construction period.*

## Regional Freshwater Plan for Taranaki

1. Pages 285-290 of the AEE assess the proposal against the relevant objectives and policies of the Freshwater Plan. In addition to the objectives and policies assessed within the AEE, I consider additional ones may be relevant (Objective 3.1.3, Objective 3.1.4, Policy 6.3.2, Policy 6.6.6, Objective 6.7.1, Policy 6.7.1, Objective 6.8.1, Objective 6.8.2, Policy 6.8.1, Policy 6.8.5), however matters raised in these are addressed elsewhere in the application/NoR documents, and are subject to scrutiny under the TRC resource consents. I concur that overall the project is proposed to be carried out in a manner which is consistent with the provisions of the Freshwater Plan.

## Regional Soil Plan

1. In relation to soils, NPDC has responsibility for the prevention and mitigation of adverse effects associated with the development, use or subdivision of contaminated land. Proposed conditions for the NESCS consent would allow NPDC to ensure the appropriate management of contaminated land. Under the soil plan, regard has been had to Policies 1.1-1.3 – relating to maintaining and enhancing the soil resource of Taranaki region by avoiding, remedying or mitigating accelerated erosion.

## Regional Air Quality Plan

1. Assessing the effects from discharges to air are the function and responsibility of TRC. However, regard has been had to the following objectives and policies of the RAQP:

* Policies 1.1-1.3 – relating to managing the effects of discharges of contaminants to air, including hazardous, noxious, dangerous, or toxic contaminants, dust and odour;
* Policy 2.1 – relating to the management of air quality in the region. .

## Conclusions on assessment of the proposal against national, regional and district policy instruments

1. 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.

# OTHER MATTERS

1. S171(1)(d) of the RMA allows the territorial authority to consider any other matter reasonably necessary in order to make a recommendation on the requirement. This section considers other documents which relate to the proposed works and outcomes sought by the project.

## Network Utilities

1. The submission by Powerco seeks to ensure their existing assets that traverse the site are accessible and/or safely relocated throughout the construction period, and Powerco proposed suggested conditions within their submission. Powerco have since liaised with NZTA and advised me via email dated 4 May 2018 that NZTAs Code of Practice adequately provides for the management of Powerco utilities; Powerco have withdrawn their submission on the basis that the RA offers a condition that works shall be undertaken in accordance with the National Code of Practice for Utility Operators’ Access to Transport Corridors (September 2016), or any approved update to that code. No other submissions were received from network utility operators, but any other assets in the vicinity (i.e., Chorus) are provided for by the Code of Practice.

## Other plans and strategies

1. Pages 253-254 of the AEE outline NZTA’s role under the Land Transport Management Act 2003 (LTMA) (in conjunction with the Government Roading Powers Act 1989 and the Land Transport Act 1998), and sets out some of the objectives, principles and functions established through the LTMA. NZTA’s objective is *“to undertake its functions in a way that contributes to an effective, efficient and safe land transport system in the public interest.”* Their function is to contribute to an effective, efficient, and safe land transport system in the public interest and to manage the state highway system (including planning, funding, design, supervision, construction, and maintenance and operations). These powers form the basis for NZTA to carry out the project.
2. Under the Regional Land Transport Plan (“RLTP”) 2015/16 – 2020/01, SH3 is identified as strategically important as Taranaki’s only direct arterial highway connection to and from the north. The need for improvements to the form of the road and its modern-day function to ensure it can accommodate future growth is recognised. The proposed improvements are key regional and inter-regional priorities to support the RLTPs strategic vision of *“A safe, effective and efficient land transport network, integrated across the whole of the transport system, which enables Taranaki to thrive and to lead a sustainably prosperous New Zealand.”* Technical Report 1 (Strategic Transport) considers that the transportation improvements brought by the project will make a significant contribution to the ongoing social, investment and economic development of the wider community, and that the project will deliver against project outcomes sought and community expectations including connectivity, reliability and resilience.
3. The provision of increased shoulder widths is supported in terms of the New Plymouth District Council Cycle Strategy (2007) which identifies sections of SH3 to have inadequate shoulder room in places to safely accommodate cyclists.
4. The recently published Taranaki Regional Economic Development Strategy *Tapuae Roa: Make Way for Taranaki* (August 2017) identifies the northern highway as a challenge to providing connections and identifies improvements to Taranaki’s northern gateway to be a “One-off regional game-changer”.
5. The strategic importance of the route is also identified in the Taranaki Regional Council Long Term Plan 2015-2025 and the New Plymouth District Council Long Term Plan 2015-2025.

# Whether to waive the OPW requirement

1. The RA has requested an OPW waiver under section 176A(2) relative to works within the altered designation, on the basis that sufficient information is contained within the detail of the NoR. I believe a waiver of OPW could be appropriate if all matters are agreed upon by the end of the hearing. I do not think it would be necessary for an OPW process if the tunnel, bridges, lighting, tunnel control building and fire hydrants are to be installed in accordance with the plans already submitted – sufficient detail is provided for these features. However I note no detail has been provided for the improved parking access for walking tracks. If consideration of, and satisfaction with, fulsome and complete management plans has not occurred at the time of a decision (and if such plans do not provide a sufficient level of detail and certainty), then I have concerns that Council would have unduly limited opportunities to influence good planning outcomes. If the NoR is confirmed subject to conditions allowing Council to hold the certification role with respect to management plans, then the Outline Plan process may be considered unnecessary duplication and Council would consider waiving the OPW requirement. Based however on my concerns at the time of finalising this report, I recommend that the OPW requirement remains.

# Assessment of request for 10 year lapse date

1. NZTA requests a 10 year lapse date for the NESCS consent under section 125 of the RMA, and for the NoR under Section 184 of the RMA. Section 2.4 of the AEE states that construction works are expected to commence in 2018 and be completed in 2021. However, because the Project is large and complex, flexibility is required and as a precaution an extended lapse period of ten years is sought. In my opinion this is reasonable for a project of this scale, but I do note the implication for Mr and Mrs Pascoe should they intend to return living at the location of their existing house.

# PART 2 ASSESSMENT

1. Consideration of the NoR under Section 171(1) and the NESCS resource consent under Section 104 of the RMA are both subject to Part 2, and the applicability of Part 2 was discussed at paragraphs 82-84. Part 2 identifies the purpose and principles of the Act. In making decisions on the NoR and application it is necessary to determine whether or not confirming the requirements and granting the resource consent achieves the purpose of the Act. Section 5 defines the RMA purpose as follows:

### Section 5 – Purpose of the Act

*(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*

*(2) In this Act,* ***sustainable management*** *means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*

*(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*

*(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*

*(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

1. To inform considerations under Section 5, the provisions of Sections 6, 7 and 8 are considered below:

### Section 6 – Matters of National Importance to be recognised and provided for

1. *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*

Comment: The project design considers the natural character of wetlands, rivers and their margins in detail. The route selection process resulted in avoidance of the Waipingao Stream catchment (Parininihi) to the west which has very high natural character values. The project has been specifically designed to minimise impacts on natural streams and wetlands and seeks to minimise construction effects on natural stream environments. With respect to the Mangapepeke Valley, the alignment hugs the eastern flank of the valley and avoids the main stem, with modifications being limited to the tributaries draining the smaller side gullies. For the upper Mangapepeke Valley, which has higher naturalness characteristics, the change in character will be more pronounced and the natural character of this stretch will be changed due to a large fill area and stream diversions. However, naturalised elements will be reintroduced as shown on pages 56 – 57 of the LEDF and overtime I consider that adverse effects on natural character will be somewhat remedied. Within the Mimi catchment adverse effects on natural character have been considerably reduced by locating the road outside of the Mimi swamp forest and providing for a sensitively designed bridge over a high value tributary. Riparian planting and restoration of swamp forest is also proposed and will provide an opportunity to enhance the natural character values.

The coastal environment is approximately 20km downstream and the effects of discharges from the works on the coastal marine area (namely sediment) are not anticipated to be measurable. Adverse effects on the natural character of the coastal environment are not anticipated.

1. *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development*

Comment: The project footprint is sufficiently removed from Outstanding Natural Features and Outstanding and Regionally Significant Landscapes subject to District Plan overlays. Earlier route options considered closer proximity to and/or dissection of these features but the proposed route avoids impacts on them. The proposed road will still be in proximity to the Regionally Significant Landscape west of the existing highway, but will be further from this than the existing road, will be lower in the landscape and is not anticipated to detract from the landscape values.

1. *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*

Comment: Although avoiding the higher value Parininhi lands west of SH3, the proposed route traverses Mr and Mrs Pascoe’s land, which Council considers as LSNA (of such ecological value to be recommended as SNA in the next generation District Plan) and Ngāti Tama land which is subject to Conservation Covenant. The District Plan SNA overlays and the Conservation Covenant represent significant vegetation and habitats of indigenous fauna, and the project *will* impact on these. However, this land is within a wider context of very large areas of indigenous habitat, set within a remote area with the significant areas of Mt Messenger Conservation Area and Parininihi forest remaining. If the biodiversity mitigation and offset package is significant, and is implemented well so that the biodiversity values of a much wider area are improved, then I consider the effects on indigenous vegetation and significant habitats of indigenous fauna along the project footprint may be avoided, remedied, mitigated and offset. However, at the time of finalising this report, the mitigation and offsetting approach does not go far enough in the view of Councils expert ecologists Wildlands. There is also uncertainty as to NZTA’s legal ability to implement offsetting on third part land. Other submitters, such as DoC, Forest and Bird, and others also raised concerns in this regard. Selection of an on-line route would have less impact on these matters.

1. *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers*

Comment: The affected northern stretches of the Mangapepeke Stream currently have no provision for public access and while the AEE makes no mention of creating public access, I note a suggestion by Submitter Christine Cambie for a walk or cycle track alongside the new road. I encourage the RA to consider this potential enhancement. In terms of the Mimi catchment, access to the Kiwi Road Track may be disrupted in the short term during construction but, once complete, the track will have safer vehicle access and allow for safer walking access. I seek clarification over the location of a walking easement over Ngāti Tama owned land and whether the proposal affects this easement.

*(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga*

Comment: NZTA recognise the significant cultural values associated with the project area and provide for Ngāti Tama’s rangatiratanga and kaitiaki responsibilities, as recognised by the Ngāti Tama Claims Settlement Act 2003. The AEE states that Ngāti Tama have significantly influenced route selection and design and the engagement process will continue throughout the construction period and beyond. The project is fundamentally reliant on NZTA reaching agreement with Ngāti Tama to place the road through iwi owned land and to use the land for mitigation and offsetting. NZTA has indicated that they will not use the compulsory acquisition provisions in the Public Works Act to acquire iwi owned land. The Ngāti Tama neutral submission reflects that the iwi have participated meaningfully to date and continue to work with NZTA on cultural recognition within the project design, cultural indicators, participation in ecological restoration aspects and other matters. At the time of writing this report it has not been confirmed that agreement has been reached.

Other submitters who raised concerns about cultural effects (including Te Korowai, Poutama and Emily Bailey) are anticipated to make verbal submissions at the hearing regarding the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. From the stakeholder engagement documented in the AEE, I am of the opinion that NZTA has gone to considerable effort to seek to understand the cultural values. I anticipate submitters will elaborate on this at the hearing.

*(f) the protection of historic heritage from inappropriate subdivision, use, and development*

Comment: No recorded archaeological sites are within the project footprint but there is a small likelihood of discovering archaeological material. The proposed designation conditions are considered appropriate to deal with accidental discovery.

*(h) the management of significant risks from natural hazards*

Comment: Changes to the RMA which came into force on 19 April 2017 amended Section 6 to add this explicit mandate for decision-makers to manage significant risks from all natural hazards (as defined in section 2 of the RMA) as part of any Part 2 assessment. The project aims to enhance the resilience of the SH3 route, including to construct a road that is more resilient to natural hazards. The project will be carried out subject to detailed engineering design to ensure that the potential hazard risks that may result from the significant earthworks and vegetation clearance will be managed appropriately.

### Section 7 – Other Matters to have particular regard to

1. *kaitiakitanga:*

*Comment:* Kaitiakitanga is the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to environmental management, and includes the ethic of stewardship. NZTA acknowledges the significant cultural, spiritual, historical, and traditional importance of the Project area to Ngāti Tama and has consulted on an early and ongoing basis. NZTA recognise Ngāti Tama have kaitiaki responsibilities, legislated through Treaty legislation, and in my view have sought to facilitate active participation and exercise of kaitiakitanga by the Runanga in the project to date. NZTA further state they will continue to engage with the Runanga throughout the process, including facilitating active participation and exercise of kaitiakitanga. This is anticipated to include input into components of the detailed design and construction and operation phases to enable the exercise of Ngāti Tama’s kaitiakitanga. Finalisation and agreement about such matters will be pivotal to the approval of the project.

*(aa) the ethic of stewardship:*

*Comment*: The ethic of stewardship is distinguishable from kaitiakitanga under the RMA in that it does not only apply to the exercise of guardianship by tangata whenua of the area. In particular DoC has been actively engaged with, with respect to their stewardship of conservation estate where it is indicated offsetting could occur.

1. *the efficient use and development of natural and physical resources:*

*Comment*: The project promotes the efficient use and development of natural resources by rectifying inadequacies in the existing regionally significant roading route. Those inadequacies include a torturous alignment, narrow widths, steep grades, and restricted forward visibility. I agree with page 260 of the AEE where it states the project will help to ensure the efficient use and development of natural and physical resources by providing capacity to support growth within the Taranaki region and through improving resilience of the SH3 network. However, I query whether an on-line route could have been more efficient and led to reduced effects.

1. *the maintenance and enhancement of amenity values:*

*Comment:* The construction works will largely be contained within valleys, removed from the road and public places and with very few dwellings or other sensitive receivers in the near vicinity. The proposal addresses noise, dust, vibration, lighting, construction traffic and visual effects and I consider effects on amenity would be appropriately managed in accordance with management plans. The LEDF demonstrates that relevant elements of rural character as outlined in the District Plan will be maintained.

1. *intrinsic values of ecosystems:*

*Comment:*Considerable work has gone into understanding and seeking to manage adverse ecological effects. Although I am not currently satisfied all ecological effects are avoided, remedied, mitigated or offset, reflected by the differing opinions of ecological experts for the RA and Council, as well as Forest and Bird and DoC, I do consider particular regard has been given to the intrinsic values of ecosystems.

1. *maintenance and enhancement of the quality of the environment:*

*Comment*: The project will generate a range of environmental effects, however the CEMP seeks to maintain the quality of the environment and the ELMP seeks to enhance it. I would like to see some changes to management plans, but consider the overall approach put forward demonstrates that particular regard has been given to maintaining and enhancing the quality of the environment.

1. *the effects of climate change*

*Comment:* Two submitters, Urs Signer and Emily Bailey, consider roads bring pollution, building more roads and burning more fossils has created the climate chaos which is starting to emerge, and that the world is changing with respect of fossil fuels. I respond to this by considering that as society transitions away from fossil fuels, alternatives such as electric cars are still likely to require safe roads. While we continue to rely on fossil fuels, the proposed new road resulting from the project is anticipated to have decreased carbon dioxide emissions associated with a shorter length of road and a reduced climb with flatter grades. A further relevant aspect of climate change relates to variability of weather and impacts on hydrological systems which could impact on construction timeframes.

### Section 8 – Treaty of Waitangi

1. Section 8 of the RMA requires the Council to take into account the principles of the Treaty of Waitangi. This recognises Māori interests in the use, management, and development of resources, and the Treaty principles are an important part of sustainable management in New Zealand. The Treaty principles are not definitively listed but decisions from the Waitangi Tribunal and the Courts assist in understanding them and how they are applied. The principles include the duty of the Crown and Māori to act reasonably and in good faith and make informed decisions (which requires consultation, and meaningful consultation tends to result in better environmental outcomes). NZTA, being a Crown entity, is a Treaty partner with Māori. Councils are not Treaty partners, but have obligations to Māori arising from the provisions of the RMA and have the obligation to take into account the Treaty principles when exercising powers under the RMA.
2. According to the MVA, some Ngāti Tama members consider all of the options to be a breach of the Treaty, and in conflict with the Ngāti Tama Treaty settlement. The Te Korowai submission also considers the proposal to be a breach of Treaty principles, Treaty settlement legislation, and the deed of settlement for return of Ngāti Tama land as cultural redress. I question whether the RMA process is the appropriate avenue to consider breaches of the Treaty; although Section 8 requires the Council to consider whether the principles are taken into account, it does not go further to consider whether a proposal is a breach of the Treaty.
3. Page 259 of the AEE states *“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. This process has significantly influenced route selection and design, including avoiding the western Parininihi land, setting the Project back from Mt Messenger, and using a tunnel under the ridge.”* This supports a conclusion that the principle of shared decision making has been sought by NZTA.
4. In order to act reasonably and in good faith, the Crown must make sure it is informed in making decisions relating to the Treaty. Section 11.3.1.5 of the AEE states that NZTA has actively engaged with iwi, and in particular Ngāti Tama, in good faith; that they recognise the cultural significance and importance of the Ngāti Tama land affected by the project; and that they seek to address effects of the project on tangata whenua. Ngāti Tama indicate in the MVA and their submission that consultation was carried out in good faith by both parties, that NZTA enabled Ngāti Tama to participate in open dialogue with experts planning the project and to provide inputs into the decision making process, and that the Runanga is continuing to work with NZTA.
5. The principle of redress should be considered. Land affected by the proposal, and alternative land considered in the options assessment, has been returned to Ngāti Tama as cultural redress. The idea of cultural redress land being required for use by the Crown is understandably challenging for Ngāti Tama and the MVA reports that at hui-a-iwi, iwi members have conveyed concerns that all options impact the mauri of the area and Ngāti Tama. The MVA states that this is *“difficult for many of our people to accept and reconcile”* and that some members conveyed a position of *“not one more acre”* in response to NZTA’s desire to put the road over Ngāti Tama land. As already stated, the project is fundamentally reliant on NZTA reaching agreement with the Runanga as NZTA has stated that they will not use the compulsory acquisition provisions in the Public Works Act to acquire iwi owned land.
6. Beyond the Treaty land aspect, the project affects ancestral lands and areas of importance to Ngāti Tama who consider the proposal compromises mana and kaitiaki responsibilities, being a transgression against important values and responsibilities.
7. Other Treaty principles include reciprocity/mutual benefit, the duty of the Crown to actively protect Māori interests, and rangātiratanga. The Ngāti Tama submission raises the Treaty principle of rangātiratanga and states that *“The Runanga considers the matters involved in this case bring the Treaty of Waitangi provision in the RMA into focus, and highlight the importance of providing for the long-term sustenance and tino rangātiratanga of Ngāti Tama which the Treaty of Waitangi seeks to achieve.”* The acquisition of Ngāti Tama land has implications for providing for the long-term sustenance and rangātiratanga of the iwi, and the Crown may seek to remedy this through redress or offsetting, which may provide for long-term sustenance for the iwi.
8. I have been aware since April 2017 that NZTA has been working with Ngāti Tama in an attempt to address impacts on cultural effects, and the AEE and MVA demonstrate that both parties continue to work towards a positive outcome in this regard. However I would agree with the submission of Te Korowai that there was lack of clarity as to the nature of cultural mitigation or offsetting, and through the RFI I sought details of any agreed measures on what cultural mitigation or offsetting is being considered and what is likely, to enable an assessment under Part 2 of the RMA (Sections 6(e), 7(a), and 8).
9. NZTA responded to the RFI by stating *“The mitigation measures necessary to address the cultural effects of the Project must properly be determined in consultation with Ngāti Tama. That consultation is ongoing and includes the development of proposed conditions. The Transport Agency will provide an update on these matters in due course.”* At the time of finalising this report no update has been provided and I therefore have reservations as to whether cultural effects relevant to Ngāti Tama have been mitigated or offset. NZTA and Ngāti Tama are encouraged to provide this detail prior to, or at, the Hearing.
10. I note the Treaty principle of the Crown having the right to govern, and understand this to mean that the Crown should make decisions for the community as a whole, taking into account the Treaty principles but having regard to the economic and other needs of the day. However, if by the time of the hearing the Runanga considers that the cultural effects on them are not adequately addressed, then the principles of shared decision making, rangātiratanga, Crown protection of Maori interests, and reciprocity are matters of contention.
11. Treaty principles of equity and equal treatment should also be considered. Through the Treaty the Crown provides for rangitiratanga to all iwi and would not allow one iwi an unfair advantage over another. The submissions by Te Korowai, Poutama and Emily Tuhi-Ao Bailey identify concerns relating to consultation in relation to Poutama, Ngāti Mutunga, and hapu within Ngāti Tama. As already stated, through the Treaty settlement process iwi authorities are recognised through legislation and these groups have been engaged with.
12. Poutama were engaged with by NZTA as a group with cultural interest in the local area, by way of meetings to discuss the development and notification of consultation phases and project development. I am aware that NZTA invited Poutama to provide a written statement as to the cultural effects on Poutama several months prior to lodgement, and later offered to pay a significant sum towards this work. The Poutama submission states that the AEE acknowledges significant environmental and cultural effects; it does not identify any specific impacts on Poutama or which aspects of the proposal are of particular concern to Poutama. It does state that the mitigation and biodiversity offset package does not provide for outcomes to Poutama. I note a further letter from Russell Gibbs dated 5 March 2018 elaborates on matters raised in the submission which focus on whether Poutama is an iwi authority. It also appears that Poutama are dissatisfied with the timeliness of the provision of information to them. I confirm that I sent a letter to Poutama to notify them of the public notification period and explained how the application documents could be accessed. I believe that opportunities to engage have been provided by NZTA, both pre- and post-lodgement.
13. Overall I consider NZTA has engaged with tangata whenua in accordance with the principles of the Treaty of Waitangi, and Council has taken these principles into account.

## Part 2 Conclusions

1. My overall conclusion in respect of Part 2 matters is that confirmation and approval of the notices of requirement and resource consents to enable the bypass seek to promote the sustainable management of natural and physical resources. Providing a safe, resilient and modern alternative to the existing route for SH3 will enable people and communities to provide for their social and economic wellbeing and for their health and safety. However, there remain adverse ecological and cultural effects which I consider need further resolution before I would consider the scale of the benefits which have been identified outweigh the adverse effects. These relate to whether cultural and ecological effects are appropriately mitigated, offset or compensated. NZTA proposes to carry out the project in a complex environment in a manner which avoids adverse effects on the environment to a great extent. However, at the time of finalising this report I still have reservations regarding whether the proposed effects management measures go far enough to achieve the desired ecological and biodiversity outcomes, and to enable Ngāti Tama to provide for their social economic and cultural wellbeing.
2. For this project, Section 171(1)(c) and Part 2 matters are inextricably linked. Along with the lack of certainty regarding delivery of and mechanisms for ecological offsets/mitigation, the s171(1)(c) and broader Part 2 issue is a key factor. In that respect, it is relevant to question whether the proposal is the “best” route choice economically (note construction cost issues), environmentally (with Section 6 resources affected), culturally (iwi issues), and socially. My reservations about the route selected over an on-line route were outlined in paragraph 110.
3. While the consent under the NESCS is theoretically subject to Part 2, the issues are sufficiently discrete that I have not given Part 2 any further or detailed consideration in that regard. I am however satisfied that Part 2 would be achieved by the grant of that consent, subject to conditions.

# CONCLUSIONS

1. It is my overall view that the key effects arising from the project have been properly identified and appear to be well understood, acknowledging that for a project of this nature and scale sufficient information is provided at consent stage and it is acceptable to leave further detail to detailed design stage. The RA plans further investigations to determine the geotechnical and ecological conditions as the project progresses and proposes an adaptive management approach to managing adverse effects. The project is considered feasible despite the geotechnical and other challenges, however there are indications that engineering solutions may add additional cost.
2. I attribute significant weighting to the positive traffic, social and economic effects that are anticipated to arise from the proposal. I acknowledge that 1154 people lodged submissions in support of a modern highway to provide safer and more resilient connections for family, businesses and communities. For New Plymouth District, this is an extremely large number of submissions in support which indicates a significant level of support within the District. I also acknowledge the significant impact on Mr and Mrs Pascoe and the number of submissions that raise concerns about the use of the Pascoe farm.
3. With a project of this nature and scale, detailed design has not yet been completed and on that basis the applicant is relying on the use of management plans to guide construction and operation of the project, and to implement the necessary mitigation, offsetting and monitoring requirements. I consider that the use of adaptive management plans, coupled with appropriate conditions, are likely to be appropriate in the circumstances. However, as currently drafted, it is my view that some of the proposed conditions lack sufficient precision in the way that they guide the preparation of the various plans. Some of the conditions do not clearly state their purpose and one cannot properly determine the outcomes that would be delivered with respect to some of the mitigation measures proposed. I believe some of the detail in the management plans should be stated in the conditions.
4. I am unsupportive of the proposed process for finalising and reviewing management plans, and consider that Council should hold the role of “certifier”. My concerns around this are increased if the need for the OPW process is waived. Providing Council holds the ‘certifier’ role for management plans, Council would prefer an OPW waiver for all details already included in project documentation, to avoid duplication. I am not opposed to conditions allowing for an independent third party certifier, and this approach may allow an integrated approach to monitoring the designation conditions alongside NPDC and TRC resource consent conditions.
5. I consider NZTA carried out a detailed MCA process and it is appropriate that it resulted in the rejection of route selection over the western Parininihi land, with its very high cultural, ecological and landscape values. However I do not think it has been clearly demonstrated by NZTA why the proposed route was selected instead of an on-line option. An on-line option would have reduced environmental effects compared to the eastern proposed route. I am satisfied that adequate consideration has been given to alternative sites, routes or methods of undertaking the work, as required by Section 171(1)(b) of the RMA. The MCA is transparently reported in Volumes 4A and 4B. Further detail would be helpful to understand the degree of activity of the landslide north of the tunnel on the existing highway and the level of engineering required to mitigate its impact as well as cost justifications. Without this I have reservations with respect to Section 171(1)(c) and whether the works and designation are reasonably necessary for achieving the objectives of the RA, as stated in paragraph 110. While I consider an upgrade of SH3 at Mt Messenger is necessary to achieve the objectives of the RA, I am not sure it is reasonably necessary to designate the additional land subject to the NoR, due to the availability within the existing corridor to upgrade the on-line route.
6. If approved, detailed geotechnical engineering will be required to ensure the risks associated with works on land subject to hazards are managed, and that new hazards are not created by the earthworks and structures proposed. I consider it likely that engineering solutions exist to the geotechnical challenges posed by this environment, but detailed design should be subject to peer review.
7. The application documents demonstrate that significant work will have to be undertaken to create positive landscape outcomes and the application documents note that there are considerable opportunities for enhancement of natural character values. However the designation conditions proposed do not reflect the proposed mitigation of landscape, natural character and visual effects detailed in the application documents and I consider that if the NoR is confirmed, the conditions attached need to state the landscape, natural character and visual outcomes to be achieved.
8. Crucial to the success of the outcomes for the construction project is integration with the various aspects which have required specialist inputs and the timing of works. For example, the engineering solutions proposed for cut slopes and MSE embankments have the potential to adversely affect ecological and landscape values, and natural character. However, I consider conditions can be crafted to ensure the appropriate specialist inputs have consideration of other values within the project footprint, and the proposed staging would ensure the project progresses in an orderly manner with reduced effects.
9. Remaining areas of concern relate to the remediation, mitigation and offsetting of cultural and ecological / biodiversity effects. The project is fundamentally reliant on NZTA reaching agreement with the Runanga to place the road through Runanga owned land; NZTA has indicated that they will not use the compulsory acquisition provisions in the Public Works Act to acquire iwi owned land. I note Ngāti Tama’s submission that their preferred option through the MCA was the on-line route and if the cultural effects are not addressed by the hearing, the on-line route is appropriate.
10. A principal “effects issue” in contention is associated with the extent and details of the proposed ecological mitigation and offset package. The nature and extent of proposed mitigation and offset proposals which, while having been subject to great consideration, discussion and development, are fundamental to the approval of the project and have not been agreed. In my view it should be possible to generate an adequate ecological mitigation, offset, and (if necessary) compensation package, however at the time of finalising this report Wildland Consultants consider that *“As it currently stands, the Application provides little assurance that the project will adequately address the major potential adverse ecological effects of the proposed rerouting of SH3 at Mount Messenger.”* The DoC submission considers that if residual effects remain from the offsetting proposed, environmental compensation is appropriate.

# RECOMMENDATION

1. If the RA can satisfactorily address the key areas of concern in evidence, then I would recommend the NoR be confirmed and the NESCS consent be granted, subject to appropriate conditions. NZTA proposes to remedy, avoid, mitigate and offset effects to a considerable extent though the implementation of management plans. While I consider some details within the management plans require work, I am satisfied that NZTA intend that the implementation of robust management plans will address sustainable management of the project. I understand NZTA are continuing to progress addressing submitter and Council concerns between now and the hearing and anticipate additional evidence will be presented which may satisfy outstanding issues. In my view the two principal effects areas that remain unresolved are:
2. Whether Ngāti Tama consider cultural effects have been adequately addressed; I am aware Ngāti Tama have held hui-a-iwi (attended by NZTA) to discuss the project and a further hui is planned before the hearing. NZTA have advised they hope to provide an update prior to or at the hearing.
3. 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). I am aware that NZTA continues to liaise with DoC and Council ecological experts in an attempt to reach agreement on the approach to achieve positive ecological and biodiversity outcomes, and anticipate hearing evidence will address this. Recent discussions indicate that adverse effects on bats and herpetofauna are not able to be fully offset, and compensation may be appropriate.
4. If the above matters are not addressed satisfactorily in evidence, I consider the NoR should be withdrawn.

## Recommended designation conditions

1. In considering designation conditions I have used the AEE’s Appendix D: Draft designation and resource consent conditions as a starting point; where possible I follow the wording and approach in the conditions presented in the AEE, with my recommended changes underlined or ~~struck through~~. Footnotes are used where I provide an explanatory note for the suggested change.
2. I support the inclusion of the definitions table presented at the beginning of the conditions, but request ‘Manager’ be replaced with ‘Planning Lead (or Nominee)’ for NPDC consistency. Also, in respect of ‘preparatory works’, while the vegetation clearance may be a permitted activity under the District Plan, it is imperative that adequate controls are in place and I would therefore suggest that preparatory works may include vegetation clearance but only with prior approval of the Planning Lead.
3. If the NoR is confirmed, under Section 171(2)(c) of the RMA I recommend the designation be subject to the following conditions:

**General and administration**

1. a) Except as modified by the conditions below, and subject to final design, the Project shall be undertaken in general accordance with the information provided by the Requiring Authority in the Notice of Requirement dated December 2017, and in particular the following documents:
   * Volume 1: Assessment of Effects on the Environment
   * Volume 2: Drawing Set
   * Technical Report 8b: Landscape and Environment Design Framework (within Volume 3)
   * Volume 5: Management Plans (listed in condition 5)

b) Except for the Ecological and Landscape Management Plan (ELMP) and Pest Management Plan (PMP) in conditions 25-28, none of the conditions apply to the on-going operation or maintenance of SH3 once construction is complete and the new road is operational.

c) Where there is conflict between the documents listed in a) above and these designation conditions, these conditions shall prevail. Where there is an inconsistency between the information and plans lodged with the Notice of Requirement and information provided subsequently, the most recent plans and information shall prevail.

d) The Requiring Authority shall provide the Council with an electronic file containing the proposed new designation boundaries in a DXF (or ACAD dwg file with version noted) file. This shall be provided prior to construction works commencing and shall distinguish between land required for long term Road Reserve and land required for Temporary Occupation for the Purpose of Road Construction.

2. As soon as practicable following completion of construction works, the Requiring Authority shall:

a) Review the extent of the area designated for the Project;

b) Identify any areas of designated land that are no longer necessary for the on-going operation or maintenance of SH3, or the mitigation ~~or offsetting~~[[1]](#footnote-1) of effects of the Project; and

c) Give notice to NPDC in accordance with section 182 of the RMA for the removal of those parts of the designation identified in (b) above.

3. The designation shall lapse if not given effect to within 10 years from the date on which it is included in the New Plymouth District Plan under section 175 of the RMA.

**Cultural protocols**

4. (Under development)[[2]](#footnote-2)

**Management Plans – General**

5. The Requiring Authority shall~~, in accordance with conditions 6 and 7,~~ provide to the ~~Manager~~ Planning Lead (or Nominee) ~~all of~~ the management plans submitted with the Notice of Requirement for the Project for certification prior to the commencement of Works, being updated versions incorporating the requirements of these conditions. This includes the Construction Environmental Management Plan (CEMP) and the following documents submitted as appendices to the CEMP:

a) Construction Noise Management Plan (CNMP);

b) Construction Traffic Management Plan (CTMP);

c) Ecology and Landscape Management Plan (ELMP);

d) Pest Management Plan (PMP);

e) Construction Water Management Plan (CWMP);[[3]](#footnote-3)

f) Dust Management Plan (DMP);[[4]](#footnote-4)

g) Accidental Discovery Protocol (ADP);

h) Landscape and Environmental Design Framework (LEDF);

i) Contaminated Land Management Plan (CLMP); and

j) Control of a Spill Procedure

k) Incident Reporting and Investigation

The Planning Lead will carry out best endeavors to consider the management plans within 20 working days, noting that expert input may be required before certification can be provided. New Plymouth District Council shall, within a reasonable timeframe either confirm in writing to the Requiring Authority that the plan is certified, or request that the Requiring Authority finalise the plan incorporating changes suggested by the Council. Where the Requiring Authority and New Plymouth District Council are unable to agree on the finalisation of management plans, the resolution process stipulated under Condition 11 shall be followed.

~~The management plans:~~

~~a) 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 these conditions; and~~

~~b) shall be finalised, maintained and implemented in general accordance with the draft management plans included with the documents and information provided in support of the Notice of Requirement.~~

~~6. All Works shall be carried out in general accordance with the plan set [Volume 2 of the application documentation] and the management plans required by these designation conditions and attached as appendices to the Construction Environmental Management Plan, which are:~~

~~a) Construction Noise Management Plan (CNMP);~~

~~b) Construction Traffic Management Plan (CTMP);~~

~~c) Ecology and Landscape Management Plan (ELMP); and~~

~~d) Pest Management Plan (PMP).~~ [[5]](#footnote-5)

6. All Works shall be carried out in general accordance with the certified documents listed in Condition 5.

~~7. (a) The Requiring Authority shall provide the updated CEMP, CNMP and CTMP, to the Manager at least 30 working days before the commencement of Works. The Requiring Authority shall consider any comments received from the Manager when finalising each management plan. If the Requiring Authority has not received comments from the Manager within 15 working days of providing the management plan, the Requiring Authority may finalise and implement the management plan accordingly.~~

~~(b) The Requiring Authority shall provide the final management plan to the Manager at least 5 working days before the commencement of Works.~~

*~~Advice note: Pursuant to condition 1(a), the final management plan shall be updated in accordance with the draft management plan provided to the hearing panel as part of the consent application. The Requiring Authority shall take into account any comments received from the TRC Manager when finalising the management plan.~~*

~~8. (a) The Requiring Authority shall provide the updated ELMP and PMP to the Manager, TRoNT and DoC at least 30 working days before the commencement of Works. The Requiring Authority shall consider any comments received from the Manager, TRoNT and DoC when finalising the ELMP and PMP. If the Requiring Authority has not received comments from the Manager, TRoNT, or DoC within 15 working days of providing the management plans, the Requiring Authority may finalise and implement the management plan accordingly.~~

~~(b) The Requiring Authority shall provide the final ELMP and PMP to the Manager, TRoNT, and DoC at least 5 working days before the commencement of Works.~~

*~~Advice note: Pursuant to condition 1(a), the final management plan shall be updated in accordance with the draft management plan provided to the hearing panel as part of the consent application. The Requiring Authority shall take into account any comments received from the TRC Manager when finalising the management plan.~~*

~~9.~~7. The Requiring Authority may make ~~reasonable~~ minor amendments to the ~~finalised~~ certified management plans at any time. ~~Reasonable~~ Minor amendment is any amendment where the adverse environmental effect arising from the amendment is the same or less than the effect anticipated in the final management plan provided under conditions ~~7 or 8~~ 5. In addition, any changes to the management plans shall remain consistent with the overall intent of the ~~originally finalised~~ certified management plan. The Requiring Authority shall provide the ~~Manager~~ Planning Lead (or Nominee) with a copy of any amendment as soon as practicable and before Works associated with that amendment are implemented.

~~10.~~8.a) The Requiring Authority may make material amendment to the finalised management plans ~~at any time~~ subject to the certification of the ~~Manager~~ Planning Lead (or Nominee). Material amendment is amendment where there is an adverse (beyond de minimis) environmental effect above that anticipated in the final management plan provided under conditions 5 or 7 ~~or 8~~.

b) Any material changes to the management plans shall be consistent with the overall intent of the originally finalised management plan.

c) In the event of material amendment to a management plan, the Requiring Authority must submit the amendment to the Manager for certification 20 working days before the commencement of the relevant Works. The Planning Lead will carry out best endeavors to consider the management plans within 20 working days, noting that expert input may be required before certification can be provided. New Plymouth District Council shall, within a reasonable timeframe either confirm in writing to the Requiring Authority that the material change is certified, declined, or request that the Requiring Authority incorporate changes suggested by the Council. Where the Requiring Authority and New Plymouth District Council are unable to agree on the finalisation of material changes to management plans, the resolution process stipulated under Condition 11 shall be followed. ~~If the Manager has not provided comment or certification within 10 working days, the Requiring Authority may finalise the amended management plan.~~

~~d) The Requiring Authority shall provide the Manager with a copy of a material amendment to a management plan 5 working days before the commencement of the relevant Works.~~

~~11.~~9.Preparatory Works and all Works that are a Permitted Activity in the New Plymouth District Plan can commence prior to the finalisation of the management plans, except for vegetation clearance which shall be carried out in accordance with the relevant certified management plans.

~~12~~.10. All personnel involved with the construction of the Project shall be made aware of, and have access to, all conditions and management plans applicable to the construction of the Project. Copies shall be kept on site at all times.

~~13.~~11.a) In the event of any dispute, disagreement or inaction arising about the content or implementation of the management plans, matters shall be referred in the first instance to the Planning Lead, and to the Requiring Authority's Construction Manager (as described in the CEMP), to determine a process of resolution.

b) If a resolution cannot be agreed under (a) within 15 working days, the matter shall be referred within 10 working days to an independent appropriately qualified ~~expert~~ person,[[6]](#footnote-6) acceptable to both parties (‘mediator’), setting out the details of the matter to be referred for determination and the reasons the parties do not agree.

c) The ~~expert~~ mediator shall, as soon as possible, issue a decision on the matter.

d) The decision of the ~~expert~~ mediator on the implementation of the management plan is binding and shall be implemented by the Requiring Authority.

e) The dispute resolution process above will be applied before any formal enforcement action is taken by NPDC, except in urgent situations.

~~14.~~12. The Requiring Authority shall undertake an annual review of all management plans that takes into account (this is not an exclusive list):

a) Compliance with the Project consent and designation conditions, the CEMP and management plans.

b) Any significant changes to construction activities or methods.

c) Key changes to roles and responsibilities within the Project team.

d) Results of inspections, monitoring and reporting procedures associated with the monitoring of adverse effects during construction.

e) Comments or recommendations from NPDC regarding the CEMP and management plans.

f) Comments or recommendations from TRoNT or DoC regarding the ELMP and PMP.

g) Unresolved complaints and any response to complaints and remedial action taken to address the complaint.

The outcome of this review shall be provided to the Planning Lead (or Nominee) ~~Manager~~. Material changes to any management plan(s) resulting from the review shall be subject to certification under Condition 8.

*Advice note: comments or recommendations regarding the CEMP and management plans may also be received from TRC under the resource consent conditions.*

**Communications and Public Liaison**

13. a) The Requiring Authority shall identify a liaison person who is to be the main contact for all persons affected by the construction of the Project. If the liaison person will not be available for any reason, an alternative contact shall be provided, to ensure that a Project contact person is available by telephone 24 hours per day/seven days per week during the construction phase of the Project.

b) No less than one month prior to the commencement of Works, the Requiring Authority shall advise all key project stakeholders listed in Section 6.2 of the CEMP of the liaison person’s name and contact details.

c) The Requiring Authority shall keep stakeholders and the wider public informed of the construction works, progress and timing and shall carry out communications in general accordance with Section 6 of the CEMP.

d) Recreational users (in particular hunters) shall be added to the list of ‘Key Project Stakeholders’ in Section 6.2 of the CEMP, prior to certification of the CEMP.

e) The Requiring Authority shall provide the Planning Lead (or Nominee) with a report detailing all complaints and responses including remedial actions every six months for the duration of the Works, or more frequently upon request by the Council.

**Complaints**

~~33.~~14 a) At all times during implementation of the Notice of Requirement, the Requiring Authority shall maintain a register of any complaints received alleging adverse effects from, or related to, the exercise of the Notice of Requirement. The record shall include:

1. the name and address (where this has been provided) of the complainant;
2. identification of the nature of the complaint;
3. location, date and time of the complaint and of the alleged event;
4. weather conditions at the time of the complaint (as far as practicable), including wind direction and approximate wind speed if the complaint relates to air discharges;
5. the outcome of the Requiring Authority's investigation into the complaint;
6. measures taken to respond to the complaint; and
7. any other activities in the area, unrelated to the Project, which may have contributed to the complaint (such as non-Project construction, fires, or unusually dusty conditions generally).

b) The Requiring Authority shall:

1. acknowledge the complaint within 2 working days,
2. promptly investigate, identify the level of urgency is respect of the complaint and communicate that to the complainant; and
3. take reasonable steps to remedy or mitigate the matters giving rise to the complaint if there are reasonable grounds for the complaint within 10 working days of receiving the complaint or such sooner time as may be reasonably necessary in the circumstances.

c) The Requiring Authority shall also maintain a record of its responses and any remedial actions undertaken.This record shall be maintained on site and shall be made available to the Manager upon request. The Requiring Authority shall provide the Manager with a copy of the complaints register every month.

**Construction Environmental Management Plan**

15/~~16.~~ The ~~Requiring Authority shall finalise a Construction Environmental Management Plan (~~CEMP~~)~~ required under Condition 5 shall ~~to~~ provide an overarching framework to ensure that the Project remains within the limits and standards required by these conditions and that Works appropriately avoid, remedy, mitigate or offset ~~more than minor~~ adverse effects on the environment. The CEMP shall include, but need not be limited to, details of:

a) Staff and contractors’ responsibilities;

b) Training requirements for employees, sub-contractors and visitors;

c) Environmental incident and emergency management (including the procedures required under regional consent condition 6);

d) Communication and interface procedures;

e) Environmental complaints management (required under condition ~~32~~14);

f) Compliance monitoring;

g) Environmental reporting;

h) Corrective action;

i) Environmental auditing;

j) Construction lighting;

k) Rehabilitation of construction yards;

l) The methods to engage with stakeholders, including:

* + - 1. how the community will be kept informed of progress with Works, including proposed hours of operation outside normal working hours and Project construction personnel contact details;
      2. how the Requiring Authority will engage with the community in order to foster good relationships and to provide opportunities for learning about the Project;
      3. providing early information on key Project milestones;
      4. identifying stakeholders such as landowners, road users, local community, iwi, regulatory authorities, industry, network utility operators, road maintenance contractors, emergency services; and
      5. responding to queries and complaints (in accordance with condition ~~33~~14); and

m) CEMP review (in accordance with condition ~~14~~12).

n) ~~The CEMP shall also set out~~ Construction methodologies and construction timeframes, including Staging.

**Construction Noise and Construction Noise Management Plan**

~~17.~~16.Construction noise shall, subject to the exceptions provided for in the Construction Noise Management Plan (CNMP) set out in conditions ~~18~~ 17 and ~~19~~ 18, comply with the following criteria in accordance with NZS6803: 1999:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Time period** | **dB  LAeq** | **dB LAFmax** |
| Weekdays | 0630-0730 | 55 | 75 |
| 0730-1800 | 70 | 85 |
| 1800-2000 | 65 | 80 |
| 2000-0630 | 45 | 75 |
| Saturday | 0630-0730 | 45 | 75 |
| 0730-1800 | 70 | 85 |
| 1800-2000 | 45 | 75 |
| 2000-0630 | 45 | 75 |
| Sunday and Public Holidays | 0630-0730 | 45 | 75 |
| 0730-1800 | 55 | 85 |
| 1800-2000 | 45 | 75 |
| 2000-0630 | 45 | 75 |

*Notes: Measurement and assessment of construction noise shall be undertaken in accordance with NZS6803:1999.*

~~18.~~17.The Requiring Authority shall finalise the CNMP for the Project to identify how it will manage effects from construction noise that will exceed the criteria in condition ~~17~~16.

The CNMP shall be in accordance with:

a) the requirements of Annex E to NZS 6803:1999; and

b) the NZ Transport Agency State highway construction and maintenance noise and vibration guide (2013).

~~19.~~18.The CNMP shall include, but need not be limited to:

a) the general hours of work for the Project;

b) the details of any activities that may be undertaken outside of the general hours of work for the Project;

c) procedures to comply with NZS6803:1999;

d) the details of any activities that may not comply with NZS6803:1999 and measures to mitigate construction noise from those activities as far as practicable to ensure the effects are appropriate;

e) the necessary setbacks for specific construction plant and equipment in relation to residential dwellings; and

f) the management and communication procedures for Works that may not comply with NZS6803:1999.

**Construction Lighting**

19. The Requiring Authority shall implement procedures at all times during construction to manage lightspill (if any) to residential properties from any night lighting that is required on the site, in accordance with AS 4282 – 1997 “Control of the Obtrusive Effects of Outdoor Lighting”. Construction lighting shall also be managed in a manner which reduces light overspill on nocturnal fauna.

**Operational Lighting**

20. Following completion of construction, no operational lighting shall be installed at the tie-ins with the two new local road intersections. The tunnel may only be illuminated from within the tunnel to reduce effects on bats and other nocturnal fauna.

OR

20. Lighting installed at the tie-ins with the two new local road intersections and at the tunnel shall be designed and screened to minimise the amount of light overspill and illumination received at residential dwellings and to reduce effects on bats and other nocturnal fauna. The Requiring Authority shall demonstrate that:

a) All lighting designed in accordance with "Road lighting Standard AS/NZS1158"; and

b) Written verification from an ecologist that the lighting has been designed to minimise adverse effects on nocturnal fauna.

**Construction Traffic Management Plan**

~~20.~~21.The Requiring Authority shall finalise the Construction Traffic Management Plan (CTMP) for the Project that identifies how it will manage construction traffic to:

a) protect public safety;

b) minimise delays to road users;

c) minimise disruption to property access; and

d) inform the public about any potential impacts on the road network.

~~21.~~22.The CTMP shall include, but need not be limited to:

a) details of traffic management activities and sequencing proposed for the Project;

b) methods for managing construction related traffic movements;

c) provisions to ensure that, as far as practicable, road users will not be held up by construction activities for an unreasonable period of time (such time period to be specified); and

d) provisions for emergency services to have access along SH3 24 hours per day, unless construction requires the temporary closure of a road, in which case, prior to any temporary closure, an emergency action plan shall be developed and agreed with emergency services to provide for access for the duration of that closure.

~~22.~~23.The CTMP shall comply with the version of the NZ Transport Agency Code of Practice for Temporary Traffic Management (COPTTM) which applies at the time the Plan is prepared. Where it is not possible to adhere to the COPTTM, the COPTTM’s prescribed Engineering Exception Decision process shall be followed.

**Tunnel**

24. The shoulder width on each side of the tunnel shall be a minimum of 1.5m.

**Ecology and Landscape Management Plan**

~~23.~~25.The Requiring Authority shall finalise[[7]](#footnote-7) the draft ~~the~~ ~~Ecology and Landscape and Management Plan (~~ELMP~~)~~ submitted March 2018 to ~~identify~~ include:

1. how the Project will avoid, remedy, mitigate, offset and compensate potential adverse effects on the ecological values and biodiversity of the land within the Project area and its surrounds;
2. A quantitative assessment of forest condition and tree health to the east of SH3, including a canopy measure (e.g. Foliar Browse Index) and an understorey measure (e.g. Seedling Ratio Index)
3. Maps showing:
4. existing vegetation types for all areas of proposed mitigation plantings, to determine if these will result in habitat gain
5. the location and extent of the stream reaches proposed for restoration works.
6. Ecology Constraints Map (Appendix A of the ELMP)
7. identification of where mitigation planting will take place and confirmation that these locations do not currently have existing indigenous forest, shrubland, scrub or wetland vegetation
8. that all new plantings should be eco-sourced from the North Taranaki Ecological District
9. that the Requiring Authority will carry out the following measures:
10. replacement planting on a ‘like for like’ basis, with a minimum of 1:2 loss to replacement ratio for all scrub/shrubland
11. restoration of hillslope forest to offset the loss of 19.85 hectares of hillslope podocarp broadleaved forest (possibly by fencing and retirement from grazing of a much larger area);
12. a review of the identification of affected ‘significant trees’ in accordance with the three point definition provided by the Requiring Authority (being large and old (typically emergent) trees; being relatively uncommon; and having significant habitat value for other flora and fauna such as, providing important flowering or fruiting resources, cavities for roost and nests, and supporting large epiphyte communities). In addition to the species identified by the Requiring Authority, the following species shall be included for consideration as ‘significant trees’: Tawa, Rewarewa, Nikau, Kaikomako, Kohekohe, Hard Beech, Kamahi.
13. Retro-fitting any existing perched or broken culverts along the route to facilitate upstream fish passage.
14. Adequate measures to protect kiwi:
15. Temporary fences around construction areas;
16. Permanent fences along the new road
17. Relocation of kiwi, if appropriate.
18. Actions to be taken in the event that an established kōkako territory/breeding pair was to be found within the Project footprint.
19. that the Requiring Authority will seek to achieve the performance targets, including but not limited to the following:
20. no net loss in biodiversity within 15 years of the bypass becoming operative;
21. no net loss of indigenous vegetation, on an area basis;
22. For each significant tree felled, 200 saplings of the same species are present within areas of indigenous plantings 10 years following planting. 90% of these saplings are in good health, and either two metres tall, or emergent above the height of surrounding competing vegetation.
23. a 20% increase in relative abundance for tui, bellbird, kereru, robin and kiwi within 12 years;
24. 80% survival rate of translocated *Gahnia* species one year post-translocation;
25. 80% canopy cover 10 years following planting in the zones where trees and shrubs are planted;
26. What constitutes “low densities” should be defined for each pest control target species
27. *(All parts of the proposed mitigation package need to be accompanied by measureable performance measures. These performance measures need to be drawn together and evaluated).*
28. pre and post Works monitoring: how biodiversity gains will be measured and reported to the Council, and what contingency actions are in place to ensure performance targets are met.

~~24~~.26.The ELMP shall address and specify how the Project will avoid, remedy, mitigate, and offset effects on ecological values, including:

1. vegetation / habitat (including restoration of wetlands affected by failure of sediment or erosion controls, and Threatened, At Risk and/or Regionally Significant Plants);
2. herpetofauna (lizards and frogs);
3. bats;
4. avifauna;
5. indigenous invertebrates;
6. fish, kōura and kākahi;
7. streams. And
8. rehabilitation and restoration planting.

~~25~~.27.The ELMP shall include the following ecological mitigation and ecological offset measures:

1. Pest management measures described in the Pest Management Plan referred to in condition ~~27~~30.
2. Restoration planting of:
3. 6ha of swamp forest; and
4. 9ha of dryland planting using an appropriate mix of plant seedlings.

*Note: this area is indicative and the extent of plantings required should be reassessed once the project footprint has been fully surveyed.*

1. Planting of 200 seedlings of the same species for each significant tree that is felled, as shown on the Landscape Concept Plans in the LEDF.
2. Riparian planting and exclusion from livestock of up to 8.9km of existing stream, or if culvert or stream diversion lengths are reduced in the detailed design, the length of existing stream that is calculated by the Stream Ecological Valuation method. Riparian margins of 10m each side of the channel will be created and planted.

*Note: this stream length is indicative and the extent of stream restoration required should be reassessed once the project footprint has been fully surveyed.*

1. Relocation or cultivation of threatened plants found within the Project Area.
2. Fish passage provisions informed by NZ Transport Agency's "Fish passage guidance for state highways" (August 2013) guidelines.
3. The physical mechanisms (e.g. fences) to protect the restoration and riparian planting described in this condition from clearance and / or livestock, on an ongoing basis.
4. The legal mechanisms to protect the restoration and riparian planting described in this condition on an ongoing basis, and the evidence of legal rights or agreements to enter and carry out mitigation and offsetting works on third party land outside the boundaries of the designation.[[8]](#footnote-8)
5. Landscaping design and treatments (landform and planting), including rehabilitation of all areas used for temporary work and construction yards.
6. The staging of planting and landscape treatments in relation to the construction programme.

~~26.~~28.The ELMP shall include the following monitoring:

1. Pre-construction vegetation monitoring to provide more detailed baseline information on forest condition, including the composition and abundance of palatable vegetation.
2. Post-construction monitoring of vegetation condition.
3. Pre-construction survey of wetland vegetation composition and structure to assist planning for the swamp forest restoration planting.
4. Survey of actual vegetation loss immediately following Completion of Construction Works.
5. Monitoring of salvaged lizards post-release [[9]](#footnote-9) , including monitoring of translocated lizards into ‘soft-release’ pens [[10]](#footnote-10)
6. Monitoring of stream diversions [[11]](#footnote-11)
7. Monitoring of avifauna including kiwi, kōkako, forest birds and fern birds [[12]](#footnote-12)
8. Monitoring of the plant translocation trials [[13]](#footnote-13)
9. During and post-construction monitoring of bats [[14]](#footnote-14)
10. Post-construction monitoring of fish [[15]](#footnote-15)

~~27.~~29 a) The Requiring Authority shall complete replacement and restoration planting within three planting seasons of the ~~Completion of Construction Works~~ commencement of operation of the new road[[16]](#footnote-16), unless natural conditions over the next 4 years result in poor seed production or poor seed condition and adversely limits seedling propagation for indigenous plant species, in which case completion would be delayed to reflect the availability of suitable seedlings.

b) Should there be a delay in the completion of restoration planting, the Requiring Authority shall provide the Manager with an amended timeframe and complete the planting as soon as reasonably possible within that timeframe, informing the Manager when planting is complete.

c) The Requiring Authority shall maintain the plantings until they are considered to be successfully established; where canopy closure (85% cover) with indigenous species has been achieved, and where replacement trees for ‘significant trees’ have increased in height by at least 0.5m, and reach an average height of two metres.

**Pest Management Plan**

~~28.~~30. The Requiring Authority shall finalise a Pest Management Plan (PMP) that shall include pest management over a core area of no less than ~~222~~ 230ha with a buffer area on all sides of the core area of an additional ~~340~~ 2770ha (total ~~562~~ 3000ha) (Pest Management Area) and:

1. Survey and confirm the suitability of the pest control area to support the flora and fauna to be adversely affected by the project
2. focus on controlling wasps, mice, rats, possums, mustelids, feral cats, feral pigs and goats ~~at~~ to low densities, and will exclude all farm livestock;
3. be undertaken by, or on behalf of, the Requiring Authority in perpetuity, or until such time as technological advances mean that pest control is no longer necessary;
4. timing of pest control pulses should consider the timing of when these should be implemented to achieve the greatest ecological benefits, e.g. protection of maternal roosts for long-tailed bats.

31. The Requiring Authority shall carry out the measures contained in the PMP and shall provide the Planning Lead (or Nominee) with an annual report which compiles pest management and outcome monitoring, and proposes alterations as required to achieve performance targets specified in Condition 22(i). The Council may have these reports reviewed and require changes to the PMP in the event that outcomes are not being achieved.

**Landscape, Natural Character and Visual Effects**

32. The Requiring Authority shall ensure that the LEDF fully informs detailed design. The following mitigation measures shall be implemented to mitigate adverse effects on landscape and natural character values:

1. Cut and ﬁll batters to tie into natural landforms in the area – techniques should be employed to reﬂect natural rock faces as appropriate and treatments should be implemented to assist in the natural re-colonisation (revegetation);
2. Options to further reduce the use of rock drapes will be investigated in detailed design;
3. Avoiding “engineered” landform modiﬁcation and blending earthworks in with the immediate landform context including the form and contouring of permanent disposal areas;
4. Detailed design of highway furniture, barriers, lighting (if any) and signage – with particular emphasis on simplifying such elements and minimising visual clutter;
5. Consideration of rehabilitation and mitigation/offset planting that reﬂect the wider ecological conditions of the site including eco-sourcing of seed, coordination with the Project ecological restoration experts and participation with Ngāti Tama;
6. Maintenance of access to the conservation estate as appropriate during construction and enhanced access to users of the Messenger and Kiwi Road tracks following construction;
7. A planting programme including staging, integration with construction programme and wider maintenance programme;
8. Design and ﬁnish of co-designed cultural expressions particularly for the tunnel portals and bridge areas and any other ancillary structures as appropriate;
9. Providing for views from the bridge, and for pedestrian and cycling access including through the tunnel;
10. Architectural form appropriate to nearby ecologically sensitive areas and the ﬁnish of the bridge appropriate to the rural landscape context;
11. Provision for cycling within the carriageway shoulder;
12. Consideration of stopping places and a roadside soft trail as appropriate and where practical;
13. Avoidance and retention of signiﬁcant trees and areas of vegetation wherever possible.
14. Minimising construction effects on natural stream environments in the Mimi Valley and rehabilitating with riparian planting following construction;
15. Constructing stream diversions (where impacts are unavoidable), with naturalised elements reﬂecting the characteristics of the existing streams, within the Upper Mangapepeke Valley; and
16. Ecological restoration along the Mangapepeke Stream corridor within the designation.

**Accidental Discovery Protocol**

~~29.~~33.The Requiring Authority shall rely on P45, the NZ Transport Agency Accidental Discovery Protocol and implement that protocol throughout Works. P45, the Transport Agency Accidental Discovery Protocol, shall be reviewed by TRoNT and modified to:

a) reflect the site specific Project detail; and

b) be consistent with any archaeological authority issued by Heritage New Zealand under the Heritage New Zealand Pouhere Taonga Act 2014 applying to the Project.

*Advice Note: The Ministry for Culture and Heritage must also be advised of any artefact finds within 28 days of the discovery in accordance with the Protected Objects Act 1975. The final repatriation of artefacts is a matter for the Ministry of Culture and Heritage in consultation with iwi.*

~~30.~~34.The Accidental Discovery Protocol referred to in condition 33 shall not apply, and need not be implemented, in the event that:

a) the Project is subject to an archaeological authority granted under section 48 of the Heritage New Zealand Pouhere Taonga Act 2014 (or the corresponding provision in any legislation replacing that Act); and

b) that authority provides for a protocol to be implemented in the event of discovery of cultural or archaeological artefacts or features during the construction of the Project, including the matters provided in condition 29.

*Advice Note: The purpose of this condition is to ensure consistency between these conditions and the conditions imposed on any archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014.*

**Access**

~~31.~~35.The Requiring Authority shall, as far as reasonably practicable, maintain access to existing recreation facilities of the Kiwi Road and Mt Messenger Tracks during construction.

~~32.~~36.The Requiring Authority will ensure that reasonable vehicular access is maintained during the Project to the properties currently served by the section of SH3 that will be bypassed or otherwise affected by the Project.

**Engineering Review**

37. Prior to construction of any particular part of the Works, the Requiring Authority shall provide written confirmation to the Planning Lead (or Nominee) that peer review of detailed design has been carried by an independent and suitably qualified and experienced engineer(s), with particular emphasis on ensuring that detailed design manages the significant risks from natural hazards.

**Landscape Review**

38. Prior to construction of any particular part of the Works, the Requiring Authority shall provide written confirmation to the Planning Lead (or Nominee) that peer review of detailed design has been carried by an independent and suitably qualified and experienced landscape expert, which verifies that principles outlined in the LEDF and key mitigation outcomes listed in Condition 32, have informed the detailed design, and verifies that the detailed design is in general accordance with the LEDF.

**Network Utilities** [[17]](#footnote-17)

39. Works within the Designation established for the Project shall be undertaken in accordance with the National Code of Practice for Utility Operators’ Access to Transport Corridors (September 2016), or any approved update to that code.

**Outline Plans**

40. Any Works in general accordance with Condition 1 shall not be subject to the requirement for an Outline Plan of Works to be submitted to New Plymouth District Council. An Outline Plan of Works shall be required under Section 176A of the Resource Management Act 1991 in respect of matters not in accordance with Condition 1.

**General Monitoring**

41. The Requiring Authority shall pay the council’s costs of any monitoring necessary to ensure compliance of the use with the conditions specified.

***Recommended conditions for resource consent under the NESCS:***

1. If the NoR is confirmed, it would follow that the resource consent under the NESCS be granted. If this is the case, under Section 108 of the RMA I recommend this consent be subject to the following conditions:
2. *Prior to any soil disturbance in any area identified in Appendix A, Figure 2 of Technical Report 12 (Ground Contamination - Preliminary Site Investigation) submitted with the application, the consent holder shall provide the Council with an updated Contaminated Land Management Plan (“CLMP”), prepared by a suitably qualified and experienced practitioner, relating to soil disturbance works. The Planning Lead (or Nominee) shall have the CLMP reviewed by a suitably qualified and experienced practitioner to ensure the adequacy of the CLMP, and the CLMP shall be approved by the Council prior to soil disturbance commencing.*
3. *The CLMP required under Condition (above) shall include:*
4. *The results of pre-works sampling, presented as a Detailed Site Investigation under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011;*
5. *Recommendations arising from the Detailed Site Investigation required under Condition (above)(a);*
6. *The measures to be undertaken in the handling, storage and disposal of all contaminated material excavated during the construction works;*
7. *The soil validation testing that will be undertaken;*
8. *The soil verification testing that will be undertaken to determine the nature of any contamination in excavated spoil and the potential reuse or disposal options for that spoil;*
9. *Measures to be undertaken in the event of unexpected contamination being identified during construction activities, including measures to:*

*• Assist with identification of unknown contaminated material;*

*• Stop work or isolate the area once any such material is identified;*

1. *The measures to be undertaken to:*

*• Protect the health and safety of workers and the public;*

*• Control stormwater;*

*• Remove or manage any contaminated soil;*

1. *These measures shall include appointment of a suitably qualified contractor to implement the actions identified in the CLMP.*
2. *All soil disturbance works in any area identified in any area identified in Appendix A, Figure 2 of Technical Report 12 (Ground Contamination - Preliminary Site Investigation) shall be undertaken in accordance with the CLMP.*
3. *No later than three months, following the completion of soil disturbance works in any area identified in Appendix A, Figure 2 of Technical Report 12 (Ground Contamination - Preliminary Site Investigation) submitted with the application, the consent holder shall submit to the Planning Lead (or Nominee) a report prepared by a suitably qualified and experienced practitioner, relating to soil disturbance works, which describes the following:*
4. *Confirms that the consent holder considers the soil existing on the site is within the guideline levels as specified in Regulation 7 of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health;*
5. *Outlines the remediation works undertaken, if any;*
6. *Confirms that there were no environmental incidents during the works or details what the environmental incident was and the measures take to mitigate effects; and*
7. *Confirms the disposal location of the surplus soils (including landfill receipts) and provides any verification test results undertaken and/or photographic evidence. Where disposal is not to landfill, a site plan showing disposal sites shall be provided showing the areas filled with soil that comply with the regulations but exceed background concentrations.*
8. *The consent holders shall pay the council’s costs of any monitoring necessary to ensure compliance of the use with the conditions specified.*

Report by:

Rachelle McBeth

Senior Environmental Planner

New Plymouth District Council

Date:

18 May 2018

# APPENDIX A:

### Transportation Review prepared by Graeme Doherty, Infrastructure Engineer, AECOM Consulting Services (NZ) Ltd

1. **16 March 2018**
2. **24 April 2018**

# APPENDIX B:

### Geotechnical Review prepared by Russell Allison, Geotechnical Engineers, (AECOM Consulting Services (NZ) Ltd)

1. **1 May 2018**
2. **11 May 2018**
3. **Emails providing additional geotechnical information May 2018**

# APPENDIX C:

### Hazardous substances and soil contamination review prepared by Sarah Knowles, Consultant Environmental Scientist, AECOM Consulting Services (NZ) Ltd

**I. 3 May 2018 – Soil Contamination**

**II. 9 May 2018 – Hazardous Substances**

# APPENDIX D:

### Review of landscape, natural character and visual impact documents by Richard Bain, Consultant Landscape Architect (Blue Marble)

**I. February 2018**

**II. April 2018 – Response to resubmitted ELMP and RFI response**

# APPENDIX E:

### Review of the Historic Heritage Report by Consultant Archaeologist, Daniel McCurdy Geometria

1. **6 October 2017**
2. **14 May 2018**

# APPENDIX F:

### Review of Ecological Reports by Consultant Ecologists at Wildland Consultants Limited

* + William Shaw - Project lead, peer review
  + Kelvin Lloyd - vegetation, flora, offsetting
  + Tim Martin - vegetation, synthesis of disciplines
  + Nick Goldwater - aquatic habitats
  + Jacqui Wairepo - herpetology
  + Brian Patrick - terrestrial invertebrates
  + Rachel McClellan - avifauna
  + Kate Richardson - avifauna
  + Kerry Borkin - bats

1. **October 2017**
2. **January 2018**
3. **May 2018**

# APPENDIX G:

### No***ise review prepared by Noise Consultant, Nigel Lloyd (Acousafe)***

# **APPENDIX** H:

### Policies and objectives of the New Plymouth District Plan relevant to the project

**New Plymouth District Plan**

**Objectives and Policies relevant to the Notice of Requirement**

***Objective 1*** *-* ***To ensure activities do not adversely affect the environmental and amenity values of areas within the district or adversely affect existing activities.***

***Policy 1.1*** *- Activities should be located in areas where their effects are compatible with the character of the area.*

***Policy 1.2*** *- Activities within an area should not have adverse effects that diminish the amenity of neighbouring areas, having regard to the character of the receiving environment and cumulative effects.*

***Policy 1.3*** *- New activities that are sensitive to the elements that define the character of the area in which they intend to locate should be designed and/or located to avoid conflict.*

***Objective 2*** *-* ***To avoid, remedy or mitigate the adverse effects of light overspill and glare, noise, and the consumption of liquor on amenity values and health.***

***Policy 2.1*** *- light overspill should not result in adverse effects on amenity values and community health.*

***Policy 2.2*** *- Activities should not result in adverse effects on amenity values, community health and safety due to glare from artificial light, flaring or reflected light.*

***Policy 2.3*** *- Noise that results in adverse effects on health or amenity should be avoided, remedied or mitigated.*

***Objective 3*** *-* ***To ensure public works and network utilities do not adversely affect the health and safety of the community.***

***Policy 3.1*** *- The establishment, operation, maintenance and upgrading of public works and network utilities should not compromise public health or safety.*

***Objective 4 - To ensure the subdivision, use and development of land maintains the elements of rural character.***

***Policy 4.3*** *- Control the density, scale, location (including on-site location) and design of activities* *by; (a) …(h) listed*

***Policy 4.5*** *- Ensure that the design of subdivision and development is sensitive to the surrounding environment. In particular the following design principles will be considered: (a-f listed)*

***Policy 4.6*** *- Retain vegetation, particularly indigenous vegetation and require the planting of new vegetation to mitigate the effects of activities.*

***Policy 4.8*** *- Activities within the rural environment should not generate traffic effects that will adversely affect rural character and the intensity of traffic generation should be of a scale that maintains rural character.*

***Objective 10*** *-* ***To protect the quality of the environment, including the health and safety of people, from the adverse effects of the storage, use, disposal and transportation of hazardous substances.***

***Policy 10.1*** *- Hazardous facilities should be located so that any risks to the environment, including to people, are minimised.*

***Policy 10.2*** *- Hazardous facilities should be designed, constructed and managed to prevent or mitigate adverse effects and unacceptable risks to the environment, including people.*

***Policy 10.3*** *- Contaminated sites should not be used for activities where human health and safety could be adversely affected by that contamination.*

***Objective 11*** *-* ***To recognise the district’s heritage resources, provide for their protection and promote their enhancement.***

***Policy 11.5*** *- Archaeological sites should be protected from destruction and alteration that will adversely affect their archaeological values.*

***Objective 12*** *-* ***To avoid or mitigate any actual or potential adverse effects of natural hazards on people, property and the environment.***

***Policy 12.1*** *- Subdivision, land use and development should be designed and located to avoid or mitigate the adverse effects of natural hazards on human life, property, infrastructure and the environment.*

***Policy 12.2*** *- The ability of natural features and systems to provide a defence against natural hazards should be recognised and the integrity of these features and systems protected where appropriate.*

***Objective 13*** *-* ***To ensure that land use activities do not increase the likelihood or magnitude of natural hazard events.***

***Policy 13.1*** *- Subdivision, development and other land uses should not result in aggravation of natural hazards.*

***Objective 14*** *-* ***To preserve and enhance the natural character of the coastal environment, wetlands, and lakes and rivers and their margins.***

***Policy 14.1*** *- The natural character of the coastal environment should not be adversely affected by inappropriate subdivision, use or development and should, where practicable, be restored and rehabilitated.*

***Policy 14.2*** *- 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.*

***Objective 15*** *-* ***To protect and enhance Outstanding Landscapes and Regionally Significant Landscapes within the district.***

***Policy 15.2*** *- Subdivision, use and development should not result in adverse visual effects on, and should enhance, where practicable, the following Regionally Significant Landscapes:*

*• Coastal terrace between Mohakatino and White Cliffs.*

*• White Cliffs and associated conservation forest.*

*• Sugar Loaf Islands and Paritutu.*

*• The following RIVER mouths:*

*- Mohakatino.*

*- Tongaporutu.*

*- Mimi.*

*- Urenui.*

*- Onaero.*

*- Waiongana.*

*- Tapuae.*

*- Hangatahua (Stony).*

***Objective 16*** *-* ***To sustainably manage, and enhance where practical, indigenous vegetation and habitats.***

***Policy 16.1*** *- Land use, development and subdivision should not result in adverse effects on the sustainable management of, and should enhance where practical, significant natural areas.*

***Policy 16.2*** *- 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.*

***Objective 17 – To protect and enhance Outstanding Natural features (Tongaporutu Coast and Whitecliffs coastal cliffs) from inappropriate subdivision, use and development.***

***Policy 17.1 -*** *Subdivision, use and development should not result in adverse effects on, and should enhance, where practicable, the geological and landform values of Outstanding Natural Features.*

***Objective 18 – To maintain and enhance public access to and along the coast, lakes and rivers.***

***Policy 18.1 –*** *Public access should be provided to and along the coast and priority waterbodies except where such access should be restricted (matters listed)*

***Objective 19*** *-* ***To recognise and provide for the cultural and spiritual values of tangata whenua in all aspects of resource management in the district in a manner which respects and accommodates Tikanga Maori.***

***Policy 19.1*** *- The use of land for traditional Maori activities should be recognised and provided for.*

***Policy 19.2*** *- Subdivision, land use or development should not adversely affect the relationship, culture or traditions that tangata whenua have with waahi taonga/sites of significance to Maori.*

***Policy 19.3*** *- The cultural and spiritual values of tangata whenua should be recognised and provided for in the resource management of the district.*

***Policy 19.4*** *- The principles of the Treaty of Waitangi (Te Tiriti O Waitangi) will be taken into account in the management of the natural and physical resources of the district.*

***Objective 20*** *-* ***To ensure that the road transportation network will be able to operate safely and efficiently.***

***Policy 20.1*** *- The movement of traffic to and from a site should not adversely affect the safe and efficient movement of vehicles, both on-site, onto and along the road transportation network.*

***Policy 20.2*** *- The safe and efficient operation of the road transportation network should not be adversely affected by land use activities that have insufficient or substandard parking or loading areas.*

***Policy 20.3*** *- Potential conflict between vehicles, pedestrians and cyclists moving on the road transportation network should be minimised to protect the safety and efficiency of road and footpath users.*

***Policy 20.6*** *- Motorist sightlines at road/railway level crossings should not be restricted by the establishment or siting of vegetation, buildings or other structures.*

1. Offsetting areas are generally beyond the designation footprint [↑](#footnote-ref-1)
2. Under development by negotiation between Te Runanga o Ngāti Tama and the Requiring Authority. Anticipated to be provided before or at the hearing for consideration prior to decisions being issued. [↑](#footnote-ref-2)
3. 4 Although the CWMP and DMP primarily sit under TRCs functions, it is appropriate to include them in this condition in the interests of integrated management and because of their relationship to earthworks, of which NPDC has regulatory functions. NPDC certification of the CWMP and DMP would be completed by NPDC consulting with TRC. [↑](#footnote-ref-3)
4. [↑](#footnote-ref-4)
5. I consider this to be now captured in Conditions 1 and 5. [↑](#footnote-ref-5)
6. Could be a lawyer of planner with more general than expert qualification or experience [↑](#footnote-ref-6)
7. I consider it preferable that the ELMP is finalised prior to the NoR being confirmed. [↑](#footnote-ref-7)
8. This is critical in terms of deliverability of the mitigation and offset package. [↑](#footnote-ref-8)
9. recommended in Technical Report 7h (Ecological Mitigation and Offset) Section 3.6.2.1 [↑](#footnote-ref-9)
10. Wildlands consider post-construction monitoring of translocated lizards into ‘soft-release’ pens and monitoring of resident lizard density responses within additional rodent exclusion areas should be included because these are critical assessment criteria for both mitigation and compensation activities. [↑](#footnote-ref-10)
11. Technical Report 7h Section 3.7.3 [↑](#footnote-ref-11)
12. Technical Report 7h Section 3.5.3, Sections 6.3.11, 6.3.1.2 and 9.5.3.2 of the ELMP [↑](#footnote-ref-12)
13. Section 4.4.2 of the ELMP [↑](#footnote-ref-13)
14. Post-construction monitoring is recommended by the recently published NZTA framework document (cited in the Wildland Consultants May 2018 review: Smith et al. 2017c) in order to determine the effectiveness of mitigation measures. [↑](#footnote-ref-14)
15. Consideration should be given to carrying out fish surveys in the headwater tributaries upstream of new culverts to help determine if the new culverts are providing adequate fish passage. [↑](#footnote-ref-15)
16. it is possible that minor outstanding factors might not be completed, even though the road is up and running and technically “complete”, this alternative wording seeks that the obligation not be delayed. [↑](#footnote-ref-16)
17. This condition was offered up by the RA in an email dated 11 May 2018, and resulted in Powerco withdrawing their submission. [↑](#footnote-ref-17)