

# Hearings Commissioner

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## **Notice of Meeting**

A meeting of the Hearings Commissioner will be held in the Council Chamber, Forum North, Whangarei on:

**Thursday  
25 November 2010  
9.00 am**

**Application by  
New Zealand Transport Agency**

**Commissioner  
Les Simmons**

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# Report to the Hearings Commissioner on a Notice of Requirement by New Zealand Transport Agency:

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An application for a Notice of Requirement under s181 of the RMA has been received by the Whangarei District Council ("WDC") to alter an existing designation (DTNZ1) for the purposes of widening State Highway 1 for the use as a road from 140m north of Selwyn Ave to 20 metres south of Wilson Ave, Whangarei.

This proposed alteration to the designation will have a total length of 670 metres. The legal description and property addresses which are subject to the alteration are set out in Appendix A of the Application Report prepared by AECOM. A copy of the Application Report is appended as Appendix 1 to this report.

The applicant has also sought as part of the application to include an Outline Plan of Works under S176A of the RMA.

This Notice of Requirement was lodged by AECOM on behalf of the New Zealand Transport Agency ("NZTA") and was reported on by Council's Consultant Planner, Dylan Pope.

This hearing report was written and peer-reviewed by the following signatories:

Consultant  
Environmental Planner  
(Consents):

Date: 16 November  
2010

\_\_\_\_\_

Dylan Pope

Consents Manager:

Date: \_\_\_\_\_

\_\_\_\_\_

Alister Hartstone

# Resource Management Act 1991

Hearing By: Hearings Commissioner for the Whangarei District Council of a Notice of Requirement application by NZTA to alter an existing designation for the widening, construction and use of State Highway 1 in the area described as 140m north of Selwyn Ave to 20 metres south of Wilson Ave, Whangarei. As noted above the application also includes an Outline Plan.

File Ref: RQ1000002

Dated: 16 November 2010

## 1. Introduction

- 1.1 A requiring authority may at any time give notice to a territorial authority of its requirement to alter a designation for a project or work. Subject to section 181 of the Resource Management Act (“the Act”) the NZTA has given notice to Whangarei District Council (“WDC”), as the relevant territorial authority, of its requirement for an alteration to an existing designation (DTNZ1), known as State Highway 1 (“SH1”).
- 1.2 The existing Designation (DTNZ1) in the WDC District Plan states:

ID	Name and location of Site	Designation Purpose	Legal Description/ Area (ha)	Underlying Environment	Map
DTNZ 1	State Highway 1N Whangarei District Kaipara District Boundary at the Brynderwyns to Whangarei District Far North Boundary at Hukerenui deleting Kamo Road from DTNZ 3 up to Spring Flats.	State Highway 1N	Various	Various	Various

- 1.3 There are no operational conditions relating to DTNZ1 in the District Plan.
- 1.4 The purpose of the alteration to the existing designation is to widen the existing road, being State Highway 1 (also known as Western Hills Drive) to provide 2 traffic lanes in each direction in the area described as 140m north of Selwyn Ave to 20 metres south of Wilson Ave. For the purposes of this report this is referred to as SH1 or “the highway”.

However where this hearing report refers to a property address then Western Hills Drive is referred to as this is the address reference used for properties gaining access from this road.

- 1.5 Under Section 176A(a)(b) of the RMA the applicant has also sought to include an Outline Plan. This is discussed in sections 2 and 14 below.
- 1.6 The Notice of Requirement ("NOR") application was received by WDC on 16 April 2010 and publicly notified on 12 August 2010, with submissions closing on 10 September. A total of 8 submissions were received.
- 1.7 The new area to be included in the designation is 8,665m<sup>2</sup>. The existing SH1 designation area within the extent of works is 13,131m<sup>2</sup>. It is noted that this also includes parts of the "tie-in" works along Selwyn Ave and Central Ave.
- 1.6 The applicant has obtained a number of related Regional Consents from Northland Regional Council relating to the proposed works. These include consents for earthworks, stormwater and temporary dam works. A copy of these consents are included at **Appendix 5** to this report. A summary of these consents are set out in section 2.7 below.

## 2. The Proposal

- 2.1 The application forms part of a wider programme of road widening and improvement works along the SH1 corridor through Whangarei. These include the Kamo Bypass - Kamo Road to Kensington Ave which has been completed, with Kamo Bypass Stage 2 approved and with work now underway. The SH1 / SH14 Intersection Improvements south of the subject designation are currently proceeding through an alteration to designation process, and a hearing is scheduled before Christmas.
- 2.2 The proposed alteration to the designation will provide a four lane road with separate walking and cycling facilities. It is estimated that the total land area required for the altered designation is 21,796m<sup>2</sup>.
- 2.3 The proposed alteration to the designation will affect 56 separate titles of land A list of the titles affected are included in Appendix A of the Application Report. In summary the application will include the following works:
  - Widening SH1 to four lanes (two in each direction),
  - Providing footpaths,
  - Re-establishment of private property access including the provision of new alternative access arrangements for some properties where required.
  - Establishing right turn bays and left turn slip lanes.
  - The provision of new road pavement with an additional impervious area of 3000m<sup>2</sup>.
  - Replacement of existing chip seal with an asphaltic concrete surface.
  - Establishing a central painted flush median.
  - Enhanced cyclist provisions by widening shoulders up to 1.5m.

- Provision of footpaths and upgraded crossings at intersections. This includes a new footpath along the Mander Park frontage of highway. Pedestrian facilities will cater for the accessibility needs of people with disabilities.
- Earthworks over an area of approximately 6000m<sup>2</sup> with a volume of 2000m<sup>3</sup> consisting of 500m<sup>3</sup> cut to fill and 1500m<sup>3</sup> cut to waste.
- New kerb and channel stormwater drainage, catchpits and stormwater pipes. This section of SH1 discharges into 6 existing piped and open channel stormwater catchments, with the majority discharging into the Waiaohia Stream via 3 existing stormwater catchments.
- New headwalls to accommodate the widening on both sides of the unnamed tributary of Waiarohia Stream at the northern end of the works and the Wharowharo Stream located at the southern extent of the works.
- Removal of 11 mature trees within Mander Park and works within the drip line of 1 other tree within Mander Park. New mitigation planting within Mander Park.
- New landscaping and planting within the designation on land purchased by NZTA.
- Removal of fencing and vegetation within private land to be incorporated in the designation and the reinstatement of driveways, fencing and new planting on private properties.
- Service relocation including undergrounding of power lines.
- Upgrading traffic signals.
- 240m of retaining walls ranging in height from 0.2m – 0.7m along property frontages.
- Site offices for onsite contract administration facilities on Lot 12 DP 27129 (8 Selwyn Ave), which has been purchased by NZTA. The site offices will consist of two porta-cabins (each 6m x 3m) and two car parking spaces.

2.4 The applicant has sought a consent lapse period of 10 years under section 184(1)(c). The primary reason for this is to ensure there is sufficient time available to allow for potential delays in the funding programme which could delay the construction start time.

2.5 With regards to the construction programme, the applicant has anticipated that it will take approximately 7 months to complete the works. The applicant has indicated that the majority of works will be undertaken during the day and throughout the working week. However some works will require night and weekend timing, namely due to activities requiring lane closures that cannot be undertaken during the day. Works required over a 24 hour period would relate to the stabilisation and paving of the SH1 southbound left turn slip lanes at Selwyn Ave and Central Ave.

- 2.6 A copy of the application for a notice of requirement (hereafter referred to as 'the application' or 'NOR') is included as **Appendix 1**.

### **Other Consents**

- 2.7 It is noted that the applicant has obtained a number of consents from the Northland Regional Council. These are for:
- (1) **'Land Use Consent** – *To extend two culverts located within the Wharowhoro Stream and an unnamed tributary of the Waiarohia Stream,*
  - (2) **Land Use Consent** – *To undertake earthworks within a Riparian Management Zone associated with culvert extension works*
  - (3) **Discharge Permit** – *To discharge stormwater to water from land disturbance activities*
  - (4) **Water Permit** – *To divert stormwater associated with land disturbance activities*
  - (5) **Water Permit** – *To temporarily dam the Wharowhoro Stream and an unnamed tributary of the Waiarohia Stream to enable placement of temporary dams within the streambeds during the period of culvert construction.*
  - (6) **Land Use Consent** – *To place and use temporary coffer dams in the bed of Wharowhoro Stream and an unnamed tributary of the Waiarohia Stream for the purposes of constructing two culvert extensions.'*

## **3. The Site and the Surroundings**

- 3.1 The legal descriptions and approximate areas subject to the proposed alteration to the designation are detailed in Appendices A and B of the Application Report.
- 3.2 The location of the site to which the application relates, is a 670m length of road, commencing 140m north of the Selwyn Ave intersection with SH1 to 20m south of the intersection with Wilson Ave. This section of SH1 runs in a generally north-south direction. The works extend east down Selwyn Ave for approximately 60 metres and west of SH1 for 40m. At Central Ave the works area extends to the east of SH1 for approximately 60m and 60m to the west. The works also extend 10m westward along Wilson Ave.
- 3.3 Part of the NOR works extend beyond the existing designation boundaries and therefore the boundaries of the designation will need to be altered to incorporate those properties required for the extent of the road widening associated with the works.
- 3.4 10 whole properties have been purchased by the applicant, as there are dwellings within these properties that sit within the extent of the proposed works. These properties are 295 Western Hills Drive, 297 Western Hills Drive, 299 Western Hills Drive, 300 Western Hills Drive, 8 Selwyn Ave (301 Western Hills Drive), 302 Western Hills Drive, 308 Western Hills Drive, 32 Central Ave, 33 Central Ave and 338 Western Hills Drive. Dwellings on 295, 297 and 299 Western Hills Drive are all proposed to be relocated within each site. The existing dwelling within 8 Selwyn Ave is proposed to be removed. Following the removal of the existing dwelling on 8 Selwyn Ave this would contain the proposed site offices for the duration of the works.

- 3.5 As part of the works a number of existing vehicle accesses to individual sites will be closed, specifically at 293, 295, 297, 298 299, 300, 302, 304, 306, 308, 331 and 335A/B Western Hills Drive. With the exception of 331 Western Hills Drive these properties will be provided with an alternate means of access.
- 3.6 Additionally at the time of application, portions of land required from the frontage of 12 sites have been purchased by NZTA. These are 288, 291, 292A/292B, 313, 316, 318, 320, 323, 328A/328B, 329, 330, 334 Western Hills Drive.
- 3.7 Appendix V of the Application Report provides details of the sites and portions of land purchased, and to be purchased, houses to be removed and relocated, as well as changes to the vehicle access.
- 3.8 SH1, also known as Western Hills Drive runs through a residential area of Whangarei. SH1 forms the only interregional route connecting Whangarei to the Far North and Auckland. SH1 also provides a key connection between residential areas of Whangarei and the central business area.
- 3.9 This part of the SH1 designation traverses through three intersections, being Selwyn Ave, Central Ave and Wilson Ave. The intersection with Selwyn Ave provides traffic lights and includes a median barrier immediately to the north and south of the Selwyn Ave intersection. The intersection with Central Ave also provides traffic lights. This also includes a left turn slip lane for southbound vehicles turning left (east) with a small traffic island between the highway and the slip lane. The intersection with Wilson Ave, which extends in a westward direction only, has no traffic lights.
- 3.10 Selwyn Ave and Central Ave both provide road connections from the Whangarei central business area to the east to SH1 and residential areas to the west. In the case of Central Ave this is identified in the Operative District Plan as a Collector Road. Selwyn Ave is a Local Road. Wilson Ave is a Local Road, however only the western side forms an intersection with the highway. The eastern side of Wilson Ave which runs along the southern boundary of Mander Park connects with Third Ave.
- 3.11 At the northern extent of the works is an unnamed tributary of the Waiarohia Stream which runs via a culvert under the highway. At the southern extent of the works is the Wharowharo Stream that also runs via a culvert under the highway.
- 3.12 The topography of this section of the highway is predominately flat. There is a slight dip immediately to the north of the Central Ave intersection. Generally properties along the western side of the highway are slightly elevated above the highway with properties along the eastern side at grade level.
- 3.13 The front boundaries of sites adjacent to the highway corridor are typically defined by a combination of close-boarded wooden fences between 1.5-1.8m in height and low concrete fences less than 0.5m in height. Some sites have no front fence to demarcate the property / road boundary. Within the front yards of the affected sites there are some garden shrubbery and small-medium size trees.
- 3.14 This section of the highway provides pedestrian footpaths on both sides of the road with the exception of the eastern (road) side of Mander Park. There is currently no designated cycle lane or space provided for cyclists on the highway.

3.15 This section of the highway provides a combination of 1 and 2 traffic lanes in each direction and in some cases, such as at the intersection of Selwyn Ave a third lane for right hand turning. After both the Central Ave and Selwyn Ave intersections with SH1 the 2 traffic lanes merge into a single lane.

3.16 As stated above, the land adjacent to the application site is predominately residential, with residential dwellings that are interspersed with medical uses and some motels (Bella Vista Motel – 322 Western Hills Drive).

On the south-eastern side of the intersection of SH1 and Selwyn Ave there is a business area containing a petrol station (Caltex) and fast-food restaurant (Burger King). Both business's have direct vehicle access onto the highway.

3.17 On the eastern side of SH1 between Wilson Ave and Central Ave is a Council owned park known as Mander Park. While Mander Park is noted in the District Plan being within an Open Space zone, the area has never been Classified as a Reserve under the Reserves Act 1977 or previous legislation. Mander Park is defined as a 'Park' as described by the provisions of the s138 Local Government Act 2002. This contains a number of mature trees along the highway and Central Ave road frontages.

### **Zoning**

3.18 An aerial photo and map showing the locality of the site is included at **Appendix 2**; District Plan maps showing zoning and other resource area notations of properties in the area are provided at **Appendix 3**; and a map showing the proposed alignment is included at **Appendix 4**.

3.19 Those sites along both sides of SH1 from the northern extent of the designation (140m north of Selwyn Ave) to the intersection with Selwyn Ave are zoned Living 2, with the exception of Lot 18 DP 35735 which is zoned Living 1.

3.20 Sites on the western side of SH1 between Selwyn Ave and Central Ave are zoned Living 2.

3.21 Lot 2 DP 18602 and Lot 1 DP 18602 on the south-eastern corner of SH1 and Selwyn Ave are zoned Business 2. Other sites between Selwyn Ave and Central Ave are zoned Living 2.

3.22 Mander Park is zoned Open Space.

3.23 Sites on the western side of SH1 between Central Ave and Wilson Ave are zoned Living 1.

3.24 Part of Lot 1 DP 45522 and Lot 2 DP 45522 (334A/B Western Hills Drive), and a small area of the north-western corner of Mander Park are identified as a Flood Susceptible Resource Area.

## **4. Statutory Matters**

4.1 The NZTA is a requiring authority in terms of section 167 of the Resource Management Act (RMA).

4.2 In terms of section 181 of the RMA a requiring authority (in this instance the NZTA) may give notice to a territorial authority of its requirement to alter a designation. Section 181 is set out below:

### *S181 Alteration of Designation*

- (1) *A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*
- (2) *Subject to subsection (3), sections 168 to 179 shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*
- 4.3 Subsection 3 of Section 181 does not apply because the written notice of the proposed designation has not been given by every owner or occupier of the land directly affected; and it involves a more than minor change to the boundaries of the designation.
- 4.4 Accordingly, the application is required to be assessed under S181(2) of the RMA, and sections 168-179 shall apply.
- 4.5 Section 171 of the RMA (Recommendation by a territorial authority) specifically details matters to be taken into account where the NOR is being made by a requiring authority (in this instance the NZTA). Section 171 states:
- (1A) *when considering a requirement and any submission received, a territorial authority must not have regard to trade competition or the effects of trade competition.*
- (1) *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:*
- (a) *Any relevant provisions of*
    - (i) *A national policy statement;*
    - (ii) *A New Zealand coastal policy statement;*
    - (iii) *Regional policy statement or proposed regional policy statement;*
    - (iv) *A plan or proposed plan; and*
  - (b) *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; and*
  - (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
  - (d) *any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement.*
- (2) *The territorial authority may decide to—*
- (a) *confirm the requirement:*
  - (b) *modify the requirement:*

- (c) *impose conditions:*
- (d) *withdraw the requirement*

(3) *The territorial authority must give reasons for its recommendation under subsection (2).*

4.6 In addition, the applicant has sought to include an Outline Plan of Works and that it is their intention not to submit an Outline Plan of Works prior to the construction of the proposed works. Therefore the application is required to be assessed in accordance with Section 176A (3) of the RMA. Section 176A(2)(b) states:

*An outline plan need not be submitted to the territorial authority if –*

*(b) the details of the propose public work, project, or work, as referred to in subsection (3), are incorporated into the designation;*

Section 176A(3) states:

*An outline plan must show –*

- (a) The height, shape, and bulk of the public work, project or work; and*
- (b) The location of the site of the public work, project or work; and*
- (c) The likely finished contour of the site; and*
- (d) The vehicular access, circulation, and the provision for parking; and*
- (e) The landscaping proposed; and*
- (f) Any other matters to avoid, remedy, or mitigate any adverse effects on the environment.*

4.7 Section 171(1) requires the NZTA to establish that the work meets the purpose of the Act under Part 2, particularly in terms of section 5 that outlines the purpose of the Act as to “*promote the sustainable management of natural and physical resources*”. 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 wellbeing and for their health and safety while avoiding, remedying, or mitigating any adverse effects of activities on the environment*”.

4.8 Sections 172 and 173 of the Act specify the processes that apply following NZTA's receipt of the Council's recommendation. NZTA has 30 working days to advise the Council whether it accepts or rejects the recommendation in whole or in part, and give reasons for its decision if it rejects the recommendation in whole or in part. The Council is then required to serve on all submitters a copy of the decision and publicly notify it within 15 working days. The NZTA decision is then open to appeal under section 174 of the Act from the Council and all submitters.

4.9 A designation (including an alteration to) lapses on the expiry of five years after the date on which it is included in the district plan unless the designation is given effect to before the end of the period, the Council fixes a longer period in accordance with section 184(1)(b) of the Act, or the designation specified a different period when incorporated within the plan. The applicant has requested a 10 year lapse period in this instance.

- 4.10 In terms of Section 176(1) (Effect of designation) of the Act, a designation has three main purposes, as summarised in *Quay Property Management Ltd v Transit NZ W28/2000*:
1. *It removes any requirement to obtain resource consents under the district plan;*
  2. *It gives the requiring authority consent to do anything in accordance with the designation;*
  3. *It prevents any use of the land subject to the designation that would prevent or hinder the work without written permission of the requiring authority. (Quay Property Management Ltd v Transit NZ W28/2000.)*
- 4.11 The requiring authority is therefore able to undertake activities on land it has designated, giving primacy to the designation over the district plan and not requiring it to obtain resource consents for works within the scope of a designation. In addition, 'protection' is given to the designated land, in favour of the requiring authority, with any person wishing to do anything on designated land that might prevent or hinder the work needing to first obtain written consent from the requiring authority.
- 4.12 Section 176(2) states: *'The provisions of a [district] plan [or proposed district plan] shall apply in relation to any land that is subject to a designation only to the extent that the land is used for a purpose other than the designated purpose'.*

## **5. Consultation, Public Notification and Submissions**

- 5.1 The application was lodged with the Council on 14 April 2010.
- 5.2 The application was publicly notified in the 'Northern Advocate' on 14 August 2010, with the period for receiving submissions closing on 10 September 2010. Approximately 307 persons or bodies were individually notified, including owners/occupiers of properties bordering the route / highway corridor.
- 5.3 A total of 8 submissions were received, 5 of which were within the statutory timeframe. The remaining 3 submissions were late submissions which NZTA has accepted. Copies of the submissions are included at **Appendix 5**.
- 5.4 A summary of the submissions are as follows:
- i. **Mira Norris – Oppose – Does not state in submission whether she wishes to be heard.**
    - Concerns raised in regard to:
      - The applicant did not consult with Iwi.
      - Vibration and safety of residents when reversing, and accessing their properties from increased traffic use.
      - Pedestrian safety and how this would be managed after additional traffic lanes are constructed.
      - Loss of car parking spaces.
    - Raised questions about how waterways, air pollution and land will be protected.

- Raised question about the long-term plans of NZTA and WDC for redeveloping another highway for the larger vehicles.
- Raised an issue that no report was submitted with the application relating to the history of Mander Park and: “ *No study has been prepared to study an assessment of effects and risk on Tangata Whenua’s values in particular; Cultural effects. Any physical effects on the locality, including landscape and visual effects. Any effects on ecosystems, including effects on plants, animals and any physical disturbance of habitat in the vicinity. Any effects on natural and physical resources having a spiritual or cultural or other special value for past, present and future generations.*”
- Has requested further consultation with Tangata Whenua and that NZTA inform Iwi of the road changes for this and other stages of planned works.
- Had requested a history of Mander Park and a Management Plan be prepared with Tangata Whenua input.
- Has recommended sites of significance to Maori are identified on the entire roading network.

**ii. Melva and Allan Forest (Avenue Heights Motel) – Neutral – Would consider presenting a joint case at the hearing**

- Concerned about:
  - the removal of trees on Mander Park, a cycle lane on SH1, dust and noise.
  - Potential detours of traffic resulting in a disruption to their business.
  - Construction work in the evening (8pm-7am).
  - The requirement for access to their motel at all times.
- Sought the following recommendations:
  - Retain trees on Mander Park.
  - Do not locate cycle ways on the highway.
  - Have traffic flow in both directions at all times.
  - Ensure works are carried out between 7am-8pm only.

**iii. David and Heather Cox (Lodge Bordeaux, 361 Western Hills Drive) – Neutral – Would consider presenting a joint case at the hearing**

- Concerned about:
  - Dust and dirt, noise – particularly at night, removal of trees in Mander Park and impact of traffic diversions and roadworks.
  - Noise and dirt would impact their guests.
- Removal of trees is unjustified and unnecessary.

- Traffic holdups caused by machinery may cause disruptions.
- Sought the following recommendations:
  - Require contractors to refrain from using beepers on machinery.
  - Contractors to carry out work in a timely fashion to minimise disturbance.
  - Working should be carried out until midnight only and not before 6am.

**iv. Aaron Edwards (21 Paratai Drive) – Oppose – Wishes to be heard**

- Opposes the removal of 11 trees within Mander Park and the reduction in the size of Mander Park.
- Considers the project will be costly and will have adverse effects on residents.
- Considers that the proposed capacity increase is based on incorrect traffic growth projections.

**v. New Zealand Historic Places Trust (NZHPT) – Neutral**

- NZHPT do not consider that historic heritage is at significant risk from the project.
- NZHPT has recommended that all earthworks proceed under an accident discovery protocol.

**vi. BKs Pohutukawa Lodge (362 Western Hills Drive) – Support –wishes to be heard**

- Concerns about hours of construction, loss of business and being without power and water.
- Consider business will be affected by the construction of the road, access and utilities during construction.
- Sought the following recommendations / additional clarification:
  - Gradient of drive at construction
  - Finished height of road
  - Layout of road
  - How much land is required?
  - Signage.

**vii. Vincent PD Cocurullo(40 Otaika Road) – Oppose – Wishes to be heard and would consider Presenting a Joint case at the hearing**

- Mander Park was gifted to Whangarei City for recreation land and should not be used for traffic and should be protected.
- Sought that the highway be moved / realigned so the Mander Park and trees within the park are retained.

- 5.5 A submission was also received from Vector Energy. This submission was withdrawn following further consultation by the applicant with the submitter.
- 5.6 The matters raised in submissions are discussed in the Assessment of Effects section of this report.
- 5.7 With regard to consultation the Act does not require the requiring authority to undertake consultation prior to lodging a notice of requirement, nor does it impose any process or thresholds for the type and amount of consultation. However undertaking consultation is recognised as best practise for identifying issues. In Part 12 of the Application Report the applicant has detailed the consultation undertaken to date. This includes on-going discussions with the Council.

## **6. Assessment of Proposed Designation**

- 6.1 The following sections address the effects on the environment and potential mitigation measures. These matters are based in part on matters requiring assessment by Council of the proposed alteration to a designation in terms of section 171(1) of the Act. In general these relate to consideration (subject to Part 2) of effects on the environment of allowing the requirement, with particular regard to:
- Consideration of relevant policy statements and plan provisions (including Regional policy statements and District Plans);
  - Consideration given to alternative sites, routes or methods of undertaking the work;
  - Whether the work is reasonably necessary for achieving NZTA's objectives;
  - Any other matters considered reasonably necessary by the territorial authority to make a recommendation.

## **7. Assessment of Effects**

### **Section 171 - Consideration of Effects on the environment of allowing the requirement.**

- 7.1 Section 171(1) requires consideration of the effects on the environment of allowing the requirement. In considering likely effects on the environment, sufficient detail should be provided in the NOR application to identify the type, intensity, scale, nature and duration of effects.
- 7.2 Section 3 of the RMA defines the term 'effect' as including –
- a) *“Any positive or adverse effect; and*
  - b) *Any temporary or permanent effect: and*
  - c) *Any past, present or future effect: and*
  - d) *Any cumulative effect which arises over time or in conjunction with other effects – regardless of scale, intensity, duration or frequency of the effect, and also includes –*
  - e) *Any potential effect of high probability; and*
  - f) *Any potential effect of low probability which has a high potential impact.”*

7.3 The effects of this proposal are assessed in relation to the following:

- Traffic Effects;
  - Traffic growth/volume
  - Pedestrians and cyclists
  - Private property - access and visibility
  - Construction (traffic)
- Operational Noise and Vibration;
- Construction Noise and Vibration;
- Residential Amenity and Property Effects;
- Visual Impact, Landscape Effects (including visibility) and Urban Design;
- Stormwater Effects;
- Earthworks and Geotechnical Matters;
- Archaeological effects

7.4 Where appropriate the relevant rules of the District Plan have been included in the assessment below to provide a reference as what is provided for under the District Plan. The actual and potential environmental effects of the NoR and any associated mitigation measures are considered in more detail below.

## 8.1 Traffic

New roads in any environment are controlled by the same rule, being Rule 47.2.10 - Road formation:

*Laying out or forming 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 storm water;*
- vii. Location of road;*
- viii. Expected usage;*

*ix. The additional matters listed in Chapter 2.3.3.*

The traffic effects can be split into the following categories:

- Traffic growth/volume
- Pedestrians and cyclists
- Private property Access
- Construction (traffic)

These are addressed in turn below:

#### 8.1.1 Traffic Growth and Volumes

8.1.2 The Scheme Assessment Report (SAR) submitted with the application has stated that this section of SH1 (Western Hills Drive) currently carries approximately 22,000 -26,000 vehicles per day with a projected growth rate of 2-3% annually.

8.1.3 SH1 through Whangarei currently provides 4 lanes (2 vehicle lanes in each direction) in some parts, however along the section of SH1 subject to this application this provides 2 vehicle lanes in each direction at intersections, with these then merging into a single vehicle lane. Wes Edwards Traffic Consultants has advised in his independent Traffic assessment undertaken on behalf of WDC that a traffic volume of 20,000 vehicles per day is a common threshold for the provision of 4 lanes on urban arterial routes such as this section of SH1. Wes Edwards Assessment is included at **Appendix 9**.

8.1.4 The SAR has identified within the existing designation that the current intersection capacity constraints cause congestion and delays at peak periods at the intersections of both SH1/Central Ave and SH1/Selwyn Ave. The SAR has also identified a number of safety issues along the SH1 route and intersections. The SAR has highlighted the following benefits of an alteration to the existing designation in comparison with retaining the existing situation.

- Reduction in queue lengths along SH1 at the intersections with Selwyn Ave and Central Ave.
- Improved travel speeds along SH1 particularly at the intersections with Selwyn Ave and Central Ave.
- Reduction in fuel consumption for vehicles travelling along SH1, which in turn results in reduced operating costs for the public.

8.1.5 The subject alteration to an existing designation forms part of a wider programme of improvement works by NZTA along the SH1 corridor and road connections within Whangarei. These are:

- Kamo Bypass Stage 2 (Planned start 2010);
- Kamo Road to Kensington Ave (Completed);
- SH1/SH14 intersection improvements (Planned Start 2011); and
- Tawera Road / SH1 improvements (Planned Start 2011).

- 8.1.6 Wes Edwards has confirmed in his Traffic Assessment that the proposed widening and alterations to the intersections along this section of SH1 will have a beneficial effects for traffic travelling along SH1 as well as for traffic travelling through the intersections of Selwyn Ave and Central Ave. He has stated that:
- 'The forming of four lanes with a flush median, will improve the free flow of through traffic along this section of road, removing impediment of vehicles turning right into driveways, and avoiding the need to merge into one lane downstream of the signalled intersections.'*
- 8.1.7 The road widening and alterations to the intersection layouts together with the signal phasing will improve the capacity of the intersections (Selwyn Ave/SH1 and Central Ave / SH1) which will result in a reduction in congestion for vehicles. Wes Edwards has advised that the proposed alterations will provide beneficial effects at all times of the day however these benefits will be most significant at peak times when traffic demands are highest.
- 8.1.8 Overall the proposed widening of SH1 and the intersection improvements will result in a positive effect in terms the capacity of SH1 and improved traffic safety. This will have a beneficial effect in terms of traffic flow throughout Whangarei. This is considered to be consistent with the NZTA's general objective and the specific project objectives relating to this application.
- 8.1.9 Effects on Pedestrians and Cyclists
- 8.1.10 Wes Edwards has advised that the proposed widening will have little if any effect on the volume of traffic and that the proposal would be neutral in regard to the effects of additional traffic volumes on pedestrians and cyclists. Only the physical form of the proposed changes to the road and footpaths have been considered.
- 8.1.11 The application proposes to provide a 1.8m wide footpath along the western and eastern sides of SH1, which is considered to be an appropriate width. A new footpath is proposed along the SH1 frontage of Mander Park which will provide an improved arrangement and connection for pedestrians. The footpath width is 1.8m.
- 8.1.12 The effects of the pedestrian crossings as a result of the new layout have been assessed by Wes Edwards who has concluded that the new slip lanes at Selwyn Ave and Central Ave will have only a moderate adverse effect. The other pedestrian crossings at Central Ave and Selwyn Ave are the same location as existing, albeit that these would be upgraded to today's standards. In this regard any adverse effect is considered to be neutral.
- 8.1.13 Along this section of SH1 there is currently no dedicated cycle lane, although the lane width is such that this provides space for cyclists. The application would provide a 1.5m width for cyclists, which is considered an improvement on the existing situation. Overall any adverse effects to cyclists and pedestrians would be neutral.
- 8.1.14 Private Property Access
- 8.1.15 The proposed widening of SH1 would result in vehicle access arrangements for properties along SH1 being potentially adversely affected, particularly as a result of the reduced distance between the road boundary and the edge of the carriageway.

Effects on private properties along the highway corridor (Western Hills Drive as well as Selwyn Ave and Central Ave) have been assessed by Wes Edwards as part of his traffic assessment. Specific consideration has been given to visibility, reverse manoeuvring, permanent closure of vehicle access and right turns being prevented from properties. A total of 20 properties have been identified by Wes Edwards as experiencing “notable effects” and have each have been assessed.

- 8.1.16 As part of the designation works a narrow strip of land will be purchased from sites along both sides of the highway to facilitate the road widening. This will alter the access arrangements by shortening the driveways of sites. The proposed widening will result in a reconfiguration of the footpath so that this is against the road boundary which will reduce the visibility of vehicles exiting sites.
- 8.1.17 Vehicles exiting properties along the road corridor would need to extend onto the footpath and over the kerb channel in order to achieve the necessary sightline distances. This has been assessed by Wes Edwards. In his assessment he has confirmed that: *“In this location there is sufficient clearance to vehicles within the traffic lanes”*. However Wes Edwards has advised that there may be some conflict between pedestrians on the footpath and vehicles exiting sites.
- 8.1.18 There are a number of sites along the highway corridor that have been identified by Wes Edwards as not being capable of achieving the necessary sight distances and in many cases these sight distances are existing situations. In some cases the visibility of vehicle exiting sites is not adequate and where this is the case alternative means of access have been proposed by the applicant. Overall any adverse visibility effects would be no more than minor.
- 8.1.19 As part of his assessment Wes Edwards has considered potential alternative footpath configurations and widths. One option would be to extend the footpath width to improve visibility. However this would require the designation to encroach further into adjacent properties. A further alternative option identified by Wes Edwards would be to restrict planting and the height of front boundary fences / treatments to potentially increase visibility. This option is not considered appropriate as front fences may be required to mitigate adverse acoustic effects in some instances. Furthermore planting within the boundaries is likely to form part of any Urban Design and Landscaping Mitigation Plan which is discussed in further detail in section 8.8 below.
- 8.1.20 The proposed widening and the reduction of front yard areas could prevent on-site manoeuvring and result in vehicles reversing onto the highway whereas currently they are able to manoeuvre on site before moving forward onto the highway. Wes Edwards has stated: *‘The impact of the proposed works on the ability to turn a car around within the residential site has been considered, and no sites where reverse manoeuvring would be prevented by the works have been identified. The NZTA documentation refers to driveway modifications to prevent vehicles having to reverse manoeuvre onto the Highway.’*
- 8.1.21 As discussed above, a number of existing vehicle accesses for individual sites will be permanently closed, specifically at 293, 295, 297, 298 299, 300, 302, 304, 306, 308, 331 and 335A/B Western Hills Drive. With the exception of 331 Western Hills Drive these properties will all be provided with an alternate means of access. These alternative accesses are considered acceptable and would avoid safety effects for vehicles that would otherwise be exiting sites with poor visibility.

- 8.1.22 A median island along some parts of the highway will limit the ability of vehicles exiting properties to make right hand turns, which would adversely affect the access for some sites. This is an existing situation in most instances and overall it is considered that this restriction would result in a no more than minor effect on vehicle access to these sites.
- 8.1.23 It is recognised that the application may adversely affect some properties adjacent to the highway corridor, however any adverse traffic effects experienced by individual properties are considered to be no more than minor and have been appropriately mitigated where practically possible. The reason for this is vehicles exiting sites will need to encroach onto the carriageway in order to achieve visibility to road traffic. However in many cases this is an existing situation and where visibility cannot be achieved alternative means of access has been proposed by the applicant.
- 8.1.24 Temporary Traffic Effects during construction
- 8.1.25 Wes Edwards has advised that any adverse effects from the proposed road widening would be similar to other road works that could currently be undertaken within the existing designation. I concur with this assessment. Furthermore any adverse effects during the construction period will be temporary and can be appropriately managed as part of a Construction Management Plan and Traffic Management Plan.
- 8.1.26 There are a number of businesses including a motel along the SH1 whose access may need to be temporarily closed during the construction phase of the works. The Construction Management Plan and mitigation measures included within the application have included on-going consultation with landowners. The applicant has stated: *'The contractor will be required to liaise with adjacent landowners on their requirements for property access during the works in cases where access to properties is temporarily cut off, this will be restored at the end of each working day.'*
- 8.1.27 A Construction Management Plan has been submitted with the application, however this is considered to lack sufficient detail to address all relevant matters. For this reason it is considered necessary for a more detailed Construction Management Plan to be submitted, should the application be recommended for approval. The revised Construction Management Plan should include specific details in respect of businesses (including motels) along the highway corridor and how the proposed works will be managed in ways to minimise disruptions to the access of sites adjacent to the highway corridor. It is noted that in the case of motels at Lodge Bordeaux (361 Western Hills Drive) and BKs Pohutukawa Lodge (362 Western Hills Drive) these sites are not located within the area of the proposed works and therefore the access for each motel will be not be disrupted.
- 8.1.28 Summary of Traffic Effects
- 8.1.29 Any adverse traffic effects are considered to be no more than minor. I am in agreement with the traffic analysis and assessment undertaken by Wes Edwards and his conclusions that any adverse effects to individual properties would be no more than minor. I also concur with the assessment that any adverse effects will be sufficiently outweighed by the wider benefits as a result of the road improvements. I generally concur with the following conclusions from Wes Edwards' in respect of traffic:

*The proposal is considered to have substantial benefits for motor vehicle traffic using the State Highway and the adjacent road network. Cyclists will experience some*

*beneficial and some adverse effects and the overall effect on cyclists is considered to be neutral. Pedestrians will be adversely affected to a minor degree. Users of some private driveways will experience adverse traffic effects that are considered to be minor.*

*There are numerous other effects that will be assessed by others, but from a traffic viewpoint the proposal will have significant benefits for through motor vehicle traffic at the expense of minor adverse effects for pedestrians and users of driveways along the road.*

*The NZTA proposal has been amended to reduce some of the adverse effects on a number of properties. In my opinion the adverse effects of the proposal have been sufficiently mitigated to the point where the overall benefits sufficiently outweigh the overall adverse effects. I recommend that the proposal be supported.*

## **8.2 Noise and Vibration**

8.2.1 The potential noise effects from the alteration to the designation in terms of both its construction and subsequent use as a road have been assessed by the applicant. Separate noise assessments have been undertaken in respect of Construction Noise and Vibration; and Operational Noise and Vibration. These assessments have been independently assessed by Hegley Acoustic Consultants. A copy of Hegley Acoustic Consultants assessment is included at **Appendix 10** to this report. These are each addressed below:

### **8.3 Operational Noise and Vibration**

8.3.1 Traffic noise is normally assessed differently from other environmental noise because of its largely continuous nature and because it is generally tolerated to a somewhat greater degree than other noise. The New Zealand Standard for Assessment of Environmental Sound, NZS 6802, excludes traffic noise and there is currently no operative New Zealand Standard for the evaluation of traffic noise. Nevertheless, traffic noise has been the subject of intensive study overseas and there is a Draft NZ Standard - "Acoustics - Road Traffic Noise - New and Altered Roads".

8.3.2 The proposed road widening will result in the vehicle lanes (and traffic) being located closer to the dwellings on properties adjacent to the Highway, as well as properties located adjacent the intersections of the SH1 with Selwyn Ave and Central Ave.

8.3.3 The Operational Noise Assessment submitted with the application has been undertaken in accordance with Transit New Zealand's Guidelines for the Management of Road Traffic Noise. Hegley Acoustic Consultants who have reviewed the acoustic matters have confirmed that in the absence of other guidelines that the Transit Guidelines are acceptable.

8.3.4 In regard to operation vibration the same District Plan rule regarding vibration occurs in all Environments, whereby, *"Any activity is a permitted activity if: a) It does not exceed the vibration limits given in Appendix 10"*. Appendix 10 of the District Plan states that activities should not create vibration that exceeds specified levels and that measurements should be at or within the boundaries of a property.

- 8.3.5 An Operational Vibration Assessment was submitted with the application. This assessment has confirmed that with the exception of 331A Western Hills Drive (which has been purchased by NZTA and is located within 5 metres of the kerb of the highway) all other sites comply with the human comfort criteria. The applicant has confirmed that the proposed works will achieve the building damage criteria.
- 8.3.6 It has been assessed by Hegley Acoustic Consultants that with appropriate conditions the operational noise and vibration effects could be suitably mitigated. These conditions have been discussed with the applicant. However the applicant has not been able to agree to all conditions. Therefore the operational noise and vibrations matters remain unresolved. Should there be any further progress or agreement by the applicant in respect of construction noise conditions these will be reported at the hearing.
- 8.3.7 It is noted that whilst the applicant has not agreed to the draft conditions recommended by Hegley Acoustic Consultants these have been included in the conditions set out in the recommendation of this report. Having discussed the recommended conditions with Nevil Hegley it has been agreed that additional conditions requiring Vibration and Noise Mitigation Plans should also be included as part of any recommendation. These suggested conditions are included in this recommendation (should this be recommended for approval).

#### 8.4 Construction Noise and Vibration

- 8.4.1 The District Plan contains specific rules related to construction noise but does not contain any specific rules related to construction vibration. The same rule related to construction noise occurs in all Environments:
- 8.4.2 *Any activity is a permitted activity if:*
- a) *Noise from construction, maintenance and demolition work, meets the limits in NZS 6803:1999 Acoustics – Construction Work; and*
  - b) *Sound levels are to be measured in accordance with NZS 6803:1999.*
- Any activity that does not comply with a condition for a permitted activity is a discretionary activity.*
- 8.4.3 In the absence of a specific rule related to construction vibration, any vibration related to construction activities is controlled by the same vibration standards that have been assessed above.
- 8.4.4 Dwellings on sites located along this section of SH1 to be widened are located between 5 metres and 35 metres from the boundary of the works area. The Construction Noise and Vibration assessment submitted with the application has predicted that construction noises levels could have a significant acoustic impact on residential properties along the proposed road corridor. The application report has stated that: *If no mitigation measures are implemented, works within 30m of residences are likely to generate noise levels which exceed the 75dBl aeq weekend 'Day' period criterion set out in NZS 1999. All residences within the area under consideration would potentially be subject to noise levels in excess of the 45dBl aeq 'Night' period criterion set by NZS 6803: 1999.'*

8.4.5 The applicant has also confirmed that:

*The construction Noise and Vibration report identifies that noise reduction to the equipment being used of a level to reduce the noise impacts below the applicable criteria is unlikely to be achieved. As a consequence even if noise reduction measures are implemented the noise levels at those residences within 10m of the works would still be expected to exceed Day period Criterion. Similarly, the Night period criterion could also be expected to be exceeded at most residences if Night period works are undertaken regardless of whether measures are taken to reduce noise levels.*

8.4.6 The applicant has confirmed that the majority of the proposed road widening would be undertaken during the day throughout the working week, however some night-time and weekend works would be necessary. This would include works that would require lane closures such as works on existing and new services and traffic signals. Night time works would also be required for the stabilisation and paving on the SH1 southbound left turn slip lanes at Selwyn Ave and Central Ave with neither requiring more than a single 24 hour period. The application has advised that the stabilisation and paving works are expected to be undertaken at night to avoid traffic disruption and would be undertaken over sets of two consecutive nights (2 nights for stabilisation plus 2 nights for paving).

8.4.7 A number of measures have been suggested by the applicant to mitigate any adverse construction noise. These form part of the application and include:

- Temporary / portable noise screens
- Limiting night works as far as possible
- Night works should not be performed in any one area for more than 3 consecutive nights at a time with a respite period of at least two nights
- Offering affected residents relocation to nearby motels or alternative accommodation in the event of noise complaints
- Where noisy operations are identified that these would be confined to during the day.
- Fitting engine exhausts with mufflers / silencers
- Managing construction noises through contractors Construction Management Plan

8.4.8 As part of the Independent Assessment undertaken by Hegley Acoustic Consultants a draft set of conditions were prepared to ensure that the construction noise and vibration effects could be suitably mitigated. These conditions have been discussed between Hegley Acoustic Consultants and the applicant. However the applicant has not been able to agree to all conditions and as such the construction noise and vibration matters remain unresolved. Should there be any further progress or agreement by the applicant in respect of construction noise and vibration conditions then this will be reported at the hearing. It is noted that the draft condition recommended by Hegley Acoustic Consultants have also been included in the conditions set out in the recommendation of this report.

## **8.5 Residential Amenity and Property Effects**

- 8.5.1 The proposed road widening will result in the highway boundary being located in closer proximity to residential sites. Potentially this may create adverse effects on the residential amenities currently enjoyed by sites adjacent to the highway corridor.
- 8.5.2 Residential sites located along SH1 already experience some adverse effects from the proximity of SH1 in relation to individual properties. However due to the increased scale of the proposed road widening and the proximity of SH1 to adjacent dwellings that the application has the potential to exacerbate these effects. Matters regarding noise and vibration have been discussed in sections 8.3 – 8.4 of this above. Likewise matters relating to landscaping on individual properties are also discussed below.
- 8.5.3 The proposed site office located at 8 Selwyn Ave will comprise two porta-cabins and 2 car parking spaces. The applicant has confirmed that the site offices would be open during normal working hours only, however where night-time works are proposed then the site office would also be open. Given the temporary nature and the modest scale of the site offices, together with the acoustic fencing proposed, it is considered that any adverse effects as a result of the site offices would be no more than minor and will be temporary in nature.
- 8.5.4 Where residential sites are required to be fenced for acoustic reasons, or as a result of replacing existing fences, and where trees are removed then this will be undertaken in accordance with the relevant provisions of the Public Works Act on a case by case basis. This would be agreed between the applicant and individual property owners and form part of the compensation process under the Public Works Act.
- 8.5.5 The provision of new fencing and planting would however provide both screening and softening of the front boundary of properties which would appropriately mitigate adverse effects for properties adjacent to SH1. It is considered that the effects of the proposed road widening on residential properties will be no more than minor.

## **8.6 Stormwater Effects and Effects on Water bodies**

- 8.6.1 A small strip of land on Lot 1 DP 45522 and Lot 2 DP 45522 (334A/B Western Hills Drive), and a small area of the north-western corner of Mander Park, are identified as being Flood Susceptible Areas. The flood susceptibility, together with the stormwater runoff arising from the designated area have been considered by WDC Consulting Engineer, Mr John Smith. He has concluded that:

*The effects of stormwater will require management both during and following construction. New reticulation is proposed to be either connected to the existing network (which is reported to have adequate capacity) or direct to existing watercourses. No additional discharges will be added to the existing culverts (2) that pass under the State Highway north of Selwyn Avenue and at Wilson Avenue. These culverts and associated headwalls will require extending and are subject to NRC consents as noted above. Details of the proposed reticulation together with any necessary treatment prior to discharge will be required to be submitted to Council for approval prior to works commencing.*

- 8.6.2 As previously discussed in this report the applicant has already obtained the necessary and relevant Regional Council consents including those relating to stormwater and culverts. These have included a number of conditions of consent that will be required to be complied with under the Regional Council consents.
- 8.6.3 WDC Consulting Engineer, Mr John Smith has undertaken an assessment of the stormwater matters relating to the application. He is satisfied with the reports provided and the reviews undertaken, and considers that the proposal is acceptable provided that the requirement for specific design of stormwater quality and attenuation methods is carried out. (A copy of the Council Engineers comments are included at **Appendix 8**).

## **8.7 Earthworks and Geotechnical Matters**

- 8.7.1 The application proposes earthworks with a volume of approximately 2,000m<sup>3</sup> comprising 500m<sup>3</sup> cut to fill and 1,500m<sup>3</sup> cut to waste over an area of approximately 6,000m<sup>2</sup>. The applicant has advised that: *"The waste material will be removed from site to our designated dumpsite in Fraser St. This is an NRC consented dumpsite that is audited monthly by our Internal Environmental Manager."*
- 8.7.2 The earthworks component of the proposed works has also been assessed by Whangarei District Council's Consulting Engineer, Mr John Smith, who has recommended: *"A Construction Management Plan is to be submitted to Council for approval prior to works commencing, such plan to detail amongst other things, proposed erosion, sediment and dust control measures. Any necessary building consents associated with retaining walls must also be obtained prior to works commencing."*
- 8.7.3 Furthermore Councils Consulting Engineer has also set out in his suggested conditions of consent the requirement for a Construction Traffic Management Plan to be prepared to ensure that any adverse traffic effects during the construction works are appropriately managed such that they will be minor.
- 8.7.4 The earthworks associated with the culvert extensions are located within the Riparian Management Zone as identified under the Northland Regional Water & Soil Plan. As set out above the applicant has obtained the relevant Regional Council Consents, which include a number of conditions relating to sediment control.
- 8.7.5 The area subject to the application is shown as being in a low hazard stability zone on the Whangarei District Plan. Councils Consulting Engineer Mr John Smith has advised that this is of no consequence in terms of the NOR.

## **8.8 Landscape Effects, Ecological Effects, Visual Impact and Urban Design Effects**

- 8.8.1 The application and more specifically the widening of the existing SH1 will result in the removal of a number of existing trees including 11 Heritage trees within Mander Park, as well as vegetation within frontages of private properties. The proposed alterations to the highway will in my opinion reduce the visual quality of the landscape, which in turn will have an adverse visual impact on the surrounding environment. This vegetation removal could also potentially detract from the overall amenity of the area. These matters are discussed in turn below:

### **8.8.2 Mander Park**

- 8.8.3 The widening of SH1 will result in the removal of 11 Heritage trees located along the Central Ave and SH1 frontages of Mander Park. These trees are not identified on the WDC Planning Maps as being scheduled trees. However Appendix 2 of the District Plan states:

*“Any tree greater than 6.0m in height or with a girth (measured 500mm above the ground) greater than 600mm located within a road reserve or reserve administered by the council is classified as a Heritage Tree.”*

- 8.8.4 A Tree Impact Assessment prepared by Simon Cocker Landscape Architecture was submitted with the application (Appendix I to the Application Report). This has identified the trees to be removed as comprising 4 totara, 2 chestnut, 1 puriri, 1 liquid amber, 1 tulip tree, 1 beech and 1 London plane tree. The value of each tree was assessed using the STEM methodology. Simon Cocker in his report has made the following comments:

*“The visual coherence and containment provided by the trees along the State Highway frontage is variable, with trees of a range of scale and character. Those along Central Ave display a greater coherence and containment, these trees being of a larger and uniform scale.*

*The removal of the containing trees along the State Highway frontage would result in the opening up of the park to the widened road. This would increase the park user’s awareness of the activity on the road and reduce the amenity within the park to a significant degree whilst at the same time reducing the climatic benefits afforded by the existing tree – shade and shelter. Consequently it is considered that the northern portion of the park would be far less attractive and conducive to public use.*

*Overall it is considered that the visual and amenity effects that would be experienced by users of the park would be significant with no options for avoidance”.*

- 8.8.5 Given the number of trees to be removed and their prominence at the park/road edge it is considered that the removal of the trees will result in significant adverse landscape and visual amenity effects as well as adverse ecological effects, particularly in the short term before any replacement planting is undertaken and established. These effects will be experienced both within Mander Park and the wider surrounding environment where the trees to be removed can be viewed.
- 8.8.6 The Tree Impact Assessment prepared by Simon Cocker has confirmed that long term mitigation for the loss of the trees may be possible. However due to the size and location of the trees to be removed Simon Cocker has highlighted that such mitigation would take 20-40 years if a smaller grade stock is used and 10-20 years if larger grade stock (6.0m-8.0m in height) are used.
- 8.8.7 An assessment of the landscape matters has been undertaken by Kylie McLaughlin-Brown on behalf of WDC. This assessment has generally concurred with Simon Cocker’s assessment and has included a number of suggested mitigation measures (conditions) to address the removal of the trees. A copy of this report is included at **Appendix 11**.
- 8.8.8 The applicant and WDC (as landowner of Mander Park) have agreed to a series of proposed mitigation measures for the loss of the 11 heritage trees as well as the reduction in area of Mander Park.

8.8.9 Details of the mitigation measures are set out in a Memorandum from David Snowdon, Group Planner– Infrastructure and Services (WDC), which is included at **Appendix 7**. In summary the mitigation measures, which have been agreed by the applicant would include:

- 11 replacement trees along the Central Ave and SH1 frontage of Mander Park comprising:

Number	species	Minimum Height (m)
3	<i>Aesculus hippocastanu</i>	6
1	<i>Quercus robur</i>	6
2	<i>Liriodendron tulipifer</i>	6
3	<i>Platanus acerifolia</i>	6
2	<i>Platanus acerifoli</i>	8

- A maintenance plan
- Regrading and additional planting, including trees, alongside the existing stream
- Upgrading of Wilson Avenue East including car parking spaces
- Additional bollards and lighting
- Extensions to the existing playground

8.8.10 For ease of reference the drawings and mitigation measures referred to in David Snowdon's email are also included at **Appendix 7**. The conditions recommended by David Snowdon have been included in the recommendation of this report, should the application be recommended for approval. A set of additional mitigation measures have been agreed by the applicant and WDC to mitigate the loss in the area of Mander Park. This is discussed in further detail below.

8.8.11 As part of the alternative options the applicant has considered 3 options that would result in some or all of the trees being retained. These alternative options are discussed in section 11 of this report. The applicant has concluded that the preferred option which has been chosen would provide the most appropriate solution to achieve the NZTA's mandatory and project specific objectives.

8.8.12 Overall it is considered that the removal of 11 heritage trees within Mander Park will result in significant short term adverse visual and amenity effects. Any short term adverse effects will be experienced immediately following the removal of the trees until such time as replacement trees are established. However in the long term these effects will be able to be suitably mitigated through appropriate replacement planting, particularly if larger grade stock are used which will reduce the duration of any effects. In this instance replacement trees will be between 6.0 and 8.0 metres in height which are considered to be a suitable height to provide an appropriate level of mitigation in the long term.

- 8.8.13 The proposed widening of SH1 and the alterations to the Central Ave intersection will result in the area of Mander Park being reduced by 750m<sup>2</sup>. This area of Mander Park does not provide a specific recreation function, however this does contribute to the overall visual amenity and pleasantness of the area.
- 8.8.14 Simon Cocker, Landscape Architect has described the dominance of Mander Park as being *"Its prominence is accentuated by the stature of the trees which both define its edges and are located within the Park itself. With a frontage onto the State Highway, at one of the light controlled intersections, the Park represents a recognisable landmark that both contributes to and enhances the character of the road corridor. ..."*
- 8.8.15 A number of submissions have raised concerns relating to the loss of land from Mander Park. A number of alternative road alignments have been considered by NZTA which would reduce the loss of area from Mander Park. However as discussed in other parts of this hearing report these alternative options have been discounted due to other factors such as economic considerations, as well as adverse effects to residential properties located opposite Mander Park (as a result of bringing the highway closer to their properties).
- 8.8.16 A landscaping mitigation plan has been agreed between the applicant and WDC (as landowner of the site), which includes a number of measures to address both the loss of trees and also the reduction in the area of Mander Park. This provides a number of improvements to Mander Park that includes additional planting, including trees alongside a tributary of Waiarohia Stream, extensions to the existing playground and the provision of additional bollards and lighting.
- 8.8.17 A new pedestrian footpath is proposed along the SH1 frontage of Mander Park, where none currently exists. This will provide an improved pedestrian connection within the Park and convenience for pedestrians along SH1.
- 8.8.18 A brief history report has been prepared by David Snowdon (WDC Group Planner) which is included in **Appendix 7**. A submission had raised a query regarding a reserve management plan for Mander Park. It is noted that there is currently no reserve management plan for Mander Park and the preparation of such a plan would be a separate process to the alteration to the designation.
- 8.8.19 The reduction in the size of Mander Park (and the loss of heritage trees) needs to be weighed against the wider traffic benefits. Whilst the loss of part of Mander Park is regrettable this is considered to be sufficiently outweighed by the wider benefits as a result of the improvements to the road network including intersection improvements. Any adverse effects to the loss of land from Mander Park are considered to be no more than minor given the mitigation measures agreed between the applicant and WDC (as landowner of Mander Park).

## 8.9 Landscaping / Urban Design and Visual Impact (General)

- 8.9.1 This section of SH1 is in part characterised by an existing formed highway. The highway does not contain any street trees within the road reserve. However there are a number of trees within the front yards of properties adjacent to the highway corridor that contribute to the overall amenity and appearance of a residential area.

8.9.2 The proposed highway widening will result in the loss of a number of trees and vegetation within the boundaries of sites adjacent to the highway corridor, which may detract from the visual amenity of the area and individual properties. It is noted that there are no trees within sites adjacent to the highway that are identified in the District Plan as being scheduled.

8.9.3 The landscaping and urban design effects have been assessed in the application. Specifically a Urban Design Assessment has been undertaken by Simon Cocker and Boffa Miskell which is appended at Appendix F of the Application Report. A concept landscaping plan has been prepared by Boffa Miskell which identifies general areas of new intersection planting at the Selwyn Ave and Central Ave intersections with SH1.

8.9.4 These areas form part of the designation works, however once planted the maintenance of these landscaped areas will be undertaken by WDC. The concept plan and other details do not include specific details such as planting schedules. This element of the landscaping mitigation has been reviewed by David Snowdon – Group Planner Infrastructure and Services (WDC). He has stated:

*The landscaping of these sites is rather by way of beautification and the creation of a 'corridor' landscape effect along SH1, linking to other NZTA site works from Tarewa Park in the south to the Spedding Road intersection in the north and including the upgrade of SH1-SH14 intersection.*

*In this regard, while the 3 sites associated with this application are identified within the application as having particular landscape treatments, the type and extent of that landscaping remains in discussion with the applicant, noting that Parks will eventually be responsible for the ongoing maintenance. For this reason, Parks are currently in support of the proposal to landscape these 3 sites and suggest conditions be placed on the NOR.....:*

8.9.5 It is recommended that this condition be included in any recommendation to the NZTA. It may be appropriate to include this recommended condition as part of an Urban and Landscape Management Plan condition (this is discussed in further detail below).

8.9.6 In addition to the three intersection sites the road widening will also result in the removal of existing planting within the properties. If not appropriately mitigated the removal of the existing landscaping within the frontages of sites taken together with the widening of SH1 could adversely detract from the amenity of the area, as well as the residential amenities enjoyed by properties along the proposed SH1 corridor.

8.9.7 I would generally concur with the conclusion reached by Simon Cocker in his Landscape Visual and Urban Design Report that states:

*"That occupants of dwellings along the State Highway corridor between Wilson Ave and Selwyn Ave have the potential to experience more than minor effects. With appropriate mitigation the level of effects will be reduced to some extent for these properties. Mitigation should include consideration of screen fences, the retention of existing vegetation and tree and shrub planting."*

- 8.9.8 The same report includes some recommended mitigation and this forms part of the application. This includes:

*“Retain vegetation within gardens wherever possible*

*Relocate existing trees and shrubs if feasible*

*Development mitigation strategies for each affected property with an approach that may include domestic pedestrian scale and character noise barriers and or planting. Fencing may include the use of timber structures or green walls.*

*Potential for tree planting to be included within the widened road reserve where this does not conflict with services or unduly shade dwellings.”*

- 8.9.9 An assessment of the landscape matters has been undertaken by Kylie McLaughlin-Brown (Landscape Architect - Dream Planning Ltd) on behalf of WDC. In respect of individual sites along SH1 that would be affected by existing landscaping being removed and the road being positioned closer to dwellings, Kylie McLaughlin-Brown has recommended that a landscaping plan be submitted that includes replacement planting, relocation of existing trees, fencing and ongoing maintenance.

- 8.9.10 Appendix O of the Application Report provides a Landscaping Planting Plan. Whilst this does not provide a planting schedule this does state:

*“Planting strip to either side of road corridor, width and composition to be determined in consultation with individual property owners. Objective (a) to replace vegetation removed within properties as a result of road constriction. Planting to be before the purposes of mitigating effects created by road widening and vegetation removal (b) to enhance the amenity of the road corridor using tree and shrub planting. Where possible trees will be planted at regular intervals and of complimentary species so a measure of uniformity is achieved. Planting within properties by NZTA where the existing buildings are to remain shall reflect these above objectives”.*

- 8.9.11 However given the detail provided in the Urban Design and Landscaping Mitigation Plan submitted with the application, it is my opinion that it is appropriate to impose a condition requiring a detailed Urban Design and Landscape Mitigation Plan to be prepared by a suitably qualified expert to be submitted to ensure any adverse effects in respect to visual amenity (and potential effects experienced by individual properties) are appropriately mitigated within a satisfactory timeframe. This should be in general accordance with the Urban Design Report prepared by Simon Cocker and Boffa Miskell submitted with the application and this should be used as the basis for future landscaping and other mitigation measures.

- 8.9.12 It is acknowledged that this existing section of SH1 is a key feature of the immediate environment and forms part of the character of the surrounding area. Furthermore this part of SH1 is already subject to an existing designation that needs to be taken into account as part of any assessment. The existing designation is well treed and landscaped so a condition requiring further landscape mitigation will ensure the existing environmental quality is maintained and potentially enhanced. However without appropriate mitigation, such as landscaping, the SH1 could become an overly engineered and dominant urban feature. For this reason it is considered appropriate and necessary for an Urban and Landscape Mitigation Plan to be submitted prior to any works commencing.

This would assist in mitigating any adverse effects in respect to the visual impact and landscape effects on individual sites, and would ensure the highway does not become an overlay engineered and dominant urban feature.

## **8.10 Community Severance and Cohesion**

8.10.1 The proposed road widening will increase the number of vehicle lanes along this section of SH1 from generally 2 lanes to 4 lanes (2 in each direction). This increase in the road width could potentially result in the severance of the western and eastern sides of the SH1. In particular the road widening could create an obstacle for those predominately residential properties on the western side of the SH1 to the Whangarei central business areas.

8.10.2 In my opinion the existing highway already creates a severance for residential properties on the west to the central business areas on the eastern side of the highway. Whilst the NOR will increase the highway width, it is considered that this will result in only a negligible adverse effect. The upgrading of the signals and pedestrian crossing that the Central Ave and Selwyn Ave intersections will improve access arrangements. The inclusion of pedestrian refuge islands will also improve pedestrian safety. Overall it is considered that the safety and signal improvements would appropriately offset any severance effects as a result of the highway widening.

## **8.11 Archaeological Effects**

8.11.1 No archaeological sites or areas of interest are identified on the District Plan Maps. The New Zealand Historic Places Trust (NZHPT), who has been consulted, have advised that there is no historic heritage item at significant risk from the project. The NZHPT have recommended that all earthworks proceed under an accident discovery protocol and for this reason a condition is recommended.

## **8.12 Overall Assessment of Effects**

8.12.1 The actual and potential effects of the proposed activity on the environment have been evaluated in a manner consistent with Section 171 and it is concluded that where more than minor adverse effects have been identified that these can be appropriate if they can be mitigated in the long term, recognising that some matters will be dealt with as conditions (should the application be recommended for approval). It is considered that the adverse visual amenity and landscaping effects as a result of the loss of heritage trees are sufficiently outweighed by the wider traffic related benefits as a result of the improvements to the road network and on balance the overall effects on the environment are considered acceptable given that the landscaping assessments have agreed that the effects will be mitigated in a 10-20 year period if larger grade species are planted.

# **9. Relevant Planning Provisions**

## **Section 171(1)(a) - Having regard to the Relevant Provisions of the Planning Documents**

### **9.1 District Plan Objectives and Policies**

9.2 The following objectives and policies of the Operative District Plan are considered to be relevant in the assessment of this application:

## **Chapter 5 Amenity Values**

**Objective 5.3.1** - *The characteristic amenity values of each Environment are maintained and where appropriate enhanced.*

**Objective 5.3.2** - *Adverse effects on amenity values do not result in a reduction of amenity value below that which is desirable for people's health and safety.*

### **Policy 5.4.1** - *Effects on the Local Environment*

*To ensure that activities do not produce, beyond the boundaries of the site, adverse effects that are not compatible with the amenity values characteristic of the surrounding and/or adjacent environment unless such effects are authorised by a district plan, a designation, a resource consent, or otherwise. The following effects should be given particular consideration in this respect:*

- *Noise and effects;*
- *Shading;*
- *Glare;*
- *Light spill;*
- *Dust;*
- *Smoke;*
- *Odour;*
- *Vibration;*
- *Spray drift;*
- *Visual amenity.*

### **Policy 5.4.3** *Activities in Living Environments*

*To ensure activities in Living Environments do not have adverse effects that are significantly greater than those associated with residential activities, whilst acknowledging that adverse effects of activities from outside the living Environments, e.g. the Airport, may not be avoidable altogether and may affect amenity values.*

### **Policy 5.4.6** *Open Space Environments*

*To ensure amenity values and natural character associated with Open Space Environments are maintained and enhanced, and to enable public appreciation and enjoyment of such places except where public access is restricted due to ecological cultural, public health and/or safety reasons.*

### **Policy 5.4.12** *Traffic*

*To encourage vehicle movements and parking demand, where it does not adversely affect the amenity values of the particular environment in which it is located, having regard to the characteristics of that environment and adjacent environments, and the range of activities for which it makes provision for.*

### 9.3 Comments on Amenity Values Objectives and Policies

- 9.4 In summary the relevant objectives and policies contained within Chapter 5 seek to maintain and enhance the amenity values of the District and to avoid conflict between incompatible activities.
- 9.5 The proposal would generally maintain the amenity values of the Living Environment. It is considered that this would be achieved through a series of mitigation measures such as landscaping within individual sites as well as enhancement landscaping at road intersections.
- 9.6 Levels of noise or quietness are an important part of amenity values, particularly where people are living in close proximity to one another. The enjoyment of property, or the ability to effectively function in an area, can be affected by glare, odour, light spill and other adverse amenity effects from activities that are not characteristic of the particular locality. It is considered that adverse effects as a result of dust, vibration and noise can be appropriately mitigated which will ensure that there is no a reduction of amenity value below that which is desirable for people's health and safety.
- 9.7 Increases in traffic, or changes to the character of roads, can result in significant adverse effects on the safe and efficient functioning of these streets and on the amenity values of the locality. Particular regard has been given to the effects of noise and vibration from the proposed alteration and the proximity of the highway to residential properties. These assessments have concluded that, subject to particular mitigation measures are being applied, that the effects of the highway will not adversely impact upon the amenity values of the surrounding environment to a more than minor extent and that amenity values will generally be maintained.
- 9.8 Having regard to Policy 5.4.3 it is considered that the application would be generally consistent with this policy. This section of SH1 is located through a predominately residential area, which provides high traffic volumes. The traffic volumes along SH1 are projected to increase. In this instance the application provides for an alteration to an existing designation and any adverse effects as a result of the widening can be appropriately mitigated.
- 9.9 In respect to Policy 5.4.12 the proposal will provide for an overall improvement to the traffic flow and safety. A key characteristic of the existing environment is the presence of SH1, which bisects the western and eastern part of Whangarei. Whilst the width of the highway would be extended it has been assessed that this would not adversely affect the amenity of the surrounding environment to a more than minor extent. Where adverse visual and landscape effects have been identified these can be appropriately mitigated through the implementation of a comprehensive Urban Design and Landscaping Mitigation Plan as discussed above.
- 9.10 Overall, it is considered that the proposal meets Objectives 5.3.1 and 5.3.2 and will ensure that Policies 5.4.3 and 5.4.6 are adhered to. Based on the above considerations, it is concluded that the proposal is in keeping with the relevant objectives and policies of the District Plan related to amenity values.
- 9.11 **Chapter 14- Heritage Trees**

**Objectives - 14.3** - *The protection and enhancement of trees that make a significant contribution to heritage values.*

**Policy 14.4.2** - *To ensure that no subdivision, use or development should result in destruction of, or adverse effects on, Heritage Trees, in particular adverse effects on:*

- *The long term life of the tree;*
- *The heritage and amenity values of the tree.*

#### **9.12 Comments on Heritage Trees Objectives and Policies**

9.13 The effects resulting from the removal of the 11 heritage trees within Mander Park has been assessed previously. Whilst the trees are not specifically identified in the District Plan as being scheduled heritage trees, Appendix 2 of the District Plan classifies any tree over 6.0m in height as being a heritage tree. In this instance the applicant has considered a number of alternative realignments to potentially retain these trees. These would result in the highway encroaching further into residential properties located opposite, which would in turn create additional adverse effects to those properties. The Council (as landowner of Mander Park) has agreed to the provision of 11 replacement trees between 6.0-8.0 metres in height, which would in the long-term appropriately mitigate the heritage and amenity values of the trees to be removed. It is therefore considered that the NOR will be generally consistent with the relevant Heritage Tree policies and objectives.

#### **9.14 Chapter 15 – Open Space**

**Objective 15.3.3** - *Provide open space and manage activities within open space in a manner that avoids, remedies or mitigates adverse effects on the environment.*

**Objective 15.3.4** - *Protection of open space from subdivision, use and development inconsistent with their purpose.*

##### **Policy - 15.4.5 Effects**

*To manage activities within open space in a manner that avoids, remedies or mitigates adverse effects, to the extent practicable, on the environment both within and outside those areas.*

##### **Policy - 15.4.6 Open Space Values**

*To ensure that the values of the Open Space Environment are not compromised by subdivision, use or development of it, or of adjoining land.*

#### **9.15 Comments on Open Space Objectives and Policies**

9.16 Open space areas are important to both the community and for general environmental health. The development of open space land and land that adjoins open space, should not adversely affect the values that these areas have. Furthermore open space plays an important function in providing recreational and social opportunities for the public. Activities on open space areas can potentially result in adverse effects on the environmental qualities of the site and adjoining properties. It is therefore important that such activities are managed in such a way that avoids, remedies or mitigates these effects.

9.17 As discussed in section 11 a number of alternatives have been considered by the applicant that could reduce the loss of open space land (Mander Park). However as previously assessed alternative options would give rise to other adverse effects upon the residential amenities of properties located opposite. The mitigation measures agreed between the Council (as landowner of Mander Park) and the applicant would in part mitigate the loss of open space zoned land.

More specifically the provision of new footpaths, extension to existing playground, bollards, lighting and enhancement planting will all enhance the existing facilities and opportunities for recreation and enjoyment within Mander Park.

- 9.18 It is assessed that the potential effects of this proposal can be managed in such a way as to ensure that the intrinsic values of the open space area included within the application will not be adversely impacted upon, therefore achieving objective 15.3.3. Based on the above considerations, it is concluded that the proposal is generally consistent with the objectives and policies contained in Chapter 15 of the District Plan relating to Open Space.

#### **9.19 Chapter 22 Road Transport**

**Objective 22.3.1** - *Establish and maintain a safe and efficient road transport network.*

**Objective 22.3.2** - *Avoid, remedy or mitigate any adverse effects of road transport activities on the surrounding environment.*

#### **Policy 22.4.2 Road Linkages**

*To identify and provide for future road linkages.*

#### **Policy 22.4.3 New Roads and Intersections**

*To design and construct new public and private roads, intersections, vehicle crossing places and entranceways to meet the minimum standards in Appendix 9, to avoid, remedy or mitigate adverse effects on the environment and the roading network.*

#### **Policy 22.4.4 Ecological, Landscape and Amenity Values**

*To ensure adverse effects of road transport activities on ecological, amenity and landscape values should be avoided, remedied or mitigated to the extent practicable.*

#### **Policy 22.4.6 Pedestrian Safety**

*To ensure that cyclists and pedestrians, including vulnerable groups, such as the young, the elderly and the disabled, are safe from vehicles and other road traffic. Suitable facilities for cyclists and pedestrians should be provided in new developments and within the existing roading hierarchy, as appropriate.*

#### **9.20 Comments on Road Transport Objectives and Policies**

- 9.21 The road transport network is considered to be important to the wider community, however it is also recognised that roads can potentially create many adverse effects. More specifically roads can detract from the visual character of an environment and can result in adverse effects on neighbouring residential properties.

- 9.22 The proposed alteration to an existing designation will contribute towards establishing a safe and efficient road network within Whangarei. As previously set out in this report, SH1 serves a dual function for Whangarei by firstly providing the main link from Auckland to Whangarei and secondly serving as a main route connecting residential areas of Whangarei with the central business area.

The application will result in significant improvements to the overall functioning of the highway which will be of benefit to both residents within the immediate environment and the wider community. In this regard the proposal is considered to be wholly consistent with objective 22.3.1.

- 9.23 The proposed widening will reinforce existing road linkages, particularly by providing improvements to the intersections of the highway with Selwyn Ave and Central Ave. Furthermore it has been assessed that the proposal will result in overall safety improvements which have been identified by the applicant as a key project objective. In this regard the application will be consistent with policies 22.4.2 (Road Linkages) and 22.4.3 (New Roads and Intersections).
- 9.24 The potential effects of this proposal on amenity values have been commented on above and it is specifically noted that the alignment of this alteration will broadly follow the existing road alignment albeit that this will be widened to improve existing capacity and safety. Where adverse effects on the surrounding environment have been identified, these have been appropriately mitigated or can be mitigated through conditions. This will be consistent with objective 22.3.2.
- 9.25 The road will be constructed in accordance with the relevant standards to ensure that it is of an adequate width and alignment to cater for proposed traffic and includes design methods to ensure that amenity values are maintained and also to maintain and enhance the safety of pedestrians and cyclists achieving policies 22.4.3 and 22.4.6.
- 9.26 Overall it is considered that the proposal will meet the relevant objectives of policies contained within Chapter 22 of the District Plan relating to road transport.

#### **9.27 Summary of District Plan Policies and Objectives**

- 9.28 In summary the proposal is considered to be consistent with the relevant objectives and policies of the District Plan relating to Amenity Values, Heritage Trees, Open Space and Road Transport. There are not considered to be any other relevant objectives or policies in the District Plan.

#### **9.29 Regional Policy Statement**

- 9.30 The Northland Regional Council Policy Statement (NRPS) is the Regional Policy Statement relevant to this application. The NRPS seeks to provide a policy framework and direction for resource management in the Northland Region. It sets out the significant natural resource issues, acknowledging Northland's diverse geographical features and differing social, cultural and economic needs. It contains long term policy based strategies for sustainable management of natural and physical resources in the region including transportation networks.
- 9.31 It is considered that section 29 (Transport) of the NRPS is pertinent to the application. Those policies and objectives that are considered to be of most relevance are:

#### ***Objective 29.3***

*Maintain and enhance the safety and efficiently of the regions transport network, while minimising adverse environmental effects.*

#### ***Policy 29.4(a) Transport Development***

*To promote the development of an integrated transport network which makes efficient and environmentally sustainable use of resources.*

*To reduce conflicts between heavy vehicles and other users of the roading network.*

**Policy 29.4(c) Noise Impacts**

*To promote the incorporation of appropriate noise mitigation measures into the design of new road and rail facilities, especially those which pass through residential areas.*

9.32 It is considered the application to provide for 4 traffic lanes along SH1, as well as the intersection improvements is generally in accordance with these objectives and policies.

9.33 SH1 forms the only interregional route connecting Whangarei to the Far North and Auckland, which is also the main route for heavy vehicles. In addition SH1 also provides the connection between residential areas of Whangarei and the central business area. However the section of SH1 to which the application relates provides only 2 lanes of traffic in some parts. The applicant has confirmed that future projected volumes of traffic would be approximately 26,000 vehicles per day. Wes Edwards Traffic Consultants has advised that a traffic volume of 20,000 vehicles per day is a common threshold for the provision of 4 lanes on urban arterial routes.

9.34 It is considered that the road widening will maintain and enhance the safety and efficiency of the road network. Adverse environmental effects have been mitigated wherever possible which includes noise mitigation for residential properties adjacent to the highway. The provision of 4 traffic lanes will reduce conflicts between heavy vehicles and other users of the roading network. Overall the application is consistent with the NRPS.

9.35 **The Regional Water and Soil Plan for Northland**

9.36 The Northland Regional Council adopted the Regional Soil and Water Plan for Northland in 2004. The purpose of the Regional Water and Soil Plan (RWSP) is to promote the sustainable management of Northland Regions water and soil resources. Several sections are relevant to the application and associated road construction/improvement work. These are:

- Section 7- Water Quality Management
- Section 12 - Land Management
- Section 22 - Rules for Runoff from Roads and from Land Disturbance Activities
- Section 33 - Rules on Land Disturbance Activities
- Section 35 - Rules for Land Disturbance Activities within the Streamside Management Area

9.37 The applicant has the applicant has already obtained the required consents from the Northland Regional Council for:

- (1) **Land Use Consent** – To extend two culverts located within the Wharowharo Stream and an unnamed tributary of the Waiarohia Stream.

- (2) **Land Use Consent** – To undertake earthworks within Riparian Management Zones associated with culvert extension works.
- (3) **Discharge Permit** – To discharge stormwater to water from land disturbance activities.
- (4) **Water Permit** – To divert stormwater associated with land disturbance activities.
- (5) **Water Permit** – To temporarily dam the Wharowharo Stream and an unnamed tributary of the Waiarohia Stream to enable placement of temporary dams within the streambeds during the period of culvert construction.
- (6) **Land Use Consent** – To place and use temporary coffer dams in the bed of Wharowharo Stream and an unnamed tributary of the Waiarohia Stream for the purposes of constructing two culvert extensions.

9.38 In order to grant the above consents the Northland Regional Council is required to be satisfied that the relevant parts of the application were consistent with the RWSP. Given that that these consents have been approved it is considered that the proposed earthworks and stormwater components of the application are generally consistent with the RWSP.

#### 9.39 **National Policy Statement and New Zealand Coastal Policy Statement**

9.40 There is no national policy statement applicable to the application and given the separation of the proposed designation from the coastal environment the New Zealand Coastal Policy Statement has not been regarded as relevant.

## 10. **Part II Assessment, Resource Management Act 1991**

### **Section 171(1) - Having regard Part II**

10.1 As noted previously, in accordance with section 171(1) of the RMA “*When considering a requirement and any submissions received, a territorial authority must, subject to Part II, consider the effects on the environment of allowing the requirement, having particular regard to.....*”.

### 10.2 **Section 5 – Principle and Purpose of the Act**

10.3 Part II of the Act sets out the Purpose and Principles. Section 5 of the Act sets out the overriding purpose, which is the sustainable management of natural and physical resources.

10.4 The Act states that 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 wellbeing 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”.*

- 10.5 It is considered that the alteration to an existing designation “enables people and communities to provide for their ... economic ... wellbeing and for their health and safety”. In particular, it is considered that the proposal will assist people and the wider community, including Whangarei and other road users in providing a better traffic and transportation network. This will assist in alleviating congestion on this section of SH1, as well as other parts of the road network.
- 10.6 It is assessed that the proposal will adequately avoid, remedy and/or mitigate potential adverse effects on the surrounding environment (in some instances subject to the application of mitigation measures) and the proposal is considered to be consistent with the principal of sustainable management of natural and physical resources. Where adverse effects have been identified such as visual amenity effects resulting from the removal of heritage trees within Mander Park that large stock replacement tree of between 6.0m-8.0m in height along the SH1 and Central Ave frontages of Mander Park will mitigate these effects in the long term.
- 10.7 **Section 6 – Matters of National Importance**
- 10.8 Section 6 of the Act sets out the Matters of National Importance:
- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetland, lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development:*
  - (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development:*
  - (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
  - (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers:*
  - (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
  - (f) *The protection of historic heritage from inappropriate subdivision, use and development.*
  - (g) *The protection of recognised customary activities*
- 10.9 In terms of historic heritage, the submission from the New Zealand Historic Places Trust considers that there are no heritage items located on the application site and the proposed NOR will not result in any adverse effects in this regard.
- 10.10 The application proposes the removal of the 11 heritage trees within Mander Park which can be considered historic heritage. The removal of these trees will have a significant adverse visual and amenity effect, however as discussed above the alternative realignment options are not feasible and have been discounted by the applicant as these would result in further additional effects to residential properties, namely those located opposite. Further the replacement mitigation that has been agreed with WDC Parks Department will appropriately mitigate the removal of the 11 heritage trees in the long-term.
- 10.11 A submission was received from Mirra Norris which had, amongst other matters, raised concerns in respect of Tangata Whenua values including cultural effects. I

understand that a meeting with the Applicant and Hauauru Trust – Te Parawhau took place on 30 September 2010 and had sought to resolve the matters raised in this submission. There is on-going consultation and dialogue between the NZTA and Hauauru Trust – Te Parawhau regarding this application as well as other SH1 projects in the region. Notwithstanding this submission there are no known areas of significance to Tangata Whenua and nor are any such areas identified in the Whangarei District Plan.

#### 10.12 **Section 7 – Other Matters**

10.13 Section 7 of the Act details those matters that a consent authority shall have particular regard to in the assessment of an application. With regard to this application the following matters as outlined below are considered to be relevant to this application:

*(b) The efficient use and development of natural and physical resources;*

*(c) The maintenance and enhancement of amenity values;*

*(f) Maintenance and enhancement of the quality of the environment.*

10.14 The alteration to an existing designation will provide an efficient use of an existing resource. This will be achieved through the widening of an existing road (being SH1/Western Hills Drive) to provide safety improvements and improve the efficiency and capacity of the highway

10.15 In respect to this application, it has been assessed that the potential effects of this proposal can be avoided, remedied and/or mitigated. Therefore on this basis the application as presented is considered to satisfy the requirements of Section 7 of the RMA.

#### 10.16 **Section 8 – Treaty of Waitangi**

10.17 Section 8 requires that, in achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

10.18 There are no known relevant matters in terms of section 8 of the Act, which relate to the Treaty of Waitangi.

### **11. Alternative Sites, Routes and Methods that have been considered**

#### **Section 171(1)(b) - Whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work.**

11.1 The route of the proposed alteration to the designation is indicated on the plans forming part of the NOR application.

Section 171(b) of the Act states that:

*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.*

11.2 In this instance NZTA does not have an interest in the land sufficient for undertaking the works and the works have been considered by the applicant to have a significant adverse effect on the environment. For these reasons alternative sites, routes and methods are required to be considered.

11.3 The application relates to an alteration to an existing designation and for this reason the applicant has not considered other alternative routes. The applicant has stated: *“No alternative routes for the State Highway have been considered as the requirement relates only to a realignment of the Highway and change to the boundary of the existing designation in order to increase the capacity of the existing route.”*

11.4 The applicant has considered a number of alternative alignments of the highway to reduce, either in part or full, the number of heritage trees within Mander Park to be removed, as well as the loss of land from Mander Park. The alignment options are set out in section 9.1 (Mander Park Alternative Alignment Options) and Appendix J of the Application Report. These options are:

- Maintaining the existing centreline (**no shift option**). The chosen preferred option.
- Reducing the number of trees removed (**minor shift option**).
- No impact on the trees (**full shift option**).
- Minor shift option within the removal of the Central Ave left turn slip lane.

A summary of each option is provided below:

#### No Shift

11.5 The no shift option retains the existing centreline alignment and has been used by the applicant as the basis for comparisons with the other alternatives. As discussed in this report this option would result in the removal of 11 heritage trees within Mander Park. The applicant has advised that this option would represent their recommended option as this would have the minimum public cost whilst taking into account the community value of the trees that are required to be removed. This option would result in only a limited amount of the frontage of the properties located opposite in comparison with the other options out forward by the applicant.

#### Minor Shift

11.6 A minor shift option would reduce the level of encroachment of the highway into Mander Park with the kerblines of the highway following the existing kerblines in respect of the park. This would result in the removal of two trees within Mander Park. However the applicant has identified that this option would bring the highway closer to properties opposite (and those located to the north on the western side of the SH1) which would result in additional adverse social effects such as operation noise and vibration as well as the loss of on-site manoeuvring space.

The proximity of the highway in relation to heritage trees may result in the health and form of the trees being compromised and adversely affected in the long-term.

### Full Shift

11.7 A full shift option was considered by the applicant which would result in the highway being positioned 4.0 metres west of the existing kerblines away from Mander Park. This would result in the retention of all trees. This option would result in the western edge of the designation being located at the edge of the dwellings on those properties located opposite. The applicant has stated that: *“Therefore although this option would have environmental benefits, its social costs would be greater than other options.”* It is also noted that this would have a higher economic (public) cost than the preferred option (no shift).

### 11.8 Minor Shift with the Left Turn Slip Lane removed

11.9 This would be the same as the minor shift option above, but with the left turn slip lane from Central Ave to SH1 removed. This option would not result in the removal of any trees within Mander Park. The applicant has stated that this option would *“generate additional social impacts in terms of growing congestion of the roading network and effects such as delayed travel times and increased fuel use.”*

### 11.10 Realignment of Central Ave

11.11 As part of the Transport assessment undertaken by Wes Edwards on behalf of WDC, a further potential alternative was identified. This was:

*“At present and in all of the options presented by NZTA the centreline in Central Avenue East is marked along the centre of the carriageway. This leaves a decent lane plus room for kerbside parking on the northern side of Central Ave. If that kerbside parking were removed for a distance from SH1 (possibly as far as Third Ave) and the centreline moved north a third approach lane could be provided with less than 1m of road widening adjacent to Mander Park. I suspect that may allow retention of most of the trees along Central Ave as that area is currently covered with footpath. There could be effects arising from removal of the parking that would need to be weighed against the retention of the trees. There are also benefits to pedestrians and cyclists from changing the slip-lane left turns to regular left-turns. The performance of the intersection with the layout below is very similar to the performance for the notified version and the construction costs would be reduced.”*

11.12 In response the applicant has confirmed that this option was initially considered but was discounted. The applicant has stated that:

*“When formulating the shift options for Central Ave East we considered a partial shift as you have suggested. Any partial shift entails intrusion into the area of the trees rootball. The depth of this intrusion needed to be 600 mm to ensure pavement depth and probably subsoil drainage below that. There was no extent of intrusion into the rootball that was considered to be acceptably safe by the arborist. Any intrusion involves some risk of damage to the tree and the greater the intrusion the higher the likelihood that the tree will not survive.*

*The widths required for vehicle tracking close to the intersection and the tapers all have an effect on property on the northern side of Central Ave east. Because Central Ave west centreline must line up with Central Ave east, any shift will also affect property on the north side of Central Ave west out to the extent of the tapers.*

*The less the intrusion into the tree rootball the greater the effect on all of these properties. However there was no assurance that imposing additional effect on*

*these properties would achieve the objective of retaining the trees unless the existing kerb line was retained. There was significant likelihood that a compromise would result in a lose-lose situation. Hence the comparison came back to a choice between no intrusion and full intrusion. The analysis showed that full intrusion was the option most likely to optimise sustainable management. In doing so it avoided effects on the environment to the greatest extent and has hence been selected as the most appropriate option.”*

- 11.13 Overall it is considered that possible alternatives to the proposed highway alignment, having specific regard to Mander Park and the potential to retain heritage trees, have been adequately considered, particularly in light of the existing designation and the wider traffic and transportation issues affecting Whangarei. Given the objectives of the NOR, it is considered that the NZTA has reached a reasonable conclusion in terms of alternatives, warranting its support as the preferred alignment (chosen option).

## **12. Necessity for the designation**

**Section 171(1)(c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought**

- 12.1 The NOR seeks to alter an existing designation (DTNZ1) for the purpose of widening this section of State Highway 1, also known as Western Hills Drive. This application forms part of a wider programme of improvement works along SH1 through Whangarei.
- 12.2 NZTA’s stated objective is “*under its functions in a way that contributes to an affordable, integrated, safe, responsive and sustainable land transport system.*” (Land Transport Management Act 2003.)
- 12.3 In addition to the NZTA objective, a statement of the project objectives are set in section 10.2 of the Application Report. These are:

*Provide increased capacity on the State Highway 1 Corridor:*

*At present the operational capacity of the State Highway is at or close to peak, particularly at busy periods of the day. The proposed design increases the capacity of the State Highway providing remediation of the present operational issues, while also being designed to mitigate increased traffic growth yet to occur over the years to come.*

*Provide a no surprises for motorists on the highway:*

*It is considered that the project will improve the efficiency and safety of the State Highway and the surrounding road network providing a no surprises environment. Safety will be enhanced through the addition of clearly marked lanes, reducing the number of rear end queuing accidents and improving the visibility along the State Highway and at the intersections through the extent of the works.*

Reduce the current crash rate;

*The proposed improvements will result in a fundamental change to the State Highway with improvements to capacity that along with the changes to turning movements to the State Highway should reduce conflict points, congestion and associated driver frustration, and consequentially reduce the current crash rate*

Provide a safe solution for all road users, including pedestrians and cyclists;

*The proposed improvements enhance provision of cyclists facilities through widening the shoulders of the State Highway while also improving pedestrian footpaths and crossing routes which will help increase local accessibility and movement within the city by non-vehicular modes of traffic;*

To minimise any adverse effects on the environment, or where this not achieved, adopt a means to mitigate

*During the construction works there will be activities undertaken that will have the potential to result in adverse effects in the surrounding environment. Appropriate constructions methodologies area required to be addressed in an Environment Management Plan to minimise and militate against the adverse effects that may occur during construction as discussed in section 4.3 of this document [AECOM's Application Report].*

*In addition, following the works there will be a change to the landscape as the new alignment incorporates part of the existing residential, business and Council reserve properties adjacent to the site. Planting and associated landscape treatment will be integrated into the area surrounding the works to minimise the visual effects and to mitigate the visual effects resulting from the removal of trees within Mander Park.*

*Other matters mitigation of adverse effects on the environment proposed for, include, but are not limited to, operational noise and effects on water bodies which are addressed in more detail in section 8.0 of this application [AECOM Application report].'*

- 12.4 The NOR highlights NZTA's statutory mandate under section 77 of the Land Transport Management Act 2003 '*to operate the State highway system in a way that contributes to an integrated, safe, responsive, and sustainable land transport system*'.
- 12.5 The nature of the alteration to an existing designation is considered appropriate for the road's function and the requiring authority's objectives. The application would enable 2 vehicle lanes in each direction which would contribute towards a sustainable land transport system through Whangarei.
- 12.6 Under section 171(1)(c) of the Act, when considering a requirement and any submissions received, particular regard has to be given to "*whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought*", with the term '*reasonably necessary*' relating to the designation rather than to the public work itself. As reported in 'Salmon - Resource Management', (citing Takamore Trustees v Kapiti Coast DC 04/04/03), '*this subsection requires an analysis of the nature of the project to see if there is anything about the particular work or project which means that it would be unreasonable to use an alternative site, route or method.*

12.7 Overall taking into account the project objectives which relate to the improving the capacity and safety of SH1 as well as connecting roads (Selwyn Ave and Central Ave) it is considered the alteration to the designation is reasonably necessary for achieving the objectives of the requiring authority as set out in the NOR Application.

### **13. Other Matters**

13.1 Section 171(1)(c) of the RMA requires that:

13.2 *"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—*

*(d) any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement."*

13.3 In this instance it is assessed that there are no other matters that require assessment with regard to the NOR Application applied for.

### **14. Outline Plan**

14.1 Section 176A of the Act– "Outline Plan" – requires that an outline plan work on designated land is to be submitted to allow the territorial authority to request changes before construction commences.

14.2 An Outline Plan is required to show:

- *The height, shape, and bulk of the public work, project, or work; and*
- *The location on the site of the public work, project, or work; and*
- *The likely finished contour of the site; and*
- *The vehicular access, circulation, and the provision for parking; and*
- *The landscaping proposed; and*
- *Any other matters to avoid, remedy, or mitigate any adverse effects on the environment.*

14.3 However, this requirement does not apply in a case where:

- *The proposed work has been otherwise approved under the Act;*
- *The details of the public work have been incorporated into the designation;*
- *The territorial authority waives the requirement for an outline plan.*

14.3 The Outline Plan process in the Act is one that involves the Council and the requiring authority, in this instance NZTA. There is no legislative provision for Outline Plans to be publicly notified or for interested parties to be consulted prior to their lodgement with Council.

14.4 The Applicant has sought as part of the NOR Application to include an Outline Plan of Works so that the details of the public work are incorporated into the designation.

14.5 It is considered that the application has generally included sufficient information in terms of

- *The height, shape, and bulk of the public work, project, or work; and*
- *The location on the site of the public work, project, or work; and*
- *The likely finished contour of the site; and*
- *The vehicular access, circulation, and the provision for parking*

14.6 However having considered the level of detail of the application, the independent assessment reports (and recommended conditions and mitigation measures), as well as the requirements of section 176A, it is considered that insufficient information has been submitted to enable this to be included into the designation.

14.7 More specifically further details are required to be provided in terms of engineering details, landscaping along the highway corridor, as well as how adverse effects will be appropriately mitigated. This would include noise, landscaping and urban design and construction effects. Independent assessment reports undertaken on behalf of the WDC have set out a requirement for various management and mitigation plans to be submitted prior to any works commencing. Therefore it is considered that an Outline Plan cannot be incorporated into the designation. However it is recommended that should mitigation plans including but not limited to construction noise, urban design and landscaping, construction management and traffic management be submitted to the satisfaction of the WDC then the Council may consider waiving the requirement for an Outline Plan. This is set out in the recommendation below.

### **Lapse Period**

14.8 S184(1) of the Act states that:

*A designation lapses on the expiry of 5 years after the date on which it is included in the district plan....unless -*

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

14.9 The applicant has sought a consent lapse period of 10 years under section 184(1)(c). The primary reason for this is to ensure there is sufficient time available in the event that delays occur in the funding programme.

14.10 It is considered given the requirement to obtain the necessary funding and the nature of the works that a 10 year lapse period is reasonable in this instance.

## **15. Conclusion**

15.1 Overall it is considered that the proposal satisfies the tests in section 181 of the Act and will not be inconsistent with the provisions of the relevant Plans and Part 2 of the Act.

15.2 Adverse visual amenity and landscaping effects as a result of the loss of heritage trees are considered to be sufficiently outweighed by the wider benefits as a result of the improvements to the road network and on balance the overall effects on the environment are acceptable. Where more than minor adverse effects have been identified, these are short terms effects can be appropriately mitigated in the long-term through mitigation measures such as replacement tree planting using larger grade stock.

15.3 The proposal is considered appropriate and necessary for achieving the objectives of the requiring authority of which the designation is sought.

- 15.4 Therefore, it is recommended (subject to noise and vibration matters being resolved) that the Notice of Requirement be confirmed and that conditions be applied to the designation.
- 15.5 It is considered, given the level of detail included in the application, specifically in terms of how adverse landscaping, urban design, noise, construction and traffic effects will be mitigated that an Outline Plan under section 176A cannot be incorporated into the designation.

## **Recommendation**

The recommendation for the Notice of Requirement is subject to the requiring authority providing the following further information at the hearing to the satisfaction of Council Officers:

- Details of how any adverse construction noise and vibration effects in respect to residential properties adjacent the highway corridor will be suitably mitigated. This should include a set of draft conditions to ensure that noise and vibration during the construction works will be reasonable and comply with the relevant standards.
- Details of how any adverse operational noise and vibration effects in respect to residential properties adjacent the highway corridor will be suitably mitigated. This should include a set of draft conditions to ensure that noise and vibration for the operation of the road will be reasonable and comply with relevant standards.

That pursuant to Section 171(1)(d) and Section 181 of the Resource Management Act 1991 the application for a Notice of Requirement by New Zealand Transport Agency to alter an existing designation for the construction and use of a road (State Highway 1) between land located 140m to the north of SH1 intersection with Selwyn Ave to land located 20m to the south of SH1 intersection with Wilson Ave be **confirmed** and that conditions be imposed on the designation.

### **Reasons for the Recommendation:**

1. Adverse visual amenity and landscaping effects as a result of the loss of heritage trees are considered to be sufficiently outweighed by the wider benefits as a result of the improvements to the road network and on balance the overall effects on the environment are acceptable. Where more than minor adverse effects have been identified these effects can be appropriately mitigated as outlined in the Notice of Requirement and recommended conditions.
2. The alteration to the designation widens an existing road designation identified in the Operative District Plan. The alteration to the designation is not contrary to the relevant provisions of the Whangarei District Plan and other relevant Plan provisions.
3. The proposal is assessed to satisfy the relevant matters contained in Part 2 of the RMA.
4. Adequate consideration has been given to alternative highway alignments.
5. The alteration to the designation is reasonably necessary for achieving the objectives of the NZTA to operate the highway in a way that contributes to an integrated, safe, responsive and sustainable land transport system. The Notice of

Requirement would enable the widening of SH1 to provide 4 vehicle lanes, which will assist in the better management of traffic and the relief of congestion within the Whangarei urban area.

The alteration to the designation shall be subject to the following conditions:

**General Conditions:**

1. Except as modified by the conditions below, the works shall be undertaken in general accordance with the information provided by the Requiring Authority being the NZTA, the Notice of Requirement and supporting documents, as follows:

*'State Highway 1 Four Lanes from Selwyn to Ave to Wilson Ave, Whangarei: Alteration to Designation'* prepared by AECOM and dated 30 July 2010 and consisting of two volumes with appendices A – V.

**Lapsing of Consent:**

2. This consent shall lapse 10 years after the date of commencement unless the consent is given effect to before the expiry of this period or such longer period as may be granted under Section 125 of the Resource Management Act 1991.

**Extent of Designation:**

3. That the extent of the designation shall be that area identified on plans appended at Appendix A of the Application Report, being Plans 1-3, Titled SH1N Minor Intersection Improvements RP 261/3.30-261/4.55 prepared by Northern Civil Engineering Ltd and dated 15/07/2010.

**Utilities**

4. The consent holder shall consult with and ensure that the requirements of all relevant service and network utility providers including power, telephone, fibre optics, gas, water, sewer and stormwater are incorporated into the contract works.
5. That the NZTA shall ensure that any redundant services are removed to the requirements and satisfaction of the relevant service provider.

**Construction Noise Conditions**

6. Subject to the following conditions (conditions 7-9 and the approved construction management plan in condition 24), all construction activities shall comply with the requirements of NZS 6803:1999 Acoustics – Construction Noise.
7. For any construction work that is not able to achieve the design criteria the neighbours shall be advised at least one week in advance. This advice shall include the expected noise levels at each of the relevant houses and duration of the work involved.
8. Where noise is expected to be above the requirements of NZS6803 a detailed noise report shall be prepared setting out what is proposed and how the effects of the high noise levels will be managed in terms of adopting the best practicable option to minimise any noise.

This shall include offering to relocate residents where the noise exceeds the night time requirements of NZS6803 for more than eight hours in any one week between 6:00pm and 10:00pm or four hours in any one week between 10:00pm and 7:00am the following day

9. The applicant may, at its discretion:
- (a) offer to upgrade the house, at the applicant's expense, to ensure that the night-time construction noise is controlled to a design level of 35dB LAeq(15min) or less inside all bedrooms; or
  - (b) pay the property owner the cost of upgrading the house to achieve a design level of 35dB LAeq(15min) or less inside all bedrooms so the property owner may arrange for the work to be undertaken.
  - (c) if the windows need to be closed to achieve the design level then the offer shall include the provision of alternative ventilation. Where this offer is accepted by the property owner, it shall be considered as achieving compliance with NZS 6803:1999. Night time shall be taken as the period between 6.00pm and 7.00am the following day.

#### **Operation Noise Conditions**

10. The road shall be designed to comply with the requirements of the NZTA Planning Policy Manual Appendix 6 Transit New Zealand's Guidelines for the Management of Road Traffic Noise – State Highway Improvements.
11. The design shall include all houses existing at the time of completing the road upgrade, regardless of the owner of the house.
12. Where treatment within the road boundary is not practicable, an offer shall be made to the resident to provide a screen fence or to upgrade the house to achieve the requirements of condition 10. In the case of any dwelling owned by NZTA and to be used for residential purposes after completion of the project, any necessary upgrading shall be implemented prior to completion of the project.
13. On completion of the project NZTA will provide Councils Compliance Team Leader with written confirmation from a suitably qualified acoustic engineer on the houses where compliance has been achieved and for those houses, not owned by NZTA, where the owner has declined to have the house upgraded or a screen fence constructed to achieve the acoustic requirements of this consent.

#### **Archaeological**

14. Subject to condition 15, if any archaeological sites, including human remains are exposed during site works then the following procedures shall apply:
- (a) Immediately after it becomes apparent that an archaeological or traditional site has been exposed, all site works in the immediate vicinity shall cease;
  - (b) The Requiring Authority shall immediately secure the area so that any artefacts or remains are untouched; and
  - (c) The Requiring Authority shall notify tangata whenua, the New Zealand Historic Places Trust and the Whangarei District Council (and in the case of human remains, the New Zealand Police) as soon as practicable that an archaeological site has been exposed so that appropriate action can be taken.

Works shall not recommence in the immediate vicinity of the archaeological site until any approval required from the NZ Historic Places Trust is obtained.

15. Condition 14 shall not apply where the Requiring Authority holds all relevant approvals under the Historic Places Act 1993, apart from the requirement to contact the New Zealand Police in the event of discovery of human remains.

#### **Landscaping (Mander Park)**

16. Following completion of the road construction works at Mander Park (Central Avenue and State Highway 1) and adjacent sites, landscape planting and construction works shall be undertaken in general accordance with that identified within the following documents, including any works required by a landscape maintenance plan and to the satisfaction of Parks and Recreation Manager:

Landscape Concept Plan titled "*State Highway 1 Minor Intersection Improvements WDC Preferred Mitigation Plan for Mander Park – Revision 2*" dated 27 October 2010.

Document titled "RQ1000002 - Mitigation Works – Landscape Detail - Mander Park – SH 1 Selwyn Avenue to Fourth Avenue - Schedule of Proposed Landscaping Works & Maintenance Plan." and dated 27 October 2007

Landscape drawings titled "*SH1N Region1 RS.261 SH1N Minor Intersection Improvements RP261/3.30-261/4.55 Proposed Landscaping – Overview Plan [sheets 1-4]*" with the following exceptions:

(Sheet 1) NZTA Properties Plant Schedule – Corner Selwyn/Western Hills Drive "*Syagrus romanzoffiana*" be altered to read "*Syagrus romanzoffiana/Sophora tetraptera* or similar."

(Sheet 4) Mander Park Semi Mature Tree Schedule to include one (1) 6m *Quercus robur* and to exclude one (1) *Liquidambar styraciflua*.

17. Following completion of the road construction works, the landscape construction works identified within the approved Landscape Plan in condition 16 shall be undertaken, including any works required by a landscape maintenance plan. Such works shall be implemented as soon as practicable and works shall be completed no later than 12 months after the completion date of the Project.

#### **OUTLINE PLAN AND MANAGEMENT PLANS**

18. Prior to the commencement of works, the Requiring Authority shall submit to the Whangarei District Council and have approved in writing, the relevant Management Plans required under Conditions 21, 22, 23 (Urban Design and Landscape Mitigation), 24 (Construction), 25 (Construction Traffic), 26, 27, (Noise and Vibration), and the Engineering Plans (condition 28)
19. The approval in writing of all the above Management Plans referred to in condition 18 above may also, if considered appropriate by the Resource Consents Manager of Whangarei District Council, be deemed to be a waiver, in whole or part, pursuant to section 176A (2)(c) of the RMA of the requirement for an Outline Plan of Works under section 176A. If such a waiver is sought through the management plan approvals, this should be stated in writing when these management plans are submitted for approval.

20. The works shall be undertaken in accordance with the approved Management Plan or accepted Outline Plan of Works (as the case may be).

#### **Urban Design and Landscape Mitigation Plan**

21. Prior to the commencement of works on the application, the Requiring Authority shall submit to Council and have approved in writing by Councils Team Leader Compliance an 'Urban Design and Landscape Mitigation Plan' (UDLMP). This Plan shall be prepared by a suitably qualified expert(s). The UDLMP shall be prepared in general accordance with the "Selwyn Avenue to Wilson Avenue Urban Design Report" including Appendix "Landscape Visual and Urban Design Report" prepared by Simon Cocker Landscape Architecture and Boffa Miskell, referenced AO9164, dated 19/03/10; and shall include the following:

- The integration of the permanent works into the surrounding landscape;
- Mitigation of effects on properties in the vicinity of the alignment;
- An Urban Design Framework that depicts the overall urban design concept, the design intent, layout and mitigation proposals;
- Landscape and Urban Design Details - these shall include:
  - Identification of vegetation to be retained and removed;
  - Proposed planting, including plant species, mixes, spacing/densities, sizes (large specimen trees shall be used - 4 metres in height at time of planting) and layout;
  - Planting programme – the staging of planting in relation to the construction programme. A maintenance programme providing specific measures as to how the planting will be maintained following its establishment and on an ongoing basis.

22. The works as set out in the UDLMP approved by Whangarei District Council shall be implemented as soon as practicable and works shall be completed no later than 12 months after the completion date of the Project

23. The UDLMP for those sites at Lot 12 DP 27129, Lot 1 DP 19410 and Lot 16 DP 39182) shall be prepared in consultation with, and to the approval of the Parks and Recreation Manager. This detailed landscape plan shall include:

- Hard landscaping features, Plant sizes and number, Plant species, Planting locations and Maintenance plans.

Following completion of the road construction works, the landscape works identified within condition 23 above shall be undertaken, including any works required by a landscape maintenance plan. Such works shall be completed no later than 12 months after the completion date of the Project and prior to hand-over of the above site to WDC for the purposes of on-going maintenance.

#### **Construction Management Plan**

24. A Construction Management Plan (including noise and vibration management) where the noise and vibration component of the plan shall be prepared by a suitably qualified acoustic engineer submitted for approval by the Team Leader Compliance that shall detail, but not be limited to:

- i. The methods by which noise associated with the work will comply in all aspects with the controls set out in NZS 6803:1999 and how all persons undertaking day to day activity management will adopt the best practicable option at all times to ensure the emission of noise from the site does not exceed a reasonable level in accordance with section 16 of the Resource Management Act 1991; and the methods by which vibration associated with the work will comply in all aspects with the relevant District Plan controls;
- ii. Construction techniques and machinery and equipment to be utilised;
- iii. Times and days when noisy construction work would occur;
- iv. The management of storage areas and the control of dust from earthworks and construction activities;
- v. The construction noise and vibration limits that apply to particular areas and the methodology to manage construction noise and vibration;
- vi. Monitoring and reporting of construction noise levels at critical locations;
- vii. Vibration monitoring measures;
- viii. The use of traffic noise barriers for construction noise mitigation and the design of noise mitigation measures where required;
- ix. On-site contact for local residents and businesses;
- x. Methods for receiving and responding to complaints about construction noise and vibration;
- xi. Complaint response and reporting procedures;
- xii. Procedures to ensure that the work does not encroach on adjoining land without the prior written approval of the owners of that land; and
- xiii. The coordination of the requirements of all other management plans and statutory requirements.

The Construction Management Plan shall be consistent with Conditions 6 – 9 of this consent.

#### **Construction Traffic Management Plan**

25. A Construction Traffic Management Plan prepared by a person with a current STMS certificate, submitted for approval by the Team Leader Compliance that shall include but not be limited to:
  - i. the safe management and maintenance of traffic flows, including pedestrians and cyclists, on existing roads;
  - ii. the locations of access carriageways and their connections to public roads;
  - iii. the size and location of parking areas for plant, construction vehicles and the vehicles of workers and visitors;

- iv. the methodology for ensuring the continued access to all properties affected by the construction process for both vehicles and pedestrians (access shall be maintained at all times unless the prior written approval of the landowner has been obtained);
- v. Construction dates and hours of operation including any specific non working hours for traffic congestion and noise;
- vi. Truck route diagrams both internal to construction sites and external to the local road network;
- v. Temporary traffic management signage/details for both pedestrians and vehicles to appropriately manage the interaction of these road users and heavy construction traffic;
- vi. Details of site access/egress over the entire construction period;
- vii. Identification of affected roads;
- viii. Proposed access for public road users;
- ix. Access to property owners having specific regard to the access of business such as motels;
- x. How equipment (eg trucks) will access the construction site;
- xi. Peak times that traffic may be affected; and
- xii. How material will be disposed of offsite (eg. Number of vehicle movements).
- xiii. Provision of pedestrian access/egress to properties adjacent to the works at all times.

#### **Noise and Vibration Mitigation Plan**

- 26. A noise mitigation plan, prepared by a suitably qualified and experienced acoustic engineer, submitted for approval by the Council's Team Leader Compliance, detailing the type, size and location of noise barriers/fences/ and other noise mitigation measures (i.e. types of road surface to be used) proposed to ensure that the recommendations of the relevant AECOM reports detailed in application and any further mitigation measures that shall be required are incorporated into the design and construction of the road works.
- 27. A vibration mitigation plan, prepared by a suitably qualified and experienced engineer, submitted for approval by the Council's Team Leader Compliance, detailing any vibration mitigation measures (i.e. types of road construction and road surface to be used) proposed to ensure that the recommendations of the relevant AECOM reports submitted with the application and any further mitigation measures that shall be required are incorporated into the design and construction of the highway so that the operation of the road will achieve compliance with the District Plan vibration rules.

#### **Engineering Drawings**

- 28. The NZTA shall submit to Council a set of engineering plans prepared in accordance with the Councils Environmental Engineering Standards 2007, showing details of the proposed stormwater reticulation including any necessary treatment and have the plans approved by Council.

29. That immediately following completion of the works the NZTA shall submit certified and dated as-built plans of the completed works and services, prepared in accordance with Council's Environmental Engineering Standards 2007 and have such plans accepted by Council.

30. **Other Conditions:**

That the alteration to the designation set out in the Notice of Requirement Application shall be for the purpose of the operation and maintenance of a State Highway known as State Highway 1.

**Advice Notes**

1. Within 30 working days of the day on which the requiring authority received the Council's recommendation under section 171, the requiring authority shall advise the Council whether they accept or refuse the recommendation either in whole or part.
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 infrastructure.
4. The requiring authority needs to obtain all other necessary consents and permits and comply with all relevant Council bylaws. This may include building consents approvals for any retaining walls.
5. That the NZTA 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
6. The requiring authority is advised of the conditions set on in the NRC Consents and is required to comply with these conditions.

**Attachments:**

1. A Copy of the Application Report (not including Appendices)
2. Aerial photo and Locality of the Site
3. District Plan Planning Maps
4. Plans of application site showing Extent of Proposed Alteration to Designation and Alignment Plans
5. Submissions Received
6. Northland Regional Council Consents
7. Memorandum and attachments from David Snowdon (WDC Group Planner)
8. WDC Consulting Environmental Engineers Report (Mr John Smith).
9. Wed Edwards Traffic Consultants Peer Review Report (Traffic)
10. Hegley Acoustic Consultants Peer Review Report (Noise and Vibration)
11. Dream Planning Ltd Peer Review (Landscape and Urban Design)

**NB:** The Hearings Commissioner has also been forwarded a full copy of the Application Report including Appendices.