

**BEFORE the Hutt City Council Hearings Panel**  
**Proposed District Plan Change 39: Transport**

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**Under:** of the Resource Management Act 1991

**In the matter of** a submission by the **NZ Transport Agency** (submitter DPC39/4) on the Proposed Plan Change 39: Transport

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**Primary Statement of Evidence of Angela Kim Penfold for the NZ Transport Agency**

Dated 19 September 2017

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The NZ Transport Agency

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## Introduction

1. My full name is Angela Kim Penfold. I am a Senior Consultant at Resource Management Group, an urban and environmental planning consultancy with offices in Christchurch and Wellington.
2. I hold a Bachelor in Resource and Environmental Planning (hons.) from Massey University. I have over 15 years of experience in the planning and resource management fields in New Zealand.
3. For the past eight years to June 2017, I worked at the NZ Transport Agency (**Transport Agency**) in a variety of management and planning related roles, including a focus on the effective integration of land-use and transport, strategic planning processes and the preparation of Resource Management Act (1991) (**RMA**) statutory plans.
4. Previously, I worked for a traffic engineering consultancy and various councils providing expert traffic advice and processing resource consents respectively.
5. When I was employed by the Transport Agency, I was involved in the preparation of the primary submission and the supplementary letter to the primary submission for proposed Plan Change 39 (**PPC39**). The Transport Agency engaged me in September 2017 to provide expert planning advice relating to their submission for the hearing. I am generally aware of Hutt City's transport network and district plan.

## Code of Conduct

6. I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed. I understand that the Code of Conduct requires me to assist the Hearings Panel impartially on matters within my expertise, and not to advocate for the Transport Agency.

## Scope of Evidence

7. My evidence addresses the following matters:
  - a. The Issue
  - b. The Transport Agency;
  - c. The Land Transport Network in Hutt City;
  - d. The Transport Agency's Primary Submission and Supplementary Letter;
  - e. RMA Specifications for District Plans;
  - f. Relevant Provisions of the Regional Policy Statement (**RPS**):
    - i. Reverse Sensitivity;
    - ii. Recognition of Regionally Significant Infrastructure;
    - iii. The Transport Network as Part of Regional Form; and,
    - iv. Travel Demand Management;
  - g. Recommended PPC39 Provisions to Give Effect to the RPS:
    - i. Improvement or Maintenance; and,
    - ii. Active Modes and Multi Modal choice;
  - h. Further Submissions; and,
  - i. Conclusion
8. My evidence is focussed on the areas where I consider the relief proposed by the section 42A report is not suitable.
9. My evidence is accompanied and informed by the evidence of Dr Chiles, an acoustics specialist engaged by the Transport Agency.
10. I confirm that I have read all of the evidence filed on behalf of Council on this topic.

## **The Issue**

11. It is my opinion that, from a planning point of view, PPC39 does not adequately give effect to the RPS, particularly in relation to travel demand management and land transport as part of urban form. It is this view that forms the backbone of my evidence.
12. The Transport Agency is concerned about the approach taken by PPC39. The RPS contains policies to respond to many transport issues within Wellington Region, including Hutt City, which the Transport Agency would like to see reflected in the Plan Change. The recommendation not to include these policy details in PPC39 means that the RMA strategic direction, necessary to provide an effective transport system in Hutt City, is missing. In some cases, the desired succinctness results in uncertainty rather than clarity.

## **The NZ Transport Agency**

13. The Transport Agency is a Crown entity<sup>1</sup>. Its objective is to undertake its functions in a way that contributes to an effective, efficient and safe land transport system in the public interest. It provides an integrated approach to transport planning, funding and delivery. This includes investment in public transport, walking and cycling and local roads and the construction and operation of state highways.
14. Transport is a critical part of daily life for all New Zealanders, enabling a range of activities and making a significant contribution to the country's economic growth and productivity. Recognising this, over \$3 billion is invested in the land transport network through the National Land Transport Fund annually. Local government contributes another \$1 billion to the annual spend<sup>2</sup>.
15. While the transport system is owned and operated by various parties for users of that system, there is only one transport network. The Transport Agency and its investment partners (such as Hutt City Council) work together to provide integrated and seamless connections across networks, modes and services. This seamless connection is referred to as the 'one

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<sup>1</sup> Section 93(2) LTMA.

<sup>2</sup> GPS on Land Transport 2015/16-2024/25

network' approach. It ensures strong integration of transport decisions and land-use development and balances the needs of all network users.

### **The Land Transport Network in Hutt City**

16. The land transport network in Hutt City comprises infrastructure for pedestrians, cyclists, private vehicle users, public transport users and freighters. In physical terms, this can be described as roads (including state highways), the train tracks, train stations, bus stops and cycle and walking paths.
17. Hutt City's transport network includes *regionally significant infrastructure* as defined in the Regional Policy Statement (**RPS**), such as:
  - a. Wairarapa Line
  - b. Melling Line
  - c. State Highway 2
  - d. State Highway 58
  - e. Port Howard Wharf
  - f. The Esplanade
  - g. Eastern Hutt Road
18. The Wellington Regional Land Transport Plan 2015 (**RLTP**) takes a 'corridor' approach to its strategic planning. In the RLTP, Hutt City forms part of the Hutt Corridor. The RLTP provides the following context for the Hutt Corridor on page 61:

This transport corridor connects the cities of Upper Hutt, Lower Hutt and provides access to and from Wellington City. Freight volumes through this corridor are significant, particularly at the southern end where freight from the Seaview/Gracefield industrial area makes up around 10% of daily traffic movements along Petone Esplanade, connecting onto SH2.

While a majority of Hutt Valley residents work within the Hutt Valley, and travel between local centres for that purpose, Wellington City is

a key employment destination, generating significant volumes of commuter journeys.

19. The RLTP then sets out Hutt Corridor's transport problems as follows, also on page 61:

Conflicting demands for freight and commuter trips through this relatively narrow and constrained corridor, particularly the southern end between Petone and Ngauranga, leads to traffic congestion and unreliable freight and commuter journeys.

The transport infrastructure through this corridor is highly vulnerable to natural hazards which can impact on the resilience of the wider regional network.

Limited connections between this corridor and the Western Corridor add to the pressure on the transport network, with freight and other trips needing to travel via the Ngauranga Interchange.

The design and form of the existing east-west link, SH58, contributes to a relatively poor road safety record. In addition, large volumes of high speed traffic travel along SH2 through multiple at-grade intersections with significant safety implications.

20. In addition, commencing on page 62, the RLTP proposes a number of strategic responses to address the problems, which I have summarised below as:

- a. Implementing safety, reliability and efficiency improvements to State Highway 2;
- b. Improving east-west connectivity;
- c. Continued improvements to deliver a modern, reliable and accessible rail system;
- d. Improving connectivity and safety of key walking and cycling routes; and,
- e. Identifying and addressing network vulnerabilities

21. It is reasonable to expect that when implementing at least some of these strategic responses, physical works will be required that need some form of RMA approval. Accordingly, it is important an RMA framework is established that provides for appropriate assessment of such proposals. This awareness informed the Transport Agency's submission on PPC39.

### **The Transport Agency's Primary Submission and Supplementary Letter**

22. The Transport Agency made a primary submission on PPC39, and followed it with a supplementary letter at the request of Council officers. The purpose of the supplementary letter was to set out specific plan change provisions that the Transport Agency sought to achieve its desired outcomes.
23. The submission and supporting letter (jointly referred to hereafter as the primary submission) sought several changes to PPC39. I set these out below. In doing so, I note that in several cases the resolution proposed in the section 42A report is acceptable and so I have simply noted that in brackets afterwards and will not address that point any further in this evidence, though I am happy to answer questions on these no longer contested matters.
24. The submitted changes were:
  - a. Explicit connections between PPC39 and other statutory documents;
  - b. Explicit connections between PPC39 and other Council policy documents that address transport in Hutt City (**Section 42A proposed resolution acceptable**);
  - c. An amended objective and policy framework that:
    - i. Facilitates and enables links between transport, urban growth and economic development;
    - ii. Addresses resilience (**Section 42A proposed resolution acceptable**);

- iii. Addresses improved regional connectivity;
  - iv. Facilitates and enables active modes and multi modal choice; and,
  - v. Recognition of park and ride facilities **(Section 42A proposed resolution acceptable)**;
- d. Changes to the roading hierarchy **(Section 42A proposed resolution acceptable)**;
  - e. Inclusion of an advice note relating to Limited Access Roads **(Section 42A proposed resolution acceptable)**;
  - f. Recognition of the Transport Agency as an affected party for specific activities **(Section 42A proposed resolution acceptable)**;
  - g. Changes to the cycling facilities standards **(Section 42A proposed resolution acceptable)**;
  - h. Support and facilitation of travel demand management tools; and,
  - i. Retention of the reverse sensitivity provisions **(Section 42A proposed resolution acceptable)**.

### **RMA Specifications for District Plans**

- 25. The RMA is clear that its purpose is to promote the sustainable management of New Zealand's natural and physical resources, as set out in section 5.
- 26. At section 70, the RMA states that the purpose of the District Plan is to assist territorial authorities to carry out their functions in order to achieve the purpose of the Act. This also applies to Plan Changes and Plan Reviews.
- 27. In sections 73 and 74, territorial authorities are required to have regard to Regional Policy Statements when preparing District Plans and to change the District Plan if it does not give effect to the Regional Policy Statement.

28. At section 75, the RMA states that the District Plan must specify the objectives for the District and policies to implement the objectives.
29. In summary, there is a clear hierarchy of documents and provisions relating to PPC39, being:
  - a. the **promotion of sustainable management** of New Zealand's natural and physical resources;
  - b. the **Regional Policy Statement**;
  - c. the **District Plan**, which has the purpose of assisting territorial authorities promote sustainable management and which must give effect to the Regional Policy Statement. The District Plan:
    - i. Must specify **objectives**; and,
    - ii. Must also include **policies** to achieve those objectives.
30. As will become evident in the next sections of my statement, I do not consider that PPC39 adequately or completely responds to this hierarchy. To assist the Commissioners, I have set out provisions that I consider more suitable.

### **The Relevant Provisions of the RPS**

31. There are four issues within the RPS that I consider need to be specifically considered for PPC39, being:
  - a. Reverse sensitivity
  - b. Recognition of regionally significant infrastructure
  - c. The transport network as part of the regional form; and,
  - d. Travel demand management
32. I address each of these below.

### Reverse Sensitivity

33. Dr Stephen Chiles, the acoustic expert advising the Transport Agency on PPC39, has lodged evidence to accompany and inform mine. His evidence was pre-circulated and while he will not attend the hearing, he is able to respond to written questions in a timely manner.
34. Dr Chiles explains in his evidence that he is satisfied that the provisions as set out in the section 42A report are suitable. From a planning viewpoint, I have reviewed those provisions in light of Dr Chile's assessment and am satisfied that the provisions will achieve the desired outcome of protecting infrastructure providers from reverse sensitivity issues. In addition, I consider the provisions will implement Policy 8 of the RPS, which states:

**Policy 8: Protecting regionally significant infrastructure – regional and district plans**

District and regional plans shall include policies and rules that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure.

### Recognition of Regionally Significant Infrastructure

35. It is my opinion that while PPC39 does not give effect to Objective 10 and Policy 7 of the RPS, both of which relate to recognition of the benefits of regionally significant infrastructure, the recent review of the network utilities chapter of the Hutt District Plan does suitably implement these provisions.
36. With this in mind, I suggest that the links between Chapters 13 and 14 of the District Plan as requested by the Transport Agency in its primary submission become even more important. In most cases the objectives and policies will be the most important District Plan provisions for network utility providers as notices of requirement are not subject to Rules. Therefore, I suggest that the link is provided much earlier in Chapter 13, such as at the commencement of the objectives section. I have set this out below, using the wording recommended by the Section 42A report:

Insert the following, directly under the title 14A 3 Objectives:

Where an activity will be undertaken by a network utility operator (as defined by Section 166 of the Resource Management Act) the provisions of 'Chapter 13 – Network Utilities, I including the National Grid' apply.

### The Transport Network as Part of Regional Form

37. Objective 22 of the RPS is set out below. I have underlined the sections that I consider PPC39 does not adequately implement and I have removed the clauses that have no specific relevance for transport.

A compact well designed and sustainable regional form that has an integrated, safe and responsive transport network and:

- (a) ...;
- (b) ...;
- (c) ...;
- (d) ...;
- (e) ...;
- (f) ...;
- (g) ...;
- (h) ...;
- (i) integrated land use and transportation;
- (j) improved east-west transport linkages;
- (k) efficiently use existing infrastructure (including transport network infrastructure); and
- (l) ....

38. Objective 22 is to be implemented via, *inter alia*, RPS Policy 57 (again, I have underlined the sections that I consider PPC39 does not implement):

#### **Policy 57: Integrating land use and transportation – consideration**

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district plan, for subdivision, use or development, particular regard shall be given to the following matters, in making progress towards achieving the key outcomes of the Wellington Regional Land Transport Strategy:

- (a) whether traffic generated by the proposed development can be accommodated within the existing transport network and the impacts on the efficiency, reliability or safety of the network;

- (b) connectivity with, or provision of access to, public services or activities, key centres of employment activity or retail activity, open spaces or recreational areas;
- (c) whether there is good access to the strategic public transport network;
- (d) provision of safe and attractive environments for walking and cycling; and
- (e) whether new, or upgrades to existing, transport network infrastructure have been appropriately recognised and provided for.

39. Many of the words in RPS Policy 57 are slightly aspirational. For example, walking and cycling environments must not only be safe, but also attractive; presumably to convert new active commuters. Access to the strategic public transport network is not sufficient; it must be good. It is these subtleties that are not conveyed in the PPC39 provisions
40. Policy 57 requires the Council to have particular regard to connectivity. I note that the section 42A report<sup>3</sup> does not agree that connectivity needs to be specifically mentioned in the proposed wording for Policy 14A 4.1. I consider that this approach does not adequately implement the planning hierarchy set out by the RMA considering that that connectivity is specifically mentioned in the RPS, which is the higher order document.
41. The provisions I provide later in my evidence would enable the Commissioners to implement these two RPS provisions (Objective 22 and Policy 57).

### Travel Demand Management

42. The last set of RPS provisions relate to Travel Demand Management, including Objective 9 (again, I have underlined the sections that I consider PPC39 does not implement and removed clauses not relevant to transport):

The region's energy needs are met in ways that:

- (a) improve energy efficiency and conservation;
- (b) ...;
- (c) ...;
- (d) reduce dependency on fossil fuels; and

<sup>3</sup> Section 42 A Officers Report, Plan Change 39, paragraphs 136-139

(e) reduce greenhouse gas emissions from transportation.

43. Objective 9 is to be implemented by a suite of policies, including Policy 10 (again, I have underlined the sections that I consider PPC39 does not implement):

**Policy 10: Promoting travel demand management - district plans and the Regional Land Transport Strategy**

District plans and the Wellington Regional Land Transport Strategy shall include policies to promote travel demand management mechanisms that reduce:

- (a) the use and consumption of non-renewable transport fuels;  
and
- (b) carbon dioxide emissions from transportation.

44. The Transport Agency's primary submission sought travel demand mechanisms and suggested removal of minimum parking standards in some areas. While I can appreciate that the suggested method was considered too out of keeping with Hutt City's current development patterns, some form of policy framework and method must be included in PPC39 for it to give effect the RPS and for Hutt City Council to fulfil its legislative duties.

**Recommended PPC39 Provisions to Give Effect to the RPS**

45. While I understand the desire for a clear and concise District Plan policy framework<sup>4</sup>, this cannot come at the expense of the Council's legislative functions. The District Plan policies are part of the RMA framework and they have clearly defined roles and functions as I have set out in paragraph 29 of my evidence.
46. I agree that in comparison to the provisions as notified, the Transport Agency suggestions are lengthy, however, they are not complex or unclear, nor are they overly long by typical policy standards. Regardless, I have taken the concerns of the section 42A report into account and provided a simplified version of the Transport Agency's proposed provisions. In my view, these simplified provisions provide sufficient coverage for Hutt City to achieve their RMA obligations and carry out the required functions (relating

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<sup>4</sup> Section 42 A Officers Report, Plan Change 39, paragraph 270

to sustainable management and implementation of the RPS). The first column of the table is the wording as proposed. The second column contains my brief explanation. In all cases I am satisfied suitable scope is available from the Transport Agency's submission.

#### OBJECTIVE 14A 3.1

Clause	Comment
A safe, efficient and resilient transport network that:	Generally consistent with the Section 42A report.
<ul style="list-style-type: none"> <li>Is integrated with land use</li> </ul>	Generally consistent with PPC39 as notified.
<ul style="list-style-type: none"> <li>Provides for local, regional and national transport needs</li> </ul>	Generally consistent with PPC39 as notified.
<ul style="list-style-type: none"> <li>Has particular regard for managing travel demand and promoting public transport and active travel modes</li> </ul>	To implement the RPS, particularly Policy 10.
<ul style="list-style-type: none"> <li>Provides for economic wellbeing</li> </ul>	To implement the RPS, particularly Policy 7(a).

#### POLICY 14A 4.1 & 14A 4.3

Clause	Comment
Provide for the construction, use, operation, maintenance and development of the transport network in a manner which:	Much of the mitigation for new transport projects often relates to how it is used and operated. Hence I consider these words more appropriate than 'additions and upgrades' which is preferred by the section 42A report.
<ul style="list-style-type: none"> <li>Improves safety</li> </ul>	Safety is consistent with PPC39 as notified. See paragraphs 48-52 below regarding 'improves'.
<ul style="list-style-type: none"> <li>Improves efficiency</li> </ul>	Efficiency is consistent with PPC39 as notified. See paragraphs 48-52 below regarding 'improves'.
<ul style="list-style-type: none"> <li>Improves east-west</li> </ul>	To implement the RPS, particularly

connectivity	Objective 22(j).
<ul style="list-style-type: none"> <li>• Improves resilience</li> </ul>	Resilience is consistent with the Section 42A report. See paras 48-52 below regarding 'improves'.
<ul style="list-style-type: none"> <li>• Is integrated with land use</li> </ul>	To implement the RPS (note that this was in Objective 1 of PPC39 as notified but was not reflected in any policies).
<ul style="list-style-type: none"> <li>• Contributes to a multi modal and integrated transport system, including</li> </ul>	Generally consistent with PPC39 as notified.
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>○ Good access to effective public transport</li> </ul> </li> </ul>	To implement the RPS, particularly Policy 57(c).
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>○ Safe, convenient and attractive active travel</li> </ul> </li> </ul>	To implement the RPS, particularly Policy 57(d).
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>○ Efficiently uses existing infrastructure, including use of travel demand management techniques</li> </ul> </li> </ul>	To implement the RPS, particularly Objective 22(k) and Policy 10.
<ul style="list-style-type: none"> <li>• Recognises the benefits to economic wellbeing of an effective transport network</li> </ul>	To implement the RPS, particularly Policy 7(a).
<ul style="list-style-type: none"> <li>• Appropriately manages adverse effects on adjacent environment</li> </ul>	Generally consistent with the Section 42A report. Also see paragraph 47 below.

#### POLICY 14A 4.2

Clause	Comment
Land use, subdivision and development should not cause significant adverse effects on the connectivity, accessibility and safety of the transport network, <u>and particular regard should be given to travel demand</u>	The underlined clause is additional to PPC39 as notified and as recommended by the Section 42A report. To implement the RPS.

<u>management as a mitigation measure.</u>	
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47. The Commissioners may prefer to retain Policy 14A 4.3 by deleting the final bullet point from the above Policy. I have grouped it with the above for succinctness as both Policy 14A 4.1 and 14A 4.3 are directed to developers of the land transport network. I have no resource management objections to it being separated out again.

Improvement or Maintenance?

48. I appreciated the explanation at paragraph 272 of the section 42A report regarding the preference for *maintenance* rather than *improvements* being because resource consent considerations cannot expect improvements only maintenance. However, I note that these objective and policies will also be used to assess and decide upon notices of requirement, which are not subject to the rules of the District Plan. The objectives and policies represent an opportunity for Hutt City Council to set out its expectations for transport projects.
49. The RLTP is very clear that the Hutt Corridor has existing safety and efficiency issues on the regionally significant aspects of the network. In view of this, I question whether *maintenance* of these attributes is sufficient. In order to improve many of the issues set out in the RLTP, infrastructure upgrades will be required and the RPS states that these must be provided for in the District Plan.
50. It is also important that the District Plan provides a meaningful and helpful framework for applicants, submitters and decision makers that set out what Hutt City expects from transport upgrades when an RMA approval is required. Making decisions about transport upgrades is potentially going to be an important part of Hutt City Council's functions under the RMA in future years and the District Plan is required by section 70 of the RMA to help with those decisions. Staying silent will simply create a gap in the decision making framework and force interested parties to rely on the RPS. This would be contrary to best practice and would miss an important opportunity for Hutt City to influence any potential chosen interventions and any related mitigation.

51. For these reasons, I have preferred an improvement approach rather than maintenance.
52. I further note that applications that are more commonly processed by way of resource consent will be overseen by Policy 14A 4.2, which has a different test for consideration again, being that land use, subdivision and development should not cause significant adverse effects on the connectivity, accessibility and safety of the transport network. Accordingly, I do not consider that Policy 14A 4.1 as I have reworded it, creates an unreasonable obligation on smaller developments.

### **Further Submissions**

53. In relation to the following further submissions, I agree with the recommendations of the section 42A report:
  - a. Winstone Aggregates [22.1] and Firth Industries [23.1]<sup>5</sup>;
  - b. PPAG [9.3]<sup>6</sup>; and,
  - c. Greater Wellington [20.26]<sup>7</sup>.

### **Conclusion**

54. The RMA sets out a clear cascading hierarchy to be implemented through the development of District Plans. It is my view that PPC39 does not correctly implement this hierarchy for the reasons set out above. Accordingly, I have provided amended provisions that focus, in particular, on ensuring the RPS is suitably implemented.

**ANGELA KIM PENFOLD**

19 September 2017

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<sup>5</sup> Section 42 A Officers Report, Plan Change 39, paragraphs 667-673

<sup>6</sup> Section 42 A Officers Report, Plan Change 39, paragraphs 228-231

<sup>7</sup> Section 42 A Officers Report, Plan Change 39, paragraphs 202-204

## **APPENDIX 1 – PROVISIONS AS RECOMMENDED BY THIS EVIDENCE**

Set out below are the provisions recommended by this evidence where they differ from the section 42A report.

### **1 LINK TO NETWORK UTILITIES CHAPTER**

Insert the following, directly under the title 14A 3 Objectives:

Where an activity will be undertaken by a network utility operator (as defined by Section 166 of the Resource Management Act) the provisions of 'Chapter 13 – Network Utilities, I including the National Grid' apply.

### **2 OBJECTIVE 14A 3.1**

A safe, efficient and resilient transport network that:

- is integrated with land use;
- provides for local, regional and national transport needs, including east-west connectivity;
- has particular regard for managing travel demand and promoting public transport and active travel modes; and,
- provides for economic wellbeing.

### **3 POLICY 14A 4.1 & 14A 4.3**

Provide for the construction, use, operation, maintenance and development of the transport network in a manner which:

- improves safety;
- improves efficiency;
- improves east-west connectivity;
- improves resilience;
- is integrated with land use;
- contributes to a multi modal and integrated transport system, including:
  - good access to effective public transport;
  - safe, convenient and attractive active travel; and,
  - efficiently uses existing infrastructure, including use of travel demand management techniques;
- recognises the benefits to economic wellbeing of an effective transport network; and,

- appropriately manages adverse effects on adjacent environment.

#### **4 POLICY 14A 4.2**

Land use, subdivision and development should not cause significant adverse effects on the connectivity, accessibility and safety of the transport network, and particular regard should be given to travel demand management as a mitigation measure.