State Highway Revocation: Policy and Guidance

Revocation and consultation

1. Where there are changes to the state highway network that create duplicate sections of State highway serving the same function (e.g. as result of realignments or construction of a bypass), and it is established that a state highway is no longer required, the NZTA should seek to have the state highway status of that road revoked.

2. Before making a decision whether to recommend to the Ministry of Transport that state highway status should be revoked, the NZTA must consult (in good faith and with an open mind):
   - the affected councils (including Regional Council and relevant Territorial Authority),
   - Auckland Transport if the section of SH is in Auckland; and/or,
   - If the revocation affects maori land or interests, the appropriate land holding trustee, Treaty settlement governance body, iwi or hapu.

The delegation to undertake consultation on revocation currently sits with the NZTA SH Manager. The process is coordinated by the Professional Services Manager.

Before making any decision on whether to recommend to the Ministry of Transport that they should revoke SH status, the NZTA is required under s 103(6) and (8) LTMA to consult with:
   - Councils (includes both Territorial Authorities & Regional Councils ), and
   - Maori (if the revocation will affect Maori land) and
   - Auckland Transport if the SH is in Auckland.

Where a revocation affects or is likely to affect, maori land that is:
   - land registered in the name of Pootatau Te Wherowhero under section 19 of the Waikato Raupatū Claims Settlement Act 1995,
   - land subject to any other Māori claims settlement Act, or
   - Maori historical, cultural, or spiritual interests,
then the NZTA must consult the appropriate land holding trustee, treaty settlement governance body, iwi or hapu.

The NZTA's relationship with iwi, local authorities (and Auckland Transport) is important. As an organisation, NZTA is committed to a collaborative approach, and every effort should be made to work to through all the issues jointly and constructively.

Consultation is an opportunity to ensure that the NZTA has identified all the relevant issues, and the NZTA must consult in good faith and with an open mind. It must not make a decision before it has completed the consultation process.

However, the requirement to consult is not a requirement to reach agreement, and if no agreement is made, the NZTA can still decide to recommend to the Ministry of Transport that the state highway status be revoked.

This general guidance is applicable to consultation with the appropriate Maori representatives, but where maori land or interests is or may be affected, specific advice and guidance should be sought from the NZTA iwi liaison officer at the regional and/or national office.

Timeframes

3. Revocation issues should be resolved early in the process. A process to manage the revocation handover must be identified (or an agreement in principle reached) during the investigation phase of the
The best time to identify and resolve revocation issues, is early in the process. Where the NZTA and territorial authority reach agreement (even if in principle) this should be appropriately documented. Where agreement cannot be reached, the project manager must still identify and document the revocation process (i.e. timing, condition of asset at the time handover).

Consultation on, and investigation of, the revocation proposal should be completed during the investigation phase of the project. However, (if the revocation proposal proceed) the gazetral process (further guidance below)) and the handover of the road should be timed to occur with opening (and declaration) of the new state highway). These timeframes need to be included in project planning processes.

The potential time lag (in some cases, this may be years) between the start and end (handover) of the revocation process make it critical that the outcomes of the revocation process, particularly any agreement with local authority are documented in project documentation (e.g. Scheme Assessment Report) and any other appropriate documents e.g. agreements may be included in MOU.

Project plans (and budgets) also need to consider revocation timeframes and should identify when the different stages of the revocation are likely to be completed, their costs and any potential risks.

### Funding for the revocation process

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<td>4.</td>
<td>The costs of the consultation and investigation processes associated with revocation will be funded from the primary projects budget as part of the investigation (feasibility) phase.</td>
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<td>5.</td>
<td>The NZTA and relevant territorial authority may negotiate for transitional funding assistance package (until the next review of their FAR), if the revocation substantially increases the costs of their overall maintenance programme.</td>
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The costs of the consultation and investigation of the revocation proposal should be funded as part of the project's investigation (feasibility) phase. This may require funding to be carried forward, into later phases.

Until revoked the roads are still an SH responsibility and their programme should allow for the maintenance and operations and any renewal work planned on those roads up to hand over, and any agreed activity identified as a requirement to ensure the road at the time of hand over is fit-for-purpose (see policy 8).

Once the state highway status is revoked, then ownership (if it does not already sit with the local authority) and control of the road, will transfer to the territorial authority. Funding responsibility is also transferred to local authority, with any ongoing NZTA funding provided at appropriate FAR rate for activity.

NZTA may provide transitional funding assistance. The key issue is the impact of the revocation on the relevant territorial authority. If the revocation will substantially increase the costs of their overall maintenance programme, an increase in the FAR (until the next review of their FAR) can be negotiated, with the NZTA.

### Is the road required as part of the state highway network?

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<td>6.</td>
<td>The NZTA should not retain state highways that serve substantially the same function.</td>
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The NZTA should not retain state highways (SH) that serve substantially the same function for the surrounding network.
If the road (the residual section of SH) is no longer required as a road at all, then the NZTA should seek to have the road legally stopped.

However, if the road is still required for use as a local road, the NZTA must recommend to the Chief Executive of the Ministry of Transport that the SH status of the road be revoked.

Before it makes the decision to recommend (to the CE of Ministry of Transport) that the SH status be revoked, the NZTA must consult with local authorities, and, when appropriate, iwi and/or Auckland Transport (if the section of State highway is located in Auckland). This decision should be documented and included as part of the revocation document that is forwarded to MOT.

Revocation proposals should be considered carefully, because once the SH status is revoked the ownership and control of the road will transfer to the local authority. Neither, is there any legal ability to impose conditions (e.g. requirement to provide for route security) on the local road once ownership and control is transferred to the local authority.

Because it is possible for two routes to provide different traffic functions the NZTA should undertake an evaluation of that state highway’s (subject to the revocation proposal) network function and where a new road has been constructed, the relationship to the new state highway.

The state highway classification provides the overall context for any evaluation, but issues that may be considered include:
  - Traffic counts, origin destination information and traffic composition for the proposed and existing state highway
  - The nature of the transport flows or movements using the route (i.e. local and through traffic, heavy vehicles, high volume, or tourist route)
  - Journey, travel time
  - Safety
  - Speed, weight and dimensional restrictions
  - Closure consequences and vulnerability to natural hazards
  - Any other issues relevant to the proposal (e.g. congestion, accessibility and severance, community concerns, environmental and urban design issues)

Note: an alternative route to a toll highway is not legally required to have SH status.

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7. The NZTA should adopt a strategic whole of network approach when considering the implications of the revocation, for the state highway network, the local road network and surrounding land use.

The NZTA should consider the transport (network) implications (including any current and future opportunities) of the revocation proposal. Matters that may be considered include:
  - Implications for the primary project, and the current and future relationship (of the road) to the network as a whole, particularly the state highway
  - The strategic outcomes for the area (served by the road) e.g. current and future land use, including any urban design and landscape issues
  - Opportunities for optimising the operation and use of the network, including the development of a multi modal approach
  - Linkages to strategy and planning documents, e.g. RLTS, corridor plans, RONS network plans, structure or master planning documents such as the NZTA Urban and Landscape Design Framework

Ideally, these matters will have been considered through other strategic processes e.g. network plan. It should not be assumed that the project team will have this expertise, and the project managers should consult within the regional office to identify the appropriate source for strategic information or resource to consider these matters.
The NZTA may work with the local authorities to identify these issues with roles, responsibility and funding being a matter that requires further discussion. A pragmatic approach should be adopted to determine what strategic planning process is required.

This strategic planning process may also identify a possible package of land transport activities that could be undertaken on the revoked section of SH to give effect to future strategic outcomes. The implementation of these activities or package of activities is not a requirement of the revocation process, and will be the responsibility of the appropriate road controlling authority, with their future funding subject to the usual NZTA funding and assessment processes.

### Fit for purpose

8. If the NZTA recommends that state highway status should be revoked, it must ensure that the road will at the time of handover, be fit for purpose in relation to its transport functions.

If NZTA intends to recommend that the state highway status should be revoked, it must ensure that the revoked section of SH will (at the time of handover), be fit for purpose in relation to its transport functions.

Fit for purpose means that at the time of handover the revoked section of SH will provide a level of service equivalent to other roads providing a similar function within the local road network, and be safe i.e. it will not as result of that change in function have a safety defect that was not there before.

The fit for purpose standard for a particular road can be determined by:
- Identifying the network function of the road (at the time of handover) based on the existing local road hierarchy and surrounding land use,
- Identifying the level of service that will reasonably meet the network function of the road (e.g. from existing asset management plans, district plans, physical inspection and assessment of the surrounding network and land use), and
- Undertaking a safety assessment to ensure that change in function will not create a safety defect that did not exist before.

Removing the state highway traffic (as a consequence of transfer to the new road), and ensuring that maintenance on the revoked section of SH is up to date (in accordance with the state highway asset management plan), will in most cases meet both the safety and level of service expectations of the fit for purpose standard.

The NZTA should, wherever possible, work with the local authorities to jointly identify the fit for purpose standard for the revoked section of SH at the time of handover.

However, where agreement of the local authority is not possible, the NZTA may use the criteria above to identify that the road is fit for purpose at the time of handover.

The outcomes of revocation process including any agreement between the parties should be documented. The process to identify the fit for purpose standard is as follows:

- Determine fit for purpose standard using criteria.
- Document outcomes

The NZTA should, wherever possible, work with the local authorities to jointly identify the fit for purpose standard for the revoked section of SH at the time of handover.

However, where agreement of the local authority is not possible, the NZTA may use the criteria above to identify that the road is fit for purpose at the time of handover.

The outcomes of revocation process including any agreement between the parties should be documented. The process to identify the fit for purpose standard is as follows:
Limited access roads

Identify whether the road been has been declared a limited access road (LAR). If the road has been declared a LAR, the NZTA may, either include removal of that LAR status (as part of the primary project), or discuss with the local authority whether they want the road to remain a LAR once it’s SH status is revoked. Under the Government Roading Powers Act 1989, if at the time SH status is revoked, the road is a LAR, the road will automatically become a limited access “local” road. The NZTA should consider the function of the road, and its relationship to the SH when evaluating the best option.

RMA issues - existing RMA designation

Identify whether the residual section of SH is subject to a designation under the RMA

If the designation is described as for state highway purposes, or motorway purposes, then the NZTA will need to seek to have that part of the designation removed or altered to allow for the new alignment and remove the part of the designation that is located over what will become local road.

However, if the designation is described as for "roading purposes" then it will be automatically transferred to the territorial authority when the State highway status is revoked (and financial responsibility for the road is transferred to the Council). The NZTA is required to inform the Minister for the Environment of the transfer.

RMA issues - consenting the primary project

Consider how revocation issues will be dealt with in any RMA consultation process.

In general, works on the revoked section of state highway should not be included as part RMA mitigation. However, in the cases where there are works to the revoked section of the state highway (or a part of it) that are required to mitigate an adverse effect of the primary project, these works should be clearly documented and included in the project scope (and costs). Any RMA documentation should clearly identify which adverse effect of the new SH the works are mitigating.

When reviewing any conditions of a designation or consent for the primary project, consider whether these relate to the revoked section of SH. As a general rule, any implications or actions from RMA processes should be completed prior to delegation/revocation. However, there may be consent condition(s) which involve ongoing obligations. It is important to ensure that these obligations can be transferred, when control and ownership of the road is transferred.

While the NZTA supports a strategic (whole of network) approach (see above), the NZTA must avoid giving unintended undertakings during the consent process which a statutory decision-maker may consider to be a volunteered condition of consent. Parts of any package of possible works to the revoked section of SH identified during the strategic planning processes that are not required to mitigate adverse effects of the project should only be included in the consent documentation that is lodged with the consent authority, if it includes an agreement reached with the territorial authority as to how those works will be funded or if a third party, e.g. a developer, has made a binding commitment to fund those works.

Documenting outcomes and agreements

Agreements (between the NZTA and AO) in relation to revocation should be documented in the project documentation e.g. the scheme assessment report and/or urban and landscape design framework.

Consider using a Memorandum of Understanding (MOU) to document agreed outcomes, processes, time lines, funding agreements and roles and responsibilities.

Any long term strategic outcomes should be documented in the appropriate strategic document. For RONS this is likely to be the network plan.
Making a recommendation to MOT

This process is managed by Professional Services Manager (or delegate).

The recommendation is currently made in a letter (signed by Chief executive of NZTA) with appropriate attachments.

An example of documentation is included in appendix to this guidance, but matters that must be included in the recommendation are:

- A copy of the NZTA’s recommendation to the Secretary of Transport (CE of the Ministry of Transport), including details of the date of that decision.
- A map of the proposed state highway to be revoked
- A definition of the route of the state highway, by town, road name or route position
- A statement confirming that the requirements of s 103(6) have been satisfied, if Maori land is affected
- A statement that the requirements of section 103(8) have been met i.e. consultation with relevant local authority
- Advice on timing i.e. when does the revocation need to come into force

During the preparation of documentation, liaise with the NZTA property staff to ensure that implications on the legalisation works that they may be responsible for are considered. Note, in some cases it may be necessary to arrange a survey of the boundaries of the section of SH to be revoked.

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### Preparation for handover

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<td>9.</td>
<td>NZTA should not (without the agreement of the territorial authority) defer any maintenance required (in accordance with state highway asset management plan) on the section of the road where the state highway status is proposed to be revoked.</td>
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<td>10.</td>
<td>The NZTA should work with the territorial authority to identify how the revocation can be timed to suit their needs. If control and maintenance of the road is handed over before the legal revocation process is completed, the power to operate, maintain and impose and enforce controls in relation to the revoked section of state highway needs to be formally delegated to the territorial authority.</td>
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<td>11.</td>
<td>Once the state highway status is revoked, then ownership, control and funding responsibility transfers to the relevant territorial authority.</td>
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### Timing

Revocation will not take effect until the date specified in a notice published in the Gazette.

In general, the declaration (of the new state highway) and revocation should be done together.

Work with Professional Services Manager (or delegate) to identify any other issues, e.g. changes in speed limits that might be included in the Gazette notice.

Consider how the delegation/revocation can be timed to suit the needs of the local authority.

Once the Secretary of Transport declares and gazettes, the recommended change to the state highway network, the revocation will take effect from the date specified in the gazette notice. This allows a Gazette notice to be made in advance of the actual revocation, e.g. if it is decided to coincide the timing of
revocation with the beginning of a new financial year. However, before doing anything, it is important to consider whether or not such an approach could result in delay in resolving the formal SH revocation.

Until the legal revocation process is complete, a formal delegation to the territorial authority is required before control and maintenance of the road can be transferred to the local authority.

Maintenance and works required prior to handover
Maintenance (on sections of road where SH status is proposed to be revoked) should not be deferred, and any ongoing maintenance of the road should continue in accordance with Forward Work Plan and/or regional asset management plan, and within normal funding programmes.

The NZTA should not direct additional maintenance funds to the road to raise its current standard of maintenance, outside of NZTA’s normal annual budgets or programme for the roads maintenance.

Maintenance prior to revocation should be funded from SH operations budget (unless responsibility for maintaining the road is formally delegated to the territorial authority prior to revocation (see below).

Any works that have been identified to ensure that the road is fit for purpose must be completed before state highway status is revoked. These works will be funded as a project cost.

Appendices
See the following for:
Example letter to the Ministry of Transport
Pyes Pa Bypass Locality Plan
Route Map
DRAFT for Gazette
Revocation process map
Revocation and Declaration of State Highway 36 at Pyes Pa in Tauranga

The State Highway 36 Pyes Pa Bypass project will be fully opened to traffic on 4 June 2011. The project includes a new piece of road intended to be State highway, the Pyes Pa Bypass, which bypasses an existing section of State Highway 36 on Pyes Pa Road.

It is necessary to declare this new section of road State highway. This new highway section commences on Takitimu Drive from its intersection with State Highway 29 (new Route Position 0/0), and ends at new RP 0/4.5, 160m south of the new intersection of Pyes Pa Road and Takitimu Drive. The length of the new State highway is approximately 4.5km.

It is also necessary to revoke the existing section of State Highway 36 on Pyes Pa Road. This section commences at the intersection with State Highway 29 (old Route Position 0/0), and ends at old RP 2/1.93, 160m south of the new intersection of Pyes Pa Road and Takitimu Drive. The existing length of the State highway is approximately 3.93km.

A section of this existing SH36 will be handed over to the Tauranga City Council (TCC). This section is from the intersection of State Highway 29 to the TCC limit on Pyes Pa Road. This length of revoked State highway to be handed over to TCC is 2.0km.

A section of this existing SH36 will be handed over to the Western Bay of Plenty District Council (WBOPDC). This section is from the TCC limit on Pyes Pa Road to the point 160m south of the new intersection of Pyes Pa Road and Takitimu Drive. This length of revoked State highway to be handed over to WBOPDC is 1.93km.

Accordingly I recommend that you:

(i) Declare the new section of road from new (RP) 0/0 to new RP 0/4.5 to be State Highway 36.

(ii) Revoke the existing section of Pyes Pa Road as State Highway 36 between old RP 0/0 and old RP 2/1.93.

Would you please arrange for the above changes to the State highway system within Tauranga City and Western Bay of Plenty District to be promulgated, by way of Public Notice in the New Zealand Gazette.

Please find attached the following documents to facilitate the above request:

- Attachment 1: Pyes Pa Bypass locality plan;
- Attachment 2: Map showing the new section of road to be declared as State highway;
- Attachment 3: A draft Gazette Notice for your consideration; and
- Attachment 4: Map showing the boundaries of the local authorities (not shown).
Pursuant to Section 103(6) of the Land Transport Management Act 2003 I can confirm that Maori were fully consulted throughout the development of the project and the NZTA considers the provisions of Section 103(6) have been satisfied with respect to the declaration.

Pursuant to Section 103(8) of the Land Transport Management Act 2003 Tauranga City have been fully consulted throughout the development of the project and are agreeable to the proposed declaration of SH36.

Pursuant to Section 103(8) of the Land Transport Management Act 2003 Western Bay of Plenty District have been fully consulted throughout the development of the project and are agreeable to the proposed declaration of SH36.

If you require any further information please contact XX in the NZ Transport Agency's Tauranga Office ph 07-927 6017.

Yours sincerely

Geoff Dangerfield
Chief Executive
Pursuant to section 103 of the Land Transport Management Act 2003, the Secretary for Transport gives notice that, with effect from 1 June 2011:

a) Part of State Highway 36, described in the First Schedule, is revoked;
b) the section of new road, described in the Second Schedule, is declared to be State Highway 36.

**First Schedule**
Part of State Highway 36, commencing at RP 0/0 at the intersection of State Highway 29 and Pyes Pa Road extending in a generally southerly direction to RP 2/1.93 (on Pyes Pa Road). The length of road to be revoked is 3.93 kilometres.

**Second Schedule**
Part of State Highway 36 in Tauranga, commencing at RP 0/0 at the intersection of State Highway 29 and Takitimu Drive and extending in a generally south easterly direction along the recently constructed Pyes Pa Bypass road and ends at RP 0/4.50 (about 160m south of the recently constructed intersection with Pyes Pa Road); a total distance of 4.50 kilometres.
Section 103, of the Land Transport Management Act 2003 (LTMA) sets out this process, and the flow chart below provides an overview of the LTMA requirements (green), and the matters covered by this policy and guidance (grey).