

BEFORE THE PALMERSTON NORTH CITY COUNCIL, (PNCC) THE MANAWATŪ DISTRICT COUNCIL (MDC) AND THE TARARUA DISTRICT COUNCIL (TDC)

IN THE MATTER OF the Resource Management Act 1991 ('the RMA')

AND

IN THE MATTER OF NOTICES OF REQUIREMENT by the New Zealand Transport Agency ('the Agency') under section 168 of the RMA for the construction, operation, maintenance and improvement of approximately 11.5 km of new State Highway between Ashhurst and Woodville to replace the closed section of state Highway 3 through the Manawatū Gorge and associated works, known as the Te Ahu a Turanga; Manawatū Tararua Highway Project ('the Project')

CORRECTIONS TO THE FOURTH MINUTE OF THE HEARINGS PANEL

11 MARCH 2019

CORRECTIONS

- 1 It has been drawn to the Panel’s attention that the Fourth Minute issued on 8 March 2019 (the **Fourth Minute**) contained some minor errors.
- 2 This minute intends to correct these errors and provide the correct questions to the territorial authorities’ Reporting Officers regarding the section 42A reports, as provided at paragraph 18 of the Second Minute, dated 18 February 2019 (the **Second Minute**). This minute is to be read in the place of the Fourth Minute.

QUESTIONS ON THE SECTION 42A REPORTS

- 3 The questions regarding the section 42A reports are as follows:

Para	Question
Traffic and Transport	
Harriet Fraser	
35	What, in your view, would be a more appropriate level of diversion away from the informal bypass route and how does that affect your conclusions in relation to the effects of the project?
56 70 78 103	Are there any implications for the NOR of your identified shortcomings beyond those listed at your paragraphs 139, 141, 195 and 207(m)?
56	Do you consider that a lower design speed is suitable for the currently proposed 4-lane road cross section and why? If, in your view, a different road cross section would be required to support a lower speed limit, what would be the implications of longevity of the route in terms of future capacity, particularly in light of the submission made by the Chamber of Commerce in relation to wishing to see a 4-lane road in its entirety, and the potential for increased tourism raised by the Central Economic Development Agency, amongst others? In your view, what would be the network wide and driver experience effects of having a key section of SH3 operating under 80km/h?
75	Appreciating that the overall alignment could change and could therefore represent a longer physical length, and that this is not yet known, please provide an assessment of the effect on travel time if an 80km/h speed limit design speed were used.
135, 186	In lay terms, precisely what additional mitigation do you consider is required?
Noise Nigel Lloyd	
49	Do you know how many night traffic movements for the likes of continuous concrete pours and over dimension loads will be required to travel through Ashhurst and Woodville at night?

Para	Question
49	Is there an agreed route through Ashhurst and Woodville for this unavoidable night time traffic?
102	Is the approval or certification by the territorial authority in terms of condition 20 only required in the event that Category A Controls is exceeded? Could you please explain?
93	In your opinion, is there a need to consider suppressing engine noise and exhaust noise, by utilising additional muffler noise suppression devices?
119	Are all of your recommendations (your paragraphs 93 to 114) captured in amended conditions recommended to us in the S42A Report?
Landscape	
John Hudson	
18	What are the cumulative effects that you are concerned about - effects of multiple stream crossings by this Project (your para 42) or the effects of this Project laid on top of the effects of previous human induced changes along the NOR route?
22	In your opinion, has an adequate assessment of the landscape character effects been undertaken in relation to the Te Ahu a Turanga battle site, including the prominent rock in close proximity to the designated route?
50	One Plan Objective 6-2(b)(ii) uses a plural term "attributes and qualities". <ul style="list-style-type: none"> ▪ Does this suggest that more than one attribute and more than one quality would need to be significantly diminished? ▪ If the Plan drafters had intended the policy to mean one attribute or one quality might they have used wording such as "an attribute or quality"?
96	Is it necessary for there to be readily available public access to and within an area for it to have "experiential" value?
112	What are the implications of your opinion on NZTA's natural character ratings?
126	In your opinion, have Tangata whenua and cultural values been adequately assessed from a landscape character perspective against relevant statutory and plan provisions for the NOR?
129 130	What tangible Project design and construction outcomes are you contemplating here and can you give actual examples?
131(b)	What route might a new road from Ashhurst to Woodville take that does not cross the Ruahine Ridge land at right angles? How can "cuts and fills" be "arbitrary" if they result from a Project's design alignment?
(General)	Given the concerns raised regarding the dilution effects of the landscape assessment methodology, please provide a concise assessment of what the landscape and natural character effects would be without this 'dilution' .

Para	Question
Ecology James Lambie	
Executive Summary	
2(a)	How many hectares of old growth forest and old growth treelands are contained respectively in the nearby Manawatu Gorge Scenic Reserve, the Ruahine Forest Park and Tararua Forest Park?
13	What do you mean by "measure of loss"?
14	In what way can NZTA practically remedy vehicle bird strike mortalities?
16	Do other ecologists support your opinion that the presence of bat roosts increases the irreplaceability of old growth forest beyond the level to which effects can be feasibly offset?
21	Are you aware of any evidence that the indigenous vegetation potentially affected by the NOR actually contains invertebrates that would qualify as RMA s6(c) indigenous fauna, or contains any invertebrates that are 'Rare' or 'At-Risk' or 'Threatened'?
24	Executive Summary. Regarding natural character, did you mean to say "protected" from inappropriate use and development?
Evidence	
20	So are you saying if policy framework of the One Plan can be met by this project then the effects on the environment are acceptable?
25	Have you limited your assessment to "amenity, intrinsic and cultural values associated with indigenous biological diversity" as required by One Plan Policy 6-1(b)(i)?
26	First sentence. In footnote 5 did you mean One Plan Policy 6-2(e)(ii)?
33	Can you provide your opinion about the prospect of the change you refer to in this paragraph occurring?
38	Are the requirements of the "comprehensive and transparent mitigation and offsets package" you refer to as being necessary to demonstrate a net gain in biodiversity included within the amendments you have recommended to conditions regarding the EMP?
39	Do you know if it is possible to change the alignment in and around the NOR corridor to respond to One Plan Objective 6-2(b) and Policy 6-6 directive "to avoid"?
41	Have the commissioners been provided with the documents you refer to: <ul style="list-style-type: none"> ▪ Forbes, A. (2019). Letter addressed to Wildland Consultants regarding Te Ahu a Turanga; Manawatū Tararua Highway Project Response to Ecology Review, dated 1 February 2018 (but should have been dated 2019). [ref Forbes, 2019]; and ▪ NZTA (2019). Te Ahu a Turanga February 2019 Ecology Mitigation Workshop [ref. NZTA; 2019].

Para	Question
46	Can you explain why or how it is that much of the opportunity particularly for wetland restoration opportunity lies outside the NOR and is therefore subject to third-party cooperation?
72	In your opinion are the ECRs used by Dr Forbes reasonable? If not, what do you consider they should be instead and why?
80 115	Are you aware of any evidence of vehicle related indigenous bird strike being a significant issue on the Saddle Road or Pahiatua Track?
96	Do you consider that the proposed conditions or management plans provide for your recommendation "if native frogs are found there should be no other recourse but to delimit the extent of the population and avoid that area completely"?
101	Are you aware if your recommended condition requiring a targeted investigation into terrestrial and invertebrate diversity in the high and very high valued sites to establish baseline diversity indices and thereby remove some of the doubt with respect to the presence of rare or at risk invertebrates has been adopted?
108	What statutory instrument policy provision do you rely on for considering that offsets must be in the same catchment?
113	Why is it not possible to assess whether or not NZTA has sufficient space to implement best practice sediment and erosion control measures?
117	Last sentence. What would than mean in practice?
118	Given your concern regarding construction effects in relation to stormwater run-off quality sediment and erosion control etc, what controls or assessments would you like to see in place?
119	Has your assumption that the potential to apply offsets was excluded by NZTA when considering the long list options been confirmed by NZTA experts?
121	Have the views you raise in this paragraph been raised during caucusing or discussions with the relevant NZTA experts and if so what was their response?
122	So are you really saying in this paragraph that the issue of consideration of alternatives has not been robust?
122 123	In your opinion, is the proposed route "fatally flawed" given the significant adverse effects on rare and irreplaceable habitats? Why/why not?
128	What precisely are these "significant adverse ecological effects" in your opinion?
132(d)	Last sentence. What legal authority do you cite for your assertion?
	Did you undertake any expert conferencing with Dr Forbes or his colleagues?
137	Can you articulate for us some form of expression that would provide for the surety you refer to?

Para	Question
148	If we were minded to include a condition to include stakeholders on a community liaison group to assess the merits of the offsetting proposal how do you think disagreement be addressed?
157	Has your recommendation to include maps as reference in this paragraph been discussed with NZTA experts and if so what was their response?
191	At what stage of the project do you anticipate it will be known whether or not native frogs inhabit areas within the designation area?
Freshwater	
Logan Brown	
18	Given your concerns in relation to sediment control, what mitigations or controls do you consider necessary and why.
21	<ul style="list-style-type: none"> ▪ Which of the One Plan Policy 6-8(c) natural character attributes and characteristics are not captured by the natural character attributes used by the NZTA experts? ▪ Do the streams traversed by the NOR fall within the One Plan Upper Gorge Mana 9a and Middle Manawatu Mana 10a surface water management zones? If not, what zones do they fall within? ▪ What are the One Plan Schedule B values for the affected streams?
23	In your opinion, do any of the affected streams in chainage 3900 to 6400, where they are traversed by the NOR, have outstanding natural character?
24	To your knowledge, do any of the affected streams where they are traversed by the NOR have a demonstrable periphyton problem?
28	Did you mean to say (second sentence), in terms of natural character and One Plan Objective 6-2(a), to protect natural character from inappropriate use and development?
29	How do you interpret and apply the One Plan Objective 6-2(b)(ii) "significantly diminish" threshold?
33	What in your opinion are the "more important drivers of natural character" in the affected streams in chainage 3900 to 6400 where they are traversed by the NOR and with reference to the One Plan Policy 6-8(c) natural character attributes and characteristics.
35 55	What comparative weighting should be applied to the different assessment criteria and how would this influence the overall assessment of effects? How would the separate consideration of ephemeral streams affect this?
44	<ul style="list-style-type: none"> ▪ What are the implications of your attribute assessment? ▪ Would it be correct to say that no matter what attribute assessment system is used, assessing potential adverse effects on natural character is a somewhat subjective exercise?
59	Do you know whether NZTA intend to make the results of their stream monitoring programmes available as part of the NOR hearing process? In your opinion, how critical is this baseline information in terms of our considerations for the designation of the road corridor?
63	What is the annual sediment load of the Manawatu River through the Gorge?

Para	Question
70(b)	How would you rank or weight the One Plan Policy 6-8(c) natural character attributes and characteristics?
	Did you undertake any expert conferencing with Dr Forbes or his colleagues?
Construction earthworks	
Gregor McLean	
36	Please explain what 'stream reclamation' is.
26	Given your concerns about the potential scale of enabling works and in particular the point that NZTA is still developing the scope of those enabling works are you able to determine effects on the environment of those enabling works?
27	Do you have any additional comments on either the structure or wording for NOR conditions that reflect a management structure which results in oversight of the enabling works from a construction effects perspective?
28	Based on your experience and taking into account this project in particular construction issues can you think of any reason why the ESCP is not to be an overarching plan and to be provided as part of the NOR process as you suggest in your paragraphs 28 & 29?
30	What best practice erosion and sediment control guideline/standard would you recommend be utilised and why?
36	In your opinion what are the critical characteristics for determining the suitability of a spoil site?
43	In your opinion what would be the appropriate way of dealing with the issues you have raised relating to the workability of the NOR corridor in particular ensuring there is sufficient room for SRPs to be installed operated and maintained in sensitive areas?
57	As at the time of writing your section 42A report do you consider the key environmental outcomes for this project are appropriately recorded in conditions or not?
Planning	
Phil Percy	
32	Is Table 1 missing its third column entries?
73/153	Do you consider any issues arise for us because NZTA has decided to lodge required resource consent applications at a later date as part of the as detailed design phase of the project?
146	Is the reference to Section 7 correct?
154	Is it appropriate planning practice for territorial authority s42A reporting officers to 'second guess' the outcomes of future resource consent applications to a regional council?
158 539(b)	Does the s171(2)(b) NOR recommendation option "to modify the requirement" allow for a 'wider corridor' or for the 'designation boundaries' to

Para	Question
	be amended; or would that require renotification of an amended NOR and associated AEE?
301	In terms of reconciling potentially competing statutory policy guidance, should the provision of a shared path take precedence over (or be afforded greater weight than) avoiding or mitigating adverse effects on indigenous biological diversity and the natural character of streams and wetlands?
383	When will we receive these 'refined' landscape conditions?
406	In terms of the RMA definition of 'amenity values', which of the "pleasantness, aesthetic coherence, and cultural and recreational" attributes of amenity values do 'ecological values' contribute to?
409	Are any of the streams traversed by the NOR classified by MWRC or any of the territorial authorities as "outstanding freshwater bodies"?
415 676	One Plan Policy 6-2(e) cross-refers to Policy 6-1. Policy 6-1(b)(i) explicitly precludes TAs from having measures for the purpose of protecting significant indigenous vegetation and significant habitats of indigenous fauna. Consequently, can the TAs recommend NOR conditions to protect significant indigenous vegetation and significant habitats of indigenous fauna or would any such conditions need to be offered by NZTA on an <i>Augier</i> basis?
488 494	Do you consider a new state highway to replace the closed Manawatu Gorge SH3 to be 'appropriate use and development' or 'inappropriate use and development'?
504	Do you mean Policy 6-9?
514	There is no Objective 6-1(a)?
538	From the overall tenor of your natural character assessment, and in terms of reconciling competing considerations posed by the Project, it might appear that you are of the opinion that ensuring "the natural character of the affected streams and wetlands will be preserved" outweighs the benefits of providing a new State Highway from Ashhurst to Woodville. Is that your opinion?
543	Will the additional information to be provided at the hearing on cultural effects be presented by the Tangata whenua themselves; and, if so, will all Iwi with Tangata whenua status within the area of the NOR have the opportunity to present their respective views on cultural effects?
554	Despite a strong theme of iwi consultation and involvement throughout the Project, it appears that some iwi have been engaged to a greater degree than others. Are you able to clarify why this has occurred?; and in your view, does this reflect a failing by territorial local authorities to fulfil s8 RMA obligations in terms of ensuring the involvement of all Tangata whenua groups in consultation with NZTA throughout the NOR application process?
719	It is generally understood that permitted activities can occur as of right with no recourse to the relevant Council because their effects, subject to compliance with any permitted activity conditions, are considered to be no more than minor. Is that your understanding?

Para	Question
(Ms Fraser)	
223	Please be specific about which sections of the road network you consider to be constrained in terms of the ability to deliver the mitigations recommended by Ms Fraser, what those constraints are and how they relate to the ability of the conditions suggested in Section 8.2.6 to be delivered.
236(l)(iii)	Please explain the reasoning for only requiring level of service D for intersection operations at year of opening rather than at future design year.
307(b) & (c)	How are these two requirements expected to work in practice? Is part (b) referring to the current car park or the temporary provision in (c)?
(Mr Lambie)	
539	Please confirm the methodology you deem is appropriate for any revised assessment of ecological effects
(Ms Fraser)	
651	How will the increase of the clearance to wind turbines to 160m affect the ability of NZTA to deliver a road alignment within the NOR? How many additional turbines may need to be removed?
Tourism and Recreation	
Jeff Baker	
15	Have we been provided with copies of the document you have referred to within this paragraph?
22	Are there other available means outside or beyond this project to provide for cycling and walking facilities to provide recreational opportunities and/or access to the broader area?
58	Why haven't you discussed the opportunity you refer to in this paragraph with NZCT staff at MBIE?
75	From a cyclist perspective would it not be the case that riding on the project Road is preferred or much preferred than utilising the saddle Road? If so then your opinion the proposal presents a faint benefit is perhaps understated?
78	Can you provide examples of other NZTA projects with identifiable recreation or tourism benefits built in as distinct from being a by-product of the project?
84	Can you describe for us the ways in which this project could be modified to provide for the encouragement of walking and cycling as you detail in paragraph 84?
89	Do you have any understanding of likely costs to include within the project provision for walking and cycling? Would the provision of such facilities result in the project taking longer to construct?
94	In your opinion would it be possible sometime in the future within the project to provide provision for walking and cycling?

Para	Question
99	In respect of Ashhurst Bridge based on your experience how would or could the bridge be modified to provide for the new walking and cycling activities you promote?
Planning Appendix 2, s92 response; Te Manawaroatanga	
	(Executive Summary) Please explain how, specifically, the proposed designation will impact on Ngati Raukawa's traditional relationship with the Ruahine Ranges and Tararua?
	How have the measures proposed by Ngati Raukawa to avoid, remedy or mitigate the "key cultural impacts of the project" been addressed by NZTA (and other Iwi where relevant)? If so, how?
	The report notes that Ngati Raukawa did not have the opportunity to provide input into the EDCF. Has Ngati Raukawa been given the opportunity more recently to contribute to the EDCF and, if so, has the EDCF been updated to reflect Ngati Raukawa's values/interests in relation to the project area?
	The report refers to Ngati Toa as 'mana whenua' in the project area through their involvement, along with Ngati Raukawa, in the 1818-1819 raupatu or conquest of the Manawatu area. In your view, what is the nature of Ngati Toa's mana whenua status in the project area today; and should NZTA be engaging with them over this Project?
	The report states that a CIA will be undertaken by Ngati Raukawa hapu over a period of five months. Does this mean that each of the Iwi/Hapu with identified interests in the project area (i.e. Ngati Kauwhata, Ngati Wehiwehi, Ngati Te Au, Ngati Turanga, and Ngati Rakau) will be working together to develop a single CIA collectively; or is the expectation that each of these groups will need to be engaged separately by NZTA to undertake their own CIA's?
	Will the CIA(s) from Ngati Raukawa hapu be completed in time to be considered as part of the NOR application process?

Conditions – S42A Report Appendix 7	
1A(b)	Should this refer to "technically certified management plans"?
1B	Is a condition required to set out the certification process and what happens if a TA fails to respond to a certification request within a set number of working days?
2(b)	Would it be more certain if this referred to "mitigation or offsetting measures imposed by conditions of this NOR"?
5(c)G(vi)	Did you mean "... remediation of works..." or "... remediation works..."?
5(c)G(ix) 8A(b)(v)	These conditions as worded imply that any and all outcomes of community engagement must be integrated into the design. Is that your intention?
5(d)(ii)	Should this refer to the "... character, intensity or scale of adverse effects of the activity ..."?

5(d)(iii)	What will be the basis for determining or disputing the Council agreement (or absence thereof)?
5A(b)(ii)	Why have you limited this to up to 5(c)(iv) – noting you actually recommend the deletion of 5(c)(iv).
5B	Referring to the words in [] after J, what “comprehensive assessment” in the evidence before us are you referring to?
5C(a)	Can you explain the rationale for this condition as the maximum areas (presumably copied from NZTA condition 13) are the areas of vegetation that on the available evidence are likely to be damaged or destroyed by the new road? Is it possible to construct a new road that avoids damaging or disturbing any and all of those vegetation types?
5C(c)	Is the intention of this condition that any vegetation containing any bat roosts, lizards, nesting birds or rare invertebrates cannot be damaged, destroyed or removed?
8(a)	Do you know when detailed design is due to commence?
8(b)(i) also 8A	Is it appropriate for a group of lay people to provide input on the detailed technical design of a roading project, including matters such as construction details and the contents of technical management plans? How do you envisage the members of the Group providing input on the “results of monitoring activities” (8(b)(i) clause G)?
8((d)(v)	What tangata whenua are you specifically referring to?
8(d)(vi)	What groups are you specifically referring to?
10(c)(ii)	Listing the “environmental outcomes anticipated by relevant RMA policy documents” will result in a very long CEMP. Can you explain why is that necessary and what use it will be to the contractor(s)?
10(d)	Is a condition required to set out the updating process?
10A	What does “substantive changes” mean?
11(e)	Can you explain how an ECDF design review can demonstrate compliance with designation conditions? Would compliance with designation conditions be the subject of a separate TA compliance monitoring review?
12(e)	Should this condition be worded the same as condition 11(d)?
12(f)(iii)(second B)	Why is this deleted?
13(b)	What would constitute a swamp mire tree being “affected”? Where will potentially hundreds of new swamp mire trees be obtained from?

13A(xii)	Can you explain the purpose of this condition when presumably the ECRs in 13(a) already account for those matters?
15	What happens if DOC will not agree to the methodology?
16A	Is this condition intended to address adverse effects on any identified "At-Risk" or "Threatened" invertebrates or adverse effects on any invertebrates wherever they may be within the construction envelope?
22C	Should this refer to "any existing formed accessways"?
PN2(c)(i) and (iii) PN3(b)	Is it lawful to have conditions relying on the approval of third parties?
PN2(c)(iii)) PN3(b)	How will NZTA know what the "expected" number of visitors will be?

RESPONSE FROM REPORTING OFFICERS REQUIRED TO THE PANEL'S QUESTIONS

- 4 As provided at paragraph 18 of the Second Minute, the Panel requests the Reporting Officers provide their response to the Panel's questions in the manner described in paragraph 9 of the Second Minute by **Thursday 14 March 2019**.
- 5 We remind the Reporting Officers and all other participants at the hearing that the Panel will ask additional questions of the Reporting Officers and their experts during the hearing.

CORRESPONDENCE CONCERNING THIS FOURTH MINUTE

- 6 Any correspondence should be directed to Kath Olliver, Hearings Administrator at PCNN. Email: Kath.Olliver@pncc.govt.nz

Paul Rogers
Independent Commissioner – Chair- on Behalf of the Panel
Dated: 11 March 2019