

WAIPA DISTRICT COUNCIL

REQUIREMENTS TO

(1) ALTER AIRPORT DESIGNATION

(2) ALTER STATE HIGHWAY 21 (AIRPORT ROAD) DESIGNATION FOR AIRPORT ACCESS

(3) ALTER STATE HIGHWAY 3 (OHAUPO ROAD) DESIGNATION FOR AIRPORT ACCESS

DECISION OF HEARINGS COMMISSIONERS OF WAIPA DISTRICT COUNCIL'S RECOMMENDATION TO REQUIRING AUTHORITIES ON REQUIREMENTS

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WAIPA DISTRICT COUNCIL

Requirements To

- (1) Alter Airport Designation**
- (2) Alter State Highway 21 (Airport Road) Designation For Airport Access**
- (3) Alter State Highway 3 Designation For Airport Access**

1. INTRODUCTION

1.1 Appointment

Section 34A of the Resource Management Act 1991 (RMA) 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 or determine matters which effect a change to a district plan. That includes designations.

Waipa District Council would ordinarily hear and either recommend or determine designation requirements. However, in this case there is a conflict of interest arising from Council being a part owner of the Waikato Regional Airport Limited the proponent of a plan change which in turn precipitated alteration to the three designations.

To ensure that the matter was considered independently, the Council as Consent Authority exercised its power of delegation to appoint us as Hearings Commissioners to hear and make a determination by Council of its recommendation to the respective requiring authorities in respect of three notices of requirement and submissions thereon associated with Plan Change 57 at Hamilton International Airport.

Because only two Commissioners were appointed and to avoid a split decision, Council accorded the chairperson Commissioner Arcus a casting vote. In the event a casting vote was unnecessary.

In addition, Council contracted Beca Carter Hollings & Ferner Ltd (Beca) of Hamilton to make an assessment and provide the s42A Report in lieu of staff.

Waipa District Council as Consent Authority has therefore been completely removed from the assessment and decision-making in this case.

1.2 Notices of Requirement

The Notices of Requirement were to:

- (a) Alter the Airport Designation
- (b) Alter the State Highway 21 (Airport Road) Designation for Airport access
- (c) Alter the State Highway 3 Designation for Airport access.

A summary of the Notices of Requirement is included in Section 2 of this Recommendation.

1.3 Notification

The Notices of Requirement were lodged with Waipa District Council (as Consent Authority) on 17th August, 2007. Council publicly notified the proposed amendments to the designations on 29th September 2007 and the submission period closed on 30th October, 2007.

1.4 Submissions

(a) Airport Designation

One submission was received from McConnell Developments Ltd in support of the Notice of Requirement for the alteration of the designation.

(b) State Highway 3 Designation

One submission was received from McConnell Developments Ltd in support of the Notice of Requirement for the alteration of the designation.

(c) State Highway 21 Designation

Seven submissions were received to this Notice of Requirement for the alteration to the designation as below:

- | | |
|------------------------------|----------|
| • Ashton Family Trusts | Neutral |
| • Costenuff Family Trust | Oppose |
| • Lochiel Golf Club | Support |
| • McConnell Developments Ltd | Support |
| • Acorn Farms Ltd | Neutral |
| • Emma Lewis and Peter Lewis | Support. |

These submissions related to eight broad areas, being:

- Access Effects
- Amenity Effects
- Traffic Effects
- Property Effects
- Necessity of Works
- General comments
- Requests/Recommendations.

1.5 Plan Change Number 57 to the Waipa District Plan

A process running in tandem with the proposed alterations to the designations was Plan Change 57 (the Plan Change) to the District Plan of Waipa District Council. We deal with that in a separate Decision delivered contemporaneously.

1.6 Hearing

We conducted the Hearing of both the Plan Change and the Notices of Requirement at the Council on June 25th, 26th and 27th 2008.

In the course of the Hearing:

- (a) We heard submissions and evidence from the Waikato Regional Airport Limited (WRAL) as proponent of the Proposed Plan Change and the proposed amendment to the Airport Designation and new Transit Designations. We heard from:

Mr Phil Lang:	Counsel for WRAL
Mr Christopher Doak:	Chief Executive Officer of WRAL
Mr Nigel Richards:	McConnell Property Limited
Mr Terence Morris:	Morris Bray Architects Pty Limited
Mr Nevil Hegley:	Hegley Acoustic Consultants, Acoustic Engineer
Mr James Bentley:	Isthmus Group Limited, Landscape Architect
Mr Timothy Heath:	Property Economics Ltd, Consultant on Retail, Industrial and Business Forward Planning
Mr Cameron Inder:	Bloxam Burnett & Olliver Ltd, Transportation Engineer

Mr Tony Keyte	Bloxam Burnett & Olliver Ltd, Senior Civil and Transportation Engineer
Mr John Olliver	Bloxam Burnett & Olliver Ltd, Planning Consultant

- (b) We heard submissions and evidence from submitters and further submitters in support and submitters and further submitters opposed to the Plan Change and the proposed amendment to the Airport Designation and Transit Designations, (including partial support and opposition). We heard from the following:

Ashton Family Trust	Mr Jim Ashton Mr Norm Robbins, Maunsell Ltd, Traffic Engineer Mr Grant Eccles, Maunsell Ltd, Consultant Planner
Costenuff Family Trust RSK & CT Ingram Hamilton City Council	Mr Craig Clark, Resident Mrs Carolyn Ingram, Resident Mr Brent McAllister, Strategic HCC, General Manager; Mr Fraser Cameron, Changing Stride Limited, Public Transport Planner; Mr Robert Speer, Market Research Consultant; Alan Matheson, C & M Planning Limited, Consultant Planner;
National Fieldays Tainui Developments Ltd	Mr Barry Quayle, General Manager; Mr Eric van der Wel, Tainui Group Holdings Ltd, Project Manager; Mr Philip Brown, Traffic Engineer;
Transit New Zealand	Mr Brad Moore, Senior Resource Planner.

Letters were tabled from the following submitters:

Air New Zealand Limited
Kiwi Property Holdings Limited
Westfield New Zealand Ltd

- | | |
|--|--|
| (c) Waipa District Council
(as Consent Authority) | Mr Richard Douch, Beca Carter
Hollings and Ferner (Beca), Senior
Planner, author of the s42A Report; |
|--|--|

Mr Alasdair Gray, Gray Matter Ltd,
Traffic Engineer;
Mr John Mills, Utilities Manager,
Waipa DC;
Mr Karl Tutty, Environmental
Officer, Waipa DC;
Mr Wayne Allan, Planning
Services Manager, Waipa DC;

1.7 Site Visit

In the morning prior to the Hearing commencing on 25th June, we undertook a brief locality orientation visit to familiarise ourselves with the general layout and key features in the locality.

On the afternoon of Thursday June 26th we undertook a full site visit. In particular we visited the properties of Messrs Clark (Costenuff) and Ashton. Accompanied by Mr Olliver we viewed most of the existing industrial development on the west side of the Airport. We also identified and drove to the entranceway of the Ingram property on State Highway 3.

1.8 Definitions

In this decision we use the following terms:

AEE	Assessment of effects on the environment
ANB	Airport Noise Outer Control Boundary (OCB)
Airport	Hamilton International Airport owned and operated by Waikato Regional Airport Limited (WRAL)
Council	Waipa District Council in its capacity as Consent Authority.
District Plan	The District Plan of the Waipa District Council (operative December 1997)
EW	Waikato Regional Council trading as Environment Waikato
LGA	The Local Government Act 2002.
Plan Change	Proposed Plan Change 57 proposed by Waikato Regional Airport Limited
NoR	Notice of Requirement under RMA s 168
RMA	The Resource Management Act 1991 and its amendments.
S42A Report	The report prepared by Mr Douch in accordance with RMA s42A
SH	State Highway
WRAL	Waikato Regional Airport Limited.

2. ALTERATION TO DESIGNATIONS

2.1 Alteration to Airport Designation

A Notice of Requirement was lodged by WRAL for minor alterations to the boundaries of the Airport Designation DN71 for operational purposes. WRAL sought to adjust these boundaries to accommodate the proposed rezoning in the Plan Change and the subsequent development of the proposed business park and to better reflect the operational needs of the Airport.

The effect of the alteration to the Designation is that the Airport operational area defined by the Designation is reduced.

2.2 Alteration to State Highway 3 Access

A Notice of Requirement was lodged by Transit to alter the designation for State Highway 3 DN37 to provide sufficient land to form the western access to the proposed Airport Business Zone west of the Airport main runway. Sufficient land is included in the altered designation to:

- construct a channellised “T” intersection (seagull) south of the existing “No-exit” road as Stage 1;
- Ultimately provide a grade separation for right turn out movement and close that movement at grade.

2.3 Alteration to State Highway 21 Access

A Notice of Requirement was lodged by Transit to alter the designation for State Highway 21 DN43 to provide sufficient land to form the eastern access (including airport terminal traffic) to the proposed Airport Business Zone east of the Airport main runway. Sufficient land is included in the altered designation to construct:

- Stage 1 - a new two lane roundabout at Lochiel Road/SH21;
- Stage 2 - a left turn in deceleration and right turn out acceleration lanes to the roundabout;

We refer to this access as the “Airport Eastern Access”

3. STATUTORY FRAMEWORK

3.1 Formalities

Pursuant to RMA s166 WRAL has been given the status of a requiring authority for the purposes of RMA¹.

Similarly pursuant to RMA s166 Transit has been given the status of a requiring authority for the purposes of RMA².

The form and content of the notices of requirement lodged under RMA s168 are set out in the prescribed form. There was no challenge either evident in the written submissions or placed before us in evidence about the formal content of any of the Notices of Requirement.

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

3.2 Alteration to Designations

RMA s181 deals specifically with alterations to a designation. RMA s181(3) imports into the alteration procedure the same process as if the designation had been a new one. RMA ss168 to 179 therefore applies with all necessary modifications.

3.3 Criteria

RMA s171(1) sets out the matters for consideration of each of the requirements. It provides:

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...;*
 - (iv) a 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*

¹ Gazette Ref 1992/385

² Gazette Ref 1992/438

- (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.*

The essential matters for consideration are accordingly:

- RMA Part 2. We address that in Section 7 of this Recommendation following.
- Effects on the Environment. We address that in Section 5 of this Recommendation following.
- Planning instruments in the form of the Regional Policy Statement, and the District Plan. We address that in Section 4 of this Recommendation following.
- Alternative sites or methods. We address this below in this Section of our Recommendation.
- Reasonably necessary. We address this below in this Section of our Recommendation.
- Any other matter. We address that in Section 6 of this Recommendation following.

3.4 Reasonably Necessary

Prior to the RMA 2003 amendment there was some divergence in case law as to whether what is reasonably necessary under this section is:

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

The 2003 amendment made it clear that we are to consider both.³

Each of the requirements have been made in conjunction with the Plan Change. The substantive decision for us is whether or not the Plan Change should be approved. We address that in a separate Decision. If the Plan Change is approved, then we are in no doubt that each of the requirements become necessary.

In the case of a new designation it is usual to consider whether or not the mechanics of a designation are appropriate (as against say a resource consent). However, in this case there already exists in each case an existing designation. It is simply a question of amending its provisions.

³ RMA s171(1)(c)

We accept that each of the designations are 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.

3.5 Alternative Sites or Methods

We consider that this criteria is not relevant in the case of the alteration to the Airport Designation as the requiring authority has an interest in the land. The work (or the activity operation of the Airport) is not the subject of the application. The application seeks to simply reduce the area covered by the designation.

Although WRAL does have an interest in the land sufficient to undertake the work and this particular criterion does not apply to that extent, it is still necessary for us to consider the effects. We do that in Section 5 of this Recommendation.

In respect of the alteration to the SH3 Designation, no adverse effects have been identified which cannot be adequately mitigated. We therefore see no reason to address alternatives.

In respect of the alteration to the SH21 Designation, some adverse effects have been identified. We discuss these in more detail in Section 5.3 of this Recommendation. In that section we do discuss an alternative and indeed we prefer it.

3.6 Options as Commissioners

RMA 171(2) provides

- (2) *The territorial authority may recommend to the requiring authority that it—*
- (a) *confirm the requirement;*
 - (b) *modify the requirement;*
 - (c) *impose conditions;*
 - (d) *withdraw the requirement.*

Accordingly, we have the same options.

4. PLANNING INSTRUMENTS

4.1 District Plan

The principal planning document that relates to Hamilton Airport and its surrounds is the District Plan.

The Airport operational area is designated in the District Plan for “Airport Purposes” (Designation No.71). In addition, part of the operational area at the northern end of the main runway is designated as “Starter Extension and Runway End Safety Area” (Designation No.150) with a setback between the runway starter extension and the adjoining land being provided for by a separate designation (Designation No.151). The height of structures in the surrounding area is controlled by a designated “Obstacle Limitation Surface” (Designation No.39) which affects land around the Airport runway.

Most of the land relating to the Airport is zoned “Airport Industrial” with some being zoned “Rural”. The Airport Industrial Zone rules are quite restrictive and limit permitted activities to a narrow range of industrial and servicing activities that are associated with the Airport. Other industrial activities are listed as discretionary activities in the zone and are to be assessed against criteria that require consideration of the need to locate at the Airport rather than within another industrial zone.

The Airport has strong recognition in the District Plan through the following policy:

“To recognize the importance of Hamilton Airport for the District and the Region and to provide for the efficient and safe operation of Hamilton Airport.” (Policy TR11)

The key existing District Plan objective relating to development of the land around the Airport is:

“To provide for the needs of industrial and service activities associated with the airport.” (Objective IN7)

The related policy states:

“To identify a special industrial zone at Hamilton Airport for industrial and service activities associated with the Airport, with rules to protect the limited land with access to the runway for activities (such as goods handling) which need this access”. (Policy IN 4)

It can be seen from the above that the proposed alteration to the Airport designation is a consequential amendment to the Plan Change to provide for a business park at the Airport. We therefore consider that the alteration to the Airport designation is in accordance with the District Plan in providing for the on-going operation of the Airport and for the future business park.

WRAL's ownership of much of the land around the Airport also means it is in a position to manage the development and use of that land in such a way that it does not undermine the operation of the Airport.

The proposed alterations, as sought by the two Notices of Requirement from Transit NZ, to enable future access improvements to the Airport from SH 3 and to allow the establishment of a new roundabout on SH 21 close to its intersection with Lochiel Road, support the Plan Change to provide for the future development of a business park at the Airport. They are therefore similarly in accordance with the District Plan.

4.2 Waipa Urban Growth Strategy

The Waipa Urban Growth Strategy (WUGS) prepared in 2003 identified potential future growth cells for industrial and residential developments. An addendum report to consider commercial land options was subsequently prepared in June 2006. This later report addresses the issue of commercial land with a particular focus on the Large Format Retail land requirements that were not covered in the original WUGS. The report concluded that there was severe retail leakage out of the two commercial centres of Te Awamutu & Cambridge, in the order of 40,000m² of retail floor space. A number of options were considered in this report for the potential location of additional commercial land. One of these options was a 'midway' option (midway between the two town centres), with the Airport considered a potential option. The conclusion by the Council was that this option was neither supported, nor opposed, with a determination made that it would let the market decide whether this was a feasible option under the guidance of the RMA.

The proposed alterations to the designations are not inconsistent with the WUGS.

4.3 Waikato Regional Policy Statement (RPS)

The RPS was made operative in October 2000 and provides an overview of resource management issues in the Waikato Region. It provides objectives and a range of policies and methods to achieve integrated management of natural and physical resources across different resources, jurisdictional boundaries and agency functions, and guides the development of sub-ordinate plans and the consideration of resource consents. The issues discussed

traverse matters such as rural and urban land use and development, management of the soil resource, network utilities and infrastructure, and, surface water quality.

The RPS identifies “infrastructure” as a particular issue of importance to the region and refers to concerns for any conflicts and incompatibilities which may significantly compromise the operation of regionally significant infrastructure. The associated objective and policy that seek to see the continued operation of regionally significant infrastructure maintained or enhanced, and the avoidance of significant adverse effects upon that infrastructure, clearly applies to the Hamilton International Airport and to the State Highways around the Airport. The proposed alterations to the designations need to be considered in the context of this objective and policy. The RPS also identifies soil health and versatility as an issue with an associated objective and a policy that seeks to maintain versatility and productive capacity of the region’s soils resources and avoid, remedy or mitigate any degradation of soil versatility and productive capacity.

We see the proposed alterations to the designations as being entirely consistent with the RPS considerations regarding regionally significant infrastructure. They are all components of the provision for development of a business park around the Airport which will support and enhance the function and growth of this regionally significant asset and serve to ensure that effects on the safe and efficient operation of surrounding roads are appropriately avoided, remedied and mitigated. In relation to the issue of soil health and versatility, the proposed alterations will result in the permanent loss of a very small area of prime agricultural land. That land will be lost to agricultural production but it needs to be seen in the context of the circumstances of its unique location adjoining the Airport, rendering such land as scarce resource in its own right in terms of providing for further development of the Airport and supporting infrastructure for it.

4.4 The Waikato Regional Plan (WRP)

The WRP is operative in part. Those parts of the WRP yet to become operative do not affect the matters before us.

The purpose of the WRP is to manage the natural and physical resources of the Waikato Region, and to implement the provisions of the RPS.

The proposed alterations to the designations do not in themselves involve the undertaking of any activities that fall under the administration of the WRP. Future related resource consent applications to the Waikato Regional Council will be needed for aspects such as earthworks and stormwater disposal and can

be applied for at the appropriate time. The proposed alterations to the designations are therefore not inconsistent with the WRP.

4.5 Regional Land Transport Strategy (RLTS) for Waikato Region

The Regional Land Transport Strategy was adopted by the Waikato Regional Council in November 2006. Its purpose is to establish a set of policies and actions and an investment programme to guide the local, regional and national agencies developing and maintaining the transport system in the Waikato.

The Airport is recognized as a key part of the region's infrastructure in the RLTS. It states:

“There are development plans for the airport which includes the opening up of more commercial and industrial land. The airport has potential to become an important regional freight and logistics hub, and as such safe and efficient access to the airport is an important consideration for the strategy.” (Section 2.3.6)

The RLTS, when referring to economic development policies, states:

“Ensure the region's key economic sectors, principal population centres, ports and airports are well connected to an integrated strategic corridor network both within and connecting to the region.” (Section 7.2.1).

The RLTA gives strong support to the role of the Airport as a key transport hub in the Waikato region's multi-modal transport network. It also provides specific support for its future development as a freight and logistics centre. The proposed alterations to the designations will assist in supporting the Plan Change that provides for the development of a business park at the Airport as well as supporting the future wider transport role of the Airport for the region. We consider the proposed alterations to the designations be in accordance with the RLTS.

4.6 Conclusion

We consider that the Notices of Requirement for alterations to the designations are consistent with the above planning instruments and indeed give effect to many of the provisions contained within each of these planning instruments.

5. EFFECTS

5.1 Scope of Effects

a) Alteration to Airport Designation

The alteration to the Airport Designation effectively reduces the area of that Designation for airport purposes. There was only one submission in respect of that alteration and that submission was in support.

No adverse effects have been identified for this alteration. Indeed, we consider there are none.

b) Alteration to State Highway 3 Designation

The alteration was publically notified but attracted only one submission and that submission was in support. No adverse effects were identified by any submitter. The traffic effects of this amendment were considered by both Mr Inder and Mr Gray.

We accept the evidence of those two qualified traffic engineers that the provisions proposed in the alteration to the designation will adequately mitigate the traffic effects that will be generated by the rezoning of the Airport land.

We therefore do not further address the effects of the proposed alterations to the Airport Designation nor the State Highway 3 Designation.

5.2 Alteration to State Highway 21 Designation

After public notification of the Plan Change and the NoRs, the possibility of a relocation of the Airport Eastern Access was actively considered. Both WRAL and Ashton supported the relocation of the roundabout and Transit was neutral on the issue. A number of witnesses provided good reasons for a relocation.

(a) Jurisdiction to Relocate Airport Eastern Access

Before we can consider seriously the merits of relocating the roundabout we must first consider whether we have jurisdiction to even consider doing so.

The initial view of Mr Gallie, Counsel for the Council (as Consent Authority) was that the relocation of the Airport Eastern Access falls outside of the permissible scope of the allowable modifications. We therefore lacked the jurisdiction to entertain a relocation of that Access.

Both Mr Lang Counsel for WRAL and Mr Milne Counsel for Ashton disagreed with that view and considered that we did have jurisdiction to consider the relocation proposed. We understood that subsequently, once Mr Gallie was provided with further detail, he modified his view.

Having considered the submissions made by counsel to us, we see the legal position as follows:

- In *Haslam v Selwyn District Council*⁴ the Environment Court set the test of the extent of permissible amendment to a notified proposal as being whether it is “plausible” that any person who did not make a submission would have done so if the application information available for examination had incorporated the amendment.
- The Haslam Decision was followed by a High Court Decision in *Countdown Properties (Northland) Ltd v Dunedin City Council*⁵. There the High Court’s view was that the local authority “...must make a decision based upon its own view of the extent of the submissions and whether the amendments come fairly and reasonably within them”⁶.
- Significant in the WRAL case before us is that Lochiel Road is a very short section of road providing access to a very limited number of properties. WRAL was able to obtain the approval to the relocation of the roundabout from every person having access to Lochiel Road except for Costenuff/Clark. Mr Clark gave evidence about the location of the Airport Eastern Access. From that and more particularly in the course of our site visit we were left in no doubt that for their part Costenuff/Clark would much prefer the proposed roundabout to be relocated (for reasons relating to proximity and noise which we discuss in Section 7.11(d) of our Decision in respect of Plan Change 57). In these circumstances we find it difficult to see exactly who could have been affected significantly by the amendment other than those persons.
- If the test were one of plausible intervention by a third party to the proceedings, then we find that it is not plausible that any person who did not make a submission would have done so if the application information available for examination had incorporated the amendment.

⁴ (1993) 2 NZRMA 629

⁵ (1994) NZRMA 145

⁶ Ibid pg 167

- When considering a notice of requirement, RMA s171(2) gives a territorial authority not only options to recommend confirming or withdrawing the requirement, but also to modify it.
- RMA s172(2) allows a requiring authority to modify a requirement “...if, and only if that modification is recommended by the territorial authority or is not inconsistent with the requirement as notified”. We agree with Mr Milne that the use of the word “or” indicates that there are two jurisdictional foundations, not one. The requiring authority itself may modify a requirement so long as it is not inconsistent with the requirement as notified. Secondly, the territorial authority may modify a requirement in which case there is no requirement that the amendment not be inconsistent with the requirement as notified.
- We note that the submission lodged by the Ashton Family Trust in respect of the NoR specifically requested relocation of the proposed Airport Eastern Access. We consider that the relocation now proposed comes “*fairly and reasonably within..*” that submission.
- Even if inconsistency were the test, we consider we were provided with compelling reasons for the relocation which we discuss below.

We conclude that the modification to the NoR by the relocation of the Airport Eastern Access is within the scope of the submissions and within our jurisdiction.

(b) Merits of Relocation of Airport Eastern Access

In both its submission and in its presentation at the hearing the Ashton Family Trust requested that the Airport Eastern Access be relocated to a position approximately 150 metres south on SH21 so that it would also provide access to the Trust’s property on the east side of State Highway 21. Mr Inder for WRAL considered that possibility identified a number of reasons for relocating the Access as follows:

- *Lochiel Road will still connect to the roundabout via a short realignment and the current Lochiel Road intersection with State Highway 21 will be closed;*
- *it provides [WRAL] a better balance of developable land between State Highway 21 and the Runway zone;*
- *... it is situated closer to the Airport terminal;*

- *... reduces the adverse effects on the adjacent land owners Hays and Clark;*
- *an increased separation distance between the roundabout and Range Road/SH21 intersection (now 950 m);*
- *the more centralised location to serve the Titanium Park development.*
- *The impact on sight line distance compared with the previous roundabout location will be minimal;*
- *there will be no reduction to the capacity or performance of the intersection;*
- *The alternative location also helps to increase the distance between the State Highway roundabout and the first internal roundabout in Titanium Park;*
- *improved internal management of traffic flows⁷.*

Mr Robins also supported the relocation. He was called to consider the relocation in relation to providing appropriate access to the Ashton property on the basis that it too would be zoned Airport Business Zone. We have discussed the appropriateness of that zoning for the Ashton land in Section 7.4 of our Decision on the Plan Change and have concluded that we are not prepared at present to accede to the Ashton zoning request. However, that is not to say that such zoning may not occur in the future. Because the Ashton land is of a significant size we consider it would be prudent to make better provision for appropriate access for that land to SH21 anyway. In addition, we are mindful of the significant requirement of the National Field Days (confirmed by Mr Quayle) and the possibility that it may be looking for alternative access from SH21 through the Ashton property. We note it is already doing that on an informal basis.

Despite the fact that we are not prepared at the moment to rezone the Ashton land, it is nevertheless prudent to make provision for better access to the east of SH21 in that locality.

We understood that Mr Gray also supported the relocation of the Airport Eastern Access.

The Transit position is that it has no preference over the location of the proposed Airport Eastern Access.

⁷ Inder ev. para. 4.2 and 4.3

We find all of this sufficiently compelling to modify the Requirement for the Airport Eastern Access to the new location proposed on BBO Plan 136830/P/124 produced by Mr Robbins.

(c) Conclusion on Airport Eastern Access

We consider that:

- We have jurisdiction to consider a relocation of the Airport Eastern Access; and
- The Airport Eastern Access should be relocated to the position identified by Mr Robins.

5.3 Conclusion on Effects

We consider that:

- a) There are no adverse effects arising from the alteration to the Airport Designation;
- b) any adverse traffic effects in relation to the alteration to State Highway 3 Designation can be adequately mitigated; and
- c) The Airport Eastern Access should be relocated to the position shown on Plan No 136830/LR/124C. In that position any effects can be adequately mitigated.

6. OTHER MATTERS

Plan Change

In the context of the proposed alterations to the designations is the contemporaneous consideration of the Plan Change. We consider that the Plan Change is a very significant element to be taken into account in the amendment to the designations.

Clearly there needs to be consistency between both. This was achieved by our hearing both matters contemporaneously.

We consider the Plan Change in a separate Decision delivered contemporaneously. The substance of that Decision is that for the reasons provided, the Plan Change promulgated by WRAL is accepted by Waipa District Council. Although the Plan Change is adopted subject to some amendments, those amendments are matters of detail and do not alter the significance of the three proposed alterations to designations.

Having concluded that the Plan Change should be accepted by Waipa District Council, in our view, that then provides a compelling reason to alter the three designations as required (subject to the relocation of the Airport Eastern Access).

7. RMA PART 2

7.1 Section 5

The case for WRAL was that each of the proposed alterations meets the provisions of Section 5 as it relates to the sustainable management of natural and physical resources.

The request by WRAL for the Plan Change asserted

“The proposed business park will enable people and communities to provide for their social, economic and cultural well being. It will provide support for the airport which in turn is a key transport hub that supports the regional economy and the ability of people to travel and goods transported. In addition more diversified activities around the airport will provide a better level of services and facilities for the local community. The land that is being rezoned is currently under utilised land that has been partly developed in a piecemeal fashion. ... the business park is efficient and appropriate development and adverse effects on the environment can be adequately avoided, remedied or mitigated...”⁸

Mr Douch agreed with that. There was no serious suggestion otherwise. We accept it.

We consider the proposed alterations to the designations meet the purpose of RMA set out in s5.

7.2 RMA Section 6

We consider there are no relevant matters of national importance under s6.

7.3 RMA Section 7

Mr Douch drew our attention to:

- (b) *“The efficient use and development of natural and physical resources:*
- (c) *The maintenance and enhancement of amenity values:*
- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources.”*

⁸ WRAL Request for Plan Change para. 10.4

We agree that the alterations to the designations, in conjunction with the Plan Change, will be an efficient use of land in the vicinity of the Airport and provide opportunities for activities best suited to locate near an international airport and ready access onto the State Highway network.

At the same time the alterations to the designations, in conjunction with the Plan Change, provide for the use of the Airport to be maximised, the Airport being is a significant regional resource. The alterations and the Plan Change also recognise that such a resource is finite.

We have addressed amenity values and the quality of the environment under Effects in Section 5 of this Recommendation.

7.4 RMA Section 8

The cultural assessment lodged with the application⁹ indicated support for the Plan Change and, given the close association of the proposed alterations to the designations with that Plan Change, we consider the assessment does not present any difficulties to the proposed alterations.

No submission or further submission was lodged by Maori interests. There were no recorded concerns regarding iwi's relationship and the Treaty of Waitangi.

We accept that the Maori provisions of Part 2 are satisfied.

⁹ AEE Appendix 11

8. CONCLUSION

8.1 Criteria

We have recorded in Section 3.3 of this Recommendation the criteria which we must address as follows:

- RMA Part 2
- Effects on the Environment
- Planning instruments in the form of the Regional Policy Statement and the District Plan.
- Alternative sites or methods.
- Reasonably necessary.
- Any other matter.

8.2 RMA Part 2

We have dealt with Part 2 in Section 7 of this Recommendation.

8.3 Effects on the Environment

We have dealt with the effects on the environment in Section 5 of this Recommendation.

8.4 Planning Instruments

We have set out the provisions of the relevant planning instruments and our conclusions in Section 4 of this Recommendation.

8.5 Alternatives

Following our conclusion on effects, there is no necessity to address alternatives in respect of the proposed alteration to the Airport Designation nor the SH3 Designation.

In respect of the SH21 Designation alternatives have been addressed and indeed we prefer the alternative.

8.6 Necessity

We have addressed this in Section 3.4 of this Recommendation.

8.7 Other Matters

We have addressed these in Section 6 of this Recommendation.

8.8 Conclusion

We consider that the existing three designations should be altered as requested in the respective NoRs and propose to make a recommendation accordingly.

8.9 Conditions

We see no necessity to impose any conditions on the alteration to the Airport Designation.

In respect of the alteration to the SH3 Designation, we see no necessity to impose any more than standard conditions relating to an outline plan (required under RMA s176A) and construction.

In respect of the alteration of the SH21 Designation, several matters were raised before us which we consider require some care and should therefore be the subject of further conditions. We propose a condition directed at traffic management and safety which can be satisfactorily addressed by means of a Traffic Management Plan. We also wish to have addressed some design issues.

**9. RECOMMENDATION BY WAIPA DISTRICT COUNCIL ON
REQUIREMENT BY WAIKATO REGIONAL AIRPORT
LIMITED**

Having had regard to the provisions of the Resource Management Act 1991 and in particular Part 2 and Part 8 thereof; and

Having considered the effects on the environment of allowing the amendment to 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 Waipa District Council to hear and make a determination by Council of its recommendation to Waikato Regional Airport Limited on the requirement by Waikato Regional Airport Limited; and

For the reasons set out in the text of this Recommendation

Waipa District Council recommends to Waikato Regional Airport Limited that

- 1) The alteration to Designation DN71 as included in the Waipa District Council District Plan be amended by altering the alignment of the eastern boundary of the operational area as shown on Drawing 126760-04-02 attached as Appendix 1, be confirmed; and
- 2) The alterations to the designation be inserted into the Council's District Plan to reflect the nature and extent of the requirement.

**10. RECOMMENDATION BY WAIPA DISTRICT COUNCIL ON
REQUIREMENTS BY
TRANSIT NZ**

Having had regard to the provisions of the Resource Management Act 1991 and in particular Part 2 and Part 8 thereof; and

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

Having had particular regard to the provisions of all the relevant planning instruments, alternative sites or methods, whether the designations are reasonably necessary, and any other matter reasonably necessary in order to make a recommendation on the requirements; 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 Waipa District Council to hear and make determination by Council of its recommendation to Transit New Zealand on the requirements by Transit New Zealand; and

For the reasons set out in the text of this Recommendation

Waipa District Council recommends to Transit NZ that:

- 1) That the alteration to Designation of State Highway 3, DN37 as included in the Waipa District Council District Plan to include land on the western side of State Highway 3 opposite Hamilton International Airport and shown on Plan 126760/11/04 attached as Appendix 2 to this Decision, be confirmed as Designation DN50, subject to the following conditions; and
- 2) That the alteration to the Designation of State Highway 21, DN 43 as included in the Waipa District Council District Plan to include land on the eastern side of State Highway 21 opposite Hamilton International Airport in the vicinity of Lochiel Road be modified so as to be in accordance with Plan No 136830/LR/124/C attached as Appendix 3 to this Decision, subject to the following conditions; and
- 3) The alterations to both designations be inserted into the Council's District Plan to reflect the nature and extent of the requirements.

11. CONDITIONS ATTACHING TO TRANSIT DESIGNATION DN 37 NOW DN 50

1. An outline plan of works shall be submitted pursuant to section 176A of the Resource Management Act 1991 prior to works commencing on site. The outline plan shall address the issues outlined within Section 176A(3).
2. A Construction Management Plan shall be submitted to Waipa District Council for review and comment as part of the outline plan of works. The plan shall include, but not necessarily be limited to:
 - Sediment and erosion control measures and dust suppression measures and how dust and debris from construction will generally be contained within the site;
 - Details of arrangements for management of parking and storage and site compound arrangements.
 - The proposed earthworks methodology, including testing for any fill required to be imported onto site;
 - Material sources, use/disposal and treatment;
 - Machinery and equipment to be used, including the use of non-percussive machinery where practicable;
 - Hours of operation, including times and days when noisy construction work would likely occur;
 - Demonstration of the ability to adhere to the national construction noise standard, NZS 6803:1999 'Acoustics -Construction Noise and the methods to be implemented to adhere to this standard;
 - Methods for monitoring and reporting on construction noise
 - Contact details of a senior manager for complaints and issues related to construction on a 24 hours seven day a week basis. These details to be advised to all residents within 200m of the area of works.

12. CONDITIONS ATTACHING TO TRANSIT DESIGNATION DN 43

1. That an outline plan of works be submitted pursuant to section 176A of the Resource Management Act 1991 prior to works commencing on site. The outline plan shall address the issues outlined within Section 176A(3).
2. A Construction Management Plan shall be submitted to Waipa District Council for review and comment as part of the outline plan of works. The plan shall include, but not necessarily be limited to:
 - Sediment and erosion control measures and dust suppression measures and how dust and debris from construction will generally be contained within the site;
 - Details of arrangements for management of parking and storage and site compound arrangements.
 - The proposed earthworks methodology, including testing for any fill required to be imported onto site;
 - Material sources, use/disposal and treatment;
 - Machinery and equipment to be used, including the use of non-percussive machinery where practicable;
 - Hours of operation, including times and days when noisy construction work would likely occur;
 - Demonstration of the ability to adhere to the national construction noise standard, NZS 6803:1999 'Acoustics -Construction Noise and the methods to be implemented to adhere to this standard;
 - Methods for monitoring and reporting on construction noise
 - Contact details of a senior manager for complaints and issues related to construction on a 24 hours seven day a week basis. These details to be advised to all residents within 200m of the area of works.

3. Traffic Management and Safety

The Requiring Authority shall prepare and implement a Traffic Management Plan (TMP) in accordance with the Transit NZ Code of Practice for Temporary Traffic Management, 2004 including Local Road supplements and best practice. In developing the TMP the Requiring Authority shall undertake measures to avoid work during events the restriction of vehicle and pedestrian movements to the greatest extent practicable.

4. Design.

The design of the roundabout and Lochiel Road realignment shall take into account but not be limited to the following:

- a) Management of glare and lighting spill
- b) The potential for future connection to Mystery Creek increasing traffic volumes including pedestrians and cyclists
- c) Opportunities for the infrastructure to facilitate special event traffic management.

5. Audit

- a) In consultation with Waipa District Council and prior to finalising contract documentation, the Requiring Authority shall have carried out detailed design road safety audit in accordance with Land Transport NZ guidelines.
- b) In consultation with Waipa District Council and within 3 months following completion of construction, the Requiring Authority shall have carried out post-construction road safety audit in accordance with Land Transport NZ guidelines.

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C D ARCUS
22nd August 2008

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A R WATSON