

2. Spedding Road Extension Notice of Requirement for Designation

Reporting Officer: Alister Hartstone

Date: 16 July 2010

Vision, Mission and Values

Notice of Requirement under section 168A of the RMA requires Council approval as this section is not delegated to Council officers

Local Government Act 2002 – The Four Well-Beings

Cultural: *No direct link.*

Economic: *The designation will provide economic benefit to the community by establishing a direct link between the southern end of the Kamo Bypass (State Highway 1) and the western end of Spedding Road, Tikipunga.*

Environmental: *The improved efficiency of the transport network will contribute to sustainable transport development within the region.*

Social: *The improved road network will provide social benefits for road users through providing improved safety and access within the Whangarei urban area, and to provide an east – west link connecting Tikipunga, Gelberive and Tutukaka directly with State Highway 1.*

Background

The Notice of Requirement application was lodged with Council on 2 September 2009, and was suspended on 16 September 2009 for further information, which was subsequently provided. The application was publicly notified on 19 January 2010. A number of workshops were held with community groups considered to be affected by the proposal. The notification attracted ten submissions which generally raised concerns regarding traffic effects on amenity and safety.

Issues

A public hearing was held on 25 June 2010 to hear the matter, with Independent Commissioner Mr Robert Chan, appointed by the Whangarei District Council to hear, determine and make recommendations on the application. The hearings report of Council's reporting planner Mr Ian McAlley (Director, McAlley Consulting Group) can be found at Attachment A.

During the hearing evidence was heard regarding noise, traffic engineering, acoustics, archaeology, ecology, amenity, and landscape matters.

After considering the planners report and evidence presented at the hearing, Commissioner Chan has recommended that pursuant to Section 168A(4) of the Resource Management Act 1991 (RMA) that the Notice of Requirement (for the Whangarei District Council to establish a designation for the construction and use of a road between the southern end of the Kamo Bypass and the western end of Spedding Road) be confirmed and that conditions be imposed on the designation. Commissioner Chan's recommendation can be found at Attachment B.

Supplementary Agenda Item No. 1

Where Council is the applicant as requiring authority, the RMA requires Council to decide on the application. For transparency purposes, Commissioner Chan was appointed and has issued a recommendation to approve the application. However, Commissioner Chan does not have delegation under S168A(4) to issue a decision. The delegation therefore lies with Council to confirm the Commissioner's recommendation as a decision.

Recommendation

It is recommended that pursuant to section 168A(4)(a)&(c) of the RMA Council decides to confirm the requirement as recommended by Independent Commissioner Robert Chan dated 15 July 2010.

Attachments:

- A. Hearings Report - *This attachment is too large to go online - please contact council if you require a hard copy.*
- B. [Commissioners recommendation.](#)

IN THE MATTER

of the Resource Management
Act 1991

AND

IN THE MATTER

of an Application by
Whangarei District Council
(Roading Division) Requiring
Authority for a NoR for
Designation of Spedding
Road Extension, Tikipunga
Ref: RQ 0900002

Hearing : 25 June 2010

Hearing Commissioner : Mr Robert Chan

Appearances : For applicant:
 Phillipa Campbell (Planning Consultant)
 Mark Eric Seakins (Seakins Engineering Solutions Ltd)
 Jeff Devine (WDC Roothing Manager)
 Philip Joseph Cook (Cook Costello Ltd)
 Trishn Nand (Cook Costello Ltd)
 Peter Alexander Ibbotson (Marshall Day Acoustics)

Submitters:
 Chris Jennings
 Travis Maclean
 B & N Cresswell (late submitter)

Council Officers present For Whangarei District Council
 Ian McAlley (Consultant Planner ,McAlley Consulting)

Support Staff for Council : Edwina Dugmore (Hearings Administrator)

1.0 DECISION OF THE WHANGAREI DISTRICT COUNCIL HEARINGS COMMISSIONER

Acting under delegated authority, pursuant to Section 34A of the Resource Management Act 1991, the Commissioner made the following decision on the application for Notice of Requirement.

2.0 INTRODUCTION

- 2.1 This record incorporates recommendations made by the Independent Commissioner, Mr Robert Chan, appointed by the Whangarei District Council (“the Council”), to hear, determine and make recommendations on the application of a Notice of Requirement for Designation to construct a road linking the western end of existing Spedding Road, Tikipunga, to the southern end of the Kamo Bypass, to be included in the Whangarei District Plan (“the Plan”).
- 2.2 The Hearing was held in the May Bain Room, Whangarei Library, Whangarei, on 25 June 2010. It started at 9.15am and was closed at 3.30pm.
- 2.2 (a) Before commencing with the presentation of evidence by participants to the proceedings, the Commissioner considered the question of speaking rights for Mr B Cresswell whose late submission had already been ruled not accepted by Council. The Commissioner agrees with the Council’s ruling. However, the Commissioner reflecting on the right to speak considered that in the interest of natural justice, Mr Cresswell, a retiree whose concerns were genuine, be allowed to speak. Agreement was sought, and acceded to by the Applicant and Council’s consultant planner. The right to be heard was on the firm understanding that Mr Cresswell’s submission would be inadmissible for decision-making (Refer to Paragraph 7.7).
- (b) Prior to declaring the meeting closed, the Commissioner invited Ms Campbell to consider the options of an oral and written reply to conclude the applicant’s case. The Commissioner expressed satisfaction that there were no outstanding matters or issues to be resolved. However, the Commissioner wanted the applicant to take time to prepare their reply to tidy any amendments to conditions so as to facilitate a robust decision. The invitation was taken up to give a written reply which the consent authority (the Council) would circulate to all parties in lieu of hearing an oral reply. For the record, the written reply was provided on 2 July 2010 and was circulated to all parties to the proceedings.

2.3 The Commissioner carried out a site visit, walking over the route of the proposed road extension on the morning of 24 June 2010 prior to the day of Hearing.

2.4 For reasons that are more fully detailed in the following recommendation report and pursuant to Section 171(2) of the Resource Management Act 1991 ("the RMA"), the Commissioner, acting under delegated authority pursuant to Section 34A of the Act, after deliberation, has decided to recommend to the Council to CONFIRM the Notice of Requirement for Designation.

3.0 DESCRIPTION OF THE NOTICE OF REQUIREMENT FOR DESIGNATION

3.1 The purpose of the Notice of Requirement is for the construction and use of the proposed extension of the existing western end of Spedding Road to link up with the southern end of the Kamo Bypass (State Highway 1), Tikipunga, Whangarei. A description of the proposal is not necessary because it has been covered in the Hearing Report by Council's planning consultant.

4.0 LAND DESCRIPTION AND ZONING

4.1 The legal descriptions of the land over [ah1]the proposed designation are Lots 2, 5 and 9 DP 143700, Section 1 SO 354925 and Lot 442 DP 46703 (Recreation Reserve). The subject land is zoned Living 1 Environment and Open Space Environment in the Plan. The land also has notations "*Mining Hazard 3*" and "*Flood Susceptible*" Resource Areas on the Plan.

4.2 Topographically, the western portion comprises a long narrow overgrown grassed area adjacent to the rear yards of residential properties of William Jones Drive to the south-east and fairways of the Whangarei (Denby) Golf Course. The middle portion of the proposed route comprises the open playing fields of the Otangarei Sports Park. The route also passes through an area of brush onto open paddock where it will connect with the western end of the existing 'blind' end of existing Spedding Road.

4.3 The land over the route has no improvement, i.e. buildings, and is generally gently rolling country. Council records show that an approved residential subdivision exists on the northern side of the proposed route in the general area where the proposed road rises up a low hill and along this portion of route is a Council bush reserve on the southern side of the route.

5.0 PUBLIC NOTIFICATION OF THE NOTICE OF REQUIREMENT

5.1 The provisions of the RMA relevant to the NOR are:

- Section 166 - WDC is a requiring authority
- Section 168A –Notice of Requirement by Territorial Authority

It is not necessary to outline the details of the sections mentioned above. However the Commissioner notes that prior to the 2009 Amendment to the Act, public notification of a notice of requirement was mandatory.

5.2 The application was lodged with Council on 2 September 2009. It was suspended on 16 September 2009 for a further information request pursuant to Section 92.

5.3 The response to Council's request was received on 2 November 2009. This was followed by a further request by Council dated 10 November 2009 which was duly replied to and all outstanding information requested was satisfied for processing to continue.

5.4 The application was publicly notified on 10 January 2010 and the closing date for submissions was 16 February 2010.

5.5 Ten (10) submissions were received on time. One late submission was received. Three submissions were subsequently withdrawn.

5.6 For reasons clearly outlined in Section 14 of the hearing report, the Commissioner was not required to rule on the admissibility of the late submission and no further comment is necessary.

- 5.7 Suffice to say also, the identities of submissions received on time and common reasons for submissions concerning traffic, noise and vibration have been summarised in Section 4.2 of the hearing report and these need not be repeated or commented upon here. However the Commissioner will have regard to them whether the submitters were heard or not.
- 5.8 Three submissions which were subsequently withdrawn as a consequence of further consultation between the applicant and submitters are covered in Section 4.3 of the hearing report.

6.0 ACTIVITY STATUS

- 6.1 The Whangarei District Plan provides for new roads in any environment to be subject to control under Rule 47.2.10 *Road Formation* as follows:

Laying out or formation of a new road is permitted if:

- (a) It complies with the standards set out in Appendix 6K; and
- (b) The annual average daily vehicle trips on the road will not exceed 2500.

Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity. Discretion is restricted to:

- (i) Effects on traffic safety;
- (ii) Effects on road efficiency;
- (iii) Effects on the amenity of the locality;
- (iv) Effects of noise;
- (v) Effects of dust;
- (vi) Effects of stormwater;
- (vii) Location of road;
- (viii) Expected usage;
- (ix) The additional matters listed in Chapter 2.3.3.

- 6.2 For purposes of the proposed road extension, the subject of this NoR, the most recent report by Gabites Porter titled *Whangarei Urban Area Project Feasibility Report* May 2009 project that by 2021 the Spedding Road Extension will attract 6200 vehicles per day. Therefore the proposal does not comply with Rule 47.2.10 and this is a restricted discretionary activity and the matters which Council has reserved restricted discretion over are as outlined in the Rule.
- 6.3 The District Plan does not have noise performance standards relating to the operation of local roads within the district. However, the Commissioner notes that the Plan does have noise standards for permitted activities in the Open Space Environment (Rule 46.3.6) and in the Living Environment (Rule 36.3.11). In these circumstances, the Commissioner has no cognisance for determining the activity status of noise generated by traffic on local roads. In applying the convention of rule interpretation, in the absence of specific rules, the activity status of road noise would be deemed to be a non-complying activity. The Commissioner notes that the applicant will call evidence on noise and further discussion on the matter is not necessary at this juncture.
- 6.4 In the final analysis, however, the foregoing discussion on activity status is of passing relevance in determining an NoR. An NoR effectively over-rides the plan provisions, which means in that sense is of limited relevance. Such relevance that might be attached to this discourse is confined to whether the NoR is reasonably necessary – a matter to which the Commissioner will return to later in this decision.
- 6.5 I note, for the record, that roads are zoned in the Plan and existing Spedding Road is zoned 'Local Road'. (Map 36).

Although this is not specifically relevant for a NoR because a confirmed designation overlays the rules of a Plan, it is relevant insofar as testing the proposal under Section 168A (3)C of the Resource Management Act 1991 that the designation and work be 'reasonably necessary' and on which discussion the Commissioner will later return to in the decision.

7.0 SUMMARY OF EVIDENCE AND SUBMISSIONS HEARD

7.1 Evidence for the applicant was presented as follows in order by:

1. Mark Eric Seakins, civil engineer and director of Seakins Engineering Solutions Ltd, in his capacity as project manager for the Spedding Road Extensions project.
2. Philip Joseph Cook, chartered professions engineer and a director of Cook Costello Ltd, as consultant to the applicant.
3. Peter Ibbotson, acoustic consultant with Marshall Day Acoustics, as consultant to the applicant.
4. Phillipa Jean Campbell, consultant planner for the applicant.

7.2 **M E Seakins** presented evidence traversing the following:

- The Proposal
- Background
- Council Planning
- Strategic Transportation Network
- Recent Progress
- Public Consultation
- Consultation with submitters
- Summary.

7.2.1 In the course of covering the above-mentioned topics, Mr Seakins elucidated on the route of the proposal and the genesis of the proposal in 1986 as part of the Whangarei Urban Transport Study. The study identified a potential for an east-west link route connecting with Kamo Bypass (Stage 2). In the process of considering alternatives, Spedding Road Extension became the preferred option. The current alignment was developed in August 1997 and was subsequently shown in the proposed District Plan maps in 1998 as an indicative road.

7.2.2 Touching on Council Planning, the evidence covered Council's 2001/2002 Annual Plan and funding the project in 2005 financial year. The project has been included in each successive Annual Plan and Long Term Council Community Plan (LTCCP). It is shown as being constructed in 2009/10 in the council's 2009/2019 LTCCP. Funding for the project was approved by the NZTA board in December 2009 conditional upon Council receiving all the necessary consents.

7.2.3 In terms of the Strategic Transportation Network, the evidence mentioned the Council and NZTA partnership to improve transport efficiency and provide for Whangarei's future transport needs.

Council's overall strategy for the Transportation Network is articulated in a map notated "Whangarei District Council Proposed Ring Road Structure 2009". This map shows three concentric ring roads being in CBD, outer CBD and outer urban.

7.2.4 The evidence also referred to the Gabites Porter report which indicated that the Spedding Road Extension being Whangarei's highest priority transportation project because it has the highest Benefit/Cost Ratio of the alternative options analysed. Next the evidence mentioned recent progress which included commissioning of Cook Costello Engineers to carry out design work culminating in obtaining the necessary consents and a design and build contract. Council has just awarded the contract for the work which is expected to commence in October 2010.

7.2.5 Public consultation of the Spedding Road Extension project included the following:

- 28 July 2009 as part of Kamo Bypass Stage 2 public open day at the Kamo Bowling Club.
- 15 September 2009 public meeting at the Tikipunga Primary School specifically to discuss the Spedding Road Extension project.

- 13 October 2009 meeting with iwi at Forum North to discuss State highway and Council upgrade projects.
- 17 November 2009 as part of the SH1 Whangarei Upgrades public open day at the St John Ambulance offices.
- 15 December 2009 hui at Otangarei shops to discuss Spedding Road Extension.
- 25 March 2010 as part of the TikiPride community meeting at Tikipunga High School included a Spedding Road Extension presentation.

7.2.6 During the course of Mr Seakins' presentation, he also referred to two plans displayed on the white board which illustrated the upgrading works to the Spedding Road and Denby Crescent Intersection and the Spedding Road and Kamo Bypass intersection.

7.2.7 Mr Seakins answered questions from the Commissioner on matters relating to the topics of his evidence, particularly on the necessity for the proposal, road transport network strategy and road hierarchy. He also made particular mention of the "NZTA/WDC Statement of Intent" which is testimony to the working partnership of the two bodies.

The Commissioner is satisfied that the evidence in chief by Mr Seakins is professional in his capacity as the project manager.

7.2.8 Mr Seakins in response to a question from Mr McAlley, through the Commissioner, mentioned the use of bylaws as a means of managing vehicle road noise. He added that he was unaware of it being used by territorial authorities as it was impractical and difficult to enforce. The Commissioner agreed with this and no further discussion is necessary.

7.3 **P J Cook** presented evidence as follows:

- Background
- General
- Geology
- Environment
- Mining History
- Landscaping
- Fencing
- Station 0 – 39^[ah2]
 - Geotechnical Assessment
 - Stormwater
 - General Design
 - Pavement
 - Noise and Traffic – Induced Vibration Assessment
- Station 390 – 1580^[ah3]
 - Stormwater
 - General Design
 - Noise and Vibration
 - Fence Work
- William Jones Link (Provisional Item)
- Road Safety
- Contract Documentation
- Summary

7.3.1 His evidence was supported by Appendix 1 – Specimen Design which comprises Aerial Photos (Sheets 1 – 3) with superimposed proposed station No 0 – 1580 and Plans sheets 1 to 20 showing engineering details.

The substance of his evidence relating to the above topic headings is a combination of factual material, evaluation discussion and opinions relating thereto.

He concluded with the summary that: "The road has been well investigated and designed and that all adverse effects have been mitigated. There is a comprehensive contract document in place to ensure works are completed to the appropriate consents and standards".

7.3.2 In response to questions from the Commissioner relating to geotechnical, stormwater, pavement application, road capacity and safety, Mr Cook reaffirmed his satisfaction that the

investigative, design and engineering solutions were sufficiently robust for the proposed road extension link.

7.3.3 The Commissioner accepts his evidence and is further reinforced by the knowledge that the “Spedding Road Stormwater Report” by Cook Costello Consultancy was peer reviewed by Hawthorn Geddes, Engineers and Architects Ltd, who accepted that the mechanism principles indicated for run-off quantity and/or quality control are generally appropriate.

7.4 **Peter Ibbotson** next presented evidence outlining the following:

- The Proposal
- Surrounding Land Use and Existing Ambient Environment
- Criteria relating to four potential noise and vibration issues:
 1. Operational Noise
 2. Construction Noise
 3. Operational Vibration
 4. Construction Vibration
- Noise Assessment and Mitigation for 1, 2, 3 and 4 above
- Proposed roundabout at Denby Crescent and Spedding Road, and traffic noise at the intersection.

7.4.1 He said that all roads have the potential to generate noise and vibration effects. He discussed noise emission from both the existing and proposed extension sections of Spedding Road and specified noise mitigation measures that are required to achieve acceptable noise levels.

7.4.2 Noise Logging was carried out at two locations along the proposed route being at the blind end of existing Spedding Road and at the rear of a dwelling on Williams Jones Drive. The measurements showed that noise levels were similar at both locations and he determined the ambient noise level in the area to be around 50dBLA_{eq} (24 hours).

7.4.3 He discussed methodology for determining an appropriate noise level reasonable for the site which formed the basis of identifying noise mitigation measures to apply for the situation.

7.4.4 He intimated that subsequent to his initial report on the project, a new road traffic noise standard New Zealand Standard NZS6806:2010 “Acoustics – Road Traffic Noise – New and Altered Roads” was released on 30 April 2010. This standard is then applied to follow up assessments in place of the limit previously used. He opined that in practice, the implementation of the new standard on this project would not result in a significant departure from the noise mitigation measures previously proposed for the existing residents. This was because NZS 6806 does not base its noise criteria on existing ambient noise levels. Rather it distinguishes between new and altered roads and applied specific criteria to each. This approach applies three levels of criteria, each of which relates to the best practical option test which he illustrated in Table 1 NZS 6808 in paragraph 4.5 of his evidence. He opined that in the absence of noise standards in the District Plan to apply for local roads, NZS 6806 is appropriate to apply for the NoR project.

7.4.5 In his conclusion he recommended mitigation measures including:

- (1) Provision of a 2m high noise barrier to the south-west of the proposed road extension between Chainage 1140 and 1580.
- (2) Use of asphaltic concrete for road surface seal between Chainage 20-570 and 1140-1580 for lowering noise emissions when compared with standard chip seal.
- (3) Noise from road construction will potentially exceed NZS 6806 standards. To mitigate noise as far as practicable, he recommended that a construction noise and vibration management plan be implemented on site by the contractor for the project.

- (4) He opined that traffic from Spedding Road is not considered to be a significant risk. Construction vibration may be perceptible on occasions inside dwellings, but is unlikely to cause building damage.
- (5) Subject to the above measures, he considered the noise and vibration from Spedding Road will be reasonable.
- 7.4.6 The nub of the above conclusions and recommended measures is that noise and vibration from Spedding Road Extension will be reasonable, and that in respect to items (1) and (2) above, will respectively comply with NZS 6806. His evidence included Appendix A - NZS 6806 Construction Limits Table 2 and Appendix B – Noise Barrier Locations (Aerial Photos).
- 7.4.7 Mr Ibbotson answered questions from the Commissioner on fencing along the front boundaries of the properties on the existing Spedding Road which he had considered but did not recommend. His reason was that the gaps in any fencing for driveway access will break the solid continuity of the fence, thereby negating its efficacy in noise mitigation. He said that road surface sealing treatment was preferred as a practical solution.
- 7.4.8 The Commissioner accepts his evidence, conclusion, and recommendations.
- 7.5 **Ms Phillipa Campbell**, consultant planner for the applicant, presented evidence discussing the following:
- Scope of Evidence
 - Submissions
 - Assessment of Environmental Effects
 - Traffic Volumes
 - Noise and Vibration
 - Geotechnical Issues
 - Stormwater Effects
 - Landscape
 - Ecology
 - Archaeology
 - Parks and Reserves
 - Property Values
 - Conclusion on Environmental Effects
 - Relevant Planning Documents
 - Amenity
 - Open Space
 - Natural Hazards
 - Road Transport
 - Part 2 RMA
 - Alternatives
 - Necessity
 - Outline Plan and Conditions
 - Conclusions
- 7.5.1 The construction of her evidence, particularly the first half, draws on the inputs of consultants on acoustics, engineering, landscape, ecology and archaeology. These topics are evaluated in terms of the requirements of Section 168A, and opinions given based on her assessment. In relation to environmental effects, she concluded that the potential effects of the proposed Spedding Road link will be no more than minor.
- 7.5.2 Turning next to relevant Planning documents, her evidence identified these to be the Whangarei District Plan, Northland Regional Policy Statement and the Regional Water and Soil Plan.
- 7.5.3 Focus was placed on relevant chapters of the District Plan, namely Chapter 5 Amenity, Chapter 15 Open Space, Chapter 18 Natural Hazards and Chapter 22 Road Transport. Each of these were discussed in turn in terms of objectives and policies, and whether the purpose of the proposal is consistent with the objectives and policies.

- 7.5.4 The evidence then turns to examining the proposal in terms of Part 2 of the Act which contains the purpose and principles and which is the over-arching test applicable to an NoR.
- 7.5.5 In rounding her evidence, she discusses Section 168A of the Act requiring consideration of alternative routes. Here she refers to the evidence of Mr Seakins and also the conclusions of Mr McAlley who have both considered alternative routes.
- 7.5.6 The evidence then led on to the question of necessity of the proposal to achieve the objectives of the Requiring Authority as required in Section 168A(3)(c). She expressed agreement with Mr McAlley that the NoR for designation is the appropriate method to be applied to securing the route and is necessary to meet the Requiring Authority's objectives. Ms Campbell also discussed and referred to changes to the recommended conditions.
- 7.5.7 In reply to questions from the Commissioner, Ms Campbell said that she was satisfied that the proposal had been comprehensively investigated, evaluated and conclusions drawn to meet the relevant requirements applicable and also satisfied with appropriate conditions to be imposed on the designation.
- 7.6 Evidence from the submitters included the following:
- 7.7 **Mr Cresswell**, for reasons outlined in Para 2.2(a) of this decision report, gave oral submissions reiterating concerns of noise and vibration from the increase in traffic generated by the extension road link. He said existing Spedding Road was a dead-end street and was quiet because of the low traffic volume. He submitted that Council should consider mitigation measures such as fencing and double-glazing for windows facing the street frontage.

In the circumstances of his being heard, The Commissioner did not question Mr Cresswell further. Furthermore his submission will not be taken into account.
7.8 **Mr Jennings**, a resident/owner of 42 Spedding Road, spoke to his submission. His main concern was that the increase in noise will affect his enjoyment of living in a low noise environment. Using his former work experience as a health officer, he briefly discussed noise level measurements and what constituted noise nuisance. He also had reservations about the efficiency of the proposed road surface sealing to mitigate noise effects from traffic. In essence, he basically wanted Council to take reasonable measures to reduce noise effects. He accepted that property value concerns are not relevant to these proceedings.

He responded to questions from the Commissioner and said that solid fencing and a gate, despite not having been recommended by the acoustic consultant, would be acceptable to him for mitigating noise effects on his property.

- 7.9 **Mr Maclean** was the final submitter to be heard. His evidence discussed the application of standards for noise in the studies by the applicant's consultant, which he considered were flawed. He was not convinced by the acoustic consultant's assessment and recommendations as they did not alleviate his concerns. He said that his experience with noise barriers was that it helped to mitigate noise as he had previously owned a property on Kamo Road before the bypass was constructed. He also said that Council's concern of setting a precedent should private properties be fenced is not his concern and not a factor dealing with environment issues. His second concern was vibration from the additional traffic, including heavy traffic, which would be likely to cause property damage. He also mentioned about stormwater overflow from the existing road onto his property with attendant detrimental effects. He concluded that for the reasons he has given, the road extension does not meet environment requirements in its current form, and that the NoR be denied until remedies are found to meet the needs of all parties.

In response to questions on heavy traffic, he elaborated on the noise emissions from gear changes and engine braking on the roads. He sought more stringent and specific conditions for noise mitigation.

7.10. Council Reporting Officer's Report and Evidence

Mr McAlley's report having been circulated earlier was taken as read.

7.10.1 At the conclusion of evidence presentation by all participants to these proceedings, the Commissioner sought a comment from Mr McAlley subsequent to hearing all the evidence. Mr McAlley, through the Commissioner, raised a question for Mr Seakins on whether engine braking would be prohibited. Mr Seakins' response is covered in Section 7.2.8 of this report. Mr McAlley also referred to the number of potential effects and specific mitigation measures suggested. He considered that there is potential for these effects to be experienced beyond the designation boundary and proposed a further change to the recommended conditions to provide a table detailing specific mitigation requirements more clearly. This would give a greater degree of certainty to the mitigation measures. He commented that the acceptance of new standards relating to noise control fulfills a deficiency in the District Plan. He offered the view that the NoR still satisfied the relevant requirements and tests in the Act. Furthermore he added that the description of the purpose of the designation for inclusion in the Plan should be given attention as to wording specificity.

7.11 Right of Reply

7.11.1 **Mr Seakins** gave a succinct reply covering the following which addressed the NoR and matters of concern raised by submitters:

- Noise
- Decrease in property values
- Necessity of Project
- Indicative Road (ie Spedding Road Extension shown on Map 36)
- Benefits to submitters
- Conditions for the Requirement.

7.11.2 In essence, he reaffirmed that noise matters have been comprehensively dealt with by Mr Ibbotson from Marshall Day Acoustics. The mitigation measures which included road surface sealing in asphaltic concrete over the existing length of Spedding Road and westwards towards Chainage 570 of the road extension achieves a higher level of noise mitigation than was required under NZS 6806:2010. His response to the submitters' proposition that the boundary fencing and building façade treatment, viz double-glazing, was that it was unreasonable because all properties on existing Spedding Road would expect equal treatment. If Council accedes to such a proposition, it would have flow-on or be precedent-setting district-wide.

The Commissioner agrees with Mr Seakins and will therefore not recommend that such a condition be required for the NoR.

7.11.3 The matter of project necessity was given further elaboration and the Commissioner does not need to further comment on it. In relation to the indicative road on Map 36, suffice to say it was an expression of intent in the District Plan of Council's long-term roading network strategy which was also articulated in the LTCCPs. This was fully transparent to the public and submitters had expressed knowledge of this in their evidence.

7.11.4 Mr Seakins also touched on benefits accruing to submitters as improvements will be made to Spedding Road in the form of road widening, kerbing and channelling and asphaltic concrete sealing. Furthermore, the residents, including the submitters, would have enhanced accessibility to SH1 to the northern and southern parts of the district and region, and also generally east/west connection to the road network.

7.11.5 Mr Maclean's concerns of existing overland flow from stormwater onto his property would be stopped by the installation of a stormwater sump as part of the networks.

7.11.6 The decrease in property values as a result of the roading project was mentioned in the reply to a matter raised by Mr Jennings. The Commissioner need comment no further as the

submitter understands that this is not an effect in terms of the provisions of the RMA and therefore not relevant.

7.11.7 The Commissioner was satisfied that the reply addresses those matters relevant to these proceedings and the concerns of submitters.

8.0 TABLED MATERIAL

8.1 For the applicant (designating authority) Ms Campbell tabled the following documents:

- (i) Copy of plan titled "Spedding Road Extension" showing route and CAD illustration of Spedding Road and Kamo Bypass extension.
- (ii) Copy of plan titled "Spedding Road Extension" and CAD illustration of Spedding Road and Denby Crescent intersection.
- (iii) Copy of Statement of Interest in relation to SH1 Whangarei.
- (iv) Copy of Contract Document for "Whangarei District Council Design and Consent Contract (Contract 09065)."

9.0 PRINCIPAL ISSUES IN CONTENTION

9.1 Section 113 of the RMA directs the territorial authority decision maker, in the case of decisions on resource consent applications, to state the principle issues in contention and to state the findings of issues in contention. The Commissioner has adopted the same approach for this decision on the basis that it is appropriate for decisions for consideration of the NoR. Having regard to the application documents, the submissions, the evidence presented at the hearing by the applicant and submitters, and the Council's consultant planner's report, I have identified what I consider to be the principal issues in contention. Accordingly I discuss these issues in the paragraphs that follow.

9.2 Prefacing the discussion of the issues, the Commissioner wishes to make these observations.

- (a) The concept of the proposed Spedding Road Extension is shown on the District Plan Map 36. The route is an indicative expression of Council's long-term intentions for the roading network. By virtue of the notation, it is not an unknown proposal notwithstanding the route not being designated at the time the Plan became operative in 2007.
- (b) The NoR seeks to confirm and formalise the status of the route. Mr Seakins' evidence clearly articulated the chronology of actions and studies undertaken to amply demonstrate that due consideration has been given to alternative routes and that the proposal is reasonably necessary to achieve the objectives of the Council's road transportation network strategy. Furthermore, the advice that the contract for the project has been let and that the projected completion for the project of the road extension is scheduled for March/April 2011 is testimony of Council putting deed into action.
- (c) On observations (a) and (b), the Commissioner is satisfied that matters to do with the proposed route, consideration of alternatives and that the proposal is reasonably necessary are no longer issues requiring consideration to be resolved.

9.3 Issue 1: Noise and Mitigation Measures

9.3.1 Section 7(C) of the Act requires that persons making decisions have particular regard to the maintenance and enhancement of amenity values. The Commissioner is aware that the Plan has a range of provisions (Policy 5.4.1, and relevant rules) to deal with noise matters in zoned environments which are an amenity value. The absence of noise control for road traffic noise in the Plan has been discussed in the hearing evidence and in this report.

There are two aspects of noise emission in relation to potential adverse effects. The first is operational noise and the second is construction noise. These were identified by the applicant's acoustic consultant, Mr Ibbotson, in evidence and concerns of the submitters heard.

In terms of operational noise, Mr Ibbotson intimated that a new road traffic noise standard NZS 6806:2010 "Acoustics – Road Traffic Noise – New and Altered Roads" was released on 30 April 2010. He said that this standard is directly applicable to the Spedding Road Extension project. This standard should now be applied to the proposal and replace the noise limit of 57dBLA_{eq} (24 hours) he had previously used. However, he opined that in practice, the implementation of this standard on the project would not result in a significant departure from the noise mitigation measures he previously proposed for the existing residents. The Commissioner accepts his evidence on this matter and also his follow-up comments relating to NZS 6806, and particularly his observation that the Plan has no noise performance standards relating to the operation of local road. The Plan has noise standards for permitted activities within Living zones and Open Space zones which are not applicable for operational noise on Spedding Road.

- 9.3.2 In relation to mitigation measures, Mr Ibbotson recommended using asphalted concrete for road surface sealing for the existing length of Spedding Road and also between Chainage 1140 and 1580 of the extension, both stretches of which are more susceptible to operational road noise, in order to reduce noise levels at dwellings. He also said that asphaltic concrete treatment for existing Spedding Road would comply with noise levels contained in NZS 6802:2010. Furthermore, based on his noise modelling, he recommended that a noise barrier be erected in the location shown on Appendix B of his evidence to mitigate traffic noise emission effects for dwellings on William Jones Drive backing onto the road extension between chainage 1140 and 1580.
- 9.3.3 The Commissioner had regard to the genuine concerns of the submitters and weighed them against the thorough analysis by Mr Ibbotson on operational noise and proposed mitigation. I accept Mr Ibbotson's evidence on the matter, including his conclusion that any adverse effects from operational noise will be no more than minor. Furthermore the Commissioner notes that Section 326 of the RMA defines excessive noise but does not include any noise emitted by any vehicle being driven on a road (within the meaning of Section 2(1) of the Land Transport Act 1998). Whilst this may be the case, the Commissioner accepts that the requiring authority (the Council) has taken all reasonable and practical measures to mitigate traffic noise emission from the proposed road extension, the subject of this NOR.

9.4 Construction Noise

- 9.4.1 In relation to the second aspect, being construction noise, I have reviewed paragraph 5.7 of Mr Ibbotson's evidence on the subject. The Commissioner is cognisant of the character and durational nature of construction noise. I agree with Mr Ibbotson that mitigation measures could be either permanent noise barriers (eg earth mounds or solid concrete panels) constructed early in the construction schedule or temporary barriers (eg solid plywood hoardings).
- 9.4.2 According to Mr Ibbotson, there is potential exceedance of construction noise limits. Given the discussion in paragraph 9.4.1 above, I agree with Mr Ibbotson's recommendation that a "Construction and Vibration Management Plan" be prepared by the contractor in order that construction noise will be managed to achieve compliance with the construction and vibration limits. Paragraph 5.9 of Mr Ibbotson's evidence, quote "Proactive management of construction noise is recognised as the most effective method to control construction noise by NZTA. Subject to good management and all practicable mitigation measures being implemented, it is likely that NZS 6803 noise limits will be achieved in most locations".

9.5 Issue 2: Vibration and Mitigation Measures

- 9.5.1 The presentation in Section 7(C) of the Act referred to in paragraph 9.3.1 of this decision report equally applies to managing vibration matters which are also deemed to be an amenity value. Two aspects of vibration can give rise to potential adverse effects. The first is

operation vibration and the second is construction vibration, both of which are identified by Mr Ibbotson and were also concerns expressed by submitters heard.

9.5.2 Understandably, vibration sources and attendant effects are very complex matters involving identifying contributory sources and nature of effects. Factors such as geology of ground conditions and proximity of improvements, i.e. dwellings or structures have also to be considered in understanding and assessing impacts from vibration.

9.5.3 The Commissioner notes that Mr Ibbotson has referred to a number of standards, NZ Standards and International Standards, including the following:

- (1) **NZS/ISO 2631-2:1989** Evaluation of Human Exposure to Whole Body Vibration. This standard is referred to in the District Plan under rules for each zoned environmental area. District Plan Policy 5.4.1 is also relevant.
- (2) **ISO 2631** (updated version: Has retracted vibration standards in earlier version).
- (3) **Norwegian Standard NS8176E** "Vibration and Shock – Measurement of Vibration in Buildings from Land Based Transport and Guidance to Evaluation of its Effects on Human Beings".
- (4) **German Standard DIN 4150:** Structural Vibration in Buildings – Effects on Structures".

9.5.4 Mr Ibbotson has analysed these standards using them as a guide to determine the extent and degree of likely impact associated with operational and construction vibration on the most affected residents in the vicinity of the NoR project. The factual statistical analysis is for day-time as well as night-time situations. The assessments he made in his evidence in paragraphs 4.11 to 4.15 inclusive are relevant in relation to vibration effects. These paragraphs are quoted for completeness:

"4.11 Notwithstanding this retraction, the NZS/ISO standard contains curves that relate to acceptable vibration limits at various frequencies. Below 2Hz, vibration acceleration levels should be no more than 7.2mm/s² to 14.4 mm/s² daytime and 5mm/s² night-time to ensure human comfort. Above 8Hz, vibration velocity levels should be no more than 0.2 - 0.4 mm/s daytime and 0.14mm/s night-time.

4.12 The Norwegian Standard suggests an acceleration of 11mm/s² and a velocity of 0.3mm/s *'corresponds to the recommended limit value for vibration in new residential buildings and in connection with the planning and building of new infrastructure*. An acceleration of 21mm/s² and a velocity of 0.6mm/s *'corresponds to vibration conditions that ought to be achieved in existing residential building'*. It is noted that small percentages of people may still be disturbed by these levels of vibration

4.13 In both standards, the velocity levels are generally below the levels that would potentially cause damage to dwellings. Human annoyance will therefore arise at vibration levels that are well below those that will potentially cause damage to dwellings.

4.14 Construction will occur only during the day. Whilst construction can cause levels of vibration that can be perceptible in dwellings, I consider that the appropriate criteria for construction vibration relate to the prevention of building damage rather than human perception and annoyance. The transient nature of construction activities mean that, as with noise, residents will generally be more tolerant of vibration occurring during the construction period.

4.15 The relevant standard for the protection of buildings from vibration damage is the German Standard *DIN 4150: Structural Vibration In Buildings - Effects on Structures*. This standard suggests that provided vibration does not exceed 2.5mm/s at buildings which are already visibly cracked and damaged and 5mm/s at buildings that are structurally sound then there is negligible risk of building damage. Note that these levels of vibration would generally be perceptible to residents."

9.5.5 Finally, in respect of both issues of noise and vibration and related mitigation measures, the Commissioner is of the considered view that in the absence of any expert witness called by any of the submitters, the conclusions by Mr Ibbotson are accepted. In so doing, the Commissioner has given regard to the genuine concerns of noise and vibration held by the submitters heard. Mr Ibbotson's conclusions and recommended measures are practical and enforceable and have been referred to in paragraphs 7.1, 7.2, 7.3, 7.4 and 7.5 of his evidence, and also referred to in this decision report in Section 7.4.5.

10.0 OTHER RELEVANT MATTERS FOR DESIGNATION

10.1 Outline Plan of Works

Under Section 176A of the Act, an Outline Plan of the project to be constructed on designated land must be submitted by the Requiring Authority to the WDC to allow the WDC to request changes before construction commences. The Act provides that an Outline Plan need not be submitted if:

- (a) The proposed project has been otherwise approved under this Act; or
- (b) The details of the proposed project are incorporated into the designation; or
- (c) The WDC waives the requirement of the Outline Plan.

In this case, I do not consider it appropriate that the requirement for an Outline Plan be waived. I consider that the construction management plan and conditions offered by the applicant should be bundled together to form the Outline Plan of Works for the project. The details to be included in the Outline Plan are specified in Condition 5 of Recommendation 1.

10.2 Lapsing of the Designation

Under Section 184A(2) of the Act, a designation of a territorial authority in its own district lapses on the expiry of five (5) years after the date on which it is included in the District Plan unless it is given effect to before the end of that period or the designation specified a different period when incorporated in the Plan. Based on the evidence of Mr Seakins and Ms Campbell, the Commissioner was given to understand that the NoR project contract has been let and has a projected completion date of March/April 2011, and the applicant has not specified a shorter or longer period for the designation. In this circumstance, the above-mentioned section inures.

11.0 STATUTORY AND NON-STATUTORY INSTRUMENTS

Under Section 168A(3)(a) of the Act, the Commissioner must have regard to any relevant provisions of:

- (a) a national policy statement;
- (b) a New Zealand coastal policy statement;
- (c) a regional policy statement or proposed regional policy statement;
- (d) a plan or proposed plan.

11.1 In light of the said section, the Commissioner records that the RMA derived instruments which require consideration are:

- (a) Northland Regional Policy Statement;
- (b) Regional Water and Soil Plan for Northland;
- (c) Whangarei District Plan 2007.

Furthermore, the Commissioner has been appraised of the relevant consents obtained from the Northland Regional Council (Ref: CON 200923701). This consent is in satisfaction of documents items (a) and (b).

11.2 In respect of the Whangarei District Plan 2007, the Commissioner is cognisant that it contains a range of specific objectives and policies and rules pertinent to this NoR project. These are:

- (a) Amenity values;
- (b) Tangata whenua;

- (c) Heritage;
- (d) Landscape;
- (e) Indigenous vegetation and habitat;
- (f) Natural hazards;
- (g) Road transport, and concerns for establishing and maintaining a safe and efficient road transport network.
- (h) Network utility operations.

12.0 OTHER STATUTORY INSTRUMENTS

12.1 Other statutes and instruments relevant to this NoR are:

- (a) Land Transport Management Act 2003;
- (b) Northland Regional Land Transport Strategy 2006-2016 (NRLTS);
- (c) Historic Places Act 1993;
- (d) Reserves Act 1977.

12.2 In relation to the Historic Places Act 1993, the Commissioner noted the recorded existence of an archaeological feature ref Q06/582 is relevant to these proceedings. This was highlighted in the archaeological report by Geometria Ltd that the necessary procedures will be followed to comply with the requirements of this Act.

13.0 RELEVANT NON-STATUTORY PLANNING DOCUMENTS

13.1 Non-statutory planning documents which are relevant, as a guide, to a lesser or greater degree to the NoR are:

- (a) Northland Transport Network Study 2008;
- (b) Whangarei Urban Transportation Strategy 1986;
- (c) Project Feasibility Report (Spedding Road Extension) 1999;
- (d) Draft Whangarei Transportation Network Strategy 2009;
- (e) Whangarei Urban Area Project Feasibility Report 2009;
- (f) Council and NZTA signed Statement of Intent 2006;
- (g) Council Annual Plan 2001/2002 (including successive CAPs);
- (h) Long Term Council Community Plan (LTCCP) 2009/2019;
- (i) NZTA Board Approved Funding December 2009.

14.0 CONCLUSION ON STATUTORY INSTRUMENTS, OTHER PLANNING DOCUMENTS AND NON-STATUTORY PLANNING DOCUMENTS

14.1 The Commissioner has given regard to the RMA derived planning instruments and other relevant statutory and non-statutory planning documents, including hearing evidence presented by participating witnesses, and also the Council consultant planner's contribution. The chronological record of the project from being a concept at inception to this point of the NoR unequivocally demonstrated that it is reasonably necessary to achieve the objectives of Council's Transportation Network Strategy and has NZTA Board funding approval.

In terms of the findings on principal issues, the Commissioner is satisfied with the manner they have been dealt with in order to meet the requirements of Sections 7(C), 16 and Section 17(1) of the RMA 1991. Furthermore, the project will enable the region and the Council to provide for its social, cultural and economic wellbeing through the provision of a sustainable road transportation link to the Kamo Bypass (Stage 2) to enhance road network efficiency in the district and region. Any adverse effects attendant upon the implementation of the Spedding Road Extension link can be avoided, remedied or mitigated to an acceptable level.

15.0 PART 2 OF THE ACT AND OTHER MATTERS

15.1 The Commissioner's decision and recommendation has had regard to Section 168A(3) of the Act. This section requires that particular regard be had to the relevant statutory instruments, alternative routes and methods of undertaking the works, the necessity of the designation and the actual and potential effects on the environment of allowing the requirement to proceed. In

so doing, the Commissioner has given consideration to all those matters in Part 2 of the Act, particularly Section 5 and including such matters as are relevant in Sections 6, 7 and taken into account the requirements of Section 8.

- 15.2 In relation to Section 168A(3)(d) relating to any other matters considered reasonably necessary in order to make a decision on the requirement, the Commissioner has given regard to the relevant ones referred to in paragraphs 12.1, 12.2 and 13.1 of this decision report.

16.0 DECISION OF THE WHANGAREI DISTRICT COUNCIL HEARINGS COMMISSIONER

Acting under delegated authority pursuant to Section 34A of the Resource Management Act 1991 ("the RMA"), the Commissioner makes the following decisions:

Recommendation 1

That pursuant to Section 168A(4) of the Resource Management Act 1991 the application for a Notice of Requirement for the Whangarei District Council to establish a designation for the construction and use of a road between the southern end of the Kamo Bypass (State Highway 1) and the western end of Spedding Road, Tikipunga, commonly referred to as the "Spedding Road Link" over Lots 2, 5 and 9 DP143700, Section 1 SO 354925 and Lot 442 DP 46703 (Recreation Reserve) be **confirmed** and that conditions be imposed on the designation.

Reasons for the Recommendation

1. The designation is not contrary to the relevant provisions of the Whangarei District Plan and other relevant Plan provisions, and is in keeping with the objectives and policies of the District Plan. The designation follows the route of an indicative road that has been contained in the Proposed District Plan and the now Operative District Plan for over 10 years.
2. The proposal is assessed to satisfy the relevant matters contained in Part 2 of the RMA.
3. Adequate consideration has been given to alternatives.
4. The designation is reasonably necessary as it enables the construction of a road link assessed as being necessary to assist in the better management of traffic and the relief of congestion within the Whangarei urban area and the notice of requirement/designation is considered to be the appropriate planning tool to be exercised to achieve the objective .
5. The adverse effects of the proposal on the environment, particularly traffic volumes, noise and vibration associated with the construction and operation of the road are able to be appropriately avoided, remedied or mitigated subject to the implementation of the measures outlined in the Notice of Requirement and conditions attached to the designation.
6. The Notice of Requirement for Spedding Road Extension will improve connectivity between the local road network and SH1 by connecting the Tikipunga end of the existing Spedding Road with the new Kamo Bypass Stage 2 Extension. It will also provide an alternative north/south connection for Tikipunga and Glenbervie suburbs and divert traffic from the Mill/Nixon/Hatea route.
7. The applicant has provided sufficient information and plans relating to the Notice of Requirement to enable the Council to properly assess and determine the application in accordance with and to satisfy the requirements of Section 168A(3) of the Act.

The designation shall be subject to the following conditions:

Lapsing of Designation

1. Pursuant to Section 184A(2), this designation shall lapse five (5) years after the date of approval of the Notice of Requirement.

Extent of Designation

2. The area identified on the Cook Costello plan title "Whangarei District Council Spedding Road, Tikipunga Designation Plan (reference 11180, sheet 1, dated 1 July 2010)".

General Conditions

3. The scope and extent of works associated with the designation shall proceed in general accord with the detail outlined in the documents provided by:
 - (a) Phillipa Campbell Environment Planning Limited on behalf of the Whangarei District Council dated August 2009.
 - (b) Spedding Road Extension Site Suitability and Geotechnical Report - Cook Costello, 16 September 2009
 - (c) Spedding Road Extension Stormwater Report - Cook Costello, 2 November 2009
 - (d) Spedding Road Extension Assessment of Noise Effects - Marshall Day, 16 October 2009
 - (e) Spedding Road Extension Assessment of Noise Effects - Marshall Day, 25 March 2010
 - (f) Spedding Road Potential Changes Due to NZS6806:2010 - Marshall Day, 23 June 2010
 - (g) Archaeological Report, Spedding Road Extension - Geometria, May 2010
4. That the Whangarei District Council shall be responsible for all necessary land purchases, compensation costs, legalisation, construction and reinstatement works and similar, for completion of the project unless otherwise agreed with the affected parties.

Outline Plan

5. No earthworks are to commence on the site prior to an Outline Plan application being approved by the Council in accordance with Section 176A of the RMA. In particular the Outline Plan application is to include:
 - (a) A Construction Management Plan that shall include details of mitigation measures to be applied to manage noise and vibration effects related to construction, the management of traffic and construction traffic and the management of earthworks, stormwater and dust. The Construction Management Plan is to detail that prior to any earthworks commencing on Section 1 SO 354925 an 'authority to modify, damage or destroy archaeology' must be obtained from the New Zealand Historic Places Trust.
 - (b) Details of mitigation measures that shall be applied to manage noise and vibration effects with regard to neighbouring properties, related to the operation of the completed road, including the existing portion of Spedding Road, in particular:
 - (i) A noise barrier/fence shall be constructed to a height of 2m from chainage 1140 to 1580 with a density of 13.5kg/m².
 - (ii) A golf fence shall be constructed to a height of 8m from chainage 910 to 1580
 - (iii) Asphaltic concrete shall be used for the road surfacing from chainages 20 to 570 and 1140 to 1580.
 - (c) Details of amenity landscaping shall be undertaken within the new road corridor.

- (d) A minimum 5m setback between the designation boundary and the existing Otangarei sports fields on Lot 442 DP 46703 shall be provided, along with adequate management of stormwater to the satisfaction of the Parks and Recreation Manager.

District Plan

The District Plan shall contain the following details with regard to the designation:

6. The designation shall be shown as being for Roading Purposes : Spedding Road Extension. To Link With Kamo Bypass (Stage 2)
7. The designation shall be shown to be subject to the conditions of RQ 0900002 and the relevant Outline Plan approved by Council.
8. The road shall be classified as an Arterial Road

Advice Notes

1. Section 174 of the Resource Management Act 1991 provides a right of appeal to this decision. Appeals must be in writing, setting out the reasons for the appeal, and lodged with the Environment Court within 15 working days after the decision has been notified to you. Appellants are also required to ensure that a copy of the notice of appeal is served on all other relevant parties.
2. The consent holder/applicant shall pay all charges set by the Council under section 36 of the Resource Management Act 1991. The applicant will be advised of the charges as they fall.
3. Compliance with Council's specific practices is to be obtained prior to the commencement of any work to Council's roads and/or infra-structure.
4. The New Zealand Historic Places Act 1993 shall be complied with in the event that any archaeological or historical remains are uncovered during construction. If any artefact, including human remains, is exposed during any site works the following procedures shall apply:
 - (a) Immediately when an artefact has been exposed, all site works shall cease; and
 - (b) The site supervisor shall immediately secure the area in a way that ensures that any artefact or remains are untouched; and
 - (c) The site supervisor shall notify tangata whenua and the New Zealand Historic Places Trust so that the appropriate action can be taken.

Recommendation 2

Note: This recommendation is consequential to Recommendation 1 and is to ensure prompt action to update the Planning Map 36 and Chapter 85 Designations: Section 85.2.17 Whangarei District Council.

That pursuant to Section 175 of the Act, and subject to Section 174 of the Act, the Council shall, within three months of confirmation of the requirement, carry out amendments to Planning Map 36 and Chapter 85 Designations, Section 85.2.17 to register the requirement. Particular attention shall be given to the wording of Designation Purpose to describe the essence of the requirement.

Reasons for the Recommendation

The amendment and update of the said map and section is to ensure that the public is fully aware of the details of the designation and to ensure that this action precedes the completion of the project scheduled for March/April 2011.

Issued this 15th day of July 2010

A handwritten signature in black ink that reads "Robert Chan". The signature is written in a cursive style with a horizontal line underneath the name.

Robert Chan
Hearings Commissioner