

Sections 181, 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE and 149ZCF; and 176A Resource Management Act 1991



Report pursuant to section 95 of the Resource Management Act 1991 recommending whether a notice of requirement should be publicly notified, limited notified or non-notified.

Decision pursuant to sections 169 and sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF

Author: Jane Anderson

Position: Consultant Planner

Notice of Requirement Number: D220001

APPLICANT: New Zealand Transport Agency

LOCATION: State Highway 1 and North Rakaia Road, Rakaia

LEGAL DESCRIPTION: Rural Section 33582 (23,000m²) contained in Record of Title 891584
North Rakaia Road – No appellation, Parcel ID 3576329 2160m²

Description of the Proposal

1. Waka Kotahi NZ Transport Agency (Waka Kotahi) has given notice of its requirement for an alteration to Designation TR7 in the Operative Selwyn District Plan and corresponding Designation NZTA-7 Rakaia Commercial Vehicle Safety Centre in the Proposed Selwyn District Plan (hereon 'NZTA-7').
2. Waka Kotahi propose to undertake minor alterations to the existing designations in the Operative and Proposed District Plans with the following alterations to the condition wording:

Operative District Plan:

"General Accordance with details provided in the NOR and plans attached in ~~D190066 Appendix G~~ updated 17/02/2020; the Addendum to the NOR 17/02/2020 ~~D220001 Appendices A - E~~; and the response to the request for further information 27/03/2020 dated 26 July 2022; and the additional response to the request for further information dated 19 October 2022."

Proposed District Plan:

General Accordance

1. *The designation shall be implemented in general accordance with the details provided with the Notice of Requirements:*
 - a. *The Plans attached in ~~Appendix G~~ Appendices A – E of the Notice of Requirement dated ~~17/02/2020~~ 27 May 2022;*

- b. ~~The Addendum to the Notice of Requirement dated 17/02/2020;~~
- b. ~~The response to the request for further information dated 27/03/2020~~ 26 July 2022; and
- c. ~~The~~ additional ~~response to the request for further information dated 17/04/2020~~ 19 October 2022."
3. The proposed alterations to the designation are sought to provide for the construction, operation and maintenance of a smaller Commercial Vehicle Safety Centre (CVSC) at the site. The application provides the following summary of the proposed works:
- Construction of a CVSC to capture southbound commercial vehicles only;
 - Construction of a Tier 1.5 Safety Building;
 - A CVSC with a significantly reduced size and scale compared within that approved in the Plans of the previous NOR application
4. The proposed changes are sought in response to a road safety audit that determined that commercial vehicles crossing State Highway 1 posed an unacceptable safety risk. As a result, separate north and south bound CVSC sites are proposed which do not require commercial vehicles to cross over lanes of oncoming traffic. A smaller CVSC is proposed for south bound vehicles only. A separate project will be undertaken in the future to capture north bound vehicles.
5. Waka Kotahi has advised that the proposed alteration is necessary as it will *"allow for the construction of the CVSC on the site which will provide increased safety for other road network users"*.
6. No change is proposed to the purpose of the designation, being *"to undertake maintenance, operation and use of, and improvements to the State Highway Network."* No other changes are sought the existing condition.
7. The application includes an Outline Plan for the works to construct, operate and maintain the CVSC within Designation TR1 and TR7 of the Operative Selwyn District Plan under Section 176A of the Resource Management Act.

Description of the Existing Environment

8. The application site is located at the junction of State Highway 1 and North Rakaia Road.
9. The site is generally flat and is vegetated in pasture grass. There are no existing structures. There is an existing access to the site via a farm gate off North Rakaia Road approximately 187 metres from the intersection with State Highway 1.
10. The Main South Rail line lies parallel to State Highway 1. To the southwest of the site is a public rest area. The access to the rest area is approximately 55m from the intersection of North Rakaia Road.
11. The Rakaia River is approximately 165m southwest of the site. This river is a braided river, and a Chinook salmon fishery. The surrounding margins support several species of birdlife including the endangered black bill gull, a large population of wrybill as well as black footed tern and banded dotterel. The river is subject to the National Water Conservation (Rakaia River) Order 1988.
12. At the site location the width of SH 1 is 8m wide with two carriage lanes of 3.5m with 500mm sealed shoulders. There is a right hand turning bay north east of the intersection from North Rakaia Road to Main Rakaia Road, and further north approximately 240 metres away is the

Rakaia overbridge that passes over the main trunk railway line. There are street lights to aid visibility at the intersection and at the overbridge.

13. The traffic volume of State Highway 1 at this point is 12,142 vehicles with approximately 14% being heavy vehicles. The speed limit at this point is 100km/hr. In the District Plan State Highway is designated as TR1 (State Highway) and the NZTA as the requiring authority. North Rakaia Road is managed by Selwyn District Council, and has a traffic volume of 100 vehicles per day.
14. Other land uses in the area consist of larger rural production activities.

Section 169 Notice of Requirement to Territorial Authority

15. Section 169 applies if a territorial authority is given notice of a requirement under section 168 for a designation for a public work within its district from a Minister of the Crown.
16. Section 169(1) states:
 - (1) *If a territorial authority is given notice of a requirement under section 168, the territorial authority must, within 10 working days, decide whether to notify the notice under—*
 - (a) *subsection (1A); or*
 - (b) *sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF, which apply with all necessary modifications and as if—*
 - (i) *a reference to an application or notice were a reference to the notice of requirement; and*
 - (ii) *a reference to an applicant were a reference to the requiring authority; and*
 - (iii) *a reference to the Minister or the EPA were a reference to the territorial authority; and*
 - (iv) *a reference to an activity were a reference to the designation.*

Section 149ZCE Assessment – Environmental Effects

17. Section 149ZCE sets out the relevant considerations for determining whether adverse effects on the environment are likely to be more than minor for the purposes of making a decision on notification.

149ZCE [Territorial Authority] to decide if adverse effects likely to be more than minor

For the purpose of deciding under section 149ZCB(2)(a) whether an activity will have or is likely to have adverse effects on the environment that are more than minor, the [Territorial Authority]—

- (a) *must disregard any effects on persons who own or occupy—*
 - (i) *the land in, on, or over which the activity will occur or apply; or*
 - (ii) *any land adjacent to that land; and*
- (b) *may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and*
- (c) *in the case of a controlled activity or a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and*

- (d) *must disregard trade competition and the effects of trade competition; and*
- (e) *must disregard any effect on a person who has given written approval in relation to the relevant application or notice.*

Section 176A – Outline Plan

18. The statutory requirements of the Resource Management Act 1991 in respect of this application are contained in section 176A, which subject to subsection (2) requires that an outline plan of the public work, project or work to be constructed on designated land must be submitted by the requiring authority to the territorial authority to allow the territorial authority to request changes before construction commences. The territorial authority may only make recommendations.
19. The matters that may be considered are set out in section 176A(3) which states that:
An outline plan must show:
 - (a) *The height, shape and bulk of the public work, project or work; and*
 - (b) *The location on the site of the public work, project or work; and*
 - (c) *The likely finished contour of the site; and*
 - (d) *The vehicular access, circulation and the provision for parking; and*
 - (e) *The landscaping proposed; and*
 - (f) *Any other matters to avoid, remedy or mitigate any adverse effects on the environment.*

Assessment of Effects – Alteration to the Designation

Discussion

20. The actual and potential adverse effects of the proposed alteration to the designation relate to visual, character and amenity, noise and transport effects.

Permitted baseline

21. In determining whether the adverse effects of a proposal are more than minor, section 149ZCE allows the Council to disregard the adverse effects of permitted activities. The site is zoned Rural (Outer Plains).
22. In the Rural Outer Plains zone, a non-residential and non-rural activity would have the following general parameters of most relevance:
 - Earthworks to a maximum volume of 5000m³, with a vertical cut of no more than 5%
 - A maximum of 100m² for the loading, storage and waste activities;
 - Two staff maximum;
 - 30 equivalent car movements per day per site; and
 - Compliance with the noise rules would be required

Visual effects

23. Currently, the site is vacant pasture land, and is subject to an operative Designation TR7 that provides for the construction, operation and maintenance of a CVSC on the site.

24. The proposal seeks to construct a CVSC that, according to the applicant *“is smaller in size and in intensity that that currently permitted by the existing conditions on the designation”*. The applicant considers that:
- “On the basis that the proposed site is smaller in scale and intensity, adverse effects on visual amenity will be lesser than those already considered within the previous NoR application, and of the purpose of the application, insignificant.”*
25. The assessment of effects from the applicant notes that the closest sensitive visual receivers are located approximately 280m northwest of the CVSC, and are separated by the Main South Railway Line and State Highway 1. The report assess the effects on the closest receivers noting that vegetative planting will provide a degree of provides good visual screening. I accept this assessment, and consider that the distance to sensitive receivers and the proposed landscaping will ensure that any adverse effects will be less than minor, subject to the proposed conditions restricting the development to a scale and intensity less than the original proposal.

Noise

26. In consideration of construction noise, it is noted that the application seeks to ensure that all construction activities shall occur in accordance with NZS6803:1999 Acoustics – Construction Noise to ensure acceptable construction noise. This will require noisy construction activities to occur between the hours of 0730 and 1800 hours Mondays to Saturdays, and adopting the best practical option to minimise construction noise where possible.
27. The operation of the CVSC will generate noise associated with heavy vehicle movements entering and exiting the site, and manoeuvring within the site. The operation of the CVSC is likely to be less than 7 days per month. It is noted that the site and surrounding environment is subject to an existing ambient noise environment influenced by the adjacent State Highway. Whilst it is acknowledged that the proposal will result in additional vehicle movements associated with vehicles turning into the site for inspection, it is noted that the closest sensitive receiver is approximately 270m north west of the site.
28. I consider that any potential noise effects associated with the proposed alteration to the designation will be less than minor.

Traffic

29. The current application does not include a detailed traffic assessment, however the proposal has been peer reviewed by Abley, this is attached as **Appendix 1**.
30. Abley have reviewed the application and provided the following conclusions :
31. The modelling of the State Highway 1 / North Rakaia Road intersection operates at a minimum LoS C with conservative assumptions, resulting in delays being a maximum of 14 seconds. This is found to be acceptable.
32. Due to the safety record, high speed environment, head on collision risk and potential driver frustration over decelerating left turning vehicles a left turn auxiliary lane on State Highway 1 is recommended.
33. The non-compliant sight distance has been assessed and is considered to be acceptable as there is sufficient distance between the intersection and vehicle crossings for a truck to stop if a vehicle accidentally pulled out and vehicles will be predominantly turning left when exiting the site, where there is sufficient visibility.
34. The proposed right turn median on SH1 will improve safety of right turning vehicles from SH1. The safety record of the surrounding environment is poor and there have been recorded fatalities

of head on collisions with heavy vehicles. The speed limit on SH1 is recommended to be reduced from 100km/hr to 80km/hr, although Abley notes that this is a matter for Waka Kotahi as the road controlling authority.

35. In response to these issues, Abley have recommended the following conditions:
- a. The provision of an appropriate Construction Traffic Management Plan (CTMP) to mitigate any potential adverse effects of construction traffic, including deliveries and the displacement of any vehicles due to loss of parking spaces during construction;
 - b. Prior to operation of the activity, a left turn auxiliary lane and right turn median shall be installed on State Highway 1 at the State Highway 1 and North Rakaia Road intersection before construction activity. The designs shall be submitted to Council for approval.
 - c. A site management plan is to be prepared and submitted to Council for approval prior to the operation of the activity and reviewed annually. It shall include:
 - Staging of heavy vehicle departures within the site to prevent convoying;
 - Appropriate on-site procedures for oversized vehicles within the site
 - d. During commencement of the activity, the proposed sealed section of North Rakaia Road is to be maintained by Waka Kotahi as part of the State Highway Maintenance agreement with Selwyn District Council.
36. Based on the above assessment and the information provided with the proposal and subsequent responses from further information provided, I consider the traffic effects of the development to be no more than minor, subject to conditions.

Conclusion on adverse effects

37. Overall, I consider that the visual effects, effects on rural character, and amenity, and noise of the proposed designation to be less than minor.
38. Overall, given the location and design of the buildings, their potential effect visually and upon the rural character of the zone and the proposed traffic volume, and safety mitigation measures proposed, that the effects of the development are no more than minor.

Written Approval

For the purpose of deciding under section 149ZCB(2)(a) whether an activity will have or is likely to have adverse effects on the environment that are more than minor, the [Territorial Authority]—

- (f) must disregard any effects on persons who own or occupy—*
- (iii) the land in, on, or over which the activity will occur or apply; or*
 - (iv) any land adjacent to that land; and*

Assessment of Effects – Outline Plan

39. It is noted that the matters associated with the Outline Plan application will be assessed at the substantive stage. However, for completeness, the matters for consideration are assessed below:
- (a) The height, shape and bulk of the public work, project or work; and*
40. The proposed works within Designation TR7 are detailed in the application, and defined as including:

- Automatic Number Plate Reading (ANPR) Camera
- Weigh-In-Motion (WIN) Plates;
- ITS Cabinet;
- Metal Side Guard; and
- Road resurfacing

41. The general layout of the proposed CVSC within the Designation TR7 is detailed in **Figure 1** below:

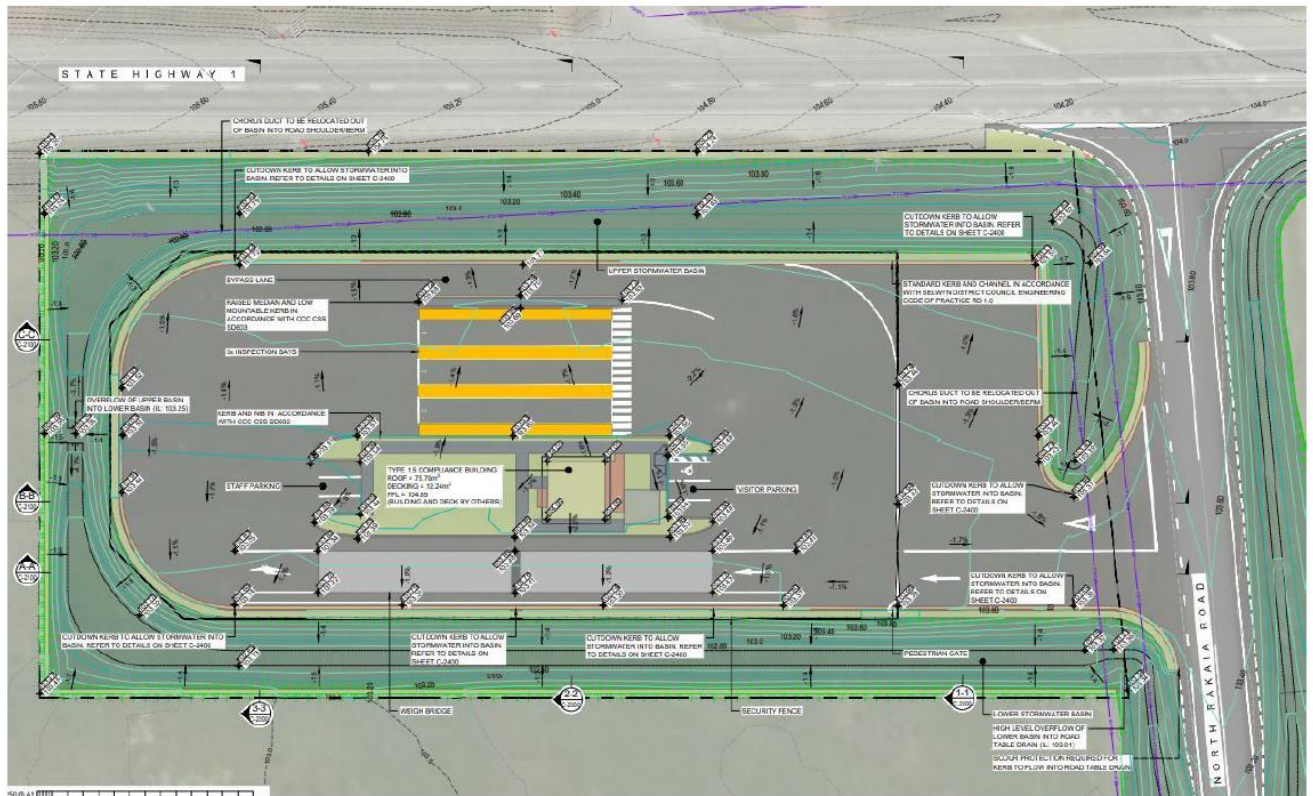


Figure 1: General Layout of CVSC (source: application)

42. The proposed CVSC shall comprise of:

- A weigh bridge, comprising of two 5m wide by 25m long weigh plates, integrated into the site at ground level;
- Tier 1.5 compliance 75m² building, with an approximate height of 4.5m;
- Bypass lane, approximately 4m in width and separated from the inspection bays by a raised median and low mountable kerb;
- Three inspection bays, each being approximately 3m wide and 25m in length and located adjacent to the bypass lane;
- Six car parks for Staff and visitor parking;
- On site lighting, mounted on poles and pointed at the ground;
- Onsite greywater and wastewater disposal
- Onsite stormwater disposal
- Site fencing to be installed around the perimeter of the site

(b) *The location on the site of the public work, project or work; and*

43. The location of the proposed works is within sites subject to Designation TR1 and TR7, adjacent to the State Highway 1, and to the south of North Rakaia Road.

(c) *The likely finished contour of the site; and*

44. The proposal seeks to remove approximately 3000m³ of topsoil to a depth of 300mm. Approximately 1600m³ is proposed to be retained on site for reuse, with the remaining 1400m³ to be cut to waste.

(d) *The vehicular access, circulation and the provision for parking; and*

45. Vehicle access upgrades associated with the CVSC are proposed to occur in Designation TR7. North Rakaia Road is proposed to be widened and sealed to approximately 90m from State Highway 1.
46. The CVSC has been designed to direct entering vehicles over a weigh bridge and then either into an inspection lane or a bypass lane, and then to exit the site to travel south bound on State Highway 1. The site has been designed to facilitate the circulation of a standard 17.9m truck and semi-trailer, and a 25m truck and single steer truck and trailer capable of carrying a 10m wider load.
47. Parking for all vehicles utilising the CVSC is provided for within the site. Five car parks and one mobility car park are provided on site. The application states that *"adequate space is provided onsite such that cars can enter and exit the site in a forward direction"*.
48. No upgrade works are proposed within the Designation TR1.

(e) *The landscaping proposed; and*

49. The proposal seeks to reinstate grassed areas upon the completion of earthworks, signs and foundations within the Designation TR1.
50. Landscaping within Designation TR7 is proposed to be limited to re-grassing stormwater basins following the completion of earthworks. The landscape plan includes eight totara trees and 13 kowhai trees, along with extensive plantings of *carex virgata* and three species of tussock. The proposed landscaping is low level the applicant notes that trees and shrubs *"have the potential to compromise sightlines resulting in increased crash risk and reduced safety onsite"*.

(f) *Any other matters*

Lighting

51. The proposed onsite lighting is to be located on poles, and pointed towards the ground. The lighting will be designed in a manner to ensure that light spill on to surrounding properties and the adjacent state highway network is minimised. The applicant has provided a lighting plan that identifies the 2 lux isoline as being limited to the shoulder of the road corridor and that it will not extend into the road corridor.
52. It is considered that any adverse effects associated with lighting will be less than minor.

Section 149ZCF Assessment – Affected Person

53. Section 149ZCF sets out the relevant considerations for determining whether a person is an affected person in relation to the application.

149ZCF [Territorial Authority] decides if person is affected person

- (1) *The [Territorial Authority] must decide that a person is an affected person, in relation to an activity, if the adverse effects of the activity on the person are minor or more than minor (but are not less than minor).*
- (2) *The [Territorial Authority], in making his or her decision,—*


- (a) may disregard an adverse effect of the activity on the person if a rule or national environmental standard permits an activity with that effect; and
 - (b) in the case of a controlled activity or a restricted discretionary activity, must disregard an adverse effect of the activity on the person if the activity does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and
 - (c) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.
- (3) Despite anything else in this section, the [Territorial Authority] must decide that a person is not an affected person if—
- (a) the person has given, and not withdrawn, approval for the activity in a written notice received by the authority before the authority has decided whether there are any affected persons; or
 - (b) it is unreasonable in the circumstances to seek the person's written approval.

Discussion

54. The adverse effects of the proposed designation are considered overall as a whole to be less than minor, and therefore no person is considered to be an affected person under s.149ZCF(1).


Recommendation

55. It is recommended that the notice of requirement be processed on a non-notified basis.

<p>Reported and recommended by</p>  <p>Jane Anderson Consultant Planner</p>	<p>Date: 1 November 2022</p>
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Decision

That the above recommendation be adopted under delegated authority.

 <p>Emma Larsen Planning Manager</p>	<p>Date: 04/11/2022</p>
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Appendix 1 – Proposed Designation Conditions

1. Purpose	<p>“Undertake maintenance, operation and use of, and improvements to the State Highway Network” for the purposes of these designations shall, in the absence of specific conditions to the contrary:</p> <ol style="list-style-type: none"> Enable the use of the facilities on the designated site enable the safe and efficient use of the state highway network for all users. Increase compliance with heavy motor vehicle weight restrictions on the national state highway. Enable the provision of safe and accessible facilities to target and test heavy motor vehicles using the State Highway network. Enable the provision and use of buildings for the use of staff and operational purposes.
5.General accordance	<p>The designation shall be implemented in general accordance with the details provided with the Notice of Requirements:</p> <ol style="list-style-type: none"> The Plans attached in Appendices A – E of the Notice of Requirement dated 27 May 2022; The response to the request for further information dated 26 July 2022; and <p>The additional response to the request for further information dated 19 October 2022.</p>
6. Outline Plan	Works undertaken in accordance with the NOR will not require an Outline Plan.
7. Lapse Date	The designation shall lapse on the expiry of 10 years from the date on which it is included in the District Plan if it has not been given effect to before the end of that period.
8. Construction works	<p>That prior to commencement of construction a dust management plan shall be provided to the Selwyn District Council compliance team.</p> <p>All works shall proceed in accordance with the NZTA's Accidental Discovery Protocol</p> <p>The Erosion and Sediment Control Plan set out in Appendix L of the application shall be implemented.</p> <p>The Erosion and Sediment Control Plan set out in Appendix L of the Notice of Requirement shall be implemented.</p>
9. Landscaping	That the landscape plan provided with the application be implemented within the first planting season once construction works are completed. Should any plants die or be destroyed, they shall be replaced with the same or similar species as soon as practicable.

10. Transport	<ol style="list-style-type: none"> 1. That prior to the undertaking of construction works, the engineering plans and specifications relating to the upgrades to the local road shall be reviewed and approved by the Council's Asset Manager, Transportation. 2. That prior to the commencement of operations, the operational management plan shall be reviewed and approved by the Council's Asset Manager, Transportation
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