

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')

FIFTH MINUTE OF THE HEARINGS PANEL

15 MARCH 2019

INTRODUCTION

1 The purpose of this minute is to issue the Panel’s further questions to the Agency, as provided by paragraph 13 of the Panel’s Second Minute dated 18 February 2019 (the **Second Minute**).

QUESTIONS FOR THE AGENCY

2 The Panel’s questions for the Agency are as follows:

Para	Question
Sarah Downs	
65	If rejection were to occur are you in a position to articulate NZTA’s reasons for doing so?
65	From this and preceding paragraphs are we to understand that if after considering all the relevant evidence before it the Panel was to recommend (under s 171(2)(c) of the RMA) a condition similar to Condition 26D as recommended by the s42A authors relating to a safe, sealed, separated contraflow shared path along the new road, that NZTA will reject that recommendation under s 172 of the RMA?
77	Please confirm whether the consideration of a treatment for the SH2/SH3 intersection currently either directly or via a Woodville bypass option forms part of another project, and if so, what stage the project is at and its broad timeframes.
Andrew Whaley	
18	From your Paragraphs 236 to 239 it seems that you did not design the Project to be consistent with the Austroads standards for sealed shoulder widths for cyclists as referred to in paragraphs 91 and 109 of the S42A evidence of Harriet Fraser. Is that correct?
43	What evidence have you relied on to form an opinion that “Saddle Road will revert to a suitable cycling route once the new road is constructed”?
60	Has the need to pay compensation to Meridian Energy under the PWA been factored into the project costs?
68	<ul style="list-style-type: none"> • The general project principle is to retain excess cut material on site. Does this apply to potentially contaminated material? • How will potential effects arising from the relocation of contaminated material be managed in terms of placement and containment? • Is there sufficient recognition of this within proposed draft conditions, and if not, what would your recommendation be to address this matter?
141	Would that Northern option avoid the forested QEII area at chainage 6100 to 6400?
172	From an engineering perspective what is required to protect the existing turbines?
172	If the 160 m setback is not driven by engineering considerations relating to the existing turbines what in your opinion is it driven by?

Para	Question
Scott Wickman	
12	When the 18 long list options were being assessed would we be correct in thinking that expert evidence then available was much more limited compared to assessments undertaken at the shortlist stage?
	If this assumption about limited expert evidence is correct do you consider there is any risk that any of the options on the 18 long list have not been adequately assessed?
	Is the multi-criteria analysis a recent innovation or is that form of analysis commonly utilised by NZTA?
Lonnie Dalzell	
30	When subsequent design of the project is being undertaken what level of confidence do you have that the design process will be able to be undertaken respecting the conditions imposed on the designation?
30	If the design process demonstrates the conditions imposed on the designation are unworkable what then happens?
45	Can you please expand on how the "hybrid alliance" model for procuring the project designers and constructors places more emphasis on social outcomes, valuing innovation and design, and further engagement with communities and stakeholders?
53	In the context of NZTA's approach of "partnering with Tangata whenua", have all Iwi with identified interests in the designation area been engaged in the Project to the same level and in the same way as others? Why/why not?
59	According to NZTA's response to further information requests, further details on the impact of the Project on cultural values was to be addressed through the filing of expert evidence of representatives from all Tangata whenua groups, however Ngati Raukawa and Ngati Kahungunu ki Taamaki Nui-aa-Rua have not filed any evidence. Why?
70	Do you know why the sale did not proceed?
116	Given the importance of mitigation at point of effect raised by Dr Forbes and the significant areas of land required for offset planting, what guarantee can NZTA provide that the land required can actually be acquired within the vicinity of the Project?
Jonathan Kennett	
19	<ul style="list-style-type: none"> ▪ How did you derive the number of "Projected Users" for each column in Table 1? ▪ Have those numbers been independently peer reviewed? ▪ What margin of error is attached to the numbers (i.e. plus or minus what %)? ▪ Please can you provide a similar assessment in relation to Saddle Road and Pahiatua Track as future cycle options? ▪ Given your preferred option is the reuse of a highly geologically unstable road that has been closed to motorised traffic for the last 2 years on safety grounds, assuming that this cannot be delivered, what alternative option and in light of providing the additional assessment of Saddle Road and Pahiatua Track

Para	Question
	requested above, what alternative do you consider to then be the most attractive and realistic route?
47	With respect, you have not answered the question which did not relate to comparing the new route with the old Manawatu Gorge road. So to repeat: "In your opinion, are the proposed shoulders wide enough to ensure the safety of cyclists"?
David Dunlop	
28 206	In terms of avoiding adverse well-being, health and safety effects on cyclists can you explain why should we prefer the "draft Transport Agency guidance for on-road cycle facilities on rural State highways" to the Austroads standards for sealed shoulder widths for cyclists referred to in paragraphs 91 and 109 of the S42A evidence of Harriet Fraser?
29	Please confirm where, in general terms and preferably on a plan, the proposed amended walking and cycling facilities at either end will be provided and how they will link to existing walking and cycling provision?
56	Please confirm what changes have been made, or are planned to be made, to Saddle Road by NZTA and its partners during closure of the Gorge Road? Again, a plan would be helpful.
60	Please explain why the shoulder has only been considered as a 2.0m wide multi-purpose shoulder as opposed to considering wider provision that would allow for safer cycle access?
62	Can you further explain your 60km/hr assumption – if a modern car going 100km/hr passes a slow truck would not the car revert back to the left-hand 'crawler' lane at 100km/hr because of the general presumption in NZ "to keep left unless passing"?
71	How reasonable is it to postulate that the full length of the old Gorge Road might ever become a safe and officially designated cycling route, given it was deemed too dangerous and/or too expensive to reinstate for motor vehicles?
77	We note that you now recommend including cycleable shoulders on the new Manawatu River Crossing. Do you consider this approach should be applied to all bridge structures along the route?
102, 104	Please provide the basis on which you reach your conclusion that the changes in traffic demands will have no effect on road safety?
108, 109.	Please answer the question and provide an assessment of comparative travel times as a generic statement that vehicles can travel faster on the new route is unhelpful in establishing and assessing potential effects?
145,1 46	Please give this question more consideration in terms of actual comparative travel distances and effects on time as the generic answer is not helpful in establishing and assessing potential effects.
211	Please provide a copy of the DBC road safety audit with responses.
Amelia Linzey	
47	Are you aware that NZTA (evidence of Jonathan Kennett paragraph 46) have stated "Our recommendation will be to move the NZ Cycle Trail Heartland Ride from Pahiatua Track to Saddle Road"?

Para	Question
62	Given detailed design of the project is yet to be completed what is the basis of the assumption that night time construction activity would be limited?
91	Within this paragraph and elsewhere through your evidence you identify and discuss the importance of community involvement in the project. However what is intended when as a result of liaising with the community the community desire a certain outcome but project managers prefer a different outcome? Specifically what are the mechanisms available to resolve such differences and/or disputes?
Attachment 2	Do you consider that the feedback form provides a balanced view of public opinion given the questions are positively geared, and why?
Stephen Chiles	
25	You recommend the use of asphaltic road surfaces on Napier Road in Ashhurst, Vogel Street in Woodville and the lower eastern slope. In your view, would an asphaltic surface assist in managing noise effects associated with the new roundabouts? Please provide an explanation of your option.
38	Would a 'noise barrier fence' be a suitable alternative to a bund?
73	Please expand on your comment that neither of the BoI Situations apply in relation to the Project as the point you are making is not clear.
56	Presume you mean "pier" not "peer"?
Attachment 2	<ul style="list-style-type: none"> ▪ In some places you use the words "... explore opportunities ..." which have no certainty of outcome. Would the words "... explore, and implement where practicable, opportunities ..." be more certain? ▪ Are the words "Where practicable, bring to fruition visual opportunities ..." more certain than the words "Seek to provide visual opportunities ..."?
Boyden Evans	
7	Given detailed design of the project is yet to occur how confident are you that the potential options to design a road within the designation adequately represent the realistic worst-case scenario?
Andrew Blayney	
79	<ul style="list-style-type: none"> ▪ Can you describe, in lay terms, the types of terrestrial invertebrates that are of concern? ▪ Can you provide pictures of them?
Ainsley McLeod	
54	What is the basis for your view that Policy 13-4 should not be applied to NORs in the same directive way as it is to regional resource consents?
149	Will this condition differ significantly from Condition 16A recommended by the s42A authors?
258 274(c) (iii)	Can you explain why a condition relating to the pedestrian viewing platform on the new bridge is not recommended (your page 102 referring to the s42A condition 26E) given NZTA's apparent commitment to providing such a facility (see Downs evidence at paragraphs 59 and 111)?

Para	Question
266 and 257	Any updates on the information awaited from DOC?
353	Given the uncertainty as to whether or not interested participants would have the opportunity to have input during the outline plan process do you not consider that an independent certification process to confirm compliance with conditions could be useful?
Manahi Paewai	
Appen dix B	Can you please explain how the cultural values outlined in Appendix B will be potentially impacted by the Project?
Christopher Whaiapu	
18 - 24	You refer to Ngati Kauwhata's inclusion in the Ngati Raukawa report as curious because to your knowledge they usually speak for themselves. But you then discuss at some length Ngati Kauwhata's historical connection to the area, including the basis for their customary interests in the Manawatu (by virtue of having been granted permission to live amongst Rangitaane). Are you mandated to speak for Ngati Kauwhata, or is this korero given from a Rangitaane perspective?
5	I understand that you are disputing Ngati Raukawa's claim of having conquered Rangitaane, but you do acknowledge Ngati Raukawa's occupation of the lower reaches of the Manawatu and their gifting back of the Tuuwahakatupua block to Te Awe which created the basis for a peaceful relationship between the two tribes going forward. Is this not evidence that Ngati Raukawa did, and still do, have valid customary rights and interests in the area of the NOR?
Jonathan Proctor	
10	You say that the customary authority denoted by the concept of 'mana whenua' is "obtained through the long-lived relationship of the people and the resources of the land." In your view, is this ancestral connection to an area or "take tupuna" the only way in which 'mana whenua' rights and interests can be obtained?
20	Please explain what you mean by higher resolution matauranga-a-iwi?
21	How has NZTA recognised the cultural, spiritual, historical and traditional associations to the designation area, as required under the Settlement Acts?
28	Please explain what you mean by "Rangitaane concepts of Te Ao Turoa, Kaitiakitanga and Rangatiratanga" in the context of the Project?
37	Has your recommendation to ensure that NZTA continues to work in partnership with Rangitaane been included as a designation condition?
45	Can you please provide references to the particular Waitangi Tribunal processes or reports you are referring to?
Siobhan Lynch-Karaitiana	
4	In broad terms, what effects over and above those associated with the road itself, might you see as arising from allowing a walking and cycling track alongside the proposed road?

Para	Question
10	Over what period of time do you consider it appropriate to operating the Living Cultural Impact Assessment and why?
19	Are you able to identify the particular waahi tapu and burial grounds that would potentially be impacted by the development of a full route for cyclists and pedestrians?
25	Will the Trustees of Parahaki Island be appearing at the hearing to respond to this question?

Conditions	Question
2	Can "completion of the construction of the project" be defined?
5(c)(D)	Should this also refer to an "Invertebrate Management Plan" or has that been deliberately omitted in response to the evidence of Siobhan Lynch-Karaitiana at her paragraph 15?
5(d)(ii)	Should the words "materially different" be substituted by the words in "general accordance with" to make use of available case law interpretations of those words.
5(e)(vi)	Are the words "... the Requiring Authority must investigate ..." appropriate?
7(c)(iv)D	Why are you opposed to the inclusion of a reference to "pre-schools and schools" - is it because you now include them in 8(d)(ii)?
T3	Why has condition T3 not been amended to include the detailed recommendations of Jeffrey Morton in paragraphs 50 -52 and 55 -57 of his evidence?

RESPONSE FROM THE AGENCY TO THE PANEL'S QUESTIONS

- 3 As outlined at paragraph 13 of the Second Minute, the Panel requests that the Agency responds to the Panel's questions within three working days of receiving these questions.
- 4 The Panel's reminds the Agency and all other participants at the hearing that the Panel will ask additional questions of the Agency during the hearing.

CORRESPONDENCE CONCERNING THIS FIFTH MINUTE

- 5 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: 15 March 2019