

# **Hearing Report on Submissions and Further Submissions**

**Topic: Designations**

**Report prepared by: Alex Bell**

**Dated: 21 October 2024**

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### List of submitters and further submitters addressed in this report

Submitter No	Submitter name	Abbreviation
20	Ara Poutama- Department of Corrections	Department of Corrections
24	Ministry of Education	MoE
25	The Lines Company	TLC
31	Transpower New Zealand	Transpower
17	Waka Kotahi / New Zealand Transport Agency	NZTA
39	Firstgas	Firstgas
51	KiwiRail Holdings Limited	KiwiRail
FS23	Te Nehenehenui Trust	TNN

# **1. Introduction**

## **1.1 Qualifications and Experience**

1. My name is Alex Bell. I am employed by the Waitomo District Council as the General Manager – Strategy and Environment.
2. I hold the qualifications of Bachelor of Laws, Graduate Diploma in Environmental Planning and am completing my Post Graduate Diploma in Environmental Planning from the University of Waikato.
3. I have been employed in legal and planning roles in private practice, central government and local government for approximately 10 years. I have been employed by Council as the General Manager – Strategy and Environment since June 2021. In this role I am responsible for the Proposed Waitomo District Plan proceeding through the process under Schedule 1 of the RMA and the administration of the Operative Waitomo District Plan.

## **1.2 Code of Conduct**

4. I confirm that I have read the Code of Conduct for Expert Witness in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
5. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners.

## **1.3 Conflict of Interest**

6. I confirm that I have no real or perceived conflicts of interest.

## **1.4 Preparation of this report**

7. I am the author of this report. The scope of evidence in this report relates to the evaluation of submissions and further submissions received in relation to the provisions related to chapter 55 - designations.
8. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## **2. Scope of Report**

### **2.1 Matters addressed by this report**

9. The schedules contained in chapter 55 – designations are covered by this report. The scope of my evidence relates to the evaluation of submissions and further submissions received in relation to the requests from requiring authorities relating to their designations included in this plan.
10. This report considers submissions and further submissions that were received by the Council in relation requests from requiring authorities for designations included in the plan. These include requests for existing designations to be rolled over, with or without modification, and for new designations.
11. Requiring authorities have requested that a significant number of existing designations within Operative Waitomo District Plan be rolled over into the proposed district plan without modification. In this situation, and provided that no submission has been received, clause 9(3) in Schedule 1 of the Resource Management Act 1991 (RMA) does not allow Council to make a recommendation or decision. Accordingly, I have not addressed those particular designations in this report, and they will be included in the decisions version of this plan without further formality.

### **2.2 Overview of the topic / chapter**

12. Chapter 6 – general approach explains what a designation is in terms of the RMA. The content of this introduction is for information purposes only, as the statutory context for designations is set out in Part 8 of the RMA (sections 166-186).
13. The designation schedules contained in chapter 55 describe the designations held by each requiring authority within Waitomo. In accordance with the national planning standards, these schedules specify the unique identifier of each designation, the designation purpose, site and legal descriptions, lapse date, whether the designation is a primary or secondary designation, conditions applicable to the designation and, whether the designation is a rollover, modification, alteration or new designation.
14. All designations are annotated on the planning maps with a designation number. The 'underlying zone' shown on the planning maps applies to any other activities that are for a purpose that is different to the designation purpose (or activities undertaken by a party other than the requiring authority) under section 176 of the RMA.
15. Chapter 55 applies across all zones, unless stipulated otherwise.

## 2.3 Statutory Requirements

16. As defined by section 166 of the RMA, a designation means a provision made in a district plan which gives effect to a requirement made by a requiring authority.
17. A requiring authority is defined in the RMA as a Minister of the Crown, a local authority, or a network utility operator approved as a requiring authority under section 167. Network utility operators (organisations that distribute gas, petroleum, geothermal energy, telecommunications, electricity, water, wastewater, or those which construct or operate roads, railway lines and airports) must apply for requiring authority status from the Minister for the Environment. A requiring authority can compulsorily acquire land that is designated (or that it wishes to designate) under the Public Works Act 1981.
18. The requiring authority must have financial responsibility for a project, work or operation on the designated land. It is well established through case law that land should not be designated for a proposed public work unless the requiring authority is prepared to take financial responsibility for it. This is not just limited to the purchase of the land, but also extends to the construction of the proposed work.
19. Designations can be site-specific (relating to a particular title), or they may be linear (such as a railway or gas pipeline). They are similar to a 'spot zone' over a site or route which allows a requiring authority's project or works to go ahead without needing land use consent, because the usual provisions of a district plan do not apply to a designated site. In this sense, a designation is 'deemed' to be a rule.
20. When considering a requirement and any submissions received, section 171 RMA requires the Hearing Panel, subject to Part 2, to 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) a 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 recommendation on the requirement.

21. Section 176 of the RMA covers the effect of a designation. Once included in a district plan, works can be carried out on a designated site, provided they are consistent with the designated purpose, or are within the 'scope' of the designation. According to case law, the 'scope of a designation' is what an ordinary member of the public would understand the scope to be when inspecting the designation in the district plan.
22. Other people may not, without the prior written consent of the requiring authority, do anything in relation to the designated land that would prevent or hinder the project or work to which the designation relates. This includes undertaking any use of the land, subdividing the land and changing the character, intensity, or scale of the use of the land.
23. The 'underlying zone' for a designation in the district plan applies to any other activities that are for a purpose which is different from the designation purpose (or activities undertaken by a party other than the requiring authority). Therefore, any activity or works outside the scope of a designation will require resource consent, unless the activity or works are a permitted activity within the underlying zone.
24. The requirements for recommendations and decisions on designations and requirements in the proposed Plan are set out in clause 9 of Schedule 1 of the RMA as follows:

**9 Recommendations and decisions on requirements**

- (1) The territorial authority shall make and notify its recommendation in respect of any provision included in the proposed district plan under clause 4(5) to the appropriate authority in accordance with section 171 or section 191.
  - (2) The territorial authority shall make its decision on provisions included in the proposed district plan under clause 4(6) in accordance with section 168A(3) or section 189A(3), as the case may be.
  - (3) Nothing in this clause shall allow the territorial authority to make a recommendation or decision in respect of any existing designations or heritage orders that are included without modification and on which no submissions are received.
25. For new requirements, and roll overs of existing designations with modification, the provisions of sections 168A and 171 of the RMA apply. Accordingly, the roll overs of existing designations, and the submissions received on them are considered in this report. This report also provides recommendations and reasons (including recommended responses to the submissions received), for the Commissioner's consideration.
  26. In accordance with section 171(2) of the RMA, the Commissioners have the ability to make a recommendation to the requiring authorities on their designations and to confirm or modify the requirement, impose conditions, or withdraw the requirement.

## **2.4 Procedural matters**

27. There are specific procedures for the consideration of designations and their inclusion in a proposed district plan.
28. When reviewing a district plan, clause 4 in Schedule 1 of the RMA requires Council to invite requiring authorities that have an existing designation in their district to give written notice, stating whether the requiring authority requires Council to include the designation in the proposed plan, with or without modification. Requiring authorities are given 30 working days to respond to Council's invitation, otherwise the designation must not be included in the district plan.
29. As early as 1 September 2017, Council staff contacted all requiring authorities to flag the upcoming district plan review and the requirements of clause 4. This early informal contact was beneficial to a number of requiring authorities as some (particularly historic) designations are complicated and a 30 working day time frame was not considered adequate to provide a thorough informed response. The formal clause 4 requests were sent on 15 August 2019 and then draft schedules were sent to Requiring Authorities on 25 March 2021.
30. In addition to sending the standard public notice regarding notification of the proposed district plan to all landowners in the district, Council sent individual letters to immediately adjoining landowners considered to be potentially affected by designation requests where requiring authorities were seeking to add a new designation or modify their existing designation boundaries or conditions.
31. In accordance with clause 9(3) of Schedule 1 of the RMA, Council is able to make a recommendation or decision in respect of existing designations that are included in this plan without modification, and on which no submissions are received. Therefore, unless a requiring authority has sought an amendment to the notified designation schedules, or a submission has been received on a designation schedule it is considered that these designations can be included in the decisions version of this plan.
32. Given the statutory timeframes which apply to recommendations to the requiring authorities and their decisions back to Council, the Commissioners may consider releasing its recommendations on the designations ahead of notifying the decisions version of this plan.
33. While the Commissioners have delegated authority to make decisions on all submissions received, they do not have delegated authority to make the final decisions in respect of Council's own designations. Instead, the Commissioners' have the role of making recommendations to Council as a requiring authority. Section 168A of the RMA allows for final decisions to be made on Council's own requirements.
34. Section 32AA: Section 32AA evaluations are not required in the context of this hearing report for designations. This is because designations do not



constitute plan provisions for which any section 32AA evaluation is required.

### **3. Consideration of submissions received**

#### **3.1 Overview of submissions**

35. A total of 26 submissions and 2 further submissions were received. 12 of the submissions supported the retention of the designations schedules as notified. The rest of the submissions have sought changes to their designation schedules.

#### **3.2 Structure of this report**

36. This report is structured by topic as follows:
- Topic 1 – Submissions seeking rollover of existing designations without modification
- Topic 2 – Submissions seeking amendments to the designations as notified
37. The assessment of submissions generally follows the following format: submission information, relief sought by the submitter, the recommendation and if required, any amendments to the plan.

### **4. Analysis and recommendations**

#### **Topic 1: Submissions seeking retention of existing provisions**

38. There are 12 submissions supporting the designation schedules:

<b>Submission No</b>	<b>Submitter</b>	<b>Support/in part/oppose</b>	<b>Plan Provision</b>	<b>Relief Sought</b>	<b>Recommendation</b>
20.14	Ara Poutama-Department of Corrections	Support	Designation MCOR01	Retain designation MCOR01.	Accept
24.77	MoE	Support	Designations for MOE	Retain designations and plan maps.	Accept
25.01	The Lines Company (TLC)	Support	TLC01 Hangatiki Zone Substation	Retain designation TLC01 Hangatiki Zone Substation as notified.	Accept
25.02	TLC	Support	TLC02 Piripiri Zone Substation	Retain designation TLC02 Piripiri Zone Substation as notified.	Accept
25.03	TLC	Support	TLC03 Te Anga Zone Substation	Retain designation TLC03 Te Anga Zone Substation as notified.	Accept

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
25.04	TLC	Support	TLC04 Gadsby Road Zone Substation	Retain designation TLC04 Gadsby Road Zone Substation as notified.	Accept
25.05	TLC	Support	TLC05 Waitete Road Zone Substation	Retain designation TLC05 Waitete Road Zone Substation as notified.	Accept
25.06	TLC	Support	TLC06 Waitete Road Zone Substation	Retain designation TLC06 Waitete Road Zone Substation as notified.	Accept
31.77	Transpower	Support	TPR01	Retain designation TPR01.	Accept
39.83	Firstgas	Support	Designations FGL	Retain Chapter 55 Designations for First Gas Limited.	Accept
51.50	KRH	Support	KRH01	Retain as proposed.	Accept
51.52	KRH	Support	KRH01	Retain as notified. all KiwiRail designations as notified under 'KiwiRail Holdings Limited' and in the Planning maps.	Accept

39. It is proposed that the hearings panel recommend to the requiring authorities that they rollover their designations as notified without modification as requested in the submissions above.

## Topic 2: Submissions seeking amendments to the designations schedules as notified

### Ministry of Justice

40. One submission has been received from the Ministry of Justice on MJUS01.

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
01.01	Ministry of Justice	Amend	MJUS01	Amend the Requiring Authority referred to as follows: Minister of Justice <u>Courts</u>	Accept.

41. The Ministry of Justice has sought a modification to MJUS01 to amend the requiring authority from the Minister of Justice to the Minister of Courts. This submission amends the name of the requiring authority to the correct legal name. For this reason, it is proposed that the hearings panel recommend to the Minister of Courts that Designation MJUS01 is included in the proposed district plan with the modification requested.

### Ministry of Education

42. Two submissions have been received from the Ministry of Education. One submission requests an amendment to the advice note that precedes their

designations schedules, and the other is to amend the mapped extent of MEDU05.

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
24.02	MoE	Support with amendment	Ministry of Education - Designation advice note	Amend text in Explanatory note of the Designations chapter for 'Education Purposes': ... Enable the use of the facilities on the <del>designated</del> site ...  And any consequential amendments required to give effect to the matters raised in this submission.	Accept.
24.78	MoE	Support with amendment	MEDU05 Mokau school	Amend WDC16/MEDU05 boundary to include 24 State Highway 3 (see submission for map showing the site)  And any consequential amendments required to give effect to the matters raised in this submission.	Accept.

43. The submitter has advised that the amendment to the advice note is to ensure consistency with the approach the Minister is taking for education-related activities designated in district plans across New Zealand. The submitter considers that the standardised explanation will assist with ensuring that all education-related activities within the education sector are appropriately provided for within district and other plans and will result in greater consistency on how education-related activities are managed across New Zealand. For the above reasons, it is proposed that the hearings panel recommend to the Minister of Education that the modification to the advice note is amended as requested:

*Advice note: Education Purposes means for the purpose of these } designations shall, in the absence of specific conditions to the contrary:*

*I. Enable the use of the facilities on the ~~designated~~ site by and for the educational benefit of any school age students (i. e. years 0 to 13) and early childhood children regardless of whether they are enrolled at the institution located on that designated site.*

44. The Ministry of Education have a sought an amendment to the mapped extent of MEDU05, as the area of land outlined in red on Figure 2 below has been purchased by Waitomo District Council. Figure 1 shows the original mapped extent of the designation.



**Figure 1: Notified designation MEDU05**



**Figure 2: Parcel that has been acquired by WDC.**

45. At the date of plan notification, the land acquisition by Waitomo District Council had not been completed, which is why the designation extent included what is now Record of Title 1017395 within MEDU05. It is proposed that the relief sought is accepted, the designation schedule is amended to reflect the changes in landownership and the hearings panel recommend these amendments to the Minister of Education.

#### KiwiRail Holdings Limited

46. KiwiRail Holdings Limited have lodged a submission in opposition to the secondary designation WDC51 (Sewage pump station) over their primary designation KRH01.

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
51.53	KiwiRail Holdings Limited	Oppose	WDC51	Remove WDC 51.	Accept

47. KiwiRail considers that designation is to the side of the railway corridor (as outlined in Figure 3 below) and should be removed from KRH01. The railway line is the primary designation and, if the recommendation to include the secondary designation is approved by the hearings panel,

WDC51 would become a new (secondary) designation. KiwiRail considers that provided a grant is held for the sewer line and the pumping station that this provides sufficient surety of ongoing operation. The submitter considers the WDC designation is unnecessary and should be removed from the site.



**Figure 3: Designation boundary of WDC51**

48. It is noted that having a designation provides far broader powers to a requiring authority for the particular 'public work' for which the hold the designation. For example, it allows the requiring authority's project or works to go ahead without needing land use consent, because the usual provisions of a district plan do not apply to a designated site. In this sense, a designation is 'deemed' to be a rule.
49. However, it is considered that the extent of WDC51 can be amended to pull back the designation from KRH01 without adversely affecting the operation of the site. For this reason, it is recommended that the hearings panel accept the submission from KiwiRail Holdings Limited and recommend that the mapped extent of WDC51 is amended and included in the version of the proposed district plan as a primary rather than a secondary designation.

Sewage Pump Station	
Designation unique identifier	WDC51
Designation purpose	Sewage pumping
Site identifier	<del>Part of Railway Land</del> Tammadge Street, Te Kūiti
Lapse date	Given effect to (i.e. no lapse date)
Designation hierarchy under section 177 of the Resource Management Act	<del>Secondary</del> <u>Primary</u>
Conditions	No
Additional information	New designation

### Waka Kotahi / New Zealand Transport Agency

50. Waka Kotahi / New Zealand Transport Agency have lodged 10 submissions on their designations schedules, which have attracted 2 further submissions.

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
17.161	Waka Kotahi	Support in Part	Designation Schedule – Title name	Amend title name from 'NZ Transport Agency Designations' to ' <u>New Zealand</u> Transport Agency Designations'.	Accept
17.162	Waka Kotahi	Support in Part	Designation unique identifier NZTA01 – NZTA04	Amend designation unique identifier from <del>NZTA01, NZTA02, NZTA03 and NZTA04</del> to <u>NZTA-1, NZTA-2, NZTA-3 and NZTA-4</u> .	Reject
17.163	Waka Kotahi	Support in Part	Designation purpose NZTA01 – NZTA04	Amend designation purpose text to read: <del>To undertake construction, maintenance, operation, use and improvement of the state highway network and associated infrastructure.</del> <u>To construct, operate, maintain, and improve a state highway and associated infrastructure.</u>	Accept
17.164	Waka Kotahi	Support in Part	Designation hierarchy NZTA03	Amend designation hierarchy to read: ' <del>Primary</del> '-' <u>Varies</u> '	Accept
17.165	Waka Kotahi	Oppose in part	Conditions NZTA01	Remove the following conditions from NZTA01: <b>ULDMP Implementation, Inspection and Remediation</b> <del>9.6.1-9.6. The ULDMP, along with any changes agreed with Council as part of the Outline Plan, shall be implemented: As soon as areas become available for planting due to the progress</del>	Accept

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
				<p>of the works; and/or</p> <p><del>9.6.2. Within 6 months of the road construction being issued a Certificate of Practical Completion in accordance with NZS 3910:1998 Conditions of Contract for Building and Civil Engineering Construction, unless the seasonal timing of works makes some planting impracticable, in which case such planting shall be completed no later than 12 months after the issue of the Certificate.</del></p> <p><del>10.1.2 Access to the Tunnel shall be grated off in a manner that enables visitors to walk up to and view the tunnel, but does not permit access inside the Tunnel.</del></p> <p><b>13. Tangata Whenua</b></p> <p><del>13.1. The Ngati Maniapoto Mokau ki Runga Regional Management Committee (MKRRMC) shall be provided with the opportunity to have monthly hui and/or other site visits during the Project's construction period. The MKRRMC shall notify the contractor at least one (1) working day in advance of the proposed date for the hui and/or site visit that one is required. The purposes of the hui and/or visits are:</del></p> <p><del>13.2.1. To oversee the project works; and</del></p> <p><del>13.2.2. To provide input and cultural advice on a (formal) monthly basis.</del></p> <p><del>13.3. The Transport Agency will provide organisational and administrative support to facilitate the visits and monthly hui.</del></p> <p><del>13.4. The Transport Agency and MKRRMC shall continue discussions regarding the possibility of developing a research package with respect to the overall historical environment of the Awakino Gorge.</del></p> <p><del>13.5. In the event that the Crown settles any claim under the provisions of the Treaty of Waitangi Act 1975 that may impact on the operation of the Designation, the Transport Agency may, within 12 months of such settlement, commence a review of the conditions of Designation. This is for the purposes of assessing if any such</del></p>	

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
				<p>settlement requires amendment to be made to the conditions of this Designation.</p> <p><b>Advice Note:</b> It is noted that Wai 898 (Te Rohe Potae Inquiry) is currently before the Waitangi Tribunal and is awaiting completion of the Tribunal report.</p> <p><b>14. Community Liaison</b> 14.1. A liaison person (or their replacement when necessary); shall be appointed by the Transport Agency following the inclusion of the Designation in the Waitomo District Plan and until the completion of the Project. This liaison person shall be the main and readily accessible point of contact for all persons affected by the Designation. 14.2. The liaison person's name and contact details shall be notified to the owners and occupiers of all properties within 200 metres of the Designation boundaries, and shall be publicly notified by the Transport Agency within one (1) month of all parts of the Designation being treated as operative in the Waitomo District Plan. The agencies outlined in Condition 3.2.1 above shall also be advised of the liaison person's name and contact details.</p> <p><b>15 Access</b> 15.1 The Transport Agency shall provide the following properties with access to/from SH3 in the Project area, at least equal to their existing access: Lots 2, 3, 8 and 9 DP 17787, SA39B/295; and Lot 1 SOP 41152, SA68C/601.</p> <p><b>16 Complaints</b> 16.1.1-16.1 The Transport Agency shall notify the Council of complaints regarding the activities authorised by this notice, as soon as practicable and no later than one (1) working day after the complaint has been received. When complaints are received, the Transport Agency shall record the following details in a</p>	



Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
				<p>Complaints Log: Time and type of complaint, including details of the incident, e.g. duration, any effects noted;</p> <p>16.1.2 Name, address and contact phone number of the complainant (if provided);</p> <p>16.1.3 Location from which the complaint arose;</p> <p><b>17-Disputes</b></p> <p>17.1 In the event of any dispute, disagreement or inaction arising in respect of the approval of any Management Plan(s) the matter shall be referred in the first instance to the Highway Manager and the Council's Chief Executive Officer (or nominee) to determine a process for resolution. These parties will engage in good faith negotiations for up to 20 working days in an attempt resolve the dispute or disagreement.</p> <p>17.1.1 If after good faith negotiations a resolution cannot be agreed, the matter may be referred to an independent appropriately qualified expert, agreeable to both parties, setting out the details of the matter to be referred for determination and the reasons the parties do not agree.</p> <p>17.1.2 The independent expert shall be appointed within ten (10) working days of the Transport Agency or the Council giving notice of their intention to seek independent review. The appointed expert shall, as soon as possible, issue their recommendation on the matter. In making the recommendation, they shall be entitled to seek further information and hear from the parties as they see fit. The Council's Chief Executive Officer (or nominee)</p>	

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
				<p>must notify its decision to the Requiring Authority within ten (10) working days of receipt of the recommendation from the expert that the management plan is certified, declined, or request that the Requiring Authority incorporate changes suggested by the Council.</p> <p><b>18 Lapse of Designation</b>  18.1 In accordance with Section 184(1)(c) of the Resource Management Act 1991, unless given effect to, the Designation shall lapse 10 years after the date on which it was included in the Waitomo District Plan.</p> <p><b>Advisory Notes</b>  1. All necessary consents must be obtained from the Waikato Regional Council prior to the construction of the Project.  2. Extraction of material for construction of the Project from sites not currently authorised as extractive sites may require the Transport Agency to obtain additional consents from Waitomo District Council.  3. Final detailed designs have not been incorporated into the Designation. Such plans may therefore be required to be submitted to Waitomo District Council prior to implementing and/or carrying out work under this Designation.  Pursuant to Section 36 of the Resource Management Act 1991, the actual and reasonable costs incurred by Waitomo District Council in monitoring the conditions of this Designation shall be paid by the Transport Agency.</p>	
FS23.62	Te Nehenehenui	Oppose in part		<p>Te Nehenehenui seeks to enhance the protection and maintenance of its people and taonga within the taiao as guided by Ko Tā Maniapoto Mahere Taiao – Maniapoto's Environmental Management Plan.</p> <p>Where submission points do not align with this, or have the potential to negatively impact on iwi, hapu, whanau cultural values, sites, the taiao and all taonga within TNN area of interest, TNN opposes and requests that Waitomo</p>	Reject

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
				District Council consider this when finalising the review.	
17.166	Waka Kotahi	Oppose in part	Conditions NZTA03	<p>Remove the following conditions from NZTA03:</p> <p><b><del>2. Construction Management Plan</del></b></p> <p><del>2.1 At least ten (10) working days prior to the commencement of construction works required to give effect to this alteration to designation, the Requiring Authority shall provide the Council's General Manager Strategy and Environment with a Construction Management Plan (CMP) prepared by an appropriately qualified person that details Waka Kotahi's intended approach to the following:</del></p> <ul style="list-style-type: none"> <li><del><input type="checkbox"/> General description of construction activities.</del></li> <li><del><input type="checkbox"/> Proposed programme of work.</del></li> <li><del><input type="checkbox"/> Working hours.</del></li> <li><del><input type="checkbox"/> Dust mitigation.</del></li> <li><del><input type="checkbox"/> Fuel storage and refilling protocols.</del></li> <li><del><input type="checkbox"/> Community Liaison.</del></li> <li><del>Noise and Vibration.</del></li> <li><del><input type="checkbox"/> Complaints procedure and register, including points of contact and maintenance of a complaints register.</del></li> </ul> <p><b><del>3. Erosion and Sediment Control Plan</del></b></p> <p><del>3.1 Prior to the construction commencing, Waka Kotahi shall submit to the Council's General Manager Strategy and Environment, a finalised Erosion and Sediment Control Plan that has been certified by the Waikato Regional Council acting in a technical capacity.</del></p> <p><b><del>4. Design and Construction Plan – Local Road (Kopaki Road)</del></b></p> <p><del>4.1 Prior to the commencement of construction, the detailed engineering design and implementation of the realignment of Kopaki Road shall be undertaken in consultation with Waitomo District Council, in particular the detailed engineering design shall be submitted to the Council's General Manager Infrastructure Services for certification twenty (20) working days prior to works commencing on site.</del></p>	Accept

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
				<p><del><b>5. Accidental Discovery of Archaeological or Culturally Significant Finds</b></del></p> <p><del>5.2 Waka Kotahi must invite Te Nehenehenui Maori Committee to provide monitoring services for any archaeological surveys, geotechnical drilling to depths where archaeological finds may occur and any other excavation work where archaeological finds may occur. The person will be appointed by Te Nehenehenui Maori Committee.</del></p> <p><del><b>7. Lapse of Designation</b></del></p> <p><del>7.1 In accordance with Section 184(1)(c) of the Resource Management Act 1991, unless given effect to, the Designation shall lapse 10 years after the date on which it was included in the Operative Waitomo District Plan.</del></p> <p><del><b>8. Outline Plan</b></del></p> <p><del>8.1 The requiring authority is not required to submit an Outline Plan in order to give effect to this Notice of Requirement.</del></p> <p><del><b>Advice Notes:</b></del></p> <p><del>1. All necessary consents must be obtained from the Waikato Regional Council prior to the construction of the Project.</del></p> <p><del>2. Extraction of material for construction of the Project from sites not currently authorised as extractive sites may require Waka Kotahi to obtain additional consents from Waitomo District Council.</del></p> <p><del>3. Some final detailed designs have not been incorporated into the Designation. Such plans may therefore be required to be submitted to Waitomo District Council prior to implementing and/or carrying out work under this Designation.</del></p> <p><del>Pursuant to Section 36 of the Resource Management Act 1991, the actual and reasonable costs incurred by Waitomo District Council in monitoring the conditions of this Designation shall be paid by Waka Kotahi.</del></p>	
FS23.63	Te Nehenehenui	Oppose in part		<p>Te Nehenehenui seeks to enhance the protection and maintenance of its people and taonga within the taiao as guided by Ko Tā Maniapoto Mahere Taiao – Maniapoto's Environmental Management Plan.</p> <p>Where submission points do not align with this, or have the potential</p>	Reject

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
				to negatively impact on iwi, hapu, whanau cultural values, sites, the taiao and all taonga within TNN area of interest, TNN opposes and requests that Waitomo District Council consider this when finalising the review.	
17.167	Waka Kotahi	Support in part	Additional Information NZTA01	<p>Amend wording to read: <u>Rollover designation</u></p> <p><del>1) The following sections of State Highway 3 are Limited Access Road, as declared under Section 88 of the Government Roding Powers Act 1989:</del></p> <ul style="list-style-type: none"> <li><del>• From the Mangapu River Bridge No 2 in the north (RS/RP 003 0063/1.26) to the Te Kūiti Borough boundary (ie. near the intersection with Te Kumi Loop Road) in the south (RS/RP 003 0065/9.645*);</del></li> <li><del>• From the southern boundary of Te Kūiti in the north (RS/RP 003 0076/1.525*) to the intersection with State Highway 4 in the south (RS/RP 003 0076/11.666;</del></li> <li><del>• From the intersection with State Highway 4 in the north (RS/RP 003 0076/11.666), to the northern abutment of the Kuratahi Stream Bridge in the south (RS/RP 003 0088/10.754*);</del></li> <li><del>• From the intersection with Gribbin Street, Awakino in the north (RS/RP 003 0140/9.075), to north of Oha Street (ie. the southern boundary of Lot 1 DP 4235) in the south (RS/RP 003 0140/13.693*);</del></li> </ul> <p><del>* Approximate location as per Argonaut Roadrunner</del></p> <p><u>The following sections of State Highway 3 are Limited Access Road, as declared under Section 88 of the Government Roding Powers Act 1989:</u></p> <ul style="list-style-type: none"> <li><u>• From the Ōtorohanga District boundary in the north to the Mangapu Bridge No 2 in the south (Gaz 1971 p 964);</u></li> <li><u>• Mangapu River Bridge No 2 in the north to the Te Kuiti Borough boundary (ie. near the intersection with Te Kumi Loop Road) in the south (Gaz 1969 p 1338);</u></li> <li><u>• From the southern boundary of Te Kuiti in the north to the intersection with State</u></li> </ul>	Accept

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
				<p>Highway 4 in the south (Gaz 1972 p 2425);</p> <ul style="list-style-type: none"> <li>From the intersection with State Highway 4 in the north to the northern abutment of the Kuratahi Stream Bridge in the south (Gaz 2000 p 1021);</li> <li>From the intersection with Gribbin Street, Awakino in the north to north of Oha Street (ie. the southern boundary of Lot 1 DP 4235) in the south (Gaz 1972 p 1404).</li> </ul>	
17.168	Waka Kotahi	Support in part	Additional Information NZTA02	<p>Amend wording to read: Rollover designation <del>Note:</del></p> <p><del>1) The following sections of State Highway 4 are Limited Access Road, as declared under Section 88 of the Government Roading Powers Act 1989:</del></p> <ul style="list-style-type: none"> <li><del>From the intersection with State Highway 3 in the north (RS/RP 003/0076-11.666), to the northern abutment of the Mapara Stream bridge in the south (RS/RP 004-0000/12.22*);</del></li> <li><del>From the 3B/6 District boundary in the north (RS/RP 0040015/17.71*); to the Ruapehu District Council boundary in the south (RS/RP 004-0035/9.496*);</del></li> </ul> <p><del>* Approximate location as per Argonaut Roadrunner</del></p> <p><u>The following sections of State Highway 4 are Limited Access Road, as declared under Section 88 of the Government Roading Powers Act 1989:</u></p> <ul style="list-style-type: none"> <li><u>From the intersection with State Highway 3 in the north to the northern abutment of the Mapara Stream bridge in the south (Gaz 2000 p 1021);</u></li> <li><u>From the 3B/6 District boundary in the north to the Ruapehu District boundary in the south (Gaz 1978 p 1324).</u></li> </ul>	Accept
17.169	Waka Kotahi	Support in part	Additional Information NZTA04	<p>Amend wording to read: <u>Rollover designation</u></p> <p><del>The entire section of State Highway 37 within Waitomo District is Limited Access Road, as declared under Section 88 of the Government Roading Powers Act 1989.</del></p> <p><u>The following section of State Highway 37 is Limited Access</u></p>	Accept

Submission No	Submitter	Support/in part/oppose	Plan Provision	Relief Sought	Recommendation
				<u>Road, as declared under Section 88 of the Government Rounding Powers Act 1989: From the intersection with State Highway 3 in the east to the intersection with Waitomo Valley Road in the west (Gaz 2000 p 4056).</u>	
17.173	Waka Kotahi	Support in Part	Proposed District Planning Maps	Waka Kotahi requests that the state highway designation geospatial shapefiles be modified to better reflect the existing formed and operational state highway corridor. Waka Kotahi is currently mapping the updated designation boundaries geospatially to accurately reflect the operational state highway corridors and will provide these to Council in due course.	Reject





51. Waka Kotahi / New Zealand Transport Agency have sought that the Requiring Authority title is amended from NZ—Transport Agency Designations’ to ‘New Zealand Transport Agency Designations’.
52. It is proposed that the hearings panel recommend to the New Zealand Transport Agency that the requested amendment is accepted.
53. NZTA have sought that the unique identifiers are amended from NZTA01, NZTA02, NZTA03 and NZTA04 to NZTA1, NZTA2, NZTA3, NZTA4. It is considered that the current format (i.e. NZTA01) is consistent with the unique identifiers used for all other designations in the schedules in chapter 55, and adheres to the national planning standards format. The reason for using 01, 02 etc, is for consistency of format where there are be more than 10 designations. It proposed that the hearings panel recommend the submission point is rejected.
54. NZTA have request the designation purpose of NZTA01 to NZTA04 is amended as follows:  
  
~~To undertake construction, maintenance, operation, use and improvement of the state highway network and associated infrastructure. To construct, operate, maintain, and improve a state highway and associated infrastructure.~~
55. It is agreed that proposed modification to the designation purpose for NZTA01 to NZTA04 is consistent with the description used in various other, more recent versions of proposed district plans that have issued a decisions version. Therefore, it is proposed that the hearings panel recommend the designation purpose for NZTA01 – NZTA04 be amended as requested.
56. NZTA have sought that the designation hierarchy for NZTA03 is amended from ‘Primary’ to ‘Varies’ noting that the designation intersects with various other designations on its route. It is considered that this amendment is consistent with recent proposed district plans that have issued a decisions version. Therefore, it is proposed that the hearings panel recommend the amendment to the designation hierarchy for NZTA03 is amended as requested.
57. NZTA have sought amendments to NZTA01, as the construction of the Awakino Tunnel Bypass on State Highway 3 has been completed. NZTA request that the following conditions are removed: 9.6, 10.1.2, 13.1, 13.2, 13.3, 13.4, 13.5, 14.1, 14.2, 15.1, 16.1, and 17.1. The removal is requested because the conditions have been complied with and are no longer required to be rolled over into the proposed district plan. NZTA also note that conditions 10.1.1 and 10.1.2 have been incorrectly numbered in the notified proposed district plan as 10.2 and 10.3). Additionally, advice notes 1 – 4 are not required as they do not necessitate any ongoing compliance. It is noted that retaining outdated conditions creates an unnecessary administrative task for Council. NZTA also notes that condition 18.1 referring to a designation lapse date is ultra vires, as lapse dates cannot apply to designation alterations (refer s181(2) of the RMA) and should be removed.

58. NZTA have advised that the following conditions will be required to be rolled over 9.7, 9.8, 9.9, 10.1, 11.1, 12.1, 13.1, 13.6 and 13.7.

59. NZTA have also sought that the additional information is amended as follows:

1) ~~The following sections of State Highway 3 are Limited Access Road, as declared under Section 88 of the Government Roading Powers Act 1989:~~

- ~~• From the Mangapu River Bridge No 2 in the north (RS/RP 003 0063/1.26) to the Te Kūiti Borough boundary (ie. near the intersection with Te Kumi Loop Road) in the south (RS/RP 003 0065/9.645\*);~~
- ~~• From the southern boundary of Te Kūiti in the north (RS/RP 003 0076/1.525\*) to the intersection with State Highway 4 in the south (RS/RP 003 0076/11.666);~~
- ~~• From the intersection with State Highway 4 in the north (RS/RP 003 0076/11.666), to the northern abutment of the Kuratahi Stream Bridge in the south (RS/RP 003 0088/10.754\*);~~
- ~~• From the intersection with Gribbin Street, Awakino in the north (RS/RP 003 0140/9.075), to north of Oha Street (ie. the southern boundary of Lot 1 DP 4235) in the south (RS/RP 003 0140/13.693\*).~~

~~\* Approximate location as per Argonaut Roadrunner~~

The following sections of State Highway 3 are Limited Access Road, as declared under Section 88 of the Government Roading Powers Act 1989:

- From the Ōtorohanga District boundary in the north to the Mangapu Bridge No 2 in the south (Gaz 1971 p 964);
- Mangapu River Bridge No 2 in the north to the Te Kuiti Borough boundary (ie. near the intersection with Te Kumi Loop Road) in the south (Gaz 1969 p 1338);
- From the southern boundary of Te Kuiti in the north to the intersection with State Highway 4 in the south (Gaz 1972 p 2425);
- From the intersection with State Highway 4 in the north to the northern abutment of the Kuratahi Stream Bridge in the south (Gaz 2000 p 1021);
- From the intersection with Gribbin Street, Awakino in the north to north of Oha Street (ie. the southern boundary of Lot 1 DP 4235) in the south (Gaz 1972 p 1404).

60. It is proposed that the hearings panel recommend to the NZTA that the submissions requesting the modifications listed in the paragraphs above are accepted for the reasons set out in the NZTA submission.

61. NZTA have sought an amendment to the additional information for NZTA02 as follows:

1) ~~The following sections of State Highway 4 are Limited Access Road, as declared under Section 88 of the Government Roading Powers Act 1989:~~

- ~~• From the intersection with State Highway 3 in the north (RS/RP 003/0076 11.666), to the northern abutment of the Mapara Stream bridge in the south (RS/RP 004 0000/12.22\*);~~
- ~~• From the 3B/6 District boundary in the north (RS/RP 0040015/17.71\*); to the Ruapehu District Council boundary in the south (RS/RP 004 0035/9.496\*);~~

~~\* Approximate location as per Argonaut Roadrunner~~

The following sections of State Highway 4 are Limited Access Road, as declared under Section 88 of the Government Roading Powers Act 1989:

- From the intersection with State Highway 3 in the north to the northern abutment of the Mapara Stream bridge in the south (Gaz 2000 p 1021);
- From the 3B/6 District boundary in the north to the Ruapehu District boundary in

the south (Gaz 1978 p 1324).

62. It is proposed that the hearings panel recommend to NZTA that NZTA02 is included in the proposed district plan with the modifications requested.
63. NZTA have sought amendments to NZTA03, as the construction of the Kopaki Overbridge Replacement on SH30 has been completed. Therefore, conditions 2.1, 3.1, 4.1, 5.2 have been complied with and are no longer required to be rolled over into the proposed district plan. Additionally, condition 8.1 and advice notes 1 – 4 are not required as they do not necessitate any ongoing compliance. NZTA have also advised that condition 7.1 referring to a designation lapse date is ultra vires, as lapse dates cannot apply to designation alterations in accordance with section 181(2) of the RMA, and should be removed. NZTA request conditions 6.1 and 6.2 are retained along with conditions 1.1, 1.2, 2.2, 5.1, 6.1 and 6.2.
64. It is proposed that the hearings panel recommend to NZTA that the modifications that have been sought above are accepted.
65. NZTA request amendments to NZTA04, to amend the additional information that is listed in the schedule. NZTA have sought that the additional information in the schedule is amended as follows:

~~The entire section of State Highway 37 within Waitomo District is Limited Access Road, as declared under Section 88 of the Government Roadings Powers Act 1989.~~

The following section of State Highway 37 is Limited Access Road, as declared under Section 88 of the Government Roadings Powers Act 1989: From the intersection with State Highway 3 in the east to the intersection with Waitomo Valley Road in the west (Gaz 2000 p 4056).

66. It is proposed that the hearings panel recommend to NZTA that the modifications that have been sought above are accepted.
67. NZTA have requested that the state highway designation geospatial shapefiles be modified to better reflect the existing formed and operational state highway corridor. This is because they are currently mapping the updated designation boundaries geospatially to accurately reflect the operational state highway corridors and will provide these to Council in due course.
68. This request is problematic. Prior to notification it was not considered that the designation geospatial shapefiles for the State Highway network were complete enough to include in the plan. Discussions were held with NZTA regarding this matter over some period before the plan was notified. At that time it was agreed that Council could not geospatially map the entire State Highway network, as the designation boundaries did not match the location of the state highway itself in a number of locations. Additionally, there were some sites with specific legal issues that were not easily resolvable (and indeed may not be resolvable at all). Prior to notification it was agreed that a similar approach to that of the KiwiRail designation would be adopted (i.e. the maps outline the site identifier from the start to the end of the particular State Highway that the designation applies to).

69. Another option is to take the approach of Thames-Coromandel District and not map the state highway designation directly (see figure below). In any event, the fact remains that the geospatial files are not complete enough to map, but the designation parcels will need to be amended at some point. Prior to notification discussions with NZTA concluded that the best approach was the amendment of the designation boundaries on an 'as needed' basis until resourcing for the complete length of the state highway was possible. This is the preferred approach.



**Figure 4: Example of mapping State Highway 25**

70. It is proposed that the hearings panel recommend rejection of the modification to the state highway designation geospatial shapefiles for the reasons set out above.