

**BEFORE THE TARANAKI REGIONAL COUNCIL AND NEW PLYMOUTH
DISTRICT COUNCIL**

MT MESSENGER BYPASS PROJECT

In the matter of the Resource Management Act 1991

and

In the matter of applications for resource consents, and a notice of requirement by the NZ Transport Agency for an alteration to the State Highway 3 designation in the New Plymouth District Plan, to carry out the Mt Messenger Bypass Project

**STATEMENT OF REBUTTAL EVIDENCE OF SAM ROSS DIXON (STATUTORY
PLANNING ANALYSIS) ON BEHALF OF THE NZ TRANSPORT AGENCY**

30 July 2018

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INTRODUCTION

1. My name is Sam Ross Dixon.
2. This rebuttal evidence is given in relation to applications for resource consents, and a notice of requirement by the NZ Transport Agency ("the **Transport Agency**") for an alteration to the State Highway 3 designation in the New Plymouth District Plan, to carry out the Mt Messenger Bypass Project ("**the Project**"). It is my third statement of evidence for the Project, following my evidence in chief ("**EIC**") dated 25 May 2018 and my supplementary statement of evidence ("**Supplementary Evidence**") dated 17 July 2018.
3. I have the qualifications and experience set out in my EIC.
4. I repeat the confirmation given in my EIC that I have read the 'Code of Conduct' for expert witnesses and that my evidence has been prepared in compliance with that Code.
5. In this evidence I use the same defined terms as in my EIC and Supplementary Evidence.
6. This evidence responds to the evidence of Mr Ben Inger on behalf of DOC and to the evidence of Mr Greg Carlyon filed on behalf of Te Korowai Tiaki o Te Hauauru Inc.

RESPONSE TO THE EVIDENCE OF MR INGER

7. Mr Inger at paragraph 9.8 of his evidence says "*Although I have recognised the positive benefits of the Project, I do not consider that the current proposal should be granted, or a recommendation made to confirm the NOR, on consideration of the purpose and principles in Part 2*".
8. Mr Inger concludes at paragraphs 10.1 and 10.2 of his evidence that while he considers that the Transport Agency has taken a good approach to the effects management hierarchy and consultation, and that he supports the proposal to undertake pest management in perpetuity to offset or compensate for adverse biodiversity effects, that nevertheless the NOR in his opinion should be withdrawn "*unless a number of key issues, which are outlined in my evidence are addressed*".
9. Mr Inger identifies at paragraph 10.2 of his evidence that "*the main issues are the quantum of mitigation and/or compensation to address adverse effects on long-tailed bats and freshwater values*". Mr Inger identifies that he has relied on the evidence of the DOC ecologists to form his opinion that the level of biodiversity compensation is inadequate and that therefore the purpose and principles in Part 2 are not provided for.
10. In my opinion and experience a planner (and an RMA decision maker) should consider all relevant matters when undertaking a statutory planning analysis. I

note that while Mr Inger has stated that he recognises the positive benefits of the Project his evidence from my reading has provided negligible reference to these benefits and no assessment of them (let alone a robust assessment). He has instead concentrated his assessment on those Part 2 RMA matters relevant to section 6(a) and 6(c) matters of national importance.

11. I agree with Mr Inger that the particular section 6 matters he has pointed to are required to be recognised and provided for and are particularly relevant because of the unavoidable effects the Project will have on indigenous vegetation and habitats (hence the Transport Agency's proposal for a Restoration Package).
12. Mr Inger in my opinion has not undertaken a fulsome Part 2 assessment beyond those matters of interest to DOC, nor has he undertaken a robust assessment of the relevant objectives and policies, and in particular the wording relating to the key objectives. While I accept that we each rely on the opinions of different experts, in reaching my conclusions I have assessed the various Transport Agency expert opinions, and in particular their responses in Rebuttal Evidence that their positions have not changed, and assessed them against all relevant aspects of Part 2 and all relevant objectives and policies.
13. In particular, in relation to bats I note Mr Chapman's evidence that the present bat population in the Mt Messenger area is likely to be declining and, without the Project that decline will continue. In my opinion, on the basis of the evidence on behalf of the Transport Agency the project will appropriately maintain and enhance ecological values.
14. In terms of Part 2 Mr Inger has not assessed the social and economic effects, makes no mention of cultural effects nor of health and safety. In terms of section 6 he simply refers to two of the listed matters (as above), and in his section 7 assessment again only lists certain matters (subsections (d), (f) and (g)), ignoring other matters to which particular regard has to be made. In terms of section 8 he states that he will not address cultural values and Treaty principles in his evidence.
15. In terms of the objectives and policies, as set out in my EIC (paragraphs 70 to 111) there are key themes or issues in the relevant statutory planning documents as they relate to the Project. These themes flow through the RPS and associated regional plans, and the District Plan. The key issues/themes that are expressed within the planning documents that are particularly relevant to the Project are identified in my EIC as:

(a) growth and development in Taranaki;

(b) regionally significant infrastructure;

(c) public health and safety;

(d) natural hazards - avoiding and mitigating effects;

(e) tangata whenua values and cultural heritage;

(f) biodiversity & water quality; and

(g) natural features, landscapes and amenity.

16. In my EIC I identify these themes and I refer out to the various statutory plans, the Project technical reports and AEE and the evidence of others. Overall, I conclude that the Project is consistent with the outcomes sought by the planning instruments which a planner and decision maker are required to have particular regard to when considering the NoR. I note that the NPDC Section 42A Report reaches a similar conclusion.¹
17. My opinion remains that the Project is consistent with the objectives and policies of the relevant planning documents when read as a whole.
18. Mr Roan in his rebuttal evidence addresses matters raised by Mr Inger with regard to the proposed designation conditions, performance standards and management plans to deliver the biodiversity offset and compensation package.

RESPONSE TO THE EVIDENCE OF MR CARLYON

19. The substance of Mr Carlyon's evidence, as I understand it, is that in his opinion there are unresolved cultural matters affecting the rights and interests of members of Ngāti Tama represented by Te Korowai. In his opinion the Transport Agency has not adequately recognised and provided for cultural values affecting these members. On this basis he seeks that the NoR and resource consents be declined.
20. Mr Carlyon does not present a fulsome analysis of the relevant planning instruments, and does not refer to any positive aspects of the Project. Like Mr Inger, he also does not refer to all relevant aspects of Part 2 or all relevant objectives and policies. In my experience a planner forming a judgement on a proposal must complete a fulsome analysis and consideration of all the relevant planning matters, including both Part 2 matters and the relevant objectives and policies of the statutory plans. As with Mr Inger, I do not consider that Mr Carlyon has undertaken a robust assessment of all relevant planning matters.
21. Mr Carlyon refers only to those matters relating to cultural values. However, from my assessment none of the planning provisions he refers to, nor any I

¹ At paragraph 346: "*Overall, I conclude that Mt Messenger Bypass is not in conflict with or opposed to the outcomes sought by the instruments to which we are required to have particular regard to, such that confirmation of the NoR should be precluded. The application of the mitigation hierarchy by the RA, and the measures proposed within the application documents, has resulted in a proposal that is largely consistent with many of the instruments in question.*"

have identified relating to cultural matters, are so directive as to be highly weighted in directing the Commissioner's decision to decline the NoR and consents in the manner sought by Mr Carlyon. In any regard, the matters that Mr Carlyon has chosen to address have been considered in my analysis and also in the detailed statutory and objectives and policies considerations presented in the AEE report.

22. In making this assessment I am also mindful of the evidence of Mr White on behalf of Te Runanga o Ngāti Tama (the post settlement governance entity on behalf of all individuals who whakapapa to Ngāti Tama). Mr White recognises the approach of the Transport Agency in publicly stating it would not seek to acquire Ngāti Tama land using the Public Works Act. He also supports, at paragraph 40, the approval of the RMA authorisations for the Project.
23. In terms of engagement with Te Korowai I defer to the evidence of Mr Dreaver and Mr Roan who both respond to Mr Carlyon's evidence. I do however note from that evidence that members of Te Korowai have been informed of the Project and given the opportunity to ask questions and provide their views. Further, during the hearing they will be provided with a fulsome opportunity to raise their issues of concern.
24. My evidence remains as set out in my EIC that the Project provides significant recognition to Part 2 cultural matters, in particular recognition of ancestral lands and taonga, kaitiakitanga and also the principles of the Treaty of Waitangi. I also consider that the Project is consistent with the cultural objectives and policies in the relevant planning documents.
25. Finally, Mr Carlyon in his paragraphs 40 – 48 refers to the RPS provisions that relate to iwi and Treaty principles. Mr Carlyon states at paragraph 46 and 47 that both I and the NPDC Section 42A reporting officer did not specifically analyse the four RPS provisions that he refers to.
26. I would say in response that all of these provisions are addressed comprehensively in the Objectives and Policies Appendix to the AEE and in s11.4.4 of the AEE which my EIC refers out to.

Sam Dixon

30 July 2018