

# Section 42A Hearing Report

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To: Independent Hearing Commissioners

From: Paul S Ryan, Principal Planner, Urban & Spatial Planning Unit, Hamilton City Council

Subject: **Hamilton City Council Notice of Requirement –  
Rotokauri Strategic Infrastructure**

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25 May 2025

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27 May 2025

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27 May 2025

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## Table of Contents

|            |  |           |
|------------|--|-----------|
| <b>1.0</b> | <b>Terms and Abbreviations .....</b>                                       | <b>4</b>  |
| <b>2.0</b> | <b>Executive Summary.....</b>  | <b>5</b>  |
| 2.1        | The Requirement .....  | 5         |
| 2.2        | Purpose of this report .....   | 5         |
| 2.3        | Key findings .....   | 5         |
| 2.4        | Designation lapse period .....   | 6         |
| 2.5        | Recommendations .....  | 6         |
| 2.5.1      | Modifications to the Requirement .....                                     | 6         |
| 2.5.2      | Further information required .....   | 6         |
| 2.5.3      | Reasons for the recommended comprehensive set of designation conditions... | 7         |
| <b>3.0</b> | <b>Introduction .....</b>  | <b>7</b>  |
| 3.1        | Purpose of Report .....  | 7         |
| 3.2        | Scope of Report.....   | 8         |
| 3.3        | Relevant Documents.....  | 8         |
| 3.3.1      | Submissions .....  | 8         |
| 3.3.2      | Specialists' Reports.....  | 8         |
| 3.3.3      | Figures.....   | 9         |
| 3.4        | Author's Qualifications and Experience.....                                | 10        |
| 3.5        | Code of Conduct .....  | 10        |
| 3.6        | Site Visit .....   | 10        |
| <b>4.0</b> | <b>Site Description.....</b>   | <b>10</b> |
| 4.1        | Description of the locality .....  | 10        |
| 4.1.1      | Structure Plans.....   | 11        |
| 4.1.2      | State Highways .....   | 11        |
| 4.1.3      | North Island Main Trunk Railway .....                                      | 11        |
| 4.1.4      | Land use.....  | 11        |
| <b>5.0</b> | <b>Background to the NOR.....</b>  | <b>11</b> |
| <b>6.0</b> | <b>Description of the Requirement .....</b>                                | <b>11</b> |
| 6.1        | Purpose .....  | 11        |
| 6.2        | Objectives .....   | 12        |
| 6.3        | Corridor Description.....  | 12        |
| 6.4        | Construction Programme and Methodology.....                                | 12        |
| 6.5        | Land Requirement.....  | 13        |
| 6.6        | Property Acquisition .....   | 13        |
| 6.7        | Overlapping Designations .....   | 13        |

|            |  |           |
|------------|--|-----------|
| 6.7.1      | The proposed Rotokauri Greenway.....                                       | 13        |
| 6.8        | Designation Lapse Period.....  | 16        |
| 6.9        | Designation Conditions.....  | 16        |
| 6.10       | Outline Plan of Works.....   | 16        |
| 6.11       | Resource Consents.....   | 16        |
| 6.11.1     | The Te Kowhai Road East / Mahanga Drive / The Boulevard Intersection ..... | 17        |
| <b>7.0</b> | <b>Submissions Received .....</b>  | <b>18</b> |
| 7.1        | Introduction .....   | 18        |
| 7.1.1      | Figures.....   | 18        |
| 7.2        | Nature of submissions .....  | 18        |
| 7.3        | Submitter categories.....  | 19        |
| 7.4        | Issues raised and relief sought in submissions .....                       | 19        |
| 7.5        | Urban Design and Landscape.....  | 19        |
| 7.5.1      | Issues .....   | 19        |
| 7.5.2      | Relief sought .....  | 20        |
| 7.6        | Ecology .....  | 20        |
| 7.6.1      | Issues .....   | 20        |
| 7.6.2      | Relief sought .....  | 20        |
| 7.7        | Planning .....   | 20        |
| 7.7.1      | Issues .....   | 20        |
| 7.7.2      | Relief sought .....  | 22        |
| 7.8        | Acoustic.....  | 24        |
| 7.8.1      | Issues .....   | 24        |
| 7.8.2      | Relief sought .....  | 24        |
| 7.9        | Transport.....   | 24        |
| 7.9.1      | Issues .....   | 24        |
| 7.9.2      | Relief sought .....  | 25        |
| 7.10       | Three-waters.....  | 26        |
| 7.10.1     | Issues .....   | 26        |
| 7.10.2     | Relief sought.....   | 27        |
| 7.11       | Late Submissions.....  | 27        |
| 7.12       | Out of Scope Matters.....  | 28        |
| 7.13       | Responses to Submissions.....  | 28        |
| <b>8.0</b> | <b>Statutory Assessment .....</b>  | <b>28</b> |
| 8.1        | Introduction .....   | 28        |
| 8.2        | Assessment of Environmental Effects.....                                   | 28        |
| 8.3        | Statutory Considerations .....   | 31        |

|                   |  |           |
|-------------------|--|-----------|
| 8.4               | Assessment of Alternatives.....  | 33        |
| 8.5               | Necessity for the Works and the Designation .....  | 34        |
| 8.6               | RMA Section 6 – Matters of National Importance.....  | 34        |
| 8.6.1             | Protection of significant habitat of indigenous fauna .....  | 34        |
| 8.6.2             | Maintenance and enhancement of public access to and along rivers .....                                     | 34        |
| 8.6.3             | The relationship of Maaori with their ancestral landscape.....   | 36        |
| 8.6.4             | Management of significant risks from natural hazards.....  | 36        |
| 8.7               | RMA Section 7 – Other Matters.....   | 37        |
| 8.7.1             | Kaitiakitanga .....  | 37        |
| 8.7.2             | The efficient use and development of natural and physical resources.....                                   | 37        |
| 8.7.3             | The maintenance and enhancement of amenity values .....  | 38        |
| 8.7.4             | Significant habitat of indigenous fauna and intrinsic values of ecosystems .....                           | 38        |
| 8.7.5             | Maintenance and enhancement of the quality of the environment.....   | 39        |
| 8.7.6             | The effects of climate change.....   | 39        |
| 8.8               | RMA Section 8 - Treaty of Waitangi.....  | 41        |
| 8.9               | RMA s5 – Purpose of the RMA.....   | 41        |
| <b>9.0</b>        | <b>Conclusions.....</b>  | <b>42</b> |
| <b>10.0</b>       | <b>Recommendations .....</b>   | <b>42</b> |
| 10.1              | Recommended modifications to the Requirement.....  | 42        |
| 10.2              | Further information required .....   | 43        |
| 10.3              | Additional Matters for the Requiring Authority to address in Primary Evidence .....                        | 44        |
| <b>Appendix A</b> | <b>Matters that a territorial authority must consider</b>  |           |
| <b>Appendix B</b> | <b>Maps</b>  |           |
| <b>Appendix C</b> | <b>Specialist’s Evaluation – Transportation</b>  |           |
| <b>Appendix D</b> | <b>Specialist’s Evaluation – 3-Waters</b>  |           |
| <b>Appendix E</b> | <b>Specialist’s Evaluation – Ecology</b>   |           |
| <b>Appendix F</b> | <b>Specialist’s Evaluation – Geotechnical</b>  |           |
| <b>Appendix G</b> | <b>Specialist’s Evaluation – Contaminated Land</b>   |           |
| <b>Appendix H</b> | <b>Specialist’s Evaluation – Noise and Vibration</b>   |           |
| <b>Appendix I</b> | <b>Specialist’s Evaluation – Landscape</b>   |           |
| <b>Appendix J</b> | <b>Specialist’s Evaluation – Urban Design</b>  |           |
| <b>Appendix K</b> | <b>Specialist’s Evaluation – Archaeology</b>   |           |
| <b>Appendix L</b> | <b>Relevant statutory requirements that were not addressed in the NOR</b>                                  |           |
| <b>Appendix M</b> | <b>Recommended Designation Conditions</b>  |           |
| <b>Appendix N</b> | <b>Reasons for the Recommended Amendments to the Requiring Authority’s Proposed Designation Conditions</b> |           |
| <b>Appendix O</b> | <b>Planning provisions relating to managing the effects of climate change and flood hazard</b>             |           |

## 1.0 Terms and Abbreviations

**Table 1: Terms and acronyms used in this report**

| Term or Acronym       | Definition  |
|-----------------------|---|
| Designation           | The proposed designation that is the subject of the NOR   |
| HHL                   | Hounsell Holdings Limited   |
| NESCE                 | <i>Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulation 2011</i>  |
| NOR                   | <i>Rotokauri Strategic Infrastructure Designation Notice of Requirement September 2024 Prepared by Beca Limited for Hamilton City Council</i>   |
| ODP                   | <i>Hamilton City Operative District Plan</i>  |
| Para                  | Means “paragraph”   |
| PDA                   | Private Development Agreement   |
| Project               | Means all the physical works, measures, and processes that are necessary to give effect to the NOR, including the measures to avoid, remedy, mitigate, minimise, offset, or compensate for, its actual or potential adverse environmental effects.                                  |
| RMA                   | Resource Management Act 1991  |
| Requirement           | The requirement for the Designation that is set out in the NOR  |
| Requiring Authority   | Hamilton City Council   |
| Specialists           | The technical experts who are independent of the Requiring Authority and Territorial Authority who have provided technical evaluations to inform this s42A Report. These experts are listed in Table 2 and their evaluations are attached as Appendices C through K to this report. |
| Territorial Authority | Hamilton City Council   |

## **2.0 Executive Summary**

### **2.1 The Requirement**

Hamilton City Council, as Requiring Authority, requires designation of corridors in Rotokauri in the north-west of Hamilton for Rotokauri Strategic Infrastructure (the Requirement).

The purposes of the designation are “strategic transport and three waters infrastructure”. The designation provides for the construction and operation of new and upgraded multi-modal transport corridors and stormwater infrastructure, and provision of space for potable water and wastewater infrastructure and network utilities.

The Project will give effect to the transportation corridor planning set out in the Rotokauri and Rotokauri North Structure Plans to support the future development of those areas.

### **2.2 Purpose of this report**

Hamilton City Council, as Territorial Authority, has appointed independent commissioners to hear the Requirement and submissions on it and make decisions on them on behalf of the Territorial Authority.

This report, which is informed by Specialists’ technical assessments, is to assist the commissioners to fulfil the relevant requirements of the Resource Management Act 1991 (the RMA)<sup>1</sup> when they perform this function.

### **2.3 Key findings**

The Project’s land requirement, property severance, and property disruption during construction will have adverse effects on some properties, the businesses that operate from them, and their owners. These effects will be mitigated via designation conditions or compensation mechanisms under the Public Works Act. In some instances, positive effects of the Project may offset or compensate, to some degree, for adverse property effects.

Provided the construction and operation of the Designation are managed by appropriate designation conditions, the Project will have:

- a. Adverse environmental effects that are no more than minor, and
- b. Significant positive economic, urban design, social, environmental, and cultural effects.<sup>2</sup>

The Requirement is in general accordance with the relevant planning instruments that the NOR considers, except that further information is needed from the Requiring Authority to confirm whether:

- a. This includes compliance with planning provisions requiring management of the effects of climate change and flooding hazard,<sup>3</sup> and
- b. The Requirement is consistent with additional relevant planning provisions listed in **Appendix L** that the Requiring Authority did not consider in the NOR.

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<sup>1</sup> See **Appendix A**.

<sup>2</sup> See s8.2 b.

<sup>3</sup> See s10.1 b and **Appendix O**.

The NOR includes an adequate consideration of alternatives, except that it does not include an assessment of the effects of the chosen option for providing alternative access to the property at 40 Te Kowhai Road on the continued operation of the existing businesses on that property. Further information is needed from the Requiring Authority on this matter.

The works and designation are reasonably necessary to achieve the Requiring Authority's objectives for which the Designation is sought.

## **2.4 Designation lapse period**

The Requiring Authority seeks a designation lapse period of 15 years for the designation. Given the complexity of the works and the time needed to arrange the necessary funding and recognising that development of Rotokauri has yet to advance to an extent that the transport corridors are needed, this lapse period is considered reasonable and acceptable.

## **2.5 Recommendations**

### **2.5.1 Modifications to the Requirement**

This Report recommends modifications to the Requirement, including:

- a. Adopting the more comprehensive set of designation conditions set out in **Appendix M**, for the reasons set out in **Appendix N**.
- b. Updating the land requirement plans and concept drawings (i.e., Appendices A and B of the NOR), as necessary, to:
  - i. Align with the concept design consented through the fast-track process, any confirmed design for any part of the Project, and any commissioner decisions on the Requirement,
  - ii. Show connections between the pedestrian and cycle paths in the transport corridors with those in the Rotokauri Greenway Designation,
  - iii. Require a culvert to be provided under Burbush Road just north of 27 Burbush Road,
  - iv. Clarify the meanings of the notations "Indicative future wetlands" and "Potential future wetlands".
- c. Appending the updated land requirement plans and concept drawings to the adopted designation conditions.

### **2.5.2 Further information required**

To demonstrate that there is no impediment to confirming the Requirement, this report recommends that the Requiring Authority demonstrates in primary evidence that:

- a. The alternative access proposed for the property at 40 Te Kowhai Road East will enable the continued operation of the businesses currently located on that site,
- b. No areas will become inaccessible to normal vehicles, pedestrians, or cyclists because of overland flow or ponding on the Designation during the 1 in 100-years flood event, and
- c. The Requirement is consistent with the additional statutory requirements listed in **Appendix L**.

Section 10.3 of this report recommends other matters for the Requiring Authority to address in primary evidence to confirm whether any further modifications to the Requirement are needed.

### **2.5.3 Reasons for the recommended comprehensive set of designation conditions**

The designation is akin to a special zoning. The designation conditions and regional resource consent conditions will be the rules that manage all the potential adverse effects of activities authorised by the Designation. The other provisions of the District Plan will not apply to these activities.

The Project has yet to be designed, and some potential adverse effects, e.g., the visual and amenity effects of construction compounds, have yet to be assessed.

Furthermore, as the Project may not be built for another 15 years, more or less, the environment may change in the intervening years and the effects of the Project may need reassessing nearer the time of construction.

Therefore, the designation conditions need to be comprehensive in their scope to ensure that the Project's adverse effects when the Project is built – 15 years in the future, more, or less - are no more than minor.

The recommended conditions:

- a. Fill gaps in those proposed in the NOR,
- b. Respond to matters raised in submissions,
- c. Respond to recommendations by the Specialists and the Requiring Authority's own experts.
- d. Promote the integrated management of the effects of the use, development, and protection of natural and physical resources.

By providing clarity about the content of Management Plans, the recommended designation conditions will make it easier for the Requiring Authority to prepare them and the Territorial Authority to certify them. They will serve as a comprehensive checklist for Management Plan content.

The comprehensive designation conditions will provide certainty that the environmental effects of the designated works will be managed appropriately, and the purpose of the RMA achieved.

## **3.0 Introduction**

### **3.1 Purpose of Report**

This report is to inform a hearing by Hamilton City Council as the territorial authority of the requirement by Hamilton City Council as the requiring authority for a designation for Rotokauri Strategic Infrastructure.



### 3.2 Scope of Report

This report evaluates and makes recommendations about the matters that the territorial authority must consider when considering the Requirement, submissions received, and the effects on the environment of allowing the Requirement. These matters are set out in s168A (3) of the RMA – see **Appendix A**.

The report makes recommendations regarding the territorial authority's decision on the Requirement. RMA Section 168A (4) enables the territorial authority to decide to:

- a. Confirm the requirement,
- b. Modify the requirement,
- c. Impose conditions, or
- d. Withdraw the requirement.

### 3.3 Relevant Documents

This report responds to information contained in the following documents:

- e. The Notice of Requirement, which includes all its appendices,
- f. The Requiring Authority's responses to the Territorial Authority's s92 request for further information – Part 1 (31 January 2024) and Part 2 (24 April 2024),
- g. Submissions, and
- h. Specialists' Reports.

Copies of the above documents can be accessed on the following website:

<https://hamilton.govt.nz/property-rates-and-building/notices-of-requirement/notice-of-requirement-rotokauri-strategic-infrastructure-designation>

#### 3.3.1 Submissions

See s7.0 below.

#### 3.3.2 Specialists' Reports

Specialists independent of the requiring authority and the territorial authority (the Specialists) assessed the relevant matters to be considered. Their assessments are appended to this report as summarised in Table 2.

*Table 2: Specialists whose assessments have informed this report*

| No. | Specialty             | Specialists                     | Company         | Appendix of this report containing the expert's assessment |
|-----|-----------------------|---------------------------------|-----------------|--|
| 1   | Transport planning    | Alan Gregory                    | Tonkin & Taylor | C  |
| 2   | 3- waters engineering | Robert Kelly                    |                 | D  |
| 3   | Ecology               | Fiona McIntosh<br>Dean C Miller |                 | E  |
| 6   | Geotechnical          | John Brzeski                    |                 | F  |
| 7   | Contaminated Land     | Alex Davies-Colley              |                 | G  |
| 5   | Acoustic              | Sharon Yung                     |                 | H  |

| No. | Specialty    | Specialists                   | Company                         | Appendix of this report containing the expert's assessment |
|-----|--------------|-------------------------------|---------------------------------|--|
|     |              | Darran Humpheson <sup>4</sup> |                                 |  |
| 8   | Landscape    | Jo Soanes                     | Boffa Miskell                   | I  |
| 9   | Urban design | Collin Hattingh               | Hamilton City Council           | J  |
| 10  | Archaeology  | Nicholas Cable                | Canterbury Heritage Consultants | K  |

### 3.3.3 Figures

**Appendix B** to this report contains the following Figures:

- Figure 1 is a single map showing the locations of all submitters' properties,
- Each of figures 2 through 20 shows the extent of a submitter's property and any features that are mentioned in his or her submission,
- Figure 21 shows the transport corridors designed under the Private Development Agreement between Hamilton City Council and Hounsell Holdings Ltd,
- Figure 22 shows the extents of the Rotokauri Greenway Work and Hounsell Holdings Ltd's development, and
- Figure 23 shows the extent of the north-south minor arterial corridor that Hounsell Holdings Ltd proposes to construct.

**Appendix B** can be accessed on the following website: <https://hamilton.govt.nz/property-rates-and-building/notices-of-requirement/notice-of-requirement-rotokauri-strategic-infrastructure-designation>

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<sup>4</sup> Reviewer

### **3.4 Author's Qualifications and Experience**

My name is Paul Stanley Ryan. I am a Principal Planner in the Urban and Spatial Planning Unit of Hamilton City Council, a position I've held since April 2017.

I hold the qualifications of Bachelor of Engineering (Agricultural) from the University of Canterbury and a Certificate in Maaori Studies and a Diploma in Applied Science from the University of Waikato.

I am a Full Member of the New Zealand Planning Institute (MNZPI), and a Chartered Member of Engineering New Zealand (CMEngNZ).

I've worked for Hamilton City Council's (Council's) planning team since September 2013. Prior to this I was a Senior Planner in the City Waters Unit of the Council for eight months and, prior to that, was a Principal Planner and Environmental Engineer for Opus International Consultants for 12 years.

I have had over 30 years' experience of planning in New Zealand under the RMA. During this time, I've provided resource management input to major highway realignment projects in the Auckland, Waikato, and Bay of Plenty regions.

I was the lead planner for the requiring authority at the hearings of the requirements for the missing part of the Route J Expressway designation (State Highway 2, Tauranga), the original designation of the Waikato Expressway Huntly Section, and the alteration to designation and resource consent applications for the Waikato Expressway Cambridge Section.

I prepared s42A reports in relation to the last District Plan Review and presented proponent evidence at the hearings of Council's Plan Changes 9 (2023) and 12 (2024).

### **3.5 Code of Conduct**

I have read the Environment Court Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2023 and agree to comply with it. I confirm that the opinions expressed in this memorandum are within my area of expertise except where I state that I have relied on the advice of other persons. I have not omitted to consider materials or facts known to me that might alter or detract from the opinions I have expressed.

### **3.6 Site Visit**

I visited the site on 12 December 2024 with 2 Requiring Authority representatives, Melissa Slatter and Nathanael Savage. We drove clockwise around the site and got out to the vehicle at 11 locations to view the site.

## **4.0 Site Description**

### **4.1 Description of the locality**

The proposed designation is located within Rotokauri and Te-Rapa suburbs in the north-west of Hamilton.

#### **4.1.1 Structure Plans**

Rotokauri is one of Hamilton's growth areas. The proposed vision for, and layout of, future development in the area are set out in 2 structure plans in the Hamilton City Operative District Plan (the ODP) – the Rotokauri Structure Plan and the Rotokauri North Structure Plan. Both structure plans include the strategic infrastructure corridors that are the subject of the NOR<sup>5</sup>.

#### **4.1.2 State Highways**

State Highway 1C (SH1C) - Waikato Expressway is a key landscape and infrastructure feature that passes through the Rotokauri Structure Plan area. It was purposely constructed on a 6m high embankment. Two underpasses were provided to accommodate the future construction of the east-west transport corridors that are included in the Requirement.

At its north-western extremity, the proposed designation overlaps with the State Highway 39 designation at the Koura Drive / Te Kowhai Road / Burbush Road intersection.

#### **4.1.3 North Island Main Trunk Railway**

The North Island Main Trunk Railway is also relevant to the Requirement. Its location is shown on the Figure 1 in **Appendix B**.<sup>6</sup>

#### **4.1.4 Land use**

Currently, pastoral farming, lifestyle blocks, and other rural land uses predominate in the structure plan areas west of SH1C.

The planned land use and transport infrastructure in the Structure Plan areas are shown in Figures 2 to 5 in the NOR (pp8-10).<sup>7</sup>

More information about the locality is set out in Chapter 4 of the NOR.

### **5.0 Background to the NOR**

The Project will give effect to the transportation corridor planning set out in the two relevant structure plans to support the future development of the structure plan areas.

### **6.0 Description of the Requirement**

#### **6.1 Purpose**

The purpose of the designation is: "Strategic Transport and Three Waters Infrastructure".<sup>8</sup>

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<sup>5</sup> Hamilton City ODP, Ch3.6

<sup>6</sup> See the property for Submitter Number 8.

<sup>7</sup> More legible versions of these figures can be accessed on-line via the Hamilton City Operative District Plan – see Figures 2-8, 2-9, 2-9A, and 2-9B in Volume 2, Appendix 2 of the ODP.

<sup>8</sup> NOR, s2.2, p20

## 6.2 Objectives

The objectives of the NOR are set out in s2.4 of the NOR.

## 6.3 Corridor Description

The Project includes the following new or altered sections of transport corridor, which are shown schematically on Drawing No. 4288564-000-CA-0003 in Appendix B to the NOR:

- a. A 2.8 km long north-south corridor between Te Kowhai Road in the north and Te Wetini Drive in the south for construction of a new minor arterial,
- b. A 1.7 km long east-west corridor connecting the north-south minor arterial corridor to Te Rapa Road, which includes:
  - i. Construction of 1 km of new minor arterial road west of Arthur Porter Drive, which will pass through an existing Waikato Expressway Te Rapa Section underpass, and
  - ii. the widening and upgrading to major arterial standard of 0.7 km of existing road between Arthur Porter Drive and Te Rapa Road,
- c. A 0.5 km long east-west Collector Transport Corridor to connect the north-south corridor to Chalmers Road,
- d. A 0.5 km north-south corridor for a new collector road to connect the sections of Arthur Porter Drive that lie north and south of Te Kowhai Road East,
- e. A total of 0.3 km of new local road to provide alternative access to properties that currently gain access from the section of Te Kowhai Road East which will be severed by the Arthur Porter Drive realignment to the west and the Te Kowhai Road East upgrade to the east,<sup>9</sup>
- f. Three areas between the north-south corridor and the Rotokauri Greenway to accommodate construction of stormwater management infrastructure, including wetlands,
- g. Four areas for stormwater wetlands and infrastructure between the east-west corridor described in b above and the northern end of the designation.

Further details of the proposed designation are set out in s2.1 of the NOR.

## 6.4 Construction Programme and Methodology

The NOR does not provide a clear construction programme or methodology, because these will depend on when and how development in Rotokauri progresses and when the infrastructure to be included within the Designation will be needed to support that development.<sup>10</sup>

However, the Project will not be built before the Greenway is built.<sup>11</sup>

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<sup>9</sup> NOR, Appendix B, Drawing No. 4288564-000-CA-0003, Road schedule no's 3125.1 & 3125.2

<sup>10</sup> NOR, Appendix D, s9.1, p80

<sup>11</sup> NOR, s8.1, p53

## 6.5 Land Requirement

The designation is entirely within Hamilton City and affects 29 parcels of land. Appendix A to the NOR includes plans identifying the area required from each parcel, and Appendix E to the NOR contains copies of the titles of those parcels.

The proposed designation requires 42.68 ha of land. Hamilton City Council owns 13.6% of this, i.e., 5.82 ha.

## 6.6 Property Acquisition

To acquire the land required for the designation, the Requiring Authority proposes to follow either a landowner-initiated purchase process or a Council-initiated purchase process. These processes are outlined in Appendix M to the NOR<sup>12</sup>.

## 6.7 Overlapping Designations

**Table 3: Existing designations that the proposed designation overlaps**

| Designation Number | Facility                        | Requiring Authority          |
|--------------------|---------------------------------|------------------------------|
| A114               | Rotokauri Greenway Corridor     | Hamilton City Council        |
| E99                | Waikato Expressway              | New Zealand Transport Agency |
| F1                 | North Island Main Trunk Railway | KiwiRail                     |

Section 6 of the NOR (p49) describes the overlapped designations and agreements in principle reached with the New Zealand Transport Agency about the overlap with Designation E99.

### 6.7.1 The proposed Rotokauri Greenway

The proposed Rotokauri Greenway is designated in the ODP – see **Figure 1 in Appendix B**.

On 28 July 2022, a Private Development Agreement (PDA) was established between Hamilton City Council and Hounsell Holdings Limited (HHL) for the design and consenting of the Rotokauri Greenway and a portion of the Rotokauri minor arterial transport corridor.

The purpose of this agreement was to allow early delivery of the strategic infrastructure required to enable the development of the Rotokauri Growth Cell to progress.

Under the agreement, HHL was appointed as project manager to procure the detailed design and consenting work necessary to allow the next phase of construction of the following strategic infrastructure:

- The Rotokauri Greenway,
- The portion of the north-south minor arterial corridor from Te Wetini Drive to HHL's northern boundary,
- The Collector transport corridor west of the eastern boundary of the SH1C designation at the Chalmers Road underpass,
- The bulk watermain under the transport corridors described in b and c above,

<sup>12</sup> NOR, Appendix M – Consultation Summary, s3.3, p6

- e. A wastewater rising main and strategic wastewater pipeline and pump station, and
- f. Other specified infrastructure.

The agreement also provided for HHL to procure developed design<sup>13</sup> for the portion of the minor arterial transport corridor from HHL's northern boundary to the eastern boundary of the SH1C designation at the underpass that links to Te Kowhai Road East. This was included in the PDA because of the interdependencies of the minor arterial and Rotokauri Greenway design<sup>14</sup>.

The extents of the minor arterial transport corridor and collector transport corridor designed under the PDA are shown in **Figure 21 in Appendix B**.

On 18 July 2024, Waikato Regional Council granted joint applicants, HHL and Hamilton City Council, the resource consents necessary to construct the Rotokauri Greenway. The consents were granted under the COVID-19 Recovery (Fast-track Consenting) Act 2020 and are listed in Table 4. They are referred to as "the Fast-track Consents".

The extent of the works covered by the Fast-track Consents is shown in **Figure 22 in Appendix B**.

With the Fast-track Consents secured and the detailed design and outline plans for the Rotokauri Greenway currently in their final stages of preparation, the design and consenting tasks covered by the PDA are nearing completion.

In 2024, HHL, in its capacity as a private developer, applied to Hamilton City Council for a subdivision and the necessary land use consents for its proposed development. These consents also include for formation of a portion of the minor arterial transport corridor. The extents of HHL's development and the transport corridors to be constructed are shown on **Figure 23 in Appendix B**.

As of 1 May 2025, these applications were still under consideration as HHL is amending the application to take account of Plan Change 12. Further information is still required from the applicant under s92 of the RMA.

In early 2026, construction of the Rotokauri Greenway is expected to start at its northwestern end by Exelby Culvert and move upstream over the following 3 to 4 construction seasons.<sup>15</sup>

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<sup>13</sup> "Developed design" means design that is suitable for applying for resource consent (Lance Haycock, pers. comm., 5 May 2025).

<sup>14</sup> Lance Haycock, pers. comm., 2 May 2025

<sup>15</sup> Lance Haycock, pers. comm., 2 May 2025.

**Table 4: Fast-track consents granted for the Rotokauri Greenway and Minor Arterial Transport Corridor**

| Consent Number   | Consent Type  | Activities  | Pages in consent document |
|------------------|---|---|---------------------------|
|                  | HCC Land Use Consent – Contaminated Land            | Activities undertaken in general accordance with the information and plans submitted by the Consent Holder in support of 012.2023.00004439.001 as listed in Table 1 and received by the EPA   | 136 - 139                 |
| AUTH146618.01.01 | Land Use Consent – Land disturbance                 | To undertake in a staged manner bulk earthworks and clean filling in association with the establishment of the Rotokauri Greenway and minor arterial.   | 140 - 166                 |
| AUTH146618.01.01 | Water Permit - Groundwater Take                     | To temporarily take groundwater for dewatering purposes and temporarily take up to 600m <sup>3</sup> of groundwater per day for dust suppression purposes during earthworks, watercourse diversion and infilling in association with the Rotokauri Greenway and minor arterial. | 167 - 185                 |
| AUTH146618.02.01 | Discharge Permit                                    | To temporarily divert and discharge groundwater   | 186 - 187                 |
| AUTH146618.02.01 | Land use Consent – well drilling                    | To construct use and maintain groundwater bores for the purpose of water supply for dust suppression and dewatering associated with the Rotokauri Greenway and minor arterial.  | 188 - 189                 |
| AUTH146618.05.01 | Placement of structures on the bed of a water body. | Construction, use and maintenance of culverts, coffer dams, bridges and ancillary structures (including temporary structures) in on or over the bed of a water body in association with the Rotokauri Greenway and minor arterial.  | 190 - 192                 |
| AUTH146618.06.01 | NPSFM Consent                                       | Placement, use, alteration or reconstruction of culverts in, on, over or under the bed of a river.  | 193 - 196                 |
| AUTH146618.07.01 | Works within or adjacent to Wetlands (NPS-FM)       | To undertake works within or within 100 metres of natural inland wetlands in association with the construction of specified infrastructure - the Rotokauri Greenway and minor arterial.   | 197 - 218                 |
| AUTH146618.08.01 | Water Permit – Diversion                            | To permanently divert the Rotokauri Drain via an approximate 4.7-kilometre channel realignment associated with the establishment of the Rotokauri Greenway and Minor Arterial.  | 219 - 234                 |
| AUTH146618.09.01 | Water Permit – Diversion                            | To permanently divert Groundwater through infilling   | 235 - 246                 |
| AUTH146618.10.01 | Water Permit – Diversion                            | To permanently divert the Rotokauri Drain through infilling associated with the establishment and operation of Rotokauri Greenway and minor arterial.   | 247 - 259                 |
| AUTH146618.11.01 | Discharge Permit                                    | To permanently divert and discharge stormwater to the Rotokauri Greenway in association with the Rotokauri Greenway and Minor Arterial  | 260 - 266                 |
|                  |   | Location of wetland creation and restoration, including buffer planting   | 267 - 274                 |



## 6.8 Designation Lapse Period

The NOR seeks a 15-year lapse period for the designation to:

- a. Provide sufficient time to enable funding to be secured and land to be acquired, and
- b. Align construction timing with infrastructure demand to support growth in Rotokauri.<sup>16</sup>

In my opinion, a 15-year lapse period is reasonable, for the reasons stated in a and b above.

## 6.9 Designation Conditions

The Requiring Authority's proposed designation conditions are set out in Section 10 of the NOR (pp108 -116).

I recommend that the Requiring Authority's proposed designation conditions be amended as set out in **Appendix M** for the reasons set out in **Appendix N**.

## 6.10 Outline Plan of Works

Section 176A (1) of the RMA requires the Requiring Authority to submit an Outline Plan of Works to the Territorial Authority before commencing construction of the designated works.

New designation conditions identifying matters to be included in an outline plan are included in **Appendix M**.

The Territorial Authority may request the Requiring Authority to make changes to the outline plan.<sup>17</sup>

If the Requiring Authority decides not to make the changes requested, the Territorial Authority may appeal against the decision to the Environment Court.<sup>18</sup>

In determining such an appeal, the Environment Court must consider whether the changes the Territorial Authority requested will give effect to the purpose of the RMA.<sup>19</sup>

## 6.11 Resource Consents

Table 5 lists the consents the Requiring Authority will need to obtain before construction of the Project commences.

**Table 5: Consents the Requiring Authority has identified it needs for the Project**

| Consenting Authority     | Statutory document that requires the consent to be obtained | Activities to be consented                   |
|--------------------------|---|--|
| Waikato Regional Council | National Environmental Standard for Assessing and Managing  | Disturbance of potentially contaminated soil |

<sup>16</sup> NOR, s2.3, p20

<sup>17</sup> RMA, s176A (4).

<sup>18</sup> RMA, s176A (5).

<sup>19</sup> RMA, s176A (6).

| Consenting Authority  | Statutory document that requires the consent to be obtained                | Activities to be consented  |
|-----------------------|--|---|
|                       | Contaminants in Soil to Protect Human Health (NES-CS) <sup>20</sup>        |   |
|                       | National Environmental Standards for Freshwater 2020 (NES-F) <sup>21</sup> | Waterways - connectivity of fish habitat (fish passage).  |
|                       |  | Wetlands - protection of existing natural inland wetlands.  |
|                       | Waikato Regional Plan <sup>22</sup>  | Soil disturbance, roading, tracking, vegetation clearance, and riparian vegetation clearance in high-risk erosion areas |
|                       |  | Riverbed Disturbance  |
|                       |  | Stream diversions   |
|                       |  | Temporary dewatering of the groundwater table   |
| Hamilton City Council | Operative District Plan  | Culvert structures  |
|                       |  | New Transport Corridors <sup>23</sup>   |

#### 6.11.1 The Te Kowhai Road East / Mahanga Drive / The Boulevard Intersection

Upgrading Te Kowhai Road East to a major arterial transport corridor includes upgrading the Te Kowhai Road East / Mahanga Drive / The Boulevard intersection. Currently this intersection comprises a roundabout. The Requirement proposes it will become a signal-controlled intersection<sup>24</sup>.

Part of the proposed intersection and its Mahanga Drive approaches will be built on Tainui-owned settlement land, which is outside the designation. An easement is proposed to secure access to the Tainui-owned land for the construction, and on-going operation and maintenance of the works as if it were a public road.<sup>25</sup>

Tainui Group Holdings has confirmed that, subject to agreeing the final configuration of the intersection, it and Te Arataura Board support the intersection upgrade<sup>26</sup>.

The works to form the Te Kowhai East Road / Mahanga Drive / The Boulevard intersection and its approaches that lie outside of the designation will need to be authorised by means of a resource consent for a Restricted Discretionary Activity.

Evidence that this consent and landowner approval of the works have been obtained will need to be submitted with the relevant outline plan. A designation condition requiring this is recommended<sup>27</sup>.

<sup>20</sup> NOR, s9.4, pp82-83 and Appendix L

<sup>21</sup> NOR, s9.4.2, p83

<sup>22</sup> NOR, s9.7, p87

<sup>23</sup> See 6.11.1 and NOR, p3, paragraph 4.

<sup>24</sup> See drawings 4288564-100-CA-1405 and 4288564-100-CA-1406 in Appendix B to the NOR.

<sup>25</sup> NOR, s5.5.5, p47, para2

<sup>26</sup> Letter dated 2 April 2025 from Tainui Group Holdings to Chris Allen, Hamilton City Council (p2, paragraphs 6 d and f).

<sup>27</sup> See Condition 8 Matters to be included in an outline plan.

## 7.0 Submissions Received

### 7.1 Introduction

The NOR was publicly notified on 7 October 2024, and submissions closed on 8 November 2024.

Eighteen submissions were received.

The following are provided on the following website, <https://hamilton.govt.nz/property-rates-and-building/notices-of-requirement/notice-of-requirement-rotokauri-strategic-infrastructure-designation>:

- a. Full copies of the submissions, and
- b. A detailed breakdown of them into individual, numbered submission points.

This section presents an overview of the submissions and submitters and identifies by specialist discipline the themes and issues the submissions cover. Relevant submission point numbers are listed in footnotes.

Some submissions seek generic relief, such as, inclusion of unspecified conditions on the designation, unspecified modifications to the requirement, and any further consequential relief to address the issues raised in a submission. This section does not record where this type of relief is sought, because the territorial authority may provide these types of relief in responses to any submission point.

#### 7.1.1 Figures

Figures showing the submitters' properties and features mentioned in submissions are provided in **Appendix B**, as discussed in s3.3.3 above.

### 7.2 Nature of submissions

Almost half of the submissions support the requirement, almost a fifth are neutral, and over a third are opposed, including almost a fifth that seek for the Requirement to be withdrawn – see Table 6.

**Table 6: Nature of submissions**

| Nature of submission                        | Submission Numbers | Number of Submissions | Percentage of Submissions |     |
|---|--------------------|-----------------------|---------------------------|-----|
| Support                                     | 1, 3               | 2                     | 12                        | 47  |
| Support in principle                        | 9                  | 1                     | 6                         |     |
| Conditionally support                       | 5, 11, 13, 14, 15  | 5                     | 29                        |     |
| Neutral                                     | 8, 12              | 2                     | 12                        | 18  |
| Conditionally neutral                       | 17                 | 1                     | 6                         |     |
| Conditionally oppose                        | 2, 16              | 2                     | 12                        | 36  |
| Oppose                                      | 10                 | 1                     | 6                         |     |
| Oppose & seek withdrawal of the Requirement | 4, 6, 7            | 3                     | 18                        |     |
| Totals                                      |                    | 17                    | 101                       | 101 |

### 7.3 Submitter categories

**Table 7: Submitter categories**

| No | Submitter Category   | Submitters   | Submitter Number |
|----|--|--|------------------|
| 1  | Statutory bodies that have strategic interests in development in Rotokauri                 | Kiwi Rail Holdings Limited   | 8                |
|    |  | Ministry of Education  | 17               |
|    |  | NZ Transport Agency  | 5                |
|    |  | Waikato Regional Council   | 3                |
| 2  | Owners or developers of properties that the proposed Designation directly affects          | Nan Su   | 1                |
|    |  | Watson Lands Ltd   | 4                |
|    |  | Te Rapa Gateway Ltd  | 6                |
|    |  | Steve Godley & Adam Marsh  | 7                |
|    |  | Steve Nuich, Sophia Nuich, Gibson Nominees Ltd, Ivan Selak                     | 9                |
|    |  | Allister Gillam  | 10               |
|    |  | Hounsell Holdings Ltd, Rotokauri Farming No3 Limited, and Hamilton JV (N3) Ltd | 13               |
|    |  | Rotokauri Development Ltd  | 14               |
| 3  | Owners or developers of properties that lie outside the Proposed Designation but adjoin it | Pragma Holdings Ltd  | 15               |
|    |  | Michael Jamieson   | 2                |
|    |  | Phillip Ross Laird and Franklaw Trust Ltd                                      | 16               |
| 4  | Owners or developers of properties that are remote from the Proposed Designation           | Te Kowhai East LP  | 11               |
|    |  | Owners of 88 Exelby Road   | 12               |
|    |  | Narinderpal Sagoo  | 18               |

### 7.4 Issues raised and relief sought in submissions

Sections 7.5 through 7.10 identify the issues raised and relief sought by submissions grouped according to the specialist disciplines to which they relate. Footnotes identify the relevant submission point numbers. A spreadsheet provided on Council's website lists the submission point numbers and either a summary or verbatim statement of the submission point. The website address is: <https://hamilton.govt.nz/property-rates-and-building/notices-of-requirement/notice-of-requirement-rotokauri-strategic-infrastructure-designation>

Submission points that are unrelated to the NOR or are just information requests are not included below.

### 7.5 Urban Design and Landscape

#### 7.5.1 Issues

- a. Integration between the designation design, Greenway design, and the design and development of adjacent properties, and the perceived inadequacy of the notified Landscape Management Plan conditions, to ensure high quality environments, recognising that properties adjacent to the designation may be developed before the designated works are constructed.<sup>28</sup>

<sup>28</sup> 7.12, 7.13, 7.14, 7.16, 7.18, 7.19, 9.03, 9.08.

- b. Perceived lack of urban design input to the Landscape Management Plan.<sup>29</sup>
- c. Perceived negative visual impacts of the designated works.<sup>30</sup>
- d. Perceived failure to deliver an attractive gateway into Rotokauri North.<sup>31</sup>
- e. Loss of future landscaped buffer areas.<sup>32</sup>

#### **7.5.2 Relief sought**

- a. Designation conditions to require the Requiring Authority to collaborate with landowners and the development community, before management plans are approved, to discuss integration of the Designation and adjacent land use.<sup>33</sup>
- b. Modify the designation by moving the road away from a submitter's property.<sup>34</sup>

### **7.6 Ecology**

#### **7.6.1 Issues**

- c. Effects on natural inland wetland, Wetland 8, and the Mangaheka drain.<sup>35</sup>
- d. The implications of natural inland wetlands for the requirement.<sup>36</sup>
- e. Perceived wrongful identification of a "confirmed wetland" on the submitter's land.<sup>37</sup>

#### **7.6.2 Relief sought**

- a. A more detailed assessment of the effects on the natural inland wetland, "Wetland 8", and application of the effects management hierarchy in the National Policy Statement for Freshwater Management 2020.<sup>38</sup>
- b. Remove reference to the "confirmed wetland" on the submitter's property.<sup>39</sup>

### **7.7 Planning**

#### **7.7.1 Issues**

- a. Effects on existing businesses, future commercial leasing arrangements, and perceived lack of positive economic impact.<sup>40</sup>
- b. Assertion that the Requirement contravenes existing land use planning, because it requires industrial land.<sup>41</sup>

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<sup>29</sup> 7.18.

<sup>30</sup> 7.13, 16.08, 16.09

<sup>31</sup> 6.01, 6.06, 7.13.

<sup>32</sup> 6.06.

<sup>33</sup> 7.17, 9.07, and 9.08 (which includes a proposed condition).

<sup>34</sup> 16.11.

<sup>35</sup> 9.04

<sup>36</sup> 15.11

<sup>37</sup> 15.16

<sup>38</sup> 9.04

<sup>39</sup> 15.16

<sup>40</sup> 4.01, 4.02, 4.07

<sup>41</sup> 4.02

- c. Submitters' perceptions that the assessment of alternatives is deficient with respect to:
  - i. A lack of consideration of the economic effects of the designation on different land uses, e.g., rural uses compared with industrial uses.<sup>42</sup>
  - ii. Consideration of alternative sites, routes, or methods<sup>43</sup>, including alignments that avoid the submitter's property or minimise the extent of the designation to the greatest extent possible.<sup>44</sup>
  - iii. The section of the north-south minor arterial transport corridor between Te Kowhai Road in the north and the Greenway designation in the south.<sup>45</sup>
- d. "Planning blight", i.e., uncertainty regarding:
  - i. The use and development of sites arising from the proposed 15-year lapse period.<sup>46</sup>
  - ii. Whether and when the designated works will ever be constructed (4.06, 6.07).
- e. An assertion that the designation extent is excessive and not reasonably necessary for achieving the requiring authority's objectives for which the designation is sought.<sup>47</sup>
- f. An assertion that the requiring authority has not appropriately assessed the magnitude and significance of the Requirement's effects on his property.<sup>48</sup>
- g. Assertions that the Requirement will not enable a high-quality urban environment to develop in Rotokauri North because:
  - i. Residential development will occur on opposite sides of the northern section of the Minor Arterial.<sup>49</sup>
  - ii. The submitter perceives that the Requirement will not deliver an attractive "gateway" to Rotokauri North.<sup>50</sup>
- h. The road layout does not accurately reflect the Rotokauri North Structure Plan collector road locations or their future intersections with the future alignment of Burbush Road.<sup>51</sup>
- i. Perceived deficiencies in the designation conditions to:
  - i. Ensure appropriate property access during construction and operation.<sup>52</sup>
  - ii. Provide for review of the designation extent.<sup>53</sup>
  - iii. Provide for affected landowners to negotiate early land acquisition.<sup>54</sup>

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<sup>42</sup> 4.05

<sup>43</sup> 7.07

<sup>44</sup> 6.08

<sup>45</sup> 7.09

<sup>46</sup> 4.07, 6.13, 7.15

<sup>47</sup> 6.06, 7.08

<sup>48</sup> 6.09

<sup>49</sup> 7.12

<sup>50</sup> 7.13

<sup>51</sup> 7.10

<sup>52</sup> 6.10

<sup>53</sup> 6.11

<sup>54</sup> 6.12

- iv. Recognise that construction of the designated works will be staged and to require updating of management plans to reflect changes in the environment since the previous stage was completed.<sup>55</sup>
- v. Provide opportunity for affected landowners to have input to the management plans before they are approved.<sup>56</sup>
- vi. Provide any process for resolution of issues landowners may have arising from and during implementation of the works.<sup>57</sup>
- vii. Address urban design matters in addition to landscape matters.<sup>58</sup>
- viii. Provide for integration of adjoining land use with the designation, recognising that the adjoining land may be developed first.<sup>59</sup>
- j. A submitter considers the Requirement will not achieve the purpose of the RMA or satisfy its principles.<sup>60</sup>
- k. Submitter's potentially developable land is reduced by NOR land requirement.<sup>61</sup>
- l. The perception that the Rotokauri Structure Plan is out-of-date, does not consider higher order planning documents, and creates uncertainty about the location of future transport connections to the minor arterial.<sup>62</sup>
- m. Rotokauri Development Limited and Pragma Holdings Ltd seek certainty regarding when the Rotokauri Greenway and the first stage of the north-south minor arterial will be constructed.<sup>63</sup>
- n. Perceived lack of integration of the Designation, the Rotokauri Greenway, and proposed adjoining development.<sup>64</sup>
- o. Potential interruption to power supply to existing residences during construction, because of low power lines.<sup>65</sup>

#### 7.7.2 Relief sought

- p. Withdraw or reject the NOR.<sup>66</sup>
- a. New or amended conditions requiring:
  - i. Advance notice to Waikato Regional Council of disruption to public transport routes.<sup>67</sup>
  - ii. Engagement with Waikato Regional Council prior to detailed design of public transport infrastructure.<sup>68</sup>

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<sup>55</sup> 7.16

<sup>56</sup> 7.17

<sup>57</sup> 7.17

<sup>58</sup> 7.18

<sup>59</sup> 7.19

<sup>60</sup> 7.05, 7.06

<sup>61</sup> 9.01

<sup>62</sup> 14.04, 15.02, 15.04, 15.05, 15.10

<sup>63</sup> 14.06, 15.14

<sup>64</sup> 4.07, 7.11, 7.19, 9.01, 9.03, 9.08, 17.09

<sup>65</sup> 16.03

<sup>66</sup> 4.04, 4.05, 7.02, 7.09, 7.10, 7.12, 7.17

<sup>67</sup> 3.02

<sup>68</sup> 3.03

- iii. A future review of whether the designation is still required and periodic updates to landowners.<sup>69</sup>
- iv. Construction to be started within a specified time.<sup>70</sup>
- v. Professional services to be provided to affected landowners who enter early negotiation either through hardship or s185 of the RMA.<sup>71</sup>
- vi. Engagement with the New Zealand Transport Agency during detailed design<sup>72</sup> and prior to<sup>73</sup>, and during<sup>74</sup>, construction.
- vii. A level crossing safety impact assessment re Te Kowhai East Road level crossing, to be prepared and submitted to KiwiRail for comment and any consequential improvements required be implemented when the Project is constructed.<sup>75</sup>
- viii. The Requirement to be integrated with the submitters' development intentions for their property and with the Greenway infrastructure.<sup>76</sup>
- b. Provide an assessment of the proposed designation against the hazards and risks chapter of the Waikato Regional Policy Statement.<sup>77</sup>
- c. Review and reduce the extent of the designation.<sup>78</sup>
- d. Amend the arterial alignment to better respond to the existing property boundaries and roading network.<sup>79</sup>
- e. Recognise that an earlier designation has priority over a later, over-lapping designation.<sup>80</sup>
- f. Opportunity to work with the Requiring Authority to refine the works' design.<sup>81</sup>
- g. Clarity about how the Requiring Authority will deal with future connections to the minor arterial transport corridor given the perception that the Rotokauri Structure Plan is out of date.<sup>82</sup>
- h. Addition of specified designation conditions (including a requirement for a Stakeholder Communication and Engagement Management Plan) requiring engagement with stakeholders, including the Ministry of Education and affected existing and future schools, now, and throughout the design, construction, and implementation phases of the Project.<sup>83</sup>

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<sup>69</sup> 4.08

<sup>70</sup> 4.09

<sup>71</sup> 4.10

<sup>72</sup> 5.04

<sup>73</sup> 5.05

<sup>74</sup> 5.06

<sup>75</sup> 8.02

<sup>76</sup> 9.01

<sup>77</sup> 3.05

<sup>78</sup> 6.03

<sup>79</sup> 7.04

<sup>80</sup> 5.01, 8.01

<sup>81</sup> 14.02, 15.04, 15.07

<sup>82</sup> 14.04, 15.10

<sup>83</sup> 17.25, 17.26, 17.27, 17.28, 17.29, 17.30, 17.31



- i. Property settlement, including Council purchase of the submitter's entire property, or property boundary adjustments to maintain total property area.<sup>84</sup>

## **7.8 Acoustic**

### **7.8.1 Issues**

- a. Noise and vibration effects of the construction and operation of the designated works<sup>85</sup>, including on education facilities.<sup>86</sup>
- b. The conditions do not provide for affected landowner input to management plans before they are approved.<sup>87</sup>

### **7.8.2 Relief sought**

- c. Move the road alignment away from the submitter's property.<sup>88</sup>
- d. Ensure all possible measures are taken to minimise construction and operation effects.<sup>89</sup>
- e. Amend the Construction Traffic Management Plan condition to include consideration of active modes and educational facilities.<sup>90</sup>

## **7.9 Transport**

### **7.9.1 Issues**

- a. Property access during and after construction.<sup>91</sup>
- b. Access to future educational facilities.<sup>92</sup>
- c. Submitter's perceptions that the assessment of alternatives is inadequate.<sup>93</sup>
- d. Maintaining connectivity of the existing off-road cycle path alongside SH1C where the proposed transport corridors will intersect with it.<sup>94</sup>
- e. Stakeholders want the Requiring Authority to engage with them during the detailed design and construction phases.<sup>95</sup>
- f. The extent of the designation reduces the submitters' development and subdivision potential.<sup>96</sup>

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<sup>84</sup> 10.05

<sup>85</sup> 10.04, 16.05, 16.07

<sup>86</sup> 17.20

<sup>87</sup> 7.17

<sup>88</sup> 16.09, 16.11

<sup>89</sup> 16.10, 16.12, 16.13, 16.14

<sup>90</sup> 17.22

<sup>91</sup> 2.01, 4.04, 6.06, 6.10, 7.12, 9.05, 16.02, 17.08, 17.10

<sup>92</sup> 17.08

<sup>93</sup> 6.08, 7.07, 7.09, 16.09

<sup>94</sup> 5.05

<sup>95</sup> 3.02, 5.04, 5.06, 7.17, 17.25, 17.26, 17.27, 17.28

<sup>96</sup> 7.09

- g. The road can be developed without as much of the submitter's property being acquired.<sup>97</sup>
- h. The collector road locations shown in the NOR are inconsistent with the Operative Rotokauri North Structure Plan, particularly the future realignment of Burbush Road.<sup>98</sup>
- i. The effects of construction traffic on the safety of students travelling to and from education facilities and traffic congestion during student drop-off and pick-up times.<sup>99</sup>
- j. Inconsistent road typologies shown for Zone 4 in NOR Appendices B.2 and J.<sup>100</sup>
- k. The fast-track consented design may supersede the design in the NOR.<sup>101</sup>
- l. The Project does not comply with the Structure Plan.<sup>102</sup>

#### 7.9.2 Relief sought

- a. Agreement and/or collaboration between the Requiring Authority and landowners regarding transport and designation design matters.<sup>103</sup>
- b. Review, reduce, or redesign the Designation extent.<sup>104</sup>
- c. Realign the minor arterial transport corridor so that the land requirement burden is shared with neighbouring landholdings.<sup>105</sup>
- d. Include or amend conditions to address transport-related matters:
  - i. A new condition requiring the RA to provide 12-week written notice to Waikato Regional Council (WRC) regarding disturbance of public transport routes during construction.<sup>106</sup>
  - ii. A new condition requiring collaboration between the RA and submitter regarding bridge design, safety, and active routes matters.<sup>107</sup>
  - iii. Include a Stakeholder Communication and Engagement Management Plan.<sup>108</sup>
  - iv. In the Stakeholder and Engagement Plan condition identify the submitter as a stakeholder.<sup>109</sup>
  - v. A condition proposing a Land Use Integration Process.<sup>110</sup>

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<sup>97</sup> 10.02

<sup>98</sup> 7.10

<sup>99</sup> 17.22, 17.23, 17.24

<sup>100</sup> 13.09

<sup>101</sup> 13.06, 13.07, 13.08

<sup>102</sup> 7.10

<sup>103</sup> 2.01, 8.02, 9.01, 15.13, 17.25, 17.26, 17.27

<sup>104</sup> 6.11, 7.04, 7.09, 7.10, 7.12, 7.17, 13.06, 16.09

<sup>105</sup> 9.01, 9.02

<sup>106</sup> 3.02

<sup>107</sup> 5.04, 5.05

<sup>108</sup> 17.28

<sup>109</sup> 5.06

<sup>110</sup> 17.11, 17.12

- vi. Amend the Construction Traffic Management Plan condition in relation to effects on educational facilities.<sup>111</sup>
- e. Inadequate consideration of alternatives.<sup>112</sup>
- f. Take measures to minimise effects on submitter's property.<sup>113</sup>
- g. Ensure plans in NOR Appendix J are consistent with those in Appendix B.2.<sup>114</sup>
- h. Update the Works' design to reflect the levels, alignment, and boundaries approved through the fast-track consenting process.<sup>115</sup>
- i. The submitter requires certainty regarding their property's connection to the proposed minor arterial transport corridor.<sup>116</sup>

## 7.10 Three-waters

### 7.10.1 Issues

- a. Stormwater discharge and diversion into adjoining properties or a WRC managed watercourse.<sup>117</sup>
- b. Impact of flooding on the roading network, associated infrastructure or submitters property.<sup>118</sup>
- c. Potential flooding of the property at 27 and 29 Burbush Road.<sup>119</sup>
- d. Perceived deficiencies within the NOR Design Report.
  - i. It is asserted that the described overland flow path between the Rotokauri Greenway and Mangaheka Stream is not consistent with the design criteria set out in the Rotokauri Integrated Catchment Management Plan (ICMP).<sup>120</sup>
  - ii. Perception that the Greenway Designation conditions acknowledge there are uncertainties with the overland flow path between the Rotokauri Greenway and Mangaheka Stream.<sup>121</sup>
  - iii. The concept design of roads and wetlands and flood level modelling shown in the NOR may be superseded by recent design work done in relation to the Rotokauri Greenway fast-track consents.<sup>122</sup>
- e. Contamination of water held in roof-fed rainwater tanks<sup>123</sup>

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<sup>111</sup> 17.22, 17.23, 17.24, 17.29, 17.30

<sup>112</sup> 7.07, 7.09

<sup>113</sup> 16.12

<sup>114</sup> 13.07, 13.09

<sup>115</sup> 13.02, 13.06

<sup>116</sup> 15.04, 15.05

<sup>117</sup> 3.03

<sup>118</sup> 3.04

<sup>119</sup> 16.06

<sup>120</sup> 9.06

<sup>121</sup> 9.07

<sup>122</sup> 13.07

<sup>123</sup> 16.04

- f. The height of the minor arterial transport corridor affects the required height of upstream building platforms; the developers want the level to be as low as possible to minimise the amount of filling required.<sup>124</sup>

#### 7.10.2 Relief sought

- a. A new condition requiring collaboration about:
  - i. Stormwater diversion into any Waikato Regional Council managed watercourse.<sup>125</sup>
  - ii. Detailed design of 'Culvert 2'<sup>126</sup>
- b. Further assessment of the frequency, magnitude, and duration of flooding across the transport corridors, and associated disruption and risks.<sup>127</sup>
- c. The Requiring Authority to consult with the submitter regarding the detailed design to integrate the Designation and adjacent development and achieve efficient resource use.<sup>128</sup>
- d. Redesign the north-south minor arterial transport corridor to accommodate the overland flow path between the Rotokauri Greenway and Mangaheka Stream.<sup>129</sup>
- e. Provide sufficient corridor width to enable future three waters upgrades.<sup>130</sup>
- f. Collaboration with submitters with the intention to review NOR documents related to three-waters infrastructure.<sup>131</sup>
- g. Update the Requirement's road and flood level design to align with the Rotokauri Greenway fast-track consented design.<sup>132</sup>
- h. Either clarify that there is flexibility in relation to the location, size, and design of the "indicative future wetlands" or remove them from the Designation drawings.<sup>133</sup>
- i. Involve affected landowners in the design and decision-making for the overland flow path between the Greenway and Mangaheka Stream.<sup>134</sup>
- j. Clarity whether dewatering or removal of ephemeral drains will result in the draining, partial draining, or blockage of natural drainage.<sup>135</sup>

#### 7.11 Late Submissions

One submission, by Narinderpal Sagoo (Submitter 18), was received on 22 November 2024, which is 10 working days after the submissions closed on 8 November 2024.

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<sup>124</sup> 14.08, 15.13

<sup>125</sup> 3.03

<sup>126</sup> 14.05, 15.04, 15.12

<sup>127</sup> 3.04

<sup>128</sup> 14.08, 15.04

<sup>129</sup> 9.06, 9.07

<sup>130</sup> 11.02, 11.03, 11.04

<sup>131</sup> 4.03, 11.02, 11.03, 11.04

<sup>132</sup> 13.07

<sup>133</sup> 14.03, 15.09

<sup>134</sup> 9.07

<sup>135</sup> 14.07

## 7.12 Out of Scope Matters

Two submissions<sup>136</sup> raise matters that are unrelated to the NOR and do not specify any relief that the commissioners have power to grant. They have been addressed in the Commissioners' Direction #1.

Submission 12 was withdrawn on 13 May 2025.

## 7.13 Responses to Submissions

Each Specialist's evaluation includes responses to submission points relevant to its author's speciality. Apart from that, this report does not set out responses to individual submission points. However, **Appendix M** includes a comprehensive set of recommended designation conditions to manage the Project's effects on the environment and respond to matters raised in submissions.

If a submitter considers that the recommended designation conditions do not provide the relief that their submission point sought, either in whole or part, then he or she should conclude that their submission point is rejected.

## 8.0 Statutory Assessment

### 8.1 Introduction

This section addresses the requirements of s168A (3) of the RMA (see **Appendix A**) which sets out the matters that the territorial authority must consider when considering the Requirement, submissions received, and the effects on the environment of allowing the Requirement.

### 8.2 Assessment of Environmental Effects

**Table 8: Summary of the Requiring Authority's assessment of the Project's environmental effects when the recommended Management Plans and avoidance and mitigation measures are implemented<sup>137</sup>**

| Environmental effects        | Subcategory  | The Requiring Authority's Assessment of the Project's Environmental Effects |
|------------------------------|--|---|
| Operational Transportation   | Roads  | Positive and appropriate <sup>138</sup>                                     |
|                              | New intersections                                  |   |
|                              | Existing Intersections with modifications          |   |
|                              | Pedestrian, Cycleway and Micro-mobility facilities |   |
| Construction and Maintenance | Erosion and Sediment Control Runoff <sup>139</sup> | Less than minor   |

<sup>136</sup> Number 12 by Brian Alcock on behalf of the owners of 88 Exelby Road and Number 18 by Narinderpal Sagoo

<sup>137</sup> NOR, s8, p53 - 72

<sup>138</sup> NOR, s8.3.3, p59

<sup>139</sup> NOR, s8.4.1, p61

| Environmental effects                 | Subcategory   | The Requiring Authority's Assessment of the Project's Environmental Effects |
|---------------------------------------|---|---|
|                                       | Nuisance effects – Dust, Construction Noise, and Vibration <sup>140</sup> |   |
|                                       | Construction Traffic <sup>141</sup>                                       |   |
| Ecological                            | Bats and Bat habitat <sup>142</sup>                                       | Less than minor   |
|                                       | Avifauna <sup>143</sup>   |   |
|                                       | Lizards - Copper skink <sup>144</sup>                                     |   |
|                                       | At-risk native fish <sup>145</sup>  |   |
|                                       | Loss and modification of natural inland wetlands                          | The residual level of effects can be managed to Low levels. <sup>146</sup>  |
| Landscape and Visual                  | Landscape effects   | Less than minor <sup>147</sup>  |
|                                       | Effects on the Existing Rural Landscape                                   |   |
|                                       | Effects on Future Urban Character   | Positive <sup>148</sup>   |
|                                       | Visual effects  | Less than minor <sup>149</sup>  |
| Cultural Values                       | None  | Not defined   |
| Archaeological                        | None  | Less than minor <sup>150</sup>  |
| Traffic noise                         | None  | Less than minor <sup>151</sup>  |
| Land Contamination                    | None  | Minor <sup>152</sup>  |
| Property                              | None  | Not defined   |
| Stormwater/Hydrology                  | None  | Minor <sup>153</sup>  |
| Summary of Effects on the Environment | None  | No more than minor <sup>154</sup>   |

The Specialists have reviewed the Requiring Authority's assessments of environmental effects and reported their findings in their memoranda, which are provided in **Appendices C to K** of this report. The Specialists' conclusions about the Project's adverse environmental effects are summarised in **Table 9**.

**Table 9: Specialists' assessment of the Project's environmental effects**

| Specialist's Name | Environmental effects evaluated | The Specialist's conclusions about the Project's adverse environmental effects when managed by appropriate designation conditions |
|-------------------|---------------------------------|---|
|-------------------|---------------------------------|---|

<sup>140</sup> NOR, s8.4.2, p62

<sup>141</sup> NOR, s8.4.3, p63

<sup>142</sup> NOR, s8.5, p63, para 3

<sup>143</sup> NOR, s8.5, p63, para 4

<sup>144</sup> NOR, s8.5, p63, para 5

<sup>145</sup> NOR, s8.5.1, p64, para 7

<sup>146</sup> NOR, Appendix G, s5.5, p35, para 3

<sup>147</sup> NOR, s8.6.2, p66, para 1

<sup>148</sup> NOR, s8.6.3, p66, para 4

<sup>149</sup> NOR, s8.6.4, p67, para 3

<sup>150</sup> NOR, s8.8, p68, para 4

<sup>151</sup> NOR, s8.9, p68, para 3

<sup>152</sup> NOR, s8.10, p69, para 2

<sup>153</sup> NOR, s8.12.1, p71, para 2

<sup>154</sup> NOR, s8.13, p72, para 2

|                                |   |   |
|--------------------------------|---|---|
| Alan Gregory                   | Transportation  | At worst minor <sup>155</sup>   |
| Robert Kelly                   | 3-waters  | No more than minor <sup>156</sup>   |
| Fiona McIntosh & Dean C Miller | Ecology, i.e., on terrestrial vegetation, bat, bird, and lizard habitat, and on fauna injury or mortality | Can be managed to low levels <sup>157</sup>   |
| John Brezeski                  | Geotechnical  | <i>"The effects on surrounding land, infrastructure and structures will need to be determined and mitigated as part of the detailed design. The detailed design should include details of the monitoring required to confirm that effects are no more than minor."</i> <sup>158</sup> |
| Alex Davies-Colley             | Contaminated land   | At worst minor <sup>159</sup>   |
| Sharon Yung                    | Vibration and Acoustic  | At worst minor <sup>160</sup>   |
| Jo Soanes                      | Landscape and visual  | Acceptable <sup>161</sup>   |
| Colin Hattingh                 | Urban design  | Not more than minor. Will likely result in several positive urban design outcomes <sup>162</sup>  |
| Nick Cable                     | Archaeology   | No adverse effects on archaeological values <sup>163</sup>  |

The Project will generate adverse effects on some properties, the businesses that operate from them, and their owners. These effects will result from the Project's land requirements, property severance, and property disruption when the Project is constructed.

In considering these effects under s168A of the RMA, it is important to recognise that many of these effects can be mitigated, not just in practical terms via designation conditions, but also via the compensation mechanisms under the Public Works Act which address, not only land value, but disruption and costs associated with the acquisition of the designation land.<sup>164</sup>

In addition, s168A(3A) of the RMA is clear that positive effects of the Project may be considered to offset or compensate for any adverse effects. So, to the extent that there are any residual effects not addressed via the Public Works Act compensation requirements, it is important that consideration be given to the positive effects which offset or compensate for them.

Provided the construction and operation of the Designation are managed by appropriate designation conditions, I conclude that:

<sup>155</sup> Appendix C, para 135 (c) iii

<sup>156</sup> Appendix D, para 6b

<sup>157</sup> Appendix E, para 7a

<sup>158</sup> Appendix F, para 8

<sup>159</sup> Appendix G, para 30

<sup>160</sup> Appendix H, para 39 a i

<sup>161</sup> Appendix I, para 7

<sup>162</sup> Appendix J, para 57d

<sup>163</sup> Appendix K, para 6

<sup>164</sup> See Villages of NZ (Mt Wellington) Ltd v Auckland City Council [2009] ELHNZ80.

- a. Based on the Specialists' advice<sup>165</sup>, the Project will have adverse effects that are no more than minor, and
- b. The Project will have significant positive economic, urban design, social, environmental, and cultural effects. These will arise from:
  - i. Providing certainty for the future development of Rotokauri, although not certainty with respect to the timing of that development,<sup>166</sup>
  - ii. Enabling development of Rotokauri, which will enable economic activity, including provision of housing and employment,
  - iii. Enabling integrated planning to occur which will help ensure that the transport and infrastructure networks will contribute to the delivery of a quality, connected urban and natural environment.<sup>167</sup>
  - iv. Enabling reduction in private car use and greenhouse gas emissions,<sup>168</sup>
  - v. Enabling travel on foot or cycle, which will support improved health and wellbeing outcomes,<sup>169</sup>
  - vi. Improved safety resulting from the upgraded intersections and railway level crossing,<sup>170</sup>
  - vii. The visual, landscape, and ecological enhancement that will result from implementation of the proposed Landscape Management Plan and Ecological Management Plan, including extensive amenity planting and the creation of new wetland habitat along the route,<sup>171</sup> and
  - viii. Implementation of the proposed Culture Recognition Plan.

In my opinion, the Project's positive effects overwhelmingly outweigh its adverse property effects.

### 8.3 Statutory Considerations

Section 9 of the NOR sets out the Requiring Authority's assessment of the Requirement against relevant statutory requirements and other relevant matters.

The Specialists have reviewed that assessment and reported their findings in their memoranda. These are summarised in **Table 10**.

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<sup>165</sup> See **Table 9**.

<sup>166</sup> **Appendix J**, para 48c

<sup>167</sup> *Ibid*, para 48c

<sup>168</sup> NOR, s8.3.1, p57, para 2

<sup>169</sup> NOR, s8.3.1, p57, para 5

<sup>170</sup> NOR, s8.3.1, p57, para 6

<sup>171</sup> NOR, s8.2, p55, para 3



*Table 10: Specialists' evaluation of the Requirement's consistency with statutory requirements*

| Specialist's Name              | Speciality              | The Specialist's Conclusions   |
|--------------------------------|-------------------------|--|
| Alan Gregory                   | Transportation planning | The provisions listed in his para 128 are generally consistent with the policy direction (para 129), but some matters of design detail need to be resolved at or before Detailed Design (para 130).  |
| Robert Kelly                   | 3-waters                | The Requirement is consistent with the provisions relating to 3-waters that are addressed in s9 of the NOR (para 73).  |
| Fiona McIntosh & Dean C Miller | Ecology                 | "... through the detailed design and regional council resource consent process, the Project can be designed and constructed to comply with the statutory requirements discussed in s9 of the NOR." <sup>172</sup><br>"... biodiversity offset or compensation will be required to fully manage effects" <sup>173</sup> |
| John Brezeski                  | Geotechnical            | The proposed works will comply with the relevant statutory requirements he considered. <sup>174</sup><br>The applications for regional resource consents will need to include a full assessment of the proposals against the requirements of the Regional Plan. <sup>175</sup>   |
| Alex Davies-Colley             | Contaminated land       | The Requirement is consistent with the provisions of the NESCS, Waikato Regional Policy Statement, and Hamilton City District Plan relating to land contamination that are addressed in the analysis presented in s9 of the NOR. <sup>176</sup>  |
| Sharon Yung                    | Acoustic                | Based on the analysis presented in s9 of the NOR, the Requirement is consistent with the provisions in the Hamilton District Plan relating to noise and vibration <sup>177</sup>   |
| Jo Soanes                      | Landscape               | Based on the analysis presented in s9 of the NOR, the Requirement is consistent with the relevant landscape and visual provisions of the RMA, Waikato Regional Policy Statement, and Hamilton City Operative District Plan. <sup>178</sup>   |
| Colin Hattingh                 | Urban design            | "...the designated works, managed by appropriate designation conditions: ... are consistent with the relevant urban design provisions of the ODP" <sup>179</sup> .   |
| Nick Cable                     | Archaeology             | Assessment of the Project's consistency with statutory provisions relating to archaeological sites is not necessary, because there are no known archaeological sites within the Project footprint <sup>180</sup>   |

<sup>172</sup> Appendix E, p4, para 17

<sup>173</sup> Appendix E, p5, para 18

<sup>174</sup> Appendix F, p6, para 26 b ii

<sup>175</sup> Appendix F, p5, para 24

<sup>176</sup> Appendix G, p6, para 29

<sup>177</sup> Appendix H, p7, para 38

<sup>178</sup> Appendix I, p7, para 46

<sup>179</sup> Appendix J, p12, para 57 c

<sup>180</sup> Appendix K, p4, para 19

Most of the Specialists agree with the assessments set out in s9 of the NOR that are relevant to their disciplines. However, the following recognise that compliance with all statutory requirements will depend on matters that will be determined during Detailed Design:

- a. Mr Gregory,
- b. Ms McIntosh and Mr Miller, and
- c. Mr Brezeski.

I have reviewed s9 of the NOR from a planning perspective and generally agree with its assessment of the Requirement's consistency with the statutory requirements that it has considered.

However, I have identified many other relevant statutory requirements that have not been addressed in s9 of the NOR. These are listed in Appendix L.

I recommend that the Requiring Authority presents in its primary evidence an evaluation of the Requirement against those additional statutory requirements.

While I don't expect that any of these additional considerations will be an impediment to the designation being confirmed, I reserve my recommendation on that matter until I have seen the Requiring Authority's evaluation of them.

Some of the additional requirements identified have informed some of my recommended amendments to the proposed Designation Conditions, e.g., the conditions referencing Mana Whenua's kaitiaki role.

## 8.4 Assessment of Alternatives

Appendix C to the NOR is a Consideration of Alternatives report. It describes the alternative routes, cross sections, and methods the Requiring Authority considered to achieve the vision of the Rotokauri Structure Plan and to protect future transportation and infrastructure corridors for Rotokauri.<sup>181</sup> It describes that workshops and multi-criteria analysis were used to inform optioneering.<sup>182</sup>

Mr Gregory has concluded that, from a transportation planning perspective, the Requiring Authority's assessment of alternatives is adequate.<sup>183</sup>

Mr Kelly agrees that, with respect to 3-waters matters, the Requiring Authority's assessment of alternatives is adequate.<sup>184</sup>

Based on Mr Gregory's and Mr Kelly's advice, and my own assessment, I consider that the Requiring Authority's consideration of alternatives is adequate, except with respect to the consideration of options for alternative access to the property at 40 Te Kowhai Road East.

The NOR does not include an assessment of the effects of the chosen alternative access option on the continued operation of the existing businesses on it. Further information is

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<sup>181</sup> NOR, Appendix C, p18, para 1

<sup>182</sup> NOR, Appendix C, Development of Preliminary Design for the Corridors, p7, para 4.

<sup>183</sup> Appendix C, paras 50 – 52 and 135 a.

<sup>184</sup> Appendix D, para73 b.

needed from the Requiring Authority on this matter before I could confirm whether the test of s168A (3) (b) is met.

## **8.5 Necessity for the Works and the Designation**

The necessity for the work and the designation are addressed at s5.6 of the NOR (pp47-48).

Mr Gregory<sup>185</sup> and Mr Kelly<sup>186</sup> have concluded that the works are reasonably necessary to achieve, respectively, the transportation-related and three-waters-related objectives of the Requiring Authority for which the Designation is sought.

I have read s5.6 of the NOR and Messrs Gregory's and Kelly's assessments, and I agree that the works are reasonably necessary to achieve the Requiring Authority's objectives for which the Designation is sought.

I also consider that the designation process is reasonably necessary to achieve the Requiring Authority's objectives for which the Designation is sought. The designation process is a well-defined and well-understood process for protecting sites and routes for future public works.

I therefore consider that the test of s168A (3) (c) is met.

## **8.6 RMA Section 6 – Matters of National Importance**

In my opinion, the matters of national importance relevant to the Project are:

- a. The protection of ... significant habitats of indigenous fauna (RMA s6 (c)),
- b. The maintenance and enhancement of public access to and along ... rivers (RMA s6 (d)),
- c. The relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga (RMA s6 (e)), and
- d. The management of significant risks from natural hazards (RMA s6 (h)).

### **8.6.1 Protection of significant habitat of indigenous fauna**

This matter is discussed at s8.7.4 below.

### **8.6.2 Maintenance and enhancement of public access to and along rivers**

According to Council's external website<sup>187</sup>:

*The Rotokauri greenway will provide biking and pedestrian infrastructure, green spaces, viewing platforms, picnic areas, fitness circuits, seating areas, boardwalks, bird watching areas, play areas, and barbeque shelters.*

Several conditions of the Rotokauri Greenway designation refer to the proposed pedestrian and cycle network to be provided within that designation.<sup>188</sup>

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<sup>185</sup> Appendix C, paras 133, 134, and 135 c i.

<sup>186</sup> Appendix D, paras 73c, 74 – 80, and 81 a.

<sup>187</sup> <https://hamilton.govt.nz/strategies-plans-and-projects/projects/rotokauri/rotokauri-greenway/>

<sup>188</sup> See [https://docs.isoplan.co.nz/figures/hamilton/1828/Designation\\_A114\\_amended\\_March22.pdf](https://docs.isoplan.co.nz/figures/hamilton/1828/Designation_A114_amended_March22.pdf)

The Rotokauri Strategic Infrastructure Project has the potential to enhance public access to and along rivers by providing connections between the proposed transport corridors within the Designation and the biking and pedestrian paths that will be provided within the Rotokauri Greenway.

Indeed, the NOR states:

*The corridors will facilitate:*

- *Integrate with the Hamilton City Council Greenway designation for conveyance and management of stormwater and recreation connections*<sup>189</sup>

*The Project will enhance public access to lakes and rivers through the Rotokauri growth cell. This includes new access and connectivity to the Rotokauri Greenway shared paths and cycleways along an ecological corridor from Lake Waiwhakareke Natural Heritage Park in the south, to Lake Rotokauri in the north.*<sup>190</sup>

However, the concept design drawings included in Appendix B to the NOR show no such connections, nor any annotations indicating that such connections will be provided.

To provide clarity and certainty that RMA s6 (d) will be satisfied, I recommend that:

- a. The Requiring Authority presents in primary evidence:
  - i. A single concept plan showing where the proposed pedestrian and cycle networks within the Designation will connect with those in the Rotokauri Greenway Designation.
  - ii. An updated set of Concept drawings (i.e., Appendix B to the NOR) showing where these connections will be provided, and
- b. The following designation conditions are adopted:
  - 8. *Matters to be included in an Outline Plan*
    - 8.1 ....
      - j. *Details of connections between cycle and pedestrian paths in the Designation and the same types of paths in the Rotokauri Greenway designation.*
    - 19.2 *The objectives of the [Landscape Management Plan] are to: ....*
      - g. *Support development of safe and attractive paths and networks for pedestrians, cyclists, and micro-mobility users, including paths to and along waterways,*
    - 19.9 *The [Landscape Management Plan] must include at least the following: ....*
      - c. *Landscape Design ....*

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<sup>189</sup> NOR, s2.4.2

<sup>190</sup> NOR, s9.1.3, p74

*The proposed landscape and urban design theme to be adopted for the entire length of the Project, including for the:*

- ii. Integration of the Project with the Rotokauri Greenway, including the provision of connections between the pedestrian and cycle paths in the Designation and the same types of paths within the Rotokauri Greenway designation ....*
- iv. Roading interfaces with adjoining residential, commercial, and recreational areas.*

### **8.6.3 The relationship of Maaori with their ancestral landscape**

The Requiring Authority has engaged with Waikato-Tainui and Mana Whenua about the Project<sup>191</sup> and commissioned Te Haa o Te Whenua o Kirikiriroa (THaWK), which, at the time, represented all the city's mana whenua groups, to prepare a Cultural Impact Assessment report in relation to the Requirement.

THaWK's report refers to and includes THaWK's earlier Cultural Impact Assessment Report prepared in relation to the Rotokauri Greenway Requirement. Both reports are included as Appendix I to the NOR and together they document the Project's effects on Mana Whenua interests and recommend measures to protect or advance those interests.

The Requiring Authority proposes in the NOR<sup>192</sup> a designation condition<sup>193</sup> that would require it to "engage in discussions with mana whenua to progress the implementation of the recommendations in the Cultural Impact Assessment report ..."

To provide more clarity and certainty for all parties, I have recommended an expanded designation condition<sup>194</sup> that would require the Requiring Authority to prepare and implement a Culture Recognition Plan (CRP). The content of that plan reflects most of the measures Mana Whenua sought in the Cultural Impact Assessment Reports.

In my opinion, provided the Culture Recognition Plan designation condition that I have recommended is adopted and implemented, the Project will appropriately recognise and provide for the relationship of Maaori with their ancestral landscape and thereby satisfy the requirements of RMA s6 e.

### **8.6.4 Management of significant risks from natural hazards**

The Project is exposed to potential risks arising from flooding and ground-settlement.

The flooding risk is discussed at s8.7.6 below.

Engineering Geologist, Mr John Brzeski, has identified the following potential risks arising from the ground conditions in the project area:<sup>195</sup>

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<sup>191</sup> See p3 of the memorandum dated 20 June 2023 by Brianna Morris and Craig Inskeep in Appendix M to the NOR.

<sup>192</sup> See NOR, s10, p109.

<sup>193</sup> Condition 4.1

<sup>194</sup> Condition 11 in **Appendix M**

<sup>195</sup> **Appendix F**, para 14

*From my experience with the ground conditions in this area, there may be significant settlements where embankments are to be constructed on the compressible soils. These settlements have the potential to affect existing structures and infrastructure. Any dewatering required, either temporary or permanent also has the potential to lead to unacceptable static settlement affecting existing structures and infrastructure. Dewatering within this area may also lead to the acidification of potential acid sulfate soils resulting in damages to the receiving environment and existing infrastructure.*

However, he concludes that, subject to further investigation, geotechnical assessment, detailed design, and appropriate designation conditions, the proposed works will have adverse effects on geotechnical matters that are at worst minor and comply with the relevant statutory requirements.<sup>196</sup>

Mr Brzeski has recommended additional designation conditions to achieve this outcome.<sup>197</sup>

Based on Mr Brzeski's advice, I conclude that the requirements of RMA s6 (h) regarding risks arising from geotechnical hazards, will be satisfied.

## **8.7 RMA Section 7 – Other Matters**

In my opinion, the relevant other matters to which the commissioners must have particular regard are:

- a. Kaitiakitanga,
- b. The efficient use and development of natural and physical resources,
- c. The maintenance and enhancement of amenity values,
- d. Intrinsic values of ecosystems,
- e. Maintenance and enhancement of the quality of the environment, and
- f. The effects of climate change.

### **8.7.1 Kaitiakitanga**

This matter is discussed below under s8.8.

### **8.7.2 The efficient use and development of natural and physical resources**

The Designation will secure corridors for, and allow the future provision of, the transportation, three-waters, and other infrastructure necessary to support the development of Rotokauri and Rotokauri North Structure Plan Areas. Establishing the designation while the area is still largely in a green-fields state and delaying its construction until it is needed to support development, will achieve the efficient use and development of natural and physical resources.

This outcome is also the result of the integrated planning that has informed the NOR. The Requirement, the Rotokauri Greenway, and the future development of land use in the Rotokauri and Rotokauri North Structure Plan Areas and their environs have all been planned in an integrated way.

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<sup>196</sup> **Appendix F**, para 26

<sup>197</sup> See **Appendix F**, para 28 and Conditions 2.5, 12.3 e and 12.3 f in **Appendix M**.

Furthermore, the Designation will provide multi-modal transport options. This will reduce reliance on private motor vehicles and further enable the efficient use of resources.

Therefore, the requirements of RMA s7 (b) are met.

### 8.7.3 The maintenance and enhancement of amenity values

Enhancing the vitality of public spaces is an objective of the Project. This includes creating a distinct sense of place for Rotokauri, promoting safe and enjoyable use of public spaces through the quality of their design, and protecting and enhancing the habitat of the receiving environments.<sup>198</sup>

Urban design specialist, Colin Hattingh, considers that “the Project represents good quality planning and design”<sup>199</sup> and “demonstrates the application of several best practice urban design principles and approaches”.<sup>200</sup> The strong urban design underpinning of the Requirement will enhance amenity values.

Landscape specialist, Jo Soanes, has recommended designation conditions to protect the landscape and visual amenity of properties near construction compounds and near Te Kowhai Road at the northern end of the Project<sup>201</sup> She has also recommended that best practice landscape principles be applied to the design of the Project’s wetlands to achieve a naturalised appearance that will integrate the wetlands with the landscape.<sup>202</sup>

Ms Soanes has also recommended that the Requiring Authority consults owners of land adjacent to the Designation to ensure that the Landscape Management Plan does not have any unintended consequences, including adverse effects on amenity, and to integrate the Project with adjoining land.<sup>203</sup> Finally, she has recommended that the designation conditions specify what should be included in the Landscape Management Plan to provide certainty about design outcomes, including about protecting and enhancing amenity.<sup>204</sup>

Provided that the recommended designation Conditions 19, 20, and 21 set out in **Appendix M**,<sup>205</sup> are adopted and implemented, amenity values will be maintained or enhanced, and RMA s7 (c) will be satisfied.

### 8.7.4 Significant habitat of indigenous fauna and intrinsic values of ecosystems

The NOR is supported by an Ecological Impact Assessment<sup>206</sup>, which independent ecologists, Fiona McIntosh and Dean C Miller, have reviewed.

These ecologists recognise that the Project’s effects on wetlands, streams, and waterways outside of the Rotokauri Greenway footprint have yet to be determined but are confident

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<sup>198</sup> NOR, s2.4.4, p21

<sup>199</sup> **Appendix J**, p5, para 29

<sup>200</sup> *Ibid*, p.12, para 57b

<sup>201</sup> See **Appendix I**, p9, para 53 (2) a and b and **Appendix M**, Condition 19.7.

<sup>202</sup> See **Appendix I**, p9, para 53 (2) d and **Appendix M**, Condition 19.4.

<sup>203</sup> **Appendix 1**, p5, para 27

<sup>204</sup> *Ibid*, p7, para 41 and p9, para 53 (1). See Condition 19.9 in **Appendix M**.

<sup>205</sup> These conditions relate to preparation, implementation, and monitoring of implementation of the Landscape Management Plan.

<sup>206</sup> Appendix G to the NOR.

that these effects will be thoroughly assessed and managed through the Regional Council consenting process.<sup>207</sup>

The NOR proposes that a series of management plans will be prepared to manage the Project's effects on other ecological values. Ms McIntosh and Mr Miller consider that this is an appropriate approach and can achieve a low level of impact on ecological values within and outside the designation<sup>208</sup>. However, they recommend amendments to the Requiring Authority's proposed designation conditions to ensure this outcome is achieved.<sup>209</sup>

To provide certainty and clarity and to enable more efficient Certification of outline plans, I recommend amendments to the relevant designation condition to include measures and requirements that are recommended in the NOR and the Ecological Impact Assessment.

Based on the advice of Ms McIntosh and Mr Miller, provided the amended Condition 18<sup>210</sup> is adopted and implemented, I consider that the Project will:

- a. Recognise and provide for significant habitat of indigenous fauna and thereby satisfy RMA s6 (c), and
- b. Have appropriate regard to the intrinsic values of ecosystems and thereby satisfy RMA s7 (d).

#### **8.7.5 Maintenance and enhancement of the quality of the environment**

Preparation and implementation of all the management plans required by the recommended designation conditions included in **Appendix M** will contribute to maintaining or enhancing the quality of the environment both during and after construction.

Therefore, provided the recommended designation conditions are adopted and implemented, RMA s7 (f) will be satisfied.

#### **8.7.6 The effects of climate change.**

The NOR states:<sup>211</sup>

*The Project includes several stormwater management and infrastructure features that respond to expected effects of climate change. These include suitably sized stormwater attenuation devices, elevated road design to be clear of the 100yr ARI flood.*

However, elsewhere in the NOR it is stated:

*The Regional Infrastructure Technical Specifications (RITS) do not require roads to be clear of a 100yr ARI flood levels and the road design has been intentionally set with low points above the Rotokauri Greenway corridor culverts (to create known, controlled overflow points), further modelling is needed as part of detailed design (and/or in combination with adjacent developments) to confirm final performance and levels.<sup>212</sup>*

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<sup>207</sup> **Appendix E**, para 48.

<sup>208</sup> **Appendix E**, para 49.

<sup>209</sup> **Appendix E**, paras 52 and 53.

<sup>210</sup> **Appendix M**.

<sup>211</sup> NOR, p90, Comment on Objective 2.2.13 of the ODP and its associated policies

<sup>212</sup> NOR, p70, the first para 6



***Ponding** is expected to occur under the **SH1C over-bridges** in events larger than a 100yr ARI. Ponding and the ability to design it out in this location is limited given the fixed SH1C bridge levels, the minimum clearance envelope beneath the bridge and the flood levels in the Greenway. There is potential for ponding to still occur at the Te Kowhai and Chalmers underpasses. In the event this results in road closures, there are alternative transport corridors that remain open in the event of an emergency response.<sup>213</sup>*

To comply with industry best practice and for the purposes of a risk-based sensitivity test regarding resilience to the effects of climate change, 3-Waters specialist, Mr Robert Kelly, has recommended the following new designation condition:

*“During Detailed Design, the Requiring Authority must:*

*Assess the effects of the works under the Representative Concentration Pathway 8.5 climate change scenario and identify any measures that will be implemented to avoid, remedy, or mitigate those effects where they create significant flood risk or hazard.<sup>214</sup>*

Transportation specialist, Mr Alan Gregory, has concerns about traffic safety where there is overland flow over the transport corridors during the 1 in 100-years event. He has identified a risk that on parts of the minor arterial carriageway the overland flow will be deep enough to make motor vehicles float<sup>215</sup>. He has recommended that, during Detailed Design, the Requiring Authority assesses an alternative to the overland flow [where the north-south minor arterial crosses the Rotokauri Greenway].<sup>216</sup>

Based on the advice of Messrs Gregory and Kelly, I have yet to be convinced that the Project demonstrates sufficient regard has been had to the:

- a. Management of significant risks from natural hazards (i.e., flooding) (RMA s6 (h)), and
- b. Effects of climate change (RMA s7 (i)).

Therefore, I recommend that the Requiring Authority addresses this matter in primary evidence and confirms:

- a. Any locations within the Designation that will experience overland flow or ponding during the 1 in 100-years event,
- b. Any locations identified in “a” above that will be impassable for normal traffic, pedestrians, or cyclists during the 1 in 100-years event,
- c. Whether the loss of access at the locations described in “b” above will result in any areas being isolated and without any access or egress during the event, and
- d. Whether there will be any scope, during the detailed design, to modify the design, if necessary, to ensure that no area will become inaccessible during the 1 in 100-years flood event and, if so, how this outcome could be achieved.

In addressing “c” above, it would be helpful if the primary evidence were to include a map showing the locations where transport corridors are expected to become impassable to

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<sup>213</sup> NOR, p70, para 5.

<sup>214</sup> See **Appendix D**, para 86 b I and Condition 8.1 f in **Appendix M**.

<sup>215</sup> **Appendix C**, para 28.

<sup>216</sup> See **Appendix C**, para 31.

normal traffic during the 1 in 100-years event and to demonstrate that alternative access and egress will be available so that no areas will be isolated by the flood waters.

In response to the advice of Messrs Gregory and Kelly regarding flooding, I recommend the inclusion of the following designation conditions:

*8. Matters to be included in an Outline Plan*

*8.1 In addition to the matters listed in s176A (3) of the RMA, an outline plan of the works necessary to give effect to all or part of the NOR must include the following that are relevant to the parts or sections of the Project to which the outline plan relates:*

- e. Evidence that bulk filling will not dam or divert existing drainage and overland flow paths, or evidence that any such damming or diversion is authorised by a resource consent.*
- f. An assessment of the effects of the works under the Representative Concentration Pathway 8.5 climate change scenario and identification of any measures that will be implemented to avoid, remedy, or mitigate those effects where they create significant flood risk or hazard.*
- i. An assessment of alternatives to overland flow over the north-south minor arterial transport corridor where it crosses the Rotokauri Greenway.*

## **8.8 RMA Section 8 - Treaty of Waitangi**

By engaging with Waikato-Tainui and Mana Whenua and commissioning the Cultural Impact Assessment reports<sup>217</sup>, the Requiring Authority has recognised Waikato-Tainui's and Mana Whenua's kaitiaki roles and thereby considered the Treaty Principle of Kaitiakitanga.

The preparation and implementation of the Culture Recognition Plan would give effect to the Treaty Principle of Kaitiakitanga.

In my opinion, provided the Culture Recognition Plan designation condition that I have recommended is adopted<sup>218</sup> and complied with, the Project will give effect to the Treaty Principle of Kaitiakitanga, and the requirements of RMA s7 (a) regarding kaitiakitanga and RMA s8 regarding the Principles of the Treaty of Waitangi will be satisfied.

## **8.9 RMA s5 – Purpose of the RMA**

The Project will provide transportation and stormwater infrastructure and space for potable water and wastewater infrastructure and network utilities that are necessary to enable development of the Rotokauri and Rotokauri North Structure Plan areas. This will enable people and communities to provide for their social, economic and cultural well-being.

The Specialists have confirmed that it will be possible, via application of appropriate designation conditions, to manage the adverse effects of the Project so that they are no more than minor.

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<sup>217</sup> See s8.6.3 above.

<sup>218</sup> Condition 11 in **Appendix M**.

However, it is unclear whether the Project is consistent in all respects with the purpose and principles of the RMA. The further information listed in s10.2 is needed from the Requiring Authority to enable this assessment to be made.

## 9.0 Conclusions

Provided the construction and operation of the Designation are managed by appropriate designation conditions, the Project will have:

- a. Adverse environmental effects that are no more than minor, and
- b. Significant positive economic, urban design, social, environmental, and cultural effects.<sup>219</sup>

The Requirement is in general accordance with the relevant planning instruments that the NOR considers, except that further information is needed from the Requiring Authority to confirm whether:

- a. This includes compliance with planning provisions requiring management of the effects of climate change and flooding hazard, including those set out in **Appendix O**, and
- b. The Requirement is consistent with additional relevant planning provisions listed in **Appendix L** that the Requiring Authority did not consider in the NOR.

The NOR includes an adequate consideration of alternatives, except that it does not include an assessment of the effects of the chosen option for providing alternative access to the property at 40 Te Kowhai Road on the continued operation of the existing businesses on that property. Further information is needed from the Requiring Authority on this matter.

The works and designation are reasonably necessary to achieve the Requiring Authority's objectives for which the Designation is sought.

## 10.0 Recommendations

### 10.1 Recommended modifications to the Requirement

- a. Make the Designation subject to the Recommended Designation Conditions set out in **Appendix M** for the reasons set out in **Appendix N**.
- b. Update the land requirement plans in NOR Appendix A and the concept design, roading, and stormwater drawings in NOR Appendix B, as necessary, to:
  - i. Align with:
    - A. The wetlands' concept design that is already consented through the fast-track process and which will be relied on to mitigate effects of the proposed roading works,<sup>220</sup> and

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<sup>219</sup> See s8.2 b.

<sup>220</sup> See **Appendix D**, paras 14a, 16, 54, 55, and 82.

- B. Any confirmed detailed design completed for any part of the Project, and
- C. The commissioner's decisions on the Requirement.
- ii. Show where connections will be provided between the pedestrian and cycle facilities within the transport corridors and such facilities within the Rotokauri Greenway designation.
- iii. Show that a culvert is to be installed under Burbush Road just north of 27 Burbush Road to mitigate the potential for flooding on this property.<sup>221</sup>
- c. To improve clarity and respond to submitter concerns:
  - i. Add the following note to Drawings 4288564-200-CA-2401 to 4288564-200-CA-2405:

“Indicative future wetlands” means an indicative stormwater storage or treatment device required for a property. The landowner will determine its required size, design, and location and obtain the necessary consents for its construction and operation.
  - ii. Add the following note to Drawings 4288564-200-CA-2601 to 4288564-200-CA-2604 and Drawings 4288564-CA-2701 to 4288564-CA-2707:

“Potential future wetlands” means an indicative stormwater storage or treatment device required for a property. The landowner will determine its required size, design, and location and obtain the necessary consents for its construction and operation.
- d. Append the updated land requirement and concept drawings to the adopted designation conditions to improve clarity, certainty, and the efficiency of designation administration.

## 10.2 Further information required

To demonstrate that there is no impediment to confirming the Requirement, I recommend that the Requiring Authority demonstrates in primary evidence that:

- a. The alternative access proposed for the property at 40 Te Kowhai Road East will enable the continued operation of the businesses currently located on that property. This could potentially include providing a site plan overlaid with turning curves for the types of vehicles that currently access the property, to demonstrate that all parts of the property that are currently accessible from the existing accesses will be accessible from the proposed alternative access, and
- b. Adequate consideration has been given to managing the effects of climate change and the risks of flooding and the Requirement is consistent with the planning provisions in **Appendix O**, and that no areas will become inaccessible to normal vehicles, pedestrians, cyclists, or micro-mobility users because of overland flow or ponding on the Designation during the 1 in 100-years flood event, and
- c. The Requirement is consistent with the additional statutory requirements listed in **Appendix L**.

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<sup>221</sup> See **Appendix D**, paras 31, 32, 66 - 69, 83.

### 10.3 Additional Matters for the Requiring Authority to address in Primary Evidence

I recommend that the Requiring Authority also addresses the following matters in its primary evidence to confirm whether any other modifications to the Requirement are required:

- a. The land requirement and access provisions for Submitter 4's property.<sup>222</sup>
- b. The factors that have influenced the extent of the land requirement affecting the property owned by Te Rapa Gateway Ltd (Submission 6).<sup>223</sup>
- c. That the Designation does not preclude future provision of collector transport corridors and their connection to the minor arterial, as shown in the relevant structure plan.<sup>224</sup>
- d. The proposed access provisions for Submitter 9's property.<sup>225</sup>
- e. Explain the limitations that mean the overland flow path between the Greenway and the Mangaheka Stream cannot be accommodated within the road corridor<sup>226</sup>.
- f. The status and interpretation of condition 42f of the Greenway (Designation A114) Conditions which relates to an overland flow path from the Greenway to Mangaheka Stream which is a matter raised in Submission 12<sup>227</sup>.
- g. Whether further investigation of a suspected farm dump and/or waste/burn pile area located within HAIL Site 12 would be prudent to inform whether there is merit in modifying the designation route slightly to avoid potentially problematic and costly construction through the area<sup>228</sup>.

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<sup>222</sup> See **Appendix C**, paras 65 to 68.

<sup>223</sup> See **Appendix C**, paras 74, 75, and 77 a.

<sup>224</sup> See **Appendix C**, paras 80 and 87 a.

<sup>225</sup> See **Appendix C**, para 94 b.

<sup>226</sup> See **Appendix D**, paras 48 - 50 and 87 a.

<sup>227</sup> See **Appendix D**, paras 48, 51 and 87 b.

<sup>228</sup> See **Appendix G**, paras