

Before the Hearings Commissioner
at Cambridge

in the matter of: A Private Plan Change to the Waipa District Plan under
Schedule 1 of the RMA by Waikato Regional Airport
Ltd/Titanium Park Ltd and an associated Notice of
Requirement, by the NZ Transport Agency, for an
alteration to designation as per section 181 of the RMA

to: **Waipa District Council**

applicant: **Waikato Regional Airport Ltd/Titanium Park Ltd**

Statement of Evidence by **Kathryn Anne Drew** on behalf of Waikato Regional Airport Ltd/Titanium
Park Ltd

Date: 1 May 2019

1. INTRODUCTION

Qualification and experience

- 1.1 My name is Kathryn Anne Drew. I am a Senior Planner at Bloxam Burnett & Olliver (BBO), a firm of consulting engineers, planners and surveyors based in Hamilton. I have been employed by BBO since 2008.
- 1.2 I hold the qualifications of a Bachelor of Resource and Environmental Planning with honours from Massey University and have been practicing as a planner for over 16 years. I am a full member of the New Zealand Planning Institute and a member of the Resource Management Law Association.
- 1.3 In relation to this hearing I am presenting expert planning evidence on behalf of the Applicants, being the Waikato Regional Airport Ltd (WRAL) and Titanium Park Ltd (TPL). My evidence also covers the NZ Transport Agency designation matters.
- 1.4 The Applicants are seeking a private Plan Change to the Operative Waipa District Plan (District Plan) to amend the Airport Business Zone Structure Plan¹ and associated land use pattern for the Central and Southern Precincts of the Titanium Park Business Park (Titanium Park) at the Hamilton Airport. The Plan Change is described as Plan Change 10 (PC10) to the District Plan.
- 1.5 Concurrent to PC10 a Notice of Requirement (NoR) for an alteration to designation is being sought to amend the alignment of Designation D43. This alteration is being sought by the NZ Transport Agency as the requiring authority for D43. The alteration is proposed to provide the additional land required to account for main Airport intersection with State Highway 21 (SH21).
- 1.6 I am familiar with the statutory framework that is relevant to both the Plan Change and NoR having experience in the preparation and processing of both Plan Changes and NoRs. Most recently I processed a Plan Change for Waikato District Council in Pokeno (Plan Change 21) to rezone land from Rural to Residential.
- 1.7 I have been providing planning advice to the Airport since I commenced working at BBO in 2008. As such, I have been directly involved in the progressive development of Titanium Park and have an intimate knowledge about the Airport/Titanium Park and the District Plan provisions that apply.
- 1.8 I also oversaw the prepared the Request for Private Plan Change and Notice of Requirement Application report, dated September 2018, was involved the discussions/consultation

¹ Contained in Appendix S10 of the Operative Waipa District Plan.

leading up to its preparation and have been involved in the consultation with the two submitters in opposition since the close of the submissions.

- 1.9 I confirm that have read the “Code of Conduct for Expert Witnesses” contained in the Environment Court’s Consolidated Practice Note 2014 and have complied with them in preparing evidence for this proceeding. Except where I state that I am relying on evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

Scope of evidence

- 1.10 I am presenting planning evidence in support of the both the PC10 and NoR applications. My evidence covers:

- a) A description of what is proposed in terms of the PC10 and the NoR;
- b) The statutory assessment criteria to be considered under the RMA for both proposals;
- c) Summary of submissions and analysis of the submitters concerns;
- d) Overview of the environmental effects;
- e) Commentary on the designation conditions for the NoR; and
- f) My conclusion.

- 1.11 In preparing this evidence I have read the opinions expressed through the submissions that have been received during the submissions process. I will address the submissions in this evidence.

- 1.12 I have also read the s42A report by Waipa District Council’s (WDC) processing planner (Ms Kylie O’Dwyer) recommending that the plan change be approved, subject to one modification and that the NoR be confirmed, subject to conditions. I concur with the recommendations of the processing planner, subject to some further amendments to the designation conditions, as I set out in this evidence.

- 1.13 My evidence is to be read in conjunction with evidence to be presented by the following persons and the application documentation² which accompanied the PC10 and NoR request. Evidence will be presented by:

- Mr Mark Morgan, Chief Executive of the Hamilton Airport; and
- Mr Cameron Inder of BBO, who provides expert evidence in respect of the transportation matters.

² Waikato Regional Airport Ltd/Titanium Park Ltd and NZ Transport Agency Request for a Private Plan Change & Notice of Requirement – Section 32 Evaluation and Assessment of Environmental Effects Report, September 2018.

- 1.14 The background to PC10 and the associated alteration to designation is set out in the evidence of Mr Mark Morgan on behalf of the Applicant. Similarly, the site location and proposed revised access strategy for the Airport/Titanium Park is described in detail in the evidence of Mr Cameron Inder on behalf of the Applicant. Please accordingly refer to that evidence for those specific details. The background to the sites existing zoning and Structure Plan is set out in section 1.3 of the application and is similarly not repeated here.

2. OVERVIEW OF THE PLAN CHANGE

- 2.1 The purpose PC10 is to enable the ongoing efficient operation of the Airport and its associated landholdings, in particular, by providing for land use activities and a transport network in the Central and Southern Precinct of Titanium Park that avoids internal conflict with terminal traffic and creates a new gateway to the Airport in a logical central position. To account for this purpose a revised access strategy is proposed that retains a main access point near the Airports existing intersection with SH21 to service the Airport and the Central Precinct and thereafter provides a separate intersection into the Southern Precinct.
- 2.2 No changes to any zoning is proposed by PC10 and any changes to rules proposed will make development more restrictive, for the Southern Precinct, not more lenient. PC10 is considered to be an amending Plan Change.
- 2.3 To provide for the revised access strategy, PC10 seeks to incorporate the proposed changes into the District Plan by the following means:
- Amendments to the existing Structure Plan (Appendix S10);
 - Amendments to Planning Zoning and Policy Maps 3, 17 and 19;
 - Amendments to the supporting Principles and Rules (Sections 10 and 15); and
 - Inclusion of a new objective and policy for development within the Southern Precinct (Section 10).
- 2.4 The specifics of each of these changes is described as follows.
- 2.5 It is proposed to amend the Airport Business Zone Structure Plan to account for the amended indicative road network as a result of the revised access strategy. The Structure Plan is also proposed to be amended to identify the extent of the Central and Southern Precincts, amend the cycleway/walkway connections, update the location of the Open Space/ Landscaping area, update the location of the retail area and enable Pacific Aerospace to maintain their access point, at 333 Airport Road, on SH21.
- 2.6 The revised Structure Plan is contained in **Attachment 1** of this evidence with an extract provided in Figure 1 on the following page. The Structure Plan is embedded into the District Plan as Appendix S10 and is referred to in discrete sections of the District Plan.

2.7 For comparative purposes, an extract from the existing Structure Plan, for the eastern side, is provided as Figure 2.

Figure 1 - Revised Structure Plan (extract)

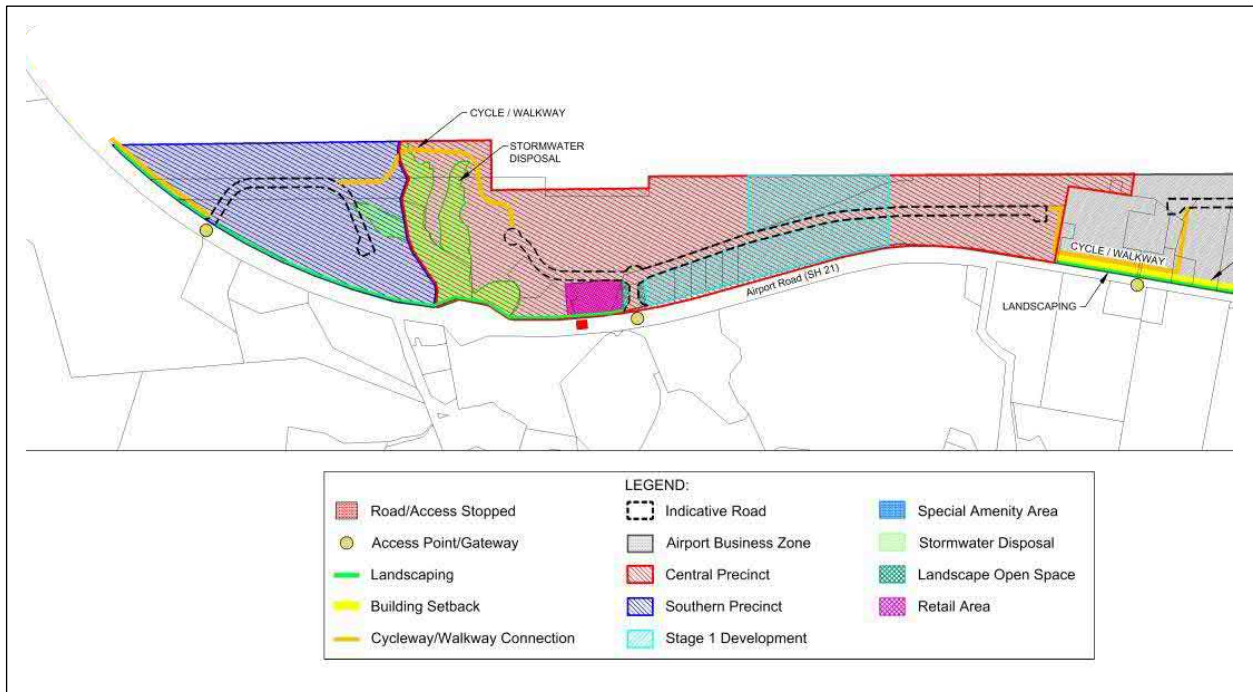
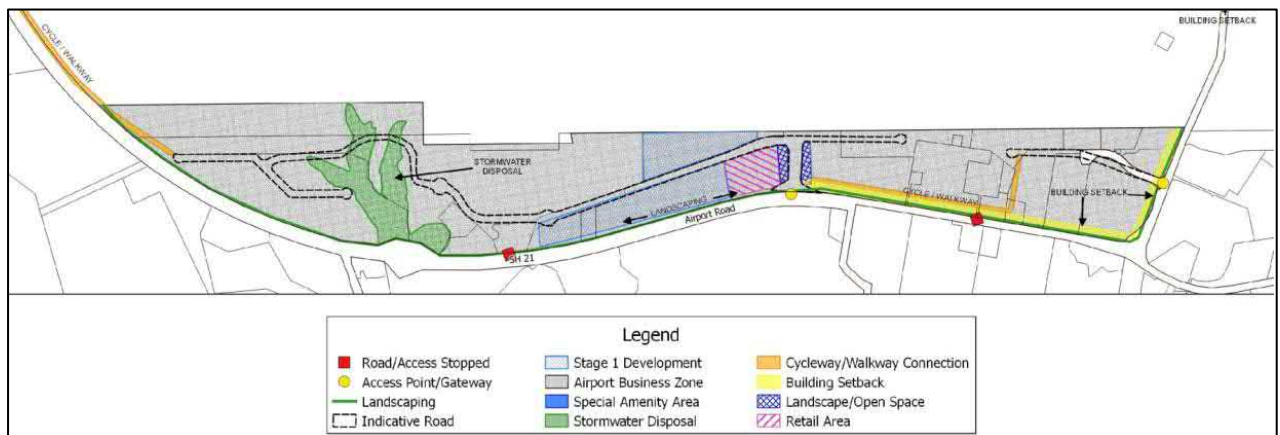


Figure 2 – Existing Structure Plan (extract)



2.8 Both the Zoning and Policy Maps (Maps 3, 17 and 19) are required to be amended to account for the indicative road layout and naming conventions for the Southern and Central Precincts of the Airport Business Zone. This is because the planning maps have the indicative road network included as a policy overlay. The revised Planning Maps are contained in Appendix H of the application documentation.

2.9 For the Southern Precinct, new controls on land uses are proposed. These controls seek to restrict the types of activities that can establish in the Southern Precinct, as a permitted activity, to manage traffic volumes and the resulting performance of that new intersection.

It is consequently proposed to manage higher traffic generating activities establishing in the Southern Precinct by means of a Non-Complying activity status. Without repeating all the types of activities that are non-complying, some examples include: vehicle rentals, vehicle parking and storage, service stations, laboratories and research establishments and offices.

- 2.10 Section 8.8.1 of the processing planners report has recommended that one minor change be also included in Table 10.4.1.5 of the District Plan, being the inclusion of education facilities as a non-complying activity. This change is acceptable. **Attachment 2**, of this evidence, includes a revised version of the District Plan text changes, including this suggested change.
- 2.11 A supporting objective and associated policy for the Southern Precinct is also proposed, to support the consenting framework for the non-complying activities, as follows:

Objective – Development within the Southern Precinct

10.3.3 To enable the development of the Southern Precinct while maintaining the safety and efficiency of State Highway 21.

Policy – Types of activities

10.3.3.1 To restrict the types of activities located in the Southern Precinct to ensure the safe and efficient operation of the access to State Highway 21.

- 2.12 This policy framework make it clear that consents sought for any non-complying activities will need to demonstrate that the transportation movements of that activity, when considered collectively with other movements in the Southern Precinct, will not affect the safety and efficiency of SH21, albeit providing for flexibility in the mitigation to be undertaken to achieve this outcome.
- 2.13 Additional amendments are proposed to Section 15 and the Appendix S10 principles, to ensure that the language used is consistent with what is now proposed. Refer to the document in **Attachment 2** for further details of the specific changes sought. This version aligns with that contained in Appendix C of the s42A report.

3. OVERVIEW OF THE NOTICE OF REQUIREMENT

- 3.1 A key component of PC10 to amend the Airport Structure Plan and access provisions are amendments to transport infrastructure adjacent to the Airport, in particular SH21 (Airport Road), to ensure that the revised roundabout can be accommodated.
- 3.2 SH21 is specifically noted within the District Plan, via Designation D43, as being a designation to the NZ Transport Agency, for the 'Maintenance and improvement of existing SH's' at the location 'State Highway 21 - Airport Rd'. The NZ Transport Agency is a Crown entity and Requiring Authority. The Transport Agency's objective pursuant to section 94 of

the Land Transport Management Act 2003 (LTMA) is to undertake its functions in a way that contributes to an effective, efficient, and safe land transport system in the public interest.

- 3.3 To account for the upgrade of the main Airport intersection with SH21, it is considered that an alteration to designation D43 is the most efficient and effective method to provide for the proposed intersection upgrade, as it secures the land for this purpose. To enable this to occur, land is required four properties, as indicated on Drawing 144380/01/P/0231 contained within **Attachment 3**. These specific land requirements are further summarised in Table 1 below. The land requirements directly relate to the preliminary roundabout design shown on the various other plans contained in **Attachment 3**.

Table 1. Land Requirements

Key	Owner	Legal Description	Certificate of Title	Purpose	Requirement (m ²)
A	Shaw's Property Holdings Limited	Lot 1 DP 460851	605012	State Highway	5580
B	Waikato Regional Airport Limited	Lot 8 DP 407016	424710	State Highway	86
C	Waikato Regional Airport Limited	Lot 10 DPS 61001	SA49B/338	State Highway	680
D	Hamilton Pistol Club Incorporated	Lot 1 DP 478274	664317	State Highway	260

- 3.4 Of the four land requirements above, the Applicants have protected or have the ability to secure three of the four land requirements, as they are either the landowner or have purchased the land. The land required from Shaw's Property Holdings Ltd has been purchased and subdivided so that it is separated from the balance of the Shaw's title. Discussions with the Hamilton Pistol Club are ongoing.
- 3.5 Other consequential changes, outside of the designation footprint, that are directly associated with the roundabout being positioned near the Airports existing intersection include:
- The provision of a secondary roundabout that connects the new roundabout to the Airport and Ossie James Drive; and
 - Realignment of the accessways for the Hamilton Kart Club and the Hamilton Pistol Club off the eastern leg of the roundabout.

4. OVERVIEW OF RELEVANT STAUTORY PROVISIONS FOR THE PLAN CHANGE

- 4.1 The Plan Change process is subject to the provisions in the RMA, including Part 2, the Purpose and Principles, and Sections 31, 32, 74 and Part 2 of Schedule One. As set out in Clause 22 of Part 2 of Schedule One, the plan change requires must contain an evaluation report prepared in accordance with section 32 and an assessment of environment effects

in such detail as corresponds to the scale and significance of the actual or potential environmental effects anticipated from the implementation of the change.

- 4.2 Section 32 of the RMA is a key component of the policy development process for District Plan matters, including private plan changes. It requires a robust analysis of policy options, including options assessment and consideration of costs and benefits, before settling on the preferred option. The s32 evaluation undertaken for the plan change is set out in section 7 of the application. This section identifies that the first step of the evaluation is to identify the issues that the plan change is intended to address (i.e. its objective). That is, the reason why the existing District Plan provisions are not appropriate or why certain amendments are required.
- 4.3 The objective of PC10 is to address the following issues:
1. Ensuring that the Airport terminal is the prominent focal point upon entry from SH21 in the future by providing a 'gateway' access feature.
 2. Locating the future SH21 access in a position to achieve the above, while also serving appropriate access to the business park (Central Precinct).
 3. Separating of the development of the Southern Precinct from the Central Precinct to minimise conflict between terminal operations and business park traffic in the south while also minimising transport infrastructure cost.
 4. Retaining walking and cycling connectivity between the Southern and Central precincts.
 5. Managing activities in the Southern Precinct so as to minimise traffic volumes for the new southern access.
- 4.4 The following options were then considered to address the objective/issues:
1. Do nothing and undertake development as per existing provisions.
 2. Lodge restricted discretionary activity resource consents for alternative development scenarios³.
 3. Wait for the next District Plan review and make submissions to seek the rezoning.
 4. Update the Structure Plan and transport provisions within the District Plan by private plan change.
- 4.5 The section 32 evaluation undertaken lead to the determination that option 4 would yield the most benefits in comparison with costs. Option 4 is was therefore identified to be the preferred option.
- 4.6 Section 7.3 of the application then included an assessment of the efficiency and effectiveness of the Plan Change provisions. That assessment determines that the proposed provisions/changes sought are efficient and effective in achieving the objective.

³ Under Rules 15.4.2.84 and 15.4.2.85 of the District Plan

4.7 Section 8.7 of the s42 report has identified that our section 32 evaluation is concurred with. No submitters have raised concerns with the section 32 evaluation either. On this basis, I concluded that:

- a) Utilising the Plan Change process to update the Airport Business Zone Structure Plan and associated rules is considered the most appropriate planning method to address the issues associated with the continued effective and efficient operation of Hamilton Airport and the Titanium Park Business Park.
- b) The proposed updates to the Structure Plan, the new objective and policy and the associated rule amendments give effect to the existing District Plan intent for the Airport Business Zone and are not inconsistent with it.
- c) The proposed changes are efficient and effective methods of addressing the issues by separating the Southern Precinct from the Central Precinct and providing a central gateway intersection close to the terminal and are comprised in discrete sections of the District Plan and cover specific land uses within the specific Airport Business Zone.
- d) The Plan Change will not result in inconsistencies with the existing objectives and policies of the District Plan.
- e) Utilising the Plan Change process has the benefit of providing longer term certainty to the WRAL Group and stakeholders.
- f) The overall objective will achieve the sustainable management purpose of the RMA.
- g) PC10 appropriately gives effect to and has regard to the relevant statutory framework as required by sections 75(3) and 74(2)(b)(i) of the RMA.

5. OVERVIEW OF RELEVANT STATUTORY PROVISIONS FOR THE NOTICE OF REQUIREMENT

5.1 Section 181(1) of the RMA enables a requiring authority that is responsible for a designation to, at any time, lodge a NoR to the relevant territorial authority for an alteration to that designation.

5.2 In accordance with section 181(2), sections 168 to 179 and 198AA and 198AD apply with all necessary modifications as if it were a requirement for a new designation. When considering a NoR (for an alteration to designation) and its effects on the environment, section 171 of the RMA states that Council must have particular regard to the following matters:

1. Relevant provisions of a national policy statement, coastal policy statement, regional policy statement, plan or proposed plan;
2. Whether adequate consideration has been given to alternative sites, routes or methods of undertaking the work if the requiring authority (the NZ Transport Agency) does not have an interest in the land required for the work;
3. Whether the work and designation are reasonably necessary for achieving the objectives of the NZ Transport Agency;
4. Any other matter the Council considers reasonably necessary in order to make a recommendation; and

5. Part 2 of the RMA.

5.3 An assessment of each of these matters is set out in the application and sections 12-17 of the processing planners s42A report and throughout the application document. Overall both those assessment confirm that:

- a) The NoR is considered to be in accordance with the relevant provisions of the Regional Policy Statement and the District Plan as it does not significantly alter the distribution of land uses within the Airport Business Zone or adversely affect the operation of the regional significant Airport of state highway infrastructure.
- b) Adequate consideration of alternatives has been undertaken, as set out in section 13.2 of the application.
- c) It is considered that designating the land required for the roundabout is the most effective means of securing the land and also signals to both landowners and Council that the land is to be used for roading purposes and not developed.
- d) The NoR is in accordance with the purpose of the RMA and does not conflict with any section 7 or section 8 matters.

5.4 The one outstanding question raised in the s42A report, is whether the work and designation are reasonably necessary for achieving the objective of the requiring authority, as required by s171(1)(c) of the RMA. The s42A report suggests that the project objectives for the NoR are not explicitly set out, however, as noted, the Form 18 document confirms that the objective of the NZ Transport Agency is to develop an effective, efficient and safe land transport system in the public interest.

5.5 The NoR enables this to occur by designating the land required to build a roundabout. The roundabout is a necessity for the continued growth of the Airport and the Business Park as it interfaces with SH21. It then follows that the work and the designation are reasonably necessary to create a new Airport gateway provided in a central position that is effective, efficient and safe.

5.6 The designation approach is also consistent with the approach adopted for the roundabout when it was to be located near Lochiel Road⁴.

6. SUBMISSIONS RECEIVED

6.1 Four submissions have been lodged to the applications, two in support and two in opposition. The two submissions in opposition were received from The Hamilton Pistol Club Inc and the NZ National Fieldays Society Inc/Kaipaki Promotions Ltd (NZFDS). The concerns raised in these two submissions are summarised in section 18 of the s42A report and can be broken down into the following key topics:

⁴ Currently provided for as D49 in the Waipa District Plan.

- Management of event day traffic and ability to accommodate appropriate temporary traffic management;
- Accessibility to the Hamilton Pistol Club site during Fieldays events;
- Alignment of the Hamilton Pistol Club access track;
- Noise impacts on the Hamilton Pistol Clubs operations from land use modifications associated with the roundabout construction.

6.2 The evidence of Mr Inder has addressed the first three points in detail. I rely on his evidence on those three matters.

6.3 In relation to the Hamilton Pistol Club's noise concerns, it is understood that this relates to perception of noise from more people being closer to their site, as opposed to a physical noise compliance requirement in their resource consent or the relevant gun noise standards. It is acknowledged that the roading network will change in vicinity of their site and as such, there is the potential that additional people may be exposed to their noise and may be slightly closer to the site than the current road location. This being said, I note that the road corridor adjacent to their site is very wide and covers another 20m of land from the edge of the existing carriageway. It could reasonably be expected that such land could thus be used for roading purposes, as we are proposing.

6.4 In terms of the level of that noise, no specific noise assessment has been undertaken, however I note that, as set out in the evidence of Mr Inder, the design of the roundabout and approach leg is such that the road will be cut below existing ground level, so the natural ground level of their site is not changing (i.e. there is no cutting down of the site). There will therefore be a bund created by these works.

6.5 That being said, as additional mitigation, we have however offered to the Hamilton Pistol Club that surplus cut can be used within their property to build up this portion of the site into a bund, if they so desire. This is shown as the potential bunding area, on the plans contained in **Attachment 3**.

6.6 As noted in the evidence of Mr Morgan, the WRAL Group are committed to work with both submitters through the detailed design process for the roundabout so both parties are fully informed of the outcomes. The proposed NoR conditions provide for this.

7. IWI ENGAGEMENT

7.1 As set out in section 15.3 of the application, the Airport has been consulting and engaging with Tainui, Nga Iwi Toopu o Waipa and the Ngati Haua Iwi Trust. Through the processing of this consent, Ngaa Uri o Maahanga have advised Council that they also have an interest in the Airport environs, and as such, request future engagement. The Applicants are not averse to engaging further with Ngaa Uri o Maahanga concurrently to the more detailed

work around historical and cultural values that is being worked on with Ngati Haua, to create a sense of arrival at the Airport.

8. OVERVIEW OF ASSESSMENT OF EFFECTS ON THE ENVIROMENT AND KEY ISSUES RAISED

8.1 An assessment of effects on the environment is provided in Section 8 of the application. I do not intend to repeat that assessment within this evidence and note that no submitter or the s42A report has raised any concerns regarding the adequacy of the overall assessment undertaken or the conclusions reached. For the sake of clarity however, the assessment and Mr Inder's evidence has confirmed the following:

- The revised access strategy will result in practical and safe intersections, with transportation effects that are either less than minor or acceptable for the long term.
- The landscape and visual effects of PC10 and the NoR are considered to be no more than minor, in the context of the changes enabled by the established District Plan provisions and existing designations.
- No additional economic effects will arise and there will be cost savings from reduction of a road across the southern gully.
- Noise effects are not expected to change from the PC10 changes and noise effects from the construction activities can be managed to ensure compliance with the appropriate construction noise standards.
- PC10 and the NoR will give rise to positive effects relating to operational efficiency, reduction costs of construction of infrastructure and providing improved access to the Airport and adjacent landowners.

9. SUGGESTED CHANGES TO DESIGNATION CONDITIONS

9.1 Section 22.2 of the s42A report has included a set of suggested designation conditions. I have reviewed those conditions and would like to see some changes made to the plans referenced in Condition 1 and the removal of Condition 13 relating to the lapse period.

9.2 We have recognised that there some errors in the final set of plans provided and thus provide a revised full set in Attachment 3. The changes set out below thereafter refer to that set, with the (changes in ~~striketrough~~ and underlined).

1. *The works to give effect to the State Highway 21 roundabout at the Hamilton Airport entrance to service the Central Precinct shall be generally in accordance with the following documentation and plans:*
 - a) *Application titled: "Waikato Regional Airport Ltd/Titanium Park Ltd and NZ Transport Agency Request of private Plan Change and Notice of Requirement – Section 32 Evaluation & Assessment of Environmental Effects Report", dated September 2018.*
 - b) *Concept Design Plans:*

- i.) *Titanium Park Ltd – Central & Southern Precinct Access – Overall Plan – Drawing Number 144380/01/P/0101 – Revision C;*
- ii.) *Titanium Park Ltd – Central Precinct Access Concept Roundabout – General Arrangement – Drawing Number 144380/01/P/0201 – Revision E D;*
- iii.) *Titanium Park Ltd – Central Precinct Access Concept Roundabout – Hamilton Pistol Club Entrance – Drawing Number 144380/01/P/0205 – Revision D E;*
- iv.) *Titanium Park Ltd – Central Precinct Access Concept Roundabout – ~~Entrance Long Sections~~ – Drawing Number 144380/01/P/0204 – Revision A Sheet 1 and Sheet 2; Tooman Lane (Gate 0) and Hamilton Pistol Club Entrance Long Section – Drawing Number 144380/01/P/0207 – Revision B; and*
- v.) *Titanium Park Ltd – Central Precinct Access Concept Roundabout – Drawing Number 144380/ 01/P/209 – Revision A;*
- vi.) *Titanium Park Ltd – Central Precinct Access Concept Roundabout – Entrance Cross Section – Drawing Number 144380/04/P0/208 – Revision A B.*
- c) *Designation Plan:*
 - i.) *Titanium Park Ltd – State Highway 21 Proposed Airport Access Upgrade – Designation Plan – Drawing Number 144380/01/P/0233 – Revision B.*

9.3 A full set of all these plans is contained in **Attachment 3**.

9.4 As a result of further consultation with the NZFDS, broad agreement has also been reached on some further changes to condition 3 to specify some specific design outcomes. We are still working through the detailed wording of this condition and propose that a revised set of designation conditions will be tabled prior to the hearing that represents an agreed position between the Applicant and NZFDS.

9.5 As noted above, I am also proposing that Condition 13 relating to a lapse date is removed, I have received advice from the NZ Transport Agency that section 184 (Lapsing of designations which have not been given effect to) does not apply to alterations to designations. Their advice on this matter is set out in **Attachment 4** and specifically states:

- a) Section 184 states that “a designation lapses...”. Section 184 explicitly applies to a designation. The definition of a designation in section 166 RMA does not include an alteration to a designation.
- b) An alteration, once confirmed and included in the District Plan, merges with and forms part of the principal designation. It has not separate identity.
- c) Section 181(2) of the RMA sets out particular provisions (sections 168-179 and 198AA – 198AD) that apply to a requirement to alter a designation as if it were a requirement for a new designation. Those provisions relate to the procedure for notifying, hearing, and determining an alteration. They do not address the effect of an alteration once confirmed, and in particular do not encompass the lapse period addressed in section 184. This approach is consistent with the fact that an alteration does not have a life of its own once confirmed.

9.6 For the above reasons we request that the Commissioner adopts our suggested change to the designation conditions, and without a lapse period being imposed.

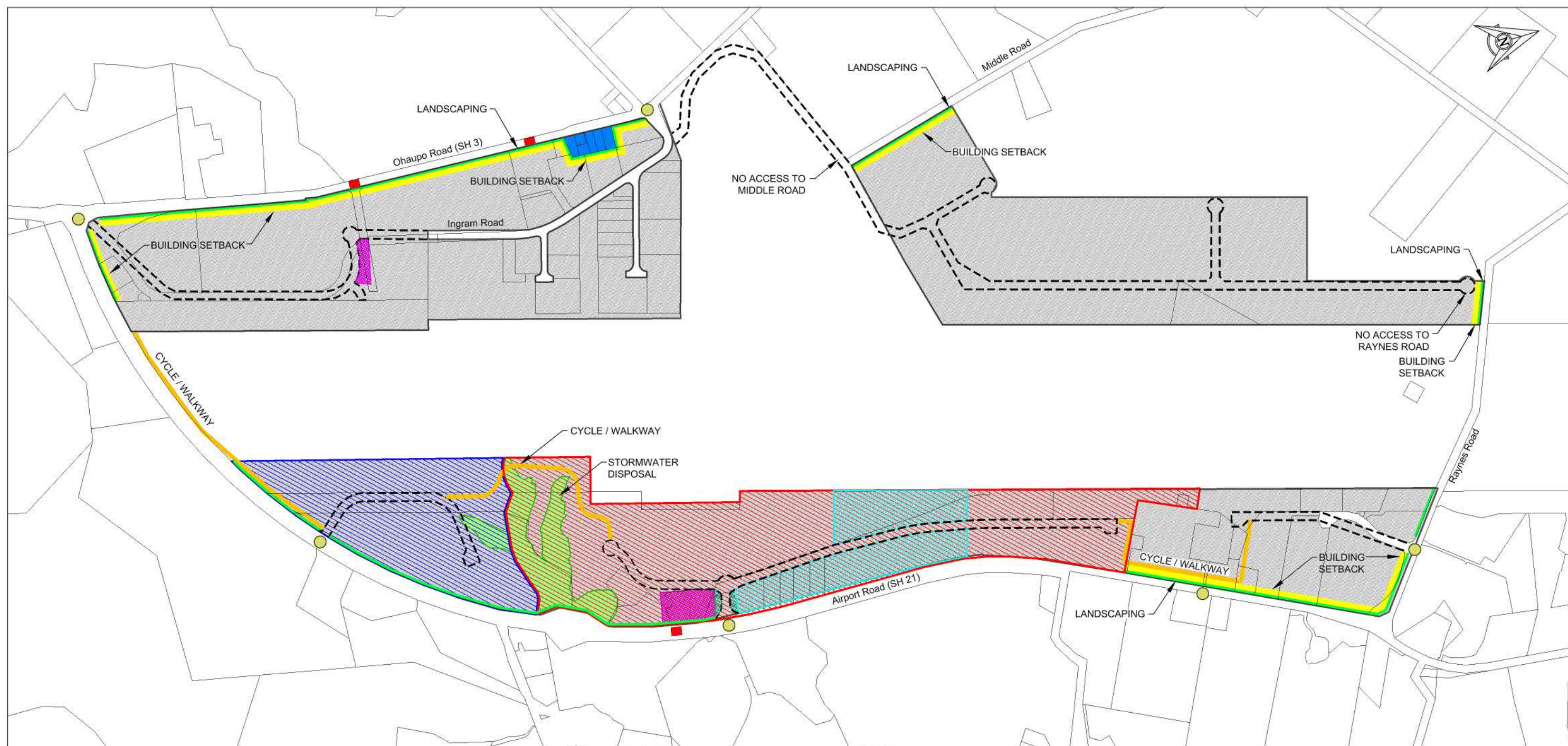
9.7 A lapse period could also be problematic for the NZ Transport Agency and the Airport as there is no certainty on the timing for the construction of the roundabout. This is because the roundabouts timing is trigger and demand based.

10. CONCLUSION

10.1 The Plan Change has accounted for the issues identified by the WRAL Group in its review of Airport Operations and adjoining Business Park development by proposing a new main Airport roundabout and a separate access point to the Southern Precinct. In my opinion, the Plan Change, as modified in this evidence, will deliver the planning outcomes sought for the WRAL Group and I support the adoption of PC10 by Council.

10.2 The NoR has been identified as most appropriate resource management technique to enable the implementation of the new main Airport roundabout and will enable the objective of the NZ Transport Agency to be achieved. In my opinion, the designation can be confirmed, subject to the changes to the suggested conditions set out in this evidence and to be tabled prior to the hearing.

Attachment 1 – Revised Structure Plan



LEGEND:		
Road/Access Stopped	Indicative Road	Special Amenity Area
Access Point/Gateway	Airport Business Zone	Stormwater Disposal
Landscaping	Central Precinct	Landscape Open Space
Building Setback	Southern Precinct	Retail Area
Cycleway/Walkway Connection	Stage 1 Development	

Airport Business Zone Structure Plan

Appendix S10



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REVISION
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REFERENCE
 Print Date
 19 APRIL 2018

Attachment 2 – Amended District Plan Text

Proposed changes to the Waipa District Plan – Tracked Changes Version

Outlined below in the ~~striketrough~~ and underlined text is the proposed additional text and deletions as a result of the Plan Change.

Planning Maps

Proposed are the following changes to the Planning Maps within Volume 3 of the District Plan:

- Planning Maps 3, 17 and 19 – Zones – Amend the indicative roading layout for the Airport Business Zone
- Planning Maps 3, 17 and 19 – Policy Areas – Amend the indicative roading layout for the Airport Business Zone

Copies of these amended Maps are included below.

Section 10 - Airport Business Zone (Titanium Park)

The following new objective and policy is proposed for the Airport Business Zone and relates specifically to activities in the Southern Precinct.

Objective – Development within the Southern Precinct

10.3.3 To enable the development of the Southern Precinct while maintaining the safety and efficiency of State Highway 21.

Policy – Types of activities

10.3.3.1 To restrict the types of activities located in the Southern Precinct to ensure the safe and efficient operation of the access to State Highway 21.

The changes proposed to the Section 10 – Airport Business Zone activity status tables are as follows:

10.4.1 Activity Status Tables

10.4.1.1	Permitted activities The following activities must comply with the performance standards of this zone
(a)	General and commercial aviation activities and buildings.
(b)	Industrial activities.
(c)	Transport and freight depots, and bus depots. , vehicle rental and valet services, vehicle parking and storage.
(ca)	<u>Vehicle rental and valet services, vehicle parking and storage (excluding Southern Precinct)</u>
(d)	Emergency service facilities.
(e)	Helicopter pads and facilities for their servicing and management. <i>Note: Civil Aviation Authority requirements also apply.</i>
(f)	Utility services and utility structures, including navigational aids and control towers.
(g)	Storage and sale of aircraft fuel and lubricants.
(h)	Service stations and commercial garages <u>(excluding Southern Precinct).</u>

10.4.1.1	<p>Permitted activities</p> <p>The following activities must comply with the performance standards of this zone</p>
(i)	Cafes, restaurants, takeaway food outlets and licensed premises <u>(excluding Southern Precinct).</u>
(j)	Visitor accommodation <u>(excluding Southern Precinct).</u>
(k)	Places of assembly <u>(excluding Southern Precinct).</u>
(l)	Conference facilities <u>(excluding Southern Precinct).</u>
(m)	Offices (excluding Titanium Park <u>Southern and</u> Northern Precinct).
(n)	Titanium Park <u>Southern and</u> Northern Precinct offices ancillary to any permitted activity.
(o)	Laboratories and research establishments <u>(excluding Southern Precinct).</u>
(p)	Hire facilities, storage warehouses and building supply outlets <u>(excluding Southern Precinct).</u>
(pa)	<u>Storage warehouses.</u>
(q)	Education facilities (excluding aviation educational training <u>and excluding the Southern Precinct</u>) between the outer control boundary Ldn 55 and the air noise boundary Ldn 65.
(r)	Aviation education training.
(s)	Retail activities and wholesale shops, subject to Rules 10.4.2.11 and 10.4.2.12 <u>(excluding Southern Precinct).</u>
(t)	Earthworks
(u)	Temporary construction buildings.
(v)	Signs
(w)	Demolition and removal of buildings and structures, except those listed in Appendix N1 Heritage Items.
(x)	Relocated buildings, except for those listed in Appendix N1.

10.4.1.5	Non-complying activities
(a)	Failure to comply with Rules 10.4.2.11 and 10.4.2.12 - Maximum floor space for retail activities and Rules 10.4.2.16 to 10.4.2.18 - Noise: aircraft and engine testing.
(b)	Residential activities between the Outer Control Boundary (Ldn55) and the Air Noise Boundary (Ldn65).
(c)	All other activities not listed in activity status table Rules 10.4.1.1 to 10.4.1.4.
(d)	<p>The following activities within the Titanium Park – Northern Precinct:</p> <ul style="list-style-type: none"> (i) Offices (excluding ancillary offices – refer to Rule 10.4.1.1(n)) (ii) Retail activities and wholesale shops (iii) Visitor Accommodation (iv) Healthcare facilities (v) Education facilities (excluding aviation education training)
(e)	Scheduled engine testing that exceeds the standard in Rule 10.4.2.16 by more than 5dBA.
(f)	<p><u>The following activities in the Titanium Park – Southern Precinct:</u></p> <ul style="list-style-type: none"> (i) <u>Vehicle rental and valet services, vehicle parking and storage;</u> (ii) <u>Service stations and commercial garages;</u> (iii) <u>Cafes, restaurants, takeaway food outlets and licensed premises</u> (iv) <u>Visitor accommodation;</u> (v) <u>Places of assembly;</u> (vi) <u>Conference facilities;</u> (vii) <u>Offices (excluding ancillary offices – refer to Rule 10.4.1.1(n));</u> (viii) <u>Laboratories and research establishments;</u>

	<div>(ix) <u>Hire facilities and building supply outlets;</u></div> <div>(x) <u>Education facilities;</u></div> <div>(xi) <u>Retail activities and wholesale shops, subject to Rules 10.4.2.11 and 10.4.2.12</u></div>
--	--

Section 15 - Infrastructure, Hazards, Development and Subdivision

The changes to Section 15 – Infrastructure, Hazards, Development and Subdivision as it relates to how the Airport Business Zone obtained access to SH21 are as follows:

Airport Business Zone

- 15.4.2.83 All development and subdivision in the Airport Business Zone shall comply with the Airport Business Zone Structure Plan in Appendix S10 of this Plan including the location and form of access points to State Highway 3, State Highway 21, and Raynes Road, provided that strict compliance in terms of the internal road location is not required, as the roads are indicative only.

Activities that fail to comply with this rule will require a resource consent for a discretionary activity, except as provided in Rule 15.4.2.85 and 15.4.2.86 below.

Development accessed via State Highway 21

- 15.4.2.84 Notwithstanding Rule 15.4.2.83, prior to the construction and completion of the new Airport and State Highway 21 intersection ~~near Lochiel Road~~, and any necessary intersection upgrade at State Highway 3/State Highway 21, an initial gross area of land of no more than 8ha within the Central Precinct, excluding road reserve as identified on the Airport Business Zone Structure Plan in Appendix S10 as Stage 1 Development, may be subdivided and developed (but not for retail purposes) in accordance with these rules, provided that access is obtained from the existing Airport terminal access from State Highway 21 or the new ~~Lochiel Road~~Airport/State Highway 21 intersection, if constructed.

Activities that fail to comply with this rule will be a restricted discretionary activity with the discretion being restricted over:

- Effects on the State Highway network.
- These matters will be considered in accordance with the assessment criteria in Section 21.

- 15.4.2.85 Any development or subdivision within the Central Precinct beyond the Stage 1 Development Area identified in the Airport Business Zone Structure Plan in Appendix S10, up to a total of ~~43.5~~ 36.6ha including road reserve, of the land area within the Airport Business Zone accessed from State Highway 21, will require the closure of the existing terminal access and a new ~~access point~~ Airport/ State Highway 21 intersection to be constructed ~~on State Highway 21 near Lochiel Road~~, in accordance with the Structure Plan attached in Appendix S10.

Activities that fail to comply with this rule will be a restricted discretionary activity with the discretion being restricted over:

- Effects on the State Highway network.

These matters will be considered in accordance with the assessment criteria in Section 21.

Appendix S10 - Airport Business Zone Structure Plan

The changes to Appendix S10 – Airport Business Zone are set out below. It is also proposed that the Airport Business Zone Structure Plan is also amended as be the enclosed revised Structure Plan.

S10.3 Principles

S10.3.10 The eastside strategy is more complex and the proposed pattern of precincts is largely determined by the need to relocate the access point from State Highway 21 ~~well just~~ to the north of its existing location and, ~~thereby, the~~ need to develop ~~an major~~ internal ~~vehicle access link~~ roading network from this new access point to the existing terminal, ~~and~~ its expanded car parking and service areas and to the areas identified for development.

For the Central Precinct, the access configuration leads to a linear form of business park centred on a spine road. An important objective was to ensure a strong visual and functional link from the new vehicle arrival point, at State Highway 21, to the existing terminal area.

For the Southern Precinct, the access configuration leads to direct access to the State Highway for vehicles which are more likely to be heavy and service vehicles, and avoids conflict between those vehicles and terminal traffic.

S10.4 Circulation and access

S10.4.1 On the east side, a key constraint is to maintain ease of circulation for passenger vehicles to and from the terminal zone.

S10.4.2 The new entry to the Terminal and Central Precinct shall be designed to prioritise terminal traffic and generally separate Airport terminal traffic from heavy vehicles. This also means large trucks are to be kept away from passenger vehicle traffic and generally contained north of the new State Highway 21 entrance point. Only low volumes of small trucks are expected in the area between the new entrance from State Highway 21 and the terminal precinct and little or no need for trucks to cross through the terminal area to access the southern most precinct.

S10.4.3 Road designs to be applied throughout the park will reflect these traffic management concepts and the carriageways, drainage swales, truck turning and kerb-side street parking requirements for each precinct are reflected in the road profiles proposed.

S10.4.4 Areas of landscaped open space have been integrated into strategic points within the development to take advantage of viewing areas of runways from proposed public roads

on both the east and west side, as well as parks to maximise the quality of the entrance boulevard from the new entrance point from State Highway 21.

S10.4.5 Intersection design for the access from State Highway 21 is intended to safely accommodate turning traffic by initially developing a limited stage 1 area with access through the existing Airport Terminal intersection. A roundabout intersection will be developed ~~to in the vicinity of Lochiel Road~~ the north of the existing access once the initial stage 1 area is exceeded and at that time the existing Airport Terminal intersection would be closed.

S10.4.6 Access for the Southern Precinct development area is to utilise a new intersection with SH21.

S10.4.7 Pedestrian and cycle movement between the Central Precinct and Southern Precinct is provided for via off-road shared paths, with no vehicle connection.

Attachment 3 – Plan Set

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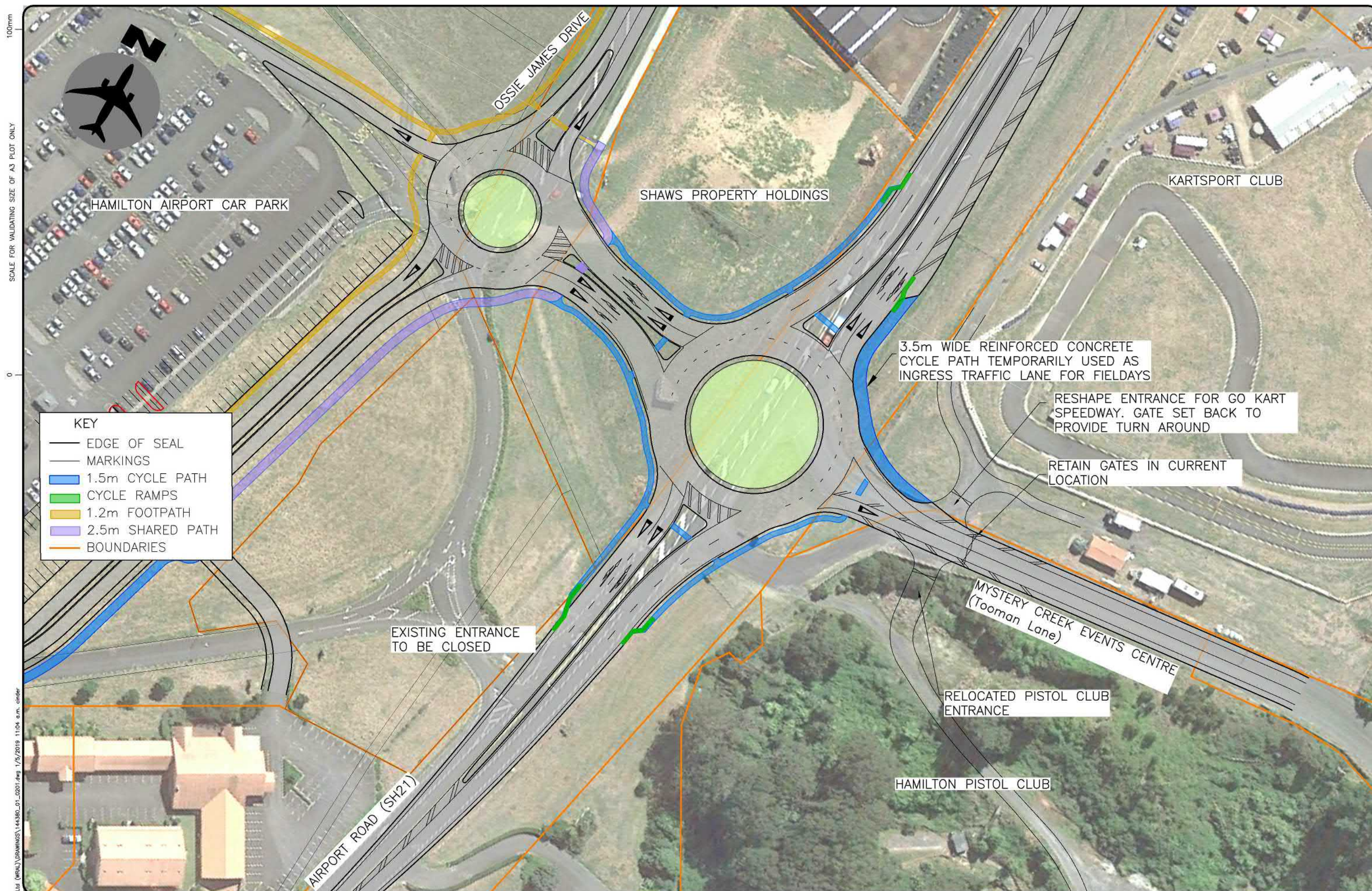
SCALE FOR VALIDATING SIZE OF A3 PLOT ONLY

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mx model version:								BLOXAM & BURNETT OLLIVER								Scale (Original Size A3) 1:5000				Drawing Number 144380/01 /P /0101			
Date				Issue/revision detail				Phone 64-7-838 0144, Fax 64-7-839 0431								Revision C							
By				Chk				Version 2.04 - October 2013															
Appr																							



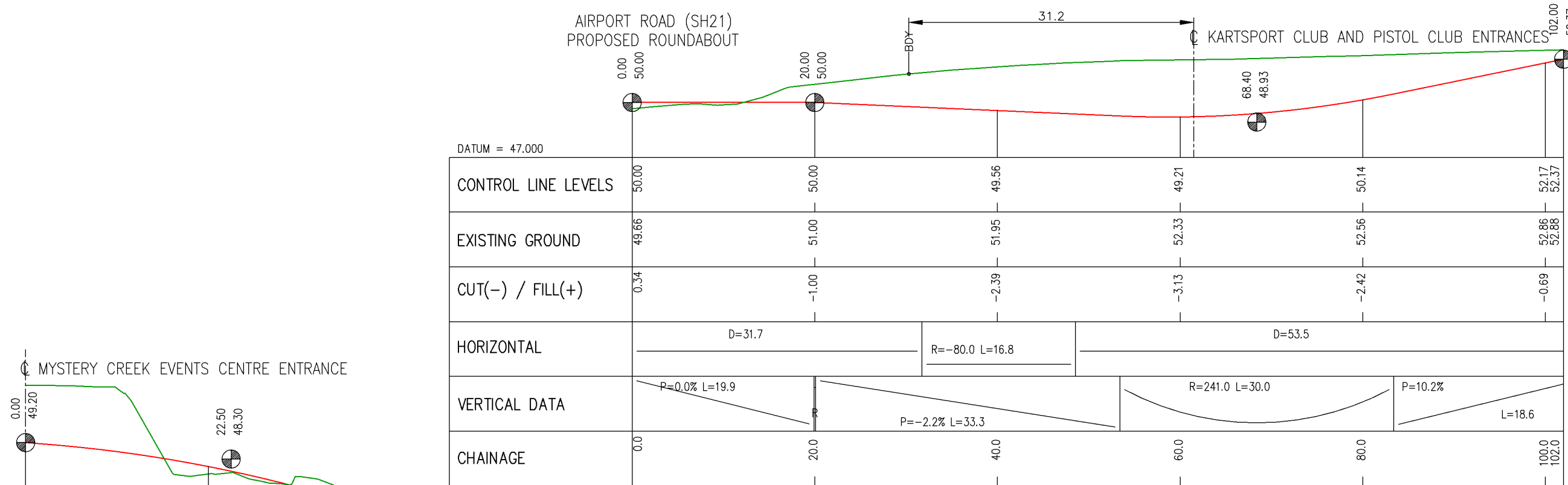
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C 25.03.2019 UPDATED DESIGN										BD	JS	JS								
B 14.12.2017 ENTRANCES REVISED										GT	CI									
A 27.07.2017 INITIAL ISSUE										GT	JS									
Date										By	CHK	Appr								
Issue/revision detail																				

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SCALE FOR VALIDATING SIZE OF A3 PLOT ONLY

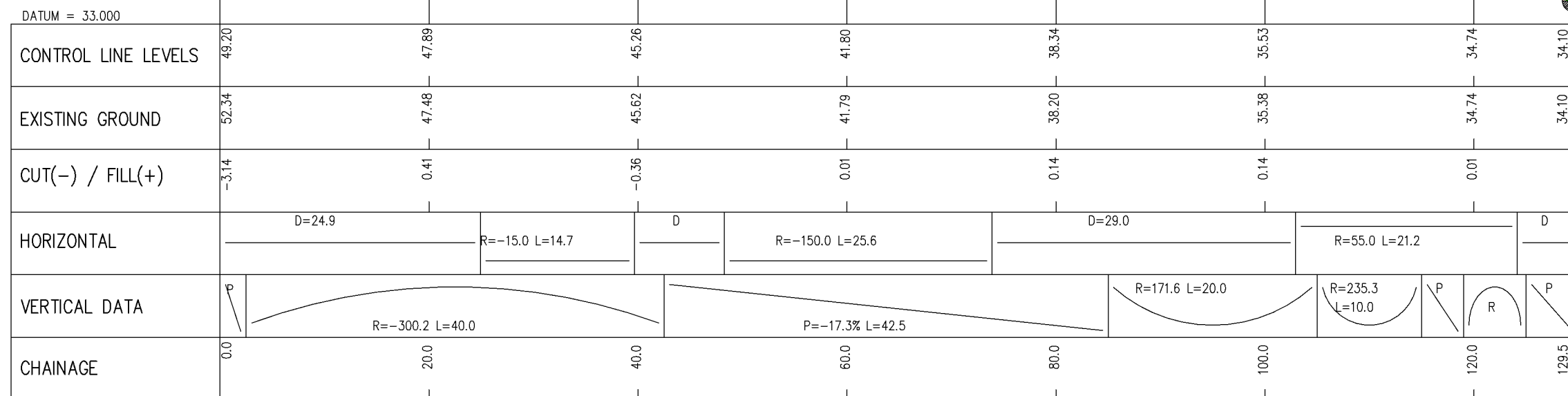
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MYSTERY CREEK EVENTS CENTRE ENTRANCE LONG SECTION MC10

HORIZONTAL SCALE 1:1000 (A3)
VERTICAL SCALE 1:500 (A3)



PISTOL CLUB ENTRANCE LONG SECTION MC30

HORIZONTAL SCALE 1:1000 (A3)
VERTICAL SCALE 1:500 (A3)

Designed GT Checked CI				Client TITANIUM PARK LIMITED				Project CENTRAL PRECINCT ACCESS CONCEPT ROUNDABOUT				Drawing TOOMAN LANE (GATE 0) AND HAMILTON PISTOL CLUB ENTRANCE LONG SECTIONS				Status PRELIMINARY			
Drawn GT Approved				mx model version:				Date 07.08.2018				Scale (Original Size A3) AS SHOWN				Revision B			
B 01.05.2019 KARTSPORT CLUB ENTRANCE NOTE				A 07.08.2018 INITIAL ISSUE				Drawing Number 144380/01 /P /0207				Revision B				Date 07.08.2018			
Date				Issue/revision detail				By				Chk				Appr			

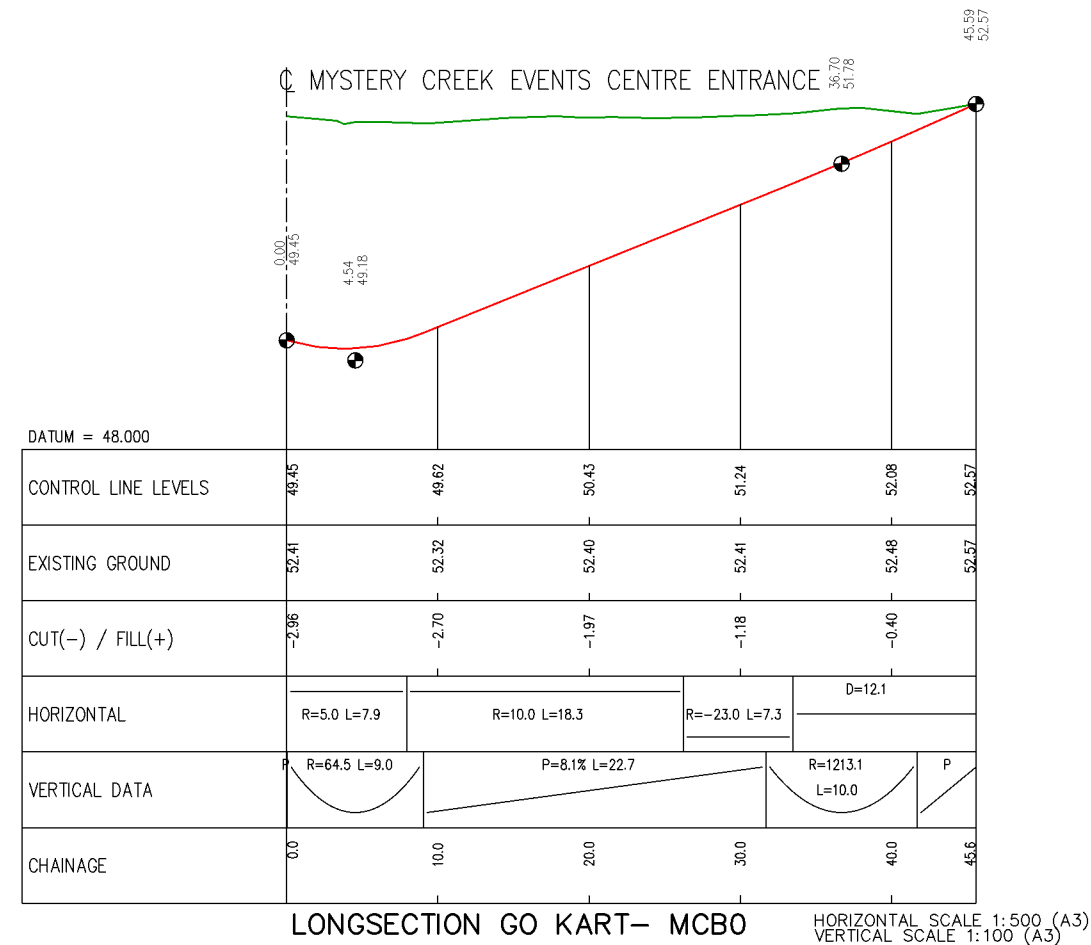
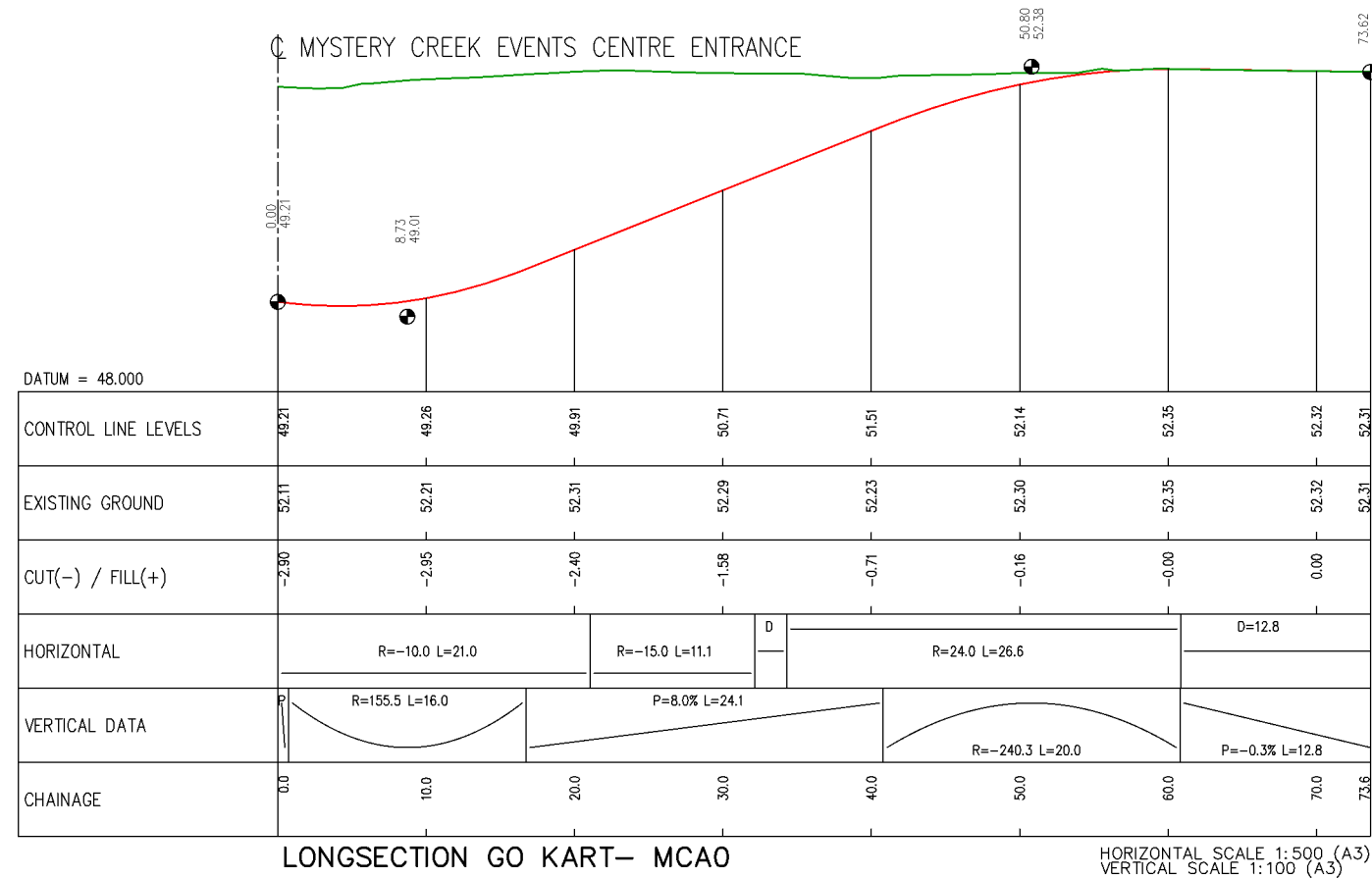
Version 2.04 - October 2013



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Version 2.04 - October 2013



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A 04.04.2019 INITIAL ISSUE				BD		CI		JS		mx model version:				
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Issue/revision detail														

Version 2.04 - October 2013

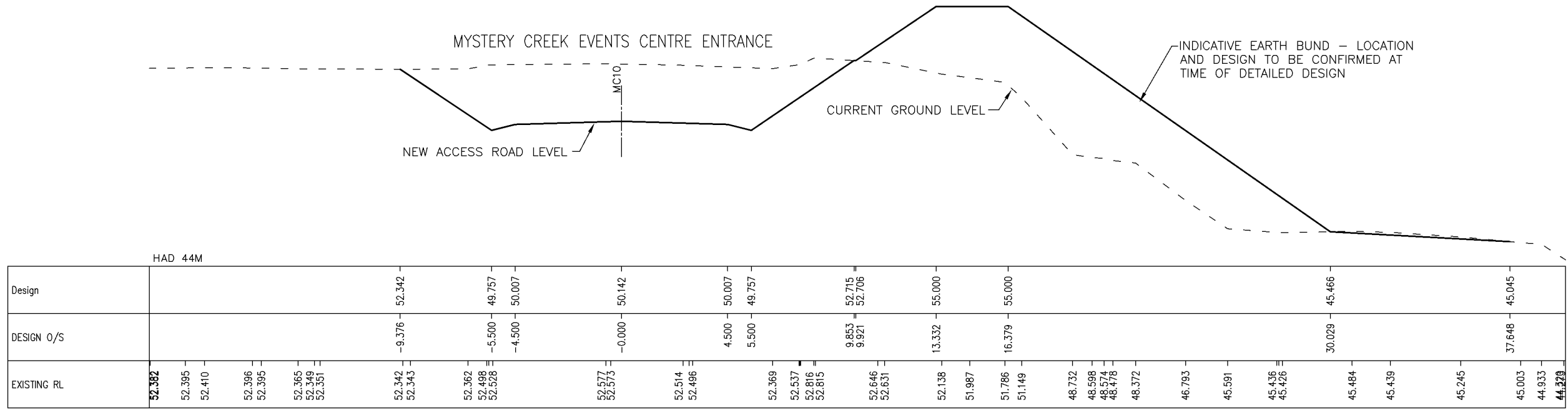
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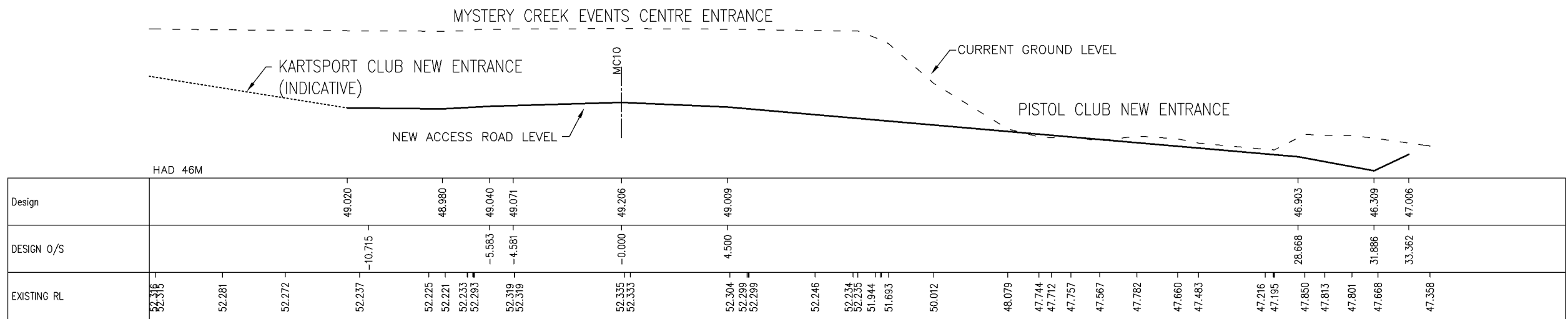
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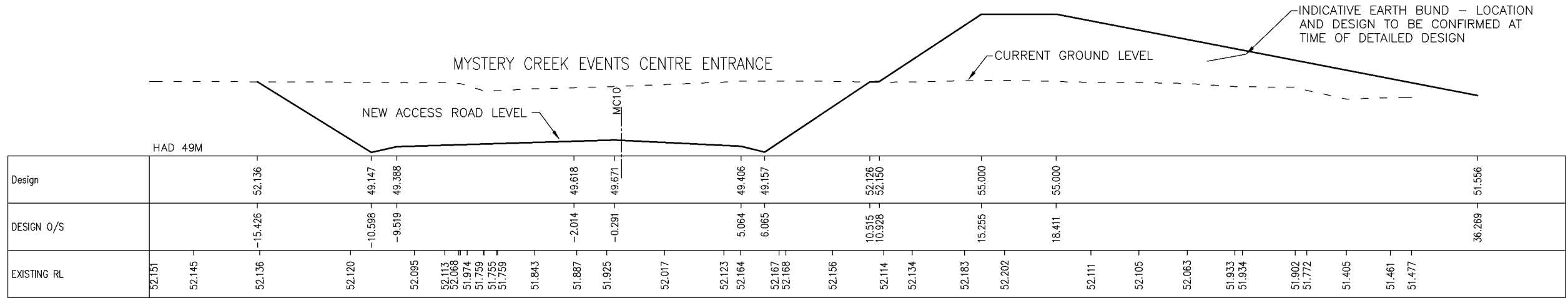
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Sta. 80.0



Sta. 60.0



Sta. 40.0

PISTOL CLUB ENTRANCE CROSS SECTIONS

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VERTICAL SCALE 1:500 (A3)

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B 01.05.2019 KARTSPORT ACCESS REVISION										CI	CI	JS								
A 01.02.2019 INITIAL ISSUE										GT	CI	JS								
Date Issue/revision detail										By	Chk	Appr								



HAMILTON AIRPORT

OSSIE JAMES DRIVE
(LEGAL ROAD)

SHAWS PROPERTY HOLDINGS
LOT 1
DP 460851
CFR 605012

GO KART SPEEDWAY

WAIKATO REGIONAL AIRPORT LTD
LOT 10
DPS 61001
CFR SA49B/338

WAIKATO REGIONAL AIRPORT LTD
LOT 8
DP 407016
CFR 424710

HAMILTON PISTOL CLUB
HAMILTON PISTOL CLUB INC
LOT 1
DP 478274
CFR 664317

MYSTERY CREEK EVENTS CENTRE
ENTRANCE

SHOWN	OWNER	LEGAL DESCRIPTION	PURPOSE	CFR	AREA
A	SHAW'S PROPERTY HOLDINGS	LOT 1 DP 460851	STATE HIGHWAY	605012	5580m ²
B	WAIKATO REGIONAL AIRPORT LIMITED	LOT 8 DP 407016	STATE HIGHWAY	424710	86m ²
C	WAIKATO REGIONAL AIRPORT LIMITED	LOT 10 DPS 61001	STATE HIGHWAY	49B/338	680m ²
D	HAMILTON PISTOL CLUB INC	LOT 1 DP 478274	STATE HIGHWAY	664317	260m ²

										Designed GT		Checked BM		 BLOXAM BURNETT OLLIVER Phone 64-7-838 0144, Fax 64-7-839 0431	Client TITANIUM PARK LIMITED	Project STATE HIGHWAY 21 PROPOSED AIRPORT ACCESS UPGRADE	Drawing LAND REQUIREMENT PLAN	Status PRELIMINARY							
										Drawn HW		Approved						Date 06.04.2018	Scale (Original Size A3) 1:1000						
																		Revision B							
B 25.03.2019 UPDATED DESIGN										BD		JS		JS											
A 06.04.2018 INITIAL ISSUE										HW		BM													
Date										By		Chk		Appr											
Version 2.04 - October 2013																									







HAMILTON AIRPORT

OSSIE JAMES DRIVE
(LEGAL ROAD)

SHAWS PROPERTY HOLDINGS
LOT 1
DP 460851
CFR 605012

KEY:

 EXISTING DESIGNATION
  PROPOSED DESIGNATION
  LEGAL BOUNDARY

GO KART SPEEDWAY

WAIKATO REGIONAL AIRPORT LTD
LOT 10
DPS 61001
CFR SA49B/338

WAIKATO REGIONAL AIRPORT LTD
LOT 8
DP 407016
CFR 424710

MYSTERY CREEK EVENTS CENTRE

HAMILTON PISTOL CLUB
HAMILTON PISTOL CLUB INC
LOT 1
DP 478274
CFR 664317

AIRPORT ROAD (SH21)

[illegible]

Phone 64-7-838 0144, Fax 64-7-839 0431

Client	
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TITANIUM PARK LIMITED

Project

Project
STATE HIGHWAY 21
PROPOSED AIRPORT ACCESS
UPGRADE

Drawing

Drawing
DESIGNATION PLAN

	Status
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PRELIMINARY

Date 06.04.2018

Scale (Original Size A3)	1:1000
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Drawing Number	
144380/01 /P /0233	

Revision	B
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Attachment 4 – NZTA Legal Advice on Lapse Condition

Kathryn Drew

From: Emily Hunt <Emily.Hunt@nzta.govt.nz>
Sent: Tuesday, 30 April 2019 9:27 AM
To: Kathryn Drew
Subject: FW: Alterations to designations - lapse date
Attachments: 24-04-2019-10-38-05.pdf

Morning Kathryn,

Please see the email below and the attached document for the basis of our legal opinion on alteration to designations lapse dates.

Thanks,
Emily

Emily Hunt / Consultant Planning Advisor
Consents & Approvals / System Design & Delivery
DDI 64 7 958 7884
[E \[emily.hunt@nzta.govt.nz\]\(mailto:emily.hunt@nzta.govt.nz\)](mailto:emily.hunt@nzta.govt.nz) / [W \[nzta.govt.nz\]\(http://www.nzta.govt.nz\)](http://www.nzta.govt.nz)
Hamilton Office / Level 1, Deloitte Building
24 Anzac Parade, PO Box 973, Hamilton 3240, New Zealand

From: Prudence Williams
Sent: Wednesday, 24 April 2019 11:11 AM
To: Jenni Fitzgerald <Jenni.Fitzgerald@nzta.govt.nz>; Emily Hunt <Emily.Hunt@nzta.govt.nz>
Subject: RE: Alterations to designations - lapse date

Hi Jenni and Emily,

This advice still stands as the legal position on lapse dates for alterations to designations.

This was an issue that came up in the most recent Mt Messenger hearing, I attach the relevant part of our closing legal submissions on this point for your information. The Commissioner recommended the inclusion of a condition providing for the lapse of the alternation to the designation. The Agency did not accept the recommended condition, and decided not to include any condition providing for a lapse period in respect of the alteration to the designation.

As outlined below, the Agency's position is that no lapse period may be imposed on an alternation to a designation. No-one appealed the Agency's decision on this point.

Happy to discuss if you have any queries.

Thanks,

Prue

Prudence Williams / Senior Legal Counsel, Environment & RMA
Legal Team
DDI 04 894 6686 / Mobile 021 728 376
[E \[prudence.williams@nzta.govt.nz\]\(mailto:prudence.williams@nzta.govt.nz\)](mailto:prudence.williams@nzta.govt.nz) / [W \[nzta.govt.nz\]\(http://www.nzta.govt.nz\)](http://www.nzta.govt.nz)
National Office / Victoria Arcade, 50 Victoria Street,
Private Bag 6995, Wellington 6141, New Zealand

166. As Ms McBeth records in her Hearing Statement, any condition relating to the revocation process must be reasonable and appropriate.¹³⁵ In simple terms, the condition sought by NPDC (particularly parts (b), (c) and (d)) is not reasonable or appropriate.

LAPSE PERIODS

Resource consents

167. As per the agreed conditions, the Transport Agency and TRC are aligned in respect of:

- (a) the appropriate term for all the regional resource consents, other than the land use consents, being 35 years (condition GEN.3);
- (b) the appropriate term for the regional land use consents, being the default unlimited term under section 123(b) of the RMA; and
- (c) the appropriate lapse period for all the regional resource consents, being 10 years (condition GEN.2).

168. No term or lapse period is specified in the agreed conditions for the resource consent under the NES Soil. Under section 123(b) of the RMA, the default term is (as with most other land use consents) unlimited. Counsel submit there is no need to provide for any specific term of this consent, and that the default unlimited term (as per section 123(b)) is appropriate).

169. The default lapse period for the NES Soil consent is 5 years (as per section 125(1)). However, counsel submit it would be appropriate to specify a 10 year lapse period for the NES Soil consent, to align with the lapse period for the regional consent.¹³⁶ Counsel understand from Mr Roan that there was no deliberate decision by the planners in conferencing to leave the default 5 year lapse period in place.

Alteration to the designation

170. There is disagreement between the Transport Agency and NPDC in respect of the legality of including a lapse period for the alteration to the designation. This is to some extent a moot point, given the Transport Agency intends to construct the Project as soon as possible, and NPDC seeks a 10 year lapse period. However, the issue of lapse periods for alterations to designations has wider application for the Transport Agency in respect of designations around the country.

171. Counsel understands that lapse periods have been applied to alterations to designations for Transport Agency projects including the East West Link, Ara Tūhono - Pūhoi to Wellsford (Pūhoi to Warkworth Section), and Christchurch

¹³⁵ Paragraph 67.

¹³⁶ The updated draft conditions for the NES Soil consent include a new condition to that effect.

Southern Motorway projects. However, as counsel understands it, the legality of lapse periods for alternations to designations was not argued in those cases. The Transport Agency's current approach is that as point of law and of planning principle, lapse periods should not apply to alterations of designations.

172. As set out in opening legal submissions,¹³⁷ the Transport Agency's position is that no lapse period may be included on an alteration to a designation. That position is based on a straightforward application of section 181 of the RMA, which provides for alterations to designations. In particular, section 181(2) provides:

"Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation."

173. Section 184 provides for lapse periods for "*designations that have not been given effect to*". In simple terms, section 184 is not applied to alterations to designations by section 181(2), and therefore there is no ability to impose a lapse period on an alteration to an existing designation. Of course, the designation itself (for SH3 in the vicinity of Mt Messenger) was "*given effect to*" long ago.
174. With respect, NPDC's response that section 181(2) "*requires a change to a designation to be processed in the same way as a new NoR unless the change is sufficiently minor that it can be approved under s181(3)*"¹³⁸ omits the crucial reference to the sections that apply to modifications (ie, not section 184). Nor is NPDC's reference to section 168 particularly relevant – that section simply provides for the lodgement of an NoR by a requiring authority.
175. Counsel accept that NPDC's reference to the designation rollover process has merit. However, if the Transport Agency were ultimately to decide not to construct the Project, it could be expected (like any responsible requiring authority) to go through the process set out in section 182 of the RMA to have the relevant part of the designation removed. Counsel also note that under section 185 of the RMA, landowners (or owners of another interest in land) affected by a designation have an ability to apply to the Environment Court for an order to compel a requiring authority to acquire their interest in the land. In other words, landowners affected by an alteration to a designation are not without recourse simply because there is no lapse period.

SECTIONS 171(1)(B) AND (C)

176. In opening legal submissions, counsel traversed the legal principles and case law applicable to section 171(1)(b) of the RMA (whether adequate consideration has been given to alternatives) and section 171(1)(c) (whether

¹³⁷ At paragraph 276.

¹³⁸ Ms McBeth's Hearing Statement, paragraph 69.