

Mt Messenger Bypass Project, Summary of Evidence of Ben Inger (Planning) for DOC

1. NZTA has undertaken consultation with DOC on the Mt Messenger Bypass Project. My own involvement with consultation on behalf of DOC began in August 2017. On 8 August 2017 I attended a site visit, together with other DOC representatives. During the site visit, NZTA explained to us that two route options, out of a total of five shortlisted options, were favoured and being considered. We were shown some parts of these alignments.
2. One of the two options that was being considered by NZTA at that time was referred to as Route P1 and it was located west of SH3 through the Waipingao Valley. The other option under consideration was referred to as Route E1 which was east of SH3. DOC's feedback to NZTA was that both options would have significant adverse ecological effects but that DOC's preference of the two options was Route E1 over Route P1. This was due to the DOC ecologist's collective views that the ecological values west of SH3 were higher than to the east of SH3. Route E1 was subsequently chosen as the proposed alignment by NZTA.
3. Between August 2017 and June 2018 I participated in regular (typically fortnightly) joint Working Group meetings comprising NZTA and DOC representatives. I have participated in three workshops arranged by NZTA which were attended by DOC and NZTA staff. I also assisted with facilitating some of the 'one-on-one meetings' held between NZTA and DOC technical experts which provided a forum for conferencing of the key ecological issues in contention.
4. I consider that the consultation that has been undertaken by NZTA with DOC has been appropriate and helpful. It has assisted to resolve some, but not all, of DOC's concerns that were raised in the submissions.
5. Some of the remaining concerns have been addressed following the Applicant's supplementary and rebuttal evidence. It is important that all of the agreed matters are captured in conditions, should the NOR and resource consents be approved.

Assessment of Issues

6. I have recognised in my evidence that the Project will have clear social and economic well-being benefits. I have read the AEE, the NPDC s42A report and the Applicant's evidence regarding the Project's benefits and I consider that they have been comprehensively described. I agree that the benefits of the Project are important in terms of consideration of the objectives and policies and Part 2, and I generally agree with the Applicant's assessment of them. I have undertaken a broad consideration of the relevant objectives and policies as part of my review.
7. Notwithstanding that Dr Barea considers that the term no net loss is not applicable to environmental compensation, I support the *intent* of the Applicant's proposed objective.
8. I consider that the general intent of the Applicant's restoration package is consistent with the objectives and policies that I have identified as being relevant from the various statutory documents. Some objectives and policies in the Regional Freshwater Plan and Regional Policy Statement seek to "maintain and enhance" various freshwater and biodiversity values. There is similar wording in the New Plymouth Operative District Plan, including "preserve

and enhance" with respect to natural character of waterways and "sustainably manage, and enhance where practical" with respect to indigenous vegetation and habitats.

9. The proposed offset/compensation (the restoration package) is a key part of the Applicant's proposal and it is referred to extensively throughout the AEE, ELMP and the Applicant's ecological evidence. However, the evidence by some of the DOC ecological witnesses, which I rely on, identifies some required changes to the restoration package to address some of the Project's residual adverse effects. That is particularly the case with effects on long-tailed bats.
10. Because some of the Project's adverse effects cannot be avoided, remedied or mitigated, in my opinion a critical consideration for the decision maker in determining whether the NOR and resource consent applications should be approved is whether benefits from the restoration package will be commensurate to the nature and scale of the residual adverse effects. If the decision maker is satisfied that this will occur then in my opinion the "maintain and enhance", "preserve and enhance" and "sustainably manage, and enhance where practical" provisions in the statutory documents could be addressed, as could Part 2 matters including section 5 and sections 6(a) and 6(c) of the Act.
11. Following receipt of the Applicant's rebuttal evidence, Dr Drinan now has a higher level of confidence that the riparian planting proposal will appropriately compensate some of the residual freshwater effects. Both Dr Drinan and Mr Duirs still have some remaining concerns regarding freshwater effects due to stream works and erosion and sediment. However, if suitable robust conditions are imposed then I now consider that the Project works may be able to be undertaken in a manner that achieves overall consistency with the objectives and policies that relate to *freshwater matters* and *natural character* in the Regional Freshwater Plan, the Regional Policy Statement and the New Plymouth District Plan.
12. Based on Dr O'Donnell's evidence on critically endangered long-tailed bats and his assessment of the bat management measures contained in the Applicant's current restoration package, I consider the Project works will be contrary to Objective 16.2, Policy 16.1 and Policy 16.2 in the New Plymouth District Plan and BIO Objective 1 and Bio Policies 1-3 in the Regional Policy Statement. The Applicant has sought to achieve no net loss of biodiversity for bats but Dr O'Donnell does not consider this objective will be achieved due to the significance of the Project site for bats, the high level of effects and inadequacies with VRPs and the pest management proposal. In that regard, the current proposal will not achieve the purpose of the Act in section 5 nor will it recognise and provide for the protection of areas of significant habitats of indigenous fauna in terms of section 6(c).
13. I note that the Applicant and both of the Reporting Officers have all considered Part 2 matters in their assessments of the NOR and the TRC resource consent applications. I have taken the same approach. I reach the same conclusion following consideration of the proposal in terms of the relevant planning documents and Part 2.

Management Plans

14. Management plans will set out the key methods for managing the Project works and effects. The DOC ecology witnesses, the NPDC reporting officer and Wildlands (as NPDC's peer reviewer of the ELMP) all consider that the ELMP contains some deficiencies which require addressing prior to final approval to the ELMP being given. Mr Duirs also has some remaining concerns with the CWMP which he seeks some changes to.

15. I consider there are some issues that may prevent the final approval of the ELMP being given now. These include the lack of confirmed certainty of the locations for the Pest Management Area (PMA), riparian planting and the predator-excluded lizard area and the absence of details of the location of kiwi fencing following pre-construction monitoring. These are key matters that the ELMP addresses but it currently does so based on preferred (rather than confirmed) locations for the PMA and riparian planting, and without details of the specific locations for the predator-excluded lizard area and kiwi fence. The ELMP will need to be updated with these details once they are confirmed and it should then be subject to a certification process.
16. The ecological assessment submitted with the AEE and the DOC evidence both identify that the proximity to the impact site and the ecological characteristics (vegetation and habitat) of the area are important considerations for choosing the offset/compensation sites.
17. All of the Applicant's evidence appears to be based on the PMA being in the location identified as the 'preferred option' shown in Appendix F of the ELMP. The reference to the site as a 'preferred option' suggests the location could change. Condition (32(b)) in the Applicant's most recent suggested designation conditions states that "the exact location of the PMA may change over time". There is no criteria in the conditions suggested by the Applicant for determining the suitability of any alternative sites in the event that the preferred PMA is not pursued, nor do I recall any evidence from the Applicant which assesses the potential change in ecological outcomes if the PMA is moved from the preferred location, either at the outset or at a later date.
18. Whether the PMA is able to be established in the preferred location appears to still be uncertain. The Applicant's preferred location for the PMA includes land that is located partly outside the proposed designation boundaries which is owned by the Pascoes and Ngati Tama. I consider that it is important that there is either certainty that the preferred site will be available for the purpose intended in perpetuity, or confidence that there is a suitable alternative if it is not.
19. The ELMP recognises that stream restoration should be located close to the area affected and in similar environmental conditions. In addition, Dr Drinan's evidence sets out that confirmation of the compensation site is important because it may have high ecological values that cannot be improved upon, or conversely, it may have low ecological values that are not amenable to significant improvement in ecological value. Mr MacGibbon's rebuttal evidence states that agreements are yet to be reached with landowners for approximately 2.3km of stream length for riparian planting.
20. If the NOR and resource consents were to be granted then I consider that specific locations for the PMA and riparian planting should be referenced in the designation and resource consent conditions with certainty of legal protection of those areas in perpetuity, and no flexibility to move the PMA at a later date.
21. The DOC ecological witnesses have also identified a number of other issues with the ELMP in their evidence which require changes to the buffer provisions in the Pest Management Plan, the vegetation removal protocols in the Bat Management Plan, the fish recovery and rescue protocols and the stream monitoring and remedial actions process for sediment events in the Freshwater Ecology Management Plan, the biosecurity measures for

invertebrate pests in the Biosecurity Management Plan, provisions for bittern and kokako and restoration planting ratios.

Conditions

22. If the resource consents are granted and the NOR is accepted then I consider a number of changes would be required to the conditions that have been suggested by the Applicant. I consider some of the key matters to include:
- a. Additional or alternative measures to avoid, mitigate or compensate for adverse effects on long-tailed bats;
 - b. Additional biosecurity measures for invertebrate pests;
 - c. Measures to detect and address the management of bittern and kokako;
 - d. Increased planting ratios for restoration planting;
 - e. Measures for freshwater effects, including updated riparian planting area requirements and a clear response process for unforeseen sediment discharges and suitable riparian planting. The details will need to be clearly stated in conditions;
 - f. Specific conditions requiring the CWMP to address requirements for upstream and downstream continuous sediment monitoring;
 - g. More detailed requirements should be included in conditions rather than relying on details being contained in management plans. Examples are pest management targets, site selection criteria for the lizard enclosure and details of the location of the PMA and riparian planting;
 - h. A suitable process for certification of management plans, including provisions for an Ecology Review Panel to review the ELMP, changes to the ELMP and adaptive management requirements;
 - i. I consider that disputes or disagreement on management plans between the consent holder/requiring authority and the Councils should not be determined by a binding decision by a mediator;
 - j. Use of terminology such as "where feasible" (for example TCV9) is inappropriate.

