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## 1. Summary

The New Zealand Railways Corporation (hereafter referred to as KiwiRail in this paper), achieved a significant milestone with the instigation of its first designation for a new rail line in 30 years. Although a designation cannot be relied upon to implement any works until it is confirmed [1], it takes effect (in terms of protecting the land to be designated against works which may hinder or prevent the designation being implemented), from the time that KiwiRail serves a Notice of Requirement on the city or district council. The serving of a Notice of Requirement for the Marsden Point Rail Line designation and the lodging of the associated regional resource consent applications in November 2008 is therefore a critical early step in securing the location of the rail line as part of strategic long term planning.

The Marsden Point Rail Line Project is a substantial and, to date, successful project for KiwiRail, obtaining overall buy in from the local community and directly affected landowners. On 9 October 2009 the Northland Regional Council issued its decision to grant the resource consent and the Whangarei District Council issued its favourable recommendation to confirm the designation (with conditions). Subsequently, KiwiRail released its decision to confirm the designation on 23 November 2009. Only five parties (of which only two are directly affected landowners) have appealed the designation and resource consent decisions to the Environment Court. Of these appeals, one has subsequently been withdrawn, three are in the process of being settled and the last is likely to be struck out due to appeal matters not relating to this designation [2].

The aim of this paper is to disseminate the tools used to undertake and make the Project to date successful. This will be through examining KiwiRail's objectives for the Project, the planning approach it adopted to achieve strategic planning outcomes, the consultation undertaken with directly affected landowners and the community and some of the challenges overcome. In summary, it is considered that the lack of objection to the designation and resource consent applications by directly affected landowners, along with the favourable decision and recommendation of the Northland Regional Council and Whangarei District Councils respectively, is largely a result of the way KiwiRail implemented the Project. This includes KiwiRail's integrated approach to the Project (seeking both the designation and associated resource consents at the same time with aligned lapsing periods) and a strong Project team culture and continuity of Project team members. This strengthened the consultation undertaken, allowing the building of strong relationships with key stakeholders and directly affected landowners and reducing the risks of the designation and resource consent applications not being successful.

## 2. Notation

**Designation** – like a ‘spot’ zoning over a site or route in a district or city plan, authorising the Requiring Authority works or project on the site or route without the need for a subsequent land use resource consent from the relevant district or city council.

**District or city council** – for resource management, primarily responsible for the management of the use and subdivision of land

**Hui** - gathering, meeting, assembly, seminar, conference

**KiwiRail** – New Zealand Railways Corporation

**Notice of Requirement** – the way a Requiring Authority gives notice to a district or city council of its requirement for a designation

**Project** – Marsden Point Rail Line

**Regional council** – for resource management, primarily responsible for the management of water, air, soil, the coast and discharges to these

**Requiring Authority** – a Minister of the Crown, a local authority (regional, district or city council), or a network utility operator (i.e. organisations who construct and operate railways, roads or airports, or who distribute gas, petroleum, geothermal energy, telecommunications, electricity, water, wastewater) approved under the Resource Management Act 1991

**Resource Consent** – permission under the Resource Management Act 1991 to use or develop a natural or physical resource and/or carry out an activity that affects the environment

**Resource Management Act 1991** – planning legislation in New Zealand

**Tangata Whenua/Iwi** - local people, hosts, indigenous people of the land - people born of the whenua, i.e. of the placenta and of the land where the people’s ancestors have lived and where their placenta are buried

## 3. Introduction

KiwiRail has achieved a significant milestone in New Zealand rail history with the instigation of its first designation for a new rail line in 30 years. The serving of the Notice of Requirement for a designation and the lodging of the associated regional resource consent applications for the Marsden Point Rail Line in November 2008 by KiwiRail is the critical early step in securing the location of the rail line as part of strategic long term planning. Although the designation is not yet confirmed [1,2], serving the Notice of Requirement protects the land to be designated against works which may hinder or prevent the designation being implemented from the time that KiwiRail served it on 28 November 2008.

The designation and resource consent processes are the available planning tools under the Resource Management Act 1991 for KiwiRail to use to plan for new rail lines. It is under this Act that KiwiRail has sought to undertake the strategic long term planning of the Marsden Point Rail Line as a first step to its future construction [3].

The designation mechanism provides the ability for Ministers of the Crown, local authorities, and approved network utility operators to become ‘Requiring Authorities’, enabling the development of public works and projects outside the normal planning provisions of a district or city plan. KiwiRail is a Requiring Authority under the Resource Management Act.

Designations provide the ability to safeguard the land required for the rail line from other planning provisions (such as zone changes) and from inappropriate development which may hinder or prevent the public work or project [4]. It also provides a process through the Public Works Act to compulsorily acquire the land required. A designation also provides certainty to the community over the location of the public work (in this case the rail line) and enables them to make informed decisions about their future.

The designation provisions of the Resource Management Act do not negate the requirement to separately obtain any necessary regional resource consents (for works relating to water, air, soil, the coast and discharges to these). There is no requirement under the Resource Management Act to obtain regional resource consents at the same time as seeking a designation (because a designation provides for short and long term planning of public works whereas regional resource consents would generally be obtained when detailed design is available and construction is programmed).

Securing the rail designation and obtaining the associated resource consents for the Marsden Point Rail Line will provide the certainty that the planning regime is in place for its future construction. It is also anticipated that the designation will provide the necessary catalyst to encourage economic development both locally and regionally to support use of the line once constructed.

In looking at what has made this a successful project to date for KiwiRail, this paper provides background context through a summary of the Project, details the KiwiRail Project objectives, outlines the planning approach adopted to achieve the necessary strategic planning outcomes, looks at the consultation methods employed for the Project, and highlights some of the challenges the Project faced. The success of the Project to date is considered to be reflected by:

- The lack of objection to the designation and resource consent applications by directly affected landowners. During the public submission phase, of twenty three landowners only four submitted in opposition or only partial support. Subsequently only two landowners have appealed to the Environment Court.
- The granting of the resource consents by Northland Regional Council
- The favourable recommendation of Whangarei District Council to confirm the designation (with conditions)
- The Council process between the Notice of Requirement being served/resource consent applications lodged and the Council Hearing was only nine months and
- That only five parties appealed KiwiRail's designation decision and the granting of the resource consents [5].

#### 4. The Marsden Point Rail Line

The Marsden Point Rail Line route is 20km. Once built, it will connect Northport at Marsden Point with the National Rail Network via the North Auckland Rail Line at Oakleigh. Oakleigh is located to the south of Whangarei City in the Northland Region of New Zealand. Northport (not currently served by rail) is New Zealand's northern-most port and is located at Marsden Point, at the entrance to the Whangarei Harbour. It is a deepwater port with a natural draught up to 15m, deeper than most other New Zealand ports (including Auckland and Tauranga), thus providing berthing ability for the new larger container ships, which, loaded, draught up to 14.5m.

The Marsden Point Rail Line has been designed to be future-proofed, accommodating two rail lines for its entire length (with the exception of approximately 700m through a substantial cutting at a location called Mata Hill).

Describing the rail line route: From Oakleigh in the west the rail line will traverse a coastal reclamation abutting the existing State Highway 1 (as a worse case, approximately 22 hectares of coastal marine area in the Whangarei Harbour will be reclaimed at the

time of constructing the rail line) before continuing east across rural pastoral land to the industrial area and port at Marsden Point. The rail line once constructed will:

- Contain a total of five bridges (varying between 15 metres in length and 65 metres in length, four of which are located within the coastal reclamation area)
- Have a substantial cutting of up to 27m through unstable geological material at Mata Hill (which will require significant retaining structures, or batter slopes of 1 in 6, or a combination of these)
- Run in close proximity to a river estuarine area of regional value
- Will pass through (adjacent to State Highway 15A) an existing grade separated roading structure.

There are twenty three land owners (not including the Whangarei Harbour Board and the NZ Transport Agency, which manages the State highway network on behalf of the Crown) which the rail line route directly affects.

The Marsden Point Rail Line route has been investigated since at least the 1960's. Over the years a vast number of rail corridors have been considered, along with the economic benefits, engineering feasibility and potential environmental impacts. Industries, including New Zealand's only oil refinery, have been located at Marsden Point for many years, but it was the relocation of the Port at Whangarei City out to Marsden Point in the early 2000s that was a catalyst for seriously reconsidering the feasibility of the rail line.

Between 2002 and 2004, Beca Infrastructure Limited, on behalf of Northland Regional Council, undertook extensive feasibility investigations and consultation with the community, which were carried out by KiwiRail under the recent phase of the Project (2005 to 2009). At the conclusion of the feasibility investigations and consultation work in 2004, a preferred rail line route was decided upon. A modified version of this preferred rail line route forms the KiwiRail designation for the Marsden Point Rail Line.

The Project was put on hold in 2004 pending a number of decisions, including the funding for the design the rail line, preparing the planning documentation for the Notice of Requirement and resource consent applications and the lodgement and processing of these with the district and regional councils. Additionally, reorganisation of the National Rail Network by the New Zealand Government was underway. It was at this time that the New Zealand Government repurchased the National rail infrastructure from Toll Holdings Ltd.

KiwiRail (branded ONTRACK at the time) revisited the Project in 2005 with the assistance of Beca Infrastructure Limited, updating the previous work undertaken in order to assist the ONTRACK Board to make a decision in June 2006 on whether or not to proceed with serving a Notice of Requirement for the designation and lodging regional resource consent applications. The ONTRACK Board noted at the time the desirability to designate the rail line, but stopped short of giving approval to proceed. At this time the ONTRACK Board sought clarification on:

- How the financial commitments would be met
- Whether the predicted economic benefits were both realistic and achievable and
- Whether potential users and beneficiaries supported the proposed rail line.

Over the second half of 2006 and throughout 2007, the Northland Regional Council (in its role of promoting economic development and growth) made a decision to start property negotiations with those parties directly affected by the preferred rail line route selected at the conclusion of the 2004 work. It also lobbied Central Government to revisit designating the rail line. In 2007, the KiwiRail Board made a decision to obtain the designation and associated regional resource consents.

The rail designation corridor finalised over 2008 to 2009 by KiwiRail (with the assistance of Beca Infrastructure Limited) has altered from that selected as the preferred option in 2004. The alterations have in the main been due to the continuing extensive consultation undertaken with those land owners who are directly affected by the rail line route. This is further discussed under the 'Meaningful Consultation' section of this paper.

## 5. Joint venture

In January 2008, KiwiRail developed a joint venture arrangement with Northland Regional Council to progress the designation for the rail line. Northland Regional Council's primary role in the joint venture arrangement was to undertake negotiations with property owners who either had the rail line passing directly through their properties or those who were going to be so adversely impacted (for example by train noise) that mitigation outside of land purchase was not a viable option.

Under the joint venture, the costs of any land acquisition are shared by both KiwiRail and Northland Regional Council, with ownership of the land required to support the rail line reverting to KiwiRail at the time of construction. The joint venture arrangement between KiwiRail and Northland Regional Council related only to the protection of the rail line route and land acquisition, and not to funding construction of the rail line.

The acquisition of property affected by the rail line route was one of the key aspects to mitigating the Project risks. At the time of serving the Notice of Requirement for the designation, four of the twenty three affected landowners' property had been purchased, and by the Council Hearing nine months later, this had increased to eight landowners.

## 6. KiwiRail objectives

KiwiRail's overall objectives are to operate, maintain, renew and upgrade the National Rail Network, while improving safety on the network and contributing to sustainability through providing an alternative to road transport. In light of these, the specific objective for this Project was:

- To protect a rail corridor between the North Auckland Rail Line and the deep-water port at Marsden Point through using the designation process to secure the land required for the construction, operation and maintenance of a railway.

As part of its long term planning framework, Whangarei District Council has zoned a substantial amount of land at Marsden Point for business/industrial use. Securing the location of the rail line route through the planning process is a key component in assisting development and realising economic potential in this area.

In terms of supporting strategic long term planning, a lapse period of 20 years for the designation and the regional resource consents has been sought. This is discussed in more depth under 'Approach Adopted to Achieve Strategic Planning Outcomes'.

Objectives relating to the operation of the rail line once it is constructed include:

- To link the deep-water port at Marsden Point by rail to the National Rail network via the North Auckland Rail Line
- To offer an alternative port in the upper North Island (to Auckland and Tauranga) serviced by rail
- To provide an alternative safe and sustainable transport option for moving freight to, from and within the Northland Region and
- To assist in accommodating future economic growth in the Northland Region.

## 7. Approach adopted to achieve strategic planning outcomes

Designations are a tool specifically provided for the planning of public works, both short and long term, and across short and long distances. A designation provides for an alternative planning mechanism to resource consent or a plan change [6]. As such, the designation mechanism is the appropriate tool for KiwiRail (as a Requiring Authority) to use to plan for public works such as the Marsden Point Rail Line.

A key difference between a Notice of Requirement and a resource consent application is in the decision making, which for a Notice of Requirement is the Requiring Authority (in this case KiwiRail). A decision on a resource consent application is issued by a regional or district council.

Notice of Requirements for designations, along with resource consent applications, are both supported by an assessment of environmental effects (covering both actual and potential positive and adverse effects). Key also to designations is the Requiring Authorities objectives for the designation and the alternatives that have been considered (in this case the many alignment options over the years, including those minor alignment changes resulting from discussions with landowners).

Given the scale of the proposed works, KiwiRail approached this Project in an integrated manner, serving the Notice of Requirement for the designation and lodging the regional resource consent applications at the same time, on 28 November 2008.

As well as having a regulatory role in administering the regional resource consent process, Northland Regional Council also has a function to promote strategic and economic development within the Northland Region. Similarly, Whangarei District Council has a regulatory role to administer the Notice of Requirement process, while also undertaking an economic development function. With their economic development 'hats' on, both Councils are strongly supportive of designating the rail line, obtaining the associated regional resource consents, and for its future construction.

Given this support, both Councils jointly commissioned an independent group of consultants to assess both the Notice of Requirement and the resource consent applications. Similar to KiwiRail's integrated approach to the planning requirements for the Project, the group sought for the Whangarei District Council and the Northland Regional Council to jointly process the applications. This included a joint notification process (which was seen by KiwiRail as being key to ensuring that the public could more easily understand and follow the sometimes complex planning process) and a joint Council Hearing process (heard by independent Commissioners).

The planning framework, including the assessment of environmental effects for the rail line, needed to consider, as is typical of large infrastructure projects, the intended timeframes for construction (indicatively up to twenty years out) and the need to balance a number of competing interests, benefits and effects.

KiwiRail has sought twenty year lapse periods for the rail designation and the associated resource consent applications. This lapse period was sought to provide a reasonable time period for:

- Development to occur (i.e. port expansion and consolidation, industrial growth and commitments from industry to use the rail line)
- Securing the required funding to construct the rail line and
- Allowing KiwiRail to secure any funding and undertake any required work on the North Auckland Rail Line to support the linkage between the Marsden Point Rail Line and the National Rail Network.

The twenty year lapsing period was also considered appropriate for:

- Implementing long term strategic planning of a public work and
- Providing certainty to current and future landowners and the community of the location of the rail line when it is constructed.

The same lapse period was sought for the regional resource consents so that when a decision is made, construction can occur without the need to apply at the time for further substantial resource consents.

With this timeframe in mind KiwiRail adopted a prudent or 'worst case' effects envelope approach, which included satisfying itself that the effects could be appropriately avoided, remedied or mitigated. This approach included a conservative assessment of the actual and potential environmental impacts by the technical team and the development and implementation of an environmental framework.

The environmental framework consists of project, communications, construction and environmental management plans. These plans contain appropriate procedures and measures for managing the future environmental impacts (both during construction and operational) from the rail line, while allowing for future flexibility in design, construction, and environmental management. The environmental framework will be fully developed as part of the construction phase of the rail line.

Simply the Notice of Requirement process for this designation was as follows:

- KiwiRail developed objectives specific to the Marsden Point Rail Line
- Options for the rail line route were developed and assessed for feasibility against a number of factors including operational requirements, engineering, environmental, cost and benefits, and a preferred rail line is selected [7]
- An assessment of effects is prepared (with associated documentation – technical reports and plans) to support the Notice of Requirement
- The Notice of Requirement details the requirement for the designation and attaches plans and schedules which detail the land affected by the designation
- KiwiRail serves the Notice of Requirement for the designation on Whangarei District Council on 28 November 2008
- The Council publicly notifies [8] the Notice of Requirement in February 2009 and the public has 30 working days [9] in which to make a submission in support, neutral or opposition
- The Council consultant team assesses the Notice of Requirement, the accompanying assessment of environmental effects (and associated technical reports and plans) and the submissions received and prepares a report and recommendation for Hearing Commissioners on whether to confirm the requirement, impose conditions on the requirement, modify the requirement or withdraw the requirement
- The Hearing Commissioners hear the Notice of Requirement – KiwiRail provided evidence to support the requirement, and the submitters spoke to their submissions
- Following the Hearing the Hearing Commissioners issued their final recommendation to KiwiRail – to confirm the requirement with conditions
- KiwiRail, as Requiring Authority, considers the Hearing Commissioners recommendation and issues its decision – to confirm the requirement with conditions [10]
- The Whangarei District Council and any submitters had the right to appeal [5] KiwiRail’s decision to the Environment Court
- The appeals are either withdrawn, settled or determined through an Environment Court Hearing.

KiwiRail requested that the resource consent applications be publicly notified at the same time as the Notice of Requirement, and therefore the processing of these by the Council followed the same path as that set out above.

The key change is that, following the Hearing, the Hearing Commissioners made a decision to grant the resource consent applications subject to conditions. This meant that, for the resource consent applications, KiwiRail and any submitters were able to appeal the Council decision to the Environment Court.

## 8. Meaningful consultation

KiwiRail, and its consultant Beca Infrastructure Limited, at the outset adopted a philosophy that communicating with key parties over the location and effect of the proposed rail line route is an essential element to ensuring the ultimate success of the Project. To facilitate and obtain such success, communication needed to be real and meaningful, open and honest, with the KiwiRail Project team actively listening and responding to ideas, queries and concerns. It involved building trusting relationships which respected differing opinions and positions.

Consultation was ongoing throughout the Project (2002 to 2009), with the consistency of project team members, both from KiwiRail and Beca Infrastructure Limited, being a key factor to making the consultation and therefore the Project to date successful.

One of the biggest successes to date is the implementation and facilitation of consultation throughout the life of the Project in accordance with the Project consultation objectives and aspirations. This success is reflected through:

- The changes made to the alignment of the rail corridor throughout its life (2002 to 2009)
- Submissions received during the public notification period for the designation and resource consent applications
- The interaction of landowners, key stakeholders and the community at the Hearing of the Notice of Requirement for the designation and resource consent applications (particularly in terms of familiarity with the KiwiRail Project team) and
- The limited number of appeals to the Environment Court on the designation and resource consent decisions.

The consultation objectives for the Project included:

- To undertake consultation in a transparent manner with an open mind to the views expressed, acknowledging that consultation is a two way process, while recognising that agreement is not necessary
- To undertake consultation over the life of the Project that builds on consultation already undertaken, providing directly affected landowners, key stakeholders, and the community with the timely information on the project throughout its life
- Ensuring the Project reflects KiwiRail’s Business requirements while encompassing landowner, key stakeholder and community wishes where practicable
- To undertake consultation to achieve better outcomes for the Project
- To have a Project team that recognises the rewards of consulting early and maintaining ongoing consultation
- To make available opportunities for landowners, key stakeholders and the community to provide feedback and identify any matters to be considered, where practical addressed, and for the Project team to show how such feedback may or may not have contributed to the Project
- Undertaking consultation to better understand the effects of the rail line and how they can be avoided, remedied or mitigated.

Over the life of the Project consultation parties have changed, however the consultation groups for the Project are broadly defined as:

- Directly affected landowners
- Key Stakeholders
- The community

Directly affected landowners included all those landowners over whose land the rail line route directly passes, and those landowners who were identified as being subjected to impacts where there was no alternative mitigation to land purchase.

Key stakeholders included Tangata Whenua, the New Zealand Transport Agency (as manager of the State Highway network), the Northland Regional Council and the Whangarei District Council (both as project supporters and as regulatory authorities administering the designation and resource consents), the Department of Conservation, and key supporters of the Project (Northport and Northland Port Corporation; industries with a strong likelihood to use the rail line once constructed).

The community included all members of the public with an interest in the Project. There was also a Project area established early on (refined and updated over time) which included those persons who lived in the wider area surrounding the proposed designation.

Consultation mechanisms throughout the Project to date include:

- Press releases
- A regular project newsletter
- Individual meetings
- Hui
- Joint stakeholder and landowner meetings where it was appropriate to discuss common issues
- Public Open Days.

Essential to the successful dissemination of Project information and receipt of feedback through the above mechanisms, was the KiwiRail Project team being available within the Project area on a regular basis (though its primary base was Wellington and Auckland). This visibility, along with the open and honest communication channels employed helped to build trusting relationships and provided for meaningful dialogue on the Project.

Although overall there is support for the rail line from landowners and the community (who recognise that once constructed the rail line will provide a number of benefits to the region), there were a number of localised issues to consider and address throughout the 20km length of the rail line route, particularly with directly affected landowners.

Localised issues that arose included:

- Maintaining access to a small local boat ramp in the coastal area
- Ensuring the Project team gained an understanding and appreciation of farming practices and the need to be able to continue to operate farms both during construction and eventual operation of the rail line
- The value placed on flat farming pasture over other amenity values such as views and noise
- Providing certainty that any disruption to farming and other land use activities would be as minimal as possible during construction
- Property access options, especially during the construction period
- The actual extent of flooding at spring tides and during heavy rain falls (a frequent occurrence in the north)
- Safety at points where the rail line route crosses existing roads
- Balancing the development interests of the Port and other industry through locating the rail line route across land in a position which maintained operational rail requirements but did not preclude future development potential.

The majority of these issues could be solved by engineering solutions from an office base. However, the Project team made a conscious decision to in the first instance have face to face discussions with landowners, key stakeholders and the community. The best outcomes came through talking and walking the rail line route and the surrounding area with the local people who intimately knew the land. Valuable information on local conditions was obtained first hand by the Project team from these meetings.

In a number of instances the outcome of discussions on these issues was a change to the rail alignment and/or inclusion into the Project other supporting works. There were also a number of instances where the desire of the landowner could not be accommodated within the Project due to conflicts with KiwiRail's operational requirements (particularly in terms of design speed, gradients, and maximum curvatures). For these cases the relationships established between the Project team and the landowners and stakeholders greatly assisted in achieving at least an understanding of why certain requests could not be accommodated. Agreement to disagree was often reached, with an open invitation from landowners to the Project team to meet again about other matters.

In two instances, landowners preferred alignment changes on their properties which moved the rail line route away from flat pasture land, resulting in other impacts which were considered to be more acceptable to them (such as cuttings through hills and potential noise from the rail line closer to dwellings).

In other instances KiwiRail chose as a result of consultation to commit to at the time of construction grade separating existing roads over the rail corridor as part of construction to alleviate concerns regarding safety. It also chose as part of this planning process to maintain the existing access to a local boat ramp through designing two bridges, which will take both road and rail adjacent each other, to provide access across a river.

The most challenging part of the rail line from an engineering perspective is Mata Hill, where a cutting of up to 27m is required. This area of the rail line route also contains a block of 'Maori land' [11]. The geology in the area, combined with among other things the proximity of the Whangarei Harbour and the State Highway, provided a fairly narrow corridor area for the rail line to traverse. A total of fourteen alignment options were considered through Mata Hill, a number of which were the result of consultation meetings and walkabouts with landowners and Tangata Whenua.

In weighing up operational, engineering and construction requirements, geological conditions, environmental effects and land impacts, it was still difficult to remove the rail line route completely from the 'Maori land'. The willingness of KiwiRail to continue to explore options throughout the life of the project gained acknowledgement from Tangata Whenua that great

efforts had been made to minimise impacts on their land. As a result of the consultation meetings and the work undertaken by KiwiRail, Tangata Whenua has not appealed the Notice of Requirement for the designation or the resource consents, and the group is supportive of the rail line overall.

During the consultation process one of the most complex matters to explain and make easily understood was the planning process around designations and resource consents, particularly the twenty year lapse period being sought by KiwiRail, and the implications of this. Related to this was the appreciation that KiwiRail's key objective was undertaking long term strategic planning to secure the location of the rail line route, and that design detail and construction management practices would come in later stages of the Project.

To address this, the Project team developed and adapted simplistic dialogue which concentrated on the specifics of how the planning process related to each landowner. This included getting landowners to appreciate the level of design detail required for the Notice of Requirement for the designation as opposed to the greater level of design required for construction. It also provided easy to understand explanations and assurances around the legal status of the Notice of Requirement and landowners' property rights.

Understanding that agreement around the specifics of construction, property access and farm management/reorganisation (including the final location of any underpasses) could not be confirmed during this phase of the Project was initially difficult for most landowners to comprehend. The Project team tackled this issue through providing as much information as possible on what was known and what processes would be put in place as part of the designation so these matters could be addressed closer to construction. Key to this was providing the element of certainty.

Discussions also emphasised the benefits to landowners of not committing to the detail in this Project phase (given that construction timing was not confirmed and may not occur for twenty years) and appreciating that, over this time, land use and farming practices could change substantially. Also discussed was the fact that being tied into set parameters at this stage may be disadvantageous to any future changes.

As stated earlier, the Notice of Requirement for the designation and the resource consent applications were publicly notified to the wider community, with a period in which to make submissions in support or opposition. Going into this public submission period the Project team was confident that the efforts spent on consultation over the preceding years would assist in reducing the number of parties opposing the rail line, and as a consequence the risks to the Project's overall success would be minimised.

One tool used to assist in ensuring that landowners and the wider public could understand all the project documentation which supported the Notice of Requirement and resource consents was the use of interactive CD's. These contained user friendly menu's and links to the various parts of the documentation, and made access to a substantial amount of information easier.

As well as being publicly notified, around one hundred and seventy parties were directly notified of the submission period. The submission period resulted in only fifty-five submitters (approximately half in support and half in partial support or opposition). Of the submitters in partial support or opposition, only four were landowners over whose land the rail line will go, and only two appealed the designation and resource consent decisions to the Environment Court.

To a great extent, the lack of opposition to the rail line is the direct result of the consultation undertaken and the relationships built by the Project team with landowners, key stakeholders and the community. In issuing their recommendation on the Notice of Requirement, the Council Hearing Commissioners commended KiwiRail for its proactive stance on consultation.

## 9. Overcoming project challenges

Like all large infrastructure projects, the Marsden Point Rail Line Project was not without its challenges. These ranged from managing political aspirations to dealing with limited rail designation knowledge and experience outside the Project team and engineering challenges. The challenges around consultation have already been discussed earlier in this paper.

Both Northland Regional Council and Whangarei District Council have strong advocacy roles for supporting the rail line, including its actual construction. Each Council also has a regulatory role to administer the functions and processes of the Local Government and Resource Management Acts. Under both these Acts, the Councils are open to legal challenge from the public on adhering to correct process and open and transparent decision making.

With this in mind the Project team needed to balance the roles of Council officers involved in the various aspects of the Project. This was sometimes a difficult task when officers tried to wear both an advocacy and regulatory hat. Council officers also grappled with the size of the Project works as the region and district had not dealt with this large an infrastructure project for many years.

To limit the risk of challenge to Council process or decision making, KiwiRail requested that independent Consultants be appointed to assess the designation and resource consents. This in itself posed its own challenges. Although designations for large infrastructure projects are common enough in New Zealand, the design and operational requirements of rail is specialised. New rail designations are also not that frequent in New Zealand [12] and therefore experience in dealing with both designations and rail is limited. This in turn limited the experienced consultant pool available to provide assistance to the Councils and the public.

The consultants were not selected by the Councils specifically for their experience in working on large infrastructure or rail projects. This necessitated the Project team working in greater detail through a number of the more general aspects of the project. In hindsight, it would have been helpful to the selection of the consultant team if KiwiRail had been able to suggest a list of consultants with specific experience in large infrastructure designations and in working with rail.

The other key project challenge related to the engineering design of the rail line through Mata Hill. This has been touched on briefly under the consultation section of this paper. From an engineering perspective, the biggest challenge with Mata Hill was dealing with getting the rail line through the unstable geological material (Onerahi Chaos) prevalent in the area.

Of the fourteen options considered through Mata Hill, six of these were tunnel options. The engineering risks of the tunnel options were considered too substantial for the Project, therefore the chosen option is a cutting of up to 27m in depth. The depth of this cutting is partially driven by the desire to obtain a depth at the bottom where the geological material is more condensed and stable. The cut itself also requires significant retaining structures, batter slopes of 1 in 6 (worst case), or a combination of these, due again to the geological material in Mata Hill. The 1 in 6 slope is in line with the existing farming slopes in this area and does provide the ability for the majority of the cut to be returned (once the rail line is constructed) to productive farming land. Such an extensive cut has generated a number of thoughts on possible innovations for disposal for the earthworks, including stabilisation treatment and re-use to form the coastal reclamation.

## 10. Conclusion

To date, the Marsden Point Rail Link Project has been a successful project for KiwiRail. Serving the Notice of Requirement for the designation and lodging the associated resource consent applications has been a critical first step in undertaking strategic long term planning of a future rail line. The serving of the Notice of Requirement for the designation has started the process to protect the rail line against development which may hinder or prevent its future construction.

The success of the Project to date is considered to be reflected by the lack of objection to the Notice of Requirement and resource consent applications through the public process, the favourable recommendation by Whangarei District Council to confirm the requirement (with conditions), the granting of the resource consents by Northland Regional Council and having only five parties appeal the Notice of Requirement and resource consent decisions to the Environment Court.

Key to this success has been undertaking the Project in an integrated manner (seeking to secure both the designation and resource consent applications at the same time with 20 year lapse periods) and the successful consultation programme which has occurred between 2002 and 2009.

The continuity of key Project team members and their commitment to fostering strong working relationships within the team strengthened the consultation undertaken and results achieved. It allowed the building of strong relationships with landowners, key stakeholders and the community, and facilitated open, honest and transparent communications.

The consultation undertaken, supported by the engineering design work, reduced the risks to the Notice of Requirement and resource consent applications, and assisted KiwiRail greatly in the successful instigation of its first new rail designation in 30 years. Serving the Notice of Requirement for the designation is seen as the critical early step in the long term planning of this new rail line.

## 11. References

- [1] When the Requiring Authority makes its decision, or if there are appeals to that decision, when the appeals are resolved and the Environment Court confirms the designation.
- [2] As at 1 July 2010
- [3] No decision has yet been made with regards to the funding or construction of the Marsden Point Rail Line
- [4] Anyone wishing to use the designated land for a purpose that would hinder or prevent the work for which the designation was intended, requires the permission of the Requiring Authority to proceed
- [5] At 1 July 2010 one appeal has been withdrawn, three are in the process of being settled, and the last appeal is likely to be struck out due to the appeal matters not relating to this designation
- [6] Simplistically, a plan change is a 'zoning' of a site or area to provide for a particular use, activity or range of activities
- [7] The option assessment process provided the mechanism for selecting the preferred rail line and as KiwiRail did not own the land to be designated, the robust assessment of alternative sites, routes, or methods, as required under the Resource Management Act 1991
- [8] At the time that this Notice of Requirement was served on Whangarei District Council, all Notices of Requirement for new designations were required to be publicly notified under the Resource Management Act 1991
- [9] KiwiRail agreed to an extension to the standard submission period of 20 working days to 30 working days given that the public notification was occurring towards the end of New Zealand's Christmas/summer holiday period
- [10] KiwiRail's decision for this requirement varied from the recommendation of the Hearing Commissioners in the conditions imposed
- [11] 'Maori land' under the Te Ture Whenua Maori Act is land held by Maori and administered under that Act
- [12] With the exception of the Clifford Bay rail line designation (undertaken by Tranz Rail in the late 1990's but no longer in place), the Marsden Point Rail line is the first Notice of Requirement for a new rail designation of substantial length in New Zealand in 30 years