

**HAMILTON CITY COUNCIL
WAIKATO DISTRICT COUNCIL**

**REQUIREMENTS FOR
A DESIGNATION OF LAND FOR ROAD
(EASTERN ARTERIAL ROAD) BETWEEN
COBHAM DRIVE AND WAIRERE
DRIVE/CROSBY ROAD HAMILTON**

**RECOMMENDATIONS OF
HEARINGS COMMISSIONER ON REQUIREMENTS**

**C D Arcus
Barrister
HAMILTON**

INDEX

| | | |
|------------|--|-----------|
| 1. | INTRODUCTION | 2 |
| 2. | PRELIMINARY ISSUES | 8 |
| 3. | STATUTORY FRAMEWORK | 10 |
| 4. | PLANNING INSTRUMENTS | 16 |
| 5. | EFFECTS | 19 |
| 6. | OTHER MATTERS | 31 |
| 7. | CONCLUSION | 34 |
| 8. | RECOMMENDATION TO HAMILTON CITY COUNCIL | 35 |
| 9. | CONDITIONS ATTACHING TO THE DESIGNATION IN HAMILTON CITY | 37 |
| 10. | RECOMMENDATION BY WAIKATO DISTRICT COUNCIL TO HAMILTON CITY COUNCIL | 54 |
| 11. | CONDITIONS ATTACHING TO THE DESIGNATION IN WAIKATO DISTRICT | 56 |

**HAMILTON CITY COUNCIL
WAIKATO DISTRICT COUNCIL
Requirements For
(Eastern Arterial Road) Between Cobham Drive And Wairere
Drive/Crosby Road Hamilton**

1. INTRODUCTION

1.1 Appointment

Section 34(3) of the Resource Management Act 1991 allows a local authority to delegate to a Hearings Commissioner or Commissioners any of its functions, powers, or duties, including the power to hear and recommend matters which effect a change to a district plan.

Both Hamilton City Council and Waikato District Council would ordinarily hear and determine a requirement for a public work within their respective territorial jurisdictions. However, in this case there is a conflict of interest as far as Hamilton City Council is concerned resulting from the Hamilton City Council being itself the requiring authority.

To ensure that the matter was considered independently, Hamilton City Council exercised its power of delegation to appoint me as a Hearings Commissioner to hear the requirement and submissions and make a recommendation back to the Hamilton City Council.

In addition Mr Murray Kivell, Planner and Director of Environmental Management Services Ltd, Hamilton was engaged as an independent planner to assist the Commissioner (in place of Council staff). Hamilton City Council as consent authority has therefore been completely removed from this hearing and recommendation process.

With the Hamilton City Council having set up an independent process, Waikato District Council, in the interests of an efficient hearing process, elected to appoint both Mr Kivell and I to assume the same roles for it.

The Council resolutions appointing me as Commissioner both authorised me to hear and recommend (not hear and determine). Accordingly this is:

- A recommendation to Hamilton City Council as combined consent authority and requiring authority in respect of that part of the NoR within Hamilton City; and
- A recommendation on behalf of Waikato District Council to Hamilton City Council as requiring authority in respect of that part of the NoR within Waikato District.

1.2 Council's Options

I set out the statutory basis for Hamilton City Council's options in section 3.10 following. Sufficient to say here that although this is only a recommendation of the Commissioner and not a determination, as a matter of law, Hamilton City Council has only three options:

- (a) Adopt the recommendation
- (b) Refer it back to the Commissioner
- (c) Rehear the whole matter itself

It is not open to a Council on its own initiative to amend the recommendation unless that was achieved by either option (b) or option (c) above.

1.3 Notice of Requirements

This recommendation is in respect of Notice of Requirements ("NoRs") prepared by Hamilton City Council ("HCC") in its capacity as a requiring authority for a designation for a new road (Eastern Hamilton Arterial) between Cobham Drive to the South and Wairere Drive/Crosby Road link to the north and associated connecting roads as shown on the designation plans. The entire road alignment is approximately 6km long, and is proposed to incorporate a two lane road between Cobham Drive and Ruakura Road (with a separate two lane service road to provide access for properties on the west side of Dey Street) and four lanes north of Ruakura Road.

The NoRs record that the

"The work will provide a safe and free-flowing eastern arterial transport corridor that forms part of an integrated and efficient city arterial ring road for all the travel modes in accordance with the Council's transport network objectives set out in the Hamilton City Proposed District Plan and Hamilton's transport strategy (Access Hamilton).

The designation is necessary to protect the land for the proposed work from development which could compromise the proposed road alignment and to provide statutory authorisation for the work.

The designation in the Hamilton City Proposed District Plan gives the public a clear indication of the intended use of the land.”

1.4 **Form of this Recommendation**

Because there are two Notices of Requirement, one for each Council, there needs to be two separate recommendations. In the interests of efficiency, I have chosen in this instance to consider the whole proposal in one decision with two recommendations at the end. In adopting that course I take into consideration:

- although the statutory criteria for each council are set out in different sections (see Section 3 below) the criteria are the same;
- of the total length of the proposed arterial road of some 6km, only some 300m of it is within jurisdiction of the Waikato District Council;
- the design considerations have been applied in respect of the whole arterial within both territorial jurisdictions; and
- a separate full decision for Waikato District is not warranted.

1.5 **Notification**

The Notices of Requirement were lodged with the Councils in March 2006 accompanied by an Assessment of Environmental Effects ("the AEE"). Councils publicly notified the intention to designate the land for the work 5th April 2006 and the submission period closed on 8th May 2006.

1.6 **Submissions**

Although there are two requirements involved in this proposal (one to each Council) both Councils took a sensible and pragmatic approach to submissions and regarded all submissions as submissions to both NoRs. During the public notification period 46 valid submissions and four late submissions were received.

Many submissions were not opposed to the designations but had reservations expressed over the detail of the final engineering design of the Proposed Route.

1.7 Hearing

I conducted a hearing in the Hamilton City Council Chambers on 14 and 15 August and 4 September 2006. The following parties appeared:

a) Applicant

| | |
|-----------------------|--|
| Mr Phil Lang: | Counsel for the Applicant |
| Mr Andrew Parsons: | Network Development Manager, Hamilton City Council |
| Mr Norman Robbins: | Traffic Engineer, Maunsell Limited |
| Mr Robert Aves: | Civil/Environmental Engineer, and Principal, Maunsell Limited |
| Mr Scott King: | Civil Engineer, Maunsell Limited |
| Mr Gavin Fisher: | Air Quality Scientist, Endpoint Limited |
| Mr Malcolm Hunt: | Acoustic Consultant, Malcolm Hunt Associates |
| Mr Brad Coombes: | Landscape Architect, Isthmus Group Limited |
| Ms Gillian Cockerell: | Planning Consultant, C & M Planning Limited |

b) Submitters

| | |
|---|--|
| Cycle Action Waikato: | Mr Rob Davidson |
| Eastside Apostolic Church: | Mr Ray Picket |
| Mr John Edwards: | Resident |
| Housing New Zealand: | Ms Christine Chong, Planner |
| | Mr Christopher Hansen: Senior Resource Management Planner, Tonkin Taylor, Wellington |
| Mr Desmond Hill: | Resident |
| Inghams Enterprises Ltd | Ms Joan Forret Counsel |
| Ms Therese James: | Resident |
| Mr Richard Johnston: | Resident |
| Kirikiroa Marae: | Ms Te Rangi Martell |
| Ms Jeanette Reynolds: | Resident |
| Ms Margaret Southgate: | Resident |
| Tainui Developments Ltd: | Mr Nathan York |
| TransPower: | Ms Jana Bosseva, Consultant, Burton Consultants Limited |
| Waikato Raupatu Trustee Company Limited: | Mr Richard Cocks |

c) *Reporting Officer*

| | |
|--|--|
| Mr Murray Kivell: | Planning Consultant, Environmental Management Services Limited |
| Mr Nick Oliver: | Traffic Engineer, MWH Limited |
| Mr Keith Ballagh: | Acoustics Engineer, Marshall Day Acoustics Limited |
| Mr Chris Bentley) Mr Peter Kensington) | Landscape Architects, Boffa Miskell, Auckland. |
| Mr David Riddell: | Ecologist, Gerry Kessels and Associates Ltd, Hamilton |

1.8 **Site Visit**

Prior to the hearing commencing I undertook a locality orientation visit to familiarise myself generally with the proposed route and gain an appreciation of the key elements so that I could better understand the evidence as it unfolded before me.

At the conclusion of the hearing I undertook a full site visit accompanied by Messrs Kivell and Parsons and Mrs Southgate. I viewed the proposed alignment from every available existing crossing point of it and was able to see the nature and scale of the surrounding development.

1.9 **Definitions**

In this recommendation I use the following terms:

| | |
|------------------------|---|
| AEE | Assessment of Environmental Effects. |
| HCC | Hamilton City Council in its capacity as Requiring Authority. |
| Proposed Route | The proposed Hamilton Eastern arterial. |
| Hamilton City Council | Hamilton City Council in its capacity as consent authority |
| Hamilton Proposed Plan | Hamilton City Council Proposed District Plan. |
| NoR | Notice of Requirement. |
| RMA | Resource Management Act 1991 and its amendments |

| | |
|-------------------|---|
| WDC | Waikato District Council in its capacity as consent authority |
| WDC Plan | Operative District Plan of the Waikato District Council |
| WDC Proposed Plan | Proposed District Plan of the Waikato District Council |

2. PRELIMINARY ISSUES

2.1 Issues

From the written submissions and during the course of the hearing, two issues arose which I need to deal with at the outset

- Late submissions; and
- Land Acquisition/Compensation.

2.2 Late Submissions

Four submissions were late:

- A and A Lee;
- Board of Trustees of Insoll Avenue School;
- Hamilton Light Horse Club;
- S Tunnecliffe and L Binfield

None of these submitters appeared and no request for a waiver was made. I make no order under RMA s37.

2.3 Land ownership/Land Acquisition/Compensation

It was clear from several submissions that at least part of the focus of some submitters was on issues of land acquisition and compensation.

The submission by Mr Cocks for the Waikato Raupatu Trustee Company Limited asserted Crown reversionary interests in parts of the Hamilton East town belt. He referred to s13 of the Waikato Raupatu Claims Settlement Act 1995 requiring certificates of title to be noted.

Tainui Group Holdings Limited in its submission made express reference to:

- rezoning severance land at Ruakura Road;
- valuation methodology; and
- rights of first refusal.

In any designation proposal there are two statutory procedures:

- (a) The RMA procedure which is set up to determine whether as a matter of resource management law and planning the requirement should be allowed.

- (b) If the requirement is imposed, then the Public Works Act 1981 is set up to deal with the resulting land acquisition and compensation issues. That will also bring into sharp focus associated issues of land ownership, severance titles and the ultimate ownership of them.

My jurisdiction is under the Resource Management Act and not under the Public Works Act 1981. Accordingly, I cannot and will not deal with land ownership, land acquisition and compensation issues as part of these present proceedings.

3. STATUTORY FRAMEWORK

3.1 Formalities

Pursuant to RMA s166 HCC being a local authority has the status of a requiring authority for the purposes of the Act.

RMA s168 provides power for a requiring authority to seek a designation from the Territorial Local Authority having jurisdiction for the area.

RMA s168A provides a separate power for local authorities to issue a notice of requirement of designation within its district and for which it has financial responsibility.

The evidence put before me satisfies me that HCC has accepted financial responsibility for the entire road. I accept that HCC is entitled to lodge the notices of requirement for designation as it did.

The form and content of the notices of requirement lodged under RMA ss 168 and 168A are set out in the prescribed form. There was no challenge either evident in the written submissions or placed before me in evidence about the formal content of HCC's notice of requirement.

I accept that the notices are appropriate in form and substance.

3.2 Criteria

The criteria for consideration of the NoRs are under two separate sections of RMA (ss168A and 171) but those two sections in fact require consideration of the same criteria.

RMA s168A (3) sets out the matters for consideration of the Hamilton City Council requirement. It provides:

- (3) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to-*
- (a) any relevant provisions of-*
 - (i) ...:*
 - (ii) ...:*
 - (iii) a regional policy statement or proposed regional policy statement:*
 - (iv) a plan or proposed plan; and*

- (b) *whether adequate consideration has been given to alternative sites, ..., or methods of undertaking the work if-*
 - (i) *the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
 - (ii) *...; and*
- (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
- (d) *any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement.*

RMA s171 contains the identical provisions.

The essential matters for consideration are accordingly:

- (a) Part II
- (b) Effects on the Environment
- (c) Planning instruments in the form of the Regional Policy Statement, the Transitional Plan or Proposed Plan.
- (d) Alternative sites or methods.
- (e) Reasonably necessary.
- (f) Any other matter.

These are addressed as follows:

3.3 **Part II**

- (a) Section 5

The case for HCC was that the proposal meets the provisions of Section 5 as it relates to the sustainable management of natural and physical resources

I am satisfied that the proposal will provide for the reasonable foreseeable transport needs of the wider Hamilton community. To that extent, it enables people and communities to provide for their social and cultural wellbeing and for their health and safety.

(b) RMA Section 6

Mr Kivell expressed the view, supported by Ms Cockerell that apart from Maori considerations (which I deal with below) there are no matters of national importance under Section 6. I accept that.

(c) RMA Section 7

I consider that the provisions of

- (i) Section 7 (c) - the Maintenance and Enhancement of Amenity Values; and
- (ii) Section 7(f) – Maintenance and Enhancement of the Quality of the Environment

may be applicable. I address these under Effects in Section 5 following.

(d) RMA Section 8

I note that Nga Mana Toopu O Kirikiriroa (NAMTOK) provided a report to HCC. In it NAMTOK did not oppose the proposal in principal but it did seek a number of measures to be implemented in the project. HCC indicated that for its part, it accepted NAMTOK's recommendations and invited conditions accordingly.

I accept that the Maori provisions of Part II are satisfied.

3.4 Effects on the Environment

I consider this in Section 5.

3.5 Planning Instruments

These are considered in Section 4.

3.6 Reasonably Necessary

In the earlier version of the relevant RMA section there did appear to be some divergence in case law as to whether what is reasonably necessary is:

- The mechanics of a designation; or
- The work or project itself.

The 2005 RMA Amendment Act clarified the matter and confirmed that I am to consider both.

The objectives of the proposal were clearly enunciated by Mr Parsons for HCC. They were not contested.

Mr Parsons also addressed the methodology of designation being used and the reasons for the use of it.

I accept that the designation is reasonably necessary (as to both the mechanics of the designation and the work or project itself) to achieve the objectives of the project for which the designation is sought.

3.7 **Alternative Sites or Methods**

Mr Parsons for HCC provided clear evidence (which was uncontested) that the Hamilton Eastern Arterial has existed in various forms for a number of not years but decades. He referred to:

- (a) A1962 Ministerial requirement for “*motorway purposes*”;
- (b) The 1969 Hamilton Transportation Study;
- (c) The Hamilton Arterial Roding Study (HARS) 1990
- (d) The lapse of the then designation;
- (e) The Hamilton Urban Growth Study allocating further land for future growth confirmed by;
- (f) The 2005 Hamilton Urban Growth Strategy;
- (g) The Strategic Agreement between Hamilton City Council and WDC on future urban boundaries;
- (h) Transit’s Waikato Expressway.

Details of the various options considered prior to the NoR being lodged were set in some detail out in Section 4 of the AEE.

I am satisfied that adequate consideration was given to alternative sites.

3.8 **Any Other Matter**

There are several issues which could arise under this head. I consider them in Section 7.

3.9 **Position of Hamilton City Council**

The normal procedure for a designation is that a requiring authority gives notice to a territorial authority. The territorial authority then goes through the process of public notification, submission, a hearing, then a recommendation back to the requiring authority. The requiring authority then makes the ultimate decision against which appeals are lodged. It is competent for the territorial authority to be an appellant in that situation. That is the procedure in respect of the NoR over the Proposed Route within the WDC jurisdiction.

S168A specifically provides for the situation where the requiring authority is itself the territorial authority.

The decision making power in RMA s168A(4) is that:

“The territorial authority may decide to ...”

whereas the usual position under RMA s171 is that:

“The territorial authority may recommend to the requiring authority that ...”

I read s168A as combining into one the usual two-step process between the territorial authority and the requiring authority so that under s168A the territorial authority makes only one decision both as territorial authority and requiring authority. The provisions of s168A that are inserted by the 2003 Amendment Act clarify the previous statutory position.

3.10 **Options as Commissioner**

RMA s168A(4) provides

- (4) *The territorial authority may decide to-*
 - (a) *confirm the requirement:*
 - (b) *modify the requirement:*
 - (c) *impose conditions:*
 - (d) *withdraw the requirement.*

RMA s 171(2) provides the same options in respect of the NoR within WDC.

Accordingly, I have the same options. In respect of the NoR within Hamilton City, my decision is confined to a recommendation not because that is the procedure required of the designation, but rather because the delegation to me is so limited.

4. PLANNING INSTRUMENTS

4.1 Relevant Instruments

From the notice, submissions and hearing process, it is clear that there are a number of instruments which I must address:

- Hamilton City Council
 - Transitional Plan
 - Proposed Plan
- Waikato District Council
 - Operative Plan
 - Proposed Plan
- Waikato Regional Council
 - Regional Policy Statement
 - Proposed Regional Plan
 - Land Transport Strategy

I consider these in turn.

4.2 Weighting of the Plans

(a) Hamilton City Council.

The Hamilton Proposed Plan has reached the point where submissions and cross submissions have been heard, decisions issued, references lodged to the Environment Court and most references are now dealt with.

I was told during the course of the hearing that all matters relating to the issues before me were beyond challenge. RMA s19 therefore applies in respect any applicable rule. I note that s19 applies only to rules and not necessarily to objectives and policies. I therefore cannot totally dismiss the Hamilton Transitional Plan.

Both expert planners who appeared before me, Mr Kivell and Ms Cockerell considered that the Hamilton Proposed Plan is the predominant planning instrument. I agree. The Proposed Plan is the predominant statutory planning document and the one on which I substantially rely. I note that the Transitional Plan is now an extremely dated document. It was first publicly notified in the late 1980's and became operative in December 1992. Little, if any, weight need be accorded to the Transitional Plan.

(b) Waikato District Council

WDC has an operative district plan (1997). A proposed district plan was notified in September 2004. It has reached the position where submissions and cross submissions have been lodged and heard, but Council decisions are yet to issue. I understand that will occur in a month or so. I understand that a number of substantive issues were raised in the submissions. It is therefore very difficult to say with any certainty what the Proposed Plan may or may not contain.

Both planning experts Mr Kivell and Ms Cockerell considered that I should accord greater weight to the WDC Operative Plan, compared with the WDC Proposed Plan.

I agree.

4.3 **Hamilton City Council Proposed Plan**

Objectives

The AEE set out in Appendix H a number of objectives and policies which are relevant to this designation.

Mr Kivell drew my attention to a number of relevant objectives and policies of the Proposed Plan, in particular

- Objective 3.4.1 - *Air Quality*
- Objective 4.1.2 - *Sustainable New Growth*
- Objective 4.2.1 - *Transport Network*
- Objective 4.2.2 - *Access*
- Objective 4.2.4 - *Impacts on the Transport Network*
- Objective 5.1.2 - *Character and Amenity Values*
- Objective 5.1.3 - *Non-Residential Activities*
- Objective 7.4.3 – *Transport Noise*

Ms Cockerell concurred with Mr Kivell that the proposed designation is generally consistent with district objectives and policies.

I have considered those objectives and policies and I consider the proposed designation is entirely consistent with them.

4.4 **WDC Operative Plan**

Mr Kivell considered there are wide ranging policies that can influence the assessment of the merits of the designation proposal before me, but drew my attention in particular to:

- Objective 36.1 – *Land Transport Objectives*; and
- Objective 48 – *Noise Objectives*.

Ms Cockerell concurred with Mr Kivell that the proposed designation is generally consistent with district objectives and policies.

I have considered those objectives and policies and I consider the proposed designation is entirely consistent with them.

4.5 **Regional Planning Instruments**

There are two regional planning instruments which are relevant to the NoR:

(a) **Regional Policy Statement**

The AEE set out in Appendix H a number of objectives and policies that are relevant to this designation. Mr Kivell drew my attention, in particular, to Section 3.6 – *Air Quality*.

Ms Cockerell drew my attention to the policies on infrastructure.

(b) **Proposed Waikato Regional Plan**

Any resource consents required pursuant to the Proposed Waikato Regional Plan will be sought at the detailed design stage of the project. I take the Proposed Regional Plan no further.

The evidence of Mr Kivell and Ms Cockerell was that the proposed designations are consistent with the Regional planning instruments.

I consider that to the extent that the proposed designations raise regional issues, the designations are not inconsistent with the regional policy statement. Any matters under the control of the regional plan will be dealt with at detailed design stage.

4.6 **Conclusion on Planning Instruments.**

The proposed designations are not inconsistent with any of the relevant planning instruments. They are positively in accordance with some of them.

5. EFFECTS

5.1 Scope

The AEE identified the potential effects as being:

- Traffic Effects
- Property Effects
- Construction Effects
- Effects on Archaeological Sites
- Effects on Tangata Whenua interests.
- Impact on Air Quality
- Storm water (Post Construction)
- Landscape/Visual Effects
- Ecological Effects
- Traffic Noise Effects
- Community Severance Effects

By the time the matter was put before me at the hearing, the primary effects which were being raised by the submitters were:

- Traffic effects
- Traffic noise effects
- Community Severance Effects

I will deal with these three effects first and then with the other effects as well as the effects on Transpower's infrastructure.

5.2 Traffic Effects

In the AEE the traffic effects were identified as:

- Congestion
- Safety
- Accessibility
- Vibration

I deal with vibration as a separate matter in Section 5.14 below.

I am in no doubt that the effects relating to congestion and safety will only be positive with the proposed new route. There was no serious suggestion otherwise (except in the detail of some of the intersections). By the time of the hearing access to properties no longer appeared to be a significant issue. Mrs James at 11 Powells Road, however did raise a concern about how she would access her property under the new regime. The traffic engineers did not see this as being a significant problem. I am confident that access to Mrs James' property can be ensured.

The most focus at the hearing was the traffic configuration of individual intersections. The one causing particular concern was the proposed intersection at East Street. The configuration shown in the NOR plans was for a "T" intersection at East Street connecting the arterial route with East Street east, but not East Street east. Furthermore, the traffic configuration was left turn in left turn out of East Street.

A number of submitters requested that access be made from the arterial route to East Street west of the arterial route. However, both Mr Robins for HCC and Mr Oliver for the consent authority were firmly opposed to that suggestion, primarily on the grounds that the current intersection of East Street and Peachgrove Road is unsatisfactory and any increase in traffic on that intersection will compound the current difficulties. The accident record on that intersection is currently not good.

The Eastside Apostolic Church were particularly concerned, because a significant number of its members come to church and its associated activities from west of the church. That access at the moment is along East Street. Furthermore, the evidence from the church was that it has relatively large attendances of between 1000 to 1500 per week.

However, when questioned at the hearing Mr Pickett, for the church, had not appreciated the alternative configuration with access to the arterial route at both Ruakura Road and Fifth Avenue, which would appear to make access to the church just as easy as it is now. Indeed, probably better without having to traverse the East Street/Peachgrove Road intersection.

At the end of the hearing HCC was prepared to accept the possibility of a signal controlled "T" intersection at East Street.

Either way, I consider that the proposal does not detract from the accessibility of the Eastside Apostolic Church.

Inghams also appeared. It understood the proposed traffic configuration. It requested that the roundabouts at either end of that particular section of the proposed route be designed to comfortably accommodate the turning circle of the large trucks, which would be attending the Ingham site. HCC indicated it would be designing to “Best Practice”. That will ensure that the roundabouts have an appropriate radius which in turn will accommodate Inghams concerns.

I was impressed with the evidence of Mr Rob Davidson for Cycle Action Waikato (CAW). Mr Davidson had taken the trouble to consider each of the proposed intersections from the point of view of a cyclist and made, what appeared to me, sensible comments in each case.

My primary task is to consider protecting the route, rather than enter into detailed design of each intersection. However, at the same time, I must be sure that the kinds of matters raised by CAW can be accommodated. In that respect:

- Mr Davidson thought that land additional to the NoR footprint may be needed to accommodate the proposed cycleways. Walkways and cycleways are permitted in adjacent land so that the designation does not have to be increased on that account. In any event, I have no jurisdiction to increase the footprint.
- Mr Oliver, for the consent authority, commented to me that the matters sought by Mr Davidson were no more than “Best Practice”. Best Practice was referred to a number of times during the hearing. I consider that a condition requiring the design to be “Best Practice” standard at the time of design will be sufficient to accommodate the requests of CAW.

5.3 **Traffic Noise Effects**

Mr Malcolm Hunt a Wellington based environmental noise consultant and the principal of Malcolm Hunt Associates, was engaged by the requiring authority to consider noise issues. He provided a report as part of the AEE. In addition, he gave evidence on noise at the hearing.

Mr Keith Ballagh of Marshall Day & Associates was engaged by the consent authority to peer review Mr Hunt’s findings. Although there were some initial differences of opinion, by the time of the hearing the two noise experts had conferred and there was a very substantial degree of agreement.

It was common ground that the design and layout of the proposed route will necessarily introduce significant “new” noise into existing residential areas. The fact that there will be new noise is not necessarily of itself a major issue. Rather the issue for me to consider is whether that new noise complies with the relevant standards.

There are two standards which were addressed by “Transit New Zealand’s draft Guidelines for the Management of Road Traffic Noise – State Highway Improvements” 1994 now incorporated into Transit NZ’s Planning Policy Manual dated December 1999; and Hamilton City Council Proposed Plan provisions.

Both noise experts confirmed that the project is capable of fully complying with the Transit traffic noise guidelines. Although the Transit guidelines were developed to assist procedures under the Resource Management Act by defining “design limits” beyond which it is stated significant adverse noise effects may occur the guidelines are not applicable to roads which are not state highways.

I see this standard as a useful, but not mandatory guideline.

Rule 5.1.1(h) of the Hamilton City Proposed Plan contains provisions relating to new arterial roads. The rule provides:

New major or minor arterial roads which adjoin the Residential Zone of Future Urban Zone shall be designed and constructed to meet the following noise standard at a point 3 metres within the boundary of any adjoining site and at a point up to 2.8m above ground level:

- *Any new major or minor arterial road (constructed after October 30 1999) where frontage access is limited or restricted – 60dBA L10 (18 hours)*
- *Other new major or minor arterial roads (constructed after October 30 1999) – 65 dBA L10 (18 hours).*

The element of this rule which became an issue was the height at which the noise standard should be measured. The rule provides the measurement at 2.8 metres. Mr Hunt regarded that height as being unusual, inconsistent with the policies, and as a result highly restrictive.

Mr Lang for HCC drew my attention to the objectives of the Proposed Plan. Those objectives make it clear that:

- The road developer and operator are responsible for the level of noise received at ground floor habitable rooms.
- The responsibility for new upper level rooms is the responsibility of anyone constructing those rooms.

Mr Lang referred to the “mismatch” between the objectives and the rule.

I am conscious that the rule has been the subject of a relatively recent Environment Court consent order and therefore represents a recently considered position by Hamilton City Council and interested parties. In the addendum statement of evidence given by Mr Ballagh at the hearing, he provided a detailed consideration of:

- The rule
- The intent of the rule
- The effect of the rule

He helpfully provided a table showing the “acoustic shadow” formed by any acoustic barrier. He concluded that the “assessment height” of 2.8 metres used in Rule 5.1.1(i) will provide a greater acoustic protection than intended and will lead to significantly higher acoustic barriers and increased visual effects. He agreed with Mr Hunt that an assessment height of 1.8 metres would give the average protection intended for the dwelling to ensure that the internal noise level is acceptable.

Because the rule had so recently been promulgated and adopted, I was initially reluctant to see it modified. However, having considered in detail the evidence of two qualified and appropriately experienced noise experts, I accept that the appropriate assessment height is 1.8 metres. No technical evidence regarding noise was advanced by any submitter. The evidence of both Mr Hunt and Mr Ballagh was therefore uncontested.

It was common ground that with that assessment height the proposal can comply. Conditions can be imposed to ensure that that occurs.

Mr Ballagh suggested that I should consider protecting recreational space from noise effects on the grounds that noise from traffic would be at quite high levels within a 20 metre wide strip of land immediately adjacent to the route. This applies from the eastern side of Dey Street.

I note that the District Plan rules offer protection only to residential activity and not recreational activity. To enable me to consider the matter in more detail, I sought and obtained a copy of the Operative Sports Park Management Plan (September 2004). That is the operative management plan for the East Town Belt south of Ruakura Road and includes Marist Park, Lugton Park, Clyde Park, Hillcrest Stadium and Flynn Park.

Having perused that plan it is clear that the activities which are likely to be immediately adjacent to the proposed route are:

- Organised sport fields
- Passive open space surrounding organised sports fields

Those activities are not as noise sensitive as residential activities. I note that there are a number of organised sports fields adjacent to existing arterial routes within the city.

I see no necessity to protect existing recreational facilities beyond what might be achieved in the course of an appropriate landscape design.

5.4 **Community Severance Effects**

(a) North of East Street.

To the north of East Street the proposed route traverses firstly farm land and then a very obvious corridor to the east of Tramway Road which has been held for the purpose for many years. That corridor is currently in pasture with residential development either side. In that respect development in the locality has already been completed recognising the possibility of the existence of an arterial route such as now proposed.

The proposal provides in my view adequate road crossing points of the arterial route. I am satisfied that community severance effects in the area north of East Street area are less than minor.

(b) East Street

The submission of the Eastside Apostolic Church addressed what could be described as a community severance effects although the focus was more on the configuration of the intersection of the arterial route with East Street. I deal with that under traffic effects.

(c) South of Ruakura Road

It is south of Ruakura Road where community severance effects are more likely. In that section of the route the proposed arterial road is running parallel to the east town belt. In that area there is clearly a relationship between the residential development (some of which is high density) in Hamilton East to the west of the proposed route and the educational, commercial and recreational facilities to the east of the proposed route.

The submitter Mrs Southgate particularly drew my attention to a series of current informal crossing points being used by cycle and pedestrian traffic in both directions. The evidence of Mrs Southgate was clearly confirmed in the course of my site visit.

Mr Hansen Senior Resource Management Planner for Housing Corporation of New Zealand was reasonably forceful in suggesting there should be a full community severance assessment. However, I agree with Mr Lang (in reply) that neither the presentation of Mr Hansen nor any other presentation identified potential social issues, other than transportation issues, which might have emerged or been considered if there had been a separate social impact assessment in addition to the community consultation.

There was clear evidence of detailed consultation leading up to the NoR. In the course of that consultation transportation and mobility issues were identified. The consultation process did not indicate individual community concerns over other possible community severance issues.

I consider that with the extent of consultation undertaken prior to the lodgement of the NoR:

- the only community severance issues identified were those relating to crossing the proposed route; and
- there is no need for any other or further community severance assessment.

The present proposal contemplates fully protected crossings of the proposed arterial route at all intersections for both pedestrians and cyclists. In addition there is a pedestrian/cyclist underpass proposed in the vicinity of Henry Street. I note there is an existing walkway/cycleway from Knighton Road to the car park almost opposite the end of Wellington Street. From the evidence of particularly Mrs Southgate and confirmed by my site visit I consider that there appears to be a prima facie case for an additional pedestrian and cyclist crossing point at the east end of Wellington Street. I do not have sufficient evidence to confirm that that is positively so. However, I consider that the requiring authority should at least address that possibility at the time of detail design. A condition can ensure that.

5.5 **Property Effects**

Property effects were listed as potential adverse effects in the AEE. In this particular case almost all of the land directly affected is already in the ownership of HCC. Tainui Development Ltd lodged a submission but when its General Manager, Mr York appeared he told me that the relevant land holder was Tainui Group Holdings Ltd. It is the only other significant land owner apart from HCC directly affected. I was encouraged that Tainui is in direct consultation with HCC. The comments I make in Section 2.3 are applicable. Tainui requested some further conditions, which have been accepted by HCC.

With these conditions in place, there appear to be no other property effects which I need address.

5.6 **Construction Effects**

The main issues about construction are those relating to:

- Dust
- Noise
- Vibration
- Transpower

I deal with vibration in Section 5.14 below and Transpower in Section 5.13 below.

The generation of dust from exposed work areas has the potential to affect adjacent properties. Dust suppression measures are required. This can be achieved by imposing a condition requiring a construction management plan, which inter alia deals with dust.

There will be noise from the use of heavy machinery, trucks, excavators, rollers, etc.

The standards relating to construction noise is NZS 6803:1999 Acoustics Construction Noise. This standard recommends upper limits for level of construction noise received in residential areas.

This issue can also be addressed in an appropriate construction management plan.

I consider that with appropriate conditions the effects from construction will be minor.

5.7 **Archaeological Sites**

There are no recorded archaeological sites. It is possible that modified soils and recorded sites may become evident. The applicant proposed mitigation measures in the conditions to cover that eventuality. I consider that is adequate.

5.8 **Tangata Whenua**

Tangata Whenui have confirmed that there are no significant effects on Tangata Whenua interests. There is a need to address procedures for unearthing any taonga or koiwi during construction works. I consider that a condition is adequate to cover these effects.

5.9 **Effects on Air quality**

In some of the written submissions there was a suggestion that the proposed arterial route would have an adverse effect on air quality.

The requiring authority called Mr Gavin Fisher a nationally recognised authority on air discharges. Mr Fisher expressed his clear and professional opinion that there is no reason to decline the consent on the basis of effects on air quality and no reason to impose any special conditions addressing air quality effects. That evidence was unchallenged. I accepted.

5.10 **Storm Water Effects**

There is no major natural water course in the immediate vicinity of the alignment. HCC will be required to apply for regional council consents where appropriate. I am satisfied that the water effects at worst, are minor.

5.11 **Landscape and Visual Effects**

The proposed designation is a arterial within an urban context. It moves along a route which is essentially flat. The landscape is already highly modified and with further urban development in the immediate locality, particularly at the north end and will become even more so.

The requiring authority engaged Mr Brad Coombs, Senior Landscape Architect of Isthmus Group Limited. He considered the proposal and made recommendations on landscape measures which should be taken.

His conclusion was that:

- *“The proposed ... route achieves a good fit with Hamilton’s urban form...”*;
- *“The effects on most adjacent properties are limited.”*
- *“There will be potentially significant effects on a small number of properties near the proposed railway over-bridge. Effects on these properties can, however be mitigated through specific landscape treatment and screening.”*

He considered the route is appropriate in landscape and visual terms.

The consent authority sought independent landscape advice from Mr Bentley of Boffa Miskell. He considered that the design for the Eastern Arterial Route would make a positive contribution to the city’s landscape and urban form. Mr Bentley accepted the landscape conditions proposed.

There was some disagreement about one item of landscaping, namely the retention of an existing plane tree in Finchley Place. I was advised that that tree is in particularly poor condition and is unlikely to make a good or healthy specimen due to the damage that the crown and roots have suffered in the past. Having inspected the tree in the course of my site visit I accept that evidence. I do not require the tree to be retained.

I consider the landscape and visual effects are at worst minor.

5.12 **Ecological Effects**

This is a highly modified area. I was not advised of any significant remnant native vegetation or habitats directly effected by the alignment. I consider that the effects at worst are minor.

5.13 **Effects on Transpower's Infrastructure**

The proposed route is very close to some of Transpower's utility assets, namely the Hamilton Substation at Ruakura and a number of transmission lines two of which run parallel to the proposed route north of the Hamilton Substation. A submission was lodged by Transpower. To protect Transpower's assets, HCC proposed a condition which required all works or activities in relation to the designation to be designed and undertaken to comply with the Code of Practice for Electrical Safety Distances 2001 (NZECP34:2001).

Transpower considered that the proposed conditions did not go far enough. It wanted the whole of the Standard to be included as a condition. Ms Yana Bosseva of Burton Consultants appeared for Transpower at the hearing in support of that assertion.

In response, HCC suggested that the central elements of the standard be included as an advice note. I consider that that is the appropriate response. I keep in mind that the term sought is 20 years. It would be remarkable if in that time the standard did not change. That may then produce some uncertainty as to the applicable provisions. I consider it is inappropriate to include the standard (as it currently exists) as part of the conditions. Legally it is adequate simply to require compliance of the standard.

On the basis of the conditions proposed by the end of the hearing, I consider that the effects on Transpower's infrastructure at worst are minor.

5.14 **Vibration Effects**

Both the written submissions and at the hearing submitters referred to vibration both from construction and subsequent traffic.

The requiring authority called Mr Robert Aves a civil/geotechnical engineer and a principal of Maunsell Limited. He is experienced in the assessment of potential ground-borne vibrations. Mr Aves considered:

- the general characteristics of ground-borne vibration and effects on buildings;
- potential sources of ground-borne vibration during construction works on the project;
- traffic induced ground-borne vibration when the new road is in service;

- recommended requirements for control and management of ground-borne vibration during construction and operation of the project works.

Mr Aves reported that there are two international standards adopted in New Zealand:

- British Standard BS7385 Part 1:1990 (which is identical to the International Organisation for Standardisation Document ISO 4866:1990;
- German Standard DIN 4150-3:1999-02.

Mr Aves concluded:

“Under most circumstances, ground vibration levels from traffic movement on a well maintained road surface are substantially lower than any guideline levels of concern, at a distance of 20m or more from the vehicle lane. However, in some circumstances, the subsoil characteristics may provide lower than normal damping (or attenuation) of ground-borne vibrations, generating vibration levels at 20m distance that approach or exceed levels with the potential to cause minor damage to buildings. In such circumstances it will be usually sufficient to ensure the road pavement surface is monitored and maintained to a higher standard of smoothness than normal.”

Mr Aves then went on to recommend requirements for control and management of vibration. The requiring authority for its part indicated that it would accept such conditions.

The evidence of Mr Aves was uncontested.

I consider that with the conditions recommended effects from vibration will at worst be minor.

5.15 **Conclusion**

Having considered the effects of the proposal, I consider that where issues need to be addressed to avoid, remedy or mitigate potential adverse effects, these can be addressed through detailed design and, furthermore, conditions which can be imposed now can require that.

6. OTHER MATTERS

6.1 Other Matters

The only other criteria which needs further discussion is whether there are any other matters that I consider reasonably necessary in order to make recommendations on the requirement.

I consider there may be two matters under this head.

- Non Statutory Documents
- Term

I discuss these separately.

6.2 Non-Statutory Documents

In the AEE and in the course of the hearing there was reference to a significant number of non-statutory documents, which nevertheless are of valuable assistance in considering this matter. I refer in particular to:

- (a) The 1969 Hamilton Transportation Study;
- (b) Hamilton Arterial Roading Study (HRS);
- (c) The Hamilton Urban Growth Strategy 1990 (“HUGS”). HUGS included a recommended arterial network dividing the area into suitably sized residential cells that could be served by collector roads and local roads accessing the arterials;
- (d) Hamilton Urban Growth Strategy 2005;
- (c) Land Transport Management Act (“LGMA”) 2002 which requires road controlling authorities to have an integrated approach to land transport management and to exhibit improved social and environment responsibility.
- (d) National Energy Efficiency and Conservation Strategy (“NEECS”).

(e) Regional Land Transport Strategy (“RLTS”).

This strategy identifies with the future land transport needs of the region over the next 10 years. The strategy identifies four primary transport needs being:

- Economic efficiency
- Safety for all
- Environmental sustainability
- Accessibility

Mr Kivell drew my attention to some of the provisions. The designations are positively in accordance with the Regional Transport Strategy.

I note that there is an updated draft provision in the public domain. However, it is not yet had the benefit of the full RMA process and accordingly I attach little weight to it.

From the information and evidence provided to me, I consider that the proposed designation generally meets the policies and strategies of these non-statutory documents

(f) Operative Sports Parks Management Plan (September 2004).

This Plan was helpful to me in understanding the likely recreational activity and development which will occur on the East Town Belt adjacent to the proposed arterial route. I note from that Plan that the only activities proposed are open sports fields. I see no particular reason why they should be protected.

6.3 Term

In the NoR, HCC requested a period of 20 years. The default lapse period under RMA s184 and s184A is 5 years. The requested period is substantially in excess of that.

The fundamental element which appeared to be driving the longer term is that provision cannot be made for the southernmost stage from Ruakura Road to Cobham Drive because that section will not be constructed until the Transit New Zealand eastern bypass is constructed. That will prevent the proposed route from providing an alternative transport route for through traffic.

Furthermore, I was told that Transit does not currently have provision in its ten year programme for the construction of the eastern bypass.

Part of the proposed arterial route goes through Tainui land. For its part, Tainui consider that the designation lapsed period was too long and it ought to be ten years.

That appeared to be consistent with the fact that the first two stages of the road construction, ie from Ruakura Road to Tramway Road and from Tramway Road to Wairere Drive are currently included in the Council's funding provisions for the next ten years under the LTCCP.

In its reply HCC indicated that it had reconsidered its position and it was willing to accept a shorter ten year lapse period for the first stage of the arterial route between Ruakura Road and Fifth Avenue.

It seems to me that the appropriate lapse period would be ten years for the proposed route north of the intersection with Ruakura Road (including that intersection) and 20 years from immediately south of that intersection and Cobham Drive.

Mr Lang gave consideration as to whether I had jurisdiction to make a recommendation with two lapse periods. He pointed to the statutory provision of RMA s184 and 184A which provide that a designation lapses on the expiry of five years after inclusion in the District Plan unless it is given effect to, or extended or the designation specifies a different period. I note that while the statutory provision refers to a period in the singular and does not make express provision for more than one lapse period per designation, at the same time it does not expressly prohibit such a specification.

I take the view that I have the jurisdiction to impose two lapse periods for different sections of the proposed arterial route. I consider there are two grounds for that view:

- If the legislation allows a different period (other than 5 years) to be specified, clearly there is a discretion on the term of the lapse period. Empowered by such a discretion, it would be extraordinary if I did not also have the discretion to recommend more than one lapse period for different parts of the proposed route if that were the appropriate discretion to exercise;
- As Mr Lang points out it would have been open to me under the powers of s168A(4) and s171(2) to modify the designation by splitting it into two and then providing for one lapse period for each. I regard that as contrived and unnecessary.

7. CONCLUSION

7.1 Criteria

I have recorded in Section 3.3 of this recommendation the criteria which I must address as follows:

- (a) Part II
- (b) Effects on the Environment
- (c) Planning instruments in the form of the Regional Policy Statement and the Transitional Plan and the Proposed Plan.
- (d) Alternative sites or methods.
- (e) Reasonably necessary.
- (f) Any other matter.

7.2 Part II

I have dealt with Part II in Section 3.4.

7.3 Effects on the Environment

I have dealt with the effects on the environment in Section 5

7.4 Planning Instruments

I have set out the provisions of the relevant planning instruments and my conclusions in Section 4

7.5 Alternatives

I have addressed this in Section 3.8.

7.6 Necessity

I have addressed this in Section 3.7

7.7 Other Matters

I have addressed these in Section 6.

7.8 Conclusion

I accept that the designated route has been a proposal long held by HCC. There are good reasons why it should now be protected. I consider the requirement should be confirmed but with conditions imposed.

8. RECOMMENDATION
to
HAMILTON CITY COUNCIL

Having had regard to the provisions of the Resource Management Act 1991 and in particular Part II and Part VIII thereof; and

Having considered the effects on the environment of allowing the requirement; and

Having had particular regard to the provisions of all the relevant planning instruments, alternative sites or methods, whether the designation is reasonably necessary, and any other matter reasonably necessary in order to make a recommendation on the requirement; and

Having considered the evidence of the Requiring Authority, the submissions and the evidence tendered in support of those submissions, and the independent planning report; and

Acting under a delegation from the Hamilton City Council to hear and make a recommendation to it on that part of the Requirement in its jurisdiction; and

Acting under a delegation from the Waikato District Council to hear and make a recommendation to it on that part of the Requirement in its jurisdiction; and

For the reasons set out in the text of this recommendation,

I recommend to Hamilton City Council:

1. That **the Notice of Requirement** dated December 2005 and lodged in March 2006 for a new road (Eastern Hamilton Arterial Road) between Cobham Drive to the South and Wairere Drive/Crosby Road link to the north (but excluding a short section of the proposed Eastern Arterial Road located within then Waikato District) and associated connecting roads as shown on the designation plans **be confirmed by Hamilton City Council** for the reasons recorded in the text of the Recommendation of the Hearings Commissioner.
2. That the conditions set out in Section 9 of this recommendation be imposed on the Requirement within Hamilton City.
3. That the provisions of the Requirement be inserted into the Hamilton City Council's Transitional and Proposed District Plans to reflect the nature and extent of the requirement.

4. That in accordance with s184A(2) of the Resource Management Act 1991, the designation will lapse:
- (a) In respect of proposed route north of and including the intersection with Ruakura Rd, on the expiry of 10 years after the date on which it is included in the Transitional District Plan and the Proposed District Plan
 - (b) In respect of proposed route south of the intersection with Ruakura Rd, on the expiry of 20 years after the date on which it is included in the Transitional District Plan and the Proposed District Plan
 - (c) Unless in either case:
 - i) It is given effect to before the end of the specified period; or
 - ii) The Council determines, on an application made within three months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period to give effect to the designation.

.....
C D ARCUS
Hearings Commissioner
20th October 2006

9. CONDITIONS
Attaching to
the Designation in
HAMILTON CITY

The land affected is all that land shown and scheduled on the Designation Plans of the Notice of Requirement attached to the Supporting Information and Assessment of Environmental Effects titled Hamilton Eastern Arterial - Notice of Requirement Maunsell Limited dated December 2005. The designation plans are referenced 10 50 120 64 / Sheets 1 to 5.

Description of Works

1. The works to give effect to the new designations for the Hamilton Eastern Arterial project shall be a Limited Access Road which shall comply with the following requirements:
 - a) North of its intersection with Ruakura Road, the carriageway shall have not more than two lanes in each direction, with a separate pedestrian/cycleway;
 - b) With the exception of intersection treatment and traffic merge lanes, to the south of its intersection with Ruakura Road, the carriageway shall have a single lane in each direction, with a separate pedestrian/cycleway and a separate service road to access properties on the west side of Dey Street;
 - c) Provision shall be made for connections to the existing road network for motor vehicle access at Tramway Road (north of Carrs Road), Powells Road, Tramway Road (south of Fifth Avenue), East Street (east of the arterial), Ruakura Road, Old Farm Road (east of the arterial), Clyde Street and Cambridge Road;
 - d) Provision shall be made for signalized at grade or underpass facilities for pedestrians and cyclists to safely cross the arterial road at the following locations:
 - i) At the intersection of Fifth Avenue extension, East Street, Ruakura Road, Clyde Street and Cambridge Road
 - ii) At the intersection of Powells Road while it exists as a cross road intersection

- iii) At or near to Alderson Road
- iv) At or near to the eastern end of Henry Street
- v) In the general vicinity of Old Farm Road
- e) Provision shall be made for pedestrian and cycle facilities within the Carrs Road overbridge alignment.
- f) All pedestrian and cycling facilities shall be designed and established to best practice standard at the time of design.

Outline Plan(s)

2. In terms of section 176A of the Resource Management Act 1991 details of the works proposed to be incorporated into the designation are to be provided in an Outline Plan(s) to be submitted to the Hamilton City Council, prior to the commencement of the physical works.

Advice Note:

The Requiring Authority has given a commitment that all stages and sections of the proposed works will be described in Outline Plans to be presented to the Council pursuant to s176A RMA, to enable final design and construction details to be formulated near to the time of construction. The decision not to incorporate further design and construction detail in the conditions of this designation was made taking into account that commitment to follow the outline plan process. The Requiring Authority has also given a commitment not to seek a waiver of the outline plan requirement under s176A(2)(c). It is anticipated that no such waiver will be given under that section.

3. No Outline Plan(s) pursuant to section 176A of the Resource Management Act 1991 shall be submitted for consideration without the inclusion of a record of consultation concerning the points of agreement and/or disagreement regarding:
 - (a) The provision of access to the properties legally described as Lot 2 DPS 77458 currently in the ownership of the Tainui Group Holdings Limited, Sec1 SO 60206, Lot 1 DPS 75707 and Lot 2 DPS 1424 currently owned by Inghams Enterprises Limited, and Lot 1 DPS 13393 currently owned by Eastside Apostolic Church, to gauge support for the final design of the arterial road and the connecting roads to East Street.

- (b) An additional pedestrian and cycle crossing place along the road corridor between Clyde Street and Henry Street, with representatives of the community who live adjacent to the East Town Belt in this locality.

The consultation shall indicate:

- The results of any formal surveys showing the level of demand for further pedestrian and or cycle movement across the corridor;
- The impact of the additional crossing place(s) on the functioning of the road;
- The associated construction costs; and
- The ability to accommodate the works within the boundary of the designation.

Advice note:

It is anticipated that the community groups which might be consulted for the purpose of condition 3(b) would include:

- *The Knighton Primary School Board of Trustees;*
- *The Council's Manager Parks and Gardens;*
- *The lessee organisations occupying and using the East Town Belt for sport and recreation;*
- *Housing Corporation of New Zealand (or its successor);*
- *Cycle Action Waikato (or its successor);*
- *Kirikiriroa Marae.*

Construction Management Plan

4. Prior to the commencement of any earthworks or construction activity within the designation boundaries (excluding site investigations), the Requiring Authority shall submit a Construction Management Plan to be certified as being to the satisfaction of the Territorial Authority Chief Executive Officer or nominee, with a copy to Transpower New Zealand Limited.
5. The Construction Management Plan shall include the procedures, methods and measures to be applied and implemented by the Requiring Authority to address the following:
 - i) Notification of the likely commencement and completion date for the works to the Territorial Authority, network utility operators, and the owners and occupiers of all properties within 200 metres of the proposed work.

- ii) Provision of a single point of contact to field general enquiries and complaints from the public and the maintenance of a complaints register for inspection by the Territorial Authority.
 - iii) Procedures for handling any complaints.
 - iv) Management procedures to be implemented by the Requiring Authority and its contractors to minimise dust emissions and satisfy the requirements below, including monitoring, auditing and reporting procedures.
 - v) Maintenance of road and property access including access to network utilities during construction.
 - vi) Provision of access for emergency vehicles.
 - vii) Hours of operation of trucks and service vehicles.
 - viii) Methods to be employed to address the effects of construction traffic on local roads.
 - ix) Measures to ensure that any construction vehicles leaving the land on which the works are being carried out do not deposit soil or other debris on local roads, and the remedial measures to be taken should that occur.
 - x) Measures for identifying any unrecorded archaeological features and the processes to be followed in the event of the discovery of such features.
 - xi) The manner in which the Requiring Authority will handle any contaminated soils located within Lot 17 DPS 27268 (triangle parcel of land at corner of Tramway Road and East Street) and ensure the health and safety of contractors working within this area.
6. The Requiring Authority shall implement the certified Construction Management Plan during the construction of the Hamilton Eastern Arterial road and associated construction involving local roads.

Construction Vibration Limits

7. If vibration levels measured at the designation boundary in accordance with the vibration standard DIN 4150-3:1992-02 exceed 5 mm/s peak particle velocity, then vibration levels in selected 'critical' buildings shall be monitored, and pre-construction / post construction building condition surveys shall be undertaken in accordance with DIN 4150. 'Critical' buildings shall generally be dwellings and other vibration sensitive structures located within 20m of the outer edges of the Hamilton Eastern Arterial carriageway. If any damage to such buildings or structures is detected which is primarily attributable to excessive construction vibration levels, then such damage shall be repaired at the expense of the Requiring Authority.

Construction Vibration Management Plan

8. Prior to the commencement of any earthworks or construction activity within the designation boundaries (excluding site investigations), the Requiring Authority shall submit a Construction Vibration Management Plan to be certified as being to the satisfaction of the Territorial Authority Chief Executive Officer or nominee.
9. The Construction Vibration Management Plan shall address the following aspects, as a minimum:
 - i) Identification of potentially sensitive locations at the designation boundaries for pre construction measurement of vibration levels under typical construction activities
 - ii) Identification of critical buildings
 - iii) Selection of critical buildings to be monitored based on type of construction, vulnerability to damage
 - iv) Vibration monitoring / measurement plan for critical locations and different types of construction activities, both before construction commences and during construction
 - v) Reporting procedures
 - vi) Possible mitigation measures
 - vii) Complaint handling procedures

- viii) Preparation of pre-construction and post-construction building surveys (where relevant)
 - ix) Process for arranging repair of any vibration induced damage that may occur
10. The Requiring Authority shall implement the certified Construction Vibration Management Plan during the construction of the Hamilton Eastern Arterial road and associated construction involving local roads.

Construction Noise

11. Construction Noise Limits:
- i) All construction work shall be designed and conducted to ensure that construction noise from the various locations within the site complies with the provisions of NZS 6803:1999 Acoustics – Construction Noise.
 - ii) Sound levels shall be measured and assessed in accordance with the provisions of NZS 6803:1999 Acoustics – Construction Noise.

Construction Noise Management Plan

12. Prior to the commencement of any construction activity (excluding site investigations), the Requiring Authority shall submit a Construction Noise Management Plan to be certified as being to the satisfaction of the Territorial Authority Chief Executive Officer or nominee.
- i) This plan shall be prepared by a suitably qualified and experienced acoustical engineer, and include all the relevant considerations in NZS 6803:1999 Acoustics – Construction Noise with particular regard to the matters contained in Annex E.
 - ii) The Construction Noise Management Plan shall identify instances where the provisions of NZS 6803:1999 Acoustics – Construction Noise could be exceeded and shall, in consultation with the property owners concerned, establish alternatives for protecting those property owners from excessive noise.
 - iii) Construction of the works shall not commence until the Construction Noise Management Plan is certified and the Requiring Authority shall ensure that the certified Construction Noise Management Plan is complied with at all times during construction works.

Ambient Noise Survey

13. No later than 6 months prior to commencement of any construction activity (excluding site investigations studies), the Requiring Authority shall carry out an ambient noise survey at between 5-10 locations over the length of the Eastern Arterial, where the proposed construction is to be carried out. The locations shall be discussed with the Territorial Authority before commencement of the surveys. The results of the ambient noise survey shall be forwarded to the Territorial Authority within one month of completion.

Traffic Noise Limits

14. The Hamilton Eastern Arterial shall be designed and constructed so that traffic noise generated shall not exceed the following noise levels in the first ten years after the opening for general traffic of any part or parts of the Eastern Arterial:

60 dBA L_{10} (18 hours) or existing ambient which ever is the greater at a point 3 metres within the boundary of any adjoining site zoned Residential or Future Urban and any site within a Community Facilities Zone used for residential purposes at the time the Notice of Requirement was publicly notified at any point up to 1.8 metres above ground level.

Where it is impractical to reduce traffic noise from the Hamilton Eastern Arterial to meet this level at any existing residential dwelling, and if required by the owner of that dwelling, the Requiring Authority shall provide acoustic insulation in accordance with Conditions 16-21 following, to meet an internal noise level of 40 dBA L_{10} (18 hour) in habitable rooms. Where this internal noise level can only be met with doors and windows closed then an alternative means of ventilation must be provided in accordance with the Building Act 1991.

Noise Measurements:

- i) The terms ‘ L_{10} (18 hour)’ and ‘dBA’ referred to in Condition 14 shall have the meaning ascribed to them in NZS 6801: 1999 “Acoustics Measurement of Environmental Sound” and where 18 hours refers to the time period from 6 am to 12 am.
- ii) Noise levels shall be measured in accordance with NZS 6801: 1999 “Acoustics Measurement of Environmental Sound”.

Noise Mitigation Plan

15. Prior to commencement of any construction activity (excluding site investigations), the Requiring Authority shall submit a Traffic Noise Mitigation Plan to be certified as being to the satisfaction of the Territorial Authority Chief Executive Officer or nominee. The plan shall be prepared by a suitably qualified and experienced acoustical engineer and shall describe the noise mitigation measures to be employed to ensure noise associated with road traffic using the Hamilton Eastern arterial will be made to comply with the specified noise limits in Condition 14 and shall include:
 - i) The size, type and location of all noise barriers and bunds including height and lengths of the barriers; and
 - ii) The road surface type to be used; and
 - iii) Specific measures to be employed for existing dwellings where such measures are necessary in addition to the measures under i) and ii) above to achieve compliance with condition 14.
16. The Noise Management Plan shall identify the existing dwellings for which specific measures are required in accordance with Condition 15(iii) above. Those dwellings shall be referred to as 'affected dwelling(s)'.
17. Not less than three months prior to the completion of construction of the Project, the Requiring Authority shall give written notice to the owner of each affected dwelling:
 - i) Advising the options proposed by the Requiring Authority for mitigation treatment at the owner's property and the predicted benefits of implementation of such options in term of noise levels; and
 - ii) Inviting the owner to identify alternative methods of providing noise mitigation at the owner's property within two months after receipt of the notice; and
 - iii) Advising the owner of the process set out in this condition for noise mitigation at the owner's property.

After receiving the owner's suggestions for alternative noise mitigation methods, or at the expiry of two months after delivery of the notice, whichever is sooner, the Requiring Authority shall refer a list of the noise mitigation options identified by the Requiring Authority and the owner to a suitably qualified and experienced acoustic engineer for certification of a list containing reasonably practicable and economically viable noise mitigation options that are likely to achieve compliance with the requirements of condition 14

The Requiring authority shall deliver that certified list to the owner with a notice stating that the owner may, by written notice given within two months after receipt of the list, nominate one of the certified noise mitigation options for implementation.

18. The Requiring Authority shall advise the Hamilton City Council of:
 - i) All written notices served in accordance with condition 17;
 - ii) Any responses received to those written notices;
 - iii) Those affected dwellings in respect of which no response has been received.

19. Where specific measures are required for an affected dwelling, the Requiring Authority shall be deemed to have complied with conditions 14 and 17 above where:
 - a. The Requiring Authority has completed noise mitigation treatment to an affected dwelling; or
 - b. The owner of the affected dwelling does not require any acoustic insulation of the dwelling; or
 - c. The owner of the affected dwelling has not accepted the Requiring Authority's offer to implement noise mitigation treatment to the dwelling within six months after the practical completion of the Project; or
 - d. The owner of the affected dwelling cannot after reasonable enquiry be found within six months after the completion of the Project construction.

20. The noise mitigation measures to be employed shall be integrated into the Landscape Management Plan.

21. Prior to opening for general traffic any part or parts of the Hamilton Eastern Arterial, the appropriate noise mitigation measures that are identified for those parts in the Traffic Noise Mitigation Plan shall be fully implemented.

Noise Monitoring

22. Between six months and twelve months after the opening of the Hamilton Eastern Arterial the Requiring Authority shall undertake noise monitoring (at the locations used previously to measure the existing ambient noise levels) to confirm compliance with the road traffic noise limits set out in condition 14. Monitoring shall be in accordance with NZS6801:1999 "Acoustics - Measurement of Environmental Sound." If the limits in condition 14 are not met, the Requiring Authority shall as soon as reasonably practicable, but in any event within six months of the completion of the noise monitoring report, carry out mitigation measures to ensure compliance with condition 14

Discovery of Archaeological or Culturally Significant Finds

23. In the event that any archaeological sites, remains, artefacts, taonga are unearthed, dislodged, uncovered or otherwise found or discovered during the earthworks, the Requiring Authority shall:
 - (i) Advise the iwi authority or its nominated representative and the Territorial Authority within one day of the discovery;
 - (ii) Cease works in any part of the site affected by the discovery;
 - (iii) Contact NZ Police, Coroner and Historic Places Trust as appropriate; and
 - (iv) Works shall not recommence in the part(s) of the project site affected by the discovery until all necessary statutory authorisations or consents are obtained and the iwi authority Protocols for undertaking earthworks have been observed.

Network Utility Infrastructure

24. During the design phase of the project the Requiring Authority shall give reasonable notice and make all reasonable endeavours to:
 - i) Liaise with all relevant network utility operators in relation to any part of the works within the designation where their infrastructure may be affected; and

- ii) Make reasonable and relevant changes requested by such network utility operators, to the relevant design plans and methodologies, to ensure that access to, maintenance and the operation of all network utility infrastructure within the designated area is not adversely affected.
25. To ensure that there are no interruptions to supply, or adverse effects on network utility infrastructure, the Requiring Authority shall, subject only to reasonable planned interruption, either:
- i) protect the utility from any activity which may interfere with the proper functioning of the services; or
 - ii) seek to relocate it to the same or a similar standard (including property rights) as the operator currently has; or
 - iii) seek to repair or replace, at the Requiring Authority's expense, any infrastructure damaged during construction to the reasonable satisfaction of the affected network utility operator.

Transpower Network

26. All works or activities related to the designation shall be designed and undertaken to comply with the Code of Practice for Electrical Safety Distances 2001 (NZECP 34:2001). In this regard, the Requiring Authority shall liaise with Transpower New Zealand Limited during the design of the project. In addition, all works are to be designed to ensure the adequate protection of existing transmission lines and the Hamilton substation from any potential adverse effects associated with the construction and operation of the roads within the designation (eg the provision of vehicle collision barriers where necessary).

Advice Note:

NZEC 34:2001 includes the following requirements:

- i) *All machinery and mobile plant operated within the designated area shall maintain a minimum clearance distance of 4 metres from all transmission lines located within that area.*

- ii) *With reference to NZECP 34:2001 Figure 1, in the case of any pole supporting any conductor, no person shall excavate or otherwise interfere with any land:*
 - a. *at a depth greater than 300mm within 2.2 metres of the outer edge of the visible foundations of the tower; or*
 - b. *at a depth greater than 750mm, between 2.2 metres and 5 metres of the outer edge of the visible foundation of the tower; or*
 - c. *in such a way as to create an unstable batter.*

- iii) *With reference to NZECP 34:2001 Figure 2, in the case of any tower (pylon) supporting any conductor, no person shall excavate or otherwise interfere with any land:*
 - a. *at a depth greater than 300mm within 6 metres of the outer edge of the visible foundations of the tower; or*
 - b. *at a depth greater than 3 metres, between 6 metres and 12 metres of the outer edge of the visible foundation of the tower; or*
 - c. *in such a way as to create an unstable batter.*

- iv) *In accordance with Section 4 of the NZECP 34:2001 no material shall be deposited (either permanent or temporarily) under or near any National Grid transmission line without the prior approval of Transpower. This is to ensure the safe NZECP 34:2001 (Table 4) separation distances from the lines are always maintained.*

All the above requirements shall apply unless prior written approval is given by the owner of the structure.

- 27. If during the design phase compliance with the Code of Practice for Electrical Safety Distances NZECP (34:2001) cannot be achieved, the Requiring Authority shall consult with Transpower New Zealand who will identify acceptable alternative options, including and if necessary relocate or alter the existing transmission structures to achieve compliance.

- 28. The Requiring Authority shall ensure that existing access arrangements to Transpower's existing works are retained where practicable. Where the Requiring Authority requires or causes a change in access arrangements, alternative arrangements shall be provided, in consultation with Transpower New Zealand Limited that ensure safe four wheel drive 24 hour access to the tower base (including during construction period) or other options that will enable Transpower to undertake necessary works.

29. All trees and vegetation planted shall be selected and located to ensure that no part of any tree (when mature) will encroach within a (4) metre clearance from transmission line conductors. The 4 metre clearance relates to vertical, horizontal and felling distance clearances and shall take account of the maximum conductor swing and sag.
30. The Requiring Authority shall ensure that the discharge of contaminants to air from the site does not create any dust hazard or nuisance to the transmission lines and Hamilton substation managed by Transpower New Zealand Limited. The Requiring Authority shall produce, in consultation with Transpower, as part of the Construction Management Plan, measures to identify how those potential dust effects will be managed around the transmission network.

Advice Note:

If any relocation or alteration of Transpower works is required to comply with the terms of this designation, the provisions of this designation shall not override or otherwise affect the provisions of the Electricity Act 1992, the Transit New Zealand Act 1989 or any other statute or regulation that applies to such relocation or alteration. The terms of this designation shall not constitute an agreement or other arrangement that affects the rights or obligations of Transpower or the Requiring Authority under any statute or regulation relating to relocation or alteration of Transpower works.

Landscaping and Visual Mitigation

31. Prior to the commencement of construction, the Requiring Authority shall submit a Landscape Management Plan, to be certified as being to the satisfaction of the Territorial Authority Chief Executive or nominee, which identifies the specific landscape measures to be implemented and maintained to mitigate the visual and landscape effects of the project.
32. The detail of the Landscape Management Plan (LMP) shall be in general accordance with the Indicative Landscape Mitigation Measures outlined in Appendix F of the supporting information titled Hamilton Eastern Arterial Notice of Requirement, Supporting Information and Assessment of Environmental Effects Maunsell Limited dated December 2005 and the concepts developed as part of the Acoustic Report prepared by Malcolm Hunt and Associates titled E1 – Eastern Arterial Route: Additional Traffic Noise Investigations, dated June 2006. The LMP shall include a Landscape Design Philosophy Statement which outlines the following:
 - i) the proposed landscape design theme to be adopted for the entire length of the arterial including overhead and underpass structures, and noise barriers; and

- ii) the identification of areas to be planted where the level of visual change is significant e.g. large scale earthworks and bridge structures.
33. The Landscape Management Plan shall be prepared in consultation with the Territorial Authority Chief Executive Officer or nominee by a suitably qualified landscape architect to reflect clearly the Landscape Design Philosophy Statement in Condition 32 above, and shall include at least the following:
- i) The integration of cut and fill batters with existing topographical features;
 - ii) Where practicable, gentle grades and well rounded profiles for batters, and shaping tops of cut batters for topsoiling and grassing;
 - iii) Earth bunding, screening and enhancement planting to soften or naturalise adverse visual effects and visual enhancement of the route for road users;
 - iv) Selection of native plant species to ensure that once established, the type of planting is such that it does not require specific ongoing maintenance;
 - v) Measures to be undertaken for topsoil and subsoil management to rehabilitate the soil profile so as to provide a viable growing medium:
 - for the areas to be planted; and
 - for use on the berms;
 - vi) A schedule of the species to be planted including botanical name, average plant size at time of planting, planting density and average mature height of each;
 - vii) Maintenance and establishment requirements over a two year period following planting and reinstatement of road verges;
 - viii) Measures to minimise clearing work to preserve soil and any indigenous vegetation;
 - ix) Measures to ensure the appropriate disposal of any clearance of invasive/noxious weeds;
 - x) Integration with the design of noise mitigation measures so that the combined measures can be implemented in a co-ordinated manner;

- x) Location of kowhai trees to be determined following consultation with the iwi authority or its representative nominee.
 - xii) Transpower is consulted at the detailed design stage to ensure the landscape proposals do not present a hazard to the existing transmission lines and substation operations.
34. The Landscape Management Plan shall be implemented:
- i) As soon as areas become available for planting due to the progress of the works; and/or
 - ii) Within twelve months of the road construction being issued a Certificate of Practical Completion in accordance with NZS 3910: 1998 Conditions of Contract for Building and Civil Engineering Construction unless the seasonal timing of works makes some planting impracticable, in which case such planting shall be completed no later than twenty four months after the issue of the Certificate.
35. An inspection shall be undertaken by the Requiring Authority at 1 year and again at 2 years after the implementation of the Landscape Management Plan in accordance with Condition 33, to confirm that the planting has been completed and that significant areas and plants have established successfully. A report on the outcomes of the inspections shall be forwarded to the Territorial Authority within one month of completion. Provision is to be made for remedial works to be undertaken if either of the inspections identifies that any significant areas of planting have not become established.

Traffic and Road Network Management

36. Prior to the commencement of construction, the Requiring Authority shall submit a Traffic and Network Management Plan, to be certified as being to the satisfaction of the Territorial Authority Chief Executive or nominee which explains:
- i) the intersection design philosophy as a part of a whole-route approach to road and intersection management and operation. In particular, this review should consider the merits of:
 - the East Street intersection as a signal controlled tee intersection with pedestrian crossing facilities; and
 - the roundabout intersections of Ruakara Road and Fifth Avenue as signal controlled intersections incorporating pedestrian crossing facilities.

- ii) the localised traffic impacts together with accompanying mitigation measures required as a direct or indirect result of road closures, diversions, new intersection arrangements and other measures needed to accommodate the Hamilton Eastern Arterial;
- iii) the provision of cycle infrastructure and the design of cycle features and whether they are consistent with current best practice guidelines;
- iv) the provision of pedestrian infrastructure and whether the design of pedestrian infrastructure is consistent with current best practice guidelines;
- v) the merits of including bus service infrastructure features such as, but not limited to:
 - Bus priority detection equipment at all signalised intersections along the route;
 - Bus stopping lay-bys at appropriate locations along the route;
 - Passenger waiting facilities and shelters with bus information as part of the final road design.

Community Liaison

37. A clearly identified liaison person, or a replacement when necessary, shall be appointed by the Requiring Authority following the inclusion of the designation in the District Plan and until the completion of the project, to be the main and readily accessible point of contact for all persons affected by the designation. The liaison person's name and contact details shall be advised to all owners and occupiers of all properties within 200 metres of the designation boundaries and be publicly notified by the Requiring Authority within one month of the designation becoming operative.

Consultation with Tainui Group Holdings Limited (or Successor)

38. In recognition of Tainui Group Holdings (TGH) land holdings bisected by and adjacent to the Hamilton Eastern Arterial, the Requiring Authority shall liaise with TGH over design of the road and associated works during the design phase and shall use its best endeavours to accommodate the reasonable wishes of TGH in the final design and construction of the works. Prior to the Project's design phase(s) the Requiring Authority shall prepare a TGH consultation plan identifying the specific matters of interest to TGH in the detailed design and how input by TGH on those matters will be accommodated and considered. A copy of the TGH consultation plan shall be provided to the Territorial authority prior to commencement of the detailed design phase(s).

Advisory Notes;

- A *All necessary consents must be obtained from the Waikato Regional Council prior to commencement of construction works.*
- B *An authority may need to be obtained from Historic Places Trust to destroy, damage or modify an archaeological site(s) in accordance with the Historic Places Act 1993.*
- C *The Requiring Authority should carry out adequate and timely consultation with national and regional agencies such as Transit New Zealand, Land Transport New Zealand and the Waikato Regional Council with regard to programming and planning commencement of construction and provide a timetabled construction plan.*
- D *The Requiring Authority should be aware that the road hierarchy will need to be updated as a consequence of the designation of the Hamilton Eastern Arterial and that a separate Plan Change process may be required.*
- E *The Requiring Authority can not make operational any link between the Hamilton Eastern Arterial road and Cobham Drive (SH1) pending the construction of the Waikato Expressway (Hamilton Bypass) without the authorisation of Transit New Zealand.*
- F *The Requiring Authority can not carry out works over land already designated for railway purposes without first seeking approval from Ontrack under section 177 RMA.*

10. RECOMMENDATION
by
WAIKATO DISTRICT COUNCIL
to
HAMILTON CITY COUNCIL

Having had regard to the provisions of the Resource Management Act 1991 and in particular Part II and Part VIII thereof; and

Having considered the effects on the environment of allowing the requirement; and

Having had particular regard to the provisions of all the relevant planning instruments, alternative sites or methods, whether the designation is reasonably necessary, and any other matter reasonably necessary in order to make a recommendation on the requirement; and

Having considered the evidence of the Requiring Authority, the submissions and the evidence tendered in support of those submissions, and the independent planning report; and

Acting under a delegation from the Waikato District Council to hear and make a recommendation on behalf of Waikato District Council to the Hamilton City Council as requiring authority in respect of that part of the Requirement within the jurisdiction of Waikato District; and

For the reasons set out in the text of this recommendation,

1. On behalf of the Waikato District Council I recommend to the Requiring Authority, Hamilton City Council that:

- (a) **The Notice of Requirement** dated December 2005 and lodged in March 2006 for a new road (Eastern Hamilton Arterial Road) between a point to the east of the intersection of Tramway Road and Fifth Avenue in the north and in the south, a point on Tramway Road just north of East Street and associated connecting roads as shown on the designation plans **be confirmed by Hamilton City Council**
- (b) The conditions set out in Section 11 of this recommendation be imposed on the Requirement within Waikato District.
- (c) In accordance with s184A of the Resource Management Act 1991, the designation will lapse on the expiry of 10 years after the date on which it is included in the Operative District Plan and the Proposed District Plan unless:

- (i) It is given effect to before the end of that period; or
 - (ii) The Waikato District Council determines, on an application made within three months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period to give effect to the designation
2. If the provisions of the Notice of Requirement are confirmed by the Requiring Authority, then those provisions shall be inserted into the Waikato District Council's Operative and Proposed District Plans to reflect the nature and extent of the requirement.

.....
C D ARCUS
Hearings Commissioner
20th October 2006

11. CONDITIONS
Attaching to
the Designation in
WAIKATO DISTRICT

The land affected is all that land located within Waikato District shown and scheduled on the Designation Plans of the Notice of Requirement attached to the Supporting Information and Assessment of Environmental Effects titled Hamilton Eastern Arterial - Notice of Requirement Maunsell Limited dated December 2005. The relevant designation plans are referenced 10 50 120 64 / Sheets 2 and 3.

Description of Works

1. The works to give effect to the new designations for the Hamilton Eastern Arterial project shall be a Limited Access Road which shall comply with the following requirements:
 - a. North of its intersection with Ruakura Road, the carriageway shall have not more than two lanes in each direction, with a separate pedestrian/cycleway;
 - b. With the exception of intersection treatment and traffic merge lanes, to the south of its intersection with Ruakura Road, the carriageway shall have a single lane in each direction, with a separate pedestrian/cycleway and a separate service road to access properties on the west side of Dey Street;
 - c. Provision shall be made for connections to the existing road network for motor vehicle access at Tramway Road (north of Carrs Road), Powells Road, Tramway Road (south of Fifth Avenue), East Street (east of the arterial), Ruakura Road, Old Farm Road (east of the arterial), Clyde Street and Cambridge Road;
 - d. Provision shall be made for signalized at grade or underpass facilities for pedestrians and cyclists to safely cross the arterial road at the following locations:
 - i) At the intersection of Fifth Avenue extension, East Street, Ruakura Road, Clyde Street and Cambridge Road
 - ii) At the intersection of Powells Road while it exists as a cross road intersection

- iii) At or near to Alderson Road
- iv) At or near to the eastern end of Henry Street
- v) In the general vicinity of Old Farm Road
- e. Provision shall be made for pedestrian and cycle facilities within the Carrs Road overbridge alignment.
- f. All pedestrian and cycling facilities shall be designed and established to best practice standard at the time of design.

Outline Plan(s)

1. In terms of section 176A of the Resource Management Act 1991 details of the works proposed to be incorporated into the designation are to be provided in an Outline Plan(s) to be submitted to the Waikato District Council, prior to the commencement of the physical works.

Advice Note:

The Requiring Authority has given a commitment that all stages and sections of the proposed works will be described in Outline Plans to be presented to the Council pursuant to s176A RMA, to enable final design and construction details to be formulated near to the time of construction. The decision not to incorporate further design and construction detail in the conditions of this designation was made taking into account that commitment to follow the outline plan process. The Requiring Authority has also given a commitment not to seek a waiver of the outline plan requirement under s176A(2)(c). It is anticipated that no such waiver will be given under that section.

2. No Outline Plan(s) pursuant to section 176A of the Resource Management Act 1991 shall be submitted for consideration without the inclusion of a record of consultation concerning the points of agreement and/or disagreement regarding the provision of access to the properties legally described as Lot 2 DPS 77458 currently in the ownership of the Tainui Development Limited, to gauge support for the final design of the arterial road and the connecting roads to East Street.

Construction Management Plan

3. Prior to the commencement of any earthworks or construction activity within the designation boundaries (excluding site investigations), the Requiring Authority shall submit a Construction Management Plan to be certified as being to the satisfaction of the Territorial Authority Chief Executive Officer or nominee, with a copy to Transpower New Zealand Limited.
4. The Construction Management Plan shall include the procedures, methods and measures to be applied and implemented by the Requiring Authority to address the following:
 - i) Notification of the likely commencement and completion date for the works to the Territorial Authority, network utility operators, and the owners and occupiers of all properties within 200 metres of the proposed work.
 - ii) Provision of a single point of contact to field general enquiries and complaints from the public and the maintenance of a complaints register for inspection by the Territorial Authority.
 - iii) Procedures for handling any complaints.
 - iv) Management procedures to be implemented by the Requiring Authority and its contractors to minimise dust emissions and satisfy the requirements below, including monitoring, auditing and reporting procedures.
 - v) Maintenance of road and property access including access to network utilities during construction.
 - vi) Provision of access for emergency vehicles.
 - vii) Hours of operation of trucks and service vehicles.
 - viii) Methods to be employed to address the effects of construction traffic on local roads.
 - ix) Measures to ensure that any construction vehicles leaving the land on which the works are being carried out do not deposit soil or other debris on local roads, and the remedial measures to be taken should that occur.
 - x) Measures for identifying any unrecorded archaeological features and the processes to be followed in the event of the discovery of such features.

5. The Requiring Authority shall implement the certified Construction Management Plan during the construction of the Hamilton Eastern Arterial road and associated construction involving local roads.

Construction Vibration Limits

6. If vibration levels measured at the designation boundary in accordance with the vibration standard DIN 4150-3: 1992-02 exceed 5 mm/s peak particle velocity, then vibration levels in selected 'critical' buildings shall be monitored, and pre-construction / post construction building condition surveys shall be undertaken in accordance with DIN 4150. 'Critical' buildings shall generally be dwellings and other vibration sensitive structures located within 20m of the outer edges of the Hamilton Eastern Arterial carriageway. If any damage to such buildings or structures is detected which is primarily attributable to excessive construction vibration levels, then such damage shall be repaired at the expense of the Requiring Authority.

Construction Vibration Management Plan

7. Prior to the commencement of any earthworks or construction activity within the designation boundaries (excluding site investigations), the Requiring Authority shall submit a Construction Vibration Management Plan to be certified as being to the satisfaction of the Territorial Authority Chief Executive Officer or nominee.
8. The Construction Vibration Management Plan shall address the following aspects, as a minimum:
 - i) Identification of potentially sensitive locations at the designation boundaries for pre construction measurement of vibration levels under typical construction activities
 - ii) Identification of critical buildings
 - iii) Selection of critical buildings to be monitored based on type of construction, vulnerability to damage
 - iv) Vibration monitoring / measurement plan for critical locations and different types of construction activities, both before construction commences and during construction
 - v) Reporting procedures

- vi) Possible mitigation measures
 - vii) Complaint handling procedures
 - viii) Preparation of pre-construction and post-construction building surveys (where relevant)
 - ix) Process for arranging repair of any vibration induced damage that may occur
9. The Requiring Authority shall implement the certified Construction Vibration Management Plan during the construction of the Hamilton Eastern Arterial road and associated construction involving local roads.

Construction Noise

10. Construction Noise Limits:
- i) All construction work shall be designed and conducted to ensure that construction noise from the various locations within the site complies with the provisions of NZS 6803:1999 Acoustics – Construction Noise.
 - ii) Sound levels shall be measured and assessed in accordance with the provisions of NZS 6803:1999 Acoustics – Construction Noise.

Construction Noise Management Plan

11. Prior to the commencement of any construction activity (excluding site investigations), the Requiring Authority shall submit a Construction Noise Management Plan to be certified as being to the satisfaction of the Territorial Authority Chief Executive Officer or nominee.
- i) This plan shall be prepared by a suitably qualified and experienced acoustical engineer, and include all the relevant considerations in NZS 6803:1999 Acoustics – Construction Noise with particular regard to the matters contained in Annex E.
 - ii) The Construction Noise Management Plan shall identify instances where the provisions of NZS 6803:1999 Acoustics – Construction Noise could be exceeded and shall, in consultation with the property owners concerned, establish alternatives for protecting those property owners from excessive noise.

- iii) Construction of the works shall not commence until the Construction Noise Management Plan is certified and the Requiring Authority shall ensure that the certified Construction Noise Management Plan is complied with at all times during construction works.

Ambient Noise Survey

- 12. No later than 6 months prior to commencement of any construction activity (excluding site investigations studies), the Requiring Authority shall carry out an ambient noise survey at between 5-10 locations over the length of the Hamilton Eastern Arterial, where the proposed construction is to be carried out. The locations shall be discussed with the Territorial Authority before commencement of the surveys. The results of the ambient noise survey shall be forwarded to the Territorial Authority within one month of completion.

Traffic Noise Limits

- 13. The Hamilton Eastern Arterial shall be designed and constructed so that traffic noise generated shall not exceed the following noise levels in the first ten years after the opening for general traffic of any part or parts of the Hamilton Eastern Arterial:

60 dBA L_{10} (18 hours) or existing ambient which ever is the greater at a point 3 metres within the boundary of any adjoining site zoned Residential or Future Urban at the time the Notice of Requirement was publicly notified at any point up to 1.8 metres above ground level.

Where it is impractical to reduce traffic noise from the Hamilton Eastern Arterial to meet this level at any existing residential dwelling, and if required by the owner of that dwelling, the Requiring Authority shall provide acoustic insulation in accordance with Conditions 15-21 following to meet an internal noise level of 40 dBA L_{10} (18 hour) in habitable rooms. Where this internal noise level can only be met with doors and windows closed then an alternative means of ventilation must be provided in accordance with the Building Act 1991.

Noise Measurements:

- i) The terms ‘ L_{10} (18 hour)’ and ‘dBA’ referred to in Condition 14 shall have the meaning ascribed to them in NZS 6801: 1999 “Acoustics Measurement of Environmental Sound” and where 18 hours refers to the time period from 6 am to 12 am.
- ii) Noise levels shall be measured in accordance with NZS 6801: 1999 “Acoustics Measurement of Environmental Sound”.

Noise Mitigation Plan

14. Prior to commencement of any construction activity (excluding site investigations), the Requiring Authority shall submit a Traffic Noise Mitigation Plan to be certified as being to the satisfaction of the Territorial Authority Chief Executive Officer or nominee. The plan shall be prepared by a suitably qualified and experienced acoustical engineer and shall describe the noise mitigation measures to be employed to ensure noise associated with road traffic using the Hamilton Eastern Arterial will be made to comply with the specified noise limits in Condition 14, and shall include:
 - i) The size, type and location of all noise barriers and bunds including height and lengths of the barriers;
 - ii) The road surface type to be used; and
 - iii) Specific measures to be employed for existing dwellings where these are necessary in addition to the measures under i) and ii) above to achieve compliance with condition 14.
15. The Noise Management Plan shall identify the existing dwellings for which specific measures are required in accordance with Condition 15(iii) above. Those dwellings shall be referred to as 'affected dwelling(s)'.
16. Not less than three months prior to the completion of construction of the Project, the Requiring Authority shall give written notice to the owner of each affected dwelling:
 - iii) Advising the options proposed by the Requiring Authority for mitigation treatment at the owner's property and the predicted benefits of implementation of such options in term of noise levels; and
 - iv) Inviting the owner to identify alternative methods of providing noise mitigation at the owner's property within two months after receipt of the notice; and
 - v) Advising the owner of the process set out in the condition for noise mitigation at the owner's property.

After receiving the owner's suggestions for alternative noise mitigation methods, or at the expiry of two months after delivery of the notice, whichever is sooner, the Requiring Authority shall refer a list of the noise mitigation options identified by the Requiring Authority and the owner to a suitably qualified and experienced acoustic engineer for certification of a list containing reasonably practicable and economically viable noise mitigation options that are likely to achieve compliance with the requirements of condition 14.

The Requiring authority shall deliver that certified list to the owner with a notice stating that the owner may, by written notice given within two months after receipt of the list, nominate one of the certified noise mitigation options for implementation.

17. The Requiring Authority shall advise the Waikato District Council of:
 - i) All written notices served in accordance with condition 17;
 - ii) The owner of the affected dwelling does not require any acoustic insulation of the dwelling; or
 - iii) Any responses received to those written notices;
 - iv) Those affected dwellings in respect of which no response has been received.

18. Where specific measures are required for an affected dwelling, the Requiring Authority shall be deemed to have complied with conditions 14 and 17 above where:
 - i) The Requiring Authority has completed noise mitigation treatment to an affected dwelling; or
 - ii) The owner of the affected dwelling does not require any acoustic insulation of the dwelling; or
 - iii) The owner of the affected dwelling has not accepted the Requiring Authority's offer to implement noise mitigation treatment to the dwelling within six months after the practical completion of the Project; or
 - iv) The owner of the affected dwelling cannot after reasonable enquiry be found within six months after the completion of the Project construction.

19. The noise mitigation measures to be employed shall be integrated into the Landscape Management Plan.
20. Prior to opening for general traffic any part or parts of the Hamilton Eastern Arterial, the appropriate noise mitigation measures that are identified for those parts in the Traffic Noise Mitigation Plan shall be fully implemented.

Noise Monitoring

21. Between six months and twelve months after the opening of the Eastern arterial the Requiring Authority shall undertake noise monitoring (at the locations used previously to measure the existing ambient noise levels) to confirm compliance with the road traffic noise limits set out in condition 10. Monitoring shall be in accordance with NZS6801:1999 "Acoustics - Measurement of Environmental Sound." If the limits in condition 14 are not met, the Requiring Authority shall as soon as reasonably practicable, but in any event within six months of the completion of the noise monitoring report, carry out mitigation measures to ensure compliance with condition 14.

Discovery of Archaeological or Culturally Significant Finds

22. In the event that any archaeological sites, remains, artefacts, taonga are unearthed, dislodged, uncovered or otherwise found or discovered during the earthworks, the Requiring Authority shall:
 - i) Advise the iwi authority or its nominated representative and the Territorial Authority within one day of the discovery;
 - ii) Cease works in any part of the site affected by the discovery;
 - iii) Contact NZ Police, Coroner and Historic Places Trust as appropriate; and
 - iv) Works shall not recommence in the part(s) of the project site affected by the discovery until all necessary statutory authorisations or consents are obtained and the iwi authority Protocols for undertaking earthworks have been observed.

Network Utility Infrastructure

23. During the design phase of the project the Requiring Authority shall give reasonable notice and make all reasonable endeavours to:
- i) Liaise with all relevant network utility operators in relation to any part of the works within the designation where their infrastructure may be affected; and
 - ii) Make reasonable and relevant changes requested by such network utility operators, to the relevant design plans and methodologies, to ensure that access to, maintenance and the operation of all network utility infrastructure within the designated area is not adversely affected.
24. To ensure that there are no interruptions to supply, or adverse effects on network utility infrastructure, the Requiring Authority shall, subject only to reasonable planned interruption, either:
- i) Protect the utility from any activity which may interfere with the proper functioning of the services; or
 - ii) Seek to relocate it to the same or a similar standard (including property rights) as the operator currently has; or
 - iii) Seek to repair or replace, at the Requiring Authority's expense, any infrastructure damaged during construction to the reasonable satisfaction of the affected network utility operator.

Transpower Network

25. All works or activities related to the designation shall be designed and undertaken to comply with the Code of Practice for Electrical Safety Distances 2001 (NZECP 34:2001). In this regard, the Requiring Authority shall liaise with Transpower New Zealand Limited during the design of the project. In addition, all works are to be designed to ensure the adequate protection of existing transmission lines and the Hamilton substation from any potential adverse effects associated with the construction and operation of the roads within the designation (eg the provision of vehicle collision barriers where necessary).

Advice Note:

NZEC 34:2001 includes the following requirements:

- i) All machinery and mobile plant operated within the designated area shall maintain a minimum clearance distance of 4 metres from all transmission lines located within that area.*
- ii) With reference to NZECP 34:2001 Figure 1, in the case of any pole supporting any conductor, no person shall excavate or otherwise interfere with any land:*
 - a. at a depth greater than 300mm within 2.2 metres of the outer edge of the visible foundations of the tower; or*
 - b. at a depth greater than 750mm, between 2.2 metres and 5 metres of the outer edge of the visible foundation of the tower; or*
 - c. in such a way as to create an unstable batter.*
- iii) With reference to NZECP 34:2001 Figure 2, in the case of any tower (pylon) supporting any conductor, no person shall excavate or otherwise interfere with any land:*
 - a. at a depth greater than 300mm within 6 metres of the outer edge of the visible foundations of the tower; or*
 - b. at a depth greater than 3 metres, between 6 metres and 12 metres of the outer edge of the visible foundation of the tower; or*
 - c. in such a way as to create an unstable batter.*
- iv) In accordance with Section 4 of the NZECP 34:2001 no material shall be deposited (either permanent or temporarily) under or near any National Grid transmission line without the prior approval of Transpower. This is to ensure the safe NZECP 34:2001 (Table 4) separation distances from the lines are always maintained.*

All the above requirements shall apply unless prior written approval is given by the owner of the structure.

26. If during the design phase compliance with the Code of Practice for Electrical Safety Distances NZECP (34:2001) cannot be achieved, the Requiring Authority shall consult with Transpower New Zealand who will identify acceptable alternative options, including and if necessary relocate or alter the existing transmission structures to achieve compliance.

27. The Requiring Authority shall ensure that existing access arrangements to Transpower's existing works are retained where practicable. Where the Requiring Authority requires or causes a change in access arrangements, alternative arrangements shall be provided, in consultation with Transpower New Zealand Limited that ensure safe four wheel drive 24 hour access to the tower base (including during construction period) or other options that will enable Transpower to undertake necessary works.
28. All trees and vegetation planted shall be selected and located to ensure that no part of any tree (when mature) will encroach within a (4) metre clearance from transmission line conductors. The 4 metre clearance relates to vertical, horizontal and felling distance clearances and shall take account of the maximum conductor swing and sag.
29. The Requiring Authority shall ensure that the discharge of contaminants to air from the site does not create any dust hazard or nuisance to the transmission lines and Hamilton substation managed by Transpower New Zealand Limited. The Requiring Authority shall produce, in consultation with Transpower, as part of the Construction Management Plan, measures to identify how those potential dust effects will be managed around the transmission network.

Advice Note:

If any relocation or alteration of Transpower works is required to comply with the terms of this designation, the provisions of this designation shall not override or otherwise affect the provisions of the Electricity Act 1992, the Transit New Zealand Act 1989 or any other statute or regulation that applies to such relocation or alteration. The terms of this designation shall not constitute an agreement or other arrangement that affects the rights or obligations of Transpower or the Requiring Authority under any statute or regulation relating to relocation or alteration of Transpower works.

Landscaping and Visual Mitigation

30. Prior to the commencement of construction, the Requiring Authority shall submit a Landscape Management Plan, to be certified as being to the satisfaction of the Territorial Authority Chief Executive or nominee, which identifies the specific landscape measures to be implemented and maintained to mitigate the visual and landscape effects of the project.

31. The detail of the Landscape Management Plan (LMP) shall be in general accordance with the Indicative Landscape Mitigation Measures outlined in Appendix F of the supporting information titled Hamilton Eastern Arterial Notice of Requirement, Supporting Information and Assessment of Environmental Effects Maunsell Limited dated December 2005 and the concepts developed as part of the Acoustic Report prepared by Malcolm Hunt and Associates titled E1 – Eastern Arterial Route: Additional Traffic Noise Investigations, dated June 2006. The LMP shall include a Landscape Design Philosophy Statement which outlines the following:
- i) the proposed landscape design theme to be adopted for the entire length of the arterial including overhead and underpass structures, and noise barriers; and
 - ii) the identification of areas to be planted where the level of visual change is significant e.g. large scale earthworks and bridge structures.
32. The Landscape Management Plan shall be prepared in consultation with the Territorial Authority Chief Executive Officer or nominee by a suitably qualified landscape architect to reflect clearly the Landscape Design Philosophy Statement in Condition 32 above, and shall include at least the following:
- i) The integration of cut and fill batters with existing topographical features;
 - ii) Where practicable, gentle grades and well rounded profiles for batters, and shaping tops of cut batters for topsoiling and grassing;
 - iii) Earth bunding, screening and enhancement planting to soften or naturalise adverse visual effects and visual enhancement of the route for road users;
 - iv) Selection of native plant species to ensure that once established, the type of planting is such that it does not require specific ongoing maintenance;
 - v) Measures to be undertaken for topsoil and subsoil management to rehabilitate the soil profile so as to provide a viable growing medium:
 - for the areas to be planted; and
 - for use on the berms;

- vi) A schedule of the species to be planted including botanical name, average plant size at time of planting, planting density and average mature height of each;
 - vii) Maintenance and establishment requirements over a two year period following planting and reinstatement of road verges;
 - viii) Measures to minimise clearing work to preserve soil and any indigenous vegetation;
 - ix) Measures to ensure the appropriate disposal of any clearance of invasive/noxious weeds;
 - x) Integration with the design of noise mitigation measures so that the combined measures can be implemented in a co-ordinated manner;
 - xi) Location of kowhai trees to be determined following consultation with the iwi authority or its representative nominee.
 - xii) Transpower is consulted at the detailed design stage to ensure the landscape proposals do not present a hazard to the existing transmission lines and substation operations.
33. The Landscape Management Plan shall be implemented:
- i) As soon as areas become available for planting due to the progress of the works; and/or
 - ii) Within twelve months of the road construction being issued a Certificate of Practical Completion in accordance with NZS 3910: 1998 Conditions of Contract for Building and Civil Engineering Construction unless the seasonal timing of works makes some planting impracticable, in which case such planting shall be completed no later than twenty four months after the issue of the Certificate.
34. An inspection shall be undertaken by the Requiring Authority at 1 year and again at 2 years after the implementation of the Landscape Management Plan in accordance with Condition 33, to confirm that the planting has been completed and that significant areas and plants have established successfully. A report on the outcomes of the inspections shall be forwarded to the Territorial Authority within one month of completion. Provision is to be made for remedial works to be undertaken if either of the inspections identifies that any significant areas of planting have not become established.

Community Liaison

35. A clearly identified liaison person, or a replacement when necessary, shall be appointed by the Requiring Authority following the inclusion of the designation in the District Plan and until the completion of the project, to be the main and readily accessible point of contact for all persons affected by the designation. The liaison person's name and contact details shall be advised to all owners and occupiers of all properties within 200 metres of the designation boundaries and be publicly notified by the Requiring Authority within one month of the designation becoming operative.

Consultation with Tainui Group Holdings Limited (or Successor)

36. In recognition of Tainui Group Holdings (TGH) land holdings bisected by and adjacent to the Hamilton Eastern Arterial, the Requiring Authority shall liaise with TGH over design of the road and associated works during the design phase and shall use its best endeavours to accommodate the reasonable wishes of TGH in the final design and construction of the works. Prior to the Project's design phase(s) the Requiring Authority shall prepare a TGH consultation plan identifying the specific matters of interest to TGH in the detailed design and how input by TGH on those matters will be accommodated and considered. A copy of the TGH consultation plan shall be provided to the Territorial authority prior to commencement of the detailed design phase(s).

Advisory Notes

- A Where in the conditions, there is provision for certification of a Management Plan or Mitigation Plan by the Chief Executive or nominee, this certification shall only relate to that part of the Plan(s) within Waikato District.*
- B All necessary consents must be obtained from the Waikato Regional Council prior to commencement of construction works.*
- C An authority may need to be obtained from Historic Places Trust to destroy, damage or modify an archaeological site(s) in accordance with the Historic Places Act 1993.*
- D The Requiring Authority should carry out adequate and timely consultation with national and regional agencies such as Transit New Zealand, Land Transport New Zealand and the Waikato Regional Council with regard to programming and planning commencement of construction and provide a timetabled construction plan.*