

**SUBMISSION ON PUBLICLY NOTIFIED NOTICES OF REQUIREMENT FROM THE NZ TRANSPORT AGENCY AND HAMILTON CITY COUNCIL – HAMILTON SOUTHERN LINKS DESIGNATIONS AND ALTERATION TO THE EXISTING DESIGNATION FOR STATE HIGHWAY 1**

Sections 95A(2)(b), 168, 168A and 181 of the Resource Management Act 1991 (Form 21)

**To (hard copy or post):**

- Waikato District Council
- Waipa District Council
- Hamilton City Council
- All: C/- Rice Resources Limited, PO Box 431, Waikato Mail Centre, Hamilton 3240 Attn: Steve Rice

Or email this submission to any of the Councils at: [info@riceres.co.nz](mailto:info@riceres.co.nz)  
Or fax this submission to any of the Councils at: (07) 846 5269

**Submissions Close at 5pm on Friday 28 February 2014**

**\*\*Please note all sections of the following form need to be completed\*\***

**NAME OF SUBMITTER:**

Full Name: *Mangakotuku Stream Care Group Incorporated.*  
Postal Address For Service: *PO Box 19104, Hamilton 3244*  
Phone: *0212772798* Email: *mangacare@gmail.com*  
Fax: *n/a.*  
Contact Person: *GRANT BLACKIE.*

**THE SPECIFIC NOTICES OF REQUIREMENT FOR THE HAMILTON SOUTHERN LINKS ROADING NETWORK THAT MY SUBMISSION RELATES TO ARE: (give details)**

Hamilton City Council Notice of Requirement in Hamilton City ☒  
NZ Transport Agency Notice of Requirement in Waipa District ☒  
NZ Transport Agency Notice of Requirement in Waikato District ☒  
NZ Transport Agency Notice of Requirement in Hamilton City ☒  
NZ Transport Agency Notice of Requirement (alteration) in Hamilton City ☒

*But only in respect of those areas which fall within the Mangakotukutuku Stream catchment.*

**MY SUBMISSION IS (include reasons for your submission):**

Support ☐ Oppose ☒ Neutral ☐

*Refer to Attachment.*



**I SEEK THE FOLLOWING RECOMMENDATION FROM THE COUNCILS ON THE NZ TRANSPORT AGENCY'S NOTICES OF REQUIREMENT:**

(give precise details, including the parts of the Notices of Requirement you wish to have amended and the general nature of any conditions sought)

Decline in full or if a decision to grant is made then impose conditions as attached for otherwise to avoid, remedy or mitigate effects of interest to MSCG

**I SEEK THE FOLLOWING DECISION FROM THE HAMILTON CITY COUNCIL ON HAMILTON CITY COUNCIL'S NOTICE OF REQUIREMENT:**

(give precise details, including the parts of the Notice of Requirement you wish to have amended and the general nature of any conditions sought)

Same as above

**ARE YOU ATTACHING FURTHER PAGES?**

Yes ☒

No ☐ (please tick)

If so, how many: .....

**HEARING**

I do wish to speak at the hearing in support of my submission ☒

I do not wish to speak at the hearing in support of my submission (this means that you will not be advised of the date of the hearing and will not speak at the hearing) ☐

If others make a similar submission I will consider presenting a joint case with them at the hearing ☒

You must tick one of the boxes above, otherwise it will be deemed that you do not wish to be heard and we will not advise you of the date of the hearing

I have served a copy of my submission on the NZ Transport Agency and/or Hamilton City Council (this is required under s96(6)(b) of the RMA) ☒

**SIGNATURE:**

**To be signed by submitter or person authorised to sign on behalf of submitter.** (NB. A signature is not required if you make your submission by electronic means).

Signed: G. Shukie - Chair person of MSCG Incorporated. Date: 28/2/14

**Notes to submitter:**

- You must serve your submission on the requiring authorities, the NZ Transport Agency and/or Hamilton City Council, as soon as reasonably practicable after you have served your submission on the Councils. The address for service for the requiring authorities is: AECOM, PO Box 434, Waikato Mail Centre, Hamilton 3240 Attn: Grant Eccles
- Your submission is public information and will be subject to release under the Official Information Act 1982.
- For more information on making a submission refer to [www.mfe.govt.nz](http://www.mfe.govt.nz)

**Privacy information**

The information you have provided on this form is required so that your submission can be processed under the RMA, and your name and address will be publicly available. The information will be stored on a public register and held by the Councils, and may also be made available to the public on the Council's website. In addition, any on-going communications between you and Councils will be held at Council's offices and may also be accessed upon request by a third party. Access to this information is administered in accordance with the Local Government Official Information and Meetings Act 1987 and the Privacy Act 1993. If you have any concerns about this, please discuss with a Council Planner prior to lodging your submission. If you would like to request access to, or correction of your details, please contact the Councils.



## Mangakotukutuku Stream Care Group



28 February 2014

To:  
Waikato Regional Council  
Hamilton City Council  
Waipa District Council  
Waikato District Council  
Attn: Steve Rice

Dear Steve

### **Submission Regarding Hamilton Southern Links Designations and Alterations to Existing Designation for SH1 and Resource Consent Application to the Waikato Regional Council**

The Mangakotukutuku Stream Care Group Incorporated (MSCG) opposes all applications regarding the Southern Links Project (SLP) because, on balance, granting these applications does not serve the purpose of the RMA 1991 for the reasons set in this submission.

However our comments within this submission are limited to those aspects of the SLP which fall within the catchment of the Mangakotukutuku Stream and the Waikato River bridge proposed near the Hamilton Gardens which influence our group's area of interest (see #1 below).

The SLP as proposed does not adequately avoid, remedy, or mitigate potentially significant adverse effects on long tailed bats or other indigenous biodiversity of the Mangakotukutuku Stream and gully systems.

#### **1. Background to the Mangakotukutuku Stream Care Group (MSCG)**

The Mangakotukutuku Stream (originating west of Hamilton and flowing into the Waikato River – refer to Appendix 1 map) contains a number of significant and threatened indigenous fish species and in total there are more fish species reported in this stream than any other Hamilton stream. The associated gullies provide important habitat for a number of other indigenous species (e.g. long tailed bats and tui and other species as detailed within the AEE Appendix L - Southern Links Ecology).

In relation to any developments proposed within the Mangakotukutuku Stream catchment, MSCG is interested in any proposed activity, policy, plan or rule development that potentially impacts on water quality, hydrology/floodplains/wetlands and/or associated ecology of the Mangakotukutuku Stream and its catchment and particular issues of potential concern relate to;

1. Riparian management and ecological restoration
2. Stormwater - attenuation/treatment and discharges
3. Potential sediment/contaminant discharges to the stream
4. In-stream structures and obstructions to fish passage, e.g. culverts



5. Encroachment of development within riparian/floodplain areas
6. Connectivity and habitat for birds and bats

The MSCG has a membership of over 60 individuals who have been active for the past 8 years and are involved with a number of projects to further the MSCG's objectives (refer <http://www.streamcare.org.nz>), including;

- a) Planting approximately 12,000 native plants and maintaining the lower reaches of the Mangakotukutuku Stream/Sandford Park area to restore indigenous riparian vegetation.
- b) Significant work to provide improved fish passage through the large Mangakotukutuku Stream culvert on Peacockes Road, below Sandford Park.
- c) The development of a wetland and in-stream fish habitat structures within the lower Mangakotukutuku Stream /Sandford Park area, with mudfish translocations proposed in the winter of 2014.
- d) Upper catchment riparian work programmes approved/partially implemented involving 4.5kms of riparian restoration at a cost of \$150k over the next 6 years (refer an example attached in Appendix 2)
- e) Submissions to HCC notified processes, including the HCC District Plan, Three Waters Strategy, Variation 14 - Peacocke Structure Plan, HCC Annual Plan, Waste Management Plan and the Peacockes Area Urban Strategy and submission/consultation regarding various residential subdivision developments.

## **2. General Comments on the Applications**

### **2.1 Lack of Information**

It appears that there has been no/very limited site specific habitat assessment undertaken for indigenous species within the SLP area and the AEE relies on others studies and patchy piecemeal information on which to make flimsy/no predictions on which species may be within the SLP area and/or how they may be affected. For a project value estimated to exceed \$500m it is difficult to understand why no species or site specific studies have been undertaken to inform the SLP applications or how an informed opinion can be expressed or a proper decision made in relation to these applications.

Most significantly, there has been no Long Tailed Bat (LTB) monitoring undertaken in regards to the SLP and there is a critical lack of information concerning LTB within the SLP area (AEE Appendix L - Southern Links Ecology) and this severely compromises any measures that may be proposed to mitigate effects on LTB.

AEE Appendix L (page 2) states that the effects on LTB are difficult to predict and may be of high significance..."*Overall the adverse effects of the gully crossings is expected to be significant and will require substantial mitigation offset including habitat enhancement within the remaining sections of gully.*"

Details on ecological mitigation are not available, primarily because the background work on which to develop mitigation plans has not been undertaken. This situation creates significant uncertainty in regards to the nature of ecological effects and how they may be best mitigated if the project proceeds.



## **2.2 Long Tailed Bats (LTB)**

The AEE contains a number of concerning statement relating to the potential and unknown effects of the proposal on LTB. A number of these statements from the AEE are provided as follows;

*The planned ongoing urbanisation of this landscape in addition to the Southern Links Network construction represents a significant risk of bats being lost from the City and peri-urban area as a result of these cumulative effects (page 2, AEE Appendix L)*

*Due to the fact that the effects of roads on long-tailed bats are poorly understood it follows that the measures proposed to avoid, remedy or mitigate effects carry with them significant uncertainty in terms of their necessity, suitability and likely effectiveness. Therefore, the ability of the Project to avoid, remedy and mitigate adverse effects on this species is similarly uncertain, as is the Projects ability to achieve “no net loss” as required by the Proposed National Policy statement on Biodiversity and NZTA’s own Environmental Plan objectives (page 3, AEE Appendix L)*

The MSCG has significant concerns regarding the potential effects of the proposed Waikato River Bridge by the Hamilton Gardens, the location of roads and crossings within the gully systems (including traffic noise and bridge lighting) on LTB’s which may use the Waikato River as a flight route to access the Mangakotukutuku Stream gully system and the Mangakotukutuku Stream gullies themselves.

In our view, a detailed Ecological Mitigation and Restoration Plan (EMRP) is required to be prepared prior to granting any authorisations regarding the SLP, although this would likely require several years of monitoring LTB (for example) to properly inform an appropriate EMRP.

It is also our view that an EMRP should be implemented as soon as possible and not wait 15-20 years until construction commences, as proposed. There is a huge opportunity with the SLP to determine and implement mitigation measures many years prior to construction and given the potential effects on indigenous species (not only LTB) this would be entirely appropriate.

Given the nature of statements contained within the application documents concerning LTB it appears that the ability of any decision on the current applications to satisfy the requirements of Operative or Proposed Regional Policy Statement, the Waikato River Settlement Legislation, the Proposed National Policy Statement on Biodiversity or even NZTA’s own Environmental Plan objectives, to be exceedingly remote.

Given the uncertainty surrounding potential effects to LTB and the likely success of mitigation measures within the SLP area it is suggested that provision within the consent requirements be made to provide for a biodiversity offset<sup>1</sup> approach, which may include measures to enhance LTB habitat populations at other known/more viable long term populations.

## **2.3 Man-made Ponds in the Upper Reaches of the Mangakotukutuku Catchment**

The AEE Appendix L (page 17) states as follows – *‘The only ponds directly impacted by the Network footprint are located in the upper section of a tributary of the Mangakotukutuku gully systems. These are man-made and have altered the original form of the gully. Nevertheless they will provide habitat for birds, aquatic invertebrates and some fish species and they are*

<sup>1</sup> Biodiversity offset means measurable conservation outcomes resulting from actions which are designed to compensate for more than minor residual adverse effects on biodiversity, where those affects arise from an activity after appropriate prevention and mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity on the ground with respect to species composition, habitat structure and ecosystem function.



part of a system that is considered to represent significant habitat of indigenous fauna' (Page 17, AEE Appendix L) – MSCG questions on what basis this statement is made and contends without further information that manmade ponds of this nature have typically adverse effects on water quality and indigenous fish and should be removed unless it can be shown otherwise and that the ponds are legally authorised under the RMA 1991.

## **2.3 Mangakotukutuku Gully Crossings**

AEE Appendix L (page 21) states *'It has not been possible to avoid all gully crossings during the Network design. At these crossing points there will be loss of habitat for indigenous fauna and in some locations native plant species. The Mangakotukutuku Stream and gully system also has significant community value as well as its intrinsic ecological value. This gully system is crossed in a number of locations. Loss of habitat from these gullies will need to be offset by habitat enhancements within the remaining sections of gully and also planting additional areas of habitat connected to the gullies that will extent the available habitat, as well as act as ecological buffer zones.'*

Details on mitigation that may be proposed in relation to stream and gully crossings is not available and may not be developed until the required consents are sought from the Waikato Regional Council, in any case conditions proposed in relation to the SLP would require reviewing in relation to any subsequent RMA process concerning stream and gully crossings – this piecemeal approach to consenting a large project is commented on further below.

## **2.4 Native Fish**

AEE Appendix L (page 17) states *'Many of the fish species found in the Waikato River and associated tributaries within the Project Area, including the Mangakotukutuku Stream, are classified as "at risk". These species include; giant kokopu (at risk – declining), longfin eel (at risk – declining), and redfin bully *Gobiomorphus huttoni* (at risk – declining) (Allibone et. al., 2010). Koura or freshwater crayfish *Paranephrops planifrons* was classified as in gradual decline by Hitchmough et. al.,(2007). In addition, it is also possible that some of the ephemeral sections of streams, including farm or roadside drains, may provide habitat for the threatened black mudfish *Neochanna diversus*. This species is classified "at risk", relictual (Allibone et. al., 2010). Surveys for this species will need to be undertaken prior to applications for Regional Council consents. (emphasis added)*

Given the identified fish values it is our view that fish species surveys and mitigation proposals in relation to fish need to be undertaken prior to consideration of the SLP - to postpone this work to some future Regional Council RMA process potentially compromises those consent processes and the mitigation options available to those processes (as discussed further below). The MSCG notes the significance of small seeps and springs fed by groundwater that provide thermal refugia for some native fish during summer; these habitats are not mentioned in the AEE despite their significance being noted on the MSCG website and their susceptibility to development.

## **3. Proposed Ecological Restoration and Mitigation Plan (ERMP) Consent Conditions**

### **3.1 HCC Proposed Condition 36 - ERMP**

Condition 36 requires that an ERMP be submitted *'prior to commencement of construction'*, which taken literally could be the day before construction commences, hence construction could commence prior to any review or certification of the ERMP. Clearly this is not intended or acceptable.

Inclusion of the MSCG as a party to be consulted within the development of the ERMP is acknowledged and supported.

The ERMP condition lacks specificity, it does not require provision for a specific Bat Management Plan as recommended within the AEE, has no robust review process and there



are no conditions at all requiring the implementation of the certified ERMP – clearly this is an oversight in the compilation of the proposed conditions.

Condition 36(c) seeks to establish restoration and habitat enhancement measures to ensure 'no net loss' of biodiversity values within the SLP area. The objective of 'no net loss' is not consistent with the Waikato-Tainui Vision and Strategy, Waikato-Tainui Environmental Plan or the proposed Waikato RPS which seek enhancement, restoration and improvement of biodiversity over the pre-existing condition.

The ERMP condition, as proposed, is simplistic and grossly deficient in relation to the biodiversity values at risk and inconsistent with the NZTA proposed Condition 12.

### **3.2 NZTA Proposed Condition 12 - ERMP**

This condition is inconsistent with the proposed HCC condition 36, i.e. a bat management plan is required, the EMRP is required 40 days prior to commencement of works and the MSCG is not included as a party to be consulted, for example.

The proposed bat management plan condition (b(viii)) requires '*Procedures for implementing, monitoring and review of the EMRP.*' – this is supported but needs to relate to the whole ERMP not just the bat management plan and a similar requirement is necessary within the HCC condition 36 relating to the EMRP.

## **4 Timing of ERMP Development and Implementation Issues**

AEE Appendix L (page 3) states '*The fact that the Southern Links project is some years from being constructed provides an important window of opportunity to start the process of habitat enhancement well in advance of the impact occurring. It is important that this opportunity is not lost as it takes several decades for trees to reach a level of maturity where bats will start to use them as roost sites.*' - This is not reflected within the proposed consent conditions which propose an ERMP to be prepared prior to commencement of construction (or 40 days prior to commencement of construction depending on the condition) and implemented some (unknown) time thereafter.

The AEE Appendix L also recommends that a Bat Management Plan be developed for the Southern Links project and Peacockes Structure Plan **as soon as possible** in order to provide for the long term management of bats in this landscape. AEE Appendix L also strongly recommended that research is undertaken by NZTA and HCC to enable effects to be more clearly understood and provide a more solid basis for making recommendations concerning avoidance, remediation and mitigation and predicting likely effectiveness – this is not reflected in proposed conditions and it is difficult to see how the phrase **as soon as possible** translates into 0 - 40 days prior to construction in 15 -20 years' time.

AEE Appendix L states (page 5) '*Further ecological survey will be required prior to construction particularly for bats, potentially birds (to deal with the potential expansion in the breeding range of certain species such as falcon), fish (to ensure appropriate fish passage is provided where culverts need to be installed and if necessary mitigate for loss of in-stream habitat), vegetation (to further determine the amount and condition of the vegetation lost, which may change over the next 15 to 20 years).*

These requirements need to be translated into appropriate consent conditions (currently absent) including surveys for indigenous fish as the AEE is based on outdated or simplistic records e.g. '*Assessment of effects on fish was based on historic records held in the NZFFD and habitat based assessment of streams and drains. (page 5, AEE Appendix L).*'



## **5 Links between the Proposed Conditions the WRC Proposed Bridge Conditions and Future RMA Applications for Consent.**

The proposed NOR conditions regarding EMRP are not referred to or linked to the WRC proposed bridge conditions and in our view need to be for consistency.

## **6 Process Issues**

A range of subsequent consents from the Waikato Regional Council will be required to construct the SLP, including earthworks, structures in waterways, stormwater treatment and discharges, vegetation clearance and possibly divisions and water takes.

By way of example - AEE Appendix L (page 2) states *'The Waikato River, connecting gullies and some of the larger stands of mature trees impacted by the Project represent significant habitat of indigenous fauna and consent will be required from the Regional Council to clear the vegetation that constitutes this habitat'*

*Culverts by contrast result in the loss of in-stream habitat which will need to be offset by habitat enhancement of remaining sections of stream. Culverts will also need to be designed and installed to facilitate fish passage.*

So there are significant issues in relation to LTB, aquatic and terrestrial ecology (as also referred to above) which the SLP process seeks to defer to some future process while seeking 'consent' now which will compromise those future RMA processes.

The NOR which (as currently proposed) provides for the alignment of roads in relatively close proximity to the Mangakotukutuku Stream potentially compromises subsequent RMA consent processes and treatment options regarding earthworks and long term stormwater treatment as the options to be considered in these subsequent consent processes are reduced by the current SLP process and potentially will result in sub-optimal outcomes in terms of avoiding, mitigating or remedying adverse effects on the environment.

In addition, the NOR applications identify stormwater ponds in some gully locations – this aspect is specifically opposed by the MSCG because locating ponds or other infrastructure within gullies results in a permanent loss of gully features which are required for ecological functions. Stormwater treatment needs to be carried out off-line though the use of targeted stormwater treatment devices including swales and wetlands, to avoid the build-up of toxic metals, metalloids and PAHs in streambed sediments which support aquatic life.

To seek only the NOR's required and strategic waterway crossing consents, but not the full suite of RMA consents required to construct the SLP potentially results in a compromised and piecemeal approach and does not provide for either integrated resource management, assessment of cumulative effects or an optimal set of proposed consent conditions.

If authorisations for the SLP are granted following the current process, a robust and transparent future process is required to align any requirements imposed with future requirements of subsequent RMA processes. This scenario is exacerbated by the apparent lack of an appropriate process built in to the proposed SLP conditions and the length of time indicated before the SLP may be realistically constructed.

## **7 Mangakotukutuku Stream and Gully Restoration Framework or Strategy**

Currently there are a number of stream and gully restoration activities being undertaken and planned, including those by the MSCG. In addition, there is increasing residential development within the Peacockes sub-catchment which is dealt with by the regulatory agencies on a piecemeal basis in the absence of any co-ordinating or strategic framework for this sub-catchment. This means that opportunities for gully restoration are being squandered or at best the effectiveness of limited resources that are going into various



projects is not being maximised. In the absence of a developed draft ERMP for the Mangakotukutuku Stream in the immediate future (ie 15-20 years) as proposed by the SLP, it is proposed that a useful interim and immediate response could be the development of Mangakotukutuku Stream and Gully Restoration 'framework or strategy', if not for the whole catchment, then at least for the Peacockes sub-catchment which is coming under most development pressure and will be affected to the greatest extent by the SLP. Such a strategy/framework would be of significant value to the MSCG and encompass preliminary work required in future years (as proposed by the SLP) for the development of the EMRP.

## **8 Summary**

- A. Due to the lack of information concerning potentially significant effects to regionally and/or nationally significant ecology and that the applications fail to satisfy the requirements of Operative or Proposed Regional Policy Statement, the Waikato-Tainui Vision and Strategy, the Waikato-Tainui Environmental Plan, the Proposed National Policy Statement on Biodiversity or the NZTA Environmental Plan objectives, the proposal does not therefore serve the purpose of the RMA 1991 and all applications should be declined.
- B. If the applications are to be progressed, then all authorisations for the SLP (ie including all consents required from the Waikato Regional Council) should be sought and processed for the entire project at the same time to provide for an integrated RMA process.
- C. If the applications are to be progressed, then appropriate monitoring of potentially affected regionally and/or nationally significant indigenous species is required so that a developed draft 'Ecological Mitigation and Restoration Plan' can be placed before decision makers and the community as part of the NOR process.
- D. If the applications are to be granted, significant expansion and re-work of the proposed conditions is required to provide more certainty, early ecological monitoring, early implementation of mitigation and robust review processes to incorporated requirements from subsequent consent processes.
- E. If the applications are to be granted, it is requested that (as a minimum) consideration be given to the immediate requirement to develop a Mangakotukutuku Stream and Gully Restoration framework or strategy which identifies priority areas and locations for specific types of restoration activities for the whole Mangakotukutuku Stream catchment or at least the Peacockes sub-catchment.
- F. MSCG requests to be heard in support of this submission and is willing to attend any pre-hearing meeting to discuss or clarify any aspect raised in this submission and how those matters may be resolved.

Yours faithfully



Grant Blackie - Chairperson  
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## Appendix 1: Mangakotukutuku Stream Catchment – approximately as shown



Including the stream and gullies within the Glenview, Melville and Fitzroy Suburbs bounded approximately by the Waikato River to the north, Peacocks Road to the east and extending beyond the Main Trunk Railway Line to the west.



## Appendix 2 – Riparian Restoration Plan for part of the Rukuhia Tributary of the Mangakotukutuku Stream (to be implemented 2014-2018)

(Proposed road footprint approximately shown)





