



STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Jack Andrew, Co-ordinator Land Use Consents
Dugald Ley, Development Engineer

REFERENCE: RM080495

SUBJECT: **TRANSIT NEW ZEALAND - State Highway 6 OXFORD STREET INTERSECTION – REPORT EP08/10/13** – Report prepared for hearing of 29 October 2008

1. INTRODUCTION

1.1 Requirement Notice and Location

A Notice of Requirement and Outline Plan for a public work by Transit New Zealand (now New Zealand transport Agency hereafter referred to as NZTA) pursuant to Sections 168 and 176A of the Resource Management Act 1991 (hereafter referred to as the RMA 1991) for a designation and outline plan for State Highway 6 (Gladstone Road) – Oxford Street Intersection was submitted to the Tasman District Council on 5 June 2008. The Notice of Requirement documentation included a statement explaining the need for the alteration, an assessment of environmental effects and requirement plans. The Notice of Requirement provides details of the proposed work so no additional Outline plan is needed.

The requirement alteration relates to Designation D120 which covers the whole of the existing State Highway 6 legal road reserve from Richmond to the Iron Bridge in the Buller Gorge. The proposed work involves improving the capacity of the State Highway 6 (Gladstone Road) intersection with Oxford Street, Richmond. The proposed work will provide for four approach lanes, additional slip lanes for turning vehicles, and traffic lights. Pedestrians and cycle crossings will be allied to the traffic lights. An additional 55 m² of land for the road reserve is required to provide for the works.

The alteration goes beyond the legal road reserve affecting one landowner's property. Transit advise that written consent to the requirement alteration has not been obtained from the landowner whose land is needed for the project. As a result Section 181(3)(b) applied and the Requirement had to be notified with Sections 168 to 179 applying with necessary modifications as if the requirement were for a new designation. The Notice of Requirement was publicly notified on 19 July 2008 with the closing date for submissions being 15 August 2008.

Five submissions were received. One submission supported the Requirement but with a request for “no stopping marking” at the entrance to 69A Oxford Street (C S Hunter whose property 69A Oxford Street is close to the intersection), three submissions opposed the Requirement seeking (special conditions relating to their individual properties and one submission was in outright opposition (Mr Withers for Mr Mitchell who owns the Oxford Court motels at the intersection).

When the submissions closed NZTA’s agent GHD Limited were approached and asked if they could continue consultation with the five parties who had lodged submissions. This is a normal practice which Council encourages whenever submissions are lodged and sometimes it leads to satisfactory outcomes for both parties.

In this instance following consultation the submissions by Andreas Gull, Dayson Nominees Ltd and Shell New Zealand Limited were resolved. Shell has provided conditional support for the Requirement and do not wish to be heard. On the basis of Shell’s decision Dayson Nominees withdrew their submission. Andreas Gull has also withdrawn his submission.

Mr Withers, who is legal counsel for the Mitchell’s who own the Oxford Court Motels, submitted in opposition with grounds relating to compensation and a lack of consideration of alternatives by the Requiring Authority. The matter of compensation is understandably important when private land is taken for a public work but is ultra vires in terms of the Resource Management Act 1991 and cannot be addressed by the hearing panel. It has to be addressed through a separate process under the Public Works Act 1981. The Requirement results in 55 m² of the Oxford Court Motel property becoming part of the State Highway 6 Road Reserve. Mr Withers did not want to be heard.

C S Hunter advised that she wanted to be heard.

1.2 Requirement and Designation

The terms ‘requirement’ and ‘designation’ may cause confusion but in simple terms they are part of the same process, with the requirement being the notice, hearing and decision-making phase initiated by an authority that has financial responsibility for a public work that it wants shown as a designation on the Council’s planning maps and records.

1.2.1 A requirement to designate may fall outside the policy framework of a plan in that a designation does not need to be consistent with the objectives and policies of the plan, and it may be contrary to the rules that have effect over the land in question. While conditions may be imposed on a designation, they are subject to the agreement of the requiring authority and have limitations in terms of any requirements or restrictions on the public works.

1.2.2 The purpose of the designation is to secure the land in a planning sense for a public work. Designation has no effect on the actual land acquisition or compensation payment amounts which are beyond the scope of the RMA 1991 and dealt with under separate legislation (Public Works Act 1981).

1.2.3 The information supplied with a requirement to designate is also different in nature to that supplied with resource consent for a number of reasons:

- a) in making a decision, the matters for which consideration must be given differ in nature (compare Sections 168, 171 and 176A of the Act for designations with Section 104 for a resource consent);
- b) much of the information supplied with a notice of requirement relates to those matters that are relevant for determining whether to confirm or cancel a requirement. For example, the consideration of effects on the environment also has a different perspective in that, by their nature, public works, particularly large-scale projects can have some form of adverse effects on private landowners that are simply unavoidable.

1.2.4 The Committee's role is that prescribed for a territorial authority under Section 171 of the RMA 1991. When considering a requirement and submissions to it the committee under Section 171(i) must, subject to Part 2 of the Act, consider the effects on the environment having particular regard to whether:

- a) relevant national policy statements and all relevant provisions of Council's planning documents (Section 171(a));
- b) adequate consideration has been given to alternative sites, routes or methods of achieving the public work where the requiring authority does not own the land or the work will have a significant adverse effect on the environment.
- c) the designation is reasonably necessary to achieve the objectives of the public work for which the designation is sought (Section 171(c));
- d) any other matter considered reasonably necessary for Council to make its recommendation.

1.2.5 Having heard the requiring authority and submitters the Committee must make a recommendation to NZTA to either cancel or confirm the requirement to designate. If confirmed they can also recommend such conditions as they deem appropriate on both the requirement and Outline plan.

NZTA has 30 working days from receiving the Committee's recommendation to advise its decision on the recommendation (Section 172 Resource Management Act 1991).

Within 15 working days of receiving the NZTA decision the Tasman District Council serves the decision on submitters and directly affected landowners and occupiers (Section 173 Resource Management Act 1991).

2. SECTION 168 NOTICE OF REQUIREMENT

The notice of requirement submitted by NZTA covers the matters that must be included under Section 168.

The proposal is within the definition of a public work as defined in both Section 2 and the Resource Management Act 1991 and the Public Works Act 1981. NZTA has financial responsibility for the work and the existing designation D120 (which is the designation being altered).

3. ASSESSMENT OF PLANNING DOCUMENTS

Section 171(1)(a) requires Council to have regard to any relevant provisions of any national policy statement, regional policy statement, and proposed district plan.

3.1 National Policy Statements

The only national policy statements are the New Zealand Coastal and Energy Policy Statements which are not relevant to the proposal.

3.2 Tasman Regional Policy Statement

The Tasman District Regional Policy Statement is operative. The main issues relevant to the requirement are encompassed within the Regional Policy Statement's transportation section 12.3 and particularly Objective 12.4 and Policy 12.5.

Objective 12.4

Maintenance and enhancement of safe and efficient land, maritime, and air transport systems, while avoiding, remedying or mitigating the adverse effects on human health, public amenity and water, soil, air and ecosystems.

Reasons

Transport systems provide vital access and communications services to the community. Problems of efficiency and safety are created where urban and rural land use activities interact with the roading network, and space use pressures also arise for air and maritime transport facilities. There is a need to manage both supply of and demand for transport systems, in order to ensure acceptable interactions between developments and the transport system generally.

Policy 12.5

The Council will ensure that the land transport system efficiently and safely provides for the movement of goods, services, and people, including a reasonable level of access, while avoiding, remedying or mitigating adverse effects on the environment including communities.

Explanation and Reasons

The land transport system of roads, cycleways and walkways is a significant service for meeting the transport needs of urban and rural communities and the District's

economy. Council is able to provide for the maintenance and development of the system to meet appropriate community, travel demands, consistent with the minimisation of adverse effects on the environment from the operation of the system.

3.3 Proposed Tasman Resource Management Plan

The proposed Tasman Resource Management Plan reflects the Regional Policy Statement objectives and plans. Chapter 11 of the Proposed Tasman Resource Management Plan deals with land transport effects and the relevant provisions are:

11.1.0 Objective and Associated Policies

A safe and efficient transport system, protected from the adverse effects of land use and development.

Policy 11.1.2B

To avoid, remedy or mitigate adverse effects of traffic on amenity values.

Policy 11.1.4A

To avoid, remedy or mitigate adverse effects from the location, design and operation of intersections.

11.2.0 Objective and Associated Policies

The avoidance, remedying, or mitigation of adverse effects on the environment from the location, construction, and operation of the land transport system, including effects on:

- a) the amenity of residential areas, workplaces and recreational opportunities;*
- b) air and water quality;*
- c) natural habitats and ecosystems;*
- d) landscape and natural features;*
- e) aggregate and energy resources;*
- f) the productivity of land.*

Policy 11.2.2

To regulate the effects of traffic generation and traffic speed on the safety and amenity of places of significant pedestrian activity.

Policy 11.2.3

To promote transport routes, and approaches and methods of design, construction and operation which avoid, remedy or mitigate adverse effects on:

aa) the health and safety of people and communities; in particular, cyclists and pedestrians:

- a) amenity values of neighbourhoods and areas of special character;*
- b) air and water quality;*
- c) natural habitats and ecosystems;*

- d) *landscapes and natural features;*
- e) *aggregate and energy resources;*
- f) *the productivity of the land.”*

Policy 11.2.5

To protect future road alignments that ensures that roads can be connected where appropriate.

Policy 11.2.6

To promote choice between using roads, walkways or cycleways for walking or biking.

3.4 Objectives and Policies of Council's Planning Documents

The relevant objective and policies of Council's planning documents are outlined above in paragraphs 3.2 and 3.3 of this report.

Of the matters listed in the Proposed Tasman Resource Management Plan, Objective 11.2.0 and Policy 11.2.3 in my opinion the following matters

- a) amenity values of the neighbourhood;
- b) air and water quality;
- c) natural habitats and ecosystems;
- d) landscapes and natural features;
- e) aggregate and energy resources;
- f) the productivity of the land.

are either not affected by the requirement or only to a degree that is de minimis.

The requirement proposal will lead to 55 m² of residentially zoned land being added into road reserve. While that land has been attractively developed by the Oxford Court Motels its loss should not reduce the Oxford Court Motel property to such a degree that it cannot still be attractively landscaped. As stated earlier consideration and determination of the full compensation payment that needs to be made as a result of the impact of the intersection upgrade on the Oxford Court Motels is beyond the scope of the hearing panel but must be determined under the provisions of the Public Works legislation.

In resource management terms the development of a safe and efficient state highway roading system is itself an important resource and an integral part of the infrastructure supporting the tourist/motel economy of the Tasman District. Where any town increases in size and where its rural hinterland gains population as has been the case in Richmond and the Waimea Plains then roading improvements need to be made. Preferably improvements are first made within the legal road reserve by for example cutting back on grass berms and eliminating streetside parking but sometimes even with such measures additional land is needed.

Taking privately owned property is always a last resort and usually roading authorities only take the absolute minimum needed (unless what is needed so affects the property that the whole property should be taken). In the present situation in relation to the Oxford Court motels property the requirement has been checked by Council's Development Engineer, Mr Ley who advises:

“The design construction plans for the intersection upgrade prepared by GHD Ltd on behalf of Transit New Zealand for the intersection of State Highway 6 and Oxford Street are consistent with good sound engineering design for a State Highway carrying the volumes and types of traffic as in this area, where it intersects with Councils central business ring road system.

The land requirements I believe are necessary to achieve the design objective to promote a safe and efficient highway that has an ever increasing volume of traffic and also provides for pedestrians and cyclists.”

Overall in general terms the proposed requirement to alter the existing State Highway 6 designation D120 by a 55 m² realignment at the intersection does not compromise the thrust of the objectives and policies of the Council's planning documents.

4. ADEQUATE CONSIDERATION OF ALTERNATIVE ROUTES

Where the requiring authority has not secured an interest in (or owns) the land to which the requirement relates or where a significant environmental effect could arise then consideration of alternative routes is relevant. However the Committee must bear in mind that this is not a new requirement to designate a new road (such as was the case with the Ruby Bay Bypass) but is an alteration to an existing designation to improve traffic safety and efficiency about an existing intersection.

In this situation the options are really are limited if Oxford Street is to remain open or as one of the main legs of the ring road traffic system. Part 5.2 of the NZ TA Requirement document outlines the intersection options considered by NZTA (Do Nothing; Roundabouts with two sub options; Traffic Lights; Minor Improvements and Other Roads).

Overall given the existing designation and nature of the roading problem in my opinion NZTA has made a proper and considered assessment of alternative options.

5. OBJECTIVES AND REASONS FOR THE REQUIREMENT (S171(c))

The key objectives of the proposed work to which the Notice of Requirement relates is given in Section 2.3 of the NZTA report:

“NZTA's key objectives of the work are to:

- Improve the level of service and safety through this section of highway by redesigning the intersection in conjunction with alterations to the street layout in Richmond as proposed by Tasman District Council (TDC);
- Reduce congestion;

- Improve road user safety in the area;
- Achieve a reduction in crash severity and/or accidents;
- Where possible provide for pedestrians and cyclists;and
- Improve access to the Richmond Township.”

In my view these objectives are relevant lawful objectives that relate to the proposed alteration of D120 and NZTA is statutorily empowered to undertake such a public work. The reasons for the requirement are summarised in Section 2.4 and 2.5 of the NZTA report:

***“At present the performance of the State Highway is greatly compromised by single through traffic lanes along State Highway 6. There is insufficient capacity, mainly during the morning and evening commuter peak periods, resulting in significant delays for traffic, with queues extending back from the intersection with Oxford Street. Capacity issues are exacerbated during summer, and this situation is expected to worsen in the future.*”**

Crash statistics for the area are substantially higher than the national average for crashes causing injury per year. Pedestrians and cyclists appear to be lacking the necessary facilities to move freely between different parts of State Highway 6. Although there are traffic lights at Richmond’s main focal point(Queen Street/State Highway 6), this facility is not adequately catering for all pedestrian demands and in particular at the intersection with Oxford street.”

***“...traffic signals at the Oxford street intersection will be coordinated with the traffic signals at Queen street and those to be installed at McGlashen Avenue, to minimise delays and ensure queue lengths are effectively managed.*”**

The proposed signalised intersection will be widened to allow for heavy vehicle movements where possible. The provision of traffic signals at this intersection supports TDC’s proposed ring road system and also allows controlled access to the Shell service station opposite Oxford Street on Gladstone Road.”

Given the reasons outlined above, in my opinion, the designation alteration is a reasonably necessary and appropriate means of securing planning authority to give effect to NZTA’s objectives of traffic safety and efficiency and intersection improvement at State Highway 6 and Oxford Street, Richmond.

6. ANY OTHER MATTERS

I am not aware of any other matters.

7. SUBMISSIONS

There were five submissions to the project of whom one wished to be heard.

One submitter, Carol Suzanne Hunter, made a conditional submission seeking that additional works in the form of no stopping marking be included on Oxford Street at her property access to prevent traffic queues backing up and blocking access to her property at 69A Oxford Street.

Oxford Street in front of 69A Oxford Street is really within the Councils area of responsibility. However because it has been raised through the Requirement process both Council and NZTA engineers have investigated it.

In reviewing the submission Councils Development Engineer, Mr Ley advised:

“In C S Hunter’s submission she says that ‘presently at about 4.30pm for one hour on weekdays’ there is an issue of vehicles backing up to her driveway. Presently traffic is ‘one-lane’ leading to Gladstone Road from Oxford Street and traffic is normally being held up by ‘right-turning’ vehicles which can only move when there is a break in the traffic.

A statement of evidence will be tabled on behalf of NZ Transport Agency by Mr Andrew Lawson of GHD. His conclusion is that effects of the new traffic lights at the intersection of Gladstone Road and Oxford Street will be minor and that “keep clear” cross hatching markings are not required.

Indeed, there are many examples when residential entrances are located close to traffic lights and no pavement markings are evident. It is expected that normal courtesy will prevail in circumstances that vehicles will allow residential traffic to enter the lane.

The one lane layout provided on the Oxford Street leg has been discussed with NZ Transport Agency, with the suggestion that it be constructed as a two-lane (left turn lane and a straight through/right hand turn lane). I understand this was considered but dismissed on safety grounds. However, they have just said they will reconsider the laning once the system is up and running and time to “bed in”.

NZTA engineers concluded that queuing will occur along Oxford Street in front of several private access ways all of whom could argue that access to their property is affected. Yellow no stopping cross hatching isn't normally provided for residential properties but are sometimes used for high use commercial or emergency services accessways.

The other submitters did not want to be heard and except for Mr Withers have been able to settle their concerns through direct negotiation with NZTA. Mr Withers submission raises two matters being roading options and compensation. Under the Resource Management Act Council needs to be satisfied that a realistic range of roading options were investigated by the Requiring Authority where the Requiring authority is not the land owner. As stated in part 4 of this report I consider that NZTA have investigated a reasonable and realistic range of options.

The matter of compensation must be dealt with separately under the provisions of the Public Works Act and is beyond the jurisdiction of the hearing panel.

8. PART II RESOURCE MANAGEMENT ACT 1991

Section 171(1) of the Resource Management Act 1991 makes it clear that Part II of the Act is to be given primacy in the Committee's consideration of the Requirement.

Part II of the Act contains four sections which underline sustainable management of resources:

"Part II Purpose and Principles"

5. Purpose

- 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 wellbeing 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.*

6. Matters of National Importance

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, wahi tapu and other taonga.*

7. Other Matters

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 have particular regard to:

- (a) *kaitiakitanga;*
- (aa) *the ethic of stewardship;*
- (b) *the efficient use and development of natural and physical resources;*
- (c) *the maintenance and enhancement of amenity values;*
- (d) *intrinsic values of ecosystems;*
- (e) *recognition and protection of the heritage values of sites, buildings, places, or areas;*
- (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.*

8. Treaty of Waitangi

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)."

Section 5 accords pre-eminence to the purpose of providing sustainable management of natural and physical resources. The proposed intersection upgrade will be a physical infrastructure resource and it is intended to meet future transport needs in a safe and efficient way. In this regard it will promote the social and economic wellbeing of the regional and local community. It will overcome the present inadequacies of an intersection that was established when traffic characteristics were quite different from those of today and which now needs to be improved.

The proposed requirement generally avoids, remedy and mitigate adverse effects from the proposal as far as is practical given the relatively closely settled nature of the urban area that it traverses. The land needed for the requirement has been attractively developed by the Oxford court motels and adds to the visual amenity of this part of Richmond. The development will result in the loss of 52 m² from the corner of the Oxford Court Motels property but in engineering terms that is inevitable for traffic light improvements to the intersection to be made. In my opinion while the loss of some of the attractive existing amenity planting is regrettable on balance this loss is outweighed by the public benefits of the project.

The matters of national importance in Section 6 are not affected by the requirement.

There are two clauses in Section 7 which are of relevance to the proposed designations: Clauses 7B(b) and (g).

In terms of Section 7(b) - efficient development- the requirement will improve the safe and efficient operation of the highway and the Oxford street intersection.

In terms of Section 7(g), - finite characteristics of natural and physical resources- the main consideration is the loss of land used as part of the amenity planting and boundary fencing of the Oxford Court motels to improve roading infrastructure. While there will always be differing opinions on the relative merits of amenity matters over roading issues in this case I consider that the State Highway roading infrastructure resource is an important national resource and that improving that resources safe operation should take precedence in this instance.

It could be proposed that Section 7(c) and (f) are also relevant but in my opinion the effects of the requirement are essentially neutral in relation to amenity effects and on the quality of the environment.

In relation to Section 8 NZTA New Zealand has undertaken consultation with iwi and I am not aware of any outstanding issues of concern to Maori.

9. EFFECTS ON THE ENVIRONMENT

The requirement seeks alterations to an existing busy section of State Highway 6 and to enable a dangerous intersection to be upgraded and made safer for all road users. The area of the Tasman District affected is a section of Richmond that does not have special geographical, cultural or habitat environmental values that would be adversely affected.

Road construction works are involved but as there are no major earthworks proposed it is unlikely that noise or dust problems will arise. NZTA requires sound engineering practice to be followed during construction.

In my opinion no adverse environmental effects should arise during or after completion of the project.

10. CONCLUSION AND RECOMMENDATION (SECTION 171)

The proposed requirement to alter Designation D120 being State Highway 6 at its intersection with Oxford Street is a relatively minor public work that is needed to help improve the national road network in the Tasman District.

NZTA New Zealand requested Council to notify the requirement which was done on 19 July 2008 and five submissions were received. The hearing of the requirement and submissions is to be held on 29 October 2008. This recommendation is made before the hearing and while consultation between NZTA and some parties has occurred one submitter wished to be heard in relation to the effects on their property access.

Designation D120, in the area where it is affected by the required alteration, is located on the perimeter of Richmond's central business area. The Requirement affects an area that has no significant geographical, cultural or special habitat values but has been developed attractively as part of the amenity planting and fencing of the Oxford Court Motels. While it is unfortunate that some existing amenity planting and fencing will be lost in my opinion in time the amenity loss should be able to be restored on the remaining portion of the motel property.

The requirement will lead to 55 m² of land being incorporated into the legal road reserve from the Oxford court motel property. However roading development is an integral part of the transport infrastructure of the district and some land must always be surrendered to roads in developing urban areas such as Richmond. In this situation Council staffs are satisfied that the requirement proposal is needed and has been designed so that it meets road safety objectives while not being wasteful of the urban land resource.

Carol Suzanne Hunters concern about access to her property at 69A Oxford Street has been investigated by NZTA and Councils engineering staff. Councils engineering staff do not support the request to have a yellow cross hatched no stopping area within Oxford Street.

The requirement is likely to lead to positive safety benefits for road users as an inadequate intersection with a poor accident history will be replaced by an improved intersection. The proposed work will significantly increase the safety and efficiency of the State Highway 6-Oxford Street intersection for cyclists and pedestrians as well as vehicular traffic and so will indirectly at least benefit the economic and social environment of the people of the Nelson region.

The requirement is in accord with Section 5 of the Act and should result in promoting the sustainable management of the physical state highway resource. I recommend that the Committee recommend to NZTA that the requirement to designate be confirmed for the reasons set out in the course of this report, with a condition as follows.

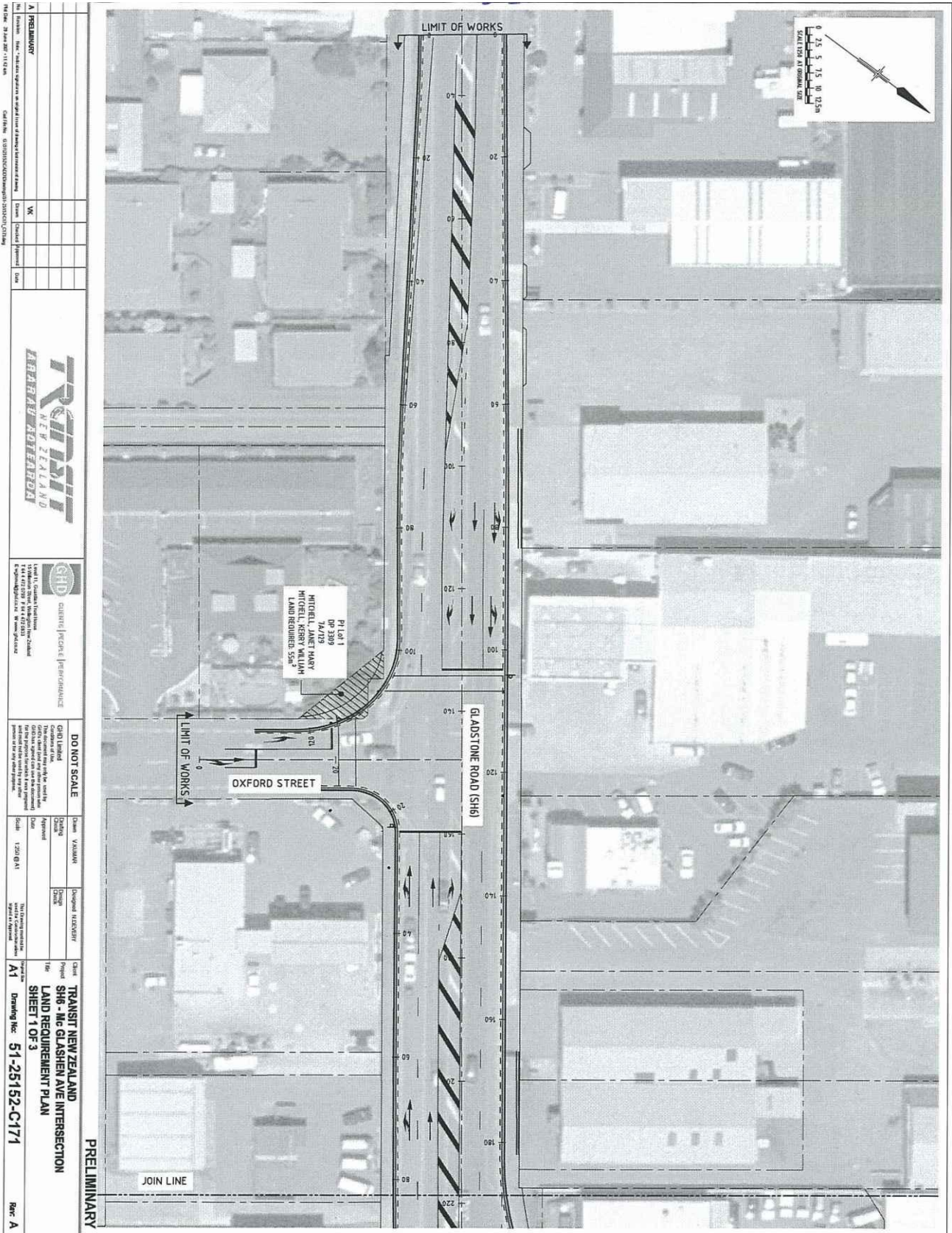
11. CONDITIONS

1. The final design of the proposed road shall be in general accordance with the outline plans submitted with the requirement and with Plan A attached being the plan agreed to by the New Zealand Transport Agency and Shell New Zealand Limited.

Jack Andrew
Co-ordinator Land Use Consents

Dugald Ley
Development Engineer

Requirement Plan – Hatched land to be added to Designation D120



Plan "A" – Plan agreed with Shell NZ Ltd

