

14 February 2014

The Chief Executive
Whangarei District Council
Private Bag 9023
Whangarei

**NOTICE OF DECISION OF THE NEW ZEALAND TRANSPORT AGENCY UNDER SECTION 172
OF THE RESOURCE MANAGEMENT ACT 1991 - WDC REF: RQ1200008**

Introduction

- 1 Pursuant to section 181 of the Resource Management Act 1991 (*RMA*), the New Zealand Transport Agency (*NZTA*) gave notice to the Whangarei District (*WDC*) of its requirement to alter the existing designation for State Highway 1 from Wilson Avenue to Fourth Avenue as part of the Whangarei Urban Improvement project (*Existing Designation*) being for the construction of widening of SH 1, from 40 m north of Wilson Avenue to 100 m south of Fourth Avenue (*the Alteration*).
- 2 WDC delegated to an independent Commissioner its functions to hear the matter and to make a recommendation to NZTA whether the requirement should be withdrawn, confirmed with or without modification, or confirmed subject to conditions.
- 3 The Commissioners' recommendation was that the requirement should be **confirmed subject to conditions**.

NZTA's decision in relation to the recommendation

- 4 In accordance with section 172 of the RMA, NZTA is pleased to **accept in substantial part** the Commissioners' recommendation in relation to the requirement.
- 5 The part of the recommendation that is only partly accepted relates to the following conditions:
 - 5.1 **Condition 10.2;**
- 6 The Commissioner recommended the Condition 10.2 as follows:

The Subject Dwellings are located at: 348, 349, 351, 253, 355, 361A, 362, 363, 365, 368, Western Hills Drive and 33A Kauika Road. If the owner(s) of a Subject Dwelling approve of the NZTA's access to the property within 1 month of the date of the

NZTA's letter (sent pursuant to condition 10.1 then no more than two months prior to commencement of construction of the Project, the NZTA shall instruct a suitably qualified acoustic and/or building specialist(s) to visit the building to determine an appropriate ventilation system for the Subject Dwelling.

- 7 NZTA's decision is to amend Condition 10.2 to read as follows (additions to the recommended condition shown as underline, deletions as strike-through):

The Subject Dwellings are located at: 348, ~~349~~, 351, 253, ~~355, 361A, 362~~, 363, 365, 368, Western Hills Drive and 33A Kauika Road. If the owner(s) of a Subject Dwelling approve of the NZTA's access to the property within 1 month of the date of the NZTA's letter (sent pursuant to condition 10.1) then no more than two months prior to commencement of construction of the Project, the NZTA shall instruct a suitably qualified acoustic and/or building specialist(s) to visit the building to determine an appropriate ventilation system for the Subject Dwelling.

- 8 The reasons for the amendment are as follows:

The Subject Dwellings deleted fall outside the definition of "Noise Sensitive Facilities To Be Protected" within the "NZTA Policy and Planning Manual Appendix 6 Transit New Zealand Guidelines for the Management of Road Traffic Noise - State Highway Improvements" with which condition 7 requires compliance.

Subject Dwellings 355, 361A, 362 are all motels and specifically excluded from the definition of "Noise Sensitive Facilities To Be Protected". The Subject Dwelling at 349 is a legal office that is also specifically excluded from the definition of "Noise Sensitive Facilities To Be Protected". Because they are excluded from the definition, the road traffic noise criteria do not apply to these buildings and hence nothing is required to be done under condition 7.

As conditions 9 and 10 are an alternative means of compliance with condition 7, including these dwellings will create confusion.

- 9 Further Minor Amendments

- 9.1 **Condition 15**; amend the heading to be **Management Plans and Outline Plan**. This is to highlight the outline plan waiver available under Condition 16.
- 9.2 **Condition 21**; amend the cross reference to Condition 12 to be Conditions 10.1 – 10.6.

Other conditions

- 10 In all other respects, NZTA accepts the conditions recommended to be imposed by the Commissioner.
- 11 NZTA accepts the decision, and subsequent recommendation made by the Commissioner subject to the conditions detailed above being amended.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Tommy Parker', with a large, stylized initial 'T' and 'P'.

Tommy Parker
State Highway Manager