

# Recommendation to Waka Kotahi – NZTA following the hearing of a Notice of Requirement under section 168(2) of the Resource Management Act 1991



## Proposal

To make alterations to existing designation 6766 State Highway 16 (from Brigham Creek, Hobsonville to State Highway 1, Wellsford) to enable the construction and operation of safety improvements to the road corridor between Huapai and Waimauku

The Commissioners appointed by Auckland Council to consider the proposal recommend that the Notice of Requirement be **CONFIRMED** in whole.

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| <b>Notice of Requirement:</b> | 6766 State Highway 16 – Hobsonville to Wellsford  |
| <b>Site Address:</b>          | Multiple properties along SH16 between Waimauku and Huapai, being; 529, 551, 573, 583, 587, 601, 609, 619, 623, 631, 757, 763, 771, 779, 791 and 805 State Highway 16 and 23 Foster Road, Huapai.   |
| <b>Requiring Authority</b>    | Waka Kotahi - NZTA  |
| <b>Hearing Commenced:</b>     | Thursday, 27 August 2020, 9.30am  |
| <b>Hearing Panel:</b>         | Janine Bell (Chair)<br>Philip Brown   |
| <b>Appearances:</b>           | <p><u>For the Requiring Authority:</u><br/>           Marija Batistich and Joseph Wright – Legal Counsel<br/>           John Robson - Waka Kotahi (project context)<br/>           Mark Newsome - Waka Kotahi (Health and Safety)<br/>           Kathy Chinn - Waka Kotahi (Engagement and Communications)<br/>           Siiri Wilkening, Noise and Vibration<br/>           Fariz Rahman, Traffic and Transport<br/>           Ashlie Carlyle, Planning</p> <p><u>For the Submitters:</u><br/>           Andrew Hendry<br/>           Ganesh Raj</p> <p><u>For Council:</u><br/>           Peter Vari, Team Leader<br/>           Petra Burns – Reporting Planner<br/>           Bin Qiu – Noise Specialist</p> |

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|                                   | Vinh Bui – Principal Traffic Engineer<br>Sidra Khan – Hearings Advisor |
| <b>Hearing adjourned:</b>         | Thursday 27 August 2020  |
| <b>Commissioners’ site visit:</b> | Wednesday 26 August 2020   |
| <b>Hearing Closed:</b>            | Wednesday 2 September 2020   |

## INTRODUCTION

1. This recommendation is made on behalf of Auckland Council (“**the Council**”) by Independent Hearing Commissioners Janine Bell (Chairperson) and Philip Brown appointed and acting under delegated authority under section 34A of the Resource Management Act 1991 (“**the RMA**”).
2. The Notice of Requirement (“**NoR**”) was referred to Commissioners for a hearing and recommendation. This report addresses the issues raised in submissions and contains our recommendation to the Requiring Authority under section 171(2) of the RMA.

## BACKGROUND

3. Pursuant to section 181(2) of the RMA, Waka Kotahi NZTA (“**Waka Kotahi**” or “**NZTA**” or “**the Applicant**”), as the requiring authority, has lodged a NoR to alter the existing State Highway 16 (**SH16**) designation 6766 in the Auckland Unitary Plan – Operative in Part (“**AUP(OP)**”). The proposed alteration is to enable a number of safety improvements along SH16 from Huapai to Waimauku, including the introduction of median barriers, turnaround facilities with right turn bays, widening of shoulders, and side barriers.
4. The corridor extends along State Highway 16 (“**SH16**”) from the Factory Road intersection at Waimauku to the Trigg Road intersection at Huapai. The corridor has been identified as one of the sections of rural state highway requiring safety improvements by NZTA’s Safe Roads and Roadsides Programme. The works giving rise to the Notice of Requirement are required to retrofit the corridor with safety mechanisms specifically designed to reduce the incidence of deaths and serious injuries on this stretch of rural state highway.
5. The alteration to the designation affects a total of 17 properties (total land area of 9,017m<sup>2</sup>) along SH16, being; 529, 551, 573, 583, 587, 601, 609, 619, 623, 631, 757, 763, 771, 779, 791 and 805 SH16 and 23 Foster Road, Huapai. The location of these properties and land are identified in application documents at Appendix B – General Arrangement Plans. The land is owned by multiple property owners, and copies of the relevant certificates of title are included in the application at Appendix A. The properties subject to the alteration to the NoR are zoned Residential – Single House Zone, Rural – Mixed Rural Zone and Future Urban Zone under the AUP(OP). Resource consent applications, referenced as BUN60350059, have also been lodged for this project and are being reported, heard and determined separately to the NoR.

6. The NoR was limited notified on 28 May 2020. The submission period closed on 26 June 2020. Three submissions in opposition to the NoR were received from:
  - a. Weirong Chen,
  - b. Andrew Hendry, and
  - c. Ganesh Raj.

## PROCEDURAL MATTERS

7. Given the current COVID-19 Alert Status in New Zealand, the NoR SH16 hearing was held online through Skype for Business.

## SUMMARY OF EVIDENCE

8. The evidence in this case includes the NoR, the supporting documentation including the s92 further information, the Council officer's report and the submissions received. In accordance with the Hearing Panel's direction issued on 6 August 2020, pursuant to sections 41B and 41C of the RMA, the Council's planning officer's section 42A report and the statements of evidence prepared by witnesses, appearing on behalf of NZTA at the hearing, were pre-circulated. The statements of expert evidence were taken as read and the witnesses were provided with the opportunity to highlight the main points raised in their statement and to respond to questions from the Commissioners. This information is all part of the public record and is not repeated. The following is a summary of the evidence presented at the hearing.

## Requiring Authority

9. **Marija Batistich and Joseph Wright** appeared as legal counsel for NZTA. Ms Batistich provided opening legal submissions in respect of the NoR, outlining the purpose of the proposal and the project area. She referred Commissioners to Mr Rahman and Mr Newsome's pre-circulated written statements of evidence which outline the rationale and need for the project in terms of road safety, and the project objectives.
10. Ms Batistich outlined the relevant statutory framework, referring Commissioners to Section 171(1) of the RMA. She provided an assessment of the proposal against the requirements of section 171(1), as follows.
  - a. NZTA considers the Project is reasonably necessary to achieve the Project objectives as described and explained in the pre-circulated written evidence of Mr Robson.
  - b. With reference to relevant case-law<sup>1</sup>, the applicable criteria and general principles that guide an assessment of whether a work and designation are

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<sup>1</sup> Opening Legal Submissions of the NZ Transport Agency (25 August 2020), Page 7, paragraph [5.7].

'reasonably necessary' in respect of Section 171(1)(c) of the RMA. She considered the Project Works and NOR meet the statutory test under Section 171(1)(c) and are reasonably necessary for achieving the objectives sought by the NZTA as Requiring Authority.

- c. Section 171(1)(b) is a relevant consideration because the NZTA does not own all of the land potentially affected by the proposal; and the proposal has the potential to generate adverse construction noise and vibration effects. Ms Batistich referred Commissioners to the relevant case-law that informs what constitutes "adequate consideration" under Section 171(1)(b) of the RMA; and referred Commissioners to the relevant parts of Mr Robson's and Mr Rahman's written evidence on this matter. She advised that NZTA has undertaken adequate consideration of alternatives for the proposal to satisfy the requirements of Section 171(1)(b).
  - d. The only other relevant matters of consideration under Section 171(1)(d) are those that are addressed by the planning evidence of Ms Carlyle related to the relevant provisions of the Auckland Regional Policy Statement ("**RPS**") in the AUP; and the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health ("**NES**").
11. Ms Batistich summarised the effects of the proposal requiring consideration under Section 171 of the RMA; referring Commissioners to the full assessments contained in the AEE and pre-circulated written evidence of Ms Carlyle (planner) and Mr Rahman (Traffic specialist). She considered the potential effects of the Project can be appropriately avoided, remedied or mitigated.
  12. Ms Batistich submitted that the written evidence submitted in support of NZTA, along with the Council's Section 42A Report, conclude that the proposal is consistent with the applicable provisions of the AUP and NES.
  13. In respect of the relevant considerations under Part 2 of the RMA, Ms Batistich considers the expert evidence submitted in support of NZTA establishes that the Project will achieve the sustainable management purpose of the RMA.
  14. Ms Batistich outlined the concerns raised by the three submissions received on the NOR application and advised that Ms Chinn's evidence will consider these matters in further detail.
  15. Ms Batistich submitted that the key point of difference between NZTA and the Council's 42A Report relates to the Council's inclusion of conditions relating to construction noise and vibration management. Ms Batistich advised that noise specialist Ms Wilkening (on behalf of NZTA) does not consider the conditions are necessary for managing noise and vibration effects.
  16. Ms Batistich concluded by advising that she considers the proposal was consistent with the relevant statutory and policy framework; and that NZTA sought the Commissioners to recommend the NOR be confirmed.

17. **John Robson**, Senior Project Manager with NZTA, outlined the statutory role of NZTA in relation to the State Highway network, generally and its future plans in relation to the stretch of SH16 between Huapai and Waimauku (“**the Project**”).
18. Mr Robson advised that the primary reason NZTA has progressed this Project is to improve the safety of road users. He advised that safety is a key strategic priority for NZTA and is prioritised through the implementation of the Safe System approach and the rural Safe Roads and Roadsides Programme. Mr Robson advised that the broader stretch of SH16 between Brigham Creek and Waimauku has been identified as a section of rural state highway requiring treatment in the form of measures aimed at reducing the incidence of death and serious injuries. He noted that SH16 currently has a posted speed limit of 100km/h which will be reduced to 80km/h from 7 September 2020, with a traffic volume of more than 15,000 vehicles per day. In his opinion, reducing the possibility and severity of a crash will have positive effects on road user health and safety and aligns with the Safe System Approach, among other benefits.
19. Mr Robson advised that NZTA is a Requiring Authority under section 167 of the RMA in relation to the following matters which relate to the NOR:<sup>2</sup>
  - a. *The construction and operation (including the maintenance, improvement, enhancement, expansion, realignment and alteration) of state highways; and*
  - b. *The construction, operation and maintenance of cycleways and shared user paths.*
20. Mr Robson advised that nationwide priorities are set through the Government Policy Statement (‘GPS’) as issued by the Minister of Transport every three years; and NZTA must give effect to the GPS when performing its functions in respect of land transport planning and funding in accordance with applicable provisions of the Land Transport Management Act 2003. In his opinion, the Project aligns with the GPS and he considers its approval would help New Zealand to reduce the severity of road trauma and number of crashes.
21. Mr Robson described the Project objectives as being to:
  - a. Reduce the probability and severity of predicted Death or Serious Injury crashes (‘DSI’) by at least 30 to 50 % within 10 years; and
  - b. Increase the length of the existing corridor rated below 3.5-star to 3.5-star or above within 10 years. Mr Robson referred to Mr Rahman’s written evidence; that the Project corridor currently holds a 2-star rating under the New Zealand Roadside Assessment Programme.

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<sup>2</sup> Statement of Evidence John Robson (17 August 2020), Page 6, paragraph [5.6].

22. Mr Robson advised that the Project falls within a wider Safe Roads and Roadsides Programme, established by Waka Kotahi in 2016 to enable safety improvements to be made to over 90 high-ris rural state highways across New Zealand over a period of 6 years. He outlined the broader objectives and rationale underpinning this Programme; and advised that on select sites, a combination of short-term engineering treatments including side barriers, median barriers, rumble strips, curve improvements and/or improved road markings and signs will be implemented.
23. The Safe Roads Alliance had been originally responsible for developing the Project, as part of broader focus on the progression of projects with safety benefits. The Project will involve works to retrofit the corridor with side barriers and median barriers, turnaround bays will be introduced, and wider shoulders provided to reduce the incidence of DSI's on this stretch of SH16. With the disestablishment of the Safe Roads Alliance in late 2019, NZTA acquired sole responsibility for project delivery.
24. Mr Robson advised that a key milestone in project development was the execution of a Single Stage Business Case ('business case') by Waka Kotahi in 2017. He advised that the business case involved consideration of a wide range of network safety improvement options, an evaluation of options against criteria to identify which were the most effective in achieving the objectives whilst minimising impacts.
25. Mr Robson considers the benefits of the proposal to include improved safety for users of SH16 within the corridor; a reduction in the severity of head-on and run-off road accidents; and additional benefits as outlined by Ms Carlyle's planning evidence.
26. In conclusion, Mr Robson considered the "Project is consistent with the role and function of Waka Kotahi in managing the State Highway System to ensure that it is operating safely, effectively and efficiently"<sup>3</sup>.
27. **Mark Newsome**, Transportation Safety Engineer with NZTA, outlined his involvement in the project, advising that while he was unable to visit the site prior to preparing his written statement of evidence due to COVID-19 restrictions, he was able to view imagery from the annual network video footage and is familiar with the corridor.
28. Mr Newsome outlined the existing road safety context, advising that Stage 1 of the broader Brigham Creek to Waimauku Safety Improvements Project involves a transport corridor located between the posted 100km/h speed limit change west of Huapai through to the posted speed limit change to 70km/h east of Waimauku.
29. Mr Newsome described the current transport corridor as presenting an unforgiving environment for motorists who lose control as the road experiences relatively high traffic volumes (15,500 vehicles per day in 2018) and there is no median barrier. Mr Newsome advised that the New Zealand High Risk Rural Roads Guide indicates that when traffic volumes exceed about 6,000 vehicles a day, there are more people killed or seriously injured as a result of head-on crashes than people killed or seriously

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<sup>3</sup>Ibid, Page 11, paragraph [12.1] and [12.2].

injured as a result of run-off road crashes. He also referred to the written evidence of Ms Carlyle; that intersections where turnaround facilities are proposed will be upgraded with right turn bays. He advised that consolidation of access to a few well-formed intersections is considered a safer turning environment than the existing corridor which comprises frequent uncontrolled access points.

30. Mr Newsome outlined the key factors considered as part of the safety risk assessment for identifying a preferred solution for the wider corridor. He advised that he supports the methodology of using both proactive and reactive data to help measure risk and identify site-specific treatments for inclusion within the Project. He advised that collective and personal risk for the corridor are classified as high and medium-high respectively; that there have been 1 death and 14 serious injuries (collectively described as ('DSI') within the corridor in the last 10 years; that 60% of those were lost control / head on incidents. In his opinion the business case remains relevant and applicable to the corridor.
31. Mr Newsome provided an outline of operational safety improvements. He advised that the business case has identified a saving of 60% of DSI's over a 10-year period and an improvement of the KiwiRAP star rating to 3.5. In his opinion, the DSI savings are reasonable when compared with crash savings suggested by the High-Risk Rural Roads Guide. Mr Newsome considers the proposed median barrier will significantly reduce head-on and cross-centreline run off-road crashes; improve visibility and refuge opportunities; and the proposed shoulder widening will reduce the frequency and severity of crashes resulting from a loss of control to the left. He advised that he agreed with the Council's Section 42A report in respect of road safety matters.
32. Mr Newsome commented on the submission received by Mr Weirong Chen, advising that he considers the turnaround facility proposed to be located outside 601 SH16 will operate at low speed given the design characteristics and inclusion of a right turn bay prior to the turnaround facility. In his opinion, a reduction of the posted speed limit to 80km/h is complementary to the safety measures proposed but is not sufficient in isolation because it does not eliminate centreline crossing.
33. Mr Newsome concluded by advising that he considers the Project will support and give effect to the ongoing intention of NZTA "to improve the road safety environment and outcomes in the vicinity"<sup>4</sup>.
34. **Kathy Chinn**, a Community Engagement specialist who joined the project in 2017 provided evidence on consultation and community engagement, and responded to matters raised by submitters, and to the s42A report in her pre-circulated statement.
35. She outlined the approach taken to consultation and community engagement. This included workshops with key stakeholders during business case development, community consultation and face to face meetings with landowners.

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<sup>4</sup> Statement of Evidence Mark Newsome (17 August 2020), page 9, paragraph 11.2

36. Ms Chinn summarised consultation undertaken with Mr Chen in relation to the concerns raised in his submission, including a meeting between representatives of Waka Kotahi with Mr Chen on the 30 July 2020 to discuss his concerns and subsequent exchange of emails. Ms Chinn noted that in response to the further matters raised by Mr Chen regarding business disruption and subdivision potential for the property at 601 SH16, Waka Kotahi property consultants have initiated discussion with Mr Chen on the Public Works Act (“**PWA**”) process.
37. Ms Chinn described the consultation undertaken with Mr Raj regarding the concerns raised in his submission relating to potential construction impacts on his business operation. This had involved a meeting between representatives of Waka Kotahi and Mr Raj on 30 July 2020 and subsequent exchange of meeting notes. She noted that no further response was received from Mr Raj as of the date of writing her evidence.
38. She outlined consultation undertaken with Mr Hendry regarding concerns in his submission relating to potential disruption during and after construction, and access to Coopers Creek Vineyard Ltd (“**Coopers Creek**”) from SH16.
39. Ms Chinn stated that representatives of Waka Kotahi met with Andrew Hendry on the 29 July 2020 to discuss his concerns, and how the turnaround design had been modified in response to earlier community consultation undertaken in 2017 including the concerns raised by Coopers Creek. She advised Commissioners that she understood that Mr Hendry now supported the addition of a turnaround at 601 SH16 but she was aware that his preference for the turnaround was different to Mr Chen’s.
40. In response to the Council’s s42A report, Ms Chinn confirmed that re-vegetation and fencing have been discussed with the tenant and landowner [of 601 SH16] as part of the PWA process, and that compensation had been discussed with the tenant [of 609 SH16] as part of the PWA process. She also confirmed that the operation of the turnaround facility was discussed with the tenant in a meeting on 29 July 2020.
41. Ms Chinn noted that in response to the s42A report<sup>5</sup> the NZTA have initiated high level discussions with the submitters around construction disruption and will prepare a Communications and Engagement Plan, and input to the Construction Noise and Vibration Management Plan (“**CNVMP**”) to cover the construction phase of the project.
42. In conclusion, Ms Chinn considered that communication and engagement for the project has been carried out in line with IAP2 best practice and will remain part of the project throughout construction.
43. **Siiri Wilkening**, an Acoustician, advised that she has been involved in the Project since 2018, leading and overseeing the operational and construction noise and vibration assessment prepared in support of the application for NZTA, and providing advice in respect of noise matters arising subsequent to lodgement of the application.

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<sup>5</sup> Statement of Evidence of Kathy Chin, 17 August 2020, page 6, paragraph 7.1.



44. Ms Wilkening outlined the findings from her assessment of acoustic effects from construction noise and vibration, and traffic noise, relating to the Project. She noted that most of the proposed works would be undertaken within the existing designation area, but that some minor earthworks and an entire turning bay would fall outside of the existing designation. In her opinion, any change in traffic noise associated with use of the proposed safety features (i.e. the limited widening of carriage ways and proposed turning bays) will be insignificant.
45. In terms of construction noise, Ms Wilkening considers that most daytime works will comply with the relevant standards; that mitigation and management would need to be implemented for dwellings located within 25m of the construction works; that a larger set-back distance would be required to achieve compliance for night-time works.
46. Ms Wilkening advised that as most of the works will be undertaken inside the existing designation, they will not be subject to additional conditions. In her opinion, works undertaken outside of the existing designation will be limited and are unlikely to be noticeable as compared with the works occurring inside the existing designation. She advised that a recommendation of her assessment was to implement controls outlined in the CNVMP.
47. Ms Wilkening advised that she predicts the use of vibratory rollers may result in an exceedance of the cosmetic building damage criterion at two dwelling locations. She advised that risk can be more accurately quantified through the implementation of on-site measurements. Ms Wilkening recommended the use of static rollers instead of vibratory rollers where any risk of exceedance is confirmed, in close proximity to the two dwellings; communication with the affected parties; and implementation of controls outlined in the recommended CNVMP.
48. Overall, Ms Wilkening advised that she considers any potential noise and vibration effects can be adequately managed through a CNVMP; and that any effects arising from the minor alteration to the existing designation do not warrant the imposition of additional controls. She advised that she does not consider the imposition of additional controls necessary and maintains this view having considered the points raised by the Council's s42A Report. Ms Wilkening also raised concerns about the wording of the conditions as recommended by the Council's noise specialist. In her opinion, if the Commissioners consider that the conditions were necessary, the wording should be amended as recommended by her written statement of evidence.
49. In conclusion, Ms Wilkening advised that she does not consider conditions are necessary to achieve an appropriate outcome in terms of managing construction noise and vibration levels.
50. **Fariz Rahman**, Chartered Professional Engineer, in his written statement of evidence addressed the background and transport network context, transportation assessment, operational effects, construction related effects, and assessment of alternatives. Mr Rahman also responded to the council s42A report and matters raised in submissions on the NoR.

51. Mr Rahman described the transport network context of SH16 within the wider section of SH16 between the North Western motorway and Helensville, through the mixed commercial and residential areas of Riverhead, Kumeu and Taupaki. The Project corridor “is a 2-lane undivided road with narrow sealed shoulders”<sup>6</sup>, and “includes 3.6km of existing Strategic Transport Corridor and sits within rolling countryside which includes rural lifestyle blocks, pastoral land, orchards and commercial operations”<sup>7</sup>.
52. Mr Rahman noted that the existing posted speed limit of 100km per hour between Huapai and Waimauku will be lowered to 80km per hour in September 2020. He also noted that using the “KiwiRAP” classification the Project corridor is rated 2 out of a possible 5, denoting “major deficiencies in some road features such as poor roadside conditions and / or many minor deficiencies”<sup>8</sup>.
53. Mr Rahman described the traffic volumes for SH16 recorded between 2012 and 2016<sup>9</sup>, and stated that the Project corridor between Huapai and Waimauku was identified for safety improvements due to its “unforgiving highway design and existing high traffic volumes”<sup>10</sup>.
54. He considered that portions of SH16 are already at capacity and described observations of congestion and queues between Brigham Creek roundabout and Kumeu along the corridor.
55. Mr Rahman referred Commissioners to the Waka Kotahi High Risk Intersection Guide which determines the risk profile of given intersections combining the total number of fatal and serious crashed or deaths at an intersection and the risk of death or serious injury to each vehicle entering the intersection. He observed that the intersection of SH16 with Joyce Adams Place is rated Medium-High risk, the intersection of SH16 with Foster Road is rated Medium risk and that the intersection of SH16 with Matua Road is rated Medium-Low.
56. Mr Rahman highlighted that the planned residential growth in the catchment of SH16, some 30,000 houses over the next 30 years would result in forecasted vehicle demand for the wider SH16 area more than doubling by 2046 (from 16,500 to 35,500 vehicle trips per day). That SH16 corridor and the medium risks intersections were likely to result in an unacceptable risk of high-speed crashes, growth in demand would only exacerbate the situation. While the Project’s priority was to address safety, these improvements would also address efficiency.
57. In describing the operational effects, Mr Rahman considered that the Project will reduce the risk of head-on crashes by providing wire rope median barriers to separate opposing traffic. He acknowledged that these continuous median barriers would restrict right turn movements from some private driveways and side roads, however he

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<sup>6</sup> Statement of Evidence of Fariz Rahman (17 August 2020), page 5, paragraph 6.5

<sup>7</sup> Ibid, paragraph 6.4.

<sup>8</sup> Ibid, page 5, paragraph 6.6

<sup>9</sup> Ibid, page 5, paragraph 7.1.

<sup>10</sup> Ibid, paragraph 7.2.

considered that the turnaround facilities provide opportunities for vehicles to perform a u-turn manoeuvre as safely as possible. He also observed that the right turn bays will improve the safety at intersections, by providing space to separate right turning traffic from through traffic.

58. Mr Rahman considered that the provision of side barriers (a combination of wire rope and guardrail side barriers) will reduce the severity of run-off road crashes along the Project corridor. He also expected that the current risk of run-off road crashes would be lowered by shoulder widening, as this will provide additional space for recovery. The additional space for vehicles to pull off the highway would also reduce disruptions to traffic and increase the resilience of the road.
59. Mr Rahman outlined that most construction works were to be undertaken during the day, with some works such as the constructing bridge works and median barrier installations to be undertaken at night with approval from the engineer. He expected that two lanes of traffic would be maintained during day-time peak hours, with off-peak and/or night-time lane closures, and possible night-time road closures with detours. The construction would be undertaken in two stages to minimise disruption; the first half to the north of the Project corridor, and the second half to the south, where most residential and business properties are located. He explained that access to residential and business properties is to be maintained at all times, and that the final detailed construction methodology will be set out in a Construction Management Plan prior to commencement of works, once a contractor has been appointed.
60. Mr Rahman outlined an earlier, alternative design for the SH16 improvements, consisting of the current layout with median safety barriers, shoulder widening and side barriers. He noted negative feedback during public consultation, from residents dissatisfied with property access, and explained that the design was revised to provide three major turning facilities at the Waimauku roundabout, the east side of Foster Road, and on SH16 to the west of Trigg Road, with an additional turning facility on SH16 at Coopers Creek.
61. Mr Rahman agreed with the assessments and conclusions of Ms Huang in the s42A officer's report. With regard to the ability of vehicles on SH16 to perform a u-turn manoeuvre, he considered that the right-turn bay would not compromise the safety and accessibility of Coopers Creek.
62. In response to submissions from Mr Hendry and Mr Chen that the speed limit SH16 should be reduced to 80 km per hour, Mr Rahman noted that the speed limit will be reduced along the highway from 100km per hour to 80 km per hour between Huapai and Waimauku.
63. Mr Rahman considered that the submission of Mr Hendry that the highway should be widened to two lanes on both sides would not meet the Project objectives to improve safety along the Project length. He referred to the evidence of Mr Newsome with regard to the necessity of physical separation of opposing traffic on the highway, even with a reduced speed limit.

64. In conclusion, Mr Rahman considered that the Project would improve the safety and effectiveness of travel along the Project corridor, and the safety features of the Project will reduce death and serious injuries and improve the average KiwiRAP star rating along the corridor.
65. **Ashlie Carlyle**, a consultant planner for NZTA outlined in her written statement of evidence the background and context to the NOR, the proposal, and outlined the relevant statutory framework. Ms Carlyle also described the stakeholder engagement undertaken by NZTA, summarised the effects of the proposal on the environment and responded to the matters raised by submitters, and the Council's s42A Hearing Report.
66. Ms Carlyle advised that whilst she did not prepare the NOR documentation lodged with the Council in November 2019, she has been involved in the Project as the Lead Planner for NZTA since February 2020 and is familiar with the NOR documentation and Project site. Ms Carlyle advised that she agrees with the conclusions contained within the NOR documentation as lodged.
67. In describing the relevant background to the proposal, Ms Carlyle advised that the SH16 corridor is located within the North West future urban growth area and confirmed that NZTA is the Requiring Authority for the existing designation 6766 over SH16, which extends from Brigham Creek, Hobsonville to Waimauku. Ms Carlyle advised that the purpose of designation 6766 is "State Highway 16"; and that there are no conditions or lapse date on designation 6766.
68. Ms Carlyle advised that in her opinion, the proposed alteration to the existing designation is the most appropriate planning mechanism, as it will:<sup>11</sup>
- a. *Enable the Waka Kotahi to have the flexibility and ability to construct, operate and maintain the corridor and undertake the Project in accordance with the designation notwithstanding anything contrary with the AUP;*
  - b. *Enable the works to be undertaken in a comprehensive and integrated manner;*
  - c. *Provide certainty to the community and landowners through identifying in the AUP the location, nature and extent of the Project and the intended use of the land by Waka Kotahi; and*
  - d. *Enables Waka Kotahi to avoid, remedy and mitigate any adverse effects of the Project.*
69. Ms Carlyle advised that NZTA have requested an Outline Plan Waiver on the basis that the information requirements of Section 176A of the RMA have been satisfied; and that she supports that request. She also acknowledged that any necessary regional consents would not be covered by the designation sought.

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<sup>11</sup> Statement of Evidence of Ashley Carlyle (17 August 2020), page 8, paragraph 8.3.

70. Ms Carlyle referred Commissioners to section 171(1), Part 2 and Part 8 of the RMA. In describing the requirements of Section 171(1), Ms Carlyle advised:
- a. In relation to Section 171(1)(b), Waka Kotahi has given “*extensive and thorough consideration to alternative sites, routes or methods of undertaking the work*”. In her opinion, the assessment of alternatives “*has been robust*” in regards to the statutory requirements.
  - b. In relation to Section 171(1)(c), Ms Carlyle referred Commissioners to Mr Robson’s evidence insofar as it relates to the Project objectives and Mr Newsome’s evidence insofar as it sets out the safety benefits of the Project. She advised that she agrees with their analysis as to why the components of the proposal are necessary to achieve the Project objectives.
71. Ms Carlyle described the key planning context of the Project Corridor as including:
- a. An existing corridor of land comprising approximately 92,000m<sup>2</sup> stretching across a distance of 3.6km, zoned as ‘Strategic Transport Corridor’ under the AUP and falling within the existing designation held by Waka Kotahi; and
  - b. An additional area of land (forming part of the alteration sought) adjacent to SH16 comprising rolling countryside, rural lifestyle blocks, pastoral land, and other rural production activities, zoned as Future Urban Zone, Mixed Rural Zone, and Rural Production Zone under the AUP.
  - c. The KiwiRail North Auckland Line borders the northern side of SH16.
  - d. The existing posted speed limit change along the corridor is 60km/h west of Huapai Township through to 100km/h after Trigg Road, with a new permanent speed limit of 80km/h taking effect from 7 September 2020 for the section of SH16 between Huapai to Waimauku.
72. In describing the stakeholder engagement process undertaken by NZTA prior to lodgement of the NOR, Ms Carlyle referred Commissioners to Ms Chinn’s evidence. In her opinion, the consultation undertaken by Waka Kotahi with key stakeholders and partners including iwi entities and directly affected landowners / utilities is appropriate for the nature of the Project and present stage. She advised that consultation will continue throughout the construction period.
73. Ms Carlyle provided an overview of what she considers are the key effects of the proposal:
- a. The Project is expected to generate a number of permanent positive effects and benefits for the local community, visitors and freight movements by improving the safety of the SH16 corridor for road users. This will result in positive social, transportation, economic and environmental effects.
  - b. Any actual or potential effects on cultural values will be mitigated or specifically managed to have less than minor effects.

- c. There will be no effects on significant archaeological or heritage values.
- d. Based on the evidence of Mr Newsome and Mr Rahman, she considers there will be several positive permanent traffic effects resulting from the completion of the safety improvement works.
- e. Based on the evidence of Mr Rahman, she acknowledged construction work may have the potential to disrupt traffic, along with pedestrians and cyclists. Mitigation strategies would be put in place during construction, including the preparation of a Contractor's Social and Environmental Management Plan and Construction Traffic Management Plan to minimise potential construction effects on the transport network, including private access to dwellings located within the Project area. She considered any potential adverse effects on traffic and cyclists will be less than minor subject to implementation of the mitigation proposed.
- f. Based on the assessment of traffic noise effects contained within the AEE, there will be no permanent adverse noise effects resulting from the proposed works.
- g. Based on the evidence of Ms Wilkening, any adverse construction or vibration effects can be mitigated or specifically managed to have less than minor effects.
- h. Any potential effects on landscape, visual and arboricultural values were considered to be less than minor.
- i. The temporary land acquisition would affect 17 properties, with potential effects including: temporary loss of grazing pasture, stock-proof fencing, disruption to farm activities, disruption to access, changes to driveway gradient, loss of shelter belt vegetation and effects on amenity. The anticipated duration of the works is 2-3 months and proposed mitigation includes fencing the area of works at each site for the duration of the works and site-specific arrangements were currently being developed with affected landowners. Overall, the effects from temporary land acquisition will be less than minor.
- j. Permanent land acquisition was required from the 14 properties for the permanent road safety works. The land required was located on the boundary of these properties and did not involve buildings; and ranged in area from 51m<sup>2</sup> to 1,792m<sup>2</sup>. She considers that the primary effect is loss of land; that this will be mitigated by compensation under the PWA. The effects of land acquisition will be less than minor on these landowners.
- k. Overall, she considered the actual or potential adverse effects would be negligible or less than minor.

74. Ms Carlyle advised that the relevant statutory planning documents requiring consideration as part of an assessment of the proposal are: Part 2 of the RMA; the

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health; and the Regional Policy Statement chapter of the AUP (“**RPS**”).

75. In her opinion, the Project will achieve the purpose set out by Section 5 of the RMA; will recognise and provide for the relevant matters listed under Sections 6 and 7 of the RMA; and takes into account the principles of the Treaty of Waitangi in accordance with Section 8 of the RMA. Ms Carlyle also advised that she considers the Project is consistent with the relevant provisions of the RPS.
76. Ms Carlyle also commented on the three submissions received on the NOR application. She advised that she generally agreed with the summary of submissions provided in the Council’s Section 42A Report. She considers the submissions generally raise common concerns around the necessity of the Project; safety of the proposed works on property access; and construction effects.
77. In relation to concerns that the Project was not necessary as the outcomes could be sought by other means, including a reduction in the current speed limit of 100km/h; Ms Carlyle advised the reduction in the speed limit to 80km/h from 7 September 2020 was needed to complement the short to medium term safety improvements sought by the proposal. Relying on Mr Newsome’s evidence, she considers the works are necessary to achieve the Project objectives.
78. In relation to Mr Hendry’s perceived safety concerns associated with the establishment of a permanent turnaround facility; Ms Carlyle referred Commissioners to the written evidence of Mr Newsome and Mr Rahman; that the turnaround will not compromise safety or accessibility to Mr Hendry’s property; and advised that she agreed with this assessment.
79. In relation to concerns raised by submitters about potential construction effects, Ms Carlyle specifically addressed Mr Raj’s submission and advised that any compensation for trade impacts would be a matter considered under the PWA process not the Act.
80. Ms Carlyle advised that ongoing consultation has been undertaken with the three submitters subsequent to closure of the submissions period and referred to Ms Chinn’s evidence on this matter; that Mr Hendry’s concerns have been resolved; that Mr Chen has raised new concerns about potential effects on future subdivision and development potential of his property; that NZTA are not aware of any existing subdivision or development applications by any of the submitters; that she considers the Project will not prevent future urbanisation; that NZTA will continue to consult with Mr Raj on effective mitigation to address his concerns about potential economic impacts.
81. Ms Carlyle also commented on the Council’s Section 42A report, advising that whilst she generally agrees with the summary, assessment and recommendations provided, there is an inaccuracy in Section 2 of the Report relating to the description of the turnaround facility at Factory Road.
82. Ms Carlyle advised that the Council report recommends five conditions relating to construction noise and vibration management. In her opinion, these conditions are not necessary. Ms Carlyle advised that if the Commissioners decide to impose conditions,

it was her opinion that these should only apply to areas located outside of the existing designation boundary; and they should be amended in accordance with her written evidence<sup>12</sup> to avoid doubt in terms of their application.

83. In conclusion, Ms Carlyle advised that she considered the NOR met all of the relevant statutory tests under the RMA.

### **Submitters**

#### **Andrew Hendry (601 State Highway 16, Huapai)**

84. Andrew Hendry, the owner of Coopers Creek, spoke to his submission. He advised that he had occupied the property since 1980 and for several years had requested NZTA reduce the speed limit on this stretch of SH16. Like Mr Chen, he believed the flexible barriers were not required with the reduction in speed.
85. Mr Hendry's submission had raised concerns about the barriers and turnaround facility outside the property. He considered the barriers would affect the ability of traffic entering the winery from the north-west and this would be detrimental for business. He was concerned that the proposed turnaround facility was very narrow and any traffic using the turnaround at full speed will pose a danger to customers. His business required the ability for large trucks including those transporting 40-foot shipping containers to be able to safely enter and exit the site.
86. He confirmed that he had been in discussions with NZTA around the turnaround facility and that an agreement had been reached on the design that would meet his business requirements.

#### **Ganesh Raj (609 State Highway 16, Huapai)**

87. **Ganesh Raj** is the owner of the Tasting Shed Restaurant. He spoke to his written submission and elaborated on the impact that the Covid pandemic and subsequent lockdowns had had on the hospitality industry. In his view the world had changed since the project was first discussed with him by NZTA. He felt the proposed road works would have a devastating impact on his business, as had been experienced by his colleagues in the hospitality trade in Karangahape Road and elsewhere in Auckland City Centre that had been adversely affected by the Council's street upgrade and transportation projects.
88. Mr Raj spoke of his frustration with the compensation discussions he had had with NZTA representatives and the limitations of the Public Works criteria used to develop a compensation package. He spoke of the 10 years of road works that had occurred along this stretch of road. He wanted all works outside 609 State Highway 16 to cease until an acceptable compensation package was offered.

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<sup>12</sup> At page 25, paragraph [16.6].



### **Weirong Chen (601 State Highway 16, Huapai)**

89. **Weirong Chen** was unable to attend the hearing and tabled a short statement outlining his concerns which also reflects those in his submission. He maintained his view that a median barrier was not required and requested that Waka Kotahi re-assess the effects of the new speed limit prior to undertaking the Project works. He considered the proposed median barrier or turn-around bay would cause serious damage to his business. He felt the project was a waste of money.

### **Council Officers**

90. Council officers were provided with an opportunity to respond to the material presented to the hearing and clarify any points raised in the s42A report or their specialist reports. **Petra Burns**, the reporting officer, confirmed that the Council team maintained their recommendation. She considered that the construction noise and vibration conditions were required and the best way to implement a construction and vibration plan. She considered that the approach would add rigour and formalise the requirement for these mitigation measures.
91. **Peter Vari**, the Team Leader, also confirmed that having heard from the parties that the key point of difference between NZTA and the Council related to the desire to impose conditions on the designation to formalise the management of construction noise and vibration.
92. Commissioner Brown questioned the Council officers on impact of imposing the recommended conditions on the existing designation. Mr Vari and Ms Burns confirmed they agreed with the position of NZTA's legal counsel that the conditions would not automatically apply to the full designation but only to those areas of the sites being added to the designation. Further they advised that they considered the amendments to the recommended conditions proposed by Ms Wilkening would be acceptable in the event we were to impose conditions.

### **Right of Reply**

93. In her right of reply, Ms Batistich reinforced that we were dealing with an existing designation in the AUP (OP) that has no conditions. That the Notice of Requirement to alter the designation had "been assessed by experts and the Auckland Council, who have all concluded that the effects of the alteration will be less than minor"<sup>13</sup>.
94. The main point of difference between Waka Kotahi's experts and the Council position related to the imposition of conditions to address potential noise and vibration effects. Ms Batistich highlighted the evidence of Ms Wilkening's and the position of Waka Kotahi, that the:
- conditions were not required to mitigate effects.

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<sup>13</sup> Right of Reply, page 1, paragraph [1.3].

- Council officers agreed that potential adverse effects would be less than minor;
  - Council’s desire to include the proposed conditions is to add “rigour”;
  - It is accepted that any conditions could only apply to the additional areas covered by the proposed NOR.
95. In response to the matters raised by submitters she reinforced that the lowering of the speed limit alone, would not prevent cars crossing the centre line, nor sufficiently reduce deaths and serious injuries and that the safety improvements were also required. She noted Mr Hendry’s support for the addition of a turnaround at 601 SH16.
96. In response to Mr Raj submission, Ms Batistich reiterated that the issues raised largely relate to the calculation of potential compensation under the PWA which were matters not covered by the NoR hearing. She went onto outlined the range of measures suggested by Waka Kotahi to Mr Raj to assist his business during the construction period and to reiterate that while Mr Raj had been requested by Waka Kotahi to provide further suggestions to mitigate the impacts on his business, none have been received.
97. Ms Batistich also outlined the discussions Waka Kotahi had had with Mr Chen which included the compensation process under the PWA in relation to the effects on his land. She highlighted the difficulties in assessing how any future urbanisation will impact the property as the property is currently zoned Future Urban under the AUP(OP), was not earmarked for release until around 2028 to 2032 and no subdivision consent for the property has been received by the Auckland Council.
98. Ms Batistich concluded that the Notice of Requirement met the tests set out under section 171(1) of the RMA. The alteration to Designation 6766 is reasonably necessary to achieve the objectives of Waka Kotahi for the Project, adequate consideration has been given to alternative sites, routes or methods for the Project, and it is agreed that the adverse effects are less than minor. She sought that Commissioners recommend the confirmation of the alteration to designation 6766.

## **ISSUES IN CONTENTION**

99. The main issues of contention related to the:
- Need for the proposed works and the adequacy of any compensation;
  - Construction noise and vibration conditions.
100. We deal with these matters below in our statutory assessment of the proposal.

## **STATUTORY ASSESSMENT**

101. The NZTA is a Requiring Authority in terms of s166 of the RMA. The NZTA has given notice to the Auckland Council of the Requiring Authority’s requirement to alter the existing SH16 designation 6766 in the AUP (OP) to enable a number of safety improvements along SH16 from Huapai to Waimauku, including the introduction of median barriers, turnaround facilities with right turn bays, widening of shoulders, and side barriers. The alteration to the designation affects a total of 17 properties (total

land area of 9,017m<sup>2</sup>) along SH16, being; 529, 551, 573, 583, 587, 601, 609, 619, 623, 631, 757, 763, 771, 779, 791 and 805 SH16 and 23 Foster Road, Huapai.

102. Section 171 of the RMA sets out the matters to which a territorial authority must have regard to when considering a requirement and any submissions received, and in making its recommendations to the requiring authority. Section 171 is subject to Part 2, which states the purpose and principles of the RMA.

103. Section 171(1) requires:

(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) *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.*

**Section 171(1)(a) – Any relevant provisions of a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, a regional plan, a district plan or proposed district plan.**

104. Pursuant to section 171(1)(a), when considering the requirement, we must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to any relevant provisions of a national policy statement, the New Zealand Coastal Policy Statement, the regional policy statement, the proposed regional policy statement and the relevant regional and district plans and proposed plans.

105. Collectively the Waka Kotahi's NoR application and the Council officer's hearing report provided a comprehensive commentary on these relevant policy statements and plans.

We do not intend to repeat this material in this decision; rather we rely on the application documents and officer's report in this regard and adopt the conclusions therein. We agree that there were no national policy statements relevant to this project nor was the New Zealand Coastal Policy Statement. In reaching our decision, we considered the AUP(OP), including Chapter B Regional Policy Statement was considered of particular relevance, in particular Chapter B3 Infrastructure, transport and energy.

106. We note that there are no regional plans relevant to the consideration of this NoR. That a concurrent resource consent application has been lodged with the Council and that the relevant regional plan provisions will be assessed as part of the processing of that consent.

**Section 171(1)(b) – Adequate consideration has been given to alternative sites, routes, or methods of undertaking the work or that it is likely that the work will have a significant adverse effect on the environment.**

107. As Waka Kotahi does not have an interest in all the land and some of the construction and operational effects of the Project, such as the noise and vibration during construction, have the potential to have a significant adverse effect, we are required to undertake an assessment of alternative sites, routes or methods.
108. We agree with the assessment provided in the application documents that the purpose of the proposed works is to upgrade and improve the safety of this stretch of SH 16 and therefore it is not appropriate to consider "an alternative off-line location". Section 6.0 of the application outlines the assessment of alternatives undertaken for the whole corridor up to the pre-implementation phase in order to confirm the preferred option to proceed to the NoR. In particular we rely on the evidence of Mr Robson and Mr Rahman who addressed the option evaluation process undertaken as part of the development process for the project. We also note the Council's agreement that adequate consideration has been given to alternatives sites, routes, or methods of undertaking the work.
109. Accordingly, we find that adequate consideration of alternatives for the Project has been undertaken by Waka Kotahi and that the requirements of section 171(1)(b) have been satisfied.

**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.**

110. As set out in the NoR, NZTA is a Crown entity and a requiring authority under section 167(3) of the RMA. Its responsibilities include, amongst other matters, "the construction and operation (including the maintenance, improvement, enhancement, expansion, realignment and alteration) of any State highway pursuant to the Transit New Zealand Act 1989" and the construction, operation and maintenance of cycleways and shared user paths.
111. As outlined in the application the specific project objectives are:

- a. Reduce the probability and severity of predicted DSI crashes by at least 30 – 50% (8-20 DSI) within ten years.
  - b. Increase the length of existing corridor rated 2.0 star to 3.5 star or above within the next ten years.
  - c. Maintain travel time between Kumeu and Brigham Creek Road over the next ten years.
112. We acknowledge the concerns raised by the submitters about the impacts the implementation of the safety improvements may have on their businesses and longer-term objectives for their properties. Based on the evidence presented to us, it was clear that the permanent reduction in the speed limit to 80km alone would be insufficient to meet the safety objectives of NZTA. We also note that while Mr Hendry still appeared to express some reservations about the works, he had reached an accommodation with NZTA. In relation to the outstanding underlying concerns of Mr Raj and Mr Chen regarding the project and the potential for compensation, under the PWA, we would reiterate our comments made at the hearing that we are unable to consider these matters as part of these proceedings.
113. We were left in no doubt from the evidence of the NZTA expert witnesses that this stretch of road had a history of serious crashes which had resulted in injuries and deaths. We consider the alteration to the designation is reasonably necessary to enable NZTA to achieve its objectives to improve the safety of this section of the state highway.

**Section 171(1)(d) Other matters considered reasonably necessary in order to make a recommendation on the requirement.**

114. In relation to “any other matter” we note that the application includes a comprehensive assessment of the project against the relevant objectives and policies of the Regional Policy Statement (RPS). We agree with Ms Carlyle that the proposal is consistent with the relevant provisions of the RPS noting her key points that:
- a. Implementation of the safety improvements will reduce both the amount and seriousness of crashes along this corridor. This will improve the effectiveness, efficiency and safety of this transport corridor and support users to move safely and efficiently.
  - b. No adverse effects are anticipated from the Project and any effects identified during construction will be managed or avoided.
  - c. Consultation with Nga Maunga Whakahii O Kaipara and Te Kawerau ā Maki has been ongoing and no significant areas or sites of significance to tangata whenua have been identified.

**Part 2 of the RMA**

115. Part 2 of the RMA sets out the purpose and principles of the RMA.

116. In terms of section 5, we accept that the proposed alteration to the designation are necessary to provide the required safety improvements to this corridor. These works will provide for the sustainable long-term use and safety requirements of the community and will therefore enable people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety.
117. Section 6 requires that a number of matters of national significance be recognised and provided for. The AEE highlighted section 6 (c) as being of relevance as some indigenous vegetation will be removed as part of the works being undertaken, noting that native species are proposed for replacement planting.
118. We also consider section 6 (e), dealing with the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, is relevant. We note a Cultural Values Assessment was undertaken by Nga Maunga Whakahii O Kaipara (the development trust that represents Ngāti Whātua o Kaipara), as Te Kawerau ā Maki indicated they were supportive of Ngāti Whātua o Kaipara taking the lead to complete the assessment.
119. There are also a number of Other Matters under Section 7, of relevance to the proposed alteration of the designation, to which we must have regard namely:
- (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.
120. We consider that the proposed alteration to the designation to facilitate the required safety improvements is consistent with these provisions. The principal point of difference between the Council and NZTA related to the imposition of construction noise and vibration conditions for the Project. The acoustic assessment included in the application noted that most of the daytime works will comply with the relevant standards; that mitigation and management would need to be implemented for dwellings located within 25m of the construction works; that a larger set-back distance would be required to achieve compliance for night-time works.
121. We note Ms Wilkening's advice that works undertaken outside of the existing designation will be limited and are unlikely to be noticeable as compared with the works occurring inside the existing designation. While we appreciate the Council's desire to have "greater rigour", however we note that the application of the conditions would be limited to only that land being added to the existing designation. We agree with the applicant that any effects arising from the minor alteration to the existing designation do not warrant the imposition of additional controls.
122. If we were considering the whole designation afresh, rather than an alteration to include the adjoining frontages of 17 properties in the section between Trigg Road, west of Huapai to Factory Road, east of Waimauku; we may have come to a different recommendation on the imposition of conditions.
123. Lastly section 8, of the RMA requires all persons exercising functions and powers under the RMA, in relation to managing the use, development, and protection of natural

and physical resources, to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). We note the consultation undertaken with Mana Whenua and that NZTA intention to offer Mana Whenua the opportunity to work with the contractors to ensure cultural values are protected.

124. Overall, we agree with the applicant and the Council officers that the NoR to alter the designation meets the relevant provisions of Part 2 of the RMA and will achieve the purpose of the RMA, being sustainable management of natural and physical resources.

## **CONCLUSIONS AND RECOMMENDATIONS**

125. Waka Kotahi NZTA has lodged a NoR to alter the existing SH16 designation 6766 in the Auckland Unitary Plan – Operative in Part (“**AUP(OP)**”). The proposed alteration is to enable a number of safety improvements along SH16 from Huapai to Waimauku, including the introduction of median barriers, turnaround facilities with right turn bays, widening of shoulders, and side barriers. The corridor has been identified as one of the sections of rural state highway requiring safety improvements by NZTA’s Safe Roads and Roadsides Programme. The works are required to retrofit the corridor with safety mechanisms specifically designed to reduce the incidence of deaths and serious injuries on this stretch of rural state highway.
126. The alteration to the designation affects a total of 17 properties (total land area of 9,017m<sup>2</sup>) along SH16, being; 529, 551, 573, 583, 587, 601, 609, 619, 623, 631, 757, 763, 771, 779, 791 SH16 and 23 Foster Road, Huapai.
127. Section 171 of the RMA provides the means by which the NoR can be recommended to be confirmed or otherwise by the Council. In terms of section 171 after considering all the material and evidence put before us for at the hearing we have concluded that the NoR be confirmed.

## **RECOMMENDATION**

In accordance with section 181(2) of the Resource Management Act 1991, the Auckland Council recommends to Waka Kotahi – New Zealand Transport Agency that the Notice of Requirement to alter existing SH16 designation 6766 in the Auckland Unitary Plan (Operative in Part) be confirmed.

## **REASONS FOR THE RECOMMENDATION**



Under section 171(3) of the RMA the reasons for the recommendation are:

1. The notice of requirement is consistent with Part 2 of the RMA in that it enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety.
2. The notice of requirement is consistent with and gives effect to the relevant provisions of the Auckland Unitary Plan (Operative in Part).

3. In terms of section 171(1)(b) of the Resource Management Act 1991 adequate consideration has been given to alternative sites, routes or methods for undertaking the work.
4. In terms of 171(1)(c) of the Resource Management Act 1991, the notice of requirement is reasonably necessary to achieve the requiring authority's objectives.

**AMENDMENTS TO THE DISTRICT PLAN**

That the Auckland Unitary Plan (Operative in Part) be amended (Attachment A).

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| <p><b>Janine A. Bell (Chair)</b><br/><b>Independent Hearing Commissioner</b></p>  | <p><b>Philip Brown</b><br/><b>Independent Hearing Commissioner</b></p>             |

**17 September 2020**



## ATTACHMENT A

1. Alter Designation 6676 – State Highway 16 by amending the AUP(OP) map layer to include the identified areas within the designation:

