

IN THE MATTER of a Notice of Requirement for Designation Pursuant to Sections 168A & 171 of the Resource Management Act 1991.

BETWEEN Wanganui District Council

Applicant

AND Wanganui District Council

Territorial Authority

Plan Change 30 District
Plan reference: D232

LOCATION Either end of Nathan Street, Wanganui.

PROPOSAL To designate a corridor of land between the two ends of Nathan Street, that when constructed will connect these two sections of Nathan Street.

1. NOTICE OF REQUIREMENT

A copy of the notice for requirement for a new designation at the ends of Nathan Street, Wanganui which formed part of the public notification process, is attached as part of the Section 32 report.

2. INTRODUCTION

A Notice of Requirement has been submitted by Opus International Consultants Limited on behalf of Wanganui District Council (the Requiring Authority), to designate a corridor of land between the two ends of Nathan Street. Wanganui District Council wishes to designate the land for a proposed road.

It has been Council's intention (as shown in current and previous versions of the District Plan as an Indicative Road) to connect both ends of Nathan Street to create one road, instead of the current situation where the road stops suddenly at each end. By designating the roading corridor, Council will be able to prevent people building over the proposed road area and have provision to start purchasing the land as it and funds become available.

The land affected by this proposed designation includes: Lot 3 DP 91037, Lot 3 DP 87110, Lot 2 DP 328559, Lot 1 DP 302640 and Lot 9 DP 68920.

3. SUBMISSIONS

As part of the District Plan review, Council called for a roll over of Designations in May 2012. The Notice of Requirement for the Nathan Street roading designation was received as part of the roll over. It was notified as part of the District Plan review on Thursday 12 September 2013. The period for submissions on the requirement closed on Friday 11 October 2013. No submissions were received within the statutory time frame.

4. CONSIDERATION

This Notice of Requirement is submitted under Section 168A of the Resource Management Act 1991.

The Wanganui District Council is a requiring authority for the purposes approved under Section 167 of the Resource Management Act 1991. That authority may therefore give notice to a territorial authority of its requirement for a designation.

Section 168A of the Act states:

- (1) *This section applies if a territorial authority decides to issue a notice of requirement for a designation—*
- (a) *for a public work within its district and for which it has financial responsibility; or*
 - (b) *in respect of any land, water, subsoil, or airspace where a restriction is necessary for the safe or efficient functioning or operation of a public work.*

- (1A) *The territorial authority must decide whether to notify the notice of requirement under sections 95A to 95G (but without the time limit specified by section 95), which apply with all necessary modifications and as if—*
- (a) *a reference to a resource consent were a reference to the requirement; and*
 - (b) *a reference to an applicant or a consent authority were a reference to the territorial authority; and*
 - (c) *a reference to an application for a resource consent were a reference to the notice of requirement; and*
 - (d) *a reference to an activity were a reference to the designation.*
- (1B) *Section 168 applies to the notice of requirement with all necessary modifications.*
- (2) *Sections 96, 97, and 99 to 103 apply to the notice of requirement with the modifications described in subsection (1A).*
- (2A) *When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition.*
- (3) *When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—*
- (a) *any relevant provisions of—*
 - (i) *a national policy statement;*
 - (ii) *a New Zealand coastal policy statement;*
 - (iii) *a regional policy statement or proposed regional policy statement;*
 - (iv) *a plan or proposed plan; and*
 - (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—*
 - (i) *the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
 - (ii) *it is likely that the work will have a significant adverse effect on the environment; and*
 - (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
 - (d) *any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement.*
- (4) *The territorial authority may decide to—*
- (a) *confirm the requirement;*
 - (b) *modify the requirement;*
 - (c) *impose conditions;*
 - (d) *withdraw the requirement.*
- (5) *Sections 173, 174, and 175 apply, with all necessary modifications, in respect of a decision made under subsection*

The proposed designation of the land between either end of Nathan Street, Wanganui is consistent with the requirements of section 168(1) as it is a public work that will be carried out within the Wanganui District.

Section 169 of the RMA 1991 specifies how a notice of requirement shall be processed following receipt by the territorial authority. The process is parallel to that followed by a resource consent application, and includes public notification, a period for submissions, and the discretion to hold a

hearing. This application was notified and no submissions were received within the statutory timeframe.

Section 100 of the RMA 1991 covers the obligation to hold a hearing. A hearing need not be held unless either the requiring authority or a person who made a submission to the notice of requirement has requested to be heard or the territorial authority considers that a hearing is necessary. The requiring authority has not requested to be heard at a hearing, and no submissions have been received. It is therefore my view that there is no obligation to hold a formal hearing outside of the District Plan review.

Section 171 of the Act states:

- (1A) *When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition*
- (1) *When considering a requirement and any submissions received, a territorial authority must, subject to Part II, consider the effects on the environment of allowing the requirement, having particular regard to —*
- (a) *any relevant provisions of —*
 - (i) *A National Policy Statement;*
 - (ii) *A New Zealand Coastal Policy Statement;*
 - (iii) *A Regional Policy Statement or Proposed Regional Policy Statement;*
 - (iv) *A Plan or Proposed Plan; and*
 - (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if —*
 - (i) *the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
 - (ii) *it is likely that the work will have a significant adverse effect on the environment; and*
 - (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
 - (d) *any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*
- (2) *The territorial authority may recommend to the requiring authority that it —*
- (a) *confirm the requirement;*
 - (b) *modify the requirement;*
 - (c) *impose conditions;*
 - (d) *withdraw the requirement.*
- (3) *The territorial authority must give reasons for its recommendation under subsection (2).*

There are no National or Regional policy statements to consider. As the works intend to connect two pieces of the same street, there are no alternative locations. Within the area that the two roads need to connect, the chosen path reduces the amount of wasted land by staying close to existing boundaries and avoids existing development. The work is necessary not only to achieve a connected road network in the area, but also to allow development of the land which currently has only limited street frontage.

Part II of the Resource Management Act 1991, which comprises Sections 5 to 8, outlines the purpose and principles of the Act.

Section 5 of the Act states:

1. *“The purpose of this Act is to promote the sustainable management of natural and physical resources.*
2. *In this Act, “sustainable management” means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while:-*
 - a. *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - b. *Safeguarding the life supporting capacity of air, water, soil and ecosystems; and*
 - c. *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

It is my view that the proposed designation of the Nathan Street connection, will maintain the purpose of the Act. The requirement is necessary to ensure that the roadway can be developed as intended and to provide connectivity and development opportunities for land owners in the area.

Section 6 (Matters of National Importance) states as follows:

“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
- (f) *The protection of historic heritage from inappropriate subdivision, use and development.*
- (g) *The protection of recognised customary activities.”*

It is considered that the proposed designation of the Nathan Street extension, is not inconsistent with any of the Matters of National Importance outlined in Section 6 of the Act, and listed above.

Section 7 (Other Matters) *requires that in achieving the purpose of RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to:-*

- a. *Kaitakitanga*
- aa. *the ethic of stewardship*

- b. The efficient use and development of natural and physical resources.*
- ba. the efficiency of the end use of energy.*
- c. The maintenance and enhancement of amenity values.*
- d. Intrinsic values of ecosystems.*
- e. Repealed*
- f. Maintenance and enhancement of the quality of the environment.*
- g. Any finite characteristics of natural and physical resources.*
- h. The protection of the habitat of trout and salmon.*
- i. The effects of climate change*
- j. The benefits to be derived from the use and development of renewable energy.*

The local iwi were invited to submit as part of the Plan Change process. No responses were received within the statutory timeframes.

The issues of the efficient use and development of natural and physical resources is relevant to this application as the purpose of the designation is to provide for an efficient road network and development of the almost land locked sections.

Assessment of Potential Effects and Proposed Mitigation Measures

The sites in question are mostly large lots, with little development compared with surrounding properties and minimal street access.

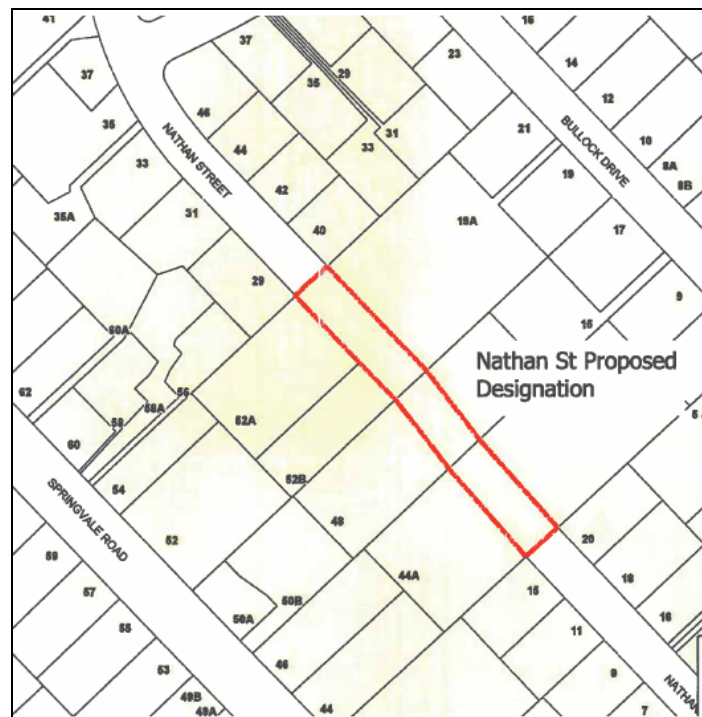


Figure 1: Extract from Notice of Requirement showing area of Designation

Visual Effects

The area of the proposed road is shown on the District Plan maps as being an indicative road, which prevents subdivision (but not buildings) over the proposed Nathan Street extension. The designation is in accordance with this and will not result in any visual effects beyond what is expected by the indicative road.

A local road, like what is proposed by this designation is an expected part of the urban environment. It will not look out of place in the wider area. For the owners of the land that the designation will cross, there will be the potential for their land to be cut in half and separated by the road. It will also change the visual outlook of these properties from being almost isolated from the roading network (apart from Right of Ways), to having a street frontage.

The applicants have stated as a mitigation measure to the change in amenity for these properties that the development of the road would not occur until needed by the surrounding properties due to development pressure. In order for there to be the development pressure, the proposal for the Nathan Street extension must be confirmed as a designation and in the Ten Year Plan, otherwise no development can occur due to lack of access to Council Infrastructure. This is not an enforceable mitigation measure proposed by the applicant.

A condition of the designation to provide the carriageway, footpath and other street furniture to the same standard as the rest of Nathan Street, shall ensure that the amenity and visual effects are minor on the surrounding properties is maintained at an amenity level consistent with the surrounding area.

Noise

There will be two sources of noise.

- 1) The temporary noise associated with the implementation of the designation as a road carriageway and associated street furniture. This will be temporary and will need to comply with the noise construction standards.
- 2) The noise of vehicles on the developed Nathan Street extension. The connection of Nathan Street will not result in large amounts of vehicles using the road. The expected users of the road will be the people living in the area, who currently use Bullock Drive and Treadwell Street to access Nathan Street. This will be within the noise limits and what is expected in a Local Road.

Therefore the adverse noise effects will be minor. A condition on the designation stating that the construction noise must be in accordance with the District Plan standards for construction.

Traffic

Once operational, the road will mostly be used by those living on the street. It will reduce travelling time for those on Nathan Street as it will be a through road rather than a double cul-de-sac.

The effects will be minor.

Section 8 (Treaty of Waitangi) states that:

“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti O Waitangi).”

The proposal will not conflict with the principles of the Treaty of Waitangi.

The Necessity for the Designation

Consideration is required as to whether the designation of the land between the ends of Nathan Street is reasonably necessary for achieving the Wanganui District Council's objectives and purpose as a local authority. This consideration should not include any questioning of the Council's objectives. Under the Local Government Act 2002, section 10, Council's purpose is to provide efficient, effective and appropriate infrastructure, for anticipated growth. The designation is necessary as the lack of road is preventing development of the properties affected by the designation.

Consideration of Alternatives

Section 168A(3) requires the requiring authority to consider alternative sites, routes and methods if it does not have an interest in the land sufficient for undertaking the works or there is the likelihood of significant adverse effects.

There are no other sites available to allow the unfinished cul-de-sacs of Nathan Street to be joined and allow the development of land in the area that is currently restricted by vehicle access width and access to Council infrastructure.

Provisions of Relevant Policy Statement or Plans

The area to be designated is currently zoned as Residential and contains an Indicative Roding overlay in the Wanganui District Plan. It is my view that the proposed Notice of Requirement is consistent with the policies and objectives of this Plan.

5. CONCLUSION

The consideration of the designation under section 171(2) of the Act has shown that the requirement is consistent with all relevant statutory requirements and it is recommended that the notice of requirement be confirmed without modification, for the reasons outlined in the recommendation.

6. RECOMMENDATION

The reasons for this recommendation are as follows:

- (a) The designation of the land between Nathan Street will ensure that the land is available for the development of the road and provide for future growth should it be required.
- (b) The proposal will not adversely affect the amenity values of the existing environment as there is already an indicative road over the same area.
- (c) Having considered the matters under Part II of the Resource Management Act 1991, the notice of requirement is not inconsistent with the purpose and principles of the Act.
- (d) The proposal is not inconsistent with the objectives and policies of the Wanganui District Plan, and the Regional Council's plans and policy statement.

(e) The effects of this proposal are considered to be less than minor.

Drafted By:

Rachael Pull
Resource Management Planner
Date: 26 February 2014