

## UNITARY PLAN UPDATE REQUEST MEMORANDUM

**TO** Phill Reid, Manager, Planning, Auckland-wide  
**FROM** Sisira Jayasinghe, Planner, Planning Central & South



**DATE** 1 October 2018

**SUBJECT** Designation to be updated in the AUPOP in accordance with s182 of the Resource Management Act

This memorandum requests an update to Auckland Unitary Plan Operative in part

<b>Reason for update</b>	
<b>Chapter</b>	<b>Chapter K</b>
<b>Section</b>	Schedules and Designations
<b>Designation only</b>	
<b>Designation # 1575</b>	<b>Road – Beaumont Street, Auckland Transport</b>
<b>Locations:</b>	164 – 188 Beaumont Street, Auckland
<b>Lapse Date</b>	Five years from being operative in the Unitary Plan unless given effect to prior
<b>Purpose</b>	Road.
<b>Changes to text</b> (shown in underline and strikethrough)	Text of Designation 1575 to be deleted in its entirety.
<b>Changes to diagrams</b>	Not applicable
<b>Changes to spatial data</b>	Refer to the Team Leader approved Decision Report dated 7 September 2018
<b>Attachments</b>	<ul style="list-style-type: none"><li>• Auckland Transport's Notice to remove Designation 1575 under s 182(1) and Form 23</li><li>• Team Leader approved Decision Report dated 7 September 2018 (including map showing removal of Designation 1575)</li><li>• 1575 Road – Beaumont Street designation text to be removed in full</li><li>• 1575 Road – Beaumont Street designation map to be removed in full</li></ul>

**Prepared by:**

Sisira Jayasinghe  
Planner, Planning Central & South

(M Dendale in Sisira Jayasinghe's absence on leave)

**Text entered by:**

Bronnie Styles  
Planning Technician

**Signature:**

**Signature:**

**Maps prepared by:**

Mitesh Bhula  
Senior Geospatial Analyst  
Aucklandwide



**Signature**

**Reviewed by:**

Sisira Jayasinghe  
Planner, Planning Central & South



**(M Dendale in Sisra Jayasinghe's absence on leave)**

**Signature:**

Manager

Celia Davison

Manager, Planning Central and South



**Signature:**

# Removal of a designation under section 182 of the Resource Management Act 1991



**To:** Marc Dendale, Team Leader Planning Central and South

**From:** Sisira Jayasinghe, Planner, Planning Central and South

**Date:** 7 September 2018

**Subject:**

Removal of Designation 1575 (Road – Beaumont Street) in the Auckland Unitary Plan (Operative in Part)

## Summary

Auckland Council has received a request from Auckland Transport under section 182 of the Resource Management Act 1991 (RMA), dated 28 August 2018, to remove in full Designation 1575 Road – Beaumont Street.

A section 182(1) request is required to uplift the existing designation in full from land which has been deemed surplus by Auckland Transport.

Auckland Council, as the territorial authority, is required to amend its district plan, without using the process in Schedule 1, as soon as reasonably practicable after receiving a section 182 request unless it considers that the effect of the removal of part of the designation on the remaining designation is more than minor.

It is recommended that the removal be accepted.

## Recommendation

1. That the section 182 request from Auckland Transport for the removal of Designation 1575 Road – Beaumont Street in the Auckland Unitary Plan (Operative in Part) be **accepted** for the following reasons:
  - Removal is to support the future development of the site and is done at the request of Panuku Development Auckland Limited who owns the land.
  - Removal of this designation will enable the development of the site for its intended use as a marine industry facility, which by necessity limits public access in the area for safety reasons.
  - Major parts of Wynyard Precinct are accessible to the public, with provision of both active recreation and passive public space. Westhaven Drive provides public access to the waterfront from Fanshawe Street. Public access to the Wynyard Precinct from the northern end is maintained via Jellicoe Street which is adjacent to the site. Hence, there is no need for another road.

2. That Designation 1575 (Road – Beaumont Street) be removed, as soon as reasonably practicable, the Auckland Unitary Plan (Operative in Part) Designation overlay and Chapter K Designations be amended accordingly.

## 1. Description

### 1.1. References

<b>Designation number:</b>	1575 (Road – Beaumont Street)
<b>Lodgement date:</b>	28 August 2018
<b>Requiring authority:</b>	Auckland Transport
<b>Reporting officer:</b>	Sisira Jayasinghe, Planner, Planning Central & South
<b>Site address:</b>	164 – 188 Beaumont Street, Auckland
<b>UP Zoning:</b>	Business – City Centre Zone Coastal – General Coastal Marine Zone

## 2.0 Background

### 2.1 Details of designation

Designation 1575 is a Rollover Designation from Auckland Council District Plan – City of Auckland – Central Area Section – Operative 2005. Legacy reference number is Designation 387. Lapse date is given as five years from being operative in the Unitary Plan unless given effect to prior.

### 2.2 Land affected by removal

Designation 1575 to be removed is currently shown in the AUP maps as follows:



164-188 Beaumont Road - AT Designation 1575 (Road – Beaumont Street)



164-188 Beaumont Road - AT Designation 1575 (Road – Beaumont Street) – Aerial Map

### **2.3 Delegated authority to consider alterations to designations**

The Team Leader – Planning, Central and South (Plans and Places Tier 5) has delegated authority, in accordance with Schedule 2A of the Auckland Council Combined Chief Executive’s Delegation Register (updated August 2018), to exercise the Council’s functions, powers, duties and discretions under the Resource Management Act 1991 in relation to Section 182 to approve a removal of a designation.

The section 182 request to remove the designation can therefore be considered by the Team Leader – Central and South (Plans and Places Tier 5) and accepted or declined.

### **2.4 Relevant Statutory Provisions**

Section 182 of the RMA allows a requiring authority to remove a designation or part of a designation if it no longer requires it. This section also applies to a notice by a territorial authority, to withdraw its own designation or part of a designation within its own district.

Section 182(2) states that as soon as reasonably practicable the territorial authority shall, without using the process in Schedule 1, amend its district plan accordingly. If the territorial authority considers that the effect of the removal of part of a designation on the remaining designation is more than minor, it may, within 20 working days of receipt of a section 182 notice, decline to remove that part of the designation.

It is considered that Auckland Transport has provided sufficient justification for the removal of Designation 1575 (Road – Beaumont Street) for the following reasons:

- Removal is to support the future development of the site and is done at the request of Panuku Development Auckland Limited who owns the land.
- Removal of this designation will enable the development of the site for its intended use as a marine industry facility, which by necessity limits public access in the area for safety reasons.
- Major parts of Wynyard Precinct are accessible to the public, with provision of both active recreation and passive public space. Westhaven Drive provides public access to the waterfront from Fanshawe Street. Public access to the Wynyard Precinct from the northern end is maintained via Jellico Street which is adjacent to the site. Hence, there is no need for another road.

### 3.0 Recommendation

That pursuant to Section 182 of the Resource Management Act 1991 the removal of Designation 1575 (Road – Beaumont Street) be **accepted** and the Auckland Unitary Plan (Operative in Part) designation overlay and text in Chapter K Designations be amended accordingly.

Prepared by :

**Sisira Jayasinghe**  
Planner, Planning Central & South

Signature:

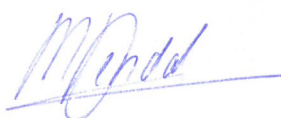


Date : 07 - 09 - 2018

Accepted by :

**Marc Dendale**  
Team Leader, Planning Central & South

Signature :



Date :

07 - 09 - 2018

### SCHEDULE OF ATTACHMENTS:

1. Auckland Transport request to the Auckland Council to amend the AUP
2. Form 23 - Copy of the notice served on the land owner, and occupiers of land which Designation 1575 relates to
3. Copy of Designation 1575 (Road – Beaumont Street)





28 August 2018

Auckland Council  
Private Bag 92300  
Auckland 1142

Attention: Paul Venter

Dear Paul,

**NOTICE TO REMOVE DESIGNATION 1575 UNDER SECTION 182(1) OF THE  
RESOURCE MANAGEMENT ACT 1991**

Please find attached a Form 23 Notice under Section 182(1) of the Resource Management Act 1991 (RMA) advising Auckland Council that Auckland Transport is removing Designation 1575 from the Auckland Unitary Plan (Operative in Part) (AUP-OP), in relation to 164-188 Beaumont Street, Auckland Central.

This removal is to support the future development of the site and is done at the request of Panuku Development Auckland Ltd who is also the landowner.

In accordance with section 182(1) of the RMA, the Form 23 notice has been sent to the landowner (Panuku Development Auckland Ltd) and occupier (Ariadne Marinas Oceania Pty Limited) directly affected by the removal of Designation 1575. Please remove Designation 1575 from the AUP-OP as soon as practicable.

Please direct all correspondence relating to this application to Jade Ansted, Planner. If you have any queries, please do not hesitate to contact Jade by phone at +64 9 447 5391 or email at [jade.ansted@at.govt.nz](mailto:jade.ansted@at.govt.nz).

Regards,

Dean Ingoe  
Planning Integration Manager, Property and Planning  
Integrated Networks Division

Enc: Form 23 Notice – Designation 1575



**Form 23**

**Notice of removal of designation**

**Section 182 of the Resource Management Act 1991**

To: Panuku Development Auckland Limited (owner); Matthew Twose, Private Bag 92300,  
Victoria Street West, Auckland 1142

And to: Ariadne Marinas Oceania Pty Limited (occupier); Craig Park, 142-160 Beaumont  
Street, Westhaven

And to: Auckland Council, Paul Venter, PO Box 92300, Auckland 1142

Auckland Transport hereby gives notice that it no longer requires the following designation:

Designation 1575, described as 'Road – Beaumont Street' for the purpose of 'Road' under  
the Auckland Unitary Plan (Operative in Part). The designation is located at 164 -188  
Beaumont Street, Auckland.

The sites are legally described as:

- Lot 2 Deposited Plan 135460
- Lot 3 Deposited Plan 135460
- Lot 4 Deposited Plan 135460

Auckland Transport requests that Auckland Council amend the Unitary Plan accordingly as  
required by section 182 of the Resource Management Act 1991.

Signature on behalf of requiring authority

  
.....  
Jane Small

Date: 24 / 08 / 2018

**Group Manager, Property and Planning**

**Auckland Transport**

Address for service of requiring authority:

Auckland Transport  
Private Bag 92250  
Auckland 1142

Telephone: DDI +64 9 447 5391, Mob +64 21 195 3212

Email: [jade.ansted@at.govt.nz](mailto:jade.ansted@at.govt.nz)

Contact person: Jade Ansted, Planner, Planning Integration Team

## 1575 Road - Beaumont Street

Designation Number	1575
Requiring Authority	Auckland Transport
Location	164-188 Beaumont Street, Auckland Central
Rollover Designation	Yes
Legacy Reference	Designation 387, Auckland Council District Plan (Central Area Section) 2005
Lapse Date	Five years from being operative in the Unitary Plan unless given effect to prior

## Purpose

Road.

## Conditions

1. If any archaeological site is exposed during site works then the following procedures shall apply:
  - a. Immediately when it becomes apparent that an archaeological site has been exposed, all site works shall cease, except that works may continue to prevent the escape of any contaminants that would result in any further pollution of the environment;
  - b. The site supervisor shall immediately secure the area in a way that ensures that any artefacts are untouched; and
  - c. The site supervisor shall notify tangata whenua, the New Zealand Historic Places Trust, the Department of Conservation and the Manager Planning of the Auckland Council that an archaeological site has been exposed, so that appropriate action can be taken. This is to ensure that such persons are given reasonable time as determined by the Council to record the archaeological features, including a photographic record, before work recommences on the site.
2. The period within which this designation shall lapse if not given effect to in accordance with section 184 of the Resource Management Act 1991 shall be 5 years from the date on which it is confirmed.

## Attachments

No attachments.

## 1575 Road – Beaumont Street

Designation Number	1575
Requiring Authority	Auckland Transport
Location	164-188 Beaumont Street, Auckland Central
Rollover Designation	Yes
Legacy Reference	Designation 387, Auckland Council District Plan (Central Area Section) 2005
Lapse Date	Five years from being operative in the Unitary Plan unless given effect to prior

## Purpose

Read.

## Conditions

- ~~1. If any archaeological site is exposed during site works then the following procedures shall apply:~~
  - ~~a. Immediately when it becomes apparent that an archaeological site has been exposed, all site works shall cease, except that works may continue to prevent the escape of any contaminants that would result in any further pollution of the environment;~~
  - ~~b. The site supervisor shall immediately secure the area in a way that ensures that any artefacts are untouched; and~~
  - ~~c. The site supervisor shall notify tangata whenua, the New Zealand Historic Places Trust, the Department of Conservation and the Manager Planning of the Auckland Council that an archaeological site has been exposed, so that appropriate action can be taken. This is to ensure that such persons are given reasonable time as determined by the Council to record the archaeological features, including a photographic record, before work recommences on the site.~~
- ~~2. The period within which this designation shall lapse if not given effect to in accordance with section 184 of the Resource Management Act 1991 shall be 5 years from the date on which it is confirmed.~~

## Attachments

~~No attachments.~~

New/Alterations & Withdrawals to Designations  
(Go Live 29th November 2018)

Amendments to Auckland Unitary Plan GIS Viewer (maps)

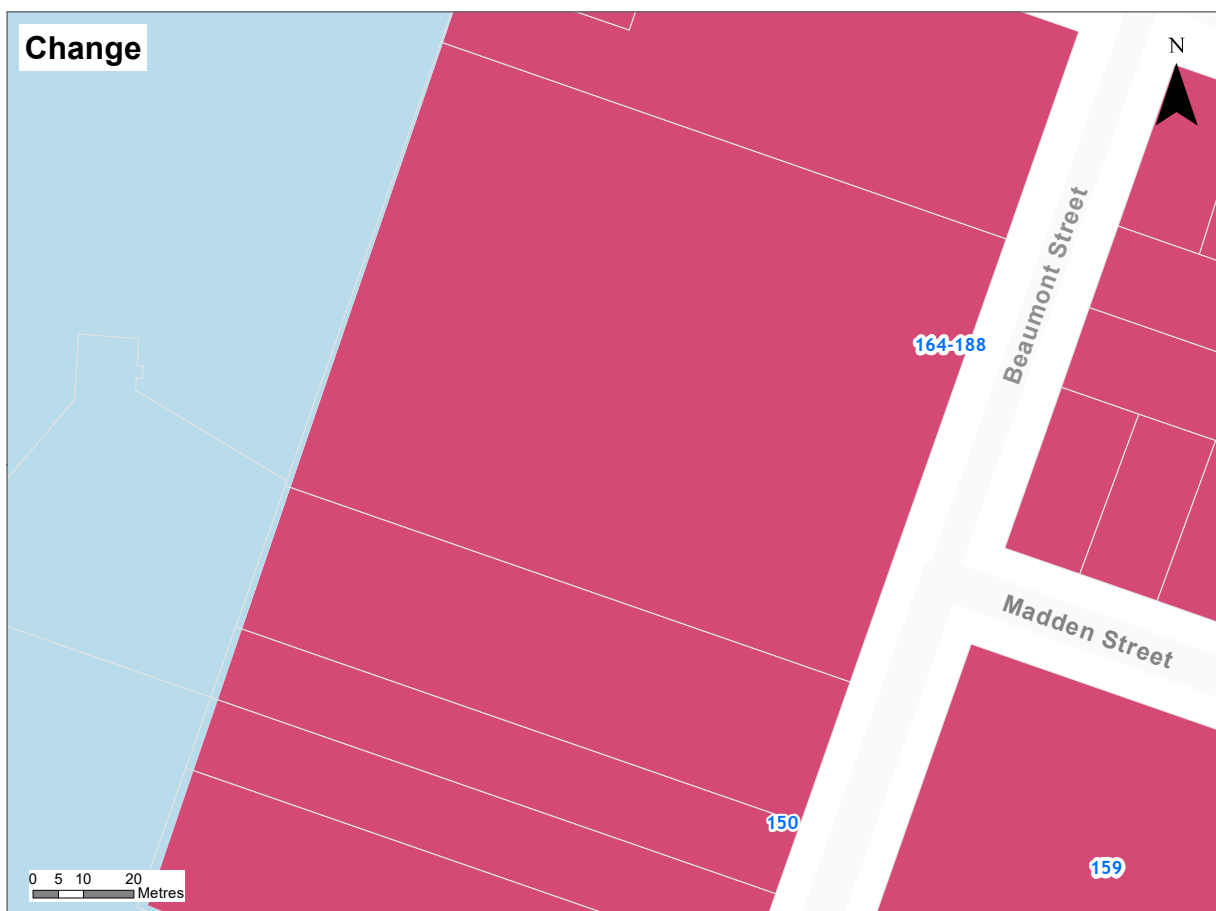
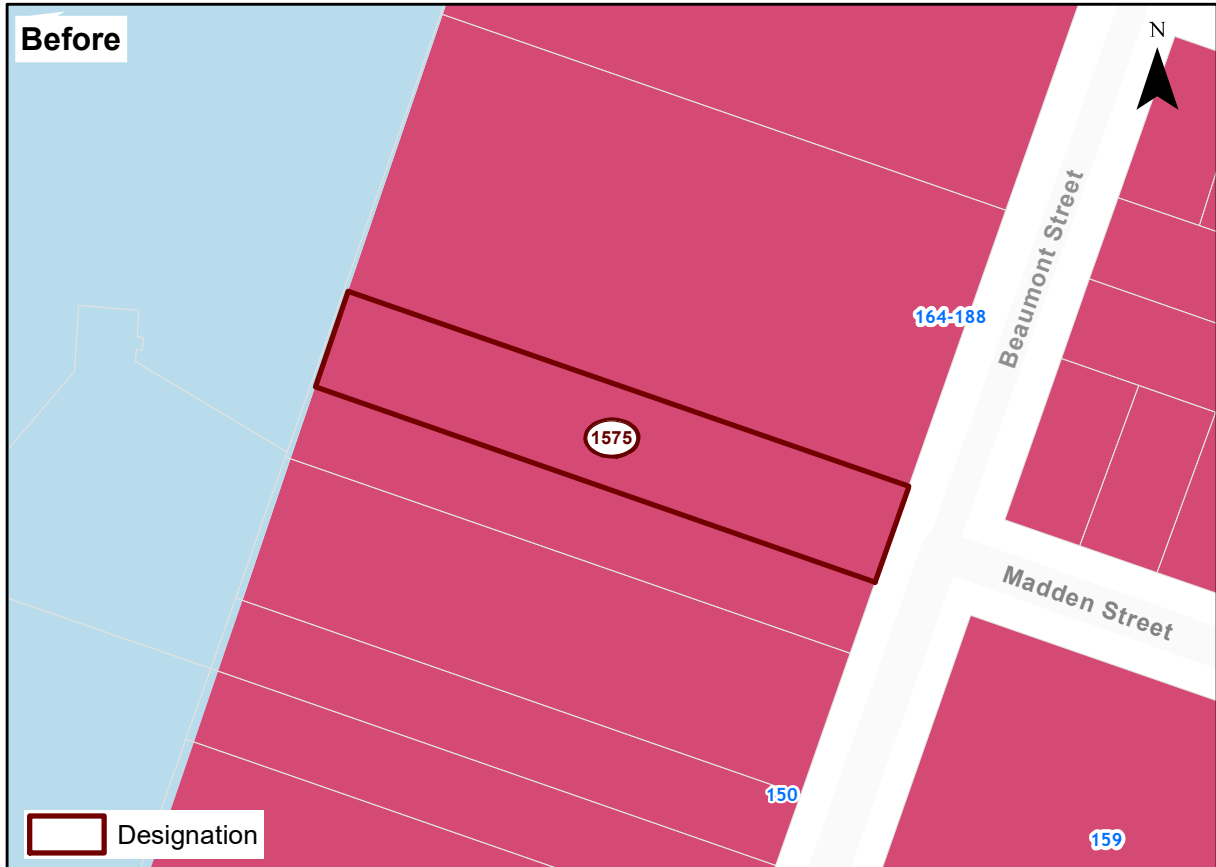
Affected map layers : Designations

Designation: 1575

Name: Road - Beaumont Street

Requiring Authority: Auckland Transport

Removal of Designation



## UNITARY PLAN UPDATE REQUEST MEMORANDUM

**TO** Phill Reid, Manager, Planning, Auckland-wide

**FROM** Sisira Jayasinghe, Planner, Planning Central & South



**DATE** 1 October 2018

**SUBJECT** Designation to be updated in the AUPOP in accordance with s182 of the Resource Management Act

This memorandum requests an update to Auckland Unitary Plan Operative in part

<b>Reason for update</b>	
<b>Chapter</b>	<b>Chapter K</b>
<b>Section</b>	Schedules and Designations
<b>Designation only</b>	
<b>Designation # 1818</b>	<b>Car Park – Kolmar Road, Auckland Transport</b>
<b>Locations:</b>	139 Kolmar Road, Papatoetoe, Auckland
<b>Lapse Date</b>	Given effect to (i.e. no lapse date)
<b>Purpose</b>	Public off-street parking, including ongoing maintenance, repairs and like for like replacement works to the existing parking facility and minor operational improvements to the same.
<b>Changes to text</b> (shown in underline and strikethrough)	Text of Designation 1818 to be deleted in its entirety.
<b>Changes to diagrams</b>	Not applicable
<b>Changes to spatial data</b>	Refer to the Team Leader approved Decision Report dated 27 September 2018
<b>Attachments</b>	<ul style="list-style-type: none"> <li>• Team Leader approved Decision Report dated 27 September 2018 (including map showing removal of Designation 1818)</li> <li>• 1818 Car Park – Kolmar Road designation text to be removed in full</li> <li>• Auckland Transport's Notice to remove Designation 1818 under s 182(1) and Form 23</li> </ul>

**Prepared by:**

Sisira Jayasinghe  
Planner, Planning Central & South



(M Dendale in Sisira Jayasinghe's absence on leave)

**Signature:**

**Text entered by:**

Bronnie Styles  
Planning Technician



**Signature:**

**Maps prepared by:**

Mitesh Bhula  
Senior Geospatial Analyst  
Aucklandwide



**Signature**

**Reviewed by:**

Sisira Jayasinghe  
Planner, Planning Central & South




(M Dendale in Sisira Jayasinghe's absence on leave)

**Signature:**

Manager

Celia Davison

Manager, Planning Central and South



**Signature:**

# Removal of a designation under section 182 of the Resource Management Act 1991



**To:** Marc Dendale, Team Leader Planning Central and South

**From:** Sisira Jayasinghe, Planner, Planning Central and South

**Date:** 27 September 2018

**Subject:**

Removal of Designation 1818 (Car Park – Kolmar Road) in the Auckland Unitary Plan (Operative in Part)

## Summary

Auckland Council has received a request from Auckland Transport under section 182 of the Resource Management Act 1991 (RMA), dated 18 September 2018, to remove in full Designation 1818 Car Park – Kolmar Road.

A section 182(1) request is required to uplift the existing designation in full from land which has been deemed surplus by Auckland Transport.

Auckland Council, as the territorial authority, is required to amend its district plan, without using the process in Schedule 1, as soon as reasonably practicable after receiving a section 182 request unless it considers that the effect of the removal of part of the designation on the remaining designation is more than minor.

It is recommended that the removal be accepted.

## Recommendation

1. That the section 182 request from Auckland Transport for the removal of Designation 1818 Car Park – Kolmar Road in the Auckland Unitary Plan (Operative in Part) be **accepted** for the following reasons:
  - Removal is to support the future development of the site and is done at the request of Panuku Development Auckland Limited who owns the land.
  - Removal of this designation will enable the future development of the site for an alternative use, as the site was found to be no longer having any strategic significance as a part of transport assets owned and operated by Auckland Transport. This was the conclusion of Auckland Transport's strategic review of its assets in 2015.
  - Panuku Development Auckland has recommended to the Finance and Performance Committee of Auckland Council the sale of the property at 139 Kolmar Road, Papatoetoe. Ōtara-Papatoetoe Local Board endorsed this proposal at its meeting on 21 November 2017 (Resolution No. OP/2017/196).



2. That Designation 1818 (Car Park – Kolmar Road) be removed, as soon as reasonably practicable, and that the Auckland Unitary Plan (Operative in Part) Designation overlay and Chapter K Designations be amended accordingly.

## 1. Description

### 1.1. References

<b>Designation number:</b>	1818 (Car Park – Kolmar Road)
<b>Lodgement date:</b>	18 September 2018
<b>Requiring authority:</b>	Auckland Transport
<b>Reporting officer:</b>	Sisira Jayasinghe, Planner, Planning Central & South
<b>Site address:</b>	139 Kolmar Road, Papatoetoe, Auckland 2025
<b>Legal Description</b>	PT LOT 2 DP 88139
<b>UP Zoning:</b>	Business – Town Centre Zone

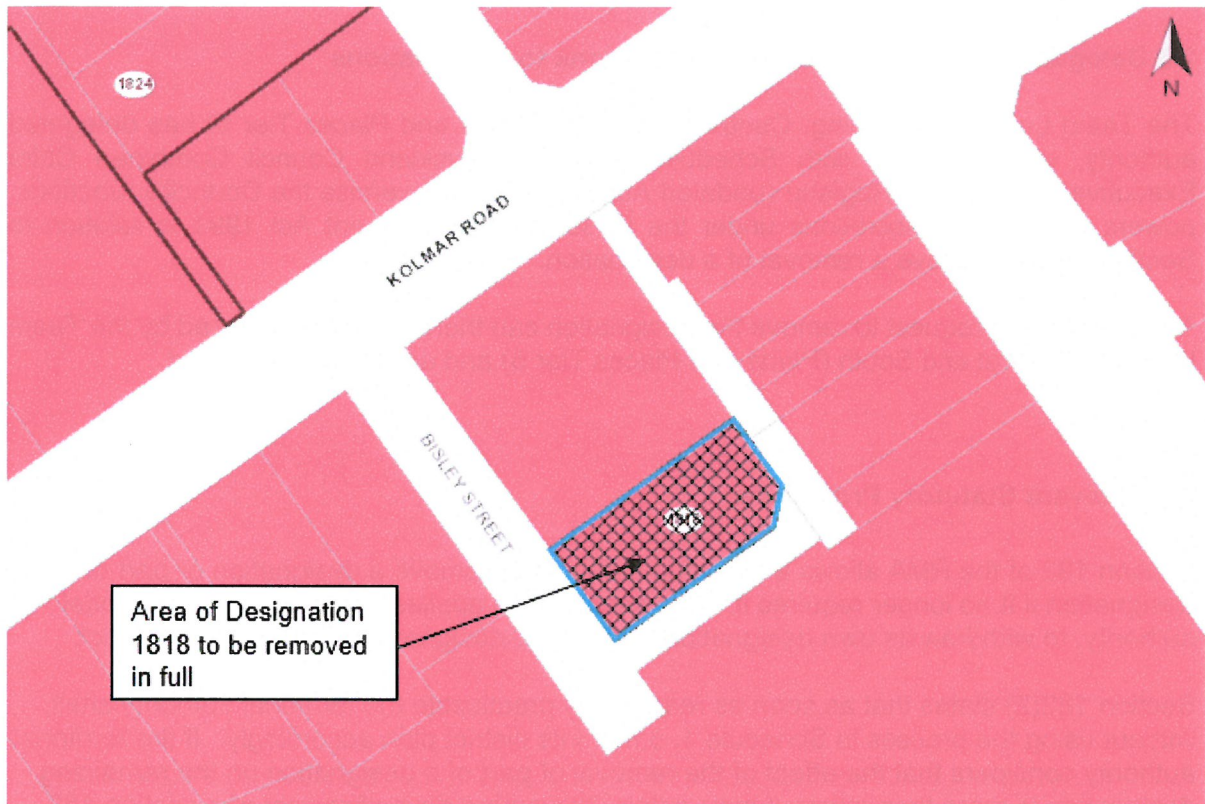
## 2.0 Background

### 2.1 Details of designation

Designation 1818 is not a Rollover Designation from the Auckland Council District Plan – Manukau Section. Lapse date is given as 'Given effect to' (i.e. no lapse date).

### 2.2 Land affected by removal

Designation 1818 to be removed is currently shown in the AUP maps as follows:



139 Kolmar Road - AT Designation 1818 (Car Park – Kolmar Road)



139 Kolmar Road - AT Designation 1818 (Car Park – Kolmar Road) – Aerial Map

### **2.3 Delegated authority to consider alterations to designations**

The Team Leader – Planning, Central and South (Plans and Places Tier 5) has delegated authority, in accordance with Schedule 2A of the Auckland Council Combined Chief Executive’s Delegation Register (updated August 2018), to exercise the Council’s functions, powers, duties and discretions under the Resource Management Act 1991 in relation to Section 182 to approve a removal of a designation.

The section 182 request to remove the designation can therefore be considered by the Team Leader – Central and South (Plans and Places Tier 5) and accepted or declined.

### **2.4 Relevant Statutory Provisions**

Section 182 of the RMA allows a requiring authority to remove a designation or part of a designation if it no longer requires it. This section also applies to a notice by a territorial authority, to withdraw its own designation or part of a designation within its own district.

Section 182(2) states that as soon as reasonably practicable the territorial authority shall, without using the process in Schedule 1, amend its district plan accordingly. If the territorial authority considers that the effect of the removal of part of a designation on the remaining designation is more than minor, it may, within 20 working days of receipt of a section 182 notice, decline to remove that part of the designation.

It is considered that Auckland Transport has provided sufficient justification for the removal of Designation 1818 (Car Park – Kolmar Road), namely that:

- Removal is to support the future development of the site and is done at the request of Panuku Development Auckland Limited who owns the land.
- Removal of this designation will enable the future development of the site for an alternative use, as the site was found to be no longer having any strategic significance as a part of transport assets owned and operated by Auckland Transport. (This was the conclusion of Auckland Transport’s strategic review of its assets in 2015).
- Panuku Development Auckland Limited has recommended to the Finance and Performance Committee of Auckland Council the sale of the property at 139 Kolmar Road, Papatoetoe. Ōtara-Papatoetoe Local Board endorsed this proposal at its meeting on 21 November 2017 (Resolution No. OP/2017/196).

### 3.0 Recommendation

That pursuant to Section 182 of the Resource Management Act 1991 the removal of Designation 1818 (Car Park – Kolmar Road) be **accepted** and the Auckland Unitary Plan (Operative in Part) designation overlay and text in Chapter K Designations be amended accordingly.

Prepared by :

Accepted by :

Sisira Jayasinghe  
Planner, Planning Central & South

Marc Dendale  
Team Leader, Planning Central & South

Signature:



Signature :



Date : 27 - 09 - 2018

Date : 27.09.2018

#### SCHEDULE OF ATTACHMENTS:

1. Auckland Transport request to the Auckland Council to amend the AUP
2. Form 23 - Copy of the notice served on the owner of land which Designation 1818 relates to
3. Copy of Designation 1818 (Car Park – Kolmar Road)



18 September 2018

Auckland Council  
Private Bag 92300  
Auckland 1142

Attention: Paul Venter

Dear Paul,

**NOTICE TO REMOVE DESIGNATION 1818 UNDER SECTION 182(1) OF THE  
RESOURCE MANAGEMENT ACT 1991**

Please find attached a Form 23 Notice under Section 182(1) of the Resource Management Act 1991 (RMA) advising Auckland Council that Auckland Transport is removing Designation 1818 from the Auckland Unitary Plan (Operative in Part) (AUP-OP), in relation to 139 Kolmar Road, Papatoetoe.

This removal is to support the future development of the site and is done at the request of Panuku Development Auckland Ltd who is also the landowner.

In accordance with section 182(1) of the RMA, the Form 23 notice has been sent to the landowner (Panuku Development Auckland Ltd) directly affected by the removal of Designation 1818. Please remove Designation 1818 from the AUP-OP as soon as practicable.

Please direct all correspondence relating to this application to Jade Ansted, Planner. If you have any queries, please do not hesitate to contact Jade by phone at +64 9 447 5391 or email at [jade.ansted@at.govt.nz](mailto:jade.ansted@at.govt.nz).

Regards,

Dean Ingoe  
Planning Integration Manager, Property and Planning  
Integrated Networks Division

Enc: Form 23 Notice – Designation 1818



**Form 23**

**Notice of removal of designation**

**Section 182 of the Resource Management Act 1991**

To: Panuku Development Auckland Limited (owner); Carl May, Private Bag 92300, Victoria Street West, Auckland 1142

And to: Auckland Council, Paul Venter, PO Box 92300, Auckland 1142

Auckland Transport hereby gives notice that it no longer requires the following designation:

Designation 1818, described as 'Car Park – Kolmar Road' for the purpose of 'Public off-street parking, including ongoing maintenance, repairs and like for like replacement works to the existing parking facility and minor operational improvements to the same' under the Auckland Unitary Plan (Operative in Part). The designation is located at 139 Kolmar Road, Papatoetoe.

The sites are legally described as:

- Lot 2 DP 88139 held in CFR NA45C/983 (part cancelled)

Auckland Transport requests that the unitary authority amend the unitary plan accordingly as required by section 182 of the Resource Management Act 1991.

Signature on behalf of requiring authority

  
.....

Date: 18/09/2018

Dean Ingoe

**Acting Group Manager, Property and Planning**

**Auckland Transport**

Address for service of requiring authority:

Auckland Transport  
Private Bag 92250  
Auckland 1142

Telephone: DDI +64 9 447 5391, Mob +64 21 195 3212  
Email: [jade.ansted@at.govt.nz](mailto:jade.ansted@at.govt.nz)

Contact person: Jade Ansted, Planner, Planning Integration Team

## 1818 Car Park - Kolmar Road

Designation Number	1818
Requiring Authority	Auckland Transport
Location	139 Kolmar Road, Papatoetoe
Rollover Designation	No
Legacy Reference	N/A
Lapse Date	Given effect to (i.e. no lapse date)

## Purpose

Public off-street parking, including ongoing maintenance, repairs and like for like replacement works to the existing parking facility and minor operational improvements to the same.

### Works exempt from providing an Outline Plan of Works

Auckland Transport shall be exempt from providing an Outline Plan of Works for the following works, subject to the conditions of this designation.

1. Maintenance, repairs and like for like replacement including the following elements:
  - a. Vehicle access related assets and facilities (including but not limited to markings, ramps, speed humps, kerbs, berms, bollards, barriers, traffic separators and islands);
  - b. Communications, water supply and energy supply infrastructure;
  - c. Stormwater drainage and other surface water management infrastructure;
  - d. Earthworks;
  - e. Pruning and removal of all non-scheduled vegetation within the site; and
  - f. Temporary traffic management necessary to implement works.
  
2. Minor operational improvements including those involving the installation of new 'parking infrastructure' including the following elements:
  - a. Changes to the parking layout, including the location and configuration of parking bays, access and circulation areas within the designated site, provided that the total number of public parking bays is not increased;
  - b. Resurfacing of floors, at-grade, and metalled parking surfaces;
  - c. Re-marking of parking bays, access ways, and other painted markings on the parking surfaces;
  - d. Bicycle stands, racks, cages and other forms of bicycle storage;
  - e. Pay and display machines, kiosks, and other types of ticket dispensers and ticket booths;
  - f. Customer service booths;
  - g. Barrier arms;
  - h. Parking sensors;
  - i. Signage relating to parking information, management and enforcement;
  - j. Lighting;
  - k. CCTV cameras; and
  - l. Toilet facilities.
  
3. Any changes to the mix of the function of the parking (short / long term);
  
4. Maintenance, repairs and like for like replacement of all vehicle access related assets and facilities within the designated site (including but not limited to markings, ramps, speed humps, kerbs, berms,



bollards, barriers, traffic separators and islands);

5. Maintenance, repairs and like for like replacement of all stormwater drainage and other surface water management infrastructure within the site, including any treatment devices utilising planting;

6. Installation of new stormwater management infrastructure (including treatment devices) to avoid, remedy or mitigate localised flooding or surface water problems on the site;

7. Maintenance, pruning and removal of all non-scheduled vegetation within the site;

8. In the case of parking buildings and structures, maintenance, repairs and like for like replacement of parts of the building / structure (including but not limited to a building's interior and exterior cladding, cavities, roofs, doors, windows, lifts, stairwells and lighting, electrical and electronic systems);

9. Maintenance and replacement of communications, water supply and energy supply infrastructure necessary to support the above;

10. Earthworks to implement any of the above; and

11. Temporary traffic management necessary to implement any of the above.

12. For the avoidance of doubt, in the case of mixed use buildings, the specified works provided for by the designation only applies to the proportion of the building/structure dedicated to non ancillary public parking.

#### **Works requiring an Outline Plan of Works**

Auckland Transport shall prepare an Outline Plan of Works for any increase in the total number of public parking bays within the designated site, provided that this does not involve any new or extended parking structure or building.

For the avoidance of doubt, any new or extended parking structure or building falls outside the scope of this designation.

## **Conditions**

#### **Construction Hours**

1. Construction (including all works) shall be limited to the following hours, with the exception of emergency works pursuant to Sections 330 and 330B of the RMA:

Weekdays 7am - 10pm;

Saturdays 8am - 5pm;

Sundays & Public Holidays No work

#### **Construction Noise Limits and Mitigation**

2. Any construction works and related activities on the site shall be conducted so as to ensure that the resultant noise, as measured in accordance with the requirements of NZS 6803:1999 Acoustics – Construction Noise, meets the following noise limits all days of the year.

Day	Time Period	Duration of Work	
		Short term duration (less than 15 consecutive calendar days)	Long term duration
		Leq (dBA) (30 min)	Leq (dBA)

Weekdays	7am – 10pm	80	70
Saturdays	8am – 5pm	75	70

During construction, the principles for managing construction noise set out within New Zealand Standard 6803: 1999, Acoustics – Construction Noise shall be formally adopted.

### Construction Vibrations

3. Any vibrations from construction activities shall comply with the following:

- i. Blasting and pile driving activities must be controlled to ensure any resulting ground vibration does not exceed the limits set out in Table 1 of DIN 41503 (1999): Structural vibration – Part 3 Effects of vibration on structures when measure on the foundation or the horizontal plane of the highest floor of an affected building.
- ii. Stationary vibrating, reciprocating and rotating machinery and all piping, ducting and other equipment attached to such machinery must be installed and maintained so that any resulting vibration does not exceed the limits of the following table when measured in adjacent buildings or areas of buildings under different ownership from the source of the vibration:

Affected occupied building or area	Time of day	Maximum vibration level in rms velocity (mm/s) between 8 and 80Hz
Buildings in a heavy industry or light industry zone	All	0.80
Buildings for commercial activities	All	0.40
Habitable rooms of buildings designed for residential use	7am-10pm	0.20
Sleeping areas of buildings designed for residential use	10pm-7am	0.14
Surgery rooms of health care facilities	All	0.10

### Sediment Control during Earthworks

4. Any stormwater runoff arising from earthworks shall be contained and treated via an appropriate sediment control device to avoid additional sedimentation load being discharged into the public stormwater system. The location and specification of the erosion and sediment control device(s) shall be in accordance with Auckland Council Technical Publication 90 *Erosion and Sediment Control Guideline for Land Disturbing Activities in the Auckland Region* or similar design.

### Tree Protection Measures

5. Any trees on site shall be retained wherever possible. Prior to any site works, temporary tree protective fencing shall be erected around the base of trees to be retained. The temporary tree protection fences can be constructed using orange plastic mesh (or equivalent), but this must be supported by waratahs (or equivalent) placed firmly into the ground. The waratahs will have two stands of wire attached to them (top and bottom) and the orange plastic mesh must be fastened to the wires at 1 metre intervals (top and bottom). Any sediment control measures can be fixed to the lower of the temporary tree protection fence, but must be otherwise be installed to the manufacturer's standards. No works, storage of materials, cement/concrete washings and leaching of chemicals, tracking of any machinery, stockpiling of spoil, trenching or alteration of soil grade, or other

contamination shall occur within those areas demarcated by a temporary protective fence. All temporary protective fences shall remain in place throughout the duration of the construction works.

#### **Complaints Management**

6. A complaints management system shall be developed and implemented for construction works on the site. It must specify the responsible persons for maintaining the complaints register, procedures to be followed in investigating and resolving complaints and procedures for reporting complaints to Auckland Transport and Auckland Council.

#### **Complaints Received: Construction Noise or Vibration**

7. If any complaints are received regarding construction noise and/or vibration, monitoring and reporting shall be undertaken as required by Auckland Council to establish whether the activities are complying with the above requirements, and what action is required to ensure compliance.

#### **Prior notice of construction activities**

8. Neighbouring properties in the immediate vicinity of construction areas shall be given prior notice in writing of the commencement of construction activities no less than 5 working days before, and shall be informed about the expected duration of the works.

#### **Network Utilities**

9. The Requiring authority shall adopt best practice techniques for construction to ensure that all Network Utility Operators' infrastructure located on the site is protected and that public safety is ensured. The Requiring authority shall advise all Network Utility Operators at least 10 working days prior to the commencement of any work potentially affecting Network Utility Operators' infrastructure.

#### **Archaeological and Heritage**

10. Subject to condition 11, if any archaeological sites, including human remains are exposed during site works, then the following procedures shall apply:

- i. Immediately after it becomes apparent that an archaeological or traditional site has been exposed, all site works in the immediate vicinity shall cease; and
- ii. The Requiring authority shall immediately secure the area so that any artefacts or remains are untouched; and
- iii. The Requiring authority shall notify tangata whenua, the Heritage New Zealand and Auckland Council (and in the case of human remains, the New Zealand Police) as soon as practicable that an archaeological site has been exposed so that appropriate action can be taken. Works shall not commence in the immediate vicinity of the archaeological site until any approval required from the Heritage New Zealand is obtained.

11. Condition 10 shall not apply where the Requiring authority holds all relevant approvals under the Historical Places Act 1993, apart from the requirement to contact the New Zealand Police in the event of discovery of human remains.

#### **Damage to Adjacent Properties**

12. The Requiring authority and its contractors shall, in addition to complying with all other construction related conditions, take all reasonable steps to prevent or mitigate any nuisance or damage to adjacent properties during construction. The Requiring authority will reinstate any property damaged during construction, including any instability or collapse of land or boundary treatments, or provide compensation to the affected owner if reinstatement is not possible.

#### **As-Built Plans**

13. The Requiring authority shall provide one set in hard copy and one set in electronic data file (via

CD or email) of as-built plans for the Council's property files. The as-built plans shall be prepared in accordance with the requirements of the Auckland Council Development Code, detailing all engineering works completed.

#### **Access**

14. That at all times reasonable physical access be maintained to other properties.

15. Auckland Transport is deemed to have given its written approval (as requiring authority) under sections 176 or 178 of the RMA to enable Vector Limited (Vector), or any other party authorised by Vector, to undertake an activity for the purposes of operating, maintaining or upgrading Vector's existing infrastructure on land in which Vector has a property interest, whether or not that is authorised by an existing Vector designation, where such works are provided for under the Electricity Act 1992 or an existing easement, and provided that Vector, or any other party authorised by Vector will:

- Give Auckland Transport 10 days' written notice of its intention to undertake such works, except for emergency works (as defined in the National Code of Practice for Utility Operators' Access to Transport Corridors 2011 (or any replacement of the Code) when prior notice is not required. In the case of emergency works, notice of the works must be given to Auckland Transport as soon is as reasonably practicable before, or after the works are completed;
- Meet any necessary health and safety requirements;
- Undertake, to the extent reasonably practicable, the works in a way to avoid or minimise effects on the operation of the carpark; and
- Remedy at Vector's cost any physical damage Vector causes to the car park facility as soon as reasonably practicable after completion of the works.

Advice Note: Vector has acknowledged that Auckland Transport takes no responsibility for any damage resulting from the Vector works approved pursuant to this condition. For the avoidance of doubt, Auckland Transport is not giving requiring authority approval for any works beyond the scope of any existing property right, designation, or rights under the Electricity Act 1992.

#### **Attachments**

No attachments.



## 1818 Car Park – Kolmar Road

Designation Number	1818
Requiring Authority	Auckland Transport
Location	139 Kolmar Road, Papatoetoe
Rollover Designation	No
Legacy Reference	N/A
Lapse Date	Given effect to (i.e. no lapse date)

## Purpose

Public off-street parking, including ongoing maintenance, repairs and like for like replacement works to the existing parking facility and minor operational improvements to the same.

### **Works exempt from providing an Outline Plan of Works**

Auckland Transport shall be exempt from providing an Outline Plan of Works for the following works, subject to the conditions of this designation.

1. Maintenance, repairs and like for like replacement including the following elements:
  - a. Vehicle access related assets and facilities (including but not limited to markings, ramps, speed humps, kerbs, berms, bollards, barriers, traffic separators and islands);
  - b. Communications, water supply and energy supply infrastructure;
  - c. Stormwater drainage and other surface water management infrastructure;
  - d. Earthworks;
  - e. Pruning and removal of all non-scheduled vegetation within the site; and
  - f. Temporary traffic management necessary to implement works.
  
2. Minor operational improvements including those involving the installation of new 'parking infrastructure' including the following elements:
  - a. Changes to the parking layout, including the location and configuration of parking bays, access and circulation areas within the designated site, provided that the total number of public parking bays is not increased;
  - b. Resurfacing of floors, at-grade, and metalled parking surfaces;
  - c. Re-marking of parking bays, access ways, and other painted markings on the parking surfaces;
  - d. Bicycle stands, racks, cages and other forms of bicycle storage;
  - e. Pay and display machines, kiosks, and other types of ticket dispensers and ticket booths;
  - f. Customer service booths;
  - g. Barrier arms;
  - h. Parking sensors;
  - i. Signage relating to parking information, management and enforcement;
  - j. Lighting;
  - k. CCTV cameras; and
  - l. Toilet facilities.
  
3. Any changes to the mix of the function of the parking (short / long term);
  
4. Maintenance, repairs and like for like replacement of all vehicle access related assets and facilities within the designated site (including but not limited to markings, ramps, speed humps, kerbs, berms,

bollards, barriers, traffic separators and islands);

5. Maintenance, repairs and like for like replacement of all stormwater drainage and other surface water management infrastructure within the site, including any treatment devices utilising planting;

6. Installation of new stormwater management infrastructure (including treatment devices) to avoid, remedy or mitigate localised flooding or surface water problems on the site;

7. Maintenance, pruning and removal of all non-scheduled vegetation within the site;

8. In the case of parking buildings and structures, maintenance, repairs and like for like replacement of parts of the building / structure (including but not limited to a building's interior and exterior cladding, cavities, roofs, doors, windows, lifts, stairwells and lighting, electrical and electronic systems);

9. Maintenance and replacement of communications, water supply and energy supply infrastructure necessary to support the above;

10. Earthworks to implement any of the above; and

11. Temporary traffic management necessary to implement any of the above.

12. For the avoidance of doubt, in the case of mixed use buildings, the specified works provided for by the designation only applies to the proportion of the building/structure dedicated to non ancillary public parking.

### **Works requiring an Outline Plan of Works**

Auckland Transport shall prepare an Outline Plan of Works for any increase in the total number of public parking bays within the designated site, provided that this does not involve any new or extended parking structure or building.

For the avoidance of doubt, any new or extended parking structure or building falls outside the scope of this designation.

## **Conditions**

### **Construction Hours**

1. Construction (including all works) shall be limited to the following hours, with the exception of emergency works pursuant to Sections 330 and 330B of the RMA:

Weekdays 7am – 10pm;

Saturdays 8am – 5pm;

Sundays & Public Holidays No work

### **Construction Noise Limits and Mitigation**

2. Any construction works and related activities on the site shall be conducted so as to ensure that the resultant noise, as measured in accordance with the requirements of NZS 6803:1999 Acoustics – Construction Noise, meets the following noise limits all days of the year.

Day	Time Period	Duration of Work	
		Short term duration (less than 15 consecutive calendar days)	Long term duration
		Leq (dBA) (30 min)	Leq (dBA)

Weekdays	7am — 10pm	80	70
Saturdays	8am — 5pm	75	70

During construction, the principles for managing construction noise set out within New Zealand Standard 6803: 1999, Acoustics—Construction Noise shall be formally adopted.

### Construction Vibrations

3. Any vibrations from construction activities shall comply with the following:

- i. Blasting and pile driving activities must be controlled to ensure any resulting ground vibration does not exceed the limits set out in Table 1 of DIN 41503 (1999): Structural vibration — Part 3 Effects of vibration on structures when measure on the foundation or the horizontal plane of the highest floor of an affected building.
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### **Attachments**

No attachments.

New/Alterations & Withdrawals to Designations  
(Go Live 29th November 2018)

Amendments to Auckland Unitary Plan GIS Viewer (maps)

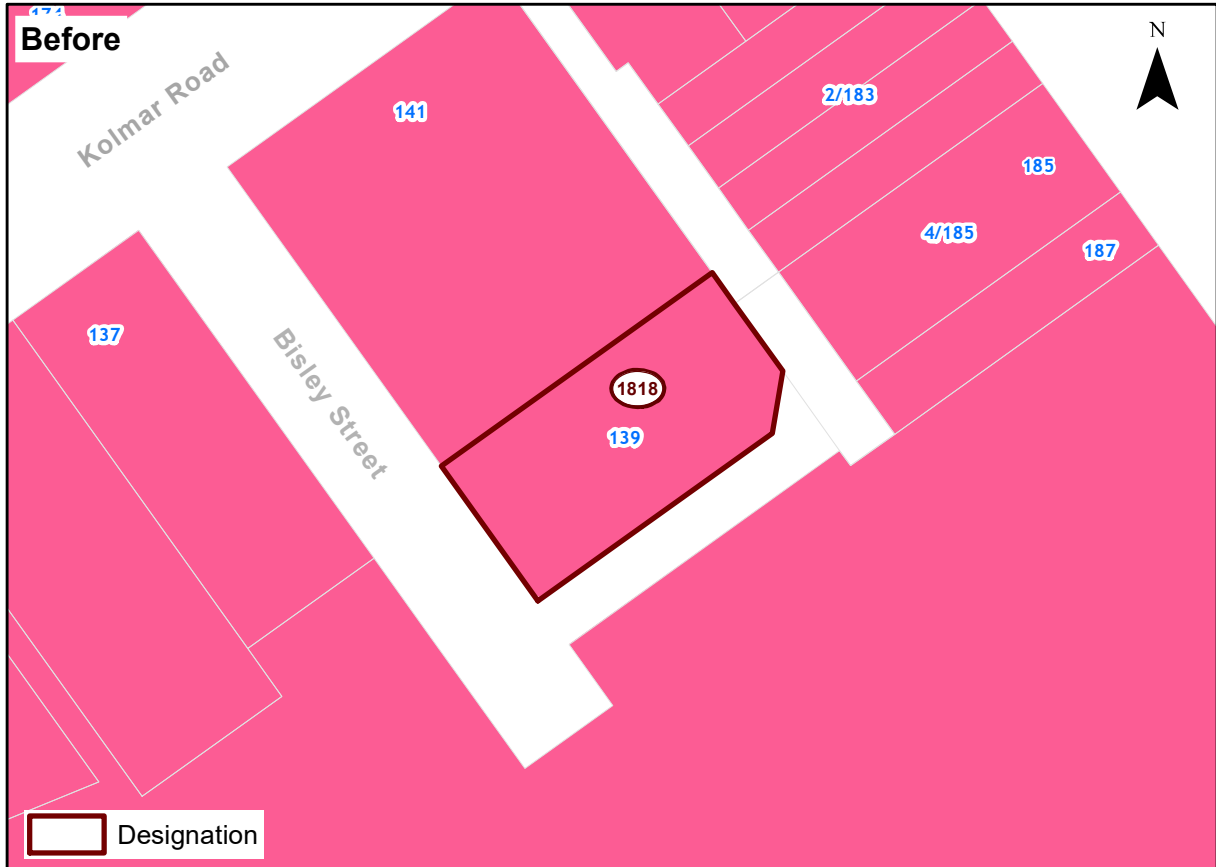
Affected map layers : Designations

Designation: 1818

Name: Kolmar Road Car Park (Bisley St)

Requiring Authority: Auckland Transport

Removal of Designation



**UNITARY PLAN UPDATE REQUEST MEMORANDUM**

**TO** Celia Davison

**FROM** Sanjay Bangs

**DATE** 09/10/2018

**SUBJECT**



This memorandum requests an update to Auckland Unitary Plan Operative in part.

<b>Reasons for update:</b>	
<ul style="list-style-type: none"> <li>A board of inquiry has decided to confirm a requirement with modifications under section 149R (s175(1)(b) of the RMA)</li> <li>A decision has been made to confirm a requirement for a minor alteration to a designation under Section 181(3) of the RMA</li> </ul>	
<b>Chapter</b>	Chapter K Designations
<b>Section</b>	Schedules and Designations – New Zealand Transport Agency
<b>Designation only</b>	
<b>Designation #6718</b>	<b>State Highway 1 - Auckland Harbour Bridge to Otahuhu – NZ Transport Agency</b>
<b>Location:</b>	State Highway 1 from (1) Auckland Harbour Bridge, Westhaven to Fanshawe Street, Freemans Bay and from (2) Grafton Road, Grafton to Tamaki River, Otahuhu, and State Highway 16 from (3) Newton Road, Eden Terrace to Whau River bridge, Avondale and State Highway 20 from (4) Hillsborough Road, Hillsborough to Manukau Harbour
<b>Lapse Date</b>	15 years after the date on which it is included in the AUP.
<b>Type of Designation</b>	Existing
<b>Purpose</b>	Motorway.
<b>Changes to text</b> (shown in underline and strikethrough)	<p>This update incorporates amendments to conditions arising from the following alterations to Designation 6718:</p> <ul style="list-style-type: none"> <li>Board of Inquiry decision for the East West Link – Notice of Requirement 2 (confirmed 23 January 2018);</li> <li>Minor alteration to remove Conditions 1 – 75 from the designation (confirmed 2 October 2018)</li> </ul> <p>Refer to <b>Attachment 2</b> for combined tracked changes version of Designation 6718 conditions.</p>
<b>Changes to diagrams</b>	<p>Delete Figure 1 in Designation 6718, as shown in Attachment 2.</p> <p>Add diagram (<b>Attachment 3</b>) as Figure 1 to show the spatial extent of the East West Link – Notice of Requirement 2 conditions.</p>

<p><b>Changes to spatial data</b></p>	<p>Amend the Unitary Plan map viewer to:</p> <ul style="list-style-type: none"> <li>• Amend Designation 6718 <u>Unitary Plan Management Layers - Designations</u> to include the additions shown in the Plan Modifications layer;</li> <li>• Amend the <u>Unitary Plan Appeals and Plan Modifications – Properties affected by Appeals</u> layer to include the additions shown in the Plan Modifications layer. Include the description: <p style="text-align: center;"><i>Seeking changes to zones or management layers, East West Link - Multi Appeals, Designations, <a href="#">View PDF</a>*</i></p> <p style="text-align: center;"><i>Note: PDF link to <a href="https://www.epa.govt.nz/public-consultations/decided/east-west-link/">https://www.epa.govt.nz/public-consultations/decided/east-west-link/</a></i></p> </li> <li>• Amend the <u>Unitary Plan Appeals and Plan Modifications – Modifications – Notices of Requirements</u> layer to remove the data identified as 'Notice of Requirements, EPA, Alteration to SH1 Designation 6718, Designations, View PDF, Decision, 23/01/2018'.</li> </ul> <p><b>Refer to Attachment 4</b></p>
<p><b>Attachments</b></p>	<p><b>Attachment 1:</b> Decisions on the following notices of requirement to alter Designation 6718:</p> <ul style="list-style-type: none"> <li>• Board of Inquiry decision for the East West Link – Notice of Requirement 2 (confirmed 23 January 2018)</li> <li>• Minor alteration to remove Conditions 1 – 75 from the designation (confirmed 2 October 2018)</li> </ul> <p><b>Attachment 2:</b> Combined tracked changes to Designation 6718 conditions</p> <p><b>Attachment 3:</b> Diagram to be included as Figure 1 in designation 6718</p> <p><b>Attachment 4:</b> Changes to spatial data</p>

**Prepared by:**

Sanjay Bangs  
Planner, Planning Central and South

**Signature:**



**Text entered by:**

Teuila Young  
Planning Technician

**Signature:**



**Maps prepared by:**

Mitesh Bhula  
Senior Geospatial Analyst  
Aucklandwide

**Signature:**



**Reviewed by:**

Sanjay Bangs  
Planner, Planning Central and South

**Signature:**



**Manager**

Celia Davison  
Manager Planning - Central and South

**Signature:**



**Team Leader**

Trevor Watson  
Team Leader Planning Central and South

**Signature: 21/11/18**



BOARD OF INQUIRY

East West Link  
Proposal

# Final Report and Decision

of the Board of Inquiry into the

# East West Link Proposal

Volume 1 of 3 - Report and Decision





**BEFORE THE BOARD OF INQUIRY CONCERNING NOTICES OF  
REQUIREMENT AND APPLICATIONS FOR RESOURCE CONSENT  
REGARDING THE EAST WEST LINK PROPOSAL**

**IN THE MATTER**

of the Resource Management Act 1991 (RMA)

**AND**

**IN THE MATTER**

of a Board of Inquiry appointed under s149J of the  
RMA to consider notices of requirement and  
applications for resource consent made by the New  
Zealand Transport Agency in relation to the East  
West Link roading proposal in Auckland

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**FINAL DECISION AND REPORT OF THE BOARD OF INQUIRY**

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**Hearing:** Held in Auckland from 27 June 2017 to 15 September 2017

**Board:** Dr John Priestley CNZM, QC (Chairperson)  
Alan Bickers MNZM, JP (Deputy Chairperson)  
Michael Parsonson (Board Member)  
Sheena Tepania (Board Member)

**Counsel:** P Mulligan, V Evitt, M Gribben and K Wilson for NZTA  
G Lanning and W Bell for Auckland Council  
N Garvan for Auckland Transport  
R Devine, C Sinnott and A Gilbert for Mercury  
H Andrews and S Berry for Heliport  
G Hewison and J Burns for TOES and Others  
G Hewison for Jackson Electrical Industries Ltd and The Local Lockup Limited / Scott Palmer  
D Sadlier for Sanford  
B Carruthers and S Pilkinton for T&G Global, Fonterra, POAL, KiwiRail and Spark  
B Matheson for Jaafar and Mount Wellington Highway Limited  
R Enright for Ngāti Whātua Ōrākei and Te Kawerau ā Maki Iwi Tribal Authority  
J Gardner-Hopkins for Transpower  
B Tree for Stratex  
A Arthur-Young and A Cameron for KiwiRail  
K Littlejohn for TR Group and Dilworth Trust Board  
D Allan for Kiwi and Syl Park  
M Williams for EnviroWaste  
R Bartlett QC and A Thorn for Ward Demolition  
A Warren for Ngāti Maru and Others  
P Anderson for Forest and Bird

**Representatives:** G Turner, National Road Carriers Inc.  
A Kinzett, OBA  
K Rich, for herself and Onehunga Mall Cul-de-Sac Residents  
C Pitches, Campaign for Better Transport

**Other appearances:** [Appendix 1: List of Appearances at the Hearing].

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# GLOSSARY OF TERMS

<b>Abbreviation</b>	<b>Description</b>
42A Report	S104D Gateway Test and Related Matters
ACRP:C	Auckland Council Regional Plan: Coastal
AEE	Assessment of Effects on the Environment
AMETI	Auckland Manukau Eastern Transport Initiative
AOS Report	Analysis of Submissions Report
Applicant / NZTA / Requiring Authority	New Zealand Transport Agency
ARI	Average Recurrence Interval
ARP:C	Auckland Regional Plan: Coastal
Auckland Plan	Auckland Plan (2012) prepared by Auckland Council
AUP:OP	Auckland Unitary Plan: Operative in Part
AUP:OP <sup>DP</sup>	Auckland Unitary Plan: Operative in Part – District Plan Chapter
AUP:OP <sup>RCP</sup>	Auckland Unitary Plan: Operative in Part – Regional Coastal Plan Chapter
AUP:OP <sup>RP</sup>	Auckland Unitary Plan: Operative in Part – Regional Plan
AUP:OP <sup>RPS</sup>	Auckland Unitary Plan: Operative in Part – Regional Policy Statement Chapter
Board	Board of Inquiry
CBD	Central Business District
CEMP	Construction Environmental Management Plan
CESCP	Construction Erosion and Sediment Control Plan
CIA	Cultural Impact Assessment
CLMP	Contaminated Land Management Plan
CMA	Coastal Marine Area
CNVMP	Construction Noise and Vibration Management Plan
CTMP	Construction Traffic Management Plan
CVR	Cultural Values Report
ECOMP	Ecological Management Plan
EnviroWaste	EnviroWaste Services Limited trading as ChemWaste
EPA	Environmental Protection Authority
ESCP	Erosion and Sediment Control Management Plan
Fonterra	Fonterra Brands (New Zealand) Limited
GDP	Gross Domestic Product
HGMP Act	Hauraki Gulf Marine Park Act 2000
Heliport	Auckland Heliport Limited Partnership

Hirepool site	1-7 Sylvia Park Road
HNZPTA	Heritage New Zealand Pouhere Taonga Act 2014
HNZPT	Heritage New Zealand Pouhere Taonga
Ibid	Reference for a source that was cited in the preceding note
Inlet	Māngere Inlet
Inter alia	Among other things
Jaafar	Jaafar Holdings Limited and Mount Wellington Highway Limited
Jafaar site	430 Mt Wellington Highway
Jackson Electrical	Jackson Electrical Industries Limited
JWS Reports	Joint Witness Statement Reports
Key Issues Report	Section 149G(3) RMA “key issues” report prepared by Auckland Council
Kiwi	Kiwi Property Group & Sylvia Park Business Centre Limited
KiwiRail	KiwiRail Holdings Limited
Local Lockup	The Local Lockup Limited / Scott Palmer
LTMA	Land Transport Management Act 2003
MACA	Marine and Coastal Area (Takutai Moana) Act 2011
Makaurau Marae	Makaurau Marae Māori Trust
Mana Whenua Group	For the purpose of this report defined as the iwi and hapū engaged with NZTA to provide input into the Proposal (Ngāi Tai Ki Tāmaki, Ngāti Maru, Ngāti Paoa, Ngāti Tamaoho, Ngāti Te Ata Waioha, Ngāti Whātua Ōrākei, te Ahiwaru, Te Ākitai Waiohua, Te Kawerau ā Maki and Te Rūnanga o Ngāti Whātua).
Mana Whenua Tribes	Defined as the five Tribes party to the Mana Whenua Tribes Agreement (Te Ākitai Waiohua, Ngāti Tamaoho, Ngāti Maru, Te Rūnanga o Ngāti Whātua and Ngāi Tai ki Tāmaki).
Mana Whenua Tribes Agreement	An agreement between NZTA and the Mana Whenua Tribes
MCA	Multi Criteria Analysis (NZTA project term for option evaluation)
Mercury	Mercury NZ Limited
MHWS	Mean High Water Springs
Ministers	The Minister for the Environment and the Minister of Conservation
MRT	Mass Rapid Transport
MVA	Māori Values Assessments
NES – Electricity	National Environmental Standard for Electricity Transmission Activities 2009
NES – Air Quality	National Environmental Standards for Air Quality
NES – Drinking Water	National Environmental Standard for Sources of Human Drinking Water
NES – Electricity Transmission	National Environmental Standards for Electricity Transmission Activities



NES – Soil Contamination	National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
Ngā Rango e Rua o Tainui and Ngarango Otainui Island	Nga Rango Erua o Tainui (also known as Ngarango e rua o Tainui incorrectly described in the Cultural Values Report as Ngā Rano e Rua o Tainui).
Ngāti Maru	Ngāti Maru Runanga
NoR	Notice of Requirement
NPS	National Policy Statement
NPS – Electricity Transmission	National Policy Statement on Electricity Transmission 2008
NPS – Freshwater Management	National Policy Statement for Freshwater Management 2014 (updated 2017)
NPS – Renewable Electricity Generation	National Policy Statement for Renewable Electricity Generation 2011
NPS – Urban Development Capacity	National Policy Statement on Urban Development Capacity 2016
NUMP	Network Utilities Management Plan
NZCPS	New Zealand Coastal Policy Statement 2010
NZTA	New Zealand Transport Agency
OBA	Onehunga Business Association Incorporated
ONF	Outstanding Natural Feature
OPW or Outline Plan	Outline Plan of Works
POAL	Ports of Auckland Limited
Proposal / EWL / Project	East West Link – NZTA’s proposal to designate land and obtain resource consents for the construction, operation, and maintenance of a new four-lane highway and associated works between SH20 in Onehunga and SH1 in Penrose / Mt Wellington, including reclamation of the Māngere Inlet (Manukau Harbour), and associated works on SH1 between Mt Wellington and the Ōtāhuhu Interchange at Princes Street.
PWA	Public Works Act 1981
Report	This Draft Decision and Report
RMA	Resource Management Act 1991
s and ss	Section and sections
Sanford	Sanford Limited
SEA	Significant Ecological Area
SH	State Highway
SH1	State Highway 1
SH20	State Highway 20
Spark	Spark NZ Trading Limited
SSESCP	Site-Specific Erosion and Sediment Control Plans

SSTMP	Site-Specific Traffic Management Plan
Stratex site	19-21 Sylvia Park Road
Syl Park	Syl Park Investments Limited and 8 Sylvia Park Road Body Corporate
T&G and T&G Global	T&G Global Limited
Te Ākitai	Te Ākitai Waiohua Waka Taua Society
Te Kawerau ā Maki	Te Kawerau ā Maki Iwi Tribal Authority
TOES and Others	The Onehunga Enhancement Society Incorporated, Re-think the East West Link Society Incorporated and the Manukau Harbour Restoration Society Incorporated.
Transpower	Transpower New Zealand Limited
TSS	Total Suspended Solids
ULDF	The Urban and Landscape Design Framework
VPH	Vehicles per Hour
WAI 8	Waitangi Tribunal on the Manukau Claim 1985
WETSACC	Wet Surface Air Cooled Condenser
WTP	Wastewater Treatment Plant

# 1. INTRODUCTION

- [1] This Draft Decision and Report (Report) determines the suite of applications by the New Zealand Transport Agency (NZTA, the Transport Agency, the Applicant, the Requiring Authority) for two Notices of Requirement (NoRs) and a number of resource consents relating to the East West Link Proposal (the Proposal, the Project, EWL, EWL highway).
- [2] This Report has been prepared by the Board of Inquiry (the Board) in accordance with its obligations under s149Q(1)<sup>1</sup> of the Resource Management Act 1991 (the RMA, the Act).
- [3] In accordance with s149Q(2)(a)–(d) of the RMA, this Report sets out the Board’s decision and reasons. It includes a statement of the principal issues that were in contention and the main findings on these issues. The Board’s decision on the NoRs and applications for resource consent for the Proposal can be found in chapter 18 of this Report.

## 1.1 OUTLINE OF THE PROPOSAL

- [4] NZTA’s application documents lodged with the Environmental Protection Authority (EPA) describe in detail the roading and reclamation aspects of the Proposal, except as modified by NZTA during the course of these proceedings.<sup>2</sup> A number of aspects of the design of the Proposal, including walking and cycling infrastructure, safety design measures and the final layout of the reclamation and activities on the new land, are to be refined through detailed design if the designation is confirmed and the resource consents granted<sup>3</sup>.
- [5] The Proposal is for the construction, operation, and maintenance of a new four-lane arterial road and associated works between State Highway (SH) 20 in Onehunga, and SH1 in Penrose / Mt Wellington, including reclamation of the Māngere Inlet (Manukau Harbour), and associated works on SH1 between Mt

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<sup>1</sup> Amendments to the RMA by the Resource Legislation Amendment Act 2017 to repeal the requirements for a draft decision and report under s149Q do not apply in this case due to transitional and savings provisions.

<sup>2</sup> For example, see:

Statement of Primary Evidence, Nancekivell, Annexure E (List of Design Changes Since Lodgement);

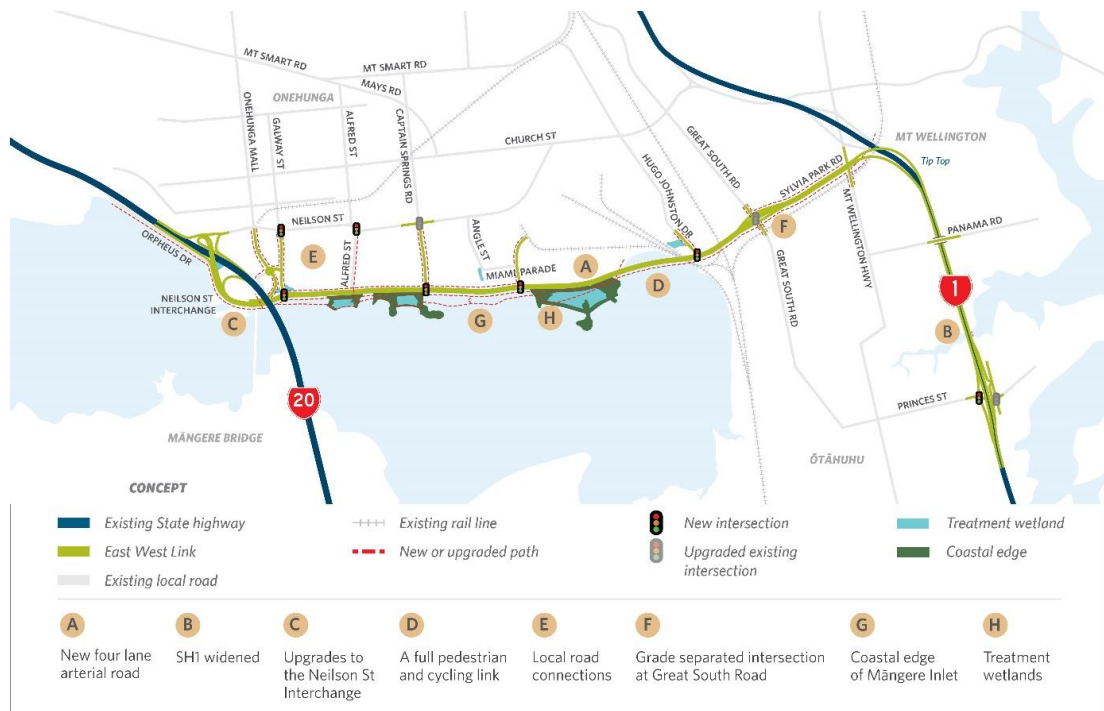
Statement of Primary Evidence, Rickard, para 22 onwards;

Statement of Rebuttal Evidence, Nancekivell, Attachment A (List of Design Changes); and

Subsequent documents and drawings submitted during the NZTA’s closing on Day 48 of the Hearing.

<sup>3</sup> AEE, Section 6.3.5, p47; Section 6.8.1.2, p78; and Section 6.4, p48.

Wellington and the Ōtāhuhu Interchange at Princes Street. The Proposal area is shown in map in [Figure 1].



**Figure 1: Map of the Proposal area**

[6] The key elements of the EWL include:

- (a) A new four-lane arterial road between the existing SH20 Neilson Street Interchange in Onehunga and SH1 at Mt Wellington; and connection of the new arterial road to SH1 via two new ramps south of Mt Wellington Interchange (“A” on the map);
- (b) The widening of SH1 and an upgrade of the Princes Street Interchange (“B” on the map);
- (c) Reconfiguration of the Neilson Street Interchange and surrounding roads including a trench on the southern side of the Interchange, with a local bridge connecting Onehunga Harbour Road to Onehunga Wharf (“C” on the map);
- (d) New commuter and recreational cycle paths along the EWL connecting into the local Onehunga, Penrose and Sylvia Park communities; and a new pedestrian and cycle connection across Ōtāhuhu Creek (“D” on the map);
- (e) New local road connections to and from the EWL Main Alignment; and local road improvements including extensions to Galway Street, Captain Springs Road and Hugo Johnston Drive (“E” on the map);

- (f) A new grade-separated intersection at Great South Road / Sylvia Park Road (“F” on the map);
- (g) Reclamation of part of the Coastal Marine Area (CMA) along the northern foreshore of Māngere Inlet to construct parts of the EWL Main Alignment, and to construct stormwater treatment areas, headlands to form a naturalised coastal edge, and recreational space (“G” and “H” on the map).

## 1.2 REASONS FOR THE PROPOSAL

[7] The Proposal objectives as stated by NZTA are as follows:<sup>4</sup>

- (a) To improve travel times and travel time reliability between businesses in the Onehunga–Penrose industrial area and SH1 and SH20;
- (b) To improve safety and accessibility for cycling and walking between Māngere Bridge, Onehunga and Sylvia Park, and access into Ōtāhuhu East; and
- (c) To improve journey time reliability for buses between SH20 and Onehunga Town Centre.

[8] To deliver the EWL, two NoRs and a number of resource consents have been sought under the Auckland Unitary Plan: Operative in Part (AUP:OP). Resource consents are additionally sought under the legacy Auckland Regional Plan: Coastal (ARP:C).

[9] The Proposal in essence is to establish a new four-lane arterial road on the northern side of the Māngere Inlet, including connections with SH20 and SH1. The design of the Proposal also presents an opportunity for NZTA to provide stormwater treatment for an adjacent 611 ha of developed urban catchment in the wider Project area, as well as leachate management from adjacent landfills. The resource consents sought include those activities.

[10] The strategic need for the Proposal was discussed in detail in the application documents, evidence, and cross-examination and questioning by the Board. The Board addresses this later in this Report. It is helpful to identify upfront that threading through the entirety of NZTA’s evidence and submissions were a number

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<sup>4</sup> AEE, Section 3, p19.

of claimed benefits. Such benefits, of course, must be assessed and weighed by the Board when it comes to its evaluation and overall decision on the notices and applications.

[11] Notwithstanding this, the application documents set out four expected benefits of the Proposal, which broadly include:<sup>5</sup>

- (a) Improved and more reliable travel times;
- (b) Accessibility that supports businesses for growth and economic prosperity;
- (c) Improving safety and connected communities; and
- (d) Enabling and providing environmental improvements and social / community opportunities to the local area.

### **1.3 PROPOSAL HISTORY**

[12] The concept behind the EWL dates back to as early as the 1960s when a link between SH20 and SH1 was first proposed. The Proposal before the Board has evolved in more recent times. The Proposal corridor selection process began in 2012 through a collaboration between NZTA, Auckland Council and Auckland Transport. This was to identify the need for transport investment in response to the Auckland Plan (2012) *Strategic Business Case*.

[13] At that time the Proposal was known as, and included as part of, the *East West Connections* Strategic Business Case, which focused on the high level transport problems within the wider “east-west” area (being the areas of Onehunga, Penrose, Mt Wellington and East Tāmaki to Auckland International Airport).<sup>6</sup> This included public and stakeholder engagement in 2013.<sup>7</sup>

[14] During this time the Proposal was identified as a priority by the former National Government in June 2013 (and again in January 2016).<sup>8</sup>

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<sup>5</sup> AEE, Section 3, p23.

<sup>6</sup> Ibid, p21.

<sup>7</sup> Ibid, p161.

<sup>8</sup> During addresses given by former Prime Minister, the Rt Honourable Sir John Key, to the Auckland Chamber of Commerce on 28 June 2013 and 27 January 2016.

## **Programme Business Case**

- [15] Following the Strategic Business Case, NZTA and Auckland Transport progressed the development of a more detailed investigation of transport problems and potential “interventions”, referred to as a Programme Business Case, which reported the following key outcomes relevant to the Proposal in early 2014:<sup>9</sup>
- (a) The confirmation that additional transport infrastructure would be required in the Proposal area (for example, policy change would not be sufficient to address the problems identified); and
  - (b) That the priority for infrastructure connections to address transport problems in the area included:
    - (i) A transport link in the Onehunga-Penrose area; and
    - (ii) A transport link between Māngere, Ōtāhuhu and Sylvia Park.

## **Indicative Business Case**

- [16] In 2014 an Indicative Business Case was prepared by NZTA in collaboration with Auckland Transport. The investigations included:<sup>10</sup>
- (a) Evidence of the transport problems in the area;
  - (b) Identification of investment options to address the problems (for example, specific investment options of new infrastructure and corridors for infrastructure investment); and
  - (c) Quantification of potential benefits to be achieved from addressing these problems.
- [17] The Indicative Business Case identified and assessed six shortlisted options (along with other works identified to address other priority issues in the east-west corridor).<sup>11</sup>
- [18] Engagement with affected land owners and the public occurred during the later stages of the Indicative Business Case, from mid-2014 to late-2015, in relation to the shortlisted transport solutions. The preferred corridor was identified as the EWL with NZTA seeking an “enduring transport solution” to address the transport problems.

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<sup>9</sup> AEE, Section 3.2.2, p21.

<sup>10</sup> Ibid, Section 3.2.3, p21.

<sup>11</sup> Ibid, Section 9.4.2, p161.

## Detailed Business Case (and Applications)

- [19] The final step in the process to confirm the need for transport investment was the Detailed Business Case for the EWL. This was completed in December 2015, and the outcome identified the preferred road alignment along the Māngere Inlet foreshore.<sup>12</sup>
- [20] The key outcomes of the business case process led by NZTA was the identification of two preferred transport investment opportunities, being:
- (a) The EWL road corridor along the northern edge of the Māngere Inlet, which NZTA developed into this Proposal; and
  - (b) Bus Frequent Network 32, a separate Auckland Transport led project to improve public transport connections between the Māngere Town Centre, Ōtahuhu, and Sylvia Park.
- [21] According to NZTA, both of these projects were developed to respond to and integrate with other transport projects in Auckland, in particular the Western Ring Route, which includes the Waterview Tunnel<sup>13</sup> that opened to traffic during the early stages of the Hearing for this Project, and the Auckland Manukau Eastern Transport Initiative (AMETI).
- [22] The above history and the evolution of the various business cases is helpful. The Board notes that there is no statutory requirement for NZTA to carry out a business case analysis. Nonetheless, a business case development is prudent, particularly where public funds are involved. We note Mr Wickman's evidence that the process adopted by NZTA and Auckland Transport has been adapted from Treasury's *Better Business Case* model.<sup>14</sup>
- [23] These other projects and their interaction with the EWL is shown in [Figure 2].

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<sup>12</sup> Ibid, Section 3.2.4, p21.

<sup>13</sup> The Waterview Tunnel is part of the Waterview Connection, a proposal of national significance under Part 6AA of the RMA directed to, and approved by, a Board of Inquiry in 2012.

<sup>14</sup> Statement of Primary Evidence, Wickman, para 4.5.



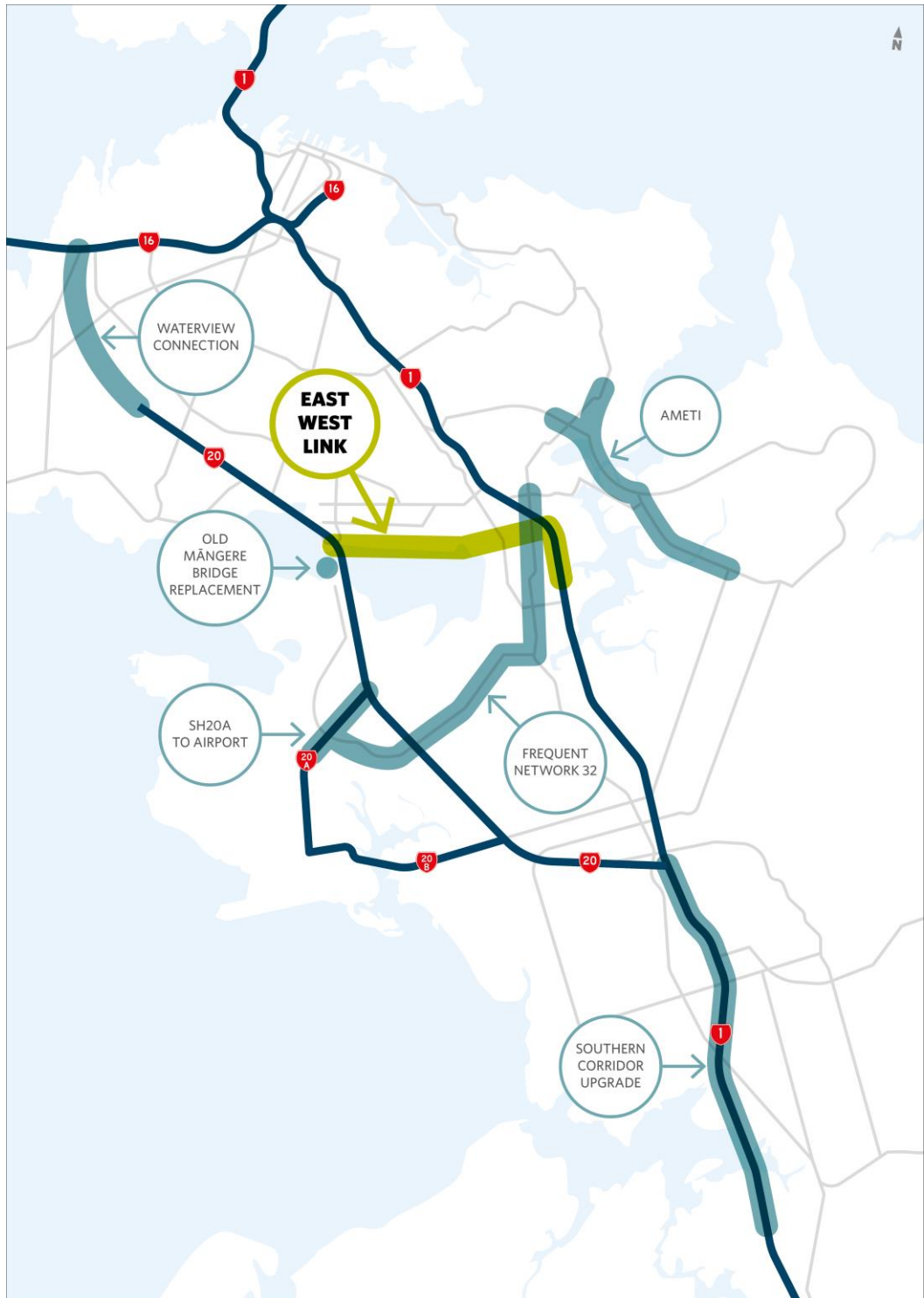


Figure 2: Interaction of the EWL with other related Auckland transport projects<sup>15</sup>

<sup>15</sup> AEE, Figure 6-10, p77.

[24] At the conclusion of the Detailed Business Case in December 2015, the scope and nature of the Proposal was confirmed by NZTA, and specific Proposal objectives to be used for the RMA process were developed (as mentioned earlier in this Report).<sup>16</sup>

### **Strategic Context and Public Engagement**

[25] The Business Case process described above was in response to, and informed, the directions contained in a number of national and regional strategic documents, including:

- (a) The Auckland Plan (2012);
- (b) The 2015 – 2018 National Land Transport Programme;
- (c) NZTA’s Statement of Intent 2015 – 2019, which identifies the Proposal as part of the Accelerated Auckland Transport Programme; and
- (d) The Auckland Transport Alignment Programme (2016).

[26] Mana Whenua for their part have been engaged in the development of the Proposal. The outcome of this engagement was the Cultural Values Report (CVR).

[27] From December 2015, through to lodgement of the applications with the EPA in December 2016, NZTA has advanced a programme of investigation, design and community engagement. This included inputs from various specialists, stakeholders, iwi, local authorities and members of the communities within which the Proposal is located. Detailed assessment of alternative alignments and methods for undertaking the EWL (within the preferred corridor) and environmental and related assessments were undertaken by NZTA.

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<sup>16</sup> Chapter [1.2].

## 2. STATUTORY APPLICATIONS, NOTICES AND APPROVALS NEEDED

- [29] In accordance with Part 6AA of the RMA, NZTA lodged the notices and applications with the EPA on 16 December 2016. A succinct summary of the NoRs and resource consents applied for by NZTA follows, with a full and detailed list attached to this Report in [Appendix 2: List of Applications and Notices for the Proposal].
- [30] Under s145(3) of the RMA, NZTA lodged the following two NoRs:
- (a) **NoR1** – The construction, operation and maintenance of a State Highway, being the EWL between Onehunga and Ōtāhuhu, and associated works; and
  - (b) **NoR2** – The alteration of SH1 designation 6718 for maintenance, operation, use and improvement of the state highway network. The alterations are associated with the proposed EWL between Onehunga and Ōtāhuhu, and associated works.
- [31] Under s145(1)(a) of the RMA, NZTA also lodged 24 applications for resource consent. These relate to activities restricted by the RMA under s9 (land use), s12 (coastal activities), s13 (works in watercourses), s14 (water) and s15 (discharges to air, land and water). The activities to which they relate can be summarised as follows:
- (a) **One land use consent** – For activities on new land created by the reclamations under s89 of the RMA. This is for new land to be created between Mean High Water Springs (MHWS) and future MHWS for road, pedestrian, cycle path, amenity areas and associated infrastructure and activities;
  - (b) **Seven land use consents** – Relating to works (Proposal-wide) on contaminated soils, earthworks, vegetation alteration and removal, new network infrastructure, and construction of new impervious surfaces for roads. Of the seven land use consents applied for, three are for activities outside the proposed designation footprint (NoR1) and are for activities such as earthworks and vegetation removal, and stormwater detention and retention specifically within the Miami Stream, (a stream connected to the Māngere Inlet) and within Southern Reserve adjacent to Southdown Stream, Anns Creek Reserve, Gloucester Park and the Manukau Foreshore Walkway;

- (c) **One further land use consent** – For the operation of a concrete batching plant, which is solely for construction and is temporary, as sought in the evidence of Ms Rickard.<sup>17</sup> The Board accepts that this additional land use consent is within the scope of the Proposal. It is ancillary and anticipated by the Proposal. No prejudice arises and there was no challenge to its inclusion.
- (d) **Four coastal permits** – For the road construction activities plus related construction activities including reclamations, deposition of material in the CMA, disposal of waste or other matter in the coastal marine area and temporary and permanent occupation of the CMA by structures. This work includes reclamation in the Māngere Inlet, works in Onehunga Bay associated with public access and declamation in the Ōtāhuhu Creek, being:
- (i) The construction of permanent structures in the CMA, including bridge structures and stormwater outfalls;
  - (ii) Dredging;
  - (iii) Retaining walls; and construction of new infrastructure; and
  - (iv) Demolition or removal of any existing buildings or CMA structures and seawalls.
- (e) **Six water permits** – For works in watercourses and associated drainage and diversion activities such as:
- (i) Depositing of substances;
  - (ii) Channel clearance;
  - (iii) Extraction of material and mangrove removal;
  - (iv) Take and use of surface water; take and diversion of groundwater;
  - (v) Damming and diversion of surface water; and
  - (vi) Permanent damming of surface water.
- (f) Of the water permits applied for, two include areas outside the proposed designation footprint, including activities within the Miami Stream; and
- (g) **Five discharge permits** – For discharge of contaminants into air or on to land or water; discharges of contaminants during construction; discharges

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<sup>17</sup> Statement of Primary Evidence, Rickard, para 22.4-22.6. This relates to a Regional Land Use consent for a new High Risk ITA (Industrial or Trade Activity) under Rule E33 of the AUP:OP for the concrete batching plant. This is a Controlled Activity.

to air; and discharges of stormwater from permanent impervious surfaces to land, freshwater and coastal water including discharges involving a stormwater network.

[32] There was agreement by NZTA that the activities for which resource consents are sought are to be bundled and assessed as a **non-complying activity** under s104D of the RMA. Thus, the “gateway test”, as it is commonly known, will apply in terms of the Board’s overall jurisdiction to make a determination on the resource consent components of the Proposal. The Board returns to this later in this Report.

[33] NZTA in its AEE sought:<sup>18</sup>

- (a) A 15-year lapse period for the designations relating to the NoR1 and NoR2;
- (b) A 10-year lapse period for each of the resource consents, with the following durations:
  - (i) Unlimited duration in respect of the coastal permits for reclamation;
  - (ii) 35 years from the date of commencement in respect of all other consents required for the long-term operation of the Proposal; and
  - (iii) The expiry date for each consent as detailed in the consent conditions (however, as a notable oversight, they were not included).<sup>19</sup>

[34] Other legislation will apply to the Proposal, which will require NZTA to invoke other processes unrelated to this Board’s jurisdiction. These include:<sup>20</sup>

- (a) **Public Works Act 1981 (PWA)** – The acquisition of land required for the Proposal;
- (b) **Heritage New Zealand Pouhere Taonga Act 2014** – Archaeological sites affected by the Proposal;
- (c) **Reserves Act 1977** – Reserves affected by the Project;
- (d) **Wildlife Act 1953** – The relocation of protected species;

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<sup>18</sup> AEE, Section 5.2.4, p42. The lapse period durations for the resource consents varied somewhat as NZTA filed updated sets of conditions. This is discussed further in chapter [16] of this Report.

<sup>19</sup> Discussed further in chapter [16] of this Report.

<sup>20</sup> AEE, Section 5.3, p42.

- (e) **Freshwater Fisheries Regulations 1983** – The provision of fish passage in waterways affected by the Proposal;
- (f) **Marine and Coastal Area (Takutai Moana) Act 2011** – Ownership of reclaimed land; and
- (g) **Te Kawerau ā Maki Claims Settlement Act 2015** – Parts of the Project are within the coastal area shown on OTS-106-1430.

[35] To the extent necessary, the Board accepts that NZTA would apply for any other statutory approvals required for the Proposal after the matters that are the subject of this Report have been determined. Such is common practice in resource management.

[36] The following documents were provided by NZTA in support of the Proposal at the time of lodgement:

- (a) Assessment of Environmental Effects (AEE) Report;
- (b) Technical reports and supporting documents;
- (c) Draft conditions; and
- (d) A plan and drawing set.

[37] A summary list of the suite of NZTA's applications, notices, AEE and supporting documentation can be found in [Volume 2, Appendix: Summary of Application Documentation] of this Report.

### **3. THE BOARD'S ESTABLISHMENT, FUNCTION AND JURISDICTION**

#### **3.1 PART 6AA**

##### **Background and Lodgement**

[38] Following lodgement of the applications on 16 December 2016, the EPA accepted the applications for processing on 20 December 2016 in accordance with the "completeness test" prescribed by ss145 and 88, and the Fourth Schedule of the RMA. The notices, although not subject to a "completeness test", were also received.

##### **EPA Recommendation**

[39] For applications lodged directly with the EPA, s146 of the RMA requires the EPA to recommend a course of action to the Minister for the Environment, and in this case, because of the proposed works in the CMA, the Minister of Conservation (the Ministers).

[40] On 20 December 2017, after accepting the application for processing, the EPA recommended to the Ministers that the EWL be declared a proposal of national significance and referred to a Board of Inquiry for streamlined consideration and decision-making.

#### **3.2 MINISTERS' DIRECTION AND REASONS**

[41] The Ministers accepted the EPA's recommendation and on 8 February 2017 jointly directed that the matters be referred to a Board of Inquiry under s147(1) of the RMA. The Ministers have appointed this Board under s149J of the RMA to hear and decide the merits of the Proposal. That is the task before the Board and the focus of this Report.

[42] In accordance with s149A of the RMA, the EPA served a copy of the Ministers' direction on Auckland Council, being the relevant local authority with jurisdiction over the Project area, and NZTA as the Applicant.

[43] In considering the matters before it, the Board must, in accordance with s149P(1)(a) of the RMA, have regard to the Ministers' reasons for making their direction. The Ministers' reasons follow:

##### ***"National Significance***

*The Board consider the matters are a proposal of national significance because the proposal:*

- *Involves significant use of natural and physical resources (including approximately 18.3 hectares of reclamation of the Māngere Inlet), to construct much of the proposed four-lane arterial road linking State Highways 1 and 20.*
- *Is likely to result in and contribute to irreversible changes to the environment, in particular the loss of bird feeding areas in the Māngere Inlet; changes to coastal processes by re-contouring, and addressing legacy groundwater contamination issues by effectively ‘bundling’ the northern shoreline of the Māngere Inlet.*
- *Includes relocating regionally and nationally important infrastructure, including electricity, gas, and crossing over bulk water supply.*
- *Has, and is likely to continue to, aroused widespread public concern or interest regarding actual or likely effects on the environment.*
- *Relates to an area that may be of national interest to Māori and a number of sites in and around the proposal area are classified as outstanding natural features within the Auckland Unitary Plan.*
- *Would assist the Crown in fulfilling its public health, welfare, security and safety obligations or functions.*
- *Relates to a network utility operation (the State Highway network) that when viewed in its wider geographic context extends to more than one district or region.“*

[44] The Board will return to the Ministers’ reasons when undertaking its evaluation of the merits of the Proposal later throughout this Report, and in particular in chapter 17.2 of this Report.

### **3.3 FUNCTION AND JURISDICTION**

[45] The Board must determine the applications in accordance with s149P of the RMA, which sets out the statutory framework that the Board is confined to in making its decision on the matters before it.

[46] Section 149P relevantly provides:

- “(1) *A board of inquiry considering a matter must—*
- (a) *have regard to the Minister’s reasons for making a direction in relation to the matter; and*
  - (b) *consider any information provided to it by the EPA under section 149G; and*
  - (c) *act in accordance with subsection (2), (3), (4), (5), (6), (7), (8), or (9) as the case may be.*
- (2) *A board of inquiry considering a matter that is an application for a resource consent must apply sections 104 to 112 and 138A as if it were a consent authority.*
- ...
- (4) *A board of inquiry considering a matter that is a notice of requirement for a designation or to alter a designation—*



- (a) *must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority; and*
- (b) *may—*
  - (i) *cancel the requirement; or*
  - (ii) *confirm the requirement; or*
  - (iii) *confirm the requirement, but modify it or impose conditions on it as the board thinks fit; and*
- (c) *may waive the requirement for an outline plan to be submitted under section 176A.*<sup>21</sup>

[47] The Board notes here for completeness that while an alteration to an existing designation falls under s181 of the RMA, that section refers to s171. Thus, the Board is bound by the same as if the alteration was a new designation. This is relevant for NoR2.

[48] As if the Board is a territorial authority, under s176A of the RMA the Board may waive the requirement for an outline plan to be submitted in relation to a NoR. NZTA has not sought nor applied for an outline plan waiver for the Proposal. The Board briefly returns to this in chapter 6.1 and elsewhere in this Report where it is helpful to do so.

[49] A NoR for a designation in respect of a public work can only be issued by an approved Requiring Authority. Section 166 of the RMA defines a Requiring Authority as:

- (a) A Minister of the Crown; or
- (b) A local authority; or
- (c) A network utility operator approved as a Requiring Authority under s167 of the RMA.

[50] NZTA and its predecessor Transit New Zealand were both approved as Requiring Authorities under s167 of the RMA. The approvals were notified in the *Gazette* on 3 March 1994 and 19 November 2015:<sup>21 22</sup>

*“... for its particular network utility operation being the construction and operation (including the maintenance, improvement, enhancement, expansion, realignment and alteration) of any State highway or motorway pursuant to the Transit New Zealand Act 1989.*

*... for the purpose of constructing or operating (or proposing to construct or operate) and maintaining cycleways and shared paths in New Zealand*

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<sup>21</sup> Resource Management (Approval of Transit New Zealand as Requiring Authority) Notice 1995.

<sup>22</sup> Resource Management (Approval of NZ Transport Agency as a Requiring Authority) Notice 2015.

*pursuant to the Government Rooding Powers Act 1989 and the Land Transport Management Act 2003.*“

[51] The Board will return to this in chapter 15.1 of the Report.

## 4. PROCEDURE

### 4.1 NOTIFICATION

[52] The applications were notified by the EPA in the *New Zealand Herald*, *Dominion Post*, *Christchurch Press* and *Otago Daily Times* on 22 February 2017. A condensed version of the public notice was also notified in the *Manukau Courier* (23 February 2017), *Onehunga Community News* (2 March 2017) and *Central Leader* (22 February 2017).

[53] Information was available for viewing at a number of Auckland Libraries, Auckland Council service centres, the EPA Wellington office, and on NZTA's website.

[54] In addition, the EPA identified approximately 2,400 distinct land owners and occupiers of land to which the matter relates and land adjoining. Each was sent a notification pack containing a cover letter, a copy of the public notice, and a Friend of Submitter flyer. A number were not delivered and returned by New Zealand Post. The EPA took reasonable steps to follow up. In any case, the matters were publicly notified.

[55] Submissions were open for 20 working days and subsequently closed on 22 March 2017.

### 4.2 SUBMISSIONS

[56] The EPA received a total of 685 submissions during the submission period. After the close of submissions, the EPA also received four late submissions. NZTA did not oppose these late submissions, and the Board accepted them.<sup>23</sup> Of the total 689 submissions, a large number of submissions were received by the EPA on a third-party submission form designed and co-ordinated by The Onehunga Enhancement Society Incorporated (TOES) and others related parties

[57] The EPA prepared a useful Analysis of Submissions Report (AOS Report). This was updated on several occasions as the number of submitters and their position changed.<sup>24</sup> Of the 685 submissions received by the EPA by the close of submissions (this excludes the four late submissions the Board subsequently accepted):

- (a) 582 submitters (85 percent) opposed the Proposal in full, or in part;

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<sup>23</sup> Refer Board Minute and Direction 02.

<sup>24</sup> AOS Report, dated April 2017 (Version 3).

- (b) 94 submitters (13.7 percent) supported the Proposal in full, or in part; and
- (c) Nine (9) submitters (1.3 percent) indicated they were neutral toward the Proposal.

[58] The majority of submitters were from the general Proposal area. A large number of submitters did not specify their location in their submission, which can be attributed largely to the third-party submission form as it did not include a section for a physical address. Thus, a more accurate geographic analysis was not possible.

[59] Approximately one-third of submitters who did specify their location identified as being from Onehunga. Of these, the majority opposed the Proposal.

[60] Initially just over half of the submitters wished to be heard on their submissions. This number dropped considerably prior to the Hearing.

[61] Some submitters<sup>25</sup> described themselves as trade competitors of NZTA. The Board returns to this later to clarify the criteria for a trade competitor at chapter 6.4 of this Report.

[62] A wide range of concerns were raised in the submissions. The majority related to access or severance concerns and the consideration of alternatives, with noise and vibration, visual amenity and character effects, followed by a suite of other environmental, social, economic and cultural concerns. There was also a focus on appropriate conditions.<sup>26</sup>

[63] A list of all submitters on the Proposal is attached to this Report in [Appendix 4: List of Submitters].

### **4.3 INQUIRY PROCEDURES**

[64] The Board issued an approved Inquiry Procedures that was amended from time to time. This is attached in [Appendix 5: Board's Inquiry Procedures]. These procedures, among other things, included a timetable of key dates and guidance on procedural matters relating to evidence exchange and the Hearing. They were often referred to.

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<sup>25</sup> J Hughes (Submission No. 126025), R Dibley (Submission No. 126120), M F & J K Khan (Submission No. 126139), G Page (Submission No. 126227), S Hood (Submission No. 126231), S Bateman (Submission No. 126248), R Lacey (Submission No. 126249), W Wallace-Warahi (Submission No. 126266), and D Benson (Submission No. 126361).

<sup>26</sup> See Addendum to AOS Report: Conditions Requested, dated April 2017.

## **4.4 EVIDENCE**

[65] The exchange of evidence occurred as follows:

- (a) NZTA's primary evidence (or evidence in chief) was received by the EPA on 12 April 2017.
- (b) Evidence on behalf of the submitters was received by the EPA in two stages:<sup>27</sup>
  - (i) Group 1 (a number of Government and non-Government submitters) by 10 May 2017; and
  - (ii) Group 2 (all other submitters) by 22 May 2017.
- (c) NZTA, and a number of submitters whose witnesses participated in expert witness conferencing, filed rebuttal evidence with the EPA by 20 June 2017.

[66] The Board received new or supplementary evidence at the Hearing from NZTA and Mercury NZ Limited (Mercury) in relation to the Southdown site, and from TOES, Re-think East West Link Incorporated, and Manukau Harbour Restoration Society (TOES and Others) in relation to visual photosimulations presented as part of opening submissions.

[67] Copies of statements of evidence were posted on the EPA website as they became available.

## **4.5 FIRST PRE-HEARING CONFERENCE**

[68] A pre-hearing conference was held on 15 May 2017 to discuss the procedures and timetable for expert witness conferencing. A number of preliminary procedures relating to the Hearing were also covered, including arrangements for the first two weeks of the Hearing.<sup>28</sup>

## **4.6 WITNESS AND NON-EXPERT CONFERENCING**

[69] The Board directed expert conferencing on selected topics, which was arranged by NZTA with the agreement of those at the first pre-hearing conference. The EPA engaged independent facilitators from FairWay Resolution Limited to run the

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<sup>27</sup> Board Minute and Direction 06, dated 3 May 2017, in particular the updated timetable at para 9.

<sup>28</sup> Minutes of the First Pre-Hearing Conference: 15 May 2017.

conferencing sessions, which were initially scheduled to run from 23 May to 6 June 2017. A number of facilitated meetings for non-experts and Parties were also held.

[70] Invariably further conferencing was required, including during the Hearing.

[71] Conferencing occurred for the following topics:

- (a) Southdown site (expert and facilitated non-expert);
- (b) Proposed land bridge Onehunga Harbour Road;
- (c) EnviroWaste / ChemWaste site;
- (d) Noise and vibration;
- (e) Cultural values and effects (facilitated non-expert);
- (f) Onehunga Mall (facilitated non-expert);
- (g) Stratex site – Asbestos and vibration;
- (h) Construction management;
- (i) Neilson Street and Neilson Street Interchange area;
- (j) Geological heritage;
- (k) Traffic and transport – Mercury Southdown site;
- (l) Reclamations;
- (m) Waikaraka Park and Cemetery;
- (n) Stormwater;
- (o) Urban design and landscape;
- (p) Coastal processes;
- (q) Planning;
- (r) Access to properties;
- (s) Economics;
- (t) Built heritage;
- (u) Air quality;

- (v) Closed landfills;
- (w) Traffic and transport; and
- (x) Ecology.

[72] This amounted to a total of 32 Joint Witness Statement Reports (JWS Reports). The Board is grateful that most expert witnesses were able to attend conferencing.

[73] Copies of the JWS Reports were posted on the EPA website shortly after they became available. A full list of JWS Reports filed with the EPA is attached in [Appendix 6: List of Joint Witness Statement Reports].

#### **4.7 SECOND PRE-HEARING CONFERENCE**

[74] A second pre-hearing conference was held on 15 June 2017. The purpose of this conference was to outline procedures for the Hearing and to allow NZTA and submitters to raise any issues they had with the Hearing procedures and any other procedural matters including those arising from the first pre-hearing conference.<sup>29</sup>

#### **4.8 COUNSEL AND PLANNER TO ASSIST THE BOARD**

[75] The Board retained the services of Wynn Williams Lawyers of Christchurch and Scott Wilkinson Planning of Auckland. Legal advice was received from Mr Maw and planning advice from Mr Scott.

[76] This included a report under s42A of the RMA on the s104D gateway test and other related matters, including the ability to impose conditions on an existing designation.<sup>30</sup> To the extent necessary, the Board waived the statutory time limit imposed for providing the report to parties on the basis that there is no apparent material prejudice.<sup>31</sup> The report was made available on the EPA website on 16 June 2017. It was frequently referred to by various witnesses and by counsel.

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<sup>29</sup> Minutes of the Second Pre-Hearing Conference: 15 June 2017.

<sup>30</sup> Memorandum of Counsel and Planner to the Board of Inquiry relating to section 104D of the RMA and other matters, dated 9 June 2017.

<sup>31</sup> Board Minute and Direction 15, dated 16 June 2017.

## **4.9 ADJOURNMENT APPLICATION**

[77] Shortly before the Hearing counsel for TOES and Others presented the Board with an adjournment application based on Transpower Tower 31, in the vicinity of the Neilson Street Interchange, and the need for a dispensation from Transpower New Zealand Limited (Transpower) that might be required.<sup>32</sup> NZTA opposed the adjournment application, as did Transpower. It is sufficient to say here that the Board considered and declined the application and proceeded on to the Hearing.<sup>33</sup>

## **4.10 FORMAT OF THE HEARING**

[78] The Hearing was held at the Ellerslie Events Centre in Auckland, between 27 June and 15 September 2017, and formally closed on 7 November 2017. Actual sitting days amounted to 49 days, over some 12 weeks. The significant number of issues the Proposal presented and its overall complexity were reflected in the length of time occupied by the Hearing and the cross-examination that occurred.

[79] All evidence, documents and exhibits produced and referred to at the Hearing have been made available on the EPA website, along with a daily transcript of proceedings.

## **4.11 TIME EXTENSION**

[80] On 15 August 2017, following discussions with EPA and Wynn Williams, the Board made a formal request under s149S of the RMA (via the EPA) to the Ministers to grant a one calendar month extension to the time by which the Board must issue its final decision and report. The Board was concerned that the statutory nine-month time constraints that the Board is under would compromise a full and fair Hearing and the delivery of a robust decision.<sup>34</sup> The Hearing had run for much longer than anticipated.

[81] The Ministers granted the Board's request. The new date on which the Board must deliver its final decision and report and provide it to the EPA is 22 December 2017.

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<sup>32</sup> Under NZECP 34:2001, in particular clause 2.4.1.

<sup>33</sup> Board Minute and Direction 17, dated 23 June 2017, with reasons delivered later in Board Minute and Direction 24, dated 11 July 2017.

<sup>34</sup> Board Minute and Direction 37, dated 5 September 2017.



## 4.12 OPENINGS AND CLOSINGS

[82] The Board received opening and closing submissions from a number of the more active participants at the Hearing. These included:

- (a) NZTA – the Requiring Authority responsible for lodging the NoRs and the applicant in relation to the applications for resource consent that relate to the Proposal;
- (b) Auckland Transport – a Council Controlled Organisation of the Auckland Council, which was able to resolve its concerns with NZTA through agreed amendments to proposed conditions, or through a separate agreement;
- (c) Auckland Council – the local authority with jurisdiction over the Proposal area, which, subject to some modifications and acceptable conditions, supports the Proposal;
- (d) KiwiRail Holdings Limited (KiwiRail) – which generally supports the Proposal as it relates to its interface with the regionally and nationally important rail network. KiwiRail was particularly concerned about adverse effects on the continuity and consistency of electricity supplied to its rail network from the Southdown substation;
- (e) Fonterra Brands (New Zealand) Limited (Fonterra) – which owns and operates the Tip Top ice cream facility and 113 Carbine Road (Tip Top site). Provided adverse effects on its site were appropriately avoided, remedied or mitigated through conditions, Fonterra is not opposed to the Proposal;
- (f) Spark NZ Trading Limited (Spark) – which is not opposed to the Proposal overall, provided that there is appropriate reconfiguration / relocation of its affected assets at:
  - (i) The AHAM Hamlins Hill Cellular Site located southeast of the corner of Sylvia Park Road and Great South Road; and
  - (ii) The AOHB Ōtāhuhu Cellular Site located on land owned by Transpower on the corner of Princes Street and Frank Grey Place.
- (g) Transpower – which is neutral and whose interests relate to national grid infrastructure that may need to be realigned or modified by the Proposal;
- (h) Mercury – which opposes the Proposal and considers it as presented would negatively impact on the Southdown site’s potential ability to support Auckland’s security of electricity supply;

- (i) National Road Carriers (Inc) – a freight industry body representing some 1,500 businesses in the North Island, which supports the Proposal;
- (j) Auckland Heliport Limited Partnership (Heliport) – which operates a helicopter charter operation from a site it leases at 59 Miami Parade, Pikes Point (the site is owned by the Ports of Auckland Limited (POAL));
- (k) POAL – broadly supports the Proposal, but has a number of concerns relating to effects on its assets and properties in the area, which include:
  - (i) The Port of Onehunga (at 55 and 57 Onehunga Harbour Road);
  - (ii) Heavy-industrial zoned land at 39 and 59 Miami Parade, Pikes Point; and
  - (iii) Opposition to the creation of the Port Link Road, which bisects one of its properties.
- (l) T&G Global Limited (T&G) – a global grower, marketer and exporter of fruit and vegetables that has operated from its site bound by SH1, Clemow Drive, Mt Wellington Highway and Monahan Road (T&G site) since 1993, recently investing over \$7.2 million in upgrading the site. T&G Global considers the Proposal will have significant adverse effects on part of its T&G site and seeks that the Proposal be declined to the extent that it would affect the T&G site;
- (m) Kiwi Property Group and Sylvia Park Business Centre Limited (Kiwi) – which owns and operates the Sylvia Park Shopping Centre and whose concerns primarily relate to increased traffic “rat-running” and congestion effects resulting from the Proposal;
- (n) Tram Lease Limited (Tram Lease) – which owns the properties at 1-7 Sylvia Park Road (Hirepool site) and 19-21 Sylvia Park Road (Stratex site). Tram Lease is primarily concerned about its interests relating to the Stratex site, alternative options, and the effects of the Proposal, including safe and efficient access to the Stratex site;
- (o) Syl Park Investments Limited and 8 Sylvia Park Road Body Corporate (Syl Park) – considers the Proposal will have significant implications for access to and from 8 Sylvia Park Road, and seeks mitigation through formalisation of existing informal vehicular access across 1 Pacific Rise in the form of a best endeavours condition;
- (p) Sanford Limited (Sanford) – an Auckland-based member of the fishing industry, and New Zealand’s only publicly listed seafood company, which

seeks to maintain safe and efficient 24-hour access to the Port of Onehunga Wharf during construction of the Proposal;

- (q) Jaafar Holdings Limited and Mount Wellington Highway Limited (Jaafar) – owns the land at 430 Mt Wellington Highway (Jaafar site), where the proposed on- and off-ramps from the Proposal to SH1 will traverse;
- (r) K Rich on behalf of herself and Onehunga Mall Cul-de-Sac Residents' submissions – who expressed concern about the level of engagement by NZTA and sought a number of construction and operational conditions;
- (s) EnviroWaste Services Limited, trading as ChemWaste (EnviroWaste) – operates a site at 19–21 and 39 Miami Parade (ChemWaste site), which deals with the receipt, temporary storage, handling and treatment of liquid and solid wastes. This site is leased from POAL;
- (t) Ngāti Whātua Ōrākei and Te Kawerau ā Maki Iwi Tribal Authority (Ngāti Whātua Ōrākei and Te Kawerau ā Maki) – who oppose the Proposal in full because of significant adverse effects on cultural values, and who are opposed in principle to any reclamations of the Manukau Harbour;
- (u) TOES and Others<sup>35</sup> (as well as Jackson Electrical and The Local Lockup) – who support, in principle, the idea of an east-west transport connection in Auckland, but do not support the EWL option that has been selected by NZTA, particularly the design at the Onehunga / Neilson Street Interchange end. TOES together with the Onehunga Business Association Incorporated (OBA) were also the proponents of an alternative design for the Project referred to as the “OBA Option”. TOES and related parties were particularly concerned with the physical effect of severance were the EWL highway to be created between the Onehunga community and the Manukau Harbour foreshore;
- (v) Jackson Electrical Industries Limited (Jackson Electrical) – an occupier of the land at 18 Gloucester Park Road, Onehunga (the Jackson Trust owns the land through its proxy Selwyn St Properties), which comprises some 8,500 m<sup>2</sup> over seven separate titles. Jackson Electrical's concerns relate to the Proposal's construction and operational effects on the Jackson Electrical site;
- (w) The Local Lockup Limited / Scott Palmer (The Local Lockup) – which owns the land at 11 Gloucester Park Road, Onehunga (operating as The

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<sup>35</sup> TOES, Re-think East West Link Incorporated, and Manukau Harbour Restoration Society.

Local Lockup site), which is proposed to be fully acquired as part of the Proposal;

- (x) OBA – which opposes the Proposal in its current form and sought modifications;
- (y) Ward Demolition – which operates one of the largest demolition and recyclers of building waste operations in the region at 13–17 Miami Parade, Onehunga, with one of the main activities on the site being concrete crushing, and will be impacted by the Proposal; and
- (z) A number of other iwi groups, including Te Ākitai Waiohua, Ngāti Tamaoho, Ngāti Maru, Te Rūnanga o Ngāti Whātua, Ngāti Paoa, and Ngāi Tai ki Tāmaki – who have various positions. Some are opposed to the Proposal on similar grounds to those advanced by Ngāti Whātua Ōrākei. Others have entered into an agreement with NZTA. The Board returns to this later in chapter 13.4 of this Report.

[83] Some submitters chose to make what were effectively opening and/or closing statements when they appeared. The above list, however, lists those parties who either opened or closed in a formal sense.

#### **4.13 SUBMITTER REPRESENTATIONS**

[84] The Board has been particularly conscious of the concerns of the many submitters in the Onehunga area, as well as those that use the area, including the residents of Māngere Bridge. At the first pre-hearing conference the Board emphasised that it would do its best within the constraints of law to ensure submitters (including community groups) would have every opportunity to express concerns, whether represented or not.<sup>36</sup>

[85] The Board has put a high value on ensuring procedural flexibility to ensure that all Parties expressing some interest in the EWL have the opportunity to be heard, and further to ensure that constraints of cost and time did not inhibit submitters or cause prejudice.

[86] Representations were presented on behalf of some 46 submitters. Most submitters, or their representatives, who appeared before the Board spoke effectively in support of their submissions. The Board would like to thank all submitters for their efforts to assist the Board in gaining a broader perspective and understanding of the many and varied issues arising from the Proposal. For those

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<sup>36</sup> Minutes of the First Pre-Hearing Conference: 15 May 2017, in particular para 38.

who did not wish to speak at the Hearing or were unable to attend for various reasons, the Board has given due consideration to their submissions in reaching its decision.

[87] Mr Campbell, the EPA-appointed “Friend of Submitter”, was available to assist lay submitters on process and procedural issues. Mr Campbell provided support to a number of submitters prior to the Hearing, and at the request of the Board he assisted several submitters to group together to present joint cases. In the end it was not necessary for him to attend or provide further assistance during the Hearing.

#### **4.14 PARTIES WITHDRAWING AND RIGHT TO BE HEARD**

[88] A number of submitters indicated on their submission forms that they wished to be heard by the Board. In the event, most of these submitters did not avail themselves of the opportunity. The EPA on behalf of the Board extended several opportunities to this category of submitters to appear if they wished (refer to [Appendix 7: Copy of Email Correspondence to Submitters]). They did not do so. Nonetheless the Board has considered the various submissions in this category.

[89] NZTA also undertook direct discussions with individual submitters throughout these proceedings. As a result of that a number of Parties were able to reach agreement with NZTA. The Board returns to briefly discuss these agreements in chapter 10 of this Report.

#### **4.15 SITE VISITS**

[90] A preliminary site visit was undertaken by the Board on 11 April 2017, broadly covering the Proposal area. The Board was accompanied by a guide and driver from NZTA. EPA staff also accompanied the Board on this site visit to maintain appropriate separation.

[91] At the suggestion of various parties during the course of the Hearing, the Board conducted a series of further site visits of the Proposal area and were accompanied by relevant counsel or representatives (some in support and some opposed to the Proposal) and an EPA staff member.

[92] These further site visits were as follows:

- (a) Mercury Southdown site – 14 August 2017;
- (b) The Local Lockup site, Jackson Electrical site, and a number of locations suggested by TOES and Others and/or NZTA both in and around

Onehunga, including Onehunga Wharf, Waikaraka Cemetery and Waikaraka Park – 28 August 2017; and

- (c) Cultural sites of importance to Mana Whenua, and sites relating to T&G Global, TR Group, and 8 Sylvia Park Road, Onehunga Mall and residences at Onehunga Mall Cul-de-Sac – 11 September 2017.

[93] The Board wishes to thank all those who facilitated those site visits. The Board found the site visits particularly useful to draw attention to both general and specific sites and to illuminate the submissions and evidence.

#### **4.16 THE REFINING PROCESS FOR CONDITIONS**

[94] Throughout the Hearing, NZTA, as a result of its consultation with other parties, revised the various conditions it proposed. The Board found this process helpful. Conditions were progressively updated and refined as a result of conferencing and cross-examination.

[95] The following are the various iterations of conditions that the Board was provided:

- (a) Proposed conditions as notified — February 2017,<sup>37</sup>
- (b) Evidence in chief — 12 April 2017,<sup>38</sup>
- (c) Rebuttal evidence — 20 June 2017,<sup>39</sup>
- (d) Applicant’s witness appearance – 19 July 2017,<sup>40</sup>
- (e) Closing submissions – September 2017,<sup>41</sup> and
- (f) Post hearing version – 27 September 2017.

[96] Unless otherwise discussed later in this Report,<sup>42</sup> and subject to any modifications made by the Board, it has assessed the Proposal against the final set of proposed conditions submitted by NZTA following their closing (dated 27 September 2017).

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<sup>37</sup> Application documents.

<sup>38</sup> Statement of Primary Evidence, Hopkins, Attachment A.

<sup>39</sup> Statement of Rebuttal Evidence, Hopkins, Annexure A (Changes to NoR Boundary) and Annexure B (Changes to Proposed Conditions).

<sup>40</sup> Hopkins, Appearance – Amended Draft Designation and Resource Consent Conditions.

<sup>41</sup> Closing Statement, Mulligan, Amended Draft Designation and Resource Consent Conditions.

<sup>42</sup> In particular refer to chapter [16].

## **5. REPORTS TO THE BOARD AND INFORMATION PROVIDED BY THE EPA**

### **5.1 KEY ISSUES REPORT**

[97] In accordance with s149G(3) of the RMA, the EPA commissioned Auckland Council to prepare a Key Issues Report (Key Issues Report) and provided a copy of that report to the Board on 28 February 2017. The EPA also provided a copy to the Applicant, and submitters once known, via its website.

[98] The Key Issues Report is distinct from any role Auckland Council subsequently takes as a submitter or advocate. To this end the Key Issues Report addressed the following as required by the RMA:

- (a) Any relevant provisions of a national policy statement, a NZ coastal policy statement, a regional policy statement or proposed regional policy statement, and a plan or proposed plan;
- (b) A statement on whether all required resource consents in relation to the Proposal to which the matter relates have been applied for; and
- (c) If applicable, the activity status of all proposed activities in relation to the matter.

[99] While constrained by the above scope, the Key Issues Report helpfully highlighted the complexity of the Proposal from a planning perspective. To assist the Board, the authors applied a thematic approach in their assessment. In doing so they identified a number of planning issues relating to the Proposal, falling under seven general themes:

- (a) Relevance of appeals against the AUP:OP;
- (b) Appropriateness of reclamations in the CMA;
- (c) Other infrastructure, including electricity transmission;
- (d) Relationship of Māori with the Proposal area;
- (e) NoR and designations;
- (f) Resource consents; and
- (g) Gateway test (s104D of the RMA).

[100] A summary of the key planning issues relating to the Proposal is attached in [Appendix 8: Key Planning Issues Identified in the Key Issues Report].

[101] Section 149P(1)(b) of the RMA requires the Board to consider the Key Issues Report when making its decision. The Board will return to these key issues throughout its evaluation.

## 5.2 PLANNING / LEGAL REPORT

[102] The Board, through the EPA, commissioned a report under s42A of the RMA relating to the s104D gateway test and related matters (42A Report).<sup>43</sup> That report was jointly authored by Mr Scott (who provided planning opinion) and Mr Maw (who provided legal advice).

[103] The timing of the report was such that the authors' review was limited to:

- (a) The relevant application documents;
- (b) The Key Issues Report; and
- (c) The primary evidence of NZTA's planning witnesses and in particular Ms Rickard and Ms Hopkins.

[104] To the extent necessary, under s42A(5)(a) of the RMA, the Board waived the time limit imposed under s42A(3)(a) for providing the report to Parties on the basis that there is no apparent material prejudice.<sup>44</sup> The EPA provided a copy to the parties via its website.

[105] At the heart of the s42A Report was the issue of the s104D gateway test, of which the authors opined:<sup>45</sup>

*"The s104D(1)(b) test is very finely balanced, particularly with the regard to Policy F2.2.3.1(c) [of the AUP:OP]. If the Board is satisfied that the Proposal is not contrary to this specific and directive policy, then the s104D gateway will be passed."*

[106] While the focus here was squarely on the extent of the coastal reclamations that are necessary for the Proposal, the Board is also conscious of the relevant stringent

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<sup>43</sup> Memorandum of Counsel and Planner for the Board of Inquiry, dated 9 June 2017.

<sup>44</sup> Board Minute and Direction 15, dated 16 June 2017.

<sup>45</sup> At [Para 88].



policies relating to biodiversity as modified by the High Court, in particular Policy D9.3(1)(a) of the AUP:OP.<sup>46</sup> Legal and factual issues surrounding s104D, together with the reach and effect of relevant AUP:OP objectives and policies and the weighing required, were central to much of the evidence of planning expert witnesses and to counsel's submissions.

### **5.3 SUMMARY OF INFORMATION CONSIDERED BY THE BOARD**

- [107] Under s149P(1)(b) of the RMA, the Board is required to consider any information provided to it by the EPA under s149G of the RMA. The Board has done this.
- [108] Under s149G(2) of the RMA, the EPA has provided to the Board NZTA's application, including the AEE and all supporting documentation,<sup>47</sup> and all submissions received on the applications. The information received in this regard is commented on in the earlier chapters of this Report. The Board has considered all of this material in coming to its conclusion. The documents filled a large number of ring binders.
- [109] The EPA commissioned a Key Issues Report, under s149G(3) of the RMA, from Auckland Council. That report is commented on above and considered throughout this Report. It has thus been considered and all matters raised therein addressed.
- [110] The Board, through the EPA, commissioned one 42A Report relating to the s104D gateway test and related matters. The 42A Report and the evidence presented to the Board throughout the Hearing on the same have been considered throughout this Report and were of great assistance.
- [111] The Board also considered all of the submissions and evidence given on behalf of the parties and the JWS Reports described above.

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<sup>46</sup> Refer to the amendments to the Unitary Plan made by Whata J in *Royal Forest and Bird Protection Society Incorporated v Auckland Council* [2017] NZHC 980 issued on 15 May 2017.

<sup>47</sup> Contained in a number of volumes comprised of multiple folders.

## 6. STATUTORY CONTEXT

[112] This chapter expands on the high-level overview of the statutory framework set out in chapter 3 of this Report. This chapter also sets out in some detail the statutory context relevant to the Board's decision-making with respect to the NoRs and applications for resource consent relating to the Proposal.

[113] While not exhaustive, the commentary that follows focuses on the most relevant provisions. These include:

- (a) Provisions relevant to NoRs and designations;
- (b) Provisions relevant to applications for resource consent;
- (c) Other relevant matters; and
- (d) Part 2 of the RMA.

### 6.1 PROVISIONS RELEVANT TO NORS AND DESIGNATIONS

[114] In undertaking its functions under s149P of the RMA in relation to NoRs, the Board is required to have regard to the matters set out in s171(1) and comply with s171(1A) as if it were the territorial authority. The Board may then cancel, confirm, confirm but modify or impose conditions on the NoRs as it thinks fit, in accordance with s149P(4)(b).

#### **Relevant considerations — s171**

[115] Section 171(1) of the RMA provides that:

*“When considering a requirement and any submissions received, the territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to —*

- (a) *any relevant provisions of -*
  - (i) *a national policy statement;*
  - (ii) *a New Zealand coastal policy statement;*
  - (iii) *a regional policy statement or proposed regional policy statement;*
  - (iv) *a plan or proposed plan; and*
- (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking work if -*
  - (i) *The requiring authority does not have an interest in the land sufficient for undertaking the work; or*
  - (ii) *It is likely that the work will have a significant adverse effect on the environment; and*

- (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
- (d) *any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*

[116] In short, the Board is required to consider the effects on the environment of allowing the NoRs, having particular regard to:

- (a) Relevant national, regional and district planning instruments;
- (b) Whether adequate consideration has been given to alternative sites, routes or methods of undertaking the work; and
- (c) Whether the work and designation are reasonably necessary for achieving NZTA's objectives for which the designations are sought.

**Definitions of “environment” and “effect” — Section 171(1)**

[117] In considering effects under s171 of the RMA, the Board is mindful of the very broad definition of both the terms “environment” and “effect” in ss2 and 3 of the RMA.

[118] The term “environment” (s2) is defined as including:

- (a) Ecosystems and their constituent parts, including people and communities; and
- (b) All natural and physical resources; and
- (c) Amenity values; and
- (d) The social, economic, aesthetic, and cultural conditions that affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters.

[119] The Board must have regard to effects on the environment, including the potential effects of the Proposal, both positive (benefits) and adverse, on the people and communities along the proposed route or otherwise affected by the Proposal.

[120] The term “effect” is defined in s3 of the RMA, unless the context otherwise requires, as including:

- (a) Any positive or adverse effect; and
- (b) Any temporary or permanent effect; and
- (c) Any past, present, or future effect; and

- (d) Any cumulative effect which arises over time or in combination with other effects regardless of the scale, intensity, duration, or frequency of the effect, and also includes—
- (e) Any potential effect of high probability; and
- (f) Any potential effect of low probability which has a high potential impact.

[121] The Board is therefore entitled to consider not only potential adverse effects of the Project but also any positive effects (benefits) of the Proposal. These include broad issues relating to the benefits of such infrastructure in terms of safety and capacity improvements, decreased travel times and alleviation of traffic congestion, alongside commendable aspects such as addressing legacy groundwater issues and improving the treatment of catchment-wide stormwater in the wider Proposal area.

[122] This, of course, extends to the Board's consideration of the resource consents in chapter 6.2 of this Report.

### **Consideration of alternatives — s171(1)(b)**

[123] In terms of s171(1)(b) of the RMA, there is a significant body of case law<sup>48</sup> that addresses the scope of the Board's jurisdiction in relation to the consideration of alternatives. The Board examines this issue in greater detail in chapters 12 and 15.12 of this Report.

[124] The relevant legal principles can be briefly summarised as follows:

- (a) The requirement to consider alternatives only arises where the Requiring Authority does not have an interest in the land required for the work, or where the Proposal is likely to have a significant adverse effect on the environment;
- (b) The purpose of this requirement to consider alternatives is to ensure that the Requiring Authority has not acted arbitrarily in its selection of the site or route. The focus is on the process undertaken by the Requiring

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<sup>48</sup> Re *Queenstown Airport Corporation Limited* [2012] NZEnvC 206;  
*Waimari District Council v Christchurch City Council* C30/83;  
*Estate of P Moran v Transit New Zealand* W55/99;  
*Te Runanga o Te Atiawa ki Whakarongotai Inc v Transit New Zealand* W23/2002; and  
*Wymondley Against the Motorway Action Group v Transit New Zealand* A22/2003.

Authority and whether or not realistic alternatives have been considered;  
and

- (c) The relative merits of the alternatives are not relevant and it is not within the Board's powers to find that the Requiring Authority has selected the "wrong" alternative or to substitute its own selection for that of the Requiring Authority.

### **Outline Plan of Works — s176A**

- [125] Section 176A of the RMA is relevant in the context of the Board's decision. That section obliges the Requiring Authority to submit an outline plan of work (Outline Plan) to the territorial authority (in this case, Auckland Council) to enable the Council to request changes before construction of a Proposal commences.
- [126] The Outline Plan must show specific details of the work (such as height, bulk, location, contour, access and parking, landscaping) and any other matters to avoid, remedy or mitigate adverse effects of the work. In this case, Auckland Council is entitled to request changes to the Outline Plan, and has a right to appeal to the Environment Court if those changes are not accepted by NZTA as the Requiring Authority.
- [127] The Board has the power under s149P(4)(c) of the RMA to waive the requirement for an Outline Plan. NZTA has not applied for a waiver. The Board has not granted one.

## **6.2 PROVISIONS RELEVANT TO RESOURCE CONSENTS**

### **Non-complying activities — s104D**

- [128] There was no contest to the resource consent activities relating to the Proposal being bundled and assessed as a non-complying activity. The Board agrees.
- [129] The Board is also mindful that the RMA precludes it from granting consent unless the Proposal can pass at least one of the two limbs of the "gateway test" under s104D of the RMA. The Board set out that test in full below:

*"(1) Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either —*

***[Adverse effects limb]***

- (a) *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*

***[Objectives and policies limb]***

- (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
  - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
  - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
  - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

[130] A full analysis of the Proposal against the gateway test is addressed later in the Report, both in terms of the legal issues arising and in the Board’s evaluation. It was common ground that the EWL cannot pass the adverse effects limb of the gateway test. Thus, the focus is on the objectives and policies limb. It is sufficient to indicate at this stage that the extent of the proposed 18.3ha reclamation of the Māngere Inlet required the Board’s close attention. The Board will return to this matter in chapter 14.3 of this Report.

### **Relevant considerations — s104**

[131] Section 104B provides the jurisdiction to grant or decline an application for a resource consent.

[132] The starting point for the Board’s consideration of the applications for resource consent is s104 of the RMA (although, as mentioned earlier, there is invariably some overlap between s104 and the s104D gateway test). The relevant aspects of s104 are:

#### **“104 Consideration of Applications**

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to:*
  - (a) *any actual and potential effects on the environment of allowing the activity; and*
  - (b) *any relevant provisions of—*
    - (i) *a national environmental standard:*
    - (ii) *other regulations:*
    - (iii) *a national policy statement:*
    - (iv) *a New Zealand Coastal Policy Statement:*
    - (v) *a regional policy statement or proposed regional policy statement:*
    - (vi) *a plan or proposed plan; and*
  - (c) *any other matter the consent authority considered relevant and reasonably necessary to determine the application.*

- [133] The AUP:OP has, unsurprisingly, been a central s104(1)(b)(vi) matter that the Board has had to consider. Many of its policies are engaged by the Proposal.
- [134] Section 104(3) of the RMA prevents the Board from granting a discharge consent contrary to s107 (addressed below).
- [135] Section 104(3) also prevents the Board from having regard to trade competition or the effects of trade competition (addressed below).
- [136] The Board notes that one of the matters it is required to have regard to under s104 is the New Zealand Coastal Policy Statement 2010 (NZCPS). The Supreme Court decision in *Environmental Defence Society v King Salmon*<sup>49</sup> is relevant in that regard and is discussed in more detail in other chapters of this Report.
- [137] During the Hearing, Mr Mulligan offered an alternate view, with the “ethos” of “particularisation”, submitting that the newly-minted AUP:OP avoided any need to circle back to the NZCPS or indeed Part 2 of the RMA<sup>50 51</sup>. The Board will return to this matter later throughout this Report.

### **Matters relevant to discharge consents and reclamations — ss105 and 107**

- [138] Sections 105(1) and 107 of the RMA are relevant to the Board’s consideration of the discharge consents relating to the Proposal. Section 105(2) is relevant to the reclamations.
- [139] Section 105 states:

- “(1) If an application is for a discharge permit or a coastal permit to do something that would contravene section 15 or section 15B, the consent authority must, in addition to the matters in section 104(1), have regard to—*
- (a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and*
  - (b) the applicant’s reasons for the proposed choice; and*
  - (c) any possible alternative methods of discharge, including discharge into any other receiving environment.*
- (2) If an application is for a resource consent for a reclamation, the consent authority must, in addition to the matters in section 104(1),*

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<sup>49</sup> *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* – [2013] NZSC 101.

<sup>50</sup> Transcript, Mulligan, p224 to 228. Mr Mulligan also noted a number of other approaches as outlined in paragraphs [163-165].

<sup>51</sup> Closing Statement, Mulligan, para 21.43, citing *RJ Davidson Family Trust v Marlborough District Council* [2016] NZEnvC 81 and *Appealing Wanaka Incorporated v Queenstown Lakes District Council* [2015] NZEnvC 139.

*consider whether an esplanade reserve or esplanade strip is appropriate and, if so, impose a condition under section 108(2)(g) on the resource consent.*

[140] Section 107 relevantly provides that:

*“(1) Except as provided for in subsection (2), a consent authority shall not grant a discharge permit or a coastal permit to do something that would contravene section 15 or section 15A allowing—*

- (a) The discharge of a contaminant or water into water; or*
- (b) A discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or*

*...*

*if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar or other contaminants or water) is likely to give rise to all or any of the following effects in the receiving waters—*

- (c) The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;*
  - (d) Any conspicuous change in the colour or visual clarity;*
  - (e) Any emission of objectionable odour;*
  - (f) The rendering of freshwater unsuitable for consumption by farm animals;*
  - (g) Any significant adverse effects on aquatic life.*
- (2) A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A that may allow any of the effects described in subsection (1) if it is satisfied—*
- (a) That exceptional circumstances justify granting the permit; or*
  - (b) That the discharge is of a temporary nature; or*
  - (c) That the discharge is associated with necessary maintenance work —*

*and that it is consistent with the purpose of this Act to do so.*”

[141] The Board has considered these matters in the context of the discharge of contaminants required by the Proposal, in particular in relation to stormwater and leachate and dredging of the Māngere Inlet. This is dealt with in more detail in various resource consent chapters that follow throughout chapter 14 of this Report.

### **6.3 OTHER RELEVANT MATTERS**

[142] Under ss104(1)(c) and 171(1)(d) of the RMA, the Board is required to have regard or particular regard to any matters beyond those specified in those sections that the Board considers “relevant and reasonably necessary” to determine the NoRs and



applications for resource consent, respectively. The AEE<sup>52</sup> sets out a large number of other relevant matters, some of which received considerable attention at the Hearing.

- [143] A number of documents were also produced during the Hearing or presented to the Board as being relevant to the Proposal. Many of these other documents are listed in [Appendix 9: List of Documents and Exhibits Produced at the Hearing].
- [144] The Board has reviewed these documents and has considered them to the extent that they are relevant and reasonably necessary to its evaluation under ss104 and 171. It is not necessary to specifically address each of these documents in detail.

## 6.4 TRADE COMPETITION

- [145] Sections 104(3)(a)(i) and 171(1A) of the RMA prevent the Board from having regard to trade competition or the effects of trade competition. These require that the Board must not have regard to trade competition or the effects of trade competition when considering the application or NoR and any submissions received in relation to the Proposal.
- [146] What constitutes “trade competition” under the RMA was considered by the Environment Court in *General Distributors Limited v Foodstuffs Properties (Wellington) Limited*.<sup>53</sup> The Court noted in that case that “trade competitor” and “trade competition” are not defined in the Act. Taking guidance from the Concise Oxford Dictionary, it held that trade competition occurs where, “*two or more organisations [are] striving to establish superiority over other(s) in the buying and selling of (in this case) goods*”.
- [147] As mentioned in chapter 4.2 of this Report, a small number of submitters identified themselves as trade competitors of NZTA. The Board is satisfied that no Parties are trade competitors of NZTA in terms of the intended meaning of that term in the RMA. It is self-evident from the submission forms of these submitters that they are not trade competitors as that term is correctly understood.
- [148] There was occasional reference in evidence or submissions relating to the Port Link Road that Ports of Auckland Limited (POAL) was a trade competitor of Port of Tauranga. While that is true, the Board is satisfied that POAL’s relevant submissions were motivated by its status as a land owner and not for competitive reasons and is directly affected by an effect of the activity in terms of s308B of the

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<sup>52</sup> AEE, Section 15.8, in particular Table 15-2.

<sup>53</sup> [2011] NZEnvC 112.

RMA. The Board has been governed by ss104(3)(a)(i) and 171(1A) throughout and had no regard to any trade competitor considerations.

## 6.5 CONDITIONS

[149] The Board is entitled to impose conditions, although the power to impose such conditions is not unrestrained. Accordingly, the Board is limited by the established *Newbury*<sup>54</sup> principles. It is well settled that these principles set out that conditions are to:

- (a) Be for a resource management purpose, not an ulterior one;
- (b) Fairly and reasonably relate to the development authorised; and
- (c) Not be so unreasonable that a reasonable planning authority, duly applying its statutory duties, could not have approved it.

[150] Conditions imposed by the Board must also be certain and enforceable.<sup>55</sup>

[151] Section 108(1) of the RMA and s149P(2) of the RMA establishes the Board's jurisdiction to impose conditions on resource consents. Section 108(1) provides as follows:

*"Except as expressly provided in this section and subject to any regulations, a resource consent may be granted on any condition that the consent authority considers appropriate, including any condition of a kind referred to in subsection (2)."*

[152] Similarly, s149P(4)(b) of the RMA establishes the Board's jurisdiction to impose conditions on an NoR and designation as follows:

*"A board of inquiry considering a matter that is a notice or requirement for a designation or to alter a designation—*

*...*

*(b) may—*

*...*

*(iii) confirm the requirement, but modify it or impose conditions on it as the board thinks fit ..."*

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<sup>54</sup> *Newbury District Council v Secretary of State for the Environment* [1981] AC 578 at pp599 – 600, 607 – 608, 618 – 619, as applied by *Waitakere City Council v Estate Homes Ltd* [2007] 2 NZLR 149, at [para 66].

<sup>55</sup> *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57.

[153] In light of earlier commentary in chapter 3.3 of this Report, this also gives the Board jurisdiction to impose conditions on an altered designation (NoR2), attaching to both land already designated and land subject to the altered designation. The Board accepts the qualifier that any such conditions, however, should fairly and reasonably relate to works proposed by the notice to alter the existing designation.<sup>56</sup>

## 6.6 PART 2 OF THE RMA

[154] The assessment of NoRs and applications for resource consent are expressed to be “subject to Part 2” of the RMA. As mentioned later, the application of Part 2, in the context of applications for resource consent, is currently before the Court of Appeal.<sup>57</sup> Notwithstanding this, Part 2 is set out in full below because it is important. It commences with the purpose of the RMA, which is set out in s5 of the RMA.

[155] Section 5 states that:

- “(1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, ‘sustainable management’ means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while —*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonable foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying or mitigating any adverse effects of activities on the environment.”*

[156] Section 6 of the RMA sets out the matters of national importance, which the Board must “recognise and provide for” to the extent that they are relevant:

- “(a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;*

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<sup>56</sup> Memorandum of Counsel and Planner for the Board of Inquiry, dated 9 June 2017, para 89–97.

<sup>57</sup> *RJ Davidson Family Trust v Marlborough District Council* [2017] NZHC 52. The Board analysis is due to be heard in November 2017. The Board goes on to analyse and consider *Davidson* and its effect later in a subsequent chapter [12] of this Report.

- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers;*
- (e) *The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga;*
- (f) *The protection of historic heritage from inappropriate subdivision, use, and development; and*
- (g) *The protection of protected customary rights.*"

[157] Section 7 identifies other matters to which the Board is to "have particular regard to". The aspects of s7 that the Board considers to be relevant in terms of the Proposal are:

- "(a) *Kaitiakitanga:*
  - (aa) *The ethic of stewardship:*
  - (b) *The efficient use and development of natural and physical resources:*
  - ...
  - (c) *The maintenance and enhancement of amenity values:*
  - (d) *Intrinsic values of ecosystems:*
  - ...
  - (f) *Maintenance and enhancement of the quality of the environment.*"

[158] Section 8 of the RMA addresses Treaty of Waitangi issues. It provides that:

*"In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)."*

[159] Prior to the High Court's decision in *Davidson*, it was well settled that, in making a decision, a board is to apply an "overall broad judgment" having regard to various competing considerations that might arise in any given set of circumstances. The classic enunciation of that proposition is contained in *North Shore City Council v Auckland Regional Council*,<sup>58</sup> which was affirmed on appeal to the High Court in *Green & McCahill Properties Limited v Auckland Regional Council*, which set out the following:<sup>59</sup>

*"The method of applying section 5 ... involves an overall broad judgment of whether a proposal would promote the sustainable management of natural and physical resources. This recognises that the Act has a single purpose. Such an approach allows for the comparison of conflicting considerations and the scale and degree of them, and also their relative importance or proportion in the final outcome."*

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<sup>58</sup> [1997] NZRMA 59; [1996] 2 ELRNZ 305.

<sup>59</sup> [1997] NZRMA 519.

- [160] Whether *Davidson* has really altered this approach and the extent to which Part 2 guides decision-makers under s104 is currently a complex legal issue. The Board analyses this in greater detail in chapter 12.5 of this Report.
- [161] Mr Mulligan assisted the Board by submitting that, in light of the uncertainty under the case authority, there appears to be two broad options available to the Board:<sup>60</sup>
- (a) Apply an overall broad judgment under Part 2 in relation to the consideration of the NoRs under s171 but only consider the resource consent applications under s104; or
  - (b) Apply the “exceptions” within the *Davidson* case that outline when recourse to Part 2 is appropriate, on the grounds that the plans have incomplete coverage as they do not cover a situation of an integrated proposal for a NoR and resource consents or a proposal that sits across both district and regional coastal plan areas. The appropriateness of recourse to Part 2 is reinforced by the fact that Part 2 provides an integrated decision-making framework across resource consents and NoRs.
- [162] Counsel further submitted that the High Court’s decision in *Basin Bridge* provides a clear and binding authority that Part 2 remains relevant to decision-making on NoRs (under s171), but the law has not yet been settled with respect to the role Part 2 should play for resource consents (under s104).<sup>61</sup> The Board see pragmatic sense in that submission.
- [163] The Board acknowledges that there is a third option<sup>62</sup>, supported by two recent Environment Court decisions in *Pierau v Auckland Council*<sup>63</sup> and *Save Wanaka Lakefront Reserve Inc v Queenstown Lakes District Council*,<sup>64</sup> a sort of “cover all bases approach” whereby the Court adopted both a Part 2 assessment and a *Davidson* approach in the alternative when assessing resource consents. Notably, in both of these decisions the separate assessments undertaken resulted in the same outcome.
- [164] The Board is appreciative of the assistance provided by all counsel on this arguably unsettled and still evolving area of the law.

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<sup>60</sup> Opening Statement, Mulligan, para 25.69.

<sup>61</sup> Closing Statement, Mulligan, para 22.2.

<sup>62</sup> Closing Statement, Mulligan, para 22.5 – 22.6

<sup>63</sup> [2017] NZEnvC 90.

<sup>64</sup> [2017] NZEnvC 88.

[165] It is sufficient to say at this stage that the Board has reached its overall assessment and appraisal of the Proposal under the statutory requirements set out above in this chapter.

## 7. RELEVANT PLANNING INSTRUMENTS

- [166] The previous chapter of this Report provides an overview of the statutory context applying to the Board. This chapter provides an overview of the cascading framework of planning instruments relevant to the Board's consideration of the Proposal. It therefore addresses, at a relatively high level, the planning instruments that the Board is required to have regard to under ss104(1)(b) and 171(1)(a) of the RMA.
- [167] The various statutory planning documents and instruments set out in this chapter have all been considered and weighed by the Board. This is reflected in the findings and conclusions that are discussed in detail in the subsequent chapters of this Report, in particular in chapters 14.4 and 15.11. The Proposal invoked a great many provisions.
- [168] The Joint Witness Statement (JWS) Report of the planners agreed that the documents listed in s14 of the AEE should form part of the common bundle (with the addition of the National Policy Statement for Renewable Electricity Generation).<sup>65</sup> The Board agrees. The hierarchy of the relevant planning instruments and documents is usefully illustrated below in [Figure 3]:

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<sup>65</sup> JWS Report – Planning, para 3.1.

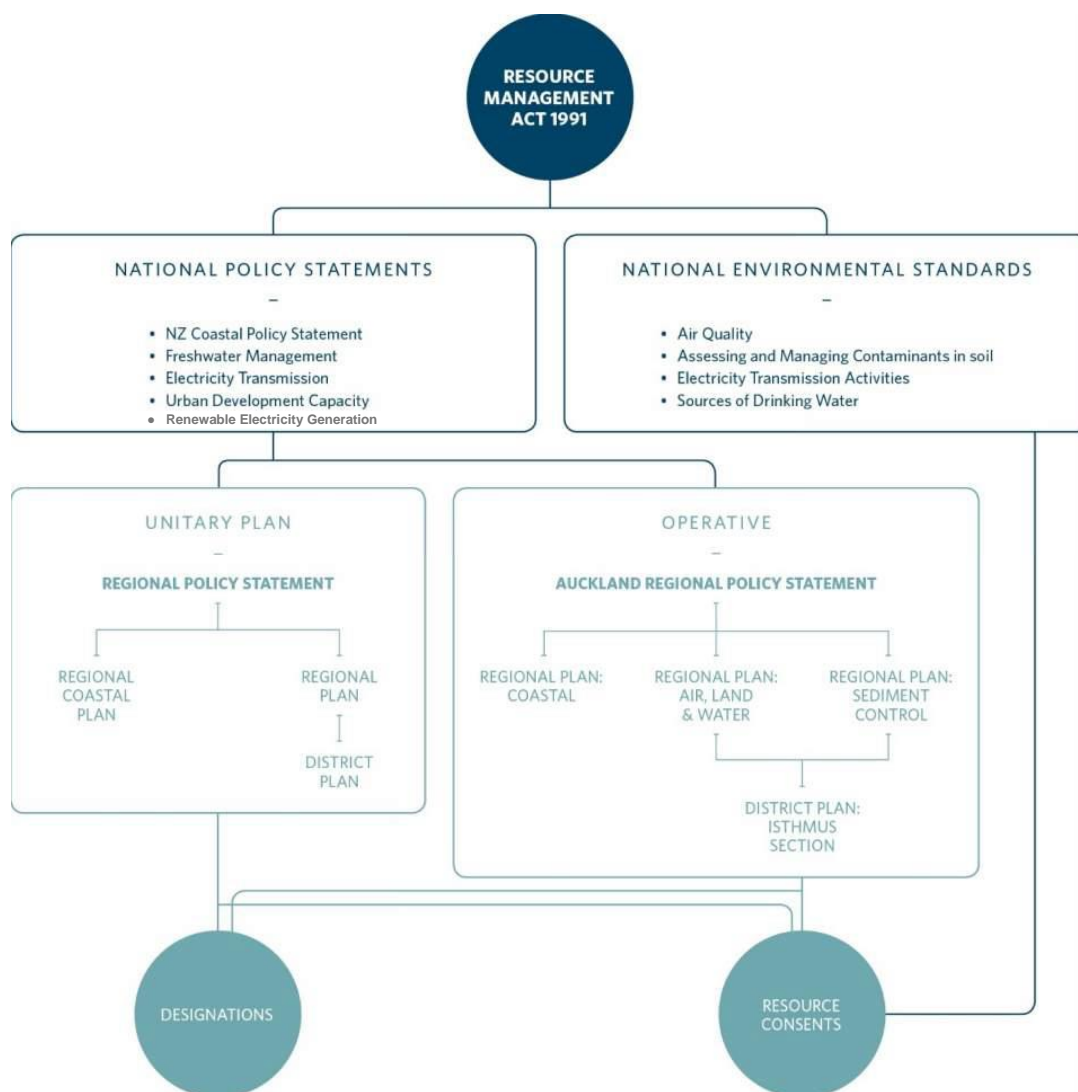


Figure 3: Wiring diagram of relevant provisions (annotated).<sup>66</sup>

[169] It is not necessary to undertake an analysis of all of the relevant planning provisions and the evidence that the Board heard relating to them. The Board has considered all of the relevant instruments addressed below in coming to its decision. The Board will address specific planning instruments or provisions where necessary or desirable to assist in providing reasons for its findings and conclusions.

## 7.1 NATIONAL PLANNING INSTRUMENTS

[170] Central government has issued a number of national policy documents and standards that are relevant to the Proposal. These planning instruments are addressed in turn below, some of which the Board has already mentioned earlier in this Report.

<sup>66</sup> Reproduced from AEE, Figure 14-1 (with necessary modifications).



## **New Zealand Coastal Policy Statement 2010 (NZCPS)**

- [171] The New Zealand Coastal Policy Statement is a national policy statement under the RMA. The purpose of the NZCPS is to state policies in order to achieve the purpose of the RMA in relation to New Zealand's coastal environment.
- [172] The Board is required to “have regard” or “particular regard” to the relevant provisions of the NZCPS. The Board has already noted that it must do so in the context of all of the relevant considerations provided for in ss104 and 171 while attributing the appropriate weight to those provisions, particularly in light of the *King Salmon* decision. In that regard, various aspects of the NZCPS are relevant, particularly to the proposed reclamations of the Māngere Inlet that traverse the coastal environment and to the discharges to the CMA that will result from the construction and operation of the Proposal.
- [173] The Supreme Court in *King Salmon* was considering plan changes to facilitate the development of a marine farm in an area of outstanding natural character and outstanding natural landscape. The Court was, therefore, required to address the provisions of the NZCPS relating to those aspects of the coastal environment, namely Policies 13(1)(a) and 15(a). A key issue was whether those policies established “environmental bottom lines” that needed to be strictly applied or whether an “overall broad judgment” in accordance with hitherto accepted practice needed to be exercised. The Court concluded that the policies in question require the avoidance of adverse effects on areas of the coastal environment that have outstanding natural character, outstanding natural features and outstanding natural landscapes. In those circumstances, where the regional coastal plan was required to “give effect to” the NZCPS, strict adherence to directive policies contained in the NZCPS was required. It was not appropriate for decision-makers on plan changes to make an “overall broad judgment” in terms of Part 2 of the RMA.
- [174] Of particular importance, the majority considered the use and relevance of the verb “avoid” in relation to Policies 13(1)(a) and (b) and 15(a) and (b) of the NZCPS:

*“[96] ... We consider that ‘avoid’ has its ordinary meaning of ‘not allow’ or ‘prevent the occurrence of’. In the sequence of ‘avoiding, remedying, or mitigating any adverse effects of activities on the environment’ in s 5(2)(c), for example, it is difficult to see that ‘avoid’ could sensibly bear any other meaning. Similarly in relation to policies 13(1)(a) and (b) and 15(a) and (b), which also juxtaposed the words ‘avoid’, ‘remedy’ and ‘mitigate’. This interpretation with objective two of the NZCPS which is, in part, ‘[t]o preserve the natural character of the coastal environment and protect natural features and landscape values through ... identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities’.*

...

*[97] However, taking that meaning [of avoid] may not advance matters greatly: whether 'avoid' (in the sense of 'not allow' or 'prevent the occurrence of') bites depends on whether the 'overall judgment' approach or the 'environmental bottom line' approach is adopted under the 'overall judgment' approach, a policy direction to 'avoid' adverse effect is simply one of a number of relevant factors to be considered by the decision maker, albeit that it may be entitled to greater weight; under the 'environmental bottom line' approach, it has greater force."*

[175] The Board has given careful consideration to these dicta relating to NZCPS by New Zealand's final appellate court. It is clear from the Supreme Court decision that the NZCPS, particularly the directive policies such as Policies 13(1)(a) and 15(a), are clearly entitled to very significant weight. The Board has accorded those policies such weight in deference to the Supreme Court's decision. However, as already noted, the Board is required by s104 to "have regard to" and s171 "to have particular regard" only (not to "give effect to") the NZCPS. It is required to consider that instrument alongside other factors made relevant by those sections in making a balanced judgment taking account of all such factors. That is the approach it has adopted, as will be apparent from its specific consideration of this issue in the context of the applications before the Board. As discussed later, it is the AUP:OP that has given effect to the NZCPS. The overlap and duplication is considerable and highly relevant.

[176] In that regard, the Māngere Inlet and Ōtāhuhu Creek are covered by the NZCPS. They fall short of being sites of outstanding natural character and are already crossed by SH1 (Ōtāhuhu Inlet) and SH20 (Māngere Inlet). The Māngere Inlet is located adjacent to outstanding natural features identified in the AUP:OP, in particular the Te Hōpua a Rangi explosion crater and tuff exposure and Southdown pahoehoe lava flows including Anns Creek. It also traverses and impacts on marine Significant Ecological Areas (SEAs) that echo biodiversity values protected under the NZCPS.

[177] In looking at the NZCPS more broadly, the Key Issues Report prepared by Auckland Council usefully identified eight key themes relating to the coastal environment:<sup>67</sup>

- (a) Limiting reclamations to instances where other practicable options are unavailable;
- (b) Ensuring that any reclamation minimises its footprint within the coastal environment;

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<sup>67</sup> At [Para 46].

- (c) Preserving natural ecosystems and their biological functions;
- (d) Preserving coastal landscape values;
- (e) Maintaining and enhancing public access to the coastal environment;
- (f) Enabling use of the coastal environment to support the community;
- (g) Recognising coastal hazards, including sea level rise; and
- (h) Taking into account the Treaty of Waitangi and cultural values.

[178] The authors go on to say that:<sup>68</sup>

*“These themes are initially identified through the NZCPS and flow through to the regional planning provisions, which identify Auckland’s coastal environment as a fundamental part of the region’s identity and the need for any development within the coastal environment to be of an appropriate form in appropriate locations. NZCPS policy 10 also identifies that reclamation in the CMA is to [be] avoided unless:*

- a. Land outside the coastal marine area is unavailable for the activity;*
- b. The activity which requires the reclamation can only occur adjacent to or within the coastal marine area;*
- c. There are no practicable alternative methods for providing the activity; and*
- d. The reclamation will provide significant regional or national benefit.”*

[179] The Board returns later in chapter 12 of this Report to the recent *Davidson* law and its interaction with *King Salmon* and the Board’s application of the NZCPS. As briefly mentioned earlier, the Board will also return to address the proposition of “particularisation” submitted by counsel for NZTA in light of the recent *Davidson* case.

### **Hauraki Marine Park Gulf Act 2000**

[180] In accordance with s10 of the Hauraki Gulf Marine Park Act (HGMP Act), ss7 and 8 of the HGMP Act must be treated as a New Zealand coastal policy statement issued under the RMA in relation to the coastal environment of the Hauraki Gulf. The HGMP Act provides that if there is a conflict between those provisions and the NZCPS, the NZCPS prevails.<sup>69</sup> The relevance of the HGMP Act is limited to the proposed declamation and bridging works in the Ōtāhuhu Creek.

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<sup>68</sup> At [Para 47].

<sup>69</sup> Section 10(2) of the HGMP Act.

**National Policy Statement Freshwater Management 2014 (Updated August 2017 to incorporate amendments from the National Policy Statement for Freshwater Amendment Order 2017)**

- [181] The National Policy Statement for Freshwater Management 2014 (NPS – Freshwater Management) came into effect on 1 August 2014. It replaced the first generation NPS – Freshwater Management, which came into effect earlier in 2011.
- [182] During the course of the Hearing the NPS – Freshwater Management was updated. These changes came into effect on 7 September 2017. There are no transitional provisions in relation to the amendments, therefore the Board must consider the updated version. The Board has examined the updated version and the changes relevant to the Board’s consideration are not significant (particularly in the context of Policy A4 mentioned below).
- [183] A key change to the NPS – Freshwater is the management of freshwater through a framework that considers and recognises Te Mana o te Wai – the integrated and holistic wellbeing of a freshwater body.
- [184] The NPS – Freshwater Management sets out objectives and policies in relation to the management of freshwater quality and quantity and is therefore relevant to aspects of the Proposal that affect freshwater, such as discharges to freshwater and stream diversions.
- [185] The provisions of the NPS – Freshwater Management establish national bottom lines for the identified compulsory national values, being ecosystem health and human health (contact). Regional councils are to establish planning regimes within specified timeframes in order to ensure that those national bottom lines are met over time. The amended version has also introduced national targets for water quality improvement (to be developed and finalised by regional councils by 31 December 2018).<sup>70</sup>
- [186] In the interim period, while regional councils are establishing the required planning framework to implement the objectives and policies of the NPS – Freshwater Management, it directs regional councils to include specific policies in regional plans that require decision-makers to consider freshwater management issues. In that regard, Policy A4 in particular requires the Board:

*“1. When considering any application for a discharge the consent authority must have regard to the following matters:*

- a. the extent to which the discharge would avoid contamination that will have an adverse effect on the life-supporting capacity of fresh water including on any ecosystem associated with fresh water and*

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<sup>70</sup> Policy A6.

- b. *the extent to which it is feasible and dependable that any more than minor adverse effect on fresh water, and on any ecosystem associated with fresh water, resulting from the discharge would be avoided.*
- 2a. *... health of people and communities as affected by their contact with fresh water; and*
- b. *the extent to which it is feasible and dependable that any more than minor adverse effect on the health of people and communities as affected by their contact with fresh water resulting from the discharge would be avoided.”*

[187] The Board has done so. The potential effects of the Proposal on freshwater resources are addressed later in chapter 14.4 of this Report. This includes the development of innovative solutions to reduce long-term discharge of contaminants to the environment (e.g. stormwater and leachate) put forward by NZTA as part of the Proposal.

### **National Policy Statement Urban Development Capacity 2016**

[188] The relevance of the National Policy Statement on Urban Development Capacity (NPS – Urban Development Capacity) to the Proposal received some attention. The authors of the Key Issues Report did not consider it relevant.<sup>71</sup> The planners at conferencing disagreed.<sup>72</sup> Advice from the Board’s counsel and planner had this to say:<sup>73</sup>

*“We consider that the NPS-UDC is a relevant document to be considered in the Board’s assessment. While on its face the NPS-UDC is concerned with urban development capacity and the availability of land to meet housing and business demand, it is also designed to provide direction to decision-makers making planning decisions that affect urban environments.”*

[189] The Board agrees. The Board returns to address this later in chapter 15.11 of this Report.

### **National Policy Statement for Renewable Electricity Generation 2011**

[190] The National Policy Statement for Renewable Electricity Generation (NPS – Renewable Electricity Generation) came into effect on 31 May 2011 to set out the objective and policies for renewable electricity and recognise the benefits of

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<sup>71</sup> At [Para 29].

<sup>72</sup> JWS – Planning, para 3.12.

<sup>73</sup> Memorandum of Counsel and Planner to the Board of Inquiry relating to section 104D of the RMA and other matters, dated 9 June 2017, para 7.

renewable energy. The planners agreed that the NPS – Renewable Electricity Generation is relevant to the Proposal.<sup>74</sup> It was advanced by Mr Grala, planning witness for Mercury, in relation to the potential for reverse sensitivity effects on the Southdown site, the relevance of which was disputed by NZTA.<sup>75</sup> The Board will return to this later in chapter 15.11 of this Report.

### **National Policy Statement Electricity Transmission 2008 and National Environmental Standard for Electricity Transmission Activities (2009)**

- [191] The National Policy Statement on Electricity Transmission (NPS – Electricity Transmission) came into effect on 10 April 2008, and acknowledges the national significance of the national grid. This is through objectives and policies for managing the electricity transmission network that seek to achieve the efficient transmission of electricity while managing adverse effects of the network and of other activities on the network.
- [192] The National Environmental Standard for Electricity Transmission Activities (NES – Electricity) contains regulations for the relocation of existing transmission lines.
- [193] The Proposal requires the relocation of some transmission towers and lines, on both public and private land. NZTA has progressed its application in consultation with Transpower as owner and operator of the national grid assets. The evidence presented by Transpower, and summarised in the closing submissions of Mr Gardner-Hopkins, gives the Board a high level of confidence that the Proposal is compatible with safeguarding the national grid. The Board returns to this later in chapter 15.11 of this Report.

### **National Environmental Standard for Sources of Human Drinking Water 2008**

- [194] The National Environmental Standard for Sources of Human Drinking Water (NES – Drinking Water) came into effect on 20 June 2008, with the intent of reducing the risk of contaminating drinking water sources such as rivers and groundwater. The NES – Drinking Water requires decision-makers to ensure that effects on drinking water sources are considered in decisions on resource consents and regional plans. As highlighted in the Ministers' reasons, the Proposal crosses over bulk water supply for the Auckland Region (the Hunua 4 bulk watermain). The EWL does not directly affect the Hunua 4 bulk watermain and no evidence was put before the Board that identified any conflict with the NES – Drinking Water. There is no need to comment further.

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<sup>74</sup> JWS – Planning, para 3.12.

<sup>75</sup> Opening Statement, Mulligan, para 24.9–24.14.

## **National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011**

- [195] The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES – Soil Contamination) came into effect on 1 January 2012, and provides a nationally consistent set of planning regulations and contaminant values and thresholds, with a particular focus on human health.
- [196] The application identifies a number of contaminated sites in the Proposal area and wider catchments, which are indicative of its long history of land use and development.<sup>76</sup> The potential level of contamination and the volume of soil disturbance proposed exceeds the permitted activity thresholds and resource consent is required. NZTA proposes to manage risk and uncertainty relating to contamination along the Proposal area through a suite of management plans as discussed later in chapter 14.2 of this Report under the sub-heading *Contaminated Land*. Further consideration of the NES – Soil Contamination is provided in chapter 14.4 of this Report.

## **National Environmental Standard for Air Quality 2004**

- [197] The National Environmental Standard for Air Quality (NES – Air Quality) came into effect on 8 October 2004 to guarantee a minimum level of health protection through a set of nationally consistent regulations for managing the effects of air quality, including setting ambient air quality standards. While no resource consents have been applied for under the NES – Air Quality, there was no contest that it has some relevance to the Proposal. The Board returns to this to the extent that it is necessary to its findings on the resource consents in chapter 14 and NoRs in chapter 15 of this Report.

## **7.2 REGIONAL AND DISTRICT PLANNING INSTRUMENTS**

- [198] There are a range of regional and district planning instruments, both operative and proposed, which are relevant to the Proposal. These documents are briefly addressed below and have been considered throughout the Board's deliberations. The Board will return to the specific aspects of those documents where necessary later in this Report.

### **Auckland Unitary Plan: Operative in Part**

- [199] The newly-minted AUP:OP is operative in part. The AUP:OP is the first planning instrument promulgated by the Auckland Council following the amalgamation of the regional and various district councils in the Auckland Region. The AUP:OP

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<sup>76</sup> Contaminated Land Assessment in Volume 3 of the AEE.

contains all planning instruments required to be promulgated under the RMA. It combines into one single document:

- (a) The Regional Policy Statement (AUP:OP<sup>RPS</sup>);
- (b) The Regional Coastal Plan (AUP:OP<sup>RCP</sup>)
- (c) The Regional Plan (AUP:OP<sup>RP</sup>); and
- (d) The District Plan (AUP:OP<sup>DP</sup>).

[200] There are a number of appeals outstanding on the AUP:OP – some have been resolved since the applications were notified, including amendments to the provisions stemming from the recent decision in *Royal Forest and Bird Protection Society Incorporated v Auckland Council*<sup>77</sup> mentioned earlier in this Report. It was common ground that those appeals remaining have little relevance to this Proposal.

[201] While the AUP:OP<sup>RCP</sup> section has been submitted to the Minister of Conservation for approval, the transition from the legacy policy statement and plans, to the AUP:OP, is not quite complete. During conferencing the planners provided a useful overview of the status of the AUP:OP provisions.<sup>78</sup> The Board agrees with their assessment, and summarises as follows:

- (a) The AUP:OP is the dominant planning document for the Proposal;
- (b) The AUP:OP<sup>RPS</sup> can be given most weight and the legacy Regional Policy Statement can be given limited weight (unless otherwise stated). Outstanding appeals on the AUP:OP<sup>RPS</sup> relate to discrete minor provisions, none being relevant to the Proposal. The AUP:OP<sup>RP</sup> provisions can be given considerable weight and limited weight given to the legacy Regional Plans (except where noted otherwise);
- (c) On 15 May 2017, the High Court released its judgment on the plan-wide appeal by Forest and Bird alleging an error of law regarding the NZCPS and the AUP:OP<sup>RCP</sup><sup>79</sup>. Other outstanding appeals on the AUP:OP<sup>RCP</sup> relate to discrete minor provisions; none are relevant to the Proposal. The new plan is thus the predominant regional coastal planning document and the old Coastal Plan, while still relevant, has little weight;

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<sup>77</sup> [2017] NZHC 980.

<sup>78</sup> JWS Report – Planning, para 3.6–3.11.

<sup>79</sup> As a consequence of the appeal, additional policies were added to D9 Significant Ecological Areas Overlay (Policies 9.3.(9) and (10)). See *Royal Forest and Bird Protection Society Incorporated v Auckland Council* [2017] NZHC 980.



- (d) Outstanding appeals for the AUP:OP<sup>DP</sup> are discrete and mostly site specific. The overall “shape” of Auckland, including the zoning framework, is essentially settled. The AUP:OP<sup>DP</sup> can be given considerable weight; and
- (e) The AUP:OP<sup>DP</sup> contains a National Grid Corridor Overlay applicable to the Proposal subject to the Court’s consideration of a draft consent order. The final overlay provisions will be relevant insofar as any restrictions they may place on sites where national grid assets are being relocated.

[202] The Board has applied the provisions of the AUP:OP<sup>RCP</sup> outlined in the High Court decision. Those provisions are yet to be approved by the Minister of Conservation, but the Board has still applied them.

### **Legacy Policy Statement and Plans**

[203] For the reasons above relating to the status of the AUP:OP, and for the sake of brevity, the relevant legacy policy statement and plans are listed below. It is not necessary nor helpful to the Board’s decision to cover these in any great detail. These are:

- (a) Auckland Regional Policy Statement;
- (b) Auckland Council Regional Plan(s):
  - (i) Coastal;
  - (ii) Sediment Control;
  - (iii) Air, Land and Water; and
- (c) Auckland District Plan: Isthmus Section.

[204] The Board has considered and had regard to these instruments to the extent necessary.

### **Key Rules, Objectives and Policies**

[205] The relevant planning rules triggered by the Proposal and requiring resource consent are identified in the application documents.<sup>80</sup> It is not necessary to repeat these here. To avoid doubt, the district plan rules as such do not apply to the NoRs.

[206] During the course of the Hearing there was a particular focus on several key objectives and policies of the relevant regional and district planning instruments.

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<sup>80</sup> Report 2 (Volume 3).

The Board turns to briefly introduce these below. For the most part these relate to the reclamation and biodiversity provisions triggered by the Proposal. The Board is mindful of the statement made by the authors of the Key Issues Report that, “A great many policy provisions are relevant ...”<sup>81</sup> As mentioned earlier, the Board will address specific planning provisions where necessary or desirable to assist in providing reasons for its decision.

[207] Before the Board sets out the key provisions relevant to the Proposal it is useful to reflect on the following concluding remarks from the authors of the Key Issues Report:<sup>82</sup>

*“... A wide range of policy provisions are relevant due to the nature of the proposal. Tensions arise between the policy thrust of individual themes.*

*The Board consider issues associated with reclamation to be the greatest policy challenge. The appropriateness of the proposed reclamation underpins the entire project. As highlighted in this report, the policy framework at both a national and regional level seeks to avoid reclamation, with criteria for contemplating reclamation where it is unavoidable ...”*

[208] Turning to the key coastal objectives and policies:<sup>83</sup>

- (a) Reclamations – F2.2.2 Objectives and F2.2.3 Policies (Legacy Regional Coastal Plan policies 13.4.1 and 13.4.2);
- (b) Outstanding Natural Features – D10.2 Objectives and D10.3.3 and D10.3.4 Policies (Legacy Regional Coastal Plan policies 5.4.); and
- (c) Significant Ecological Areas – D9.2 Objectives and D9.3 Policies (Legacy Regional Coastal Plan policies 5.4.).

[209] A great deal of attention fell on the directive and at times tense relationship between reclamation policies F2.2.3.1 and F2.2.3.3,<sup>84</sup> which are set out below in full:

*“(1) Avoid reclamation and drainage in the coastal marine area except where all of the following apply:*

- (a) *the reclamation will provide significant regional or national benefit;*
- (b) *there are no practicable alternative ways of providing for the activity, including locating it on land outside the coastal marine area;*

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<sup>81</sup> At [Para 25].

<sup>82</sup> At [Para 139] to [–140].

<sup>83</sup> The Board notes the most relevant provisions identified in the Memorandum of Counsel and Planner to the Board of Inquiry relating to section 104D of the RMA and other matters, dated 9 June 2017, at [para 54].

<sup>84</sup> And subsequent policies in F2.2.3.5–10.

- (c) *efficient use will be made of the coastal marine area by using the minimum area necessary to provide for the proposed use, or to enable drainage.*

...

- (3) *Provide for reclamation and works that are necessary to carry out any of the following:*
  - (a) *maintain or repair a reclamation;*
  - (b) *enable the repair and upgrade of existing reclamations and seawalls, by way of minor reclamation;*
  - (c) *carry out rehabilitation or remedial works;*
  - (d) *maintain or enhance public access or linkages with public open space to, within or adjacent to the coastal marine area;*
  - (e) *enable the construction and/or efficient operation of infrastructure, including but not limited to, ports, airports, roads, pipelines, electricity transmission, railways, ferry terminals, and electricity generation; or*
  - (f) *create or enhance habitat for indigenous species where degraded areas of the coastal environment require restoration or rehabilitation.*

[210] Moving on to the key vegetation management and biodiversity objectives and policies in the AUP:OP:<sup>85</sup>

- (a) D9 (and particularly policies D9.3.9 and D9.3.10 regarding the SEA overlays);
- (b) E15 (and particularly policies E15.3.9 and E15.3.10 regarding vegetation management and biodiversity); and
- (c) D9.3.1 and D9.3.2, and E15.3.2, which seek to minimise and offset adverse effects where avoidance is not practicable.

[211] And finally on to a range of other key provisions triggered by the Proposal, which broadly engage the following chapters (or particular sections) of the AUP:OP:<sup>86</sup>

- (a) D21 – Sites and Places of Significance to Mana Whenua
- (b) E26 – Infrastructure;

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<sup>85</sup> The Board notes the particularly relevant provisions identified in the Memorandum of Counsel and Planner to the Board of Inquiry relating to section 104D of the RMA and other matters, dated 9 June 2017, at [para 79]. Note – The reference to biodiversity policies D9.2.3.9/10 and E15.2.3.9/10 has been corrected (the correct reference is D9.3.9/10 and E15.3.9/10).

The Board also notes for clarification that these biodiversity policies in D9 and E15 are essentially worded the same.

<sup>86</sup> The Board adopts the relevant provisions not already identified above as referred to in Mulligan, Closing, at [21.20]. Note –The reference to D8 Historic Heritage has been corrected (the correct reference is D17).

- (c) F2.11 – Discharges;
- (d) E18 – Natural Character;
- (e) D17 – Historic Heritage; and
- (f) F2.14 – Use and Development.

[212] While a number of these objectives and policies received a considerable amount of attention with respect to the s104D gateway test, the Board is in no doubt that they (as well as all relevant provisions triggered) are also relevant to the substantive assessment required by ss104 and 171 of the RMA. Thus, its findings on the weightings to be applied are woven throughout the following chapters of this Report.

[213] For ease of reference a number of key provisions identified above are provided in full in [Appendix 10: Key Regional and District Objectives and Policies].

### **Rule C1.5**

[214] The Board encountered an interpretation issue that arose during the Hearing. The issue related to the bundling of activities and the application (or otherwise) of Rule C1.5 of the AUP:OP:

***“C1.5. Applications for more than one activity***

*(1) Where a proposal:*

- (a) consists of more than one activity specified in the Plan; and*
  - (b) involves more than one type of resource consent or requires more than one resource consent; and*
  - (c) the effects of the activities overlap;*
- the activities may be considered together.*

*(2) Where different activities within a proposal are subject to different parts (regional, coastal or district) of the Plan, each activity will be assessed in terms of the objectives and policies which are relevant to that activity.*

*(3) Where different activities within a proposal have effects which do not overlap, the activities will be considered separately.”*

[215] Propositions on the correct application of Rule C1.5 were advanced by counsel for Ngāti Whātua Ōrākei and Te Kawerau ā Maki, TOES and Others, and NZTA. No parties contested that the activity status of the consents should not be bundled. However, the key debate focused on whether the s104D non-complying activity assessment should focus on reclamation provisions, the AUP:OP<sup>RCP</sup> as a whole, or all relevant regional provisions (AUP:OP<sup>RCP</sup> and AUP:OP<sup>RP</sup>). It was common

ground that for the purposes of the Board's analysis the district plan provisions of the AUP:OP<sup>DP</sup> were less relevant to the s104D assessment.<sup>87</sup>

[216] The Board accepts Ms Rickard's position that with the bundled non-complying activity status, all relevant regional provisions should be considered.<sup>88</sup> But the Board also acknowledges that the non-complying status is triggered by coastal activities in particular, the proposed reclamation, and by some regional activities such as stream works in an SEA. On that basis, the approach taken by Ms Coombes provides an appropriately cautious route through this planning analysis<sup>89</sup> that is to consider the most relevant coastal provisions first. This is also similar to the submission of Mr Burns,<sup>90</sup> albeit that he considers the most relevant to be those that relate to reclamation, rather than the broader AUP:OP<sup>RCP</sup>. Thus, in chapter 14.3 of this Report, the Board first considers the Proposal under the reclamations provisions of the AUP:OP<sup>RCP</sup>, then broadens its consideration to other relevant coastal provisions, and finally considers relevant AUP:OP<sup>RP</sup>. In that way, the Board avoids artificially "finessing" out favourable provisions, notwithstanding that it accepts that the considerations are not a "numbers game", as it has discussed in chapter 12.5 of this Report.

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<sup>87</sup> Ms Rickard acknowledged that the AUP:OP<sup>DP</sup> relevance was limited to a small number of land use activities not covered by NoRs (Transcript, p2433).

<sup>88</sup> Hearing Summary, Rickard, para 6.

<sup>89</sup> Statement of Primary Evidence, Coombes, para 10.8 and 10.9.

<sup>90</sup> Transcript, Burns, p691.

## 8. A BRIEF OVERVIEW

- [217] This Report is in essence about the proposed EWL highway. NZTA has sought NoRs and various resource consents under the provisions of the RMA to enable it to construct the highway. The estimated cost of the Proposal is in the vicinity of \$1.8 billion. Two Ministers of the Crown, the Minister for the Environment and the Minister of Conservation, consider that NZTA's proposal is one of national significance. Thus, Part 6AA of the RMA comes into play, under which part the Board has come into being.
- [218] The Ministers' reasons are set out elsewhere in this Report.<sup>91</sup> Unsurprisingly they include the significant use of natural and physical resources that the construction of the proposed highway will consume, the proposed reclamation of approximately 18.3ha of the Manukau Harbour's Māngere Inlet, and, mirroring s142(3)(a)(i), widespread public concern or interest over actual or likely effects on the environment.
- [219] The AEE<sup>92</sup> accurately describes the proposed highway as running, at its western end, from Neilson Street in Onehunga to just south of Princes Street in Ōtāhuhu at its eastern end. Eight "key features" of the highway Proposal are identified, which are set out in chapter 1.1 of this Report.<sup>93</sup>
- [220] The AEE, and in its submissions NZTA, states the major need for the proposed highway is to address heavily congested roads in the Onehunga, Penrose and Mt Wellington areas of Auckland, those areas being of economic importance to the Auckland area and being the main industrial transport and distribution hub for both the city and the upper North Island. The EWL is described as enhancing connectivity, both to and from this area, as well as reducing travel times for all transport users, including freight.
- [221] Reclamation is proposed to form part of the EWL alignment along the northern foreshore of the Māngere Inlet and includes a component that is described as:<sup>94</sup>

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<sup>91</sup> Chapter [3.2].

<sup>92</sup> AEE, Chapter 3.

<sup>93</sup> Ibid.

<sup>94</sup> Ibid, Chapter 1.

*“The naturalisation of the existing highly modified coastal edge, which provides opportunities for enhanced public access and water quality improvements, assisting to restore the mana of the Māngere Inlet.”*

- [222] As is apparent from processes described in other parts of this Report,<sup>95</sup> settling on an alignment for the proposed highway has not been easy. That part of the Auckland isthmus situated between the Neilson Street Interchange and the Mt Wellington Interchange (at Tip Top corner) on SH1 is the intensely concentrated home of a multiplicity of industrial sites. The only significant open areas adjacent to the proposed highway are Gloucester Park North and South (sitting inside a heavily modified volcanic tuff ring, Te Hōpua), Waikaraka Cemetery and Waikaraka Park, and the unique ecological area of Anns Creek.<sup>96</sup>
- [223] The congestion caused by truck traffic moving freight into and out of the Onehunga-Southdown-Penrose area is already significant and is deteriorating.<sup>97</sup> The need for “an EWL” has been recognised for many years and is seen as a transport priority under the Auckland Plan.<sup>98</sup> Were such a road to be constructed, the areas across which it might pass present formidable difficulties of route selection. Aptly, the process has been likened to that of threading a needle. The geography of the narrow Auckland isthmus imposes constraints. So too does the concentrated industrial area “an EWL” is designed to serve. Further constraints of public opinion are imposed by the legitimate expectations of inhabitants of the Onehunga residential area, who value their already impaired connection with the Manukau Harbour foreshore.
- [224] The Onehunga area was, and still is, of historical and strategic significance. For Māori in pre-European times, the Māngere Inlet had obvious significance. The Inlet at its easternmost point was but a few hundred metres from the Ōtāhuhu Creek, thus providing the entry and exit point for portage of waka between the Manukau and Waitematā Harbours. Towering above the northern shore of the Inlet is One Tree Hill / Maungakiekie, which at various times was the site of large pā and Mutukāroa-Hamlins Hill. The Inlet provided an obvious food source for Māori when they inhabited the area.
- [225] The narrow Auckland isthmus, sitting as it does between two significant areas of large Māori settlement, the Northland Peninsula and the Waikato valley, was in pre-European times frequently fought over and the scene of the waxing or waning

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<sup>95</sup> For example, see chapter [15.1] under the sub-heading *Alternative Routes*.

<sup>96</sup> There are other areas affected by the proposed EWL. The areas in the text, however, are the ones most easily recognised as open space.

<sup>97</sup> Statement of Primary Evidence, A Murray, para 9.5–9.14.

<sup>98</sup> Statement of Primary Evidence, Gliddon, para 1.2.

influence of various iwi. Unsurprisingly, therefore, the Proposal has a potential impact on areas and sites of significance to Mana Whenua.

[226] With the arrival of European traders and settlers and the signing of the Treaty of Waitangi in 1840, the Onehunga area and Manukau Harbour acquired a new significance. Onehunga became a port. For the first 30 years after 1840 Onehunga, as well as becoming a rapidly expanding town, was seen as a defence settlement with land being allocated to Fencibles. Flour mills and saw mills closely connected to Onehunga port flourished. The railway line with a connection to Auckland and the east arrived in 1873. Two years later the first Māngere Bridge was constructed. Churches, schools and roads were built. By 1891 Onehunga's population approximated 3,000 people. The Onehunga Borough produced the first woman mayor in the British Empire. Waikaraka Park was set aside in 1881 for public use as a recreation ground. The Waikaraka Cemetery opened in 1890. At that stage the cemetery was on a promontory jutting out into the Māngere Inlet and surrounded by water on three sides.

[227] Further expansion in the area followed in the first half of the 20th century. Freezing works were established at the head of the Māngere Inlet at Westfield and Southdown. Flat land with easy access to Auckland's ports, roads and railways led to the rapid development of Onehunga and Ōtāhuhu as sites for heavy industry. The Te Hōpua Lagoon was reclaimed in the 1930s. There has been significant reclamation of the north side of the Māngere Inlet between 1940 and 2010, including three large bays east of the Te Hōpua Lagoon.<sup>99</sup>

[228] Ever since Māngere International Airport opened in the mid 1960s, the streets of Onehunga and Māngere Bridge (both old and new) have provided vehicular access to the Airport. Belatedly, after the construction of what was Hugh Watt Drive and is now the six motorway lanes of SH20, the Taumanu Reserve (lying to the west of the current Neilson Street Interchange), was created through reclamation. Under the AUP:OP, Onehunga is partly zoned as an intensifying residential area. Apartment blocks and denser residential land use will be permitted. Panuku and the local board have (as yet inchoate) plans to use the Onehunga Wharf area (now used only by fishing trawlers and as a truck yard) for harbourside recreational and entertainment purposes.<sup>100</sup>

[229] The two Ministers are undoubtedly correct when they assessed the Proposal as one that, in terms of s142(3)(a)(i), would arouse widespread public concern or

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<sup>99</sup> AEE, Figure 10-4, p184.

<sup>100</sup> Statement of Primary Evidence, Marler, In particular refer to the attachment titled, *Transform Onehunga, High Level Project Plan – March 2017*.



interest. Particularly this is the case with the proposed reclamations to accommodate the highway along the northern edge of the Māngere Inlet and the additional severance that the EWL will bring about for Onehunga where the community already has to contend with the physical and visual barrier of SH20.

[230] The Māngere Inlet, despite extensive reclamation over the past 80 years, remains an area of ecological significance. The extensive mudflats on both shores are exposed at low tide. Adjacent to the current coastal walkway on the north side of the Inlet are sporadic mangrove areas. Stormwater discharge pipes carrying stormwater from the hinterland run under the walkway into the harbour itself. The mudflats themselves are valuable feeding grounds for a number of birds, which, as well as the ubiquitous seagull, include wading birds and migratory birds. Some of these birds are rare or endangered.<sup>101</sup>

[231] The major public concerns (excluding site-specific objections by individual property owners) have been understandable and principled opposition, firstly, to the reclamations of the northern shore of the Māngere Inlet and, secondly, to the additional severance that the EWL will cause between the Manukau Harbour and the Onehunga community. Some iwi are opposed to any reclamations as a matter of principle. Legitimate concerns have been raised about the effect reclamations may have on the habitat and feeding ground of certain birds. The descendants and families of people buried at Waikaraka Cemetery object to the potential loss of the tranquil setting. The construction of a new interchange at Neilson Street and the EWL itself at its western end are claimed to be a further and unacceptable severance of Onehunga from its old wharf and a disruption to plans to develop the wharf area for recreational purposes.

[232] Representatives of some of the Onehunga-related concerns the Board heard were those presented by Dr T Buklijas and Dr J Randerson, both Onehunga residents. Dr Buklijas, for her part, considered that a focus on the reduction of travel time for trucks ignored the restricted access to the foreshore and noise, health costs caused by increased pollution, and the general increase in greenhouse gases. Dr Randerson, for her part, stressed the lack of focus on remedial treatment to the “long mistreated foreshore” of the Manukau Harbour, the risk to the diverse ecosystem of the Māngere Inlet, and the delay and disruption, after years of neglect and misuse of the Manukau Harbour, to plans to develop a “new Wynyard Quarter-style” development around the Port.<sup>102</sup>

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<sup>101</sup> See chapter [14.2] of this Report under the sub-heading *Avifauna*.

<sup>102</sup> Hearing Summaries and Transcript, Day 43. However, this view was not shared by Panuku Development and NZTA.

[233] It is clear from this overview that the EWL gives rise to a large number of environmental concerns. The Proposal is a complex one. Application of the relevant provisions of the RMA is no easy task. The weighing and balancing involved is challenging. Had NZTA been able to design an EWL route or corridor that avoided severance of Onehunga from the Manukau foreshore, and in particular avoided reclamations, the Board's task would have been easier. However, given the nature of the area to be served by the Proposal before the Board, and in particular, given the need to find a transport solution that is both effective and enduring, the wish just expressed is probably forlorn.

[234] This is an overview of the task confronting the Board.

## 9. STRATEGIC NEED FOR THE PROPOSAL

- [236] The Board is totally satisfied, by the evidence it has heard, that there is a need for a connecting highway to link SH1 and SH20 with the attenuated industrial belt stretching from Southdown to Onehunga. This need is particularly relevant in terms of economic and transport strategies. The highway will provide considerable public benefit.
- [237] By making this statement in its Report, the Board is certainly not short-circuiting or avoiding its obligation to scrutinise and resolve, under the provisions of the RMA, NZTA's Proposal. Rather the statement is to highlight the regional, national, and public benefits that the evidence satisfies it will flow from "an EWL" in some shape or form.
- [238] A highway of the type proposed by NZTA has been foreshadowed in regional planning documents for many years. The Auckland Plan (2012) identified "an EWL" as one of high strategic importance, addressing congestion and freight movements in the Auckland region.<sup>103</sup> The same Plan also referred to "an EWL" as part of a "*step change required to provide a modern, efficient, world-class transport system*", with the further observation that the benefits would be best achieved through a completed project rather than incremental roading improvements.<sup>104</sup>
- [239] Mr Gliddon gave evidence, in his capacity as NZTA's Highway Manager for Auckland and Northland, that the Proposal was developed in accordance with the Government Policy Statement on Land Transport Funding and the goals of the National Land Transport Programme (NLTP).<sup>105</sup> He also identified that NZTA's Statement of Intent included the EWL as a key feature contributing to the Accelerated Auckland Transport Programme to provide congestion relief, support economic growth, and improve safety outcomes for Auckland and wider New Zealand.
- [240] Mr Gliddon accurately summarises (there being effectively no challenge to his evidence) the regional and strategic importance of the Proposal in his evidence in chief:<sup>106</sup>

*"The Project is located within the Auckland suburbs of Onehunga, Penrose, Mt Wellington, Te Pāpapa and Ōtāhuhu. The area is regionally important due to its road and rail transport connections and close proximity to Auckland International Airport and the Port of Auckland. The area is one of*

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<sup>103</sup> Auckland Plan, p322 and 325.

<sup>104</sup> Ibid, p330 and 332.

<sup>105</sup> Statement of Primary Evidence, Gliddon, para 8.2–8.6

<sup>106</sup> Statement of Primary Evidence, Gliddon, para 5.1-5.4.

*the key economic drivers of Auckland – it is the main industrial, transport and distribution hub for the city and the upper North Island. KiwiRail and Port of Tauranga (MetroPort) both have inland distribution centres located in the Project area at Southdown. In the Auckland Plan the area is identified as part of the ‘regional economic corridor’ due to its established commercial, industrial and residential land uses.*

*Many local roads and the connections to the State highways in the Project area are heavily congested and this problem is projected to worsen in the future. Travel times to and from the State highways can be lengthy and inconsistent. This can cause significant problems for freight movements and general traffic. Some of the current routes to the State highways from the key distribution hubs are indirect and lengthy. This congestion affects existing businesses, inhibits economic growth, and means that the economic opportunities of the Onehunga and Penrose area cannot be fully realised.<sup>10</sup> As well as affecting connections to the State highways, the congestion inhibits the flow of people and goods between businesses in the area, reducing the benefits of agglomeration.*

*Freight demand in Auckland is expected to continue growing in line with the region’s population, placing increasing pressure on the area’s already stressed transport network. The changing industry mix in the area is also likely to increase commuting trips within and through the area.*

*The congestion contributes to delays affecting a key public transport route between Māngere Bridge and Onehunga. The area also suffers from a number of gaps in the local pedestrian and cycle network and in places the quality of the local pedestrian and cycle network is also poor.”*

[241] Evidence in similar vein (also essentially unchallenged) was given by Mr Wickman, NZTA’s principal transport planner:<sup>107</sup>

*“The Auckland Plan (which is also discussed in Mr Gliddon’s evidence) was adopted in by Auckland Council in March 2012 after input from key stakeholders including the Transport Agency and an extensive public consultation process. In response to Directive 13.5 of the Auckland Plan, the Transport Agency, Auckland Transport, and Auckland Council formed a project team to interrogate the need for transport investment in the Onehunga, Mt Wellington, East Tamaki, Favona, and Māngere area in late 2012. This included a high level assessment of what could be expected to be achieved by responding to the identified transport problems.*

*The initial stage of this work involved a series of workshops which were attended by senior representatives of the Transport Agency, Auckland Transport, Auckland Council, KiwiRail, Port of Auckland, Port of Tauranga, and Auckland Business Forum. Through the workshops, a set of agreed problems were identified along with a series of benefits that could accrue if these problems were addressed.*

*The strategic case, referred to as the Multi-Modal East West Solutions Strategic Case, was completed in March 2013. The strategic case supported the development of a programme business case in order to respond to the following agreed problems statements:*

- (a) Inefficient transport connections in the wider east-west area increase travel times and constrain the productive potential of Auckland and the upper North island;*

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<sup>107</sup> Statement of Primary Evidence, Wickman, para 4.8-4.10. These factors were also agreed by the experts participating in the Joint Witness Conference on economics, refer to the JWS Report of 29 May 2017.

- (b) *A lack of response to changes in industry's supply chain strategies contributes to greater network congestion, unpredictable travel times and increased costs in this area; and*
- (c) *The quality of transport choices in the east west area is inadequate and hinders the development of liveable communities."*

[242] Mr Williamson, a consulting economist engaged by NZTA to give supporting evidence, identified some important strategic and economic factors relevant to the area that the Proposal will traverse:<sup>108</sup>

*"The East West Link (EWL) project area (Onehunga, Penrose, Mt Wellington and Ōtāhuhu) plays an important and unique role within the Auckland and upper North Island economy, as it is both Auckland's and the upper North Island's main industrial, transport and distribution hub. The economic contribution of the area is regionally and nationally significant, generating approximately \$4.7 billion of output in 2012, or 7.5 per cent of Auckland's total gross domestic product (GDP).*

*The area is a significant employment centre, accounting for 10 per cent of Auckland's employment in 2015, second only in size to the Central Business District (CBD). It is Auckland's main manufacturing location accounting for 18 per cent of the region's and 6 per cent of New Zealand's manufacturing employment. It also acts as a major hub for transport and logistics for Auckland and the upper North Island with 20 per cent of the region's and 9 per cent of New Zealand's employment in transport and wholesaling located here. These two sectors combined accounted for 45 per cent of the area's total employment in 2015.*

*The area has a number of important economic attributes which have contributed to this pattern of development, based on proximity to key markets and suppliers and access to the strategic road and rail network, including the most important interface between road and rail freight in Auckland. The Westfield/Southdown road and rail freight terminal includes the MetroPort inland port serving the Port of Tauranga and the adjacent Southdown KiwiRail and Toll Freight terminals. In addition to these intermodal activities, the area accommodates a large number of other major distribution and logistics facilities serving Auckland and the upper North Island. Supporting these activities and the supply chains they underpin is clearly important to the future economic prosperity of the Auckland and the upper North Island.*

*Whilst the EWL area remains a stronghold of manufacturing and distribution activity, structural economic change is taking place, with business service activity growing at a faster rate than industrial, transport and distribution activities. The area's economy is becoming more service oriented, with the share of the area's employment accounted for by business services now reaching 25 per cent, up from only 15 per cent in 2000. This trend is consistent with the broader transformation of Auckland and many other developed cities, towards a more service oriented economy.*

*However, evidence suggests that the area will remain a stronghold of industrial and transport activity. Transport related employment in the area increased by over 1,300 jobs between 2012 and 2015, more than compensating for a decline in manufacturing, where 690 jobs were lost, reflecting the area's continuing function as a specialised regional*

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<sup>108</sup> Statement of Primary Evidence, Williamson, para 1.1-1.5.

*distribution centre. It would be expected that the improved accessibility arising from the Project would help to reinforce this pattern of development.”*

- [243] Transport factors identified by Mr Williamson<sup>109</sup> that might constrain the potential of Onehunga and industrial areas included more freight traffic (being a product of population growth), and increasing consumer demand, leading to an increasing number of freight trips through the area, more private vehicle trips by an increasing number of employees, and more congestion, particularly during peak hours. Mr Williamson thus saw the EWL as providing “... *an opportunity to reduce travel times and improve connectivity between firms and markets locally and between regions, and between workers and jobs, mainly within Auckland*”.<sup>110</sup>
- [244] The Board is satisfied by this evidence and does not consider the fact that the above witnesses were employed or engaged by NZTA has resulted in them embellishing or overstating their evidence.
- [245] Consistent with this evidence, the objectives of the Proposal, specified by Mr Mulligan in his opening, are:
- (a) To improve travel times and travel time reliability between SH1 and SH20 and businesses in the Onehunga-Penrose industrial area.
  - (b) To improve safety and accessibility for cyclists and pedestrians.
  - (c) To improve journey time reliability for buses between SH20 and Onehunga Town Centre.
- [246] It is the first of the above three objectives that is of primary importance.
- [247] There were traffic and transport benefits assessed by Mr A Murray, an experienced traffic engineer engaged by NZTA, in his evidence in chief. These included significant travel time savings for business vehicles accessing the Onehunga-Penrose industrial area from both north and south on SH1 and SH20, improved journey times over the wider area, and more consistent and reliable access leading to increased freight efficiency. There would be consequential reduced congestion in Neilson Street, Church Street and Great South Road, coupled with reduced traffic, including heavy vehicle traffic, on Onehunga residential streets. Mr A Murray also opined that the EWL would improve “network resilience” by providing an

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<sup>109</sup> Statement of Primary Evidence, Williamson, para 1.6.

<sup>110</sup> Ibid, para 1.7.

alternative route between SH1 and SH20. These benefits identified by Mr A Murray were essentially confirmed by the evidence of Mr Tindall, a transport planner engaged by Auckland Council.<sup>111</sup>

[248] The Board is satisfied, on the basis of all the evidence it has heard, that the EWL highway, as proposed by NZTA, will deliver worthwhile benefits to Auckland's road network, both in relevant travel times and also in transport connectivity in the region. The Board accepts the evidence, based on both his experience and on modelling, of NZTA's witness Mr A Murray. The Board notes and accepts, there being no effective challenge to it, Mr A Murray's rebuttal evidence (he having participated in five conferencing sessions) to the effect that his overall methodology for his transport assessment, including modelling and associated benefits, had not been refuted by other transport experts.<sup>112</sup>

[249] Of particular importance, in the Board's view, is Annexure 1 to Mr A Murray's primary evidence. Table 4.1 of that annexure lists a number of critical transport performance benefits and measures of performance, including reliable freight connections, efficient freight connections to the strategic network, and other important strategic and efficiency benefits. Important too (based in the main on modelling) were the enduring benefits of the Proposal seen by Mr A Murray, with a particular focus on traffic flows on Neilson Street and Church Street (with a view to retaining such benefits between 2026 and 2036). The changes in travel time and average travel costs were assessed with a view to seeing whether a broad daily capacity for those streets would be maintained.

[250] Mr A Murray's conclusions are worth repeating.<sup>113</sup> They were:

- (a) That existing transport problems in the area are significant, affecting both the local area and the wider roading network on a significant daily basis;
- (b) That the objectives of NZTA's Proposal reflect those problems;
- (c) That transport works are necessary to attain the Proposal's objectives;

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<sup>111</sup> Statement of Primary Evidence, Tindall, para 7.1.

<sup>112</sup> Statement of Rebuttal Evidence, A Murray, para 1.1 and 1.2(b).

<sup>113</sup> Statement of Primary Evidence, A Murray, para 22.1.

- (d) Identified transport effects have been avoided or mitigated and are offset by the reduced access times to the wider network; and
- (e) The Proposal strongly achieved its objectives with substantial benefits to both the local area and the wider Auckland network.

[251] Mr A Murray, dealing with NZTA's assessment of alternatives and the statutory relevance of s171(1) of the RMA, referred in his primary evidence<sup>114</sup> to NZTA's shortlisted six options.<sup>115</sup> The Board agrees with Mr A Murray that given the expense of the EWL, the need to secure some lasting benefit is critical. It is important not to overlook the concept of an enduring benefit,<sup>116</sup> which were seen by Mr A Murray as benefits that lasted for a number of years into the medium term (10-20 years) rather than short-term benefits. Enduring benefits were seen and assessed only with Options E and F (as modified).

[252] As practical examples of the benefits, Mr A Murray's evidence (again essentially unchallenged) discussed travel times and reliability.<sup>117</sup> Depending on the point from which business vehicles would access the Onehunga-Penrose industrial area, travel time reductions were assessed (variable distances clearly being involved) of between up to 4.1 minutes to up to 18 minutes. Increases in average speed were significant (increases of between 15 to 37 km/h). The number of vehicles per day benefitting from these transport improvements were estimated to range from 17,400 to 42,000. Improved journey times were also predicted for a number of journeys in the Auckland area. Also predicted were large reductions of daily traffic in Neilson Street, Church Street, Great South Road, Onehunga Mall and Onehunga Harbour Road.

[253] It is clear from Mr A Murray's evidence that, without being addressed, the problems of traffic congestion and slow traffic times will continue to get worse. It is fanciful to suggest that improved investment in the provision of public transport (of huge benefit to Auckland and its citizens in so many areas) will somehow alleviate the area-specific problems that currently plague the Onehunga-Southdown-Penrose industrial area.

[254] Of central importance to the Board in its assessment must be the tangible transport and social benefits that will flow from the EWL highway. The evidence points strongly not only to those benefits but to the proposed route providing the most

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<sup>114</sup> Ibid, para 6.8 and following.

<sup>115</sup> These are detailed elsewhere in this Report in chapter [14.8].

<sup>116</sup> Statement of Primary Evidence, A Murray, para 6.10.

<sup>117</sup> Statement of Primary Evidence, A Murray, para 10.3-10.16.



enduring transport benefits. The weight that flows from the Proposal providing those enduring benefits must be considerable.

[255] The Board is satisfied that the industrial area traversed by the Proposal is not just any industrial area. Rather it is an industrial area with some unique characteristics that give it a strategic significance. These unique characteristics include:

- (a) Its situation on or close to the narrow Auckland Isthmus;
- (b) Its proximity to the centre of New Zealand's largest city;
- (c) Direct access to the North Auckland Rail Corridor and the Southdown Siding;
- (d) Inclusion of three large inland container ports operated by KiwiRail, Port of Tauranga and Ports of Auckland;
- (e) It is a distance of only a few kilometres from New Zealand's largest airport and the various freight hubs operating in the Auckland International Airport complex; and
- (f) Its western end is adjacent to an expanding residential area of increasing concentration – Onehunga.

[256] Access to this area by trucks and commercial traffic from the east and from SH1 involves travelling along Great South Road and/or Mt Wellington Highway, west on to Church Street and then on to Neilson Street. Access from SH20 and the west involves exiting SH20 at Neilson Street or, alternatively, accessing Neilson Street via Church Street and/or other Onehunga local roads. Heavy truck traffic and resulting congestion, especially on Neilson Street, is critical. Submissions were made to the effect of "rat-running" through Onehunga streets by trucks and commercial vehicles trying to avoid such congestion.

[257] The strategic importance of the area and the adverse effects of current congestion were helpfully covered in evidence received from National Road Carriers (Inc), Carr & Haslam Limited, and Auckland Business Forum.

[258] The Auckland Business Forum saw the proposed highway as a "catch-up". "An EWL" was originally proposed for completion by 1986 but had been a casualty of under-investment in Auckland's transport infrastructure. "An EWL" would help separate freight and general traffic and would have the capacity to meet significant traffic growth flowing from Auckland's population increase. The Forum saw the Onehunga-Penrose area as being the "freight-distribution and logistics capital" of the upper North Island. The submission referred to 6,000 heavy freight vehicle

movements each day along the principal arterial routes of Church and Neilson Streets.

[259] Mr Garnier, presenting submissions on behalf of National Road Carriers, referred to extended congestion and its time cost to freight operators, poor access between the industrial area and the Southdown KiwiRail freight terminal and the motorway network, and the inadequacies of the local street network to handle some 6,000 heavy freight vehicles each working day. He referred to “stop-go trips” that on occasions involved 20 to 30 minutes to travel along the Neilson Street route. He pointed to the fact that the KiwiRail terminal handled the third largest number of truck-to-rail and vice versa container movements in New Zealand, after Ports of Auckland and Port of Tauranga.

[260] The Board was particularly impressed by evidence given by Mr Carr of the long-established private transport and trucking enterprise Carr & Haslam Limited. Mr Carr presented thoughtful submissions from his perspective as a person with a lifelong familiarity with Onehunga and as a driver and an operator of a transport business. Freight deliveries by truck were an indispensable part of distributing goods. Consignments might arrive in the Auckland region by rail, ship or aircraft, but subsequent to arrival they needed to be transported to their ultimate destination. Such distribution could not be achieved by railway, motorcar or public transport. Mr Carr gave the example of the need to distribute throughout the Auckland region 1 million litres of milk each day.<sup>118</sup> He referred to the fact that there were some 200,000 freight vehicles in Auckland. He reminded the Board that Auckland was at the apex of a very large population triangle (the other two points being Hamilton and Tauranga) and that this was “a totally population-driven” very busy freight triangle.<sup>119</sup> There was a constant increase in freight distribution activities in the area that the EWL was designed to serve. Recycling areas in the vicinity of Neilson Street also generated many truck movements: 35,000 tonnes per annum at the Pikes Point Waste Transfer Station, 90,000 tonnes of glass recycling, 40,000 tonnes of paper per annum by Carter Holt Harvey Pulp. As currently configured, the relevant industrial area generates a lot of congestion.

[261] Mr Carr referred to the possibility of an alignment of a highway along Neilson Street. He had been involved in previous consultations on such an alignment. His view, however, was that such an alignment would be impossible to build because there

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<sup>118</sup> Transcript, Carr, p5867.

<sup>119</sup> Transcript, Carr, p5869.

were no viable alternatives for the many sites lining both sides of Neilson Street and adjacent to it during the construction phase.<sup>120</sup>

- [262] There were some lay submitters<sup>121</sup> who, while accepting that traffic along and in the region of Neilson Street was extremely congested to the detriment of the Onehunga community, nonetheless considered that building a four-lane highway such as the EWL was not the answer. These submitters considered that a greater focus on and an investment in public transport and cycleways would reduce the volume of traffic in and around Onehunga and Neilson Street, thus improving the situation for legitimate truck traffic. Unfortunately, such submissions do not address or solve the current reality. Auckland's constant (and in recent years increasing) population growth, coupled with increased use of private motor vehicles and under-investment in public transport, have all combined (along with the physical constraints of the narrow isthmus) to make Auckland's traffic congestion acute. The problems caused by traffic congestion to freight movements in particular and generally to the Onehunga–Southdown industrial area will continue to get worse and would, in the Board's view, deteriorate long before there would be any amelioration of traffic congestion in the area brought about by improved public transport.
- [263] The Board is mindful of the adverse economic impact of serious traffic congestion. Congestion, as such, increases travel time. This trite observation has a demonstrable impact on the economy and on productivity. The number of visits each day that can be made by building subcontractors, appliance repairers, courier drivers, delivery vehicles, and many other groups, will obviously reduce in proportion to congestion-affected journey times. The economic impact of such reductions is highly relevant given the industrial complexity and activities of the Onehunga-Southdown-Penrose area that the EWL would serve.
- [264] Given the need to provide some enduring solution to fulfil the Proposal's objectives, the pressing need to relieve congestion on Neilson Street, and the need to ensure that a proposed EWL highway provided truck access to the many receivers and despatchers of freight in the area, the creation of the highway somewhere on the south side of Neilson Street, enabling traffic to enter or exit the highway close to the site trucks are serving, seems to the Board to be the most effective solution.
- [265] Finally, the Board notes the primary evidence of Mr Wickman, NZTA's principal transport planner, which detailed the integrative function of the EWL with other parts of Auckland region's transport network. The EWL would provide improved transport

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<sup>120</sup> Some witnesses did grapple with the issue of the ease with which affected businesses could relocate. However, widening Neilson Street would involve relocating many more businesses than the Proposal.

<sup>121</sup> Submission 126252, Carr; Submission 126240, Grove Hardware Limited and others; Submission 126026, C To.

resilience by being integrated with the Western Ring Route (which includes the recent Waterview Tunnel connection) and by providing an extra link to SH20 for northbound traffic along SH1 and conversely for southbound traffic on SH20 wishing to join SH1. The Board notes that one of the seven matters of national significance listed by the Ministers, to which it is obliged to have regard under s149P(1)(a), is the relating of NZTA's proposal to the state highway network, that, when viewed in its wider geographic context, extends to more than one district or region.

- [266] As stated at the outset of this chapter, the Board is satisfied that "an EWL" servicing the Onehunga-Southdown industrial area, would be a highway of strategic and national importance. The evidence satisfies it that such a highway is long overdue and is urgently needed to provide better freight transport links to an area of national and regional significance.
- [267] Whether the local, regional and national benefits that "an EWL" will clearly provide can be achieved by NZTA's proposal requires a careful assessment of the complex Proposal before the Board against the relevant requirements of the RMA. Such assessment is carried out elsewhere in this Report. The considerations set out in this chapter have been assessed by the Board and, where relevant, underpin the Board's assessment under ss104D and 104 in chapter 14 of this Report and also the Board's assessment under s171(1) of the various sectors of the Proposal in chapter 15.

## **10. ISSUES WHICH ARE AGREED OR NOT CONTESTED**

[268] Both at conferencing and during the course of the Hearing the parties (and their experts) engaged in constructive dialogue. As a result, agreements were reached regarding several issues, which are discussed below or elsewhere throughout this Report. Many of these agreements were subject to sets of conditions. Some issues were uncontested. All agreements reached were, of course, conditional on NZTA obtaining the necessary consents and approvals to construct and operate the EWL.

### **10.1 A NUMBER OF LAND OWNERS OR OCCUPIERS**

[269] The Board does not intend to record the details of every agreement reached. Rather it shall simply list the parties who were able to reach agreement with NZTA. The Board granted leave for a number of submitters to withdraw from these proceedings. Some did not fully withdraw and retained their rights as a submitter, including the right to appeal.

[270] All evidence produced by submitters that withdrew has been considered by the Board and given appropriate weight. The conditions attached to these agreements have also been considered by the Board and, unless otherwise stated, have been adopted. A helpful summary of this is provided in the closing of NZTA, which is attached in [Appendix 13: Summary of Issues Resolved During the Hearing].

[271] The submitters who reached agreement were:

- (a) Aotea Sea Scout Group;
- (b) Auckland Heliport Limited Partnership;
- (c) EnviroWaste Services Limited;
- (d) Fonterra Brands Limited;
- (e) Jaafar Holdings Limited;
- (f) Sanford Limited;
- (g) Spark New Zealand Limited;
- (h) Stratex Group Limited;
- (i) Tram Lease Limited; and
- (j) Ward Demolition (partial agreement).

[272] The Board acknowledged the successful efforts of those Parties to find common ground.

## **10.2 AUCKLAND TRANSPORT**

[273] Auckland Transport and NZTA have entered into a “side” agreement to address a number of effects of the Proposal on Auckland Transport’s assets and the wider transport network.

[274] This agreement is in lieu of incorporating these matters in the designation conditions. The agreement provides for matters relating to Proposal design and planning approvals, input into works that affect Auckland Transport’s roading infrastructure, assessing and remedying effects of heavy vehicles, and construction management (particularly in the vicinity of the Southdown site). No further comment is needed.

## **10.3 BIKE AUCKLAND**

[275] Bike Auckland and NZTA entered into a “side” agreement, which addresses some concerns regarding the design of the cycling elements and lack of local cycling links.

[276] This includes NZTA using its best endeavours to encourage the adoption of specific cycling facilities sought by Bike Auckland. The Board returns to address unresolved issues later in chapter 15.8 of this Report.

## **10.4 TRANSPOWER ASSETS**

[277] Any remaining or residual concerns by Transpower regarding the Proposal’s impact on the national grid have evaporated. There is common ground between Transpower and NZTA that adverse effects on the national grid assets can be managed through proposed conditions and a Network Utility Management Plan (NUMP).

[278] Mr Gardner-Hopkins for Transpower did not see any aspects of the proposed highway in close proximity to Transpower pylons and transmission lines as being “show-stoppers”. He expressed his client’s confidence that NZTA and Transpower would successfully resolve matters without in any way compromising the integrity of the national grid.

[279] This is particularly relevant to Transpower's infrastructure at the Southdown site in Sector 3 of the NoR. Mr Gardner-Hopkins confirmed his client's position in his closing:<sup>122</sup>

*"13. Transpower does not consider that any risk introduced by the EWL project is so great to Transpower's assets that it should not proceed. It is now clear, for example, that Transpower's Control Building and relay room, will not be impacted by any physical works (the designation has been drawn back so as not to include that building).*

*14. Transpower is also satisfied that options exist for relocation of the KiwiRail transformer and associated switchgear, both on the Southdown site as well as offsite. It will need to be carefully managed, and the conditions provide for that."*

[280] The Board later addresses, in chapter 15 of this Report, the outcomes sought by a number of submitters relating to Tower 31, the T&G site, and the strong but aspirational submissions to underground the transmission lines in and around Onehunga.

## 10.5 KIWIRAIL

[281] KiwiRail presented evidence at the Hearing, but it did not present closing submissions. Its position was summarised in the evidence of Mr Gordon and Ms Beals. KiwiRail was supportive of the engagement it had received from NZTA and how the Proposal had addressed the existing and future operation of KiwiRail infrastructure.

[282] Mr Mulligan, in his closing for NZTA, outlined both the context and the position it had reached with KiwiRail:<sup>123</sup>

*"One of KiwiRail's key assets is its Southdown freight terminal and inland port.<sup>21</sup> The Southdown depot is New Zealand's third largest export port and provides an important link between rail and road freight movements.<sup>22</sup> KiwiRail's evidence was that, because it is not an end-to-end transport operator, it is essential that KiwiRail has the ability for road transport operators to get in and out of its site in an efficient manner.<sup>23</sup> KiwiRail sees the EWL as part of a transport system which integrates with rail and supports the EWL and its current alignment, subject to conditions. Its Master Plan provides for KiwiRail to build an internal road connection to link into the proposed Port Link Road.<sup>24</sup>*

*The current EWL is the alignment option that best preserves the safety of KiwiRail's network.<sup>25</sup> It is also important to note that KiwiRail specifically*

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<sup>122</sup> Closing Statement, Gardner-Hopkins, para 13–14.

<sup>123</sup> Closing Statement, Mulligan, para 3.9 –3.10.

*prefer this alignment over other options,<sup>26</sup> particularly those involving the upgrade of Neilson Street. KiwiRail sees this alignment as the best enduring outcome for its operations.”*

[283] This position is supported by Ms Beals:<sup>124</sup>

*“In summary, KiwiRail supports the proposal as notified, subject to the inclusion of NU.10 within any Southdown-specific conditions, to ensure that adverse effects on the rail network can be adequately avoided, remedied or mitigated. I express no opinion or preference for the other conditions proposed by Ms Hopkins and Mr Grala, so long as the conditions put forward do not impede the consistency and continuity of electricity supply to the rail network. NU.10 will ensure that KiwiRail remains a party to any discussions regarding the relocation of the Rail Supply Substation, which in my opinion is sufficient for its purposes.”*

## 10.6 FIRST GAS

[284] First Gas Limited owns and operates high pressure gas supplies that extend east to west across Sector 3, and around the south side of the Mercury site, and the pigging station that is located immediately south of the Mercury site. It holds a designation for those assets that will require alteration as a result of the Proposal. First Gas also owns the decommissioned connection into the Mercury site. Mr Edwards presented planning evidence on behalf of First Gas<sup>125</sup> that addressed all of its assets that will be affected by the Proposal, extending across all sectors.

[285] In relation to Sector 3, the First Gas pigging station and other infrastructure will need to be relocated. Likewise, the First Gas connection to the Southdown site will need to be replaced, unless not required by Mercury.

[286] First Gas did not oppose the Proposal and Mr Edwards summarised First Gas' position to be: <sup>126</sup>

- “(a) the Project alignment poses a number of risks to and from First Gas' assets on the Southdown Site, and therefore relocation is required;*
- (b) the gas supply infrastructure must remain connected to the Southdown Site to retain First Gas' ability to supply gas to potential users;*
- (c) the relocated assets are not specifically required to be accommodated within the confines of the existing Southdown Site ('connection' is required however);*
- (d) a range of sites continue to be investigated (via a specialist consultant contracted by First Gas) to accommodate relocated assets; and*

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<sup>124</sup> Hearing Summary, Beals, para 1.9.

<sup>125</sup> Statement of Primary Evidence, Edwards, 10 May 2017; Hearing Summary, Edwards, 21 August 2017.

<sup>126</sup> Hearing Summary, Edwards, para 9.



- (e) *First Gas will not accept a situation where it is 'worse off'. By this, I mean that:*
- (i) *a suitable site(s) for the relocated asset is found and any necessary approvals to enable that relocation are secured;*
  - (ii) *that all costs associated with the asset relocation will be borne by the Transport Agency; and*
  - (iii) *the ability to supply gas to potential users at the Southdown Site is not compromised."*

[287] Mr Edwards was satisfied with the amended NZTA conditions with the exception of Southdown Condition SD.7, which he thought should be extended to include the upgrade and renewal of First Gas assets under the s176 RMA waiver of approval, to be consistent with existing First Gas designation 9102.<sup>127</sup> NZTA has not adopted that change to the condition and has not addressed it in closing submissions.

[288] The Board notes that the subject condition (now SD.8) is specific to the Southdown site rather than across all the First Gas assets that will be affected by the EWL. As NZTA's proposed Southdown conditions also require it to provide the ongoing connection to the First Gas supply, the Board does not find such an addition to the waiver provided for by Condition SD.8 to be necessary. Once the new connection to the site is installed, the waiver will adequately provide for the routine maintenance of that asset.

[289] On the basis of evidence presented on behalf of First Gas, and the conditions proposed by NZTA, the Board finds that the effects on First Gas infrastructure will be appropriately managed to the satisfaction of First Gas, and that NoR1 can be approved in relation to that infrastructure in Sector 3, and other sectors of the Proposal.

[290] As a consequence of re-ordering in the updated set of conditions provided by NZTA in its closing, an equivalent condition relating to KiwiRail (and others with an interest in the Southdown Rail Supply Substation) is provided in condition SD.5 relating to NoR1.

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<sup>127</sup> Hearing Summary, Edwards, para 13(c)(iii).

## 11. CONTESTED ISSUES TO BE DETERMINED

- [292] Having outlined in the previous chapter the issues that have been agreed or are not principal issues in contention, the Board now turns to those issues that remain in contention. Indeed, most of them are critical to its final decision. The following chapters of this Report are detailed to cover the positions of the parties and the Board's findings.
- [293] The previous chapter lists and describes a number of issues that were resolved during the course of the Hearing by way of negotiated agreements (usually conditional) between NZTA and affected submitters.
- [294] The purpose of this chapter is to list and summarise outstanding issues that remain at large. It will be necessary for the Board to resolve these outstanding issues in its subsequent analysis under Parts 2, 6, 6AA and 8 of the RMA. All these issues have been raised by submitters, who saw them as being fundamental objections to the entire highway Proposal or to portions of the proposed alignment sought under the NoRs. An assessment is also required under s104D of the RMA since the applications for resource consents sought for the Proposal have an overall non-complying activity status.
- [295] The Board, by listing several outstanding issues in this chapter, has not overlooked a multitude of other matters raised by submitters (such as noise, construction effects, vibration, and adverse visual and amenity effects), all of which it has considered and dealt with in what it considers to be an appropriate fashion by the imposition of conditions.
- [296] In accordance with s149Q(2) of the RMA, the principal unresolved issues follow.

### 11.1 SEVERANCE

- [297] An effect of the proposed highway's on- and off-ramps in the vicinity of Gloucester Park and Onehunga Wharf will be to create a barrier between the Onehunga community and the Manukau foreshore. Such severance will occur in an area already degraded by the six lanes of SH20 and the pylons that support two high voltage transmission lines.
- [298] Counsel for TOES and Others succinctly submitted that the Proposal would, "*further sever the urban area of Onehunga from its coastal foreshore, adversely impacting on heritage, volcanic and other valuable features along the way*".<sup>128</sup>

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<sup>128</sup> Transcript, Hewison, p6206

- [299] This severance, it was submitted, aggravates the current severance of the Onehunga community from Onehunga Wharf and additionally delays somewhat inchoate but nonetheless laudable proposals for the improvement of the Manukau foreshore and Onehunga Wharf for the ultimate benefit of the residents of a rapidly developing and expanding suburb of Auckland.
- [300] Additional, and in the Board's view serious, severance will occur at the southern edge of Waikaraka Cemetery where the EWL highway, slightly elevated at that point, will constitute a physical barrier between the cemetery and the Māngere Inlet. This will change forever the tranquillity that attaches to most cemeteries and the currently available view from the cemetery grounds of the harbour and its waters.
- [301] At an overall level, the Proposal would constitute a barrier along much of the Māngere Inlet's northern foreshore. Submissions were made to the Board that the EWL would have a permanent severance effect on future land use in the area.<sup>129</sup> Further observations were made that it was arguably unusual for a coastal city to construct a new highway along the coastline rather than, as in some cases, to remove such highways entirely. The Board has some sympathy with these submissions, but notes that it is not the planning authority for Auckland and that the Māngere Inlet northern coastline was recently zoned by AUP:OP for industrial use. The Board has thus limited its consideration of severance to existing land uses and access to the coast.

## 11.2 RECLAMATIONS

- [302] Sector 2 of the Proposal would be on reclaimed land, resulting in permanent loss of the CMA – some 18.4ha. This would increase the current reclaimed area of the untouched Manukau Harbour (24 percent) by approximately 3.5 percent. The proposed reclamations, as explained elsewhere in this Report,<sup>130</sup> go considerably beyond what would be necessary for the carriageway of the EWL highway. The reclaimed area would provide for stormwater treatment flowing from the 611ha catchment and would additionally provide walkways and cycleways as recreational facilities.
- [303] Reclamations will also involve the permanent removal of bird habitat, with potentially adverse effects on migratory and other bird species (some endangered or rare) which use the mudflats of the Māngere Inlet as a feeding ground.

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<sup>129</sup> Transcript, Oram, p5549.

<sup>130</sup> Para [633(c)]

[304] The proposed reclamations raise a number of critical planning issues, such as consistency with the AUP:OP, prima facie inconsistency with the AUP:OP and NZCPS policies to avoid reclamation, consideration of the relevant s104D gateway test, and important Part 2 cultural and Treaty of Waitangi issues.

### **11.3 DREDGING**

[305] Important environmental and cultural issues were raised by NZTA's proposal to dredge inter-tidal and sub-tidal areas of the Māngere Inlet to provide mud and sediment for the manufacture of mudcrete to be used for highway construction purposes. It is also proposed to dredge a new channel for the outlet of Anns Creek.

### **11.4 DESIGNATION AT ANNS CREEK**

[306] Anns Creek, identified in the AUP:OP as a significant ecological area, has on its banks significant remnant areas of lava shrubland and saltmarsh. Some of the land is owned by TR Group. The proposed highway would cross the Anns Creek area on a viaduct. NZTA's proposed NoR1 would cover not only a portion of TR Group land that would be used as a construction yard but also extend into an area that is subject to a covenant imposed by Auckland Council designed to protect the rare ecology of the area. NZTA's justification for a permanent designation in this location is it will be well equipped in perpetuity to protect and nurture the vegetation in the area. The TR Group for its part submits that such use of the provisions of s171(1)(c) is impermissible.

### **11.5 TE HŌPUA A RANGI**

[307] Te Hōpua a Rangi is a shallow, ancient volcanic explosion crater surrounded by a tuff ring. It is designated in the AUP:OP as an outstanding natural feature (ONF). The tuff ring encloses Gloucester Park North and South. In pre-European times (similar to Ōrākei Basin and formerly what is now the Basin Reserve in Wellington) the crater floor was a lagoon. It was used for boating purposes by both Māori and the early settlers. Gradually the lagoon was filled by reclamation material, including rubbish. A park was formed on this reclaimed land and named after the then Duke of Gloucester in the 1930s. Currently the tuff ring is difficult to discern. The floor of what was the crater is bisected by SH20.

[308] Te Hōpua a Rangi is a site of some significance to Mana Whenua iwi, Te Ākitai, Ngāti Whātua and Te Kawerau ā Maki in particular, who are opposed to its further degradation by trenching and the earthworks required to create ramps for the highway on the southern edge of the Te Hōpua a Rangi tuff ring.

## **11.6 MERCURY SOUTHDOWN SITE**

[309] Mercury contends that the approvals sought by NZTA should be declined. Mercury submits that its site is strategically important, that it holds consents that entitle it to recommission its gas-fired electricity generation plant, and that there is insufficient evidence to show that the highway and an operating power plant can safely operate together in close proximity.

## **11.7 CULTURAL AND MANA WHENUA INTERESTS**

[310] Submissions were made by Ngāti Whātua Ōrākei, Te Kawerau ā Maki, Ngāti Te Ata Waiohua, and Makaurau Marae, that the consents sought by NZTA should be refused. Other Mana Whenua submitters either filed in support of the Proposal, remained neutral or recorded that they did not oppose.<sup>131</sup> In addition to submissions relevant to s104D, it was submitted that various Part 2 issues, particularly s6(e) (the relationship of Māori with their culture and traditions with their ancestral lands, water, and other taonga), s7(a) (kaitiakitanga) and s8 (Treaty of Waitangi) were engaged.

[311] Specifically reference was made to:

- a. The 1985 Report of the Waitangi Tribunal on the Manukau claim (WAI 8);
- b. The Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014; and
- c. The Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed of 2012.

## **11.8 BIODIVERSITY**

[312] Closely related to the reclamations issue above in chapter 11.2 of this Report, the Board received submissions that critical habitat of avifauna and feeding areas were imperilled by the Proposal, as well as the terrestrial ecology of Anns Creek. These submissions called into aid relevant biodiversity policies of the AUP:OP and also s104D of the RMA.

[313] At a higher level there is the issue of whether there has been adequate and appropriate mitigation for the adverse ecological effects of the Proposal.

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<sup>131</sup> Chapter [13.3].

## **11.9 TRANSMISSION TOWERS AND UNDERGROUNDING**

[314] Submissions were received, particularly from TOES and Others, Jackson Electrical and The Local Lockup, that adverse impacts and effects of the highway on the Onehunga community justified conditions requiring the various transmission lines and pylons owned by Transpower to be placed underground.

## **11.10 ADVERSE EFFECTS ON PARTICULAR SITES**

[315] Important issues relating to adverse effects and the need either to refuse the Proposal or adequately mitigate those effects were received in relation to a number of sites, including those of T&G, properties in Onehunga Mall Cul-de-Sac, various sites in Captain Springs Road close to the Neilson Street intersection, 2 Harbour View Road, various freehold and leasehold interests on Sylvia Park Road, and property owned by POAL affected by the creation of the proposed Port Link Road. Auckland Council submitted that the use of Waikaraka Park as a construction site would impact adversely on its plans to construct sports fields on Waikaraka Park.

## **11.11 ALTERNATIVES AND ECONOMICS**

[316] Submissions were received from various submitters to the effect that NZTA's choice of route for the EWL and/or its assessment of alternative routes was inadequate. These critical issues must be considered and weighed by the Board in its assessment of NZTA's notices and applications. This involves consideration of Parts 2, 6, 6AA and 8 of the RMA and also (because the Proposal is a non-complying activity) s104D.

[317] Some of these submissions were coupled with suggestions that the cost of the Proposal was prohibitive or that any benefit/cost analysis was inadequate and was insufficient to justify proceeding with the Proposal. This is not a matter for the Board to consider, being one of a number of matters that NZTA considers when selecting a project for inclusion within the National Land Transport Programme. The various business cases initiated and scrutinised by NZTA have been outlined in chapter 1.3 of this Report.

## 12. KEY LEGAL ISSUES

- [318] In terms of s149V of the RMA, a right of appeal is conferred on parties stipulated in s149R(4) to the High Court, but only on a question of law. Any appeal beyond the High Court (but only on a question of law) is to the Supreme Court if leave is granted. The Court of Appeal is excluded from the appellate process.<sup>132</sup>
- [319] The Board, of course, will ensure that to the best of its endeavours it complies with the provisions of the RMA and avoids errors of law. The purpose of this chapter is not to provide a quarry for hopeful appellants. Rather, it is, in the interests of transparency, to catalogue briefly some of the legal issues that arose during the course of the Board's deliberations.<sup>133</sup> To varying degrees, these may have influenced the Board's approach.
- [320] Exposition and amplification of the legal issues mentioned is unnecessary and has been avoided.

### 12.1 THE BOARD'S POWERS

- [321] The Board is a creature of Part 6AA of the RMA.<sup>134</sup> The Board's substantive responsibilities are set out in s149P. In respect of an application for resource consents, the Board is obliged to apply ss104 to 112 of the RMA as if it were a consent authority (s149P(2)). In respect of Notices of Requirement, the Board is obliged to have regard to the matters set out in s171(1) and comply with s171(1A), as if it were a territorial authority (s149P(4)).
- [322] Thus, in essence the Board is exercising the powers and discretions conferred by the RMA, which are relevant to all the applications made by NZTA.
- [323] An additional obligation is cast on the Board by s149P(1)(a). The Board must have regard to the Ministers' reasons for directing the establishment of the Board under s147. The Ministers' reasons issued under s147(5)(b) have been set out in chapter 3.2 of this Report. Two of the seven reasons specify the effects of the proposed highway on the foreshore of the Māngere Inlet of the Manukau Harbour. One reason relates specifically to Māori interests and outstanding natural features. One reason relates to the need to relocate infrastructure of regional and national importance. These four reasons all coincide with RMA assessments. Nonetheless,

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<sup>132</sup> RMA, Section 149V(5) and (6).

<sup>133</sup> Other legal issues, such as the application of the NZCPS, are canvassed in other chapters of this Report.

<sup>134</sup> It is noted that the version of the RMA that applies to this application is the version that does not incorporate the amendments to the Act made by the Resource Legislation Amendment Act 2017. See Schedule 2 of the Resource Legislation Amendment Act 2017, which amends Schedule 12 of the RMA (clause 12(1)).

the s149P(1)(a) obligation will result in the Board giving those effects added scrutiny.

- [324] The other three reasons relate to widespread public concern over environmental effects, the Crown's obligations and functions in areas of public health, welfare, security and safety, and the geographic reach of the state highway network.

## 12.2 STATUTORY FRAMEWORK

- [325] The relevant provisions of the RMA are detailed in Chapters 6 and 7 of this Report, there being no need to replicate them here. Central to the NoRs sought by NZTA is s171. Central to the consents sought by NZTA is s104. Both those provisions are expressed to be subject to Part 2 of the RMA. Part 2 has been thus described by Randerson J in *Auckland City Council v John Woolley Trust*:<sup>135</sup>

*"Part 2 is the engine room of the RMA and is intended to infuse the approach to its interpretation and implementation throughout, except where Part 2 is clearly excluded or limited in application by other specific provisions of the Act."*

- [326] Part 2 of the RMA comprises but four sections (ss5–8). This Part is headed 'Purpose and principles', which is an unambiguous statutory guide. The purpose is simply expressed in s5(1) as being to promote the sustainable management of natural and physical resources. Section 5(2) defines "sustainable management" as follows:

*"(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment."*

- [327] It is not necessary for the Board to expound on this definition. There is ample authority on it. There is an obvious tension between the adjective "sustainable" and its noun "management". Sustenance and safeguarding are important aspects of the statute's purpose. Critical too are the avoidance or remedying and mitigation of adverse environmental effects.

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<sup>135</sup> *Auckland City Council v John Woolley Trust* (2008) 14 ELRNZ 106, [2008] NZRMA 260 (HC) at [47].



[328] Sections 6, 7, and 8 of the RMA are all prefaced by critical words:

*“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall ...”*

[329] Those words are clear and unambiguous. They impose a statutory obligation on all people or bodies exercising relevant functions and powers under the RMA. The obligation imposed in respect of each of the three sections is differently cast. They have been described as a hierarchy.<sup>136</sup> In respect of the s6 matters of national importance, the obligation is “to recognise and provide for”. In respect of the s7 “other matters”, some of which are relevant to the applications before the Board, the obligation is to “have particular regard to”. In respect of the Treaty of Waitangi, which is the topic of s8, the obligation is to “take into account”.

[330] Obviously Part 2 does not provide a template or methodology for the many specific proposal-related (and sometimes technical) decisions that must be made under the RMA but the s5 purpose of the RMA and the mandatory obligations imposed by ss6–8 remain clear and must not be read down. That said, Part 2 cannot provide a platform for a decision-maker to ignore or drive a coach and four through some policy or plan that some other authority has lawfully promulgated in the exercise of an RMA statutory power.

[331] This comment is totally consistent with the powerful dicta of the Supreme Court in *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited*.<sup>137</sup> The majority judgment had pertinent observations on both Part 2 and on the jurisdictional limits that other planning documents might place on RMA decision-makers.

*“[150] ... We agree that the definition of sustainable management in s 5(2) is general in nature, and that, standing alone, its application in particular contexts will often, perhaps generally, be uncertain and difficult. What is clear about the definition, however, is that environmental protection by way of avoiding the adverse effects of use or development falls within the concept of sustainable management and is a response legitimately available to those performing functions under the RMA in terms of pt 2.*

*[151] Section 5 was not intended to be an operative provision, in the sense that it is not a section under which particular planning decisions are made; rather, it sets out the RMA’s overall objective. Reflecting the open-textured nature of pt 2, Parliament has provided for a hierarchy of planning documents the purpose of which is to flesh out the principles in s 5 and the remainder of pt 2 in a manner that is increasingly detailed both as to content and location. It is these documents that provide the basis for decision-*

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<sup>136</sup> *Ngati Ruahine v Bay of Plenty Regional Council* [2012] NZHC 2407 at [65]–[68], *Freda Pene Reweti Whanau Trust v Auckland Regional Council* HC Auckland, CIV-2005-404-356, 9.

<sup>137</sup> *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* [2014] NZSC 38.

*making, even though pt 2 remains relevant. It does not follow from the statutory scheme that because pt 2 is open-textured, all or some of the planning documents that sit under it must be interpreted as being open-textured.*"

[332] As the majority in *King Salmon* commented,<sup>138</sup> the RMA effectively establishes a three-tiered management system or hierarchy of planning documents at national, regional and district levels. The majority in *King Salmon* further commented:<sup>139</sup>

*"As we have said, the RMA envisages the formulation and promulgation of a cascade of planning documents, each intended, ultimately, to give effect to s 5, and to pt 2 more generally. These documents form an integral part of the legislative framework of the RMA and give substance to its purpose by identifying objectives, policies, methods and rules with increasing particularity both as to substantive content and locality."*

[333] The statutory provisions and legal authorities canvassed in this chapter of the Report are the parameters within which the Board has operated in carrying out its assessments and making its decisions. In respect of the NoRs sought by NZTA, the Board has applied the provisions of s171(1). During that process the Board has considered and applied where relevant (with the required hierarchical weight) Part 2. The Board has done this for the simple reason that s171 is expressed to be "subject to Part 2". The interpretative and historical analysis of Brown J in *New Zealand Transport Agency v Architectural Centre Incorporated*<sup>140</sup> is authoritative and binding and has guided the Board with its s171 deliberations.

[334] With regard to the Board's consideration of the resource consents sought by NZTA, its primary guide has been the AUP. Part 2 provisions, particularly ss6, 7 and 8, have assisted the Board when so engaged, particularly in assessing the impacts and effects of the EWL on the Manukau Harbour, its foreshore, and Mana Whenua interests and concerns.

### **12.3 NOR AND S171(1)**

[335] The jurisdiction for the Board to make a decision in respect of the two NoRs sought by NZTA is found in s171 of the RMA. Section 171(1) imposes on the Board a mandatory requirement to consider the effects on the environment of the proposed NoRs. Such consideration must be carried out with regard to two statutory

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<sup>138</sup> At [10].

<sup>139</sup> At [30].

<sup>140</sup> *New Zealand Transport Agency v Architectural Centre Incorporated* [2015] NZHC 1991.

imperatives. The first imperative is that the consideration must be “subject to Part 2”. The second consideration is that the consideration must have “particular regard” to the various matters set out in the four following subsections of s171(1).

[336] Section 171 and its mandated process was subjected to an exhaustive and compelling analysis by Brown J in *New Zealand Transport Agency v Architectural Centre Inc & Ors*.<sup>141</sup>

[337] The NoR request in that case was for a two-lane, one-way bridge on the north side of Wellington’s Basin Reserve, which would have been approximately 320m in length (including the bridge abutments) had approval been granted. That proposal, modest in comparison with the length and complexity of the EWL, occupied a Board for 72 days over a four-month period and attracted widespread opposition from various Wellington groups. The appeal to the High Court itself on matters of law occupied some 10 sitting days.

[338] A number of questions of law were posed to Brown J. These and their complexity are not of much assistance to this Board. The battleground was very different. Importantly in the Hearing that has occupied this Board, challenges to the NoRs under s171(1) were broadly based and at a comparatively high level. Nonetheless, the Board has found Brown J’s judgment helpful.

[339] The Board of Inquiry in the *Basin Bridge* case (Basin Board) had adopted this approach. The Basin Board proceeded to note that the Wiri Prison Board<sup>142</sup> had undertaken a substantive effects assessment and determined that that project would result in some significant effects, before moving on to consider the s171(1)(b) matters. The Basin Board favoured that approach:<sup>143</sup>

*“[198] We adopt the same approach, as we consider it:*

*[a] Allows us to fully consider all mitigation being offered by [NZTA], and whether there actually will be significant adverse effects remaining once that mitigation is taken into account;*

*[b] Would be consistent with the High Court’s comments in *Queenstown Airport Corporation Limited v Queenstown Lakes District Council*<sup>144</sup> that the greater the impact on private land (or similarly, the more significant the project’s adverse effects), the more careful the assessment of alternative sites, routes and methods will need to be. We will have a better understanding of the significance of the Project’s adverse effects (and therefore the robustness of the alternatives assessment required), if we*

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<sup>141</sup> *New Zealand Transport Agency v Architectural Centre Inc & Ors* [2015] NZHC 1991.

<sup>142</sup> Final Report and Decision of the Board of Inquiry into the Proposed Men’s Correctional Facility at Wiri, September 2011.

<sup>143</sup> Final Report and Decision of the Board of Inquiry into the Basin Bridge Proposal, August 2014, para 198.

<sup>144</sup> *Queenstown Airport Corporation Limited v Queenstown Lakes District Council* [2013] NZHC 2347.

*undertake our substantive effects assessment before considering the adequacy of the [NZTA's] alternatives assessment; and*

*[c] Would appropriately reflect the fact that as Section 171(1) is subject to Part 2, some consideration of the relevant matters from that Part is required in terms of forming a view on potential effects. As such, we consider we need to have some understanding of the evidence/effects assessments to reach a view on whether effects are in fact likely to be significant."*

- [340] Brown J considered that the Basin Board's reasoning, set out above, appeared, to him, to be sound.<sup>145</sup>
- [341] Brown J also considered that despite legislative change that had resulted in a repositioning within the subsection of the words "subject to Part 2", the words, unsurprisingly, meant what they said and that Part 2 was still relevant to the matters set out in (a) to (d) of s171(1).<sup>146</sup>
- [342] Brown J also analysed (in the context of submissions he received) the Supreme Court's majority judgment in *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors*.<sup>147</sup> His analysis is similar, with respect, to that adopted by this Board.<sup>148</sup> Importantly, Brown J did not consider the Basin Reserve Board had misunderstood or incorrectly analysed the *King Salmon* decision.<sup>149</sup>
- [343] The *King Salmon* decision, in any event, did not involve any consideration of a NoR under s171(1).
- [344] Another feature of Brown J's judgment is its emphasis on the importance of the statutory mandate in s171(1) of "having particular regard to" the matters listed in (a) to (d) of the provision. The adjective "particular" clearly regards a sharp focus when a decision-maker under s171(1) is considering the effects of a requested requirement. Interestingly, the same words are used in s7 of the RMA. Brown J's approach, undoubtedly correct as a matter of statutory interpretation, was that the words required a decision-maker to give the matter in its regard specific and separate attention:<sup>150</sup>

*"[66] While NZTA submitted that the (a) to (d) matters in s 171(1) were to be carefully weighed in coming to a conclusion, no submission was advanced in the course of argument on the interpretation issue to the effect*

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<sup>145</sup> *New Zealand Transport Agency v Architectural Centre Inc & Ors* [2015] NZHC 1991, para 82.

<sup>146</sup> *Ibid*, para 98.

<sup>147</sup> *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors* [2014] NZSC 38.

<sup>148</sup> *New Zealand Transport Agency v Architectural Centre Inc & Ors* [2015] NZHC 1991, para 83-118.

<sup>149</sup> *Ibid*, para 116.

<sup>150</sup> *Ibid*, para 66.

*that the matters to which particular regard was to be had were required to be the subject of extra weight. On that issue I share the view of Sir Andrew Morritt V-C in Ashdown v Telegraph Group Ltd:*

*It was submitted that the phrase ‘must have particular regard to’ indicates that the court should place extra weight on the matters to which the subsection refers. I do not so read it. Rather it points to the need for the court to consider the matters to which the subsection refers specifically and separately from other relevant considerations.”*

[345] At [77] of his judgment, Brown J set out the Basin Board’s approach to its s171(1) decision-making process.

[346] The Basin Board transparently stated its intended decision-making process at [199]:

*“[199] We therefore propose to structure this part of our decision (appropriately applying the guidance from King Salmon, as just identified) as follows:*

*[a] To identify and set out the relevant provisions of the main RMA statutory instruments that **we must have particular regard to under Section 171(1)(a)**, and the relevant provisions of the main non-RMA statutory instruments and non-statutory documents that **we must have particular regard to under Section 171(1)(d)**;*

*[b] To consider and evaluate the adverse and beneficial effects on the environment informed by the relevant provisions of Part 2; the relevant statutory instruments; and other relevant matters being the relevant conditions and the relevant non-statutory documents;*

*[c] To consider and evaluate the directions given in Section 171(1)(b) as to whether adequate consideration has been given to alternative sites, routes or methods of undertaking the work;*

*[d] To consider and evaluate the directions given in Section 171(1)(c) as to whether the work and designation are reasonably necessary for achieving the objectives for which the designation is sought; and*

*[e] In making our overall judgment subject to Part 2, to consider and evaluate our findings in (a) to (d) above, and to determine whether the requirement achieves the RMA’s purpose of sustainability.*

[Emphasis added]”

[347] Brown J did not consider that this approach was “susceptible to challenge” so far as s171(1) was concerned.<sup>151</sup>

[348] This is indeed the approach that this Board has taken in its assessment in this chapter of the effects of NZTA’s proposal on a sector-by-sector basis. It has paid particular regard to relevant policy statements, the consideration of alternative routes, and whether the work and designation are reasonably necessary to achieve NZTA’s objectives, particularly the many social and transport benefits that will flow from the EWL highway, including it being an enduring transport solution. The Board

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<sup>151</sup> Ibid, para 78.

has also had particular regard to the objectives and policies of AUP:OP and relevant planning instruments.

## 12.4 POSSIBLE CONFLICTING HIGH COURT AUTHORITY

[349] Mr Mulligan, in his opening submissions to the Board, and various other counsel during their submissions, alerted the Board to a possible conflict between two recent High Court authorities. The first was Brown J's judgment released in August 2015, *New Zealand Transport Agency v Architectural Centre Incorporated*.<sup>152</sup> That judgment dismissed an appeal by the New Zealand Transport Agency from a constituted Board of Inquiry under s149J of the RMA, which, by a majority, had refused to grant a NoR to erect a two-lane bridge over the northern side of the Basin Reserve in Wellington.

[350] The second authority is Cull J's judgment released in January 2017, *R J Davidson Family Trust v Marlborough District Council*,<sup>153</sup> which involved unsuccessful appeals from the Environment Court that had upheld a Commissioner's decision to decline a proposal to establish a mussel farm in Beatrix Bay in Pelorus Sound.

[351] Mr Mulligan's detailed opening submission on the conflict explained the matter in this way. Hitherto there had been an "orthodox" approach to Part 2 whereby courts and other decision-makers exercised an "overall broad judgment" when considering applications for resource consents or NoRs. This approach involved stepping back to consider the applications (and presumably the proposed decisions) against Part 2. The Environment Court in *North Shore City Council v Auckland Regional Council* described the process thus:<sup>154</sup>

*"The method of applying s5 then involves an overall broad judgment of whether a proposal would promote the sustainable management of natural and physical resources. That recognises that the Act has a single purpose. ... Such a judgment allows for comparison of conflicting considerations and the scale or degree of them, and their relative significance or proportion in the final outcome."*

[352] That "orthodox" approach has, in the eyes of some, been seen as modified by dicta in the Supreme Court's *King Salmon* decision. The previous section of this chapter

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<sup>152</sup> [2015] NZHC 1991.

<sup>153</sup> *R J Davidson Family Trust v Marlborough District Council* [2017] NZHC 52.

<sup>154</sup> *North Shore City Council v Auckland Regional Council* [1997] NZRMA 59 at 26, affirmed on appeal to the High Court in *Green & McCahill Properties Ltd v Auckland Regional Council* [1997] NZRMA 519.

refers in part to *King Salmon*. The triggering application in the *King Salmon* case was for a plan change. This brought into play (the proposed salmon farm being in the coastal environment) the effect of a high level policy document, the New Zealand Coastal Policy Statement. One of the issues put by counsel to the Supreme Court was the extent to which a decision-maker could refer to Part 2 when it was required to give effect to the NZCPS.<sup>155</sup> The majority dealt with the submission in this way:

*“[90] The difficulty with the argument is that, as The Board have said, the NZCPS was intended to give substance to the principles in pt 2 in respect of the coastal environment by stating objectives and policies which apply those principles to that environment: the NZCPS translates the general principles to more specific or focussed objectives and policies. The NZCPS is a carefully expressed document whose contents are the result of a rigorous process of formulation and evaluation. It is a document which reflects particular choices. To illustrate, s 5(2)(c) of the RMA talks about ‘avoiding, remedying or mitigating any adverse effects of activities on the environment’ and s 6(a) identifies ‘the preservation of the natural character of the coastal environment (including the coastal marine area) ... and the protection of [it] from inappropriate subdivision, use and development’ as a matter of national importance to be recognised and provided for. The NZCPS builds on those principles, particularly in policies 13 and 15. Those two policies provide a graduated scheme of protection and preservation based on the features of particular coastal localities, requiring avoidance of adverse effects in outstanding areas but allowing for avoidance, mitigation or remedying in others. For these reasons, it is difficult to see that resort to pt 2 is either necessary or helpful in order to interpret the policies, or the NZCPS more generally, absent any allegation of invalidity, incomplete coverage or uncertainty of meaning. The notion that decision-makers are entitled to decline to implement aspects of the NZCPS if they consider that appropriate in the circumstances does not fit readily into the hierarchical scheme of the RMA.”*

[353] Thus, *King Salmon* has been seen by some as authority for the proposition that it is impermissible for a decision-maker to refer to Part 2 unless there is an allegation of invalidity, incomplete coverage, or uncertainty of meaning, over a relevant planning instrument or document. Certainly, that is what the Supreme Court has said at [90]. But importantly the Supreme Court has also pointed out that there are limits to the extent decision-makers can “decline” to implement a policy document in the circumstances of the particular application. That limitation, for the reasons

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<sup>155</sup> *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* [2014] NZSC 38, para 90.

already intimated by the Supreme Court,<sup>156</sup> flows from the hierarchical nature of planning instruments and documents.<sup>157</sup>

[354] It does not seem to the Board that any fair or contextual reading of the Supreme Court's dicta in *King Salmon* results in a proposition that Part 2 should be ignored. Rather, when operating in the area covered by a hierarchical planning instrument, a decision-maker's ability to minimise, read down, or dilute a planning instrument is severely circumscribed.

[355] In the appeal before Cull J in *Davidson Family Trust*, the Environment Court<sup>158</sup> had stated:

*"We now know, in the light of King Salmon, that it is not merely a 'conflict' which causes the need to apply Part 2. The Supreme Court has made it clear that, absent invalidity, incomplete coverage or uncertainty of meaning in the intervening statutory documents, there is no need to look at Part 2 of the RMA even in section 104 RMA."*

[356] One would, with respect, search in vain for anything in the Supreme Court's *King Salmon* decision to the effect that there was, "no need to look at Part 2 of the RMA, even in s104". Nor, when Cull J, in her *Davidson Family Trust* judgment, upheld the Environment Court, did she make any suggestion of that sort. Rather, she stated:

*"[75] The Supreme Court rejected the 'overall judgment' approach in relation to the implementation of the NZCPS in particular. It is inconsistent with the elaborate process required before a national coastal policy statement can be issued and the overall judgment approach created uncertainty."*

*[76] I find that the reasoning in King Salmon does apply to s 104(1) because the relevant provisions of the planning documents, which include the NZCPS, have already given substance to the principles in Part 2. Where, however, as the Supreme Court held, there has been invalidity, incomplete coverage or uncertainty of meaning within the planning documents, resort to Part 2 should then occur."*

*[77] I also consider that the Environment Court's decision was consistent with King Salmon and the majority correctly applied it to the different context of s 104. I accept Council's submission that it would be inconsistent with the scheme of the RMA and King Salmon to allow Regional or District Plans to be rendered ineffective by general recourse to Part 2 in deciding resource consent applications. It could result in decision-makers being more restrained when making district plans, applying the King Salmon approach, than they would when determining resource consent applications."*

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<sup>156</sup> Ibid.

<sup>157</sup> This approach is consistent with the recent judgment of Wylie J, released on 12 December 2017, *Royal Forest and Bird Protection Society of NZ Inc v Bay of Plenty Regional Council* [2017] NZHC 3080. It is also consistent with the Court of Appeal's conclusion that *King Salmon* has led to an "inevitably more restrictive regime", *Man'o War Station Ltd v Auckland Council* [2017] NZCA 24 at [60].

<sup>158</sup> *R J Davidson Family Trust v Marlborough District Council* [2016] NZEnvC 81, para 259.



- [357] Indeed, it would be surprising if any higher court were to suggest that Part 2 should be ignored. Section 104, like s171(1), is expressly stated in s104(1) to be “subject to Part 2”. The s5 purpose of the RMA must always remain as an interpretative guide, not only for the statute itself but for instruments, plans and documents made pursuant to the statute. The mandatory obligations cast upon people exercising functions and powers under the RMA imposed by ss6, 7 and 8, must, as a matter of law and policy, extend to people making decisions under s104. There is certainly nothing in Cull J’s judgment to the contrary. It seems to the Board that the conflict seen by some counsel may be more apparent on a cursory reading of the relevant cases than real.
- [358] Obviously, at the end of any RMA consideration, a decision-maker would be wise to ensure that his or her decision is consistent with the s5 purpose. That is almost certainly why an overall judgment is necessary. Furthermore, consideration of Part 2 matters might well be necessary in situations where a plan (such as the AUP:OP) does not cover the entire range of environmental issues raised by an application or is short on specifics or detail.
- [359] That said, it is not for this Board to ignore High Court authority, although a Supreme Court authority inevitably has greater force. This Board is comparatively a lowly worm among courts interpreting the RMA. The Board was told by Mr Gardner-Hopkins, counsel for Transpower, who was also counsel for the unsuccessful appellant in *Davidson*, that Cull J’s judgment has been appealed to the Court of Appeal and the Board understands that a hearing has been set down for November 2017.
- [360] Mr Mulligan’s submission was that, given this conflict, the Board should effectively ride both horses. There were, he submitted, two approaches open to the Board. The first was to apply an overall broad judgment under Part 2 when considering the NoRs under s171 but to limit consideration of resource consent applications (by not considering Part 2) under s104. The second approach was to follow the *Davidson* decision, having recourse to Part 2 when the relevant plans did not provide complete coverage. This approach, submitted counsel, would necessarily follow, given that NZTA’s proposals sat across both district and regional coastal plan areas. In either case Mr Mulligan submitted, and correctly so, the Board’s approach would require a balancing and weighting of relevant factors with proper regard to directive policies and policy nuances resulting in an overall broad judgment. There is no heresy in that submission. Nor is it in conflict with *King Salmon*, or the judgments of Brown J and Cull J.

## 12.5 SECTION 104D

- [361] The Proposal is a non-complying activity. Resource consents can thus only be granted if the applications pass through one of the two s104D gateways. There is no way the application would satisfy the s104D(1)(a) test of having adverse effects that were minor. The only remaining gateway is thus s104D(1)(b), which requires NZTA to establish that the activities involved would not be contrary to the objectives and policies of the relevant plans and proposed plans and in particular those of the AUP:OP.<sup>159</sup> Only if the application satisfies that test will the Board be in a position to consider the resource consent applications under s104.
- [362] Some of the planners who gave evidence to the Board considered that the application failed to penetrate the s104D(1)(b) gateway.<sup>160</sup> Other planners, quite properly, saw the application, so far as the threshold was concerned, as being finely (or very finely) balanced,<sup>161</sup> while Ms Rickard and Mr Gouge remained of the view that the gateway test was (simply) passed.<sup>162</sup>
- [363] The fact that an activity is non-complying inevitably raises tensions between the relevant plan, the assessment of the effects, and the plan's policy. As the Court of Appeal noted in *Arrigato Investments Limited v Auckland Regional Council*, a non-complying activity "is, by reasons of its nature, unlikely to find direct support from any specific provision of the plan".<sup>163</sup>
- [364] Most plans of course, and the AUP:OP is no exception, will contain a multitude of policies and objectives covering different fields, some of which will overlap and some of which will not. The very nature of Auckland's geography, where much of the city surrounds two harbours and spreads up and along two North Island coastlines, triggers complex AUP issues, given the proximity of Auckland and its many zones to the CMA. Such an approach inevitably leads to a "fair appraisal" of the objectives and policies read as a whole as discussed in *Dye v Auckland Regional Council* to which authority the Board now turns.

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<sup>159</sup> Although not the regional policy statement provisions, namely the AUP:OP<sup>RPS</sup>.

<sup>160</sup> Statement of Primary Evidence, MacPherson, para 34; Statement of Primary Evidence, Arbuthnot, TG Global, para 9.5; Statement of Primary Evidence, Arbuthnot, POAL, para 97.34; Statement of Primary Evidence, Brown, para 6.3.

<sup>161</sup> Hearing Summary, Coombes, para 3.1; Memorandum of Board Planner and Counsel, para 88.

<sup>162</sup> Statement of Primary Evidence, Rickard, para 12.14; Statement of Primary Evidence, Gouge, para 11.8.

<sup>163</sup> *Arrigato Investments Limited v Auckland Regional Council* [2002] 1 NZLR 323 at [17].

[365] A holistic approach to considering objectives and policies when considering the s104D test was established in the Court of Appeal decision in *Dye v Auckland Regional Council*.<sup>164</sup> In that case, the Court of Appeal upheld the Environment Court's decision (overturned by the High Court) regarding its assessment of the objectives and policies in the Rodney District Plan. The Court stated:

*"[25] In summary, the Environment Court was fully mindful of the basic thrust of the relevant objectives and policies which was to confine rural residential activities to the designated areas. The Court considered that the objectives and policies allowed for the possibility, albeit limited, that such activities might nevertheless appropriately be allowed to occur outside the designated areas and in the general rural part of the district. Whether a particular application which would necessarily be for a non-complying activity was appropriate, would obviously depend on its particular combination of circumstances. It is implicit in its approach that the Environment Court did not see the relevant objectives and policies as precluding altogether developments not falling within a designated area. The objectives and policies themselves recognised that some wider development might be appropriate. If the Court found a particular proposal to be appropriate, it could not be said to be contrary to the objectives and policies on the basis that it was outside the particular controls which were designed to implement them. The Board are unable to conclude that in approaching the matter in that way the Environment Court misunderstood or misinterpreted the objectives and policies. The view which the Court took was open to it on a fair appraisal of the objectives and policies read as a whole and, in reaching its view, the Court committed no error of law."*

[366] Some helpful comments were also made by the Environment Court in *Akaroa Civic Trust v Christchurch City Council*.<sup>165</sup>

*"... We consider that if a proposal is to be stopped at the second gateway it must be contrary to the relevant objectives and policies as a whole. We accept immediately that this is not a numbers game; at the extremes it is conceivable that a proposal may achieve only one policy in the district plan and be contrary to many others. But the proposal may be so strong in terms of that policy that it outweighs all the others if that is the intent of the plan as a whole. Conversely, a proposal may be consistent with and achieve all but one of the relevant objectives and policies in a district plan. But if it is contrary to a policy which is, when the plan is read as a whole, very important and central to the proposal before the consent authority, it may be open to the consent authority to find the proposal is contrary to the objectives and policies under section 104D. ... The usual position is that there are sets of objectives and policies either way, and only if there is an important set to which the application is contrary can the local authority rightly conclude that the second gate is not passed."*

[367] In *Re Waiheke Marinas Limited*<sup>166</sup> the Environment Court noted that the statement in the *Akaroa Civic Trust* case is a helpful pointer to scenarios that can arise when

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<sup>164</sup> *Dye v Auckland Regional Council* [2002] 1 NZLR 337; (2001) 7 ELRNZ 209; [2001] NZRMA 513 (CA).at [25].

<sup>165</sup> *Akaroa Civic Trust v Christchurch City Council* [2010] NZEnvC 110 at [74].

<sup>166</sup> *Re Waiheke Marinas Limited* [2015] NZEnvC 218.

carrying out the task of a “*fair appraisal of objectives and policies read as a whole*” as directed by the Court of Appeal in *Dye v Auckland Regional Council*.

[368] Applying the above, the approach must be to consider and weigh carefully the many activities that NZTA’s applications entail and to decide whether those activities collectively are or are not contrary to the objectives and policies of both the AUP:OP and the legacy Coastal Plan provisions.

## 13. MANA WHENUA AND CULTURAL ISSUES

### 13.1 CULTURAL LANDSCAPE

[369] The cultural landscape within which the footprint of the Proposal falls was described in submissions, evidence and representations given by Mana Whenua and set out in the Cultural Values Report and the cultural values assessments provided with the submissions of Te Kawerau ā Maki, Ngāti Te Ata Waiohua and Ngāti Paoa. The Board also heard oral evidence from respected kaumātua and expert Mr Te Warena Taua on behalf of Te Kawerau ā Maki and from Mr Blair on behalf of Ngāti Whātua Ōrākei about the ancestral and contemporary relationship of those iwi within the Manukau and surrounds, including some of the Kahui tipua (guardian taniwha) who watch over the Manukau, tohu, waahi tapu and other cultural sites within the area.

[370] Places and features of the physical environment valued by Mana Whenua include (although are not limited to):

- (a) Coastal and freshwaters (Māngere Inlet (Te Waimokoia) and the wider Manukau Harbour, Ōtāhuhu Creek and Tāmaki River beyond);
- (b) Volcanic cones and features (Ngā Tapuwae o Mataoho) like Te Hōpua a Rangi, pahoehe lava flows on the edge of the Māngere Inlet, Ōtāhuhu / Mt Richmond, Rarotonga / Mt Smart (the latter two maunga being part of the Tāmaki Collective Settlement);
- (c) Places of settlement (Onehunga, Mutukāroa-Hamlins Hill, ancestral pā at Ōtāhuhu / Mt Richmond, Rarotonga / Mt Smart);
- (d) Ōtāhuhu (Te Tō Waka) and Kāretu Portages;
- (e) Urupā; and
- (f) Sites and areas of specific heritage and history, including Ngā Rango e Rua o Tainui, Te Pāpapa, Te Apunga o Tainui, Waihihi and Te Puna Tapu o Pōtatau.<sup>167</sup>

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<sup>167</sup> NZTA, Cultural Values Assessment Report.

[371] The Urban and Landscape Design Framework (ULDF) sets out Mana Whenua urban design objectives that were prepared following extensive consultation with Mana Whenua and were a key consideration throughout the preparation of the ULDF:<sup>168</sup>

- The values of the environment (including the economy, culture, nature and community) are holistic across the Project area.
- The cultural landscape of the area is significant, for settlement (as a residence but also as a meeting place), for access (as a portage) and for movement (as a trade hub and with different whakapapa for many iwi).
- The project should seek to restore and/or replenish the mauri of the environment – to enhance and acknowledge the mana of the Māngere Inlet and the Manukau Harbour.
- The project should seek opportunities to increase the restorative rehabilitation capacity of the environment.
- The Proposal should acknowledge and give special design consideration to the following remaining iconic “geographic areas” of interest as “features of the cultural landscape”, including: Te Hōpua a Rangī; Anns Creek; Mutukāroa; Te Apunga o Tainui, waahi tapu site; Ōtāhuhu Creek; Pikes Point / Pahoeheo lava flows; Portages – Kāretu and Ōtāhuhu.

[372] Dr Patterson outlined the relevant cultural landscape values for Ngāti Whātua Ōrākei that are associated with Onehunga, including waahi tapu, waahi taonga and the Manukau Harbour, and explained that the harbour is important to Ngāti Whātua Ōrākei because of its connection to their ancestors and the landscape they named and moved within. He noted that one of the most commonly recited names of the Manukau Harbour itself reflects that ancestral connection with the harbour, being called Te Manukanuka o Hoturoa to recall the rangatira (captain) of the Tainui waka who portaged and explored the harbour.<sup>169</sup>

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<sup>168</sup> NZTA, Urban and Landscape Design Framework, p2.

<sup>169</sup> Transcript, Patterson, p4260; Transcript, Taua, p4286.

- [373] Dr Patterson considered there had been little assessment of the cultural dimension to landscape and produced a report he had prepared on behalf of Ngāti Whātua Ōrākei dated 16 April 2008 for the purposes of the Manukau Harbour Crossing Proposal, noting that it provided an important context to the landscape values and adopting it as his evidence for the purposes of this Hearing.
- [374] Ms Wilson on behalf of Te Ākitai Waiohua described the Manukau Harbour as their central identifier<sup>170</sup>, treasured as a means of transport and the provider of food including fish, kaimoana (seafood) and birds as well as other basic necessities of life. She expressed in particular the deep connection they have with Te Hōpua a Rangi, named after Rangihuamoā, an ancient tūpuna of Te Ākitai Waiohua.
- [375] Together with representations on behalf of Ngāti Te Ata Waiohua, Ngāti Tamaoho and Ngāti Maru, Mana Whenua highlighted the relevance and importance of their connections to the wider area traversed by the Proposal with waahi tapu and other taonga, including Te Tō Waka, Te Apunga o Tainui, Mutukāroa and the Kāretu Portage.
- [376] Mr Minhinnick on behalf of Ngāti Te Ata Waiohua also related the harbour to the identity of Ngāti Te Ata Waiohua, highlighting their links with Tainui, Pōtatau and the Onehunga area. He related the longstanding commitment and advocacy role that Ngāti Te Ata Waiohua have had as kaitiaki advocating for the harbour and other water-related issues.<sup>171</sup>

## 13.2 CULTURAL ISSUES

- [377] NZTA's Proposal raises both provisions under the RMA and cultural issues of importance to Māori. Of central importance to Mana Whenua is the status of the Manukau Harbour and its mauri, the Te Hōpua a Rangi volcanic tuff ring, the proposal to reclaim part of the foreshore of the Māngere Inlet, and associated proposals to infringe on mudflats, bird habitat, and dredge part of the Inlet.
- [378] A starting point must be the Agreement between the Crown and a number of Auckland iwi, *Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed*.<sup>172</sup>

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<sup>170</sup> Transcript, Wilson, p4749.

<sup>171</sup> Transcript, Minhinnick, p5926.

<sup>172</sup> NZTA CVR, p9-10;

This Deed was finalised and executed in December 2012 between the collective Auckland iwi<sup>173</sup> and the Crown.

[379] Section 10 of the Deed, headed 'Waitematā and Manukau Harbours', contains a joint acknowledgement by Ngā Mana Whenua o Tāmaki Makaurau and the Crown that, the Manukau Harbour is "... of extremely high spiritual ancestral, cultural, customary and historical importance to Mana Whenua o Tāmaki Makaurau ..."<sup>174</sup>

[380] The Deed further provides<sup>175</sup> that cultural redress in relation to both harbours is still at large and to be "developed" in separate negotiations with the Crown. The Collective Deed was a prelude to (codes) of legislation coming into force<sup>176</sup>. The Deed itself was a product of 2009-2010 negotiations and understandings between Ngā Mana Whenua o Tāmaki Makaurau and the Crown to arrange for the vesting and co-governance of maunga<sup>177</sup> granting the right of first refusal over Crown land in the Auckland area, and embarking on a process to resolve Treaty claims relating to the harbours.<sup>178</sup>

[381] Twenty-seven years before the Deed, the Waitangi Tribunal issued its 1985 Manukau Report (WAI 8). That report dealt extensively with Treaty of Waitangi issues arising out of the ownership, use and despoliation of the Manukau Harbour since 1840. The Waitangi Tribunal in 1985 did not have the extensive jurisdiction it has today. Nonetheless, the Tribunal found:

*"In the Manukau the tribal enjoyment of the lands and fisheries has been and continues to be severely prejudiced by compulsory acquisitions, land development, industrial developments, reclamations, waste discharges, zonings, commercial fishing and the denial of traditional harbour access (para 6.4).*

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<sup>173</sup> As set out in s9 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014, Ngā Mana Whenua o Tāmaki Makaurau means the collective group of the following iwi and hapū: Ngāi Tai ki Tāmaki; Ngāti Maru; Ngāti Pāoa; Ngāti Tamaoho; Ngāti Tamaterā; Ngāti Te Ata Waiohua; Ngāti Whanaunga; Ngāti Whātua o Kaipara; Ngāti Whātua Ōrākei; Te Ākitai Waiohua; Te Kawerau ā Maki; Te Patukirikiri; hapū of Ngāti Whātua (other than Ngāti Whātua o Kaipara and Ngāti Whātua Ōrākei) whose members are beneficiaries of Te Rūnanga o Ngāti Whātua, including Te Taoū not descended from Tuperiri; and the individuals who are members of 1 or more of those iwi and hapū; and any whānau, hapū, or group to the extent that it is composed of those individuals.

<sup>174</sup> Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed 2012, Clause 10.1.1.

<sup>175</sup> Ibid, clause 10.1.2.

<sup>176</sup> Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014.

<sup>177</sup> Ibid, section 10. Sets out the meaning of 'maunga' for the purposes of the Act.

<sup>178</sup> Ibid, clause 1.3.



*The omission of the Crown to provide a protection against these things is contrary to the principles of the Treaty of Waitangi (para 6.3).<sup>179</sup>*

- [382] The Tribunal made a number of recommendations. These recommendations included one to the Minister of Transport that, pending the formulation of an Action Plan (a plan to commit to taking positive measures for the restoration of the Manukau Harbour), further reclamations in the Manukau should be prohibited.<sup>180</sup>
- [383] As is clear from Clause 10.1.2 of the Collective Redress Deed, the issue of cultural redress in respect of the Manukau Harbour is still at large. The breaches identified by the Tribunal in 1985 have yet to be settled, although some process is in place. The Action Plan for the Manukau Harbour was finalised in 1990,<sup>181</sup> but has continued to influence subsequent planning responses, including those relating to stormwater management and reclamation.<sup>182</sup>
- [384] This brief background indisputably brings into play important provisions contained in Part 2 of the RMA. Section 6(e) stipulates as a matter of national importance the relationship of Māori with their ancestral lands and water and other taonga. The Manukau Harbour is indisputably a taonga. People exercising functions under the RMA must “recognise and provide for” such a matter of national importance. Section 7(a) defines kaitiakitanga as being a matter to which people exercising powers under the RMA must “have particular regard”. Importantly, the Treaty of Waitangi, which s8 stipulates people exercising functions and powers under the RMA must “take into account”, is clearly engaged. The WAI 8 Report acknowledged that breach of Treaty principles. The Crown, in the 2012 Deed, effectively acknowledges that full redress has yet to be negotiated.
- [385] To its credit, NZTA, as a Crown agency, entered into a dialogue with Mana Whenua (being Manukau Harbour connected iwi) at an early stage. A Cultural Values Report for the EWL was produced. Ten Mana Whenua groups participated. It was common ground that none of the participating groups would or could bind iwi or iwi governance structures in any way. Nor would the group be able to make any final commitment to the EWL.

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<sup>179</sup> WAI 8, para 9.2.1.

<sup>180</sup> Ibid, para 10.3 and 10.4.

<sup>181</sup> Statement of Rebuttal Evidence, Linzey, Cultural Values Assessment-Engagement, para 6.3.

<sup>182</sup> Ibid, para 6.3-6.4.

[386] Three overarching themes that NZTA accepted arising out of this consultation process were to:

- (a) Respect the place;
- (b) Restore the whenua; and
- (c) Reconnect the people.<sup>183</sup>

[387] Care was taken to avoid various sites such as Hamlins Hill (Mutukāroa) and Te Apunga o Tainui. Recognition of the Kāretu Path and Portage and the Ōtāhuhu Portage (Te Tō Waka) were outcomes. So too, in NZTA's submission, was the development of a plan to treat the discharge of untreated stormwater flowing into the Māngere Inlet from the 611 ha Onehunga hinterland.

### **13.3 ENGAGEMENT**

[388] The Cultural Values Report (CVR) listed the following iwi and hapū as being engaged with and providing input into the Proposal:<sup>184</sup>

- (a) Ngāi Tai ki Tāmaki
- (b) Ngāti Maru
- (c) Ngāti Paoa
- (d) Ngāti Tamaoho
- (e) Ngāti Te Ata Waiohua
- (f) Ngāti Whātua Ōrākei
- (g) Te Ahiwaru (Makaurau Marae Māori Trust)
- (h) Te Ākitai Waiohua
- (i) Te Kawerau ā Maki
- (j) Te Rūnanga o Ngāti Whātua

[389] The Board understands from the CVR that each of the Mana Whenua listed above, apart from Ngāti Whātua Ōrākei and Te Ahiwaru, submitted Māori Values Assessments (MVAs) to the NZTA project team for the purposes of option

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<sup>183</sup> Statement of Primary Evidence, Hancock, para 10.3.

<sup>184</sup> NZTA, CVR, para 2.2.

evaluation (MCA) and wider environmental assessment of the Proposal. The MVAs were reviewed during the compilation of the CVR but not produced as evidence because they held sensitive information.

- [390] Nonetheless, Ngāti Paoa, Ngāti Te Ata Waiohua and Te Kawerau ā Maki attached their MVAs to their original submissions.

### **Ngāi Tai ki Tāmaki**

- [391] In their original submission, Ngāi Tai ki Tāmaki indicated full support with conditional approval. They confirmed their satisfaction with the level of engagement with NZTA, recognising that NZTA had provided for their concerns and vision with regard to the overall Proposal. Ngāi Tai ki Tāmaki stated their belief that their concern to improve the health of the Inlet and Manukau Harbour had been heard, considered and would be actioned. They noted their support was conditional upon the provision of a contamination bund to reduce pollutants into the Inlet and Harbour and also confirmed that Ngāi Tai ki Tāmaki had been an integral part of the team and supported the CVR provided for the Proposal.

### **Ngāti Maru Rūnanga (Ngāti Maru)**

- [392] Ngāti Maru's original submission<sup>185</sup> indicated a neutral position with no view as to the decision the Board should make although some key areas for conditions were identified. Mr Warren, on behalf of Ngāti Maru, filed opening submissions in writing<sup>186</sup> and Mr Majurey appeared at the Hearing to make a statement on behalf of the iwi.<sup>187</sup> The final position of Ngāti Maru was made clear when Mr Warren confirmed he appeared on their behalf and that they were party to the Mana Whenua Tribes Agreement.

### **Ngāti Paoa**

- [393] Ngāti Paoa's submission indicated partial support and asked the Board to approve the Proposal with conditions. It records that the Cultural Values Assessment (CVA) prepared by them in April 2016 was issued in reliance on information provided by NZTA in 2014, with the intention for an updated CVA to be provided prior to the Hearing. The submission records that the CVR for the EWL, prepared by NZTA, does not constitute an assessment of cultural effects upon Ngāti Paoa. It confirms

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<sup>185</sup> Submission 126358, Ngāti Maru, clause 3.

<sup>186</sup> Opening Submissions, Warren, dated 6 July 2017.

<sup>187</sup> Representation, Majurey, Ngāti Maru, Hearing Day 43.

that Ngāti Paoa largely support the general intent of the CVR but considered enforceable and valid commitments to restoration of mauri, commitment of funding to achieve this outcome and additional measures to avoid, remedy, mitigate and offset relevant adverse cultural effects still needed to be achieved.<sup>188</sup> The Board understands from the closing statement of Mr Warren that Ngāti Paoa are party to the Mana Whenua Tribes Agreement.<sup>189</sup>

### **Ngāti Tamaoho**

[394] Ngāti Tamaoho's original submission<sup>190</sup> indicated full support for the Proposal and requested that the Board approve the Proposal for the reasons outlined therein. They included that Ngāti Tamaoho had had good engagement with NZTA throughout the entire process over several years and that NZTA had provided for their concerns and vision with regards to the overall project. They considered there would be an improvement to the health of the Māngere Inlet and, consequently, the Manukau Harbour; the Proposal provides for a contamination containment bund that will reduce pollutants reaching the harbour. Importantly, it records that Ngāti Tamaoho support the CVR provided for this proposal. Ms Rutherford appeared at the Hearing to make a statement on behalf of the iwi.<sup>191</sup> Ngāti Tamaoho are party to the Mana Whenua Tribes Agreement as confirmed by Mr Warren when he appeared to present his Closing Statement on their behalf.<sup>192</sup>

### **Ngāti Te Ata**

[395] Ngāti Te Ata fully opposed the Proposal and asked that the Board decline it, standing by the recommendations of the Waitangi Tribunal in the Manukau Report. A copy of their Cultural Impact Assessment (CIA) was attached to their submission. The representation on their behalf given by Mr Minhinnick reiterated that opposition and indicated a preference for a discussion around restoration of the Manukau Harbour with the creation of mutually beneficial opportunities.<sup>193</sup>

### **Ngāti Whātua Ōrākei**

[396] Ngāti Whātua Ōrākei fully opposed the Proposal and asked that the Board decline it in its entirety. They did not submit an MVA on the Project.<sup>194</sup> Ngāti Whātua Ōrākei were well represented at the Hearing by Mr Enright and fully participated in the

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<sup>188</sup> Submission 126522, Ngāti Paoa, dated 23 March 2017, clauses 3 & 4.

<sup>189</sup> Closing Statement, Warren, para 3.

<sup>190</sup> Submission 126362, Ngāti Tamaoho, dated 22 March 2017, clause 3.

<sup>191</sup> Representation, Rutherford, Ngāti Tamaoho.

<sup>192</sup> Closing Statement, Warren, para 1-2.

<sup>193</sup> Submission 126320, Ngāti Te Ata; Representation, Minhinnick.

<sup>194</sup> NZTA, CVR, 12.12.

Hearing, cross-examining relevant witnesses on key issues, presenting cultural and expert (planning) evidence, which was able to be tested by the Board and cross-examination by interested parties.

### **Te Ahiwaru (Makaurau Marae Māori Trust)**

- [397] Makaurau Marae Māori Trust (Makaurau Marae) originally submitted in partial support of the Proposal, asking that the Board approve the Proposal with conditions. That partial support was clarified as “not opposing” the Proposal provided that appropriate conditions are imposed to avoid, remedy, mitigate and offset adverse cultural effects. Ms Olsen presented a statement on behalf of Makaurau Marae confirming that their final position was to oppose the Proposal.

### **Te Ākitai Waiohua Waka Taua Society (Te Ākitai)**

- [398] Te Ākitai Waiohua Waka Taua Society (Te Ākitai) submitted in full opposition to the Proposal, but nevertheless asked that the Board approve it subject to certain conditions to address future Treaty of Waitangi settlement negotiations with the Crown and the effects of the Project on Te Hōpua and the Manukau Harbour, to ensure its cultural values are recognised.<sup>195</sup> Evidence was given by Ms Karen Wilson, on behalf of Te Ākitai, who very clearly and capably set out the views of Te Ākitai. The final position of Te Ākitai was made clear to the Board by Mr Warren who confirmed that Te Ākitai are party to the Mana Whenua Tribes Agreement (discussed in detail below) and do not oppose the Proposal.<sup>196</sup>

### **Te Kawerau ā Maki**

- [399] Te Kawerau ā Maki’s preliminary CIA attached to their submission<sup>197</sup> indicates partial support for the Proposal and asks the Board to approve the Proposal with conditions. It lists sites of significance to Te Kawerau ā Maki within the Proposal

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<sup>195</sup> Submission 126332, Te Ākitai Waiohua, clauses 3-4

<sup>196</sup> Closing Statement, Warren, para 3; Warren, Transcript, Day 47, p. 6319, lines 2-3 and p.6326, lines 33 to 39. The Board notes Mr Warren’s observation that once each individual Mana Whenua group sat back to look at the full picture, the environmental benefits of stormwater treatment and contaminant containment together with the Agreement and the suite of opportunities and mechanisms to address the issues raised by Mana Whenua, and just put it through the lens or filter of their worldview, you can only assume that that was a very delicate judgment to make particularly when you consider Ms Wilson’s evidence in terms of the staunchness of Te Ākitai on these issues to where things have moved today. (Warren, Transcript, Day 47, p.6327, lines 42 to p. 6328, line 3.).

<sup>197</sup> Dated January 2014 and provided as an addendum to their earlier Preliminary CIA dated November 2013 .

area. Te Kawerau ā Maki's final position was to oppose the EWL and recommend the Board decline.

### **Te Rūnanga o Ngāti Whātua**

[400] Te Rūnanga o Ngāti Whātua indicated partial support for the Proposal in their original submission, asking the Board to approve with conditions. Those conditions sought to address, among other matters, the mitigation of adverse effects on ONFs, ONLs and SEAs within the Proposal area and aspects around dredging for the purposes of providing the base material for the contaminant containment bund. During the Hearing, Ngāti Whātua Ōrākei produced a letter from the Rūnanga that expressed support for Ngāti Whātua Ōrākei's formal position opposing the Proposal.<sup>198</sup> The final position of Te Rūnanga o Ngāti Whātua was made clear when Mr Warren confirmed he appeared on their behalf and that they were party to the Mana Whenua Tribes Agreement, subject to ratification by the Trustees of Te Rūnanga o Ngāti Whātua (confirmation of which was subsequently received).<sup>199</sup>

[401] Ngāi Tai ki Tāmaki, Ngāti Paoa and Te Rūnanga o Ngāti Whātua did not appear at nor participate in the Hearing, but were represented by Mr Warren who appeared before the Board to present closing submissions on their behalf in terms of the Mana Whenua Tribes and Mana Whenua Tribes Agreement referred to in more detail below.

### **Findings and conclusions**

[402] The Board acknowledges Mr Warren's submission that, regardless of the position taken by the Mana Whenua Tribes, they have individually – and at times, collectively – consistently raised with the Board and/or NZTA a number of issues they wanted addressed by the Proposal, which include:<sup>200</sup>

- (a) Ensuring that the Project does not impact on Mana Whenua rights in regards to their extant Te Tiriti o Waitangi / Treaty of Waitangi claims and settlement negotiations relating to the Manukau Harbour;
- (b) The protection of the Manukau Harbour;
- (c) The protection of waahi tapu; and

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<sup>198</sup> Exhibit U.

<sup>199</sup> Memorandum of Counsel, Warren, dated 19 September 2017.

<sup>200</sup> Closing Statement, Warren, para.8.

- (d) The overall environmental effects of the Project – ensuring that there is appropriate monitoring of the Manukau Harbour and the avoidance, remediation and mitigation of adverse effects.

[403] NZTA’s approach recognised that Mana Whenua are best placed to identify the impacts of the Proposal on the physical and cultural environment valued by them. NZTA therefore engaged with Mana Whenua throughout the design and development of the Proposal. They have, in relation to every aspect of the application, left it to Mana Whenua to assess the impact of the Proposal on their cultural values relating to their ancestral and contemporary use and occupation in this area and kaitiakitanga of the natural resources within it. That approach is appropriate. As submitted by Mr Enright, the RPS identifies Mana Whenua as the specialists in identification of cultural values and effects.<sup>201</sup> The Board notes that the Unitary Plan also recognises Mana Whenua as specialists in the tikanga of their hapū or iwi and as being best placed to convey their relationship with their ancestral lands, water, sites, waahi tapu and other taonga.<sup>202</sup>

[404] The Board accepts the evidence and submissions of NZTA that the engagement with Mana Whenua reflects the principles of Te Tiriti o Waitangi. Based on the principle of partnership, engagement with Mana Whenua occurred at the outset of development of the Proposal. The CVR sets out the process of early engagement and records that NZTA, with Auckland Transport in the early stages, recognised early on in the development of the Proposal that the way to achieve the best outcomes for the Proposal and for wider infrastructure development was to engage comprehensively and meaningfully with Mana Whenua. It states that engagement was “*underpinned by the commitment of partnership between Mana Whenua and NZTA (as representative of the Crown) founded by Te Tiriti o Waitangi*”.<sup>203</sup>

[405] Throughout, Mana Whenua were both informed and involved in decision-making in respect of the Proposal. A Schedule of Mana Whenua specific engagement is set out at Appendix B of the CVR, with more information regarding the wider engagement processes for the Proposal provided in the AEE and in the evidence of Ms Linzey and Mr Delamere. The CVR records that during these meetings, Mana Whenua were engaged on their aspirations for the Inlet and bespoke issues relating to the design of the Proposal, the assessment of option alternatives and the

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<sup>201</sup> Closing Statement, Enright, p1.

<sup>202</sup> Policy B 6.2.2 (1)(e).

<sup>203</sup> NZTA CVR, para 12.2.

measures needed to mitigate and address identified effects.<sup>204</sup> Throughout the Proposal development, NZTA actively recognised the relationship Mana Whenua have with the Proposal area and has worked to address and appropriately mitigate any potential effects.<sup>205</sup>

[406] As stated by Ms Linzey, “*There has been demonstrable consideration given to the enduring relationship of a Maori with the natural and physical resources*”<sup>206</sup> in this area and this “*is particularly demonstrated in the assessment of corridor and alignment options and in the Project design*”.<sup>207</sup>

[407] Ongoing engagement occurred right up to lodgement and was set to continue through the Hearing process with the objective of keeping Mana Whenua informed of updates to the design, seeking feedback and working collaboratively on outcomes, particularly production of the ULDF, reclamation, stormwater, leachate treatment options and biodiversity and ecology outcomes.<sup>208</sup>

[408] Mr Blair agreed that NZTA had in good faith embarked on a very lengthy and probably expensive consultation process with Mana Whenua.<sup>209</sup> He also accepted that, consistent with Ngāti Whātua Ōrākei’s Iwi Management Plan, it is best practice to have Mana Whenua in the room making decisions.<sup>210</sup> However, he did not consider that “real” decision-making had been shared, instead likening the process that had occurred to a “participation process”.

[409] The Board accepts the evidence of Ms Linzey that members or staff of Ngāti Whātua Ōrākei participated in the engagement process on behalf of the iwi. Mr Blair made the point numerous times that there is nothing on the record to indicate their declaration of support for the Proposal.<sup>211</sup> While that is true, as noted by NZTA

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<sup>204</sup> Ibid, para 12.16.

<sup>205</sup> Ibid, para 12.4.

<sup>206</sup> Statement of Primary Evidence, Linzey, Cultural Values, para 10.1(b).

<sup>207</sup> Ibid.

<sup>208</sup> NZTA CVR, para 12.17.

<sup>209</sup> Transcript, Blair, p4392.

<sup>210</sup> Transcript, Blair, p.4392.

<sup>211</sup> Transcript, Blair, p4382; p4389; p4396.



there is also nothing on the record to indicate specific opposition on the part of Ngāti Whātua Ōrākei as to the design that was unfolding.<sup>212 213</sup>

- [410] While the Board agrees that there is a real difference between “engagement” and “decision-making”, the Board also acknowledges the evidence of NZTA that this process was an iterative one, hence the importance of Mana Whenua kaitiaki being “at the table” with a real ability to have input into and influence the final design as it evolved. Certainly, that input and influence has occurred but how that aspiration fits with the “rules of engagement” as set out in the CVR<sup>214</sup> is uncertain and would have been assisted by terms of reference as between NZTA and each Mana Whenua iwi being agreed at the outset, clarifying each party’s expectations and commitment to that engagement process.
- [411] Ngāti Maru acknowledged the various changes to Proposal design to address Mana Whenua concerns arising out of the consultation process. Ngāti Maru were concerned to explore mechanisms that preserved their spiritual and cultural values, including the mauri and long-term health of the Manukau Harbour, while enabling the future transport needs of Tāmaki Makaurau. The Board considers that for Ngāti Maru this Proposal achieves that.
- [412] Ms Wilson emphasised in both her submissions and evidence that NZTA in partnership would need to have a strategy to ensure that Te Ākitai and/or any other Mana Whenua group have the ability to influence decision-making in relation to the harbour during the process of settling Manukau Harbour Treaty claims. NZTA’s acknowledgement of that issue, and confirmation that they would not “cross over the top” of those matters was vital alongside the assurance that Te Ākitai would be able to continue to exercise their role as kaitiaki. The Board considers that for Te Ākitai this Proposal achieves that.
- [413] The Board accepts Mr Mulligan’s submission that consultation and engagement processes with Mana Whenua have been robust and have enabled NZTA to understand Mana Whenua concerns and incorporate Mana Whenua values into design and decision-making processes.<sup>215</sup> The CVR records that Mana Whenua

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<sup>212</sup> Statement of Rebuttal Evidence – Cultural Values Assessment-Engagement, Linzey, para 4.11–413.

<sup>213</sup> Transcript, Mulligan, p4382-4399.

<sup>214</sup> NZTA CVR, para e.

<sup>215</sup> Closing Statement, Mulligan, para 8.34.

consider the process of engagement to have been exemplary.<sup>216</sup> Ms Rutherford noted Ngāti Tamaoho had forged a respectful relationship with NZTA through the Proposal and considered this to be an example of a good process that resulted in cultural values influencing decisions.<sup>217</sup> The Board acknowledges and accepts Mr Delamare’s evidence and confirmation that this process was the best Mana Whenua engagement process (at a kaitiaki level) that he had been involved in and that in his view consultation was robust and meaningful and had been undertaken in good faith with a genuine intent on behalf of NZTA to work in partnership with Mana Whenua. <sup>218</sup>

### **13.4 MANA WHENUA TRIBES AND MANA WHENUA TRIBES AGREEMENT**

[414] The complex and somewhat fraught nature of the various Mana Whenua interests in the Manukau Harbour and its surrounds was demonstrated in the closing days of the Hearing. As discussed generally elsewhere,<sup>219</sup> those Mana Whenua groups who chose to give evidence to the Board did not speak with one voice.

[415] When Mr Warren appeared before the Board to present closing submissions, those submissions were made on behalf of five Mana Whenua Tribes, who were:

- (a) Te Ākitai Waiohū
- (b) Ngāti Tamaoho
- (c) Ngāti Maru
- (d) Te Rūnanga o Ngāti Whātua
- (e) Ngāi Tai ki Tāmaki.

[416] Those five tribes (defined by Mr Warren as “the Mana Whenua Tribes”) together with Ngāti Paoa, Ngāti Whanaunga and Ngāti Tamaterā, had apparently been negotiating with one another and with NZTA for some time to try to resolve their concerns and reach an agreement in respect of the Proposal. The agreement reached has been ratified by all the Mana Whenua Tribes. Importantly, all of the Mana Whenua Tribes, together with Ngāti Paoa, Ngāti Whanaunga and Ngāti

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<sup>216</sup> NZTA, CVR, para 12.6.

<sup>217</sup> Representation, Rutherford, p.2.

<sup>218</sup> Closing Statement, Mulligan, para 8.34(b).

<sup>219</sup> Paragraph [426] of this Report. [is this para 426?]

Tamaterā, are also parties to the 2012 Ngā Mana Whenua o Tāmaki Makaurau Collective Deed of Settlement with the Crown.

- [417] Counsel informed the Board that the outcome of the Agreement was that all the Mana Whenua Tribes who were parties to the Agreement were satisfied that their individual and collective concerns about the EWL had been satisfied. Thus, none of the Mana Whenua Tribes oppose the Proposal, some indeed (but not all) indicating their clear support.
- [418] The Agreement itself was not produced to the Board and was described by counsel as confidential. Nonetheless both Mr Warren and Mr Mulligan confirmed both its content and that the Agreement had been concluded. From a procedural standpoint they accepted the Board's suggestion that the existence of the Agreement was common ground.
- [419] The Agreement was described by counsel as legally binding and confidential. It is apparently conditional on NZTA receiving the necessary consents to proceed with the Proposal.
- [420] The Agreement apparently has seven parts, which counsel's closing submissions itemised thus:<sup>220</sup>
- (a) The protection of the legal and customary rights of Mana Whenua. These were described as rights under the Treaty of Waitangi including future claims to the Manukau Harbour; rights under Ngā Mana Whenua o Tāmaki Makaurau Collective Settlement including any future Manukau Harbour Treaty settlements; any future settlements between Mana Whenua and the Crown including cultural redress; and the ability to pursue claims or entitlements under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA).
  - (b) The vesting of the non-state highway reclamations in Mana Whenua. The Agreement apparently obliges NZTA to take the necessary steps through a partnering approach to vest the non-state highway proposed reclamations in Mana Whenua, using the MACA provisions as a vesting mechanism, coupled with the establishment of a fund of money by NZTA to meet ongoing costs relating to the non-state highway reclamations.
  - (c) The future governance of the non-state highway reclamations to be undertaken by both Mana Whenua and NZTA. This aspect of the Agreement apparently commits to the creation of a "reclamation

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<sup>220</sup> Closing Submissions, Warren, para 14.

governance group” with members appointed by both Mana Whenua and NZTA, with a support funding mechanism to be provided by NZTA.

- (d) Joint development by Mana Whenua and NZTA of operational management arrangements for the non-state highway reclamations.
- (e) An agreement to explore whether the non-state highway reclamations can be given a particular legal status, possibly under the Reserves Act 1977.
- (f) Various activities associated with the non-state highway reclamations, including the entire range of stormwater treatment, proper access on walking and cycling paths and environmentally sensitive areas to involve Mana Whenua input.
- (g) Very specific agreed arrangements to recognise Mana Whenua relationship with sites to be explored (in relation to the non-state highway reclamations) including signage, pouwhenua, publications and waahi tapu protection mechanisms.

[421] At one level, especially in relation to proposed governance and operational management structures of the reclaimed land, the Agreement represents a significant empowerment of those iwi who are parties to it in their relationship with a Crown entity (NZTA). Such an Agreement, if implemented, would significantly influence the management of part of the Manukau Harbour environment and advance the relationship that Mana Whenua have with the harbour, its mauri, and its ongoing health and wellbeing with corresponding benefits to participating iwi.

[422] Whether or not, by entering into the Agreement, NZTA has loosened the lid of a Pandora’s Box is fortunately not for the Board to decide. Clearly there will be downstream issues that will need resolution. The governance provisions of the Agreement have the potential to impact or alter NZTA’s clearly stated objective of vesting the stormwater treatment facilities and plant in Auckland Council. The relevant provisions of MACA that might apply to the reclaimed land could well lend themselves to competing claims by iwi who are not parties to the Agreement. Although the Agreement provides for other Mana Whenua groups to join (the Agreement in counsel’s words not being “a closed agreement”), there may be iwi who are opposed to reclamations and/or who regard the Manukau Harbour and its foreshore as being part of their rohe, who refuse or choose not to become parties to the Agreement. Again (and fortunately), these are not issues with which the Board has to grapple. The reclaimed land, and the governance rights that certain iwi may have over it, has the possible potential of bedevilling or delaying the settlement of Treaty Claims between the Crown and Manukau Harbour iwi.

- [423] The matters traversed in the previous two paragraphs have not in any way influenced the Board's decision under the principles of the RMA.
- [424] The Board is mindful of the fact that the existence of the Agreement, described as confidential, was not revealed during the Hearing. The Board was only given a broad outline (undoubtedly accurate) of the Agreement by counsel. Nonetheless the Agreement was not a factor on which Mana Whenua parties such as Ngāti Whātua Ōrākei, Te Kawerau ā Maki, Ngāti Te Ata Waiohua and Te Ahiwaru (Makaurau Marae), all of whom were opposed to the EWL, had the opportunity to call relevant evidence about or make submissions on.
- [425] Arguably the existence of the Mana Whenua Tribes Agreement and what the Board has been told about its terms are not "evidence". It is common ground between NZTA and Mr Warren's iwi clients that such an agreement, with its summarised coverage, exists. Evidential rules under the RMA are pragmatic and relaxed. For instance, in terms of s276 the Environment Court can receive anything in evidence that it considers it appropriate to receive and it is not bound by the rules of law about evidence that apply to judicial proceedings.<sup>221</sup> Operating as it does under Part 6AA of the RMA, it does not appear the Board, so far as evidence is concerned, needs to operate in any different way from consent authorities and territorial authorities.<sup>222</sup>
- [426] The Mana Whenua Tribes Agreement, to which NZTA is a party, has some interest. It is not its evidential status that is important. Rather, the Agreement's existence demonstrates that unsurprisingly iwi, with their disparate and individually-focused interests in the Māngere Inlet, the Manukau Harbour, the EWL proposed reclamations, neither speak with one voice nor see the same picture. The Agreement has been instrumental in part in some iwi deciding to support or not oppose the EWL. Such support or lack of opposition and the existence of the Agreement, quite apart from natural justice considerations, does not weaken or undermine by one iota the submissions and evidence that the Board has received from iwi who oppose the Proposal.
- [427] The cultural landscape, the relevant provisions of Part 2 of the RMA and the diverse and differing Mana Whenua stances, submissions and evidence are all matters the Board must weigh when considering NZTA's various notices and applications.

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<sup>221</sup> Sections 276(1)(a) and 276(2).

<sup>222</sup> Section 41(1)(b) gives to the Board appointed under s149J broad powers under s4B of the Commissions of Inquiry Act 1908.

## 13.5 MARINE AND COASTAL AREA (TAKUTAI MOANA) ACT 2011

[428] For a considerable portion of its length, the proposed EWL highway will occupy some of the foreshore of the Māngere Inlet. MACA, which confers substantive statutory rights on Māori, is engaged. The purpose of MACA, set out clearly in s4(1), is fourfold, being:

- (a) To establish a durable scheme for the legitimate interests of all New Zealanders in the marine and coastal area;
- (b) To recognise the mana tuku iho exercised in the marine and coastal area by tangata whenua;
- (c) To provide for the exercise of customary interests in the common marine and coastal area;
- (d) To acknowledge the Treaty of Waitangi.

[429] Potential issues arise under MACA because the carriageway of the proposed EWL will rest on a reclamation of the current foreshore of the Māngere Inlet.<sup>223</sup>

[430] The bed of the Inlet across which the proposed highway will pass lies below the high water mark. Describing the foreshore as “current” highlights the fact that the Manukau foreshore, and in particular that of the Māngere Inlet, has been extensively reclaimed and modified over the years. Part 3 of MACA provides for protected customary rights and, importantly, customary marine title in the common marine and coastal area. An applicant group (defined in s9 as including iwi, hapū, or whānau groups) may be able to establish a customary marine title if it has held an area in accordance with tikanga and has exclusively used and occupied it from 1840 to the present “without substantial interruption”.<sup>224</sup>

[431] Given extensive and expanding European use of the Māngere Inlet and its littoral since 1840, to say nothing of reclamation, waste disposal, structure erection and the many other activities for well over a century, the prospects of any Manukau-related iwi being able to establish a customary marine title to part of the northern shore of the Māngere Inlet are remote. During the course of the Hearing the Chair

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<sup>223</sup> The word “foreshore” is deliberately not used in MACA, being a statute which repealed the Foreshore and Seabed Act 2004. The central concept in the s9 definition section is “marine and coastal area” which extends from MHWS to the outer limits of the territorial sea.

<sup>224</sup> Section 58(1) Marine and Coastal Area (Takutai Moana) Act 2011.

of the Board described such prospects as “slim”. Counsel and witnesses with knowledge of MACA agreed with that assessment.

[432] Nonetheless the Board has considered and weighed, in relation to Mana Whenua claims and interests, the possibility, albeit remote, of s58 claims being affected by the Proposal.

[433] Different considerations, however, might apply to reclaimed land to which ss29 to 45 of MACA apply. The land that NZTA intends to reclaim does not, of course, yet exist. But there is a statutory scheme set out in MACA to cover reclaimed land in the common marine and coastal area. A description of the provisions is unnecessary. Suffice to say that NZTA sees itself as a “developer” for s35 purposes; the Crown would be the owner (s31). It is by this route that NZTA, as a party to the Mana Whenua Tribal Agreement, hopes to vest reclaimed land in Mana Whenua groups as co-owners.

[434] Clearly there is statutory provision to govern the ultimate ownership and vesting of reclaimed land on the northern foreshore of the Māngere Inlet, which, for MACA purposes, is a common marine and coastal area.

[435] MACA has no other relevance of which we are aware. No customary marine title has been issued in respect of any of the Manukau Harbour and s116(6) of the RMA and s66(1) of MACA have no applicability. It will ultimately be for NZTA as a Crown agency, and indeed the Crown itself, to resolve any dilemmas arising out of competing MACA claims and in particular the interplay of the provisions as between iwi with the reclaimed land provisions of MACA.

# 14. APPLICATIONS FOR RESOURCE CONSENT

## 14.1 INTRODUCTION

[436] NZTA has applied for a number of resource consents for the construction and operation of the EWL as summarised in chapter 2 of this Report and detailed in [Appendix 2: List of Applications and Notices for the Proposal]. In summary, the applications for resource consent include:

- (a) One land use consent (for activities on new land created under s89 of the RMA);
- (b) Eight land use consents (Proposal wide);
- (c) Four coastal permits;
- (d) Six water permits; and
- (e) Five discharge permits.

[437] The detailed scope and extent of the Proposal as originally submitted by NZTA, including the works relating to the activities requiring resource consent, is shown throughout the drawing set accompanying the AEE, and in the AEE itself. The drawings of particular relevance include the proposed road alignment, the proposed Onehunga Wharf land bridge, and the construction activities at Anns Creek / Sylvia Park Road.

[438] During the course of the Hearing the scope of the proposed works and related drawings were amended by NZTA. The amended drawings of particular relevance include:

- (a) Road Alignment AEE-AL-001-116 Sheets 01 to 16 (inclusive) Rev 4 dated 13 September 2017;<sup>225</sup>
- (b) Plan and Long Section AEE-C-202 Sheet 02 (showing the proposed Onehunga Wharf Land bridge) Rev 2 dated 13 September 2017;
- (c) Coastal Occupation Embankment – Overview AEE-CMA-101 Rev 2 dated 22 September 2017;

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<sup>225</sup> Exceptions: Sheet 01 dated 12.09.2017; Sheet 09 dated 12.09.2017; Sheet 12 dated 27.06.2017.



- (d) Coastal Occupation Embankment AEE-CMA-102102-104 Sheets 1 to 3 Rev 2 dated 22 September 2017;
- (e) Coastal Occupation Ōtāhuhu Creek AEE-CMA-111 Rev 1 dated 27 June 2017;
- (f) Coastal Occupation East West Link Typical Sections AEE-CMA-301 Rev 1 dated 27 June 2017; and
- (g) Construction Activities – Anns Creek / Sylvia Park Road AEE-CA-108 Sheet 08 Rev 3 dated 13 September 2017.

[439] The originally submitted drawings, and those drawings subsequently updated during the course of the Hearing, have been considered by the Board. For ease of reference the amended drawings mentioned above are reproduced in [Appendix 11: Key Plans and Drawings].

### **Jurisdiction**

[440] The Board’s jurisdiction in relation to the resource consents is set out in s104 and s104D of the RMA, as mentioned earlier in chapter 6.2 of this Report. The Board emphasises at this juncture that the Proposal has to pass the s104D gateway test, before proceeding to the broader assessment under s104 and the Board proceeds on that basis.

[441] It is necessary for the Board to have a full understanding of the effects of the Proposal in order to make decisions under s104D and s104(1). Consequently, the Board first considers the effects that are specific to the resource consents sought, then applies s104D<sup>226</sup> and s104(1) to that analysis.

## **14.2 EFFECTS ON THE ENVIRONMENT**

### **Reclamations and Occupation of the CMA**

#### *Context*

[442] NZTA proposes to reclaim 18.4 ha of seabed within the Māngere Inlet (the Inlet), a further 5.9 ha of filling below mean high water springs (as permanent coastal occupation associated with the inter-tidal extent of fill embankments), and approximately 11 ha of temporary occupation during construction, which comprises the total area impacted by works activities that will occur around the margins of the permanent works. The purpose of these activities is to construct the EWL through Sector 2 (Galway Street to Anns Creek West), tying in with Sectors 1 and 3, and to

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<sup>226</sup> Noting that it is only “adverse effects” that are relevant when considering the first limb of s104D.

provide consequential mitigation for landscape, visual, amenity and severance effects.

[443] Additional coastal works comprise the installation of viaduct piers across Anns Creek West, the replacement of culverts with bridges at the SH1 crossing of Ōtāhuhu Creek, and associated access and disturbance necessary to undertake those works.

[444] The specific areas of reclamation and coastal occupation associated with these activities are as follows:<sup>227 228</sup>

<b>Occupation / Reclamation Area – Ōtāhuhu Creek</b>			
Zone	Area of Declamation	Area of Permanent Occupation	Area of Temporary Occupation
Bridges	0.55ha	0.12ha	0.16ha
Bridge Piles	0.00ha	0.01ha	0.00ha
Total	0.55ha	0.13ha	0.16ha

<b>Occupation / Reclamation Area – Neilson Street Interchange to Anns Creek</b>			
Zone	Area of Reclamation (Above New MHWS)	Area of Permanent Occupation (Below MHWS)	Area of Temporary Occupation
Embankment	5.63ha	0.89ha	11.09ha
Landscape Features & Stormwater Wetlands	12.72ha	4.35ha	
Boardwalk	0.00ha	0.66ha	
Bridges (Anns Creek)	0.00ha	0.78ha	1.06ha
Bridge Piles	0.00ha	0.01ha	0.02ha
Total	18.35ha	6.69	12.17

[445] The mitigation for landscape, visual, amenity and severance effects will primarily comprise three new landforms extending into the Inlet. Landform 1 is to be located to the south of the Alfred Street industrial area, Landform 2 to the south of Waikaraka Park South, and Landform 3 (the largest) to the south of the Ports of

<sup>227</sup> Plan Set 5 – Coastal Occupation, Drawings AEE-CMA-111 – Occupation/Reclamation Areas.

<sup>228</sup> Plan Set 5 – Coastal Occupation, Drawings AEE-CMA-101 – AEE-CMA-111.

Auckland land (including Pikes Point West and Pikes Point East landfills) between Miami Parade and Anns Creek. Landforms 2 and 3, as proposed, will include headland fingers<sup>229</sup>. In addition to the reclaimed landforms, coastal boardwalks are proposed to extend between the landforms, and continuing from Landform 1 to Galway Street, to provide separation between the recreational path and the EWL.

[446] It is further proposed to incorporate wetlands into the landforms that will also function as treatment devices for stormwater runoff both from sections of the EWL and from 611 ha of existing developed catchment, and for treatment of leachate from the adjacent Pikes Point East and Pikes Point West landfills.

[447] Ms Linzey explained the evolution of the overall design and function of the reclamations, including input received through engagement with the Proposal's key Mana Whenua Partners (Mana Whenua Group)<sup>230</sup>. In his closing submissions, Mr Mulligan<sup>231</sup> emphasised the integrated design process for the reclamations, which he considered to have taken account of all potential adverse and positive effects and achieved an overall positive outcome for the Māngere Inlet.

[448] As described by Mr Lister, "*The northern shore of Māngere Inlet formerly comprised an intricate and deeply indented shoreline that was historically straightened and infilled*".<sup>232</sup>

[449] The indented shoreline, comprising a series of embayments and volcanic lava outcrops, was described from a personal perspective by Mr Lovegrove, who recalled time spent in the 1960s observing birdlife within the embayment now filled to the east of Waikaraka Park as follows:<sup>233</sup>

*"We looked across a lovely bay, which then went along the eastern side of the Waikaraka Cemetery, between Neilson Street and the coast. We used to call it the bay of islands. This was a lovely area of basalt outcrops, basalt islands, the remnants of the lava flows, of which we just have little relics left now."*

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<sup>229</sup> Plan Set 4 – Landscape, Drawings AEE-LA-103 to AEE-LA-106; Plan Set 3 – Road Alignment, Drawings AEE-AL-103 to AEE-AL-106.

<sup>230</sup> Transcript, Linzey, from p2045.

<sup>231</sup> Transcript, Mulligan, p6456–57.

<sup>232</sup> Statement of Primary Evidence, Lister, para 8.17.

<sup>233</sup> Transcript, Lovegrove, p 2814.

[450] Mr Lovegrove's personal reflection, supported by other evidence and witness statements, encapsulated the geomorphic history of the foreshore, and emphasised the landform changes that have occurred as a result of filling. It is uncontested that the natural landform that predated the current foreshore evolved in response to lava flows from Maungakiekie (One Tree Hill) and Rarotonga (Mt Smart).<sup>234</sup>

[451] Subsequent filling has included:

- (a) an extension of the Waikaraka Park headland southward, being the area that now comprises the southern half of Waikaraka Cemetery;
- (b) filling between Alfred Street and Galway Street; and
- (c) filling within the Pikes Point East and West landfills.<sup>235</sup>

[452] The filling has created an essentially straight coastline between Anns Creek and SH20, contributing to an approximately 24 percent reduction in the CMA within the Inlet since 1853 (cumulatively 1.8 km<sup>2</sup> reclaimed from an original 7.5 km<sup>2</sup>).<sup>236</sup>

[453] A public shared path extends along the foreshore from Hugo Johnston Drive to Onehunga Harbour Road. The path passes to the south of industrial land, Waikaraka Park and Waikaraka Cemetery. Despite its proximity to industrial land uses, it is uncontested that this path affords a sense of separation from the urban environment that is tranquil. The Board noted these aspects during its site visit to that location.

[454] In his closing submissions, Mr Mulligan highlighted<sup>237</sup> the divergent views of Mana Whenua in respect of reclamations. The Board agrees with Mr Mulligan that the position many iwi have taken in respect of reclamations is more nuanced.<sup>238</sup> While Mana Whenua may not support reclamations in principle,<sup>239</sup> it is apparent that reclamations can be appropriate given context and circumstance.

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<sup>234</sup> Technical Report 4 – Geological Heritage Assessment, November 2016, p 13.

<sup>235</sup> Transcript, Mulligan, p101.

<sup>236</sup> Technical Report 15 – Coastal Processes Assessment, p 17.

<sup>237</sup> Closing Statement, Mulligan, para 8.22.

<sup>238</sup> Ibid, para 9.15.

<sup>239</sup> NZTA CVR, para 1.6.

- [455] Ngāti Te Ata Waiohua stated in their original submission and throughout the consultation process that they are generally opposed to all reclamation.<sup>240</sup> In his representation, Mr Minhinnick claimed the reclamation was a breach of this iwi's Treaty rights, although he also commented that Ngāti Te Ata Waiohua are not opposed to the idea of development and reclamation might be considered in context.<sup>241</sup>
- [456] Ms Wilson confirmed that Te Ākitai Waiohua has a particular world view, where in essence there must be a balance between all things. If a balance is struck they will not oppose modern day developments.<sup>242</sup> The final position of Te Ākitai, as confirmed in closing, is that they do not oppose the EWL.
- [457] Dr Patterson confirmed that in the past Ngāti Whātua Ōrākei have supported reclamation. However, it is Proposal dependent and context dependent<sup>243</sup> based on their subjective judgement using their cultural lens, their ecological and environmental knowledge and their value systems to reach a decision whether they believe the benefits outweigh the negatives for this particular Proposal.<sup>244</sup>
- [458] For instance, the Board notes that Ngāti Whātua Ōrākei supported the reclamation of the Manukau Harbour, which led to the Taumanu Reserve. The iwi support is noted in the Auckland Council decision granting planning approval to the reserve and reclamation in 2012.
- [459] Ms Rutherford gave a representation on behalf of the Ngāti Tamaoho Trust and confirmed that while they are generally opposed to reclamation, particularly for "beautification" purposes,<sup>245</sup> Ngāti Tamaoho realised early on that this Proposal provided an opportunity to incorporate environmental improvements into the Proposal design.

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<sup>240</sup> NZTA CVR, para 1.6; Closing Statement, Mulligan, ftnote 136, p. 25.

<sup>241</sup> Transcript, Minhinnick, p5923 – 5936.

<sup>242</sup> Summary Statement of Primary Evidence, Wilson, para 3(c).

<sup>243</sup> Transcript, Patterson, p4333 and 4275; Closing Statement, Mulligan, ftnote 140.

<sup>244</sup> Transcript, Patterson, p4275; Closing Statement, Mulligan, ftnote 141.

<sup>245</sup> Representation, Rutherford, Ngāti Tamaoho were not supportive of the Taumanu Reserve reclamation for "beautification" purposes.

- [460] Ms Olsen<sup>246</sup> also confirmed that as supporters and signatories to WAI 8, the goals for Makaurau Marae included having a healthy asset returned to next generations. Despite reclamation and/or trenching being contradictory to their principles, the bund offered some workable solutions given their ongoing priority to see health and ecological balance return to the Manukau.<sup>247</sup> Makaurau Marae have nevertheless confirmed their opposition.
- [461] Ngāti Pāoa stated in their CVA (attached to their original submission) that they supported Option F because the route followed a line of former reclamation and therefore was less likely to impact adversely on cultural values, and the chance of disturbance to traditional tapu sites.<sup>248</sup>
- [462] Mr Majurey<sup>249</sup> referred to the *Kauaeranga*<sup>250</sup> decision and the facts of that landmark case as an early example where modification of the landscape for the world view of the tribe occurred, through the staking out of an area for nets and for the gathering of fish, as being an appropriate modification.<sup>251</sup> He explained that the world view of some iwi is such that they have an absolute opposition to reclamation, while others subscribe to a world view in which reclamation is a matter of context and circumstance (particularly where it has clear benefits).<sup>252</sup>
- [463] Mr Majurey's explanation is both persuasive and compelling. He states:<sup>253</sup>

*“Are there benefits in the Māori world view? Are there other interests that go with that, such that a decision can be made that there is actually a net benefit, a net positive or something speaking in favour of the development? Development, per se, in these types of situations again comes [down] to context. If one, when they drive around Tāmaki Makaurau, looks at the Tūpuna Maunga, the ancestral mountains, those are very revered places. But, as is very clear in terms of a visual confirmation, those landscapes were modified, pā, terraces, kumara pits ... in the Māori world, there is a reason for things and so our society was not one of not utilising resources.”*

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<sup>246</sup> Hearing Summary, Olsen, para 11. Ms Olsen is the Kaitiaki / resource management representative for Te Ahiwaru, Te Waiohū through the Makaurau Marae Māori Trust (MMMT).

<sup>247</sup> Hearing Summary, Olsen, para 16.

<sup>248</sup> Submission 126522, Ngāti Pāoa, p41.

<sup>249</sup> Transcript, Majurey, p5889.

<sup>250</sup> *Kauaeranga* [1870], Hauraki Minute Book 4, fol 236; *Kauaeranga* (1984) 14 VUWLR 227, 228, 239–240.

<sup>251</sup> Transcript, Majurey, p5889.

<sup>252</sup> Transcript, Majurey, p5888-5889; NZTA Closing Statement, Mulligan, para 8.21.

<sup>253</sup> Transcript, Majurey, p5888-5889.

[464] The appropriate balance is clearly achieved from the perspective of those iwi who either support or do not oppose the Proposal, but the balance is different for those iwi who continue in their opposition. It appears to the Board, based on the evidence before it, that for Ngāti Whātua Ōrākei, Te Kawerau ā Maki and Makaurau Marae, the extent to which reclamation in and of itself is considered adverse is dependent on their views about the context, scale and form of the proposed reclamations. For Ngāti Te Ata Waiohua, the matter appears to be one of approach, acknowledgement and respect.

#### *Fauna*

[465] It is also uncontested that the inter-tidal areas of the Inlet are a feeding and roosting area for various shore birds. Dr Bull noted that:<sup>254</sup>

*“A diverse assemblage of species were recorded foraging on the Māngere Inlet intertidal mudflats and included NZ pied oystercatcher (At Risk), bar-tailed godwit (At Risk), pied stilt (At Risk), lesser knot (Threatened), wrybill (Threatened), northern NZ dotterel (Threatened), royal spoonbill (At Risk), white-faced heron (Not Threatened), red-billed gull (Threatened) and black-backed gull (Not Threatened).”*

[466] The significance of the Inlet for those species was confirmed by Dr Lovegrove,<sup>255</sup> who identified its particular significance as a key feeding and roosting site and departure point for the endemic wrybill plover (*Nationally Vulnerable*). He stated that the wrybill has a global population of c5,000 birds, with up to 1,200 of these having been reported in the Māngere Inlet.<sup>256</sup> This was corroborated by Dr Bull.<sup>257</sup>

[467] Dr Bull stated that in relation to the northern shoreline of the Inlet, the primary feeding and roosting areas were located to the east, in areas denoted as SEA-M1 and SEA-M2 in the AUP:OP,<sup>258</sup> extending from Anns Creek to the western end of the Pikes Point West landfill. Dr Lovegrove acknowledged this but considered that all the inter-tidal areas are available and utilised feeding areas for shore birds.<sup>259</sup>

[468] Dr Bull provided the following conclusions regarding the overall assemblage values of the Inlet and its surrounds:<sup>260</sup>

*“(a) The wading and shorebird assemblage was determined to be very high value due to the number of Threatened and At Risk species;*

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<sup>254</sup> Statement of Primary Evidence, Bull, para 7.5.

<sup>255</sup> Statement of Primary Evidence, Lovegrove, paras 7.5. 7.6 and 7.7.

<sup>256</sup> Statement of Primary Evidence, Lovegrove, para 7.8.

<sup>257</sup> Statement of Primary Evidence, Bull, para 1.6.

<sup>258</sup> Statement of Primary Evidence, Bull, para 7.2.

<sup>259</sup> Transcript, Lovegrove, p2848.

<sup>260</sup> Statement of Primary Evidence, Bull, para 7.13.

(b) *The cryptic marshbird assemblage (banded rail and bittern) was determined to be very high value due to the Threatened and At Risk classifications; and*

(c) *The landbird assemblage was determined to be of low value due to it comprising primarily introduced and also widespread and common native species.*"

[469] Dr De Luca described the inter-tidal environments of the northern shore of the Māngere Inlet and Anns Creek Estuary as having:

*"... medium ecological values, being characterised by silty sediment, a typical assemblage of benthic organisms, and mangroves. The subtidal habitat also comprises silty sediment and typical organisms, but the benthic community in some parts is dominated by an invasive species."*<sup>261</sup>

[470] Dr Sivaguru agreed that, "*The invertebrate community comprises moderate richness, diversity and abundance*", but noted that, "*The species composition recorded in the Inlet includes prey species for wading birds and this reflects the high avifaunal values identified in the Statutory Plans*".<sup>262</sup>

[471] The Board accepts that there will be permanent loss of feeding and roosting areas for shore birds, including threatened and at-risk species. Such effects must be considered significant. On the basis of the evidence, however, the Board concludes that the proposed coastal works will not result in loss of habitat that is sufficiently rare that it would impact on the overall populations of those species, or the presence of those species within the Māngere Inlet or adjacent coastal areas. Therefore, provided that appropriate and adequate mitigation and offsets are implemented, the Board finds that the effects of the proposed reclamations and coastal structures are acceptable when considered against the objectives and benefits of the works that necessitate those activities. The adequacy of mitigation and offsets is addressed later in chapter 14.2 of this Report under the sub-heading *Certainty of Outcomes*.

#### *Scale and Function*

[472] The proposed road carriageway, cycleway and footpaths are predominantly on the reclamation between Galway Street and Captain Springs Road and predominantly on land between Captain Springs Road and the eastern extent of the Ports of Auckland Land (Pikes Point East). This would create a total area of reclamation of 5.63 ha and a further 0.89 ha of occupation below MHWS. Fill embankments will extend into the CMA for most of this section of the alignment. In accordance with the discussion presented in chapter 15.12 of this Report, the Board finds that NZTA has undertaken an appropriate assessment of alternative corridors and alignment

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<sup>261</sup> Statement of Primary Evidence, De Luca, para 5.5.

<sup>262</sup> Statement of Primary Evidence, Sivaguru, para 7.10.



options, assessing environmental and land use impacts through a replicable Multi Criteria Analysis (MCA) process. However, the proposed alignment necessitates mitigation that, in this case, triggers additional adverse effects that must be considered against the benefits afforded and the overall mitigation and offset package offered.

[473] Mr Lister stated that the scale and form of landforms and boardwalks proposed within the Inlet is necessary to mitigate the landscape, visual, amenity and severance effects of the proposed foreshore alignment.<sup>263</sup> He also opined that, “Without the reclamation, the severance would be greater and it would be unmitigated”.<sup>264</sup> When questioned about the scale of the proposed reclamations, Mr Lister indicated that they had been reduced in size during his involvement in the Proposal. In his view, the inclusion of wetlands within the reclamations was a component of the naturalisation of the shoreline and contributed to its amenity. He also considered the scale was necessary to address severance by providing a destination that will draw people across the highway, and commented further that:<sup>265</sup>

*“If we were doing just landscape mitigation these landforms would be of a size similar to what we’ve designed, in fact they might be larger. The reason for that is a question of scale and the scale relates to the components of the landscape, which I’ll come to in the figures, but the elements of the headlands, the wetlands themselves and the beaches, they need to be in scale with each other to have an aesthetic coherence. They also need to be in scale with that shoreline and road to fulfil the mitigation functions and in scale with Māngere Inlet as a whole. But there has been a driver to reduce the scale to as small as we can make it. I think there are possible refinements that might reduce it a little bit more and part of that would be interrogating each of the elements of the reclamations, and that includes stormwater, so it is tied in with that scale.”*

[474] Mr Brown, on behalf of Auckland Council, considered that:<sup>266</sup>

*“From my ‘landscape’ perspective, the main benefits associated with the EWL are derived from re-creation of a more varied and quasi-natural shoreline. The current, almost ruler-straight, frontage to Māngere Inlet has very limited appeal and it is my view that the shoreline needs to be varied, even convoluted, to enhance perceptions of Māngere Inlet as a whole, and, at the more site-specific level, to entice recreational users out onto the new coastline. An important component of the shoreline’s rehabilitation is undoubtedly its symbolic lava flows, which should be both clearly*

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<sup>263</sup> Transcript, Lister, p 1295.

<sup>264</sup> Transcript, Lister, p 1296.

<sup>265</sup> Transcript, Lister, p 1296

<sup>266</sup> Statement of Primary Evidence, Brown, para 84.

*discernible and reasonably authentic in their expression of volcanic processes. In my view, this is essential if the proposed 'naturalising' of the coastline is to be both meaningful and functional (in the best sense of that term)."*

[475] In response to questions, Mr Brown suggested that:

*"The proposed naturalising of much of Māngere Inlet's northern shoreline would greatly enhance both the character of that coastline and community interaction with it. Strategically, it would enhance connectivity across the southern Auckland Isthmus as well as to and from both Onehunga and Penrose."*<sup>267</sup>

[476] While some reconfiguration of the reclaimed landscaping may be possible to yet achieve the necessary mitigation, such mitigation still required a degree of scale although Mr Brown was not prepared to comment in detail on any specific reductions.<sup>268</sup> When questioned about the degree of naturalness of the proposed coastline he responded that, "[I]t is a pseudo-natural edge but can still be very persuasive".<sup>269</sup>

[477] Mr Brown noted that while the location and form of the reclamations are heavily influenced by the location of existing stormwater outfalls, the one aspect that could be considered for reduction would be the promontories (headlands), which could be reduced to address hydrological and ecological effects. He was generally supportive of those features if they were considered acceptable from those perspectives.<sup>270</sup>

[478] Mr Brown also considered that the utilisation of the reclamation for stormwater and leachate treatment represented an efficient use in terms of Policy 10 of the NZCPS.<sup>271</sup>

[479] Mr McIndoe, also on behalf of Auckland Council, identified the "*replacement of the existing straight and environmentally degraded Māngere Inlet edge with a naturalised coastal edge form, which helps to integrate this major infrastructure into the natural setting*" as a positive quality and effect that is consistent with good urban

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<sup>267</sup> Transcript, Brown, p2720.

<sup>268</sup> Transcript, Brown, p2726.

<sup>269</sup> Transcript, Brown, p2727.

<sup>270</sup> Transcript, Brown, p2744.

<sup>271</sup> Transcript, Brown, p2745.

design practice.<sup>272</sup> He expressed specific agreement with Mr Lister that the proposed landforms are in scale with the Inlet.

[480] Mr McIndoe was aware that the reclamation had been reduced in scale from an earlier iteration considered by NZTA,<sup>273</sup> and he supported aggregating the reclamations into fewer, larger landforms, as proposed.<sup>274</sup> Mr McIndoe also supported separation of the boardwalk sections from the EWL as important components of amenity mitigation.<sup>275</sup>

[481] Messrs Lister, Brown and McIndoe were the only landscape experts who presented evidence at the Hearing. They were consistent in their support of the general form and scale of the proposed reclamations as necessary landscape, visual, severance and amenity mitigation for the proposed EWL alignment along the foreshore. They all acknowledged the integrated design process through which the reclamations had been developed, combining wetland features that would provide a dual function of amenity and stormwater and leachate treatment for the hinterland. They also acknowledged the design revisions that had been undertaken by NZTA in reducing the overall scale of the reclamations while achieving necessary mitigation for the effects of the road.

[482] Dr Allison described the design approach for the proposed stormwater treatment systems to be provided within the wetlands<sup>276</sup> and explained the opportunity that the wetland areas within the reclamations provided for treatment of currently untreated runoff from the upstream 611 ha developed catchment. He explained the constraints faced during the design of the treatment systems, including the limited available area, low elevation of existing pipe outfalls (within the tidal range), stormwater baseflows that include landfill leachate, and the need for the treatment system to respond to the coastal naturalisation proposal. He emphasised that, "*it was critical to maximise treatment within the potential reclaimed areas*".<sup>277</sup> The outcome of that design process was the proposed "*... combined wetland and bioretention system that is more space efficient than wetlands alone and can*

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<sup>272</sup> Statement of Primary Evidence, McIndoe, para 9.1.

<sup>273</sup> Transcript, McIndoe, p2675.

<sup>274</sup> Transcript, McIndoe, p2676.

<sup>275</sup> Transcript, McIndoe, p2676-2677.

<sup>276</sup> Statement of Primary Evidence, Allison, section 7.

<sup>277</sup> Statement of Primary Evidence, Allison, para 7.6.

*process baseflows coming from the large catchments that bioretention alone cannot*.<sup>278</sup>

[483] In the JWS Report for Stormwater, Dr Allison, Ms Paice, Mr Cain (NZTA), and Mr Sunich and Mr Roa (Auckland Council) all agreed that the combination of wetlands and biofiltration systems was innovative. It allowed the treatment area to be minimised, while achieving the minimum design standard of 75 percent removal of total suspended solids (TSS) on a long-term annual average basis. All experts agreed that there were no plans or opportunities for similar large catchment-wide treatment devices in the catchment.<sup>279</sup> The experts retained these views in their evidence and at the Hearing. No expert evidence was heard that opposed those views.

[484] Other matters agreed by the experts who were parties to the JWS Report for Stormwater and confirmed at the Hearing were:

- (a) The design will need to provide for at least 20 years of predicted sea level rise. Subsequent adjustments can be made to the bund heights and operation of the system.<sup>280</sup>
- (b) There is some risk of reduced treatment efficiency in the event of mechanical failure of the system, for example pump failure. However, the period of reduced efficiency will still afford a better level of treatment than the current situation.
- (c) Likewise, in the event of occasional sea water inundation and recovery period, any reduced treatment efficiency will be better than the existing situation.
- (d) Outlet levels must be confirmed through detailed design to ensure the risk of blockage from sedimentation is minimised.
- (e) There was sufficient resilience in the design to ensure that pump failure or pipe blockages will not result in flooding upstream of the EWL alignment.

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<sup>278</sup> Statement of Primary Evidence, Allison, para 7.6.

<sup>279</sup> JWS Report – Stormwater, para 6.3

<sup>280</sup> This was also agreed in principle in the JWS Report – Coastal Processes.

- [485] Dr Allison noted that the two systems (wetlands and biofiltration) are commonly used separately, and are well understood in terms of performance. The innovation was to combine them into an integrated system. Mr Sunich considered the design “bespoke”<sup>281</sup> but did not consider it to be experimental because it combined two types of device that are commonly used, and are promoted in the relevant Auckland Council design guideline manual.<sup>282</sup> Mr Roa reached the same conclusion.<sup>283</sup> Dr Allison explained that such combined systems have been constructed and operated in Australia, citing a monitored and studied system in Adelaide and another being constructed in Queensland.<sup>284</sup>
- [486] Mr Sunich confirmed that the 75 percent minimum TSS design efficiency was consistent with Auckland Council’s expectations and with the outcomes of the Auckland-wide Stormwater Network Discharge Consent currently being sought by Council.
- [487] Ms Paice confirmed that the water quality volume (one-third of the two-year flow) was to be diverted to the wetlands, in part via pumps, but higher flows are to bypass directly to the coast via weirs and pipes. Consequently, pump failure will not result in flooding of upstream properties.<sup>285</sup> Mr Roa accepted this conclusion.<sup>286</sup>
- [488] With respect to the potential effects of saltwater intrusion, Dr Allison discussed vegetation types that can be incorporated to have resilience, and considered the recovery period from such an event to be a matter of months<sup>287</sup> or less. He cited the successful operation of a treatment wetland at Tahuna Torea in Glendowie, which functions successfully at close to sea level and with occasional inundation.<sup>288</sup>
- [489] Experts agreed that it was appropriate to design to a predicted 20-year sea level rise, so as to reduce the frequency of the wetland bund heights needing to be raised. They agreed the initial bund height could be confirmed during detailed design in consultation with Auckland Council. Conditions have been agreed in that

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<sup>281</sup> Transcript, Sunich, p2999.

<sup>282</sup> Transcript, Sunich, p3002.

<sup>283</sup> Transcript, Roa, p3064.

<sup>284</sup> Transcript, Allison, p1436.

<sup>285</sup> Transcript, Paice, p1418.

<sup>286</sup> Transcript, Roa, p3047.

<sup>287</sup> Transcript, Allison, p1439-1440.

<sup>288</sup> Transcript, Allison, p1442 – 1443 and p1433.

regard. When queried on the degree to which the bund height should be future-proofed in the initial design, Mr Lister stated a preference for a staged, retro-fit approach thus:<sup>289</sup>

*“In my view, it’s better to retrofit it because the aesthetic coherence of those landforms depends on a difference in height between the different elements, and so the lower the beaches are the better that is and it also provides better views out to the inlet. If they’re increased to the ultimate height to cope with sea level rise now, for a number of decades you’ve got people perched on a beach which is out of sync with the natural processes and you do have to do major maintenance on stormwater wetlands every few decades. In my view, it’s better to do it then. They can be easily raised at that point.*

*The other reason that I say that is that I’m hopeful that within the next 100 years that we come up with methods of treating stormwater using saltwater systems. Now that has already been trialled in Napier, in a project that I’m familiar with there and Sanna O’Connor, who was the stormwater engineer that we worked with at the beginning of this project, she has now left to do a PhD at Yale. She has changed her topic to be stormwater treatment using saltwater systems. So, keeping it at a lower level now maintains flexibility into the future if such methods are shown to be feasible.”*

[490] Ms Williams, Dr Wallis and Ms Eldridge addressed the proposed leachate treatment to be provided within the wetlands. The Board accepts that existing leachate from the Pikes Point East and Pikes Point West landfills is currently captured in interception trenches and pumped to the Māngere Wastewater Treatment Plant (WTP) for disposal. The Board also accepts that the opportunity to continue that disposal option will be maintained by the Proposal, as a contingency in the event that leachate contaminant levels exceed that which can be disposed to the wetlands.

[491] The disposal and treatment of leachate through the wetlands will reduce the wastewater load at the WTP, and will comprise an additional efficient use of the wetland areas within the reclamations. The EWL alignment along the foreshore will reduce the extent of saltwater intrusion and leachate discharge direct to the coast, and will improve the interception of treatment of leachate that may be present between the Pikes Point landfills. The EWL alignment adjacent to Galway Street landfill will also slow the rate of groundwater movement towards the coast, and reduce potential leachate effects.<sup>290</sup>

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<sup>289</sup> Transcript, Lister, p1324.

<sup>290</sup> Statement of Primary Evidence, Williams, para 1.6.

[492] Conditions relating to the monitoring and management of leachate have been generally agreed between NZTA and Auckland Council.<sup>291</sup> Ms Eldridge sought some minor additions to conditions, most notably that the trigger levels to be established for monitoring of leachate be subject to the approval of the Council. The Board recognises the regulatory role that the Council would hold during the implementation of the project. In the absence of triggers being offered at this time, the Board supports that modification.<sup>292</sup>

[493] It was acknowledged by the evidence during the Hearing that the larger reclamations of the foreshore proposed early on in the Proposal's development was opposed by Mana Whenua. The extent of that reclamation raised concern and resulted in a revised design with a significant reduction in the land area set to be reclaimed.<sup>293</sup> The Board will return to this hotly contested issue in this decision.

[494] The Cultural Values Report (CVR) explains that:<sup>294</sup>

*“Due to extenuating circumstances and the need to clean up contamination (including sediment) in and around the Māngere Inlet, Mana Whenua are not opposed to the proposed design. Extenuating circumstances of this Project include the need to progress the containment, remediation and clean-up of contamination (including sediment) in and around the Inlet.”*

[495] Mr Mulligan submitted that the primary challenge to the proposed stormwater function of the reclamation was from Ngāti Whātua Ōrākei who raised concerns regarding numerous aspects of the proposed system.<sup>295</sup>

[496] Mr Enright submitted that the claimed cultural benefits (stormwater treatment for the hinterland and a leachate bund to treat putative leachate from historic landfills) result in significant adverse effects to biodiversity (loss of habitat for rare and threatened species). He considered that this claimed “benefit” should not cause its own suite of significant adverse impacts and noted there is a substantial and net loss to both the mauri of the Manukau as a taonga and living entity and to the mauri of the habitat of rare and threatened native bird species.<sup>296</sup>

[497] Mr Enright further submitted that the benefits of treatment of the Onehunga catchment (the hinterland) were overstated in the context of the Māngere Inlet as a whole and that the information provided by NZTA during engagement with Mana

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<sup>291</sup> Conditions C.1H, L.1 and L.2.

<sup>292</sup> Condition CL.12(e) and L.2(d).

<sup>293</sup> NZTA CVR, para 1.7.

<sup>294</sup> Ibid, para 1.8.

<sup>295</sup> Closing Statement, Mulligan, para 9.27, re Opening Statement, Enright, para 22-28.

<sup>296</sup> Closing Statement, Enright, para 14(f).

Whenua, that historic landfills are “significantly” degrading water quality, were inaccurate. Ms Eldridge, on behalf of Auckland Council, agreed under cross-examination about that statement that she would not have used the word “significantly”. However, she did go on to state that the improved collection efficiency of the trench represented a more efficient form of treatment and would provide additional benefits in reducing discharges of leachate occurring via saltwater intrusion.

[498] Ms Rutherford confirmed that the stormwater and leachate treatment was seen as an opportunity to rectify past degradation and continual contamination of the Māngere Inlet while providing for their responsibilities as kaitiaki of the Manukau Harbour. A key reason for that support lay not only with the opportunity to treat runoff from the road but also the 611 ha of catchment, “*whose stormwater flows virtually untreated into the harbour*”.<sup>297</sup> Ms Rutherford also understood the benefits of treating discharges of leachate at source in the proposed stormwater treatment system rather than sending it on to the already stressed Māngere Wastewater Treatment Plant, which would still result in the leachate ultimately being discharged into the harbour.

[499] In general, the Board acknowledges that it is for each tribal group to form a view as to whether reclamation is appropriate in all the circumstances, bearing in mind countervailing considerations of the poor state of the Manukau Harbour and the various efforts to try to improve that water quality.

[500] In finding common ground, NZTA submitted that the idea for dual use of the reclamations for stormwater and leachate treatment stemmed from the kaitiaki representatives of the Mana Whenua Group.<sup>298</sup> This was also confirmed by Ms Rutherford during her presentation at the Hearing.

[501] The potential for earthworks to increase sediment discharge into the Inlet was highlighted by Mana Whenua and considered likely to affect detrimentally local ecosystems and habitats in and around the Inlet.<sup>299</sup> Measures to reduce the risk of sediment discharge to nearby waterways include the implementation of robust sediment controls.

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<sup>297</sup> Transcript, Rutherford, p5900-5902; Representation, Rutherford, on behalf of Ngāti Tamaoho, 6 September 2017. See also NZTA CVR, para 13.10.

<sup>298</sup> Closing Statement, Mulligan, para 8.22(b) Fnote 139.

<sup>299</sup> NZTA CVR, para 13.4.



[502] It is also acknowledged that the reclamations will remove the feeding grounds for rare and threatened seabirds and have a potential impact on Kāretu, Anns Creek. Mr Blair stated that in his view, taking 25 ha of the CMA, the loss of wading habitat, the loss of feeding areas, not only for birds but also for shellfish, in exchange for a motorway on the harbour foreshore was unacceptable and does not provide enough benefit to enhance the mauri of the Manukau. He said, "*I can't emphasise that enough*".<sup>300</sup>

[503] The Board is mindful of and gives considerable weight to the existing effects of untreated stormwater and contamination on the ecological environment and mauri of the Māngere Inlet and Manukau Harbour. It acknowledges the importance of the Proposal incorporating measures to manage stormwater and sediment discharges to ensure the mauri of the water is not further degraded. It is also recognised that the opportunity to treat some 611 ha of catchment, including the discharge from contaminated industrial land is, as stated in the CVR, "*expected to enhance the mauri of this water body and help to restore the mana of the wider area*".<sup>301</sup>

[504] Mr Mulligan observed in his closing submissions that although Makaurau Marae Māori Trust and Ngāti Te Ata Waiohua oppose the reclamations, they have previously expressed written support to NZTA for the contamination containment bund.<sup>302</sup> Mr Blair accepted that the stormwater treatment proposals will be beneficial to the catchment.<sup>303</sup>

[505] Ms Rutherford stated:<sup>304</sup>

*"We have put NZ Transport Agency's engineers and specialists through the grill over this because our support has been pivotal on it being not a reclamation but a contamination containment bund and associated wetlands, and we have been assured - and I am not an engineer but I can read some of their stuff and understand it - that the contamination containment bund will stop most of the contaminants and those that it does not stop will end up in the wetlands being treated through the wetlands."*

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<sup>300</sup> Transcript, Blair, p4368.

<sup>301</sup> NZTA Cultural Values Report, para 13.13.

<sup>302</sup> Closing Statement, Mulligan, para 8.22(j).

<sup>303</sup> Transcript, Blair, p4377.

<sup>304</sup> Transcript, Rutherford, p5903.

[506] The above comments by Mana Whenua are consistent with the Board's overall finding in relation to the reclamations later in this Report.<sup>305</sup>

#### *Coastal Process Effects*

[507] The mean annual sedimentation rate over the entire area of the Inlet is estimated for pre-reclamation conditions as 9.8 mm/yr. With the reclamations in place and 1 m of sea level rise the predicted sedimentation rate is 10.5 mm/yr. There is also a predicted increase in sedimentation depth within embayments from 25 mm/yr to 30 mm/yr.<sup>306</sup> Mr Priestley<sup>307</sup> and Dr De Luca<sup>308</sup> did not consider these changes to be significant in terms of coastal processes or ecological effects.

[508] As previously noted, Mr Lister maintained that the headlands are an important component of the landscape design, whereas Messrs Brown and McIndoe accepted that they could be reduced if that was justified on an ecological or coastal processes basis. Ms Coombes considered that the scale of the landforms should be further reduced, in particular in relation to the headlands.<sup>309</sup> Mr Priestley accepted that from a coastal processes perspective the headlands could be reduced and still provide a function to maintain the beaches proposed between the headlands, but he did not consider this to be necessary on an effects basis.<sup>310</sup> However, he acknowledged that eliminating the headlands would reduce the volume of material required for construction.<sup>311</sup> Dr Carpenter supported the removal or modification of the headlands to improve tidal flows past the reclamations and thus reduce the potential extent of increased sedimentation. This also addressed her concern about sediment accumulation that might impact on the discharge capacity of proposed stormwater outlets from the wetlands, an effect that could be exacerbated by the headlands.<sup>312</sup> Removal or modification of the headlands also addressed, to some extent, concerns expressed by Dr Sivaguru and Dr Lovegrove

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<sup>305</sup> For example, Paragraph [517] onwards.

<sup>306</sup> Technical Report 15, Section 7.2.

<sup>307</sup> Transcript, Priestley, from p1468.

<sup>308</sup> Transcript, De Luca, from p1642.

<sup>309</sup> Transcript, Coombes, p3470.

<sup>310</sup> Statement of Rebuttal Evidence, Priestley, paras 4.1 and 4.2.

<sup>311</sup> Transcript, Priestley, p 1487.

<sup>312</sup> Statement of Primary Evidence, Carpenter, para 7.17.

(discussed later in this Report) regarding the extent of deposition on inter-tidal feeding areas for shore birds.<sup>313</sup>

### *Outstanding Natural Features*

- [509] Areas of volcanic outcrop within coastal Anns Creek Estuary and Anns Creek West and the terrestrial Anns Creek East are denoted in the AUP:OP as Outstanding Natural Feature (ONF) 192 – Southdown pahoehoe lava flows. They are recognised as one of few examples of pahoehoe surfaces on basalt lava flows in the Auckland volcanic field.<sup>314</sup> In his evidence, Mr Jamieson provided the following assessment of the Proposal with respect to the coastal extent of the lava outcrops:<sup>315</sup>

*“At Anns Creek Estuary, the alignment of the Proposal avoids physical damage to the coastal exposures of basalt lava along the foreshore; with the piles situated well clear of the lava flows. From examining the plans while on site, it appears that the viaduct will largely pass between two outcrops of lava on the coast here, and directly above a very small part of one of them.*

*At Anns Creek west, where a section of the ONF lies immediately south of the Southdown Power Station site, the proposed alignment passes to the north of the ONF and avoids it completely.”*

- [510] The Board accepts Mr Jamieson’s assessment and did not hear evidence to the contrary. On that basis, the Board finds that the Proposal will not directly impact on the coastal extent of that ONF.

### *Historic Heritage*

- [511] The Background of Chapter D17 of the AUP:OP defines the “extent of place” of scheduled historic heritage places as follows:

*“Most scheduled historic heritage places include an identified area around a heritage feature; referred to as the ‘extent of place’.*

*The extent of place comprises the area that is integral to the function, meaning and relationships of the place and illustrates the historic heritage values identified for the place. The provisions relating to a historic heritage place apply within the area mapped as the extent of place on the Plan maps, including the airspace.*

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<sup>313</sup> Transcript, Sivaguru, p2906; Transcript, Lovegrove, from p2812.

<sup>314</sup> Statement of Primary Evidence, Jamieson, para 6.2.

<sup>315</sup> Statement of Primary Evidence, Jamieson, para 6.5 and 6.6.

*Schedule 14.3 Historic Heritage Place maps clarifies the extent of place that apply to some historic heritage places.*

- [512] The proposed reclamation footprint extends into the “extent of place” associated with Waikaraka Cemetery and its context is described by Ms Caddigan<sup>316</sup> as extending to the seaward extent of the certificate of title boundaries of the property, as well as recognising views and the continuity of use between the cemetery and foreshore walkway.
- [513] Ms Matthews<sup>317</sup> describes the effects of the Proposal on the cemetery as being the creation of an elevated embankment that will obscure views and impact on the peaceful quality of the site. Ms Matthews notes that the proposed alignment avoids direct impacts on the cemetery and the stone wall and mature pōhutukawa trees that line the coastal edge of the site. Ms Matthews identifies mitigation for those effects as planting of the embankment and the provision of a pedestrian overbridge.
- [514] The impact of severance of the Proposal along Sectors 1 and 2 of NoR1 was raised by many submitters and is addressed in chapters 15.2 and 15.3 of this Report. The impacts on views from the cemetery and on the tranquillity of the cemetery are addressed herein as direct effects of the EWL, which is to be formed mostly on reclamation within and adjacent to the “extent of place” of that site.
- [515] Experts varied on the balance given to the protection of views versus noise mitigation<sup>318</sup> but this was resolved between NZTA and Auckland Council with amendments to Condition LV.5F to require the urban design and landscape treatment of the EWL at that location to:

*“[I]ncorporate measures to mitigate operational noise effects from traffic on the EWL Main Alignment on visitors to the cemetery with a target to achieve 50dB LAeq when measured within the boundary of the cemetery unless impracticable to do so in which case achieve Best Practicable Option”*

taking account of other measures to maintain a sense of separation and soften views of the EWL, maintain views over the EWL and reflect the built and landscape features of the site.

- [516] The Board accepts this approach as representing a resolution of the matter between the relevant experts. While the Board acknowledges and empathises with concerns expressed by submitters regarding impacts on the cemetery,<sup>319</sup> based on

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<sup>316</sup> Statement of Primary Evidence, Caddigan, para 7.4.

<sup>317</sup> Statement of Primary Evidence, Matthews, para 8.21 and 8.22.

<sup>318</sup> Transcript, Matthews, p1696; Transcript, Caddigan, p3153.

<sup>319</sup> Submission 126638, Heritage New Zealand Pouhere Taonga; Wendy Slatter (Submission 126181); and others.

its findings regarding the assessment of alternatives for the EWL alignment, the Board finds that the noise and amenity effects on the cemetery have been appropriately considered and will be adequately mitigated.

### *Conclusion*

- [517] Overall, the technical evidence presented to the Board has been generally consistent with the need for scale and function of the proposed reclamations. With the exception of the headlands, differences are matters of detail and have been resolved either through conditions or agreement between Auckland Council and NZTA. No technical evidence has been presented to refute those matters.
- [518] Having considered the evidence of the various experts, the Board finds that the potential adverse effects that may result from the change in overall sedimentation rates within the Māngere Inlet as a result of the reclamations is likely to be minor. In that regard, the Board generally favours the evidence of Mr Priestley and Dr De Luca. With respect to Dr Sivaguru's concern about rates of increased sedimentation, the Board recognises that the research quoted was event-based rather than representing annual rates, and is not directly relevant to the predicted effects of the Proposal.<sup>320</sup>
- [519] However, with respect to the headlands, the Board favours the evidence of Drs Carpenter, Sivaguru and Lovegrove to the extent that any measures that can further reduce potential sediment effects on the feeding grounds of shore birds should be adopted (and particularly within the embayments between the proposed landforms). Ms Coombes supports a reduction in the extent of reclamations from a coastal planning perspective and neither Mr Brown nor Mr McIndoe consider that the reduction (or modification) of the headlands would reduce the adequacy of the mitigation that would be afforded by the reclamations. The Board also favours their evidence over that of Mr Lister in that regard and finds that the headlands of Landforms 2 and 3 should be removed or modified to increase tidal flow velocities past the reclamations. Condition C.1BB reflects this finding.
- [520] Aside from the modification of the headlands, and on the basis that the road alignment has been justified through the corridor and alignment selection, the Board finds that the scale and form of the reclamations are necessary to mitigate landscape, visual, severance and amenity effects of the road.
- [521] The Board accepts that the reclamation design has been an integrated, multidisciplinary process. However, the balance of evidence indicates that the scale and form of the landforms proposed (excluding headlands) is based on the

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<sup>320</sup> Statement of Primary Evidence, Sivaguru, para 7.28.

minimum area necessary to mitigate the adverse landscape, visual, amenity and severance effects. Evidence has not shown that the stormwater and leachate treatment function has increased the size of the reclamations. While stormwater and leachate treatment may not be considered alone as sufficient justification for the reclamations, they would be an appropriate and efficient dual use.

[522] The Board accepts that there are limited opportunities for the treatment of stormwater within the developed upstream catchment, and no opportunities for catchment-wide stormwater treatment facilities, because much of the catchment comprises industrial land uses and roads. Even if some, albeit limited, opportunities exist for retrofitting of treatment devices, the proposed wetlands present an opportunity for a comprehensive treatment approach within a timeframe that is likely to exceed a more piecemeal retrofitting approach. The Board also finds that the proposed combined wetland and biofiltration system is bespoke and innovative, but not experimental to the extent that the performance of the system cannot be reasonably anticipated.

[523] The Board recognises that the leachate from the Pikes Point landfills is currently intercepted and treated. However, it also accepts that residual untreated leachate discharges from those sites to the Inlet, including via tidally influenced saltwater intrusion. In addition, the Galway Street landfill is not currently treated and is also subject to saltwater intrusion. Consequently, the Board finds that the proposed leachate treatment system is an appropriate additional use of the coastal reclamations and the EWL alignment will reduce leachate from the Galway Street landfill. Monitoring, as proposed through agreed conditions, will be undertaken and the contingency to divert leachate runoff to the WTP will be retained.

[524] Opposing submissions and evidence was received from Ngāti Whātua Ōrākei, Te Kawerau ā Maki and Ngāti Te Ata Waiohua. Those submissions were directed at potential ecological effects of the reclamation on the inter-tidal area, and particularly in relation to avifauna, as well as the inconsistency of the Proposal with the world view of those iwi.

[525] Countering this, submissions were received from other Mana Whenua in support of the Proposal, or at least not opposing the Proposal. Those submissions were subject to the proposed levels of stormwater and leachate treatment being achieved.

### **Dredging within the CMA**

[526] NZTA seeks consent to undertake sub-tidal dredging and inter-tidal dredging to construct the proposed reclamations.

- [527] Sub-tidal dredging (200,000 m<sup>3</sup> to a depth of approximately 1.5 m over 15 ha) is proposed as a source of material for the creation of the reclamations, using it to form mudcrete. The dredging area will comprise approximately 45 percent of the sub-tidal area of the Māngere Inlet. Sub-tidal dredging (7,000 m<sup>3</sup>) is also proposed to create a new secondary tidal channel from Anns Creek, as Landform 3 will extend into the existing channel.
- [528] Inter-tidal dredging (36,000 m<sup>3</sup>) is proposed to form a stable foundation for the outer bunds of the reclamations.
- [529] Mr Priestley<sup>321</sup> described alternative options for the construction of the reclamations, which comprised various combinations of sub-tidal and inter-tidal dredging, and sourcing materials from off-site. He modified this list at the Hearing but confirmed that there would probably be enough material available from the inter-tidal dredging to complete the works<sup>322</sup> (with sub-tidal dredging still required for the relocation of the Anns Creek tidal channel). He also confirmed that the consent for sub-tidal dredging was sought as a contingency<sup>323</sup> and that avoiding sub-tidal dredging could reduce construction cost by approximately \$4 million.<sup>324</sup>
- [530] During questioning Mr Priestley accepted that Auckland Council was particularly concerned about the sub-tidal dredging within the main body of the Inlet.<sup>325</sup> This position was confirmed in the closing submissions of Mr Lanning on behalf of Auckland Council.<sup>326</sup>
- [531] Effects of the sub-tidal dredging include resuspension of sediment and contaminants, increased sedimentation and changes in sedimentation patterns during and after dredging, and a small reduction in tidal flow velocities through the dredged area.<sup>327</sup>
- [532] The evidence of Mr Priestley, Dr De Luca and Mr Udema was consistent in concluding that the effects of sub-tidal dredging would be minor with respect to

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<sup>321</sup> Statement of Rebuttal Evidence, Priestley, para 4.7.

<sup>322</sup> Transcript, Priestley, p1469.

<sup>323</sup> Transcript, Priestley, p1488.

<sup>324</sup> Statement of Rebuttal Evidence, Priestley, para 4.9.

<sup>325</sup> Transcript, Priestley, p1475.

<sup>326</sup> Closing Statement, Lanning, para 4.1.

<sup>327</sup> Technical Report 15, Appendix F.

coastal processes, contaminant resuspension and distribution, and sedimentation rates (when compared to existing sedimentation rates). Dr De Luca also suggested that the dredging area would target Asian date mussel beds (an invasive species) such that some benefit would be afforded from the removal of that area of mussel beds. Dr De Luca did acknowledge that that species is likely to recolonise the area along with other species.

[533] Conversely, Mr Cameron<sup>328</sup> cautioned that:

*“The water quality from the dredging will be a near daily effect for a year whilst resuspension of significant amounts of native material [under existing conditions] only occurs infrequently during storm events. The majority of the sediment dredged to a depth of 1.5m will also be anoxic (deoxygenated). Exposing this anoxic sediment will decrease oxygen levels in the surrounding water and may increase the release of contaminants as the sediment becomes oxygenated, particularly if acid sulphate sediments are present.”*

[534] Likewise, Dr Sivaguru noted that:

*“[W]hile the proposed dredging of 15 ha is outside the SEA-M1 (23W2, SEA-M1) and SEA-M2 (23a SEA-M2) identified in the AUP:OP, the proposed dredging area is surrounded by the SEA-Marine Areas in the AUP:OP, CPAs and wading bird areas identified in the statutory plans for the Māngere Inlet.”<sup>329</sup>*

[535] Dr Sivaguru did not accept the removal of Asian date mussels as a notable benefit of the sub-tidal dredging, based on the likely recolonisation and the risk of disturbance enhancing the spread of that species. Based on potential effects of dredging, including redistribution of contaminated sediments, Dr Sivaguru recommended avoidance of sub-tidal dredging and supported alternative sources of reclamation fill.

[536] Dr Carpenter expressed concern regarding the potential for increased sedimentation on the flanks of the dredging basin (in particular the southern flank adjacent to an SEA-M1 area) and the duration of instability within the dredging basin causing a potential delay in recovery of ecology in that site.

[537] Dr De Luca addressed Mr Cameron’s concerns about the risk of increased contaminant effects from dredging, and considered that the existing biota within the Inlet is already exposed to the contaminants assessed and that the proposed

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<sup>328</sup> Statement of Primary Evidence, Cameron, para 7.7.

<sup>329</sup> Statement of Primary Evidence, Sivaguru, para 7.3.



dredging would be unlikely to result in significant adverse effects.<sup>330</sup> In forming this conclusion, Ms De Luca relied on the evidence of Mr Udemā, who expressed the opinion that the disturbance of the contaminated sediments would have a minor environmental effect.<sup>331</sup> However, Dr De Luca did note that, “*Given that the NZTA project team have not surveyed everywhere within the Inlet at a very fine scale, we cannot rule out Mr Cameron’s concerns*”.<sup>332</sup>

[538] Mana Whenua also expressed concerns about the proposed dredging. Mr Enright submitted that dredging is opposed by Te Kawerau ā Maki and Ngāti Whātua Ōrākei and will elevate contaminants in the harbour for a short to medium period, reducing mauri.<sup>333</sup> He noted the JWS Report on Ecology records, “*avoiding dredging would be a better ecological outcome*” and set out the range of adverse impacts identified by Dr Cameron.<sup>334</sup>

[539] Ms Linzey stated that the Mana Whenua Group had the opportunity to discuss the dredging activity proposed at a project hui on 2 May 2017, where NZTA’s coastal ecologist (Dr De Luca) and coastal processes expert (Mr Priestley) attended. She observed that discussion focused particularly on:

- (a) The ecological impacts of dredging material being taken from the sub-tidal area of the Māngere Inlet; and
- (b) Concern regarding the disturbance of sediment during dredging operations.<sup>335</sup>

[540] Concerns were expressed over construction flexibility and the potential impacts of dredging on marine sediments. Ms Linzey considered the engagement requirements of the Mana Whenua Group (with specific reference to Conditions MW.1/RCMW.1 and MW.2/RCMW.2) and the cultural monitoring conditions (particularly MW.5/RCMW.5), would provide Mana Whenua the opportunity for ongoing input and comment on the limits set in the Construction Environmental

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<sup>330</sup> Statement of Rebuttal Evidence, De Luca, paras 4.19 to 4.25.

<sup>331</sup> Statement of Rebuttal Evidence, Udemā, para 1.4.

<sup>332</sup> Statement of Rebuttal Evidence, De Luca, para 4.22.

<sup>333</sup> Opening Statement, Mr Enright, paras 24 & 34.

<sup>334</sup> Ibid, para 35; Dr Cameron, Statement of Evidence, paras 3.2, 7.4, 7.6, 7.8, 7.9, 7.11, 7.14, 7.16.

<sup>335</sup> Statement of Rebuttal Evidence – Cultural Values Assessment – Engagement, Linzey, para 7.2.

Management Plan.<sup>336</sup> She was satisfied that there is a process whereby the cultural effects of this activity can be appropriately managed during construction.

[541] Given the lack of agreement between experts on the potential effects of sub-tidal dredging, and the concerns raised by Mana Whenua, caution is required in determining the need and appropriateness of that activity. In this case, the evidence presented suggests that the proposed reclamations can be completed without the primary source of sub-tidal dredging. There is no clear evidence that the sub-tidal dredging will have an environmental benefit. The only benefit is as a contingency source of construction material. In Mr Priestley's opinion, there is likely to be enough material if sourced from within the reclamation footprints and the relocation of Anns Creek channel (because the current channel is encroached on by the reclamation). Therefore, in the event that sub-tidal dredging is not approved, that would be unlikely to result in a significant increase in construction traffic such as trucks transporting alternatively sourced material to site. Even if some additional road-based importation of material was required, Mr Wu stated that sensitivity testing of construction options that were less reliant on sub-tidal dredging gave him some comfort that such a change could be reasonably accommodated within the road system.<sup>337</sup> Therefore, the Board finds that sub-tidal dredging should be limited to that necessary for the relocation of the Anns Creek tidal channel.

[542] During the Hearing Mr Hewison, counsel for TOES and Others, suggested that dredging of sediment from the inner area of Onehunga Wharf could be considered as mitigation for impacts of the Proposal on the Onehunga community. In response to questioning, Mr Priestley<sup>338</sup> confirmed that sediment accumulated within the Onehunga Wharf is likely to be suitable for use in the construction of the reclamation. Mr Priestley was also familiar with the existing consents for the Onehunga Wharf and indicated that the area of dredging being promoted by Mr Hewison was outside the existing consented dredging area of the wharf.

[543] The Board does not consider there to be sufficient nexus between potential impacts of the Proposal on the community and benefit that would be afforded by dredging of the Onehunga Wharf, given that the community does not currently have access

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<sup>336</sup> Ibid, para 7.6. Ms Linzey also notes that she supports the minor amendment (Rebuttal, Ms Hopkins, to Condition MW.2(e)) to recognise this includes coastal construction management as well as the CEMP.

<sup>337</sup> Transcript, Wu, p 1927.

<sup>338</sup> Transcript, Priestley, p1493-1494.

to the wharf. However, the Board is satisfied that if additional material is required for the construction of the reclamations, an additional source of material is likely to be available at that Wharf, in relatively close proximity to the Proposal. The Board also notes that consent for the additional dredging at that site, which is zoned a Minor Port Zone in the AUP:OP, would be a controlled activity.<sup>339</sup> On that basis, while not guaranteed, consent for such dredging is likely to be granted.

### **Ōtāhuhu Creek – Declamation and Bridge Construction within the CMA**

- [544] The Ōtāhuhu Creek is a narrow tidal creek branching off the Tāmaki Estuary. It is crossed by SH1. The creek is channelled underneath the motorway by triple culverts installed in the late 1950s. The culverts have adequate capacity to accommodate extreme flood events, storm surges and tsunamis. The creek on the upstream side (west) of SH1 comprises approximately 5 ha. Ninety-five percent of that area is covered by mangroves. The creek is bordered by unremarkable exotic vegetation. The mangrove cover provides little by way of habitat for avifauna. The ecological value of Ōtāhuhu Creek in the vicinity of SH1 is assessed in the AEE as low.<sup>340</sup>
- [545] The Ōtāhuhu Creek geographically is the westernmost penetration of the Tāmaki Estuary, pointing in the direction of the Manukau Harbour. Unsurprisingly, being on or close to the narrowest part of the Auckland Isthmus, the creek was of practical and cultural significance to Māori, being part of a portage route over which waka travelled between the Waitematā and Manukau Harbours. The upper reaches of the creek lie to the west of SH1, the creek terminating at the appropriately named Portage Road.
- [546] NZTA proposes to restore to some extent the natural channel of Ōtāhuhu Creek where it is crossed by SH1 by removing the box culverts and replacing them with bridges. This would make more evident the nature of the ancient portage. This aspect of the Proposal has the support of Mana Whenua groups.
- [547] There was no contest regarding the benefits of this aspect of the EWL. It evolved through consultation with the Mana Whenua Group and is supported by the Mana Whenua Group.

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<sup>339</sup> AUP:OP, Rule F5.4.1(A4).

<sup>340</sup> AEE, p394.

## Stormwater Diversion and Discharge

- [548] This section addresses the proposed management of stormwater runoff from the proposed road carriageway, and associated reticulation but excludes the Sector 2 reclamation wetland and biofiltration devices.
- [549] Consent is sought to divert and discharge treated stormwater runoff from the proposed road alignment, via proprietary devices and wetlands. The detail of various treatment options is described in the relevant technical reports<sup>341</sup> and the associated drawing set. The road alignment will comprise 47 ha of impervious carriageway, of which 22 ha will be new and the balance being existing impervious areas. Stormwater treatment design has been based on treating the full 47 ha.<sup>342</sup> Water quality treatment will meet a minimum standard of 75 percent removal of total suspended solids (TSS) on a long-term annual average.<sup>343</sup> Reticulation will be provided to pass the 10-year Average Recurrence Interval (ARI) runoff, and has been designed such that it will not create or exacerbate flooding effects on adjacent properties.<sup>344</sup> The design has been accepted as such by Auckland Council.<sup>345</sup> It is also considered by Auckland Council to be consistent with the Auckland-wide stormwater network discharge consent that Auckland Council is presently seeking on its own behalf.<sup>346</sup>
- [550] Overall, the general design of the stormwater treatment system for the Proposal has not been contested. However, three specific matters have been raised by submitters and are addressed as follows.

### *Stormwater wetlands within Kempton Holdings Limited land*

- [551] Mr Sax appeared at the Hearing in support of the submission by Kempton Holdings Limited. Mr Sax sought two amendments to the Proposal design, being:
- (a) Relocation of the proposed stormwater wetland proposed to the west of Hugo Johnston Drive; moving it to alternative locations either west or south

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<sup>341</sup> *Technical Report 12 Stormwater Assessment*, November 2016; *Technical Report 12 Stormwater Supplementary Assessment Great South Road Intersection*, December 2016.

<sup>342</sup> Statement of Primary Evidence, Allison, para 9.2.

<sup>343</sup> *Ibid*, para 9.3.

<sup>344</sup> Transcript, Cain, p1463.

<sup>345</sup> Transcript, Lanning, p6393.

<sup>346</sup> Transcript, Sunich, p2999.

of the Mercury Southdown site. Those alternative locations are both owned by Kempton Holdings Limited.<sup>347</sup>

- (b) Deletion of the proposed stormwater wetland proposed within the downstream end of the Miami Stream, piping of the stream, and alternative (unspecified) treatment of road runoff.<sup>348</sup>

[552] Mr Sax's suggested amendments were sought to reduce the EWL footprint within his properties.

[553] The Board has not received any technical evidence in support of the suggested amendments and cannot determine their viability in terms of meeting the proposed level of stormwater treatment. NZTA has not directly addressed the matters raised by Mr Sax or as stated in the Kempton Holdings Limited submission. The Board notes that the proposed wetland / pond system west of Miami Parade is intended to treat existing upstream catchment (approximately 40 ha)<sup>349</sup> as well as some road runoff. Piping of the stream at that location would eliminate the benefit of treatment of the upstream catchment. Without further technical advice, the Board cannot adopt Mr Sax's suggestion for that site and, accordingly, finds that the Proposal design should be unchanged.

[554] With respect to the requested relocation of the proposed stormwater wetland at Hugo Johnston Drive, the Board notes that the alternative location immediately to the south is proposed as a public carpark to service access to the coastal walkway. Thus, relocation of the wetland to that site would result in adverse parking and access effects that would not be possible to mitigate. Moreover, the location of the car park was a matter addressed through consultation with Mercury. Therefore, the implications of moving the wetland to that location have not been assessed and, as such, the Board cannot support the request.

[555] The second alternative site promoted by Mr Sax is located immediately south of the Mercury site. That location appears to be predominantly within the CMA, and is within the Anns Creek West ecological area. Thus, it does not appear to be a practical alternative location and is not supported by the Board.

*Stained discharges from stormwater pipe near Sea Scouts building*

[556] Mr Hewison, on behalf of TOES and Others, raised concern regarding stained discharges from an existing stormwater pipe located to the south of the Sea Scouts

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<sup>347</sup> Transcript, Sax, p6054.

<sup>348</sup> Ibid, p6056.

<sup>349</sup> Addendum to Technical Report 12, Table 1-9-1.

building. No evidence has confirmed the source of that staining. It may be that the upgrade of stormwater treatment upstream of that outfall will address the effect. The inclusion of Gloucester Park in the Contaminated Land Management Plan (Condition CL.2) may also lead to some identification and improvement of the effect. However, in the absence of evidence on the cause of the staining, the Board does not make a finding or requirement on this matter. This does not preclude NZTA working with Auckland Council and/or TOES and Others to address the matter through detailed design and construction.

#### *Relocation of the stormwater pump station – Monahan Properties Limited*

[557] Monahan Properties Limited<sup>350</sup> sought that the Proposal be granted with conditions, but submitted concern regarding potential impacts of the Proposal on its site immediately south of T&G Global on Monahan Road. Those concerns included the potential effect of relocating a stormwater pumping station from NZTA land on SH1 on to the Monahan Properties Limited site.

[558] In relation to this issue, Mr Cain indicated that the proposed relocation of the stormwater pump station adjacent to that site could be adjusted during detailed design and in discussion with the property owner.<sup>351</sup> He also confirmed that the lid of that device would be able to withstand general industrial yard activities.<sup>352</sup> Thus, the Board finds that the effect of the relocation of the pump station on to the Monahan Properties site can be appropriately mitigated.

[559] In summary, the Board finds that the general management of stormwater from the Proposal alignment will be consistent with accepted best practice and will ensure that any stormwater-related adverse effects, including construction effects, will be minor or appropriately addressed through other processes.

#### **Earthworks**

[560] This section addresses the potential sediment-related effects of the land-based earthworks necessary for the construction of the EWL, as a matter to be considered under the regional consent applications. Other district matters that may arise are addressed under the consideration of the NoRs.

[561] Earthworks are to be managed in accordance with Auckland Council Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region Guideline Document 2016/005 (GD05). The management of sediment-related

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<sup>350</sup> Submission 126270.

<sup>351</sup> Transcript, Cain, p1462; Statement of Rebuttal Evidence, Cain, para 4.21.

<sup>352</sup> Statement of Rebuttal Evidence, Cain, paras 4.14 and 4.15.

effects from the land-based earthworks was not specifically contested and the Board finds that such effects can be appropriately managed if implemented in accordance with the proposed methodology and conditions.

[562] During Mr Cain's attendance at the Hearing, the Board presented questions on Conditions E.3 and E.4 (site-specific erosion and sediment control plans (SSESCPs)); Condition E.6(f) (double flocculation sheds) and Condition E.6(k) (last-line-of-defence controls).

[563] Mr Cain agreed that a simplification of the information to be submitted in the SSESCPs required by Conditions E.3 and E.4 could be beneficial<sup>353</sup> and the Board notes that some changes have been made.

[564] In relation to Condition E.6(f) and Condition E.6(k), the Board queried whether double flocculation sheds and last-line-of-defence controls were necessary or practical on a tightly constrained, lineal urban works area such as the EWL. Mr Cain considered them to be necessary and achievable. The Board retains doubt regarding these requirements but does not have an evidential basis to alter those conditions. The Board also accepts that retaining the requirements for those measures will not increase the risk of sediment discharge to the receiving environment.

[565] Aside from the cautions noted above, overall the Board finds that earthworks necessary for the construction of the Proposal will be appropriately managed in accordance with industry best practice. Provided that works are undertaken in accordance with the proposed consent conditions, adverse sediment-related effects of the earthworks will be minor and temporary.

### **Contaminated Land**

[566] Contaminated or potentially contaminated land will be encountered at various locations along much of the route, including closed landfills and other historic fill sites, and industrial properties. Matters relating to the disturbance of contaminated land were addressed in Technical Report 17, and in the evidence of Dr Wallis and Ms Eldridge. Specific matters were also raised in submissions by POAL and T&G Global.

[567] There was a general level of agreement between NZTA and Auckland Council regarding management of the disturbance of contaminated land, as reflected in proposed conditions CL.1 to CL.13, which were updated after the Joint Witness

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<sup>353</sup> Transcript, Cain, p1464.

Conference on Closed Landfills. NZTA has also adopted other amendments to conditions proposed by Ms Eldridge in her evidence, being:

- (a) Explicit inclusion of closed landfills and the uncontrolled landfills of Gloucester Park in the matters to be addressed in the Contaminated Land Management Plan (CLMP); and
- (b) Additional detail in Condition CL.9 relating to the removal, replacement and decommissioning of landfill monitoring bores and infrastructure.

[568] POAL submitted that the potential effect of disturbing the cap of the Pikes Point landfills, and associated potential effects on the management of stormwater at that site, had not been adequately assessed.<sup>354</sup> Dr Wallis clarified that the reinstatement of a cap had been accounted for in his assessment and that would be undertaken<sup>355</sup> and that conditions had been amended accordingly.<sup>356</sup> The Board accepts this response.

[569] T&G Global submitted that insufficient consideration had been given to the potential effects of disturbing contaminated land within the T&G Global site, and conditions did not provide sufficient certainty on the management of those effects.<sup>357</sup> Mr Arbuthnot proposed additional conditions to address this matter<sup>358</sup> with a key requirement being for NZTA to consult with the affected land owner when preparing the CLMP.

[570] Dr Wallis addressed this matter in his rebuttal evidence,<sup>359</sup> and in response to questions indicated he had had previous involvement with remediation of the T&G Global site.<sup>360</sup> Dr Wallis considered that the draft conditions adequately provided for an appropriate level of management of contaminated land throughout the Proposal footprint. While in his rebuttal evidence he did not consider that the requirement to consult with land owners should be explicitly included in conditions, he did agree, through questioning, to the proposition that it is best to consult with

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<sup>354</sup> Statement of Primary Evidence, Kirk, paras 4.13 to 4.16.

<sup>355</sup> Statement of Rebuttal Evidence, Wallis, para 4.24.

<sup>356</sup> Conditions CL.9 to CL.13.

<sup>357</sup> Statement of Primary Evidence, Arbuthnot, paras 7.60 to 7.64.

<sup>358</sup> Statement of Primary Evidence, Arbuthnot, para 7.65.

<sup>359</sup> Statement of Rebuttal Evidence, Wallis, paras 4.31 to 4.38.

<sup>360</sup> Transcript, Wallis, p1823.



the current owner and operator of a site when determining how best to mitigate adverse effects of construction activities.<sup>361</sup> The Board agrees and finds that it is appropriate to explicitly require consultation with the owners and operators of properties during the development of the CLMP. Refer to amended condition CL.1.

[571] Dr Wallis<sup>362</sup> also addressed the submission of Monahan Properties Limited regarding potential contaminated land effects on their property at 7 Monahan Road (immediately south of T&G Global). Dr Wallis did not consider that the plume of contamination within the T&G Global site would extend to the Monahan Properties site. The Board accepts Dr Wallis' response in that regard.

[572] Overall, the Board is satisfied that the potential adverse effects of the disturbance of contaminated land during construction has been adequately assessed and will be appropriately managed and mitigated through the implementation of conditions, as amended by the Board.

### **Streamworks**

[573] Works are proposed in or over Southdown Stream, Anns Creek (landward of MHWS), Clemow Stream and Miami Stream. NZTA and Auckland Council confirmed that Hill Street Stream (through The Local Lockup site) is an artificial channel and not a stream. It is no longer addressed by the Board as no resource consent is required.

[574] No matters relevant to these sites were contested through evidence, aside from the matters raised by Mr Sax (addressed from paragraph [551] onwards) and the more general effects on Anns Creek East (as discussed below).

[575] The Board finds that the potential adverse effects of the proposed works and structures on streams will be minimised and mitigated to an acceptable level. Ecological effects and associated mitigation is discussed in the following section.

### **Discharges to Air**

[576] The only consent sought specifically for discharges of contaminants to air is that associated with the operation of the temporary concrete batching plant to be located at the Waikaraka Park South construction yard, and ancillary storage of cement

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<sup>361</sup> Transcript, Wallis, p1824.

<sup>362</sup> Statement of Rebuttal Evidence, Wallis, paras 4.27 to 4.30.

(application reference RC12). No submissions raised specific concerns against this activity and it was not addressed in detail at the Hearing. The Board finds that the adoption of the proposed consent conditions associated with that activity will ensure that potential adverse effects will be appropriately minimised.

- [577] The Board also notes that discharges of exhaust gases from vehicles travelling on roads (excluding tunnels) is permitted without standards by the AUP:OP.<sup>363</sup> Therefore, the potential reverse sensitivity issue raised by Mercury in relation to compliance with its discharge to air consent is addressed separately in chapter 15.3 of this Report.

### **Adequacy of Ecological Mitigation and Off-sets**

- [578] NZTA has proposed a package of ecological mitigation and offsets to address all ecological effects of the EWL. The approach was described by Dr De Luca<sup>364</sup> as follows:

*“The approach taken was to assess a bucket of effects across the areas of ecology and develop a bucket of mitigation and offset, as it is not possible to propose like-for-like mitigation for effects such as permanent loss of marine habitat. For example, even though the adverse effects of the project on freshwater ecological values are not particularly significant, measures to enhance freshwater ecological values have been proposed which will improve functioning and values of the whole ecosystem.”*

- [579] The details of the ecological package proposed were provided in Technical Report 16,<sup>365</sup> and by Dr De Luca.<sup>366</sup> That package was supported by Conditions EM.1 to EM.12, which have now been updated by NZTA as EM1.A to EM.12B.
- [580] Additions to the mitigation and offsets were offered during the Hearing, which included an overall increase in the ecological restoration and habitat enhancement measures from 10 ha to 30 ha. NZTA has also updated the certainty of implementation of various measures such as ecological restoration at Gloucester Park and Anns Creek Reserve (e.g. Condition EM.2A) and more directive wording of outcome-based conditions (e.g. Conditions EM.3A, EM.3B and EM.3C). The additions also included the measures listed by Mr Mulligan in his closing submissions,<sup>367</sup> being:

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<sup>363</sup> AUP:OP, Rule E14.4.1(A114).

<sup>364</sup> Transcript, De Luca, p1643.

<sup>365</sup> Technical Report 16, Chapter 6.

<sup>366</sup> Statement of Primary Evidence, De Luca, Table 7.

<sup>367</sup> Closing Statement, Mulligan, para 14.23.

- (a) Additional restoration and planting at Anns Creek Reserve, including wetland and raupo enhancement;
- (b) Additional restoration and planting at Blake Reserve;
- (c) Additional pest plant and animal control within Anns Creek (including Anns Creek Estuary, West and East); and
- (d) Longer term planting and restoration in Anns Creek of a minimum of 10 years.

[581] At the commencement of the Hearing, experts agreed that appropriate assessment methodologies had been used<sup>368</sup> and that minimising the effects envelope through design was appropriate.<sup>369</sup> Experts also agreed that:<sup>370</sup>

- (a) The integrated ecosystem approach to effects, mitigation and offset is appropriate; and
- (b) The quantum of mitigation and offsets is finely balanced and is contingent on the successful implementation of all measures listed in Table 7 of Dr De Luca's primary evidence, and the relocation of the proposed construction yard out of Anns Creek East.

[582] The potential ecological effects of most significance are on avifauna (via impacts on feeding and roosting areas), and on the ecosystems of Anns Creek, and in particular Anns Creek East.

#### *Avifauna*

[583] Dr Bull's conclusions regarding the likely effects on avifauna were summarised as follows:<sup>371</sup>

*"[8.8] Due to the difficulty in clearly demonstrating a measurable cause and effect relationship with incremental habitat loss and ecological value, the magnitude of effect of cumulative reclamation and occupation of estuarine ecosystems within the Māngere Inlet is likely to be assessed as negligible, but in order to be conservative I have assessed the magnitude as low.*

*[8.9] Given the very high value of the shorebird assemblage within the Māngere Inlet, the overall level of effect of cumulative reclamation and occupation of estuarine ecosystems within the Māngere Inlet and the Manukau Harbour is considered to be moderate for shorebirds.*

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<sup>368</sup> Joint Witness Statement – Ecology, section 5.

<sup>369</sup> Joint Witness Statement – Ecology, section 6.

<sup>370</sup> Joint Witness Statement – Ecology, section 11.

<sup>371</sup> Statement of Primary Evidence, Bull, paras 8.8 to 8.10.

*[8.10] In terms of the terrestrial avifauna, the magnitude of effect of permanent terrestrial habitat loss due to the construction of the EWL are considered to be negligible at both the local and population level."*

[584] In response to questions, Dr Bull confirmed that because the direct impact of the reclamation is permanent and cannot be avoided, offsets are the primary means of addressing effects on shorebirds. This will include restoration of Ngā Rango e Rua o Tainui Island as a roosting site, proposed statutory protection of existing roosting sites around the Māngere Inlet, and the management and enhancement of South Island breeding sites for species affected by the EWL.<sup>372</sup> These measures are detailed in conditions.

[585] Additional to the direct impact of the reclamation, Dr Lovegrove listed<sup>373</sup> and described a number of other potential impacts that the reclamation may have on shore birds, including:

- (a) Extending the presence and potential disturbance by people and activities beyond the current shoreline (referring to the different "startle distances" associated with different activities)<sup>374</sup> In turn, that will increase the overall impacts of the reclamation beyond the footprint of the reclamation.
- (b) Suspension and dispersal of sediment and contaminants, including those generated by dredging.
- (c) Increasing rates of sediment accumulation in the constructed embayments that may smother feeding areas (particularly in relation to wrybill which feed on near-surface organisms).

[586] Dr Lovegrove also stated that while the SEAs are the most important areas, the shore birds also utilise other inter-tidal areas of the Inlet that are mapped as General Marine Zone in the AUP:OP.<sup>375</sup>

[587] In this regard, Dr Lovegrove supported:

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<sup>372</sup> Transcript, Bull, p1609.

<sup>373</sup> Statement of Primary Evidence, Lovegrove, para 7.1.

<sup>374</sup> Transcript, Lovegrove, p2852.

<sup>375</sup> Transcript, Lovegrove, p2848.

- (a) the creation of alternative roosting sites, such as at Ngā Rango e Rua o Tainui Island and protection of other roosts around the Manukau;
- (b) including pest control and weed management;
- (c) locating walkways and boardwalks as far as possible from the inter-tidal zone, saltmarshes and wetlands; and
- (d) minimising noise and lighting.

[588] Dr Lovegrove<sup>376</sup> and Dr Bull both indicated that if the wrybill population increased in response to South Island breeding ground management, there would be sufficient feeding grounds available within the Manukau and other locations (including Tāmaki River, Manukau Harbour, Firth of Thames, and Kaipara Harbour). Neither expert considered that the Proposal would have an adverse effect on a population basis. Similarly, birds (including dotterel) will feed and roost elsewhere during construction.<sup>377</sup>

[589] Other ecological impacts of reclamation would be in Sector 1 in the vicinity of the proposed Galway Street intersection, which will require the loss of 9,400 m<sup>2</sup> of saltmarsh and mangroves, and a 900 m<sup>2</sup> glasswort meadow,<sup>378</sup> and mangrove removal along the Sector 2 foreshore and within the Anns Creek Estuary. These impacts are addressed in the overall ecological mitigation package.

[590] Mr Cameron suggested that to further offset the sedimentation effects of the proposed dredging and reclamation, 10 ha of riparian restoration (fencing and riparian planting) could be undertaken elsewhere in the Manukau Harbour catchment, to the value of \$4 million.<sup>379</sup>

#### *Anns Creek East*

[591] The ecological impact of the Proposal on the terrestrial extent of Anns Creek was described by Ms Myers in her statements of evidence and at the Hearing, and in Technical Report 16.

[592] In summary, Ms Myers stated:<sup>380</sup>

*“Anns Creek East contains sensitive and unique ecological values with lava shrubland habitats, threatened plant habitats and gradients between*

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<sup>376</sup> Transcript, Lovegrove, p2842.

<sup>377</sup> Transcript, Bull, p1610.

<sup>378</sup> Technical Report 16, Section 2.2.1.1

<sup>379</sup> Transcript, Cameron, p2967.

<sup>380</sup> Statement of Primary Evidence, Myers, paras 1.8 to 1.12.

*mangroves to saltmarsh to freshwater wetland. The viaduct has been designed to be located within the more modified northern edges of the creek which contain weed species, native plantings and areas of fill. The location of piers will be designed to avoid sensitive areas of lava shrubland.*

*Construction of the Anns Creek viaducts, including access for temporary staging and location of a construction yard, however, will result in significant ecological effects:*

- (a) disturbance and loss of lava shrubland ecosystems;*
- (b) disturbance and loss of freshwater raupo wetland and saltmeadow communities;*
- (c) disturbance and loss of ecological sequences from terrestrial to saline to freshwater;*
- (d) loss of and impacts on a naturally uncommon ecosystem type.*

*The viaducts will result in significant adverse effects on the north-eastern lava flow, and loss of raupo wetland and saltmarsh ecosystems. A total of 9,599m<sup>2</sup> (18%) of vegetation communities in Anns Creek East will be adversely affected by the Great South Road intersection design.*

*Ongoing operational effects of the Anns Creek viaducts will include shading and rain shadow effects on vegetation in Anns Creek, and increased weed invasion from the construction and staging footprint.*

*An ecological mitigation and offsets package has been developed for the Project which includes restoration of saltmarsh and lava shrubland ecosystems, and weed control in Anns Creek East and Anns Creek Estuary. A plan identifying exclusion areas for pier location within Anns Creek East has been developed and will guide detailed design. A long term integrated environmental management plan is proposed to be developed for Anns Creek East. I recommend that to mitigate and offset adverse effects the long term permanent protection of Anns Creek should be provided for."*

[593] Dr Bishop generally accepted Ms Myers' assessment of potential effects, but sought to widen that consideration to the effects of the proposed construction yard within the TR Group site. He also questioned whether the proposed mitigation resulted in "no net loss" of ecological values.

[594] In his evidence, Dr Bishop also expressed concern about the adequacy of mitigation or offsets, particularly relating to effects on freshwater wetland and lava substrate ecosystems within Anns Creek East. In his opinion, the Proposal would result in a net loss of those rare ecosystems, which in his opinion did not represent the commonly adopted multipliers for ecological offsets, which could be up to 30 times the impacted area.<sup>381</sup>

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<sup>381</sup> Statement of Primary Evidence, Bishop, paras 7.24 to 7.26.

[595] When questioned on the comparison between the mitigation proposed by NZTA and the mitigation required of TR Group under its existing consents, Dr Bishop concluded that the main difference between the outcomes is more a matter of implementation rather than a gap between the quantum of mitigation proposed.<sup>382</sup>

[596] In response, Ms Myers<sup>383</sup> noted that, “*A combined ecosystem approach to mitigation has been undertaken rather than addressing each feature individually. This is a different approach to mitigation and offsets than that proposed by Dr Bishop.*”

[597] She considered that:

*“The integrated approach will achieve a more comprehensive package of mitigation including protection, restoration and weed management of lava shrubland ecosystems in Māngere Inlet and Anns Creek. The approach is more targeted to the effects of the Proposal, providing for in situ restoration and protection, rather than a line by line accounting approach as proposed by Dr Bishop.”*

[598] Ms Myers<sup>384</sup> considered that “a huge effort” had been made to avoid the ecological effects, and mitigate or offset effects that could not be avoided, and noted that, “[F]rom an ecological perspective, it would be best for a road not to go through this area, but there are a whole lot of other issues that need to be weighed up”.

#### *Certainty of Outcomes*

[599] Focus was given to the proposed mitigation trials and research offsets, and whether the value of those as offsets was dependent on those initiatives resulting in a tangible environmental benefit “on the ground”.

[600] A key area of inquiry was on the proposed research into recolonisation of inter-tidal soft and hard food sources for foraging birds. In terms of the outcomes of the research, Dr De Luca considered that contribution of the research to the relevant body of knowledge was the offset benefit. In her opinion, that benefit was not dependent on successful recolonisation of inter-tidal soft and hard food sources for foraging birds at the research site.<sup>385</sup>

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<sup>382</sup> Transcript, Bishop, p2892.

<sup>383</sup> Statement of Rebuttal Evidence, Myers, paras 4.12 and 4.13.

<sup>384</sup> Transcript, Myers, p1556.

<sup>385</sup> Transcript, De Luca, p1644.

- [601] Mr Lanning questioned the reliability of the research delivery process, based on the original wording of conditions. The Board shared Mr Lanning’s concern, but now notes that significant modification and tightening of the avifauna research conditions has been made by NZTA (EM.10) that more clearly sets objectives, general methodology, and the obligation of NZTA to deliver the research.
- [602] Dr Bishop<sup>386</sup> questioned the viability of the proposed saltmarsh restoration trial which, in his opinion, “*will present extraordinary challenges and considerable adaptive management may be required*”, referring to a failed attempt undertaken at Ambury Park in 1990s. He recommended commencing “*trials in degraded areas, not affected by the construction, as soon as possible, to gain experience and to give more certainty that the benefits from the mitigation and offsets that are proposed, are actually achievable in short-medium timescales*”.
- [603] In response to questions from Mr Enright, Ms Myers did concede that she may not be able to support the Proposal if all the proposed mitigation measures could not be implemented.<sup>387</sup> However, Ms Myers explained why she considered the likely success of the ecosystem restoration proposed, including the saltmarsh restoration trial, was better than a previous unsuccessful example quoted by Dr Bishop (Ambury Park), as the NZTA proposal is to restore and enhance an existing ecosystem<sup>388</sup> rather than creating a new ecosystem.
- [604] Ms Myers agreed that some of the conditions relating to management of effects at Anns Creek could be strengthened.<sup>389</sup> The Board notes that NZTA has made amendments to conditions in that regard.

### *Discussion*

- [605] As noted earlier, the Board accepts that there will be permanent loss of feeding and roosting areas for shore birds, including threatened and at-risk species. Such effects must be considered significant but on the basis of the evidence of Drs Bull and Lovegrove, the proposed coastal works will not result in loss of habitat that is sufficiently rare that it would impact on the overall populations of those species, or the presence of those species within the Māngere Inlet or adjacent coastal areas. The Board is satisfied that the potential impacts that the Proposal will have on shore birds can be adequately mitigated and offset, with some modification of the design and construction methodology. As agreed by Dr De Luca,<sup>390</sup> excluding sub-tidal

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<sup>386</sup> Statement of Primary Evidence, Bishop, para 7.16.

<sup>387</sup> Transcript, Myers, p 1552.

<sup>388</sup> Transcript, Myers, p 1553.

<sup>389</sup> Transcript, Myers, p 1582.

<sup>390</sup> Transcript, De Luca, p 1650.



dredging (with the exception of the Anns Creek tidal channel works) and removal or modification of the headlands will reduce ecological effects. The Board finds that those changes to the Proposal would positively influence the effects / mitigation balance. Consequently, it will become less finely balanced and less dependent on every element of the package having a direct ecological benefit with respect to marine ecology and avifauna.

- [606] The Board is also satisfied that appropriate modification has been made to the avifauna research conditions to the extent that the conditions now place a clear obligation on NZTA to deliver the research outcomes. With the exclusion of sub-tidal dredging and deletion or modification of the headlands, the Board can accept that the contribution to the body of scientific knowledge is a satisfactory offset benefit of the research, albeit that the offset would be significantly strengthened if the research indicated successful mitigation could be achieved on the ground.
- [607] With respect to Mr Cameron's recommended 10 ha of planting within the Manukau Harbour catchment, the Board agrees that, in the absence of sufficient alternative mitigation and offsets, such an initiative does have some nexus with sedimentation effects within the harbour. However, the benefit that such works would have to the Māngere Inlet is indirect at best, and not possible to define. With the deletion of sub-tidal dredging and modification or deletion of headlands, the Board does consider the inclusion of the additional riparian restoration recommended by Mr Cameron to be necessary.
- [608] With respect to Anns Creek East, the Board notes that filling within the footprint of the proposed construction yard within TR Group site is already consented as Stage 2 of the TR Group fill area. In the event TR Group undertakes the filling, the mitigation required by the TR Group consents will be engaged. However, the Board accepts<sup>391</sup> Mr Lanning's proposition that if NZTA undertakes the construction yard filling, the TR Group Stage 2 mitigation will not be engaged. Consequently, the Board accepts that mitigation for that work must be addressed through the NZTA consents. This matter is addressed further in chapter 15.4 under the sub-heading *TR Group*.
- [609] Maintaining the planting and ecological mitigation beyond 10 years is not justified based on Ms Myers' evidence. The ecological restoration will be well established in that time and ongoing maintenance will not be necessary to maintain the overall quantum of mitigation.

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<sup>391</sup> Chapter [15.4] of this Report for Sector 3.

[610] The Board accepts Ms Myers' evidence that the adverse effects within Anns Creek East have been avoided to the greatest extent practicable by pushing the Proposal alignment as far north as possible, into the Mercury site, so as to avoid the most intact lava shrubland habitats and the threatened plant habitats, and minimise construction access impacts. While experts agree that like-for-like mitigation of effects on the lava shrubland ecosystems is difficult, the Board accepts that restoration and enhancement of existing ecosystems is more likely to succeed than establishing new ecosystems.

[611] The Board also finds that the mitigation and offsets now offered will adequately address the effects of that construction activity and the shading that will occur on completion of the works. This includes the additional planting in Anns Creek Reserve, additional pest control throughout Anns Creek and extending the management period for those areas as direct mitigation for terrestrial and coastal effects on those environments.

### **Cumulative effects**

[612] Having carefully considered each of the potential adverse effects in this section of its decision, the Board has also considered whether those effects might have an adverse composite effect. This situation was considered by the Court of Appeal in *Dye*, whereby the conjunctive effect of taking all effects together was considered to be a cumulative adverse effect:<sup>392</sup>

*"The concept of cumulative effect arising over time is one of a gradual build-up of consequences. The concept of combination with other effects is one effect A combining with effects B and C to create an overall composite effect D. All of these are effects which are going to happen as a result of the activity which is under consideration. The same connotation derives from the words 'regardless of the scale, intensity, duration, or frequency of the effect'."*

[613] Having examined all of the effects, the Board is satisfied that they will not, together, have a further adverse composite effect that requires any additional mitigation beyond the mitigation and off-sets proposed by NZTA as part of the Proposal.

### **Conclusion**

[614] Overall, the Board accepts the integrated approach to the consideration of ecological effects, mitigation and offsets in relation to the Proposal. The range of effects and the scale of the Proposal facilitates this approach and provides greater flexibility to offset effects that cannot be adequately mitigated, provided that the scale of effects themselves is acceptable. In this case, the Board finds that the

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<sup>392</sup> *Dye v Auckland Regional Council* (2001) 7 ELRNZ 209, [2002] 1 NZLR 337, [2001] NZRMA 513 at [38].

magnitude, scale and intensity of effects is acceptable in the context of the mitigation and offsets proposed, and by a margin that has improved throughout the Hearing. While there will be direct adverse effects on rare and threatened species, those effects will not compromise the viability of those populations or ecosystem types. However, an outcome that at least balances the ecological effects through mitigation and offset benefits is an appropriate requirement. The Board finds that such an outcome will be achieved through the deletion of the sub-tidal dredging, modification or deletion of headlands, and implementation of the additional ecological mitigation and offsets proposed.

### **14.3 SECTION 104D – NON-COMPLYING ACTIVITY ASSESSMENT**

[615] The Parties agree that direct adverse effects of the Proposal, and in particular the coastal activities, will be more than minor. On that basis, the Board finds that the Proposal does not pass the first limb of the gateway test (s104D(1)(a)).

[616] In forming a conclusion on the second limb (s104D(1)(b)), the Board has considered carefully the various interpretations presented on this matter.<sup>393</sup> The Board accepts the proposition advanced by Ms Rickard. There is no contest that the resource applications should be bundled with an overall non-complying status.

[617] The Board accepts Ms Rickard's conclusion, that widening the scope of the s104D(1)(b) assessment beyond the AUP:OP<sup>RCP</sup> to include all relevant regional provisions of the AUP:OP<sup>RP</sup> does not identify additional provisions, to which the Proposal might be "contrary". More likely, it introduces various provisions with which the Proposal is generally consistent. However, in its initial assessment the Board favours the approach taken by Ms Coombes in taking a broad overview but placing,<sup>394</sup> "... *particular consideration on the objectives and policies with the most specific relationship to the non-complying aspects of the relevant proposal and on those provisions which are more directive*".

[618] Consequently, the Board focuses its initial s104D(1)(b) assessment on the provisions most relevant to the non-complying coastal activities, which are listed in Technical Report 2.<sup>395</sup> They comprise infringements under Chapter F2 of the AUP:OP associated with the formation of reclamations and structures within the SEA-M1 and SEA-M2, ONFs and Historic Heritage Extent of Place overlays within the Māngere Inlet, including associated vegetation removal, damming or

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<sup>393</sup> Refer to chapter [7.2] of this Report under the sub-heading *Rule C1.5*.

<sup>394</sup> Statement of Primary Evidence, Coombes, para s10.8 and 10.9.

<sup>395</sup> Technical report 2, Appendix A.

impounding water, and other construction activities. The Board considers that that approach will provide the most conservative assessment, minimising the risk of artificially weighting any conclusion with supportive provisions in favour of the Proposal.

[619] At the time of writing this Report, the Board was advised by Mr Lanning that Auckland Council is still waiting on ministerial approval for the AUP:OP<sup>RCP</sup>. Therefore, the Board has also considered the relevant provisions of the ARP:C, but accepts the weighting attributed by Ms Coombes<sup>396</sup> in that regard, finding that the AUP:OP<sup>RCP</sup> provisions must be given significant weight, and the ARP:C provisions limited weight.

### **Reclamations**

[620] Policy F2.2.3(1) directs that reclamation be avoided unless all of the following apply:

- (a) the reclamation will provide significant regional or national benefit;
- (b) there are no practicable alternative ways of providing for the activity, including locating it on land outside the coastal marine area; and
- (c) efficient use will be made of the coastal marine area by using the minimum area necessary to provide for the proposed use, or to enable drainage.

[621] Later in chapter 15.12 of this Report, the Board undertakes the statutory assessment required by s171(1)(b) of the RMA as to whether adequate consideration has been given to alternative routes or methods for undertaking the work. The Board explores the process used by NZTA for identifying and evaluating corridor and alignment alternatives using Multi Criteria Analysis (MCA) methodology, and briefly outline the “Long List” comprising 16 corridor options, the six options selected to the next stage of the MCA (alignment evaluation) plus the OBA option, which led to the selection of the preferred option.

[622] It will become clear that the potential need for reclamations for the Proposal in locations of high environmental value were balanced against the potential opportunities for environmental betterment. A central component of NZTA’s reasoning for accepting a foreshore alignment with the associated reclamations was that it would provide the most enduring transport benefit.

[623] In the context of its consideration of the AUP:OP<sup>RCP</sup> provisions most relevant to the proposed reclamations, it is critical for the Board to be satisfied that the EWL alignment is indeed the option that provides the most enduring transport benefits to

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<sup>396</sup> Statement of Primary Evidence, Coombes, para 8.6; Transcript, Coombes, p 3468.

the extent that those benefits are necessary and that there are no “practicable alternatives” to achieve that outcome.

[624] Mr Burns, when addressing the Board on Policy F2.2.3(1)(b) submitted:<sup>397</sup>

*“[T]he test is not whether this is the best, or cheapest, option for NZTA’s road, or whether it is justified by transport outcomes, but simply whether there are any practicable ways of putting the road somewhere else.”*

[625] The Board disagrees. The analysis undertaken by Mr A Murray, which contributed to the balancing of all factors in choosing the proposed alignment, must be relevant to whether there is a practicable alternative. It is not appropriate, under the detailed and integrated option selection process undertaken, to apply such a simplified interpretation of “practicable alternative” i.e. whether any road can be located elsewhere, regardless of how inferior its transport, walking and cycling, or public transport benefits may be.

[626] For these reasons, the Board is indeed satisfied that there is no “practicable alternative” to the route NZTA proposes. The Board reaches this conclusion simply because it is satisfied that NZTA’s scrutiny of alternative routes did not produce any enduring transport solution other than the selected route.

[627] In consideration of Policy F2.2.3(1), the Board finds:

- (a) While some submissions considered that NZTA had selected the wrong alignment, and that the Proposal should not extend into the CMA, it was common ground that the EWL would provide significant regional benefit. The Board is also satisfied that given the significant contribution that the Penrose-Mt Wellington area makes to the Auckland economy and employment,<sup>398</sup> the EWL can reasonably be concluded to have significant national benefit.
- (b) If unencumbered by topography or development, it is intuitive that there will be a practical alternative landward route suitable for the provision of a road. However, the areas surrounding the Māngere Inlet are fully developed with industrial, commercial and residential land uses. As discussed in chapter 15.12 of this Report, the Board is satisfied with NZTA’s evidence on the assessment of alternatives and enduring transport benefits conferred by the chosen alignment. Therefore, it finds that there are no “practicable alternative” ways of providing for the objectives of the Proposal in a manner that avoids the proposed

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<sup>397</sup> Opening Statement, Burns, para 161.

<sup>398</sup> Statement of Primary Evidence, Williamson, section 7.

reclamations and coastal occupation. The Board accepts that in refining the EWL alignment, NZTA has sought to balance a range of effects, including ecological, business disruption, cultural and social. In turn, that alignment has necessitated mitigation in the general form and scale of that proposed.

- (c) As discussed in chapter 14.2 of this Report, the Board finds that efficient use will be made of the coastal marine area by using the minimum area necessary to provide for the proposed use. The scale and form of the reclamations has been developed through an integrated design process and is now the minimum necessary to mitigate landscape, visual, severance and amenity effects. Additional efficiency has been achieved by using the wetlands within the reclamations to treat stormwater runoff from the developed hinterland, and to provide an alternative upgraded treatment option for landfill leachate.

[628] As a result, the Board finds that the Proposal is generally consistent with, and not contrary to, Policy F2.2.3(1) of the AUP:OP. In the event that Parties maintain a different interpretation regarding the F2.2.3(1)(b) question of practical alternatives, this is but one sub-clause of the policy. Notwithstanding the inclusive wording of the policy that requires that all sub-clauses apply, the Board has also considered the degree to which the Proposal is consistent with the policy in conjunction with its overall balanced assessment.

[629] Policy F2.2.3(2) requires consideration of the overlay policies that are relevant to the area of the proposed reclamation. In this case that engages the policies in Chapters D9 (Significant Ecological Areas Overlay) and D17 (Historic Heritage Overlay). Those provisions are assessed further below.

[630] Policy F2.2.3(3) provides for reclamation associated with various activities. That includes to enable the construction and/or efficient operation of infrastructure, including roads. The proposal is consistent with that policy.

[631] Policy F2.2.3(4) is not directly relevant, although it provides for the future maintenance of stormwater outfalls, including those from the proposed wetlands.

[632] Policy F2.2.3(5) requires proposals for reclamation to mitigate effects through the form and design of reclamation as far as practicable, taking into account the shape of the reclamation, and the extent to which the materials used are visually compatible with the adjoining coast, and the ability to avoid consequential changes to coastal processes, including erosion and accretion. For the reasons discussed in this Report, the Board is satisfied that the Proposal is consistent with this policy provided that the proposed headland features of Landforms 2 and 3 are modified

to maximise tidal flow and minimise sediment accumulation within the formed embayments.

- [633] Policy F2.2.3(6) requires the Board to consider the need for compensation for those effects that have not been avoided, remediated or mitigated on site, by way of additional or enhanced public access or public facilities or environmental enhancement or restoration. The proposal generally meets that policy through the provision of ecological offsets.
- [634] Policy F2.2.3(7) requires the design of reclamations to take into account the potential effects of climate change, including sea level rise, over 100 years. This has been achieved.
- [635] Policy F2.2.3(8) directs that reclamations maintain and, where possible, enhance public access to and along the coastal marine area to the extent practicable, having regard to:
- (a) The purpose and proposed use of the area;
  - (b) Whether a restriction on public access is necessary for public health, safety or operational reasons; and
  - (c) The ability to remedy or mitigate any loss of public access.
- [636] The Proposal mitigates the loss of the existing coastal shared path by providing a commuter cycleway, roadside footpath, and separated walkway and boardwalk system. The new public access will have different characteristics to the existing coastal walkway, but it will be consistent with this policy.
- [637] The Proposal is not consistent with Policy F2.2.3(9), which requires provision of esplanade reserve or strip. But it cannot be reasonably considered to be contrary to that provision given the level of public access to be provided, which achieves an outcome equivalent or better than that sought by Policy F2.2.3(9).
- [638] Policy F2.2.3(10) enables the beneficial use of dredged material in reclamations, including where stabilised with cement. The proposal is consistent with that policy, albeit that the Board finds that the sub-tidal dredging should not be approved.
- [639] With respect to Policy F2.2.3(11), any material imported to the reclamations from off-site will be clean fill. Where dredged material is utilised, it will be sourced from the local environment such that any contaminants present will be pre-existing. The potential effects from mobilisation of contaminants during dredging and other disturbance has been assessed, and those policies specific to that activity are

discussed below. The materials will be contained by mudcrete and armouring. Consequently, the proposed reclamations are not contrary to this policy.

[640] Policy F2.2.3(12) requires assessment of past unlawful reclamation or drainage. NZTA does not seek consent to authorise any existing reclamations. The Board's consideration is limited to the applications before it and this policy is not directly relevant to those.

[641] Policy F2.2.3(13) enables declamation.

### **Overlays**

[642] Returning to Policy F2.2.3(2), the Board is required to consider the relevant provisions of Chapter D9 (Significant Ecological Areas Overlay), Chapter D10 (Outstanding Natural Features Overlay and Outstanding Natural Landscapes Overlay) and Chapter D17 (Historic Heritage Overlay).

#### *Significant Ecological Areas*

[643] Policy D9.3(1) directs avoidance of adverse effects on indigenous biodiversity in the coastal environment to the extent stated in Policies D9.3(9) and (10). The Board agrees with Mr Mulligan's submission that the overlay policies do not trump the reclamation policies.<sup>399</sup> The Board reads the relevant overlay policies within the set of all relevant policies that must be considered under s104D and s104(1) of the RMA.

[644] Policy D9.3(9) states:

- "(9) *Avoid activities in the coastal environment where they will result in any of the following:*
- (a) *Non-transitory or more than minor adverse effects on:*
    - (i) *threatened or at risk indigenous species (including Maui's Dolphin and Bryde's Whale);*
    - (ii) *the habitats of indigenous species that are the limit of their natural range or which are naturally rare;*
    - (iii) *threatened or rare indigenous ecosystems and vegetation types, including naturally rare ecosystems and vegetation types;*
    - (iv) *areas containing nationally significant examples of indigenous ecosystems or indigenous community types; or*
    - (v) *areas set aside for full or partial protection of indigenous biodiversity under other legislation, including the West Coast North Island Marine Mammal Sanctuary.*

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<sup>399</sup> Closing Statement, Mulligan, para 21.39.



- (b) *any regular or sustained disturbance of migratory bird roosting, nesting and feeding areas that is likely to noticeably reduce the level of use of an area for these purposes; or*
- (c) *the deposition of material at levels which would adversely affect the natural ecological functioning of the area.*<sup>400</sup>

[645] It is contestable whether the Proposal will have non-transitory or more than minor adverse effects on threatened or at-risk indigenous species (clause D9.3(9)(a)(i)), given that experts agreed that the Proposal would not adversely affect the populations of those species and that the shore birds would opportunistically feed elsewhere in the Māngere Inlet, Manukau Harbour or Tāmaki River.<sup>400</sup> Regarding clause D9.3(9)(a)(ii), the Proposal will result in non-transitory and more than minor effects on areas of habitat utilised by some rare species. It will not result in such effects on habitats of species that are at the limit of their natural range, or habitats that are at the limit of their natural range. Evidence received indicated that the habitats to be affected are important to shore birds, including rare and threatened species, but that the shore birds will roost and feed elsewhere.

[646] In relation to clauses D9.3(9)(a)(iii) and D9.3(9)(a)(iv), the Proposal alignment, construction methodology and proposed conditions seek to avoid adverse effects on Anns Creek to the greatest extent practicable, and otherwise minimise and mitigate unavoidable effects. The extent to which potential effects on the ecosystems and vegetation within Anns Creek has been avoided is evidenced through the alternatives assessment,<sup>401</sup> and includes the fact that the proposed alignment encroaches into the Mercury site.<sup>402</sup> Accordingly, while the placement of the road across part of Anns Creek is not consistent with the policy directive, the efforts made to avoid the relevant effects to the greatest practicable suggest that the Proposal is not contrary to those policies.<sup>403</sup>

[647] In considering clause D9.3(9)(b), the disturbance of the migratory bird roosting and feeding areas will be temporary during construction, but the displacement of the birds from areas directly affected by the reclamations will be permanent. Permanent loss of such habitat is addressed in other clauses of the Policy D9.3(9) but it is recognised that some ongoing disturbance may result from people utilising the proposed coastal walkways, which will extend further into the Inlet than the

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<sup>400</sup> Refer to chapter [14.2] of this Report under the sub-heading *Avifauna*.

<sup>401</sup> Refer to chapter [15.12] of this Report.

<sup>402</sup> Which the Board finds in chapter [15.4] of this Report, was done in recognition of the need to accommodate the potential future use of that site for power generation.

<sup>403</sup> In reaching this conclusion, the Board has considered a range of relevant objectives and policies, which we have discussed elsewhere in the Report, for example D9 Policy 1 at [212], D9 Policy 8 at [710], and the E26 Infrastructure policies at [726] – [727].

current walkway. The scale of this effect has been debated by experts. The sections of proposed walkway adjacent to the most significant SEA-M2 habitat have been kept within Landform 3 and otherwise close to the shoreline. Thus, the Proposal can be considered inconsistent with clause D9.3(9)(b). It is however, unclear whether it is contrary to that policy directive and, as noted in chapter 14.2 of this Report, birds will likely opportunistically feed and roost elsewhere in the Inlet, the Tāmaki River and other areas of the Manukau Harbour.

[648] The proposal will be contrary to clause D9.3(9)(c) as it will result in deposition of material at levels that would adversely affect the natural ecological functioning of the area of deposition.

[649] Policy D9.3(10) provides directives to avoid significant adverse effects, and avoid, remedy or mitigate other effects on a range of listed ecological values. Essentially, this addresses the next tier down in terms of ecological significance and avoidance, while not “reading down” the values addressed in that policy. The Board is satisfied that the Proposal has avoided significant adverse effects on Anns Creek, and will mitigate other effects on that environment. It will not impact on habitats that are important during the vulnerable life stages of indigenous species. It will impact on indigenous ecosystems and habitats within the Māngere Inlet, but such effects will be mitigated. Notwithstanding the opposition in principle submitted by Ngāti Whātua Ōrākei, Te Kawerau ā Maki and Ngāti Te Ata Waiohua, no contrary evidence was presented that indicated that the reclamations would result in a significant adverse effect on habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes, including fish spawning, pupping and nursery areas. It will impact on habitats, including areas and routes important to migratory bird species, and the scale of that impact has been addressed by experts. Nor has evidence been presented that indicated that the Proposal would have a significant adverse effect on ecological corridors, and areas important for linking or maintaining biological values, or water quality such that the natural ecological functioning of the area is adversely affected. Consequently, the Board finds that the Proposal is consistent in part, and not contrary to Policy D9.3(10).

#### *Outstanding Natural Features*

[650] Policy F2.2.3(2) engages the provision of Chapter D10 with respect to mapped ONFs. As discussed in chapter 14.2 of this Report, the Board accepts Mr Jamieson’s assessment that the Proposal will not directly impact on the coastal extent of the ONFs and particularly notes that reclamation does not extend into a mapped extent of an ONF. On that basis, the Proposal cannot be contrary to the relevant provisions of Chapter D10 of the AUP:OP<sup>RCP</sup>.

### *Historic Heritage*

- [651] Policy F2.2.3(2) engages the Chapter D17 provisions that are relevant to the Historic Heritage Extent of Place of Waikaraka Cemetery.
- [652] In chapter 14.2 of this Report the Board found that the adverse effects that the EWL will have on views and noise amenity within the cemetery has been appropriately considered and will be adequately mitigated. The Proposal challenges some of the provision in their general intent of protecting the values of historic heritage places, but is not directly inconsistent with most. The Proposal does achieve consistency with Policy D17.3(5) that enables the establishment of network utilities and small-scale electricity generation facilities within scheduled historic heritage places where all of the following apply:
- (a) there is a functional need or operational constraint that necessitates their location within a scheduled historic heritage place;
  - (b) significant adverse effects on the heritage values of the place are avoided where practicable; and
  - (c) other adverse effects are avoided, remedied or mitigated.
- [653] The Board has accepted that there is an operational need for the road within that alignment, which has avoided direct impacts on the cemetery and will mitigate other effects. Overall, the Board finds, despite its effect, that the Proposal is not contrary to the relevant provisions of Chapter D17 with respect to the section of the EWL alignment located within the reclamation adjacent to Waikaraka Cemetery.

### *Conclusion on Reclamations*

- [654] Careful consideration has been given to all other relevant coastal policies of Chapter F2 (and the extent that it engages the biodiversity provisions in D9) of the AUP:OP. On the basis of the Board's finding that there is no "practicable alternative" to the proposed alignment, and that the Proposal will not result in significant adverse effects on populations or ecosystems, the Board finds that the Proposal is not contrary to those other provisions. Nor is the Proposal contrary to the broadly worded objectives F2.2.2(1), (2) and (3).

### **Depositing and Disposal of Material**

- [655] The formation of the reclamations and inter-tidal fill batters and mitigation will require the deposition of material within the CMA, which engages Objectives F2.3.2(1) to (5), and Policies F2.3.3(1) to (11). The Board finds that the Proposal is not contrary to those provisions, with the possible exception of F2.3.3(4)(a) that directs the avoidance of the disposal of material in the coastal marine area where

it will have significant adverse effects on sites scheduled in the D17 Historic Heritage Overlay. The extent of place of Waikaraka Cemetery, as mapped in the AUP:OP, extends into the CMA. The EWL alignment will slightly encroach on that mapped area within the CMA. It is common ground that the EWL will adversely affect views from, and amenity within, the cemetery. As the effect is indirect, it may be more appropriate to consider it inconsistent with the policy rather than contrary.

### **Dredging**

- [656] The activity of dredging is subject to Objectives F2.4.2(1) to (4) and Policies F2.4.3(1) to (6). The Board finds that the Proposal is not contrary to any of those provisions, which either enable, or require management of the effects of dredging.

### **Disturbance of the Foreshore and Seabed**

- [657] Objectives F2.5.2(1) and (2), and Policies F2.5.3(1) to (7) specifically apply to the disturbance of the foreshore and seabed. They enable minor disturbance and provide for other disturbance with a general direction away from impacts on areas with significant values. The wording of the provisions is not as directive as the reclamation provisions, in allowing for avoidance, remedy or mitigation of effects. As described in the background to Chapter F2.5 of the AUP:OP, the disturbance provisions relate to activities that are separate from reclamation and dredging, for example installation or removal of structures, drilling, piling or tunnelling. To that extent, the Board finds that the Proposal is generally consistent with, and not contrary to, those provisions to the extent that works outside of the reclamations and dredging will appropriately avoid, remedy or mitigate effects of disturbance.

### **Other Coastal Activities**

- [658] The non-complying activity status of the Proposal is also triggered by the following coastal activities:
- (a) Mangrove removal (Objectives F2.7.2(1) to (5) and Policies F.2.7.3(1) to (4));
  - (b) Damming and impounding water (Objective F2.10.2(1) and Policies F2.10.3(1) to (4));
  - (c) Discharges (Objectives F2.11.2(1) to (3) and Policies F2.11.3(1) to (10)); and
  - (d) Structures, public amenities, artwork, and associated use and occupation (Objectives F2.14.2(1) to (8) and Policies F2.14.3(1) to (7), (10) and (11)).

[659] The Board finds that the Proposal will not be contrary to the provisions relevant to those activities listed above.

[660] While the resource consent applications have been bundled with an overall non-complying activity status, the above assessment has focused on those activities that trigger that status, being those coastal activities that are proposed to occur within the SEA-M1, Outstanding Natural Feature or Historic Heritage overlays as defined in the AUP:OP.

[661] Regarding other activities for which resource consents are sought, the Board accepts the conclusions of Ms Rickard and Mr Gouge that the Proposal is not contrary to the provisions specific to those activities.

### **Overall Conclusion – s104D**

[662] The Board is persuaded by Mr Mulligan’s submission that the approach taken by the Environment Court in *Akaroa Civic Trust v Christchurch City Council*<sup>404</sup> is appropriate to adopt. Further discussion about the relevance and force of *Akaroa* is contained in chapter 12.5 of this Report. In some consent applications a provision may be so central to a proposal that it sways the s104D decision, but generally the s104D assessment will be made across the objectives and policies of the plan as a whole and not determined by individual provisions. The Board finds that the latter applies in this case, notwithstanding that there are indeed some inconsistencies between the NZTA Proposal and relevant objectives and policies, particularly in the areas of reclamation and biodiversity. In doing so, the Board has given measured weight to the word “avoid”, which is clearly not a direction to be ignored.

[663] On balance, the Board finds that the Proposal is not contrary to the objectives and policies of the AUP:OP when considered as a whole. Its consideration has given particular focus to the provisions most directly relevant to the activities with non-complying status but has also recognised the broader planning assessments of Ms Rickard<sup>405</sup> and Mr Gouge.<sup>406</sup> The Board is left in no doubt that its conclusion would be strengthened if it were to look in detail at every relevant objective and policy (of which there are many), rather than those provisions of most relevance, as it has done.<sup>407</sup>

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<sup>404</sup> *Akaroa Civic Trust v Christchurch City Council* [2010] NZEnvC 110.

<sup>405</sup> Statement of Primary Evidence, Rickard.

<sup>406</sup> Statement of Primary Evidence, Gouge.

<sup>407</sup> In addition to the Board’s assessment, it relies on the broader planning assessments provided in the AEE, and the primary and rebuttal statements of evidence by Ms Rickard and Mr Gouge.

[664] While the Proposal is concluded to be contrary to a small number of policies or sub-clauses of policies, the Board does not consider those individually or cumulatively as reason to conclude that the Proposal is repugnant to the policy direction of the AUP:OP with respect to the resource consents sought. The Board's conclusion is that where the Proposal infringes policies, neither individually nor cumulatively do those infringements tilt the balance for s104D purposes against the Proposal as a whole.

#### **14.4 SECTION 104(1)(B) ASSESSMENT OF RELEVANT PROVISIONS**

[665] Having passed the second limb of the s104D gateway test, s104(1)(b) of the RMA requires the Board to have regard to relevant provisions of (i) a national environmental standard; (ii) other regulations; (iii) a national policy statement; (iv) a New Zealand coastal policy statement; (v) a regional policy statement or proposed regional policy statement; and (vi) a plan or proposed plan. Herein the Board addresses those matters.

[666] The AUP:OP objectives and policies addressed in the s104D gateway test are also relevant to the Board's substantive assessment required by s104(1)(b). To avoid unnecessary repetition, the following should be read in conjunction with chapter 14.3 above relating to the Board's detailed consideration of s104D, along with the planning instruments and provisions set out in chapter 7 of this Report.

[667] In making its assessment, the Board accepts the proposition that it is not necessary for a proposal to meet every single aspect of every single policy.<sup>408</sup> Further, it is reminded by Mr Lanning, in his re-examination of Ms Coombes, that the substantive assessment under s104(1)(b) is not a test,<sup>409</sup> and that a balanced judgment is required.

[668] The Board also notes that, consistent with various case law,<sup>410</sup> while making a full assessment of planning provisions, the Board is not compelled, nor is it efficient, to quote and individually report on every relevant objective or policy. The Board proceeds on that basis.

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<sup>408</sup> Closing Statement, Mulligan, para 21.37.

<sup>409</sup> Transcript, Lanning and Coombes, p 3852–3.

<sup>410</sup> Refer to chapter [12.5] of this Report.

### **Section 104(1)(b)(i) – National Environmental Standards**

[669] The relevant national environmental standards are set out in chapter 7.1 of this Report. These are:

- (a) The NES – Drinking Water (which is of limited relevance and not addressed further);
- (b) The NES – Soil Contamination;
- (c) The NES – Air Quality (relevant to both the NoRs and resource consents);  
and
- (d) The NPS – Electricity Transmission (particularly relevant to the NoRs and addressed more generally in chapter 15.11 of this Report).

[670] For the reasons and findings found throughout chapters 14.2 and 15.1 of this Report, the Board accepts the conclusions presented in the AEE<sup>411</sup> on these matters of national direction. The Board finds that the relevant standards have been appropriately considered by NZTA and will be met as necessary, through the Proposal design and implementation. Appropriate conditions have been imposed relating to investigation, monitoring, and construction and operational management plans.

### **Section 104(1)(b)(ii) – Other Regulations**

[671] No other regulations have been identified as relevant to this Proposal.

### **Section 104(1)(b)(iii) – National Policy Statement**

[672] The relevant national policy statements have been set out in chapter 7.1 of this Report. A number of these are addressed in detail later in the Board's assessment of the relevant statutory provisions under s171(1)(a) in chapter 15.11 of this Report. There is no need to repeat that assessment here. Thus, the focus is on the remaining NPS – Freshwater as it relates to the applications for resource consent.

[673] As previously identified, Policy 4A in particular requires the Board:

*“When considering any application for a discharge the consent authority must have regard to the following matters:*

- a. *the extent to which the discharge would avoid contamination that will have an adverse effect on the life-supporting capacity of freshwater including on any ecosystem associated with freshwater and*

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<sup>411</sup> AEE, Section 15.6.

- b. *the extent to which it is feasible and dependable that any more than minor adverse effect on freshwater, and on any ecosystem associated with freshwater, resulting from the discharge would be avoided.*"

[674] The Board accepts the uncontested evidence of Ms Rickard and the witnesses she relies on:<sup>412</sup>

*"10.13 My assessment is that the Project responds to the policy direction in the NPS:FM through the development of innovative solutions to reduce long term discharge of contaminants to the environment, including both fresh and coastal water.*

*10.14 There are important aquifers underlying parts of the East West Link area, and there has been an assessment undertaken (refer to the evidence of Ms Williams and Technical Report 13) on the potential impacts on those parties that draw water from the aquifer including Watercare's municipal water supply. No potential adverse effects on those water supplies have been identified in that assessment, as arising from East West Link.*

*10.15 The NPS also has an emphasis on improvement (Objective A2) where a water resource has been degraded. Ms Williams has discussed how the existing groundwater freshwater resource is impacted by the historic landfilling activities, and how there will be an improvement as a result of the Project including from reduced saline water ingress. Mr Sides' evidence also addresses the impact on freshwater streams from the Project and concludes there will be a net positive outcome."*

[675] Ms Rickard and other planning witnesses did not have the benefit of the updated NPS – Freshwater and counsel did not alert the Board to the change. Nonetheless the Board has given due consideration to the updated version. Its findings below hold.

[676] For the reasons given in chapter 14.2 of this Report in relation to the construction and operational effects on the freshwater resources in and around the Proposal area, the Board does not find any policy conflict, and indeed finds a level of policy support.

### **Section 104(1)(b)(iv) – New Zealand Coastal Policy Statement**

[677] In addition to the NZCPS, under s10 of the HGMP Act, s7 and s8 of the HGMP Act must be treated as a New Zealand coastal policy statement. The works to which the HGMP Act is relevant are the proposed replacement of the SH1 culverts with bridges across the Ōtāhuhu Creek, and any earthworks within catchments of drainage systems that discharge to the Tāmaki River. On these matters, the Board finds that the proposed works methodologies will appropriately minimise any potential effects on the Ōtāhuhu Creek and Tāmaki River, and waterways of the Hauraki Gulf. Indeed, the removal of the SH1 culverts will result in a long-term

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<sup>412</sup> Statement of Primary Evidence, Rickard, para 10.3–10.15.



benefit to that environment. On that basis, the Board is satisfied that the works respond positively to the provisions of the HGMP Act.

[678] Turning to the NZCPS, the question of whether to focus the Board's attention on the provisions of the AUP:OP, which as Mr Mulligan reinforced has been prepared in full recognition of *King Salmon*, or whether to loop back up to higher order instruments such as the NZCPS received much attention at the Hearing.

[679] In principle, the Board agrees that the RMA anticipates that in giving effect to the higher order NZCPS, regional coastal plans will be refined to reflect the specifics of the region. Otherwise the RMA would have required plans to "adopt" the NZCPS, rather than "give effect to"<sup>413</sup> it. As noted in chapter 12 of this Report, the Board also accepts the general assertion<sup>414</sup> that referring in detail to the higher order planning instruments may be limited to instances of invalidity, incomplete coverage or uncertainty of meaning in the lower order documents.

[680] However, in order to be satisfied that there is consistency (or otherwise), the Board must be cognizant of the higher order documents, in this case the NZCPS, and s104(1)(b)(iv) requires the Board to have specific regard to the NZCPS. Having had such regard, the Board is satisfied that there is no specific incongruity between the NZCPS and AUP:OP. Any key differences are an anticipated and appropriate particularisation between the national and regional level documents. Therefore, the substantive discussion on coastal objectives and policies herein is made against the AUP:OP provisions. The NZCPS assessment is limited to confirming the consistency between the two documents, with particular attention to reclamation and biodiversity provisions. In taking this approach, the Board acknowledges and considers the emphasis placed on the NZCPS by Mr Brown<sup>415</sup> and Ms Coombes<sup>416</sup> in particular, and takes account of their evidence throughout the following assessment.

### *Reclamation*

[681] Chapter B8 (Toitū te taiwhenua – Coastal Environment) provides the regional policy provisions of the AUP:OP<sup>RPS</sup> that are directly relevant to the coastal environment.

[682] Policy B8.3.2.(9) reflects, and clarifies (as underlined), NZCPS Policy 10(1):

“(9) *Avoid reclamation of land in the coastal marine area unless all of the following apply:*

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<sup>413</sup> RMA s67(3).

<sup>414</sup> *Davidson Family Trust v Marlborough District Council* [2017] NZHC 52.

<sup>415</sup> Statement of Primary Evidence, Brown, para 3.1 to 3.31.

<sup>416</sup> Statement of Primary Evidence, Coombes, section 11.

- (a) *land outside the coastal marine area is not available for the proposed activity;*
- (b) *the activity which requires reclamation can only occur in or adjacent to the coastal marine area;*
- (c) *there are no practicable alternative methods of providing for the activity; and*
- (d) *the reclamation will provide significant regional or national benefit.”*

[683] A modified version is provided in Policy F.2.2.2(1) of the regional coastal plan level of the AUP:OP<sup>RCP</sup>, which is further strengthened by requiring efficient use of the CMA:

- “(1) *Avoid reclamation and drainage in the coastal marine area except where all of the following apply:*
- (a) *the reclamation will provide significant regional or national benefit;*
  - (b) *there are no practicable alternative ways of providing for the activity, including locating it on land outside the coastal marine area;*
  - (c) *efficient use will be made of the coastal marine area by using the minimum area necessary to provide for the proposed use, or to enable drainage.”*

[684] The remaining reclamation Policies 10(2) to (4)<sup>417</sup> of NZCPS have been reflected in the provisions of the AUP:OP<sup>RCP</sup> in modified form and a number of provisions also added, from a regional perspective. These are subsequently covered in Policies F2.2.3(2) to (13) of the AUP:OP.

[685] A comparison of the relevant NZCPS and AUP:OP<sup>RPS</sup> and AUP:OP<sup>RCP</sup> provisions relating to reclamation is provided in [Appendix 12: Comparison of Reclamation Policies]. No specific incongruity exists.

### *Biodiversity*

[686] In terms of the relevant biodiversity provisions, the Board is mindful of the additional policies added to AUP:OP Chapter D9 (Significant Ecological Areas Overlay). Based on the resulting amendment submitted to the Minister of Conservation for approval, the Board accepts that the current version of the AUP:OP provides the most relevant policy direction in this regard.

[687] Policy D9.3(9) of the AUP:OP slightly modifies NZCPS Policy 11(a) by limiting the avoidance directive to “*non-transitory or more than minor adverse effects*” and aggregates threatened taxa NZCPS Policies 11(a)(i) and (ii) into a single AUP:OP Policy D9.3(9)(a)(i) covering threatened or at-risk indigenous species.

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<sup>417</sup> Policies 10(2) to (4) of the NZCPS relate to suitable use considerations, efficient operation of infrastructure considerations, and encouraging de-reclamation of redundant reclaimed land.

[688] Policy D9.3(10) of the AUP:OP closely reflects NZCPS Policy 11(b) of the NZCPS, and somewhat strengthens it with two additions. Policy D9.3(10)(d) adds “*fish spawning, pupping and nursery areas*” as matters to be considered. Policy D9.3(10)(g) adds “*water quality such that the natural ecological functioning of the area is adversely affected*” as another matter to be considered.

*Mana Whenua*

[689] In reflection of NZCPS Policy 2, recognition of Mana Whenua values is provided through objectives and policies throughout the AUP:OP, including Chapter B8 (Coastal Environment) and particularly Chapter B6 (Mana Whenua).

*Conclusion*

[690] In summary, in relation to the Proposal the Board finds that the AUP:OP provisions appropriately reflect the NZCPS provisions, as concluded by Ms Rickard.<sup>418</sup> The Board does not consider the differences between the NZCPS and AUP:OP to result in invalidity, incomplete coverage or uncertainty of meaning between the planning instruments. Thus, the Board turns now to the AUP:OP as it is key.

**Section 104(1)(b)(v) – A regional policy statement or proposed regional policy statement and s104(1)(b)(vi) – A plan or proposed plan**

[691] As the AUP:OP is a unitary plan encompassing the regional policy statement and regional and district plans, it is appropriate and efficient to consider these matters together. The relevant provisions of the AUP:OP and the legacy plans are listed in Technical Report 2<sup>419</sup> and chapter 7.2 of this Report. The completeness of those lists was not contested.

[692] Consistent with the relative weight and focus given to issues at the Hearing, this assessment gives particular emphasis to the aspects of the Proposal that impact on the coastal environment and Anns Creek East. In doing so, the Board does not read down any relevant provisions and all aspects of the Proposal for which the resource consents sought are carefully considered.

[693] For completeness, this section also addresses the legacy ARP:C, albeit with limited emphasis.

*Coastal activities and Anns Creek East*

[694] As already addressed, in the Board’s consideration of alternatives and under s104D, the key planning elements engaged by the Proposal are whether the NZTA

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<sup>418</sup> Transcript, Rickard, p2430.

<sup>419</sup> Technical Report 2, Appendices D2, D3 and D4.

has adequately justified the proposed coastal route and then whether the potential adverse effects of that route can be adequately avoided, remedied or mitigated. When considered against the provisions of the AUP:OP (and NZCPS and ARP:C), other elements of the Proposal fall into line if it satisfies these initial considerations. Notwithstanding the directive wording of the key reclamation and biodiversity provisions, they must be assessed on balance against all relevant provisions, including those that support the Proposal, and an overall balanced finding made.

[695] Ms Rickard, in her consideration of the overall statutory provisions, remained of the view that the development of the Proposal has maintained appropriate regard to the relevant statutory provisions in the context of s104 (and s171) of the RMA. Ms Rickard emphasised that the Proposal is of national significance and that there are positive effects that are likely to be felt well beyond the immediate site area, with significant local and wider benefits, including for the business community, local residential communities and the environment more generally.

[696] Ms Coombes, in contrast, remained of the opinion that, while the s104D gateway test could be passed, “*but only by a very fine margin*”,<sup>420</sup> without modification or conditions (including reducing the extent of reclamation, addressing biodiversity concerns, and avoiding adverse effects of proposed sub-tidal dredging on the Māngere Inlet environs), the Proposal should be declined under s104(1). The Board’s findings regarding effects, including the deletion of sub-tidal dredging and deletion or modification of headlands, addresses this matter and is pertinent to its overall 104(1)(b)(v) and (vi) RMA planning assessment.

[697] Mr Brown initially focused his evidence on the provisions of the NZCPS rather than the AUP:OP (in contrast to Ms Rickard and Ms Coombes who applied a broader approach and a particular focus on the AUP:OP). He maintained the opinion that the Proposal is contrary to key policies of the NZCPS regarding reclamation (Policy 10) and Indigenous Biological Diversity (Policy 11), concluding that these breaches of key directive policies are so significant they warrant refusal of resource consent.<sup>421</sup> The Board has directly addressed these matters in chapter 14.3 of this Report. During the Hearing, Mr Brown presented his witness summary expanding his earlier assessment to the AUP:OP provisions, albeit mostly in relation to the s104D gateway test. He concluded that the Proposal fails to pass s104D, but if the Board did not agree within his s104D conclusion, the Proposal should be refused

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<sup>420</sup> Transcript, Coombes, p3802.

<sup>421</sup> Hearing Summary, Brown, para 2.1.

under s104(1) in any event. This was underpinned by his view that a new highway in the CMA should only be provided for if necessary, which, in his consideration of the approach to NZTA's alternative options assessment, it is not.<sup>422</sup>

[698] Mr Mulligan acknowledged in his closing that, in relation to the NZCPS, the Proposal engages a wide range of provisions, positively responds to a number of objectives and policies and, on the evidence, meets reclamation Policy 10, but concedes there is inconsistency with parts of biodiversity Policy 11.<sup>423</sup> In terms of the AUP:OP (Policy D9.3.), Mr Mulligan also acknowledged that the effects generated by the Proposal are not consistent (as opposed to contrary) with certain aspects of Policies (1), (9) and (10), which seek to avoid more than minor effects on certain biodiversity values<sup>424</sup>.

[699] While the Board agrees that it is unusual to propose such significant reclamations to construct a road, it is satisfied, on the basis of the evidence heard, that if the road is to be located along the proposed coastal route, the additional reclamation proposed as mitigation is necessary and justified. Rather than accepting Mr Brown's contention,<sup>425</sup> made in relation to NZCPS Policy 10(1)(B), that, "*There is no basis for claiming that highways can only occur in the coastal marine area*", the Board adopts an assessment that is provided for by the particularisation presented in the corresponding AUP:OP provisions. The Board does not accept Mr Brown's contention that, "*The selection process did not take adequate account of environmental factors*".<sup>426</sup> This matter has been addressed extensively in the Board's discussion on coastal and biodiversity effects, and assessment of alternatives. The Board agrees with Mr Brown that, "*[T]he route is there by choice, not functional necessity*".<sup>427</sup> The Board is satisfied that the choice was made after an extensive, replicable assessment of alternatives to achieve the Proposal objectives, and in consideration of all potential effects and how those could be most appropriately mitigated. The Board finds that the justification for the coastal route has been adequate. Alternative routes will not, on the basis of the evidence, achieve the same level of benefit as the proposed route when considered against the Proposal objectives.

[700] While the Board agrees with Mr Brown that there is not a functional need for the road to be located within the CMA, on the basis of the Board's finding in relation to

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<sup>422</sup> Transcript, Brown, p4446 to 4449.

<sup>423</sup> Closing Statement, Mulligan, para 22.14.

<sup>424</sup> Ibid, at [21.33].

<sup>425</sup> Statement of Primary Evidence, Brown, para 3.5.

<sup>426</sup> Ibid.

<sup>427</sup> Ibid.

the route selection, there is an operational need for it to be located within the CMA. This outcome is anticipated in the preamble of Section F2.14 (Use, development and occupation in the coastal marine area) of the AUP:OP, which states, “[D]ue to the geography of Auckland, some infrastructure may have an operational need to locate in, or traverse the common marine and coastal area to enable an effective and sustainable network”.

It is explicitly provided for by Policy F2.14.3(5) which states:

*“Provide for use and occupation of the common marine and coastal area by infrastructure, where it does not have a functional need to locate in the common marine and coastal area but has an operational need, and only where it cannot be practicably located on land and avoids, remedies, or mitigates other adverse effects on:*

- (a) the existing use, character and value of the area;*
- (b) public access, recreational use and amenity values;*
- (c) natural character and scenic values, from both land and sea;*
- (d) water quality and ecological values;*
- (e) coastal processes including erosion;*
- (f) other lawfully established use and development in the coastal marine area or on adjoining land;*
- (g) the anticipated future use of the area for marine activities; and*
- (h) Mana Whenua or historic heritage values.”*

[701] These matters are reinforced through Policy E26.2.2(6) (Infrastructure). As discussed throughout various chapters of this Report, the Board finds that the matters listed in those policies have been adequately addressed through avoidance, remedy, mitigation or offsets.

[702] Detailed consideration of the reclamation and dredging provisions has been provided in chapter 14.3 of this Report and is not repeated. But it is important to reiterate that the Board finds that the Proposal is consistent with a number of key provisions in that it will:

- (a) Provide significant regional and likely national benefit;
- (b) Make efficient use of the CMA by using the minimum necessary for the road and mitigation;
- (c) Provide reclamations that are necessary to enable the construction and efficient operation of the road;
- (d) Mitigate effects through the form and design of the reclamations, including materials and consequential changes to coastal process (if modified in accordance with the Board’s findings);

- (e) Take account of the potential effects of sea level rise;
- (f) Maintain public access (the number and quality of access points will be increased, albeit with a change in amenity);
- (g) Enable the beneficial use of dredging materials, including where stabilised with cement (from the footprint of the reclamations and the Anns Creek tidal channel relocation); and
- (h) Avoid using contaminated materials (or using locally dredged materials in a way that avoids remedies or mitigates effects on water quality and ecological values).

[703] The Proposal is not consistent with policy requiring the provision of an esplanade reserve or strip, but it gives effect to that provision through the level of public access to be provided, which achieves an outcome equivalent or better than that sought by an esplanade reserve or strip.

[704] In conjunction with the reclamation provisions, the most significant biodiversity provisions have been considered in chapter 14.3 of this Report. That assessment is also applicable to Vegetation and Biodiversity Policies E15.3(9) and (10) which replicate the corresponding Significant Ecological Area policies of Chapter D9. Expanding on that consideration, the Board also notes Policies D9.3(8) and E15.3(7), which provide for the use, maintenance, upgrade and development of infrastructure in accordance with the other relevant policies, recognising that it is not always practicable to locate and design infrastructure to avoid significant ecological areas or areas with indigenous biodiversity values.

[705] The Board accepts that the Proposal is not consistent with particular clauses of Policies D9.3(9) and (10) and corresponding E15.3(9) and (10) and may be contrary to some, as addressed in the Board's s104D assessment. However, based on its findings in relation to the potential effects of the Proposal, the overall assessment must take account of the scale of those effects and the extent to which they will be avoided, mitigated or offset, including protection and restoration of habitats. To that end, the Board has found that the reclamation is necessary for the road alignment and consequential mitigation of landscape, visual, severance and amenity effects.

[706] The Board also finds that the alignment across Anns Creek East has, to the extent practicable, avoided the rare and threatened ecosystems. The adverse effects that have not been avoided will be adequately mitigated or offset. Furthermore, the Board is satisfied that the Proposal will not result in a more than minor adverse effect on species populations or the presence of species within the Inlet or Anns Creek East. Notwithstanding the opposition in principle submitted by Ngāti Whātua

Ōrākei, Te Kawerau ā Maki, and Ngāti Te Ata, no evidence was presented that indicated that the reclamations would result in a significant adverse effect on habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes, including fish spawning, pupping and nursery areas.

[707] The proposed dual function of the wetlands is strongly consistent with the Chapter E1 (Water quality and integrated management) regional plan provisions of the AUP:OP. As noted by Mr Gouge,<sup>428</sup> it also strongly responds to the Chapter B7.4 (Coastal water, freshwater and geothermal water) regional policy statement provisions, where there is focus on improving the water quality of degraded areas, and corresponding Policies 21 and 23 of the NZCPS.

[708] Mr Gouge also considers that the Proposal responds well to NZCPS Policy 22 (Sedimentation), but the Board considers it to be neutral in that regard. The proposed stormwater treatment will reduce sediment input to some extent, as will the proposed erosion and sediment control measures during construction. But as discussed in chapter 14.2 of this Report, modelling indicates that the overall CMA disturbance and reclamations will result in a change in sedimentation patterns and rates rather than a reduction.

[709] For completeness, the Board finds that the Proposal is generally consistent with the provisions relevant to:

- (a) Mangrove removal;
- (b) Damming and impounding water;
- (c) Discharges; and
- (d) Structures, public amenities, artwork, and associated use and occupation.

*Natural Character (and Landscape)*

[710] To the extent that the relevant provisions relating to natural character and landscape values of the coastal environment (including those provisions relating to reclamation, biodiversity and ONFs) have not already been addressed, the Board does so succinctly below.

[711] Chapter E18 of the AUP:OP in its background section states that:

*“These objectives and policies give effect to Policy 13(1)(b) of the New Zealand Coastal Policy Statement 2010, and Regional Policy Statement Objective B8.2.1.(2) and Policy B8.2.2.(4).”*

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<sup>428</sup> Statement of Primary Evidence, Gouge, para 14.8 and 14.10.



[712] There are also elements of the objectives and policies in E18 that clearly give effect to Policy 14 of the NZCPS, which relates to the restoration and rehabilitation of natural character. The Board is satisfied that there is no need to circle back up to the NZCPS.

[713] The relevant objectives and policies in E18 are provided in full in [Appendix 10: Key Regional and District Objectives and Policies].

[714] As noted earlier, Messrs Lister, Brown and McIndoe were the only landscape experts who presented evidence at the Hearing, and they were consistent in their support of the general form and scale of the proposed reclamations. There was also mutual agreement that the proposed restoration of the degraded and highly modified northern coastline of the Māngere Inlet is a positive outcome from a landscape mitigation perspective.

[715] While not rejecting the conclusions of Messrs Lister, Brown and McIndoe outright, Ms Coombes highlighted a relevant tension as follows:<sup>429</sup>

*“It is clear that there is a tension between landscape experts and ecologists regarding whether the reclamation scale is appropriate. In resolving such a tension, in my view, greater weight should be given to the directive avoid biodiversity policies of the New Zealand Coastal Policy Statement and the unitary plan over the more general requirements to consider whether a reclamation is an appropriate form and to promote the restoration of natural character. The need to mitigate the visual and severance effects of the new road through a large reclamation appears to have been given greater weight than the biodiversity policies.”*

[716] The Board has resolved this tension by requiring the modification of headlands of Landforms 2 and 3.

[717] During cross-examination, Mr Gouge acknowledged that the Proposal responds to the policy direction in terms of restoration of the coastal environment; it identifies areas and opportunities for restoration and rehabilitation.<sup>430</sup> The Board agrees.

*Infrastructure, Historic Heritage, and Urban Development*

[718] The Waikaraka Cemetery (a site scheduled in the Historic Heritage Overlay)<sup>431</sup> extends into the CMA, and the formation of the reclamations and inter-tidal fill batters and mitigation will require the deposition of material within the CMA in the vicinity. The proposal alignment will slightly encroach on the extent of place for the

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<sup>429</sup> Transcript, Coombes, p3347.

<sup>430</sup> Transcript, Gouge, p3927.

<sup>431</sup> D17 of the AUP.

Cemetery, and it is common ground that views from and amenity within the cemetery will be adversely affected, as discussed in chapter 14.2 of this Report.

[719] While there is a degree of overlap with regard to the resource consents sought, the relevant provisions relating to Infrastructure, Historic Heritage (with the exception of the Waikaraka Cemetery, which have been addressed above), and Urban Development (NPS – Urban Development), are more fittingly dealt with in the s171 assessment of the NoRs and designations. As noted in chapter 14.3 of this Report, the Proposal is consistent with Chapter D17 provisions that recognise there can be an operational need for network utilities within scheduled historic heritage places and the Proposal avoids direct physical impacts on the values of the cemetery by avoiding the existing mature pōhutukawa, stone wall and cemetery grounds.

[720] Impacts on views and aural amenity have been addressed in the modified conditions and will be mitigated to the extent practicable. As expected, impact on this scheduled historic heritage cemetery is not broadly consistent with the relevant provisions, but the overall assessment of that is made in the context of the Proposal need, alternatives assessment and benefits.

#### *Infrastructure*

[721] The Chapter E26 (Infrastructure) provisions of the AUP:OP are district and regional provisions, so must be engaged in the consideration of the resource consent applications. These are addressed briefly in the AEE,<sup>432</sup> but not in any detail in evidence received. The Board notes, however, that Objectives E26.2.1(1)-(5) and (9) and Policies E26.2.2(1), (2), (4), (5), (6), (14) and (15) are of particular relevance to its decision.

[722] Various provisions in Chapter E26 recognise and enable the benefits of infrastructure and the safe and efficient servicing of existing development, including enabling the functioning of business; economic growth and development; transport of goods, freight and people; and how infrastructure contributes to the strategic form, function and intensification of Auckland.

[723] Other Chapter E26 provisions reflect the policy direction of other chapters already considered, including the need to consider the functional or operational need for infrastructure proposed for a particular location; the consideration of practicable alternative locations, routes or designs that would avoid or reduce effects; and the consideration of ecosystems or habitats and Mana Whenua values. The provisions also require the consideration of identified values of an area or feature pursuant to

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<sup>432</sup> AEE, Section 15.4.2.1.

any national policy statement, national environmental standard or regional policy statement.

[724] The Chapter E26 provisions also seek to ensure that roads are designed, located and constructed to avoid, remedy or mitigate adverse effects (including from noise), minimise severance effects, provide for the needs of all road users and modes of transport, and maintain or enhance the safety and efficiency of the road network.

[725] There is a clear and unavoidable tension across these provisions that requires the balanced assessment necessary for roading projects such as the EWL. Not surprisingly, the enabling and providing provisions clearly support the Proposal. The provisions that require the Board's consideration of potential adverse effects of the infrastructure have been well canvassed through consideration of equivalent provisions in other chapters of the AUP:OP. The Board's finding on those matters has been stated above.

[726] Policy E26.2.2(5) is particularly germane to the balanced consideration of this Proposal. It states:

*“Consider the following matters when assessing the effects of infrastructure:*

*(a) the degree to which the environment has already been modified;*

*(b) the nature, duration, timing and frequency of the adverse effects;*

*(c) the impact on the network and levels of service if the work is not undertaken;*

*(d) the need for the infrastructure in the context of the wider network; and*

*(e) the benefits provided by the infrastructure to the communities within Auckland and beyond.”*

[727] For the reasons provided elsewhere in this Report, the Board is satisfied that the Proposal is justified, in the context of Policy E26.2.2(5) has taken account of the specific characteristics and values of the proposed alignment; the avoidance, mitigation or offset of adverse effects; and the benefits that will be afforded by the EWL.

[728] The Board finds that the Proposal positively responds to the Chapter E26 provisions, and appropriately addresses the matters that must be considered.

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[729] The Board accepts Ms Coombes' conclusion that the planning assessment should focus on the AUP:OP and that the ARP:C should be specifically addressed only

where it brings different considerations.<sup>433</sup> As discussed throughout Ms Coombes' evidence, there is general alignment between the AUP:OP and ARP:C provisions. The ARP:C does more explicitly address cumulative effects of reclamation,<sup>434</sup> but the Board is satisfied that those effects have been incorporated into the overall assessment of effects against the AUP:OP provisions. Consequently, the Board concludes that its assessment of the AUP:OP provisions is applicable to the ARP:C provisions, given the level of consistency between the Plans and the limited weight to be afforded the ARP:C.<sup>435</sup>

### **Section 104(1)(b)(v) and (vi) Conclusion**

[730] In the overall conclusion on the s104D gateway test the Board found that, on balance, the Proposal is not contrary to the objectives and policies of the AUP:OP when viewed as a whole. While the Proposal is contrary to a small number of policies or sub-clauses of policies, the Board does not consider those individually or cumulatively as reason to conclude that the Proposal is repugnant to the policy direction of the AUP:OP with respect to the resource consents sought.

[731] This same balance is found in the overall s104(1)(b) assessment of the activities for which resource consent is sought. While there are aspects of inconsistency with the policy direction and the themes identified, with the modification of the headland features of Landforms 2 and 3, declining the sub-tidal dredging (with the exception of realigning the Anns Creek channel), and the imposition of appropriate conditions to avoid, remedy, mitigate and offset effects, the Board finds that the Proposal achieves a level of consistency with the planning framework commensurate with the overall benefits of the Proposal, including those afforded by offsets. The Proposal responds in a strong positive manner to transport (including freight, public transport, walking and cycling), economic, and stormwater provisions, and to the coastal provisions as they apply to the daylighting of the Ōtāhuhu Creek culvert. The Proposal meets the multitude of other provisions that relate to the management of earthworks, contaminated land, and air quality. With respect to those elements of the Proposal that are inconsistent or contrary to provisions, and without reading down the strong directive of avoidance policies, the Board finds that adverse effects have been avoided to the extent practicable in the context of the Proposal objectives and route, and residual effects (some of which are significant) will be mitigated or offset to the extent that the Proposal can be reasonably supported within the overall policy direction of the AUP:OP, ARP:C and NZCPS.

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<sup>433</sup> Ibid, para 8.7.

<sup>434</sup> Statement of Primary Evidence, Coombes, para 11.48.

<sup>435</sup> Joint Witness Statement, Planning, para 3.8.

## **14.5 SECTION 104(1)(C) ASSESSMENT OF OTHER RELEVANT MATTERS**

[732] Other relevant matters have been discussed in the earlier sections of this chapter and elsewhere in this Report, in particular in chapter 15.14 of this Report. No further commentary is required here and to do so would take up unnecessary space.

## **14.6 SECTION 105 CONCLUSION**

[733] The statutory matters relevant to consideration of certain applications under s105 of the RMA are set out in chapter 6.2 of this Report. They relate to discharge of contaminants into the environment and consideration of whether an esplanade reserve or esplanade strip is appropriate in relation to the proposed reclamation of the Māngere Inlet.

### **Discharge of contaminants into environment**

[734] Under s105(1), where the application is for a discharge permit or a coastal permit to do something that would otherwise contravene ss15 or 15B of the RMA, the Board must have regard to additional matters to those in s104(1), in particular in relation to the nature of the discharge and the receiving environment.

[735] The Board has considered these matters in the context of the discharge of contaminants required by the Proposal, in particular in relation to stormwater and leachate and dredging of the Māngere Inlet to relocate the Anns Creek channel. Six discharge permits that contravene s15 of the RMA are sought for the Proposal, which broadly relate to the following:

- (a) Discharge of contaminants into air or on to land or water;
- (b) Discharges of contaminants during construction;
- (c) Discharges to air; and
- (d) Discharges of stormwater from permanent impervious surfaces to land, freshwater, and coastal water including discharges involving a stormwater network.

[736] For the reasons given earlier on in this Report and in having regard to s105(1), the Board finds that:

- (a) The nature of the proposed discharge of water into water or water to land where it may enter water (including via the stormwater system), after any necessary treatment, is appropriate in the circumstances, and can be appropriately managed.

- (b) The nature of the proposed discharge of contaminants (namely cement material, dust, asbestos) is appropriate in the circumstances, and can be appropriately managed.
- (c) Appropriate alternatives for the discharges have been considered, and the Board is satisfied with NZTA's reasons for the proposed choices.

### **Esplanade reserve or esplanade strip**

[737] As the Proposal involves an application for resource consent for a reclamation, in addition to the matters in s104(1) of the RMA, the Board is required under s105(2) to consider whether an esplanade reserve or esplanade strip is appropriate and, if so, impose a condition under s108(2)(g) on the resource consent. For the reasons given earlier, the Board does not consider an esplanade reserve or esplanade strip condition is appropriate or necessary. The provision of this is also relevant in Policy F2.2.3(9) of the AUP:OP. The level of public access to be provided by the Proposal will achieve an outcome equivalent or better than that sought by Policy (9), which requires provision of an esplanade reserve or strip.

## **14.7 SECTION 107 CONCLUSION**

[738] Section 107 of the RMA prevents the Board from granting a discharge permit or a coastal permit that would otherwise contravene s15 or s15A of the RMA allowing certain effects.

[739] For the reasons given earlier in this Report, the Board is satisfied that, after reasonable mixing, any contaminant or water discharged (either by itself or in combination with the same, similar or other contaminants or water) is unlikely to give rise to all or any of the s107 effects, including the ultimate receiving waters, the Māngere Inlet (Manukau Harbour).

[740] In the event such effects do arise, the Board is satisfied that any such discharge is likely to be of a temporary nature (including during construction activities) or associated with any necessary maintenance work. Provided the consent conditions are appropriately met, consistency with the sustainable management purpose of the RMA should also be met.

## 14.8 FINDINGS ON MANA WHENUA PART 2 MATTERS

[741] Consistent with the Board's earlier comments, Part 2 (in particular ss6(e), 7(a) and 8) deals collectively with Māori considerations and their cultural and spiritual values. These require that the relationship of Māori with their culture and traditions, including ancestral lands and water, be recognised and provided for; particular regard be given to kaitiakitanga; and that the principles of the Treaty of Waitangi are taken into account in relation to managing the use, development and protection of natural and physical resources. Principles of the Treaty, of particular relevance, include rangatiratanga, partnership and good faith, mutual benefit, the active protection of Māori rights and interests and the Crown's ongoing obligation to provide redress.

### Section 6(e)

[742] The inherent historical, cultural and intergenerational relationship and connection that Mana Whenua have with their lands, waters and other taonga in this area was appropriately articulated by Mana Whenua through submissions, evidence and representations. It is grounded in whakapapa, tikanga and kinship with both rights and responsibilities to sustain, protect, manage and utilise those taonga for current and future generations.

[743] To that extent, the Manukau Harbour, including the Māngere Inlet, is a taonga. The mauri of the Manukau Harbour is another taonga and the significance of these water bodies has been acknowledged and recognised by the Waitangi Tribunal and this Board.<sup>436</sup>

[744] The Board is required to consider whether the Proposal recognises and provides for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, as a matter of national importance.

[745] The Board is cognisant of the divergence of world views of Mana Whenua and the way in which each iwi has conveyed to the Board what is important to them. Those

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<sup>436</sup> Waitangi Tribunal, *Manukau Report* (1985), at p.70 as noted in Mr Enright Opening Submissions, p.1; NZTA's CVR also records (p.5, para 5.6) that, "*The water bodies of the Manukau Harbour, including the Mangere Inlet, continue to hold considerable importance to Mana Whenua who regard them as taonga. As guardians, or kaitiaki of the Inlet and its surrounding environment, Mana Whenua have an obligation to protect and enhance its wellbeing for future generations.*"

matters must be weighed within the framework of the RMA and the Board must make findings in terms of evidence and the law.

- [746] The Board agrees with and accepts the view expressed by Mr Majurey that it does not follow that because one tribe has a history of occupation or settlement for Onehunga or use of the Manukau, that tribe has a stronger right in terms of the outcome than other iwi with legitimate connections and interests. Each iwi has the right to participate, the right to convey the information they wish, and the right to have the Board weigh those matters in making its decision.<sup>437</sup>
- [747] The stance taken by Ngāti Whātua Ōrākei and Te Kawerau ā Maki is one that this Board totally understands and sympathises with, but that is very different from saying that the interests of those two iwi should be given primacy. As Mr Enright accepts, in evaluating cultural effects (whether positive or negative), the Board must evaluate all of the relevant evidence, representations and submissions provided by iwi and hapū submitters and it is then a question of weight.<sup>438</sup>
- [748] Mr Enright points out that the evidence of Te Ākitai Waiohua, Ngāti Whātua Ōrākei and Te Kawerau ā Maki was presented to this Board and was tested by questioning and cross-examination. He notes that, to his knowledge, no other iwi or hapū submitters called evidence in support of their position, despite having had the opportunity to do so.<sup>439</sup> The Board acknowledges that while this is technically correct, that submission does not give appropriate recognition to the CVR filed by NZTA, the purpose of that CVR and the role the Mana Whenua Group had in developing and approving it.
- [749] The Board is clear that Te Ākitai Waiohua, while they consider there is the potential for effects on their cultural values and their sites of significance to be adverse, nevertheless concluded that those effects have been avoided, remedied or mitigated to the extent that they are now able to confirm the right balance has been struck and they will not oppose the EWL.
- [750] The Board accepts Mr Enright's submission that the evidence of Mr Blair and Mr Te Warena Taua confirmed the ahi kaa rohe and role of Ngāti Whātua Ōrākei and Te Kawerau ā Maki respectively. In terms of the extent to which the EWL will have an adverse effect on their cultural values, both Ngāti Whātua Ōrākei and Te Kawerau ā Maki have concluded that on the basis of their world view the effects of the application are significantly adverse.

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<sup>437</sup> Transcript, Majurey, p5895.

<sup>438</sup> Closing Statement, Enright, para 12.

<sup>439</sup> Ibid, para 14(a).



[751] In terms of whether or not those effects could be avoided, remedied or mitigated, both iwi were largely dependent on the evidence of Dr Patterson. Throughout the Hearing, Ngāti Whātua Ōrākei and Te Kawerau ā Maki have challenged the “claimed cultural benefits” of stormwater treatment of the Onehunga catchment and a leachate bund,<sup>440</sup> arguing that such “benefits” would themselves result in a suite of adverse impacts with a substantial and net loss to the mauri of the habitat for rare and threatened species and the mauri of the Manukau as a taonga and living entity.<sup>441</sup> The Board notes that Dr Patterson came to the final conclusion that Ngāti Whātua Ōrākei could not support reclamation for the purpose of a road, having weighed up the significant adverse effects on their cultural values and determined that they could not be avoided, remedied or mitigated. He nonetheless confirmed that he had not had an opportunity to review relevant background documents and evidence associated with the Proposal, except the archaeology evidence of Ms Eaves for Auckland Council.<sup>442</sup>

[752] Having considered both the technical and cultural evidence, an overall judgment must be made by the Board as to whether or not the mitigation proposed by NZTA is sufficient to mitigate the overall adverse effects on cultural values. The Board agrees with the collective views of the differing Mana Whenua iwi and the Mana Whenua Group that the benefits of the stormwater treatment and contamination containment bund together with the overall mitigation package and offsets are, on balance, sufficient to mitigate the significant adverse effects on Ngāti Whātua Ōrākei and Te Kawerau ā Maki.

[753] Furthermore, the full participation of Ngāti Whātua Ōrākei and Te Kawerau ā Maki in this Hearing has resulted in changes to conditions and recommendations by the Board about further changes to the final design and implementation of the Proposal such that that adds to the overall mitigation to be considered by the Board.<sup>443</sup>

[754] In relation to the Mana Whenua Tribes, it is clear from Mr Warren’s closing submissions that the Mana Whenua Tribes Agreement addresses the various issues raised by them.<sup>444</sup>

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<sup>440</sup> Closing Statement, Enright, Closing Submissions para 14(f).

<sup>441</sup> Ibid, para 14(f).

<sup>442</sup> Statement of Rebuttal Evidence, Dr Patterson, Fn.1. Also see Transcript, Patterson, p4278 and p4264.

<sup>443</sup> This refers to various changes the Board has made of its own volition to reflect cogent issues raised.

<sup>444</sup> Closing Statement, Warren, para 27.

## Section 7(a)

[755] Kaitiakitanga is defined in the RMA as guardianship and/or stewardship. It is acknowledged, however, that for Māori, kaitiakitanga means more than just mere guardianship. As stated in the Cultural Values Report:<sup>445</sup>

*“It is the intergenerational responsibility inherited at birth to care for the environment, which is passed down from generation to generation. Kaitiakitanga is the key means by which sustainability is achieved.*

*The purpose of kaitiakitanga is not only about protecting the life supporting capacity of resources, but of fulfilling spiritual and inherited responsibilities to the environment, maintaining mana over those resources and ensuring the welfare of the people those resources support.”*

[756] Ngāti Paoa describe kaitiakitanga as the responsibility of all the members of the iwi within its boundaries. They state that:<sup>446</sup>

*“Rangatira deal with rangatira on political and business matters at the strategic level, but kaitiaki must tend to kaitiakitanga matters daily. RMA issues are an ongoing battle with the preservation of what remains unchanged on the land and foreshore for centuries.*

*The exercise of kaitiaki and kaitiakitanga is status driven requiring ancestral authority, which is not transferable by any other processes than those which apply under Māori custom, tikanga Māori. This is strictly linked to Mana Whenua.”*

[757] Integral to their kaitiaki role, Mana Whenua recognised early on in the Project’s development opportunities to incorporate environmental improvements into the Proposal design to enhance the mauri of the Inlet for further generations.<sup>447</sup>

[758] The CVR recognises that the entire Proposal area has a mauri that binds the current generations through mana, tapu and whakapapa to the whenua. The landscape and cultural sites, all of which have links to tūpuna and kōrero tawhito, act as a repository for the whakapapa, mana, tikanga and traditions for current and future generations.<sup>448</sup> It acknowledges that, *“Every living thing is recognised as having value and as having a mana, wairua and mauri of its own”*.<sup>449</sup>

[759] Other initiatives to enhance the mauri of the Inlet include:<sup>450</sup>

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<sup>445</sup> NZTA, CVR, para 4.5-4.6.

<sup>446</sup> Submission 126522, Ngāti Paoa, p9.

<sup>447</sup> NZTA CVR, para 1.9.

<sup>448</sup> Ibid, para 4.3.

<sup>449</sup> Ibid, para 4.4.

<sup>450</sup> Ibid, para 1.13.

- (a) The development of a vision and strategy document focused on restoring the mauri of the Inlet. The document was created by Mana Whenua in partnership with central government, Auckland Council, Auckland Transport, KiwiRail and Watercare, the purpose of which is to present a shared vision, a set of values as well as desired outcomes to be achieved through current and future investments and activities in and around the Māngere Inlet.
- (b) Sediment controls and stormwater measures to prevent further pollution of the Inlet.
- (c) The development of an ongoing monitoring programme for the contamination containment bund (the bund) and stormwater outcomes for the wetlands, including the establishment of a monitoring liaison group.

[760] The CVR concludes that:<sup>451</sup>

*“Through regular and sustained engagement with the Project team, Mana Whenua have sought to turn their aspirations for the Inlet into a reality. In doing so, they have enabled the Project to achieve positive environmental and cultural outcomes that will work to enhance the mauri of the Inlet.”*

[761] A perusal of the minutes of meetings between NZTA representatives and the Mana Whenua Group<sup>452</sup> provides a real sense of the nature of that engagement and reflects the genuine effort and commitment on the part of those participants, representing both NZTA and the individual Mana Whenua iwi, to identify and address areas of concern. Those discussions also demonstrate the level to which the Mana Whenua Group has given very careful consideration, analysis and input into the entire Project design and development.

[762] What is also clear from the minutes is that for Mana Whenua, at the core of the evaluation of options and outcomes of the stormwater treatment was the “view from the Inlet” – the health of the Inlet and the harbour – and the importance of options that would maximise water quality outcomes for the harbour. It is noted that this needed to be balanced against the objective of seeking to minimise the extent of reclamations to the greatest extent practicable (with the outcomes in mind). Mana Whenua also emphasised the importance of innovation to achieve outcomes and the need to look for opportunities of continued improvement to the treatment of stormwater to remove suspended solids.

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<sup>451</sup> Ibid, para 1.14.

<sup>452</sup> Statement of Rebuttal Evidence, Linzey, Attachment B.

[763] The Board accepts Mr Mulligan’s submission that the extent of consultation and the input that Mana Whenua have had (and will continue to have) on the design of this Project and the agreements reached are telling in whether the requirements in Part 2 have been satisfied in terms of Mana Whenua values. It is clear that Mana Whenua have worked closely with NZTA through the Mana Whenua group to give real effect to their responsibilities as kaitiaki. In exercising their rights as kaitiaki to do so, Mana Whenua have been able to influence and guide the design and the development of this project to avoid key sites of significance to them, to remedy the effects not only of this Project but previous roading projects (for example, the removal of culverts at SH1) and to maximise every opportunity to mitigate and offset the effects on their cultural values in a manner envisaged by s7(a).

## Section 8

[764] In his opening submissions, Mr Enright submitted that two aspects of *King Salmon* are relevant: (a) constitutional importance of Treaty principles and s8 RMA; (b) consideration of alternatives in the public domain and coastal context. He further submitted that s8 RMA was identified by the Supreme Court majority as an exception to the primacy to be accorded to higher order planning documents, and that while s8 of the RMA had not been the subject of argument by EDS or other parties, the Supreme Court majority nevertheless noted its procedural and substantive importance. He quotes:<sup>453</sup>

*“Moreover, the obligation in s8 to have regard to the principles of the Treaty of Waitangi will have procedural as well as substantive implications which decision-makers must always have in mind, including when giving effect to the NZCPS ...”*

[765] Mr Enright submitted, and the Board agrees, that, *“This is highly persuasive [obiter]. Section 8 RMA is to be considered, even if ss5, 6 and 7 RMA are not”*.<sup>454</sup>

[766] A further point raised by Mr Enright and which the Board accepts is:<sup>455</sup>

*“To the extent that the Board applies Davidson to the resource consent applications, it must still apply s8 RMA under s104. Davidson is not authority in relation to s8 RMA, therefore the Supreme Court’s obiter is more persuasive. Treaty principles have macro-constitutional force. S8 RMA, and related Waitangi Tribunal jurisprudence, goes to recognition of historical associations of tangata whenua and active duty to protect taonga. It supports the principle of non-derogation from Treaty settlements as a relevant RMA consideration.”*

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<sup>453</sup> Opening Statement, Enright, paras 70-71, and referring to *King Salmon* at [88].

<sup>454</sup> Ibid, para 71.

<sup>455</sup> Ibid, para 74.

- [767] The Board has already recognised that the Treaty of Waitangi, the principles of which s8 stipulates people exercising functions and powers under the RMA must “take into account”, is clearly engaged. The Board has noted that the principles of the Treaty of particular relevance include rangatiratanga; partnership and good faith; mutual benefit; the active protection of Māori rights and interests and the Crown’s ongoing obligation to provide redress.
- [768] In giving consideration to the Collective Redress Deed, the Board recognised that the issue of cultural redress in respect of the Manukau Harbour is still at large, with the breaches identified by the Tribunal in 1985 yet to be settled.
- [769] In terms of the MACA, the Board has looked at potential issues that arise under MACA and considered and weighed, in relation to Mana Whenua claims and interests, the possibility, albeit remote, of s58 claims being affected by the Proposal.
- [770] The Board agrees with the submissions of Mr Mulligan that under s8 RMA, a consent authority must, when dealing with a resource of known or likely value to Māori, enable active participation in the consultative process by Māori.<sup>456</sup> The Board reiterates its finding that the consultation and engagement processes with Mana Whenua has been extensive and meaningful, enabling NZTA to understand Mana Whenua concerns and resulting in cultural values having a genuine influence in decision-making, particularly regarding design and development.
- [771] The Board has already accepted that the engagement with Mana Whenua reflects the principles of Te Tiriti o Waitangi in that, based on the principle of partnership, NZTA, as a Crown agency, entered into a dialogue with Mana Whenua at an early stage, actively recognising the relationship Mana Whenua have with the Proposal area, and the importance of engaging purposefully and meaningfully with them.<sup>457</sup>
- [772] The Board has acknowledged the importance of Mana Whenua kaitiaki being “at the table” with a real ability to have input into and influence the final design as it evolved.<sup>458</sup> For the most part, Mana Whenua consider the process of engagement, discussed earlier in this Report,<sup>459</sup> to have been exemplary, particularly from a kaitiaki perspective. That engagement was undertaken in a timely manner, in good

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<sup>456</sup> Closing Statement, Mulligan, para 8.31(d).

<sup>457</sup> Paras [409] an [410].

<sup>458</sup> Para [383].

<sup>459</sup> This Report, chapter [13.3].

faith with a genuine intent on behalf of NZTA to work in partnership with Mana Whenua, enabling NZTA to understand Mana Whenua concerns and incorporate those concerns into design and decision-making processes.<sup>460</sup>

[773] Consistent with the NZCPS, under Policy 2 the Board accepts that in taking account of the principles of the Treaty of Waitangi, NZTA have incorporated mātauranga Māori (Policy 2(c)) through the consultation and engagement process, recognising the importance of culturally significant sites such as (but not limited to) Mutukāroa, Te Tō Waka and Te Apunga o Tainui. They have clearly provided opportunities for Māori involvement in decision-making (Policy 2(d)) and, as set out later in this Report,<sup>461</sup> NZTA has taken into account relevant iwi resource management plans. The Board accepts that each of these requirements has been met as part of the consultation and engagement process that occurred.

[774] NZTA has sought to actively protect the rights and interests of Māori and to acknowledge the Crown's ongoing obligation to provide redress. In recognising the Manukau Harbour as a taonga, NZTA has worked to establish a relationship based on mutual respect, focusing on the long-term benefits and mutually beneficial opportunities of the Proposal.<sup>462</sup>

[775] While the Agreement between NZTA and the Mana Whenua Tribes (which Mr Warren submits is legally binding)<sup>463</sup> is not in evidence before the Board, the merits of which it is unable to inquire into, the extent to which those iwi who are parties to it are satisfied that it addresses their individual and collective concerns to the point that none of them oppose the Proposal (with some indicating their clear support) is certainly relevant to any Part 2 assessment.

[776] Mana Whenua Tribes have come to the view that they will not oppose, and in some cases support, the Project, having made a decision as to where the balance lies for them in the context of their previous discussions with NZTA, the conditions that have been agreed to and the opportunities to restore the mauri or health of the Manukau through this Project and adding to that the suite of agreed terms for ownership, governance and management. That is relevant to s8 in the way it reflects Treaty of Waitangi considerations ranging from the exercise of tino

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<sup>460</sup> Para [386].

<sup>461</sup> Chapter [15.14].

<sup>462</sup> Mulligan submissions, para 8.34(b).

<sup>463</sup> Warren, p.3, para 10.

rangatiratanga of those tribes in terms of Article 2 through to the active protection of taonga. As Mr Warren commented in his response to questions from the Board, the Mana Whenua Tribes are satisfied that, at this point in time, their taonga will be protected and that they will be at the table to ensure that that happens.<sup>464</sup> He states,<sup>465</sup> *“That is the key distinction and opportunity that has presented itself to the Mana Whenua Tribes, which wasn’t really on the agenda 30 years ago when the Tribunal made its report”*.

[777] The cultural landscape, the relevant provisions of Part 2 of the RMA and the diverse and differing Mana Whenua stances, submissions and evidence are all matters the Board must weigh when considering NZTA’s designations and various applications. Mr Warren submitted that the Board must give weight to the fact that the Mana Whenua Tribes have had a certain position throughout this Proposal and the Hearing, and have confirmed that they now support the EWL and the consents being granted, with the exception of Te Ākitai Waiohua which do not oppose it.

[778] Equally, the Board must give weight to the evidence that those tribes that remain in opposition have a different view of where the Board should sit in interpreting kaitiakitanga and their ability to exercise it, or the extent to which recommending approval might frustrate that ability.

[779] Overall, in the context of the above discussion, the Board finds that, consistent with the overall judgment, the Proposal will enable people and communities to provide for their social, cultural and economic wellbeing (or at least contribute to that effect). Despite the potential adverse effects of the Proposal on the coastal environment, and Te Hōpua a Rangi in particular, this can be achieved while avoiding, remedying or mitigating the Proposal’s adverse effects as required under s5(2)(c).

## **Conclusion**

[780] The Board considers that NZTA has conscientiously and carefully given tangible recognition to the divergent world views and values of Mana Whenua in a manner contemplated by ss6(e), 7(a) and 8 of the RMA. The conditions attached to the NoRs and associated consents will ensure such effects can be sufficiently mitigated to a level where the Proposal can be considered to fall within the ambit of “sustainable management of natural and physical resources”.

[781] The Board therefore finds, given the conclusions reached here and in chapters throughout this Report, that in all the circumstances applying to these NoRs and

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<sup>464</sup> Transcript, Warren, p6320.

<sup>465</sup> Ibid, p6320.

associated consents the Proposal is consistent with the relevant provisions of Part 2 of the RMA.



# 15. NOTICES OF REQUIREMENT

## 15.1 INTRODUCTION

[782] Section 168(2) of the RMA provides that a “requiring authority” may give notice of a requirement (NoR) for a designation.

[783] NZTA is an approved Requiring Authority pursuant to s167(3) of the RMA for the purposes of:<sup>466</sup>

*“... the construction and operation (including maintenance, improvement, enhancement, expansion, realignment and alteration) of any State Highway pursuant to the Transit New Zealand Act 1989<sup>467</sup> and “constructing or operating (or proposing to construct or operate) and maintaining cycleways and shared paths in New Zealand pursuant to the Government Roding Powers Act 1989 and the Land Transport Management Act 2003.”*

[784] The statutory definition of State highway<sup>468</sup> means:

*“a road, whether or not constructed or vested in the Crown, that is declared to be a State highway under section 11 of the National Roads Act 1953, section 60 of the Government Roding Powers Act 1989 (formerly known as the Transit New Zealand Act 1989), or under section 103; and includes—*

*(a) all land along or contiguous with its route that is the road; and*

*(b) any part of an intersection that is within the route of the State highway; and*

*(c) ...*

*(d) land that becomes a State highway under section 88(2) of the Government Roding Powers Act 1989.”*

[785] NZTA has given notice of two NoRs for the EWL as follows:

NSP38/001	NoR 1	The construction, operation and maintenance of a State highway, being the East West Link between Onehunga and Ōtāhuhu, and associated works
NSP38/002	NoR 2	The alteration of State Highway 1 (SH1) designation 6718 for maintenance, operation, use and improvement of the State Highway network. The alterations are associated with the proposed East West Link Project between Onehunga and Ōtāhuhu, and associated works.

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<sup>466</sup> Gazette Notice No 2015-go6742 (19 November 2015).

<sup>467</sup> Gazette Notice No 1994-go1500, page 978 (3 March 1994). NZTA has assumed the powers and functions of the former Crown Entity, Transit New Zealand, in this respect.

<sup>468</sup> Land Transport Management Act 2003. Refer section 5 Interpretation.

[786] The detailed scope of these NoRs as originally submitted is set out in the designation plans AEE-NoR-101 Sheets 01 to 14 (inclusive) dated 14 December 2016 and AEE-NoR-200 Sheets 1 to 4 (inclusive) dated 14 December 2016 and associated Property Schedules defining affected land parcels.

[787] During the course of the Hearing NZTA amended the scope of the NoRs, with the final scope of the designations being shown on drawings and associated schedules defining the specific properties affected:

<b>Notice of Requirement</b>	<b>Drawings</b>	<b>Schedules</b>
NoR 1	AEE-NoR-100 sheets 01 to 14 (inclusive) dated 8 September 2017.	Property Schedule for proposed designation NoR 1 (13 September 2017).
NoR 2	AEE-NoR-200 sheets 1 to 4 (dated 8 September 2017).	Property Schedule for proposed designation alteration (NoR 1) (13 September 2017).

[788] These amended designations are those that have been considered by the Board in this Report.

### **Jurisdiction**

[789] The Board's jurisdiction in relation to the NoRs is set out in s171(1) of the RMA as mentioned earlier in chapter 6.1 of this Report.

### **Sectors**

[790] For the purposes of the application, NZTA has divided the NoRs into six sectors described as follows:

- (a) Sector 1 – Neilson Street Interchange and surrounding local road works;
- (b) Sector 2 – Embankment and other coastal works from the Neilson Street Interchange to Anns Creek;
- (c) Sector 3 – Anns Creek to Great South Road / Sylvia Park Road Intersection;
- (d) Sector 4 – Sylvia Park Road and State Highway 1 Ramps;
- (e) Sector 5 – State Highway 1 – end of Sylvia Park ramps to Princes Street Interchange; and
- (f) Sector 6 – Local Roads (Alfred Street, Captain Springs Road and Port Link Road).

(g) Sector 5 is covered by NoR 2 with all other sectors covered by NoR 1.

[791] The six sectors are shown below in Figure 4.

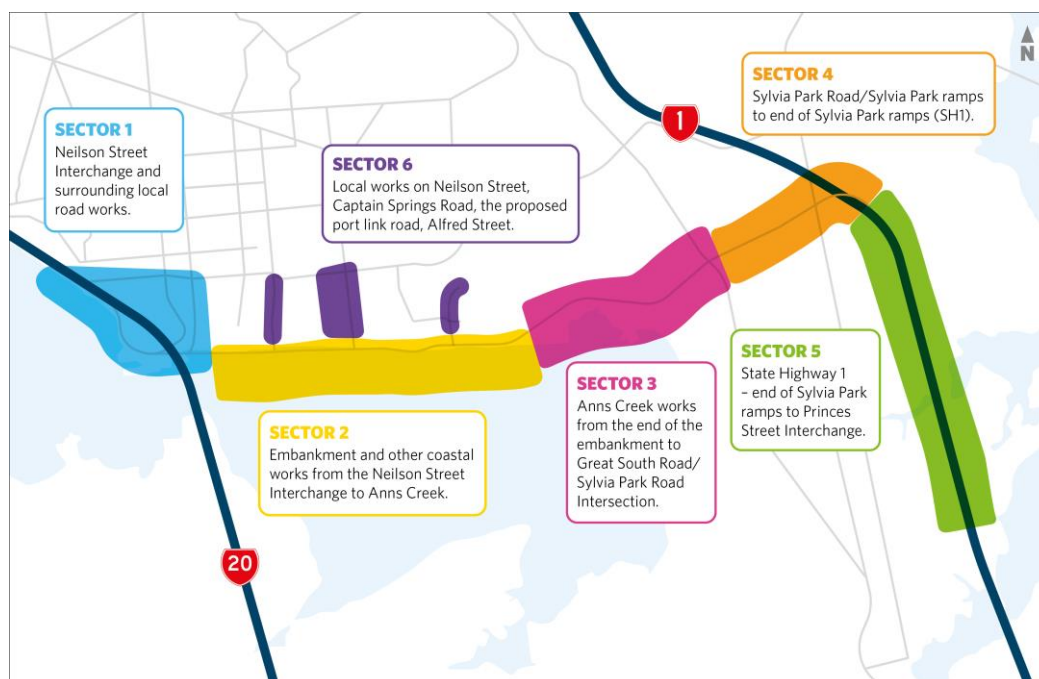


Figure 4: Sector map of the EWL (from page 59 of the AEE).

[792] In having regard to the effects of the Proposal, the Board has found it helpful to adopt the same sector approach in this Report. Two exceptions are walking and cycling effects and construction effects, which are considered across all six sectors.

### Designation Roll Back

[793] In its closing submissions to the Board, NZTA tabled an updated set of conditions *Amended Draft Designation and Resource Consent Conditions (September 2017 – Revision 4)* for the Board’s consideration.<sup>469</sup> Draft Condition DC.5 proposes that after practical completion of construction NZTA will review the extent of the area designated under the two NoRs in consultation with the relevant land owners to identify land no longer necessary for ongoing operation, maintenance or mitigation of effects of the Proposal. NZTA proposes to remove the designation over such land pursuant to s182 of the RMA. This has been referred to in the Hearing as “rolling back the designations”.

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<sup>469</sup> At the Board’s request during closing submissions minor amendments were made.

[794] The Board is supportive of this proposed condition because land that is no longer required for the EWL should not be subject to a designation and land owners should be permitted to utilise such land for legitimate purposes.

### **Alternative Routes**

[795] Section 171(1) (b) of the RMA requires the Board to have particular regard to whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if (i) the Requiring Authority does not have an interest in the land sufficient for undertaking the work; or (ii) it is likely that the work will have a significant adverse effect on the environment. There is no dispute that NZTA does not own all the land in respect of which the designations are sought and there is no dispute that the Proposal will result in significant adverse effects. Hence the Board must be satisfied that NZTA has given adequate consideration to alternative routes.

[796] The process used by NZTA for identifying and evaluating corridor and alignment alternatives using MCA methodology has been described elsewhere in chapter 15.12 of this Report. A “Long List” comprising 16 corridor options was identified and evaluated using the MCA methodology. Ms Linzey gave evidence<sup>470</sup> about the process of engagement with stakeholders during the development of the Proposal and consideration of alternative routes.

[797] From the Long List of 16 corridor options, six options,<sup>471</sup> shown in the following table, were selected to be progressed to the next stage of the MCA, alignment evaluation.

<b>OPTION</b>	<b>OUTLINE DESCRIPTION OF OPTION</b>	<b>OPTION NO.</b>
1	Existing route upgrade with freight lanes	A
2	Existing route upgrade with new SH1 ramps at the South Eastern Arterial / SH1 interchange	B
5	Galway Street link to SH20 with new inland route to new SH1 ramps at Mt Wellington	C
8	Galway Street link to new SH20 Interchange with new inland route to new SH1 ramps at Mt Wellington	D
13	New SH20 Interchange with new foreshore route to new SH1 ramps near Panama Road	E

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<sup>470</sup> Statement of Primary Evidence, Linzey, 12 April 2017.

<sup>471</sup> AEE, Part D, p120, Table 8-2: Short listed options.

14	New SH20 Interchange with new foreshore route to new SH1 ramps at Mt Wellington	F
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[798] The third step in the assessment of alternatives was a full MCA of the six shortlisted options (A – F) using the same criteria and 11-point scoring method used in the Long List. Consistent with the Long List, assessment scores were assigned to each individual criterion and then an overall score for a key result area / group of criteria was assigned.<sup>472</sup> Consultation was undertaken with the public and key stakeholders on the Short List Options. The responses received during that consultation related to:

- (a) Transport performance including traffic volumes and congestion, providing for freight, multi-modal and public transport, rail and general transport performance;
- (b) Support for walking and cycling;
- (c) Affordability and cost of options including the importance of value for money;
- (d) Concern for loss of residential and business land;
- (e) Community concerns over severance with the Neilson Street upgrade options and severance from the foreshore with the foreshore options;
- (f) Protection of environmental features including Gloucester Park, Te Hōpua a Rangi, Anns Creek and Mutukāroa-Hamlins Hill;
- (g) Enabling the safe and efficient movement of freight; and
- (h) Business disruption during construction.

[799] Ultimately, the preferred option was a modified version of Option F described as, “A new connection from SH20 to SH1”.<sup>473</sup> The advantages of this option were described as follows:

- (a) Superior transport performance and delivered the most enduring benefits, especially compared to upgrading parts of Neilson Street.

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<sup>472</sup> Assessment of Environmental Effects, December 2016, Appendix G Summary of Short List Options and Appendix H Short List Individual Option Assessment and Technical Report 1: *Supporting Material for the Consideration of Alternatives*.

<sup>473</sup> Technical Report 1 *Supporting Material for Consideration of Alternatives, December 2016*.

- (b) By having the most enduring transport benefits it would maximise return on investment and remove or delay the need for further investment in the area.
- (c) It best delivered the Proposal objectives of improved connectivity, travel times and reliability (including travel time savings of four to seven minutes depending on route), and greater resilience along the Neilson / Church corridor (via removal of up to 10,000 vehicles per day).
- (d) Did not involve any substantial acquisition of residential or any business land along Neilson Street but did involve land requirement around the inland port and around Miami Parade.
- (e) The balancing of environmental, cultural and land use impacts, and the mitigation and off-set of environmental effects has been discussed in detail elsewhere in this Report.

[800] A central component of NZTA's reasoning for accepting a foreshore alignment with the associated reclamation was that it would provide an "enduring transport solution". Mr A Murray defined this as:<sup>474</sup>

*"This concept of an enduring benefit is particularly important and can be easily overlooked. Enduring benefits are those that last for a number of years, typically into the medium term (10 - 20 years) rather than the short term (5 years). If a benefit is enduring then it means that future intervention or investment to solve the relevant problem can be delayed. Conversely if a benefit is not enduring it means that the problem will return in a shorter time frame. This has direct implications for how efficient and cost effective a solution is and to how well it meets the Proposal objectives."*

[801] Some submitters raised the impacts of the NoR and designation in Sector 1,<sup>475</sup> and some suggested other alternative routes or options for the Board's consideration.<sup>476</sup>

[802] The Onehunga Business Association (OBA) developed an outline of a further alternative which was adapted by NZTA's consultants for evaluation using the MCA.

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<sup>474</sup> Statement of Primary Evidence, A Murray, para 6.10

<sup>475</sup> Ngāti Whātua Orākei & Te Kawerau ā Maki, The Onehunga Enhancement Society Inc (TOES), The Rethink the East-West Link Society Inc, The Manukau Harbour Restoration Society Inc, The Local Lockup, Jackson Electrical Industries.

<sup>476</sup> Statement of Primary Evidence, Hoheisel, 20 May 2017, section 7; Representation, Hill, 4 September 2017. Representation, de Haan, 4 September 2017.

OBA was critical of various aspects of this adaption by NZTA, asserting that it resulted in an unfavourable conclusion of the MCA evaluation of its option.<sup>477</sup>

[803] Following a direction from the Board, Ms Linzey described the changes made to the OBA option by NZTA, the engagement with OBA concerning those and the evaluation of the option.<sup>478</sup> She considered that the OBA design was adequately assessed<sup>479</sup> by NZTA and independently peer reviewed by Mr Bauld who had consulted with Ms Kinzett of OBA and Mr Jackson on behalf of TOES and Others.<sup>480</sup> Ms Linzey also referred to Mr Hoheisel's *Community Plan* provided in his evidence.

[804] Under s171(1)(b) it is not within the Board's jurisdiction to determine if the best route has been selected or to propose an alternative route, although in this case the Board has extended its consideration to whether there is a practicable alternative.<sup>481</sup> Under s171(1)(b), the Board is required to determine if a robust process was used by NZTA to select the route. On the basis of the evidence outlining the process of identifying corridor and alignment options and the application of the MCA methodology, the Board is satisfied that NZTA engaged in a robust, replicable process of identifying and evaluating options and selecting a preferred option. It is apparent from the assessment of competing options that a route or corridor south of Neilson Street would best serve the many industries and sites currently accessed by vehicles using Neilson Street.<sup>482</sup> The options south of Neilson Street (Options E and F) were clearly constrained by Neilson Street itself and the Inlet foreshore. Obviously selection of either of these two options would involve reclamation. This would give rise to complex issues under the RMA. The Board notes the evidence of Ms Linzey that Option E has the poorest overall performance from an environmental and social / community effects perspective and has notable impacts on residential property.<sup>483</sup> The Board notes that Option E extended directly across business and residential properties between the Māngere Inlet and SH1, rather than the proposed route that crosses Anns Creek East and follows Sylvia Park Road. It is clear from the evidence that a major reason for

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<sup>477</sup> Statement of Primary Evidence, Kinzett, 22 May 2017, para 15; Statement of Primary Evidence, Hoheisel, sections 5 & 6; Closing Statement, Gibson, para 11.

<sup>478</sup> Statement of Supplementary Evidence, Linzey.

<sup>479</sup> Statement of Rebuttal Evidence, Linzey, para 7.1.

<sup>480</sup> Statement of Primary Evidence, Christopher Bauld, para 8.1 to 8.3 and 10.

<sup>481</sup> Chapter [15.12] of this Report.

<sup>482</sup> Statement of Primary Evidence, A Murray, para 1.6-1.7.

<sup>483</sup> Statement of Primary Evidence, Linzey, p34.

NZTA's selection of the modified Option F was its conclusion that this option provides the most enduring transport benefit<sup>484</sup> while minimising, to the extent practicable, adverse effects of the Proposal.

### **Interface between the PWA and the RMA**

[805] The interface between the PWA and the RMA was an issue throughout the Hearing. NZTA and other Parties addressed the point at which RMA considerations of adverse effects, and the need to avoid, remedy or mitigate such effects, ends and PWA processes commence.

[806] Mr Allan observed that:<sup>485</sup>

*"The PWA compensation process is consequential upon the RMA assessment but neither informs nor determines it. It is not a matter that justifies NZTA disregarding or failing to mitigate adverse effects on properties that will be generated by its proposal."*

[807] The Board notes there is nothing in the RMA to suggest that any particular type of environmental effects should be excluded from consideration under s171. Ms Carruthers submitted that the Board must first understand the effects before deciding whether the adverse effects are such that they should be avoided, remedied or mitigated by design and works, or whether unmitigable effects remain that must be addressed via compensation under the PWA.<sup>486</sup>

[808] The Board agrees with NZTA's submission that the effects of the Proposal on business operations are a relevant consideration in the RMA context and accepts that where possible those effects should be avoided, remedied or mitigated through design and the works. The Board is satisfied that NZTA has assessed those effects and addressed them accordingly, to the extent that it can at this time, through design and conditions. Equally, NZTA has identified properties that would be subject to effects that cannot be mitigated and would be addressed through the PWA. The detail of such PWA compensation has not been presented to the Board and it is not within the Board's jurisdiction.

[809] The Board considers that those effects, particularly where they relate to reductions or loss of land, are an unavoidable consequence of the scope of works envisaged

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<sup>484</sup> Statement of Primary Evidence, Linzey, p37; Statement of Primary Evidence, A Murray, para 6.22.

<sup>485</sup> Closing Statement – Syl Park, Allan, para 5(d).

<sup>486</sup> Opening Statement – T&G, Carruthers, para 4.13.



under the NoRs. The purpose of the PWA is to provide a financial remedy to such effects. In this context, as Mr Mulligan submits, it is relevant to take into account the fact that where business land is compulsorily acquired under the PWA or injurious affection is suffered as a result of the acquisition, compensation will be available through the PWA.<sup>487</sup>

[810] Mr Mulligan stated:<sup>488</sup>

*“It would be artificial to consider business effects (and the means proposed to avoid, remedy or mitigate them) without also taking into account the future payment by the Transport Agency to business land owners of full compensation for related effects under the PWA.”*

[811] NZTA’s submissions provide a helpful summary of relevant authorities<sup>489</sup> and conclude that, consistent with the authorities cited therein, *“The legal certainty of compensation under the PWA should be afforded considerable weight by the Board in its overall assessment”*.<sup>490</sup>

[812] The Board considers that the impacts on those affected properties have been adequately considered and, consistent with its earlier findings, alternative sites, routes or methods have been assessed as required by s171. The Board is satisfied that the approach promoted by Ms Carruthers and Mr Allan in particular has been adopted.

## **15.2 SECTOR 1 – NEILSON STREET INTERCHANGE**

[813] The western limit of the EWL is its junction with Orpheus Drive at Onehunga. The NoR for Sector 1 provides for this through a complex interchange with connections to Neilson Street, Onehunga Harbour Road, Galway Street, utilising a range of ramps under and over SH20 and a connection to Onehunga Wharf via a “land bridge”. Part of Onehunga Wharf is included within the extent of the NoR. This sector terminates east of the Galway Street intersection at approximate chainage 1200. The proposed functionality of this interchange is well described in the evidence of Mr Nancekivell.<sup>491</sup> This is the most complex interchange on the EWL.

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<sup>487</sup> Closing Statement, Mulligan, para 19.4.

<sup>488</sup> Ibid, para 19.5.

<sup>489</sup> Ibid, paras 19.6-19.11.

<sup>490</sup> Ibid, para 19.12.

<sup>491</sup> Statement of Primary Evidence, Nancekivell, para 10.2 to 10.11.

[814] The Onehunga area contains several major Transpower assets that significantly impact on the visual environment between Queenstown Road and Onehunga Harbour Road / Galway Street.

[815] These are:

- (a) The Henderson-Ōtāhuhu A (HEN-OTA A) 220 kV overhead line on towers;
- (b) Penrose-Mt Roskill A (PEN-ROS A) 110 kV overhead line on towers; and
- (c) Māngere-Mt Roskill A (MNG-ROS A) 110 kV overhead line on towers.

[816] The following features are affected by the area of the NoR in this sector:

- (a) Te Hōpua a Rangi volcanic tuff crater and Gloucester Park;
- (b) Coastal walkway and cycleway from Onehunga Wharf to Taumanu Reserve;
- (c) Onehunga Wharf;
- (d) Aotea Sea Scouts building with the adjacent Transpower's transmission Tower 33;
- (e) Local business interests – Jackson Electrical Industries, The Local Lockup with the adjacent Transpower's transmission Tower 31 and The Landing Tavern; and
- (f) Local residents – Onehunga Mall and Onehunga Harbour Road.

#### **Adverse Effects on Te Hōpua a Rangi and Gloucester Park:**

[817] Te Hōpua a Rangi is small volcanic tuff crater (500 m diameter) that has been bisected by the construction of State Highway 20 in the 1970s. At one time the crater was a tidal lagoon with direct access to the Manukau Harbour and used by Māori and European settlers as a safe landing place. The lagoon was filled with refuse and other waste material in the 1930s and 1940s and currently the crater floor forms what is now known as Gloucester Park.<sup>492</sup> Te Hōpua a Rangi is mapped as an ONF in the AUP.<sup>493</sup> The area mapped as the ONF largely comprises the flat area of the crater floor either side of SH20 and a small coastal strip on the seaward

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<sup>492</sup> *Assessment of Effects on the Environment*, Part G, December 2016, para 12.8.3.1.

<sup>493</sup> Auckland Unitary Plan, Schedule 6, ONF 46.

side of Onehunga Harbour Road. The area mapped as the ONF does not coincide the total or actual physical area of Te Hōpua a Rangi as it exists today.

[818] Gloucester Reserve is commonly known as Gloucester Park North and South. The parks are located on the northern and southern sides of SH20 and within the Te Hōpua a Rangi tuff ring. Gloucester Park North contains a sports training field and peripheral trees and vegetation. Access to a car park area is via Onehunga Mall on the eastern side. Gloucester Park South contains a saltmarsh wetland in the centre surrounded by grassed areas and groups of trees and vegetation.

[819] The AEE<sup>494</sup> has identified the effects on Te Hōpua a Rangi as follows:

*“The Project works in proximity to Te Hōpua a Rangi include minor earthworks on the western and south western edge, the establishment of an embankment on the north western edge and minor excavation on the southern margin of the tuff ring on the eastern side of The Landing. The tuff ring has been extensively modified, and the majority of the works will be on the already breached southern side or will not directly impact the tuff ring. The works will have a minor effect on the form of the outer slopes of the tuff ring.*

*The proposed works for the northbound off-ramp of SH20 will involve earthworks following the line of the existing off-ramp and across land that is filled and so will have no impact on the form of the tuff ring.*

*Along the southern extent of the tuff ring, a cut trench will excavate landfill material and below sea level will encounter tuff deposits. This area has been extensively excavated by current developments. The tuff deposits are located below sea level and earthworks in this location will have no impact on the form of the tuff ring.”*

[820] The Board accepts that the design has strived to avoid, to the extent practicable, impacts on the physical qualities of Te Hōpua a Rangi.<sup>495</sup> The Board notes Ms Linzey’s explanation that the corridor and alignment option assessment specifically considered potential impacts on culturally significant sites, including Te Hōpua a Rangi, and sought, where practicable, to avoid impacts on these sites.<sup>496</sup> As Mr Mulligan states:

*“The current alignment option was developed after three earlier design options were presented to iwi, who raised concerns about these options in terms of impacts on Te Hōpua a Rangi. This led to a subsequent design being developed (Option 4), which was presented to Mana Whenua for feedback.<sup>166</sup> Mana Whenua identified that all options impact values, but*

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<sup>494</sup> Assessment of Effects on the Environment, December 2016, page 280.

<sup>495</sup> Closing Statement, Mulligan, p27.

<sup>496</sup> Statement of Primary Evidence, Linzey – Cultural Values Assessment Engagement, para 9.5.

*that their preference was for Option 4 in order to minimise impacts on Te Hōpua a Rangī“.*

[821] Professor Smith noted in his evidence<sup>497</sup> the extensive modifications to the original tuff ring, noting that it currently “*represents relatively low value as a volcanic feature ...*”<sup>498</sup> He summarised his opinion of the effects of the EWL on Te Hōpua a Rangī as follows:

*“Along the southern margin of Te Hōpua a Rangī tuff ring a cut trench will excavate land fill material, minor tuff deposits from Te Hōpua a Rangī and underlying sediments. This is an area that has already been extensively modified by earlier development of motels, hotels and Onehunga Port. The upper part of the cut trench will encounter land fill material and the lower part is likely to encounter deposits of volcanic material. The tuff deposits that will be intersected in this trench lie below current sea level and are beyond the mapped extent of the ONF. The excavation will not affect the existing form of Te Hōpua a Rangī. Although there will be an effect below sea level, there will be no impact on the values that I have described above. The proposed excavation on the southwestern margin of Te Hōpua a Rangī tuff cone will involve the deposits of the cone that are currently below sea level. As such the excavation will not affect the present form of the cone. The excavation will provide an unrivalled opportunity (albeit transitory) for scientific investigation of the eruption styles of a small Auckland volcano.*

*8.3 The Project will only have negligible impact on the existing vulcanological characteristics and qualities that contribute to the values of the Te Hōpua a Rangī Tuff Cone.”*<sup>499</sup>

[822] Mr Jamieson on behalf of Auckland Council did not disagree with Professor Smith’s conclusions noting that:<sup>500</sup>

*“It has the potential to result in more than minor adverse effects on the geological values of the crater landform. I consider that if the management measures outlined in ... this evidence are implemented to avoid, remedy or mitigate these adverse effects, the overall effect of the proposal on this ONF will be no more than minor.”*

[823] Mr Lister, on behalf of NZTA, noted in his evidence<sup>501</sup> adverse effects on the physical form, aesthetic values and legibility of Te Hōpua a Rangī. He recommended a commissioned artwork encircling the crater to highlight its circular form and presence by way of:<sup>502</sup>

*“... a realistic way of highlighting the landform given its subdued topography, and given the scale of existing urban development around and across the crater. Such an artwork would be conceived by the artist but, by way of*

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<sup>497</sup> Statement of Primary Evidence, Ian Smith, 12 April 2017, para 7.5.

<sup>498</sup> Ibid, para 7.14.

<sup>499</sup> Ibid, paras 8.2 and 8.3.

<sup>500</sup> Statement of Primary Evidence, Jamieson, 10 May 2017, para 8.3.

<sup>501</sup> Statement of Primary Evidence, Lister, 12 April 2017, paras 8.2, & 8.4.

<sup>502</sup> Ibid, para 8.8.

*example, it might comprise a circle of light. Such an artwork could enhance the legibility of the crater compared to the existing situation, re-establish Te Hōpua a Rangi as a landmark, and contribute to its aesthetic value. It would outweigh the adverse effects of the Project.”*

[824] Mr Blair, on behalf of Ngāti Whātua Ōrākei and Te Kawerau ā Maki, gave evidence that the NoR has great impact on the physical and cultural integrity of Te Hōpua a Rangi and rejected the proposed corridor and the suggestion of proposed artwork as meaningful mitigation.<sup>503</sup> He did not, however, suggest that there be any specific recognition.

[825] Dr Patterson gave evidence on behalf of Ngāti Whātua Ōrākei concerning the spiritual or metaphysical effects arising from excavating Te Hōpua a Rangi:<sup>504</sup>

*“My view is that it’s reached a point now where further physical destruction and masking of that feature, that landscape, comes to a tipping point where the impacts really can only be seen as negative on it. Aside from its destruction, degradation and the reduction then of the legibility of that natural and cultural landscape, there is a significant risk there, and immediately to its north where the kāinga site was, of disturbing ancestral material...”*

*It fails that litmus test. It pushes more into the use, especially for more commercial reasons perhaps, than it supports the kaitiakitanga the respect of that environment, the respecting of the atua in our ancestral landscape.”*

[826] Dr Patterson conceded that the landform of Te Hōpua a Rangi had been subject to extensive modification over time.

[827] While expert witnesses agreed that the proposed earthworks on the crater floor and in the trench will have minimal adverse effects on Te Hōpua a Rangi,<sup>505</sup> the Proposal will nevertheless have further impacts on the cultural values associated with the site.<sup>506</sup> Mr Enright submitted that the mauri of Te Hōpua a Rangi is adversely affected by proposed excavation works; prior damage does not justify further adverse impacts.<sup>507</sup> The Board has no problem finding that there are high Māori cultural associations with Te Hōpua a Rangi independently of the scheduled values listed by the AUP:OP.

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<sup>503</sup> Statement of Primary Evidence, Blair, 22 May 2017, para 47.

<sup>504</sup> Transcript, Patterson, 17 August 2017, pages 4261 to 4263.

<sup>505</sup> NZTA Closing Submissions, para 8.27.

<sup>506</sup> Enright, Opening Submissions, para 83.

<sup>507</sup> Enright, Closing Submissions, para 14(h).

[828] Turning now to Gloucester Reserve, Ms Hannan gave evidence for Auckland Council on the effects of NoR1.<sup>508</sup> These included further restriction of access, severance effects and potential removal of a number of mature trees. She sought that the NoR be amended to maximise the area for active sport, practical measures to retain mature trees and access improvements.

[829] Mr Mead for TOES and Others had concerns about the adverse visual effects in relation to Te Hōpua a Rangī and considered that there was inadequate mitigation proposed by NZTA.<sup>509</sup> The mitigation package sought by TOES and Others includes the undergrounding of the MNG-ROS A 110 kV overhead transmission line as an additional form of mitigation to address what they considered to be significant severance and other effects that the Proposal would have on the Onehunga community. This matter was explored through questioning and cross-examination of Mr Noble of Transpower,<sup>510</sup> who gave evidence of the substantial costs involved in undergrounding the high tension transmission lines and Transpower's current review of its transmission assets throughout Auckland.<sup>511</sup> In his closing Mr Mulligan opposed any such mitigation.<sup>512</sup> The Board accepts Mr Noble's evidence that Transpower is reviewing transmission activities throughout Onehunga and it would be premature to impose such a requirement on the Proposal, nor does the Board consider there to be sufficient nexus between the effects of the Proposal and the undergrounding of the line to justify requiring it to occur. Thus, it is not within the Board's jurisdiction and unrelated to the adverse effects on Te Hōpua a Rangī of the EWL. Nonetheless the Board has much sympathy with the longstanding desire of the Onehunga community to underground the unsightly transmission lines running both onshore and offshore in this location. Hopefully the condition advanced by NZTA regarding the accommodation of undergrounding gives some glimmer of hope.

[830] The Board has considered the adverse effects of NoR1 on Te Hōpua a Rangī and Gloucester Park identified in the AEE, the evidence and the views of Ngāti Whātua Ōrākei and Te Kawerau ā Maki in relation to cultural effects. It considers that Te Hōpua a Rangī is a highly compromised environment, particularly with the

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<sup>508</sup> Statement of Primary Evidence Hannan, 8 May 2017, para 7.15 to 7.17.

<sup>509</sup> Statement of Primary Evidence, Mead, 29 August 2017, para 79.

<sup>510</sup> Transcript, Noble, p4854 – 4861.

<sup>511</sup> Statement of Primary Evidence, Noble, para 89, 100 to 103.

<sup>512</sup> Closing Statement, Mulligan, para 10.29 – 10.30.

construction of SH20, and that these changes are irreversible. While the EWL will add to the damage done to Te Hōpua a Rangi, substantial damage was done when SH20 was constructed and through the earlier filling, as discussed earlier in this Report.<sup>513</sup> Experts agree that any mitigation to be provided should seek to improve the legibility of Te Hōpua a Rangi. There is little support for Mr Lister's suggestion of a circle of light as an artwork and the Board does not impose such a requirement. Nor does the Board consider that the effects of EWL on this highly compromised environment warrant a condition requiring the undergrounding of the MNG-ROS overhead transmission line even if this was within its jurisdiction.

### **Coastal walkway and cycleway**

[831] The application provided for a 3 m-wide shared pathway and cycleway on the harbour side extending from the Galway Street intersection with the EWL through Onehunga Wharf, past the Aotea Sea Scouts building circumventing the adjacent transmission Tower 33 along Orpheus Drive to terminate at the Manukau Cruising Club's building to join with Taumanu Reserve.

[832] Ms Hannan<sup>514</sup> for Auckland Council expressed some concerns about aspects of the proposed shared facility. She sought amendments to the proposed conditions as follows:

*“(a) Landscape treatment and a physical barrier (or other method) should be achieved on the landward side of the path to physically and visually separate pedestrians/cyclists from the adjacent road and to provide amenity screening.*

*“(b) Where practicable replace boardwalks/cantilevered paths alongside Orpheus Drive with concrete paths constructed on land in order to reduce the on-going maintenance and eventual replacement cost for the Council.”*

[833] NZTA responded to this by amending the width of the shared facility to a minimum of 4 m. The Board is satisfied that the designation does not require further amendment in this location although it would be desirable to find a better alignment of the shared facility at Tower 33.

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<sup>513</sup> Para [287] and [586].

<sup>514</sup> Statement of Primary Evidence, Hannan, 8 May 2017, paras 7.1 to 7.5.

## Sea Scouts Building and Gloucester Park

[834] Concerns were raised by a number of parties about the adverse effects on the Aotea Sea Scouts (historic) building and severance from Gloucester Park.<sup>515</sup> In the course of the Hearing the Board was advised that a Memorandum of Understanding had been reached with Aotea Sea Scouts to either relocate the existing facility or provide a replacement.<sup>516</sup> Counsel sought to formally withdraw the submission. Consequently the Board has not considered this effect of the NoR further.

[835] The Aotea Sea Scouts building is scheduled as a Category B building in the AUP:OP<sup>DP</sup> and identified as being of significance for its historical and social values, physical attributes and architectural values and its context values. This was confirmed by the evidence of Ms Matthews<sup>517</sup> for NZTA who considered that the Proposal would have moderate to significant adverse effects on the context and setting of the building, particularly in terms of its physical attributes, aesthetic values and context values.

[836] Ms Caddigan<sup>518</sup> for Auckland Council held similar views stating:

*“The proposed ramps and embankments will considerably reduce the historic context, setting, and views to and from the Aotea Sea Scout Hall. The existing views to and from the hall (especially the principal façade) will be considerably impacted and the ability to view the unique eastern elevation will be limited by the reduction in open space in front of the building. Therefore, the Proposal will result in significant adverse effects on the aesthetic and context values of the place and the degradation of the place’s setting.”*

[837] Ms Caddigan proposed some additions to the conditions.

[838] Ms Matthews considered that there were limited opportunities to minimise the site-specific adverse effects with the alignment located in close proximity to the Aotea Sea Scouts Hall. However, there might be opportunities to enhance the heritage values of the building by undertaking targeted repair or maintenance works, in keeping with the conservation plan.

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<sup>515</sup> Ibid. Paras 7.8 to 7.11.

<sup>516</sup> Memorandum of Counsel for Aotea Sea Scouts, 29 June 2017.

<sup>517</sup> Statement of Primary Evidence, Matthews, 2017, paras 8.2 & 8.3.

<sup>518</sup> Statement of Primary Evidence, Caddigan, 10 May 2016, para 7.2.



[839] Conditions HH.7 and HH.7A require the 2007 Conservation Plan for the building to be updated. The updated conservation plan will help inform maintenance and repair priorities for the building owner. Condition HH.7A was drafted in response to Ms Caddigan's concerns.

### **Effects on Onehunga Wharf**

[840] The NoR encompasses a significant area of the existing Onehunga Wharf. The Board was advised that some of this was intended for construction purposes and the designation would be rolled back after substantial completion of the Proposal.<sup>519</sup> The local community and Auckland Council's development arm, Panuku Development Auckland, have aspirations for a redevelopment of the wharf area as a mixed use zone.<sup>520</sup> These parties were concerned that the effect of the NoR would be to delay the implementation of aspirational plans for the wharf and associated rejuvenation of Onehunga.

[841] The wharf area is one of seven main construction yards proposed to be used for construction of the EWL. It is intended as the main construction yard for the Neilson Street Interchange and the trench.<sup>521</sup>

[842] The evidence of Panuku<sup>522</sup> confirmed that its plans were currently at a concept stage and that a publicly notified plan change would be necessary for them to be able to be implemented. NZTA advised the Board that it was in the process of acquiring the wharf from the POAL but that once the EWL had been constructed it had no intention of retaining ownership and would negotiate sale to Auckland Council or Panuku.<sup>523</sup> The Board is satisfied that in terms of s171(1)(c) of the RMA the NoR1 encompassing part of Onehunga Wharf is reasonably necessary for the purposes of constructing the EWL but subject to the roll back provisions of condition DC.5.

### **Severance Effects**

[843] The Proposal comprises an on-ramp to be bridged over SH20 (Orpheus Drive) at chainage 200 in the vicinity of Neilson Street and the proposed Galway Street

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<sup>519</sup> Condition DC.5(b).

<sup>520</sup> Panuku, Maungakiekie Local Board, Onehunga Business Association, TOES and Others.

<sup>521</sup> Statement of Primary evidence, Nancekivell, 12 April 2017, paras 11.11 & 11.12.

<sup>522</sup> Statement of Primary Evidence, Marler, 10 May 2016, paras 8.1 to 8.8.

<sup>523</sup> Closing Statement, Mulligan, para 10.26.

intersection (chainage 1000) and will create additional severance effects from the foreshore being a four-lane highway 22 m wide. From chainage 560 to 920 the EWL is proposed to be in a trench so as to pass under SH20 (Māngere Bridge). The trench will be over 7 m deep relative to Onehunga Harbour Road. From chainage 700 to 770, the trench, a “land bridge” would provide a linkage between Onehunga Harbour Road and Onehunga Wharf. The EWL trench creates significant severance effects

[844] These effects are well described in the evidence<sup>524</sup> of Mr Brown for Auckland Council:

*“a) The trench occupying much of the current Onehunga Harbour Road corridor, combined with the channelising of heavy traffic over a new bridge directly in front of The Landing and Airport Harbour View Motel, would further exacerbate the physical separation of both Onehunga’s town centre and Gloucester Park from Onehunga’s port area. In all likelihood, it would also exacerbate the already rather utilitarian qualities of this corridor, with both the trench and vehicular activity within it, significantly effecting both physical and perceived connections between the town centre, in particular, and both the port area and wider coastal environs.*

*b) The trench would create a very substantial barrier to public interaction with old Māngere Bridge / new Old Māngere bridge and the Māngere Inlet Cycleway. Onehunga Harbour Road is heavily trafficked at present, while access to the current bridge and cycleway is already hampered by the rather aesthetically challenged nature of the ‘gateway’ to both – under the SH20 Bridge, past industrial premises, then past Onehunga Wharf’s secure operational area. The proposed 22-27m wide trench would greatly compound this feeling of severance and isolation of the waterfront. The new pedestrian way / cycleway over the EWL would effectively replace the current pedestrian bridge elevated above Onehunga Harbour Road, but would achieve little beyond that. It would not offset, or compensate for, the disruption of at grade access to and from the current bridge and surrounding harbour margins. Indeed, it is difficult to see how the New Old Māngere Bridge could become the sort of draw card and integrating element that NZTA implied in their application for the proposed bridge. In fact, the EWL would create a degree of severance and isolation that appears to be quite incompatible with such objectives.*

...

*The EWL would compound the high level of ‘severance’ that is already apparent between Onehunga’s Town Centre and its port area, associated with SH20 and the its (sic) associated bridge. Of particular concern, it would create another barrier to connection between the long established, town centre, including its recently opened railway station, with both a revitalised port / harbour-front area – under the future stewardship of Panuku – and the old Māngere Bridge, which NZTA has proposed replacing.”*<sup>525</sup>

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<sup>524</sup> Statement of Primary Evidence, Brown, para 30.

<sup>525</sup> Ibid. Para 31.

- [845] The severance of Onehunga Wharf, Aotea Sea Scouts building, The Landing Tavern and access to the coastal marine area caused by NoR1 was a matter of concern to the same submitters. NZTA proposed a “land bridge” linking Onehunga Harbour Road to the wharf and Orpheus Drive to provide connectivity. The location and width of this structure over the trenched section of EWL and its mitigation function was the subject of a number of submissions and its original width of 25 m was criticised as insufficient mitigation for the severance and other adverse effects. While this was increased to 70 m by NZTA, some submitters sought for a wider bridge up to 170 m<sup>526</sup> and providing for greater stakeholder input to its design.
- [846] Mr McIndoe<sup>527</sup> for Auckland Council considered that the land bridge should be increased in width up to 170 m and that this “*would adequately mitigate local severance and help offset severance effects elsewhere around the Tuff Ring and along the Māngere Inlet*”. He accepted that there were potential constraints to the width of the bridge if extended beyond 90 m.
- [847] He presented examples of more creative designs for similar structures from overseas and advocated for a multidisciplinary approach to the design of the bridge to achieve better urban design outcomes.
- [848] In response to these submissions, the Board issued a direction in relation to the design of the land bridge concerning its width, constraints and design process on 9 August 2017. A JWS Report in response to this direction was received by the Board on 23 August 2017. As a result, NZTA proposed a revised condition DC.11A to provide for a collaborative design process with input from engineering, urban design and relevant environmental disciplines from various stakeholders. Proposed Condition LV.5C was also amended by NZTA to provide for the land bridge to be relocated further to the east than originally proposed (opposite The Landing Tavern) and to be a minimum of 80 m and a maximum of 110 m wide.
- [849] The Board also notes that it is proposed to provide a 5 m-wide pedestrian cycle link between Old Māngere Bridge and Onehunga Harbour Road. This is an improvement on the existing link at that location.

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<sup>526</sup> Statement of Primary Evidence, McIndoe (for Auckland Council), 10 May 2017, para 14.13. Statement of Primary Evidence, S Brown (for Auckland Council), April 2017, para 55. Statement of Primary Evidence, Kinzett (for OBA), 22 May 2017, para 34. Statement of Primary Evidence, Jackson (for TOES) 22 May 2017, para 65.

<sup>527</sup> Summary of Primary Evidence, McIndoe, paras 2(a) to (e).

[850] The Landing (originally the Manukau Tavern) is scheduled as a Category B Building in the AUP:OP<sup>DP</sup> and identified as being of significance for its historical and social values, physical attributes, architectural values and context values. Although currently encircled by SH20, Onehunga Harbour Road and Gloucester Park, the trench would exacerbate the severance from Onehunga Wharf and the foreshore. Ms Matthews and Ms Caddigan agreed that the proposed extended land bridge, particularly if moved eastwards to align with The Landing, would address both heritage and severance effects.<sup>528</sup>

[851] Given these amended conditions proposed by NZTA, the Board is satisfied that sufficient mitigation is proposed for the adverse severance effects of the EWL.

### **Effects on Specific Properties**

[852] Specific objections to the extent of NoR1 were received from Jackson Electrical and The Local Lockup in relation to the Neilson Street on-ramp to the EWL.

[853] Jackson Electrical is a successful Onehunga business, manufacturing electrical components and complex fibreglass mouldings. Jackson's concerns with the NoR are the encroachment of a cul-de-sac turning circle on a small portion of its frontage land that it asserts will affect the loading and unloading of large trucks at its premises. Mr McKenzie, a traffic engineer for Jackson Electrical, said:<sup>529</sup>

*"It is not clear to me whether the on-ramp and associated roading infrastructure will maintain the usability of the Jackson Electrical site, including site access/egress. In my opinion, the development and operation of an on-ramp of this form and in this location will significantly alter and potentially adversely affect the effectiveness and efficiency of site operations to and from the Site.*

*In my estimation, large trucks serving the Jackson Electrical site will have access and egress operations adversely affected, as well as operational delays due to the associated on-ramp transport infrastructure. In my opinion, the effects on the internal traffic movements will be significant, and have not in my opinion been adequately considered by NZTA."*

[854] NZTA's response<sup>530</sup> was that it considered it to be "*fair and reasonable that trucks accessing the Jackson site will use part of the Jackson property driveway to turn around ...*" The Board considers that, in the context of NoR1, this is a small encroachment issue limited solely to the Jackson property, and should be capable of resolution by negotiation between the parties without requiring a change to the NoR.

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<sup>528</sup> Transcript, Matthews, p1694.

<sup>529</sup> Statement of Primary Evidence, McKenzie, 22 April 2017, paras 4.5 to 4.7.

<sup>530</sup> Closing Statement, Mulligan, para 19.55.

- [855] The Local Lockup, represented by Mr Palmer, is a successful business providing secure storage facilities. Its current access is from the Neilson Street on-ramp to SH20. In his evidence Mr Palmer outlined the company's concerns with the proximity of the NoR and on-ramp to Transpower's Tower 31 on the HEN-OTA 220 kV line, located within The Local Lockup's property. He pointed out that it would be necessary for Transpower to grant a dispensation under the New Zealand Electrical Code of Practice (NZECP 34: 2001) and such dispensations were only granted infrequently. He raised the potential risks of vehicle collision with the tower. Mr Palmer was also concerned that it was intended that all of his site be within the permanent designation, some of which would be used to provide access to Tower 31 for maintenance purposes. He said that, "*The taking of all the land at 11 Gloucester Park Road will cause my family and the local community considerable social and economic hardship with the closure of The Local Lockup Limited*".<sup>531</sup>
- [856] Mr Noble, General Manager Transformation and Acting General Manager Grid Performance with Transpower, said in evidence<sup>532</sup> that Transpower had been in discussions with the NZTA to understand the extent of the impact of the NoRs on Transpower's assets, and to discuss possible mitigation options. In relation to the HEN-OTA line Tower 31 within a proposed construction yard, access will need to be retained to this structure during the Proposal's construction and establishment. Operation of the yard will need to be managed to protect the tower and after the Proposal was completed access to Tower 31 must be provided for maintenance purposes. He advised that Transpower would work with NZTA to ensure that the tower was adequately protected from vehicle impact.<sup>533</sup>
- [857] Mr Noble advised that given the proximity of the EWL to Tower 31, NZTA would need to obtain dispensation under NZECP 34 for Tower 31 prior to work commencing. He did not identify any concerns with the location of the NoR to Tower 31.
- [858] While the Board was sympathetic to the concerns of The Local Lockup in relation to the occupation of the site during construction and the permanent effects restricting use of the site because of maintenance access to Tower 31, it considered that in terms of s171(1)(c) of the RMA the limits of the NoR should be retained as being reasonably necessary for the NoR1 for the purposes of constructing and

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<sup>531</sup> Statement of Primary Evidence, Palmer, 22 May 2017, para 42.

<sup>532</sup> Statement of Primary Evidence, Noble, 10 May 2017, Appendix C.

<sup>533</sup> Transcript, Noble, p 4843 to 4844.

operating the EWL. The concerns of The Local Lockup are better addressed through direct property negotiations between the parties.

[859] Submissions were received from the Owners' Committee of 2 Harbour Road and K & M Marras regarding access to their property and noise effects. Ms Rich for herself and on behalf of Onehunga Mall Cul-de-Sac Residents was also concerned with potential noise issues. In its closing submissions NZTA states that it would review the access issue by considering relocation and that, "*As part of the EWL a noise barrier will be installed between SH20 and the cul-de-sac. Noise levels will be reduced to below category C for all protected premises and facilities in the area.* [Emphasis added]."<sup>534</sup>

[860] The Board is satisfied that these issues have been adequately addressed.

### **Transport Effects**

[861] Auckland Transport raised concerns with the design of the Galway Street Intersections (EWL, connection to Onehunga Harbour Road and Neilson Street). Mr Davies for Auckland Transport stated:

*"The proposed combination of a roundabout and signalised intersection within 50m of one another, and the potential for queuing and congestion to impact on the safe and effective operation of the roundabout. There is also the potential for this congestion to change the movement patterns of traffic on Church Street between Onehunga Mall and Galway Street intersections."*<sup>535</sup>

[862] Mr McIndoe for Auckland Council stated:<sup>536</sup>

*"In my opinion, the extension of Galway Street should be realigned to achieve further separation from Onehunga Harbour Road and better relate to the Onehunga urban grid, rather than follow the proposed curvilinear configuration."*

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<sup>534</sup> Closing Statement, Mulligan, para 19.17–19.18. An explanation of Category C is provided in Technical Report 7, Section 4.13, p17 that states that: "*In accordance with NZS 6806:2010, the Category C assessment is triggered if the noise level inside habitable rooms would be 45 dB LAeq(24h) or more, with the implementation of the selected structural mitigation measures. In that instance, at least a five decibel noise level reduction is required to achieve an internal noise level of no more than 40 dB LAeq(24h). However, the Transport Agency provides building modification mitigation for all Category C buildings where the internal noise level would otherwise be above 40 dB LAeq(24h) irrespective of the internal trigger level of 45 dB LAeq(24h) being reached.*"

<sup>535</sup> Statement of Primary Evidence, Davies, 9 May 2017, paras 20 – 21.

<sup>536</sup> Statement of Primary Evidence, McIndoe, 10 May 2017, para 15.5.

[863] The concerns of Auckland Council were reiterated by Mr Tindall, a traffic engineer.<sup>537</sup> He noted that the concerns he identified would be resolved during the process of developing the final design.

[864] In his rebuttal evidence, Mr Nancekivell addressed the submissions of Messrs Davies, Tindall and McIndoe:

*“The Galway Street/EWL intersection should be relocated further to the east to provide more separation between these intersections (paragraph 4.3). The designation does contain space to move Galway Street further to the east. However, the current location has been developed to allow for Auckland Transport’s proposed Mass Rapid Transport (MRT) to the Airport. Any design changes would have to be agreed by Auckland Transport.”<sup>538</sup>*

[865] Mr Nancekivell submitted an alternative concept design for the Galway Street / EWL intersection.<sup>539</sup>

[866] The Board considers that while the issues raised by various submitters in relation to Galway Street alignment are legitimate concerns, they are more appropriately addressed during the concept and detailed design phases of the Proposal and there is sufficient scope within the limits of the designation at this point to allow variations such as that proposed by Mr Nancekivell to be accommodated. NZTA has proposed a revision of draft condition DC.11B intended to provide for this. Consequently, the Board is satisfied that the NoR in this locality is reasonably necessary for achieving the objectives of the Requiring Authority for which the designation is sought.

[867] Several submitters expressed concern that the designation may adversely impact on the future alignment of MRT (light rail) to Auckland Airport and extension of the passenger rail network to the Onehunga Wharf. Mr Winter for Auckland Transport said, *“The MRT corridor alignment shown in the EWL plans to date is consistent with the most recent study which was prepared in 2016”*.<sup>540</sup> Mr van Schalkwyk for Auckland Transport said that the Auckland Transport and NZTA Boards recently resolved that:

*“AT would proceed with route protection for the MRT corridor and that route protection should enable a staged transition from bus to light rail in the long*

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<sup>537</sup> Statement of Primary Evidence, Tindall, 10 May 2017. Paras 7.13 to 7.25.

<sup>538</sup> Statement of Rebuttal Evidence, Nancekivell, 20 June 2017, para 6.11.

<sup>539</sup> Ibid. Attachment B.

<sup>540</sup> Statement of Primary Evidence, Winter, para 10.

*term ... AT is confident that the EWL as currently proposed appropriately accommodates the MRT corridor options identified to date". He "supported the inclusion of designation conditions which explicitly require that the MRT corridor is appropriately accommodated, particularly in the event that the EWL proposal is modified."*<sup>541</sup>

[868] Mr Nancekivell stated that the MRT to the airport had been allowed for. There was no evidence to demonstrate that the designation in Sector 1 would adversely affect other public transport aspirations.

## **Conclusions**

[869] In summary, the Board finds in relation to Sector 1 – Neilson Street Interchange of NoR1 that:

- (a) The additional mitigation in the form of undergrounding of the MNG-ROS A 110 kV overhead transmission line is not supported;
- (b) Te Hōpua a Rangi is a highly compromised environment and changes made by SH20 are irreversible. Any mitigation to address the effects of the Proposal should improve its legibility but the proposed artwork does not;
- (c) The shared pathway and cycleway on the harbour side extending from the Galway Street intersection, through the Onehunga Wharf, past the Sea Scouts Building, terminating at the Manukau Cruising Club's building to join with Taumanu Reserve has increased to a minimum of 4 m. Further amendment to the conditions in this location are not necessary, although it would be desirable to find a better alignment of the shared facility at Tower 33;
- (d) Adverse effects on the Sea Scouts Building can be appropriately mitigated by the conditions imposed;
- (e) NoR1 encompassing part of the Onehunga Wharf is reasonably necessary for the purposes of constructing the EWL but subject to the roll back provisions of condition DC.5;
- (f) Adverse severance effects of the Proposal, in particular on Onehunga Wharf, Aotea Sea Scouts Building and The Landing Tavern, will be sufficiently mitigated through the conditions imposed that require:

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<sup>541</sup> Statement of Primary Evidence, van Schalkwyk, para 26 to 30.



- (i) A collaborative design process with input from engineering, urban design and relevant environmental disciplines from various stakeholders;
  - (ii) The proposed land bridge to be relocated further to the east than originally proposed (opposite The Landing Tavern) and to be a minimum of 80 m and a maximum of 110 m wide;
  - (iii) A 5 m-wide pedestrian cycle link between Old Māngere Bridge (and the future new Old Māngere Bridge) and Onehunga Harbour Road;
- (g) Adverse effects on specific properties have been appropriately addressed through design changes and conditions or, in the case of The Local Lockup cannot be mitigated and will be addressed through the PWA;
- (h) Design of the Galway Street Intersections (EWL, connection to Onehunga Harbour Road and Neilson Street) has been amended and will be subject to further revision through the detailed design process. Conditions imposed provide for this; and
- (i) The design of the Proposal accommodates Auckland Transport's current anticipated option for a light rail connection to the airport.

[870] Viewed through the lens of s171(1)(c) of the RMA, the Board considers that the designation and work are reasonably necessary to achieve the objectives of NZTA. In terms of s171(1)(b), alternatives have been appropriately considered. Adverse effects have been appropriately considered and avoided, or mitigated. Those effects that cannot be mitigated can be addressed through the PWA.

### **15.3 SECTOR 2 – MĀNGERE FORESHORE**

[871] The western limit of this sector commences at approximate chainage 1200, east of the proposed Galway Street intersection with EWL, and terminates at approximate chainage 3500 at the MetroPort site at the eastern end of the historic reclamation. This section of the EWL is along the foreshore of the Inlet. The Board notes that the extent of designation excludes those areas to be reclaimed that are currently part of the CMA to the south. Those aspects are dealt with in chapter 14.2 of this Report, although some integrated effects are addressed herein.

[872] To the north, the designation affects portions of Waikaraka Cemetery, Waikaraka Park South and a number of properties in private ownership. The EWL is proposed to have signalised at-grade intersections at Captain Springs Road and Port Link Road. No intersection of the EWL at Alfred Street was proposed in the NoR but an overbridge providing pedestrian and cycling connections to the foreshore at this point is proposed.

[873] The proposed design of the EWL in this sector is a four-lane arterial road with a raised median, on the northern side of the Inlet from the Neilson Street Interchange to Anns Creek.

[874] The following features are affected by the area of the designation in this sector:

- (a) Access to the foreshore from Alfred Street;
- (b) Waikaraka Cemetery – loss of amenity, severance from the foreshore and impact on existing walking and cycling facilities;
- (c) Waikaraka Park South proposed for use as a construction yard thereby delaying the development of additional sports fields by Auckland Council;
- (d) Specific properties adversely affected by encroachment.

### **Alfred Street Connection, Waikaraka Cemetery and Waikaraka Park**

[875] Auckland Council was concerned about the lack of vehicular connectivity with Alfred Street and the proposed connections of walking and cycling routes. While no vehicular connection is proposed at this time, there is no major impediment to an at-grade intersection being provided at some future date should that be considered necessary. It was also concerned about impacts on Waikaraka Park and Waikaraka Cemetery.

[876] Some adverse effects are the result of the road construction and associated bunding in the CMA and they are addressed here, including:

- (a) Loss of amenity;
- (b) Noise;
- (c) Visual; and
- (d) Effects on the historic stone walls resulting from construction of the EWL.

#### *Context*

[877] Mr McIndoe for Auckland Council had concerns about the effects of the NoR on the cemetery and park:<sup>542</sup>

*“The consequence of the Proposal will be to undermine perceptions of the Cemetery/Park being linked to the Māngere Inlet, compromise the existing convenience of access to a coastal edge path, and also compromise the potential for any improved linkage to be provided in the future.”*

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<sup>542</sup> Statement of Primary Evidence, McIndoe, para 13.3.

[878] He considered that the EWL would introduce visual dominance effects and noise of heavy traffic along the boundary of the park and cemetery. These effects would be exacerbated by the relative levels of the EWL, with the carriageway being elevated to more than 2 m above the cemetery at its edge, and also above the edge of the Waikaraka Park South site. This would significantly impact on the ambience and recreational potential of both spaces. To mitigate these effects, Mr McIndoe recommended bunding (including potential publicly accessible viewing locations) and additional planting. Noise control and landscape treatment should also extend along the full width of the Waikaraka interface as a co-ordinated, whole of area plan, including providing for Council's planned development of Waikaraka Park South.

[879] These concerns were reiterated by Mr Brown for Auckland Council:<sup>543</sup>

*"Another important aspect of the current proposal is EWL's elevation above much of the existing shoreline. This would result in the road corridor sitting some 1.5m higher than the current Waikaraka Park Cemetery."*

*Waikaraka Cemetery (including Alfred Street Connection)*

[880] Waikaraka Cemetery was formed in 1881 at a stage when the bays on either side of the land the cemetery occupies had yet to be reclaimed. For obvious historical reasons the cemetery became Onehunga's principal burial ground. For that reason the cemetery is the last resting place of the many early and significant Onehunga residents who are buried there. Today the cemetery is administered by Auckland Council.<sup>544</sup> There are limited burial spaces available. It is the site of a significant war memorial and returned soldiers' area.

[881] The Board heard evidence from witnesses who regularly visited the graves of family members.<sup>545</sup> Understandably there was opposition, and indeed distress, at the prospect of a relatively tranquil area being cut off, visually and physically, from the Manukau Harbour and landscape. The visual severance will be significant given the projected height of the highway as it passes the cemetery. These severance effects will also be felt by members of the public who walk in the cemetery and/or park their cars on the foreshore. The Board is satisfied that the cemetery functions both as a last resting place and as a recreational area.

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<sup>543</sup> Statement of Primary Evidence, Brown, para 60.

<sup>544</sup> The Cemetery has Category B status under the AUP:OP<sup>DP</sup>. The previous owner, Onehunga Borough Council, extended the cemetery by reclamation in 1936. Refer Primary Statement of Evidence, Matthews.

<sup>545</sup> Transcript, Wackrow, p5619-5620; Transcript, Carr, p5602; Transcript, Randerson, p5857.

[882] In relation to the cemetery and existing shared pedestrian and cycling path, the designation will create a severance from Māngere Inlet, which is to be mitigated by the provision of a pedestrian and cycling overbridge connecting Alfred Street to the foreshore. Mr A Murray described the features of the proposed walking and cycling facilities:<sup>546</sup>

*“(a) A bi-directional, off-road cycleway and separate footpath on the southern (inlet) side of EWL along the foreshore.*

*“(b) A recreational path along the coastal edge, comprising various widths and forms and taking a more meandering route.*

*“(c) A shared path on the northern (land) side of EWL between, and with connections to, Alfred Street and Captain Springs Road. The access point at Captain Springs Road is a new connection to the foreshore.*

*“(d) A shared path on Alfred Street (eastern side) between EWL and Neilson Street, including a signalised crossing of Neilson Street.*

*“(e) A shared path on the western side of Captain Springs Road between EWL and the entrance of Waikaraka Park/Onehunga Sports Club. New footpaths on the remainder of Captain Springs Road.*

*“(f) A footpath on the northern side of EWL between Galway Street and Alfred Street and between Captain Springs Road and the new Ports Link road. A new footpath connection to the foreshore from Miami Parade/ Port Link Road.*

*“(g) Five crossing points of the EWL, to allow pedestrians and cyclists to cross safely at Galway Street (signals), Alfred Street (overbridge), Captain Springs Road (signals), Port Link Road (signals) and Hugo Johnston Drive (underpass).*

*“(h) A shared path on the southern edge of the EWL structure from the edge of the Ports of Auckland land to Great South Road.”*

[883] The main effect of the NoR south of the cemetery is the severance. The land subject to the NoR is relatively narrow at this point because the EWL is substantially within the CMA. The mitigation proposed for this severance is the pedestrian and cycling overbridge. Mr McIndoe submitted an alternative design<sup>547</sup> for the overbridge and ramps that would have potentially exacerbated the adverse visual impact. He had stated that the land bridge proposed in Sector 1 “*would assist in offsetting severance at Waikaraka Park ...*”<sup>548</sup>

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<sup>546</sup> Statement of Primary Evidence, A Murray, para 8.23.

<sup>547</sup> Exhibit G.

<sup>548</sup> Summary of Evidence, McIndoe, para 2(c)(v).

[884] The severance that the highway will cause to Waikaraka Cemetery will be permanent. There will inevitably be a qualitative change to the atmosphere of tranquillity currently attaching to the cemetery.

*Stone Walls at Waikaraka Park and Cemetery*

[885] The AEE<sup>549</sup> identified the stone walls surrounding Waikaraka Park and Cemetery as a heritage feature but that construction and operation of the EWL would not result in the destruction of or any physical damage to these.<sup>550</sup>

[886] Ms Matthews, for NZTA, referred to the walls located on the southern side of the cemetery as a distinctive, formally planned element along the coastal walkway. She noted that the alignment of the EWL had been designed to avoid direct impacts on Waikaraka Park and Cemetery, including the road, pōhutukawa trees and stone walls to the south.<sup>551</sup>

[887] Ms Caddigan, for Auckland Council, also referred to the stone walls as a heritage feature of Waikaraka Cemetery, noting that their construction from bluestone provided a distinctive character and was a key feature of the place. She concluded that the proposed alignment of the EWL allows for the retention of the stone walls at the south end of the cemetery.<sup>552</sup>

[888] The Board is satisfied, based on the evidence referred to above, that the limit of the NoR1 in the vicinity of Waikaraka Cemetery will have no direct effects on the heritage stone walls surrounding the cemetery.

*Waikaraka Park South*

[889] The NoR includes a significant area of unformed land on the corner of Captain Springs Road referred to as “Waikaraka Park South”. This is intended for use as a construction yard while the EWL is constructed in this area. Auckland Council was concerned that its planned development of this area, comprising three sand-carpet, floodlit sports fields, would be delayed by NZTA’s proposed occupation until at least 2022.

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<sup>549</sup> AEE Section 12.7.

<sup>550</sup> Ibid, section 12.7.3.3.

<sup>551</sup> Statement of Primary Evidence, Matthews, para 7.38 & 8.21.

<sup>552</sup> Statement of Primary Evidence, Caddigan, para 7.4.

[890] Ms Hannan, for Auckland Council, argued that NZTA should provide, by way of compensation, new sports fields in the general area, possibly at Gloucester Park North, with equivalent to 54 hours per week playing capacity and associated facilities.<sup>553</sup> She was supported in her concerns about the effects of the delay on the local community by the Maungakiekie Tamaki Local Board.<sup>554</sup> In her rebuttal evidence<sup>555</sup> Ms Hannan presented Auckland Council's *Draft Sports Field Capacity Development Programme (2012)* showing a proposed development of Waikaraka Park South had been planned to commence in 2017-18. The *Project Status Report (15 June 2017)*, which she included with her evidence, showed proposed capital expenditure of \$1.533 million and that the programme of work was "yet to be confirmed". Under cross-examination by NZTA's counsel and questions from the Board, Ms Hannan was unable to provide the Board with certainty about the current state of Council's planning, including proposed timing of the development and budgetary provision for Waikaraka Park South.<sup>556</sup>

[891] Mr Gouge, for Auckland Council, stated in his evidence that Waikaraka Park South was subject to Auckland Council Designation 551 and any use of this land would require the written consent of Auckland Council under s176(1)(b) of the RMA.<sup>557</sup> He supported Ms Hannan's opinion on the scope of mitigation / compensation that should be required from NZTA.

[892] The JWS Report for Waikaraka Park and Cemetery noted that there was "... a *Waikaraka Park South Sportsfield Development Plan highlighting the intent of the future development with appropriate zoning and designation. The status of any consents is to be confirmed.*"<sup>558</sup>

[893] Ms Linzey referred to the uncertainty of Auckland Council's planning for the development of Waikaraka Park South. She stated that:

*"There has been ongoing engagement and discussions with Council in respect of their plans for Waikaraka Park South, but there is also some uncertainty for ongoing development of these plans. I understand that there has not been a consented or Local Board adopted plan for this site (beyond*

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<sup>553</sup> Statement of Primary Evidence, Hannan, para 3.5 and 8.2; Summary Statement, para 3(e).

<sup>554</sup> Transcript, Diver, p3362; Closing Submissions, Bartley.

<sup>555</sup> Statement of Rebuttal Evidence, Hannan, para 1.6(a-g).

<sup>556</sup> Transcript, Hannan, p3430 – 3456.

<sup>557</sup> Statement of Primary Evidence, Gouge, para 13.95 to 13.102.

<sup>558</sup> Expert Conferencing Joint Witness Statement, Waikaraka Park and Cemetery, para (b).

- [894] She advised that NZTA proposed condition ROS.6(b) requiring the reinstatement of Waikaraka Park South as open grassed area by NZTA to enable Council to progress its planned development in the area.
- [895] Mr Lanning, in his closing submissions, argued that the planned sports fields at Waikaraka Park South should be considered as part of the existing environment and form part of the Board's assessment under s171.<sup>560</sup> Auckland Council sought a condition of the NoR that NZTA fund the consenting and construction of two sand-carpet sports fields or equivalent to 54 hours playing capacity per week, lighting, two cubicle changing rooms, a toilet block and a carpark at a location to be agreed by Auckland Council. This would be to offset the delayed implementation of the development of Waikaraka Park South.
- [896] Mr Mulligan said in his closing submissions that NZTA considers that the level of compensation proposed by Auckland Council was excessive because Waikaraka Park South will only be temporarily removed from the Auckland Council's development programme, there was little (if any) evidence that Auckland Council had previously committed funding to the provision of those fields and the design had yet to progress through any consultation or design phase. He said that as part of its restoration works following construction, NZTA would be improving the current state of the park grounds to facilitate the future sports field development.
- [897] NZTA's proposed financial compensation of \$1.54 million would place Auckland Council in the same position as it is now with respect to funding. This proposal is set out in condition ROS 6A. NZTA maintains that this will provide sufficient certainty for Auckland Council to allocate funds to improve playing hours on sports fields elsewhere in the community, while also providing certainty it can commence the planned work for Waikaraka Park South following construction of the Proposal.<sup>561</sup>
- [898] The Board noted Mr Gouge's evidence concerning the designation of Waikaraka Park South but did not receive any evidence to clarify how this and the activity status of the proposed development under the AUP:OP impacted on NoR1 in respect of the provisions of s171. The Board is satisfied that there is an effect to

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<sup>559</sup> Statement of Rebuttal Evidence, Linzey, para 4.12.

<sup>560</sup> Closing Statement, Lanning, para 7.4. Reference to *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424.

<sup>561</sup> Closing Statement, Mulligan, para 11.32.

be mitigated, being the potential impediment to Auckland Council's aspirations for the area albeit that the timing of that is uncertain.

- [899] The Board agrees with the condition proposed by NZTA as a reasonable approach to mitigation of the effect. This will require NZTA to provide funds to Auckland Council, up to a capped sum, based on the Council's approved budget (in 2017 dollars) for the Council to spend how and where it chooses to provide playing field capacity equivalent to that temporarily unavailable as a result of NZTA occupation of Waikaraka Park South as a construction yard. On completion of Sector 2 works, the Park will be returned to the Council and be available for redevelopment by the Council. The reinstatement work to be carried out by NZTA (levelling and grassing the site) will provide a further benefit to Auckland Council because the area will be in better condition for development than it is at present.

### **Effects on Specific Properties**

- [900] The original NoR1 would affect a number of properties in Sector 2 whose owners / occupiers made submissions:
- (a) EnviroWaste / ChemWaste;
  - (b) Heliport Limited; and
  - (c) Ward Demolition.
- [901] These land owners or occupiers have reached agreement with NZTA as discussed in chapter 10.1 of this Report. They are also briefly addressed in turn below.
- [902] EnviroWaste / ChemWaste was concerned with the encroachment of the northern boundary of the NoR on its site and the adverse effects that resulted for its operations. An expert witness conference agreed to reduce the extent of the encroachment into the ChemWaste site by 13 m to 18 m during construction and 5 m in the operational phase, which would mean the designation boundary would result in 1 m to 2 m encroachment into the current operational area of ChemWaste.<sup>562</sup> These amendments have been incorporated into the revised NoR. The parties see this agreement as resolving the objections of EnviroWaste / ChemWaste through Conditions DC.14A to 14D.

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<sup>562</sup> Expert Conferencing Joint Witness Statement, EnviroWaste Ltd, para 4.1 – 4.3.



[903] Heliport submitted that it would be severely affected by the Proposal because the Civil Aviation Authority's rules preclude the taking off and landing of most, if not all, of its helicopters over a roadway such as the EWL.<sup>563</sup> A Joint Memorandum of Counsel<sup>564</sup> advised that NZTA and Heliport had reached agreement on conditions<sup>565</sup> that would resolve the matters, with NZTA working to relocate the heliport. As a result, while Heliport did not withdraw its submission, it did not take any further active part in the Hearing.

[904] Ward Demolition's site is accessed from Miami Parade, will abut the Proposal and is affected by the NoR. The site is used for the recycling of demolition materials. As a result of discussions, NZTA proposed amendments to the extent of the NoR to reduce the impact on Ward's operations.<sup>566</sup> The Board understands that further direct discussions between NZTA and Ward has now resulted in a mutually acceptable outcome reflected in the revised NoR1.

### **Conclusions**

[905] In summary, the Board finds in relation to Sector 2 – Māngere Foreshore of NoR1 that:

- (a) The Proposal will introduce visual and noise effects on Waikaraka Cemetery and Waikaraka Park;
- (b) Severance effects on Waikaraka Cemetery will be appropriately mitigated by the provision of a pedestrian and cycling overbridge connecting Alfred Street to the foreshore;
- (c) The proposed alignment of NoR1 in the vicinity of the Waikaraka Cemetery will avoid direct effects on the heritage stone walls, mature pōhutukawa, and the cemetery itself;
- (d) The effects of the Proposal on the planned development of Waikaraka Park South will be appropriately mitigated by the provision of funding for alternative sports field capacity and reinstatement of grades suitable for redevelopment;
- (e) Adverse effects on specific properties have been appropriately addressed; and

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<sup>563</sup> Opening Statement, Mulligan, para 23.68; Opening Statement, Berry, para 1.3-1.4.

<sup>564</sup> Dated 18 July 2017.

<sup>565</sup> Conditions DC.13A to 13G.

<sup>566</sup> Correspondence: McIntosh of The Property Group to Bryce Marx of Ward Demolition, 21 August 2017.

- (f) Te Hōpua a Rangi has been substantially modified over the years and is bisected by SH20. It is culturally important. The Proposal has sought to avoid, to the extent practicable, impacts on culturally significant sites.

[906] Viewed through the lens of s171(1)(c) of the RMA, the Board considers that the designation and work are reasonably necessary to achieve the objectives of NZTA. In terms of s171(1)(b), alternatives have been appropriately considered. Adverse effects have been appropriately considered and avoided, or mitigated. Those effects that cannot be mitigated can be addressed through the PWA.

#### **15.4 SECTOR 3 – ANNS CREEK TO GREAT SOUTH ROAD**

[907] Sector 3 extends from the POAL Pikes Point East site (from approximate chainage 3500) to just east of the Great South Road Interchange (approximate chainage 5150) and includes the construction of the Hugo Johnston Drive Interchange, and an area immediately north of that interchange that is initially to be used a construction yard and subsequently for a stormwater wetland and new carpark for access to the coastal shared path.

[908] Sector 3 mainly comprises viaduct structures, landing at the western and eastern ends, and at the Hugo Johnston Drive Interchange. It crosses the coastal and terrestrial extent of Anns Creek, the KiwiRail Southdown siding and North Auckland rail corridor, Kempton Holdings Limited land, the Mercury NZ Limited (Mercury) Southdown site (which includes the gas-fired power station, Transpower and KiwiRail assets), First Gas high pressure gas lines and pigging station, and the TR Group Limited site, which includes the terrestrial extent of Anns Creek. Sector 3 also includes a construction yard to be formed within the TR Group Limited site.

[909] While Sector 3 crosses the CMA, NoR1 does not extend into the CMA. Matters relevant to the works within the CMA have been addressed in the Board's consideration of resource consents and are not repeated herein.

[910] At Great South Road the limits of the NoR extend both north and south to allow the connection between the viaduct structures and the existing roads.

##### **Effects on Specific Properties**

[911] The sites and infrastructure addressed in submissions that are affected through Sector 3 from west to east are:

- (a) Kempton Holdings Limited;
- (b) KiwiRail Southdown rail siding and North Auckland rail corridor;

- (c) Mercury Southdown site, including the Mercury site, Transpower and First Gas assets, and KiwiRail assets;
- (d) First Gas pigging station and high pressure gas lines beyond the Southdown site; and
- (e) TR Group.

### **Kempton Holdings**

[912] Kempton Holdings Limited owns land south of Hugo Johnston Drive, which wraps around the western and southern side of the Mercury Southdown site. This site is intended for construction yard 4 and ultimately will contain a stormwater treatment wetland.<sup>567</sup> Mr Sax, on behalf of Kempton Holdings Limited, requested that the stormwater treatment pond proposed to be within his land be relocated south of the Mercury site. The location suggested by Mr Sax is within the CMA, and has been addressed in chapter 14.2 of this Report. In summary, the Board does not consider such relocation to be practical. In the absence of any practical alternative for the treatment of stormwater, the Board does not support the change sought by Mr Sax.

### **TR Group**

[913] The extent of the NoR1 designation through TR Group's land has been one of the more difficult matters for the Board to consider.

[914] A large portion of TR Group's land covered by the proposed designation at Anns Creek is an ecologically sensitive area.<sup>568</sup> The designation includes the footprint of the EWL structures, construction access, construction yard 5,<sup>569</sup> and then the balance of the Anns Creek East area that is to be subject to ecological mitigation and restoration. The site of the construction yard corresponds to TR Group's Stage 2 fill area for which they already hold consent but are yet to implement. NZTA has proposed a portion of the designation to be a "construction restriction area" to limit the effects of constructing the EWL to the minimum necessary and avoid adverse effects on the most significant ecological areas of the site. The construction yard

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<sup>567</sup> Statement of Primary Evidence, Nancekivell, para 11.12 (c) and drawing AEE-CA-107.

<sup>568</sup> Ibid, Annexure A.

<sup>569</sup> Ibid. Refer drawing AEE-CA-108.

is intended to be a supporting laydown area for the construction of the Anns Creek viaducts and will be in use for 30 months from late 2020.

[915] In relation to loss of and disturbance to Anns Creek East vegetation, Dr De Luca proposed mitigation, which included the following: <sup>570</sup>

*“Investigate opportunities to relocate the proposed construction yard within Anns Creek East (currently to be in the area where a consent exists for reclamation) be explored further. In addition, discussions with the consent holder should be undertaken to determine if there are opportunities for the consent to be surrendered and the area purchased by NZTA for long term enhancement and protection.”*

[916] This second recommendation gave rise to the main objections from TR Group to the limits of the designation affecting its land.

[917] Dr De Luca’s summary stated: <sup>571</sup>

*“The EWL ecology and wider project team worked collaboratively to develop an integrated suite of proposed measures to avoid, mitigate and offset effects on ecological values. The approach taken was to assess the ‘bucket of effects’ across all areas of ecology and develop a ‘bucket of mitigation and offset’, as it is not possible to propose like for like mitigation for effects such as permanent loss of marine habitat.”*

[918] When discussing the effects of the viaduct structures of the EWL Dr De Luca said: <sup>572</sup>

*“... in the lava shrubland, several of the proposed alignments were going smack through the middle of the lava shrublands, so we’ve pushed to have that alignment to the north of the TR property. Also, the bridge structural engineers we had to get them to think about, ‘Do you really need even less space to piers or can you make them a little bit more random and still make your bridge work, so to avoid pockets of lava where we can?’ So I am quite comfortable that we have done everything we could to avoid (effects).”*

[919] Dr Bishop, for Auckland Council, stated in evidence that he had extensive experience and a special interest in the Anns Creek area: <sup>573</sup>

*“The ecological sequence of lava shrubland, freshwater wetlands, saltmarsh and mangroves at Anns Creek is the sole remaining example of a sequence that was formerly common on the Auckland Isthmus before European settlement (Gardner 1992). It is therefore unique.*

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<sup>570</sup> Statement of Primary Evidence, De Luca, Table 7.

<sup>571</sup> Summary Statement, De Luca, para 7.

<sup>572</sup> Transcript, De Luca, p 1647.

<sup>573</sup> Statement of Primary Evidence, Bishop, paras 7.8 & 7.9.

*Unusual plant communities grow on the lava flows and Anns Creek and it is the only place in the Tamaki Ecological District where native herb species, including a number of threatened plant species, grow together on lava. Anns Creek has additional scientific importance because it is the type locality for Coprosma crassifolia, a small tree which grows in the lava shrubland. This is the place where this tree was first collected by William Colenso in 1846, and where this species first became known to science ..."*

- [920] Ms Hopkins, for NZTA, considered that the primary adverse effects are from the loss of threatened ecosystems and vegetation in Anns Creek and lava flow vegetation along the coastal edge of the Māngere Inlet.<sup>574</sup>
- [921] Mr Walter, the Chief Financial Officer of TR Group, stated in his evidence<sup>575</sup> that it is New Zealand's largest heavy commercial vehicle hire and leasing company, providing and managing approximately 5,500 heavy vehicles to the NZ transport industry. TR Group has annual revenues of approximately \$200 million and employs 144 people. TR Group acquired the 6.6 ha site at 791-793 Great South Road in 2003. The land was acquired for the sole purpose of development to increase land area to support future business growth and provide a safer and more efficient access on to the busy local road network (Great South Road and Sylvia Park Road).
- [922] Mr Walter stated that in 2009, after a three-year resource consent process, TR Group was granted land use consent by the former Auckland City Council to develop approximately 4.46 ha of its site, which was significantly less than what the company had originally hoped might be developed from the site when it purchased it. The former Auckland Regional Council, however, refused to grant consent for some of the land modification works required to develop this area and the application had to be reconsidered in a contested Environment Court hearing. This eventually resulted in an amended consent issued in January 2014<sup>576</sup> some eight years after the initial application was lodged.
- [923] Mr Walter said that the result of the Court's decision is that, from its 6.6 ha site, TR Group has only been able to yield an additional land area of 18,600 m<sup>2</sup> to support its business and ensure its future at this location. Consequently, its yard areas, including those it is yet to develop, are an extremely valuable resource for it and

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<sup>574</sup> Statement of Primary Evidence, Hopkins, para 8.36.

<sup>575</sup> Statement of Primary Evidence, Walter.

<sup>576</sup> Consent No. R/LUC/2008/4724, 36055, 36056, 36058, 30316.

crucial to the future viability of TR Group's business at this location and consequently it opposed the NoR in this location.

[924] TR Group holds consents for two parts of its site.<sup>577</sup> The consent conditions impose significant obligations on TR Group to enhance the area through a lava shrubland management plan to enhance and protect the rare vegetation and lava outcrops of the site, and a wetland enhancement plan focused on wetland species and public access to a marginal strip through the site. At this time only Stage 1 of the development has been given effect to. The filling of Stage 2 has not been commenced and this is triggered by the filling of the area that NZTA has proposed for construction yard 5. This would also mean that the conditions applicable to TR Group's Stage 2 consent would need to be actioned by TR Group.

[925] With respect to the other effects that would occur within Anns Creek East, part of the site, including the lava shrublands, is already protected by conditions of the TR Group Stage 1 consents and associated covenant that the Board understands is currently being prepared. Those requirements are imposed through the land use consent and will transfer with the title in the event that ownership of the land changes. The development potential of the site is constrained by various planning restrictions, including existing consent conditions and AUP:OP overlays. However, it is also subject to the KiwiRail designation that arcs through the site and Mr Walter of TR Group was clear that despite existing planning restrictions, TR Group wanted to avoid the imposition of any further development restrictions, with a long-term view that opportunities for development may change.<sup>578</sup> When asked why TR Group wanted to retain ownership of the lava shrubland if it cost money to enhance and maintain, Mr Walter replied, "*[B]ecause it is our land and we have a right to own that*".<sup>579</sup>

[926] The fact that the covenant required for the completed Stage 1 fill in the TR Group site has not been prepared or registered is troubling. Given the vigilance that the Auckland Regional Council and now the Auckland Council have exhibited in favour of the Anns Creek East ecology, it is somewhat surprising that Auckland Council has not been vigilant with compliance monitoring and enforcement. Dr Bishop acknowledged this lack of monitoring<sup>580</sup> and also acknowledged that he had not

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<sup>577</sup> Ibid.

<sup>578</sup> Transcript, Walter, p 4654.

<sup>579</sup> Transcript, Walter, p 4653.

<sup>580</sup> Transcript, Bishop, p 2877– 2878.

been to the site for three or more years.<sup>581</sup> Nonetheless, absence of a covenant is a matter of consent compliance and is able to be enforced by Auckland Council, should it have been motivated to do so. Given the evidence heard, the Board is not convinced that Auckland Council or NZTA would necessarily be a better custodian of the site than the current owner.

[927] TR Group partially supported the EWL because of its positive transport outcomes.<sup>582</sup> However, it wanted the viaduct moved south to minimise impacts on its operations and future use of the site. It noted that a portion of its land was intended to be used as a construction area for the EWL and that area corresponded to its proposed Stage 2 development area for which it held consents.

[928] Mr Nancekivell, for NZTA, stated in evidence that moving the viaduct south through TR Group's land to minimise its impact was not an acceptable alternative alignment because it would increase the adverse effects on the ecology of Anns Creek. Mr Nancekivell also stated that:<sup>583</sup>

*“The current proposal to provide an access under the EWL to the land adjacent to Great South Road is being developed to allow TR Group to use the land on the southern side of EWL adjacent to Great South Road. Construction space north of the EWL structure has been reduced to minimise disruption to TR Group's operations. Access will be via Great South Road south of the Sylvia Park Road intersection.”*

[929] NZTA accepted that the EWL would have adverse effects on the ecology in the Anns Creek area and that it would need to provide mitigation for those. NZTA's proposal for mitigation of the adverse effects of the designation on TR Group's land was well described in the closing submissions of Mr Mulligan:<sup>584</sup>

*“(a) The restoration works proposed by the Transport Agency within the lava shrubland component of Anns Creek East were already being undertaken by TR Group as part of its Stage 1 consents;*

*(b) That the works within the wetland management area of Anns Creek East were required by the Stage 2 consents held by TR Group and that those consents were likely to be implemented.*

*The works to be undertaken by the Transport Agency in Anns Creek East consist of two parts. The first component is the construction of the East West Link on a raised viaduct through the northern portion of the Anns Creek East. The second component is the establishment of a construction yard at the eastern end of Anns Creek East. The establishment of the construction yard will occur in the same area as the Stage 2 works authorised by the Stage 2 consents held by TR. As no works whatsoever*

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<sup>581</sup> Transcript, Bishop, p 2871.

<sup>582</sup> Submission No 126338.

<sup>583</sup> Statement of Primary Evidence, Nancekivell, para 15.74 to 15.77.

<sup>584</sup> Closing Submissions, Mulligan, para 14.10.

*have been undertaken by TR in relation to the Stage 2 works that consent has not been given effect to.*

*In line with the Transport Agency's position on the existing environment, it accepts that resource consents which are granted and likely to be implemented can form part of the receiving environment. However, a real world analysis needs to be undertaken. In that context, if the Transport Agency is to undertake works in the construction yard / Stage 2 area it will do so pursuant to the Transport Agency's own designation and resource consents and not TR's Stage 2 consent. It will therefore be impossible for TR Group to undertake that work itself and as a result the resource consents for Stage 2 cannot be implemented and those consents cease to be part of the existing environment."*

[930] For TR Group, its legal counsel, Mr Littlejohn, submitted that the NoR1 over the western area of TR Group's site (the lava shrubland) was *ultra vires* because it did not meet the requirements of s171(1)(c) of the RMA that, <sup>585</sup> *"The work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought"*. He argued that the objectives of the EWL:

*"... could not remotely justify the designation of private land for weed removal, pest, plant and animal management, geological heritage restoration, restoration planting, interpretative signage relating to cultural, ecological or heritage protection matters and nor then could it justify its potential acquisition by the NZ Transport Agency for such purposes."*

[931] Mr Littlejohn argued that there must be a nexus between an adverse effect and the mitigation proposed and in this case there was not.

[932] This argument (*ultra vires*) was rejected by Mr Mulligan in his closing.<sup>586</sup> While Mr Mulligan conceded there was no case law on this particular point, his counterargument considered that designating land for the space necessary to undertake mitigation and offsetting activities as part of a project is the usual practice for NZTA and other requiring authorities, and no *vires* issues have been raised in the past.

[933] Mr Mulligan referred the Board to several examples where NZTA has designated private land for mitigation:

- (a) Waterview Connection – to provide sports fields for social mitigation;
- (b) Christchurch Southern Motorway – to provide lizard habitat;
- (c) Peka Peka to Ōtaki – to provide for ecological mitigation; and

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<sup>585</sup> Transcript, Littlejohn, p 554 to 571.

<sup>586</sup> Closing Statement, Mulligan, para 19.21 to 19.24.



- (d) Mackays to Peka Peka – to provide for ecological mitigation alongside stormwater treatment.

[934] The above examples may well constitute situations where the designation has been used for mitigation purposes, but the Board was not informed about the status of the land so used in the examples. And as Mr Littlejohn observed, a history of unlawful activities will not necessarily justify a further unlawful use of land.

[935] Ms Myers for NZTA said in evidence that:<sup>587</sup>

*“An ecological mitigation and offsets package has been developed for the Project which includes restoration of saltmarsh and lava shrubland ecosystems, and weed control in Anns Creek West and Anns Creek Estuary. A long term integrated environmental management plan is proposed to be developed for Anns Creek East. I recommend that to mitigate and offset adverse effects the long term permanent protection of Anns Creek should be provided for.”*

[936] Under cross-examination, Ms Myers said that the proposed work at Anns Creek on TR Group’s land was part of the “package” of mitigation and not solely for adverse effects at Anns Creek.<sup>588</sup> She also clarified that to achieve “long-term permanent protection” she meant through public ownership of the land. Notwithstanding the consent requirement for TR Group to register covenants over the lava shrubland, she considered that public ownership under the Reserves Act or Conservation Act would allow for a higher standard of protection.<sup>589</sup> Consequently, the designation and purchase of the land by NZTA was the preferred method of protection of the lava shrubland because the duration of protection under its management would extend beyond the life of the mitigation plans required of TR Group.

[937] Dr De Luca stated in evidence that she was aware that her suggested condition that “... (TR Group’s) *consent to be surrendered and the area purchased by NZTA for long-term enhancement and protection*” was not acceptable to TR Group.<sup>590</sup> She conceded that if TR Group had successfully implemented the conditions of its Stage 2 consent that mitigation work could not also be claimed by NZTA as mitigation for the EWL.

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<sup>587</sup> Statement of Primary Evidence, Myers, 12 April 2017, para 11.4.

<sup>588</sup> Transcript, 17 July 2017, pages 1568 -1569.

<sup>589</sup> Transcript, 17 July 2017, page 1576.

<sup>590</sup> Transcript, 17 July 2017, page 1671.

[938] Ms Rickard, for NZTA, said under cross-examination that she had no information that indicated that TR Group was not implementing its conditions of consent in respect of lava shrubland management.<sup>591</sup> She confirmed that the requirement for the covenant was part of the Stage 2 consent conditions. In relation to what additional mitigation was proposed by NZTA, she deferred to Ms Myers' evidence concerning the duration of the protection that would be provided.

[939] In relation to questions from the Board concerning the extent of the designation over TR Group's land Ms Rickard said:<sup>592</sup>

*"... mitigating the effects of a transport project is a legitimate use of the designation as a tool. Simply confining the designation to the carriageway of the project wouldn't do that. So using the designation as a tool to secure that ability to carry out the mitigation – the designation affords you the ability to get to the site, to access the site to do that work, so in my view it is reasonably necessary."*

[940] Dr Bishop, for Auckland Council, stated in evidence that he had been previously involved with TR Group's consenting applications. He identified a cumulative level of adverse effect on Anns Creek through progressive developments over the years. His first preference is for the EWL to avoid the SEA areas in Anns Creek entirely by shifting the alignment further to the north to protect this unique habitat.<sup>593</sup> Should that not prove achievable, he did not agree that the mitigation and offset package proposed by the NZTA was appropriate and recommended a suite of ecological mitigation and offset measures in addition to those proposed in the mitigation and offset package in Table 7 of Dr De Luca's evidence:

*"A proposed construction yard will destroy a significant area of wetland and salt marsh and should be placed elsewhere. Post construction, all remaining natural areas of Anns Creek East should be managed for their conservation and biodiversity values."<sup>594</sup>*

*"If the habitat loss associated with the construction yard could be avoided or significantly reduced then the area of 'out-of-kind' restoration required would reduce to 3 – 7.5 ha. Much of the area that is proposed for the construction yard is already subject to resource consent to be drained, filled and turned into truck parking. However, its use as construction yard for the East-West Link facilitates the exercising of this consent. Re-locating the construction yard and purchasing this wetland remnant for incorporation into the proposed Anns Creek biodiversity reserve would significantly*

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<sup>591</sup> Transcript, 28 July 2017, page 2510.

<sup>592</sup> Transcript, 28 July 2017, page 2556, lines 30 to 40.

<sup>593</sup> Statement of Primary Evidence, Gouge, 12 May 2017, para 13.65 to 13.68.

<sup>594</sup> Statement of Primary Evidence, Bishop, para 9(a).

*increase the value of the reserve and significantly decrease the ecological impact of the proposed Anns Creek east viaduct.”*<sup>595</sup>

[941] Dr Bishop considered that, post construction, all remaining natural areas of Anns Creek East should be purchased by the NZTA and managed for their conservation and biodiversity values. He further stated:<sup>596</sup>

*“As part of overall mitigation for the Proposal the proposed construction yard area and all remaining natural areas of Anns Creek East should be put into an ownership and management structure that ensures the areas future management for conservation and biodiversity values.”*

[942] Dr Bishop did not agree with the mitigation approach adopted by Dr De Luca. He said that:<sup>597</sup>

*“In my opinion the negative impact of the permanent loss of unique and threatened indigenous terrestrial ecosystems has not been sufficiently addressed or compensated for by the proposed environmental mitigation. In particular the permanent loss of freshwater wetland and lava substrate ecosystems is not adequately addressed.”*

[943] And he also opined that:<sup>598</sup>

*“If movement of the viaduct is impractical, then the area of lava shrubland and freshwater wetland ecosystems destroyed or adversely affected by construction should be re-placed with restored habitat of equal area multiplied by a compensation ratio that is commensurate with their unique biodiversity values.”*

[944] Mr Gouge, for Auckland Council, stated in evidence in relation to s171(1)(c) of the RMA that when considering a notice of requirement the consent authority must have particular regard to whether the work and designation are reasonably necessary for achieving the objectives of the Requiring Authority for which the designation is sought.<sup>599</sup> He referred to the Environment Court description of the ‘reasonably necessary’ test as follows:<sup>600</sup>

*“Rather the reasonably necessary test is an objective, but qualified one where necessary falls between expedient or desirable on the one hand and essential on the other, and the epithet ‘reasonably’ qualifies it to allow some tolerance.”*

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<sup>595</sup> Statement of Rebuttal Evidence, Bishop, 20 June 2017, para 1.14.

<sup>596</sup> Statement of Primary Evidence, Bishop, para 8.5.

<sup>597</sup> Statement of Primary Evidence, 10 May 2017, para 7.20.

<sup>598</sup> Ibid, para 9(b).

<sup>599</sup> Ibid, para 7.20.

<sup>600</sup> *Gavin Wallace Ltd v Auckland Council* [2012] NZEnvC 120 paragraph [183].

[945] He opined that, provided that the area to be designated was the minimum necessary to construct and operate the EWL, the spatial extent of the proposed designation was reasonably necessary to achieve the NZTA's objectives.

[946] In relation to mitigation of adverse effects identified by the experts, Mr Gouge said that biodiversity offsetting is addressed in Appendix 8 of the AUP:OP and provided relevant guidance. He referred to the opinion of Dr Bishop that the mitigation package proposed by NZTA did not meet the guidance provisions of Appendix 8 and, therefore, in his opinion, failed to avoid, remedy or mitigate the adverse effect on the environment resulting from the EWL.<sup>601</sup>

[947] The JWS Report for Ecology discussed the following matters (inter alia):

- (a) Providing formal protection of the greatest extent of Anns Creek as possible is proposed as an offset measure;
- (b) Acknowledgement that there are existing resource consents for reclamation of the stream, earthworks and removal of vegetation within the construction yard area. This removal is there for part of the existing environment and any steps not to establish the construction yard will be an enhancement or an offset;
- (c) A conservation management programme to control weeds, restore threatened ecosystems and restore lava shrublands in Anns Creek and the wider inlet is proposed to mitigate and offset effects.

[948] Dr De Luca referred to Dr Bishop's concerns about the quantum of mitigation and offset:<sup>602</sup>

*"... he chose to take a line by line, like for like approach to assessing our effects, the effects that we have identified in the mitigation that we've proposed, instead of taking the bucket of effects and bucket of mitigation approach that he also said was an appropriate way to approach this."*

[949] In his closing submissions for Auckland Council, Mr Lanning said that designating TR Group's land was appropriate because, firstly, as a general principle, designating land for mitigation works was an appropriate application of the Requiring Authority's powers where the mitigation works are necessary to address the effects of a project, in order to achieve the Requiring Authority's objectives.

[950] Secondly, it is necessary to address the ecological effects of the entire EWL in a comprehensive and integrated manner across the entire proposal. This requires

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<sup>601</sup> Statement of Primary Evidence, Gouge, para 13.71.

<sup>602</sup> Transcript, De Luca, p1656.

ongoing ecological enhancement and protection works within the TR Group's land as part of a wider package of ecological works not only to mitigate the effects of that portion of the EWL within TR Group's land.

[951] NZTA's ecological mitigation works will effectively subsume the requirements of the TR Group's resource consents for the Stage 2 works but using a designation to authorise those works. The NZTA designation will be effectively replacing the TR Group's Stage 2 consent and, therefore, it is not appropriate to assess the effects of the designation on the assumption that the TR Group's Stage 2 works and the associated ecological mitigation is part of the receiving environment because it is not likely that the TR Group's Stage 2 consent will be implemented if the NoR is confirmed. He said that if the works in mitigation were carried out by NZTA as a condition of the designation it would not be engaging TR Group's Stage 2 consents.

[952] In his closing legal submissions, Mr Littlejohn stated that TR Group accepted, without reservation, that the lava shrubland is unique and will remain protected in perpetuity subject to its current status being retained within the statutory planning framework.

[953] The protection of property rights, real and personal, lay at the heart of the common law, under which it was not necessary for TR Group to justify why they want to enjoy, in the future, the property rights they currently enjoy. NZTA has questioned that right through its desire to take ownership of TR Group's land as part of its mitigation for the construction effects of the EWL.

[954] Mr Littlejohn said:<sup>603</sup>

*"NZTA has taken the view that this (possibility of future development) somehow makes TR Group a fox in charge of the chicken coop. NZTA seeks to remedy what it seems to see as morally reprehensible land holding through the use of its statutory powers to designate and take the land from TR Group for the purposes of road building, yet it is NZTA who is proposing to build a road through the most ecological sensitive part of the site. A part that not even TR Group sought rights to develop."*

[955] Mr Littlejohn further submitted that the designation of those parts of TR Group's land beyond the areas needed for temporary construction access or the long-term operation of the EWL was *ultra vires*. He referred to the evidence of Ms Hopkins that, "*We have done it before*" and provided a list of projects to persuade the Board without specific detail. He submitted that NZTA's approach was an abuse of statutory power and that what NZTA has done previously would not make it lawful.

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<sup>603</sup> Transcript, Littlejohn, p6290.

- [956] Mr Littlejohn submitted that if a designating authority is able to designate for a purpose that has no proper nexus with its gazetted approval, s167 of the RMA has no meaning, which cannot be correct.
- [957] He submitted that even if an evaluative assessment of the Notice of Requirement over these parts of TR Group's land is warranted, the designation must fail for want of being reasonably necessary for achieving the objectives for which the designation is sought. Rather, the designation is being sought in this location for ulterior purposes because by adding it to the bucket of mitigation NZTA is seeking to propose a bucket of mitigation sufficient to bring the Proposal across the line.
- [958] There is no argument that the proposed mitigation in Anns Creek East is intended to be relied on as part of the mitigation for the whole of the EWL, as noted in Dr De Luca's table 7. Mr Mulligan stated, "*What are we doing that is extra?*" and NZTA believes that through the taking over the responsibility for the work in this area, and having long-term responsibility for that, it does add something to the equation.
- [959] Mr Littlejohn stated that there is no clear evidence that public ownership is better for the ecology of the site than private ownership. In the last three years, there was clear evidence of TR Group undertaking very significant remediation work at Anns Creek East and the public guardian (Auckland Council) not even bothering to visit the site.
- [960] He further stated that a fundamental problem that NZTA has with its "reasonable necessity" argument is that the works that they claim to be reasonably necessary for mitigation are, in fact, works that are already being undertaken by TR Group. He referred to the submissions of Mr Anderson, for the Royal Forest and Bird Protection Society, that the AUP requires that offsets be demonstrably additional. Even if the Board were to find that these works were reasonably necessary for mitigation, NZTA cannot claim the benefit of the works as the works are already part of the existing environment.
- [961] In his closing legal submissions, Mr Mulligan outlined NZTA's position that its statutory mandate included an ability to act and designate land in order to avoid, remedy or mitigate adverse effects. It would be illogical to have a power to construct a road but not be able to mitigate the effects. The mitigation and offsetting works form part of and are not separate to the Project. Any mitigation or offsetting works would need to have a logical connection to the Proposal or work related to the NoR. The mitigation or offsetting of the effects of its projects is consistent with the NZTA's requirements to exhibit a sense of social and environmental

responsibility and to satisfactorily comply with all responsibilities expected of a Requiring Authority under the RMA.<sup>604</sup>

- [962] Designating land for the space necessary to undertake mitigation and offsetting activities as part of a project is the usual practice for NZTA and other requiring authorities. It is normal and expected and no *vires* issues have been raised in the past.
- [963] Mr Mulligan stated that NZTA has consistently acknowledged the importance of Anns Creek East (and the combination of threatened plant habitats and the lava shrubland habitats) and the potential effect of the EWL on that ecological value. Given the rarity of this assemblage, any level of effect is likely to be significant. NZTA's design has specifically minimised the required extent of removal of this vegetation through the use of the viaduct and the identification of specific pier locations.
- [964] He said that NZTA accepted that there are potentially significant residual adverse effects on ecological values from the reclamation and works within Anns Creek, especially on Anns Creek East. On that basis, it proposed a package of ecological mitigation, offset and enhancement. The experts referred to this as the "bucket". The conferencing of ecologists agreed that it was initially "finely balanced" as to whether the package adequately addressed the adverse ecological effects (with the exception of Dr Bishop for Auckland Council, who expressed the view that the terrestrial measures were not sufficient). Additions to the mitigation and off-sets were made during the Hearing, which included an overall increase in ecological restoration and habitat enhancement values from 10 ha to 30 ha. The Board is satisfied that with this increase the bucket of proposed mitigation is sufficient with regard to the adverse effects.
- [965] Mr Mulligan submitted that the works to be undertaken by NZTA in Anns Creek East consisted of two parts. The first component was the construction of the EWL on a raised viaduct through the northern portion of Anns Creek East. The second component is the establishment of a construction yard at the eastern end of Anns Creek East. The establishment of the construction yard will occur in the same area as the Stage 2 works authorised by the Stage 2 consents held by TR Group. As TR Group had not undertaken any works in relation to its Stage 2 consent, that consent has not been given effect to. If NZTA undertakes works in the construction yard / Stage 2 area it will do so pursuant to its designation and resource consents and not TR Group's Stage 2 consent. It will, therefore, be impossible for TR Group to undertake that work itself and, as a result, the resource consents for Stage 2

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<sup>604</sup> NZTA Closing Submissions, Mulligan, para 19.22.

cannot be implemented and those consents cease to be part of the existing environment.

[966] He further submitted that:<sup>605</sup>

*“(a) The ecological works associated with Stage 2 TR Group resource consents will be undertaken by the Transport Agency in order to construct its own construction yard. This has implications for whether the designation is reasonably necessary;*

*(b) The ecological restoration and past management work in Anns Creek East wetland area are a valid part of the mitigation bucket work associated with development of the construction yard. The scale and nature of that work is set out in Stage 2 TR consents, and includes restoration and pest control. The Transport Agency needs the designation on Anns Creek East to, at a minimum, undertake this work. The evidence of Ms Myers is that such work might take 10-15 years. Since an integrated approach is required in Anns Creek it is not feasible to separate the lava shrubland from the wetland;*

*(c) The consent conditions under the Stage 2 consent requiring TR Group to implement a covenant for long term protection of Anns Creek will never be given effect to. This means that the Stage 2 TR Group consents do not provide the long term protection to the wetland area that the Transport Agency could provide.*

*The Transport Agency’s primary position is that it will be able to deliver better environmental outcomes for Anns Creek East with the designation and resource consents in place than will be achieved simply by reliance on the existing TR Group consents.”*

#### *Findings and conclusion*

[967] NZTA has sought consents and designation for the construction of the EWL and formation of the construction yard for the Proposal, and a designation across the TR Group’s site to provide for the mitigation by way of restoration and long-term protection of the Anns Creek East ecosystems.

[968] The matter of whether adequate consideration has been given to alternative routes is discussed in chapter 15.12 of this Report. It is noted that Auckland Council sought to shift the limits of the designation north from its proposed position in this vicinity while TR Group sought for it to be shifted south. Both of these propositions were assessed under the corridor options analysis and were rejected for legitimate reasons. Hence the Board is satisfied that adequate consideration has been given to alternative routes and s171(1)(b) of the RMA is satisfied.

[969] The Board accepts that the extent of NoR1 for the footprint of the EWL is necessary to achieve the objectives of the s171(1) (c) of the RMA.

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<sup>605</sup> Closing Submissions, Mulligan, para 14.13.



- [970] TR Group holds resource consents for the development of its site in two stages. Specific conditions of consent apply to each stage of the proposed development. TR Group has given effect to its Stage 1 works and associated ecological restoration. The Board also understands that, belatedly, TR Group is preparing the covenant required for the Stage 1 restoration.
- [971] The approach that has been adopted by NZTA towards the ecological restoration of Anns Creek East, as set out in the evidence of Dr De Luca, has been to utilise it as a part of the “bucket” of mitigation measures for adverse ecological effects. Dr Bishop conceded that with respect to Anns Creek East his main concern related to the implementation and potential double-dipping of mitigation, rather than the quantum imposed. The Board has accepted the opinion of Dr De Luca on this point and notes that she and Ms Myers consider that this is an issue that was “*finely balanced*”,<sup>606</sup> but with the additional mitigation proposed it was sufficient.
- [972] The main area of contention is the designation for the construction yard area, which comprises filling in the same footprint as that of TR Group’s Stage 2 consents. If TR Group gives effect to the Stage 2 filling, this will also trigger the need for their Stage 2 ecological mitigation and associated covenant.
- [973] The Board accepts Mr Lanning’s submission that if NZTA undertakes the filling of the Stage 2 area under its own consents and designation (to be temporarily used as the construction yard), TR Group’s consent will not be given effect with respect to Stage 2 and TR Group’s Stage 2 ecological mitigation will not be triggered. The Board accepts that without a requirement on NZTA to undertake mitigation, its formation of the construction yard would result in a lacuna, that is that no Stage 2 / construction yard mitigation would be triggered.
- [974] NZTA has sought designation for the construction yard as part of the Proposal. The Board accepts that the use of the construction yard is reasonably necessary for the construction of the Anns Creek viaduct, Great South Road Interchange and potentially works along Sylvia Park Road.
- [975] The Board is concerned by the issues raised by Mr Walter of TR Group and in submissions by Mr Littlejohn regarding the reasonable necessity of permanently designating the full area of Anns Creek within TR Group land, in the absence of any offer by NZTA to purchase the land. This is the area required for ecological mitigation under TR Group’s consents, some of which work has been carried out.
- [976] The Board has not received any evidence to support the contention by NZTA and Auckland Council that the restoration and long-term protection of the site will be

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<sup>606</sup> Transcript, Myers, page 1518.

better achieved through public ownership. Dr Bishop acknowledged that he had not visited the site for approximately three years, despite being involved in the previous Environment Court hearings on behalf of Auckland Council.<sup>607</sup> He also indicated some concern regarding Auckland Council's performance in management of ecological mitigation.<sup>608</sup> Conversely, the Board has received copies of the TR Group Stage 1 restoration plans and has seen planting and weed management undertaken on that site.

[977] Consequently, the Board does not accept that the permanent designation of the full area of Anns Creek within the TR Group land is reasonably necessary for the construction of the EWL provided that the level of ecological restoration and protection that TR Group would be obliged to provide is achieved. However, to avoid the lacuna identified by Mr Lanning, the Board finds it reasonably necessary to retain a designation over the site for a period sufficient to provide for the establishment and maintenance of the proposed ecological restoration. Ms Myers considered that this should be at least 10 years after construction,<sup>609</sup> which was confirmed by Dr Bishop.<sup>610</sup> To that end, NZTA provided a draft condition that would require a roll back of the designation after a period of 10 years. The Board finds that such an approach is appropriate.

[978] The Board considers that the imposition of the designation for mitigation and the requirement for roll back after 10 years adequately alleviates concerns expressed by Mr Walter for TR Group. While TR Group maintains long-term aspirations for future development within the site, the site is presently subject to significant planning constraints under the AUP:OP (SEA and ONF) and those constraints are unlikely to be modified within a 10-year planning horizon. Therefore, the Board does not consider TR Group to be unduly disadvantaged by the approach favoured by the Board. Any residual access or economic loss will be addressed through other mechanisms such as agreements between the parties or the Public Works Act.

[979] The Board's reasoning for this result weighs the various critical factors discussed above. TR Group's Stage 2 development would, in the normal course of events, result in the imposition of a covenant (flowing from previous resource consents) against the title to TR Group's land. Because of the "lacuna", immediate activation of that covenant and its registration will be delayed. At no stage during the Hearing has TR Group objected to the imposition of the covenant. Indeed it accepts its

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<sup>607</sup> Transcript, Bishop, 1 August 2017, p2871.

<sup>608</sup> Transcript, Bishop, 1 August 2017, p2877.

<sup>609</sup> Transcript, Myers, 13 July 2017, p1546-1547.

<sup>610</sup> Transcript, Bishop, 1 August 2017, p2872.

obligations. The Board accepts the merits of Mr Littlejohn’s jurisdictional argument insofar as it relates to an extension of the designation, the need for which would weaken as time passes. The attraction of the condition proposed by NZTA flows from these considerations. First, there will be no permanent loss to TR Group (or its successors in title) of the ecological significant land. Secondly, if the TR Group has registered a covenant equivalent to the one they would be obliged to register for Stage 2 (which during the Hearing TR Group accepted), NZTA’s proposed condition will oblige them to roll back the designation. Thirdly, during the interregnum period, for the reasons outlined above, an integrated recovery programme, directed by one entity, will be progressed.

### **Mercury Southdown Site**

[980] Mercury owns the 4 ha Southdown site at the southern end of Hugo Johnston Drive. As described by Mr Flexman,<sup>611</sup> the site comprises two parcels of land. The northern parcel, formally a car park servicing the site, now contains the Mercury Solar Research and Development Centre, which comprises an array of solar panels and a small shed housing batteries. The southern parcel contains the Southdown gas-fired power station (partially decommissioned), a Transpower substation and other national grid assets, a decommissioned high-pressure gas line from the adjacent First Gas supply, and a KiwiRail electrification substation. A First Gas pigging station is located immediately south of the site.

[981] The Southdown power station includes three gas-turbine generator packages (GE101, GE102 and GE102), with the turbines having been removed from each package, gas pipe work and the gas delivery point to the site, a Wet Surface Air Cooled Condenser (WETSACC) cooling system, control room and offices.

[982] NoR1 for the EWL occupies the southern half of the southern land parcel, extending over most of the power station. The viaduct that is proposed to cross the site will converge within 7 m of the southernmost generator package (GE105) and cross over gas pipework and approximately half of the WETSACC.

[983] The matters of relevance to Mercury’s submission were summarised by Ms Devine<sup>612</sup> in her opening submissions as:

- “(a) *The environment against which the proposal must be assessed.*
- “(b) *The significant adverse effects of the proposal in relation to the Southdown Site, including:*
  - (i) *adverse safety effects;*

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<sup>611</sup> Statement of Primary Evidence, Flexman, para 27.

<sup>612</sup> Opening Submissions, Devine, para 2.

- (ii) *reverse sensitivity effects;*
- (iii) *adverse effects on New Zealand's security of electricity supply;*
- (iv) *adverse effects of Mercury being prohibited from making changes if NZTA considers they might hinder the EWL;*
- (v) *adverse future effects on Mercury due to the relocation of infrastructure at Southdown; and*
- (vi) *other adverse effects on Mercury's ability to use its site.*
- (c) *How NZTA's assessment of effects is deficient.*
- (d) *Part 2 of the Act, including:*
  - (i) *the appropriateness of considering it;*
  - (ii) *how the Board cannot be sure the EWL would provide for economic wellbeing; and*
  - (iii) *why the proposal is contrary to section 7(b) (efficient use and development of natural and physical resources).*
  - (iv) *section 7(j) and the potential effects of the EWL on the development of renewable energy.*
- (e) *Why the Ministers' reasons for directing a Board of Inquiry hearing require particular regard to be had to important infrastructure.*
- (f) *How the proposal is inconsistent with relevant electricity and infrastructure provisions of policy statements and plans.*
- (g) *The fact that adequate consideration has not been given to alternative sites, routes or methods of undertaking the proposal.*
- (h) *Why the Board can have no confidence that the effects in relation to the Southdown Site would be avoided, remedied or mitigated.*
- (i) *Why the Board should decline to authorise the EWL at this time."*

[984] The Board is satisfied that those matters represent the issues that have been canvassed and responded to by NZTA and Mercury throughout the Hearing.

*The Environment against which the Proposal Must be Assessed*

[985] The environment against which the Proposal must be assessed was specifically addressed in the JWS Report on *Planning – Southdown site*<sup>613</sup> attended by Mr Grala and Ms Rickard, but the output of that JWS Report was inconclusive. Therefore, the Board relies on the various statements of evidence and cross-examination in its consideration of this matter.

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<sup>613</sup> Expert Conferencing Joint Witness Statement to the Board of Inquiry RMA Planning – Southdown Site, Tuesday 11 July 2017.

[986] The key issue in defining the existing environment was whether an operating gas-fired power station should be considered as part of the existing environment. This matter evolved through the Hearing and is best summarised by reference to the closing submissions of Ms Devine and Mr Mulligan.

[987] Ms Devine maintained that the environment comprises:<sup>614</sup>

- (a) An operating power station;
- (b) A site and power station of national significance; and
- (c) Lifeline infrastructure at the Southdown site.

[988] Mr Mulligan<sup>615</sup> contested that the environment to be considered does not include an operating power station. His reasons included:<sup>616</sup>

- (a) Based on the evidence of Mr Crimmins, the Auckland Council air quality expert, the commissioning of new gas-fired turbines would likely require a change to the existing discharge to air consent, or require a new consent;
- (b) Based on the Summary Statement of Mr Grala,<sup>617</sup> the operation of the turbines at the site was undertaken as permitted activity under the legacy Auckland District Plan – Isthmus Section. The operation of a gas-fired power station is no longer permitted under the AUP:OP and would need approval from Auckland Council;
- (c) The power station was not lawfully permitted because it failed to meet consented requirements with respect to the provision of a footpath easement around the southern side of the site.

[989] With respect to item (a) above, the Board does not accept that the recommissioning of the power station would, under all circumstances, necessitate a change or new discharge to air consent. While possibly unlikely, Mercury could reinstall the same turbines as previously operated. In that case there would be no legal requirement to change the existing consent, provided all conditions were complied with. Alternatively, Mercury could install turbines with less emissions than those removed. In that case, a change of consent conditions may be required to reference the updated technology but, absent of any other changing circumstances,

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<sup>614</sup> Closing Submissions, Devine, para 3.

<sup>615</sup> Closing Submissions, Mulligan, para 13.23.

<sup>616</sup> Closing Submissions, Mulligan, para 13.27

<sup>617</sup> Transcript, Grala, p 6119; Summary Statement, Grala, para 22.

the Board considers that it would be highly likely that such a change would be granted by Auckland Council.

[990] Likewise, for item (c) above, the Board does not accept that a non-compliance of the provision of an easement around the site deems the operation of the power station unlawful. The Board is satisfied that that is a matter of compliance and enforcement between Mercury and Auckland Council. The power station operated from 2006 to 2015 and the Board is satisfied that Mercury (through its predecessor Mighty River Power) gave effect to the consents necessary for the operation of the site, notwithstanding this matter of non-compliance.

[991] The Board now turns to the question of regulatory status of the power station (item (b) above). This matter arose through the Summary Statement presented by Mr Grala. It was not addressed in Ms Devine's closing submissions. Conversely, Mr Mulligan submitted in closing that the power station would need to either seek a resource consent as a discretionary activity under the AUP:OP<sup>618</sup> to recommence generation, or apply for an extension of existing use right under Section 10 of the RMA. It would have until December 2017 to make the s10 RMA application, based on the December 2015 cessation of power generation at the site. Mr Mulligan<sup>619</sup> contended that if such an application was sought, Auckland Council would have to consider the planning environment existing at that time, which would include NoR1, and take account of potential effects on the activity sought by the NoR in its decision.

[992] The Board accepts that in the circumstance outlined by Mr Mulligan, an application for an extension of the existing use right would, under s10(2)(b)(ii) of the RMA, necessitate consideration of the NoR and likely require the approval of NZTA as a potentially adversely affected person. However, the Board has not heard submissions from Mercury, or evidence from any person, on this matter. The existing land use consents for the site,<sup>620</sup> while not triggered by a rule of the legacy District Plan that explicitly relates to a gas-fired power station, do purport to authorise the development and operation of the power station. Consequently, the Board is reluctant to base its consideration of the Mercury submission on the basis that the future operation of the power station would be reliant on an extension of existing use rights, or a new land use consent under the AUP:OP. Accordingly, the Board cautiously bases its consideration of effects on Mercury on an assumption

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<sup>618</sup> AUP:OP Rule E26.2.3.1(A63).

<sup>619</sup> Transcript, Mulligan, p 6565.

<sup>620</sup> Refer Exhibit B, Mercury.

that Mercury could rely on existing land use consents to operate the gas-fired power station, noting that the actual legal status is unconfirmed.

[993] Much evidence was heard on the likelihood of the power station recommencing generation, or of being used for synchronous condensing for voltage regulation. In particular, this included evidence of Mr Wickman, Mr Flexman, Mr Whineray, Mr K Murray, Mr Heaps, and Mr Noble (who on this matter was expressing a personal opinion rather than providing evidence on behalf of Transpower). The evidence of these witnesses addressed, among other matters, the extent that the EWL would inhibit the restart of generation, introducing operating risks and delays in recommissioning that would impact on the economic opportunity to generate power at short notice. The Board has considered all evidence on these matters in detail. For the purposes of confirming the existing environment, however, the Board does not second-guess Mercury's intentions for the site. Therefore, the Board cautiously includes the operating 135 MW gas-fired power station as part of the environment to be considered. By taking this approach, the Board ensures that its consideration of potential adverse effects between the EWL and the Mercury site is appropriately conservative, being based on the potential co-location of the road with the operating power station.

[994] To further define the existing environment and inform its overall assessment of effects of the EWL on the Southdown site, the Board also considers whether the Mercury Southdown power station can reasonably be considered as a site and power station of national significance, as contended by Ms Devine. Suffice to say that significant evidence was heard on this matter, particularly from Messrs Flexman,<sup>621</sup> Whineray<sup>622</sup> and Heaps.<sup>623</sup> Mr Noble's<sup>624</sup> evidence was also relevant to this matter.

[995] Based on the definitions provided in Schedule 1 of the Civil Defence Emergency Management Act 2002, the Board accepts that the Southdown site does contain infrastructure operated by Lifeline Utilities, being the Transpower substation and other national grid assets, the KiwiRail substation and the power station (being operated by Mercury, which is a Lifeline Utility). The adjacent First Gas pigging station and pipelines are also infrastructure operated by a Lifeline Utility. Mr Grala

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<sup>621</sup> Transcript, Flexman, para 72.

<sup>622</sup> Transcript, Whineray, p 4148.

<sup>623</sup> Transcript, Heaps, p 3979.

<sup>624</sup> Statement of Primary Evidence, Noble, para 46 (46.1 – 46.4).

expressed the view that Mercury's concern also related to its dependence of the location of the Transpower and First Gas Lifeline Utilities within or adjacent to the site, that the strategic value of the site to Mercury was enhanced by those assets.<sup>625</sup> The Board accepts this, but notes that it is distinct from considering the power station as a Lifeline Utility.

- [996] The Board does not accept that the power station itself should be considered as an essential Lifeline Utility. In forming this view, it also considers the extent that the Southdown site contributes to the regional and national security of electricity supply, another matter given significant attention by Mercury. Discussion on this is provided later in this chapter.

*Co-location of the EWL and Power Station – Assumptions Underpinning the Proposal*

- [997] The potential effects of the EWL co-location with the potentially operating power station were extensively addressed in the evidence of NZTA and Mercury witnesses.<sup>626</sup> In summary, those effects include construction effects (primarily relocation and access to infrastructure, access around the site, dust, vibration and potential delays in recommissioning of the plant), and operating effects, which comprise access around the site, delays in restart, and risk to both the Southdown site and users of the EWL. A further potential adverse effect is how the EWL may impact on future redevelopment and use of the Southdown site.

- [998] Pausing first to consider future uses of the site, the Board acknowledges that impacts on possible redevelopment and alternative use of land is a matter that must be considered through a NoR, to the extent that it can be in each circumstance. In the absence of confirmed redevelopment proposals, where it cannot be considered in detail, economic impacts of future redevelopment potential can be addressed through alternative mechanisms including the PWA. The Southdown site has a Business – Heavy Industry zoning that provides for a range of permitted land uses (subject to standards). In this case, the Board has not received any specific proposal for redevelopment of the Southdown site and cannot reasonably form a conclusion on the effect that the EWL may have on redevelopment. Therefore, in this instance, those issues should most appropriately be addressed through alternative commercial and legal mechanisms.

- [999] Turning to more fundamental matters, Mercury contended that NZTA had incorrectly based its design and assessment of effects on an assumption that the

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<sup>625</sup> Transcript, Grala, p 6085.

<sup>626</sup> Transcript, Hopkins, p 2380 – 2381; Transcript, Erskine, p 3508, 3599 and 3720-3721; Statement of Primary Evidence, Grala, paras 23, 118-136; Statement of Primary Evidence, Phillis, para 58; Supplementary Evidence, Erskine, para 1.5.



power station was permanently decommissioned. This contention contributed to Mercury's position that the assessment of effects had been inadequate.

[1000] As an opening determination, the Board does not accept that any inadequacy in an assessment of effects at the time of lodgement of a NoR prevents all relevant matters being appropriately addressed in the final decision. The matter of whether the AEE adequately addressed all effects in sufficient detail has been superseded by the extensive evidence presented, cross-examination, and questioning by the Board that has occurred since lodgement of NoR1. For the reasons discussed below, the Board finds that it does have sufficient information to appropriately determine the potential effects of the co-location of the EWL and power station, and decide whether those effects can be avoided, remedied or adequately mitigated.

[1001] Turning to the assumptions on which the EWL alignment was based, it is concluded from the evidence presented by Mr Wickman that the NZTA had been informed in December 2015 that the Southdown site was to be retained by Mercury for "*future generation development*".<sup>627</sup> The exact format and footprint of such future generation had not been confirmed to NZTA in December 2015.<sup>628</sup>

[1002] Notwithstanding the meeting held between Mr Whineray and Mr Brash (Acting Chief Executive of NZTA) in 2016,<sup>629</sup> the Board has not received any evidence that indicates that prior to the lodgement of NoR1, the NZTA project team was informed that the co-location of the EWL with the power station would result in insurmountable adverse effects and risk. Based on the evidence of Ms Linzey<sup>630</sup> and the material provided in Annexure A of Mr Wickman's rebuttal evidence, the Board is satisfied that NZTA did undertake an analysis of route options that took account of future power generation at the site and ultimately took account of the option to recommission the existing turbine packages. There was ongoing exchange of technical information between the NZTA and Mercury regarding equipment specifications, access clearances and the like. Much of the information provided by Mercury was co-ordinated by Mr Graafhuis, an employee of Mercury who attended the Hearing but was not called to provide evidence.

[1003] The Board concludes that the proposed alignment resulted from a balancing of potential effects between the ecologically significant Anns Creek East and the

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<sup>627</sup> Statement of Rebuttal Evidence, Wickman, Annexure A; email from Duncan Annandale to Scott Wickman, 18 December 2015.

<sup>628</sup> Statement of Rebuttal Evidence, Wickman, Annexure A; email from Duncan Annandale to Scott Wickman, 21 December 2015; email from Duncan Annandale to Scott Wickman and Mike Forrest, dated 22 January 2016.

<sup>629</sup> Statement of Primary Evidence, Whineray, para 10.

<sup>630</sup> Statement of Primary Evidence, Linzey, para 10.7.

potentially recommissioned power station, as well as other constraints such as Mercury's Solar Research Development Facility, KiwiRail corridors to the east and west, Transpower infrastructure, and links to Great South Road and Sylvia Park Road. Regardless of NZTA's position on the likelihood of the power station being recommissioned, the Board is satisfied that the route selection, design and assessment of effects was based on an accommodation of that occurring.

*Security of electricity supply and delays in recommissioning the power station*

[1004] Throughout the Hearing, Mercury maintained that the Southdown power station was regionally and national significant infrastructure. Mr Kieran Murray, economist for Mercury, identified the key advantages of the site as being its existing power generation infrastructure and consents, and its co-location with other existing key infrastructure (gas supply and Transpower grid).<sup>631</sup> Mr K Murray addressed in detail the contribution that he considered the site makes to security of electricity supply, and impacts that the EWL may have on that contribution,<sup>632</sup> particularly the delay in recommissioning power generation that may be caused by the co-location of the EWL with the site. These matters were reiterated in Ms Devine's closing submissions.<sup>633</sup> In light of the stated significance of the site, the Board also broadens its consideration to the effect that permanent closure of the plant may have on security of supply, should that be an outcome of the EWL as proposed.

[1005] Mr Flexman<sup>634</sup> indicated that in the absence of the EWL it would take three to four months to recommission power generation at the site. That period would be required to:

- (a) Procure and install three gas turbine engines at the approved locations;
- (b) Reconnect the gas supply pipework;
- (c) Replace the steam injection system (for NOx control) on Units GT101 and GT102 with a high pressure water injection system;

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<sup>631</sup> Statement of Primary Evidence, K Murray, para 35.

<sup>632</sup> Statement of Primary Evidence, K Murray, paras 34 to 84.

<sup>633</sup> Closing Submissions, Devine, paras 7 and 8.

<sup>634</sup> Statement of Primary Evidence, Flexman, para 46.

- (d) Procure and install a water treatment plant for units GT101 and GT102 (the existing system is sufficiently sized for GT105 only);
- (e) Recruit and train operators; and
- (f) Test all safety systems.

[1006] The period necessary for reconnecting the First Gas supply and recruiting staff was disputed by NZTA.<sup>635</sup>

[1007] Mr Flexman confirmed that the cooling system necessary to restart the site would require approximately 20 percent of the area currently required for the WETSACC and there would be space to install it, taking account of the changes to the layout that would be required to accommodate the EWL.<sup>636</sup> If not undertaken prior to the decision to recommission the site, the removal of the WETSACC and replacement with a new cooling system would add up to six months to the restart programme<sup>637</sup> (a total of up to 10 months). Mr K Murray, economist for Mercury, contended that the extended lead time for a restart impacted on the economic viability of the restart, and the benefit that could be afforded to Auckland by bringing that generation back on line.<sup>638</sup> Examples of the need to restart the power station included dry years impacting hydro generation, failure of significant transmission infrastructure, or failure of alternative gas-fired power supply, or a combination of these factors.<sup>639</sup> Evidence of Mr K Murray for Mercury and Mr Williamson for NZTA debated whether extending the restart period from four to eight months would have an economic impact on Mercury or New Zealand.

[1008] Mr Heaps, for NZTA, expressed doubt regarding the stated strategic circumstances for recommencing gas-fired power generation at the site. He identified other sites outside Auckland with similar advantages to the Mercury site<sup>640</sup> and formed the following conclusions with respect to security of supply:<sup>641</sup>

- (a) The Southdown site is not substantially more attractive than all other generation sites.

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<sup>635</sup> Closing Submissions, Mulligan, para 13.88(a-e).

<sup>636</sup> Transcript, Flexman, p 4963 and 4964.

<sup>637</sup> Statement of Primary Evidence, Flexman, para 48.

<sup>638</sup> Transcript, K Murray, p 5244.

<sup>639</sup> Statement of Primary Evidence, K Murray, para 58.

<sup>640</sup> Statement of Rebuttal Evidence, Heaps, para 4.11.

<sup>641</sup> Statement of Rebuttal Evidence, Heaps, para 1.2.

- (b) Locating solar at the Southdown site would not be expected to have a security electricity supply benefit.
- (c) There is not a range of scenarios where re-establishing power generation at Southdown would significantly reduce the probability of a national electricity shortage.
- (d) It is difficult to envisage construction of the EWL on the proposed alignment limiting Mercury's ability to provide a voltage support service.
- (e) It is difficult to think of examples where the risk of blackouts is less if Southdown generation can be recommenced four months sooner.

[1009] Mr Heaps considered that future generation at that the site would be based on a commercial decision and that it was unlikely that such a decision would be significantly influenced by the recommissioning period being extended from four to eight months.<sup>642</sup> Nonetheless, the Board notes that NZTA has now modified its proposed Condition SD.1A such that any delay in recommissioning the site will be no more than four months.

[1010] Mr Noble (who on this matter was expressing a personal opinion rather than providing evidence on behalf of Transpower) also addressed the strategic value of the Southdown power station and agreed with the conclusions presented by Mr Heaps.<sup>643</sup> When asked about the strategic need to retain the ability to recommission the site, he responded:<sup>644</sup>

*"The only comment that I would make is that whether there's a generator there or isn't there a generator there is reliant on the price of electricity that the company that owns it will get at the time and the offer it can put in. There are transmission solutions, there are non-transmission solutions, there is a distributor generation, there's all sorts of things that impact the market but it is a commercial piece of equipment that it's got to wash its own face in the price zone."*

[1011] Mr Noble also outlined a number of alternative options that Transpower has identified to provide voltage support, and indicated that such measures are not required while generation remains available at Huntly. Mr Noble inferred that Transpower was not reliant on a generation option being maintained at the Southdown site.<sup>645</sup>

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<sup>642</sup> Transcript, Heaps, p 3978-3979.

<sup>643</sup> Transcript, Noble, p 4878.

<sup>644</sup> Ibid, p 4877.

<sup>645</sup> Ibid, p 4870

[1012] Having carefully considered the evidence, the Board accepts that the site has advantages to Mercury that other sites, including greenfields sites, do not. Those advantages are the existing power generation infrastructure and consents, and access to supporting infrastructure. However, the Board has not been convinced that the Mercury Southdown site is strategically important to the security of supply to Auckland or New Zealand. In this regard, we favour the evidence of Mr Heaps and the opinion expressed by Mr Noble. In the unlikely event that the EWL and a gas-fired power station could not co-locate and notwithstanding the Board's discussion and findings on risk (provided below), the Board finds that the permanent closure of gas-fired electricity generation at the site would not result in an economic or security of supply loss to Auckland or New Zealand. The same conclusion applies in the event that synchronous condensing voltage support could not be carried out on the site.

[1013] In the more likely event that the EWL and the power station can co-locate, the conditions presented with NZTA's closing submissions will require that EWL does not result in a delay in recommissioning the power station beyond the minimum four-month period indicated as acceptable in Mercury evidence, unless Mercury agrees to a longer period. The Board finds that to be an acceptable timeframe, consistent with Mercury's evidence, and notwithstanding that a longer delay is unlikely to be strategically significant.

#### *Access*

[1014] Site access effects were addressed by Mr Nancekivell<sup>646</sup> and Mr Carlisle, the Mercury traffic witness. Mr Carlisle confirmed that the matters relating to vehicle access to the site had been resolved, and that other matters regarding site clearances, internal vehicle circulation and pedestrian access could be addressed through appropriate conditions.<sup>647</sup> Some of those matters have been directly addressed in NZTA's proposed conditions and the Board finds that the potential traffic and access effect that the EWL may have on the Southdown site can be adequately minimised and managed through the imposition of appropriate conditions.

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<sup>646</sup> Statement of Rebuttal Evidence, Nancekivell, paras 7.23 to 7.33.

<sup>647</sup> Transcript, Carlisle, p 5483.

## *Air Quality*

- [1015] Dust and potential disturbance of asbestos was identified by Mr Graham, Mercury air quality witness, as potential construction effects that may impact the Mercury site. Mr Graham considered that these effects could be adequately managed through appropriate conditions.<sup>648</sup> Ms Needham, NZTA's air quality witness, did not accept all of Mr Graham's suggested conditions but identified amendments to Conditions AQ.1 and AQ.2 that tighten the performance for management of dust and responses to adverse dust effects.<sup>649</sup> Aside from those amendments, Ms Needham considered that the dust management conditions, including those that address network utilities within the site, will appropriately avoid or minimise dust effects. Ms Needham also confirmed that the management of asbestos would be covered in the Contaminated Land Management Plan, so did not require a separate condition.<sup>650</sup> The Board accepts Ms Needham's evidence on those matters and finds that adoption of the conditions now proposed will adequately avoid, remedy or mitigate dust and asbestos effects.
- [1016] Mr Graham also raised concern about the impact that the operation of the EWL may have on ambient air quality and Mercury's ability to comply with conditions of its existing discharge to air consents.<sup>651</sup> In summary, his concern was that the addition of traffic south of the Mercury site could increase the background NO<sub>x</sub> to the extent that that it would impact on Mercury's ability to operate within the New Zealand National Environmental Standard for Air Quality (NES – Air Quality) maximum allowable concentration of nitrogen dioxide (NO<sub>2</sub>) 200 µg/m<sup>3</sup> (as a one-hour average). The current consented emissions from the station, when combined with the default background level, accounted for 71 percent (141 µg/m<sup>3</sup>) of the 200 µg/m<sup>3</sup> limit.
- [1017] Ms Needham and Mr Crimmins both addressed the matter of NO<sub>x</sub> emissions and compliance. Ms Needham identified the Mercury site, when operating, as the largest NO<sub>x</sub> emitter in Auckland (4,600 kg/day) and that the road will be approximately 8 kg/day. Ms Needham acknowledged that there was some "float" in the existing NO<sub>2</sub> emissions from the site within the maximum allowable 200 µg/m<sup>3</sup>

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<sup>648</sup> Summary Statement, Graham, paras 6 – 8, 28 and 29.

<sup>649</sup> Summary Statement, Needham, para 6.

<sup>650</sup> Summary Statement, Needham, para 7.

<sup>651</sup> Statement of Primary Evidence, Graham, paras 26 to 30.

limit.<sup>652</sup> She also indicated that the maximum levels caused by the power station and the maximum levels caused by the road would not coincide, because they would occur in different meteorological conditions.<sup>653</sup> Mr Crimmins agreed that with the EWL operating, the combined levels, “*will be still reasonably comfortably within the 200 microgram as a worst case*”.<sup>654</sup> We favour the evidence of Ms Needham and Mr Crimmins in this regard.

*Potential Effects – Health and Safety Risk*

[1018] The primary area of contention between NZTA and Mercury related to the risk that the co-location of the EWL and the power station may have for the safety of people. Those risks were based on:

- (a) Risk to the Mercury site from:
  - (i) Direct impact of vehicles or objects falling into the site;
  - (ii) Damage and possible explosions caused by vehicles or objects falling into the site; and
  - (iii) Ignition of gas by vehicles or activities on the road.
- (b) Risk to road users from:
  - (i) Turbine disc failure leading to projectiles passing across or landing on the road or cycleway;
  - (ii) Explosion of gas plumes emanating from the site, either through ignition on the site or on the road; and
  - (iii) Drivers being startled by start-up and venting noises emanating from the site.

[1019] Dealing with noise effects first, the Board does not accept that drivers are likely to be startled to the extent that accidents will occur if start-up or venting noises emanate from the site. The exact level of noise that drivers could be subject to was not agreed between Mercury or NZTA but Ms Wilkening, on behalf of NZTA, was

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<sup>652</sup> Transcript, Needham, p 1746.

<sup>653</sup> Transcript, Needham, p 1763.

<sup>654</sup> Transcript, Crimmins, p 3099.

the only relevant expert to present evidence on this matter<sup>655,656</sup>. The Board accepts Ms Wilkening's conclusions and finds that with the inclusion of a noise barrier along the northern side of the EWL at this location, potential effects of noises emanating from the power station will be adequately mitigated for road users. Accordingly, the Board notes that NZTA has proposed a noise wall of minimum 2.5 m height (Condition SD.2(vi)).

[1020] For completeness, the Board also accepts and adopts Ms Wilkening's evidence on the potential effects of vibration from the road, where she concludes:<sup>657</sup>

*"The vibration sensitivity and trip settings for Southdown equipment as provided by Mercury is magnitudes above any potential East West Link traffic vibration that may be experienced on the site. The transmission of traffic vibration from the bridge structure through the ground into the turbines will be below the vibration levels that would be caused by onsite vehicles and equipment, will generally be imperceptible and below the tripping criteria provided Mercury by orders of magnitude. The risk of turbine tripping due to road traffic vibration is negligible, approaching zero."*

[1021] The key contested elements of risk relate to the ignition of gases and projectiles passing to or from the EWL. These matters were directly addressed at the Southdown Site Expert Conference attended by Mr Erskine for NZTA and Mr Phillis for Mercury.<sup>658</sup> Subsequent to that conference, Mr Erskine and his associate Ms Cook prepared a Qualitative Risk Assessment (QRA)<sup>659</sup> of the co-location of the EWL and power station, using the hazards and risks agreed to with Mr Phillis. Mr Erskine spoke to the QRA and responded to extensive questioning and cross-examination during the Hearing. The transcript is extensive in that regard and we do not quote every element of it in this Report. Suffice to say that the Board has considered the matters in significant detail, taking account of all relevant evidence presented by Mercury and NZTA witnesses.

[1022] Mr Erskine used the Victorian Risk Criteria and current WorkSafe New Zealand guidance on values when assessing risk reported in the QRA,<sup>660</sup> and presented a summary of his results in Table 19 of the QRA. Mr Erskine considered his

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<sup>655</sup> Transcript, Wilkening, p 4026 – 4027.

<sup>656</sup> Noting that the issue was raised in the Statement of Primary Evidence by Mr Phillis (para 36) who is not a noise expert.

<sup>657</sup> Transcript, Wilkening, p 4027

<sup>658</sup> Southdown Site Expert Site Conference (Part 2), Thursday 13 July 2017.

<sup>659</sup> Technical Report – Risk Assessment of Mercury Southdown Site, July 2017 (QRA).

<sup>660</sup> QRA, p 5.



assessment to be conservative<sup>661</sup> and explained his reasons for drawing that conclusion. The only parameter that was not found to be either “tolerable” or “broadly acceptable” was the scenario of an ignited gas release from First Gas assets (pigging or pipeline) in their current position. However, he concluded that the risk for those assets would be “broadly acceptable” or “tolerable” when relocated, depending on the new location.

[1023] Under cross-examination, Mr Erskine acknowledged that a parameter that he had not been aware of and had not considered was a potential rupture of a high-pressure gas line, located within the pipework between GE105 and the WETSACC,<sup>662</sup> as a result of turbine disc failure. He acknowledged that that should be factored into the risk assessment for the road, but that it is an existing risk for the site. The Board also notes Mr Erskine’s explanation of his conservatism in assumptions regarding the operating time and performance of the turbines<sup>663</sup> and how it was likely that this risk could be adequately managed.

[1024] When questioned by the Board, Mr Erskine agreed that a risk-based performance standard would be an appropriate addition to designation conditions. Mr Grala also agreed in principle with this approach.<sup>664</sup>

[1025] Mr Phillis prepared his statement of primary evidence in May 2017, prior to the preparation of the QRA by Mr Erskine. In his primary statement he categorised risk as fire, turbine disc failure, relief valve discharge (noise and ignition), heat discharge from chimney stacks, natural gas pipeline release (including ignition) and earthing system. In his Summary Statement presented at the Hearing, Mr Phillis summarised his remaining concerns as being:<sup>665</sup>

*“(a) The collaborative approach adopted up to that point in the initial risk workshop and Part 1 of the Facilitated Meeting on 13 July was not progressed, and stakeholders were not afforded the opportunity to review and comment on the inputs and assumptions used in the risk assessment, nor to review the results prior to presentation for consideration by the Board.*

*(b) Limitations in the risk assessment approaches adopted were not sufficiently stated.*

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<sup>661</sup> Transcript, Erskine, p 3506 – 3507; 3572.

<sup>662</sup> Transcript, Erskine, p 3623-3624.

<sup>663</sup> Transcript, Erskine, p 3754-3755.

<sup>664</sup> Transcript, Grala, p 6130 – 6131.

<sup>665</sup> Summary Statement, Phillis, para 11.

(c) Omission of ignited releases from high pressure gas supply pipework on the Mercury site (refer (e) Natural gas pipeline release: (ii) Natural gas supply pipework to Southdown site in the Facilitated Meeting Report).

(d) Sensitivity of selected scenarios to the stated assumptions.“

[1026] He also stated that he had limited experience with gas-fired power stations.<sup>666</sup>

[1027] Notwithstanding Mr Phillis’ reservations about some aspects of Mr Erskine’s assessment, he considered the QRA to be a reasonable first step in the risk assessment of a site such as the Mercury site.<sup>667</sup> He was reluctant to explicitly state that Mr Erskine’s assumptions were wrong, but considered it would have been more appropriate for the draft report to be circulated to, and commented on by, appropriately informed stakeholders such that the identification of all hazards and risks could be refined. Mr Phillis also expressed concern about adopting the Victorian Interim Risk Guidelines and applying interim criteria to individual risk rather than cumulative risk. In raising this concern, however, Mr Phillis noted that:<sup>668</sup>

*“I am not necessarily saying it is a bad approach, it is just that I think that the limitations in that approach need to be identified to say that there is a potential that, in identifying each risk individually, you are understating the aggregated risk by doing that.”*

[1028] In essence, Mr Phillis considered the assumptions of the QRA needed to be better stated so that stakeholders would be aware of those when reviewing the report.

[1029] Mr Phillis made particular reference to high-pressure gas pipes that he considered to be a gap in Mr Erskine’s QRA in relation to possible risks from gas vents and ruptures. However, the Board was unclear from Mr Phillis’ responses to its questioning the degree to which that pipework had or had not been addressed in the QRA.<sup>669</sup>

[1030] Mr Phillis agreed that electric trains passing the site could also present a risk of ignition of released gas, although separation distance may influence that risk. He was not aware of the existing frequency of trains passing the site.<sup>670</sup>

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<sup>666</sup> Summary Statement, Phillis, para. 5.

<sup>667</sup> Statement of Primary Evidence, Phillis, paras 5312 – 5314.

<sup>668</sup> Statement of Primary Evidence, Phillis, paras 5311.

<sup>669</sup> Statement of Primary Evidence, Phillis, paras 5314-5315.

<sup>670</sup> Statement of Primary Evidence, Phillis, paras 5315-5316.

- [1031] Mr Phillis would not comment on the potential for relocating the pipework within the site. His assessment was based on the pipes in their existing location.<sup>671</sup>
- [1032] Cross-examination and questioning of Mr Phillis was extensive and the Board has considered it with care. The Board's overall observation is that Mr Phillis did not state that risks at the site could not be adequately addressed through reconfiguration or mitigation. His caution was that he sought more detail on assumptions, and potentially the inclusion of additional parameters, to update the QRA and then undertake more detailed development of risk management measures. Taking account of this, the Board accepts the specific experience and technical detail presented by Mr Erskine, which can be refined through the process described by Mr Phillis. The Board considers that, subject to appropriate conditions, sufficient information has been presented to find that the EWL and power station could co-locate.
- [1033] At the request of the Board, NZTA and Mercury prepared a set of conditions specific to the Mercury site. These were presented to the Board by Ms Hopkins.<sup>672</sup> Mr Grala also provided the conditions he proposed on behalf of Mercury as an attachment to his Summary Statement.<sup>673</sup> Mr Grala considered that the imposition of his proposed conditions, with the possible addition of performance targets, would adequately achieve the outcomes sought by Mercury, including those relating to the management of risk.<sup>674</sup>
- [1034] Conversely, Ms Devine submitted in closing that the Board is not in a position to impose conditions to address the effects of the Proposal because it does not have sufficient information to fully understand the nature and scale of those effects. Ms Devine submitted that the Board cannot seek to address deficiencies in information about effects through conditions.<sup>675</sup>
- [1035] NZTA presented revised conditions in its closing submissions (Conditions SD.1A to SD.8). Those conditions include the following requirements:
- (a) The preparation of a full Risk Assessment Report (RAR), having regard to the QRA prepared by Mr Erskine. The RAR is to be prepared in consultation with Mercury and owners of other infrastructure within the

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<sup>671</sup> Statement of Primary Evidence, Phillis, para 5316.

<sup>672</sup> Summary Statement, Hopkins, Appendix B.

<sup>673</sup> Summary Statement, Grala, Appendix 1.

<sup>674</sup> Transcript, Grala, p 6131 – 6132.

<sup>675</sup> Closing Submissions, Devine, paras 20 – 22.

Southdown site, and with those stakeholders then being able to review and comment on the draft RAR (Condition SD.1A).

- (b) The RAR will identify and quantify all risks, based on the Victorian Interim Risk Criteria, and will identify mitigation (through control measures) that may be required inside and outside the designation to achieve Acceptable or Tolerable Risk Levels (Condition SD.1A).
- (c) Imposition of all identified control measures except those that, as agreed by Mercury, could be deferred and undertaken at Mercury's request at a later date, prior to recommencing gas-fired electricity generation (Condition SD.1A).
- (d) Listed specific location, dimensional and control measures that must be met (including Conditions SD.2 and SD.6), in addition to any additional measures identified as necessary through the RAR.
- (e) Maintenance of access to First Gas and Transpower infrastructure.
- (f) A requirement for NZTA to obtain any changes to Mercury's existing resource consents that are necessary for the recommissioning of the power station.
- (g) Protection of Mercury's risk concerns through Condition SD.1C which reads:

*"In the event that:*

*Mercury does not agree to the implementation of any Control Measures on the Southdown Site outside the designation; or*

*The RAR identifies any Unacceptable Risk that cannot be addressed through the implementation of Control Measures, construction of the EWL viaduct west of Hugo Johnston Drive and the Great South Road intersection (between approximately Chainage 4200 and 5075) shall not commence until the Requiring Authority:*

*Adjusts the alignment of the EWL to ensure that the health and safety risks associated with construction of the EWL on the Southdown Site do not require the implementation of Control Measures outside the designation to achieve an Acceptable or Tolerable Risk Level; and/or*

*Acquires all or part of the balance of Lot 1 DP 178192 under the Public Works Act 1981."*

[1036] As stated, the Board is satisfied that it has received evidence that is sufficient to understand the general nature of likely risks that may result from the co-location of the EWL with the power station. Considered in combination with the conditions now proposed, the Board finds that NoR1 can be approved in relation to that site. More likely than not the potential effects can be adequately managed. If not, the

conditions prevent the risks arising by moving the EWL alignment. Alternatively, NZTA may seek to acquire the site and permanently decommission the power station (as noted in the advice note of Condition SD.1C).

- [1037] While the Board considers it likely that the EWL and the power station can co-locate, it is also satisfied that the outcome provided by Condition SD.1C, which would require the power station to be decommissioned, is acceptable, based on its finding that the security of power supply to Auckland is not dependent on the operation of a gas-fired power station at that site. The economic impact of that outcome on Mercury can be addressed through the PWA.

### *Conclusion*

- [1038] The Board concludes that more likely than not, the EWL and the power station will, subject to conditions, be able to co-locate with appropriate levels of risk, construction effects of the EWL can be appropriately avoided or mitigated, the EWL design will provide for appropriate site access, that traffic on the EWL will not inhibit Mercury from complying with existing or anticipated discharge to air consents, and that reverse sensitivity effects (which include those effects directly discussed and reasonably anticipated future uses of the site) will be adequately minimised. On that basis, the Board finds that NoR1 can be approved with respect to the Mercury site.

### **Transpower**

- [1039] Transpower has key assets at the Southdown site in Sector 3. In relation to effects of the Proposal on the national grid, there are no unresolved issues, for the reasons mentioned in chapter 10.4 of this Report.

### **KiwiRail**

- [1040] KiwiRail also has existing designations and key assets at and in the vicinity of the Southdown site in Sector 3. In relation to effects of the Proposal on its rail network, including maintaining the consistency and continuity of electricity supply, there are no unresolved issues, for the reasons previously mentioned in chapter 10.5 of this Report.

### **First Gas**

- [1041] First Gas has key assets at the Southdown site in Sector 3. There are no unresolved issues, for the reasons mentioned in chapter 10.6 of this Report.

### **Conclusion**

- [1042] In summary, the Board finds in relation to Sector 3 – Anns Creek to Great South Road of NoR1 that:

- (a) The relocation of the stormwater treatment pond on Kempton Holdings Limited land to south of the Mercury site is not supported by the Board as it would not be a practical alternative and it is located within the CMA;
- (b) Adequate consideration has been given to alternative routes within the TR Group's site. The NoR1 alignment has resulted in a balancing of potential effects between the ecologically significant Anns Creek East and the potentially recommissioned power station, as well as other constraints in the local area;
- (c) The footprint of the NoR on TR Group's land is reasonably necessary to achieve the objectives of the Proposal for which the designation is sought. The permanent designation of the full area of Anns Creek within the TR Group site is not reasonably necessary to mitigate the effects of the Proposal. However, it is reasonably necessary to retain a designation over the site for a period sufficient to provide for the establishment and maintenance of the ecological restoration. That designation is subject to a roll back provision condition after a period of 10 years, subject to a covenant.
- (d) Adequate consideration has been given to alternative routes in relation to the Mercury site that took into account future gas-fired power generation at the site and the option to recommission the existing turbine packages;
- (e) The potential adverse construction effects of the NoR1 on the Mercury Southdown site, in relation to access to the site and dust and potential disturbance of asbestos, can be avoided or adequately mitigated through conditions;
- (f) The potential risks of co-locating the EWL with the power station can be appropriately addressed through conditions;
- (g) Security of electricity supply for Auckland or New Zealand is not reliant on gas-fired electricity generation at the Southdown site; and
- (h) The relocation of Transpower, KiwiRail and First Gas infrastructure has been appropriately addressed, as have the potential construction effects adjacent to that infrastructure.

[1043] Viewed through the lens of s171(1)(c) of the RMA, the Board considers that the designation and work are reasonably necessary to achieve the objectives of NZTA. In terms of s171(1)(b), alternatives have been appropriately considered. Adverse effects have been appropriately considered and avoided, or mitigated. Those effects that cannot be mitigated can be addressed through the PWA.

## 15.5 SECTOR 4 – GREAT SOUTH ROAD TO SH1

- [1044] The western limit of NoR1 in Sector 4 commences at approximate chainage 5150 east of the Great South Road intersection with Sylvia Park Road and terminates at approximate chainage 6500 at the junction of the EWL with SH1, just north of “Tip Top corner”.
- [1045] This section of the EWL comprises continuation of the viaduct from Sector 3, which terminates on Sylvia Park Road at approximate chainage 5330. The EWL continues along Sylvia Park at-grade as a multi-laned carriageway complemented by shared walkway / cycleways. At approximate chainage 5730 it separates into two carriageways – an at-grade section intersecting with Mt Wellington Highway as existing and two separate viaducts providing north-facing entry and exit ramps with State Highway 1. These ramps pass over the North Island Main Trunk (NIMT) railway. The entry ramp completes its merge with south-travelling traffic on SH1 at approximate chainage 6500 adjacent to the Fonterra factory. The exit ramp from SH1 terminates at approximate chainage 6300 adjacent to the premises of T&G Global.
- [1046] The design of the EWL / Great South Road / Sylvia Park Road intersection was revised from the at-grade design originally proposed in November 2016, to a grade-separated design. Grade separation of the EWL through movements at this intersection will provide improved reliability and future resilience. A legible and continuous pedestrian and cycle experience acknowledges the heritage and Mana Whenua objectives by giving special design consideration to the former Kāretu portage route, which the ULDF notes is an element of the cultural landscape that has been erased by the current urban development of this area.
- [1047] The works involve:
- (a) Upgrading Sylvia Park Road carriageway to two lanes each way;
  - (b) One eastbound lane accessing the SH1 ramp structure and the other eastbound ramp continuing at-grade to Mt Wellington Highway;
  - (c) One westbound lane joining Sylvia Park Road from the SH1 northbound off-ramp and the other westbound lane allowing traffic from Mt Wellington Highway and Pacific Rise to continue at-grade to Great South Road;
  - (d) Raised median along Sylvia Park Road means some limitations to private property accesses – a u-turn facility will be provided at the Pacific Rise / Sylvia Park Road intersection;

- (e) A widened intersection for entering and exiting Pacific Rise from Sylvia Park Road westbound;
- (f) New south-facing ramps on to and off SH1 south of the existing Mt Wellington Interchange, providing access for traffic travelling north on SH1 to get on to the Main Alignment, and for traffic travelling east to south on the Main Alignment to get on to SH1 to travel south; and
- (g) Pedestrian and cycle paths that continue along the Main Alignment of the EWL and into Sylvia Park Town Centre.

[1048] The EWL requires relocation of Transpower assets (towers and lines) for the construction and operation of the new ramps in Sector 4. The Board has already noted<sup>676</sup> that there is common ground between Transpower and NZTA that adverse effects on the national grid assets can be managed through proposed conditions and a Network Utility Management Plan (NUMP).

### **General Landscape and Urban Design Effects**

[1049] The AEE sets out a full description of the main landscape and urban design issues within Sector 4 in relation to:<sup>677</sup> the visual effects of the viaduct and ramps, including any impacts on views to landmarks including Mutukāroa-Hamlins Hill; visual effects for adjacent industrial and commercial properties; and visual effects on Mutukāroa-Hamlins Hill. Overall, it is considered that there will be some adverse visual effects arising from construction activities, but these will be temporary and will take place in the context of a landscape dominated by transport infrastructure and surrounding industrial and commercial properties.

[1050] The new Mt Wellington ramps will have some moderate adverse visual effects for passers-by on SH1 and surrounding roads, and for occupants of nearby industrial buildings. However, such effects will take place in the context of a landscape already dominated by transport infrastructure and industrial land uses.

[1051] Positive effects in this sector include: improving connectivity for cyclists and pedestrians by the proposed elevated shared path where EWL is on a structure between Māngere Inlet and 19 Sylvia Park Road and connecting through to Sylvia Park Town Centre; improving connectivity and legibility of the road network through

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<sup>676</sup> At chapter 10.4.

<sup>677</sup> NZTA, AEE, 12.10.9.



a new intersection at the corner of Great South Road, Sylvia Park Road and the Main Alignment along Māngere Inlet; and recognition of the Kāretu Portage. High quality cycle connections were supported by Auckland Transport<sup>678</sup> and requested through conditions by Auckland Council in closing submissions.

### **Natural Landscape<sup>679</sup>**

- [1052] There will be few adverse effects on the natural landscape. The Project does not encroach on to Mutukāroa-Hamlins Hill, the prominent natural landmark that is the only significant natural feature in the vicinity. Rather, the hill's role as a landmark at the centre of transport routes will be accentuated. The EWL will skirt the toe of Mutukāroa-Hamlins Hill and trace part of the culturally important and historical former route of the Kāretu Portage that formerly extended from the head of Anns Creek. Mutukāroa has a cultural history associated with its former occupation as a settlement overlooking the Kāretu Portage with wide views from the summit ridge, in particular including a view down the Māngere Inlet in the direction of the Manukau Heads. The portage was via the swampy ground between Anns Creek and Kāretu, an inlet on the Tāmaki River.
- [1053] A small basalt cut face at Tip Top corner will be lost but, while it is a feature of interest because it expresses the underlying geology, the cutting itself is not natural.

### **Urban Landscape**

- [1054] Changes to the urban landscape will consist of:
- (a) A strip of industrial properties sandwiched between Sylvia Park Road and the railway line are to be removed to accommodate the widened road;
  - (b) The Great South Road intersection will become a more significant node, which will have some positive effects on connectivity and urban form legibility;
  - (c) There will be connectivity and visual amenity benefits from the elevated shared path; and

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<sup>678</sup> Statement of Primary Evidence, Winter, para 20.

<sup>679</sup> Ibid, 12.10.9.1.

- (d) The overhead local power distribution lines along Sylvia Park Road will be undergrounded, which will have a small positive effect on visual amenity.<sup>680</sup>

### **Visual Effects<sup>681</sup>**

- [1055] The scale and character of Sylvia Park Road will change, and the Eastern Rail Line and Mt Wellington Highway will be crossed by additional overbridges. While it will add another layer, the interchange will be seen in the context of what is already a complex array of arterial roads, railway line, SH1, and transmission lines.
- [1056] The Great South Road intersection will also increase the prominence of the EWL for users of the local roads and railway. However, the EWL will be seen in conjunction with a complex array of existing infrastructure. Therefore, there will be no effects of any significance on the visual amenity of Mutukāroa-Hamllins Hill. Users of the new pedestrian / cycle path will constitute a new audience. The proposed elevated shared path will add considerably to the interest and amenity of the path for users and will also mitigate views of EWL from the south. For adjacent properties, potentially the most visually affected properties include those on both sides of SH1, including at Pacific Rise.

### **Effects on Mutukāroa-Hamllins Hill**

- [1057] The AEE records an assessment of the effects on Mutukāroa-Hamllins Hill ONF,<sup>682</sup> which is mapped as an ONF in the AUP:OP decisions version. The AEE sets out the reasons for that classification and describes Mutukāroa-Hamllins Hill as a rare, unmodified example of the Waitematā sandstone ridges that underpin much of Auckland, also containing the best example of a rhyolitic tuff deposit in Auckland.
- [1058] It is noted that the Proposal will not physically encroach on to Mutukāroa-Hamllins Hill, and will have minimal adverse effects on its landscape qualities. The hill's role as a landmark surrounded by transport routes will be accentuated. While the EWL will affect views of Mutukāroa-Hamllins Hill from Great South Road, these will be balanced by views for road users created by EWL. For completeness, it is also noted that the Project will not affect the volcanic viewshaft from SH1 to

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<sup>680</sup> NZTA, AEE, 12.10.9.2.

<sup>681</sup> Ibid, 12.10.9.3.

<sup>682</sup> NZTA, AEE, 12.10.9.4, p. 299.

Maungakiekie / One Tree Hill, which originates north of the Project and is oriented in the opposite direction.

[1059] It is considered that overall the adverse and positive landscape and visual effects will be balanced in this sector.<sup>683</sup> The mitigation measures proposed for Sector 4 are set out in the ULDF and include:

- (a) Connecting the east west walkway / cycleway to connect with the Sylvia Park Town Centre;
- (b) Recognising the former Kāretu Portage that was aligned along this route; and
- (c) An elevated shared path (the Kāretu Portage shared path) to recognise the cultural significance of the portage and reduce the visual prominence of EWL.<sup>684</sup>

### **Effects on Specific Properties**

[1060] The sites and infrastructure addressed in submissions that are affected through Sector 4 from east to west are:

- (a) T&G Global Limited (T&G);
- (b) Transpower assets;
- (c) Syl Park Investments Limited and 8 Sylvia Park Road Body Corporate (Syl Park);
- (d) Chamko Holdings Limited (Chamko);
- (e) Kiwi Property Group Limited and Sylvia Park Business Centre Limited (Kiwi); and
- (f) Z Energy.

[1061] A number of matters were resolved during the Hearing affecting the following properties located in this sector:

- (a) Jaafar Holdings Limited;
- (b) Stratex Group Limited; and

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<sup>683</sup> NZTA, AEE, 12.10.9.4.

<sup>684</sup> NZTA, AEE, 12.10.9.5.

(c) Tram Lease Limited.

*T&G Global Limited (T&G)*

[1062] T&G is a significant business within the Project area and its concerns with the Project were extensive, as summarised in its opening and closing submissions. It sought that the Proposal be declined to the extent that it would affect the T&G site.

[1063] Matters raised by T&G relevant to the disturbance of contaminated land have been addressed in the Board's consideration of resource consents in chapter 12.5 and are not repeated herein.

[1064] In his closing, Mr Mulligan helpfully sets out steps taken by NZTA throughout the Hearing, to reduce the effects on T&G, as compared to the lodged application. In particular:<sup>685</sup>

- (a) Prior to the commencement of the Hearing, the Transport Agency worked with Transpower to achieve an outcome where the buildings underneath the relocated Transpower power lines could remain;<sup>686</sup>
- (b) Transpower confirmed in its evidence that this arrangement is subject to bottom-line safety requirements and security of supply being maintained;<sup>687</sup>
- (c) Transpower has since confirmed that the arrangement is workable and safety concerns can be addressed by sequencing and design;<sup>688</sup>
- (d) Transpower also confirmed that an indemnity is only required for works around the power lines by the organisations undertaking those works. That obligation would fall on the Transport Agency rather than T&G;<sup>689</sup>

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<sup>685</sup> Closing Submissions, Mulligan, p 117-118, para 19.28.

<sup>686</sup> Transcript, Noble, p 4865-4866.

<sup>687</sup> Ibid, p 4820.

<sup>688</sup> Ibid, p 4866; Summary Statement, Noble, para 7.

<sup>689</sup> Ibid, p 4823.

- (e) There may still be a requirement for a temporary line deviation across the site but design options are progressing in relation to the location and nature of this diversion;<sup>690</sup>
- (f) The Transport Agency has also prepared, and now included within its final drawing set, a revised road alignment that shifts the permanent road off part of the T&G site in the proximity of the banana-ripening building and the crate-wash building;<sup>691</sup>
- (g) This road alignment will ensure that the existing access arrangements to those buildings can be maintained.<sup>692</sup> A number of T&G Global witnesses confirmed that this arrangement would avoid effects related to access to these buildings.<sup>693</sup>

[1065] In her closing submissions, Ms Carruthers, on behalf of T&G, acknowledged that NZTA's revised alignment reduces the extent to which the northbound off-ramp will encroach on T&G's site.

[1066] That acknowledgement is appropriate. The revised road alignment shifts the permanent road off part of the T&G site in the proximity of the banana-ripening building and the crate-wash facility<sup>694</sup> thereby avoiding any potentially significant adverse effects originally highlighted by T&G and ensuring that the existing access arrangements to those buildings can be maintained.

[1067] As Mr Mulligan noted in his closing, a number of T&G witnesses confirmed that this arrangement would avoid effects related to access to these buildings.<sup>695</sup> The Board recognises that ongoing access is one of the key issues that remains between the parties alongside the ability of T&G to operate the facilities during the construction period. As Ms Carruthers noted in her closing, matters that still remained to be confirmed by NZTA included:

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<sup>690</sup> Opening Submissions, Gardner-Hopkins, para 22(e).

<sup>691</sup> This revised road alignment was presented as a working draft to T&G Global witnesses as Exhibit 21.

<sup>692</sup> Closing Submissions, Mulligan, p 118, para 19.28(g), footnote 637 states: "*There may be temporary occupation required with construction of retaining walls or similar, but that detail will not be known until detailed design*".

<sup>693</sup> Transcript, Hall, p 4563.

<sup>694</sup> Exhibit 21.

<sup>695</sup> Closing Submissions, Mulligan, para 19.28(g).

- (a) Whether the revised alignment can be constructed without significantly affecting operations at the site. Specifically, it is not clear whether the access to the fruit fumigation and ripening plant (Banana Building) and the bin and crate-washing facility (Crate-Wash), or indeed those facilities themselves, can continue to operate during the construction of the revised alignment; and
- (b) Where the Transpower assets will be located, both temporarily and permanently. Specifically, it is not clear whether the container grid associated with the Banana Building will be able to continue to operate during construction, and what facilities will be located under the temporary line unless relocated.<sup>696</sup>

[1068] Mr Mulligan submitted in his closing that NZTA considered its assessment of the T&G site and identification of the relevant environment was adequate and appropriate, with any gaps filled by the submissions and evidence of the parties provided to the Board.<sup>697</sup> He submitted that on this basis, the Board has all the information it requires to assess the impacts of the Project on the T&G site. The Board is satisfied that that is the case.

[1069] The Board has already made findings as to the interface between the Public Works Act and the RMA and that discussion is relevant here to address the submissions from T&G.

[1070] It is clear from the evidence before the Board that T&G and NZTA have been in ongoing discussions in relation to potential site reconfigurations or relocation of certain T&G facilities. Those discussions had not yet reached conclusion by the time NZTA closed its case. Mr Mulligan advised the Board that discussions are complicated by the need to relocate Transpower assets currently located on the site, but progress is being made. Mr Mulligan submitted that those matters do not need to concern the Board except to the extent that effects arising from land requirements associated with the EWL can be addressed through that process.<sup>698</sup>

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<sup>696</sup> Closing Submissions, Carruthers, para 1.2.

<sup>697</sup> Closing Submissions, Mulligan, para 19.26: Footnote 629 notes Mr Arbuthnot accepted that, at a broad level, the AEE addressed the effects that a site may be affected by (Transcript, Arbuthnot, p 4586). Mr Gouge accepted that the AEE assesses that primary effects of the Proposal (Transcript, Gouge, p 3920).

<sup>698</sup> Ibid, para 19.27.

- [1071] The Board is also satisfied with Mr Gardner-Hopkins' submission that Transpower has a high degree of confidence that the latest T&G site configuration proposed by NZTA can be accommodated by Transpower.<sup>699</sup>
- [1072] The Board recognises that NZTA has continued throughout the Hearing process to reduce the effects on T&G, as compared to the lodged application, in the manner helpfully summarised and set out in NZTA's closing submissions.<sup>700</sup>
- [1073] As Mr Mulligan noted, other impacts of construction can be appropriately managed through conditions of consent, including in relation to construction noise and vibration and contaminated land.<sup>701</sup>
- [1074] That being the case, Ms Carruthers submitted that assuming NZTA confirms the site's operations can continue unaffected during construction of the revised alignment, NZTA's designation boundary must also be modified (if the Board is to approve the revised alignment) to remove it from the Banana Building and Crate-Wash. She further submits that it is not reasonably necessary in terms of s171 of the RMA to designate facilities that will be unaffected by the Proposal.<sup>702</sup>
- [1075] Mr Mulligan, however, advised the Board in his closing that the precise construction sequencing and site configuration remains in flux as the Transport Agency continues engagement with T&G and Transpower about the temporary line diversion and reconfiguration options and will not be known until the detailed design stage. He confirmed that while the current intentions of both NZTA and Transpower are for both the buildings to remain, at this late stage of the Hearing process NZTA's preference is to retain the current designation to accommodate this evolving design situation.<sup>703</sup>
- [1076] The Board's findings on the s171(1)(b) assessment of alternatives are set out in chapter 15.12 of this Report. Suffice to reiterate here that having particular regard to the consideration of alternative routes, the evidence satisfies the Board that in fixing upon its preferred route in relation to the T&G site, there has been adequate consideration of alternative routes.
- [1077] In terms of reasonable necessity, the Board's general findings on s171(1)(c) are set out in chapter 15.13 of this Report. The Board is satisfied that the route in relation to the T&G site is reasonably necessary to achieve the Proposal objectives

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<sup>699</sup> Closing Statement, Gardner-Hopkins, para 12.

<sup>700</sup> Closing Submissions, Mulligan, para 19.28.

<sup>701</sup> Ibid, para 19.29.

<sup>702</sup> Closing Submissions, Carruthers, para 1.4.

<sup>703</sup> Closing Submissions, Mulligan, para 19.30.

when considered in conjunction with the amendments to the limits of the designated areas, the roll back provisions contained in the conditions and the specific conditions related to T&G's land.

[1078] The Board considers that the operations of the Banana Building and Crate-Wash facility may well be affected during construction. In that instance, NZTA will be required to address the effects on the buildings through the means agreed with T&G.

[1079] The Board accepts NZTA's submissions that the current designation is reasonably justified and should remain over the Banana Building and Crate-Wash during construction, with roll back once construction is complete. This will be to the advantage of T&G with respect to mitigation that will be required of NZTA during construction.

*Syl Park Investments Limited and 8 Sylvia Park Road Body Corporate (Syl Park)*

[1080] The proposed works on Sylvia Park Road will have an effect on access to 8 Sylvia Park Road, which will change to a left in, left out only access. For Syl Park, the loss of right turns into and out of the site across the Sylvia Park Road frontage is the most significant adverse effect of the Project from their perspective. Employees of and visitors and customers to businesses at 8 Sylvia Park Road arriving from the east (including from SH1) will need to detour to access and egress the site. Drivers wanting to depart westward will also be inconvenienced, to a lesser extent, by an eastward turn left out of the property and then a right-hand u-turn opposite Pacific Rise.

[1081] Syl Park considered that NZTA should mitigate the adverse effects on the commercial activities at 8 Sylvia Park that will arise as a consequence of that loss of access by formalising an existing informal vehicular access along the rear of 1 Pacific Rise (accessed from Pacific Rise) by way of a right-of-way easement or service lane). That would allow visitors to 8 Sylvia Park Road to access the site from either direction, including via the proposed crossing under the EWL for westbound traffic on Sylvia Park Road.

[1082] To that end, Syl Park asked the Board to impose a condition requiring NZTA to use its best endeavours to formalise such vehicular access, including for heavy goods vehicles, between the site and Pacific Rise, preferably through negotiating an easement with relevant land owners but, failing that, through initiating designation and compulsory acquisition processes. They asked that such vehicular access be formalised and physically constructed prior to the date on which right turns into and out of the site across its Sylvia Park Road frontage are banned.



[1083] Mr Harrington gave evidence that Opus International, on behalf of NZTA, had commenced willing buyer, willing seller negotiations with the owners of 1 Pacific Rise regarding the acquisition of a right of way easement.<sup>704</sup> He also confirmed that the owners have indicated to Opus that they are amenable to granting an easement on the basis that fair compensation can be agreed.<sup>705</sup> Notwithstanding those negotiations, it is NZTA's position that the effects on Syl Park will, nevertheless, be remedied through the provision of two u-turn facilities, which will mitigate the effects of imposing a left in and left out access to and from the Syl Park site. This mitigation will comprise:

- (a) A u-turn facility opposite Pacific Rise. Traffic engineers for NZTA and Auckland Transport both confirmed that they consider this u-turn can be provided safely.
- (b) A u-turn facility at the Great South Road intersection. Auckland Transport has confirmed that it supports the concept that was proposed in the memorandum of 11 September 2017.<sup>706</sup>

[1084] NZTA has proposed conditions of consent to provide for both of these u-turns within the design of the EWL. Mr Allan, on behalf of Syl Park, acknowledged that the u-turns required by these conditions would mitigate the effects on access to the site to some extent but submitted that his clients remained unconvinced that they were practical or safe. He also submitted that the provision of the u-turns could not be guaranteed in the long term, as Auckland Transport may, at a future time, decide that they cannot be maintained. This submission was particularly focused on the u-turn at Great South Road.<sup>707</sup>

[1085] For that reason, consistent with the conclusion of Mr Edwards to the same effect, Syl Park continues to prefer the formalisation of access through 1 Pacific Rise. While Mr Allan acknowledged in his submissions the commencement of those negotiations,<sup>708</sup> he nevertheless sought that the Board impose a condition that will

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<sup>704</sup> Hearing summary, Harrington, p 2; Transcript, Harrington, p 2200.

<sup>705</sup> Ibid, p. 2202.

<sup>706</sup> Closing Submissions, Mulligan, p 123, para 19.50; Footnote 666 – Addressed in the Transport Agency memorandum dated 11 September 2017, para 14.

<sup>707</sup> Closing Submissions, Allan, para 10.

<sup>708</sup> Ibid, para 5.

require NZTA to use its best endeavours to legally formalise a vehicular access between its site at 8 Sylvia Park Road and Pacific Rise.

[1086] Mr Allan pointed out in his closing submissions that NZTA's planner, Ms Hopkins, accepted that a stand-alone condition could be developed regarding formalisation of access through 1 Pacific Rise<sup>709</sup> and she would look into wording such a condition that would be acceptable to both her and NZTA.<sup>710</sup> No such wording has been produced.

[1087] If an agreement with 1 Pacific Rise is unable to be formalised by NZTA, Syl Park has asked that the Board impose a condition requiring NZTA to use its designation and compulsory acquisition powers to acquire the land needed for access.

[1088] NZTA has confirmed its willingness to continue discussions to formalise an access but opposes any condition that would oblige it to use designation and compulsory acquisition powers because:

- (a) Pacific Rise is a local road, controlled by Auckland Transport;
- (b) Any access that is provided will only be for the benefit of private property owners and occupiers, would not provide a public benefit, and would not assist in meeting the Project objectives; and
- (c) Adequate access to and from the west will be provided via the proposed u-turns.

[1089] NZTA submits that in this the Board should prefer the evidence of NZTA and Auckland Transport experts that the u-turns would be safe and can be provided.<sup>711</sup>

[1090] The Board acknowledges the concerns raised by Syl Park that even if u-turns are initially provided, they cannot be guaranteed to be maintained by Auckland Transport, subject to operational monitoring and safety assessments.<sup>712</sup> Certainly, the Board was not entirely convinced, having heard the evidence of Mr A Murray and Mr Davies, that u-turns, particularly at the Great South Road intersection, that design detail had fully confirmed that that the Great South Road u-turn could be

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<sup>709</sup> Ibid, para 20 and Transcript, Hopkins, p 2339, lines 31 to 41.

<sup>710</sup> Transcript, Hopkins, p 2340, lines 22 to 32.

<sup>711</sup> Closing Submissions, Mulligan, p 124, para 19.54.

<sup>712</sup> Closing Submissions, Allan, para 12.

operated safely, although it seemed that its safe function may subsequently be confirmed. That being said, the Board recognises Mr Edwards responses to questions of the Board confirming that:

*“The only real way of addressing some of those matters would be for the southern kerb line to move further south... if the whole southern half of the road was moved further south you’d have a wider median that obviously is going to make the u-turn work more effectively.”<sup>713</sup>*

Mr Edwards also acknowledged that a separate lane with a presence loop that called its own green phase at the Great South Road end might be worth exploring but would require a significantly greater amount of room.<sup>714</sup>

[1091] After hearing the evidence of Mr Edwards, the Board received a Memorandum of Counsel regarding Great South Road U-turns.<sup>715</sup> That memorandum provided the Board with further information about the safety of u-turns at the western end of Sylvia Park Road, and information about truck turning curves at the proposed u-turn at the Pacific Rise intersection. It confirmed that further amendments to the concept design of the u-turn facility were undertaken to address concerns raised by Mr Edwards and noted that the design could be refined further during detailed design to provide a wider turning area (by reducing the median area) or to install an exclusive u-turn only lane.

[1092] The memorandum recorded that Auckland Transport had confirmed support for this concept, provided that the outer right turn is unaffected by any u-turn movement, which it agrees is a matter that can be confirmed during detailed design.<sup>716</sup>

[1093] In terms of the Pacific Rise u-turn, it reiterated the rebuttal evidence of Mr A Murray that the design of this intersection and its provision for u-turns, had been subject to a number of independent safety audits and he considered it unlikely that the u-turn facility would not be able to be safely provided.<sup>717</sup>

[1094] Accordingly, NZTA’s proposed additional conditions DC11 (i) and (ii) are intended to address these matters. Mr Allan, in his closing submissions noted that Syl Park

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<sup>713</sup> Transcript, Edwards, p 5217, lines 40-41 and p 5218, lines 1-3.

<sup>714</sup> Ibid, p 5218, lines 6-31.

<sup>715</sup> NZTA, Memorandum of Counsel of the NZTA Regarding Great South Road U-turns, dated 11 September 2017.

<sup>716</sup> Ibid at para 14.

<sup>717</sup> Statement of Rebuttal evidence, A Murray, paras 23.3 and 23.4.

welcomed the NZTA proposal to insert conditions addressing the u-turns and that “*those conditions will ensure that the issue of safe U-turn facilities is addressed by NZTA*”. However, they remained of the view that the conditions do not provide any certainty that such u-turns will be implemented or if they are implemented, that they will be retained.<sup>718</sup>

[1095] The Board’s view is that, consistent with the evidence of NZTA and Auckland Transport experts, the u-turn facilities are unlikely to be provided if it is not considered safe to do so and in any event the evidence of the experts is that it will be safe and can be provided. Furthermore, as was accepted by Mr Edwards in cross-examination, safe u-turns should be able to be provided at the Great South Road intersection through widening the road reserve (which is enabled by the incorporation of the Stratex site into the designation).<sup>719</sup>

[1096] The Board sees some merit in the submissions of Mr Allan and notes the observations on relevant NZTA evidence as set out in his closing submissions.<sup>720</sup> In terms of the right of way easement, even NZTA’s engineer, Mr Nancekivell, acknowledged that that would be a preferred solution.<sup>721</sup> The Board, therefore, agrees that formalising vehicular access from 1 Pacific Rise provides a more immediate and suitable outcome for Syl Park. On that basis the Board accepts that an easement is the most appropriate mechanism and accepts, in principle, the proposition by Syl Park that NZTA should still use its best endeavours to formalise vehicular access, acknowledging that NZTA has already commenced discussion with the owners of 1 Pacific Rise to achieve that outcome. Accordingly the Board has imposed a condition to that effect. In any case, the u-turn facilities are sufficient to mitigate the adverse effects on Syl Park.

[1097] The Board considers that taking that condition further to require NZTA to use its powers of designation and compulsory acquisition, should negotiations with the owners of 1 Pacific Rise not prove successful, is not reasonably necessary to mitigate the effects of the Proposal. The Board is not convinced that requiring access to be provided through a designation is sufficiently justified. The Board does not consider that a “safe right turn in right turn out” of the premises is guaranteed in perpetuity.

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<sup>718</sup> Closing Statement, Allan, para 24.

<sup>719</sup> Transcript, Edwards, p 5217-5218.

<sup>720</sup> Closing Statement, Allan, paras 16-22.

<sup>721</sup> Transcript, Nancekivell, pp1028-1029.

*Kiwi Property Group Limited and Sylvia Park Business Centre Limited (Kiwi)*

- [1098] Kiwi own and operate the Sylvia Park Shopping Centre and raised concerns primarily in relation to increased traffic “rat-running” and congestion effects resulting from the Project that may compromise the functioning and growth of Sylvia Park as a Metropolitan Centre.
- [1099] Kiwi asked the Board to impose conditions requiring NZTA to monitor traffic effects in the vicinity of Sylvia Park. In response to a request from the Board, NZTA circulated a draft condition on 22 August 2017 relating to monitoring around the Project as a whole. However, NZTA remains in opposition to the imposition of such a condition.
- [1100] Mr Parlane, Kiwi’s traffic engineer, suggested amendments to the NZTA condition,<sup>722</sup> primarily to identify changes in long-term traffic patterns, clarify monitoring locations and provide certainty as to the timing, frequency and duration of post-construction monitoring. Kiwi remains of the view that a condition in the form proposed by Mr Parlane should be imposed on the designation.<sup>723</sup>
- [1101] The Board notes Mr Mulligan’s closing submissions, that both NZTA and Auckland Transport oppose the conditions proposed by Kiwi. NZTA’s position was outlined in its memorandum to the Board and NZTA agrees with the closing submissions of Auckland Transport. The evidence of Mr A Murray,<sup>724</sup> which the Board accepts, is that the majority of expected changes to the transport network will occur on the local road network in the Sylvia Park area, for which the road controlling authority and Requiring Authority is Auckland Transport. Mr A Murray does not consider the EWL will have an adverse effect on the local road network in the Sylvia Park area. He makes the point that the Mt Wellington Highway is classified by Auckland Transport as a Primary Arterial and is expected to carry predominantly through-traffic such that any small or modest increase of traffic is not considered to be an adverse effect created by the EWL.<sup>725</sup>
- [1102] The Board accepts that NZTA and Auckland Transport are responsible for collectively managing the Auckland Transport network and must consider the

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<sup>722</sup> Statement of Supplementary Evidence, Parlane.

<sup>723</sup> Closing Statement, Allan, para 4.

<sup>724</sup> Closing Submissions, Mulligan, Footnote 686.

<sup>725</sup> Statement of Rebuttal Evidence, A Murray, para 19.23.

network as a whole notwithstanding that Auckland Transport has executed an agreement with Kiwi to undertake specific additional monitoring of traffic effects arising from the EWL on the key routes around Sylvia Park.<sup>726</sup> Mr Mulligan submits, and the Board agrees, that that is a more appropriate response than a condition in the EWL designation.

[1103] The Board shares NZTA's concerns, which are clearly and thoroughly outlined in their memorandum to the Board.<sup>727</sup> It would be extremely difficult to attribute any changes to traffic patterns and/or travel times to any one activity such as the EWL given the complexity of the transport network and land uses in the wider Mt Wellington area, combined with the continued growth of Auckland. Furthermore, as acknowledged by Mr Parlane, the planned growth of Sylvia Park will also contribute to changing traffic patterns.<sup>728</sup>

[1104] Accordingly, the Board is not convinced that the additional monitoring requested by Kiwi and condition in the form proposed by Mr Parlane is necessary to manage the roading network after the EWL is operational. But The Board notes that a side agreement between Auckland Transport and Kiwi will nonetheless provide such specific monitoring.

[1105] The Board is also satisfied that the Proposal does not preclude the use of the proposed bus lane ramp from Mt Wellington Highway to Sylvia Park from being used for cars in the future. But it has not received evidence that sufficiently justifies a requirement for that use at this time.

### *Z Energy*

[1106] The Board heard evidence from Mr Matthew Brennan, Property Manager at Z Energy Limited (Z Energy). Z Energy's concerns related to the direct effect the EWL will have on Z's Sylvia Park Truck Stop, which is located on Sylvia Park Road, Mt Wellington (Truck Stop or site).<sup>729</sup>

[1107] The site is approximately halfway along the length of Sylvia Park Road, on the southern side between Great South Road and with the intersection up at Sylvia

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<sup>726</sup> A point acknowledged by Mr Allan, Closing Submissions, para 3; Confirmed by Auckland Transport, Closing Submissions, Garvan, paragraphs 5-22.

<sup>727</sup> NZTA, Memorandum of Counsel, 22 August 2017.

<sup>728</sup> Statement of Primary Evidence, Parlane, para 6.

<sup>729</sup> Z Energy Limited has an unregistered sub-lease of part of the property at 19-21 Sylvia Park (Lot 1 SP 65736).

Park Rise. The truck stop is a single branded, self-service arrangement primarily for trucks. Importantly, it is also used for Z Energy's subsidiary businesses, including its high value business Mini-Tankers, playing an important role as an inland fuel terminal for them to pick up fuel and distribute to their customers via that channel.<sup>730</sup>

[1108] Mr Brennan was clear that the main reason for his appearance before the Board was to explain the significant adverse effects of the Project on their business given the strategic nature of this site to their network. He stated that the Truck Stop is of high commercial and brand value to Z Energy as it is Z's primary truck stop site across both the Z and Caltex networks.<sup>731</sup>

[1109] The Board accepts the position noted by Mr Mulligan that if consents are granted, the entire Z Energy site is proposed to be taken under the PWA. The Board expects, as noted by Mr Mulligan, that a PWA process will be completed by NZTA in terms of the purchase of that site and, given the success of the business, the PWA market value for assessment of land will allow for its potentiality and what it can yield, the value of the land being driven to a large degree by what you can yield from it.

[1110] While the Board acknowledges the concerns of Z Energy, it considers that in line with the overall findings of the Board in terms of s171(1) of the RMA, adequate consideration has been given by NZTA to alternative routes for the EWL in this sector and the extent of the NoR should be retained as being reasonably necessary for the purposes of constructing and operating the EWL. Accordingly, the effects on Z Energy will need to be addressed under the Public Works Act process.

*Jaafar Holdings Limited:*

[1111] NZTA agreed not to permanently designate or acquire a strip along the site's Mt Wellington frontage. Based on this agreement, Jaafar sought leave to take no further part in the remainder of the Hearing and Jaafar was granted leave to withdraw from the proceedings as necessary.

*Stratex Group Limited*

[1112] NZTA and the relevant parties have agreed to an extension to the designation over the Stratex property at 19-21 Sylvia Park Road. Stratex relies upon its submission to support the request to modify the designation boundary and was granted leave to withdraw from the proceedings as necessary. The Board also notes that Stratex

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<sup>730</sup> Statement of Evidence, Brennan, p 4, para 15; Transcript, Brennan, p 3460.

<sup>731</sup> Statement of Evidence, Brennan, p 4, para 13.

has been listed as a party to be consulted through the preparation of the relevant Site Specific Construction Vibration Management Plan (Condition CNV.7B(a)(i)).

*Tram Lease Limited*

- [1113] NZTA and Tram Lease advised the Board of the agreement requesting the Crown to acquire both the Stratex site and the Hirepool site, conditional upon the EWL being approved. Consequently, Tram Lease sought and was granted leave to withdraw its submission and evidence.

**Conclusion**

- [1114] In summary, the Board finds in relation to Sector 4 – Great South Road to SH1 of NoR1 that:

- (a) The adverse effects on Transpower assets will be appropriately mitigated and managed through proposed conditions and a Network Utility Management Plan;
- (b) The Proposal will have some moderate adverse visual effects for passers-by on SH1 and surrounding roads, and for occupants of nearby industrial buildings. However, such effects will take place in the context of a landscape already dominated by transport infrastructure and industrial land uses;
- (c) The Proposal avoids direct impacts on Mutukāroa-Hamlins Hill;
- (d) The revised EWL alignment reduces the extent to which the northbound off-ramp will encroach on T&G's site. This avoids permanent effects on access to the buildings on its site. The effects during construction on the Banana Building and Crate-Wash facility will be appropriately mitigated through conditions that are subject to a roll back provision;
- (e) Access to Syl Park (8 Sylvia Park Road) will be affected by the Proposal, which will change to a left in, left out only access. An easement for vehicular access through 1 Pacific Rise is being sought by NZTA and would provide a satisfactory arrangement for Syl Park. NZTA is proposing u-turn facilities subject to detailed design. While a condition requiring best endeavours to achieve the easement and a condition to implement the u-turn have been imposed, in the event that those are not achievable access, albeit inconvenient, will always be available to the site;
- (f) Kiwi's issues have been addressed by "side" agreement with Auckland Transport



- (g) The effects of the Proposal on Z Energy's Sylvia Park Truck Stop will be addressed under the PWA; and
- (h) The issues raised in relation to the following specific properties, Jaafar, Fonterra, Stratex and Tram Lease, were resolved during the Hearing.

[1115] Viewed through the lens of s171(1)(c) of the RMA, the Board considers that the designation and work are reasonably necessary to achieve the objectives of NZTA. In terms of s171(1)(b), alternatives have been appropriately considered. Adverse effects have been appropriately considered and avoided, or mitigated. Those effects that cannot be mitigated can be addressed through the PWA.

## **15.6 SECTOR 5 – SH1 TO PRINCES STREET**

[1116] Sector 5 of the Proposal is described in the AEE as being that portion of the Proposal from the end of the two new ramps linking the EWL with SH 1 to the south of the Princes Street Interchange.

[1117] In general terms, Sector 5 involves:

- (a) Adding two lanes (one to each of the current northbound and southbound lanes) to State Highway 1;
- (b) Complete replacement of the Panama Road overbridge to accommodate those extra lanes; and
- (c) Complete replacement and reconfiguration of the current Princes Street / Ōtāhuhu Interchange.

[1118] In general terms, NZTA seeks a widening of the current NoR on either side of SH1.

[1119] More specifically, the Proposal involves:

- (a) Adding one lane to each side of SH1 from the two proposed south-facing ramps to join the EWL with SH1 to south of the Princes Street Interchange. This would increase SH1's current three lanes, northbound and southbound, to four. The expansion involves shoulders.
- (b) A complete replacement of the current Panama Road overbridge (necessary to span the extra two lanes involved), which would include a wider bridge to accommodate a shared pathway on each side of the bridge.
- (c) Of cultural significance, complete replacement of the triple box culverts that channel Ōtāhuhu Creek under SH1 with a new wider bridge structure

to accommodate additional lanes, and a separate bridge structure to carry new pedestrian and cycleways.

- (d) Complete replacement and reconfiguration of the current Princes Street Interchange, providing a wider overbridge that (as with the Panama Road overbridge) would provide shared paths.
- (e) The erection of noise barriers.

### **Objectives**

[1120] NZTA contends that Sector 5 improves the transport functions of this part of SH1. It provides additional capacity to accommodate further traffic flows. It creates an eight-lane motorway from the Mt Wellington Interchange south to the Highbrook Interchange. The widening of the Panama Road bridge improves turning movements out of Hillside Road (currently restricted to left turns only). This improved turning facility increases opportunities for vehicles travelling between the communities on the east and west sides of SH1. The upgrading of the Princes Street Interchange, with its extra capacity and lane arrangements, will reduce the adverse effects of queuing (to join the motorway) on the local roads. There will be controlled pedestrian crossings, a large refuge for pedestrians wishing to cross the Princes Street on-ramps, and pedestrian routes between the communities on each side of the motorway will be shortened. Additionally, there will be a shared path on both sides.

[1121] Sector 5 proposals will, on the Panama Road overbridge, improve pedestrian and cycling access. The construction of an additional bridge across Ōtāhuhu Creek will, during the construction phase of the new bridge, allow for diversion of motorway traffic, with the structure being retained for future use for pedestrians and cyclists, linking in the local roads of Deas Place and Mataroa Road. NZTA contends the new layout of the Princes Street Interchange will improve significantly safety, particularly for pedestrians, cyclists and school children (by providing clearly marked footpaths and reducing the number of uncontrolled road crossings).

[1122] The Proposal additionally mandates the construction of new acoustic barriers on each side of SH1 adjacent to existing residential properties.

### **Construction effects**

[1123] The proposed works associated with Sector 5 widening and bridge construction will have obvious effects. There will be earthworks. Vegetation currently on the footprint of the works will need to be cleared, which will include current landscape planting inside the current designation and mangroves adjacent to the Ōtāhuhu Creek Bridge. Bridge construction will necessitate temporary realignment of

motorway lanes and the median. There are two bridges involved at Ōtāhuhu Creek. The Ōtāhuhu Creek bridge construction will require temporary occupation (during the construction phase) and subsequently permanent occupation of the CMA. The Panama Road bridge construction will, during its construction phase, lead to a reduction of lane widths on SH1, together with the temporary realignment of lanes and barriers and a consequential reduced speed limit.

- [1124] Similarly with the realignment and changes to the Princes Street Interchange, there will be earthworks, demolition of the existing bridge, construction of new on- and off-ramps and disruption to SH1 traffic.

### **Ōtāhuhu Creek**

- [1125] The matters relating to the removal of culverts and construction of bridges across SH1 at Ōtāhuhu Creek have been addressed in chapter 14.2 of this Report under the sub heading *Ōtāhuhu Creek – Declamation and Bridge Construction within the CMA*.

- [1126] NZTA's proposal is to restore to some extent the natural channel of Ōtāhuhu Creek where it is crossed by SH1 by removing the box culverts and replacing them with a bridge. This would make more evident the nature of the ancient portage. This aspect of the Proposal has the support of Mana Whenua.

### **Adverse effects**

- [1127] Interestingly, with the exception of Fonterra, concerned about the possible weakening of its site stability at Tip Top corner and the possible loss of truck turning circles on the same site, Sector 5 has attracted no substantial opposition and little comment.
- [1128] The Board is satisfied that as far as Sector 5 is concerned, the adverse effects have been correctly identified in the AEE. These include traffic disruption on SH1 during the construction phase, coupled with disruption on the local road network and closure of various walking and cycling routes. There is predictable intrusion around the Ōtāhuhu Creek into the coastal and marine area with removal of some mangroves and vegetation. In the same area, the removal of the culverts and the construction of a bridge involves working on sites of value to Mana Whenua. There will be the creation of noise during the construction phase and localised dust creation and machinery emission. The motorway widening will result in the loss of some residential houses (15 residential properties have or will be acquired in the Mt Wellington South / Ōtāhuhu area, coupled with partial acquisition of 47

residential properties).<sup>732</sup> Earthworks will result in the risk of sediment discharges. The creation of extra motorway lanes will increase polluted stormwater discharges.

[1129] As best the Board can, it has dealt with some of the more significant adverse effects. The Board has, of course, considered all adverse effects. Many effects, however, particularly those related to the construction phase of the Proposal, are shared in common with all sectors of the proposed EWL and are, in the Board's view, adequately mitigated by pertinent conditions.

#### *Traffic flows*

[1130] Traffic using the two south-facing ramps joining EWL to SH1 will obviously increase flows of traffic. These were estimated at an approximately 10 percent to 11 percent daily flow increase.<sup>733</sup> The additional two lanes of SH1 adequately cater for such increase. The upgraded interchange at Princes Street will improve traffic flows in the area and in particular will reduce queuing congestion caused by vehicles waiting to enter the motorway.

#### *Transmission lines and Transpower assets*

[1131] Currently the Henderson-Ōtāhuhu A 220 kV line runs along the eastern side of SH1. At Princes Street, the proposed widening will infringe on the minimum vertical clearance requirements. Additional hazardous effects include blocking maintenance access to pylons during the construction phase, the risk of dust from construction causing arcing of lines, and the hazards of machinery working close to transmission lines. There is also the risk of earthworks undermining the support structures of pylons.

[1132] In this area, however, discussions between NZTA and Transpower have been productive. Mr Gardner-Hopkins, in his closing submissions<sup>734</sup>, advised the Board that the effects of the Proposal on the national grid could be managed so as to avoid undue compromise of and effects on the national grid. Although there remains some uncertainty because NZTA's proposal had not yet reached a final detailed design, Transpower considered that its legislation gave it adequate protection. At Tower 15B on HEN-OTA A, additional support structures will be necessary for the transmission line to provide the required vertical clearances over the proposed new motorway ramps. Although new mono poles would be required at Towers 14A, 15A, 18A and 19A (which required restricted discretionary activity

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<sup>732</sup> AEE, para 344.

<sup>733</sup> AEE, para 226. However, future predictions of traffic flows in Auckland are influenced by so many variables that, in the Board's view, accurate predictions are problematic.

<sup>734</sup> Closing Statement, Gardner-Hopkins, para 1.

consents), Mr Gardner-Hopkins' submission was that there were no obvious "show-stoppers" that would preclude the grant of such consents.

- [1133] The new Panama Road bridge would, like the structure it replaces, require low and medium voltage underground ducts to cross SH1. There is no adverse effect here that requires intervention.

#### *Gas transmission*

- [1134] A bulk gas supply main inside a concrete casing crosses SH1 north of Panama Road. The proposed realignment and protection works have been discussed between NZTA and First Gas. There are no resulting issues other than those adequately canvassed in the Network Utilities Management Plan.

#### *Telecommunications*

- [1135] A Spark cellular tower on the north-west corner of Frank Grey Place and Princes Street may need to be relocated. Again, there is no discernible adverse effect.

#### *Stormwater*

- [1136] The widening of SH1 and the creation of an extra carriageway will require some modification of the motorway's current drainage system. The proposed stormwater drainage and treatment system in Sector 5 is adequate.

#### *Mana Whenua and cultural interests*

- [1137] The infringement on Ōtāhuhu Creek, part of an ancient portage of significance to Māori, will include a new bridge across the creek and the removal of the existing culverts under SH1. This visual improvement of part of the portage is an acknowledgement of its importance and significance to Māori.

#### *Tree removal*

- [1138] Trees to be removed in Sector 5 as a result of the Proposal include groups of trees at the Princes Street Interchange, street trees along Princes Street and Frank Grey Place, and trees inside the Beddingfield Memorial Park. In all cases this tree removal will be mitigated after construction by replanting in accordance with developed urban and landscape design plans.

#### *Visual effects*

- [1139] The only significant natural feature within Sector 5 is the Ōtāhuhu Creek, which has been discussed previously.

- [1140] There will be potential adverse visual effects flowing from the Proposal for residential properties adjoining SH1. For those properties there will be the

movement of the motorway closer to them, the loss of a green buffer, and the installation and encroachment of noise barriers. Those barriers will, to some extent, reduce noise and screen SH1 from the affected residences. Proposed mitigation includes re-establishing vegetation on the edges of the SH1 corridor in front of the noise walls and offering planting inside affected properties on the inside of the noise walls. There have been no submissions or evidence from residents adjacent to SH1 on Sector 5.

#### *Vibration*

[1141] Most residences in Sector 5 are within 15 m to 20 m of the closest construction works involved. Some, however, will be less than 10 m from retaining walls or potential earthwork operations. Housing in this sector is dense. There will inevitably be noise and vibration effects during construction. The AEE<sup>735</sup> suggests that vibration effects are more likely to be of category A (nuisance value) rather than category B (damaging to property). The Board has received no evidence to the contrary. The vibration conditions mitigate, as far as possible, this adverse effect.

#### *Noise*

[1142] The Board is satisfied that conditions designed to mitigate noise, in particular the erection of acoustic barriers that will in many areas reduce the number of inhabitants adversely affected by noise, constitutes adequate mitigation.

#### *Fonterra Tip Top corner site*

[1143] The concerns expressed by Fonterra about adverse effects on its site relating to the risk of undermining foundations and reduction of vehicle space have been resolved to the satisfaction of both Fonterra and NZTA. The Board is satisfied that those adverse effects, as a result of the agreement reached, are minor.

### **Conclusion**

[1144] In summary, the Board finds in relation to Sector 5 – SH1 to Princes Street of NoR2 that:

- (a) The effect of increased traffic flows from the two south-facing ramps joining EWL to SH1 will be catered for through the addition of two lanes to SH1. The upgraded interchange at Princes Street will improve traffic flows in the area and in particular will reduce queuing congestion caused by vehicles waiting to enter the motorway;

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<sup>735</sup> NZTA, AEE, para 310.

- (b) The adverse effects on Transpower's national grid assets will be appropriately managed so as to avoid undue compromise of and effects on the national grid. The effects on the bulk gas supply main will be appropriately managed through the Network Utility Management Plan;
- (c) The works on Ōtāhuhu Creek will daylight the Tainui Portage;
- (d) Visual effects on surrounding residential properties adjoining SH1 will be mitigated by re-establishing vegetation on the edges of the SH1 corridor in front of the noise walls and offering planting inside affected properties on the inside of the noise walls; and
- (e) Noise and vibration effects during construction will be mitigated by the vibration and noise conditions, in particular the erection of acoustic barriers that will in many areas reduce the number of inhabitants adversely affected by noise.

[1145] Viewed through the lens of s171(1)(c) of the RMA, the Board considers that the designation and work are reasonably necessary to achieve the objectives of NZTA. In terms of s171(1)(b), alternatives have been appropriately considered. Adverse effects have been appropriately considered and avoided, or mitigated. Those effects that cannot be mitigated can be addressed through the PWA.

## **15.7 SECTOR 6 – ALFRED STREET / CAPTAIN SPRINGS ROAD / PORT LINK ROAD**

[1146] This sector of NoR1 comprises three roads linking to the EWL:

- (a) Alfred Street;
- (b) Captain Springs Road; and
- (c) Port Link Road.

[1147] There were no significant issues arising out of the NoR in Alfred Street, which extends from the EWL to Neilson Street. The pedestrian and cycling overbridge, not precluding the possibility of a future at-grade vehicular intersection, and the impacts on Waikaraka Park South are addressed in chapter 15.3 of this Report.

[1148] The limits of the designation for Captain Springs Road extend from the EWL to Neilson Street. The potential impact on a property owned by Mamaku Investment Management Limited, which operates a large storage facility (Safe Store

Containers Limited) at 89-91 Captain Springs Road was outlined by Mr Campbell.<sup>736</sup> With the considerable increase of traffic expected on Captain Springs Road as a result of the EWL, Mr Campbell was concerned about access difficulties (right turn entry and exit) to Mamaku's site. He sought some amendments to the flush median in Captain Springs Road. Following professional advice, Mr Campbell tabled a short report from Mr Hall, traffic engineer, who also gave evidence. He advised that the concerns raised by Mr Campbell could be addressed by some additional road widening in front of the site and an extension to the flush median. Mr Hall stated that this had been agreed by Mr A Murray for NZTA.<sup>737</sup>

[1149] Mr Barnard of the Auckland Organ Piano and Keyboard Society made submissions<sup>738</sup> about the effects on the multiple users of the Dalewool Brass Band Hall located at 98 Captain Springs Road (on Waikaraka Park) approximately opposite Safe Store Containers site. In relation to the NoR, he was concerned about entry and exit and loss of parking, including mobility spaces. Mr A Murray indicated that from a transport perspective to permit on-street parking for the events that attracted large numbers of people was not acceptable. He stated that, "*Parking immediately south of the premises is available and there would be an overall net gain of approximately 10 new parking spaces at the southern end of Captain Springs Road*".<sup>739</sup> He also noted that an on-street car park adjoins the hall, which could accommodate 12 cars and be used for those who have mobility issues. The potential effects are likely to be reduced through the additional widening referred to (above) and the Board concludes that the NoR does not require amendment or additional conditions.

[1150] The Port Link Road is a cul-de-sac extending 270 m from a priority controlled intersection on the EWL, terminating close to the Kiwi Rail / MetroPort site. It intersects with Miami Parade to the west and east. Generally the alignment corresponds to an existing designation held by Auckland Transport. Submissions were received from the POAL and Downer NZ, trading as Green Vision Recycling, concerning the effects of the designation.

[1151] The new Port Link Road will provide access between the inland port and EWL, and to Neilson Street via Miami Parade and Angle Street. This road will provide an

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<sup>736</sup> Transcript, Campbell, p 4944 – 4950.

<sup>737</sup> Transcript, Hall and A Murray, p 5999-6000.

<sup>738</sup> Transcript, Barnard, p 5579.

<sup>739</sup> Statement of Primary Evidence, A Murray, para 20.41.



important new freight function and is expected to carry approximately 7,700 vehicles per day (vpd) in 2026 and 6,300 vpd in 2036. It will have a collector function.<sup>740</sup>

[1152] NZTA stated in evidence that consideration had been given to an alternative location for the Port Link Road by extending Angle Street instead of constructing a completely new connection, "... however the proximity of an Angle Street connection intersection to Captain Springs Road was seen as undesirable from a traffic and speed management perspective".<sup>741</sup>

[1153] Mr Nancekivell, for NZTA, stated that the Port Link Road was consistent with the existing designation held by Auckland Transport for a local connector road in this location.<sup>742</sup>

[1154] Mr A Murray, for NZTA, outlined how the six final corridor options had considered alternative access to the inland port.<sup>743</sup>

[1155] For KiwiRail, the owners and operators of the Southdown inland port, Mr Gordon emphasised the important function of MetroPort as a point of aggregation for containers transported by rail from the ports of Auckland, Tauranga and Wellington and was the country's third biggest export port.<sup>744</sup>

[1156] Port of Tauranga supported the construction of the Port Link Road and its general alignment, subject to detailed design of the cul-de-sac at its head being able to accommodate larger vehicles.<sup>745</sup>

[1157] The National Road Carriers Inc. emphasised the inadequacies of the local street network capacity to efficiently and effectively handle the scale and volume of heavy traffic estimated at 6,000 vpd, noting that MetroPort handles more than 300,000 containers, which exceeds any other port in New Zealand (other than the Ports of Auckland and Port of Tauranga).<sup>746</sup>

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<sup>740</sup> Technical Report No 1, December 2016, para 6.14.

<sup>741</sup> Statement of Primary Evidence, Nancekivell, para 15.63.

<sup>742</sup> Ibid.

<sup>743</sup> Statement of Primary Evidence, A Murray, para 6.8.

<sup>744</sup> Transcript, Gordan, p 3228 & p 3241.

<sup>745</sup> Submission 126344, para 5.

<sup>746</sup> Representation, Garnier, p 2-3; Representation (PowerPoint presentation, Carr & Haslam).

[1158] POAL's outstanding concerns were with the effects of the Port Link Road on its Pikes Point operations. It wanted that section of the NoR north of Miami Parade to be declined, arguing that there was no evidence of access to the inland ports producing positive effects and that alternatives had not been adequately considered. POAL also stated that it was concerned that NZTA had agreed to relocate one of its tenants, Heliport, on land that was owned by POAL and occupied by another tenant.<sup>747</sup> It was stated that the proposed road did not achieve a connection to MetroPort or the Southdown container terminal.<sup>748</sup>

[1159] For POAL, Mr Arbuthnot stated in evidence that:<sup>749</sup>

*"(a) The Port Link Road does not actually 'link' the Project to the adjacent inland ports, as it does not physically connect the roading network to the inland ports.*

*(b) It reduces the size and efficiency of the Pikes Point car storage site.*

*(c) There has been an inadequate consideration of alternatives (which I note is a requirement under section 171(1) (b) of the RMA), including an extension of Angle Street."*

[1160] He noted that the cul-de-sac road form and associated turning head did not provide a full roading link for access between the EWL and the other inland port sites and, therefore, how could it contribute to achieving NZTA's objectives for the EWL.

[1161] Mr Arbuthnot also noted that Auckland Transport had not uplifted its existing designation, despite NZTA's NoR. Therefore, POAL's land would currently be subject to restrictions under s176 of the RMA in favour of two separate requiring authorities, but for a similar public work.

[1162] Mr McKenzie said that:

*"POAL's concern with the proposed 'Port Link Road' is that it does not appear to provide an efficient 'link' between the EWL, the properties it is intended to service and the existing wider road network in this part of Penrose/Onehunga."*<sup>750</sup>

[1163] He opined that:

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<sup>747</sup> Closing Submissions, Carruthers, paras 1.3 and 2.3 to 2.5.

<sup>748</sup> Summary Statement, Kirk, para 1.10.

<sup>749</sup> Statement of Primary Evidence, Arbuthnot, para 6.3 & 6.4 (e).

<sup>750</sup> Statement of Primary Evidence, McKenzie, para 4.11.

*“Without a full public road link between the EWL, the neighbouring inland ports and other existing public arterial roading links (e.g. Neilson Street), in my opinion the proposed Port Link Road will not contribute to the efficient distribution of freight within Auckland.”<sup>751</sup>*

[1164] Mr Kirk for POAL stated in evidence that:<sup>752</sup>

*“The proposed Port Link Road will therefore not contribute to the efficient distribution of freight within Auckland. The failure to provide connections to the inland ports in a form that would be suitable for heavy vehicle traffic, means that the very facilities that are intended to benefit from the Port Link Road the most (being the inland ports to the north of POAL’s Pikes Point site) are unlikely to even utilise the proposed link.”*

[1165] He noted that Auckland Transport held an existing designation (Designation 1701) over POAL’s land for a local road in the same general area of the proposed Port Link Road. While he referred to the *“strong competitive relationship between POAL and the Port of Tauranga Limited”*, he emphasised that POAL was primarily concerned with the adverse effects on it particularly as a result of *“a substantial amount of valuable industrial land owned by POAL and, if the link is constructed and POAL is left holding the remainder of the Pikes Point site, it will significantly compromise the viability of the remainder of the site”*.<sup>753</sup>

[1166] In rebuttal, Mr A Murray did not agree with Mr McKenzie that the Port Link Road would not contribute to the efficient distribution of freight, or that a *“much larger and more connected road network”* should be provided. He said:<sup>754</sup>

*“The Ports Link Road is intended to connect to the properties in this area (including the large freight generating sites of MetroPort and POAL) via both direct property access and via the local road network (Miami Parade). This local road connection provides EWL access to properties located on Angle Street, Pukemiro Street and Edinburgh Street. It provides indirect access through to Neilson Street via Miami Parade and Angle Street, however the main access to Neilson Street from the EWL is intended to be via Captain Springs Road.”*

[1167] He referred to the outcome of the JWS Report with Mr McKenzie where it was agreed that:<sup>755</sup>

*“The intent of the link at the northern end is to provide access to properties from the cul-de-sac and not act as a through route to Neilson Street. It was also acknowledged that the Ports Link Road will provide the opportunity for those properties along the western side of the road to seek access should they wish to do this in the future.”*

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<sup>751</sup> Ibid, 4.17.

<sup>752</sup> Statement of Primary Evidence, Kirk, para 4.7.

<sup>753</sup> Summary Statement, Kirk, para 1.14.

<sup>754</sup> Statement of Rebuttal Evidence, A Murray, para 21.3.

<sup>755</sup> Expert Conferencing Joint Witness Statement, Traffic & Transportation, 24 May 2017, para 3.12.

[1168] The issue raised by POAL that NZTA has not given adequate consideration to alternatives is addressed more fully elsewhere. The Board does not consider that the overlapping designations of Auckland Transport and NZTA creates any serious planning issues. This can be addressed in future if need be. The Board finds little merit in the evidence of the POAL witnesses questioning whether the Port Link Road will achieve the objectives of the Proposal. The Board concludes that the Port Link Road has been adequately justified and will appropriately contribute to the overall objectives of the Proposal. The output of the Joint Expert Witness conference and the traffic modelling of Mr A Murray would support the Board's conclusion. It is clear to the Board that there are a number of property issues to be resolved between NZTA and POAL within the scope of the PWA.

[1169] For Downer, Mr Goldsworthy<sup>756</sup> outlined the scope of operations as a recycling facility for construction debris. He stated the adverse effects of the EWL that would result from the proposed alignment of Port Link Road bisecting the operational area. He suggested two alternatives to resolve the matter: move the location of the Port Link Road further to the east or relocate the business on POAL land currently occupied for other purposes. During the course of the Hearing<sup>757</sup> it was clear to the Board that the issues primarily related to land acquisition under the PWA and that it was likely that direct negotiations could resolve these.

[1170] NZTA submitted that the Port Link Road closely follows the existing designation within the AUP:OP held by Auckland Transport for roading purposes and, therefore, the location of the road and its associated effects was well signalled. The Port Link Road is an important and necessary part of the EWL and its removal would have a detrimental effect on achieving the Proposal objectives due to reduced connectivity to the Southdown Rail Terminal and limited reduction of traffic volumes on Neilson Street<sup>758</sup>. On the basis of the evidence, the Board agrees with Mr Mulligan.

### **Conclusions in relation to Sector 6 of NoR1**

[1171] In summary, the Board finds in relation to Sector 6 – Alfred Street / Captain Springs Road / Port Link Road of NoR1 that:

- (a) There were no significant issues arising out of the NoR in Alfred Street;
- (b) Adverse effects on the property owned by Mamaku Investment Management Limited can be appropriately mitigated by conditions;

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<sup>756</sup> Statement of Primary Evidence, Goldsworthy.

<sup>757</sup> Transcript, Goldsworthy, pages 4926 – 4943.

<sup>758</sup> Closing Statement, Mulligan, para 5.14.

- (c) The proposal design will ensure that satisfactory entry and exit to the Dalewool Brass Band Hall site and parking servicing the site will be maintained; and
- (d) Adequate consideration has been given to alternative routes within NoR1 in relation to Port Link Road. The Port Link Road is an important and necessary part of the EWL. Its removal would have a detrimental effect on achieving the Proposal objectives due to reduced connectivity. Site-specific property issues, such as those between POAL and NZTA and Downer and NZTA, are better addressed through direct negotiations between them and NZTA under the PWA.

[1172] Viewed through the lens of s171(1)(c) of the RMA, the Board considers that the designation and work are reasonably necessary to achieve the objectives of NZTA. In terms of s171(1)(b), alternatives have been appropriately considered. Adverse effects have been appropriately considered and avoided, or mitigated. Those effects that cannot be mitigated can be addressed through the PWA.

## **15.8 WALKING AND CYCLING EFFECTS**

[1173] The AEE<sup>759</sup> describes the commuter and recreational cycle paths provided along the Proposal alignment, and also in a north-south direction to enhance connectivity to communities in the Onehunga-Penrose area to the north of the Proposal. There is no provision for walking and cycling paths on the existing motorways (SH1 and SH20). There is an existing pedestrian path under the SH20 Manukau Harbour Bridge, which will be retained. An existing shared path extends along the northern shore of the Māngere Inlet from Onehunga Harbour Road to Southdown.

[1174] New paths will connect to existing cycle and walking networks, improving connectivity to the wider Auckland region facilities. Key linkages provided by the Proposal include:

- (a) Improved linkages in and around the Neilson Street Interchange linking with the New Old Māngere Bridge and Taumanu Reserve (Onehunga Foreshore), improved access into Gloucester Park North Reserve and improved facilities on Onehunga Harbour Road and Onehunga Mall;
- (b) A new Māngere Inlet foreshore with recreational and commuter paths along the alignment;

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<sup>759</sup> NZTA AEE, Para 6.3.5.

- (c) North-south shared path linkages to/from Alfred Street, Captain Springs Road, Waikaraka Park and Hugo Johnston Drive, improving access to businesses and the residential communities to the north;
- (d) Linking the existing Waikaraka shared path through to Sylvia Park Town Centre thereby improving the functionality of the existing path that currently ends in an industrial environment in Hugo Johnston Drive;
- (e) A shared pedestrian and cycle path over the Great South Road intersection to provide improved east-west connections;
- (f) Wider pedestrian and cycle paths on the replacement bridges across SH1 at Panama Road and at Princes Street, improving sight lines and crossing points, and connectivity to residential communities; and
- (g) A new pedestrian / cycle crossing at Ōtāhuhu Creek parallel to SH1, connecting Mataroa Road (north) with Deas Place (south), improving local connectivity between the residential communities east of SH1 (Panama Road and Princes Street East).

[1175] The Proposal has been designed to avoid the need for on-road cycling where practicable, with separated cycling facilities provided beside the EWL Main Alignment between SH20 and SH1, and access to the separated recreational cycle and walkway on the Māngere Inlet coastal edge. Cycle paths will be designed to the following approximate design specifications (to be confirmed in detailed design):

- (a) Off-road exclusive cycle paths will generally be 3 m wide;
- (b) Shared paths will have a minimum width of 3 m; and
- (c) Separated pedestrian / cycle paths will have widths as specified in *Auckland Transport Code of Practice (ATCOP)*.

[1176] The detail of the type of walking and cycling infrastructure will be developed in the detailed design process, including both the form and connections. Pedestrian footpaths will generally be provided on either side of the Proposal, on all local roads and at signalised intersections (except motorways). Pedestrian facilities will generally be designed in accordance with NZTA's *Pedestrian Planning and Design Guide*<sup>33</sup>, the design principles from NZTA's *Urban Design Guideline – Bridging the Gap*<sup>34</sup> and the *Auckland Transport Code of Practice*.

[1177] Technical Report 1 provided a detailed assessment of the proposed cycling and walking facilities in each of the various sectors of the EWL. The key considerations were improving connectivity, high level of amenity including minimum width of 3 m

for shared paths and 1.8 m for footpaths and safe crossing points, separating needs of different users and integration with existing and proposed walking and cycling networks.

[1178] The evidence of Mr A Murray for NZTA described how the EWL meets key Proposal Objective 2, “*To improve safety and accessibility for cycling and walking between Māngere Bridge, Onehunga and Sylvia Park, and accessing Ōtāhuhu East*”.

[1179] In addition he said that:<sup>760</sup>

*“The Project will significantly improve safety and accessibility for cycling and walking between Māngere Bridge, Onehunga Town Centre and Sylvia Park Town Centre by providing high quality, off-road and continuous links connecting these key destinations. New and enhanced north-south connections will improve connectivity to the Māngere foreshore from the residential community north of Neilson Street, including at Onehunga Mall and Alfred Street. There will also be significant connectivity and safety improvements for the communities of Ōtāhuhu East.”*

[1180] Mr A Murray also stated:

*“Onehunga Mall is expected to have the highest pedestrian and cyclist volumes, so I do support exploring alternative configurations at the detailed design phase that seek to further enhance the quality of this connection along Onehunga Mall.”*

[1181] Submissions received were both positive and negative towards to cycling and walking provisions. Ms King, for Auckland Transport, noted that the EWL would provide for over double the linear length of walking and cycling facilities in the Proposal area compared with the existing network.<sup>761</sup> She referred to the positive effects of the walking and cycling facilities in individual sectors and concluded that:<sup>762</sup>

*“The true benefit of each is fully realised when combined with investment in connecting routes. For example, the walking and cycling facilities on the EWL mainline, when combined with perpendicular connections, will cumulatively achieve a ‘network effect’ which opens up multiple journey opportunities.”*

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<sup>760</sup> Statement of Primary Evidence, A Murray, para 12.1.

<sup>761</sup> Statement of Primary Evidence, King, para 19.

<sup>762</sup> Ibid, para 21.

- [1182] Ms King supported the addition of specific walking and cycling connections proposed by NZTA in condition DC.11 (b), (c) and (d) but sought some additional conditions.
- [1183] Mr Smith, for Auckland Council, agreed with Mr A Murray's suggested amendment to the designation to enable a high quality walking and cycling connection to be provided along Onehunga Mall.<sup>763</sup> He noted that NZTA's Cycle Design Guidance webpage suggests the minimum two-way shared path width should be 4 m. He considered that such width should be provided on all shared pathways throughout the EWL to ensure consistency for active users. Mr Smith was satisfied that the detailed configuration of the paths and cycleways could be agreed during the detail design stage.
- [1184] In relation to the width of the shared pathway along Orpheus Drive (from Onehunga Wharf to Taumanu Reserve), Mr McIndoe, for Auckland Council, agreed with NZTA's urban design expert, Mr Lister, that the shared facility path should be not less than 4 m wide and possibly wider where appropriate.<sup>764</sup>
- [1185] Mr Young, a resident of Onehunga, made submissions on behalf of the members of the cycling community of Fisher & Paykel Healthcare Limited, which employs 2,500 people at its East Tamaki site. He requested that NZTA be required to implement best practice, world-class cycle infrastructure along the EWL, suitable for all types of cycle users. He acknowledged that NZTA had made an effort to include cycle facilities in the Proposal but there were insufficient upgraded connections with other parts of the road network. He also referred to potential conflict between pedestrians and cyclists on the proposed shared pathway along Orpheus Drive. He advocated for physical separation between vehicular paths and commuter cycleways.
- [1186] Ms Cuthbert made a submission and presentation for Bike Auckland, which expressed concern regarding:
- (a) Severance of the harbour frontage;
  - (b) Opportunity cost of replicated cycling facilities;
  - (c) Major lack of connections to local cycling networks;
  - (d) Inadequate separation between walk and cycle elements; and

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<sup>763</sup> Statement of Primary Evidence, Smith, para 10.4.

<sup>764</sup> Statement of Primary Evidence, McIndoe, para 18.2.



(e) Poor design to cater for commuting and recreational cycling needs.

[1187] The separation issue in (d) above is important because, particularly with a narrow shared pathway, the difference between cyclist and pedestrian speed, coupled with the propensity of pedestrians to meander and be unaware of fast-approaching cyclists behind them, creates issues relating to safety and enjoyment.

[1188] Prior to Ms Cuthbert's appearance at the Hearing, Bike Auckland had entered into a "side" agreement with NZTA that provided for the following:

- (a) Sector 1 – Orpheus Drive, separation for walk / bike except for few constrained width areas;
- (b) Sector 2 – Onehunga Mall / train station, separated walk / bike / vehicles;
- (c) Sector 3–4 – Hugo Johnston Drive, separated cycleway, extended link for Alfred Street and AMETI–Sylvia Park;
- (d) Sector 5 – Panama Bridge upgrade to separated walk / cycle;
- (e) Sector 5 – Underpass at Ōtāhuhu Creek / SH1, links to Greenways to be left to later "best endeavours"; and
- (f) Sector 5 – Ōtāhuhu Interchange – Frank Grey Place, improved physical protection for pedestrians / cyclists.

[1189] NZTA agreed for Bike Auckland to have input into the detailed design. Ms Cuthbert expressed satisfaction with the terms of this agreement.

[1190] The Board has given particular consideration to Bike Auckland's suggestion that the underside of the bridges to be installed across Ōtāhuhu Creek include provision of a cycle underpass to support the future development of a cycle route along Ōtāhuhu Creek.<sup>765</sup> The Board does not oppose the principle of future-proofing of the design of the bridge and abutments for that purpose, but this is not to be seen as an endorsement of a future cycleway along that route, which follows the Tainui Portage between the Tāmaki River and Māngere Inlet. The Board will not indicate the appropriateness or otherwise of such a route in the absence of input from Mana

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<sup>765</sup> Transcript, Cuthbert, p 1597.

Whenua, which will be necessary during the scoping of such a proposal. Accordingly, the Board does not include a condition to that effect.

[1191] Mr Barter<sup>766</sup> and Mr Walker made separate submissions concerning the need for better cycle connections to Onehunga, separation of cycleways and intersection improvements and effects of the Proposal on walkers and cyclists, especially along the foreshore of the Māngere Inlet.

[1192] NZTA proposed amended condition DC.11(b), providing for a shared pedestrian and cycle path connection between Orpheus Drive and the proposed new Old Māngere Bridge, providing a linkage to and from Taumanu Reserve to Onehunga Wharf, with a minimum width of 4 m with wider sections where practicable. The Board supports this condition.

[1193] The Board is satisfied that the proposed design for walking and cycling facilities, with the increase in width of the Orpheus Drive section and the collaborative design approach involving Auckland Council, Auckland Transport and Bike Auckland, will provide appropriate walking and cycling facilities to achieve the objectives of the Proposal and address the adverse effects.

## **15.9 CONSTRUCTION EFFECTS**

[1194] In this section of the Report, the Board provides a brief overview of the proposed programme and methodology for the construction of the Proposal and the associated construction effects and management. In doing so, the Board relies primarily on the evidence of Mr Nancekivell on the construction process to be implemented by NZTA.

[1195] Mr Nancekivell identified the construction sequence in his evidence (subject to the Board approving the Proposal),<sup>767</sup> which can be summarised as follows:

- (a) Tender process and contract award – third quarter of 2017.
- (b) Construction begins – early 2018.
- (c) Due to the size of this Proposal and the likely property acquisition required, the timing for construction of the Proposal is likely to be staged and split

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<sup>766</sup> Mr Barter manages a “Share the Road” campaign of NZTA and is a committee member of Bike Auckland.

<sup>767</sup> Statement of Primary Evidence, Nancekivell, para 11 onwards.

into a number of contracts, with the contractors (once appointed) considering appropriate construction methods that comply with the designation and consent conditions.

[1196] An example of the proposed construction methodology is provided in the AEE,<sup>768</sup> with the main construction elements for the EWL summarised by Mr Nancekivell as follows:<sup>769</sup>

- (a) Neilson Street Interchange including the Galway Street link (Sector 1);
- (b) Foreshore (road embankment, landforms and stormwater treatment areas) (Sector 2) including Captain Springs Road and the Port Link Road (Sector 6);
- (c) Anns Creek viaducts, Great South Road grade-separated intersection and Hugo Johnston Drive extension (Sector 3);
- (d) Sylvia Park Road and SH1 ramps (Sector 4);
- (e) SH1 Auxiliary Lanes, Panama Road Bridge and Ōtāhuhu Creek Bridge (Sector 5); and
- (f) Princes Street Interchange (Sector 5).

[1197] Mr Nancekivell indicated that early construction could commence on:

- (a) The Princes Street Interchange;
- (b) The Embankment section.

[1198] The timing of other key works would be subject to a number of limitations, including:

- (a) Significant utilities (for example, Transpower 220 kV transmission lines and First Gas high pressure gas main) require relocation / replacement prior to the road construction commencing, in particular within Sectors 2 and 4; and

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<sup>768</sup> NZTA AEE, Section 7.

<sup>769</sup> Statement of Primary Evidence, Nancekivell, para 11.5.

- (b) Works within Sectors 1 and 4 are within congested traffic areas and will need to be staged to minimise disruption. For example, works on SH20 and SH1 should not be undertaken at the same time. This includes that the works in and around the SH1 on- and off-ramps are likely to commence circa 2019-2020.

[1199] The indicative construction stages will take place over a period of approximately seven years, with construction of the Proposal expected to be completed by 2025<sup>770</sup>.

[1200] A number of construction yards are required to construct the Proposal. NZTA do not currently own all the land for this, thus the Proposal has a necessary interface with the Public Works Act. In his evidence Mr Nancekivell explained that there will be seven main yards that will have staff facilities as well as laydown areas and equipment storage. There will be another seven smaller areas (some will be used only as laydown areas). All construction sites will be required to control stormwater runoff.

[1201] The main construction yards of the Proposal are:<sup>771</sup>

- (a) Yard 2 –The Onehunga Wharf construction yard;
- (b) Yard 3 – The Embankment: the Waikaraka Park construction yard at the end of Captain Springs Road;
- (c) Yard 5 –The Anns Creek Viaduct / Great South Road intersection;
- (d) Yard 6 – Sylvia Park Road;
- (e) Yard 7 – Sylvia Park Ramps and SH1 widening: 430 Mt Wellington Highway;
- (f) Yard 12 – 89 Luke Street; and
- (g) Yard 14 – Princes Street Interchange: Frank Grey Place.

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<sup>770</sup> NZTA AEE, Section 7.4, p83.

<sup>771</sup> Statement of Primary Evidence, Nancekivell, para 11.12.

[1202] A number of the technical reports supporting the AEE contain relevant assessments of potential construction effects, in particular Technical Report 17, Technical Report 10, Technical Report 8 and Technical Report 9. This list is not exhaustive.

### **Management Plans**

[1203] Importantly, NZTA proposes to manage many of the construction effects through management plans. The AEE describes the proposed construction management framework:<sup>772</sup>

*“Where appropriate, the Transport Agency seeks a degree of flexibility in construction methods to accommodate these factors. Once the contract(s) for the Project have been awarded and a contractor (or contractors) are in place, the construction methodology will be further refined and developed. This will be undertaken within the management plan framework (as set out in Section 7.13) and conditions of the designations and consents which will be in place to manage the effects of the construction activities. Should a contractor wish to undertake construction activities in a manner which is not within the scope of the designations or consents held, appropriate assessment and additional authorisations would need to be obtained at that time.*

*Management plans form an integral part of the construction methodology for the Project setting out how specific matters will be managed. A suite of management plans is proposed for the Project. These are discussed in Section 13.1.5: Management plans of this AEE.*

*The management plans, Outline Plan(s) required for the designations, and other pre-construction documentation will be submitted to Auckland Council prior to the commencement of construction. The anticipated process for this is discussed further in Part H: Management of effects on the environment of this AEE.”*

[1204] The reliance on management plans is not surprising for a Proposal of this scale and complexity.

[1205] The Board has no issue with the following view expressed by Ms Hopkins:<sup>773</sup>

*“In my experience, management plans are an effective and widely used method to manage the effects from major construction projects. This is particularly so for large infrastructure projects such as this, where the design details will be finalised at a later date, meaning that not all the mechanisms for managing construction effects can be finalised at this time. I consider the management plan process to be an effective technique to provide certainty that the adverse effects of the Project will be appropriately managed.”*

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<sup>772</sup> NZTA AEE, Section 7.1, p81, with further commentary on the various management plans provided in Section 13.1.

<sup>773</sup> Statement of Primary Evidence, Hopkins, para 11.22.

[1206] This includes an overarching Construction Environmental Management Plan (CEMP) and a number of supporting plans, some of which were provided in draft form or in outline form as part of the application.<sup>774</sup> The coverage of these supporting management plans was detailed in the AEE<sup>775</sup> with refinements made in the evidence of Ms Hopkins.<sup>776</sup> This includes the following management plans relating to the resource consents:

- (a) An overarching CEMP;
- (b) A series of topic-specific management plans that form part of the CEMP (for example, plans that address coastal works, contaminated land, air quality, groundwater and settlement, and ecology);
- (c) Site-specific or activity-specific management plans that contain the specific measures to be applied to a specific site or activity (for example, erosion and sediment control); and
- (d) Plans that set out specific measures developed to provide for accidental discovery protocols, cultural monitoring plan and monitoring and management.

[1207] The following management plans relating to the NoRs and designations:

- (a) Topic-specific management plans that form part of the Outline Plans (for example, plans that address construction noise and vibration, construction traffic and heritage);
- (b) Urban Design and Landscape Master Plan(s) that form part of the Outline Plans to reflect the ULDF;
- (c) Reinstatement plans for areas of public open space used for construction works; and

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<sup>774</sup> This included:

A draft contents page for the CEMP in Appendix A of the AEE.

A draft Contaminated Land Management Plan (CLMP) in Appendix D of Technical Report 17.

A draft Construction Traffic Management Plan Framework (CTMPF) in Appendix A of Technical Report 10.

<sup>775</sup> Summarised in the AEE, Chapter 13.1, p416 onwards.

<sup>776</sup> Statement of Primary Evidence, Hopkins, para 11.23–24.

- (d) Plans that set out specific measures developed to provide for accidental discovery protocols, cultural monitoring, monitoring and management for the Māngere Inlet, and communication.

[1208] The relationship between the Outline Plan process mentioned previously<sup>777</sup> and the management plan framework is explained in Section 13.1.2 of the AEE. This includes:

- (a) The Outline Plan process enables Auckland Council to review and provide input to the detailed design;
- (b) A number of Outline Plan(s) may be staged to reflect the final Proposal phases or construction sequencing;
- (c) The Outline Plan(s) will address the matters required under s176A(3) of the RMA, including how the Proposal meets the conditions of the designation; and
- (d) A number of the management plans will form part of the Outline Plan documentation addressing construction related matters, including:
  - (i) The CEMP;
  - (ii) The Construction Noise and Vibration Management Plan (CNVMP);
  - (iii) The finalised Construction Traffic Management Plan based on the CTMPF contained as Appendix A to Technical Report 10: Construction Traffic Impact Assessment;
  - (iv) The Network Utilities Management Plan (NUMP);
  - (v) The Communications Plan and an Accidental Discovery Protocol; and
  - (vi) A number of topic specific management plans (for example, eplans that address construction noise and vibration, construction traffic and heritage) and Urban Design and Landscape Master Plan(s), as per the evidence of Ms Hopkins.<sup>778</sup>

[1209] Turning to the detail of the management plans, Ms Hopkins explained that:

*“For this Project, drafts of some of the proposed management plans (the Construction Traffic Management Framework and the Contaminated Land*

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<sup>777</sup> Chapter [6.1] of this Report, from para 127.

<sup>778</sup> Statement of Primary Evidence, Hopkins, para 11.24.

*Management Plan) were included with the application to allow the Board, the Auckland Council and potential submitters to understand how those particular plans will be structured and the matters that they will cover. In my experience, it is uncommon for all draft management plans to be submitted with the application as the construction contractor needs to provide critical inputs into the management plans reflecting the final design and construction methodology. For this reason, my focus has been to ensure that the management plan conditions provide a robust framework and performance standards for ensuring effects are adequately addressed once detailed design and construction details have been advanced."*

[1210] Suffice to say that further detail may have assisted by reducing the Hearing time and to alleviate some of the concerns of those submitters directly affected by the construction (and operation) of the Proposal. This is not intended as a criticism, rather a mere observation.

### **Particular concerns**

[1211] Moving now to address a number of general and site-specific construction concerns, with particular reference to the management plans and other construction-related conditions. To the extent that adverse effects have been addressed earlier in this Report, it will suffice to provide a brief comment on the Board's findings and cross-reference.

[1212] The Board acknowledges that the environment includes the people who live, work, visit and commute through the area. Many submitters who live in the residential pockets told the Board that they were concerned at having to endure the disruption to their lives from construction activities and, once constructed, operation of the EWL.

[1213] Such concerns were articulated by Ms Rich on behalf of a number of residents and owners in the Onehunga Mall Cul-de-Sac. In her closing, Ms Rich summed up her concerns by referring to NZTA's impact on the Onehunga Mall Cul-de-Sac neighbourhood in recent years, based on other recent roading projects in the area, namely:

- (a) The Manukau Harbour Crossing #2; and
- (b) The Waterview Connection (recently opened in 2017).

[1214] For the EWL, the primary concerns of Ms Rich related to air quality, access and parking, noise and vibration, and community liaison. A number of these matters relate to final design and operation of the road, and are addressed elsewhere of this Report.<sup>779</sup> Ms Rich specifically sought conditions to maintain safe access

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<sup>779</sup> Throughout this Report, in particular at para [859].



through the intersection of Onehunga Mall Cul-de-Sac and Onehunga Harbour Road, including during construction. The Board is satisfied that this will be appropriately addressed through the development and implementation of the relevant Site Specific Construction Traffic Management Plan. Long-term functions of this intersection will be addressed through design considerations required under Condition DC.11B.

[1215] The concerns of K and M Maras, and Ms Ransom on behalf of the Owners' Committee of 2 Onehunga Harbour Road, who own a unit at 2 Onehunga Harbour Road, regarding the location of the proposed driveway to the property, were addressed by NZTA in liaison with Auckland Council in a memorandum.<sup>780</sup> The Board accepts that any remaining concerns can be addressed during the detailed design process.

[1216] Mr Styles, in his evidence for Auckland Council, was particularly concerned about the level of protection and engagement the noise and vibration conditions afforded properties within or adjacent to the construction footprint. When Mr Styles appeared at the Hearing, his concerns had largely been resolved through updates to the conditions:<sup>781</sup>

*"At this stage of the process it has been most efficient to focus on the conditions to deal with issues not resolved. In terms of those issues that are resolved, a number have been resolved directly through expert conferencing and those are addressed in the joint witness statements, of which there are three. Other issues have been resolved indirectly by updates and improvements to conditions.*

*The main matters that have been resolved are that a draft CNVMP has not been provided but there has been significant strengthening of condition CNV.4 which requires the plan to the extent that while the draft plan in my view would still be helpful to understand the way that the CNV effects would be managed, I do not consider its provision necessary at this time.*

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*In terms of the issues not resolved, it is important to note here that while discussions are ongoing with the Agency on conditions, a final set of noise and vibration conditions has not been finalised and some refinements to those currently being referred to may be required to ensure that the concerns I have noted in evidence are fully resolved. However, I anticipate that agreement on the conditions relating to these matters can be reached."*

[1217] It is apparent from Mr Lanning in his closing<sup>782</sup> and the final set of amended conditions provided by NZTA<sup>783</sup> that Auckland Council and NZTA have had further

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<sup>780</sup> Memorandum of Transport Agency regarding the proposed driveway at 2 Onehunga Harbour Road, dated 12 September 2017.

<sup>781</sup> Transcript, Styles, p 3114–3115.

<sup>782</sup> Closing Statement, Lanning.

<sup>783</sup> Attachment 1 – Conditions, dated September 2017.

discussions and for the most part agreed to the wording of the relevant noise and vibration related conditions. Auckland Council requested changes to LAeq (15 min) construction noise criteria provided in condition CMV.4(a) being a reduction from 60 dB to 55 dB from 0630 to 0730 hours (applying within the period 0630 Sunday to 0630 Friday) and 65 dB to 45 dB from 1800 to 2000 hours (applying within the period 0630 Friday to 0630 Saturday). The Board accepts these changes.

[1218] A number of other site-specific construction concerns, including those from Fonterra, Stratex, and utility providers (including Auckland Transport, Transpower, KiwiRail, Spark and First Gas), have been resolved with NZTA either through redesign or through various conditions, including management plan conditions. These concerns are addressed in greater detail throughout chapter 15.4 of this Report.

[1219] The construction-related concerns of Mercury have been addressed in chapter 15.4 of this Report.

[1220] The remaining temporary and permanent acquisition of land required for construction and construction yard activities also presented a number of issues at the Hearing. The main unresolved issues related to the use of Waikaraka Park South as a construction yard, the T&G Global site, and the Turners and Growers site. These are addressed in the relevant sections within chapter 15 of this Report.

### **Findings and conclusion**

[1221] The inquiry into construction effects was understandably focused on the concerns of near neighbours and the potential for construction activities to generate unacceptable noise, vibration, air quality, health and safety, and traffic-related effects (including access and parking). As mentioned, NZTA was able to reach agreement with a number of land owners and operators (including utility and infrastructure providers), including via proposed conditions and/or via management plans.

[1222] In terms of construction noise and vibration in particular, the Board is satisfied that the amendments made to the conditions at the end of the Hearing are adequate as summarised by Mr Mulligan:<sup>784</sup>

*“In response to concerns raised by Council, OBA and others, amendments have been made to the construction noise and vibration management plan conditions. The conditions now require early and timely engagement with the receivers for major construction work areas and further specificity as to mitigation options [Condition CNV.2]. The communications plan condition has also been amended to provide for early notification to businesses of*

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<sup>784</sup> Closing Statement, Mulligan, para 18.2(b).

*construction activities with provision for any feedback to be looped into the management plan process [Condition CS.2].“*

- [1223] NZTA has given focus to reducing the extent of the designation that occurred throughout the Hearing, the proposed roll backs of the designations post-construction, and the relevant conditions relating to site-specific concerns. There may be some residual concerns, but the Board considers that adverse construction effects for the most part will be of a temporary nature and appropriately managed.
- [1224] The Board has accepted the compensation condition proffered by NZTA to mitigate the effects on Waikaraka Park South. Auckland Council will be in no worse position.
- [1225] After considering the various other construction-related concerns before the Board, overall it is satisfied that it has received sufficient evidence to understand the nature and scale of likely effects of the Proposal, and that they will be adequately avoided, remedied or mitigated through the conditions. On that basis, the Board is satisfied that the detailed management of effects can be appropriately addressed through the management plan approach proposed by NZTA.
- [1226] The Outline Plan approval process and the certification conditions imposed give the Board a further level of comfort that construction-related effects will be appropriately considered and addressed through the detailed design of the Proposal.

## **15.10 CONCLUSION ON EFFECTS OF NOR1 AND NOR2**

- [1227] The Board has considered the NoR sectors 1–6, both individually and cumulatively, and it is satisfied that there will be a number of benefits and that adverse effects that can be appropriately avoided or mitigated, including through conditions imposed. Those effects that cannot be mitigated can be addressed through the PWA. NZTA, through its robust route selection process, combined with design elements that address specific effects and benefits throughout NoRs 1 and 2, has shown that those designations are reasonably necessary to achieve the Proposal objectives. The Board has no doubt that alternatives have been appropriately considered. The extent to which significant and competing issues have been balanced in refining the route illustrates the challenges that NZTA has faced in its detailed consideration of the Proposal.
- [1228] In making this sector-by-sector evaluation, both individually and cumulatively, the Board has, of course, given consideration to Part 2 of the RMA. None of the provisions in that Part alter or impede the sector-by-sector conclusions the Board reached. Inevitably there is an overlap with the factors the Board considered when dealing with related resource consent applications. These are dealt with elsewhere.

## 15.11 SECTION 171(1)(A) ASSESSMENT OF RELEVANT PROVISIONS

[1229] Further to the Board's earlier findings relating to the s104D gateway test and s104(1)(b) of the RMA, the Board is obliged under s171(1)(a) of the RMA to consider the effects on the environment of allowing the requirement, having particular regard to any relevant provisions of: (i) a national policy statement; (ii) a New Zealand coastal policy statement; (iii) a regional policy statement or proposed regional policy statement; and (iv) a plan or proposed plan. Elsewhere in this Report, in chapter 12.2 onwards the Board has set out the legal framework against which s171(1)(a) assessments are to be made. The Board has followed this.

[1230] Invariably there is a degree of overlap, namely with the Board's substantive assessment of the applications for resource consent and the relevant AUP:OP objectives and policies and the assessment of the NoRs and designations under s171(1)(a) that follows. To avoid unnecessary repetition, the following chapters should be read in conjunction with the resource consent chapters of this Report, along with the planning instruments and provisions as set out in chapter 7 of this Report. As required by s171(1) the Board has considered relevant effects while having particular regard to the matters listed in that provision.

[1231] As mentioned earlier in this Report, when making its assessment the Board accepts the proposition that it is not necessary for a proposal to meet every single aspect of every single policy.<sup>785</sup> The Board also notes that, consistent with various case law, while making a full assessment of planning provisions, the Board is not compelled, nor is it efficient, to quote and individually report on every relevant policy.

### **Section 171(1)(a)(i) – National Policy Statements**

[1232] The national policy statements relevant to the NoRs and designations have been introduced and a brief overview provided in chapter 7 of this Report. These are:

- (a) NPS – Urban Development Capacity
- (b) NPS – Renewable Electricity Generation
- (c) NPS – Electricity Transmission

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<sup>785</sup> Closing Statement, Mulligan, para [21.37].

*NPS – Urban Development Capacity*

[1233] The Board has addressed the relevance of the NPS – Urban Development Capacity earlier in this Report. It is relevant. The Board now turns to the key provisions, which were correctly set out in the AEE<sup>786</sup> and succinctly covered in the evidence of Ms Rickard:<sup>787</sup>

- (a) Objective Group A – Outcomes for planning decisions;
- (b) Objective Group C – Responsive planning;
- (c) Objective Group D – Coordinated planning evidence and decision-making; and
- (d) The related policies.

[1234] Two key provisions were drawn to the Board’s attention by the Board’s Planner:<sup>788</sup>

**“Objective OD1**

*Urban environments where land use, development, development infrastructure and other infrastructure are integrated with each other.*

**Policy PA3**

*When making planning decisions that affect the way and rate at which development capacity is provided, decision-makers shall provide for the social, economic, cultural and environmental wellbeing of people and communities and future generations, whilst having particular regard to:*

...

*(b) Promoting the efficient use of urban land and development infrastructure and other infrastructure; ...“*

[1235] The position of NZTA, and that of Ms Rickard, is that the Proposal is consistent with and helps achieve the NPS, which significantly favours approval under both ss104 and 171.<sup>789</sup> No serious contest to this was made by those parties opposing the Proposal.

[1236] The Board finds a high level of support for the Proposal in the policy direction of the NPS – Urban Development Capacity. The Board agrees with Ms Rickard that the EWL is a good example of achieving the type of integrated urban planning envisioned by Objective OD1.<sup>790</sup> The Proposal clearly promotes the efficient use

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<sup>786</sup> Technical Report 2.

<sup>787</sup> Statement of Primary Evidence, Rickard, para 10.24.

<sup>788</sup> Memorandum of Board Counsel and Planner.

<sup>789</sup> Closing, Mulligan, para 21.46.

<sup>790</sup> Statement of Primary Evidence, Rickard, para 10.24.

and development of land and infrastructure to support the growth of Auckland and its development capacity.

*NPS – Renewable Electricity Generation*

[1237] The relevance of the NPS – Renewable Electricity Generation is also agreed. A matter lightly touched on in chapter 7 of this Report relates to the planning evidence of Mr Grala in relation to the potential for reverse sensitivity effects on the Mercury’s Southdown site.<sup>791</sup> There is common ground that NZTA accepts these are “effects”, but not in the sense of “reverse sensitivity” put forward by Mr Grala on behalf of Mercury.

[1238] The first issue relates to the Solar Research and Development Centre at the Southdown site.

[1239] Policy D is one of the policies at the heart of this:

**“POLICY D**

*Decision-makers shall, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on consented and on existing renewable electricity generation activities.“*

[1240] Ms Rickard remained firmly of the view that the concerns of Mr Grala did not represent a reverse sensitivity situation on the Solar Research and Development Centre.<sup>792</sup> Nonetheless, she acknowledged the valid concerns and the evidence regarding dust effects (and conditions proposed to address such adverse effects).

[1241] In support of her position on the matter Ms Rickard opined that:<sup>793</sup>

*“Reverse sensitivity is, in my opinion, the risk that the operation or expansion of (in this case) infrastructure is constrained due to complaints and actions of other parties. My experience is that those other parties are nearly always identified as sensitive activities where people reside or are present for a long period of time, and includes residential activities. The primary purpose of control on reverse sensitivity is to prevent or manage the establishment of those sensitive activities. An example of how this plays out in the Unitary Plan is the prohibition or strict control on sensitive activities establishing in the HIZ [Heavy Industry Zone] where a lower standard of amenity is necessarily provided for. I am not aware of a situation where a road or pedestrian/cycle link has been considered as a sensitive activity.“*

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<sup>791</sup> Statement of Primary Evidence, Grala, para 70 and 201 onwards.

<sup>792</sup> Transcript, Rickard, p 2528-2529.

<sup>793</sup> Statement of Rebuttal Evidence, Rickard, para 6.19.

[1242] It is also helpful here set out the following proposition advanced by Mr Mulligan in his opening:<sup>794</sup>

*“[24.11] The simple answer to this issue is that the EWL will not give rise to reverse sensitivity effects on the Solar Research and Development Centre. Reverse sensitivity in this situation requires:*

*(a) A sensitive activity ie one that is sensitive to the effects generated by infrastructure; and*

*(b) A real risk of complaints or actions by people from that sensitive activity that lead to restrictions on operations or expansion of that infrastructure or related activity.*

*[24.12] The evidence filed by Mercury gives no indication of:*

*(a) The operational effects the Solar Research and Development Centre and how that will impact on people using the EWL;*

*(b) How the users of the EWL would be affected, given that most of them will move relatively quickly through the area (much like the current train passengers); and*

*(c) How those users of the EWL could complain or bring about restrictions on Mercury’s Solar Research and Development Centre.”*

[1243] During cross-examination by Mr Mulligan, Mr Grala conceded that his concerns regarding dust and Mercury’s solar panels were indeed an operational effect (rather than reverse sensitivity).<sup>795</sup> The relevance of Policy D in this regard has fallen away.

[1244] The remaining reverse sensitivity concern from Mr Grala relates to Mercury having to potentially change its operations at the Southdown site to comply with health and safety obligations as a result of the Proposal introducing people, cyclists, and drivers into the area.

[1245] During cross-examination Mr Grala made the following concession:<sup>796</sup>

*“MR GRALA: I think health and safety effects is a type of effect and that’s both from the proposal going on to the power station as we have heard and also the other way around. But I think this is really Mercury having to change their operation as a result of having to meet their health and safety obligations. I think at the June facilitated meeting Mr Flexman gave a really good reason about why the power station is there. It is in a heavy industrial zone, end of a cul-de-sac, away from effectively any sensitive uses, away from people, and that won’t be the case as a result of the proposal. So it’s how Mercury will have to change the way they do things as a result of the proposal being there.*

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<sup>794</sup> Opening Statement, Mulligan, para 24.11 to 24.12.

<sup>795</sup> Transcript, Grala, p 6122.

<sup>796</sup> Transcript, Grala, p 6122.

*MR MULLIGAN: It could just be described more broadly as an effect.*

*MR GRALA: It's a part of an effect, absolutely."*

[1246] Returning now to the Solar Research and Development Centre, Ms Devine, in her re-examination of Mr Grala, sought to clarify to what extent the NPS – Renewable Electricity Generation is relevant to the reverse sensitivity and the solar operation.<sup>797</sup> Mr Grala referred to Policy A:

***"POLICY A***

*Decision-makers shall recognise and provide for the national significance of renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities ..."*

[1247] In this regard, it appears Mr Grala's main concern is that if the Proposal forced a reconfiguration or move of the power station, there is only really one spot to move to that will ensure the residual health and safety effects were acceptable, which is to the north. This leads to a potential effect that the solar operation would be displaced by either the power station or other assets that need to be retained and, in turn, essentially limiting the ability at the Southdown site for renewable energy generation to be developed (as envisioned by Policy A of the NPS).

[1248] Mercury did not seriously pursue the matter of reverse sensitivity in its closing.<sup>798</sup>

[1249] The Board agrees with Mr Mulligan in that the evidence presented by Mercury to support its concerns regarding reverse sensitivity was somewhat scant. Mr Grala, although with good intentions, was drawing a long bow to find additional support in the policy direction.

[1250] Overall, the Board prefers the evidence of Ms Rickard, and with the imposition on appropriate conditions, the Proposal is not contrary to the NPS – Renewable Energy Generation (or the corresponding AUP:OP provisions relevant to promoting renewable energy).

*NPS – Electricity Transmission*

[1251] It is clear that NZTA and Transpower have worked constructively to ensure that in relocating transmission lines and towers the national grid will not be compromised

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<sup>797</sup> Transcript, Grala, p 6140.

<sup>798</sup> Ms Devine submitted during her closing that "[I]n addition to the unitary plan, unless there are conditions imposed ... the policies in the NPS around renewable energy would also be inconsistent ..." – Transcript, Devine, p 4133.



by the Proposal. There is no contest. However, Mr Gardner-Hopkins alerted the Board to an unresolved appeal<sup>799</sup> regarding the AUP:OP and its failure to give effect to the NPS – Electricity Transmission.<sup>800</sup> In an interim decision the High Court has agreed that there was some error in how the plan had in a limited way failed to give effect to the NPS.<sup>801</sup> This is unresolved pending the High Court’s approval of amended text. In any case, the issue has little or no relevance to the interface between EWL and Transpower’s pylons and lines.

[1252] The Board agrees with the approach suggested by Mr Gardner-Hopkins:<sup>802</sup>

*“The NPS is a relevant consideration. Whether because of how it’s found expression in the unitary plan you need to go back up to it is perhaps a little unclear at this point in time, but my submission would be that the safest approach for this Board is to have specific regard to the NPS on Electricity Transmission together with the relevant objective in the unitary plan and that provides a policy framework to approach your decision.”*

[1253] Policy 10 of the NPS – Electricity Transmission is of particular and overarching relevance:

***“Policy 10***

*In achieving the purpose of the Act, decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.”*

[1254] The AUP:OP<sup>803</sup> is similar but goes one step further to direct that the efficient development, operation, maintenance and upgrading of the national grid is not compromised.

[1255] Mr Horne agreed that the Proposal is consistent with this policy framework.<sup>804</sup> The Board is satisfied and notes that NZTA and Transpower have agreed on a suite of conditions.

**Section 171(1)(a)(ii) – New Zealand Coastal Policy Statement**

[1256] The NZCPS (and HGMPA) have been appropriately addressed in the resource consent chapter of this Report. No further comment is necessary; it would take up

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<sup>799</sup> *Transpower New Zealand Limited v Auckland Council* CIV-2016-404-002330 [2017] NZHC 281.

<sup>800</sup> Transcript, Gardner-Hopkins, p 337-341.

<sup>801</sup> The key issue on appeal as explained by Mr Gardner-Hopkins relates to the extent of development under the transmission lines and the extent to which the AUP:OP appropriately recognised the need to avoid further under-build or the development under transmission lines.

<sup>802</sup> Transcript, Gardner-Hopkins, p 339.

<sup>803</sup> AUP:OP – D26.2. Objective (1).

<sup>804</sup> Transcript, Horne, p 4894.

unnecessary space to repeat it here. To the extent that the relevant NZCPS provisions assist with assessment of the NoRs, the Board will return to this in the following chapters.

### **Section 171(1)(a)(iii) – A regional policy statement or proposed regional policy statement**

[1257] To avoid doubt, unless otherwise mentioned, the Board is of the view that any relevant considerations at the regional policy statement level relating to the NoRs and designations are appropriately addressed by having particular regard to the lower order plan objectives and policies of the AUP:OP. The Board proceeds on that basis. The Board is unaware of any lacuna or inconsistencies between the plans involved, nor have there been any submissions to that effect.

[1258] A key tension does exist.

[1259] The authors of the Key Issues Report succinctly summarised the context and this tension at both the regional policy statement level and in the lower order provisions of the AUP:OP:<sup>805</sup>

*“[63] The project area is heavily utilised by different forms of infrastructure. As recorded in the local context section, the concentration of infrastructure reflects both the longstanding industrial land uses and the narrowness of the Auckland isthmus through which linear infrastructure runs, and on which Auckland relies. Some infrastructure in the project area serves a wider area still: for example KiwiRail’s North Island Main trunk line, Transpower’s electricity line that serves Northland, and the applicant’s own state highway network.*

*[67] The tension between provision of infrastructure necessary for Auckland’s economic future while maintaining the quality of the environment and the quality of life for Aucklanders is an RPS issue carried through objectives and policies. The RPS recognises that infrastructure can have adverse effects on the communities that it serves, and particular scheduled values that are protected but at the same time infrastructure is necessary to provide for the economic and social well-being of people and communities. A balancing of factors is necessary.”*

[1260] At the regional policy statement level there was a great deal of support for the Proposal from both the NZTA and Auckland Council planning witnesses. There is no real contest to the Proposal’s consistency with the key infrastructure and transport provisions of the AUP:OP<sup>RPS</sup> (other than Mercury’s site-specific concerns regarding the operation of the Southdown site). Thus, it is sufficient to note these provisions:

(a) B1.5 – Indicates that the RPS should be read as a whole; and

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<sup>805</sup> Key Issues Report, pp 19-20.

(b) B3.2 – Policy set relating to infrastructure.

[1261] The concerns of Mercury in part relate to Policy B3.2.2.(5), to ensure that use and development do not occur in a location or a form that constrains (among other things) the development and operation of infrastructure. Notably, this policy sits under the sub-heading ‘Reverse Sensitivity’, a matter the Board has already addressed.

[1262] Notwithstanding her view that a reverse sensitivity situation does not arise, Ms Rickard conceded during cross-examination<sup>806</sup> that the designation will constrain the power station activities at the Southdown site, although such constraints could be minimised through a designation roll back and conditions to move the road as far south within the designation.

[1263] The Board will return to this and its substantive findings elsewhere in this Report.

### **Section 171(1)(a)(iv) – A plan or proposed plan**

[1264] As the Board has said earlier, as the AUP:OP is a unitary plan, encompassing the regional policy statement and regional and district plans, it is appropriate and efficient to consider these matters together. The relevant provisions of the AUP:OP and the legacy plans are listed in Technical Report 2<sup>807</sup> of the application material and chapter 7 of this Report. The completeness of those lists was not contested.

[1265] The Board’s earlier conclusions and findings on the relevant provisions relating to the applications for resource consent also apply to some extent here in respect of the NoRs. These include:

- (a) Coastal activities and Anns Creek East;
- (b) Natural Character (and Landscape) – to the extent that the reclamation activities are relevant; and
- (c) Waikaraka Cemetery – to the extent that it extends into the CMA.

[1266] Of particular relevance is the Board’s findings in relation to the route selection, and importantly, that there is an operational need for the EWL to be located within the CMA.

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<sup>806</sup> Transcript, Rickard, p 2544.

<sup>807</sup> Technical Report 2, Appendices D2, D3 and D4.

## *Infrastructure*

[1267] In the resource consent chapter of this Report the Board found that the Proposal positively responds to the infrastructure provisions of the AUP:OP, in particular a number of the provisions contained in the Objectives E26.2.1 and Policies E26.2.2.

[1268] The following expands on that assessment with a particular focus on the NoRs and designations.

[1269] It is not surprising that NZTA emphasised at every opportunity the support for the Proposal contained in the policy thrust of the infrastructure provisions. There was no real contest that the Proposal finds a high level of support in relation to the AUP:OP objectives and policies that focus on enabling the development of infrastructure and recognising the benefits of infrastructure to the communities within Auckland and beyond.

[1270] Central to NZTA's case was the view expressed by Ms Rickard that:<sup>808</sup>

*“Whilst there are provisions, particularly in the NZCPS and the Unitary Plan, that are clearly more directive than others by seeking to ‘avoid’ or ‘protect’, there is also strong direction seeking to ‘promote’ or ‘achieve’ certain outcomes. The provisions recognise that Auckland is a well-established urban area with an increasing population where growth needs to be provided for, and that infrastructure is a critical component of that growth.”*

[1271] The authors of the Key Issues Report concluded that:<sup>809</sup>

*“In our view, the infrastructure policy provisions echo the overall broad considerations required under Part 2 of the Act. Tensions exist between enabling infrastructure with its localised effects (particularly in sensitive or highly valued locations) against its enabling characteristics that can support economic activity and general quality of life.”*

[1272] This was echoed throughout the Hearing. Parties opposing the EWL were critical of a lack of site-specific assessment, and raised concerns about consistency with the statutory planning framework. In contrast, few drew attention to the enabling provisions relating to infrastructure, growth and economic development at both a regional and national level.

[1273] The key policies in E26.2.2. of the AUP:OP reflect this tension:

- (1) Recognise the social, economic, cultural and environmental benefits that infrastructure provides...*
- (2) Provide for the development, operation, maintenance, repair, upgrade and removal of infrastructure throughout Auckland...*

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<sup>808</sup> Statement of Primary Evidence, Rickard, para 1.3.

<sup>809</sup> Key Issues Report, para 68.

*Adverse effects on infrastructure*

- (3) *Avoid where practicable, or otherwise remedy or mitigate adverse effects on infrastructure from subdivision, use and development, including reverse sensitivity effects, which may compromise the operation and capacity of existing, consented and planned infrastructure.*

*Adverse effects of infrastructure*

- (4) *Require the development, operation, maintenance, repair, upgrading and removal of infrastructure to avoid, remedy or mitigate adverse effects ...“*

[1274] In addition, Policies (5) and (6) provide a number of considerations relating to assessing the effects of infrastructure and matters where new infrastructure or major upgrades to infrastructure are proposed within scheduled areas, respectively.

[1275] A particular site-specific challenge came from Mercury in relation to the Southdown site. Ms Devine cross-examined Ms Rickard on the Proposal's consistency (or inconsistency) in relation to:<sup>810</sup>

- (a) Policy (3) and the extent that the design of the Proposal has avoided adverse effects on the Southdown power station, and remedied or mitigated operational effects through conditions; and
- (b) Policy (4) and the Proposal's ability to avoid, remedy or mitigate adverse the safe and efficient operation of other infrastructure relating to the Southdown site (a similar policy also exists in B3.2.2.(4) of the AUP:OP<sup>RPS</sup>).

[1276] Ms Rickard remained steadfast.

[1277] Turning now to the substantive matter at hand, it will suffice to say that the Board's earlier findings in the resource consent chapter, as they relate to the infrastructure provisions, are also pertinent to its assessment here of the NoRs. The Board's findings include:

- (a) Policy E26.2.2(5) is particularly germane to the balanced consideration of this Proposal;
- (b) For the reasons provided elsewhere in this Report, the Board is satisfied that the Proposal is justified in the context of Policy E26.2.2.(5), has taken account of the specific characteristics and values of the proposed

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<sup>810</sup> Transcript, Rickard, p 2540 onwards.

alignment; the avoidance, mitigation or offset of adverse effects; and the benefits that will be afforded by the EWL; and

- (c) The Board finds that the Proposal positively responds to the Chapter E26 provisions, and appropriately addresses the matters that must be considered.

#### *Historic Heritage*

[1278] The Proposal brings in the provisions relating to historic (or built) heritage to the potential impacts on the three scheduled heritage places in the wider Onehunga area:

- (a) The Aotea Sea Scouts Hall;
- (b) The Landing; and
- (c) The Waikaraka Cemetery (which is also addressed in part in the resource consent chapter of this Report).

[1279] Heritage NZ did not file any evidence, although during their representation they expanded on a number of concerns regarding the Proposal's impact on built heritage:<sup>811</sup>

- (a) Exacerbating the loss of historic connection between the harbour and Onehunga town;
- (b) Adverse effects on the visual appreciation and setting of the Aotea Sea Scouts building;
- (c) Adverse effects on Waikaraka Cemetery; and
- (d) Adverse effects on the setting of The Landing.

[1280] These concerns were also shared by members of the community and to some degree Auckland Council, whose concerns also extended to the impacts on the open space of Waikaraka Park. The Board has addressed these effects earlier in this Report.

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<sup>811</sup> Transcript, p 6044.

[1281] The focus here is on the key objectives and policies of the AUP:OP found in Chapter D17.

[1282] Mr Mulligan contended that as there are no physical effects of the Proposal on the extent of place in relation to either the Aotea Sea Scouts Hall or The Landing, none of the specific heritage polices apply.<sup>812</sup>

[1283] However, Mr Gouge, at least in relation to the Aotea Sea Scouts Building, concluded that:<sup>813</sup>

*“While the focus of the Chapter D17 provisions refer to works on the scheduled buildings or within their extent of place, common themes are encouraging and enabling repair and maintenance of buildings (D17.3(1)), enabling the adaption of scheduled buildings (D17.3(3), D17.3(5)), and ensuring development respects the historic heritage values of a site (D17.3(3), D17.3(8)-(10)). While not inconsistent with these policies as the works do not physically affect the mapped extent of place, I consider the proposal impacts significantly on the heritage values of the scheduled site and is therefore **inconsistent** with the objectives of D17.2.”*

[1284] Objective D17.2 states that:

- “(1) The protection, maintenance, restoration and conservation of scheduled historic heritage places is supported and enabled.*
- (2) Scheduled historic heritage places are protected from inappropriate subdivision, use and development, including inappropriate modification, relocation, demolition or destruction.*
- (3) Appropriate subdivision, use and development, including adaptation of scheduled historic heritage places, is enabled.”*

[1285] Mr Gouge found support in the AUP:OP<sup>RPS</sup> with regard to managing development adjacent to significant historic heritage places. The policy of particular relevance is B5.2.2.(8):

*“Identification and evaluation of historic heritage places*

*...*

*Encourage new development to have regard to the protection and conservation of the historic heritage values of any adjacent significant historic heritage places. [Emphasis added]”*

[1286] Neither counsel for NZTA nor counsel for Auckland Council advanced submissions in this area. While it is true that the heritage building addressed by Mr Gouge, the Aotea Sea Scouts building, is not directly affected by the Proposal, nonetheless its activities and ambience are affected. The Sea Scouts will be moving elsewhere. The effect on The Landing is less significant and the effects on Waikaraka

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<sup>812</sup> Closing Statement, Mulligan, para 21.58.

<sup>813</sup> Statement of Rebuttal Evidence, Gouge, para 2.36.

Cemetery are dealt with elsewhere (and below). The Board agrees with Mr Gouge's assessment of Objective D17.2, rather than Mr Mulligan's submission that the policy is only triggered by some direct effect. This approach is similar to that by Brown J in *Basin Bridge*.

[1287] Turning now to the impacts within the Waikaraka Cemetery. There was agreement among the experts who gave evidence that the Proposal will result in moderate adverse effects on the heritage values.<sup>814</sup> However, for the reasons given elsewhere throughout this Report, the Board has found that the severance effects of the Proposal at the southern edge of Waikaraka Cemetery will be significant as a result of the new road and embankments, and that views from, and amenity within, the cemetery will be adversely affected. Its current rather tranquil setting will be no more.

[1288] It follows that the Board finds a level of inconsistency with the objectives and policies of D17.

*Mana Whenua (and Te Hōpua ONF)*

[1289] The consideration of activities for which resource consents are sought that may impact on Mana Whenua values, including Te Hōpua a Rangi volcanic tuff ring, is provided in chapters 13 and 14.8 of this Report. Ngāti Whātua Ōrākei and Te Kawerau ā Maki maintained their position that the Proposal is contrary to the most relevant and important objectives and policies relating to reclamation and ecology.<sup>815</sup> The Board has not favoured this interpretation, for the various reasons already explained.

[1290] Thus, the focus here is whether the proposed activity will affect cultural landscapes and sites of significance to Mana Whenua<sup>816</sup> and avoid adverse effects on Mana Whenua values associated with ONFs,<sup>817</sup> in particular, Te Hōpua a Rangi.

[1291] The Board acknowledges the evidence presented by witnesses for Ngāti Whātua Ōrākei and Te Kawerau ā Maki on cultural landscapes, cultural features and waahi

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<sup>814</sup> Closing Statement, Mulligan, para 21.58.

<sup>815</sup> Closing Statement, Enright, para [1].

<sup>816</sup> Policy 10(2)(f) of the NZCPS, which as we note earlier does not feature in the relevant AUP policies.

<sup>817</sup> Policy D10.3.(3)(c) of the AUP – Outstanding Natural Features Overlay and Outstanding Natural Landscapes Overlay.



tapu,<sup>818</sup> and who oppose the Proposal, and that of Te Ākitai Waiohua, including their cultural values associated with Te Hōpua a Rangī, who would be less likely to oppose the Proposal provided certain other prerequisites are adhered to.<sup>819</sup> Consequently, Te Ākitai are part of the Mana Whenua Tribes Agreement.

[1292] Te Hōpua a Rangī is scheduled as an ONF, although it is acknowledged that this status afforded is not for its cultural values. Further, it is not included in the schedule of Sites and Places of Significance to Mana Whenua Overlay.<sup>820</sup> Upon questioning, Mr Gouge indicated that Auckland Council is implementing a plan change process for sites of significance to Mana Whenua and more sites are being added over time.<sup>821</sup> The Board has no evidence before it to suggest that Te Hōpua a Rangī will be added. Nonetheless, it is common ground that the cultural values associated with Te Hōpua are important.

[1293] The main issue relates to the proposed roading trench in the vicinity of Neilson Street, which is proposed on the outer tuff ring (and which sits outside the extent of the ONF overlay).

[1294] The key policy in question is D10.3.(3) of the AUP:

*“Protect the physical and visual integrity of outstanding natural features, including volcanic features that are outstanding natural features, by:*

- (a) avoiding the adverse effects of inappropriate subdivision, use and development on the natural characteristics and qualities that contribute to an outstanding natural feature’s values;*
- (b) ensuring that the provision for, and upgrading of, public access, recreation and infrastructure is consistent with the protection of the values of an outstanding natural feature; and*
- (c) avoiding adverse effects on Mana Whenua values associated with an outstanding natural feature.”*

[1295] Mr Enright put the following proposition to Ms Coombes during cross-examination:<sup>822</sup>

*“If universally Mana Whenua, and certainly Te Kawerau ā Maki and Ōrākei are opposed to the trenching into Te Hōpua and they see it as a trenching into one of their ancestors, or a cutting into one of their ancestors, would you agree that that means the proposal is contrary to that limb [s104D – objectives and policies limb] or to that policy [D10.3.(3)(c)]?”*

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<sup>818</sup> Dr Patterson, Mr Blair and Mr Taua.

<sup>819</sup> Transcript, Wilson, p 4760.

<sup>820</sup> D21 of the AUP.

<sup>821</sup> Transcript, Gouge, p 3950.

<sup>822</sup> Transcript, Enright, p 3794.

- [1296] Ms Coombes conceded that would be contrary to sub-clause (c) of Policy D10.3.(3).
- [1297] A tension exists. During cross-examination, Ms Evitt put to Mr Brown that the trench has been designed to address potential effects or concerns relating to connectivity and community aspirations. Mr Brown conceded this was a legitimate community issue in this Proposal and, putting aside his concerns that the wrong route has been selected, he conceded that the Proposal has sought to balance a number of considerations, including impacts on Te Hōpua.<sup>823</sup>
- [1298] It is apparent that Policy D10.3.(3) is a policy set that includes providing for infrastructure consistent with the protection of the values of an ONF (sub-clause (b)) and avoiding adverse effects on Mana Whenua values associated with an ONF (sub-clause (c)).
- [1299] The Board is cautious of not conflating the policy directives relating to Te Hōpua a Rangi as an ONF, and the cultural concerns that go into and extend beyond the ONF overlay. On the first of these, Mr Lanning confirmed for the Board during his closing that, based on the expert evidence, Auckland Council is satisfied with the degree of mitigation proposed (or the process for refining this through the Proposal's detailed design) and the state in which Te Hōpua a Rangi will be left.<sup>824</sup> The Board agrees, and no material policy issue exists. Turning to the cultural concerns, the Board finds that on balance the Proposal is consistent in part with the thrust of the policy direction.
- [1300] Overall, the Board does not consider the Proposal will be contrary to Policy D10.3.(3).

### **Summary of Findings and Conclusions**

- [1301] Having paid particular regard to the s171(1)(a) matters, the Board finds that conflict with the policies set out in the relevant planning instruments is in most cases minimal. The Board has identified some areas of conflict and has balanced these against the benefits clearly flowing from those policies that support the Proposal. Subject to the imposition of appropriate conditions to avoid, remedy, mitigate, the Board finds that the Proposal achieves a level of consistency with the higher order planning instruments, and in particular the AUP:OP, that reflects the overall benefits of the Proposal. As in its s104(1)(b) assessment, the Board finds that the Proposal responds in a strong positive manner to transport (including freight, public transport, walking and cycling) and economic provisions, as well as the key provisions relating to infrastructure. This is further supported by the Board's findings on the strategic

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<sup>823</sup> Transcript, Brown, p 4436.

<sup>824</sup> Transcript, Lanning p 6424.

need for the Proposal and the clear regional and national benefits to be gained. A key area where the Proposal falls short relates to the heritage provisions, but this does not represent a fatal flaw and conditions imposed will hopefully go some way to preserving the heritage values of the area, including the Waikaraka Cemetery.

## **15.12 SECTION 171(1)(B) ASSESSMENT OF ALTERNATIVES**

[1302] Section 171(1)(b) of the RMA requires the Board, when considering effects on the environment, to have particular regard to whether adequate consideration has been given to alternative routes.

[1303] It is not, of course, for the Board to designate a route for the proposed highway that might appeal to it more than the route proposed by NZTA. Nonetheless, the Board must be satisfied on the evidence that there has been adequate consideration given to alternative routes. The Board, however, in a different context, will need to consider the issue of “practicable alternatives” when weighing AUP:OP policies.

[1304] A number of submitters raised the s171(1)(b) requirement in some shape or form. There were submitters who were generally satisfied with NZTA’s proposed highway but considered that the proposed alignment should avoid their property. There were submitters who considered that the route of the proposed highway should be radically different from that proposed by NZTA. For some submitters it would merely be a matter of moving the alignment by a few metres. Other submitters advanced carefully designed proposals involving flyovers and bridges across the Māngere Inlet.

[1305] It is, in the event, unnecessary for the Board to traverse all the submissions of this type. The Board has, however, considered them carefully. Some critical submissions in this area should be mentioned. These came from:

- (a) Mercury, who considered that, because the site of its Southdown power station was strategically significant, a designation should avoid its site completely. It submits that NZTA’s consideration of alternatives was inadequate. The Board deals with this submission below.
- (b) T&G, who submitted that the alignment should avoid any adverse impact on its banana-ripening and crate-washing facilities on its site.
- (c) Fonterra was concerned that construction of the highway in particular might impact adversely on the truck turning circle at its site at Tip Top corner.
- (d) TOES and Others submitted that the alignment of the proposed highway would sever the Onehunga community from the Manukau Inlet foreshore

and that there were alternative routes that would avoid such severance. This submission was supported by Onehunga Business Association (OBA).

- (e) Ports of Auckland submitted that the proposed construction of the Port Link Road was unnecessary and that there was preferable alternative access from existing roads to various industrial sites that Port Link Road would serve.
- (f) Ngāti Whātua Ōrākei and Te Kawerau ā Maki Iwi Tribal Authority criticised the selection of the preferred route, describing it as prioritising transport objectives ahead of other cultural and ecological considerations, particularly the need to avoid reclamation.

[1306] The obligation imposed on the Board by s171(1)(b) is to assess the adequacy of NZTA's consideration of alternative routes. It is the process that must be the focus, not the outcome. The focus is not on whether there might have been a more appropriate route or whether the proposed route is the best route, nor is the Board required to evaluate fully alternative routes that might have had the potential for reduced environmental effects. Certainly the adequacy of a Requiring Authority's consideration might be influenced by the level of significant adverse effects or the extent to which land might be required, both of which might lead to a more careful consideration of the consequences. But ultimately, the s171(1)(b) issue is whether the consideration of alternatives has been adequate.

[1307] There was no challenge made to the above legal propositions during the course of the Hearing, authority for which is to be found in *New Zealand Transport Agency v Architectural Centre*<sup>825</sup> and *Queenstown Airport Corporation Limited v Queenstown Lakes District Council*.<sup>826</sup>

[1308] Part D of the AEE devotes 43 pages to describing the manner in which NZTA considered alternative routes for the EWL and the process it adopted. There was no serious challenge to that general process in the cross-examination of relevant Transport Agency witnesses, nor has there been any evidence to the contrary. However, there were a number of sector or site-specific challenges that were premised on alternative routes across or around those sites being preferred.

[1309] The evaluation process was designed to arrive at a preferred corridor for the EWL and then a preferred alignment within that corridor. Some 16 corridor options were created to form a long list. From that long list, six short list corridor options were

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<sup>825</sup> *NZ Transport Agency v Architectural Centre* [2015] NZHC 1991 at [140], [152] – [156], and [175] – [198].

<sup>826</sup> *Queenstown Airport Corporation Limited v Queenstown Lakes District Council* [2013] NZHC 2347 at [121].

identified (Options A to F), which were then considered in greater detail. Both the long list options and the short list options were subjected to an MCA, which assessment used an 11-point scoring method. Two of the options (Options E and F) were identified as conferring the most enduring transport benefits. The MCA weighed a large number of factors (reflected in the scoring system), which included road safety, construction, performance against the Proposal's objectives, natural environment, cultural and heritage factors, operational factors, and social and economic factors.

[1310] NZTA's chosen alternative for a corridor was Option F, inside which the fine details of the NoR alignment fit.

[1311] NZTA's witness, Ms Linzey, described the MCA process as:

*"A robust and replicable process that has assisted the team to understand the potential positive and negative impacts of various alignment options and assisted to inform decision makers on identifying the preferred alignment option."<sup>827</sup>*

[1312] Ms Linzey's hearing summary, which was read to the Board, and her answers in cross-examination did not resile from that proposition. She recognised that the EWL involved a complex urban, coastal and coastal marine environment. Consideration had been given to impacted sites such as those owned by Mercury, T&G and Fonterra. The MCA process was consistent throughout. That process and those involved in the Proposal had given close consideration to alternatives once significant potential effects had been identified.

[1313] Ms Linzey's evidence on NZTA's selection, consideration and analysis of alternatives was corroborated by the evidence of both Mr A Murray and Mr Wickman. Their evidence in that regard was challenged by some counsel. However, the Board's view is that so far as NZTA's assessments of alternatives and its overall methodology are concerned, Ms Linzey's evidence remained unscathed.

[1314] There was also evidence given by Mr C Bauld of Tonkin & Taylor to the effect that the MCA and consideration had been given to the alternative proposal presented by the OBA. Although the Board understands OBA's concern that the preferred alignment (Option F) had already been chosen by NZTA before OBA's alternative proposal had been finalised and assessed, nonetheless the Board is satisfied that OBA's design proposal (understandably bereft of much construction detail) was not rejected by NZTA out of hand.

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<sup>827</sup> Statement of Primary of Evidence, Linzey, para 11.1.

- [1315] OBA's reworked and final option was in fact not presented to NZTA until early 2017, by which stage NZTA's final selection had been made. Nonetheless, the process was peer reviewed by Mr Bauld. The Board accepts Mr Bauld's conclusion that NZTA's analysis and scoring of the OBA option was "relatively consistent" with the MCA process and was robust.
- [1316] It is also apparent from the evidence, and established to the Board's satisfaction, that critical environmental effects such as the effects on Mercury's power generation site, the effects on the adjoining coastal marine area, the effects on Waikaraka Cemetery and Waikaraka Park, effects on significant ecological areas such as Anns Creek, heritage and social effects, and effects on the Onehunga community, were all subject to close consideration and scrutiny throughout the processes of assessing long list and short list options.
- [1317] The evidence of Campaign for Better Transport, presented by Mr Curtin (who had made no compelling criticism of NZTA's assessment of alternatives), was to the effect that Option F did not produce the best benefit-to-cost ratio<sup>828</sup>. Mr Mulligan submitted that this criticism of Option F was flawed. A benefit-to-cost ratio is but one factor to be weighed by NZTA in considering alternatives. There are many other factors and interests to be weighed. Mr Curtin's evidence is entitled to respect but ultimately a benefit-to-cost ratio need not be a decisive criterion for a Requiring Authority. Mr Curtin favoured Option B of the various shortlisted options considered by NZTA. However, unlike the final choice of Option F, Option B did not provide an enduring transport solution.
- [1318] Ms Devine for Mercury submitted that NZTA's assessment of alternatives was inadequate for s171(1)(b) purposes because it failed to take into account the safety implications of the close location of Mercury's power station with the EWL, and had further failed to consider in its overall assessment the possibility of the Mercury power station being recommissioned. Citing a High Court authority, *Kett v Minister for Land Information*,<sup>829</sup> Ms Devine submitted that an assessment of alternatives cannot be "adequate" if it failed to take into account a material relevant consideration.
- [1319] *Kett*, however, is not an authority directly related to s171. Rather it involves consideration of a different statute, the Public Works Act. As will be apparent elsewhere in this Report, Mercury's stance at the Board's Hearing was certainly not apparent to NZTA when it selected Option F as its preferred corridor. Though NZTA

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<sup>828</sup> Mr Curtin's evidence did, however, express his view that there was no full explanation as to why Option F was preferred or why it had outweighed other options considered by NZTA.

<sup>829</sup> *Kett v Minister for Land Information*, AP 404/151/00, M 404/1974/00, Paterson J.

may have assumed when it made its Option F selection that the Mercury power station would be mothballed (which it was to be) and combined with the location of Option F to the north of the Mercury site that there would not be serious safety considerations flowing from the power station's proximity to the EWL, the Board does not consider those assumptions, valid at the time they were made, to be a fatal flaw so far as NZTA's assessment of alternatives was concerned. There was nothing arbitrary, cursory, or inadequate about the route selection in the vicinity of the Mercury site at the time it was made.

[1320] In large measure, the Board accepts Mr Mulligan's closing submissions on this topic. He was correct in his submission that there was no evidence called by any party that the process adopted by NZTA was inadequate, arbitrary or cursory.

[1321] In its totality, and having particular regard to the consideration of alternative routes, the evidence satisfies the Board that in fixing upon its preferred route NZTA has given all relevant matters careful and close scrutiny. Its preferred route is not the result of arbitrary conduct or cursory consideration. The preferred route was chosen as a result of careful consideration and analysis of the pros and cons of a large number of options. The Board is, for these reasons, satisfied that in terms of s171(1)(b) there has indeed been adequate consideration of alternative routes.

### **15.13 SECTION 171(1)(C) ASSESSMENT OF REASONABLE NECESSITY**

[1322] Section 171(1)(c) RMA requires the Board to have particular regard to whether the works and designations are reasonably necessary for achieving the objectives of NZTA for which the two NoRs are sought. This includes a consideration of whether the work itself, as well as the designations, are reasonably necessary to achieve the objectives of NZTA.

[1323] The stated Project objectives are:

- (a) To improve travel times and travel time reliability between businesses in the Onehunga-Penrose industrial area and SH1 and SH20;
- (b) To improve safety and accessibility for cycling and walking between Māngere Bridge, Onehunga and Sylvia Park, and access into Ōtāhuhu East; and
- (c) To improve journey time reliability for buses between SH20 and Onehunga Town Centre.

- [1324] Mr Mulligan referred to the High Court in *Queenstown Airport Corporation Limited v Queenstown Lakes District Council*,<sup>830</sup> which described the test as an objective one with the meaning of “reasonably necessary” falling between “desirable” and “essential”, allowing some tolerance. He noted, “*The definition allowed the Court to apply a threshold assessment that is proportionate to the circumstances of the case in order to assess whether the proposed work is clearly justified*”.<sup>831</sup>
- [1325] The evidence of NZTA witnesses addressed these objectives and described the integration of all the components, including connections between Onehunga-Penrose and SH20 and SH1 alongside a range of new cycling and walking connections, as being essential to achieve the Project’s objectives.
- [1326] Of particular relevance is the Board’s consideration of the *Strategic Need for the Proposal* as set out in chapter 9 of this Report and recognition that the creation of a highway on the south side of Neilson Street is the only feasible solution to providing an enduring solution to fulfil the Project’s objectives. The Board has already recorded that this would be a highway of strategic and national importance.
- [1327] At the outset, four submitters sought that the designation be removed or rolled back on the grounds that such land was not reasonably necessary for the designation: EnviroWaste, TR Group, POAL and Ward Demolition. The agreements reached with EnviroWaste and Ward Demolition are referred to in chapter 10.1 of this Report. POAL raised the reasonable necessity for the Port Link Road to be included within the designation as it failed to achieve its named purpose. The Board addressed this in chapter 15.7 of this Report.
- [1328] The only remaining issue by the close of the Hearing was that raised by TR Group, which is discussed earlier in this Report.
- [1329] The Board finds that, in terms of s171(1)(c), the evidence demonstrates the EWL is long overdue and is urgently needed to provide better freight transport links in and to an area of national and regional significance. The evidence satisfies the Board that the Project is reasonably necessary to assist NZTA to achieve its wider objectives as well as the objectives of the Project. The Board is satisfied that with the amendments to the limits of the designated areas, agreements reached with individual property owners, the roll back provision contained in the conditions and the specific conditions related to the TR Group’s land that the NoRs are reasonably necessary for the purposes of meeting s171(1)(c) of the RMA.

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<sup>830</sup> [2013] NZHC 2347 at [93] – [98] as referred to in Opening Submissions, Mulligan, para 25.17.

<sup>831</sup> Ibid.



## 15.14 SECTION 171(1)(D) ASSESSMENT OF OTHER RELEVANT MATTERS

[1330] A number of non-RMA statutory instruments and non-statutory documents are identified as relevant to the NoRs and resource consents throughout this Report.<sup>832</sup> These include but are not limited to:

- (a) The Auckland Plan (2012);
- (b) The 2015 – 2018 National Land Transport Programme;
- (c) NZTA’s Statement of Intent 2015 – 2019, which identifies the Proposal as part of the Accelerated Auckland Transport Programme;
- (d) The Auckland Transport Alignment Programme (2016);
- (e) Waitangi Tribunal 1985 Manukau Report (WAI 8);
- (f) Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed;
- (g) Transform Onehunga, High Level Project Plan – March 2017;
- (h) New Zealand Electrical Code of Practice (NZECP 34: 2001);
- (i) New Zealand Electricity Code of Practice for Electrical Safe Distances: 2001 (NZECP34);
- (j) Auckland Transport Code of Practice (ATCOP);
- (k) NZTA’s Pedestrian Planning and Design Guide;
- (l) NZTA’s Urban Design Guideline – Bridging the Gap;
- (m) Auckland Transport Code of Practice;
- (n) Auckland Council Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region Guideline Document 2016/005; and
- (o) A number of other documents in [Appendix 9: List of Documents and Exhibits Produced at the Hearing].

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<sup>832</sup> Chapters [1.3], [9], [13], [14] and [15].

- [1331] These other matters need to be given appropriate weighting, and it is well settled that generally they should be given less weight than the RMA statutory planning instruments.
- [1332] The Board found many of these documents, in particular the Auckland Plan (2012), helpful in understanding the strategic framework established by Auckland Council (and Auckland Transport and NZTA to varying extents). It is clear that the Proposal is designed to implement a roading connection anticipated by the Auckland Plan; one that supports the continued growth of Auckland. The Board's findings on the strategic need for the Proposal, which are contained in chapter 9 of this Report, stand.
- [1333] The Proposal engages a number of other matters relevant to Mana Whenua. The Board's assessment and findings elsewhere in this Report address the range of matters that are engaged. The Board relies on the submissions of Mana Whenua received prior to the Hearing and the evidence or representations made during the Hearing in its findings on the benefits and adverse effects of the Proposal in relation to cultural values. The Board acknowledges the Mana Whenua Tribes Agreement, but does not rely on it in making its decision.
- [1334] The AEE records that regard has been given to Iwi Management Plans, which are planning documents for the purposes of Section 74(2A) of the RMA and provide general guidance on the role iwi might have in managing resources in the region. The following documents were made available to NZTA:<sup>833</sup> the Ngāti Whātua Ōrākei Iwi Management Plan 2012; and the Ngāti Whātua Ōrākei Strategic Plan 2010-2020. These documents were not the focus of submissions nor evidence to the Board on the part of Mana Whenua. Instead particular emphasis was given to the more site-specific Cultural Values Assessments attached to the submissions of Ngāti Te Ata, Te Kawerau ā Maki and Ngāti Paoa, NZTA's Cultural Values Report and the Vision for the Māngere Inlet document.
- [1335] One document not previously commented on in this Report is the strategy report titled *A Vision for the Māngere Inlet*, which was also attached to the Cultural Values Report. The AEE succinctly sets out the relevance of this strategy report:<sup>834</sup>

*"This Vision for the Māngere Inlet has been jointly prepared by Mana Whenua, NZTA, Auckland Council, Auckland Transport, KiwiRail, and*

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<sup>833</sup> NZTA AEE, p 478, Table 15-2.

<sup>834</sup> NZTA AEE, p 478, Table 15-2.

*Watercare to provide a joint and long term focus on improving the health of the Māngere Inlet. The Project is entirely consistent with this strategy, being a first step on a path towards restoring the Inlet.”*

[1336] Upon questioning by the Board, Ms Rutherford assisted with its understanding the context:<sup>835</sup>

*“The intention of it was to get an overall strategy moving forward for outcomes for the inlet itself. It was worked on by Mana Whenua with the vision in mind of getting an overarching strategy and vision on outcomes, ie see your feet when you’re standing in the water, be able to swim without fear of becoming ill, eat the kai from the harbour. Whilst it was the vision for the Māngere Inlet, it was also envisioned that if we did the work right at the upper level that we could then pick up that strategy and move it to, yes, the Pahurehure Inlet and perhaps even at stage over the entire Manukau Harbour itself. But the Manukau is still in its infancy as far as getting any kind of a management plan for it is concerned. It started out being for the Māngere Inlet but, yes, it was envisioned that you could then pick that up and move it elsewhere, even the Kaipara, I guess, at the end of the day or the Waitematā, it should fit.”*

[1337] The Board accepts that the vision and strategy report is a fair reflection of Mana Whenua aspirations and intentions for the Manukau Harbour as a taonga, both individually and separately, and to the aspirations of the other parties involved in developing the strategy. The Board concludes that the Proposal will contribute towards an improved Manukau Harbour for the reasons discussed elsewhere in this Report.

[1338] In terms of managing effects, the Proposal responds positively to the various codes of practices and guidelines as discussed throughout this Report.

[1339] The Board was referred to a number of documents that set out the aspirations of the Onehunga community, the Local Boards, and Paunku. These are addressed in chapters 8, 15.2 and 15.8 of this Report. The Board accepts that NZTA has made a reasonable attempt to consider and not preclude future aspirations of the community and the governing bodies. Not everything on their wishlists can be met and in some cases (for example, undergrounding of transmission lines) are outside the jurisdiction of this Board.

[1340] Accordingly, the Board acknowledges that when having regard or particular regard to the various considerations under ss104(1) and 171(1), respectively, the Board must consider them in the context of the non-RMA statutory instruments and non-statutory documents in accordance with ss104(1)(c) and 171(1)(d). For the reasons discussed throughout this Report and where reasonably necessary to do so, the Board has done this.

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<sup>835</sup> Transcript, Rutherford, p 5907.

## 16. CONDITIONS

[1341] Overall, the Board has adopted the conditions provided by NZTA after the close of the Hearing. Those conditions incorporate amendments made throughout the Hearing in response to matters raised by, and negotiated with, submitters, as well as matters raised by the Board. As the Board has already stated, those conditions will, if fully implemented, adequately address the potential adverse effects of the Proposal, and ensure the delivery of the benefits that have been presented by NZTA and acknowledged by the Board. The conditions the Board considers necessary are all contained in Volume 3 of this Report.

[1342] As discussed throughout this Report, a number of specific amendments or additions to conditions have been made by the Board, the detailed reasons for which have been explained. Those and other minor additions and amendments are summarised and briefly explained below in [Table 1] and [Table 2]. These include a number of amendments or additions sought by Auckland Council and supported by the Board, with particular recognition of the regulatory role that Auckland Council will play during implementation of the Proposal. Further adjustments to conditions incorporated after receipt of comments on the draft decision are recorded in Volume 2, Appendix 14 of this Report.

[1343]

**Table 1: Board amendments to conditions**

<b>Condition</b>	<b>Wording of Change or Addition</b>	<b>Reason</b>
DC.1A	For Notice of Requirement to Alter Designation 6718 (NoR 2) dated December 2016, the conditions only apply to Construction Works and land described in NoR 2 and include Construction Works on land within the existing designation for SH1 between approximately Clemow Drive and the location where Trenwith Street passes under SH1.	Wording of the condition re-ordered to avoid ambiguity, ensuring it can only be interpreted as applying to NoR 2.
DC.10	The CNVMP, CTMP, HMP and ULDMP may be amended following submission of the Outline Plan(s) if necessary to reflect any changes in design, construction methods or management of effects. Any amendments are to be discussed with and submitted to the Manager for information without the need for a further Outline Plan process, unless those amendments once implemented would result in a materially different outcome to that described in the original plan.	Addition of second paragraph to ensure that all site-specific management plans continue to engage persons affected by activities, as is the intent of the relevant conditions.

	<p><u>For the avoidance of doubt, this condition does not apply to any Site Specific Construction Noise Management Plan, Site Specific Construction Vibration Management Plan, Site Specific Traffic Management Plan or other management plans required by the conditions of these designations.</u></p>	
DC.11AA	<p><u>When preparing the Outline Plan(s) under section 176A of the RMA, the Requiring Authority shall consider options for providing the design features listed below. The Outline Plan(s) must include the features unless it is not reasonably practicable to do so. Where a design feature has not been incorporated into the Outline Plan(s), the reasons why shall be set out.</u></p> <p><u>A 3.0m wide at grade shared use path along the southern side of Sylvia Park Road to the south east corner of the Great South Road intersection (between chainage 5100 and 5500 as illustrated on Drawings AEE-AL-108 and AEE-AL-109); and</u></p> <p><u>A crossing facility for active modes between Gloucester Park Road North and destinations to the south of Neilson Street.</u></p>	<p>Inserted at Auckland Council's request and is consistent with evidence presented – Sector 4.</p>
DC.15C	<p>(a) The Requiring Authority shall consult with the owner of the land at 781 Great South Road (Lots 1 and 2 DP 328383) and 791-793 Great South Road (Section 1 SO 69440) during the detailed design phase in relation to the post-construction use of land immediately south east of the EWL viaduct and adjacent to Great South Road (791-793 Great South Road) ("the residual land").</p> <p>(b) If the Requiring Authority <del>confirms that the residual land will not be required for on-going operation, maintenance or mitigation of effects of the Project, the Requiring Authority</del> shall make reasonable provision for heavy vehicle access, for the types of vehicles normally in use at 781 Great South Road, under the EWL viaduct, between 781 Great South Road and the residual land.</p> <p>(c) The access shall be located and designed to provide suitable vertical</p>	<p>TR Group holds consent for the formation and use of Stage 2 fill area. NZTA should make provision for access to that area by TR Group under the EWL.</p>

	<p>clearance under the EWL viaduct and to minimise, to the extent practicable, further encroachment into Anns Creek East.</p> <p>(d) The Outline Plan prepared in accordance with Condition DC.7 shall include information to demonstrate how the requirements of this condition have been achieved.</p>	
DC.15CC	Refer to [Table 2]	TR Group site designation roll back to address purpose of designation and avoid lacuna between TR Group and NZTA obligations.
CS.3	Addition of Onehunga Mall Cul-de-Sac into clause (a)(i).	Specific recognition of concerns raised by K. Rich and others that is distinct from Onehunga Harbour Road.
ROS.6	(b) Details of proposed <u>grades and grass surfacing</u> of Waikaraka Park South to a standard which reasonably accommodates Council's future implementation of the Waikaraka Park South Development Plan	Inclusion of final grades such that they do not unreasonably inhibit redevelopment as sports fields.
HH.1 to HH.4A and Advice Note	Auckland Council closing submission version of conditions adopted.	Auckland Council conditions preferred. The AUP:OP and Heritage New Zealand Pouhere Taonga Act 2014 requirement operate under separate legislation.
CNV.4	Modification of two levels.	As requested by Auckland Council.
CT.6(f)	Directly affected property and business owners and operators, <u>including (for the relevant works) the Onehunga Business Association and the residents of Onehunga Mall Cul-de-Sac.</u>	Addition at request of these specific parties who expressed concern of general and site-specific impacts within Onehunga.
SD.1C Advice Note	<p><b>Advice Note:</b></p> <p><i>If the alignment cannot be adjusted to achieve an Acceptable or Tolerable Risk Level required under Condition SD.1C, the Requiring Authority may acquire all or part of the balance of Lot 1 DP 178192 under the Public Works Act 1981 <u>and permanently de-commission the gas fired power generation</u></i></p>	For the avoidance of doubt, the risk will not occur.
CL.1	Prior to excavation in areas of known or potentially contaminated land, the Consent Holder shall engage a Suitably	New clause 2 explicitly requires consultation.

	<p>Qualified Environmental Practitioner (SQEP) to prepare a <b>Contaminated Land Management Plan (CLMP)</b>.</p> <p>The purpose of the CLMP is to detail the measures to manage health, safety, and environmental risk associated with works in contaminated material in the Project area, including closed landfills, during construction.</p> <p><u>The preparation of the CLMP shall include consultation with the owners and operators of the affected land.</u></p>	
CL.12	<p><u>(e) The trigger level established under (d) above and the actions to be taken to comply with the requirements of (e) and (f) below shall be documented by the Consent Holder and provided to and obtain the approval of the Manager prior to being implemented.</u></p>	<p>New clauses added at Auckland Council request. Reflects the regulatory role that Council plays in the absence of triggers presented through evidence.</p>
CL.12	<p>Minor edits to clause (g).</p>	<p>Clarifies wording.</p>
D.0	<p><u>Sub-tidal dredging shall be limited to works associated with the relocation of the Anns Creek tidal channel. This consent does not authorise sub-tidal dredging within the areas denoted as 'Proposed Area For Marine Dredging' and '50m Dredging Channel For Access To Foreshore' on drawing <i>Coastal Occupation Embankment – Overview, AEE-CMA-101 Rev 0, dated 1/12/16</i> or any subsequent amendment to that drawing.</u></p>	<p>New condition based on the Board's findings on dredging.</p>
D.1(c)	<p>Details of equipment and methods to be used including the option to use an environmental dredge bucket <u>(with a closing lid to reduce sediment dispersal).</u></p>	<p>Addition at request of Auckland Council, consistent with evidence, and to make clear the need to consider this option.</p>
EM.2A	<p>Addition of 'pest animal' into various clauses.</p>	<p>As requested by Auckland Council.</p>
EM.2B	<p>Addition of 'pest animal' into various clauses.</p>	<p>As requested by Auckland Council.</p>
<u>C.1BB</u>	<p><u>The headlands of reclamation Landforms 2 and 3 shall be deleted or modified (in the form of islands) to maximise tidal flows past the landforms and minimise sediment accumulation rates between the headlands and the between the landforms.</u></p>	<p>Inserted in accordance with the Board's findings.</p>
L.2	<p>(c) The trigger level NH4N concentration which shall be derived from the Australian and New Zealand Environmental</p>	<p>As requested by Auckland Council. Reflects the regulatory role that Council</p>

	<p>Conservation Council, <i>Australian Guidelines for Fresh and Marine Waters</i>, 2000 (ANZECC 2000) marine water quality guideline, 90% level of protection (1.2 mg/L) allowing for reasonable mixing in the receiving water and treatment in the stormwater wetland/biofiltration system. <del>The trigger level shall be provided to the Manager.</del></p> <p><u>(d) The trigger level established under (c) above shall be provided to and obtain approval of the Manager prior to being implemented.</u></p>	<p>plays in the absence of triggers presented through evidence.</p>
<b>PS.2</b>	<p><u>NZTA shall use its best endeavours to legally formalise vehicular access, including for heavy goods vehicles, between 8 Sylvia Park Road and Pacific Rise, prior to the date on which right turns into and out of 8 Sylvia Park Road frontage are no longer possible.</u></p>	<p>As requested by Syl Park.</p>

[1344] The following condition addresses the TR Group site designation roll back and avoids the lacuna between TR Group and NZTA obligations. It is to be read in conjunction with the combined terms below it, which are also included in the conditions document.

**Table 2: Condition relating to TR Group site**

DC.15CC	<p>If, after completion of the 10 year period post Completion of Construction as set out in consent EM.3A(c), the Consent Holder receives confirmation that the Covenants have been registered against the certificates of title for the TR Group Land then, the Requiring Authority shall give notice to the Manager in accordance with section 182 of the RMA for the removal of those parts of the designation on the TR Group Land no longer necessary for the on-going operation, maintenance or mitigation of effects associated with the Project.</p>
Covenants	<p>Means covenants (or similar legal mechanisms) in favour of Auckland Council on the same terms (or substantially similar terms) as those covenants required by the TR Resource Consents which protect and restrict the use of the Lava Shrubland Management Area and Wetland Management Area and require ongoing pest plant and pest animal control.</p>
Lava Shrubland Management Area and Wetland Management Area	<p>The lava shrubland and wetland areas identified in the TR Resource Consents</p>



TR Resource Consents	Means the following resource consents held by TR Group: R/LUC/2008/4724 – land use (earthworks, vegetation removal); Permit 36055 – diversion and discharge of stormwater from new impervious surface; Permit 36056 – earthworks/land disturbance associated with construction of new hardstand; Permit 36058 – streamworks/culverting and reclamation; and Permit 30316 – disturbance and remediation of contaminated land.
TR Group Land	The land at 781 Great South Road (Lot 1 DP 328383, CT 115789), 785 Great South Road (Lot 2 DP 344775, 1/3 SH Lot 5 DP 328383, CT 183736), 787 Great South Road (Lot 3 DP 328383, 1/3 SH Lot 5 DP 328383, CT 115791) and 791-793 Great South Road (SEC 1 SO 69440, CT NA125B/43).

## 16.1 LAPSE AND EXPIRY

[1345] As mentioned in chapter 2 of this Report, and in accordance with s184 of the RMA, NZTA sought a 15-year lapse period for the designations relating to the NoR1 and NoR2 from the date they are included in the AUP:OP. The Board has no issue with the lapse periods sought.

[1346] NZTA, in accordance with s125 of the RMA, sought a 10-year lapse period for each of the resource consents. The Board accepts those lapse periods sought.

[1347] NZTA sought a 15-year expiry date for the ancillary and construction related resource consents and a 35-year expiry date for all other resource consents, with the exception of the coastal permits for the reclamations, which have an unlimited duration. The Board accepts those periods sought.

[1348] All lapse and expiry dates are provided in the Conditions (Volume 3).

## **17. OVERALL JUDGMENT**

### **17.1 THE BOARD'S FUNCTION**

[1349] The Board is a creature of Part 6AA of the RMA. It is unnecessary to repeat the history of the Board's creation and the legal powers it can exercise. These are covered at the outset in chapter 3 and in the key legal issues chapter 12.1 of this Report.

[1350] NZTA's Proposal has been assessed at the ministerial level as being a proposal of national significance. Central to the Board's function is to decide, under the relevant provisions of the RMA, whether or not it will cancel, confirm or modify the two NoRs sought by NZTA (s149P(4)(b)), and whether or not to grant the various resource consents that NZTA requires (s149P(2)), to construct and operate the EWL.

### **17.2 MANDATORY CONSIDERATIONS**

[1351] In addition to exercising powers normally exercised by consent authorities and territorial authorities, the RMA requires the Board to consider additional matters. First, the Board must have regard to the Ministers' reasons for directing a Board of Inquiry (s149P(1)(a)). The Board has done this. The Ministers' reasons are set out in chapter 3.2 of this Report. A number of the Ministers' reasons point to the strategic implications of the Proposal. Further, the reasons foreshadow the complex RMA issues that the Proposal brings into play. Inevitably, the Ministers' reasons, cast as they are at a relatively high level, have been central to the inquiry and to the Board's deliberations.

[1352] Secondly, the Board must consider the information provided to it by the EPA (s149P(1)(b)). The EPA has fulfilled its obligations under s149G and provided the Board, at the outset and prior to the Hearing, the application and all its supporting documentation, which ran to three volumes (over 10 ring binders), and some 689 submissions received. Additionally, as s149G(3) required it to do, the EPA obtained a Key Issues Report from Auckland Council. All these materials (including the AEE), many of which are listed in [Appendix 3: Summary of Application Documentation] have been carefully considered and weighed by the Board.

[1353] The Board is satisfied that the above materials have correctly identified the environmental issues and effects arising from NZTA's various notices and applications relating to the Proposal. Many of those issues have been central to the evidence and submissions of Parties appearing before the Board at the Hearing. The Hearing ran for some 49 sitting days over a three-month period.

## 17.3 CENTRAL ISSUES

[1354] NZTA's Proposal has thrown up a large number of complex issues with which the Board has had to grapple. This is unsurprising, given both the proposed route for the EWL highway and the nature and use of the land adjacent to it. This complexity, as mentioned in the previous chapter, was foreshadowed by the Ministers' reasons.

[1355] The Board lists the central issues below. In compiling this list, the Board is not overlooking or minimising the many other issues dealt with in this Report. Rather it is highlighting those issues that have needed the greatest care. They give rise to finely balanced RMA considerations that required close scrutiny. These central issues are:

- (a) Whether NZTA's proposal will provide an enduring transport solution for the needs of the industrial area it is designed to service, including the need to ameliorate traffic congestion.
- (b) Whether NZTA has given adequate consideration to alternative routes.
- (c) The proposal to reclaim some 18 ha of the northern shore of the Manukau Harbour's Māngere Inlet and associated effects on fauna, landscape, amenity, and severance.
- (d) The effects of the Proposal on the cultural landscape, and in particular on the Manukau Harbour, which harbour and landscape are taonga and of importance to the many Mana Whenua iwi associated with the Manukau Harbour.
- (e) The consequences of the Proposal for the Onehunga area, and in particular the Proposal's potential to increase severance of the Onehunga community from the foreshore and Onehunga Wharf, and further severance effects on Waikaraka Cemetery and Waikaraka Park.
- (f) The relevant objectives and policies of the overarching AUP:OP.
- (g) The effects of the Proposal on biodiversity and the significant Anns Creek area.
- (h) Whether, as a non-complying activity, the EWL can pass through one of the relevant s104D gateways.
- (i) Mercury's opposition. Mercury owns a site at Southdown on which sits a gas-fired electricity generation plant, of considerable capacity but currently mothballed and lacking essential turbines to power the generators. Mercury retains various consents, which, should it ever be so minded,

might permit it to recommission the power station. The Proposal involves an encroachment over the corner of Mercury's site by a viaduct and because of this, Mercury is opposed to the designation. It considers its site to be of strategic importance to the future supply of electricity to the Auckland region and on that ground submits that the Board should decline the NoR sought over its site.

## **17.4 STRUCTURE OF THE BOARD'S REPORT**

[1356] The route to the Board's final decision passes through earlier chapters of this Report. This chapter is in large measure a brief summary of decisions reached elsewhere.

[1357] In chapter 9, the Board examines in some detail what it has termed the "strategic need" for "an EWL". The Board found the evidence presented by NZTA compelling. The nature of the Onehunga-Southdown-Penrose industrial area, coupled with increasing congestion on the current access roads, Neilson Street and Church Street, require action. "An EWL" in some shape or form has been in an embryonic planning state for approximately half a century. The need has become acute. The Board accepts that such a need is a product of historic inadequate funding and investment in both Auckland's infrastructure and public transport. Public transport needs in Auckland have been the focus of considerable attention and investment in recent years. However, the lead time necessary to provide Auckland with some form of public transport system sufficient to wean more Aucklanders from their cars will be too long to provide relief for the congestion problem the Proposal before the Board is designed to address.

[1358] In RMA terms, the positive effects of the Proposal (s3(a) of the RMA) will be significant in terms of reduced travel time, an easing of congestion, more efficient fuel use, more efficient deliveries to the various transport hubs in the area, and greater productivity on the part of those many business users whose daily tasks are inhibited by traffic congestion. That overall positive effect must be given considerable weight.

[1359] The same chapter also addresses the evidence that has satisfied the Board that the route proposed by NZTA for the EWL highway is a route that will provide the most enduring transport benefits. The Board's task would have been simpler if another route, which did not involve reclamations of the foreshore of the Māngere Inlet, had been chosen. But such routes were incapable of providing the same enduring transport benefits.

- [1360] These factors are discussed in greater detail elsewhere in this Report<sup>836</sup> where the Board discusses, sector by sector and overall, the NoRs and s171(1)(a) of the RMA. The same factors also have high relevance when the Board makes its various assessments under the AUP:OP and those objectives and policies that require judgments on whether there were “practicable alternatives”.
- [1361] In chapter 12 the Board sets out the statutory framework under which it has operated. In particular, the Board has applied relevant dicta in *King Salmon*<sup>837</sup> and have analysed the two High Court authorities of *New Zealand Transport Agency v Architectural Centre Incorporated & Ors* and *Davidson Family Trust v Marlborough District Council*,<sup>838</sup> which some counsel have seen as conflicting authorities.
- [1362] The same chapter also examines helpful authorities under s104D, which has high relevance for NZTA’s application since the Proposal is clearly non-complying and must pass through a statutory gateway before relevant assessments under s104 and other provisions can be made.
- [1363] Chapter 14 deals with the various resource consents sought by NZTA. It assesses effects on the environment, the adverse effects of the Proposal as a whole and, unsurprisingly, adopts a close focus on the proposed reclamations of the Māngere Inlet foreshore and proposed dredging, along with their effects.
- [1364] The chapter also scrutinises the Proposal through the lens of s104D and concludes that, although non-complying, the application squeezes through the s104D(1)(b) gateway because it is not contrary to the objectives and policies of relevant plans, in particular the AUP:OP<sup>RCP</sup>. Despite the fact that some activities, particularly reclamation with its consequential effects on bird feeding areas, are, at first blush, contrary to relevant AUP:OP policies that use the word “avoid”, nonetheless, given the overall objectives and policies of the AUP:OP, the extensive historic reclamation that has already occurred in and around the Māngere Inlet, and it not being practicable to locate the EWL highway infrastructure elsewhere, the Board’s overall judgment (in accordance with relevant authorities) is that the Proposal is not contrary to the objectives and policies of the relevant planning instruments and in particular the AUP:OP.

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<sup>836</sup> See chapter [14.8] – [14.7] and in particular chapters [15.2] – [15.9]

<sup>837</sup> *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors* [2014] NZSC 38.

<sup>838</sup> *New Zealand Transport Agency v Architectural Centre Incorporated & Ors* [2015] NZHC 1991 and *Davidson Family Trust v Marlborough District Council* [2017] NZHC 52.

[1365] In making its decision, the Board appreciates the AUP:OP does not constitute a blanket prohibition on reclamation. Further, in assessing the unique challenges that finding an enduring and practicable route for the EWL present, the Board is not succumbing to the temptation of seeing “infrastructure” as a pretext to read down or diminish those highly relevant policies that exhort planners to “avoid” reclamation and associated activities. The non-complying activity, which the EWL clearly is, regrettably cannot sensibly be constructed elsewhere.

[1366] In chapter 15, the Board focus on the two NoRs, dealing with all six sectors one by one. The Board also examines the effects on cyclists and pedestrians, and the effects of construction.

[1367] As required by s171(1), the Board, both sector by sector and overall, has made its assessment of the effects of confirming the NoRs subject to the overarching provisions of Part 2 and has had particular regard to the four stipulated matters in subsection(1). The Board is satisfied that NZTA indeed gave adequate consideration to alternative routes. It is satisfied to a high degree that the work and designation are reasonably necessary for achieving NZTA’s objectives for which it seeks the designations.

## **17.5 SOME CENTRAL ISSUES REVISITED**

### **An enduring transport solution**

[1368] This issue has been covered both in this chapter and elsewhere.<sup>839</sup>

### **Route selection**

[1369] As stated earlier in this chapter (and elsewhere),<sup>840</sup> the Board is satisfied that the proposed route for the EWL is the product of adequate consideration of alternative routes, that the route will provide enduring transport benefits, and that it is reasonably necessary for achieving NZTA’s objectives. The Board is further satisfied that the route is the result of there being no “practicable alternatives” for the purposes of relevant policies and the AUP:OP.<sup>841</sup>

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<sup>839</sup> Chapter [9]

<sup>840</sup> Chapters [9], [14] and [15] and in particular chapters [15.12]–[15.13]

<sup>841</sup> Chapter [14.3]

[1370] In chapter 15.4, the Board has considered with some anxiety the NoR on the TR Group site designed to protect the important ecological area at Anns Creek. It was strongly argued by TR Group's counsel that, in terms of s171(1)(c), the designation at that point was not "*reasonably necessary for achieving the objectives for which the designation is sought*".<sup>842</sup> NZTA is in the business of constructing and operating national roads. It is not a central part of its function to carry out ecological protection, particularly when the area in question, and subject to the designation, was already subject to a covenant imposed on TR Group to carry out what was essentially the same preservation work. In a principled way, TR Group saw the designation as being *ultra vires* and an unnecessary infringement of its rights as a private property owner.

[1371] The Board considers that the risk of adverse effects on the ecologically sensitive area of Anns Creek can be appropriately mitigated by a unified strategy implemented by NZTA, with the designation being rolled back after 10 years, restoring control of this unique area to TR Group or its successor in title. The Board's finding on this matter also reflects the lacuna that would occur if NZTA undertook filling within the TR Group site without associated mitigation, as neither NZTA nor TR Group would be compelled to undertake such mitigation.

### **Reclamation and biodiversity**

[1372] The Board, for the reasons stated earlier in this Report, is satisfied that the Proposal is generally consistent with, and not contrary to, policy F2.2.3.(1) of AUP:OP. The reclamations will provide significant regional, and indeed national, benefits. There are regrettably no practicable alternative ways of providing a corridor for the EWL route on land outside the CMA. Certainly efficient use will be made of the CMA, by limiting the extent of reclamation to that necessary for the road and associated mitigation of landscape, visual, amenity and severance effects and by providing a sophisticated stormwater treatment plant for the 611 ha catchment hinterland, and leachate treatment system, thus providing benefit in improving the quality of water discharging into the Manukau Harbour. There certainly is no practicable alternative method of treating stormwater from that catchment. Given that the reclamation landforms are proposed as mitigation for the road alignment, the Board is satisfied that their dual use as stormwater treatment wetlands for the developed 611 ha hinterland catchment does significantly increase the efficiency of that use of the CMA.

[1373] The Proposal does impact on feeding and roosting grounds of shorebirds, some of which are threatened or endangered. These effects challenge the biodiversity

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<sup>842</sup> Closing Submissions, Littlejohn, para 3.7.

provisions of the AUP:OP<sup>RP</sup> particularly where they are engaged through the AUP:OP<sup>RCP</sup>. The biodiversity provisions are also engaged by the effects of the Proposal through Anns Creek, and particularly Anns Creek East. This has required very careful consideration by the Board. For the reasons discussed in chapter 14.2 of this Report, the Board's finding is that the effects will be adequately avoided, mitigated or off-set and that the effects will not put at risk species populations, or types of habitat.

- [1374] Two elements of the Proposal that were not universally supported by experts were the sub-tidal dredging as a source of material for the construction of the reclamation, and the headland features of headlands 2 and 3. Evidence indicated that the sub-tidal dredging (with the exception of the realignment of Anns Creek tidal channel) was probably not necessary, i.e. there would be sufficient material available without that source. The ecologists agreed it would be better avoided. The Board has found accordingly. Likewise, the headland features were not generally considered to be essential features and their deletion or modification would likely improve tidal flows, reduce sedimentation rates, and reduce the total volume of material required to construct the reclamations. Thus, the Board has imposed three conditions that those features be duly deleted or modified.

#### **Section 104D**

- [1375] For the reasons stated elsewhere in this Report, the Board is satisfied that this non-complying activity passes through the s104D(1)(b) gateway.<sup>843</sup>

#### **The cultural landscape**

- [1376] Chapter 13 deals extensively and sensitively with Mana Whenua interests. The Board accepts absolutely that the Manukau Harbour, including the Māngere Inlet, is a taonga. The Board is impressed by the extensive engagement there has been between Mana Whenua iwi and NZTA, resulting in part in the Cultural Values Report. The Proposal passes close to a number of sites of cultural interest and indeed infringes on the already degraded site of Te Hōpua a Rangi.
- [1377] The Board notes, as described and explained in chapters 14.2 and 14.8, that, as is their right, various iwi with close connections to the Manukau Harbour have weighed values differently and have reached different conclusions, particularly with respect to reclamation. The Board has dealt fully in chapters 14.2 and 14.8 with the objections and opposition advanced by Ngāti Whātua Ōrākei, Te Kawerau ā Maki and Te Ākitai Waiohua. The Board has no doubt that s8 of the RMA is engaged. The Board accepts that, in its consultation with Mana Whenua, NZTA

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<sup>843</sup> Chapter [14.3].



has endeavoured to give effect to the partnership principles of the Treaty of Waitangi. The s6(e) matter of national importance, the relationship of Māori, their culture and traditions with ancestral lands and water, are matters the Board has recognised and provided for. The Board has also had particular regard to s7(a) as it relates to kaitiakitanga.

[1378] It is trite to observe that these provisions of the RMA, properly embedding both the principles of the Treaty of Waitangi and matters of cultural and historical importance to Māori, are not intended to give to any iwi the right of veto. Indeed, no one has so submitted and the Board would have regarded any such submission as misconstrued and simplistic.

[1379] The fact that a number of iwi have entered into an agreement with NZTA, the Mana Whenua Tribes Agreement,<sup>844</sup> is not in any way decisive. Rather, it is illustrative of the diversity of legitimate Māori views. Nor can the Board be influenced by the fact that, arguably, the existence of such an agreement might be regarded as an affront to the mana of other iwi who were adamantly opposed to the Proposal.

[1380] The effects to the cultural landscape flowing from the EWL must be weighed beside the various cultural benefits. These include treatment of stormwater runoff from a developed 611 ha catchment to the north of the Māngere Inlet, improved capture and treatment of leachate from adjacent landfills, ecological enhancement and protection of feeding and roosting areas, pest management of bird breeding areas, and the removal of culverts from the SH1 crossing of Otāhuhu Creek. While the world view varies between iwi, those within the Mana Whenua Tribes have concluded that on balance the Proposal, if implemented in full, will result in an overall improvement in the taonga.

[1381] All these Part 2 matters have been carefully considered and weighed by the Board when considering the cultural landscape and in particular the submissions of Mana Whenua.

### **Onehunga community and severance**

[1382] Certainly, particularly during its construction phase, the EWL will be disruptive to the Onehunga community. There will be severance, in addition to that already caused by SH20, between Onehunga and the Manukau foreshore. There will be a loss of tranquillity for the Waikaraka Cemetery.

[1383] Positive effects that will flow to the Onehunga community will be the ultimate reduction in traffic congestion on Church Street and Neilson Street, reduced traffic

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<sup>844</sup> Closing Statement, Warren, para 3.

on Onehunga Harbour Road, which currently functions as the SH20 off-ramp, improved bus travel times into Onehunga, diminution of traffic flows on those Onehunga local roads currently used to access the Onehunga-Southdown-Penrose industrial area, and the future benefit of reduced traffic congestion as Onehunga becomes a more dense residential area in accordance with the provisions of the AUP:OP. Further mitigation, which will offset in part the loss of tranquillity at Waikaraka Cemetery, will be the creation of the public walkways and cycleways on the reclaimed land.

[1384] The Board is unable to impose conditions on either NZTA or Transpower to force the undergrounding of unsightly transmission lines and the removal of associated pylons.

[1385] The creation of a land bridge over the EWL at its western end will certainly avoid what would otherwise be serious severance between the Onehunga community and the Onehunga Wharf.

### **Mercury**

[1386] The Board regrets that NZTA and Mercury, both being responsible entities in which the Crown has interests, were not able to resolve their differences, by mediation or otherwise, before the conclusion of the Hearing. The Board afforded every opportunity to the parties to reach a solution. They were unable to do so and the Board is not minded (it being unnecessary) to be critical of either.

[1387] It is possible, with the advantage of hindsight, that NZTA, for its part, once it became aware that Mercury had effectively decommissioned its Southdown power plant, underestimated Mercury's reaction. It is also possible that Mercury, for its part, abandoned what at the outset seemed to be a co-operative stance and dialogue with NZTA and became more hard-nosed. The Board does not have to make any findings in this area and declines to do so.

[1388] The Board, at the end of the Hearing, was faced with an unsatisfactory situation. Mercury still retained consents (which might or might not require modification) that may permit it, in the event of it deciding, for commercial or other reasons, to recommission its gas-fired generation power plant. The Board accepts the evidence of Mr Heaps and Mr Noble that whether or not the power plant would be brought back into operation is ultimately a commercial decision for Mercury alone. The Board does not need to make any finding on Mercury's submission that, although a lead time of some months would be required, some electricity supply crisis might require the plant to be recommissioned.

[1389] The Board considers that NZTA has prepared a Qualitative Risk Assessment (QRA) that is a satisfactory first step in the overall risk assessment process. That

assessment is appropriately conservative. It does need to incorporate a small number of additional hazards. Mercury's risk expert, Mr Phillis, did not state outright that the QRA findings were wrong. He supported a second step in refining the assessment. The Board is satisfied that it has received sufficient evidence to support the approval of NoR 1 in relation to the Southdown site.

[1390] The solution that the Board has reached is to accept the conditions proposed by NZTA's counsel in closing submissions. Those conditions will oblige NZTA to address the safety issues prior to construction of the EWL highway. It is more likely than not that all risks can be adequately avoided or mitigated. In the event that all risks cannot be adequately avoided or mitigated, then the EWL will not proceed at that location, or NZTA will purchase the site and permanently decommission the gas-fired power generation.

## **17.6 ADVERSE EFFECTS**

[1391] The Board is indeed satisfied that the Proposal will create adverse effects, both during its construction phase and during its operation. These adverse effects have been identified in chapters 14 and 15 of this Report. The Board's conclusion is that such adverse effects can be avoided, remedied or mitigated, both during the construction phase and during the operation of the EWL, by the design and identification of specific mitigation measures, which are included and stipulated in the conditions that the Board has imposed for both the designations and the resource consents.

## **17.7 OVERALL JUDGMENT UNDER PART 2**

[1392] The Board, as is clear from both this chapter and the relevant parts of chapters 14 and 15, has, in the exercise of its functions and powers, recognised and provided for s6 matters of national importance; had particular regard to the other matters listed in s7; and has taken into account the principles of the Treaty of Waitangi.

[1393] At the statutory high policy and purpose level in s5, the Board considers, in making these planning judgments that it has, that sustainable management of New Zealand's natural and physical resources has been promoted. The Proposal enables people and the Auckland community to provide for their social, economic and cultural wellbeing, and for their health and safety; the EWL will provide significant community, social and transport benefits; and will further provide significant infrastructure to meet the transport needs of the region. It will also provide benefits through ecological off-sets. Section 5(2)(a), (b) and (c) matters have not been overlooked by the Board. Adverse effects are avoided, remedied, or mitigated (or off-set). Particular regard has been paid to the life-supporting capacity of water, soil and ecosystems. The Board sees the dual use of the

reclamation aspect of the Proposal as sustaining the potential of the degraded Māngere Inlet (by some modest improvements) to meet the reasonable foreseeable needs of future generations.

[1394] The Board, for all these reasons, considers (and so finds) that the confirmations, consents, and conditions it has imposed do not infringe the s5 purpose of the RMA. The Board stresses that it has not endeavoured to use s5 or Part 2 as mechanisms to read down or dilute the imperatives contained in the primary planning instruments, including in particular the AUP:OP and the NZCPS.

## **17.8 CONCLUSION**

[1395] At the risk of being unnecessarily repetitive, the Board confirms it has carefully considered all submissions, evidence and reports received. It has considered the minutes of facilitated conferences. It has examined the various conditions flowing both from those conferences and from the parties who offered such conditions. The Board has applied the purpose and principles of the RMA and has considered and applied the relevant sections of the RMA, including in particular ss104, 104D, 105 and 107 and 171(1). It has, of necessity, given careful consideration to the provisions of the RMA to inform the statutory powers conferred upon it by s149P. It has also, as required by s149P(1), had regard to the Ministers' reasons and has considered all information provided to it by the EPA under s149G.<sup>845</sup>

[1396] The Board considers and determines that the management and mitigation methods proposed, the conditions that it imposes, and the positive effects of the Proposal will achieve sustainable management of the natural and physical resources involved. It thus follows that the EWL is consistent with the purposes and principles of the RMA set out in Part 2, subject to the conditions imposed. The exception is the coastal permit relating to sub-tidal dredging (other than that required for realignment of the Anns Creek channel), which the Board has found to be in conflict.

[1397] The Board is satisfied that by granting, for the most part, the resource consents sought and by confirming the NoRs requested by NZTA relating to the Proposal, it is appropriately exercising its statutory powers and has struck the correct balance.

[1398] The Board's unanimous decision is thus that, subject to the extensive and carefully crafted conditions set out in a separate volume of this Report, the NoRs should be confirmed and the various resource consent applications should be granted (with

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<sup>845</sup> The Board was of the view that specific statutory provisions in Part 2 required an assessment when Māori cultural issues required consideration.

the exception of the coastal permit for dredging, which should be granted in part) under the RMA.


[1399] The Board's reasons and analysis are apparent in summary form in this chapter, but in particular in its discussion of the various issues raised and dealt with in chapters 13, 14 and 15 of this Report. Those chapters contain relevant factual findings germane to the issues discussed.

[1400] The Hearing has been lengthy and arduous, and would undoubtedly have taken its toll on all Parties, including their witnesses, and counsel. The Board is grateful to all who were involved in the Hearing for the competent, good natured, and professional way in which they conducted themselves.

## 18. DECISION

[1401] The Board, constituted under Part 6AA of the Resource Management Act 1991, confirms the two Notices of Requirement (as modified during the Hearing and shown in the Land Requirement Plans in Appendix 11: Key Plans and Drawings) and grants the 24 resource consents (nine land use consents, four coastal permits, six water permits, and five discharge permits) sought by the New Zealand Transport Agency, subject to the conditions in Volume 3.

Dated: 21 December 2017



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**Dr John Priestley CNZM, QC**  
Retired High Court Judge  
Chair



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**Alan Bickers MNZM, JP**  
Deputy Chair



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**Michael Parsonson**  
Member



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**Sheena Tepania**  
Member



BOARD OF INQUIRY

East West Link  
Proposal

# Final Report and Decision

of the Board of Inquiry into the

# East West Link Proposal

Volume 3 of 3 - Conditions





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The following table sets out the condition references for the designations and resource consents.

Ref	Notice of Requirement	General conditions		Lapse date	Expiry Date
<b>NOR 1</b>	Designation for construction, operation and maintenance of a State highway, being the East West Link between Onehunga and Ōtāhuhu, and associated works.	DC.1, DC.2 - DC.15B, DC.15C-E CS.1 - CS.6 ROS.1 - ROS.7 NU.1 – NU.9 MW.1 - MW.5 HH.1 – HH.6, HH7, HH.8 LV.1 - LV.5, LV.5A-H, LV.7, LV.8 TR.1 – TR.3 ON.1 – ON.14 CNV.1 – CNV.7B CT.1 - CT.9 SD.1 – SD.8		15 years after the date on which it is included in the AUP	=
<b>NOR 2</b>	Alteration to SH1 Designation 6718 for maintenance, operation, use and improvement of the State Highway network.	DC.1, DC.1A, DC.2 – DC.10, DC.12, DC.15A CS.1 – CS.6 ROS.3, ROS.4 NU.1A, NU.2-NU.6, NU.9 MW.1 - MW.5 HH.1 – HH.4, HH.6A LV.1 – LV.5, LV.6-8, TR.1 -TR.3 ON.1 – ON.14 CNV.1 – CNV. 7B CT.1 - CT.9		15 years after the date on which it is included in the AUP	=
Ref	Resource consents	General conditions	Specific conditions	Lapse date	Expiry date
<b>RC1</b>	<b>Land use (s9) - NES Soil</b> Disturbance of contaminated soils.undertaken project wide.	RC.1 - RC.15 RCMW.1 - RCMW.5	CL.1 – CL.12	10 years	15 years
<b>RC2</b>	<b>Land use (s9(2)) – Land disturbance activities</b> Earthworks, vegetation alteration and removal undertaken project wide.	RC.1 - RC.15 RCMW.1 - RCMW.5	E.1 – E.14 EM.1 – EM.13	10 years	15 years

<b>RC3</b>	<p><b>Land use (s9(2)) – Land disturbance activities</b></p> <p>Vegetation alteration and removal for restoration and rehabilitation works undertaken outside of the designation within Southdown Reserve, adjacent to Southdown Stream, Anns Creek Reserve, Gloucester Park and the Manukau Foreshore Walkway.</p>	<p>RC.1 - RC.15 RCMW.1 - RCMW.5</p>	<p>E.1 – E.14 EM.1 – EM.13</p>	<p>10 years</p>	<p>15 years</p>
<b>RC4</b>	<p><b>Land Use (s9(3)) - Vegetation alteration, removal</b></p> <p>Vegetation alteration, removal associated with the restoration works and the establishment of vehicle access and parking areas undertaken outside of the designation within Southdown Reserve, adjacent to Southdown Stream, Anns Creek Reserve, Gloucester Park and the Manukau Foreshore Walkway.</p>	<p>RC.1 - RC.15 RCMW.1 - RCMW.5</p>	<p>E.1 – E.14 EM.1 – EM.114C</p>	<p>10 years</p>	<p>15 years</p>

<p><b>RC5</b></p>	<p><b>Coastal Permit (s12, s14 and s15) – Construction activities in the CMA and temporary occupation and associated discharge of contaminants</b></p> <p>The works associated with the construction of the reclamation and the Anns Creek Viaducts in the Māngere Inlet and the works in Onehunga Bay associated with public access. The works also include environmental enhancement works at Ngarango Otainui Island.</p> <p>The works will include reclamation, depositing of material in the CMA, disposal of dredged material, CMA disturbance, dredging for the purpose of relocating the Anns Creek tidal channel and within the Project footprint, vegetation alteration/removal (including mangroves), damming or impoundment of coastal water, taking, use or diversion of coastal water, parking on CMA structures, vehicle use of the foreshore and seabed, demolition or removal of any CMA structures, temporary CMA structures, temporary construction activities, planting of native vegetation, .underwater impact and vibratory piling.</p>	<p>RC.1 - RC.15 RCMW.1 – RCMW.10</p>	<p>C.1 – C.14 D.1 – D.19 EM.1 – EM.114C</p>	<p>10 years</p>	<p>15 years*</p> <p>*excluding consent for reclamation which is for an unlimited duration</p>
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<p><b>RC6</b></p>	<p><b>Coastal Permit (s12, s14 and s15) – Construction activities in the CMA and temporary occupation and associated discharge of contaminants</b></p> <p>Works associated with the removal of the existing culvert and replacement with a bridge and the construction of a new bridge for State Highway 1 at Ōtāhuhu Creek.</p> <p>The works will include declamation, depositing of material in the CMA, CMA disturbance, vegetation alteration/removal (including mangroves), damming or impoundment of coastal water, taking, use or diversion of coastal water, parking on CMA structures, vehicle use of the foreshore and seabed, demolition or removal of any CMA structures, temporary CMA structures construction activities.</p>	<p>RC.1 - RC.15 RCMW.1 – RCMW.10</p>	<p>C.1 – C.14, EM.1- EM.7 (Excl. EM.1A)</p>	<p>10 years</p>	<p>15 years</p>
<p><b>RC7</b></p>	<p><b>Water Permit (s13 and s14) - Works in watercourses and associated diversion activities</b></p> <p>Construction works in all fresh watercourses in the Project area including:</p> <ul style="list-style-type: none"> <li>• Hill Street Stream;</li> <li>• Southdown Stream;</li> <li>• Anns Creek (landward of MWHS);</li> <li>• Clemow Stream; and</li> <li>• Miami Stream.</li> </ul> <p>The construction activities will include depositing of substances, mangrove removal, diversion of a river or stream to a new course and associated disturbance and sediment discharge, demolition or removal of existing structures, reclamation or drainage and associated diversion of water and incidental temporary damming.</p>	<p>RC.1 - RC.15 RCMW.1 - RCMW.5</p>	<p>WW.1 – WW.10</p>	<p>10 years</p>	<p>15 years</p>

<b>RC8</b>	<b>Water Permit (s14) - Drilling of holes</b> The drilling of holes or bores during construction which will destroy damage or modify any places scheduled in the historic heritage overlay.	RC.1 - RC.15 RCMW.1 - RCMW.5	N/A	10 years	15 years
<b>RC9</b>	<b>Water Permit (s14) - Groundwater diversion and take</b> Drainage of groundwater from the Pikes Point Landfill to enable construction.	RC.1 - RC.15 RCMW.1 - RCMW.5	G.1 – G.7	10 years	15 years
<b>RC10</b>	<b>Discharge Permit (s15) - Discharge of contaminants into air or into or onto land or water</b> Discharges of contaminants from construction activities across the full extent of proposed works in all land areas and within the Coastal Marine Area.	RC.1 - RC.15 RCMW.1 - RCMW.5	AQ.1-AQ.4	10 years	15 years
<b>RC11</b>	<b>Discharge Permit (s15) - Discharge of contaminants into air or into or onto land or water</b> Discharges of contaminants from disturbing contaminated land or potentially contaminated land Project wide.	RC.1 - RC.15 RCMW.1 - RCMW.5	CL.1 – CL.9 AQ.1 – AQ.4	10 years	15 years
<b>RC12</b>	<b>Discharge Permit (s15) - Air Discharges</b> Storage of cement and manufacture of concrete associated with the concrete batching facility within the construction yard in Waikaraka Park.	RC.1 - RC.15 RCMW.1 - RCMW.5	CB.1 - CB.7	10 years	15 years
<b>RC13</b>	<b>Activities on new land to be created (s9 and s89)</b> Use of land for a road, pedestrian and cycleway facilities, stormwater treatment, amenity areas and associated infrastructure and activities on the new land area to be created between existing MHWS and future MHWS in the Māngere Inlet.	RC.8	-	15 years	-



<b>RC14</b>	<b>Coastal Permit (s12) – Occupation and associated use</b> Occupation and associated use by permanent structures in and below the surface of the CMA including extension or alteration of existing CMA structures, bridge structures in Anns Creek, stormwater outfalls, retaining walls and seawalls, hard protection structures, observation areas, viewing platforms and boardwalks and any other public amenities in the Māngere Inlet and Onehunga Bay.	RC.8	C.15	10 years	35 years
<b>RC15</b>	<b>Coastal Permit (s12) – Occupation and associated use</b> Occupation and use of the replacement bridge and new bridge at Ōtāhuhu Creek. Includes permanent structures in the CMA including extension or alteration of existing CMA structures, new structures, stormwater outfalls, retaining walls and seawalls, hard protection structures and any other public amenities at Ōtāhuhu Creek.	RC.8	C.15	10 years	35 years
<b>RC16</b>	<b>Water Permit (s13 and s14) - Works in watercourses and associated diversion activities</b> The construction and operation of structures (including temporary structures), bridges or pipe bridges, new cables or lines crossing over a river or stream, culverts, erosion protection structure, stormwater outfalls in freshwater courses in the Project area including: <ul style="list-style-type: none"> <li>• Hill Street Stream;</li> <li>• Southdown Stream;</li> <li>• Anns Creek (landward of MWHS);</li> <li>• Clemow Stream; and</li> <li>• Miami Stream.</li> </ul>	RC.1 - RC.15 RCMW.1 - RCMW.5	WW.1 - WW.10	10 years	35 years

<b>RC17</b>	<b>Water Permit (s14) - Groundwater diversion and take</b> Groundwater diversion caused by excavation and associated dewatering or groundwater level control from the trench at Onehunga Harbour Road.	RC.8	G.1 - G.7	10 years	35 years
<b>RC18</b>	<b>Water Permit (s14) - Permanent damming of surface water</b> Dams associated with the foreshore stormwater treatment wetlands and Miami Stream.	RC.8	-	10 years	35 years
<b>RC19</b>	<b>Discharge Permit (s15) - Discharge of contaminants into or onto land or water</b> Discharge of contaminated water from leachate interception drain into the Māngere Inlet via the stormwater treatment wetlands.	RC.8	L.1 and L.2	10 years	35 years
<b>RC20</b>	<b>Discharge permit (s15) – Discharge of stormwater</b> Diversion and discharge of stormwater from new permanent impervious surfaces to land, freshwater and coastal water from State Highway 1 between the Mt Wellington Highway and the Princes Street Interchange, the main alignment, walking and cycling facilities and new and altered existing local roads.	RC.8	SW.1 – SW.17	10 years	35 years
<b>RC21</b>	<b>Land Use (s9(2)) – Impervious surfaces</b> All new impervious surfaces associated with high use roads within the Project area.	RC.8	SW.1 – SW.17	10 years	-
<b>RC22</b>	<b>Land Use (s9(2)) – High Risk ITA (Industrial or Trade Activity)</b> A temporary concrete batching plant during construction of the Project.	RC.1 - RC.15 RCMW.1 - RCMW.5		10 years	15 years
<b>M-RC1</b>	<b>Miami Stream: Land use (s9(3)) – Land disturbance, and associated discharges</b> Earthworks and vegetation removal at Miami Stream.	RC.1 - RC.15 RCMW.1 - RCMW.5	E.1 – E.14 EM.1 – EM.13	10 years	15 years
<b>M-RC2</b>	<b>Miami Stream: Land use (s9(3)) – Stormwater</b> Stormwater detention and retention in Miami Stream.	RC.8	-	10 years	-

# DESIGNATION CONDITIONS

## GUIDE TO READING THE DESIGNATION CONDITIONS

The proposed designation conditions are numbered as follows:

Set of proposed conditions	Numbering format
General Designation Conditions	DC
Communication and Social	CS
Recreation and Open Space	ROS
Network Utilities	NU
Mana Whenua Collaboration	MW
Historic Heritage	HH
Urban Design, Landscape and Visual	LV
Trees	TR
Traffic Noise (Operation)	ON
Construction Noise and Vibration	CNV
Construction Traffic	CT
Southdown Site	SD
Proper Specific	PS

## DESIGNATION CONDITIONS – DEFINITIONS

### GENERAL

The table below defines the acronyms and terms used in the conditions. Defined terms are capitalised throughout the conditions.

Acronym/term	Definition
Acceptable or Tolerable Risk Level	<p>The Acceptable or Tolerable Risk Level is to be determined using the Victorian Interim Risk Criteria offsite tolerability and acceptability values for location specific individual fatality risk for gas releases, and the societal risk criteria (F-N) for the aggregated risks for the site, unless superseded by new regulatory standards or alternative criteria mutually agreed by the parties, in which case the new standard of alternative criteria will apply.</p> <p>In accordance with those values, an Acceptable Risk Level means an offsite risk within the broadly acceptable region, that is: Risk &lt; 1 x 10<sup>-7</sup> (lower than 1 in 10 million per year). A Tolerable Risk Level means an offsite risk within the tolerable region, that is: 1 x 10<sup>-7</sup> &lt; Risk &lt; 1 x 10<sup>-5</sup> (between 1 in 100,000 and &gt; 1 in 10 million per year) for gas related risks, and if all reasonably practicable control measures to reduce the risk are undertaken.</p> <p>For the aggregated risks, the risk curve or values must be in or below the medium region, or in the low region of the F-N criteria.</p>

AMETI	Auckland Manukau Eastern Transport Initiative
Anns Creek East Construction Restriction Area	The area of land shown on the drawing titled <i>Anns Creek East Construction Restriction Area</i> , dated 31 March 2017 (located in Appendix 1 of these conditions).
Application	The Notices of Requirement dated December 2016 and supporting information dated November and December 2016.
Auckland Urban Design Panel	A panel consisting of appointed specialists facilitated by Auckland Council and providing independent design review of significant projects.
AUP	Auckland Unitary Plan Operative in Part (Updated 23 May 2017).
BPO or Best Practicable Option	Has the same meaning as in section 2 of the Resource Management Act 1991.
Commencement of Construction	The time when Construction Works for the Project (or part of the Project) commence. This excludes Site Investigations and Enabling Works.
Completion of Construction	When construction of the Project (or part of the Project) is complete and is available for use.
Construction Works	One or more of the various activities undertaken in relation to construction of the Project under this designation.
Control Measures	A measure or action taken to eliminate or minimise risk so far as is reasonably practicable.
Council	Auckland Council
Dangerous Goods Vehicles	A vehicle used for the transport of dangerous goods and required to display a placard under Section 7 of Land Transport Rule: Dangerous Goods 2005 (Rule 45001/1).
East West Link or EWL	East West Link Project being the construction, operation and maintenance of a new State highway and associated works between State Highway 2- (SH20) in Onehunga , and State Highway 1 (SH1) in Mt Wellington (the East West Link Main Alignment), and associated works on SH1 between Mt Wellington and the Ōtāhuhu Interchange at Princes Street.
Enabling Works	Includes the following and similar activities: <ul style="list-style-type: none"> <li>• Demolition and removal of buildings and structures;</li> <li>• Relocation of underground and overhead services; and</li> <li>• The establishment of site entrances and fencing.</li> </ul>
EWL Land Bridge	The cover of the EWL Trench which provides a local road connection from the southern and northern sides of East West Link at Onehunga Harbour Road.
EWL Main Alignment	The four land arterial road between the existing State Highway 20 (SH20) Neilson Street Interchange in Onehunga and State Highway 1 (SH1) at Mt Wellington.
EWL Trench	The lowered portion of the East West Link Main Alignment between the SH20 Neilson Street offramp and the SH20 Manukau Harbour Bridge.
HSNO	Hazardous substances and new organisms
HNZPTA	Heritage New Zealand Pouhere Taonga Act 2014. The Act to promote the identification, protection, preservation, and

	conservation of the historical and cultural heritage of New Zealand.
HNZPT	Heritage New Zealand Pouhere Taonga
Manager	The Manager – Resource Consents, of the Auckland Council, or authorised delegate.
Mana Whenua Group	The group established under Condition MW.1.
Network Utility, Network Utility Operator or Network Utility Operators	Has the same meaning as set out in section 166 of the RMA.
NoR	Notice of Requirement
Operation/Operational	When construction of the Project is complete and the State highway is open to traffic.
Outline Plan	An outline plan prepared in accordance with section 176A of the RMA.
PPF	Protected Premises and Facilities.
Project	The construction, maintenance and operation of the East West Link Project and associated works.
Reasonably Practicable	'Reasonably Practicable' in the context of matters or risks relating to health, safety and/or hazards has the meaning set out in section 22 of the Health and Safety at Work Act 2015.
Requiring Authority	The New Zealand Transport Agency.
RMA	Resource Management Act 1991.
Road Controlling Authority	Has the same meaning as under section 2 of the Land Transport Act 1998.
Site Investigations	Includes geotechnical investigations (outside the Auckland Unitary Plan (Operative in Part) Historic Heritage Overlay Extent of Place), identifying service locations, surveys, monitoring activities, surveys and other similar activities.
Southdown Power Station	'Southdown Power Station' means a natural gas- and/or diesel-fired power station of at least 135MW located at Hugo Johnston Drive, and includes all ancillary equipment, plant and infrastructure and all associated activities.
Southdown Site	The facilities located at Lot 1 DP 178192 and Lot 2 DP 178192 comprising the Southdown Power Station, 11kV switchroom and high voltage equipment, energy storage technology, Transpower control and relay room and Transpower 220kV substation, and the Southdown Solar Research and Development Centre.
Southdown Rail Supply Substation	The transformer, switchgear and associated cabling servicing the Auckland rail network and shown on the plan titled " <i>Transpower New Zealand - East-West Connection Southdown Substation</i> ", dated 9 May 2017.
Suitably Qualified Person	A person: <ul style="list-style-type: none"> <li>• With a recognised qualification in the subject matter of the condition; or</li> <li>• With recognised experience in the subject matter of the condition; or</li> <li>• Is a member of relevant professional body for the subject matter of the condition.</li> </ul>

Unacceptable Risk	<p>The Unacceptable Risk Level is to be determined using the Victorian Interim Risk Criteria offsite tolerability and acceptability values for location specific individual fatality risk of gas release related risks.</p> <p>In accordance with those values, an Unacceptable Risk Level means an offsite risk that is higher than 1 in 100,000 per year for gas release related risks, and for the aggregated site risks, the region noted by the societal risk (F-N) curves of tolerability and acceptability.</p>
Working Day	Has the same meaning as under section 2 of the Resource Management Act 1991.

## TR GROUP SITE

The table below defines the acronyms and terms used in the conditions. Defined terms are capitalised throughout the conditions.

Covenants	Means covenants (or similar legal mechanisms) in favour of Auckland Council on the same terms (or substantially similar terms) as those covenants required by the TR Resource Consents which protect and restrict the use of the Lava Shrubland Management Area and Wetland Management Area and require ongoing pest plant and pest animal control.
Lava Shrubland Management Area and Wetland Management Area	The lava shrubland and wetland areas identified in the TR Resource Consents
TR Resource Consents	<p>Means the following resource consents held by TR Group as at December 2017:</p> <p>R/LUC/2008/4724 – land use (earthworks, vegetation removal);</p> <p>Permit 36055 – diversion and discharge of stormwater from new impervious surface;</p> <p>Permit 36056 – earthworks/land disturbance associated with construction of new hardstand;</p> <p>Permit 36058 – streamworks/culverting and reclamation; and</p> <p>Permit 30316 – disturbance and remediation of contaminated land.</p>
TR Group Land	The land at 781 Great South Road (Lot 1 DP 328383, CT 115789), 785 Great South Road (Lot 2 DP 344775, 1/3 SH Lot 5 DP 328383, CT 183736), 787 Great South Road (Lot 3 DP 328383, 1/3 SH Lot 5 DP 328383, CT 115791) and 791-793 Great South Road (SEC 1 SO 69440, CT NA125B/43).

## DESIGNATION CONDITIONS

Ref	Applies to:	
<b>GENERAL DESIGNATION CONDITIONS (DC)</b>		
<b>DC.1</b>	NoR 1 NoR 2	<p>Except as modified by the conditions below, and subject to final design, the Project shall be undertaken in general accordance with the information provided by the Requiring Authority in the Notice of Requirement dated December 2016, and in particular, the following supporting documents:</p> <p>(a) Part C: Description of the Project in Volume 1: Assessment of Effects on the Environment Report dated December 2016;</p> <p>(b) The following plan sets in Volume 2: Drawing Set:</p> <ul style="list-style-type: none"> <li>(i) Plan Set 3: Road Alignment</li> <li>(ii) Plan Set 4: Landscape</li> <li>(iii) Plan Set 6: Plan and Long Section</li> <li>(iv) Plan Set 7: Typical Cross Section</li> <li>(v) Plan Set 8: Structural</li> <li>(vi) Plan Set 12: Utilities Relocation</li> </ul> <p>(bb) Except as modified by the revised plans and plan sets presented at the close of the Bol hearing which are listed in Appendix 1.</p> <p>(c) The Key Design Principles and Sector Outcomes of the Project's Urban and Landscape Design Framework dated November 2016 and Addendum dated December 2016; and</p> <p>(d) The Draft Construction Traffic Management Plan Framework.</p>
<b>DC.1A</b>	NoR 2	<p><b>For Notice of Requirement to Alter Designation 6718 (NoR 2) dated December 2016, the conditions only apply to Construction Works described in NoR 2 and include Construction Works on land within the existing designation for SH1 between approximately Clemow Drive and the location where Trenwith Street passes under SH1.</b></p>
<b>DC.2</b>	NoR 1 NoR 2	<p>Except where explicitly provided for, the construction related conditions of this designation do not apply to works associated with on-going operation and maintenance of the State highway following construction, such as changes to street furniture or signage over time. The provisions of section 176A of the RMA apply to on-going operation, maintenance or other works within the designation.</p>
<b>DC.3</b>	NoR 1 NoR 2	<p>The Project website shall include these conditions and the plans and reports referred to in these conditions prior to and throughout Construction Works, and a hard copy shall be available at the Project site office(s).</p>

Ref	Applies to:	
<b>DC.4</b>	NoR 1 NoR 2	Where there is inconsistency between:  (a) The documents listed in Condition DC.1 above and the requirements of these conditions, these conditions shall prevail;  (b) The information and plans lodged with the NoR and further information provided post lodgement, the most recent information and plans shall prevail; and  (c) The draft management plans and/or management plan frameworks lodged with the NoR and the management plans required by the conditions of this designation and submitted through the Outline Plan process, the requirements of the management plans as set out in the relevant conditions shall prevail.
<b>DC.5</b>	NoR 1 NoR 2	As soon as practicable following Completion of Construction, the Requiring Authority shall:  (a) Review the extent of the area designated for the Project;  (b) In consultation with the relevant landowners, identify any areas of designated land that are no longer necessary for the on-going operation, maintenance or mitigation of effects of the Project. For the avoidance of doubt, this shall include the designated land on the Onehunga Wharf to the south of the EWL Trench and shared path;  (c) Identify any areas of designated land that apply to local roads to be vested in Auckland Council; and  (d) Give notice to the Manager in accordance with section 182 of the RMA for the removal of those parts of the designation identified in (b) and (c) above.
<b>DC.6</b>	NoR 1 NoR 2	The designation shall lapse if not given effect to within 15 years from the date on which it is included in the Auckland Unitary Plan under section 175 of the RMA.
<i>Outline Plan(s) - General</i>		
<b>DC.7</b>	NoR 1 NoR 2	An Outline Plan or Plans shall be prepared in accordance with section 176A of the RMA.
<b>DC.8</b>	NoR 1 NoR 2	Any Outline Plan or Plans may be submitted in parts or in stages to address particular activities (e.g. design or construction aspects) or to reflect the staged implementation of the Project.
<b>DC.9</b>	NoR 1 NoR 2	The Outline Plan or Plans shall include the following plans for the relevant stage(s) of the Project:  (a) Construction Noise and Vibration Management Plan (CNVMP) prepared in accordance with Condition CNV.1;  (b) Construction Traffic Management Plan (CTMP) in accordance with Condition CT.1;  (c) Heritage Management Plan (HMP) in accordance with Condition HH.3; and  (d) Urban and Landscape Design Master Plan (ULDMP) in accordance with Condition LV.1.
<b>DC.10</b>	NoR 1 NoR 2	The CNVMP, CTMP, HMP and ULDMP may be amended following submission of the Outline Plan(s) if necessary to reflect any changes in design, construction methods or management of effects. Any amendments are to be discussed with and submitted to the Manager for information without the need for a further Outline Plan process, unless those



Ref	Applies to:	
		<p>amendments once implemented would result in a materially different outcome to that described in the original plan.</p> <p>For the avoidance of doubt, this condition does not apply to any Site Specific Construction Noise Management Plan, Site Specific Construction Vibration Management Plan, Site Specific Traffic Management Plan or other management plans required by the conditions of these designations. These management plans do not form part of the OPW.</p>
<b>DC.11</b>	NoR 1	<p>As part of the Outline Plan(s) prepared under section 176A of the RMA, the Requiring Authority shall demonstrate how the following outcomes will be achieved for the relevant stage of the Project for which the Outline Plan has been submitted:</p> <ul style="list-style-type: none"> <li>(a) A local road connection via a land bridge linking Orpheus Drive and Onehunga Harbour Road including two traffic lanes (one in each direction), pedestrian access on both sides including a 3m (minimum) shared pedestrian and cycle path on one side;</li> <li>(b) A shared pedestrian and cycle path connection between Orpheus Drive and the proposed new Old Māngere Bridge, providing a linkage from Taumanu Reserve to Onehunga Wharf, with design details as set out in Condition LV.5D;</li> <li>(c) Provision for access achieving all movements for all road legal vehicles between the local road and Onehunga Wharf;</li> <li>(d) A high quality pedestrian and cycle connection providing a linkage along Onehunga Mall to and from Onehunga Town Centre;</li> <li>(e) Replacement of on-street carparks removed outside The Landing with the same number of carparks in reasonable proximity;</li> <li>(f) Provision for safe right turn movement westbound from Neilson Street into Onehunga Mall;</li> <li>(g) Operation of clearways, in the morning and evening peaks, to provide on-street parking on Captain Springs Road (south of Neilson Street) in off-peak times;</li> <li>(h) Provision for safe turning of large vehicles and a separate public parking area at the southern end of Hugo Johnston Drive;</li> <li>(i) Provision for a safe u-turning facility for westbound vehicles (including 18m semi-trailers) on Sylvia Park Road in the vicinity of Great South Road;</li> <li>(j) Provision for a safe u-turning facility for eastbound vehicles (including 18m semi-trailers) on Sylvia Park Road in the vicinity of Pacific Rise;</li> <li>(k) Separation of pedestrian and cycle facilities from general traffic on the EWL Main Alignment;</li> <li>(l) Provision for pedestrians and cyclists access from the EWL Main Alignment into Sylvia Park Town Centre, in coordination with the requirement for not precluding the multi-modal link road in Condition DC.12A); and</li> <li>(m) High quality pedestrian and cycle facilities across the Princes Street Interchange, providing appropriate protection between pedestrian/cycle facilities and general traffic and consideration of how the Interchange cycle facilities can integrate with the local road network, particularly Luke Street, Todd Place and Avenue Road.</li> </ul>
<b>DC.11A</b>	NoR 1	<ul style="list-style-type: none"> <li>(a) Commencing at least 3 months prior to preparation of the Outline Plan under section 176A of the RMA, the Requiring Authority shall facilitate a collaborative design process to develop the design details for the EWL Land Bridge.</li> <li>(b) The purpose of the design process is to achieve the design outcomes for the EWL Land Bridge as set out in Condition LV.5C.</li> </ul>

Ref	Applies to:	
		<p>(c) The Requiring Authority shall invite the following parties to participate in the collaborative design process:</p> <ul style="list-style-type: none"> <li>(i) Auckland Transport;</li> <li>(ii) Council;</li> <li>(iii) Panuku Development Auckland;</li> <li>(iv) Mana Whenua Group;</li> <li>(v) HNZPT;</li> <li>(vi) Maungakiekie-Tāmaki Local Board;</li> <li>(vii) The Onehunga Enhancement Society; and</li> <li>(viii) Owners of land immediately adjacent to the Land Bridge.</li> </ul> <p>(d) The Requiring Authority shall appoint a Suitably Qualified Person to assist with development of the methodology and programme for the collaborative design process, and to facilitate joint meetings with the parties above.</p> <p>(e) The design process shall include technical advice from Suitably Qualified Persons to provide direction and oversight of the engineering considerations, including geology, structures, geometrics, fire life safety, and surface and groundwater management.</p> <p>(f) The design process shall be iterative, with input from engineering, urban design and other directly relevant environmental disciplines.</p> <p>(g) The Requiring Authority shall appoint a panel of independent experts to review the design. The membership of the panel shall be agreed with Auckland Council. The Requiring Authority shall seek comment from the panel on the design outcomes set out in Condition LV.5C prior to finalisation of the design details.</p> <p>(h) The collaborative design process, and the outcomes of it, shall be set out in the Outline Plan.</p>
<b>DC.11AA</b>	NoR1	<p>When preparing the Outline Plan(s) under section 176A of the RMA, the Requiring Authority shall consider options for providing the design features listed below. The Outline Plan(s) must include the features unless it is not reasonably practicable to do so. Where a design feature has not been incorporated into the Outline Plan(s), the reasons why shall be set out.</p> <ul style="list-style-type: none"> <li>(a) A 3.0m wide at grade shared use path along the southern side of Sylvia Park Road to the south east corner of the Great South Road intersection (between chainage 5100 and 5500 as illustrated on Drawings AEE-AL-108 and AEE-AL-109); and</li> <li>(b) A crossing facility for active modes between Gloucester Park Road North and destinations to the south of Neilson Street.</li> </ul>
<b>DC.11B</b>	NoR 1	<p>(a) The Requiring Authority shall review and develop the design details for the Galway Street link in consultation with Council and Auckland Transport, and shall include consideration of layout options to connect Onehunga Harbour Road to Galway Street directly, or via a link road. The detailed design shall achieve the following outcomes:</p> <ul style="list-style-type: none"> <li>(i) Efficient intersection performance to minimise queuing between intersections on local roads and on the EWL;</li> <li>(ii) High amenity for cycling and walking, particularly on the main routes via Onehunga Harbour Road and Onehunga Mall;</li> <li>(iii) Efficient and reliable bus access between SH20 and Onehunga Town Centre;</li> </ul>

Ref	Applies to:	
		<ul style="list-style-type: none"> <li>(iv) Safe property access;</li> <li>(v) Appropriate allowance for potential increase in traffic flows associated with planned and consented local development (e.g. at Onehunga Town Centre or at Onehunga Wharf); and</li> <li>(vi) Measures to achieve compliance with Condition DC.12A (i) relating to a future Mass Rapid Transit connection to the Auckland International Airport.</li> </ul> <p>(b) The Requiring Authority shall include the design details within the Outline Plan prepared under section 176A of the RMA. The Outline Plan shall detail the input and comments from Council and Auckland Transport, describe how this has been incorporated into the design and, where any input has not been incorporated, set out the reason why.</p>
<b>DC.12</b>	NoR 1 NoR 2	<p>The Requiring Authority shall consult with Auckland Transport during the preparation of the Outline Plan(s) in relation to:</p> <ul style="list-style-type: none"> <li>(a) Local roads, including walking and cycling and public transport facilities, and other interfaces between the State highway and local roading networks; and</li> <li>(b) The proposed Auckland Transport projects identified in Condition DC.12A.</li> </ul> <p>The Outline Plan(s) shall detail the input and comments from Auckland Transport, describe how this has been incorporated into the design and, where any input has not been incorporated, set out the reason why.</p>
<b>DC.12A</b>	NoR 1	<p>As part of the Outline Plan(s) prepared under section 176A of the RMA, the Requiring Authority shall demonstrate how the following proposed transport projects are not precluded, and where practicable, are accommodated by the Project:</p> <ul style="list-style-type: none"> <li>(a) A future Mass Rapid Transit connection to the Auckland International Airport, and in particular ensuring as a minimum the preferred alignment identified in the South-West Multi-Modal Airport Rapid Transit Draft Indicative Business Case is provided for by the Project;</li> <li>(b) A future multi-modal link road to the Sylvia Park Town Centre as part of the AMETI programme, in particular ensuring that the location of piers does not preclude the alignment and any of the proposed modes; and</li> <li>(c) iii) Future potential improvements to rail at the Westfield Junction including provision for grade-separation and a new north-facing connection between the North Island Main Trunk and the North Auckland Line, and additional lines for freight.</li> </ul>
<i>Outline Plan(s) – Special Conditions: Heliport</i>		
<b>DC.13A</b>	NoR 1	<p>The Requiring Authority shall adopt all reasonable and practicable measures to relocate, at the Requiring Authority's expense, the existing Auckland Heliport Limited Partnership (AHLP) Heliport facility at 59 Miami Parade (Part Lot 2 DP98342, NA53C/561), including constructing a replacement building and all other existing associated facilities, to the site shown as "<i>Heliport Relocation Area</i>" on the plan titled "<i>Heliport Relocation Area - East West Link</i>" dated 10 July 2017 ("the Solution").</p>
<b>DC.13B</b>	NoR 1	<p>Unless otherwise agreed between the Requiring Authority and AHLP, the Requiring Authority shall not commence Construction Works on the designated land at 59 Miami Parade unless:</p> <ul style="list-style-type: none"> <li>(a) Either Condition DC.13D(a) or (b); and</li> <li>(b) In circumstances where they have been applied, Conditions DC.13E and DC.13F –</li> </ul> <p>have been satisfied.</p>

Ref	Applies to:	
<b>DC.13C</b>	NoR 1	<p>For the purpose of Condition DC.13A (unless otherwise agreed between the Requiring Authority and AHLP) implementation of the Solution shall include (but is not limited to) the Requiring Authority (at the Requiring Authority's expense):</p> <ul style="list-style-type: none"> <li>(a) Acquiring all necessary interests in land to facilitate the Solution;</li> <li>(b) Obtaining such statutory authorisations or variations to existing resource consents or other authorisations (including under the RMA) as are required to facilitate the Solution;</li> <li>(c) Undertaking the physical and site establishment works required to relocate the Heliport to the new site; and</li> <li>(d) Implementing such design, staging and / or engineering solutions as may be required to, as far as practicable, minimise disruption to the Heliport's operations as a result of constructing the EWL and relocating the Heliport.</li> </ul>
<b>DC.13D</b>	NoR 1	<p>Condition DC.13A will be satisfied if:</p> <ul style="list-style-type: none"> <li>(a) The Solution is implemented; or</li> <li>(b) Following consultation with AHLP, the Requiring Authority advises in writing (including reasons), that all reasonable and practicable measures have been taken to achieve the requirements of Condition DC.13A but that: <ul style="list-style-type: none"> <li>(i) The Solution cannot be achieved; and</li> <li>(ii) No other reasonable and practicable measures to achieve the Solution, or within the boundary of the designation, to refine the EWL Main Alignment, to avoid where practicable or otherwise reduce adverse effects on the Heliport, are available to the Requiring Authority; and</li> <li>(iii) Based on the reasons provided by the Requiring Authority, and consultation undertaken with the Requiring Authority and AHLP, a Suitably Qualified Person, jointly appointed by the Requiring Authority and AHLP, confirms that they agree with the Requiring Authority that all reasonable and practicable measures have been taken.</li> </ul> </li> </ul>
<b>DC.13E</b>	NoR 1	<p>In the event that the Suitably Qualified Person appointed under Condition 13.D(b)(iii) does not agree with the Requiring Authority, they shall record (as soon as practicable) in writing the reasons for their position and may make recommendations to the Requiring Authority as to reasonable and practicable measures that may be available to achieve the Solution.</p>
<b>DC.13F</b>	NoR 1	<p>The Requiring Authority shall consider the recommendations in Condition DC.13E above, and shall:</p> <ul style="list-style-type: none"> <li>(a) Confirm that that it will implement the measures recommended; or</li> <li>(b) Following consultation with AHLP, advise in writing that the recommendations cannot be achieved (including reasons), in which case the Requiring Authority shall not be required to comply with Condition DC.13A.</li> </ul>
<b>DC.13G</b>	NoR 1	<p>If relocation of the Heliport within the designated land is confirmed as practicable, and any required authorisations are granted, the detail of the relocated Heliport site shall be included, for information only, within the Outline Plan prepared in accordance with Condition DC.7.</p>
<p><i>Outline Plan(s) – Special Conditions: ChemWaste</i></p>		

Ref	Applies to:	
DC.14A	NoR 1	<p>As part of the Outline Plan prepared under section 176A of the RMA for the area adjacent to the ChemWaste site at 39 Miami Parade (Lot 1 DP 135209), the Requiring Authority shall include:</p> <p>(a) Written confirmation that the Requiring Authority has applied its best endeavours, including through detailed design undertaken in consultation with the occupier of 39 Miami Parade, to reduce and minimise the extent of the designated area along the western half of the southern boundary (between chainages 2825 and 2865 as shown on Road Alignment Plan, Sheet 5, AEE-AL-05); an explanation of what those best endeavours comprise and the consultation undertaken, and any revised designation boundary resulting from application of those best endeavours. If practicable, the designation boundary shall be altered prior to Commencement of Works to reduce the area of designated land at 39 Miami Parade, or following Completion of Construction in accordance with Condition DC.14B below and Condition DC.5.</p> <p>(b) Subject to Condition DC.14B and C below, provision for a fire protection wall will be of up to three metres height (above finished ground level at the site of 39 Miami Parade), constructed of concrete, and designed to provide a 240/240/240-minute fire resistance rating along the full width of the northern boundary of the designated area on the southern portion of 39 Miami Parade as determined under (a) above (<i>fire protection wall</i>), and extending 4m into the ChemWaste site at the western and eastern ends.</p>
DC.14B	NoR 1	<p>The Outline Plan for the area adjacent to the ChemWaste Site may, instead of the fire protection wall, and following consultation with the occupier of the ChemWaste Site, provide for an alternative method which is no less effective than the fire protection wall in ensuring that the requirements of the Health and Safety at Work (Hazardous Substances) Regulation 2017 are met in relation to the interface between the ChemWaste Site and any protected or public place (as defined under those regulations) established under the Project, including through ensuring that there is no greater reduction in the ability to utilise the ChemWaste Site for the storage and handling of Class 3, 4 and 6 Hazardous Substances, than for the fire protection wall.</p>
DC.14C	NoR 1	<p>Any Outline Plan providing for an alternative method meeting the requirements of Condition DC.14B shall be submitted along with details of the consultation undertaken with the occupier, and any comments received from the occupier regarding that alternative.</p>
DC.14D	NoR 1	<p>Following completion of the permanent EWL works at 39 Miami Parade, any areas of land that have been occupied during Construction Works and are no longer necessary for the on-going operation, maintenance or mitigation of effects of the Project shall be reinstated to a similar ground condition as existed prior to Commencement of Construction, to enable ongoing use of the land for business activities similar to those which occurred prior to Commencement of Construction (i.e. storage and vehicle manoeuvring). The requirements in Condition DC.5 (b) shall also apply to any areas of land at 39 Miami Parade which are no longer necessary for the on-going operation, maintenance or mitigation of effects of the Project.</p>
<i>Outline Plan(s) – Other Special Conditions</i>		
DC.15A	NoR 1	<p>The Requiring Authority shall consult with the landowner(s) during the preparation of the Outline Plan(s) in relation to the design of the Anns Creek viaduct access points to and from 39 and 59 Miami Parade, Pikes Point.</p> <p>The Outline Plan(s) shall describe how the input and comments from the landowner(s) has been incorporated in the design.</p>

Ref	Applies to:	
DC.15B	NoR 1	<p>As part of the Outline Plan prepared under section 176A of the RMA for the area within the Anns Creek Construction Restriction Area, the Requiring Authority shall include details of how the design has:</p> <ul style="list-style-type: none"> <li>(a) Aligned permanent transport infrastructure (road, pedestrian and cycle facilities) to the northern-most extent of the Restriction Area as far as practicable;</li> <li>(b) Avoided the placement of temporary and permanent piers;</li> <li>(c) Avoided earthworks and vegetation removal that directly impacts on lava shrubland and lava outcrops, and minimise any vegetation alteration; and</li> <li>(d) Minimised the footprint of temporary works required for construction of permanent works.</li> </ul> <p>For the avoidance of doubt, only the following activities may be undertaken within the Anns Creek East Construction Restriction Area: weed removal, pest plant and animal management, geological heritage restoration, restoration planting, interpretative signage relating to cultural, ecological and geological heritage, protective fencing, and associated earthworks to undertake those activities.</p>
DC.15C	NoR 1	<ul style="list-style-type: none"> <li>(a) The Requiring Authority shall consult with the owner of the land at 781 Great South Road (Lots 1 and 2 DP 328383) and 791-793 Great South Road (Section 1 SO 69440) during the detailed design phase in relation to the post-construction use of land immediately south east of the EWL viaduct and adjacent to Great South Road (791-793 Great South Road) (“the residual land”).</li> <li>(b) The Requiring shall make reasonable provision for heavy vehicle access post-construction, for the types of vehicles normally in use at 781 Great South Road, under the EWL viaduct, between 781 Great South Road and the residual land.</li> <li>(c) The access shall be located and designed to provide suitable vertical clearance under the EWL viaduct and to minimise, to the extent practicable, further encroachment into Anns Creek East.</li> <li>(d) The Outline Plan prepared in accordance with Condition DC.7 shall include information to demonstrate how the requirements of this condition have been achieved.</li> </ul>
DC.15CC	NoR 1	<p>If, after completion of the 10 year period post Completion of Construction on the TR Group Land as set out in Condition EM.3A(c) of the resource consents granted for the Project, the Requiring Authority receives confirmation that the Covenants have been registered against the certificates of title for the TR Group Land then, the Requiring Authority shall give notice to the Manager in accordance with section 182 of the RMA for the removal of those parts of the designation on the TR Group Land no longer necessary for the on-going operation, maintenance or mitigation of effects associated with the Project.</p>
DC.15D	NoR 1	<ul style="list-style-type: none"> <li>(a) The Requiring Authority shall consult with the owner of the land at 430 Mt Wellington Highway (Lot 1 DP 188694) during preparation of the Outline Plan in relation to the location and design of vehicular access to and from the site to Mt Wellington Highway and the proposed Auckland Transport AMETI corridor.</li> <li>(b) As part of the Outline Plan prepared under section 176A of the RMA, the Requiring Authority shall demonstrate how the following outcomes will be achieved: <ul style="list-style-type: none"> <li>(i) Vehicular access from the land under the EWL to SH1 ramps, to the boundary of the proposed Auckland Transport AMETI corridor; and</li> <li>(ii) Vehicular access from the land to Mt Wellington Highway.</li> </ul> </li> </ul>

Ref	Applies to:	
		(c) The Outline Plan shall detail the input and comments from the land owner, describe how this has been incorporated into the design and, where any input has not been incorporated, set out the reason why.
DC.15E	NoR 1	As part of the Outline Plan prepared under Section 176A of the RMA, the Requiring Authority shall demonstrate how the requirements of Conditions SD.1, SD.2A, SD.2B and SD.3 have been achieved.
<b>COMMUNICATION AND SOCIAL (CS)</b>		
<i>Liaison person</i>		
CS.1	NoR 1 NoR 2	<p>A Project Liaison Person shall be appointed by the Requiring Authority for the duration of the construction phase of the Project to be the main and readily accessible point of contact for persons affected by Construction Works. The Requiring Authority shall take appropriate steps to advise all affected parties of the liaison person's contact details. This person must be reasonably available for on-going consultation on matters of concern to affected persons arising from Construction Works. If the liaison person will not be available for any reason, an alternative contact shall be provided, to ensure that a Project contact person is available by telephone 24 hours per day/seven days per week during the construction phase of the Project.</p> <p>The Requiring Authority shall inform the Manager of the Project Liaison Person's contact details 20 working days prior to the Commencement of Construction and/or Enabling Works for the Project.</p>
<i>Communications Plan</i>		
CS.2	NoR 1 NoR 2	<p>Prior to the Commencement of Construction and/or Enabling Works, the Requiring Authority shall prepare and implement a <b>Communications Plan</b>.</p> <p>The purpose of the plan is to set out procedures detailing how the public, stakeholders, businesses and residents will be communicated with throughout the pre-construction and construction phases of the Project.</p> <p>As a minimum, the Communications Plan shall include:</p> <ul style="list-style-type: none"> <li>(a) Details of the Project Liaison Person (Condition CS.1). The contact details shall be on the Project website and prominently displayed at the entrance to the site(s) so that they are clearly visible to the public at all times;</li> <li>(b) A list of stakeholders, organisations, businesses and residents who will be communicated with;</li> <li>(c) Methods to consult on and to communicate the proposed hours of construction activities outside of normal working hours and on weekends and public holidays, to surrounding businesses and residential communities, and methods to deal with concerns raised about such hours;</li> <li>(d) Methods to record concerns raised about hours of construction activities and methods to avoid particular times of day which have been identified as being particularly sensitive for neighbours;</li> <li>(e) Methods to provide early notification to businesses of construction activities.</li> <li>(f) Methods to consult with businesses to identify and implement: <ul style="list-style-type: none"> <li>(i) Measures to maximise opportunities for pedestrian and service access to businesses that will be maintained during construction;</li> </ul> </li> </ul>

Ref	Applies to:	
		<ul style="list-style-type: none"> <li>(ii) Measures to mitigate potential severance and loss of business visibility issues by way-finding and supporting signage for pedestrian detours required during construction;</li> <li>(iii) Other measures to assist businesses to maintain customer accessibility, including but not limited to customer information on temporary parking or parking options for access;</li> <li>(iv) Other measures to assist businesses to provide for service delivery requirements; and</li> <li>(v) The process (if any) for re-establishment and promotion of normal business operation following construction.</li> </ul> <p>(g) Any stakeholder/business specific communication plans required;</p> <p>(h) Details of communications activities proposed including:</p> <ul style="list-style-type: none"> <li>(i) Publication of newsletters, or similar, and proposed delivery areas;</li> <li>(ii) Information days, open days or other mechanisms to facilitate community engagement;</li> <li>(iii) Newspaper advertising;</li> <li>(iv) Notification and consultation with business owners and operators and individual property owners and occupiers with premises/dwellings within 100 metres of active construction;</li> <li>(v) Identify processes, mechanisms and / or specific methods to facilitate two-way communication with those with impairments or for those for whom English is a second language;</li> <li>(vi) The use of social media tools.</li> </ul> <p>(i) Details of the Project website for providing information to the public;</p> <p>(j) Linkages and cross-references to communication methods set out in other conditions and management plans where relevant (e.g. consultation; and</p> <p>(k) Details of when the Plan will be reviewed and amended.</p> <p>The Communications Plan shall be provided to the Manager for information 20 working days prior to Commencement of Construction and following any material amendments of the Plan.</p>
<i>Community Liaison Groups</i>		
<b>CS.3</b>	NoR 1 NoR 2	<ul style="list-style-type: none"> <li>(a) The Requiring Authority shall establish and co-ordinate a Community Liaison Group (CLG) in each of the following areas at least 3 months prior to the Commencement of Construction in each of those areas: <ul style="list-style-type: none"> <li>(i) Onehunga and Penrose including the Onehunga Harbour Road and Onehunga Mall Cul-de-Sac residential area and Māngere Bridge; and</li> <li>(ii) State Highway 1 including the Ōtāhuhu and Panama Road residential areas.</li> </ul> </li> <li>(b) The purpose of the CLG is to provide a means for: <ul style="list-style-type: none"> <li>(i) Sharing information on design (including the ULDMs prepared under Condition LV.1), Construction Works and programme;</li> <li>(ii) Reporting and responding to concerns and issues raised in relation to Construction Works; and</li> <li>(iii) Monitoring the effects on the community arising from Construction Works in these areas.</li> </ul> </li> </ul>



Ref	Applies to:	
		<p>(c) The Requiring Authority shall assist the CLG to hold regular meetings (at least once every three months) throughout the construction period in these areas. The CLG shall continue until six months after Completion of Construction so that on-going monitoring information can continue to be shared, discussed and responded to. The frequency and duration of the meetings can be reduced where the majority of the members of the group agree.</p> <p>(d) In addition to the Project Liaison Person and representative(s) of the Requiring Authority and its principal construction contractor, membership of the CLG shall be open to all interested parties within the Project area including, but not limited to representatives of the following groups:</p> <ul style="list-style-type: none"> <li>(i) Council, Auckland Transport and other Council Controlled Organisation;</li> <li>(ii) Department of Conservation;</li> <li>(iii) Mana Whenua;</li> <li>(iv) Business groups;</li> <li>(v) Community/environmental/historical groups;</li> <li>(vi) Transport user groups;</li> <li>(vii) Local Boards;</li> <li>(viii) Local residents and business owners/operators;</li> <li>(ix) Representatives from those organisations identified in the Communications Plan (as required by Condition CS.2); and</li> <li>(x) Ministry of Education.</li> </ul> <p>(e) The Requiring Authority shall prepare an agenda for each meeting and prepare minutes recording actions. A copy of the minutes shall be provided to the meeting invitees within a reasonable time following the meeting.</p> <p>(f) The Requiring Authority shall be responsible for all reasonable costs associated with resourcing of the CLGs.</p>
<i>Business Forums</i>		
CS.4	NoR 1 NoR 2	<p>(a) The Requiring Authority shall establish and coordinate <b>Business Forums</b> in each of the following industrial/commercial areas, or a combined Business Forum in two or more of those areas, at least 3 months prior to Commencement of Construction in those areas:</p> <ul style="list-style-type: none"> <li>(i) Onehunga (including businesses on Neilson Street (east), Onehunga Mall, Onehunga Harbour Road, Galway Street and Gloucester Park Road);</li> <li>(ii) Onehunga Industrial (including businesses on Neilson Street (west), Captain Springs Road, Miami Parade and Hugo Johnston Drive);</li> <li>(iii) Sylvia Park Road (including Pacific Rise, Great South Road and Vestey Drive); and</li> <li>(iv) SH1 (including Vestey Drive, Monahan Road and Clemow Drive).</li> </ul> <p>(b) In addition to the Project Liaison Person and representative(s) of the Requiring Authority and its principal construction contractor, membership of the Business Forum(s) shall be open to all interested parties within the Project area including, but not limited to representatives of the following groups:</p> <ul style="list-style-type: none"> <li>(i) Business owners;</li> <li>(ii) Land owners;</li> </ul>

Ref	Applies to:	
		<ul style="list-style-type: none"> <li>(iii) Business groups including the Onehunga Business Association;</li> <li>(iv) Road carriers / freight operators in the area and NZ Heavy Haulage Association; and</li> <li>(v) Auckland Transport.</li> </ul> <p>(c) The purpose of the Business Forums is to provide a forum for:</p> <ul style="list-style-type: none"> <li>(i) Timely provision of information on the Construction Works and programme and planned business and community activities;</li> <li>(ii) Reporting and responding to concerns and issues raised in relation to Construction Works; and</li> <li>(iii) Monitoring the effects on the business community arising from Construction Works in these areas.</li> </ul> <p>(d) The Requiring Authority shall assist the Business Forum(s) to hold regular meetings (at least once every three months) throughout the construction period in these areas. The Business Forum(s) shall continue until six months after Completion of Construction so that on-going monitoring information can continue to be shared, discussed and responded to. The frequency and duration of the forums can be reduced where the majority of the members of the group agree.</p> <p>(e) In addition to the general purpose set out in (b) above, the matters to be considered by the Business Forums may include, but are not limited to, the following matters:</p> <ul style="list-style-type: none"> <li>(i) The timing of construction activities including consideration of specific operational requirements for businesses;</li> <li>(ii) Temporary traffic management including closures, detours, parking restrictions and signage; and</li> <li>(iii) Alternative access to and from businesses during construction.</li> </ul> <p>(f) The Requiring Authority shall prepare an agenda for each meeting and prepare minutes recording actions. A copy of the minutes shall be provided to the meeting invitees within a reasonable time following the meeting.</p> <p>(g) The Requiring Authority shall be responsible for all reasonable costs associated with the resourcing of the Business Forum.</p>
<i>Complaints Management</i>		
<b>CS.5</b>	NoR 1 NoR 2	<p>At all times during Construction Works, the Requiring Authority shall maintain a record of any complaints received in relation to the Construction Works.</p> <p>The record shall include:</p> <ul style="list-style-type: none"> <li>(a) The name and address (as far as practicable) of the complainant;</li> <li>(b) Identification of the nature of the complaint;</li> <li>(c) Location, date and time of the complaint and of the alleged event giving rise to the complaint;</li> <li>(d) The weather conditions at the time of the complaint (as far as practicable), and including wind direction and approximate wind speed if the complaint relates to air quality or noise.</li> <li>(e) The outcome of the Requiring Authority's investigation into the complaint;</li> <li>(f) Measures taken by the Requiring Authority to respond to the complaint or confirmation of no action if deemed appropriate;</li> </ul>

Ref	Applies to:	
		<p>(g) Any other activities in the area, unrelated to the Project that may have contributed to the complaint, such as non-project construction, fires, traffic accidents or unusually dusty conditions generally; and</p> <p>(h) The response provided to the complainant.</p> <p>The Requiring Authority shall also keep a record of any remedial actions undertaken.</p> <p>The complaints record shall be made available to the Manager upon request.</p>
CS.6	NoR 1 NoR 2	The Requiring Authority shall respond to a complaint related to Construction Works as soon as reasonably practicable and as appropriate to the circumstances.
<b>RECREATION AND OPEN SPACE (ROS)</b>		
<i>Aotea Sea Scouts Activities</i>		
ROS.1	NoR 1	<p>The Requiring Authority shall offer to temporarily relocate the Aotea Sea Scouts activities located at Onehunga Harbour Road for the duration of Construction Works adjacent to the Aotea Sea Scouts Hall.</p> <p>The offer shall be made no later than 3 months prior to Commencement of Construction on Onehunga Harbour Road adjacent to the Aotea Sea Scout Hall. The offer shall remain valid until 3 months after the Commencement of Construction on Onehunga Harbor Road adjacent to the existing Aotea Sea Scouts Hall. If the offer is not accepted within that timeframe, the Requiring Authority is not required to temporarily relocate the Aotea Sea Scouts activities.</p> <p>The offer shall include as a minimum:</p> <p>(a) Relocation of the activities at least 20 working days prior to Commencement of Construction on Onehunga Harbour Road adjacent to the existing Aotea Sea Scouts Hall; and</p> <p>(b) Relocation of the activities until Completion of Construction affecting Onehunga Harbour Road adjacent to the Aotea Sea Scouts Hall.</p> <p>The offer of temporary relocation shall be developed in consultation with the Aotea Sea Scouts.</p>
<i>Waikaraka Park (temporary facilities during construction)</i>		
ROS.2	NoR 1	<p>(a) To address the loss of on leash dog walking and passive open space during Construction Works, the Requiring Authority shall, subject to agreement of the landowner, provide an alternative area of up to 6,000m<sup>2</sup> for those activities and temporary parking for a minimum of 4 cars on the northern portion of the Waikaraka Park South future development site at 60 Captain Springs, Onehunga.</p> <p>(b) The recreation space shall be available for use prior to the permanent closure of any part of the Manukau Foreshore Walkway located between Onehunga Harbour Road and Hugo Johnston Drive. The recreation space shall consist of a space suitable for on leash dog walking and informal sports.</p> <p>(c) The temporary parking in (a) shall be available for use by the public for the period of construction requiring the removal of on road parking in Captain Springs Road. The temporary parking will be formed from metal or similar material reflecting its temporary use.</p>

Ref	Applies to:	
		<p>(d) The recreation space shall be maintained by the Requiring Authority until such time as either:</p> <ul style="list-style-type: none"> <li>(i) The coastal walkway located along the coastal edge of the reclamation is open to the public; or</li> <li>(ii) The shared path on the road embankment is open to the public.</li> </ul> <p>(e) The temporary parking shall be maintained until such time as the extension to Captain Springs Road is open to traffic.</p>
<i>Open Space Reinstatement Plans</i>		
<b>ROS.3</b>	NoR 1 NoR 2	Prior to any works that affect Auckland Council parks and open space, the Requiring Authority shall prepare a register of assets and a photographic record of the pre-construction state of the parks and open space. This shall be provided to the Manager prior to construction commencing.
<b>ROS.4</b>	NoR 1 NoR 2	<p>(a) The Requiring Authority shall prepare a <b>Reinstatement Plan</b> in consultation with the landowner for the following parks and reserves (or parts thereof) directly impacted by Construction Works:</p> <ul style="list-style-type: none"> <li>(i) Gloucester Park North and South;</li> <li>(ii) Waikaraka Park; and</li> <li>(iii) Bedingfield Memorial Park.</li> </ul> <p>(b) Where other areas of open space are affected by Construction Works, the reinstatement of those areas shall be based on a like-for-like reinstatement based on the record prepared under ROS.3.</p> <p>(c) The purpose of the Reinstatement Plans is to provide details of the reinstatement works in open space areas directly affected by construction works.</p> <p>(d) The Reinstatement Plans shall:</p> <ul style="list-style-type: none"> <li>(i) Be prepared in accordance with the ULDMP for the area prepared under Condition <b>LV.1</b>;</li> <li>(ii) Include details for the reinstatement of land used for Construction Works including: <ul style="list-style-type: none"> <li>• Removal of structures, plant and materials associated with construction (unless otherwise agreed with the landowner);</li> <li>• Replacement or reinstatement of boundary fences to the same or similar type to that removed (as recorded through Condition ROS.3);</li> <li>• Reinstatement of grassed areas to a similar condition as existed prior to construction;</li> <li>• Replacement of trees and other planting removed for Construction Works on a one-for-one basis (or as otherwise agreed with the landowner);</li> <li>• Details of way finding and interpretation signage within and adjacent to the open space.</li> </ul> </li> <li>(iii) Include record of consultation and agreement with the landowner; and</li> <li>(iv) Take account of any Council management plans prepared for the park, reserve or area of open space.</li> </ul> <p>(e) The Reinstatement Plan shall be provided to the Manager and implemented within 3 months of Completion of Construction, or at a later date as agreed with the landowner.</p>

Ref	Applies to:	
<i>Gloucester Park Reinstatement Plan</i>		
<b>ROS.5</b>	NoR 1	<p>In addition to the matters set out in Condition ROS.4, the Gloucester Park Reinstatement Plan shall include:</p> <ul style="list-style-type: none"> <li>(a) Details of proposed ecological enhancement to extend the existing saltmarsh area in Gloucester Park South;</li> <li>(b) Details of interpretive features for identifying geological heritage features;</li> <li>(c) Details of fencing required to manage the safe interface of SH20 and Gloucester Park North for the current use of the park as a sportsfield;</li> <li>(d) Details of the artwork referred to in Condition LV.5B; and</li> <li>(e) Pedestrian and service vehicle connection points to Onehunga Harbour Road as referred to in Condition LV.5C(c) and (d).</li> </ul>
<i>Waikaraka Cemetery and Waikaraka Park South Reinstatement Plan</i>		
<b>ROS.6</b>	NoR 1	<p>In addition to the matters set out in Condition ROS.4, the Waikaraka Cemetery and Waikaraka Park South Reinstatement Plan shall include:</p> <ul style="list-style-type: none"> <li>(a) Details of proposed landscaping along the southern boundary of Waikaraka Cemetery as referred to in Condition LV.5F. The landscaping is to be developed in consultation with HNZPT and Auckland Council Heritage Unit;</li> <li>(b) Details of proposed grades and grass surfacing of Waikaraka Park South to a standard which reasonably accommodates Council's future implementation of the Waikaraka Park South Development Plan; and</li> <li>(c) Details of temporary construction phase carparking to be retained, and details of proposed works to integrate this carparking with the Waikaraka Park South Development Plan;</li> <li>(c) Accessibility from Waikaraka Cemetery and Waikaraka Park South to the recreational walkway on the foreshore and (if practicable) direct access between the Cemetery and Waikaraka Park South.</li> </ul>
<b>ROS.6A</b>	NoR 1	<p>For a period of up to 2 years following occupation of Construction Yard 3, the Requiring Authority shall make a financial payment to Council to reimburse any capital costs incurred by Council for works undertaken in the Maungakiekie-Tamaki Local Board area to improve the weekly hours of playing capacity of sportsfields, where such works are undertaken to offset the delay in implementation of the planned sports fields in Waikaraka Park South (arising from use of this site for Construction Yard 3).</p> <p>The value of any financial support shall be agreed between the Requiring Authority and Council, and shall be limited to the confirmed budgeted amount of approximately \$1.54M (\$2017 NZD) indicated in the Draft Sports Field Capacity Development Programme (endorsed by the Maungakiekie-Tamaki Local Board in 2012). For clarity, the financial support will cover any capital works expenditure but does not impose any responsibility on the Requiring Authority for consenting or approval of such works (this remains the responsibility of Council).</p> <p>The purpose of this requirement is to ensure that Council can both improve weekly hours of playing capacity for local sportsfields in the medium term and retain their budgeted funds for the development of Waikaraka Park South, so that this work can be implemented following the Requiring Authority's use of this site.</p>
<i>Coastal Access Parking Plan</i>		

Ref	Applies to:	
ROS.7	NoR 1	<p>The Requiring Authority shall assist Auckland Transport and Auckland Council to prepare and promote a Coastal Access Parking Plan to identify appropriate parking locations for universal access and recreational access as close as is practicable to the coastal edge of the Manukau Harbour and Māngere Inlet between Taumanu Reserve and Hugo Johnston Drive. The Plan shall include parking at Taumanu, Onehunga Harbour Road, Captain Springs Road and Hugo Johnston Drive.</p> <p>The Plan shall be completed and made available to the public as soon as practicable following Completion of Construction.</p>
<b>Network Utilities (NU)</b>		
<i>Design – Permanent Access to Network Utilities</i>		
NU.1A	NoR 1 NoR 2	<p>The Requiring Authority shall design permanent batters, retaining walls, crash barriers, fencing, acoustic barriers, and other such physical measures to be constructed as part of the Project in a manner which does not prevent practical ongoing access to existing and relocated Network Utilities during construction and operation of the works authorised by the designation.</p>
NU.1B	NoR 1 NoR 2	<p>If, prior to the Commencement of Construction, Transpower has developed a proposal to underground any transmission line through the designated land of a sufficient detail of design that resource consents and/or a notice of requirement could be sought by Transpower, the Requiring Authority shall take all reasonable measures to accommodate that work in the design and construction of the EWL.</p> <p>The measures taken to accommodate any proposed undergrounding of transmission lines shall be set out in the Outline Plan or Plans prepared in accordance with Condition DC.7.</p>
<i>Design – New Network Utilities Opportunities</i>		
NU.2	NoR 1 NoR 2	<p>The Requiring Authority shall consult with Network Utility Operators during the detailed design phase to identify opportunities to enable, or to not preclude, the development of new network utility and telecommunications facilities within the Project, where practicable to do so.</p> <p>The consultation undertaken, opportunities considered, and whether or not they have been incorporated into the detailed design, shall be summarised in the Outline Plan or Plans prepared in accordance with Condition DC.7.</p>
<i>Utilities Management Plan</i>		
NU.3	NoR 1 NoR 2	<p>(a) The Requiring Authority shall prepare and implement a <b>Network Utilities Management Plan (NUMP)</b>. The NUMP shall be prepared in consultation with the Network Utility Operators who have existing assets that are directly affected by the Project.</p> <p>(b) The purpose of the NUMP is to ensure that the design and construction of the Project takes account of, and includes measures to, address the safety, integrity, protection and (where necessary) the relocation of existing network utilities.</p> <p>(c) The NUMP shall include methods and measures to:</p> <ul style="list-style-type: none"> <li>(i) Ensure that network utilities can be accessed for maintenance at all reasonable times, or emergency works at all times, during construction activities;</li> <li>(ii) Manage the effects of dust and any other material potentially resulting from construction activities and able to cause material damage, beyond normal</li> </ul>

Ref	Applies to:	
		<p>wear and tear, to overhead high voltage transmission lines through the Project area ; and</p> <p>(iii) Ensure that no activity is undertaken during construction that would result in ground vibrations, ground instability and/or ground settlement likely to cause material damage to network utilities.</p> <p>(d) Demonstrate compliance with relevant standards and Codes of Practice including:</p> <p>i) NZECP 34:2001 New Zealand Electrical Code of Practice for Electrical Safe Distances 2001; and</p> <p>ii) AS/NZS 4853:2012 Electrical hazards on Metallic Pipelines.</p> <p>(e) The NUMP shall also include the specific matters set out in Conditions NU.5 – NU.9.</p> <p>(f) At least 40 working days prior to commencement of Construction Works affecting a network utility, the Requiring Authority shall provide a draft of the NUMP to the relevant Network Utility Operator for review and comment. The NUMP shall describe how the input from the Network Utility Operator in relation to its assets has been incorporated. The Requiring Authority shall consider any comments received from the Network Utility Operator when finalising the NUMP.</p> <p>(g) Any amendments to the NUMP related to assets of a Network Utility Operator shall be prepared in consultation with that asset owner.</p>
<b>NU.4</b>	NoR 1 NoR 2	A copy of the NUMP shall be provided to the Manager for information at least 20 working days prior to the commencement of any Enabling Works or Commencement of Construction where those enabling or Construction Works impact on network utilities.
<b>NU.5</b>	NoR 1 NoR 2	<p>(a) The NUMP shall include procedures, methods and measures to manage effects of the construction works on the following transmission lines:</p> <p>(i) Māngere-Mt Roskill A 110 kV Line;</p> <p>(ii) Penrose – Mt Roskill A 110 kV Line; and</p> <p>(iii) Henderson – Ōtāhuhu A 220 kV Line.</p> <p>(b) The NUMP shall include:</p> <p>(i) Details of any dispensations and associated procedures, methods and measures agreed with Transpower for construction works that cannot meet <i>New Zealand Electrical Code of Practice for Electrical Safe Distances 2001</i> (NZECP 34:2001) or any subsequent revision of the code;</p> <p>(ii) For all other works, procedures, methods and measures to demonstrate how construction works will meet the safe distances within the NZECP 34:2001 or any subsequent revision of the code and including specific measures and methods relating to:</p> <ul style="list-style-type: none"> <li>• Excavation or disturbance of the land around any Transpower transmission support structures under Clause 2.2.3;</li> <li>• Building to conductor clearances under Section 3;</li> <li>• Depositing of material under or near overhead electric lines under Clause 4.3.1;</li> <li>• Mobile plant or load to Transpower transmission lines under Clause 5.2;</li> <li>• People to conductor clearances; and</li> <li>• Warning notices during use of mobile plant in proximity of overhead lines under Clause 5.</li> </ul>

Ref	Applies to:	
		<ul style="list-style-type: none"> <li>(iii) Details of measures to control induction and transferred voltages and Earth Potential Rise where use of conductive material for road infrastructure or relocated network utilities is within 12 metres of the outer foundations of any transmission tower or proposed tower or monopole;</li> <li>(iv) Details of areas within which additional management measures are required, such as fencing off, entry and exit hurdles and the minimum height for any hurdles;</li> <li>(v) Details of contractor training for those working near transmission lines and other assets; and</li> <li>(vi) Provision for Transpower involvement in contractor briefings for works involving the following: <ul style="list-style-type: none"> <li>• Works within 12m of any Transpower overhead transmission line support structure;</li> <li>• Works within the maximum extent of line swing (at maximum operating temperature) of any Transpower overhead transmission line; and</li> <li>• Works within 20m of or encroaching into the Southdown Rail Supply Substation.</li> </ul> </li> </ul>
<b>NU.6</b>	NoR 1 NoR 2	<ul style="list-style-type: none"> <li>(a) The NUMP shall include procedures, methods and measures to manage effects of the construction works on the following Watercare assets: <ul style="list-style-type: none"> <li>(i) Hunua 1 at Sylvia Park Road/Great South Road intersection;</li> <li>(ii) Sylvia Park watermain;</li> <li>(iii) Hunua 3 transmission watermain;</li> <li>(iv) Hunua 4 transmission watermain;</li> <li>(v) Eastern Interceptor Westfield Siphon; and</li> <li>(vi) Onehunga Harbour <u>Road</u> watermain.</li> </ul> </li> <li>(b) The NUMP shall: <ul style="list-style-type: none"> <li>(i) Demonstrate how construction works will meet safety procedures required by Watercare for works within the vicinity of its assets; and</li> <li>(ii) Describe the areas within which additional management measures are required; and</li> <li>(iii) Describe the process for obtaining approval from Watercare before works commence within close proximity to Watercare assets under the <i>Water Supply and Wastewater Network Bylaw 2015</i>.</li> </ul> </li> </ul>
<b>NU.7</b>	NoR 1	<ul style="list-style-type: none"> <li>(a) The NUMP shall include procedures, methods and measures to manage effects of the construction works on the First Gas East Tamaki to Taupaki Gas Pipeline.</li> <li>(b) The NUMP shall demonstrate how construction works will meet First Gas operating standards and codes including: <ul style="list-style-type: none"> <li>• AS2885: Pipelines – Gas and Liquid Petroleum (Part 1 for design and Part 3 for operation and maintenance); and</li> <li>• New Zealand Health and Safety in Employment (Pipelines) Regulations 1999.</li> </ul> </li> </ul>
<b>NU.8</b>	NoR 1 NoR2	<p>The NUMP shall include procedures, methods and measures to manage effects of the construction works on Spark assets, and in particular, shall include provisions so that:</p> <ul style="list-style-type: none"> <li>(a) The relocated AOHB Otāhuhu cellular site at Princes Street is fully operational prior to decommissioning of the existing AOHB Otāhuhu cellular site; and</li> </ul>



Ref	Applies to:	
		(b) The relocated and/or reconfigured AHAM Hamlins Hill cellular site at Great South Road is fully operational before the existing AHAM Hamlins Hill site Radio Frequency coverage is impacted by the construction of the EWL Project.
	NoR 1	<b>Advice Note:</b> <i>Further conditions relating to network utilities located at the Southdown Site are included in the SD conditions.</i>
<i>Network Utility Approvals</i>		
<b>NU.9</b>	NoR 1 NoR 2	The Requiring Authority shall not require Auckland Transport or Network Utility Operators with existing infrastructure within the designated land to seek written consent under section 176 of the RMA for on-going access to enable work associated with the routine construction, operation and maintenance of existing assets. To the extent that written approval is required, this condition shall constitute written approval.
	NoR 1 NoR 2	<b>Advice Note:</b> <i>In addition to the RMA processes, there are other additional processes and approvals applying to any work or activity that affect network utilities. The Requiring Authority may require additional approvals from Network Utility Operators prior to any works commencing in proximity to network utilities.</i>
<b>MANA WHENUA COLLABORATION (MW)</b>		
<i>Mana Whenua Group</i>		
<b>MW.1</b>	NoR 1 NoR 2	<p>(a) Six months prior to the Commencement of Construction, the Requiring Authority shall invite mandated representatives of Mana Whenua to participate in a Mana Whenua Group (MWG).</p> <p>(b) The purpose of the MWG is to facilitate engagement between the Requiring Authority and Mana Whenua in respect of the activities authorised by this designation.</p> <p>(c) The group will include invited representatives from:</p> <ul style="list-style-type: none"> <li>(i) Ngāi Tai Ki Tāmaki;</li> <li>(ii) Ngāti Maru;</li> <li>(iii) Ngāti Paoa;</li> <li>(iv) Ngāti Tamaoho;</li> <li>(v) Ngāti Te Ata Waiohua;</li> <li>(vi) Ngāti Whātua Ōrākei;</li> <li>(vii) Te Ahiwaru;</li> <li>(viii) Te Ākitai Waiohua;</li> <li>(ix) Te Kawerau ā Maki; and</li> <li>(x) Te Rūnanga o Ngāti Whātua.</li> </ul> <p>(d) The MWG will hold regular meetings (at least three monthly) throughout the construction period. The MWG shall continue until six months after Completion of Construction. The frequency and duration of the meetings can be reduced or increased where the majority of the members of the group agree.</p>

Ref	Applies to:	
		<p>(e) The Requiring Authority shall record the main points arising from each meeting of the MWG, and shall provide a copy of that record to the meeting invitees within a reasonable time following the meeting.</p> <p>(f) The Requiring Authority shall be responsible for all reasonable costs associated with the resourcing of the MWG.</p>
<b>MW.2</b>	NoR 1 NoR 2	<p>The MWG will be provided opportunities to review and comment on the following (amongst other things):</p> <p>(a) The ULDMP, with particular reference to design elements of the following features:</p> <ul style="list-style-type: none"> <li>i) Works in the vicinity of Te Hōpua a Rangi including how Mana Whenua artworks or design themes are incorporated and delivered into that design and nomination of an artist to design the artwork referred to in Condition LV.5B;</li> <li>ii) Design of the reclamation, coastal paths and boardwalk along the Mangere Inlet.</li> <li>iii) Landscape treatment (including plant species, plant sources and planting methodology), alignment and design of the recreation walkway, interpretive signage and other amenities along the Māngere Inlet foreshore recreation walkway;</li> <li>iv) Aesthetic design through the upper reaches of the Māngere Inlet (Anns Creek), including reflection of the Kāretu Portage in the design of the viaduct and interpretive signage;</li> <li>v) Design associated with the Kāretu Portage Path (an elevated shared path from west of Great South Road and along Sylvia Park Road), including reflection of the historic Kāretu Portage in design of this feature;</li> <li>vi) Structures in the vicinity of the waahi tapu at Mt Wellington Interchange; and</li> <li>vii) Design of the Ōtāhuhu Creek bridges and in particular the treatment beneath these structures to reflect and respond to the Ōtāhuhu portage.</li> </ul> <p>(b) The Heritage Management Plan (as required by designation Condition HH.3) including details of Mana Whenua construction monitoring for sites identified as having significance to the Mana Whenua Group (including but not limited to Te Hōpua a Rangi, Anns Creek and foreshore, Mt Wellington Interchange area, Ōtāhuhu Creek);</p> <p>(c) Accidental Discovery Protocol (as required by designation Condition HH.2);</p> <p>(d) The ECOMP (as required by consent Condition EM.1) including the detail of ecological restoration planting along the northern shoreline of the Māngere Inlet, Anns Creek and Ōtāhuhu Creek;</p> <p>(e) The CEMP and Coastal Works CEMP (as required by consent Conditions RC.10 and C.4), including details on site inductions, training programme(s) and tikanga for construction works (particularly for works in sensitive areas such as Te Apunga o Tainui at Mt Wellington Interchange) to respond to matters of significance to Mana Whenua; and</p> <p>(f) Results of environmental monitoring prior to and during construction as required by conditions of the designation and related resource consents (e.g. water and leachate design performance monitoring under Condition C.1H and the scientific analysis of material of geological interest from the cut into the Te Hōpua a Rangi tuff ring under Condition HH.8), including information to support cultural monitoring requirements.</p>
<i>Cultural Monitoring Plan (Construction)</i>		
<b>MW.3</b>	NoR 1	Prior to the Commencement of Construction, a <b>Cultural Monitoring Plan</b> or plans shall be prepared by a person endorsed by the Mana Whenua Group.

Ref	Applies to:	
	NoR 2	
<b>MW.4</b>	NoR 1 NoR 2	The purpose of the Cultural Monitoring Plan is to set out the agreed cultural monitoring requirements and measures to be implemented during construction activities, to acknowledge the historic and living cultural values of the area to Mana Whenua and to minimise potential adverse effects on these values.
<b>MW.5</b>	NoR 1 NoR 2	<p>The Cultural Monitoring Plan shall include (but not be limited to):</p> <ul style="list-style-type: none"> <li>(a) Requirements for formal dedication or cultural interpretation to be undertaken prior to works commencing in areas identified as having significance to Mana Whenua (including but not limited to Te Hōpua a Rangī, Anns Creek and foreshore, Mt Wellington Interchange area, Ōtāhuhu Creek):</li> <li>(b) Requirements and protocols for cultural inductions;</li> <li>(c) Identification of sites and areas where cultural monitoring is required during particular Construction Works;</li> <li>(d) Identification of any other specific activities requiring cultural monitoring (e.g. implementation of spill contingency measures or specific works in the CMA);</li> <li>(e) Identification of personnel nominated by Mana Whenua to undertake cultural monitoring, including any geographic definition of their responsibilities;</li> <li>(f) Details of personnel nominated by the Requiring Authority and Mana Whenua to assist with management of any issues identified during cultural monitoring, including implementation of the Accidental Discovery Protocol developed under Condition HH.2;</li> <li>(g) Identification of any opportunities and intent from Mana Whenua to reuse excavated natural material from the EWL Trench at Te Hōpua a Rangī, and if so, proposed measures to achieve this; and</li> <li>(h) Details of any pre-construction monitoring that may assist Mana Whenua in their monitoring role (e.g. avifauna monitoring, baseline water quality monitoring).</li> </ul>
<b>HISTORIC HERITAGE (HH)</b>		
<i>Archaeology</i>		
<b>HH.1</b>	NoR 1 NoR 2	Left intentionally blank.
<b>HH.2</b>	NoR 1 NoR 2	<p>The Requiring Authority shall prepare an Accidental Discovery Protocol for any accidental archaeological discoveries which occur during Construction Works.</p> <p>The Accidental Discovery Protocol shall be consistent with Auckland Unitary Plan Accidental Discovery Rule in Standard E.11.6.1, and E.12.6.1.</p> <p>The Accidental Discovery Protocol shall be prepared in consultation with the Mana Whenua Group and modified to reflect the site specific Project detail.</p> <p>The Accidental Discovery Protocol shall be implemented throughout the Construction Works.</p>
<i>Heritage Management Plan</i>		
<b>HH.3</b>	NoR 1 NoR 2	(a) Prior to Commencement of Construction, the Requiring Authority shall prepare and implement a <b>Heritage Management Plan</b> (HMP).

Ref	Applies to:	
		<p>(b) The purpose of the HMP is to identify procedures and practices to be adopted to protect, as far as reasonably practicable, historic heritage and remedy and mitigate any residual effects.</p> <p>(c) The HMP shall be implemented throughout Construction Works.</p>
<b>HH.4</b>	NoR 1 NoR 2	<p>The HMP shall be prepared by a Suitably Qualified Person in consultation with Council, HNZPT and Mana Whenua, and shall identify:</p> <p>(a) Known historic heritage within the designation boundary;</p> <p>(b) Any pre-1900 areas covered by an Archaeological Authority under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA);</p> <p>(c) Roles, responsibilities and contact details of personnel and/or relevant agencies (including but not limited to Auckland Council, New Zealand Police, HNZPT, and mana whenua representatives) involved with historic heritage matters including surveys and monitoring of conditions;</p> <p>(d) Methods for identifying avoiding, protecting and/or minimising effects on historic heritage during construction where practicable in line with the ICOMOS NZ Charter and including construction methods that minimise vibration;</p> <p>(e) Details for recording and salvage prior to removal of the historic railway bridge and tunnel located adjacent to Onehunga Harbour Road. The recording and salvage shall be aligned, as appropriate, with the Salvage and Conservation Heritage Plan for the proposed removal of the 1875/1915 Māngere Bridge (being part of a separate works project planned by the NZ Transport Agency).</p> <p>(f) Training requirements for contractors and subcontractors on historic heritage areas/features within the designation boundary and any accidental discovery protocols. The training shall be undertaken under the guidance of a Suitably Qualified Person and representatives of the Mana Whenua Group;</p> <p>(g) Cultural inductions for site/places of importance to Mana Whenua;</p> <p>(h) Proposed methodology for assessing the condition of historic heritage, and the means to mitigate any adverse effects (if any) on the built heritage features listed in Condition HH.5, including allocation of resources and the timeframe for implementing the proposed methodology in accordance with <i>Heritage New Zealand guideline AGS 1A: Investigation and Recording of Buildings and Standing Structures for assessing and recording built heritage</i> dated 4 July 2014 (or any subsequent revision); and</p> <p>(i) Proposed methodology for documentation of historic heritage exposed during construction and the recording of these sites in the Auckland Council Cultural Heritage Inventory (<a href="http://www.chi.net/Home.aspx">www.chi.net/Home.aspx</a>).</p>
<b>HH.4A</b>	NoR 1 NoR 2	<p>Electronic copies of all historic heritage reports relating to historic heritage investigations (evaluation, excavation and monitoring etc.), including interim reports, shall be submitted to the Manager as soon as they are produced.</p>
	NoR 1 NoR 2	<p><b>Advice note:</b></p> <p><i>HNZPTA provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. All archaeological sites are protected by the provisions of the Act (section 42). It is unlawful to modify, damage or destroy an archaeological site without prior authority from HNZPT. An Authority is required whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under Unitary, District or Regional Plans.</i></p> <p><i>According to the Act (section 6) archaeological site means, subject to section 42(3) –</i></p>

Ref	Applies to:	
		<p>a) any place in New Zealand, including any building or structure (or part of a building or structure), that –</p> <ul style="list-style-type: none"> <li>i. was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and</li> <li>ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and</li> </ul> <p>b) includes a site for which a declaration is made under section 43(1)</p> <p><i>It is the responsibility of the Requiring Authority to consult with HNZPT about the requirements of the Act and to obtain the necessary Authorities under the Act should these become necessary, as a result of any activity associated with the consented proposals.</i></p> <p><i>For information please contact the HNZPT Northern Regional Archaeologist – 09 307 0413 / archaeologistMN@historic.org.nz.</i></p>
<b>Built Heritage Features – Condition Survey</b>		
<b>HH.5</b>	NoR 1	<p>(a) Subject to receiving the owners written approval, a building condition survey shall be undertaken by a Suitably Qualified Person for the following built heritage structures prior to the Commencement of Construction in the vicinity of those structures:</p> <ul style="list-style-type: none"> <li>(i) The Aotea Sea Scouts Hall at 1 Orpheus Drive and stone walls including an inventory and photographic survey of the interior fittings;</li> <li>(ii) The Landing at 2 Onehunga Harbour Road;</li> <li>(iii) The Extent of Place as identified in the Auckland Unitary Plan (Operative in Part) and any contributing buildings on Onehunga Wharf at 55 Onehunga Harbour Road;</li> <li>(iv) The Waikaraka Park stone walls in the following locations: <ul style="list-style-type: none"> <li>• along the southern boundary between Waikaraka Park and the EWL Main Alignment;</li> <li>• along the western boundary at Alfred Street; and</li> <li>• along the eastern boundary at Captain Springs Road.</li> </ul> </li> <li>(v) The Waikaraka Park stone caretakers' cottage on Captain Springs Road.</li> </ul> <p>(b) The purpose of the survey is to determine the pre-construction condition, context and physical features of the built heritage structures to form the basis of construction monitoring.</p> <p>(c) The outcome of the survey shall be provided to the building owner within 20 working days following completion of the survey and a copy shall be provided to the Manager.</p> <p>(d) Regular visual inspections of the built heritage structures shall also be undertaken during periods of construction activity that have the potential to result in significant vibration. The visual inspection shall be undertaken at a frequency appropriate to the nature and duration of the construction activity.</p> <p>(e) A post-construction condition survey shall be undertaken within 3 months following Completion of Construction in the vicinity of the built heritage feature. The outcome of the survey shall be provided to the building owner following completion of the survey and a copy shall be provided to the Manager.</p> <p>(f) If any damage occurs that is verified as attributable to the Construction Works, the Requiring Authority shall (with the agreement of the building owner and subject to any additional approval required) make good the damage and advise the Manager of the work undertaken.</p>

Ref	Applies to:	
HH.6	NoR 1	<p>The Requiring Authority is deemed to have complied with Condition HH.5 if:</p> <ul style="list-style-type: none"> <li>(a) The Requiring Authority has written to the building owner offering the structural condition survey and the owner did not accept the Requiring Authority's offer within three months of the date of the Requiring Authority's written offer; or</li> <li>(b) The built heritage feature owner cannot, after reasonable enquiry, be found.</li> </ul>
HH.6A	NoR2	<p>Prior to the removal of the houses at 69 Panama Road and 31 Frank Grey Place, the houses shall be photographically recorded and the record shall be provided to the Manager.</p>
<i>Aotea Sea Scout Hall – Conservation Plan</i>		
HH.7	NoR1	<p>The Requiring Authority shall update the Conservation Plan for the Aotea Sea Scout Hall contained in the document titled <i>Aotea Sea Scouts Building Conservation Plan, 19 February 2007, Revision: FINAL DRAFT, MHX REF:X025</i>.</p> <p>The update shall consider the following:</p> <ul style="list-style-type: none"> <li>(a) Any changes to history and narrative as a result of new information;</li> <li>(b) Statements of heritage value;</li> <li>(c) Review current condition including any changes, deterioration or loss of heritage fabric;</li> <li>(d) Document any maintenance or repairs undertaken; and</li> <li>(e) Review of policy regarding use of the building.</li> </ul> <p>The updated Conservation Plan shall also include:</p> <ul style="list-style-type: none"> <li>(i) A structural and condition survey, a schedule of recommended prioritised conservation repair and maintenance work, and preliminary cost estimates; and</li> <li>(ii) An assessment of works required to provide a wastewater connection.</li> </ul> <p>The updated Conservation Plan shall be submitted to the Manager for information at the same time as the submission of the Heritage Management Plan prepared under Condition HH.3.</p>
HH.7A	NoR1	<ul style="list-style-type: none"> <li>(a) The recommendations of the updated Conservation Plan shall be discussed with the landowner(s), building owner, HNZPT and Auckland Council's Heritage Unit.</li> <li>(b) The Requiring Authority, in consultation with the parties identified in (a) above shall identify which recommendations of the updated Conservation Plan will be implemented (in part or in full) as part of the Project. For example, this could include prioritised conservation repair and maintenance works and / or a wastewater connection.</li> <li>(c) Subject to the agreement of the building owner and/or the landowner(s), and the grant of any required statutory approvals, the Requiring Authority shall implement any works identified in (b) above, prior to or within 12 months of Completion of Construction.</li> </ul>
<i>Geological Heritage</i>		
HH.8	NoR1	<p>The Requiring Authority shall engage a Suitably Qualified Person to record the geology of the proposed cut into the Te Hōpua a Rangī tuff ring that will be undertaken to form the EWL Trench on Onehunga Harbour Road. The record may include information obtained in advance of construction (e.g. borehole logs), and / or information obtained as the cut progresses.</p>

Ref	Applies to:	
		<p>Provision shall be made for sampling of materials of geological interest and suitable scientific analysis. The site records and finding of further geological analysis shall be prepared in a manner which enables the information to contribute to the geological knowledge of Auckland's volcanic heritage, and shall be provided in a report to the Manager.</p> <p>Subject to compliance with site health and safety requirements, the Requiring Authority shall provide an opportunity for a Council representative with specialist interest in geological heritage to view the cutting at an appropriate time during excavations, whilst exposed natural material is visible.</p>
<b>URBAN DESIGN, LANDSCAPE AND VISUAL (LV)</b>		
LV.1	NoR 1 NoR 2	<p>The Requiring Authority shall prepare an <b>Urban and Landscape Design Master Plan (ULDMP)</b> for the Project. The ULDMP may be submitted in sectors or in parts.</p> <p>The ULDMP shall be included in the Outline Plan submitted prior to the Commencement of Construction of permanent works.</p> <p>A ULDMP is not required for Enabling Works and Site Investigations.</p>
LV.2	NoR 1 NoR 2	<p>The purpose of the ULDMP is to:</p> <ul style="list-style-type: none"> <li>(a) Integrate the Project's permanent works into the surrounding landscape and urban context and to illustrate the urban and landscape design elements of the Project.</li> <li>(b) Outline the requirements for the Project's permanent landscape mitigation works; and</li> <li>(c) Outline the maintenance and monitoring requirements for planting undertaken as part of the ULDMP.</li> </ul>
LV.3	NoR 1 NoR 2	<p>The ULDMP shall be prepared in consultation with:</p> <ul style="list-style-type: none"> <li>i) Council for areas of the Project to become Council assets;</li> <li>ii) Auckland Transport for areas within and adjoining local roads;</li> <li>iii) the Mana Whenua Group;</li> <li>iv) HNZPT;</li> <li>v) Landowners;</li> <li>vi) Adjacent landowners in relation to noise barriers on their boundary;</li> <li>vii) Auckland Council Heritage Unit for works within AUP Historic Heritage Overlay Extent of Place and/or affecting AUP Historic Heritage Overlay and Schedule items; and</li> <li>viii) Panuku Development Auckland for works adjacent to Onehunga Wharf.</li> </ul> <p>Any comments and inputs received from the parties listed above shall be summarised within the ULDMP or supporting document, along with explanation of where any comments or suggestions have not been incorporated and the reasons why.</p>
LV.4	NoR 1 NoR 2	<p>The ULDMP shall be prepared by a Suitably Qualified Person and shall:</p> <ul style="list-style-type: none"> <li>(a) Reflect the Key Design Principles and Sector Outcomes of the Project's <i>Urban and Landscape Design Framework</i> dated November 2016 and the Addendum dated December 2016 (hereafter referred to as the ULDF);</li> <li>(b) Be prepared in general accordance with the following (or equivalent update):</li> </ul>

Ref	Applies to:	
		<ul style="list-style-type: none"> <li>i) NZ Transport Agency's <i>Urban Design Guidelines: Bridging the Gap</i> (2013); and</li> <li>ii) NZ Transport Agency Landscape Guidelines (final draft dated 2014); and NZ Transport Agency's <i>P39 Standard Specification for Highway Landscape Treatments</i>, 2013; and</li> <li>(c) Be integrated with the ULDMP for the areas of the Project within the Coastal Marine Area, and, where relevant, the Ecological Management Plan, both plans to be prepared in accordance with conditions of the resource consents granted for the Project.</li> </ul>
<b>LV.5</b>	NoR 1 NoR 2	<p>The ULDMP shall demonstrate how the Sector-Specific Outcomes in Chapter 5 of the ULDF have been incorporated and shall include the following:</p> <ul style="list-style-type: none"> <li>(a) Design that describes and illustrates the overall urban and landscape design concept, and explains the rationale for the landscape and urban design proposal if different from the ULDF concepts;</li> <li>(b) Developed design details for the urban and landscape design features. These shall cover the following: <ul style="list-style-type: none"> <li>i) Roadside furniture – elements such as lighting, sign gantries and signage, guard rails, fences and median barriers;</li> <li>ii) Architecture and landscape treatment of all major structures, including bridges, structures, underpasses and retaining walls;</li> <li>iii) Architecture and landscape treatment of noise barriers;</li> <li>iv) Land use re-instatement following construction;</li> <li>v) Landscape treatment of permanent stormwater management wetlands and swales;</li> <li>vi) Integration of passenger transport facilities;</li> <li>vii) Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/ cycle bridges or underpasses;</li> <li>viii) Features (such as interpretive signage) for the purpose of identifying and interpreting cultural heritage, built heritage, archaeology, geological heritage and ecology in the Project area;</li> <li>ix) Proposed maintenance boundaries;</li> <li>x) Consideration of: <ul style="list-style-type: none"> <li>• Crime Prevention Through Environmental Design (CPTED) principles;</li> <li>• Safety in Design (SID) requirements;</li> <li>• Maintenance requirements and anti-graffiti measures; and</li> <li>• Protected viewshafts, character areas and protected heritage sites, structures or features, as identified in the Auckland Unitary Plan.</li> </ul> </li> </ul> </li> </ul> <p>The ULDMP shall also describe how road design elements such as median width and treatment, roadside width and treatment, and earthworks contouring, have taken into account the Sector-Specific Outcomes in Chapter 5 of the ULDF.</p>
<b>LV.5A</b>	NoR 1	<p>The ULDMP shall include the following information in relation to works in the vicinity of the Aotea Sea Scouts Building:</p> <ul style="list-style-type: none"> <li>(a) Design details for the area surrounding the Aotea Sea Scout Building to achieve the design outcomes set out in Section 5.1 of the ULDF. These shall cover the following:</li> </ul>



Ref	Applies to:	
		<ul style="list-style-type: none"> <li>(i) Continued vehicular access to the building from Orpheus Drive, with sufficient curtilage for parking to support ongoing use of the building;</li> <li>(ii) Retaining uninterrupted views towards the building from public areas along the Manukau Harbour edge;</li> <li>(iii) Acknowledgement and interpretation of the history of the building;</li> <li>(iv) Design treatment of the retaining walls immediately opposite to acknowledge or recall the history of the building;</li> <li>(v) Interpretive signage as required by LV.5(b)(viii);</li> <li>(vi) Landscaping to soften interface with the road environment; and</li> <li>(vii) Detailing / finish of walls to respond to heritage context.</li> </ul> <p>(b) Identified opportunities for public parking on Onehunga Harbour Road within proximity to the Aotea Sea Scouts Building. The design of any new parking areas shall be integrated with the outcomes to be achieved in Condition LV.5C.</p>
<b>LV.5B</b>	NoR1	<p>(a) The ULDM shall include developed design details for a commissioned artwork that is to highlight the circular form of the Te Hōpua a Rangi crater and emphasise Te Hōpua a Rangi as a landmark. The artwork:</p> <ul style="list-style-type: none"> <li>i) Shall not compromise the use of the park for sports fields;</li> <li>ii) Shall respond to opportunities to recognise the cultural values of the site as identified by the Mana Whenua Group; and</li> <li>iii) Shall accentuate the legibility of the natural landform, and avoid modification of the natural ground in the area identified in the Auckland Unitary Plan as Outstanding Natural Feature. For the avoidance of doubt, this does not exclude excavation for foundations and the like into areas that have been landfilled or otherwise modified;</li> </ul> <p>(b) Subject to agreement of the landowner(s) for the artwork to be located on land outside of the designation, the Requiring Authority shall install the artwork within 12 months of Completion of Construction in this sector. In the event that the landowner does not agree to the artwork, the Requiring Authority shall develop design details and implement an alternative artwork which best emphasises Te Hōpua a Rangi as a landmark.</p>
<b>LV.5C</b>	<b>NoR 1</b>	<p>The ULDM shall include developed design details for the EWL Trench and EWL Land Bridge and immediately adjacent land to achieve the following outcomes:</p> <p>(a) Provide a generous connection between the vicinity of The Landing (2 Onehunga Harbour Road) and Onehunga Wharf, with the length of the EWL Land Bridge (i.e. the distance between its western and eastern end) to be a minimum of 80m and a maximum of 110m. In determining the appropriate length of the Land Bridge, the Requiring Authority shall take account of the outcomes in (b) to (f) below, along with the following technical considerations:</p> <ul style="list-style-type: none"> <li>(i) design to retain the vertical alignment of the EWL trench, maintaining appropriate gradients between the trench and the bridge over SH20 (to the west) and Galway Street intersection (to the east);</li> <li>(ii) design to avoid Dangerous Goods Vehicles from being prevented from using the EWL trench;</li> <li>(iii) design to avoid the trench being classified as a tunnel to the extent that forced ventilation / deluge systems / active monitoring or similar would be required, with the design input to include a Fire Life Safety Assessment;</li> <li>(iv) retention of Onehunga Harbour Road in its current (or similar) vertical alignment to maintain appropriate gradients of the local road;</li> </ul>

Ref	Applies to:	
		<ul style="list-style-type: none"> <li>(v) design to minimise ongoing operation and maintenance requirements; and</li> <li>(vi) minimise visual severance on either side of the land bridge, including between Onehunga Harbour Road and the harbour and wharf, and between Gloucester Park South and the rim of Te Hōpua a Rangi.</li> <li>(b) Provide for local traffic over the EWL Trench accessing Onehunga Wharf, including heavy vehicle access;</li> <li>(c) Enhance pedestrian and cycle access, including to Old Māngere Bridge, Onehunga Wharf, Taumanu, EWL, and Onehunga town centre;</li> <li>(d) Incorporate appropriate parking facilities and service vehicle access to Gloucester Park South;</li> <li>(e) Incorporate appropriate vehicle crossings and driveways to maintain access to private land on Onehunga Harbour Road;</li> <li>(f) Respond to the historic context of the former Manukau Tavern (now The Landing at 2 Onehunga Harbour Road) and the Onehunga Wharf, aligning the land bridge between the two to reference their historic relationship and heritage values including interpretive signage as required by LV.5(b)(viii) ;</li> <li>(g) Where practicable, acoustic treatment within the EWL Trench (e.g. surface treatment on the trench walls) to manage operational noise effects from traffic in the EWL Trench on pedestrians, cyclists and users of adjacent public areas.</li> <li>(h) Not preclude and where practicable accommodate a bus lane from the SH20 northbound off-ramp connecting to Onehunga Harbour Rd in the vicinity of The Landing.</li> </ul> <p>The design details for the EWL Land Bridge shall be developed in a collaborative design process in accordance with Condition DC.11A.</p>
<b>LV.5D</b>	<b>NoR 1</b>	<p>The ULDMP shall include developed design details for the pedestrian and cycle connection between Onehunga Wharf and the eastern extent of Taumanu Reserve to achieve the following outcomes:</p> <ul style="list-style-type: none"> <li>(a) A minimum of 4m width, with occasional wider sections where practicable for amenity features such as lookouts or seating; and</li> <li>(b) Planting or other landscape treatment where practicable, to soften hard edges and integrate with the coastal environment.</li> </ul>
<b>LV.5E</b>	<b>NoR 1</b>	<p>The ULDMP shall include developed design details for the pedestrian and cycle connection between Onehunga Mall and Onehunga Harbour Road / Old Māngere Bridge (including the existing or replacement Old Māngere Bridge) to achieve the following outcomes:</p> <ul style="list-style-type: none"> <li>(a) A primary route by way of Onehunga Mall and an underpass beneath SH20, that is: <ul style="list-style-type: none"> <li>(i) Legible as the primary route;</li> <li>(ii) As direct as possible, and has sightlines as open as possible;</li> <li>(iii) Incorporates a high amenity streetscape in Onehunga Mall;</li> <li>(iv) Addresses amenity and CPTED matters in the underpass; and</li> <li>(v) Incorporates a minimum 5m wide bridge over the EWL Trench, with design details that provide a sense of separation from the EWL Main Alignment;</li> </ul> </li> <li>(b) An alternative route adjacent to Onehunga Harbour Road that addresses amenity and CPTED matters beneath the SH20 bridge.</li> </ul>
<b>LV.5F</b>	<b>NoR 1</b>	<p>The ULDMP shall include developed design details for works at the southern boundary of Waikaraka Cemetery and Waikaraka Park South to achieve the following outcomes:</p>

Ref	Applies to:	
		<p>(a) A high quality urban design and landscape treatment between the EWL Main Alignment and Waikaraka Cemetery and Waikaraka Park South to:</p> <ul style="list-style-type: none"> <li>i) Soften views of the EWL Main Alignment from within the Cemetery and Park;</li> <li>ii) Maintain a sense of separation from the EWL Main Alignment;</li> <li>iii) Incorporate elevated areas or features from which views are available over Māngere Inlet;</li> <li>iv) Reflect the built and landscape features of the historic heritage within the Extent of Place (such as existing rock walls and pohutukawa) and include interpretive signage as required by LV.5(b)(viii);</li> <li>v) Incorporate measures to mitigate operational noise effects from traffic on the EWL Main Alignment on visitors to the Cemetery with a target to achieve 50 dB <math>L_{Aeq}</math> when measured within the boundary of the Cemetery unless impracticable to do so in which case achieve Best Practicable Option taking into account the outcomes in (i) to (iv) above.</li> </ul> <p>(b) Integrated urban design and landscape treatment which takes into account engineering considerations such as groundwater and stormwater management;</p> <p>(c) Integration with pedestrian and cycle connections to the west and east of the Cemetery and Park, and along and across the EWL Main Alignment; and</p> <p>(d) Integration with parking to be retained in Waikaraka Cemetery.</p> <p>The design details shall take into account the future sports fields to be developed by Council in Waikaraka Park South, and shall integrate with any works forming part of the Waikaraka Park Reinstatement Plan prepared in accordance with Condition ROS.6</p>
<b>LV.5G</b>	NoR 1	<p>The ULDMP shall include the following developed design details in relation to the EWL Main Alignment along the Māngere Inlet foreshore:</p> <p>(a) Design details for the section of the EWL Main Alignment along the Māngere Inlet foreshore between Galway Street to mid-way between Captain Springs Road and Ports Link Road, with the purpose of those details being to ensure the design for this section of the road has an urban arterial character, and differs in character from the balance of EWL recognising its urban harbour frontage. This outcome could be achieved by incorporating design elements such as:</p> <ul style="list-style-type: none"> <li>(i) Different road surface material;</li> <li>(ii) No median barrier;</li> <li>(iii) 60 kph posted speed limit;</li> <li>(iv) A succession of elements on either side of the EWL Main Alignment, perpendicular to the highway, to create a visual transition to a slower speed environment (gateway structures);</li> <li>(v) Wide promenade footpath on the outer edge;</li> <li>(vi) Distinctive footpath details;</li> <li>(vii) Bespoke street furniture;</li> <li>(viii) Street trees; and</li> <li>(ix) City street lights.</li> </ul> <p>(b) The design details shall integrate with proposed road embankment, landscape and amenity features, access, and stormwater treatment areas to be constructed in the Coastal Marine Area as part of the Project and as authorised by coastal permits granted for the Project.</p>

Ref	Applies to:	
<b>LV.5H</b>	NoR 1	The ULDMP shall include design details for the Kāretu Portage Path (an elevated shared path from west of Great South Road and along Sylvia Park Road), which achieve the design outcomes set out in Section 5.3 and 5.4 of the ULDF Addendum dated December 2016.
<b>LV.6</b>	NoR 1 NoR 2	<p>The ULDMP shall include the following planting details:</p> <ul style="list-style-type: none"> <li>(a) Identification of vegetation to be retained (including trees identified in accordance with Condition TR.1), protection measures, and planting to be established along cleared edges;</li> <li>(b) Details of the sourcing of native plants. Any planting using native plants shall use plants genetically sourced from the Tamaki Ecological District where possible or otherwise shall use plants that have been genetically sourced from within the Auckland Ecological Region;</li> <li>(c) Proposed planting including plant species, plant/grass mixes, spacing/densities, sizes (at the time of planting) and layout and planting methods including trials;</li> <li>(d) Planting programme – the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of Construction Works in each stage of the Project;</li> <li>(e) Detailed specifications for landscape planting relating to (but not limited to) the following: <ul style="list-style-type: none"> <li>i) Weed control and clearance;</li> <li>ii) Pest animal management;</li> <li>iii) Ground preparation (topsoiling and decompaction);</li> <li>iv) Mulching; and</li> <li>v) Plant sourcing and planting, including hydroseeding and grassing;</li> </ul> </li> <li>(f) The detailed specifications above are to be consistent with the ECOMP required by Condition EM.1 and with planting plans for the stormwater treatment wetlands required by Condition SW.1.</li> <li>(g) For any landscape planting, a maintenance regime including monitoring and reporting requirements, which is to apply for the 2 years following that planting being undertaken; and</li> <li>(h) For any ecological restoration planting, a maintenance regime including monitoring and reporting requirements, which is to apply for the 5 years following that planting being undertaken.</li> </ul>
<b>LV.7</b>	NoR 1 NoR 2	<p>Planting shall be implemented:</p> <ul style="list-style-type: none"> <li>(a) Wherever practicable prior to Commencement of Construction; or</li> <li>(b) As soon as areas become available for planting due to the progress of the works and seasonal conditions; and/or</li> <li>(c) Within twelve months of Completion of Construction, unless the seasonal timing of works makes some planting impracticable, in which case such planting shall be completed no later than twenty four months after Completion of Construction.</li> </ul>
<b>LV.8</b>	NoR 2	Where the Requiring Authority installs noise barriers immediately adjacent to residential properties between Panama Road and the southern extent of the works, it shall offer to undertake planting to soften the appearance of the barrier.

Ref	Applies to:	
		The offer shall be made no later than 3 months prior to Completion of Construction. If the offer is not accepted by a property owner within that timeframe, this condition is deemed to have been complied with.
<b>TREES (TR)</b>		
<b>TR.1</b>	NoR 1 NoR 2	<p>Arboricultural assessments shall be carried out prior to Commencement of Construction to assess if any existing trees within the construction area are worthy of retention or relocation and if it is practicable to retain or relocate those trees.</p> <p>The assessment shall include a survey of trees prior to the Commencement of Construction within parks, reserves and local roads to inform the replacement of these trees in accordance with Condition TR.2. The survey methodology shall be provided to the Manager for certification.</p> <p>If retention or relocation of a tree is determined appropriate, specific tree protection/management measures shall be developed and implemented throughout the Construction Works so that health of the trees is not adversely affected. Where any retained or relocated trees are located on Council owned land (including Council owned open space and road reserve), the Council's nominated arborist shall be consulted regarding appropriate tree protection/management measures.</p>
<b>TR.2</b>	NoR 1 NoR 2	Trees within parks, reserves and local roads that require removal for the Project shall be replaced with trees of suitable/comparable species and size to achieve comparable canopy footprint after 10 years in a location agreed with Council (for parks and reserves) or Auckland Transport (for local roads and paths). Details of the location, species and size of the replacement trees shall be included in the ULDMP prepared in accordance with Condition LV.1.
<b>TR.3</b>	NoR 1 NoR 2	Where any works occur within the dripline of a notable tree or trees within a Historic Heritage Overlay Extent of Place (as identified in the maps of the AUP), those works shall be undertaken in accordance with best arboricultural practice and the methodology for the works submitted to the Manager for certification.
<b>TRAFFIC NOISE (OPERATION) (ON)</b>		
<b>ON.1</b>	NoR 1 NoR 2	<p>For the purposes of Conditions ON.2 to ON.14:</p> <ul style="list-style-type: none"> <li>(a) BPO – means the Best Practicable Option;</li> <li>(b) Building-Modification Mitigation – has the same meaning as in NZS 6806:2010 <i>Acoustics – Road-traffic noise – New and altered roads</i>;</li> <li>(c) Habitable Space – has the same meaning as in NZS 6806;</li> <li>(d) Noise Assessment – Means the <i>Traffic Noise and Vibration Assessment Report</i> (Technical Report 7) submitted with the NoR;</li> <li>(e) Noise Criteria Categories – means the groups of preference for sound levels established in accordance with NZS 6806 when determining the BPO for noise mitigation (i.e. Categories A, B and C);</li> <li>(f) NZS 6806 – means New Zealand Standard NZS 6806:2010 <i>Acoustics – Road-traffic noise – New and altered roads</i>;</li> <li>(g) P40 – means NZ Transport Agency NZTA P40:2014 Specification for noise mitigation;</li> </ul>

Ref	Applies to:	
		<p>(h) PPFs – means only the premises and facilities identified in green, orange or red in the <i>Noise Assessment</i>; and</p> <p>(i) Structural Mitigation – has the same meaning as in NZS 6806.</p>
<i>Structural Mitigation</i>		
<b>ON.2</b>	NoR 1 NoR 2	The road-traffic noise mitigation measures identified as the ‘Recommended Traffic Noise Mitigation’ in the <i>Noise Assessment</i> must be implemented to achieve the Noise Criteria Categories indicated in the <i>Noise Assessment</i> (‘Identified Categories’), where practicable and subject to Conditions ON.3 to ON.14.
<b>ON.3</b>	NoR 1 NoR 2	<p>Prior to Commencement of Construction, a Suitably Qualified Person must undertake the detailed design of the Structural Mitigation measures in the <i>Noise Assessment</i> (the ‘Detailed Mitigation Options’), which, subject to Condition ON.4, must include at least:</p> <p>(a) Noise barriers with location, length and height in general accordance with the <i>Noise Assessment</i>; and</p> <p>(b) Low-noise road surfaces with location in general accordance with the <i>Noise Assessment</i>.</p>
<b>ON.4</b>	NoR 1 NoR 2	<p>If it is not practicable to implement a particular Structural Mitigation measure in the location or of the length or height included in the <i>Noise Assessment</i>, a changed design can be included in the Detailed Mitigation Options if either:</p> <p>(a) the changed design would result in the same Identified Category at all PPFs or better, and a Suitably Qualified Person certifies to the Manager that the changed Structural Mitigation would be consistent with adopting the BPO in accordance with NZS 6806; or</p> <p>(b) the changed design would result in an increase in the noise level at any PPF of greater than 2dB and the Manager confirms that the changed Structural Mitigation would be consistent with adopting the BPO in accordance with NZS 6806.</p>
<i>Noise Mitigation Design Report</i>		
<b>ON.5</b>	NoR 1 NoR 2	<p>Prior to Commencement of Construction, a <b>Noise Mitigation Design Report</b> written in accordance with NZ Transport Agency <i>P40 Specification for Noise Mitigation 2014</i> must be provided to the Manager.</p> <p>The purpose of the Noise Mitigation Design Report is to confirm that the Detailed Mitigation Options meet the requirements of ON.2-ON.4. The Noise Mitigation Design Report shall include confirmation that consultation has been undertaken with affected property owners for site specific design requirements and the implementation programme.</p> <p>Where a Noise Mitigation Design Report is required, it shall be included in the Outline Plan for the relevant stage(s) of the Project.</p>
<b>ON.6</b>	NoR 1 NoR 2	The Detailed Mitigation Options must be implemented prior to Completion of Construction, with the exception of any low-noise road surfaces, which must be implemented within twelve months of Completion of Construction.
<b>ON.7</b>	NoR 1 NoR 2	Within twelve months of Completion of Construction, a post-construction review report written in accordance with NZ Transport Agency <i>P40 Specification for Noise Mitigation 2014</i> must be provided to the Manager.
<b>ON.8</b>	NoR 1 NoR 2	The Detailed Mitigation Options must be maintained so they retain their noise reduction performance as far as practicable.

Ref		Applies to:
<i>Building-Modification Mitigation</i>		
<b>ON.9</b>	NoR 1 NoR 2	Prior to Commencement of Construction, a Suitably Qualified Person must identify those PPFs which, following implementation of all the Detailed Mitigation Options, will not achieve Noise Criteria Category A or B and where Building-Modification Mitigation might be required to achieve 40 dB $L_{Aeq(24h)}$ inside habitable spaces ('Category C Buildings').
<b>ON.10</b>	NoR 1 NoR 2	Prior to Commencement of Construction in the vicinity of each Category C Building, the Requiring Authority must write to the owner of the Category C Building requesting entry to assess the noise reduction performance of the existing building envelope. If the building owner agrees to entry within twelve months of the date of the Requiring Authority's letter, the Requiring Authority must instruct a Suitably Qualified Person to visit the building and assess the noise reduction performance of the existing building envelope.
<b>ON.11</b>	NoR 1 NoR 2	For each Category C Building identified, the Requiring Authority is deemed to have complied with Condition ON.10 if: <ul style="list-style-type: none"> <li>(a) The Requiring Authority's acoustics specialist has visited the building; or</li> <li>(b) The building owner agreed to entry, but the Requiring Authority could not gain entry for some reason (such as entry denied by a tenant and the building owner has been notified of that denial); or</li> <li>(c) The building owner did not agree to entry within twelve months of the date of the Requiring Authority's letter sent in accordance with Condition ON.10 (including where the owner did not respond within that period); or</li> <li>(d) The building owner cannot, after reasonable enquiry, be found prior to Completion of Construction.</li> </ul> <p>If any of (b) to (d) above apply to a Category C Building, the Requiring Authority is not required to implement Building-Modification Mitigation to that building.</p>
<b>ON.12</b>	NoR 1 NoR 2	Subject to Condition ON.11, within six months of the assessment required by Condition ON.10, the Requiring Authority must write to the owner of each Category C Building advising: <ul style="list-style-type: none"> <li>(a) If Building-Modification Mitigation is required to achieve 40 dB <math>L_{Aeq(24h)}</math> inside habitable spaces; and</li> <li>(b) The options available for Building-Modification Mitigation to the building, if required; and</li> <li>(c) That the owner has three months to decide whether to accept Building-Modification Mitigation to the building and to advise which option for Building-Modification Mitigation the owner prefers, if the Requiring Authority has advised that more than one option is available.</li> </ul>
<b>ON.13</b>	NoR 1 NoR 2	Once an agreement on Building-Modification Mitigation is reached between the Requiring Authority and the owner of a Category C Building, the mitigation must be implemented, including any third party authorisations required, in a reasonable and practical timeframe agreed between the Requiring Authority and the owner.
<b>ON.14</b>	NoR 1 NoR 2	Subject to Condition ON.11, where Building-Modification Mitigation is required, the Requiring Authority is deemed to have complied with Condition ON.13 if: <ul style="list-style-type: none"> <li>(a) The Requiring Authority has completed Building-Modification Mitigation to the building; or</li> </ul>

Ref	Applies to:	
		<ul style="list-style-type: none"> <li>(b) An alternative agreement for mitigation is reached between the Requiring Authority and the building owner; or</li> <li>(c) The building owner did not accept the Requiring Authority's offer to implement Building-Modification Mitigation within three months of the date of the Requiring Authority's letter sent in accordance with Condition ON.12 (including where the owner did not respond within that period); or</li> <li>(d) The building owner cannot, after reasonable enquiry, be found prior to Completion of Construction.</li> </ul>
<b>CONSTRUCTION NOISE AND VIBRATION (CNV)</b>		
<b>CNV.1</b>	NoR 1 NoR 2	<p>A <b>Construction Noise and Vibration Management Plan (CNVMP)</b> shall be prepared by a Suitably Qualified Person, and shall be implemented and maintained throughout the entire construction period.</p> <p>The purpose of the CNVMP is to provide a framework for the development and implementation of Best Practicable Option for the management of construction noise and vibration effects, and to minimise any exceedance of the construction noise and vibration criteria set out in Conditions CNV.4 and CNV.5.</p>
<b>CNV.2</b>	NoR 1 NoR 2	<ul style="list-style-type: none"> <li>(a) The CNVMP shall be prepared in accordance with Annex E2 of New Zealand Standard NZS6803:1999 'Acoustics – Construction Noise' (NZS6806:1999) and the NZ Transport Agency's <i>State highway construction and maintenance noise and vibration guide</i> (version 1.0, 2013).</li> <li>(b) The CNVMP shall, as a minimum, address the following: <ul style="list-style-type: none"> <li>(i) Description of the works, anticipated equipment/processes and their scheduled durations;</li> <li>(ii) Hours of operation, including times and days when construction activities would occur;</li> <li>(iii) The construction noise and vibration criteria for the project;</li> <li>(iv) Identification of affected houses and other sensitive locations where noise and vibration criteria apply;</li> <li>(v) Management and mitigation options, including alternative strategies adopting the Best Practicable Option where full compliance with the relevant noise and/or vibration criteria cannot be achieved;</li> <li>(vi) A procedure for developing and implementing the management plans (as required by conditions CNV.6A, CNV.7A and CNV.7B) forming part of this CNVMP;</li> <li>(vii) Methods and frequency for monitoring and reporting on construction noise and vibration;</li> <li>(viii) Procedures for maintaining contact with stakeholders, notifying of proposed construction activities, the period of construction activities, and handling noise and vibration complaints;</li> <li>(ix) Identification of major construction work areas and activities which are anticipated to generate noise and / or vibration levels which will require site specific management plans (in accordance with Condition CNV.6A, CNV.7A and CNV.7B) as soon as reasonably practicable, and procedures for the early engagement with the receivers;</li> </ul> </li> </ul>



Ref	Applies to:																																																												
		<p>(x) Construction equipment operator training procedures and expected construction site behaviours;</p> <p>(xi) Contact details of the site supervisor or project manager and the Requiring Authority's Project Liaison Person (phone, postal address, email address);</p> <p>(xii) Procedures for the regular training of the operators of construction equipment to minimise noise and vibration as well as expected construction site behaviours for all workers; and</p> <p>(xiii) Identification of businesses which operate processes, machinery or equipment that may be unreasonably disrupted by construction vibration even where the Project vibration standards are met or are sensitive to vibration due to the nature of the building materials (e.g. asbestos). For any such businesses a site specific management plan in accordance with CNV.7B shall be prepared and implemented.</p>																																																											
CNV.3	NoR 1 NoR 2	The CNVMP shall identify which mitigation measures required by Conditions ON 1 to ON.6 would also attenuate construction noise. Where practicable, those measures identified in the CNVMP shall be implemented prior to commencing major construction works or early during construction that generate noise in the vicinity.																																																											
CNV.4	NoR 1 NoR 2	<p>(a) Noise arising from construction activities shall be measured and assessed in accordance with NZS 6803:1999 <i>Acoustics - Construction Noise</i> and shall comply with the noise criteria set out in the following table:</p> <p><b>Table CNV1: Construction noise criteria</b></p> <table border="1" data-bbox="456 1093 1485 1839"> <thead> <tr> <th>Timeframe</th> <th>Time</th> <th>L<sub>Aeq(15min)</sub></th> <th>L<sub>AFmax</sub></th> </tr> </thead> <tbody> <tr> <td colspan="4"><b>Residential buildings</b></td> </tr> <tr> <td rowspan="4">0630 Sunday to 0630 Friday</td> <td>0630h - 0730h</td> <td>60 dB</td> <td>75 dB</td> </tr> <tr> <td>0730h - 1800h</td> <td>70 dB</td> <td>85 dB</td> </tr> <tr> <td>1800h - 2000h</td> <td>65 dB</td> <td>80 dB</td> </tr> <tr> <td>2000h - 0630h</td> <td>60 dB</td> <td>75 dB</td> </tr> <tr> <td rowspan="3">0630 Friday to 0630 Saturday</td> <td>0630h - 0730h</td> <td>60 dB</td> <td>75 dB</td> </tr> <tr> <td>0730h - 1800h</td> <td>70 dB</td> <td>85 dB</td> </tr> <tr> <td>1800h - 2000h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td rowspan="3">0630 Saturday to 0630 Sunday and <u>from midnight to midnight on Public Holidays</u></td> <td>0630h - 0730h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td>0730h - 1800h</td> <td>55 dB</td> <td>85 dB</td> </tr> <tr> <td>1800h - 2000h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td rowspan="2">2000h - 0630h</td> <td></td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="4"><b>Commercial and industrial receivers</b></td> </tr> <tr> <td rowspan="2">All</td> <td>0730h – 1800h</td> <td>70dB</td> <td></td> </tr> <tr> <td>1800h – 0730h</td> <td>75 dB</td> <td></td> </tr> </tbody> </table> <p>(b) Where compliance with the noise criteria set out in Table CNV1 is not practicable, then the methodology in Condition CNV.6A shall apply.</p>	Timeframe	Time	L <sub>Aeq(15min)</sub>	L <sub>AFmax</sub>	<b>Residential buildings</b>				0630 Sunday to 0630 Friday	0630h - 0730h	60 dB	75 dB	0730h - 1800h	70 dB	85 dB	1800h - 2000h	65 dB	80 dB	2000h - 0630h	60 dB	75 dB	0630 Friday to 0630 Saturday	0630h - 0730h	60 dB	75 dB	0730h - 1800h	70 dB	85 dB	1800h - 2000h	45 dB	75 dB	0630 Saturday to 0630 Sunday and <u>from midnight to midnight on Public Holidays</u>	0630h - 0730h	45 dB	75 dB	0730h - 1800h	55 dB	85 dB	1800h - 2000h	45 dB	75 dB	2000h - 0630h		45 dB	75 dB				<b>Commercial and industrial receivers</b>				All	0730h – 1800h	70dB		1800h – 0730h	75 dB	
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CNV.5	NoR 1 NoR 2	Construction vibration shall be measured in accordance with ISO 4866:2010 <i>Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures</i> , and shall, as																																																											

Ref	Applies to:
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far as practicable, comply with the Category A construction vibration criteria in Table CNV2.

(a) If measured or predicted vibration from construction activities exceeds the Category A criteria, a Suitably Qualified Person must assess and manage construction vibration during those activities. This shall involve engagement with the affected receivers to:

- (i) discuss the nature of the work and the anticipated days and hours when the exceedance is likely to occur; and
- (ii) assess, where practicable, if the exceedance could be timed or managed to reduce the effects on the receiver.

(b) If measured or predicted vibration from construction activities exceeds the Category B criteria those activities may only proceed subject to Condition CNV.7A.

**Table CNV2 Construction Vibration Criteria for People and Buildings**

Receiver	Details	Category A	Category B
<b>Occupied PPFs</b>			
Inside the building	Night-time 2000h - 0630h	0.3mm/s PPV	1mm/s PPV
	Daytime 0630h - 2000h	1mm/s PPV	5mm/s PPV
	Blasting – vibration	5mm/s PPV	10mm/s PPV
Free field	Blasting - airblast	120dB <sub>Lzpeak</sub>	-
<b>Other occupied buildings</b>			
Inside the building	Daytime 0630h - 2000h	2mm/sPPV	5mm/s PPV
<b>All other buildings</b>			
Building foundation		5mm/s PPV	Tables 1 and 3 of DIN4150-3:1999**
Free field	Airblast	-	133dB <sub>Lzpeak</sub>

\* For vibration, protected premises and facilities (PPFs) are dwellings, educational facilities, boarding houses, homes for the elderly and retirement villages, marae, hospitals that contain in-house patient facilities and buildings used as temporary accommodation (e.g. motels and hotels).

German Standard DIN 4150-3:1999 "Structural Vibration - Part 3: Effects of Vibration on Structures"

**Table CNV3 Construction Vibration Criteria for buried pipework\*\*\***

Pipe material	Guideline values for velocity measured on the pipe, v <sub>i</sub> , in mm/s
Steel (including welded pipes)	100
Clay, concrete, reinforced concrete, metal (with or without flange)	80
Masonry, plastic	50

Ref	Applies to:	
		<p>*** Based on the German Standard DIN 4150-3:1999 "Structural Vibration - Part 3: Effects of Vibration on Structures".</p>
<p><b>CNV.6A</b></p>	<p>NoR 1 NoR 2</p>	<p>(a) A Site Specific Construction Noise Management Plan (SSCNMP) shall be prepared by a Suitably Qualified Person, in consultation with the owners and occupiers of sites subject to the SSCNMP, when construction noise is either predicted or measured to exceed the criteria in Condition CNV.4, except where the exceedance of the criteria in Condition CNV.4 is no greater than 5 decibels and does not exceed:</p> <ul style="list-style-type: none"> <li>i) 0700-2200: 1 period of up to 2 consecutive weeks in any 2 months; or</li> <li>ii) 2200-0700: 1 period of up to 2 consecutive nights in any 10 days.</li> </ul> <p>(b) The objective of the SSCNMP is to set out the best practicable option for the management of noise effects of the construction activity. The SSCNMP shall as a minimum set out:</p> <ul style="list-style-type: none"> <li>i) Construction activity location, start and finish dates;</li> <li>ii) The predicted noise level for the construction activity;</li> <li>iii) Noise limits to be applied for the duration of the activity;</li> <li>iv) The mitigation options that have been selected and the options that have been discounted as being impracticable and the reasons why. The mitigation options shall take into account where practicable, the use of the site and/or any operational requirements of the site. Mitigation options may include: <ul style="list-style-type: none"> <li>a. managing times of activities to avoid night works and other sensitive times;</li> <li>b. liaising with neighbours so they can work around specific activities;</li> <li>c. selecting equipment and methodologies to restrict noise;</li> <li>d. using screening, enclosures or barriers;</li> <li>e. if appropriate and reasonable, offering neighbours temporary relocation;</li> </ul> </li> <li>v) The proposed noise monitoring regime;</li> <li>vi) Document the consultation undertaken with owners and occupiers of sites subject to the SSCNMP, and how consultation outcomes have and have not been taken into account. The consultation shall be in addition to the requirements set out in Condition CS.2.</li> </ul> <p>(c) The SSCNMP shall be submitted to the Manager for certification at least 5 working days, except in unforeseen circumstances, in advance of Construction Works which are covered by the scope of the SSCNMP.</p> <p>(d) Where changes are made to a certified SSCNMP, the Requiring Authority shall consult the owners and occupiers of sites subject to the SSCNMP prior to submitting the amended SSCNMP to the Manager for certification in accordance with Clause (c). The amended SSCNMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.</p>
<p><b>CNV.7A</b></p>	<p>NoR 1 NoR 2</p>	<p>(a) A Site Specific Construction Vibration Management Plan (SSCVMP) shall be prepared by a Suitably Qualified Person, in consultation with the owners and occupiers of sites subject to the SSCVMP, when construction vibration is either predicted or measured to exceed the Category B criteria at the receivers in Condition CNV.5.</p>

Ref	Applies to:	
		<p>(b) The objective of the SSCVMP is to set out the Best Practicable Option for the management of construction vibration effects. The SSCVMP shall as a minimum set out:</p> <ul style="list-style-type: none"> <li>i) Construction activity location, start and finish dates;</li> <li>ii) The predicted vibration level for the construction activity;</li> <li>iii) An assessment of each building and any pipe work to determine susceptibility to damage from vibration and define acceptable vibration limits that the works must comply with to avoid damage;</li> <li>iv) The mitigation options that have been selected and the options that have been discounted as being impracticable and the reasons why. The mitigation options shall take into account where practicable, the use of the site and/or any operational requirements of the site. Mitigation options may include: <ul style="list-style-type: none"> <li>a. Phasing of vibration-generating activities;</li> <li>b. Avoiding impact pile driving and vibratory rollers where possible in vibration-sensitive areas;</li> <li>c. Liaising with neighbours so they can work around specific vibration-generating activities;</li> <li>d. Selecting equipment and methodologies to minimise vibration;</li> </ul> </li> <li>v) The proposed vibration monitoring regime;</li> <li>vi) The consultation undertaken with owners and occupiers of sites subject to the SSCVMP, and how consultation outcomes have and have not been taken into account. The consultation shall be in addition to the requirements set out in Condition CS.2; and</li> <li>vi). The pre-condition survey of buildings which document their current condition and any existing damage.</li> </ul> <p>(c) The SSCVMP shall be submitted to the Council for certification at least 5 working days, except in unforeseen circumstances, in advance of Construction Works which are covered by the scope of the SSCVMP.</p> <p>(d) Where changes are made to a certified SSCVMP, the Requiring Authority shall consult the owners and occupiers of sites subject to the SSCVMP prior to submitting the amended SSCVMP to the Manager for certification in accordance with Clause (c). The amended SSCVMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.</p>
<b>CNV.7B</b>	NoR 1	<p>(a) In addition to the matters in CNV.7A, a SSCVMP shall also be required in circumstances when construction vibration is predicted to adversely affect commercial activities located within 50m of Construction Works that are verified by a Suitably Qualified Person as being uniquely sensitive to construction vibration due to the nature of specialised equipment and/or the nature of the building materials (e.g. asbestos). At a minimum, a SSCVMP shall be prepared for:</p> <ul style="list-style-type: none"> <li>(i) Stratex Group Limited site, 19 – 21 Sylvia Park Road; and</li> <li>(ii) Fonterra Tip Top site, 113 Carbine Road. With respect to this site, "activities" and "processes, machinery or equipment" in Condition CNV7.B(b) includes: <ul style="list-style-type: none"> <li>• underground wet services (including stormwater drainage and wastewater);</li> <li>• earthenware pipes;</li> </ul> </li> </ul>

Ref	Applies to:	
		<ul style="list-style-type: none"> <li>• underground cabling (including 11kV and 400V power cables and associated switchboxes);</li> <li>• ducted services; and</li> <li>• other core underground infrastructure which the landowner has confirmed to the Requiring Authority, in writing, prior to Commencement of Construction.</li> </ul> <p>(b) In addition to the requirements of CNV.7A, the SSCVMP shall include, with respect to those vibration sensitive commercial activities:</p> <ol style="list-style-type: none"> <li>i) Informed by consultation with the owners and/or occupiers of sites, identification of the processes, machinery or equipment which are uniquely sensitive to construction vibration, and the reasons why;</li> <li>ii) An assessment of the sensitivity of the processes, machinery or equipment to construction vibration;</li> <li>iii) Construction vibration criteria for the vibration sensitive commercial activities;</li> <li>iv) A process for dealing with any disagreement which may arise, particularly in relation to the determination of the vibration limits; and</li> <li>v) Procedures and methods for monitoring compliance with the vibration criteria established under (iii) above.</li> </ol> <p>(c) Where changes are made to a certified SSCVMP required by this condition, the Requiring Authority shall consult the owners and/or occupiers of sites subject to the SSCVMP prior to submitting the amended SSCVMP to the Manager for certification in accordance with Condition CNV.7A(c). The amended SSCVMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.</p>
<b>CONSTRUCTION TRAFFIC (CT)</b>		
<i>Construction Traffic Management Plan</i>		
CT.1	NoR 1 NoR 2	<p><b>A Construction Traffic Management Plan (CTMP)</b> shall be prepared by a Suitably Qualified Person and in consultation with Auckland Transport.</p> <p>The purpose of the CTMP is to manage the various traffic management, safety and efficiency effects associated with Construction Works to:</p> <ol style="list-style-type: none"> <li>(a) Protect public safety including the safe passage of and connectivity for pedestrians and cyclists, particularly for school students travelling to and from school;</li> <li>(b) Minimise increases to existing delay to road users, public transport services, pedestrians and cyclists;</li> <li>(c) Minimise interruption to property access;</li> <li>(d) Inform the public about any potential impacts on the road network;</li> <li>(e) Minimise disruptions on the arterial road network and rail network; and</li> <li>(f) Manage the effects on and/or any changes required to existing Over Dimension and Over Weight routes.</li> </ol>

Ref	Applies to:	
CT.2	NoR 1 NoR 2	<p>The CTMP shall:</p> <ul style="list-style-type: none"> <li>(a) Identify how Condition CT.1 will be achieved;</li> <li>(b) Be in general accordance with the Draft Construction Traffic Management Plan Framework listed in DC.1;</li> <li>(c) Where road capacity may be significantly affected by temporary traffic management, identify potential effects of the capacity reduction, and proposed measures to minimise delays. Traffic Impact Assessment (with possible inclusion of traffic modelling) may be required, particularly where the arterial network is affected;</li> <li>(d) Include measures to avoid road closures and restrictions on vehicle, bus, cycle and pedestrian movements;</li> <li>(e) Identify site access routes and access points for heavy vehicles;</li> <li>(f) Identify possible temporary changes to bus routes and bus stops, whether these can be safely accommodated on the relevant roads and the considerations to maintain service to key destinations and minimise of levels of service reduction;</li> <li>(g) Where road closures or restrictions cannot reasonably be avoided, the particular vulnerabilities and sensitivities of pedestrian diversions and reduced conditions shall be taken into account in the planning of any closures or restrictions;</li> <li>(h) Confirm that a safe alternative shared cycle/pedestrian path connection between Onehunga Harbour Road and Old Māngere Bridge or the New Old Māngere Bridge (if constructed) is available at all times during the Construction Works;</li> <li>(i) Identify proposed measures to minimise the duration of closure of the existing shared path facility along the Māngere Inlet, and proposed measures to stage works and / or provide detours to minimise inconvenience. Detours shall be sign posted, and shall where practicable, minimise the increase in length relative to the existing facility, the increase in vertical ascent, and minimise the duration of the construction period. The alternate route shall have an appropriate surface maintained throughout its period of use; a; and</li> <li>(j) Include the process for rail closures, including how scheduled block-of-lines are to be utilised and the timing of any closures to avoid or minimise level of service reduction to passenger rail services at peak commuter times and rail freight services; and</li> <li>(k) Identify any changes required to Over Dimension and Over Weight routes and how impacts on these routes, including alternate diversion routes, will be managed during construction so as to minimise the impact of any changes (both temporary and permanent) on Over Dimension and Overweight vehicles.</li> </ul>
CT.3	NoR 1 NoR 2	<p>At least 40 working days prior to commencement of Construction Works the Requiring Authority shall provide a draft of the CTMP to Auckland Transport for comment.</p> <p>The CTMP shall summarise the input and comments from Auckland Transport, describe how this has been incorporated and, where any input has not been incorporated, set out the reason why.</p> <p>Any amendments to the CTMP shall be prepared in consultation with Auckland Transport prior to submission in accordance with Condition DC.10.</p>
<i>Site/Activity Specific Traffic Management Plans</i>		
CT.4	NoR 1 NoR 2	<ul style="list-style-type: none"> <li>(a) Site/activity specific <b>Traffic Management Plans</b> (TMPs) shall be prepared where any Project construction activity varies the normal traffic conditions of any public road.</li> </ul>

Ref	Applies to:
	<ul style="list-style-type: none"> <li>(b) The TMP shall be reviewed by an engineer with a minimum of a current Level 2/3 Site Traffic Management Supervisor Non-Practicing qualification. Any comments and inputs received from the reviewer shall be clearly documented.</li> <li>(c) The Requiring Authority shall provide the TMP to the relevant Road Controlling Authority for approval.</li> <li>(d) The purpose of the TMP is to identify specific construction methods to address the particular circumstances, local traffic and community travel demands within the area covered by the TMP. The TMP shall describe the measures that will be taken to manage the traffic effects associated with Construction Works within the area covered by the TMP.</li> <li>(e) In particular the TMP shall describe: <ul style="list-style-type: none"> <li>(i) Temporary traffic management measures required to manage impacts on road users during proposed working hours;</li> <li>(ii) Temporary effects on on-street parking and proposed measures to minimise those effects;</li> <li>(iii) Delay calculations associated with the proposed closure/s and detour routes;</li> <li>(iv) The capacity of any proposed detour route(s) and their ability to carry the additional traffic volumes and any known safety issues associated with the detour route, including any mitigation measures the Requiring Authority proposes to put in place to address any identified safety issues;</li> <li>(v) Individual traffic management plans for intersections of the Project with arterial roads;</li> <li>(vi) Measures to maintain, subject to health and safety requirements, existing vehicular access to adjacent properties and businesses to accommodate the types of vehicles normally accessing the site during normal working hours for that site unless alternative access arrangements are agreed;</li> <li>(vii) Measures to maintain 24 hour per day access for road legal vehicles from Onehunga Harbour Road to Onehunga Wharf for existing businesses and for emergency vehicles. If any particular access point cannot be maintained or reconfigured, appropriate alternative arrangements for continued access to the wharf are to be made where practicable. Short term closures of access to the wharf may occur only after prior consultation with existing business operators regarding the timing and duration of the proposed closure. Unless otherwise agreed with existing business owners, no closure of access to the wharf shall exceed a duration of 4 hours within any 24 hour period;</li> <li>(viii) Measures to minimise the temporary effects of Construction Works on on-site parking on directly affected properties and opportunities to provide alternative temporary parking where practicable to do so;</li> <li>(ix) Measures to maintain, where practicable, safe and clearly identified pedestrian and cyclist access on roads and footpaths adjacent to the Construction Works. Where detours are necessary to provide such access the Requiring Authority shall provide, as far as practicable, the shortest and most convenient detours;</li> <li>(x) Consideration of over dimension and overweight routes including any feedback received from established organisations representing the freight industry;</li> <li>(xi) Any proposed temporary changes in speed limit;</li> <li>(xii) Provision for safe and efficient access of construction vehicles to and from construction site(s);</li> </ul> </li> </ul>

Ref	Applies to:	
		<p>(xiii) The measures that will be undertaken by the Requiring Authority to communicate traffic management measures to affected road users, cyclists and pedestrian and other stakeholders;</p> <p>(xiv) The measures that will be undertaken by the Requiring Authority (e.g. instructions to contractors) to restrict Project-related heavy vehicles using residential streets and the section of Onehunga Mall north of Neilson Street; and</p> <p>(xv) The consultation undertaken with CLGs, business forums and affected properties owners/occupiers in relation to proposed temporary traffic management and measures that will be undertaken to address issues raised.</p> <p>(f) Where changes are made to an approved TMP, the Requiring Authority shall consult the parties in Clause (e)(xv), prior to submitting the amended TMP to the Road Controlling Authority for approval. The amended TMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.</p>
<b>CT.4A</b>	NoR 2	Any contractors carrying out works on, beneath, or in close proximity to, the existing tanker truck turning circle at the western edge of Fonterra's Tip Top Site at 113 Carbine Road, shall adopt and implement construction techniques that do not impact on the use of that turning circle, unless otherwise agreed with the landowner.
<i>Construction traffic - general requirements</i>		
<b>CT.5</b>	NoR 1 NoR 2	The CTMP and TMP(s) shall be consistent with the version of the NZ Transport Agency <i>Code of Practice for Temporary Traffic Management</i> or the Auckland Transport <i>Auckland Transport Code of Practice</i> (which applies at the time the CTMP or the relevant TMP is prepared).
<b>CT.6</b>	NoR 1 NoR 2	<p>The site/activity specific TMP(s) shall be prepared following consultation with the following key stakeholders (as relevant):</p> <p>(a) Auckland Transport (where local roads and paths will be affected);</p> <p>(b) National Road Carriers Incorporated and NZ Heavy Haulage Association;</p> <p>(c) Public transport providers (where public transport services will be affected);</p> <p>(d) Emergency services (police, fire and ambulance); and</p> <p>(e) Schools and childcare centres with frontage or access to roads within which works in relation to the relevant part of the Project will take place; and</p> <p>(f) Directly affected property and business owners and operators, including (for the relevant works) the Onehunga Business Association and the residents of Onehunga Mall Cul-de-Sac.</p>
<b>CT.7</b>	NoR 1 NoR 2	The Requiring Authority shall implement each TMP for the duration of the Construction Works to which the particular TMP applies.
<b>CT.9</b>	NoR 1 NoR 2	Any damage to a local road or arterial road which is verified by a Suitably Qualified Person as being directly attributable to heavy vehicles entering or exiting construction sites shall be repaired within two weeks or within an alternative timeframe to be agreed with Auckland Transport. All repairs shall be undertaken by the Requiring Authority in accordance with the <i>Auckland Transport Code of Practice</i> .
	NoR 1	<b>Advice Note:</b>



Ref	Applies to:	
	NoR 2	<p><i>In addition to the RMA processes, there are other additional processes applying to any work or activity that affects the normal operation of a local road, footpath or berm. For such activities, a Corridor Access Request must be submitted to the Road Controlling Authority under the National Code of Practice for Utility Operators' Access to Transport Corridor to ensure that all work is done safely and complies with national regulations.</i></p>
<h2 style="text-align: center;">SOUTHDOWN SITE (SD)</h2>		
<p><i>Risk Assessment and Design</i></p>		
<p><b>SD.1A</b></p>	<p>NoR 1</p>	<ul style="list-style-type: none"> <li>(a) Within one month of the date on which this designation is included in the AUP, the Requiring Authority shall appoint a Suitably Qualified Person or Persons independent of NZTA to undertake a full risk assessment and to produce a <b>Risk Assessment Report (RAR)</b> in accordance with (b) – (h) below.</li> <li>(b) The terms of reference of the RAR shall be prepared by the Requiring Authority in accordance with these conditions. The owners of electricity and gas assets, including Mercury, shall be offered the opportunity to comment on the terms of reference.</li> <li>(c) The purpose of the RAR is to: <ul style="list-style-type: none"> <li>(i) identify and assess relevant hazard scenarios and health and safety risks arising from the construction, maintenance and/or operation of the EWL on or in proximity to the Southdown Site, with the Southdown Site including an operating Southdown Power Station and operating gas assets, including: <ul style="list-style-type: none"> <li>a. hazards from the EWL that may pose health and safety risks to workers on and visitors to the Southdown Site; and</li> <li>b. hazards from the operation of a 135MW gas fired power station (and associated activities) on the Southdown Site that may pose health and safety risks to the users of the EWL;</li> </ul> </li> <li>(ii) recommend any Control Measures required to be implemented within the designation to manage any identified health and safety risks to an Acceptable or Tolerable Risk Level;</li> <li>(iii) identify any health and safety risk that cannot be managed to an Acceptable or Tolerable Risk Level by implementation of Control Measures within the designation;</li> <li>(iv) identify any health and safety risk that cannot be managed to an Acceptable or Tolerable Risk Level by the implementation of any Control Measures (Unacceptable Risk).</li> </ul> </li> <li>(d) The RAR shall have regard to the <i>Risk Assessment for the Mercury Southdown Site Report</i> dated July 2017 prepared by GHD;</li> <li>(e) In respect of each hazard scenario identified, the RAR shall: <ul style="list-style-type: none"> <li>(i) Assess the risk level as Acceptable, Tolerable or Unacceptable;</li> <li>(ii) Identify, assess and recommend any Control Measures within the designation required to reduce any Unacceptable Risk to Acceptable or Tolerable levels, or to ensure that all reasonably practicable steps will be taken in relation to any Tolerable Risk;</li> <li>(iii) Identify, following implementation of the Control Measures in (ii) above, whether any additional Control Measures are required to be implemented on the Southdown Site outside the designation;</li> </ul> </li> </ul>

Ref	Applies to:	
		<p>(iv) Identify, following consultation with the Requiring Authority the Control Measures that could be deferred and implemented within a four month period in the event that Mercury gives formal notification to the Requiring Authority of its intent to recommence gas fired electricity generation at the Southdown Site using generators GE 101, GE 102 or GE 105.</p> <p>(f) For the purpose of identifying and assessing potential Control Measures, the Suitably Qualified Person undertaking the RAR may consult the owners of electricity and gas assets on the Southdown Site and may commission specialist advice on the operation of such assets if the asset owners decline the opportunity to consult;</p> <p>(g) The RAR shall be provided in draft to the owners of electricity and gas assets on the Southdown Site with an opportunity to provide comment on the draft within 30 working days (unless otherwise agreed);</p> <p>(h) Following the comment period, the RAR shall be finalised and provided as part of the Outline Plan prepared under section 176A of the RMA. Any comments and inputs received from the asset owners shall be summarised within the Outline Plan, setting out how this input has been incorporated into the design, and where any input has not been incorporated, the reasons why.</p>
SD.1B	NoR 1	<p>(a) With regard to Condition SD.1A (e)(ii) above, the Control Measures to be implemented within the designation shall be set out in the Outline Plan in accordance with Condition SD.2. For the avoidance of doubt, these Control Measures shall include the items listed in Condition SD.2(a).</p> <p>(b) If Condition SD.1A(e)(iii) applies, as part of the Outline Plan, the Requiring Authority shall confirm that Mercury agrees to the implementation of the Control Measures.</p> <p>(c) If Condition SD.1A(e)(iv) applies, as part of the Outline Plan, the Requiring Authority shall confirm that Mercury agrees that the Control Measures may be deferred.</p>
SD.1C	NoR 1	<p>In the event that:</p> <p>(a) Mercury does not agree to the implementation of any Control Measures on the Southdown Site outside the designation; or</p> <p>(b) The RAR identifies any Unacceptable Risk that cannot be addressed through the implementation of Control Measures then</p> <p>Construction of the EWL viaduct west of Hugo Johnston Drive and the Great South Road intersection (between approximately Chainage 4200 and 5075) shall not commence until the Requiring Authority adjusts the alignment of the EWL to ensure that the health and safety risks associated with construction and co-location of the EWL on the Southdown Site do not require the implementation of Control Measures outside the designation to achieve an Acceptable or Tolerable Risk Level.</p>
	NoR 1	<p><b>Advice Note:</b></p> <p><i>If the alignment cannot be adjusted to achieve an Acceptable or Tolerable Risk Level/ the risk criteria determined by the Suitably Qualified Person(s) appointed under condition SD.1A, then the Requiring Authority would have the option of:</i></p> <ul style="list-style-type: none"> <li>• <i>seeking amendments to the designation (and any other necessary RMA authorisations) to enable it to decommission the Southdown Power Station;</i></li> </ul> <p><i>and if it was successful in obtaining those authorisations, could:</i></p>

Ref	Applies to:	
		<ul style="list-style-type: none"> <li>• seek to compulsorily acquire the land required to decommission the Southdown Power Station.</li> </ul>
<i>Design and Outline Plan</i>		
<b>SD.2A</b>	NoR 1	<p>The design shall ensure that:</p> <ul style="list-style-type: none"> <li>(a) The Transpower Control Building and Relay Room is retained in its current location and that management of construction works will appropriately provide for the ongoing operation of activities in this building;</li> <li>(b) The EWL viaduct is located so that the northern edge of the structure is no further north than the road alignment shown on the drawings listed in Condition DC.1 and referred to in Condition DC.4, unless otherwise agreed between the Requiring Authority, Mercury and Transpower; and</li> <li>(c) The EWL viaduct is designed and constructed to provide an over dimensional route of a minimum of 5.7 metres clearance. This shall be provided either as shown on drawings SK-PI-008-201 (Rev C) and Z5A-SK-80-202(Rev C) (both located in Appendix 1 of these conditions) or another alternative agreed by Mercury.</li> <li>(d) The EWL Viaduct is designed and constructed to provide internal circulation routes to onsite plant at the Southdown Site and maintain pedestrian access.</li> <li>(e) Three permanent entrances to the Southdown Site (as required under condition SD.2(e)(i)) are provided to an appropriate standard for all vehicles that use the Southdown Site.</li> </ul>
<b>SD.2</b>	NoR 1	<p>An Outline Plan shall be prepared under section 176A of the RMA for the designated land within the Southdown Site. The Outline Plan shall include:</p> <ul style="list-style-type: none"> <li>(a) Design details for the following Control Measures, unless identified as not being required by the RAR prepared under Condition SD.1A above or otherwise agreed between the Requiring Authority and Mercury: <ul style="list-style-type: none"> <li>(i) The EWL viaduct incorporating a TL5 road barrier (or equivalent) of at least 1.1m to provide crash protection;</li> <li>(ii) The EWL viaduct providing a minimum separation distance of 7m between any new structure associated with EWL to existing Gas Engine Turbine 105 (GE 105);</li> <li>(iii) A concrete noise barrier with a minimum height of 2.5m above the height of the adjoining EWL carriageway located between approximately Chainage <del>4550-4450</del> and 4700. The purpose of the barrier is to manage potential effects on road users arising from noise generating activities at the Southdown Site and will also act as a debris screen;</li> <li>(iv) A shared path located on the southern side of the EWL viaduct ;</li> <li>(v) Any additional Control Measures recommended by the RAR under Condition SD.1 that need to be incorporated into the design of the EWL.</li> </ul> </li> <li>(aa) Details of the following: <ul style="list-style-type: none"> <li>(i) The EWL viaduct location in accordance with Condition SD.2A(b); and</li> <li>(ii) The EWL viaduct vertical clearance in accordance with Condition SD.2A(c).</li> </ul> </li> </ul>

Ref	Applies to:	
		<ul style="list-style-type: none"> <li>(b) Confirmation from the Suitably Qualified Person, who undertook the RAR under Condition SD.1A that the design details in (a) above are appropriate controls in accordance with the outcomes and recommendations of the RAR;</li> <li>(c) Confirmation of approval from First Gas Limited for the relocation of its assets, being the existing gas pigging station (metering station) on the East Tamaki to Taupaki Gas Pipeline and the natural gas supply for the power station on the Southdown Site. This shall include details of the commissioning of any new gas facilities to provide an uninterrupted supply of gas to the Southdown Site unless otherwise agreed with First Gas Limited and Mercury. The relocation of the gas facilities shall occur prior to the Commencement of Construction on the Southdown Site associated with the Project;</li> <li>(d) Confirmation that the Transpower Control Building and Relay Room will be retained in its current location and that management of construction works will appropriately provide for the ongoing operation of activities in this building;</li> <li>(dd) A record of the offer made to Mercury prior to the Commencement of Construction and the response received from Mercury for removal of the existing wet surface air cooler and the design and construction of a new cooling system at the Southdown Site, and details of the associated works;</li> <li>(e) Final details of the following, unless otherwise agreed between the Requiring Authority, Mercury, Transpower, KiwiRail and First Gas Limited: <ul style="list-style-type: none"> <li>(i) Three permanent site access points for the Southdown Site as shown on Drawing SK-PI-008-201 (Rev C) (located in Appendix 1 of these conditions);</li> <li>(ii) Any changes to the earthgrids on the Southdown Site;</li> <li>(iii) The relocated storeroom on the Southdown Site;</li> <li>(iii) Landscape planting and treatment of batters and reinstatement of existing planting on the Southdown Site;</li> <li>(iv) Permanent fencing for the Southdown Site.</li> </ul> </li> <li>(f) Where any of the items listed in Condition SD.2(e) are located outside of the designation, the details shall be included in the Outline Plan for information purposes only to demonstrate to the Manager how the required outcomes have been achieved. Where the relevant asset owner has declined to consult under Condition SD.1A(f), the Outline Plan shall record the details of the Requiring Authority's efforts to consult; and</li> <li>(g) The Requiring Authority to ensure that the municipal water, external and internal stormwater, and sewer connections are all maintained at all times at the Southdown Site, unless Mercury agrees to an alternative.</li> </ul>
<b>SD.3</b>	NoR 1	The design details set out in Condition SD.2(c) and (d) shall be developed in consultation with the relevant asset owner. Any comments and inputs received from the asset owner shall be summarised within the Outline Plan, setting out how this input been incorporated into the design, and where any input has not been incorporated, the reasons why.
<b>SD.4</b>	NoR 1	The Requiring Authority shall implement the Control Measures and other works set out in Condition SD.1A and SD.2 as part of the Construction Works.
<b>SD.5</b>	NoR 1	The Requiring Authority shall work with Mercury, Transpower, KiwiRail and Auckland Transport to confirm the design and construction methodology for Construction Works on and around the Southdown Rail Supply Substation.

Ref	Applies to:	
		Construction Works that would compromise the ongoing operation of the transformer and other assets located within the Southdown Rail Supply Substation shall not occur until such time as measures are in place as agreed with those parties to mitigate any potential risks to the rail network and ensure continuity of electricity supply.
<i>Southdown Construction Management Plan</i>		
<b>SD.6</b>	NoR 1	<p>(a) A <b>Southdown Construction Management Plan</b> (Southdown CMP) shall be prepared for the Southdown Site in accordance with Condition NU.3. For the purposes of preparing the Southdown CMP, any reference to Network Utility in Condition NU.3 shall be interpreted as a reference to both network utilities and other infrastructure at the Southdown Site.</p> <p>(b) The Southdown CMP shall be prepared in consultation with Mercury, Transpower, KiwiRail and First Gas Limited.</p> <p>(c) The Southdown CMP shall include procedures, methods and measures to manage effects of Construction Works on the Southdown Site.</p> <p>(d) In addition to the matters listed in Condition NU.3, NU.5 and NU.7 the Southdown Site CMP shall also include details of the following:</p> <ul style="list-style-type: none"> <li>(i) Dust controls and contingency measures under Condition AQ.2 of the resource consents granted for the Project, so that Construction Works do not interfere with ongoing use of the solar panels and batteries associated with the Solar Research and Development Centre and high voltage transmission assets (e.g regular inspection and provision for cleaning of solar panels);</li> <li>(ii) Specific site security, authorisations and health and safety procedures required for access to the Southdown Site during construction; and</li> <li>(iii) Identification of any equipment, buildings or other structures on the Southdown Site that are vibration sensitive and will require a Site Specific Vibration Management Plan under Condition CVN.7A.</li> <li>(iv) Provision for over-dimension and over-weight vehicles to have access to the Southdown Site during construction of the EWL.</li> </ul> <p>(e) The Southdown CMP shall be provided to the Manager in accordance with Condition NU.4.</p>
	NoR 1	<p><b>Advice Notes:</b></p> <p><i>For the avoidance of doubt, construction related activities occurring on or adjacent to the Southdown Site shall also be undertaken in accordance with relevant designation conditions including:</i></p> <ul style="list-style-type: none"> <li>• <i>General conditions (DC);</i></li> <li>• <i>Communication and Social (CS);</i></li> <li>• <i>Mana Whenua Collaboration (MW) ;</i></li> <li>• <i>Historic Heritage (HH);</i></li> <li>• <i>Landscape and Visual (LV) ;</i></li> <li>• <i>Construction Noise and Vibration (CNV); and</i></li> <li>• <i>Construction Traffic (CT).</i></li> </ul> <p><i>For the avoidance of doubt, construction related activities occurring on or adjacent to the Southdown Site shall also be undertaken in accordance with the following relevant resource consent conditions:</i></p> <ul style="list-style-type: none"> <li>• <i>General resource consent conditions RC.1 – RC.15 (excluding RC.8);</i></li> </ul>

Ref	Applies to:	
		<ul style="list-style-type: none"> <li>• <i>Dust management – Conditions AQ.1 – AQ.4;</i></li> <li>• <i>Earthworks and land disturbance – Conditions E.1 – E.14;</i></li> <li>• <i>Works in contaminated land – Conditions CL.1 – CL.8; and</i></li> <li>• <i>Stormwater and impervious surfaces – Conditions SW.1 - SW.17.</i></li> </ul>
<b>SD.7</b>		<p>The Requiring Authority shall not commence Construction Works on the Southdown Site until:</p> <p>(a) The requirements of Conditions SD.1A, SD.1B and SD.1C, SD.2, <del>and</del>SD.3 <u>and SD.4</u> have been achieved;</p> <p>(b) Any variations to existing resource consents for the Southdown site, which are required as a direct result of the location of the EWL on the site, have been granted. The existing resource consents to which this condition applies are those which exist in August 2017, being R/LUC/1994/560763, LUC57030408001, Air discharge consent 39725 and the consent to divert and discharge stormwater 28244; and</p> <p>(c) Any new statutory approvals required to implement the Control Measures in Condition SD.1A or as a direct result of the Construction Works on the Southdown Site, have been granted.</p>
<b>SD.8</b>	NoR 1	<p>The Requiring Authority shall not require the owners of electricity and gas assets within the Southdown Site to seek written consent under section 176 of the RMA for on-going access to enable work associated with the routine maintenance of assets at the Southdown Site. To the extent that written approval is required, this condition shall constitute written approval.</p>
<b>PROPERTY SPECIFIC (PS)</b>		
<b>PS.1</b>	NoR1	<p>The Requiring Authority will, pursuant to the Public Works Act 1981 (PWA), enter into good faith negotiations with the owner of Ward (Ward and Interests) regarding reconfiguration of Ward's site at 13-17A Miami Parade, at the cost of the Requiring Authority, to reduce the impact on Ward's operations resulting from the 715m<sup>2</sup> permanent and 99m<sup>2</sup> temporary land requirement</p>
<b>PS.2</b>	NoR1	<p>NZTA shall use its best endeavours to legally formalise vehicular access, including for heavy vehicles, between 8 Sylvia Park Road and Pacific Rise, prior to the date on which right turns into and out of 8 Sylvia Park Road frontage are no longer possible.</p>



# RESOURCE CONSENT CONDITIONS

## GUIDE TO READING THE RESOURCE CONSENT CONDITIONS

The proposed resource consent conditions are numbered as follows:

Set of proposed conditions	Numbering format
General Resource Consent Conditions	RC
Mana Whenua Collaboration	RCMW
Contaminated Land	CL
Earthworks, Vegetation Alteration and Removal	E
Coastal Activities	C
Dredging	D
Ecological Management	EM
Works in Watercourses	WW
Groundwater and Settlement	G
Air Quality	AQ
Storage and Manufacture of Concrete	CB
Leachate	L
Stormwater and Impervious Surfaces	SW

## RESOURCE CONSENT CONDITIONS – DEFINITIONS

The table below defines the acronyms and terms used in the conditions.

Acronym/term	Definition
Anns Creek East Construction Restriction Area	The area of land shown on the drawing titled <i>Anns Creek East Construction Restriction Area</i> , dated April 2017.
Application	The Application for Resource Consents and supporting information dated December 2016.
As-Built Plans	A final set of drawings submitted upon completion of a project. They reflect all changes made in the specifications and working drawings during the construction process, and show the exact dimensions, geometry, and location of all elements of the completed work.
ARI	Annual Recurrence Interval
BPO or Best Practicable Option	Has the same meaning as in section 2 of the Resource Management Act 1991
CEMP	The Construction Environmental Management Plan.
CMA	Coastal Marine Area
Commencement of Construction	The time when Construction Works (excluding Site Investigations and Enabling Works) commence.



Acronym/term	Definition
Completion of Construction	When construction of the Project (or part of the Project) is complete and the State highway is available for use.
Construction Works	One or more of the various activities undertaken in relation to the Project under these resource consents.
Council	Auckland Council
Enabling Works	Includes the following and similar activities: <ul style="list-style-type: none"> <li>• Demolition and removal of buildings and structures,</li> <li>• Relocation of underground and overhead services; and</li> <li>• The establishment of site entrances and fencing.</li> </ul>
East West Link or EWL	East West Link Project being the construction, operation and maintenance of a new State highway and associated works between State Highway 2 (SH20) in Onehunga, and State Highway 1 (SH1) in Mt Wellington (the East West Link Main Alignment), and associated works on SH1 between Mt Wellington and the Ōtāhuhu Interchange at Princes Street.
EWL	East West Link Project
EWL Embankment	The constructed road located long the Māngere Foreshore between Chainage 850 and 3625.
Organic flocculants	Flocculants that are derived from living matter and contain carbon, including but not limited to Polyamine and PolyDADMAC.
Manager	The Manager – Resource Consents, of the Auckland Council, or authorised delegate.
Mana Whenua Group	The group established under Condition RCMW.1.
Municipal Solid Waste	Commonly known as refuse or rubbish; any non-hazardous, solid waste from household, commercial and/or industrial sources.
Operation/Operational	When construction of the Project is complete and the State highway is open to traffic.
Project	The construction, maintenance and operation of the East West Link Project and associated works.
Project Liaison Person	The person appointed by the Consent Holder for the duration of the construction phase of the Project to be the main and readily accessible point of contact for persons affected by the construction work.
Project Site	The area defined by the boundaries of the resource consents for the Project.
Project stage	A separable part of the Project (e.g. by contract area or by geographical extent).
RMA	The Resource Management Act 1991.
Site Investigations	Includes geotechnical investigations (outside the Auckland Unitary Plan (Operative in Part) Historic Heritage Overlay Extent of Place), identifying service locations, surveys, monitoring activities, surveys and other similar activities.
Suitably Qualified Environmental Practitioner	In relation to contaminated land, as set out in the Resource Management (National Environmental Standard

Acronym/term	Definition
	for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.
Suitably Qualified Person	<p>A person:</p> <ul style="list-style-type: none"> <li>• With a recognised qualification in the subject matter of the condition; or</li> <li>• With recognised experience in the subject matter of the condition; or</li> <li>• Is a member of relevant professional body for the subject matter of the condition.</li> </ul>
Working day	Has the same meaning as under section 2 of the Resource Management Act 1991.

## GENERAL RESOURCE CONSENT CONDITIONS (RC)

These general conditions apply to all resource consents unless specified otherwise. Additional conditions which apply to specific resource consents are set out in following pages.

Ref	Condition
<i>General and Administration</i>	
<b>RC.1</b>	<p>Except as modified by the conditions below, and subject to final design, the Project shall be undertaken in general accordance with information provided by the Consent Holder in the Application for Resource Consents dated December 2016, and in particular, the following supporting documents:</p> <ul style="list-style-type: none"> <li>(a) Part C: Description of the Project in Volume 1: Assessment of Effects on the Environment Report dated December 2016;</li> <li>(b) The following plan sets in Volume 2: Drawing Set: <ul style="list-style-type: none"> <li>(i) Plan Set 3: Road Alignment</li> <li>(ii) Plan Set 4: Landscape</li> <li>(iii) Plan Set 5: Coastal Occupation</li> <li>(iv) Plan Set 6: Plan and Long Section</li> <li>(v) Plan Set 7: Typical Cross Section</li> <li>(vi) Plan Set 8: Structural</li> <li>(vii) Plan Set 9: Stormwater</li> <li>(viii) Plan Set 10: Erosion and Sediment Control</li> </ul> </li> <li>(bb) Except as modified by the revised plan sets presented at the close of the BoI hearing which are listed in Appendix 2.</li> <li>(c) The Key Design Principles and Sector Outcomes of the Project's Urban and Landscape Design Framework dated November 2016 and Addendum dated December 2016.</li> <li>(d) The Draft Contaminated Land Management Plan.</li> </ul> <p>These conditions shall apply to all that land identified in the schedule contained in the Application for Resource Consents dated December 2016 unless specified otherwise in a specific condition.</p>
<b>RC.2</b>	<p>The Project website shall include these conditions and the plans and reports referred to in these conditions prior to and throughout Construction Works, and a hard copy shall be available at the Project site office(s).</p>
<b>RC.3</b>	<p>Where there is inconsistency between:</p> <ul style="list-style-type: none"> <li>(a) The documents listed in Condition RC.1 above and these conditions, these conditions shall prevail;</li> <li>(b) The information and plans lodged with the Application and further information provided post lodgement, the most recent information and plans shall prevail; and</li> <li>(c) The draft management plans and/or management plan frameworks lodged with the Application and the management plans required by the conditions of these resource consents, the requirements of the management plans as set out in the relevant conditions shall prevail.</li> </ul>
<b>RC.4</b>	<p>The Consent Holder shall provide regular updates on construction activities and programme to the Manager, and shall also include a summary of this information on the Project website.</p>

Ref	Condition
<i>Pre-construction Administration</i>	
<b>RC.5</b>	The Consent Holder shall notify the Manager in writing of the proposed date of Commencement of Construction at least 20 working days prior to the proposed start date.
<b>RC.6</b>	<p>Within 15 working days prior to Commencement of Construction, the Consent Holder shall arrange and conduct a prestart meeting that:</p> <ul style="list-style-type: none"> <li>(a) Is located on the subject site;</li> <li>(b) Is scheduled not less than five days before the anticipated Commencement of Construction;</li> <li>(c) Includes Council representatives;</li> <li>(d) Includes representation from the contractors who will undertake the works; and</li> <li>(e) Includes an invitation to Mana Whenua.</li> </ul> <p>The pre-commencement meeting shall discuss the works methodology and shall ensure all relevant parties are aware of and are familiar with the conditions of the resource consents.</p> <p>In the case that any of the invited parties, other than the representative of the Consent Holder, does not attend this meeting, the Consent Holder will have been deemed to have complied with this condition, provided reasonable notice is given to the parties listed above.</p>
<i>Annual Monitoring Report</i>	
<b>RC.7</b>	<p>The Consent Holder shall provide to the Manager by either 30 June each year, or on an alternative date as otherwise agreed to by the Manager, an <b>Annual Monitoring Report</b>.</p> <p>The purpose of this report is to provide an overview of the monitoring and reporting work undertaken, and any environmental issues that have arisen during Construction Works.</p> <p>As a minimum this report shall include:</p> <ul style="list-style-type: none"> <li>(a) All monitoring data required in accordance with the conditions of this consent;</li> <li>(b) Any reasons for non-compliance or difficulties in achieving compliance with the conditions of this resource consent;</li> <li>(c) Measure taken to address compliance issues;</li> <li>(d) Any works that have been undertaken to improve the environmental performance of the site or that are proposed to be undertaken in the coming year;</li> <li>(e) Recommendations on alterations to the monitoring required; and</li> <li>(f) Any other issues considered important by the Consent Holder.</li> </ul>
<i>Consent Lapse and Expiry</i>	
<b>RC.8</b>	Pursuant to sections 123 and 125 (1) of the RMA (and where relevant in accordance with section 116 of the RMA) the lapse and expiry dates for the various resource consents shall be as provided in Index of Designation and Resource Consents (p2-8).
<i>Management Plan Certification Process</i>	
<b>RC.9</b>	<ul style="list-style-type: none"> <li>(a) Conditions (b) to (e) below shall apply to all management plans required by these conditions.</li> <li>(b) All management plans shall be prepared in consultation with Council and submitted to the Manager to certify compliance and consistency with the applicable requirements of these conditions at least 20 working days prior to Commencement of Construction (excluding Site Investigations and Enabling Works).</li> </ul>

Ref	Condition
	<p>(c) Any certified Management Plan may be amended if necessary to reflect any changes in design, construction methods or management of effects. Any amendments are to be discussed with and submitted to the Manager for information, unless those amendments once implemented would result in a materially different outcome to that described in the original plan.</p> <p>(d) Any material changes to a certified management plan shall be submitted to the Manager for certification. Any material change must be consistent with the purpose of the relevant management plan and the requirements of the relevant conditions of these consents. Where a management plan was prepared in consultation with affected parties, any material changes to that plan shall be prepared in consultation with those same parties.</p> <p>(e) All works shall be carried out in accordance with the certified management plans.</p>
RC.9A	Management Plans may be submitted in parts or in stages to address particular activities or to reflect the staged implementation of the Project. Management Plans submitted shall clearly show the integration with adjacent stages and interrelated activities.
<i>Construction Environmental Management Plan (CEMP)</i>	
RC.10	<p>(a) The Consent Holder shall prepare a <b>Construction Environmental Management Plan (CEMP)</b> or Plans for the relevant Project stage (excluding Site Investigations and Enabling Works), and submit this to the Manager in accordance with the process set out in RC.9.</p> <p>(b) The purpose of the CEMP is to set out the management procedures and construction methods to be undertaken in order to avoid, remedy or mitigate potential adverse effects arising from construction activities.</p>
RC.11	<p>The CEMP shall be prepared in accordance with the NZ <i>Transport Agency's Guideline for preparing Environmental and Social Management Plans</i> (dated April 2014) and include:</p> <p>(a) Confirmation of the proposed staging and sequence of construction;</p> <p>(b) An outline construction programme;</p> <p>(c) Contact details of the site supervisor or project manager and the Consent Holder's Project Liaison Person (phone, postal address, email address);</p> <p>(d) Methods and systems to inform and train all persons working on the site of potential environmental issues and how to avoid remedy or mitigate any potential adverse effects;</p> <p>(e) The proposed hours of work;</p> <p>(f) Measures to be adopted to maintain the land affected by the works in a tidy condition in terms of disposal / storage of rubbish, storage and unloading of construction materials and similar construction activities;</p> <p>(g) Location of construction site infrastructure including site offices, site amenities, contractors' yard access, equipment unloading and storage areas, contractor car parking and security;</p> <p>(h) Procedures for controlling sediment run-off, dust and the removal of soil, debris, demolition and construction materials (if any) from public roads or places adjacent to the work site;</p> <p>(i) Procedures for ensuring that residents, network utility operators, road users and businesses in the immediate vicinity of construction areas are given prior notice of the Commencement of Construction and are informed about the expected duration and effects of the work;</p> <p>(j) Means of providing for the health and safety of the general public;</p>

Ref	Condition
	<ul style="list-style-type: none"> <li>(k) Proposed temporary or permanent fencing or other structures along the boundary of the designation with adjacent sites in order to delineate site boundaries, maintain site security, prevent unauthorised access, ensure the safe and practical operation of adjacent sites, and to avoid intrusion of Construction Works beyond the designated land;</li> <li>(l) Measures to manage the potential impacts of construction on Council trees and vegetation;</li> <li>(m) Methods and measures to avoid, remedy and mitigate adverse effects on landscape amenity during the construction phase of the Project;</li> <li>(n) Procedures for the refuelling of plant and equipment;</li> <li>(o) Measures to address the storage of fuels, lubricants, hazardous and/or dangerous materials, along with contingency procedures to address emergency spill response(s) and clean up;</li> <li>(p) Procedures for the maintenance of machinery to avoid discharges of fuels of lubricants to watercourses and/or the Coastal Marine Area (CMA);</li> <li>(q) Procedures for responding to complaints about construction activities; and</li> <li>(r) Procedures for incident management.</li> </ul>
<b>RC.12</b>	<p>The CEMP shall incorporate or refer to the following management plans:</p> <ul style="list-style-type: none"> <li>(a) Contaminated Land Management Plan (refer to Condition CL.1);</li> <li>(b) Coastal Work CEMP (refer to Condition C.4);</li> <li>(c) Groundwater and Settlement Management Plan (refer to Condition G.1);</li> <li>(d) Construction Air Quality Management Plan (refer to Condition AQ.2);</li> <li>(e) Ecological Management Plan (refer to Condition EM.2) including the Lizard Management Plan (refer to Condition EM.4);</li> </ul> <p>The CEMP shall:</p> <ul style="list-style-type: none"> <li>(i) Demonstrate how the incorporated or referenced management plans will be jointly implemented to achieve integrated management of construction effects; and</li> <li>(ii) Describe for information purposes how those plans integrate with management plans provided by the NZ Transport Agency as part of the Outline Plan process for Construction Works within the designation for the Project.</li> </ul> <p>If a CEMP is submitted in part or for a Project stage, it shall only incorporate or refer to the management plans relevant to the part or stage.</p>
<b>RC.13</b>	<p>Where Enabling Works or Site Investigations are to be undertaken prior to commencement of the main construction works, a site-specific CEMP commensurate with the scale and effects of the proposed works, shall be submitted for the certification of the Manager.</p> <p>In some cases, with the approval of the Manager, a site-specific CEMP may not be required.</p>
<b>RC.14</b>	<p>Any material changes to the management plans shall remain consistent with the overall intent of the relevant management plan and shall be consistent with the requirements of the relevant conditions of this consent. The Consent Holder shall advise the Manager of any amendments made, and any material changes shall be submitted to the Manager for approval in accordance with the process set out in Condition RC.9 above.</p>
<i>Review of Conditions</i>	
<b>RC.15</b>	<p>The Council may review any or all conditions of this consent by giving notice of its intention to do so in accordance with section 128 of the RMA, at any time within six months of the first, third, fifth and tenth anniversaries of the date of Commencement of Construction to</p>

Ref	Condition
	deal with any unforeseen adverse effects on the environment, which may arise from the exercise of this consent, and which it is appropriate to deal with at a later date.

## MANA WHENUA COLLABORATION (RCMW)

Ref	Condition
<i>Mana Whenua Group</i>	
<b>RCMW.1</b>	<p>NoR 1 NoR 2</p> <p>(a) Six months prior to the Commencement of Construction, the Consent Holder shall invite mandated representatives of Mana Whenua to participate in a Mana Whenua Group (MWG).</p> <p>(b) The purpose of the MWG is to facilitate engagement between the Consent Holder and Mana Whenua in respect of the activities authorised by this designation.</p> <p>(c) The group will include invited representatives from:</p> <ul style="list-style-type: none"> <li>(i) Ngāi Tai Ki Tāmaki;</li> <li>(ii) Ngāti Maru;</li> <li>(iii) Ngāti Paoa;</li> <li>(iv) Ngāti Tamaoho;</li> <li>(v) Ngāti Te Ata Waiohū;</li> <li>(vi) Ngāti Whātua Ōrākei;</li> <li>(vii) Te Ahiwaru;</li> <li>(viii) Te Ākitai Waiohū;</li> <li>(ix) Te Kawerau ā Maki; and</li> <li>(x) Te Rūnanga o Ngāti Whātua.</li> </ul> <p>(d) The MWG will hold regular meetings (at least three monthly) throughout the construction period. The MWG shall continue until six months after Completion of Construction. The frequency and duration of the meetings can be reduced or increased where the majority of the members of the group agree.</p> <p>(e) The Consent Holder shall record the main points arising from each meeting of the MWG, and shall provide a copy of that record to the meeting invitees within a reasonable time following the meeting.</p> <p>(f) The Consent Holder shall be responsible for all reasonable costs associated with the resourcing of the MWG.</p>
<b>RCMW.2</b>	<p>NoR 1 NoR 2</p> <p>The MWG will be provided opportunities to review and comment on the following (amongst other things):</p> <p>(a) The ULDMP, with particular reference to design elements of the following features:</p> <ul style="list-style-type: none"> <li>i) Works in the vicinity of Te Hōpua a Rangi including how Mana Whenua artworks or design themes are incorporated and delivered into that design and nomination of an artist to design the artwork referred to in Condition LV.5B;</li> <li>ii) Design of the reclamation, coastal paths and boardwalk along the Māngere Inlet.</li> <li>iii) Landscape treatment (including plant species, plant sources and planting methodology), alignment and design of the recreation walkway, interpretive signage and other amenities along the Māngere Inlet foreshore recreation walkway;</li> <li>iv) Aesthetic design through the upper reaches of the Māngere Inlet (Anns Creek), including reflection of the Kāretu Portage in the design of the viaduct and interpretive signage;</li> </ul>



Ref	Condition	
		<ul style="list-style-type: none"> <li>v) Design associated with the Kāretu Portage Path (an elevated shared path from west of Great South Road and along Sylvia Park Road), including reflection of the historic Kāretu Portage in design of this feature;</li> <li>vi) Structures in the vicinity of the waahi tapu at Mt Wellington Interchange; and</li> <li>vii) Design of the Ōtāhuhu Creek bridges and in particular the treatment beneath these structures to reflect and respond to the Ōtāhuhu portage.</li> </ul> <p>(b) The Heritage Management Plan (as required by designation Condition HH.3) including details of Mana Whenua construction monitoring for sites identified as having significance to the Mana Whenua Group (including but not limited to Te Hōpua a Rangi, Anns Creek and foreshore, Mt Wellington Interchange area, Ōtāhuhu Creek);</p> <p>(c) Accidental Discovery Protocol (as required by designation Condition HH.2);</p> <p>(d) The ECOMP (as required by consent Condition EM.1) including the detail of ecological restoration planting along the northern shoreline of the Māngere Inlet, Anns Creek and Ōtāhuhu Creek;</p> <p>(e) The CEMP and Coastal Works CEMP (as required by consent Conditions RC.10 and C.4), including details on site inductions, training programme(s) and tikanga for construction works (particularly for works in sensitive areas such as Te Apunga o Tainui at Mt Wellington Interchange) to respond to matters of significance to Mana Whenua; and</p> <p>(f) Results of environmental monitoring prior to and during construction as required by conditions of the designation and related resource consents (e.g. water and leachate design performance monitoring under Condition C.1H and the scientific analysis of material of geological interest from the cut into the Te Hōpua a Rangi tuff ring under Condition HH.8), including information to support cultural monitoring requirements.</p>
<i>Cultural Monitoring Plan (Construction)</i>		
<b>RCMW.3</b>	NoR 1 NoR 2	Prior to the Commencement of Construction, a <b>Cultural Monitoring Plan</b> or plans shall be prepared by a person endorsed by the Mana Whenua Group.
<b>RCMW.4</b>	NoR 1 NoR 2	The purpose of the Cultural Monitoring Plan is to set out the agreed cultural monitoring requirements and measures to be implemented during construction activities, to acknowledge the historic and living cultural values of the area to Mana Whenua and to minimise potential adverse effects on these values.
<b>RCMW.5</b>	NoR 1 NoR 2	<p>The Cultural Monitoring Plan shall include (but not be limited to):</p> <ul style="list-style-type: none"> <li>(a) Requirements for formal dedication or cultural interpretation to be undertaken prior to works commencing in areas identified as having significance to Mana Whenua (including but not limited to Te Hōpua a Rangi, Anns Creek and foreshore, Mt Wellington Interchange area, Ōtāhuhu Creek):</li> <li>(b) Requirements and protocols for cultural inductions;</li> <li>(c) Identification of sites and areas where cultural monitoring is required during particular Construction Works;</li> </ul>

Ref	Condition	
		<p>(d) Identification of any other specific activities requiring cultural monitoring (e.g. implementation of spill contingency measures or specific works in the CMA);</p> <p>(e) Identification of personnel nominated by Mana Whenua to undertake cultural monitoring, including any geographic definition of their responsibilities;</p> <p>(f) Details of personnel nominated by the Consent Holder and Mana Whenua to assist with management of any issues identified during cultural monitoring, including implementation of the Accidental Discovery Protocol developed under Condition HH.2;</p> <p>(g) Identification of any opportunities and intent from Mana Whenua to reuse excavated natural material from the EWL Trench at Te Hōpua a Rangi, and if so, proposed measures to achieve this; and</p> <p>(h) Details of any pre-construction monitoring that may assist Mana Whenua in their monitoring role (e.g. avifauna monitoring, baseline water quality monitoring).</p>
<i>Monitoring and Management Plan for the Māngere Inlet</i>		
<b>RCMW.6</b>	NoR 1	<p>Prior to the Commencement of Construction, a <b>Monitoring and Management Plan (MMP)</b> for the Māngere Inlet shall be prepared by a person endorsed by the Mana Whenua Group. The MMP shall be prepared in consultation with the Mana Whenua Group and Council, and shall be provided to the Manager for information.</p>
<b>RCMW.7</b>	NoR 1	<p>The purpose of the MMP is:</p> <p>(a) To assess the contribution the Project makes to the enhancement of the Māngere Inlet; and</p> <p>(b) To identify potential opportunities for further enhancement of the Māngere Inlet that could be pursued by other organisations with interests in the Māngere Inlet.</p> <p>With regard to (a) above, the MMP shall set out how the Project will contribute to the following Desired Outcomes as set out in “A Vision for the Māngere Inlet” included in the EWL Cultural Values Report (February 2017):</p> <p>(i) “Mana Whenua expectations and understanding will form part of how organisations operate”;</p> <p>(ii) “To achieve a quality of water that sustains diverse and balanced life”;</p> <p>(iii) “To rehabilitate and improve local and regional connections for people and the environments”;</p> <p>(iv) “A connected community that is thriving and nurturing – a place that is valued”.</p>
<b>RCMW.8</b>	NoR 1	<p>(a) The MMP shall:</p> <p>(i) Identify long-term indicators of enhanced mauri (well-being) of the Māngere Inlet; and how those indicators can be measured;</p> <p>(ii) Set out the proposed methods to be undertaken by the Consent Holder to measure the identified indicators; and</p> <p>(iii) Set out the proposed timeframe to implement those methods, with those timeframes to occur within a period not later than 5 years after Completion of Construction.</p> <p>(b) The long-term indicators shall include (unless agreed otherwise by the Mana Whenua Group and the Consent Holder):</p>

Ref	Condition	
		<ul style="list-style-type: none"> <li>(i) Indicators to demonstrate expression of cultural values in respect of the Māngere Inlet, for example: <ul style="list-style-type: none"> <li>• Cultural values awareness for personnel involved in construction and implementation of the consents for the Project; and</li> <li>• Inclusion of measures in the ULDMP (e.g. interpretative signage and design elements).</li> </ul> </li> <li>(ii) Indicators to measure water quality in the Māngere Inlet.</li> <li>(iii) Indicators of biological health of the Māngere Inlet, including presence of avifauna species and benthic fauna of cultural significance to mana whenua.</li> <li>(iv) Indicators of cultural wellbeing of the wai, such as ability for spiritual and traditional practices to be undertaken.</li> <li>(v) Indicators of improvements to connections for people and biota, indicators, for example: <ul style="list-style-type: none"> <li>• Green corridor connectivity in areas of ecological restoration;</li> <li>• Increased public access to the Māngere Inlet; and</li> <li>• Measures implemented to demonstrate the heritage connections in the Māngere Inlet (e.g. portages).</li> </ul> </li> <li>(c) The proposed methods to measure long-term indicators may include: <ul style="list-style-type: none"> <li>(i) Monitoring undertaken for the resource consents including: <ul style="list-style-type: none"> <li>a. Monitoring of sediment deposition (Condition D.16);</li> <li>b. Monitoring of benthic ecology in subtidal dredging areas (Condition D.20);</li> <li>c. Monitoring of avifauna nesting activity (Condition EM.6);</li> <li>d. The outcomes of ecological restoration, habitat enhancement, pest animal and pest plant management (EM.3);</li> <li>e. The outcomes of ecological research (Condition EM.10);</li> <li>f. Salt marsh planting (Condition EM.4A and B); and</li> <li>g. Stormwater and leachate monitoring (Condition C.1H).</li> </ul> </li> <li>(ii) Monitoring undertaken by Council and Council Controlled Organisations, and any other established organisations with monitoring programmes in the Māngere Inlet; and</li> <li>(iii) Other methods, for example users surveys of the walkway, cycleway and open space connections.</li> </ul> </li> </ul>
<b>RCMW.9</b>	NoR 1	<p>The development of the MMP shall:</p> <ul style="list-style-type: none"> <li>(a) integrate with relevant provisions of the Ecological Management Plan prepared in accordance with resource consents granted for the Project; and</li> <li>(b) take into account existing or planned monitoring programmes undertaken by Council and Council Controlled Organisations, and any other established organisations with monitoring programmes in the Māngere Inlet and shall integrate with those programmes as far as practicable.</li> </ul>

Ref	Condition	
<b>RCMW.10</b>	NoR 1	<p>Five years after Completion of Construction, the Consent Holder shall update the MMP to:</p> <ul style="list-style-type: none"> <li>(a) Collate and assess the collective results of post-construction monitoring undertaken in accordance with conditions of resource consents granted for the Project, and other measurements of long-term indicators; and, based on that information;</li> <li>(b) Record how the Project has contributed to the enhancement of the Māngere Inlet; and</li> <li>(c) Identify potential opportunities for further long-term enhancement of the Māngere Inlet that could be pursued by other organisations with interests in the Māngere Inlet.</li> </ul> <p>The updated MMP shall be provided to the members of the Mana Whenua Group.</p>

## CONTAMINATED LAND (CL)

Ref	Condition
<i>Contaminated Land Management Plan</i>	
<b>CL.1</b>	<p>Prior to excavation in areas of known or potentially contaminated land, the Consent Holder shall engage a Suitably Qualified Environmental Practitioner (SQEP) to prepare a <b>Contaminated Land Management Plan (CLMP)</b>.</p> <p>The purpose of the CLMP is to detail the measures to manage health, safety, and environmental risk associated with works in contaminated material in the Project area, including closed landfills, during construction.</p> <p>The preparation of the CLMP shall include consultation with the owners and occupiers of the affected land.</p>
<b>CL.2</b>	<p>The CLMP shall be in general accordance with the draft Contaminated Land Management Plan listed in Condition RC.1, and shall include :</p> <ul style="list-style-type: none"> <li>(a) Any soil, groundwater and landfill gas investigations undertaken in closed landfills and uncontrolled fill at Gloucester Park North and South to characterise potential hazards associated with works in those areas and to inform development of the CLMP;</li> <li>(b) The measures to be undertaken in the handling, storage and disposal of all contaminated material excavated during Construction Works;</li> <li>(c) The soil validation testing that will be undertaken;</li> <li>(d) The soil verification testing that will be undertaken to determine the nature of any contamination in excavated spoil and the potential reuse or disposal options for that spoil;</li> <li>(e) Measures to be undertaken in the event of unexpected contamination being identified during construction activities, including measures to: <ul style="list-style-type: none"> <li>i) Assist with identification of unknown contaminated material;</li> <li>ii) Stop work or isolate the area once any such material is identified;</li> </ul> </li> <li>(f) The measures to be undertaken to manage contaminated land to: <ul style="list-style-type: none"> <li>i) Protect the health and safety of workers and the public;</li> <li>ii) Control stormwater run-on and run-off;</li> <li>iii) Remove or manage any contaminated soil.</li> </ul> </li> <li>(g) The measures to be undertaken to manage asbestos to: <ul style="list-style-type: none"> <li>i) Identify any suspected asbestos;</li> <li>ii) Identify the type of asbestos and confirm the appropriate means by which it shall be removed;</li> <li>iii) Handle asbestos containing material;</li> <li>iv) Implement appropriate health and safety measures to maintain the safety of workers and the public; and</li> <li>v) Remove the asbestos and dispose of it to an appropriately licensed facility.</li> </ul> </li> </ul>
<b>CL.3</b>	<p>The CLMP shall be submitted to the Manager for certification in accordance with the process set out in Condition RC.9.</p>
<b>CL.4</b>	<p>All sampling and testing of contamination on the site shall be overseen by a Suitably Qualified Person. All sampling shall be undertaken in accordance with <i>Contaminated Land Management Guidelines No. 5 Site Investigation and Analysis of Soils</i> (Revised 2011).</p>

Ref	Condition
CL.5	Excess soil or waste materials removed from the subject site shall be deposited at a disposal site that holds a resource consent to accept the relevant level of contamination.
CL.6	Where contaminants are identified that have not been anticipated by the CLMP, works in the area containing the unexpected contamination shall cease until the contingency measures outlined in the approved CLMP have been implemented, and the discovery and contingency measures undertaken have been notified to the Manager.
CL.8	To protect the health of workers on the site during excavations, works shall be managed to minimise the generation of dust on the site and be carried out in accordance with the approved CLMP.
CL.9	<p>Where the Construction Works require the removal of existing Auckland Council closed landfill groundwater monitoring bores, the Consent Holder shall relocate the monitoring bores (and associated access infrastructure) in consultation with Council. The relocation shall provide for the progressive decommissioning and replacement of the bores and, as far as is practicable, continuity in monitoring data. As part of this, a programme of progressive decommissioning and replacement of monitoring points shall be provided to Council in advance of Construction Works within closed landfills.</p> <p>The Consent Holder shall provide access to the Council or its agent to the relocated monitoring bores for the duration of Construction Works, subject to health and safety requirements. Where existing or relocated monitoring bores or monitoring points fall within the construction area, and health and safety requirements prevent access by Council or its agent, the Consent Holder shall undertake, on behalf of the Council, monitoring required by conditions of the Council's discharge consents for the closed landfills, and shall provide these records to Council.</p>
CL.10	<p>The design for the EWL Embankment along the Māngere Inlet foreshore shall:</p> <ul style="list-style-type: none"> <li>(a) Be in general accordance with the drawings and mitigation measures outlined in the documents listed in Condition RC.1 and referred to in Condition RC.3;</li> <li>(b) Minimise the impact of the EWL Embankment on: <ul style="list-style-type: none"> <li>(i) Upstream groundwater levels;</li> <li>(ii) The potential for development of preferential flow paths along existing stormwater infrastructure; and</li> <li>(iii) The potential for groundwater contamination and/or leachate seepage in relation to the closed landfills.</li> </ul> </li> </ul>
CL.11	<ul style="list-style-type: none"> <li>(a) The Consent Holder shall consult with Council during detailed design of the leachate interception drain and associated pipework. The detailed design shall achieve the following outcomes: <ul style="list-style-type: none"> <li>(i) Provide best practicable interception of leachate from the Pikes Point West and East Closed Landfills, at least to the existing level of interception collection;</li> <li>(ii) Provide for conveyance of the collected leachate to the stormwater treatment system with contingency measures in place to allow discharge to trade waste;</li> <li>(iii) Allow for monitoring of leachate quality and quantity as set out in Condition L.2 of the associated discharge consent;</li> </ul> </li> <li>(b) The leachate interception drain and associated pipework shall be designed for durability, ease of maintenance and access, and minimise ongoing operation and maintenance requirements.</li> </ul>

Ref	Condition
<p><b>CL.12</b></p>	<p>If Municipal Solid Waste material remains beneath the EWL Embankment and the replacement Pikes Point Closed Landfill interception drain does not capture leachate from that material then:</p> <ul style="list-style-type: none"> <li>(a) Up to three groundwater wells shall be installed beneath the EWL Embankment for monitoring purposes;</li> <li>(b) The water levels in the wells shall be monitored at 6 monthly intervals for a minimum of 2 years following Completion of Construction;</li> <li>(c) If water is detected in the wells, samples shall be analysed for total ammoniacal nitrogen (NH<sub>4</sub>N) and the result compared with the trigger level established under (d) below;</li> <li>(d) The trigger level NH<sub>4</sub>N concentration shall be derived from the Australian and New Zealand Environmental Conservation Council, Australian Guidelines for Fresh and Marine Waters, 2000 (ANZECC 2000) marine water quality guideline, 90% level of protection (1.2 mg/L) allowing for attenuation downgradient of the EWL Embankment and reasonable mixing in the receiving water;</li> <li>(e) The trigger level established under (d) above and the actions to be taken to comply with the requirements of (f) and (g) below shall be documented by the Consent Holder and provided to and obtain the approval of the Manager prior to being implemented.</li> <li>(f) If a trigger level exceedance occurs, then further monitoring of the water quality in the marine receiving environment shall be undertaken to identify if an adverse effect is occurring;</li> <li>(g) If the monitoring indicates that an adverse effect is occurring and is verified by a Suitably Qualified Person as being directly attributable to the Municipal Solid Waste material which remains beneath the EWL Embankment, a Remedial Action Plan shall be developed in consultation with Council and implemented to mitigate that adverse effect. This may include, for example, extraction of leachate from the wells until such time as NH<sub>4</sub>N drops below the trigger level;</li> <li>(h) If there are no trigger level exceedances over the 2 year period then monitoring shall be discontinued; and</li> <li>(i) In the event of a trigger level exceedance, the monitoring shall be extended for 6 months from the date of the last exceedance.</li> </ul> <p>The results of the monitoring shall be provided to the Manager on request and (if required) the Remedial Action Plan shall be provided to the Manager.</p>
<p><b>CL.13</b></p>	<p>Unless otherwise agreed with the landowner, any damage caused to the existing clay cap on the closed landfill located at 39 and 59 Miami Parade during construction of the Project shall be fully reinstated by the Requiring Authority as soon as practicable following completion of land disturbance activities, such that the land outside of the designation boundary can continue to be used for industrial purposes.</p>

## EARTHWORKS, VEGETATION ALTERATION AND REMOVAL (E)

Ref	Condition
<i>Erosion and Sediment Control</i>	
<b>E.1</b>	During construction the Consent Holder shall take all practicable measures to minimise erosion and prevent the discharge of sediment beyond the boundaries of the site.
<b>E.2</b>	Erosion and sediment control measures shall be implemented throughout Construction Works. They shall be constructed and maintained so as to operate and perform in accordance with Auckland Council <i>GD2016/005: Erosion Sediment Control Guide for Land Disturbing Activities in the Auckland Region</i> and any amendments to this document, except where a higher standard is detailed in the conditions below in which case the higher standard shall apply.
<i>Site Specific Erosion and Sediment Control Plans – Design</i>	
<b>E.3</b>	<p>Prior to the Commencement of Construction for each specific area and/or activity, a <b>Construction Erosion and Sediment Control Plan</b> (CESCP) or plans shall be prepared by a Suitably Qualified Person.</p> <p>The purpose of the CESCP is to set out the measures to be implemented during construction to minimise erosion and the discharge of sediment beyond the boundaries of the site.</p> <p>Unless agreed otherwise with the Manager, the CESCPs shall include, but not be limited to the following information as appropriate to the scale, location and type of earthworks:</p> <ul style="list-style-type: none"> <li>(a) Contour information at suitable intervals;</li> <li>(b) Erosion and sediment controls including specific design (location, dimensions, capacity);</li> <li>(c) Supporting calculations and design drawings;</li> <li>(d) Catchment boundaries for the sediment controls;</li> <li>(e) Location of the works, and cut and fill operations;</li> <li>(f) Details of measures for contaminated land as identified in the CLMP under Condition CL.1;</li> <li>(g) Details of construction methods to be employed, including timing and duration;</li> <li>(h) A programme for managing exposed area, including progressive stabilisation considerations;</li> <li>(i) Identification of the Suitably Qualified Persons to manage the environmental issues on site;</li> <li>(j) Identification of the persons who have clearly defined roles and responsibilities to monitor compliance with the CESCP;</li> <li>(k) Details of the chain of responsibility for managing environmental issues and details of responsible personnel; and</li> <li>(l) Monitoring and maintenance requirements.</li> </ul>
<b>E.4</b>	<p>The Consent Holder shall submit the CESCP to the Manager for certification at least 10 working days prior to Commencement of Construction associated with each specific area and/or activity.</p> <p>No earthworks activity on the subject site shall commence until written approval is received from the Manager.</p>
<i>Flocculation Treatment Plan</i>	



Ref	Condition
E.5	<p>Where flocculant treatment is proposed for use on site, the CESCOP shall include a <b>Flocculation Treatment Plan</b> which shall include as a minimum:</p> <ul style="list-style-type: none"> <li>(a) Specific design details of the flocculation treatment system based on a rainfall activated and manual batch dosing methodology for the site's Sediment Retention Ponds (SRPs), Decanting Earth Bunds (DEBs) and any other sediment detention or flow device systems as may be employed on site;</li> <li>(b) Monitoring, maintenance (including post storm) and contingency programme (including a record sheet) for the flocculation treatment system;</li> <li>(c) Consideration of the use of organic flocculants where practicable, provided that the most effective flocculent in terms of sediment removal shall be selected based on (e) below;</li> <li>(d) Details of optimum dosage (including assumptions);</li> <li>(e) Results of any initial treatment trials;</li> <li>(f) A spill contingency plan;</li> <li>(g) Details for the checking and calibration of dosing and monitoring equipment; and</li> <li>(h) Details of the person or bodies that will hold responsibility for the operation and maintenance of the flocculation treatment system.</li> </ul> <p>The Flocculation Treatment Plan shall be submitted to the Manager for certification in accordance with the process set out in Condition E.4.</p>
<i>Erosion and Sediment Control Device Requirements</i>	
E.6	<p>Unless otherwise agreed with the Manager, the Consent Holder shall design, construct and maintain all erosion and sediment control devices to achieve compliance with the documents set out in Condition E.2 and also with the following design requirements (some of which do not form part of those documents):</p> <ul style="list-style-type: none"> <li>(a) All erosion and sediment control devices shall be located outside the 20 year ARI flood level, unless no other viable location exists;</li> <li>(b) Clean and dirty water diversion channels, shall be sized to accommodate the flow from a 100 year ARI storm event where practicable, and at a minimum, the flow from a 20 year ARI storm event and an additional 300mm freeboard;</li> <li>(c) All temporary stream crossings and temporary culverts shall be sized to accommodate the flow from a 20 year ARI storm event and include a stabilised overland flow path for runoff exceeding the flow expected in a 20 year ARI storm event;</li> <li>(d) At all practical times, streamworks activities and associated works shall be undertaken with stream diversions in place to accommodate up to the 20 year ARI rain event. All stream flows above the 20 year ARI rain event shall be diverted, via systems (such as overland flow paths) capable of conveying the 100 year ARI rain event flow around the works area;</li> <li>(e) Pumping of all sediment laden runoff and groundwater during Construction Works shall be to SRPs, DEBs, grass buffer zones or temporary sediment retention devices such as container impoundment systems;</li> <li>(f) All DEBs and SRPs that serve a catchment area greater than 500m<sup>2</sup> shall be treated via a rainfall activated flocculation treatment system. SRPs shall each have two flocculation sheds (or equivalents) installed;</li> <li>(g) All DEB volumes are to be designed based on 2% of the contributing catchment area and all DEBs shall be fitted with floating decants that are designed to discharge at a rate of 3 litres/sec/ha;</li> <li>(h) All construction yard areas shall achieve the detention requirements as detailed within the NZ Transport Agency's <i>Erosion and Sediment Control Guidelines for State Highway Infrastructure</i> (2014);</li> </ul>

Ref	Condition
	<p>(i) All SRP volumes are to be designed based on 3% of the contributing catchment area and will contain reverse slopes in the base of ponds, baffles and decant pulley systems and a forebay with a volume of 10% of the pond volume;</p> <p>(j) All dirty water diversion channels shall be designed and constructed with sediment sumps at locations specified in the CЕСCP with a minimum volume of 2m<sup>3</sup> per sump; and</p> <p>(k) The erosion and sediment control for the site shall include the installation of a last line of defense, which shall include protection of the freshwater receiving environments with additional bunding, silt fence, super silt fence or alternative as defined in the CЕСCP for that particular stage.</p>
<i>As-Built Certification</i>	
<b>E.7</b>	<p>Prior to earthworks commencing (excluding the construction of the erosion and sediment controls), a certificate signed by an Suitably Qualified Person shall be submitted to the Manager, to certify that the erosion and sediment controls have been constructed in accordance with Condition E.2.</p> <p>Certified controls shall include sediment retention ponds, flocculation treatment systems, decanting earth bunds, super silt fences, silt fences and diversion channels/bunds.</p>
<b>E.8</b>	<p>The operational effectiveness and efficiency of all erosion and sediment control measures specifically required as a condition of resource consent or by the CЕСCP referred to in Condition E.3 shall be maintained throughout the duration of earthworks activity, or until the site is permanently stabilised against erosion.</p>
<i>Inspection and Monitoring</i>	
<b>E.9</b>	<p>There shall be no deposition of earth, mud, dirt or other debris on any road or footpath beyond the boundary of the site resulting from earthworks activity on the subject site. In the event that such deposition does occur, it shall immediately be removed. In no instance shall roads or footpaths be washed down with water without appropriate erosion and sediment control measures in place to prevent contamination of the stormwater drainage system, watercourses or receiving waters.</p>
<b>E.10</b>	<p>The sediment and erosion controls at the site of the works shall be inspected on a regular basis and within 24 hours of each rainstorm event that is likely to impair the function or performance of the erosion and sediment controls. A record shall be kept of the date, time and any maintenance undertaken in association with this condition, and shall be forward to the Manager on request.</p>
<b>E.11</b>	<p>The Consent Holder shall carry out monitoring in accordance with the CЕСCP and shall keep records detailing:</p> <ul style="list-style-type: none"> <li>(a) The monitoring undertaken;</li> <li>(b) The erosion and sediment controls that required maintenance;</li> <li>(c) The time when the maintenance was completed; and</li> <li>(d) Areas of non-compliance with the erosion and sediment control monitoring plan (if any) and the reasons for the non-compliance.</li> </ul> <p>This information shall be made available to the Manager upon request.</p>
<i>Stabilisation and Decommissioning</i>	
<b>E.12</b>	<p>The site shall be stabilised against erosion as soon as practicable, and in a progressive manner, as earthworks are finished over various areas of the site. Areas of bulk</p>

Ref	Condition
	earthworks not actively worked for a period of two weeks shall be stabilised until such time as further earthworks occur in a specific area.
<b>E.13</b>	Upon completion or abandonment of earthworks on the Project site all areas of bare earth shall be permanently stabilised against erosion to the satisfaction of the Manager
<b>E.14</b>	Notices shall be given to the Manager prior to any erosion and sediment control measures being removed and/or on completion of the works.

## COASTAL ACTIVITIES (C)

Ref	Condition
<i>Detailed Engineering Designs and Drawings - Coastal</i>	
<b>C.1</b>	<p>At least 20 working days prior to Commencement of Construction in the CMA (excluding Site Investigations and Enabling Works), the Consent Holder shall submit to the Manager for certification the following documentation to be prepared in general accordance with the documents listed in Condition RC.1 and referred to in Condition RC.3:</p> <ul style="list-style-type: none"> <li>(a) Detailed engineering designs and drawings (including dimensioned cross sections, elevations, site plans of all areas of reclamation, declamation, permanent and temporary structures);</li> <li>(b) A ULDMP for the areas of the Project within the CMA which reflects the Key Design Principles and Sector Outcomes of the Project's ULDF for those areas; with the ULDMP to be prepared in consultation with Council and the Mana Whenua Group; and</li> <li>(c) Specifications for the works authorised by this consent.</li> </ul>
<b>C.1A</b>	<p>All permanent structures within the CMA shall be designed for long-term durability, ease of maintenance access, and to minimise ongoing operation and maintenance requirements.</p>
<i>Design Details – Reclamation and Boardwalk</i>	
<b>C.1B</b>	<p>The total reclamation area and footprint of permanent occupation in the Māngere Inlet for the road embankment, landscape and amenity features, access, and stormwater treatment areas is not to exceed the area identified in the documents listed in Condition RC.1, and as modified in accordance with Condition C.1BB below.</p>
<b>C.1BB</b>	<p>As part of detailed design, the headlands (outer promontories) of reclamation Landforms 2 and 3 as shown on the <i>plan Headlands (outer promontories) of and forms 2 and 3, December 2017, Rev 1</i> (in Appendix 2 of these conditions) shall be deleted or modified (e.g. in the form of islands).</p> <p>The purpose of the reduction and modification to these headlands is to:</p> <ul style="list-style-type: none"> <li>(i) increase tidal flow velocities past the landforms; and</li> <li>(ii) reduce sediment accumulation between the headlands (outer promontories) and between the landforms compared with the lodged design.</li> </ul> <p>Any modification or reduction of the headlands shall achieve the outcomes specified in Condition C.1D below.</p>
<b>C.1C</b>	<p>The design details for the reclamation, coastal paths and boardwalk shall:</p> <ul style="list-style-type: none"> <li>(a) Be prepared in consultation with Council and the Mana Whenua Group;</li> <li>(b) Be in general accordance with the drawings listed in Condition RC.1 and referred to in Condition RC.3;</li> <li>(c) Give effect to the ULDMP referred to in Condition C.1(b);</li> <li>(d) Give effect to the relevant outcomes of the Ecological Management Plan prepared in accordance with Condition EM.1;</li> <li>(e) Integrate with the design of the stormwater treatment system developed in accordance with Condition C.1F;</li> </ul>

Ref	Condition
	<p>(f) Be developed as part of an integrated design process which includes input from a range of technical experts to achieve the outcomes in Conditions C.1BB and C.1D to C.1F; and</p> <p>(g) Include consideration of:</p> <ul style="list-style-type: none"> <li>i) Crime Prevention Through Environmental Design principles; and</li> <li>ii) Safety in Design requirements.</li> </ul>
<b>C.1D</b>	<p>The detailed design of the shape and form of the reclamation shall achieve the following outcomes:</p> <ul style="list-style-type: none"> <li>(a) Integration of the road embankment, landscape and amenity features, access, and stormwater treatment areas in a manner which minimises the required area of reclamation, particularly in the area identified in the Auckland Unitary Plan as Significant Ecological Area;</li> <li>(b) A landform profile which incorporates a variety of landscape features in an aesthetically coherent design which: <ul style="list-style-type: none"> <li>i) References natural features and patterns such as lava flows of the original Māngere Inlet northern shoreline, estuarine wetlands, and scoriaceous gravel banks and beaches;</li> <li>ii) Includes a varied vertical profile to appear as part of the Māngere Inlet, for example, an outer bund (i.e. gravel banks) lower than the EWL Main Alignment, and elevated headlands higher than the EWL Main Alignment;</li> <li>iii) Minimises adverse effects on coastal processes such as water flow patterns or potential for increased sedimentation;</li> <li>iv) Incorporates design refinements to minimise temporary and permanent adverse effects on avifauna; and</li> <li>v) Incorporates opportunities for habitat enhancement and bird roosting areas.</li> </ul> </li> </ul>
<b>C.1E</b>	<p>The detailed design of the coastal path on the reclamation and the boardwalk in the CMA shall achieve the following outcomes:</p> <ul style="list-style-type: none"> <li>(a) Enhanced public access to and along the coastal edge for pedestrians and cyclists;</li> <li>(b) Enhanced recreational experience of Māngere Inlet for users of the path and boardwalk including a meandering alignment, varied landscape features and incidents and a sequence of views;</li> <li>(c) Opportunities for pausing and passive recreation adjacent to the path;</li> <li>(d) Contouring of the landforms to provide separation of the coastal path from the EWL Main Alignment, where practicable;</li> <li>(e) Sufficient separation between the boardwalk and EWL Main Alignment to maintain amenity for users of the boardwalk, whilst also seeking to minimise adverse effects on avifauna and encroachment into intertidal areas;</li> <li>(f) Where practicable, design features to achieve aural amenity (such as low walls along the EWL Main Alignment), whilst maintaining visibility to the Māngere Inlet;</li> <li>(g) Regular connections between the coastal path and boardwalk (at approximately 200m intervals tailored to access points across the EWL Main Alignment) to enhance user choice and safety;</li> <li>(h) Discourage public access to parts of Landform 3 to minimise potential adverse effects on avifauna; and</li> <li>(i) Fit for purpose gradient and surfacing to provide for universal access.</li> </ul>
<i>Design Details – Stormwater System</i>	

Ref	Condition
C.1F	<p>The Consent Holder shall consult with Council during detailed design of the stormwater treatment system to be located within the reclamation. The design shall be in general accordance with the drawings listed in Condition RC.1 and referred to in Condition RC.3. The design shall take account of the outcomes to be achieved in Condition C.1D and shall achieve the following outcomes:</p> <ul style="list-style-type: none"> <li>(a) Achieve an average annual removal efficiency of at least 75% Total Suspended Solid levels (TSS) taking account of the outcomes to be achieved in Condition C.1D above and (b) to (i) below;</li> <li>(b) Minimise salt water intrusion into the stormwater treatment system;</li> <li>(c) Future proof to enable adaptation to climate change effects including sea level rise;</li> <li>(d) Design of stormwater outfalls to take account of predicted changes in sea bed level;</li> <li>(e) Consistency with desired outcomes of Council's Auckland Stormwater Network Discharge Consent (if granted by the time of detailed design for the Project);</li> <li>(f) Integrate with the design of the reclamation, coastal paths and boardwalk developed in accordance with Condition C.1C;</li> <li>(g) Ability to treat leachate from the Pikes Point Closed Landfill interception drain; and</li> <li>(h) Design for long-term durability, ease of maintenance access, and to minimise ongoing operation and maintenance requirements.</li> </ul>
C.1G	<p>A <b>Stormwater Operation and Maintenance Plan</b> shall be submitted to the Manager for certification 20 working days prior to commencement of the operation of the stormwater treatment system. The Stormwater Operation and Maintenance Plan shall include, but not be limited to:</p> <ul style="list-style-type: none"> <li>(a) A commissioning plan for the stormwater treatment system including introduction of leachate from the replacement Pikes Point Closed Landfill interception drain;</li> <li>(b) Details of the person or organisation that will hold responsibility for operation and maintenance of the stormwater treatment system on commissioning and in the long-term, including any processes for changing responsibilities as required;</li> <li>(c) A programme for regular maintenance and inspection of the stormwater treatment system;</li> <li>(d) A programme for the collection and disposal of debris and sediment collected by the stormwater management devices or practices;</li> <li>(e) Procedures for post storm inspection and maintenance;</li> <li>(f) A programme for inspection and maintenance of the outfalls;</li> <li>(g) General inspection checklists for all aspects of the stormwater treatment system, including visual checks;</li> <li>(h) A programme for inspection and maintenance of vegetation associated with the stormwater management devices; and</li> <li>(i) Details of the monitoring to be undertaken in accordance with Condition C.1H.</li> </ul>
C.1H	<ul style="list-style-type: none"> <li>(a) The Consent Holder shall assess the performance of the stormwater treatment system located within the reclamation for a period of 5 years following Completion of Construction of the reclamation.</li> <li>(b) The purpose of the assessment is to confirm that the stormwater treatment system is operating as designed and as such is expected to achieve the outcomes in Condition C.1F(a) and (g).</li> <li>(c) The assessment shall include monitoring of the foreshore stormwater treatment system consisting of:</li> </ul>

Ref	Condition
	<ul style="list-style-type: none"> <li>(i) Annual monitoring of vegetation cover with a performance target of greater than 95% coverage;</li> <li>(ii) Annual monitoring of weed cover with a performance target of less than 5% coverage;</li> <li>(iii) Annual monitoring of saturated hydraulic conductivity of biofiltration with a performance target of greater than 150mm/hr;</li> <li>(iv) Annual measurement of sediment build up within the forebay, wetland and surface of the biofiltration devices;</li> <li>(v) Quarterly measurement of TSS concentration following storm events from wetland and biofiltration outlets and comparing measured TSS to predicted modelled TSS. This will be conducted on two of the treatment devices;</li> <li>(vi) Monthly during dry weather (October to March) and then quarterly measurement of the leachate concentrations at wetland inlets and outlets during dry weather and comparison to the leachate design trigger value for Ammonical Nitrate. This will be conducted on two of the treatment devices.</li> </ul> <p>(d) If the monitoring undertaken under (c) indicates a lower level of performance compared to the designed performance, the Consent Holder shall review the Stormwater Operations and Maintenance Plan prepared under Condition C.1G and update the Plan to include measures to improve performance to align with the design intent.</p> <p>(e) A review of the Stormwater Operations and Maintenance Plan prepared under Condition C.1G shall be conducted on an annual basis for a period of 5 years following Completion of Construction of the reclamation.</p> <p>(f) Any updates to the Stormwater Operations and Maintenance Plan shall be provided to the Manager.</p>
<i>Temporary Occupation of the CMA</i>	
<b>C.3</b>	The right to temporarily occupy part of the CMA during construction is limited to the areas and structures identified in the documents listed in Condition RC.1.
<i>Coastal Works CEMP</i>	
<b>C.4</b>	<ul style="list-style-type: none"> <li>(a) Prior to Commencement of Construction in the CMA (excluding Site Investigations and Enabling Works), the Consent Holder shall submit a <b>Coastal Works CEMP</b> to the Manager in accordance with the process set out in Condition RC.9 to certify compliance and consistency with the conditions of this consent relating to works in the CMA.</li> <li>(b) The purpose of the Coastal Works CEMP is to confirm the proposed methodology for construction works within the CMA and to set out the specific management procedures and construction methods to be undertaken in order to avoid, remedy or mitigate potential adverse effects arising from those works.</li> <li>(c) In addition to the details required by Condition RC.11 the Coastal Works CEMP shall include the following information: <ul style="list-style-type: none"> <li>(i) Confirmation of the construction methodology, including: <ul style="list-style-type: none"> <li>a. The nature of reclamation fill material and the method(s) by which these materials will be deposited;</li> <li>b. The process for demolition and removal of existing structures, including the methodology to minimise discharges to the CMA;</li> <li>c. Finalised details of the temporary structures in the CMA (e.g. silt fence);</li> <li>d. Methods to remedy disturbance resulting from the works.</li> </ul> </li> </ul> </li> </ul>

Ref	Condition
	<ul style="list-style-type: none"> <li>(ii) Proposed staging of reclamation activities in the Māngere Inlet to minimise exposed areas;</li> <li>(iii) Programme of works to minimise the duration of disturbance in the CMA;</li> <li>(iv) Erosion and sediment control measures and perimeter controls for foreshore works and bridge construction;</li> <li>(v) Monitoring of sediment discharges from dredging, declamation and reclamation works;</li> <li>(vi) Trigger event criteria for undertaking additional monitoring of sediment discharges and the process to review, and if necessary, modify the works methodology where there is an exceedance of the criteria;</li> <li>(vii) Contingency plans in case of unexpected sediment discharges to the CMA during works;</li> <li>(viii) Site management, including details of: <ul style="list-style-type: none"> <li>a. Site access;</li> <li>b. Methods to be used to minimise the need for refuelling, maintenance and storage of equipment or machinery in the CMA;</li> <li>c. Methods to ensure that barges and equipment used in the CMA is clean and certified as free of invasive species identified by the Ministry of Primary Industries;</li> <li>d. Procedures for refuelling, maintenance and storage of equipment or machinery in any part of the CMA if this is required, and measures to avoid discharges of contaminants during cleaning, refuelling, and maintenance activities in the CMA;</li> <li>e. Plant and animal pest management during construction;</li> <li>f. Methods to achieve compliance with the Project construction noise and vibration standards as set out in Conditions CNV.4 and CNV.5 of the designation;</li> <li>g. Site clean-up following works completion</li> </ul> </li> <li>(ix) Details of all temporary structures in the CMA and their associated construction methodology including the expected duration of occupation;</li> <li>(x) Identification of all construction access points to the CMA and along the foreshore;</li> <li>(xi) Details of the quantities, sources and physical (textural and geological) and chemical (bulk chemistry and leaching potential) characteristics of reclamation fill materials; and</li> <li>(xii) Details of all other practicable steps to be taken to minimise disturbance of the seabed during the Construction Works.</li> </ul> <p>(d) The Coastal Works CEMP shall be consistent with the ECOMP prepared under Condition EM.1.</p>
<b>C.4A</b>	<ul style="list-style-type: none"> <li>(a) The Consent Holder shall undertake the following enhancement works in the foreshore area adjacent to Orpheus Drive and Onehunga Harbour Road identified in the Auckland Unitary Plan as Outstanding Natural Feature: <ul style="list-style-type: none"> <li>(i) Remove rubbish, concrete debris and broken disused pipes from the Outstanding Natural Feature ; and</li> <li>(ii) To the immediate north of the Aotea Sea Scouts Building remove loose boulders from the base of the sea wall to improve visibility of the intertidal volcanic tuff exposure.</li> </ul> </li> </ul>



Ref	Condition
	<p>(b) The debris removal shall be carried out under the guidance of a Suitably Qualified Person and in a manner which does not damage the ONF or compromise the structural integrity of the existing seawall.</p> <p>(c) The methodology for this work shall be described in the Coastal Works CEMP and shall be undertaken in accordance with the relevant Permitted Activity standards in F2.21 of the Proposed Auckland Unitary Plan.</p>
<b>C.4B</b>	The Consent Holder shall identify and assess options for construction of the reclamation which minimise the extent of intertidal dredging required in the Māngere Inlet. For example, this may include options for sequencing of inner and outer bund construction, use of sheetpiling, or other methods to create a coffer dam. The options shall be identified and assessed in consultation with Council, and the confirmed methodology shall be described in the Coastal Works CEMP to be prepared in accordance with Condition C.4.
<b>C.4C</b>	The Consent Holder shall construct a new tidal channel to replace the existing secondary tidal channel that feeds into Anns Creek near the eastern end of the reclamation. The new channel shall be designed and constructed with similar dimensions and geometry to minimise morphological changes in this part of the Māngere Inlet. The proposed construction methodology shall be developed in consultation with Council, and the confirmed methodology shall be described in the Coastal Works CEMP to be prepared in accordance with Condition C.4.
<b>C.5</b>	Where mangrove removal is required, the vegetation shall be removed and disposed of at an approved facility as soon as practicable in order to avoid potential adverse effects arising from decaying vegetation on remaining habitat.
<b>C.6</b>	The Consent Holder shall notify the Manager in writing of the proposed date of Commencement of Construction in the CMA, at least 20 working days prior to the proposed start date.
<b>C.7</b>	Within 40 days following Completion of Construction in the CMA, the Consent Holder shall remove all erosion and sediment control measures, construction materials and temporary staging from the CMA in accordance with the approved Coastal Works CEMP under Condition C.4.
<i>Notification – Harbour Master</i>	
<b>C.8</b>	The Consent Holder shall notify the Auckland Harbour Master in writing of the proposed date of Commencement of Construction in the CMA, including dredging operations, at least 20 working days prior to the proposed start date.
<b>C.9</b>	The Consent Holder shall consult the Auckland Harbour Master in regard to any lighting or navigational aids required for the temporary and/or permanent structures in the CMA.
<i>Permanent Occupation of the Coastal Marine Area</i>	
<b>C.10</b>	The right to permanently occupy part of the coastal marine area is limited to the areas and structures identified in the documents listed in Condition RC.1.
<i>As-Built Plans and Survey – Coastal</i>	
<b>C.11</b>	Within three months of Completion of Construction in the CMA, the Consent Holder shall supply a complete set of As-Built Plans to the Manager. The As-Built Plans shall include a location plan, a plan which shows the area of occupation, structure dimensions, and a cross-sections.

Ref	Condition
<b>C.12</b>	The Consent Holder shall prepare a survey plan that shows and defines the areas reclaimed, including their location and the position of all boundaries in accordance with the requirements of section 245 of the RMA.
<b>C.13</b>	In accordance with section 245 of the RMA, the plan of survey shall be submitted to the Manager for approval as soon as reasonably practicable after completion of the reclamation. The plan of survey shall be prepared in accordance with regulations made under the Cadastral Survey Act 2002 relating to survey plans within the meaning of those Regulations.
<b>C.14</b>	The Consent Holder shall take all steps necessary to ensure the survey plan is deposited under the Land Transfer Act 1952 or with the Registrar General of Land as soon as reasonably practicable after the date the survey plan is approved by the Manager under section 245 of the RMA.
<i>Maintenance of Structures</i>	
<b>C.15</b>	The structures permitted to occupy part of the CMA by this consent shall be maintained in a good and sound condition, and any repairs that are necessary shall be made, subject to obtaining any necessary resource consents, if required.

## DREDGING (D)

Ref	Condition
<i>Coastal Works CEMP – Dredging</i>	
<b>D.0</b>	This consent authorises the works associated with relocation of the Anns Creek tidal channel and the dredging/placement of dredged material within the Project footprint. This consent does not authorise sub-tidal dredging within the areas denoted as 'Proposed Area For Marine Dredging' and '50m Dredging Channel For Access To Foreshore' on drawing <i>Coastal Occupation Embankment – Overview, AEE-CMA-101 Rev 0</i> , dated 1/12/16 or any subsequent amendment to that drawing.
<b>D.1</b>	In addition to the matters in Condition C.4, the Coastal Works CEMP shall also include the following matters relating to dredging for the relocation of the Anns Creek tidal channel and dredging/placement of dredged material within the Project footprint in the CMA: <ul style="list-style-type: none"> <li>(a) The results of contaminant and ecological surveys undertaken in accordance with Condition D.1A to confirm the location and extent of subtidal dredging for the relocation of the Anns Creek tidal Channel;</li> <li>(b) Location of the activities;</li> <li>(c) Details of equipment and methods to be used including the option to use an environmental dredge bucket (with closing lid to reduce sediment dispersal);</li> <li>(d) Proposed staging of the reclamation to minimise exposed areas;(e) Details of proposed quantities of dredged material removed and placed in the CMA, and</li> <li>(e) Timing of activities.</li> </ul>
<b>D.1A</b>	<ul style="list-style-type: none"> <li>(a) Prior to commencing subtidal dredging activities, the Consent Holder shall undertake further ecological and contaminant surveys within the general extent of the proposed subtidal dredging for the relocation of the Anns Creek tidal channel.</li> <li>(b) The surveys shall confirm the location and extent of: <ul style="list-style-type: none"> <li>i) Asian date mussels beds being areas of lower ecological value; and</li> <li>ii) Areas of contaminated sediment.</li> </ul> </li> <li>(c) The surveys will inform the final location and extent of the subtidal dredging activities for the relocation of the Anns Creek tidal channel, with the objective being to refine the areas of proposed dredging to target, where practicable, areas of lower ecological value and lower levels of contaminated material.</li> <li>(d) The results of the surveys shall be provided to the Manager.</li> </ul>
<i>Monitoring - Water Quality Monitoring for Dredging</i>	
<b>D.2A</b>	Prior to the commencement of dredging for the relocation of the Anns Creek tidal channel and within the Project footprint, the Consent Holder shall undertake one-off comprehensive water quality monitoring to establish a baseline. Water quality samples shall be collected for a spring tide and a neap tide.
<b>D.2B</b>	The Consent Holder shall undertake two sets of one-off comprehensive water quality monitoring during the initial phase of the dredging operations. The purpose of this monitoring during the initial phase of dredging is to confirm the mixing zone and proposed trigger level.  Water quality samples shall be collected: <ul style="list-style-type: none"> <li>(a) For a spring tide and a neap tide;</li> </ul>

Ref	Condition
	<ul style="list-style-type: none"> <li>(b) At an updrift control site located approximately within the Māngere Inlet northern channel (for ebb tide) and at least 500 m beyond the operations (for flood tide);</li> <li>(c) At dilution gradient sites 10m, 20m and 50m downdrift of the operations aligned approximately along the centreline of the Māngere Inlet northern channel; and</li> <li>(d) At a compliance site 200m downdrift of the operations aligned approximately along the centreline of the Māngere Inlet northern channel.</li> </ul>
<b>D.3</b>	<p>Following the monitoring undertaken in accordance with Condition D.2B, the Consent Holder shall undertake water quality monitoring once per week whilst dredging and placement of dredged material in the CMA is underway.</p> <p>Water quality samples shall be collected:</p> <ul style="list-style-type: none"> <li>(a) On a flood tide;</li> <li>(b) At an updrift control site located at least 500m beyond the operations;</li> <li>(c) At a dilution gradient site 50m downdrift of the operations aligned approximately along the centreline of the Māngere Inlet northern channel; and</li> <li>(d) At a compliance site 200m downdrift of the operations aligned approximately along the centreline of the Māngere Inlet northern channel.</li> </ul>
<b>D.4</b>	<p>During each sampling run carried out in accordance with Conditions D.2 A, D.2B and D.3, records shall be kept of:</p> <ul style="list-style-type: none"> <li>(a) Sampling date and time;</li> <li>(b) Weather conditions;</li> <li>(c) Sea state;</li> <li>(d) Sampling location;</li> <li>(e) Water depth;</li> <li>(f) Time that dredging and placement of dredged material in the CMA commenced; and</li> <li>(g) Time of low and high tide on day of sampling.</li> </ul>
<b>D.5</b>	<p>Water samples collected in accordance with Conditions D.2A, D.2B and D.3 shall be individual samples from the surface (approximately 0.5 m below surface) and at depth (approximately 0.5m above the seabed) at each site.</p> <p>With the exception of the baseline monitoring required by Condition D.2A, water samples shall be collected on a day that dredging is occurring.</p> <p>Dilution gradient and compliance site samples shall be representative of the plume generated by the operations (i.e. not collected before the plume has had a chance to develop upon the start of the operations and not after the plume has had a chance to dissipate upon completion of the operations), and shall be collected as close as practicable to mid-tide to capture the maximum extent of any plume.</p>
<b>D.6</b>	<ul style="list-style-type: none"> <li>(a) Samples for Condition D.2A and D.2B shall be analysed for: <ul style="list-style-type: none"> <li>(i) Total suspended solid levels (TSS),</li> <li>(ii) Turbidity;</li> <li>(iii) pH,</li> <li>(iv) Dissolved oxygen; and</li> <li>(v) Dissolved copper, zinc and arsenic.</li> </ul> </li> <li>(b) Samples for Condition D.3 shall be analysed for: <ul style="list-style-type: none"> <li>(i) TSS;</li> </ul> </li> </ul>

Ref	Condition
	<p>(ii) Turbidity;</p> <p>(iii) pH.</p> <p>Unless amended in accordance with Condition D.8, the proposed trigger levels shall be 25g/m<sup>3</sup> above TSS at the control site for TSS and a pH of 8.5</p>
<b>D.7</b>	<p>Following three months of weekly sampling, and subject to written approval of the Manager, the monitoring programme may be amended, for example compositing of surface and depth samples, and reduction of the frequency (e.g. to fortnightly / monthly).</p>
<p><i>Monitoring - Trigger Levels and Contingency Plan for Dredging</i></p>	
<b>D.8</b>	<p>The Consent Holder shall review the proposed TSS trigger level of 25g/m<sup>3</sup> and pH trigger level of 8.5 against the results of the one-off comprehensive monitoring undertaken during the initial phase of the dredging operations, including comparison of the baseline TSS and pH levels against the TSS and pH levels during dredging.</p> <p>The Consent Holder shall provide a report to the Manager confirming the above trigger level(s) or proposing alternative trigger level(s) with the basis for the alternative(s). The report shall be provided within 20 working days of the receipt by the Consent Holder of the analytical results for the comprehensive water sampling required in Condition D.2B.</p> <p>The alternative trigger level(s) may be used for regular monitoring subject to approval in writing by the Manager.</p>
<b>D.9</b>	<p>During regular monitoring, an exceedance shall be:</p> <p>(a) A TSS level in any sample collected at the compliance site that exceeds the trigger level plus the TSS level measured in the updrift control sample collected during the same sampling run. The TSS level shall be identified from the analytical results of the water quality samples in accordance with Conditions D.5 and D.6.</p> <p>(b) A pH in any sample collected at the compliance sites that exceeds the pH trigger level. The pH shall be identified from the analytical results of the water quality samples in accordance with Conditions D.5 and D.6.</p>
<b>D.10</b>	<p>The Consent Holder shall prepare a Contingency Plan which sets out the actions to be undertaken in the event of an exceedance. These shall include further monitoring measures, in the first instance, or a site specific effects assessment, and practical modifications to the relevant activities where further monitoring identifies repeated exceedances. Such modifications may include suspending or altering the dredging approach, focusing dredging activities around slack tide, and using silt fences or other containment approaches including encapsulation of intertidal dredging area with coffer dams. The Contingency Plan shall be provided to the Manager at least 20 working days prior to the commencement of dredging.</p>
<p><i>Aerial Photography for Dredging</i></p>	
<b>D.11</b>	<p>The Consent Holder shall take aerial photographs of the extent of any plume during the one-off comprehensive water quality monitoring required by Condition D.2B, at the same time as the sampling runs. Aerial photography sites shall be selected to correspond only to those areas where dredging and placement of dredged material in the CMA are occurring, to confirm sediment plume distribution and aid sampling.</p>
<p><i>Monitoring – Sediment Deposition and Benthic Ecology</i></p>	

Ref	Condition									
<b>D.12</b>	<p>The Consent Holder shall undertake sediment deposition monitoring in the Māngere Inlet at the locations specified in Table D1.</p> <p style="text-align: center;"><b>Table D1: Sediment Deposition Monitoring Locations</b></p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="background-color: #cccccc;">Location Reference</th> <th style="background-color: #cccccc;">Latitude</th> <th style="background-color: #cccccc;">Longitude</th> </tr> </thead> <tbody> <tr> <td>A1</td> <td>36°55'56" S</td> <td>174°49'34"</td> </tr> <tr> <td>A2</td> <td>36°56'32" S</td> <td>174°49'28"</td> </tr> </tbody> </table>	Location Reference	Latitude	Longitude	A1	36°55'56" S	174°49'34"	A2	36°56'32" S	174°49'28"
Location Reference	Latitude	Longitude								
A1	36°55'56" S	174°49'34"								
A2	36°56'32" S	174°49'28"								
<b>D.13</b>	<p>The Consent Holder shall deploy a square plate at least 0.5m by 0.5m in size at the monitoring locations specified in Table D1. The plate shall be deployed 6 months prior to the commencement of dredging and placement of dredged material in the CMA. Changes in bed levels shall be assessed by measuring sediment deposition relative to the plate at four evenly spaced points. Measurements shall be made at all four points and averaged to give a single measure for each location.</p> <p>Alternative monitoring techniques may be used subject to written approval by the Manager.</p>									
<b>D.14</b>	Baseline sediment deposition measurements shall be made at the monitoring locations specified in Table D1 at 3-monthly intervals, commencing 6 months prior to the commencement of dredging and placement of dredged material in the CMA.									
<b>D.15</b>	Routine sediment deposition measurements shall be made at the monitoring locations specified in Table D1 at 3-monthly intervals, for the duration of dredging and placement of dredged material in the CMA and starting at the commencement of those operations.									
<b>D.16</b>	For post- dredging monitoring, the sediment deposition measurements shall be repeated as a one-off event 5 years after completion of dredging. The results of this monitoring shall be provided to the Manager.									
<b>D.17</b>	<p>The results of the 5 year sediment deposition monitoring shall be compared with the change in levels of the Māngere Inlet intertidal flats measured using LIDAR. The LIDAR measurements shall be obtained at the commencement of dredging and placement of dredged material in the CMA and 5 years after completion of the Project.</p> <p>The timing of the LIDAR data collection shall coincide with data collected by Auckland Council as far as practicable.</p>									
<b>D.17A</b>	The Consent Holder shall undertake monitoring of benthic ecology in subtidal dredging areas, commencing within 6 months of completion of the dredging. The purpose of the monitoring is to provide information on initial successional processes of benthic organisms annually over a five year period. Such monitoring shall include collection of subtidal grab samples within dredged areas, and at control sites, and analysed for benthic invertebrate species diversity and abundance. The results shall be provided to the Manager.									
<i>Monitoring – Reporting for Dredging</i>										
<b>D.18</b>	<p>The Consent Holder shall provide monitoring reports to the Manager and the Mana Whenua Group as follows:</p> <ul style="list-style-type: none"> <li>(a) At completion of the one-off comprehensive water quality monitoring as required by Conditions D.2A and D.2B ; and</li> <li>(b) Every six months for the duration of dredging and placement of dredged material in the CMA for routine water quality monitoring and sediment deposition monitoring as required by Condition D.3; and</li> <li>(c) Following completion of the post-dredging monitoring required by Conditions D.16, D.17 and D.17A.</li> </ul>									

Ref	Condition
<i>Notification of completion</i>	
<b>D.19</b>	<p>The Consent Holder shall notify the Manager in writing of the date of completion of dredging and placement of dredged material in the CMA within 10 working days of completion of the last activity.</p> <p>On completion, the Consent Holder shall provide the Manager with the best available estimate of the in-situ volume of material dredged and the in-situ volume placed in the CMA.</p>

## ECOLOGICAL MANAGEMENT (EM)

Ref	Condition
<i>Ecological Management Plan - General</i>	
<b>EM.1A</b>	<p>(a) The Consent Holder shall prepare and submit an <b>Ecological Management Plan (ECOMP)</b> to the Manager in accordance with the process set out in Condition RC.9.</p> <p>(b) The purpose of the ECOMP is to set out the specific management procedures, construction methods, mitigation and monitoring to be undertaken in order to achieve the following outcomes:</p> <ul style="list-style-type: none"> <li>(i) Avoid or minimise the extent of effect on valued ecological and geological areas within the Project site ;</li> <li>(ii) Avoid or minimise the extent of effect on the mosaic of lava shrubland, saltmarsh and wetland habitat in Anns Creek East in accordance with Designation Condition DC.15B (Anns Creek Construction Restriction Area);</li> <li>(iii) Ensure that valued ecological and geological areas, or parts of those areas, which are to be avoided are clearly delineated (e.g. by secure fencing) to protect them during construction;</li> <li>(iv) For those valued ecological and geological areas which cannot be avoided, but where complete loss of the ecosystem, vegetation, habitat, or geological feature is not required, reduce the impact on those areas as far as practicable (e.g. minimising the construction footprint within those areas and placement of construction material outside of those areas); and</li> <li>(v) To avoid, remedy or mitigate potential adverse effects arising from construction activities on terrestrial ecology (including Herpetofauna), freshwater ecology, marine ecology and avifauna.</li> </ul> <p>(c) The ECOMP shall be prepared by a Suitably Qualified Person and in collaboration with the development of the Urban Landscape and Design Management Plan to be prepared for the Project by the NZ Transport Agency.</p>
<b>EM.1B</b>	<p>(a) The ECOMP shall be prepared in consultation with:</p> <ul style="list-style-type: none"> <li>(i) Council;</li> <li>(ii) Department of Conservation;</li> <li>(iii) The Mana Whenua Group; and</li> <li>(iv) Owners of land in which any ecological mitigation works are proposed to be undertaken.</li> </ul> <p>(b) Any comments and inputs received from the parties listed above shall be summarised within the ECOMP or supporting document, along with explanation of where any comments or suggestions have, or have not been incorporated and, if not incorporated, the reasons why.</p>
<b>EM.1C</b>	<p>The ECOMP shall include:</p> <ul style="list-style-type: none"> <li>(a) The specific management procedures, construction methods, mitigation and monitoring to be undertaken in order to achieve the outcomes in Condition EM.1A;</li> <li>(b) The matters set out in Condition EM.2B relating to Māngere Inlet Foreshore, Anns Creek Estuary and Anns Creek West;</li> <li>(c) The matters set out in Condition EM.2C relating to Anns Creek East;</li> <li>(d) Details of the salt marsh restoration trial and salt marsh replacement as set out in Condition EM.4A and EM.4B;</li> </ul>



Ref	Condition
	<ul style="list-style-type: none"> <li>(e) Measures to minimise potential adverse effects of construction on native fish as set out in Condition EM.5;</li> <li>(f) Measures to minimise potential adverse effects of construction on avifauna as set out in Condition EM.6; and</li> <li>(g) Shall reference the Lizard Management Plan (if one is required) to be prepared in accordance with Condition EM.8A-D.</li> <li>(h) A summary of how all other matters in Conditions EM.1 to EM.12 have been or will be complied with.</li> </ul>
<i>Ecological Restoration and Habitat Enhancement Measures - Sites</i>	
<b>EM.2A</b>	<p>Consent Holder shall undertake ecological restoration and habitat enhancement measures across the Project area and in the vicinity, covering a minimum of 30ha. Subject to Conditions EM.2B and C below, those measures shall comprise :</p> <ul style="list-style-type: none"> <li>(a) Approximately 1.1ha of salt marsh enhancement/recreation and pest plant management at the existing saltmarsh wetland in Gloucester Park South (Te Hōpua);</li> <li>(b) Ecological planting at Miami Stream;</li> <li>(c) Pest plant and pest animal management and ecological planting within Anns Creek Estuary and Anns Creek West in accordance with Condition EM.2B;</li> <li>(d) Riparian planting and other measures to enhance instream habitat, such as placement of rocks, cobbles and woody debris where appropriate, along an 80 metre length of Southdown Stream in Southdown Reserve, a 140 metre length of Southdown Stream to the north of Hugo Johnston Drive, and along a 90 metre length of Clemow Stream;</li> <li>(e) Pest plant and pest animal management, ecological planting and planting of inanga spawning areas along Anns Creek within Anns Creek East in accordance with Condition EM.2C;</li> <li>(f) Remove exotic wetland plants and restore an indigenous freshwater wetland ecosystem covering 0.6ha at the western end of Anns Creek Reserve, to offset the loss of raupo habitat within Anns Creek East which provides habitat for <i>Threatened</i> and <i>At Risk</i> avifauna species (such as Australasian bittern) ;</li> <li>(g) Restoration of saltmarsh and riparian vegetation at Ōtāhuhu Creek;</li> <li>(h) Pest plant management and restoration of 1.5ha freshwater/brackish wetland complex at Blake Road Reserve, Māngere East, and 2.0ha of buffer planting surrounding the wetland; and</li> <li>(i) The implementation of the above ecological restoration and habitat enhancement measures is subject to the grant of landowner approval for works in sites that are not owned by the Consent Holder (Items (a), (c), (d), (e), (g) and (i) above). In the event that landowner approval is unable to be obtained for access to those sites, the Consent Holder shall consult with Council to identify alternative locations in order to achieve the minimum 30ha area, and shall implement ecological restoration and habitat enhancement measures at those alternative locations.</li> </ul>
<i>Ecological Management Plan - Māngere Inlet Foreshore, Anns Creek Estuary, Anns Creek West</i>	
<b>EM.2B</b>	<p>The ECOMP shall include the following information in relation to the <b>Māngere Inlet Foreshore, Anns Creek Estuary and Anns Creek West</b> :</p> <ul style="list-style-type: none"> <li>(a) Details of Construction Works including: <ul style="list-style-type: none"> <li>(i) Measures to avoid the placement of soil or other material that might obscure exposed remaining lava surfaces in Anns Creek Estuary and Anns Creek West;</li> </ul> </li> </ul>

Ref	Condition
	<ul style="list-style-type: none"> <li>(ii) Removal of pest plant material from lava surfaces at Anns Creek Estuary and Anns Creek West;</li> <li>(b) Details of ecological restoration and habitat enhancement measures including: <ul style="list-style-type: none"> <li>(i) Pest plant management for the remaining basalt lava flows and lava shrubland at Victoria Street and Pikes Point;</li> <li>(ii) Where practicable, transplanting indigenous coastal species (e.g. saltmarsh) and vegetation from lava outcrops which will be directly affected by the Project works into coastal restoration areas on the Māngere Inlet foreshore;</li> <li>(iii) Implementation of measures to avoid encroachment of Construction Works in threatened plant habitats in Anns Creek Estuary which are located outside of the Project site ;</li> <li>(iv) Restoration and recreation of salt marsh along the coastal foreshore and within Anns Creek Estuary where there is appropriate substrate, elevation and hydrodynamic environment;</li> <li>(v) Planting along the foreshore using eco-sourced local genetic stock and threatened coastal species consistent with the Urban Design and Landscape Framework;</li> <li>(vi) Planting of stormwater wetlands and along the coastal foreshore using coastal plant species;</li> </ul> </li> <li>(c) Details of integration with proposed planting in stormwater management devices (e.g. treatment / conveyance swales) to be undertaken in accordance with Conditions SW.10 to SW.12;</li> <li>(d) Details of how ecological planting will be maintained following initial planting, including as a minimum six monthly pest plant management, release of plantings, and replacement of defective or dead stock.</li> </ul>
<i>Ecological Management Plan – Anns Creek East</i>	
<b>EM.2C</b>	<p>The ECOMP shall include the following information in relation to <b>Anns Creek East</b>:</p> <ul style="list-style-type: none"> <li>(a) Detail of works to be undertaken in and immediately adjacent to the Anns Creek East Construction Restriction Area. The design of Construction Works in that area shall: <ul style="list-style-type: none"> <li>(i) Align permanent transport infrastructure (road, pedestrian and cycle facilities) to the northern-most extent of the Anns Creek East Construction Restriction Area as far as practicable;</li> <li>(ii) Avoid the placement of temporary and permanent piers;</li> <li>(iii) Avoid earthworks and vegetation removal that directly impacts on lava shrubland and lava outcrops, and minimise any vegetation alteration; and</li> <li>(iv) Minimise the footprint of temporary works required for construction of permanent works.</li> </ul> <p>For the avoidance of doubt, only the following activities may be undertaken within the Anns Creek East Construction Restriction Area: weed removal, pest plant and pest animal management, geological heritage restoration, restoration planting, interpretative signage relating to cultural, ecological and geological heritage, protective fencing, and associated earthworks to undertake those activities.</p> </li> <li>(b) Measures to be undertaken by the Consent Holder to minimise potential adverse effects on the lava shrubland, saltmarsh and wetland habitats in Anns Creek East including: <ul style="list-style-type: none"> <li>(i) Confirmation of the construction works to be undertaken in the Anns Creek East Construction Restriction Area under Condition EM.1A(b)(ii) and how those works will be managed in that area;</li> </ul> </li> </ul>

Ref	Condition
	<ul style="list-style-type: none"> <li>(ii) Measures to clearly delineate the Anns Creek East Construction Restriction Area on site including protective fencing and signage;</li> <li>(iii) Construction procedures and practices that apply to the areas of Anns Creek East that are not within the Anns Creek East Construction Restriction Area, in order to minimise to the extent practicable the removal or alteration of vegetation; and</li> <li>(iv) Specific education of staff and contractors to assist their understanding of the ecological and geological sensitivity of the area.</li> </ul> <p>(c) Identification of any areas in Anns Creek East where fill can be practicably removed from edges of the lava flow and restoration planting undertaken in these areas using eco-sourced local genetic stock and threatened coastal species;</p> <p>(d) Measures to avoid the placement of soil or other material that might obscure exposed remaining lava surfaces in Anns Creek East;</p> <p>(e) Removal of rubbish from Anns Creek East for the duration of the Construction Works;</p> <p>(f) Details of how ecological planting will be maintained following initial planting, including as a minimum six monthly pest plant management, release of plantings, and replacement of defective or dead stock.</p>
	<p><b>Advice note</b></p> <p><i>Condition DC.15 requires that the Requiring Authority include within the Outline Plan prepared under section 176A of the RMA, details of how the design responds to the Anns Creek Construction Restriction Area.</i></p>
<p><i>Ecological Restoration, Habitat Enhancement, Pest Animal and Pest Plant Management Outcomes</i></p>	
<p><b>EM.3A</b></p>	<p>(a) The methodology for ecological restoration and habitat enhancement measures as set out in Condition EM.2A shall be designed to achieve the following outcomes:</p> <ul style="list-style-type: none"> <li>i) Management of ecological planting to achieve at least 90% cover of native species in ecological planting areas (excluding areas of lava flow) after five years; and</li> <li>ii) Management of invasive pest plants to a level where cover is less than 5% within all ecological restoration areas after five years (this relates to Condition EM.2A (a), (b), (c), (d), (f), (h).</li> </ul> <p>(b) Subject to (c) below, the maintenance period for ecological planting shall be as set out in Designation Condition LV.6(g) and (h).</p> <p>(c) The ecological and habitat enhancement measures in Anns Creek East shall be maintained for a minimum of 10 years following Completion of Construction.</p>
<p><b>EM.3B</b></p>	<p>(a) The methodology for pest animal management as set out in the ECOMP shall be designed to achieve the following outcomes:</p> <ul style="list-style-type: none"> <li>i. Annual possum residual trap catch or wax tag index <math>\leq</math> 5%;</li> <li>ii. Rats tracking tunnel index <math>\leq</math> 5% prior to the bird breeding season (October); and</li> <li>iii. Mustelid residual trap catch <math>\leq</math> 5% and/or tracking tunnel index <math>\leq</math> 0.5%.</li> </ul> <p>(b) Subject to (c) below, the maintenance period for pest animal management set out in Conditions EM.2A and EM.2B shall be for a period of 5 years following Completion of Construction.</p> <p>(c) Pest animal management in Anns Creek East shall be for a period of 10 years following Completion of Construction.</p>

Ref	Condition
<b>EM.3C</b>	<p>The methodology for pest plant management as set out in the ECOMP shall be designed to achieve the following outcomes:</p> <ul style="list-style-type: none"> <li>(a) No mature, fruiting and / or flowering individuals of weed species present within a control area and any weed species present are dead; and</li> <li>(b) No areas where weed species are smothering and / or out competing native vegetation including suppressing the natural regeneration processes.</li> </ul>
<i>Anns Creek Replacement Salt Marsh</i>	
<b>EM.4A</b>	<p>The ECOMP shall include details of a salt marsh restoration trial within Anns Creek Estuary along the eastern shore of the Māngere Inlet. The purpose of the saltmarsh restoration trial is to determine the potential for re-establishment of the natural estuarine vegetation sequence and provide habitat for <i>Threatened</i> and <i>At Risk</i> avifauna. The trial details shall include:</p> <ul style="list-style-type: none"> <li>(a) The methodology – for example this may include removal of mangroves from three strips of 30m x 20m adjacent to the coastal edge and replant with oioi at three different bed heights (being the existing bed height, at substrate height 0.25m above existing and 0.5m above existing);</li> <li>(b) The location, area, monitoring and duration of the trial; and</li> <li>(c) The process to reinstate the area should the trial be unsuccessful.</li> </ul>
<b>EM.4B</b>	<ul style="list-style-type: none"> <li>(a) At completion of the salt marsh trial undertaken in accordance with Condition EM.4A the Consent Holder shall provide a report to the Manager setting out the outcomes of the trial.</li> <li>(b) If the salt marsh trial are successful, the Consent Holder shall: <ul style="list-style-type: none"> <li>(i) Provide the Manager with a confirmed methodology and proposed location of the recreated saltmarsh covering an area of approximately 10,000m<sup>2</sup> (or as otherwise agreed with the Council); and</li> <li>(ii) Undertake annual monitoring and maintenance (including pest plant management and planting) of the saltmarsh for a period of 5 years after planting, or until 90% cover of indigenous saltmarsh vegetation has established and &lt;5% cover of pest plants is achieved.</li> </ul> </li> <li>(c) Should the saltmarsh trial not be successful, the Consent Holder shall consult with the Manager to identify and implement an alternative and equivalent mitigation or offset measure.</li> </ul>
<i>Ecological Management Plan - Fish</i>	
<b>EM.5</b>	<p>The ECOMP shall include measures to minimise potential adverse effects on native fish during works in watercourses related to Construction Works. These measures will include the capture and relocation of native fish where present prior to works within the relevant watercourse.</p>
<i>Ecological Management Plan – Avifauna</i>	
<b>EM.6</b>	<p>The ECOMP shall include the following information in relation to <b>Avifauna</b>:</p> <ul style="list-style-type: none"> <li>(a) Measures proposed to minimise potential adverse effects of construction on banded rail and Australasian bittern including: <ul style="list-style-type: none"> <li>(i) Non-intrusive survey of nesting activity within (impact) and adjacent (control) to the Project footprint prior to Commencement of Construction in Anns Creek Estuary and Anns Creek East. This information shall be used to inform the construction programme for works in the vicinity of nesting areas including,</li> </ul> </li> </ul>

Ref	Condition
	<p>where required, any recommended seasonal restrictions for certain construction activities to minimise the effect on nesting birds;</p> <p>(ii) If nesting activity is confirmed adjacent (control) to the Project footprint, monitoring of nesting activity for two years following Completion of Construction to determine whether the works have adversely affected nesting activity and inform future assessments of effects for other projects;</p> <p>(iii) Specific mechanisms to manage effects on banded rail and Australasian bittern during construction works including:</p> <ul style="list-style-type: none"> <li>• Where practicable, removal of rail and bittern habitat during the non-breeding season;</li> <li>• If rail and bittern are observed, undertake measures to encourage the birds away from the area, and commence vegetation clearance only when the birds have left the area;</li> </ul> <p>(b) Measures to implement the Transport Agency's Guidelines for Managing Endangered Dotterels on NZ Transport Agency Land (dated November 2012) during Construction Works along the Māngere Inlet foreshore;</p> <p>(c) Details of measures to discourage or prevent access for pedestrians and dogs to roosting areas on the eastern most landform of the proposed reclamation foreshore headland in accordance with Condition C.1E(h).</p>
<i>Ecological offsets - Avifauna</i>	
<b>EM.7A</b>	<p>(a) In order to partially offset the adverse effects of the Project on avifauna values, the Consent Holder shall use reasonable endeavours to achieve statutory protection of:</p> <p>(i) An existing wading bird high tide roost within the Manukau Harbour (e.g. Puhinui, Kidds, Karaka or Clarks Beach shell banks); and</p> <p>(ii) An existing mid or high tide roost within the Māngere Inlet; and</p> <p>(iii) An existing high tide roost at Ngarango Otainui Island.</p> <p>(b) This statutory protection may include, for example, classification of the high tide roost as a conservation area under the Conservation Act 1987, or as a wildlife sanctuary or wildlife refuge under the Wildlife Act 1953 and may include closure to public access or to access at particular times or by particular vessels.</p> <p>(c) The Consent Holder shall consult with the Department of Conservation, Council and the Mana Whenua Group regarding the method of statutory protection and location of the high tide roosts to be protected, and shall use reasonable endeavours to confirm both the method of protection and the locations of the high tide roosts to be protected, within 12 months of Commencement of Construction.</p> <p>(d) The Consent Holder shall offer to the Department of Conservation to contribute towards its costs to apply for the appropriate statutory protection for the high tide roosts and for appropriate interpretation signage (with information about the bird roosts and any access restrictions) to be installed once the statutory protection is in place. The value of that contribution shall be agreed between the Consent Holder and the Department of Conservation.</p>
<b>EM.7B</b>	<p>(a) In order to partially offset the adverse effects of the Project on avifauna values, the Consent Holder shall take reasonable steps to construct a suitable single purpose high tide wading bird roost in Māngere Inlet.</p> <p>(b) The Consent Holder shall consult with the Department of Conservation, Council and the Mana Whenua Group regarding the location and design of the high tide roost to be constructed.</p> <p>(c) Subject to obtaining any necessary property rights and resource consents, the Consent Holder shall construct the high tide roost as part of the Construction</p>

Ref	Condition
	Works, and maintain the high tide roost in a suitable state of repair for five years following the Completion of Construction.
<b>EM.7C</b>	<p>(a) In order to partially offset the adverse effects of the Project on avifauna values, the Consent Holder shall, no less than six months prior to the Commencement of Construction, offer to the Department of Conservation to contribute towards its management programmes at South Island breeding sites along the major braided rivers (e.g. Rakaia and Waiau), of avifauna species affected by the Project.</p> <p>(b) The value of that contribution shall be agreed between the Consent Holder and the Department of Conservation. The contribution shall be sufficient to support pest animal control over a river length of at least 20km (or equivalent), continuing for the construction period of the reclamation within the Māngere Inlet plus five years after the Completion of Construction.</p>
<i>Herpetofauna (Lizards)</i>	
<b>EM.8A</b>	<p>Prior to the commencement of vegetation removal for Construction Works in areas identified as potential high and moderate quality habitat in <i>Technical Report 16: Ecological Impact Assessment</i> (dated November 2016), the Consent Holder shall provide to the Manager, information from a Suitably Qualified Person that identifies whether there are sufficient numbers of native lizards present within the area to trigger a requirement for a <b>Lizard Management Plan</b> (LMP).</p> <p>The information submitted shall include the results of a lizard survey undertaken to confirm the presence, or otherwise, of native lizards. The lizard survey shall be based on industry best practice survey methods and shall include all areas identified as potential high and moderate quality habitat within the Project footprint and shall be overseen by a Suitably Qualified Person.</p>
<b>EM.8B</b>	<p>A LMP is required if the lizard survey results in the detection of:</p> <p>(a) 1 or more individuals of a threatened or at-risk native lizard species within the survey area; or</p> <p>(b) 3 or more individuals of a not threatened native lizard species within a survey area as per the New Zealand Threat Classification series 17 '<i>Conservation Status of New Zealand Reptiles</i>', dated 2015.</p>
<b>EM.8C</b>	<p>The purpose of the LMP is to achieve the following objectives:</p> <p>(a) The population of each species of native lizard present on the site at which vegetation clearance is to occur is maintained or enhanced, either on the same site or at an appropriate alternative site; and</p> <p>(b) The habitat(s) that lizards are transferred to (either on site or at an alternative site, as the case may be) will support viable native lizard populations for all species present pre-development.</p> <p>The LMP shall be prepared by a Suitably Qualified Person and shall address the following (where relevant):</p> <p>(a) Timing of implementation of the LMP;</p> <p>(b) A description of methodology for survey, trapping and relocation of lizards rescued including but not limited to: salvage protocols, relocation protocols (including method used to identify suitable relocation site(s)), nocturnal and diurnal capture protocols, supervised habitat clearance/transfer protocols, artificial cover object protocols, and opportunistic relocation protocols;</p> <p>(c) A description of the relocation site(s); including discussion of:</p> <ul style="list-style-type: none"> <li>• provision for additional refugia, if required e.g. depositing salvaged logs, wood or debris for newly released native skinks that have been rescued;</li> </ul>

Ref	Condition
	<ul style="list-style-type: none"> <li>• any protection mechanisms (if required) to ensure the relocation site is maintained (e.g.) covenants, consent notices etc.; and</li> <li>• any pest plant and pest animal management to ensure the relocation site is maintained as appropriate habitat.</li> </ul> <p>(d) Monitoring methods, including but not limited to: baseline lizard surveys within the affected site (pre-translocation survey), surveys to identify potential translocation release sites, monitoring to evaluate translocation success (post-translocation monitoring), and monitoring of any pest control; and</p> <p>(e) A post-vegetation clearance search for remaining lizards.</p>
<b>EM.8D</b>	If a LMP is required under Condition EM.8A, this shall be submitted to the Manager for certification in accordance with Condition RC.9 prior to the commencement of any vegetation removal in areas of potential high and moderate quality.
	<p><b>Advice note:</b></p> <p><i>The capture, handling and relocation of native lizards may require a Wildlife Permit under the Wildlife Act 1953.</i></p>
<i>Supervision during construction</i>	
<b>EM.9</b>	The Consent Holder shall engage a Suitably Qualified Person during Construction Works to advise on day-to-day measures to achieve the outcomes in Condition EM.1A(b) and to oversee ecological planting in the areas set out in Condition 2.B to ensure that this is implemented in accordance with best practice. The Suitably Qualified Person shall also advise on the landscape planting to be undertaken along the northern Māngere Inlet as part of the Project.
<i>Ecological research</i>	
<b>EM.10</b>	<p>(a) The Consent Holder shall implement research (e.g. through scholarships or a specific project) to increase scientific knowledge of succession and recolonisation of intertidal soft and hard shore food sources for foraging birds in the Māngere Inlet.</p> <p>(b) Unless otherwise agreed between the Consent Holder and the Manager, the research shall involve:</p> <ul style="list-style-type: none"> <li>(i) Monitoring the recolonisation of intertidal soft sediment organisms within areas of disturbed sediment annually, at the same time of year, for five years commencing at the completion of disturbance activities. The research shall comprise pre-disturbance baseline surveys and then, for the five year monitoring period, collection of replicate core samples within areas of disturbed intertidal sediment and at similar sites where sediment is not disturbed (control sites), sieving sediment using a 0.5mm mesh and analysis of benthic invertebrate community composition in the residual fraction. Community composition, species abundance and diversity shall be analysed among years and compared to the pre-disturbance baseline surveys;</li> <li>(ii) Monitoring the natural recolonisation of newly created artificial intertidal hard shore substrate by marine invertebrate species over a three-year period commencing at the completion of the new hard shore substrate. The research shall compare natural recolonisation of hardshore species to new artificial hardshore to similar areas where organisms are experimentally transplanted in order to determine if recolonisation processes can be accelerated. A range of hardshore species (including snails and limpets) shall be experimentally transplanted and confined within structures. Community composition, species diversity and abundance or percentage cover shall be analysed among years. Comparison to existing similar</li> </ul>

Ref	Condition
	<p>artificial hardshore areas within the inlet should also be undertaken if possible.</p> <p>(c) In the event that the Consent Holder and the Manager agree to an amended research methodology, the amended methodology shall be designed to achieve the purpose in (a) above.</p> <p>(d) The research shall be undertaken in conjunction with a suitable tertiary institution and with supervision from a Suitably Qualified Person. The outcomes of the research shall be provided to Council and the Department of Conservation within 12 months of completion of the monitoring, unless otherwise agreed with the Manager, and submitted to a relevant scientific journal if appropriate to do so.</p>
<i>Anns Creek East Management Area</i>	
<b>EM.11A</b>	The Consent Holder shall use its best endeavours to establish and facilitate a working group to identify proposed measures for long term integrated environmental management of the Anns Creek East area, being the area in the immediate vicinity of Section 1 SO 69440 at Anns Creek East.
<b>EM.11B</b>	<p>(a) The following parties shall be invited to participate in the <b>Anns Creek Working Group</b> :</p> <ul style="list-style-type: none"> <li>(i) The owners of land in the Anns Creek East area;</li> <li>(ii) Department of Conservation;</li> <li>(iii) Auckland Council;</li> <li>(iv) Auckland Transport;</li> <li>(v) KiwiRail; and</li> <li>(vi) The Mana Whenua Group.</li> </ul> <p>(b) The Requiring Authority shall be responsible for all reasonable costs associated with administrative support to the Anns Creek Working Group.</p>
<b>EM.11C</b>	<p>The purpose of the Anns Creek Working Group is, in relation to the Anns Creek East area, to:</p> <ul style="list-style-type: none"> <li>(a) Identify opportunities to integrate mitigation works associated with the Project with any other environmental enhancement activities being undertaken on land or in the CMA adjoining the boundary of the Project site;</li> <li>(b) Identify opportunities to provide long term integrated environmental management and legal protection of mitigation works associated with the Project and adjacent high value habitat including plant habitats and the mosaic of lava, saltmarsh and freshwater ecosystems; and</li> <li>(c) Identify the mechanisms to deliver the opportunities identified in (b) above.</li> </ul>
<b>EM.11D</b>	The Consent Holder shall provide a report to the Manager on the activities and outcomes of the working group, including any agreed measures for long term integrated environmental management, within 12 months of Commencement of Works, and a further progress report on the implementation of those measures within 24 months of Commencement of Works.
<i>Ngarango Otainui Island</i>	
<b>EM.12A</b>	<p>(a) The ECOMP shall include the following information related to habitat enhancement at Ngarango Otainui Island:</p> <ul style="list-style-type: none"> <li>(i) pest plant and pest animal control,</li> <li>(ii) planting for bird roosting; and</li> </ul>



Ref	Condition
	<p>(iii) erosion stabilisation with a preference for soft engineering solutions</p> <p>(b) The detail of those or other measures to be developed in accordance with Condition EM.12B.</p> <p>(c) The purpose of the habitat enhancement of the island is primarily to provide long term protection of safe high tide roost sites in the Māngere Inlet post-construction for species such as royal spoonbill, shags and herons.</p>
<b>EM.12B</b>	<p>In relation to Ngarango Otainui Island, the Consent Holder shall engage with Department of Conservation, Council and the Mana Whenua Group to:</p> <p>(a) Develop outcomes for long-term integrated ecological management of the island;</p> <p>(b) Undertaken site investigations to characterise habitat type and to identify ecological issues and opportunities for restoration and habitat enhancement; and</p> <p>(c) Prepare and implement an ecological management strategy and plan with outcomes, responsibilities, timeframes for implementation, and ongoing annual management and monitoring.</p>

## WORKS IN WATERCOURSES (W)

Ref	Condition
<i>Construction Design Approval</i>	
<b>WW.1</b>	<p>At least 20 working days prior to commencement of streamworks within Southdown Stream, Anns Creek, Clemow Stream and Miami Stream, the Consent Holder shall submit construction design details for stream realignment and installation of culverts or other structures within watercourses to the Manager for approval. The details shall include, but not be limited to:</p> <ul style="list-style-type: none"> <li>(a) Detailed design of the proposed streamworks including long sections and cross sections, proposed riparian planting, and any other proposed freshwater habitat improvements; and</li> <li>(b) Erosion and sediment control in accordance with WW.5.</li> </ul>
<i>Construction of Streamworks</i>	
<b>WW.2</b>	<p>The Consent Holder shall forward a detailed streamworks construction programme and methodology to the Manager for approval at least 10 working days prior to the commencement of those streamworks, and shall provide regular updates during the streamworks. The information provided shall include details of:</p> <ul style="list-style-type: none"> <li>(a) The commencement date and expected duration of the streamworks;</li> <li>(b) The location of any works and structures in relation to the streamworks;</li> <li>(c) Procedures for the capture and relocation of fish associated with temporary and permanent stream diversions; and</li> <li>(d) Dates for the implementation of erosion and sediment controls.</li> </ul>
<b>WW.3</b>	<p>Once approved under Condition WW.2, any material amendments to the streamworks construction programme and methodology shall be submitted to the Manager for approval prior to any amendment being implemented.</p>
<b>WW.4</b>	<p>Streamworks shall be carried out only during periods when all flows, up to the 24 hour 20 year return period storm event, can be diverted around the area of works. During periods of flow greater than the capacity of the diversion, up to the 100 year flood event, a stabilised flowpath shall be provided to ensure no scour or erosion occurs and so that flows can pass safely around or through the area of works with minimum nuisance, damage and sediment generation or discharge.</p>
<b>WW.5</b>	<p>All erosion and sediment controls associated with the streamworks shall be constructed and installed in accordance with Auckland Council's GD2016/005: Erosion Sediment Control Guide for Land Disturbing Activities in the Auckland Region.</p>
<b>WW.6</b>	<p>The Consent Holder shall ensure that any temporary dam structure built within the stream shall be constructed from non-erodible material (such as sandbags or sheet piles).</p>
<b>WW.7</b>	<p>The Consent Holder shall ensure that when dewatering the in-stream works area, no sediment-laden water shall be discharged directly into a watercourse. Any sediment-laden water must be treated in an appropriate sediment treatment device in accordance with Auckland Council's <i>GD2016/005: Erosion Sediment Control Guide for Land Disturbing Activities in the Auckland Region</i>.</p>
<b>WW.8</b>	<p>All machinery shall be maintained and operated in a way which ensures that spillages of fuel, oil and similar contaminants are prevented, particularly during refuelling and machinery servicing.</p>

Ref	Condition
<b>WW.9</b>	Within three months of completion of the works, the Consent Holder shall submit to the Manager As-Built Plans certified by an Suitably Qualified Person to confirm that the works have been carried out in accordance with the approved design under Condition WW.1.
<b>WW.10</b>	The Consent Holder shall implement the riparian planting approved under Condition WW.1 within 12 months of Completion of Construction.

## GROUNDWATER AND SETTLEMENT (G)

Ref	Condition
<i>Groundwater and Settlement Management Plan</i>	
<b>G.1</b>	<p>A <b>Groundwater and Settlement Management Plan (GSMP)</b> shall be prepared by a Suitably Qualified Person and submitted to the Manager for certification in accordance with the process set out in Condition RC.9 prior to Commencement of Construction with potential groundwater and settlement effects.</p> <p>The purpose of the GSMP is to outline the measures to be adopted to monitor and respond to any changes in groundwater beyond the boundary of the Project site arising from construction activities.</p> <p>The GSMP shall incorporate the matters in Conditions G.2 to G.7 including:</p> <p>(a) Details of groundwater monitoring including:</p> <ul style="list-style-type: none"> <li>i) A schedule of groundwater monitoring bores identifying piezometer depth and geological unit;</li> <li>ii) Details of final bore construction and piezometer installation;</li> <li>iii) The location of the groundwater monitoring bores and monitoring cross sections;</li> <li>iv) The methods and frequency of groundwater level and groundwater quality monitoring;</li> <li>v) The groundwater trigger levels (level and quality); and</li> <li>vi) Procedures to follow in the event of trigger levels being exceeded.</li> </ul> <p>(b) Details for ground settlement monitoring including:</p> <ul style="list-style-type: none"> <li>i) The predicted total estimated settlement and building damage categories;</li> <li>ii) A schedule of ground settlement monitoring markers confirmed in Condition G.5;</li> <li>iii) The methods and frequency of ground settlement monitoring;</li> <li>iv) Alert and alarm levels where Alert = 75% of the theoretical or agreed level and Alarm = 100% of the theoretical or agreed value with due consideration of the seasonal range of ground movement and tidal influence of groundwater identified by pre-construction monitoring; and</li> <li>v) Procedures to follow in the event of trigger levels being exceeded.</li> </ul> <p>(c) Reporting requirements.</p>
<b>G.1A</b>	<p>The Consent Holder shall install a borehole to a depth of 0.5 m below the planned depth of the proposed stormwater pipeline on the site at 19-21 Sylvia Park Road (Lot 1 DP 65735) to confirm the nature of the fill and the depth to groundwater. If groundwater is encountered, the hole shall be completed with a standpipe piezometer and groundwater level monitored in the borehole during construction of the stormwater pipeline within the site.</p>
<b>G.2</b>	<p>The Consent Holder shall monitor groundwater levels and quality in the groundwater monitoring bores confirmed in Condition G.1 and keep records of the water level measurement and corresponding date. Where exceedances occur these shall be reported to the Manager within 3 working days.</p>
<b>G.3</b>	<p>All monitoring data obtained in accordance with Condition G.2 shall be compared to the predicted groundwater level for each borehole. Where groundwater levels are exceeded, the appropriate actions as set out in the GSMP shall be undertaken and the Manager shall be notified advising of the exceedance and details of the action taken.</p>

Ref	Condition
<i>Groundwater Level Monitoring</i>	
<b>G.4</b>	<p>(a) The Consent Holder shall install and maintain groundwater level monitoring boreholes for a period starting at least 6 months prior to Commencement of Construction and concluding 6 months following Completion of Construction.</p> <p>(b) As a minimum the groundwater monitoring boreholes shall include sites:</p> <ul style="list-style-type: none"> <li>i) Upgradient and down gradient of the EWL Trench adjacent to Onehunga Harbour Road;</li> <li>ii) Upgradient of the EWL embankment at the Galway Street closed landfill; and</li> <li>iii) Within the Waikaraka Cemetery.</li> </ul>
<i>Settlement Monitoring</i>	
<b>G.5</b>	<p>The Consent Holder shall establish a series of ground settlement monitoring markers to monitor potential settlement in relation to the construction of the EWL Trench. The survey markers shall be located generally as follows subject to agreement of the owners of land in which the survey markers are proposed to be located:</p> <ul style="list-style-type: none"> <li>(a) Along the EWL Trench out to a maximum of 40m either side of the trench from the centreline;</li> <li>(b) On or around the following buildings or features: <ul style="list-style-type: none"> <li>(i) The Landing at 2 Onehunga Harbour Road;</li> <li>(ii) The residential building(s) at 2 Onehunga Harbour Road;</li> <li>(iii) The building at 6 Onehunga Harbour Road;</li> </ul> </li> <li>(c) The location of the markers shall be confirmed in the GSMP.</li> <li>(d) The location of markers may be updated to reflect detailed analysis and interpretation of monitoring results as construction works progress. Any changes shall be included in the GSMP.</li> </ul>
<b>G.6</b>	<p>The Consent Holder shall survey the settlement monitoring markers at the following frequency:</p> <ul style="list-style-type: none"> <li>(a) At monthly intervals starting at least 12 months prior to excavation of the EWL Trench;</li> <li>(b) At 3 monthly intervals following completion of excavation of the EWL Trench for a period of 6 months.</li> </ul> <p>For the purpose of this condition, excavation of the EWL Trench is complete when the permanent wall supports are in place.</p>
<b>G.7</b>	<p>If the ground settlement alert or alarm levels in Condition G.1(b)(iv) are exceeded, the trigger marker shall be resurveyed within 24 hours. If the resurvey indicates that a building has increased its damage category from that confirmed in the GSMP, then this shall be considered to be an Alert Level and additional specific assessment of the building shall be carried out by the Consent Holder to confirm this resurvey within 72 hours.</p> <p>If the additional assessment following resurvey confirms the increase in damage category, this shall be considered to be an Alarm Level and the property owner and occupier(s) will be notified within 48 hours. Following consultation with the property owner and occupier(s); subsequent actions may include increased frequency and/or extent of monitoring, modification to the construction methodology or mitigation works to the affected building (subject to building owner approval and any additional statutory approvals required).</p>

## AIR QUALITY (AQ)

Ref	Condition
AQ.1	Beyond the boundary of the Project site there shall be no dust, particulate, smoke, ash or fume caused by discharges from the Project site that, in the opinion of the Manager or a nominated enforcement officer is the cause of a noxious, dangerous, offensive or objectionable effect.
<i>Construction Air Quality Management Plan</i>	
AQ.2	<p>As part of the CEMP prepared in accordance with Condition RC.10, the Consent Holder shall prepare a <b>Construction Air Quality Management Plan (CAQMP)</b> to meet Condition AQ.1.</p> <p>The CAQMP shall outline the measures to be adopted to avoid, as far as practicable, the effects of dust, offensive or objectionable odour and fumes arising from construction activities beyond the boundary of the Project site that borders a highly sensitive receiver or air pollution sensitive land use.</p> <p>The CAQMP shall, as a minimum, address the following:</p> <ul style="list-style-type: none"> <li>(a) Description of the works, anticipated equipment/ processes and durations;</li> <li>(b) Periods of time when emissions of odour, dust or fumes might arise from construction activities;</li> <li>(c) Identification of air pollution sensitive land uses likely to be adversely affected by emissions of odour, dust or fumes from construction activities;</li> <li>(d) Methods for mitigating dust that may arise from construction site exits used by trucks, potentially including the use of vacuum sweeping, water sprays or wheel washes for trucks;</li> <li>(e) Methods for mitigating odour that may arise from ground disturbing construction activities;</li> <li>(f) Methods for maintaining and operating construction equipment and vehicles in order to manage visual emissions of smoke from exhaust tailpipes</li> <li>(g) Methods for undertaking and reporting on the results of daily inspections of construction activities that might give rise to odour, dust or fumes;</li> <li>(h) Methods for monitoring and reporting on the state of air quality during construction, including Total Suspended Particulate, wind speed, wind direction, air temperature and rainfall;</li> <li>(i) Procedures for maintaining contact with stakeholders, notifying of proposed construction activities and handling complaints about odour, dust or fumes;</li> <li>(j) Construction operator training procedures;</li> <li>(k) Contact numbers for key construction staff, staff responsible for managing air quality during construction and Council officers; and</li> <li>(l) Identification of contingency measures to address verified effects on property in the event of a process malfunction or an accidental dust discharge.</li> </ul>
AQ.3	The CAQMP shall be prepared in general accordance with the guidance contained in the <i>Good Practice Guide for Assessing and Managing Dust, Ministry for Environment, 2016</i> and the <i>Good Practice Guide for Assessing and Managing Odour, Ministry for Environment, 2016</i> and shall be implemented throughout the entire construction period of the Project.
AQ.4	The Consent Holder shall undertake all works in accordance with the CAQMP for the duration of Construction Works.

## STORAGE AND MANUFACTURE OF CONCRETE (CB)

Ref	Condition
<b>CB.1</b>	The Consent Holder shall ensure that beyond the boundary of the Project site there shall be no discharges, including hazardous air pollutants, dust or visible emissions, caused by the operation of the concrete batching plant that, in the opinion of the Manager or nominated enforcement officer, are noxious, dangerous, offensive or objectionable or does or could cause adverse effects on human health, the environment or property.
<b>CB.2</b>	Air displaced from the Concrete Batching Plant during silo filling or concrete batching shall be vented to atmosphere via filter units designed to have a maximum particulate discharge concentration of no greater than 30 mg/m <sup>3</sup> . Supplier information regarding the filters shall be kept on site to confirm compliance with this specification.
<b>CB.3</b>	Each cement silo on site shall be fitted with a high fill alarm that shall be adequately maintained and be operating whenever bulk cement is being transferred into that silo. In the event of the alarm operating, filling into that silo shall cease immediately and shall not be resumed until the cause has been located and remedied.
<b>CB.4</b>	The Concrete Batching Plant shall be operated with the associated emission control equipment being fully operational and functioning correctly.
<b>CB.5</b>	All ducting and emission control equipment shall be maintained in good condition and as far as practicable be free from leaks in order to prevent the escape of fugitive emissions.
<b>CB.6</b>	The Consent Holder shall undertake visual assessments of the filter units and dust emissions at least once per operating day while the Concrete Batching Plant is in use.
<b>CB.7</b>	<p>The Consent Holder shall record information regarding air discharges and the filter units, including:</p> <ul style="list-style-type: none"> <li>(a) Any maintenance or repairs;</li> <li>(b) Bag replacement details;</li> <li>(c) Any malfunction or breakdown of the plant leading to abnormal air discharges; and</li> <li>(d) Daily visual assessments of the filter units and dust emissions.</li> </ul>

## LEACHATE (L)

Ref	Condition
L.1	<p>(a) The Consent Holder shall undertake further assessment and if necessary, soil and groundwater investigations in the area of uncontrolled fill between the Pikes Point West and Pikes Point East Closed Landfills (Lot 1 DP135209), for the following purposes:</p> <ul style="list-style-type: none"> <li>(i) To characterise the nature of the fill materials; and</li> <li>(ii) To inform the design of leachate infrastructure.</li> </ul> <p>(b) The results of the investigations shall be provided to and discussed with the landowner and occupier and provided to the Manager.</p>
L.2	<p>The Consent Holder shall monitor leachate from the replacement Pikes Point Closed Landfill interception drain at the location where collected leachate is discharged via the piped network to the stormwater system.</p> <p>The monitoring shall include:</p> <ul style="list-style-type: none"> <li>(a) Continuous monitoring of leachate flow for a period of 24 months following commissioning;</li> <li>(b) Monthly sampling of leachate for a period of 24 months following commissioning of the stormwater system. The samples shall be analysed for total ammoniacal nitrogen (NH<sub>4</sub>N) and the result compared with a trigger level;</li> <li>(c) The trigger level NH<sub>4</sub>N concentration which shall be derived from the Australian and New Zealand Environmental Conservation Council, <i>Australian Guidelines for Fresh and Marine Waters</i>, 2000 (ANZECC 2000) marine water quality guideline, 90% level of protection (1.2 mg/L) allowing for reasonable mixing in the receiving water and treatment in the stormwater wetland/biofiltration system;</li> <li>(d) The trigger level established under (c) above shall be provided to and obtain approval of the Manager prior to being implemented;</li> <li>(e) If the trigger level is exceeded on two consecutive monitoring events, then the leachate flow will be redirected to trade waste until further monitoring for at least two monthly monitoring events measures NH<sub>4</sub>N concentrations below the trigger level;</li> <li>(f) If there are no trigger level exceedances over the 24 month period then leachate quality monitoring shall be discontinued; and</li> <li>(g) In the event of trigger level exceedance(s), the monthly monitoring shall be extended for no less than 6 months from the date of the last exceedance.</li> </ul> <p>The results of the leachate monitoring shall be provided to the Manager in an annual report submitted by February of each year, or an alternative date as agreed with the Manager.</p>



## STORMWATER AND IMPERVIOUS SURFACES (SW)

Ref	Condition																																		
<i>Stormwater Design</i>																																			
<b>SW.1</b>	<p>The Consent Holder shall design the stormwater management devices and systems in general accordance with the stormwater drawings referred to in Condition RC.1.</p> <p>The Consent Holder may make modifications to the stormwater management devices and systems shown on those drawings, including the use of alternative Council approved stormwater management devices, provided that the equivalent performance and compliance as set out in Table SW.1 is achieved.</p>																																		
<b>SW.2</b>	<p>The stormwater management devices shall be designed and constructed to achieve the design requirements as set out in Table SW1:</p> <p><b>Table SW1: Design requirements</b></p> <table border="1"> <thead> <tr> <th rowspan="2">Project Catchment</th> <th rowspan="2">Receiving Environment</th> <th colspan="2">Design Requirements</th> </tr> <tr> <th>Total Project Road Area (upgraded and new) to be treated (ha)</th> <th>Peak flow attenuation to pre-development flow rates at the receiving environment (with climate change adjustment to 2121)</th> </tr> </thead> <tbody> <tr> <td>Wharangi Street to Galway Street</td> <td>Mankau Harbour</td> <td>9.4ha to 75% TSS removal</td> <td>Not required</td> </tr> <tr> <td>Galway Street to Anns Creek Viaducts</td> <td>Māngere Inlet</td> <td>12.2ha to 75% TSS removal</td> <td>Not required</td> </tr> <tr> <td>Anns Creek Viaducts to Hugo Johnston Drive</td> <td>Southdown Wetland Reserve</td> <td>1.9ha to 75% TSS removal</td> <td>2 year ARI 10 year ARI 100 year ARI</td> </tr> <tr> <td>Hugo Johnston Drive to SH1 Mt Wellington</td> <td>Anns Creek</td> <td>8.3ha to 75% TSS removal</td> <td>Not required</td> </tr> <tr> <td>SH1 Mt Wellington to Panama Road</td> <td>Clemow Stream</td> <td>7.0ha to 75% TSS removal</td> <td>Not required</td> </tr> <tr> <td>Panama Road to Princes Street</td> <td>Ōtāhuhu Creek</td> <td>4.9ha to 75% TSS removal</td> <td>Not required</td> </tr> <tr> <td>Princes Street to southern extent of Project</td> <td>Tributary of the Tamaki River</td> <td>3.8ha to 75% TSS removal</td> <td>2 year ARI 10 year ARI 100 year ARI</td> </tr> </tbody> </table>	Project Catchment	Receiving Environment	Design Requirements		Total Project Road Area (upgraded and new) to be treated (ha)	Peak flow attenuation to pre-development flow rates at the receiving environment (with climate change adjustment to 2121)	Wharangi Street to Galway Street	Mankau Harbour	9.4ha to 75% TSS removal	Not required	Galway Street to Anns Creek Viaducts	Māngere Inlet	12.2ha to 75% TSS removal	Not required	Anns Creek Viaducts to Hugo Johnston Drive	Southdown Wetland Reserve	1.9ha to 75% TSS removal	2 year ARI 10 year ARI 100 year ARI	Hugo Johnston Drive to SH1 Mt Wellington	Anns Creek	8.3ha to 75% TSS removal	Not required	SH1 Mt Wellington to Panama Road	Clemow Stream	7.0ha to 75% TSS removal	Not required	Panama Road to Princes Street	Ōtāhuhu Creek	4.9ha to 75% TSS removal	Not required	Princes Street to southern extent of Project	Tributary of the Tamaki River	3.8ha to 75% TSS removal	2 year ARI 10 year ARI 100 year ARI
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SH1 Mt Wellington to Panama Road	Clemow Stream	7.0ha to 75% TSS removal	Not required																																
Panama Road to Princes Street	Ōtāhuhu Creek	4.9ha to 75% TSS removal	Not required																																
Princes Street to southern extent of Project	Tributary of the Tamaki River	3.8ha to 75% TSS removal	2 year ARI 10 year ARI 100 year ARI																																
<b>SW.3</b>	The Consent Holder shall ensure that the design of stormwater management devices does not result in any increase of flooding levels greater than 50mm within areas immediately adjacent to the Project or the downstream receiving environment.																																		
<b>SW.4</b>	The design of stormwater outfalls shall include erosion prevention devices to minimise the occurrence of bed scour and bank erosion in receiving environments.																																		
<b>SW.5</b>	Where existing stormwater management devices are proposed to be removed, the equivalent treatment, detention and attenuation shall be provided in the proposed stormwater management devices.																																		
<i>Design approval – permanent stormwater system</i>																																			

Ref	Condition
<b>SW.6</b>	<p>At least 20 working days prior to construction of the proposed stormwater management devices for impervious surfaces of the State highway and local roads, the Consent Holder shall submit a design report, including detailed engineering drawings, specifications, and calculations for the stormwater management devices. The details shall include, but not be limited to, the following:</p> <ul style="list-style-type: none"> <li>(a) Confirmation that the design achieves the requirements of SW.1 and SW.2;</li> <li>(b) Contributing catchment size and impervious percentage;</li> <li>(c) Specific design and location of stormwater systems, including pond spillways;</li> <li>(d) Specific outlet erosion protection design;</li> <li>(e) Supporting calculations, including sizing capacity of stormwater system(s) suspended solid removal efficiency calculations, flow attenuation calculations and identified overland flow paths for the 1% Annual (AEP);</li> <li>(f) Catchment boundaries for the stormwater treatment devices;</li> <li>(g) Details of construction method of stormwater system(s) including timing and duration;</li> <li>(h) Proposed planting within stormwater management devices; and</li> <li>(i) Monitoring and maintenance schedules.</li> </ul>
<b>SW.7</b>	<p>The design report prepared under Condition SW.6 shall be submitted to the Manager, and written approval from the Manager shall be obtained prior to the construction of the stormwater management devices.</p>
<b>SW.8</b>	<p>Any amendments that may affect the performance of the stormwater systems approved under Condition SW.6 shall be approved by the Manager prior to the planned implementation of the amendments.</p>
<b>SW.9</b>	<p>Stormwater management devices or systems must be fully operational prior to the discharge of water from the impervious area.</p>
<i>Planting</i>	
<b>SW.10</b>	<p>The Consent Holder shall submit planting plan(s) for the all planted stormwater management devices (including treatment / conveyance swales) to the Manager for approval at least 20 working days prior to construction of the stormwater devices.</p> <p>The planting plans shall be consistent with the ULDMP prepared in accordance with Condition LV.1 and the ECOMP prepared in accordance with Condition EM.1.</p>
<b>SW.11</b>	<p>The planting plan(s) required by Condition SW.6 shall include, but not be limited to, the following:</p> <ul style="list-style-type: none"> <li>(a) Location, planting methodology and maintenance details;</li> <li>(b) Details of plant species, plant numbers, density and distribution; and</li> <li>(c) Details of proposed pest plant management.</li> </ul>
<b>SW.12</b>	<p>All planting of stormwater management devices (including treatment / conveyance swales) shall be undertaken in accordance with the approved planting plan(s).</p>
<i>As-Built Plans – Stormwater System</i>	
<b>SW.13</b>	<p>The Consent Holder shall supply As-Built Plans for the stormwater management devices to the Manager within 30 working days of the practical completion of the stormwater management devices.</p>

Ref	Condition
SW.14	<p>The As-Built Plans shall be signed off by a Chartered Engineer and include but not be limited to:-</p> <ul style="list-style-type: none"> <li>(a) The surveyed locations and elevations of all stormwater structures, which shall be measured to the nearest 0.1 metre with co-ordinates expressed in terms of the New Zealand Transverse Mercator Projection and DOSLI datum;</li> <li>(b) Stormwater management device details including locations, dimensions, volumes, flood levels, sections, treatment efficiencies, inlet, discharge rates and outlet structures;</li> <li>(c) Photographs at all stormwater systems outfall locations; and</li> <li>(d) Documentation of any discrepancies between the approved design plans under Condition SW.6 and the As-Built Plans.</li> </ul>
<i>Stormwater Operation and Maintenance Plan</i>	
SW.15	<p>A <b>Stormwater Operation and Maintenance Plan</b> shall be submitted to the Manager for certification 20 working days prior to commencement of the operation of the stormwater management system.</p> <p>The Stormwater Operation and Maintenance Plan shall include, but not be limited to:</p> <ul style="list-style-type: none"> <li>(a) Details of the person or organisation that will hold responsibility for long-term maintenance of the stormwater management system;</li> <li>(b) A programme for regular maintenance and inspection of the stormwater management system;</li> <li>(c) A programme for the collection and disposal of debris and sediment collected by the stormwater management devices or practices;</li> <li>(d) Procedures for post storm inspection and maintenance;</li> <li>(e) A programme for inspection and maintenance of the outfalls;</li> <li>(f) General inspection checklists for all aspects of the stormwater management system, including visual checks;</li> <li>(g) A programme for inspection and maintenance of vegetation associated with the stormwater management devices; and</li> <li>(h) A requirement to retain records of all inspections and maintenance for the stormwater management system, for the preceding three years.</li> </ul>
SW.16	<p>The Consent Holder shall ensure that the stormwater systems are managed in accordance with the Stormwater Operation and Maintenance Plan.</p>
SW.17	<p>Any material amendments or alterations to the approved Stormwater Operation and Maintenance Plan shall be submitted to the Manager in writing for certification at least 20 working days prior to implementation.</p>

# **Appendix 1: LIST OF DRAWINGS REFERRED TO IN THE DESIGNATION CONDITIONS<sup>1</sup>**

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<sup>1</sup> Reproduced from NZTA Memorandum dated 12 December 2017.

## PART A: DRAWINGS REFERRED TO IN CONDITION DC.1

Title	Drawing Number	Date	Revision Number
<b>NOTICE OF REQUIREMENT 1 - DESIGNATION PLANS</b>			
NOR1 - PROPOSED DESIGNATION OVERVIEW	AEE-NOR-100	08/09/2017	2
NOR1 – NEILSON STREET INTERCHANGE – SHEET 1	AEE-NOR-101	08/09/2017	2
NOR1 – NEILSON STREET INTERCHANGE – SHEET 2	AEE-NOR-102	08/09/2017	2
NOR1 – NEILSON STREET INTERCHANGE LOCAL ROADS – SHEET 3	AEE-NOR-103	08/09/2017	2
NOR1 – EAST WEST LINK/GALWAY STREET – SHEET 4	AEE-NOR-104	08/09/2017	2
NOR1 – EMBANKMENT – SHEET 5	AEE-NOR-105	08/09/2017	2
NOR1 – ALFRED STREET – SHEET 6	AEE-NOR-106	08/09/2017	2
NOR1 – CAPTAIN SPRINGS ROAD – SHEET 7	AEE-NOR-107	08/09/2017	2
NOR1 – EMBANKMENT – SHEET 8	AEE-NOR-108	08/09/2017	2
NOR1 – PORTS LINK – SHEET 9	AEE-NOR-109	08/09/2017	2
NOR1 – EMBANKMENT/ANNS CREEK – SHEET 10	AEE-NOR-110	08/09/2017	2
NOR1 – ANNS CREEK – SHEET 11	AEE-NOR-111	08/09/2017	2
NOR1 – ANNS CREEK/SYLVA PARK ROAD – SHEET 12	AEE-NOR-112	08/09/2017	2
NOR1 – ANNS CREEK/SYLVA PARK ROAD – SHEET 13	AEE-NOR-113	08/09/2017	2
NOR1 – SH1/SYLVA PARK RAMPS – SHEET 14	AEE-NOR-114	08/09/2017	2
<b>NOTICE OF REQUIREMENT 2 - DESIGNATION PLANS</b>			
NOR2 - PROPOSED DESIGNATION ALTERATION OVERVIEW	AEE-NOR-200	08/09/2017	2
NOR2 – SH1/SYLVA PARK RAMPS – SHEET 1	AEE-NOR-201	08/09/2017	2
NOR2 – SH1/PANAMA ROAD – SHEET 2	AEE-NOR-202	08/09/2017	2
NOR2 – SH1/OTAHUHU CREEK – SHEET 3	AEE-NOR-203	08/09/2017	2
NOR2 – PRINCES ST INTERCHANGE – SHEET 4	AEE-NOR-204	08/09/2017	2
<b>PLAN SET 3 - ROAD ALIGNMENT</b>			
ROAD ALIGNMENT – EAST WEST LINK – DRAWING INDEX, NOTES AND LEGEND	AEE-AL-001	13/09/2017	4
ROAD ALIGNMENT - EAST WEST LINK - OVERVIEW PLAN	AEE-AL-100	13/09/2017	4

<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
ROAD ALIGNMENT - SH20/NEILSON STREET INTERCHANGE - SHEET 1	AEE-AL-101	13/09/2017	3
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - SHEET 2	AEE-AL-102	13/09/2017	3
ROAD ALIGNMENT - GALWAY STREET - SHEET 3	AEE-AL-103	13/09/2017	3
ROAD ALIGNMENT - EMBANKMENT - SHEET 4	AEE-AL-104	13/09/2017	4
ROAD ALIGNMENT - EMBANKMENT - SHEET 5	AEE-AL-105	13/09/2017	3
ROAD ALIGNMENT - EMBANKMENT/ANNS CREEK - SHEET 6	AEE-AL-106	13/09/2017	3
ROAD ALIGNMENT - ANNS CREEK - SHEET 7	AEE-AL-107	13/09/2017	4
ROAD ALIGNMENT - ANNS CREEK/SYLVIA PARK ROAD - SHEET 8	AEE-AL-108	13/09/2017	4
ROAD ALIGNMENT - SH1/SYLVIA PARK RAMPS - SHEET 9	AEE-AL-109	13/09/2017	4
ROAD ALIGNMENT - SH1/SYLVIA PARK RAMPS - SHEET 10	AEE-AL-110	13/09/2017	3
ROAD ALIGNMENT - SH1/PANAMA ROAD - SHEET 11	AEE-AL-111	13/09/2017	3
ROAD ALIGNMENT - SH1/OTAHUHU CREEK - SHEET 12	AEE-AL-112	27/06/2017	2
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - SHEET 13	AEE-AL-113	13/09/2017	3
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - LOCAL ROADS - SHEET 14A AND 14B	AEE-AL-114	13/09/2017	3
ROAD ALIGNMENT - CAPTAIN SPRINGS ROAD/ PORTS LINK - SHEET 15A AND 15B	AEE-AL-115	13/09/2017	3
ROAD ALIGNMENT - EMBANKMENT - SHEET 16	AEE-AL-116	27/06/2017	2
<b>PLAN SET 4 - LANDSCAPE</b>			
LANDSCAPE - EAST WEST LINK - DRAWING INDEX AND LEGEND	AEE-LA-001	22/09/2017	3
LANDSCAPE - EAST WEST LINK - OVERVIEW PLAN AND LEGEND	AEE-LA-100	22/09/2017	3
LANDSCAPE - SH20/NEILSON STREET INTERCHANGE - SHEET 1	AEE-LA-101	22/09/2017	2
LANDSCAPE - NEILSON STREET INTERCHANGE - SHEET 2	AEE-LA-102	22/09/2017	2
LANDSCAPE - EAST WEST LINK / GALWAY STREET - SHEET 3	AEE-LA-103	22/09/2017	2

<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
LANDSCAPE - EMBANKMENT - SHEET 4	AEE-LA-104	22/09/2017	2
LANDSCAPE - EMBANKMENT - SHEET 5	AEE-LA-105	22/09/2017	2
LANDSCAPE - EMBANKMENT/ANNS CREEK - SHEET 6	AEE-LA-106	22/09/2017	2
LANDSCAPE - ANNS CREEK - SHEET 7	AEE-LA-107	22/09/2017	2
LANDSCAPE - ANNS CREEK/SYLVA PARK ROAD - SHEET 8	AEE-LA-108	22/09/2017	2
LANDSCAPE - SH1/SYLVA PARK RAMPS - SHEET 9	AEE-LA-109	22/09/2017	2
LANDSCAPE - SH1/SYLVA PARK RAMPS - SHEET 10	AEE-LA-110	22/09/2017	2
LANDSCAPE - SH1/PANAMA ROAD - SHEET 11	AEE-LA-111	22/09/2017	2
LANDSCAPE - SH1/OTAHUHU CREEK - SHEET 12	AEE-LA-112	22/09/2017	2
LANDSCAPE - PRINCES STREET INTERCHANGE - SHEET 13	AEE-LA-113	22/09/2017	2
LANDSCAPE - NEILSON STREET INTERCHANGE - LOCAL ROADS - SHEET 14A AND 14B	AEE-LA-114	22/09/2017	2
LANDSCAPE - CAPTAIN SPRINGS ROAD/ PORTS LINK - SHEET 15A AND 15B	AEE-LA-115	22/09/2017	2
LANDSCAPE - EMBANKMENT - SHEET 16	AEE-LA-116	22/09/2017	2
LANDSCAPE - 2D CROSS SECTIONS - SHEET 1	AEE-LA-201	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 2	AEE-LA-202	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 3	AEE-LA-203	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 4	AEE-LA-204	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 5	AEE-LA-205	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 6	AEE-LA-206	27/06/2017	2
LANDSCAPE - 2D CROSS SECTIONS - SHEET 7	AEE-LA-207	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 8	AEE-LA-208	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 9	AEE-LA-209	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 10	AEE-LA-210	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 11	AEE-LA-211	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 1	AEE-LA-301	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 2	AEE-LA-302	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 3	AEE-LA-303	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 4	AEE-LA-304	27/06/2017	1

<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 5	AEE-LA-305	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 6	AEE-LA-306	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 7	AEE-LA-307	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 8	AEE-LA-308	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 9	AEE-LA-309	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 10	AEE-LA-310	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 11	AEE-LA-311	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 12	AEE-LA-312	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 1	AEE-LA-401	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 2	AEE-LA-402	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 3	AEE-LA-403	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 4	AEE-LA-404	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 5	AEE-LA-405	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 6	AEE-LA-406	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 7	AEE-LA-407	27/06/2017	1
<b>PLAN SET 6 - PLAN AND LONG SECTION</b>			
ROAD ALIGNMENT - EAST WEST LINK - PLAN AND LONG SECTION - DRAWING INDEX	AEE-C-001	22/09/2017	3
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 1	AEE-C-201	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 2	AEE-C-202	13/09/2017	2
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 3	AEE-C-203	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 4	AEE-C-204	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 5	AEE-C-205	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 6	AEE-C-206	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 7	AEE-C-207	27/06/2017	1



<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
ROAD ALIGNMENT- PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 8	AEE-C-208	27/06/2017	1
ROAD ALIGNMENT- PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 9	AEE-C-209	27/06/2017	1
ROAD ALIGNMENT- PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 10	AEE-C-210	27/06/2017	1
ROAD ALIGNMENT- PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 11	AEE-C-211	27/06/2017	1
ROAD ALIGNMENT- PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 12	AEE-C-212	27/06/2017	1
ROAD ALIGNMENT- PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 13	AEE-C-213	27/06/2017	1
ROAD ALIGNMENT- PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 14	AEE-C-214	27/06/2017	1
ROAD ALIGNMENT - CAPTAIN SPRINGS - PLAN AND LONG SECTION - MCP0 - SHEET 1	AEE-C-231	27/06/2017	1
ROAD ALIGNMENT - CAPTAIN SPRINGS - PLAN AND LONG SECTION - MCP0 - SHEET 2	AEE-C-232	27/06/2017	1
ROAD ALIGNMENT - PORTS LINK - PLAN AND LONG SECTION - MCR0 - SHEET 1	AEE-C-233	27/06/2017	1
ROAD ALIGNMENT - PORTS LINK - PLAN AND LONG SECTION - MCR0 - SHEET 2	AEE-C-234	27/06/2017	1
ROAD ALIGNMENT - SYLVIA PARK NB OFF RAMP - PLAN AND LONG SECTION - MC00 - SHEET 1	AEE-C-241	27/06/2017	2
ROAD ALIGNMENT - SYLVIA PARK NB OFF RAMP - PLAN AND LONG SECTION - MC00 - SHEET 2	AEE-C-242	27/06/2017	2
ROAD ALIGNMENT - SYLVIA PARK NB OFF RAMP - PLAN AND LONG SECTION - MC00 - SHEET 3	AEE-C-243	27/06/2017	2
ROAD ALIGNMENT - MT WELLINGTON OFF RAMP - PLAN AND LONG SECTION - MCK0 - SHEET 1	AEE-C-245	27/06/2017	1
ROAD ALIGNMENT - MT WELLINGTON OFF RAMP - PLAN AND LONG SECTION - MCK0 - SHEET 2	AEE-C-246	27/06/2017	1
ROAD ALIGNMENT - MT WELLINGTON OFF RAMP - PLAN AND LONG SECTION - MCK0 - SHEET 3	AEE-C-247	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE -	AEE-C-251	27/06/2017	1

<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
PLAN AND LONG SECTION - MC40			
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MC50 - SHEET 1	AEE-C-252	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MC50 - SHEET 2	AEE-C-253	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MCA0	AEE-C-254	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MCB0	AEE-C-255	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MCE0	AEE-C-256	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MCF0	AEE-C-257	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCA0	AEE-C-261	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCB0 - SHEET 1	AEE-C-262	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCB0 - SHEET 2	AEE-C-263	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCC0	AEE-C-264	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCD0 - SHEET 1	AEE-C-266	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCD0 - SHEET 2	AEE-C-267	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCE0 - SHEET 1	AEE-C-268	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCE0 - SHEET 2	AEE-C-269	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCH0 - SHEET 1	AEE-C-270	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCH0 - SHEET 2	AEE-C-271	27/06/2017	1
ROAD ALIGNMENT - GALWAY LINK - PLAN AND LONG SECTION - MCJ0	AEE-C-272	27/06/2017	1

<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
ROAD ALIGNMENT - ONEHUNGA MALL - PLAN AND LONG SECTION - MC30 - SHEET 1	AEE-C-277	27/06/2017	1
ROAD ALIGNMENT - ONEHUNGA HARBOUR ROAD - PLAN AND LONG SECTION - MC30 - SHEET 2	AEE-C-278	27/06/2017	1
ROAD ALIGNMENT - ONEHUNGA HARBOUR ROAD - PLAN AND LONG SECTION - MC30 - SHEET 3	AEE-C-279	27/06/2017	1
ROAD ALIGNMENT - ORPHEUS DRIVE - PLAN AND LONG SECTION - MC50 - SHEET 1	AEE-C-280	27/06/2017	1
ROAD ALIGNMENT - ORPHEUS DRIVE - PLAN AND LONG SECTION - MC50 - SHEET 2	AEE-C-281	27/06/2017	1
ROAD ALIGNMENT - ORPHEUS DRIVE - PLAN AND LONG SECTION - MC50 - SHEET 3	AEE-C-282	27/06/2017	1
ROAD ALIGNMENT - EWL/GREAT SOUTH ROAD EB CONNECTION - PLAN AND LONG SECTION - MC30 SHEET 1	AEE-C-285	27/06/2017	1
ROAD ALIGNMENT - EWL/GREAT SOUTH ROAD EB CONNECTION - PLAN AND LONG SECTION - MC30 SHEET 2	AEE-C-286	27/06/2017	1
ROAD ALIGNMENT - EWL/GREAT SOUTH ROAD WB CONNECTION - PLAN AND LONG SECTION - MC40 SHEET 1	AEE-C-287	27/06/2017	1
ROAD ALIGNMENT - EWL/GREAT SOUTH ROAD WB CONNECTION - PLAN AND LONG SECTION - MC40 SHEET 2	AEE-C-288	27/06/2017	1
<b>PLAN SET 7 - TYPICAL CROSS SECTION</b>			
ROAD ALIGNMENT - TYPICAL CROSS SECTION - DRAWING INDEX	AEE-C-002	27/06/2017	2
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SECTION MARKER	AEE-C-300	27/06/2017	2
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 1	AEE-C-301	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 2	AEE-C-302	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 3	AEE-C-303	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 4	AEE-C-304	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 5	AEE-C-305	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 6	AEE-C-306	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 7	AEE-C-307	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 8	AEE-C-308	27/06/2017	1

<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 9	AEE-C-309	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 10	AEE-C-310	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 11	AEE-C-311	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 12	AEE-C-312	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 13	AEE-C-313	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 14	AEE-C-314	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - CAPTAIN SPRINGS ROAD - SHEET 15	AEE-C-315	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - PORTS LINK - SHEET 16	AEE-C-316	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - GREAT SOUTH ROAD INTERSECTION - SHEET 17	AEE-C-317	27/06/2017	1
GEOTECHNICAL - EMBANKMENT TYPICAL CROSS SECTION - SHEET 1	AEE-C-321	27/06/2017	1
GEOTECHNICAL - EMBANKMENT TYPICAL CROSS SECTION - SHEET 2	AEE-C-322	27/06/2017	1
GEOTECHNICAL - EMBANKMENT TYPICAL CROSS SECTION - SHEET 3	AEE-C-323	27/06/2017	1
GEOTECHNICAL - EMBANKMENT TYPICAL CROSS SECTION - SHEET 4	AEE-C-324	27/06/2017	1
<b>PLAN SET 8 - STRUCTURAL</b>			
STRUCTURAL - EAST WEST LINK - DRAWING INDEX, NOTES AND LEGEND	AEE-S-001	27/06/2017	2
STRUCTURAL - KEY PLAN	AEE-S-010	27/06/2017	2
STRUCTURAL - SH20/ NEILSON ST INTERCHANGE OVERBRIDGE - PLAN AND LONG SECTION	AEE-S-011	27/06/2017	1
STRUCTURAL - SH20/ NEILSON ST INTERCHANGE OVERBRIDGE - TYPICAL CROSS SECTION	AEE-S-012	27/06/2017	1
STRUCTURAL - ONEHUNGA HARBOUR ROAD PEDESTRIAN/CYCLE BRIDGE - PLAN	AEE-S-014	27/06/2017	1
STRUCTURAL - ALFRED STREET PEDESTRIAN/CYCLE BRIDGE - PLAN	AEE-S-015	27/06/2017	1
STRUCTURAL - NEILSON STREET/ ONEHUNGA WHARF TRENCH - PLAN AND LONG SECTION	AEE-S-016	27/06/2017	1

Title	Drawing Number	Date	Revision Number
STRUCTURAL - NEILSON STREET/ ONEHUNGA WHARF TRENCH - TYPICAL CROSS SECTIONS - SHEET 1	AEE-S-017	27/06/2017	1
STRUCTURAL - NEILSON STREET/ ONEHUNGA WHARF TRENCH - TYPICAL CROSS SECTIONS - SHEET 2	AEE-S-018	27/06/2017	1
STRUCTURAL - ANNS CREEK VIADUCT - WEST - PLAN AND LONG SECTION - SHEET 1	AEE-S-021	27/06/2017	1
STRUCTURAL - ANNS CREEK VIADUCT - WEST - PLAN AND LONG SECTION - SHEET 2	AEE-S-022	27/06/2017	1
STRUCTURAL - ANNS CREEK VIADUCT - WEST - PLAN AND LONG SECTION - SHEET 3	AEE-S-023	27/06/2017	1
STRUCTURAL - ANNS CREEK VIADUCT - EAST - PLAN AND LONG SECTION - SHEET 4	AEE-S-024	27/06/2017	2
STRUCTURAL - ANNS CREEK VIADUCT - EAST - PLAN AND LONG SECTION - SHEET 5	AEE-S-025	27/06/2017	2
STRUCTURAL - ANNS CREEK VIADUCT - TYPICAL CROSS SECTION - CONCRETE - SHEET 1	AEE-S-031	27/06/2017	1
STRUCTURAL - ANNS CREEK VIADUCT - TYPICAL CROSS SECTION - CONCRETE - SHEET 2	AEE-S-032	27/06/2017	2
STRUCTURAL - ANNS CREEK VIADUCT - TYPICAL CROSS SECTION - STEEL	AEE-S-033	27/06/2017	2
STRUCTURAL - EWLINK EB TO SH1 SB ON RAMP PLAN AND LONG SECTION - SHEET 1	AEE-S-041	27/06/2017	2
STRUCTURAL - EWLINK EB TO SH1 SB ON RAMP PLAN AND LONG SECTION - SHEET 2	AEE-S-042	27/06/2017	2
STRUCTURAL - EWLINK EB TO SH1 SB ON RAMP PLAN AND LONG SECTION - SHEET 3	AEE-S-043	27/06/2017	2
STRUCTURAL - EWLINK EB TO SH1 SB ON RAMP TYPICAL CROSS SECTION - CONCRETE	AEE-S-045	27/06/2017	2
STRUCTURAL - EWLINK EB TO SH1 SB ON RAMP TYPICAL CROSS SECTION - STEEL	AEE-S-046	27/06/2017	2
STRUCTURAL - SH1 NB TO EWLINK WB OFF RAMP - PLAN AND LONG SECTION - SHEET 1	AEE-S-051	27/06/2017	2
STRUCTURAL - SH1 NB TO EWLINK WB OFF RAMP - PLAN AND LONG SECTION - SHEET 2	AEE-S-052	27/06/2017	2
STRUCTURAL - SH1 NB TO EWLINK WB OFF RAMP -	AEE-S-055	27/06/2017	2

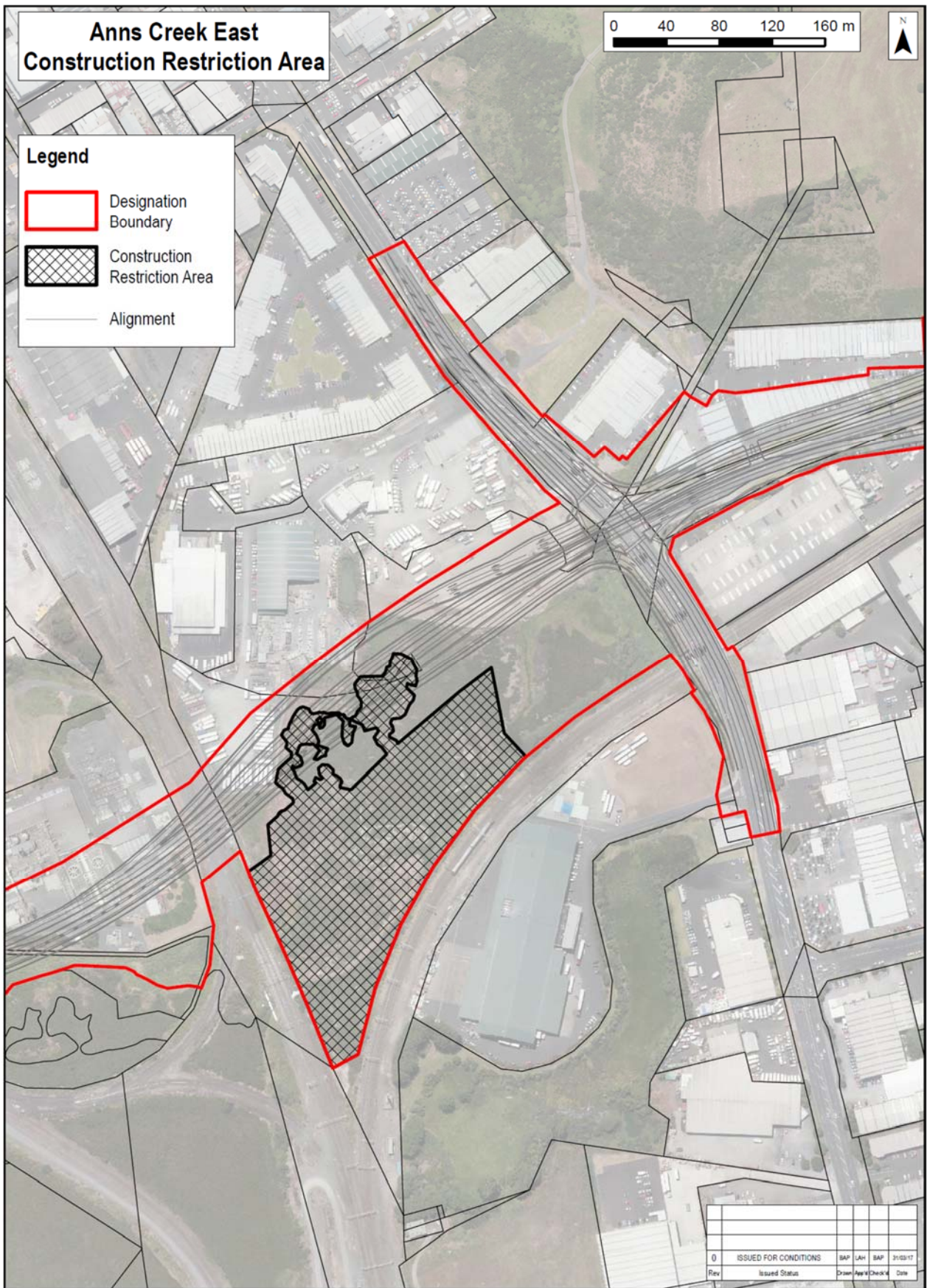
Title	Drawing Number	Date	Revision Number
TYPICAL CROSS SECTION - SHEET 1			
STRUCTURAL - SH1 NB TO EWLINK WB OFF RAMP - TYPICAL CROSS SECTION - SHEET 2	AEE-S-056	27/06/2017	2
STRUCTURAL - PANAMA ROAD OVERBRIDGE - PLAN AND LONG SECTION	AEE-S-061	27/06/2017	1
STRUCTURAL - PANAMA ROAD OVERBRIDGE - TYPICAL CROSS SECTION	AEE-S-062	27/06/2017	1
STRUCTURAL - OTAHUHU CREEK - PLAN AND LONG SECTION	AEE-S-065	27/06/2017	1
STRUCTURAL - OTAHUHU CREEK - TYPICAL CROSS SECTION	AEE-S-066	27/06/2017	1
STRUCTURAL - PRINCES STREET OVERBRIDGE - PLAN AND LONG SECTION	AEE-S-071	27/06/2017	1
STRUCTURAL - PRINCES STREET OVERBRIDGE - TYPICAL CROSS SECTION	AEE-S-072	27/06/2017	1
STRUCTURAL - GREAT SOUTH ROAD RAIL OVERBRIDGE WIDENING - PLAN AND CROSS SECTION	AEE-S-081	27/06/2017	1
<b>PLAN SET 12 - UTILITIES RELOCATION</b>			
UTILITIES RELOCATION - EAST WEST LINK - DRAWING INDEX, NOTES AND LEGEND	AEE-U-001	22/09/2017	3
UTILITIES RELOCATION - OVERVIEW PLAN	AEE-U-100	22/09/2017	3
UTILITIES RELOCATION - SH20/NEILSON STREET INTERCHANGE - SHEET 1	AEE-U-101	22/09/2017	2
UTILITIES RELOCATION - NEILSON STREET INTERCHANGE - SHEET 2	AEE-U-102	22/09/2017	2
UTILITIES RELOCATION/ GALWAY STREET - SHEET 3	AEE-U-103	22/09/2017	2
UTILITIES RELOCATION - EMBANKMENT - SHEET 4	AEE-U-104	22/09/2017	2
UTILITIES RELOCATION - EMBANKMENT - SHEET 5	AEE-U-105	22/09/2017	2
UTILITIES RELOCATION - EMBANKMENT/ANNS CREEK - SHEET 6	AEE-U-106	22/09/2017	2
UTILITIES RELOCATION - ANNS CREEK - SHEET 7	AEE-U-107	22/09/2017	3
UTILITIES RELOCATION - ANNS CREEK/SYLVIA PARK ROAD - SHEET 8	AEE-U-108	22/09/2017	3
UTILITIES RELOCATION - ANNS CREEK/SYLVIA PARK	AEE-U-109	22/09/2017	3

Title	Drawing Number	Date	Revision Number
RAMPS - SHEET 9			
UTILITIES RELOCATION - SH1/SYLVIA PARK RAMPS - SHEET 10	AEE-U-110	22/09/2017	2
UTILITIES RELOCATION - SH1/PANAMA ROAD - SHEET 11	AEE-U-111	22/09/2017	2
UTILITIES RELOCATION - SH1/OTAHUHU CREEK - SHEET 12	AEE-U-112	27/06/2017	1
UTILITIES RELOCATION - PRINCES STREET INTERCHANGE - SHEET 13	AEE-U-113	22/09/2017	2
UTILITIES RELOCATION - NEILSON STREET INTERCHANGE - LOCAL ROADS - SHEET 14A AND 14B	AEE-U-114	22/09/2017	2
UTILITIES RELOCATION - CAPTAIN SPRINGS ROAD/ PORTS LINK - SHEET 15A AND 15B	AEE-U-115	22/09/2017	2
UTILITIES RELOCATION - EMBANKMENT - SHEET 16	AEE-U-116	27/06/2017	1

**PART B: DRAWINGS REFERRED TO IN OTHER DESIGNATION CONDITIONS:**

Condition number	Drawing title	Date	Revision number
DC.15B	Anns Creek East Construction Restriction Area	31/03/2017	0
SD.2A	Z5A-SK-80-202, Mercury Power Site, Typical section and plan	03/08/2017	C
SD.2	SK-PI-008-201, Property interface plans, Southdown, vehicle tracking	01/08/2017	C

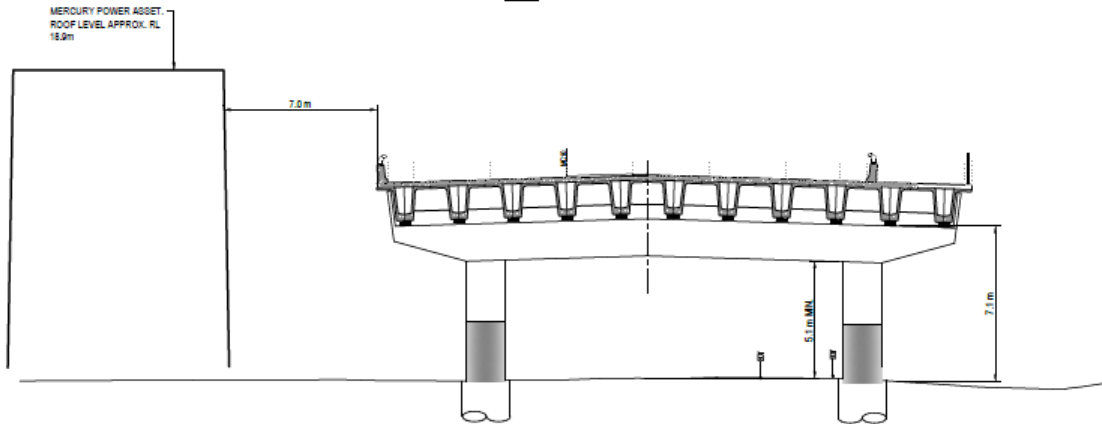




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PLAN



TYPICAL SECTION AT DISTANCE 4540

ISSUED FOR BOI

No.	Issued Status	Drawn	Checked	App'd	Date
C	BOARD OF INQUIRY ISSUE	LN	NN	SC	03.08.2017
B	BRIDGE RAISED BY 600mm	LN	NN	SC	24.07.2017
A	ORIGINAL ISSUE	LN	NN	SC	

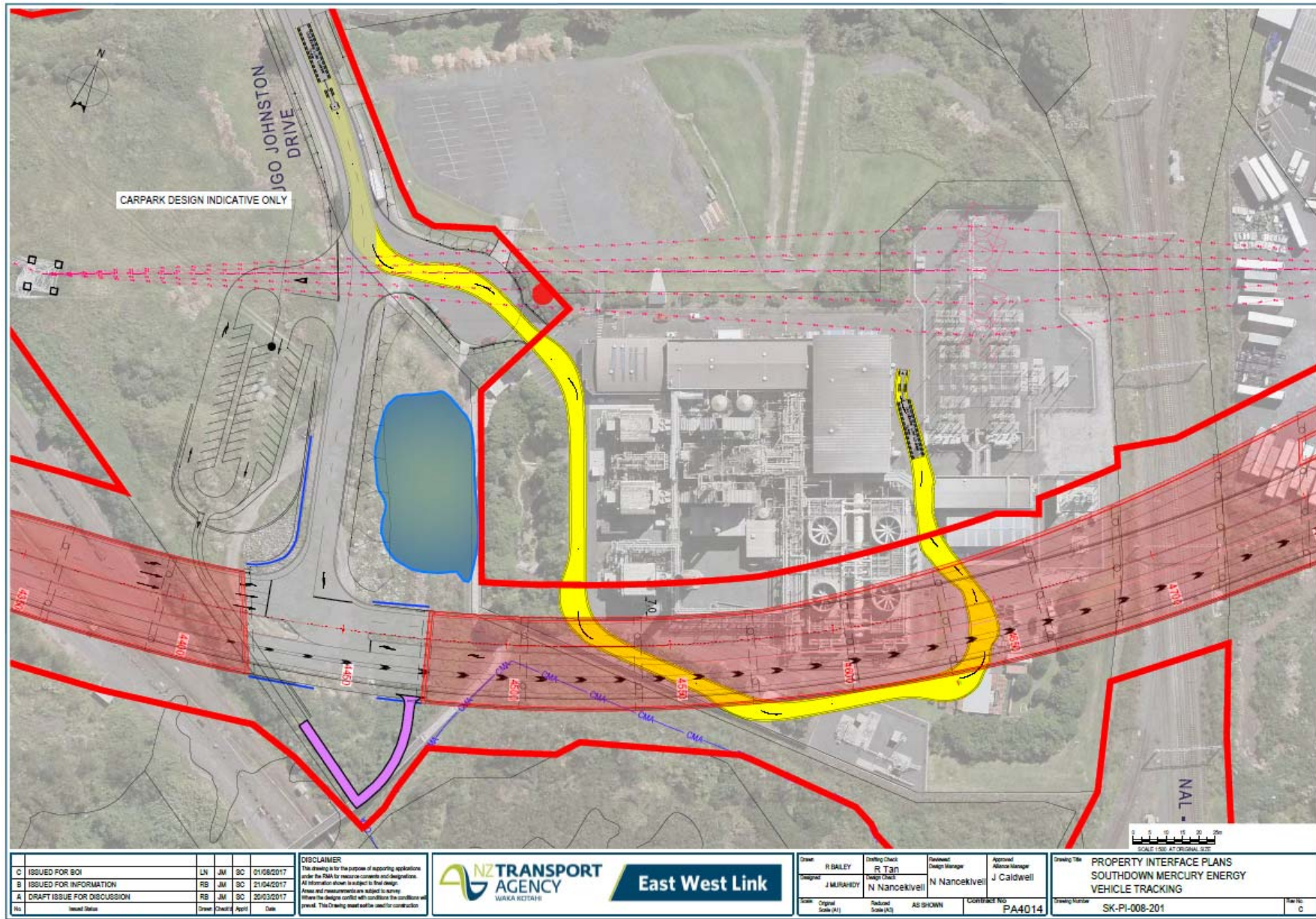
**DISCLAIMER**  
 This drawing is for the purposes of supporting applications under the RMA for resource consents and designations. All information shown is subject to final design. Areas and measurements are subject to survey. Where the design conflicts with conditions the conditions prevail. This drawing must not be used for construction.



Drawn:	LEN	Checked/Check:	R. Tan	Reviewed:	Design Manager	Approved:	Alience Manager
Designed:	LEN	Design/Check:	N Nancekivell	Reviewed:	N Nancekivell	Approved:	J Caldwell
Scale:	Original Scale (A1)	Reduced Scale (A2)	1:200	Contract No:	PA4014		

Drawing Title:	MERCURY POWER SITE TYPICAL SECTION AND PLAN CONCEPT - FOR INFORMATION ONLY
Drawing Number:	Z5A-SK-80-202
File No.:	C

Plot Date: 2 August 2017 12:38 pm. Plotter: Lxp/af. Plot File: \\C:\G:\A\CAD\Draw and Working\A2006\_05\_01\_02.dwg



**Appendix 2: LIST OF DRAWINGS REFERRED TO IN THE RESOURCE CONSENT CONDITIONS<sup>2</sup>**

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<sup>2</sup> Reproduced from NZTA Memorandum dated 12 December 2017.

## PART A: DRAWINGS REFERRED TO IN CONDITION RC.1

Title	Drawing Number	Date	Revision Number
<b>PLAN SET 3 - ROAD ALIGNMENT</b>			
ROAD ALIGNMENT – EAST WEST LINK – DRAWING INDEX, NOTES AND LEGEND	AEE-AL-001	13/09/2017	4
ROAD ALIGNMENT - EAST WEST LINK - OVERVIEW PLAN	AEE-AL-100	13/09/2017	4
ROAD ALIGNMENT - SH20/NEILSON STREET INTERCHANGE - SHEET 1	AEE-AL-101	13/09/2017	3
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - SHEET 2	AEE-AL-102	13/09/2017	3
ROAD ALIGNMENT - GALWAY STREET - SHEET 3	AEE-AL-103	13/09/2017	3
ROAD ALIGNMENT - EMBANKMENT - SHEET 4	AEE-AL-104	13/09/2017	4
ROAD ALIGNMENT - EMBANKMENT - SHEET 5	AEE-AL-105	13/09/2017	3
ROAD ALIGNMENT - EMBANKMENT/ANNS CREEK - SHEET 6	AEE-AL-106	13/09/2017	3
ROAD ALIGNMENT - ANNS CREEK - SHEET 7	AEE-AL-107	13/09/2017	4
ROAD ALIGNMENT - ANNS CREEK/SYLVIA PARK ROAD - SHEET 8	AEE-AL-108	13/09/2017	4
ROAD ALIGNMENT - SH1/SYLVIA PARK RAMPS - SHEET 9	AEE-AL-109	13/09/2017	4
ROAD ALIGNMENT - SH1/SYLVIA PARK RAMPS - SHEET 10	AEE-AL-110	13/09/2017	3
ROAD ALIGNMENT - SH1/PANAMA ROAD - SHEET 11	AEE-AL-111	13/09/2017	3
ROAD ALIGNMENT - SH1/OTAHUHU CREEK - SHEET 12	AEE-AL-112	27/06/2017	2
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - SHEET 13	AEE-AL-113	13/09/2017	3
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - LOCAL ROADS - SHEET 14A AND 14B	AEE-AL-114	13/09/2017	3
ROAD ALIGNMENT - CAPTAIN SPRINGS ROAD/ PORTS LINK - SHEET 15A AND 15B	AEE-AL-115	13/09/2017	3
ROAD ALIGNMENT - EMBANKMENT - SHEET 16	AEE-AL-116	27/06/2017	2
<b>PLAN SET 4 - LANDSCAPE</b>			
LANDSCAPE - EAST WEST LINK - DRAWING INDEX AND	AEE-LA-001	22/09/2017	3

Title	Drawing Number	Date	Revision Number
LEGEND			
LANDSCAPE - EAST WEST LINK - OVERVIEW PLAN AND LEGEND	AEE-LA-100	22/09/2017	3
LANDSCAPE - SH20/NEILSON STREET INTERCHANGE - SHEET 1	AEE-LA-101	22/09/2017	2
LANDSCAPE - NEILSON STREET INTERCHANGE - SHEET 2	AEE-LA-102	22/09/2017	2
LANDSCAPE - EAST WEST LINK / GALWAY STREET - SHEET 3	AEE-LA-103	22/09/2017	2
LANDSCAPE - EMBANKMENT - SHEET 4	AEE-LA-104	22/09/2017	2
LANDSCAPE - EMBANKMENT - SHEET 5	AEE-LA-105	22/09/2017	2
LANDSCAPE - EMBANKMENT/ANNS CREEK - SHEET 6	AEE-LA-106	22/09/2017	2
LANDSCAPE - ANNS CREEK - SHEET 7	AEE-LA-107	22/09/2017	2
LANDSCAPE - ANNS CREEK/SYLVA PARK ROAD - SHEET 8	AEE-LA-108	22/09/2017	2
LANDSCAPE - SH1/SYLVA PARK RAMPS - SHEET 9	AEE-LA-109	22/09/2017	2
LANDSCAPE - SH1/SYLVA PARK RAMPS - SHEET 10	AEE-LA-110	22/09/2017	2
LANDSCAPE - SH1/PANAMA ROAD - SHEET 11	AEE-LA-111	22/09/2017	2
LANDSCAPE - SH1/OTAHUHU CREEK - SHEET 12	AEE-LA-112	22/09/2017	2
LANDSCAPE - PRINCES STREET INTERCHANGE - SHEET 13	AEE-LA-113	22/09/2017	2
LANDSCAPE - NEILSON STREET INTERCHANGE - LOCAL ROADS - SHEET 14A AND 14B	AEE-LA-114	22/09/2017	2
LANDSCAPE - CAPTAIN SPRINGS ROAD/ PORTS LINK - SHEET 15A AND 15B	AEE-LA-115	22/09/2017	2
LANDSCAPE - EMBANKMENT - SHEET 16	AEE-LA-116	22/09/2017	2
LANDSCAPE - 2D CROSS SECTIONS - SHEET 1	AEE-LA-201	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 2	AEE-LA-202	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 3	AEE-LA-203	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 4	AEE-LA-204	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 5	AEE-LA-205	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 6	AEE-LA-206	27/06/2017	2
LANDSCAPE - 2D CROSS SECTIONS - SHEET 7	AEE-LA-207	27/06/2017	1

<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
LANDSCAPE - 2D CROSS SECTIONS - SHEET 8	AEE-LA-208	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 9	AEE-LA-209	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 10	AEE-LA-210	27/06/2017	1
LANDSCAPE - 2D CROSS SECTIONS - SHEET 11	AEE-LA-211	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 1	AEE-LA-301	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 2	AEE-LA-302	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 3	AEE-LA-303	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 4	AEE-LA-304	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 5	AEE-LA-305	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 6	AEE-LA-306	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 7	AEE-LA-307	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 8	AEE-LA-308	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 9	AEE-LA-309	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 10	AEE-LA-310	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 11	AEE-LA-311	27/06/2017	1
LANDSCAPE - 3D SECTION PERSPECTIVES - SHEET 12	AEE-LA-312	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 1	AEE-LA-401	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 2	AEE-LA-402	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 3	AEE-LA-403	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 4	AEE-LA-404	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 5	AEE-LA-405	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 6	AEE-LA-406	27/06/2017	1
LANDSCAPE - PLANTING PALETTE - SHEET 7	AEE-LA-407	27/06/2017	1
<b>PLAN SET 5 – COASTAL OCCUPATION</b>			
COASTAL OCCUPATION - EAST WEST LINK - DRAWING INDEX, NOTES AND LEGEND	AEE-CMA-001	22/09/2017	2
COASTAL OCCUPATION - EMBANKMENT – OVERVIEW	AEE-CMA-101	22/09/2017	2
COASTAL OCCUPATION - EMBANKMENT - SHEET 1	AEE-CMA-102	22/09/2017	2
COASTAL OCCUPATION - EMBANKMENT - SHEET 2	AEE-CMA-103	22/09/2017	2
COASTAL OCCUPATION - EMBANKMENT - SHEET 3	AEE-CMA-104	22/09/2017	2

Title	Drawing Number	Date	Revision Number
COASTAL OCCUPATION - OTAHUHU CREEK	AEE-CMA-111	27/06/2017	1
COASTAL OCCUPATION - EAST WEST LINK - TYPICAL SECTIONS	AEE-CMA-301	27/06/2017	1
<b>PLAN SET 6 – PLAN AND LONG SECTION</b>			
ROAD ALIGNMENT - EAST WEST LINK - PLAN AND LONG SECTION - DRAWING INDEX	AEE-C-001	22/09/2017	3
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 1	AEE-C-201	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 2	AEE-C-202	13/09/2017	2
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 3	AEE-C-203	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 4	AEE-C-204	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 5	AEE-C-205	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 6	AEE-C-206	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 7	AEE-C-207	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 8	AEE-C-208	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 9	AEE-C-209	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 10	AEE-C-210	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 11	AEE-C-211	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 12	AEE-C-212	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 13	AEE-C-213	27/06/2017	1
ROAD ALIGNMENT - PLAN AND LONG SECTION - OVERALL ALIGNMENT - MC00 - SHEET 14	AEE-C-214	27/06/2017	1



<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
ROAD ALIGNMENT - CAPTAIN SPRINGS - PLAN AND LONG SECTION - MCP0 - SHEET 1	AEE-C-231	27/06/2017	1
ROAD ALIGNMENT - CAPTAIN SPRINGS - PLAN AND LONG SECTION - MCP0 - SHEET 2	AEE-C-232	27/06/2017	1
ROAD ALIGNMENT - PORTS LINK - PLAN AND LONG SECTION - MCR0 - SHEET 1	AEE-C-233	27/06/2017	1
ROAD ALIGNMENT - PORTS LINK - PLAN AND LONG SECTION - MCR0 - SHEET 2	AEE-C-234	27/06/2017	1
ROAD ALIGNMENT - SYLVIA PARK NB OFF RAMP - PLAN AND LONG SECTION - MC00 - SHEET 1	AEE-C-241	27/06/2017	2
ROAD ALIGNMENT - SYLVIA PARK NB OFF RAMP - PLAN AND LONG SECTION - MC00 - SHEET 2	AEE-C-242	27/06/2017	2
ROAD ALIGNMENT - SYLVIA PARK NB OFF RAMP - PLAN AND LONG SECTION - MC00 - SHEET 3	AEE-C-243	27/06/2017	2
ROAD ALIGNMENT - MT WELLINGTON OFF RAMP - PLAN AND LONG SECTION - MCK0 - SHEET 1	AEE-C-245	27/06/2017	1
ROAD ALIGNMENT - MT WELLINGTON OFF RAMP - PLAN AND LONG SECTION - MCK0 - SHEET 2	AEE-C-246	27/06/2017	1
ROAD ALIGNMENT - MT WELLINGTON OFF RAMP - PLAN AND LONG SECTION - MCK0 - SHEET 3	AEE-C-247	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MC40	AEE-C-251	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MC50 - SHEET 1	AEE-C-252	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MC50 - SHEET 2	AEE-C-253	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MCA0	AEE-C-254	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MCB0	AEE-C-255	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MCE0	AEE-C-256	27/06/2017	1
ROAD ALIGNMENT - PRINCES STREET INTERCHANGE - PLAN AND LONG SECTION - MCF0	AEE-C-257	27/06/2017	1

<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCA0	AEE-C-261	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCB0 - SHEET 1	AEE-C-262	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCB0 - SHEET 2	AEE-C-263	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCC0	AEE-C-264	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCD0 - SHEET 1	AEE-C-266	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCD0 - SHEET 2	AEE-C-267	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCE0 - SHEET 1	AEE-C-268	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCE0 - SHEET 2	AEE-C-269	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCH0 - SHEET 1	AEE-C-270	27/06/2017	1
ROAD ALIGNMENT - NEILSON STREET INTERCHANGE - PLAN AND LONG SECTION - MCH0 - SHEET 2	AEE-C-271	27/06/2017	1
ROAD ALIGNMENT - GALWAY LINK - PLAN AND LONG SECTION - MCJ0	AEE-C-272	27/06/2017	1
ROAD ALIGNMENT - ONEHUNGA MALL - PLAN AND LONG SECTION - MC30 - SHEET 1	AEE-C-277	27/06/2017	1
ROAD ALIGNMENT - ONEHUNGA HARBOUR ROAD - PLAN AND LONG SECTION - MC30 - SHEET 2	AEE-C-278	27/06/2017	1
ROAD ALIGNMENT - ONEHUNGA HARBOUR ROAD - PLAN AND LONG SECTION - MC30 - SHEET 3	AEE-C-279	27/06/2017	1
ROAD ALIGNMENT - ORPHEUS DRIVE - PLAN AND LONG SECTION - MC50 - SHEET 1	AEE-C-280	27/06/2017	1
ROAD ALIGNMENT - ORPHEUS DRIVE - PLAN AND LONG SECTION - MC50 - SHEET 2	AEE-C-281	27/06/2017	1
ROAD ALIGNMENT - ORPHEUS DRIVE - PLAN AND LONG SECTION - MC50 - SHEET 3	AEE-C-282	27/06/2017	1

<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
ROAD ALIGNMENT - EWL/GREAT SOUTH ROAD EB CONNECTION - PLAN AND LONG SECTION - MC30 SHEET 1	AEE-C-285	27/06/2017	1
ROAD ALIGNMENT - EWL/GREAT SOUTH ROAD EB CONNECTION - PLAN AND LONG SECTION - MC30 SHEET 2	AEE-C-286	27/06/2017	1
ROAD ALIGNMENT - EWL/GREAT SOUTH ROAD WB CONNECTION - PLAN AND LONG SECTION - MC40 SHEET 1	AEE-C-287	27/06/2017	1
ROAD ALIGNMENT - EWL/GREAT SOUTH ROAD WB CONNECTION - PLAN AND LONG SECTION - MC40 SHEET 2	AEE-C-288	27/06/2017	1
<b>PLAN SET 7 – TYPICAL CROSS SECTION</b>			
ROAD ALIGNMENT - TYPICAL CROSS SECTION - DRAWING INDEX	AEE-C-002	27/06/2017	2
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SECTION MARKER	AEE-C-300	27/06/2017	2
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 1	AEE-C-301	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 2	AEE-C-302	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 3	AEE-C-303	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 4	AEE-C-304	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 5	AEE-C-305	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 6	AEE-C-306	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 7	AEE-C-307	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 8	AEE-C-308	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 9	AEE-C-309	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 10	AEE-C-310	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 11	AEE-C-311	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 12	AEE-C-312	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 13	AEE-C-313	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - SHEET 14	AEE-C-314	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - CAPTAIN SPRINGS ROAD - SHEET 15	AEE-C-315	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - PORTS LINK - SHEET 16	AEE-C-316	27/06/2017	1
ROAD ALIGNMENT - TYPICAL CROSS SECTION - GREAT	AEE-C-317	27/06/2017	1

Title	Drawing Number	Date	Revision Number
SOUTH ROAD INTERSECTION - SHEET 17			
GEOTECHNICAL - EMBANKMENT TYPICAL CROSS SECTION - SHEET 1	AEE-C-321	27/06/2017	1
GEOTECHNICAL - EMBANKMENT TYPICAL CROSS SECTION - SHEET 2	AEE-C-322	27/06/2017	1
GEOTECHNICAL - EMBANKMENT TYPICAL CROSS SECTION - SHEET 3	AEE-C-323	27/06/2017	1
GEOTECHNICAL - EMBANKMENT TYPICAL CROSS SECTION - SHEET 4	AEE-C-324	27/06/2017	1
<b>PLAN SET 8 – STRUCTURAL</b>			
STRUCTURAL - EAST WEST LINK - DRAWING INDEX, NOTES AND LEGEND	AEE-S-001	27/06/2017	2
STRUCTURAL - KEY PLAN	AEE-S-010	27/06/2017	2
STRUCTURAL - SH20/ NEILSON ST INTERCHANGE OVERBRIDGE - PLAN AND LONG SECTION	AEE-S-011	27/06/2017	1
STRUCTURAL - SH20/ NEILSON ST INTERCHANGE OVERBRIDGE - TYPICAL CROSS SECTION	AEE-S-012	27/06/2017	1
STRUCTURAL - ONEHUNGA HARBOUR ROAD PEDESTRIAN/CYCLE BRIDGE - PLAN	AEE-S-014	27/06/2017	1
STRUCTURAL - ALFRED STREET PEDESTRIAN/CYCLE BRIDGE - PLAN	AEE-S-015	27/06/2017	1
STRUCTURAL - NEILSON STREET/ ONEHUNGA WHARF TRENCH - PLAN AND LONG SECTION	AEE-S-016	27/06/2017	1
STRUCTURAL - NEILSON STREET/ ONEHUNGA WHARF TRENCH - TYPICAL CROSS SECTIONS - SHEET 1	AEE-S-017	27/06/2017	1
STRUCTURAL - NEILSON STREET/ ONEHUNGA WHARF TRENCH - TYPICAL CROSS SECTIONS - SHEET 2	AEE-S-018	27/06/2017	1
STRUCTURAL - ANNS CREEK VIADUCT - WEST - PLAN AND LONG SECTION - SHEET 1	AEE-S-021	27/06/2017	1
STRUCTURAL - ANNS CREEK VIADUCT - WEST - PLAN AND LONG SECTION - SHEET 2	AEE-S-022	27/06/2017	1
STRUCTURAL - ANNS CREEK VIADUCT - WEST - PLAN AND LONG SECTION - SHEET 3	AEE-S-023	27/06/2017	1
STRUCTURAL - ANNS CREEK VIADUCT - EAST - PLAN AND	AEE-S-024	27/06/2017	2

Title	Drawing Number	Date	Revision Number
LONG SECTION - SHEET 4			
STRUCTURAL - ANNS CREEK VIADUCT - EAST - PLAN AND LONG SECTION - SHEET 5	AEE-S-025	27/06/2017	2
STRUCTURAL - ANNS CREEK VIADUCT - TYPICAL CROSS SECTION - CONCRETE - SHEET 1	AEE-S-031	27/06/2017	1
STRUCTURAL - ANNS CREEK VIADUCT - TYPICAL CROSS SECTION - CONCRETE - SHEET 2	AEE-S-032	27/06/2017	2
STRUCTURAL - ANNS CREEK VIADUCT - TYPICAL CROSS SECTION - STEEL	AEE-S-033	27/06/2017	2
STRUCTURAL - EWLINK EB TO SH1 SB ON RAMP PLAN AND LONG SECTION - SHEET 1	AEE-S-041	27/06/2017	2
STRUCTURAL - EWLINK EB TO SH1 SB ON RAMP PLAN AND LONG SECTION - SHEET 2	AEE-S-042	27/06/2017	2
STRUCTURAL - EWLINK EB TO SH1 SB ON RAMP PLAN AND LONG SECTION - SHEET 3	AEE-S-043	27/06/2017	2
STRUCTURAL - EWLINK EB TO SH1 SB ON RAMP TYPICAL CROSS SECTION - CONCRETE	AEE-S-045	27/06/2017	2
STRUCTURAL - EWLINK EB TO SH1 SB ON RAMP TYPICAL CROSS SECTION - STEEL	AEE-S-046	27/06/2017	2
STRUCTURAL - SH1 NB TO EWLINK WB OFF RAMP - PLAN AND LONG SECTION - SHEET 1	AEE-S-051	27/06/2017	2
STRUCTURAL - SH1 NB TO EWLINK WB OFF RAMP - PLAN AND LONG SECTION - SHEET 2	AEE-S-052	27/06/2017	2
STRUCTURAL - SH1 NB TO EWLINK WB OFF RAMP - TYPICAL CROSS SECTION - SHEET 1	AEE-S-055	27/06/2017	2
STRUCTURAL - SH1 NB TO EWLINK WB OFF RAMP - TYPICAL CROSS SECTION - SHEET 2	AEE-S-056	27/06/2017	2
STRUCTURAL - PANAMA ROAD OVERBRIDGE - PLAN AND LONG SECTION	AEE-S-061	27/06/2017	1
STRUCTURAL - PANAMA ROAD OVERBRIDGE - TYPICAL CROSS SECTION	AEE-S-062	27/06/2017	1
STRUCTURAL - OTAHUHU CREEK - PLAN AND LONG SECTION	AEE-S-065	27/06/2017	1
STRUCTURAL - OTAHUHU CREEK - TYPICAL CROSS	AEE-S-066	27/06/2017	1

Title	Drawing Number	Date	Revision Number
SECTION			
STRUCTURAL - PRINCES STREET OVERBRIDGE - PLAN AND LONG SECTION	AEE-S-071	27/06/2017	1
STRUCTURAL - PRINCES STREET OVERBRIDGE - TYPICAL CROSS SECTION	AEE-S-072	27/06/2017	1
STRUCTURAL - GREAT SOUTH ROAD RAIL OVERBRIDGE WIDENING - PLAN AND CROSS SECTION	AEE-S-081	27/06/2017	1
<b>PLAN SET 9 – STORMWATER</b>			
STORMWATER - EAST WEST LINK - DRAWING INDEX, NOTES AND LEGEND	AEE-SW-001	22/09/2017	4
STORMWATER - EAST WEST LINK - OVERVIEW PLAN	AEE-SW-100	22/09/2017	4
STORMWATER - SH20/NEILSON STREET INTERCHANGE - SHEET 1	AEE-SW-101	22/09/2017	3
STORMWATER - NEILSON STREET INTERCHANGE - SHEET 2	AEE-SW-102	22/09/2017	3
STORMWATER - GALWAY STREET - SHEET 3	AEE-SW-103	22/09/2017	3
STORMWATER - EMBANKMENT - SHEET 4	AEE-SW-104	22/09/2017	3
STORMWATER - EMBANKMENT - SHEET 5	AEE-SW-105	22/09/2017	3
STORMWATER - EMBANKMENT/ANNS CREEK - SHEET 6	AEE-SW-106	22/09/2017	3
STORMWATER - ANNS CREEK - SHEET 7	AEE-SW-107	22/09/2017	3
STORMWATER - ANNS CREEK/SYLVA PARK ROAD - SHEET 8	AEE-SW-108	22/09/2017	4
STORMWATER - ANNS CREEK/SYLVA PARK RAMPS - SHEET 9	AEE-SW-109	22/09/2017	4
STORMWATER - SH1/SYLVA PARK RAMPS - SHEET 10	AEE-SW-110	22/09/2017	4
STORMWATER - SH1/PANAMA ROAD - SHEET 11	AEE-SW-111	22/09/2017	3
STORMWATER - SH1/OTAHUHU CREEK - SHEET 12	AEE-SW-112	27/06/2017	2
STORMWATER - PRINCES STREET INTERCHANGE - SHEET 13	AEE-SW-113	22/09/2017	3
STORMWATER - NEILSON STREET INTERCHANGE - LOCAL ROADS - SHEET 14A AND 14B	AEE-SW-114	22/09/2017	3
STORMWATER - CAPTAIN SPRINGS ROAD/ PORTS LINK - SHEET 15A AND 15B	AEE-SW-115	22/09/2017	3

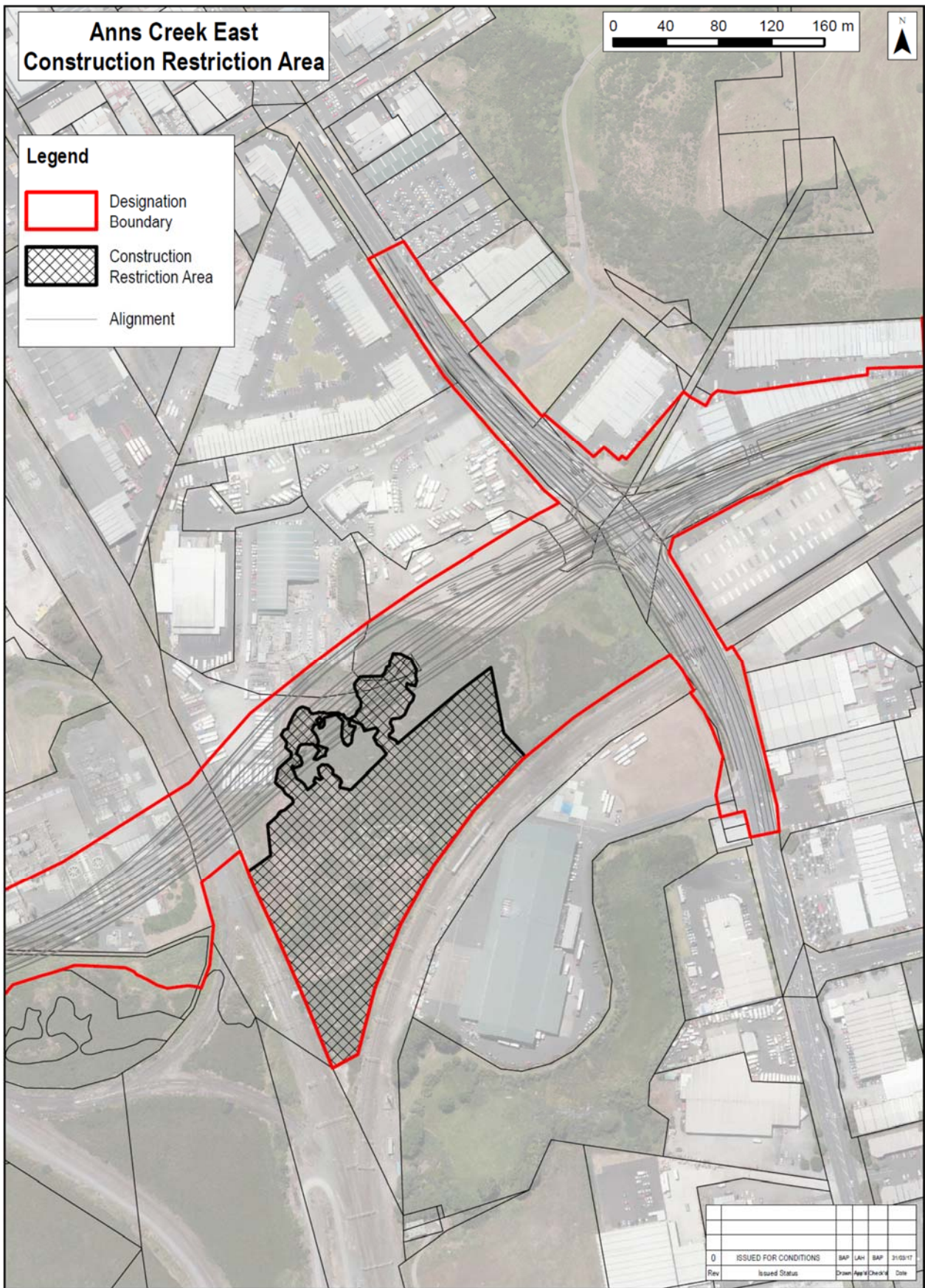
<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
STORMWATER - EMBANKMENT - SHEET 16	AEE-SW-116	27/06/2017	2
STORMWATER - TYPICAL WETLAND - PLAN AND SECTION	AEE-SW-301	22/09/2017	3
STORMWATER - EMBANKMENT WETLAND - TYPICAL CROSS SECTION	AEE-SW-311	22/09/2017	3
STORMWATER - FORESHORE TREATMENT AREA - TYPICAL SECTION	AEE-SW-312	22/09/2017	3
<b>PLAN SET 10 – EROSION AND SEDIMENT CONTROL</b>			
EROSION AND SEDIMENT CONTROL - EAST WEST LINK - DRAWING INDEX, NOTES AND LEGEND	AEE-ES-001	22/09/2017	4
EROSION AND SEDIMENT CONTROL - EAST WEST LINK - OVERVIEW PLAN	AEE-ES-100	22/09/2017	4
EROSION AND SEDIMENT CONTROL - SH20/NEILSON STREET INTERCHANGE - SHEET 1	AEE-ES-101	22/09/2017	3
EROSION AND SEDIMENT CONTROL - NEILSON STREET INTERCHANGE - SHEET 2	AEE-ES-102	22/09/2017	3
EROSION AND SEDIMENT CONTROL - GALWAY STREET - SHEET 3	AEE-ES-103	22/09/2017	3
EROSION AND SEDIMENT CONTROL - EMBANKMENT - SHEET 4	AEE-ES-104	22/09/2017	3
EROSION AND SEDIMENT CONTROL - EMBANKMENT - SHEET 5	AEE-ES-105	22/09/2017	3
EROSION AND SEDIMENT CONTROL - EMBANKMENT/ANNS CREEK - SHEET 6	AEE-ES-106	22/09/2017	3
EROSION AND SEDIMENT CONTROL - ANNS CREEK - SHEET 7	AEE-ES-107	22/09/2017	4
EROSION AND SEDIMENT CONTROL - ANNS CREEK/SYLVA PARK ROAD - SHEET 8	AEE-ES-108	22/09/2017	4
EROSION AND SEDIMENT CONTROL - ANNS CREEK/SYLVA PARK RAMPS - SHEET 9	AEE-ES-109	22/09/2017	4
EROSION AND SEDIMENT CONTROL - SH1/SYLVA PARK RAMPS - SHEET 10	AEE-ES-110	22/09/2017	3
EROSION AND SEDIMENT CONTROL - SH1/PANAMA ROAD - SHEET 11	AEE-ES-111	22/09/2017	3
EROSION AND SEDIMENT CONTROL - SH1/OTAHUHU	AEE-ES-112	27/06/2017	2

<b>Title</b>	<b>Drawing Number</b>	<b>Date</b>	<b>Revision Number</b>
CREEK - SHEET 12			
EROSION AND SEDIMENT CONTROL - PRINCES STREET INTERCHANGE - SHEET 13	AEE-ES-113	22/09/2017	3
EROSION AND SEDIMENT CONTROL - NEILSON STREET INTERCHANGE - LOCAL ROADS - SHEET 14A AND 14B	AEE-ES-114	22/09/2017	3
EROSION AND SEDIMENT CONTROL - CAPTAIN SPRINGS ROAD/ PORTS LINK - SHEET 15A AND 15B	AEE-ES-115	22/09/2017	3
EROSION AND SEDIMENT CONTROL - EMBANKMENT - SHEET 16	AEE-ES-116	27/06/2017	2
EROSION AND SEDIMENT CONTROL - TYPICAL DETAIL - SHEET 1	AEE-ES-301	27/06/2017	2
EROSION AND SEDIMENT CONTROL - TYPICAL DETAIL - SHEET 2	AEE-ES-302	27/06/2017	2
EROSION AND SEDIMENT CONTROL - TYPICAL DETAIL - SHEET 3	AEE-ES-303	27/06/2017	2
EROSION AND SEDIMENT CONTROL - TYPICAL DETAIL - SHEET 4	AEE-ES-304	27/06/2017	2
EROSION AND SEDIMENT CONTROL - TYPICAL DETAIL - SHEET 5	AEE-ES-305	27/06/2017	2



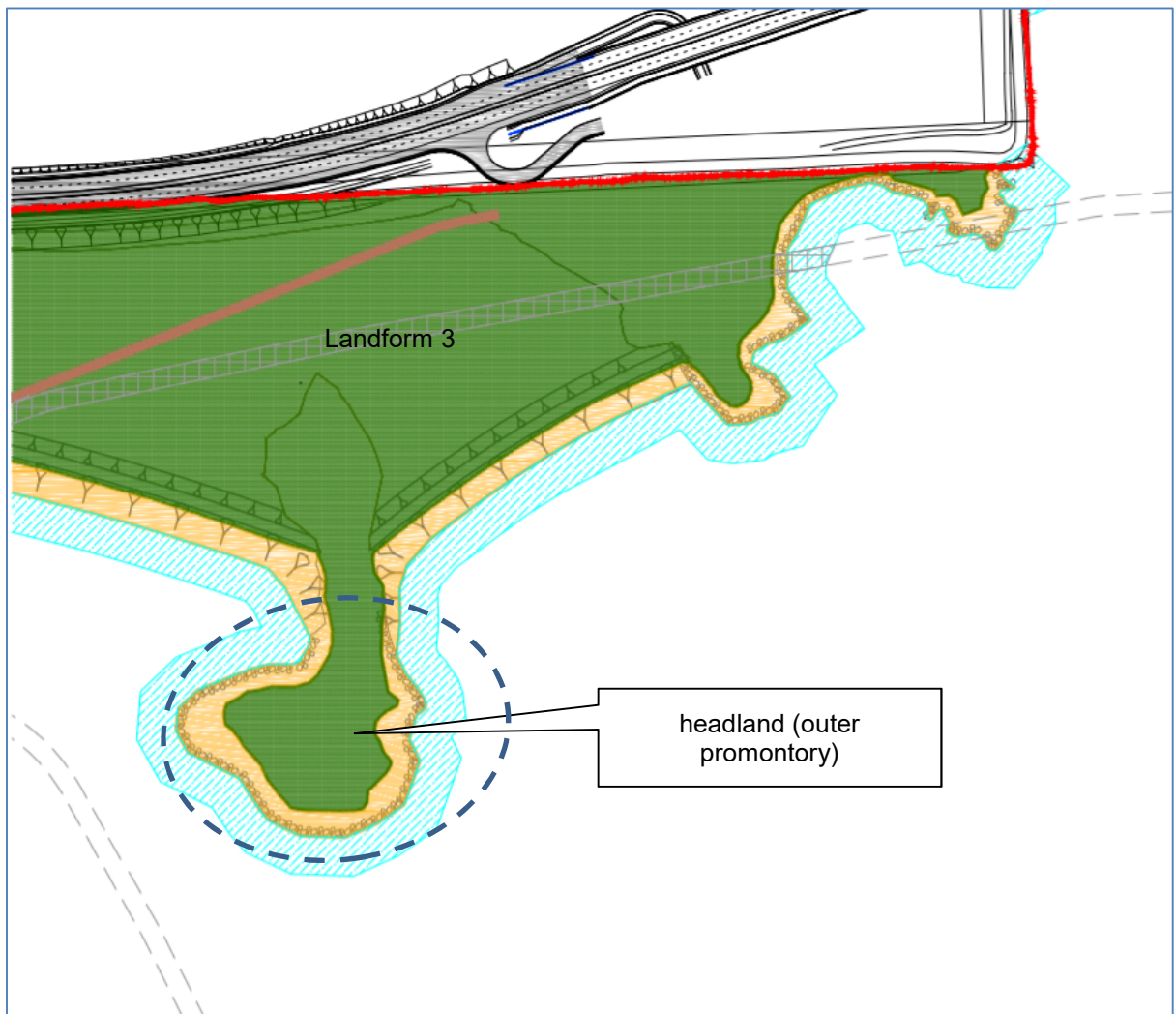
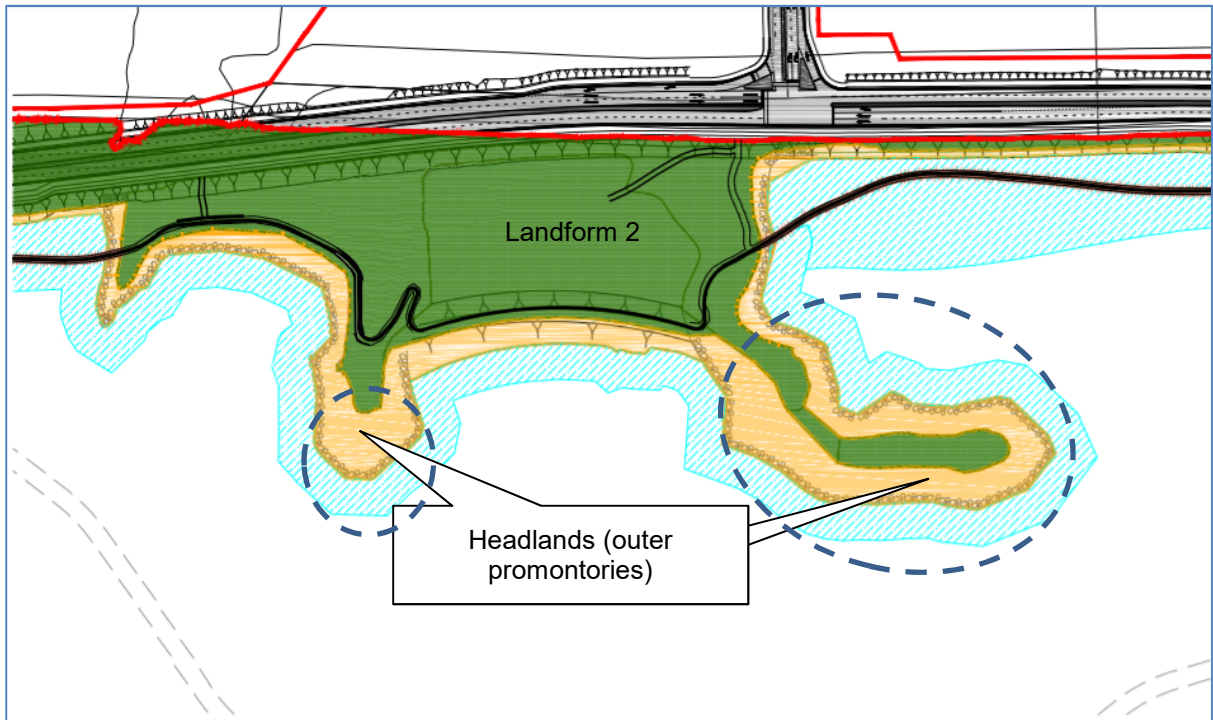
**PART B: DRAWINGS REFERRED TO IN OTHER RESOURCE CONSENT CONDITIONS**

<b>Condition number</b>	<b>Drawing title</b>	<b>Date</b>	<b>Revision number</b>
EM.1A(ii)	Anns Creek East Construction Restriction Area	31/03/2017	0
C.1BB	Headlands (outer promontories) of Landforms 2 and 3	December 2017	1



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Condition C.1BB Plan: Headlands (outer promontories) of Landforms 2 and 3



# Notice of Requirement for an alteration to a designation under Section 181(3) of the Resource Management Act 1991



## 1. Application description

Designation Number:	Notice of Requirement for an alteration to Designation 6718 State Highway 1 - Auckland Harbour Bridge to Otahuhu
Requiring Authority:	New Zealand Transport Agency
Site address:	St Luke's motorway interchange westbound off-ramp
	The extent of the designation is:  <i>State Highway 1 from (1) Auckland Harbour Bridge, Westhaven to Fanshawe Street, Freemans Bay and from (2) Grafton Road, Grafton to Tamaki River, Otahuhu, and State Highway 16 from (3) Newton Road, Eden Terrace to Whau River bridge, Avondale and State Highway 20 from (4) Hillsborough Road, Hillsborough to Manukau Harbour Crossing, Onehunga</i>
Legal description:	SEC 16 SO 434649 SECT 10 SO 434649 SECT 10 SO 434649
Auckland Unitary Plan (Operative in Part) zoning & precincts:	Strategic Transport Corridor Zone Road
Auckland Unitary Plan (Operative in Part) special features, overlays etc.:	Overlays: Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Western Springs Volcanic Aquifer  Overlays: Natural Heritage: Outstanding Natural Features Overlay [rcp/dp] - ID 132, North-west Motorway lava flow, Western Springs  Controls: Arterial Roads  Controls: Macroinvertebrate Community Index – Urban  Designations: Designations - 6718, State Highway 1: To undertake maintenance, operation, use and improvement to the State Highway network., Designations, New Zealand Transport Agency

## SUMMARY

Auckland Council has received a request from the New Zealand Transport Agency (**NZTA**) under section 181(3) of the Resource Management Act 1991 (**RMA**), dated 3 September 2018

for a minor alteration to Designation 6718 State Highway 1 - Auckland Harbour Bridge to Otahuhu in the Auckland Unitary Plan (Operative in Part) (**AUP**).

NZTA has requested for the Notice of Requirement (**NoR** or **Notice**) to be processed as a minor alteration as the alteration involves no change to effects on the environment associated with the existing designation, and involves only minor adjustments to the boundaries of the designation.

It is considered after undertaking an assessment of the Notice that the proposed alteration meets the statutory tests of Section 181(3) of the RMA and can therefore be processed as a 'minor alteration'.

## **RECOMMENDATIONS**

1. That pursuant to Section 181(3) of the Resource Management Act 1991, the New Zealand Transport Agency Notice of Requirement for an alteration to Designation 6718 State Highway 1 - Auckland Harbour Bridge to Otahuhu is **confirmed** for the following reasons:
  - The alteration involves no changes to the environmental effects of the designation;
  - The alteration does not involve adjustments to the designation boundary; and
  - The owners and/or occupiers of all land directly affected by the proposed alteration have been given notice and agree with the proposed alteration
2. That the conditions and attachments of Designation 6718 State Highway 1 - Auckland Harbour Bridge to Otahuhu are amended in Chapter K Designations in the Auckland Unitary Plan (Operative in Part) as recommended in Attachment B of this report.

## **1. BACKGROUND**

### **1.1. Details of Designation**

New Zealand Transport Agency is a requiring authority, as gazetted in July 1994, with the objective being the construction and operation (including the maintenance, improvement, enhancement, expansion, realignment and alteration) of any State Highway or motorway pursuant to the Transit New Zealand Act 1989.

New Zealand Transport Agency's Designation 6718 was formerly in the Auckland Council District Plan (Isthmus Section) 1999 as Designation A07-01, and was rolled over into the Proposed Auckland Unitary Plan in September 2014, and confirmed in the AUP in December 2016. The designation applies to various sections of the State Highway network in Auckland, which includes SH1, SH16 (North-Western Motorway) and SH20 (South-Western Motorway). The subject of this NoR is the St Luke's motorway interchange within SH16.

In February 2014, Auckland Council granted a Notice of Requirement for an alteration to Designation 6718 to undertake upgrades to the St Luke's motorway interchange, including providing additional lanes, stormwater treatment devices, widening St Luke's Road Bridge, and expand the roading designation.

Further to this alteration, NZTA sought and obtained a NoR in March 2014 for a minor alteration to the designation under s181(3) to widen the westbound off-ramp at the St Luke's motorway interchange. This alteration introduced 75 conditions into the designation, applicable to a small slither of land identified in Figure 1 within the designation. The alteration also involved a minor adjustment of the designation boundary necessary to accommodate the realignment of a shared pedestrian and cycle path adjacent to the westbound off-ramp.

It is noted that currently Designation 6718 is not accurately shown on the AUP Map Viewer. Specifically, the adjustment to the designation boundary that formed part of the March 2014 alteration is not reflected in the AUP maps. This is proposed to be corrected as a minor error through Clause 20A to Schedule 1 of the RMA.

## 1.2. Land affected by alteration

The land affected by the alteration to the designation is the westbound off-ramp of the St Luke's motorway interchange, including the road reserve which incorporates a pedestrian and cycle shared path and landscaping. This applies to the following land parcels

- SEC 16 SO 434649
- SECT 10 SO 434649
- SECT 10 SO 434649

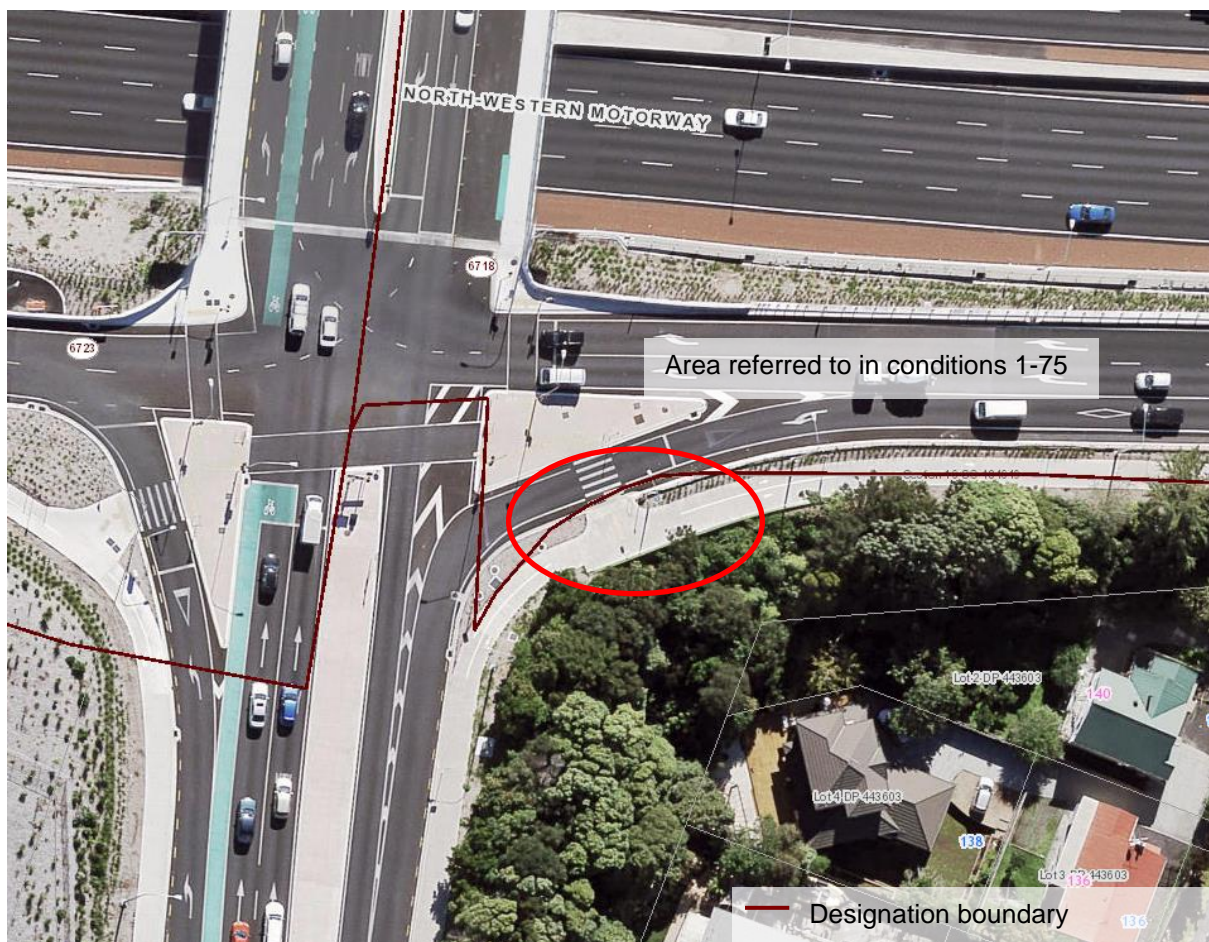


Figure 1: Aerial showing location of St Luke's motorway interchange and existing designation

### 1.3. Description of the site and existing environment

An aerial photo of the site is shown above in Figure 1.

As outlined in Section 1.2 of this report, the subject site is the westbound off-ramp of the St Luke's motorway interchange. The area of particular relevance to this application is the road corridor adjacent to this off-ramp, encompassing a shared pedestrian and cycle path.

Immediately beyond the subject site is landscaped trees and bush, which form a visual buffer between the motorway corridor and neighbouring residential sites.

### 1.4. Alteration to a Designation

Auckland Council has received a notice of requirement for a minor alteration to Designation 6718 State Highway 1 - Auckland Harbour Bridge to Otahuhu from NZTA.

NZTA propose to remove all 75 conditions which relate to constructions works within a small slither of land at the St Luke's motorway interchange westbound off-ramp. NZTA advise that these works were completed in 2016 and therefore the conditions are no longer required. Refer to proposed text amendments in **Attachment B** to this report.

#### Comment:

I consider that the alteration to remove redundant conditions and correct the designation extent is minor. The NZTA provides the below assessment of the application against s181(3):

*(a) The alteration involves no change to the effects on the environment associated with the existing designation 6718 and no changes to the boundaries of the designation;*  
*(b) The land is legal road vested in Auckland Council but occupied and managed by the Transport Agency. The legalisation process to change the status from local road to Crown road is underway. The Transport Agency agrees with the alteration; and*

*(c) If Auckland Council is also in agreement with the alteration, both Auckland Council and the Transport Agency agree with the alteration, and the AUP can be amended in accordance with Section 181 (3) of the RMA.*

In respect of s181(3)(a), the removal of conditions involves no change to the effects on the environment associated with the use or proposed use of the land, and no changes to the boundaries of the designation. I agree with the NZTA in this regard.

In respect of s181(3)(b), since lodging the Notice, NZTA have completed the legalisation process to transfer the property from Auckland Council to Crown ownership. As noted by NZTA, the Transport Agency agrees with the alteration.

In respect of s181(3)(c), staff from NZTA and Auckland Council's Plans and Places Department have discussed the alteration prior to lodgement and agreed with the alteration.

### 1.5. Delegated authority

The Team Leader - Planning Central / South has delegated authority, in accordance with Schedule 2A of the Auckland Council Delegations: Chief Executive Officer (updated February 2017), to exercise the Council's functions, powers, duties and discretions under the Resource

Management Act 1991 in relation to Section 181(3) to approve a minor alteration to a designation.

The application to alter the designation can therefore be considered by the Team Leader – Planning Central / South and approved or declined.

## **1.6. Relevant statutory provisions**

### Resource Management Act 1991

The statutory provisions that are relevant to this minor alteration to a designation include Section 181 of the Resource Management Act 1991.

Section 181 “Alteration of designation” of the RMA states:

- (1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*
- (2) Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*
- (3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if-*
  - (a) The alteration-*
    - (i) Involves no more than minor changes to the effects on the environment associated with the use or proposed use of land or any water concerned; or*
    - (ii) Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*
  - (b) Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*
  - (c) Both the territorial authority and the requiring authority agree with the alteration –*

*and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.*
- (4) This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.*

### Comments:

The provisions of section 181(3) are discussed in Sections 1.4 and 2 of this report.

## **2. ANALYSIS OF THE PROPOSED ALTERATION**

The relevant matters to consider are contained in Section 181(3) of the RMA as outlined above.



## **2.1. Assessment of Environmental effects (181(3)(a)(i))**

NZTA provide the following assessment of the application against s181(3)(a)(i) in their application:

*(a) The alteration involves no change to the effects on the environment associated with the existing designation 6718 and no changes to the boundaries of the designation;*

I agree that the removal of conditions 1 – 75 involves no change to the effects on the environment associated with the use or proposed use of the land. The works associated with these conditions have since been completed, and therefore the conditions are redundant.

## **2.2. Assessment of minor changes or adjustments to the boundary (181(3)(a)(ii))**

The Notice does not involve any adjustments to the designation boundary.

## **2.3. Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners and occupiers agree with the alteration (181(3)(b))**

The NZTA in their application notes that:

*(b) The land is legal road vested in Auckland Council but occupied and managed by the Transport Agency. The legalisation process to change the status from local road to Crown road is underway.*

As discussed in Section 1.4 of this report, NZTA have since completed this legalisation process to transfer ownership of the land to the Crown. A record of this transfer is included as Attachment C to this report. Therefore, as the owner and operator of the land, the NZTA agree with the alteration.

## **2.4. Agreement of both the territorial authority and the requiring authority (181(3)(c))**

The alteration to the designation has been requested by NZTA and therefore the Transport Agency agrees to the alteration. Auckland Council agrees with the proposed alteration for the following reasons:

- The alteration involves no more than minor changes to the environmental effects;
- The alteration does not involve adjustment of the designation boundary; and
- The owners and/or occupiers of all land directly affected by the proposed alteration have been given notice and agree with the proposed alteration.

## **3. CONCLUSIONS AND RECOMMENDATIONS**

### **3.1. Conclusions**

For the reasons above in section 2 and the discussion within this report, the proposed alteration meets the statutory tests of Section 181(3) of the Resource Management Act 1991.

### 3.2. Recommendation

1. That pursuant to Section 181(3) of the Resource Management Act 1991, the New Zealand Transport Agency Notice of Requirement for an alteration to Designation 6718 State Highway 1 - Auckland Harbour Bridge to Otahuhu is **confirmed**; and
2. That the conditions of Designation 6718 State Highway 1 - Auckland Harbour Bridge to Otahuhu are amended in Chapter K Designations in the Auckland Unitary Plan Operative in part as recommended in Attachment B to this report.

Report Prepared by:

2 October 2018

Sanjay Bangs



Planner

Planning Central / South

### 4. RECOMMENDED CONDITIONS

The recommended conditions are shown in Attachment B. Amendments to the existing conditions are shown as either strikethrough or underlined.

### 5. SECTION 181(3) DETERMINATION

Having read the council planner's report and recommendations on the NoR, I am satisfied I have adequate information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision under delegated authority.

Accordingly, this Notice of Requirement for an alteration to Designation 6718 State Highway 1 - Auckland Harbour Bridge to Otahuhu in the Auckland Unitary Plan Operative in part is **confirmed** under section 181(3) of the RMA subject to the conditions recommended in Attachment B to this report.

Name: Trevor Watson

Title: Team Leader – Planning Central / South

Signed:



Date:

2 October 2018

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**SCHEDULE OF ATTACHMENTS:**

- Attachment A:** New Zealand Transport Agency s181(3) Notice of Requirement for an alteration to Designation 6718 State Highway 1 - Auckland Harbour Bridge to Otahuhu
- Attachment B:** Proposed text amendments to Designation 6718 Conditions
- Attachment C:** Land transfer notice

## 6718 State Highway 1 - Auckland Harbour Bridge to Otahuhu

Designation Number	6718
Requiring Authority	New Zealand Transport Agency
Location	State Highway 1 from (1) Auckland Harbour Bridge, Westhaven to Fanshawe Street, Freemans Bay and from (2) Grafton Road, Grafton to Tamaki River, Otahuhu, and State Highway 16 from (3) Newton Road, Eden Terrace to Whau River bridge, Avondale and State Highway 20 from (4) Hillsborough Road, Hillsborough to Manukau Harbour
Rollover Designation	Yes
Legacy Reference	Designation A07-01, Auckland Council District Plan (Isthmus Section) 1999
Lapse Date	Given effect to (i.e. no lapse date), <u>except for Conditions DC.1 – CT.9 relating to the area shown in Figure 1, which shall lapse if not given effect to within 15 years from the date on which it is included in the Auckland Unitary Plan under section 175 of the RMA.</u>

### Purpose

Motorway.

### Conditions

The following relate only to the area shown in Figure 1 below

### **ACTIVITY IN ACCORDANCE WITH PLANS**

- The SH16 St Lukes Western Ring Route Project shall be carried out in accordance with the plans submitted with the application, being:

Reference number	Rev	Title	Date
<b>Planting Details</b>			
215023-D-A-919-001	B	Planting Details 1 of 10	31.05.2013
215023-D-A-919-002	E	Planting Details 2 of 10	15.07.2013
215023-D-A-919-004	D	Planting Details 4 of 10	04.07.2013
215023-D-A-919-005	C	Planting Details 5 of 10	24.06.2013
215023-D-A-919-006	C	Planting Details 6 of 10	24.06.2013
215023-D-A-919-007	C	Planting Details 7 of 10	24.06.2013
215023-D-A-919-008	B	Planting Details 8 of 10	31.05.2013
215023-D-A-919-009	E	Planting Schedule 9 of 10	30.08.2013
215023-D-A-919-010	D	Planting Schedule 10 of 10	30.08.2013
<b>Landscape Master Plans</b>			
215023-D-A-919-011	E	Landscape Master Plan Sheet 1 of 4	15.07.2013

215023-D-A-919-013	D	Landscape Master Plan Sheet 3 of 4	04.07.2013
215023-D-A-919-014	C	Landscape Master Plan Sheet 4 of 4	24.06.2013
<b>Noise Wall Details</b>			
215023-D-A-919-051	B	Noise Wall Details 1 of 3	31.05.2013
215023-D-A-919-052	B	Noise Wall Details 2 of 3	31.05.2013
215023-D-A-919-053	B	Noise Wall Details 3 of 3	31.05.2013
<b>St Lukes Interchange</b>			
215023-D-A-919-054	B	St Lukes Bridge Barrier Decorative Detail 1 of 1	31.05.2013
215023-D-A-919-055	B	St Lukes Motat Handrail 1 of 1	31.05.2013
215023-D-A-919-056	B	L Shapes Barrier Template 1 of 2	31.05.2013
215023-D-A-919-057	B	L Shapes Barrier Template Setout 1 of 2	31.05.2013
215023-D-A-919-071	B	Northern Abutment and Wall Detail	31.05.2013
215023-D-A-919-072	B	Bridge Barrier Concept Detail 1	31.05.2013
215023-D-A-919-073	B	Bridge Barrier Concept Detail 2	31.05.2013
215023-D-A-919-074	B	L-Shapes Barrier Concept Detail	31.05.2013
215023-D-A-919-075	B	Noise Wall Concept Details	31.05.2013
215023-D-A-919-076	B	Golf Course Pedestrian Bridge Concept Detail	31.05.2013
215023-D-A-919-077	B	Motat Handrails Detail Concept	31.05.2013
215023-D-A-919-100	B	Sheet Layout	24.06.2013
215023-D-A-919-303	A	Single Left Turn Lane Option - Great North Road - Planting Details - Sheet 3 of 10	10.10.2013
215023-D-A-919-312	A	Single Left Turn Lane Option - Great North Road - Master Plan - Sheet 2 of 4	01.10.2013
<b>St Lukes Bridge</b>			
215023-D-B-600-CS0	B	St Lukes Bridge Cover Sheet	31.05.2013
215023-D-B-600-001	B	St Lukes Bridge General Notes Sheet 1	31.05.2013
215023-D-B-600-002	B	St Lukes Bridge General Notes Sheet 2	31.05.2013
215023-D-B-600-004	B	St Lukes Bridge General Arrangement Sheet 2	31.05.2013

215023-D-B-600-005	A	St Lukes Bridge Construction Sequence Sheet 1 of 4	31.05.2013
215023-D-B-600-006	A	St Lukes Bridge Construction Sequence Sheet 2 of 4	31.05.2013
215023-D-B-600-007	A	St Lukes Bridge Construction Sequence Sheet 3 of 4	31.05.2013
215023-D-B-600-008	A	St Lukes Bridge Construction Sequence Sheet 4 of 4	31.05.2013
215023-D-B-600-009	B	St Lukes Bridge Pile/Column Concrete and Reinforcement Sheet 1	31.05.2013
215023-D-B-600-010	B	St Lukes Bridge Pile/Column Concrete and Reinforcement Sheet 2	31.05.2013
215023-D-B-600-015	B	St Lukes Bridge New Abutment A Concrete	31.05.2013
215023-D-B-600-016	B	St Lukes Bridge New Abutment A Reinforcement Sheet 1	31.05.2013
215023-D-B-600-017	B	St Lukes Bridge New Abutment A Reinforcement Sheet 2	31.05.2013
215023-D-B-600-020	B	St Lukes Bridge Abutment C Concrete	31.05.2013
215023-D-B-600-021	B	St Lukes Bridge Abutment C Reinforcement Sheet 1	31.05.2013
215023-D-B-600-022	B	St Lukes Bridge Abutment C Reinforcement Sheet 2	31.05.2013
215023-D-B-600-025	B	St Lukes Bridge Pier B Alterations to Existing and New Pier Concrete	31.05.2013
215023-D-B-600-026	B	St Lukes Bridge Pier B Alterations to Existing and New Pier Reinf. Sheet 1	31.05.2013
215023-D-B-600-027	B	St Lukes Bridge Pier B Alterations to Existing and New Pier Reinf. Sheet 2	31.05.2013
215023-D-B-600-028	B	St Lukes Bridge Bearing Layout and Details	31.05.2013
215023-D-B-600-030	B	St Lukes Bridge Girder Layout Plan	31.05.2013
215023-D-B-600-031	B	St Lukes Bridge Girder Types N1-1 to N1-13 Inclusive Concrete	31.05.2013

215023-D-B-600-032	B	St Lukes Bridge Girder Types N2 and N3 Concrete	31.05.2013
215023-D-B-600-033	B	St Lukes Bridge Girder Types S1-1 to S1-13 Incl. Concrete	31.05.2013
215023-D-B-600-034	B	St Lukes Bridge Girder Types S2 and S3 Concrete	31.05.2013
215023-D-B-600-035	B	St Lukes Bridge Girder Prestressing Details	31.05.2013
215023-D-B-600-036	B	St Lukes Bridge Girder Type N1-1 to N1-13 Incl. Reinforcement Details Sheet 1	31.05.2013
215023-D-B-600-037	B	St Lukes Bridge Girder Types N2 and N3 Incl. Reinforcement Details Sheet 1	31.05.2013
215023-D-B-600-038	B	St Lukes Bridge Girder Types S1-1 to S1-13 Incl. Reinforcement Details Sheet 1	31.05.2013
215023-D-B-600-039	B	St Lukes Bridge Girder Types S2 and S3. Reinforcement Details Sheet 1	31.05.2013
215023-D-B-600-040	B	St Lukes Bridge Girder Types N1-1 to N1-13 Incl. N2 and N3. Reinforcement Sheet 2	31.05.2013
215023-D-B-600-041	B	St Lukes Bridge Girder Types S1-1 to S1-13 Incl. S2 and S3. Reinforcement Sheet 2	31.05.2013
215023-D-B-600-042	B	St Lukes Bridge Reinforcement Shape Codes Ferrule Set Out Super T Girder N3	31.05.2013
215023-D-B-600-043	A	St Lukes Bridge Girder Types S1-13 and N1-13 Miscellaneous Details	31.05.2013
215023-D-B-600-045	B	St Lukes Bridge Deck Layout and Reinforcement	31.05.2013
215023-D-B-600-046	B	St Lukes Bridge Abutment Diaphragm Concrete and Reinforcement	31.05.2013
215023-D-B-600-047	B	St Lukes Bridge Pier Diaphragm Concrete and Reinforcement	31.05.2013
215023-D-B-600-049	A	St Lukes Bridge Expansion Joint Details	31.05.2013
215023-D-B-600-050	B	St Lukes Bridge Approach Slab Concrete and Reinforcement	31.05.2013
215023-D-B-600-060	B	St Lukes Bridge Precast Barriers Sheet 1	31.05.2013
215023-D-B-600-061	B	St Lukes Bridge Precast Barriers Sheet 2	31.05.2013

215023-D-B-600-062	B	St Lukes Bridge Temporary Barrier Details	31.05.2013
215023-D-B-600-063	B	St Lukes Bridge Expansion Joint Cover Plates	31.05.2013
215023-D-B-600-064	B	St Lukes Bridge Wingwall Details	31.05.2013
215023-D-B-600-070	A	St Lukes Bridge Parapet Handrail Steelwork Details	31.05.2013
215023-D-B-600-081	B	St Lukes Bridge Services and Lighting Sheet 2	31.05.2013
215023-D-B-600-082	B	St Lukes Bridge Services and Lighting Sheet 3	31.05.2013
215023-D-B-600-083	B	St Lukes Bridge Services and Lighting Sheet 4	31.05.2013
215023-D-B-600-084	E	St Lukes Bridge Services Details Sheet 5	05.11.2013
<b>Chamberlain Park Golf Course Meola Creek Bridge</b>			
215023-D-B-600-100	B	Chamberlain Park Golf Course Meola Creek Bridge & Cycleway Cover Sheet	31.05.2013
215023-D-B-600-101	B	Chamberlain Park Golf Course Meola Creek Bridge General Notes - Sheet 1	31.05.2013
215023-D-B-600-102	B	Chamberlain Park Golf Course Meola Creek Bridge General Notes - Sheet 2	31.05.2013
215023-D-B-600-103	B	Chamberlain Park Golf Course Meola Creek Bridge General Arrangement	31.05.2013
215023-D-B-600-104	B	Chamberlain Park Golf Course Meola Creek Bridge - Eastern Abutment Concrete & Reinforcement	31.05.2013
215023-D-B-600-105	B	Chamberlain Park Golf Course Meola Creek Bridge - Western Abutment Concrete & Reinforcement	31.05.2013



215023-D-B-600-106	B	Chamberlain Park Golf Course Meola Creek Bridge Beam Concrete & Reinforcement	31.05.2013
215023-D-B-600-107	B	Chamberlain Park Golf Course Meola Creek Bridge Balustrade Details Sheet 1	31.05.2013
215023-D-B-600-108	B	Chamberlain Park Golf Course Meola Creek Bridge Balustrade Details Sheet 2	31.05.2013
215023-D-B-600-109	B	Chamberlain Park Golf Course Meola Creek Bridge Retaining Walls	31.05.2013
215023-D-B-600-110	B	Chamberlain Park Golf Course Meola Creek Cycleway Structural Slab Sheet 1	31.05.2013
215023-D-B-600-111	B	Chamberlain Park Golf Course Meola Creek Cycleway Structural Slab Sheet 2	31.05.2013
215023-D-B-600-303	A	Single Left Turn Lane Option - St Lukes Bridge - General Arrangement - Sheet 1	14.10.2013
215023-D-B-600-380	A	Single Left Turn Lane Option - St Lukes Bridge - Services & Lighting - Sheet 1	05.11.2013
<b>St Lukes Bridge General Arrangement</b>			
215023-D-C-100-001	D	General Arrangement Sheet 1 of 8	31.05.2013
215023-D-C-100-002	D	General Arrangement Sheet 2 of 8	31.05.2013
215023-D-C-100-004	D	General Arrangement Sheet 4 of 8	31.05.2013
215023-D-C-100-005	D	General Arrangement Sheet 5 of 8	31.05.2013
215023-D-C-100-006	D	General Arrangement Sheet 6 of 8	31.05.2013

215023-D-C-100-007	D	General Arrangement Sheet 7 of 8	31.05.2013
215023-D-C-100-008	B	General Arrangement Sheet 8 of 8	31.05.2013
215023-D-C-100-100	D	General Arrangement Layout Plan	31.05.2013
215023-D-C-100-303	A	<del>Single Left Turn Lane Option - Great North Road - General Arrangement - Sheet 3 of 8</del>	01.11.2013
<b>Existing Designation Plan</b>			
215023-D-C-100-201	A	<del>Existing Designation Plan</del>	29.05.2013
<b>Barriers</b>			
215023-D-C-105-303	A	<del>Single Left Turn Lane Option - Great North Road - Barrier Plan - Sheet 3 of 8</del>	01.11.2013
<b>Erosion &amp; Sediment Control</b>			
215023-D-C-740-003	C	<del>Erosion &amp; Sediment Control - Sheet 3 of 8</del>	07.10.2013
215023-D-C-740-006	D	<del>Erosion &amp; Sediment Control - Sheet 6 of 8</del>	07.10.2013
<b>Noise Walls and Fences</b>			
215023-D-C-918-001	B	<del>Noise Walls and Fences Sheet 1 of 8</del>	31.05.2013

215023-D-C-918-002	B	Noise Walls and Fences Sheet 2 of 8	31.05.2013
215023-D-C-918-004	B	Noise Walls and Fences Sheet 4 of 8	31.05.2013
215023-D-C-918-005	B	Noise Walls and Fences Sheet 5 of 8	31.05.2013
215023-D-C-918-006	B	Noise Walls and Fences Sheet 6 of 8	31.05.2013
215023-D-C-918-007	B	Noise Walls and Fences Sheet 7 of 8	31.05.2013
215023-D-C-918-008	B	Noise Walls and Fences Sheet 8 of 8	31.05.2013
215023-D-C-918-051	B	Noise Walls and Fences Notes and Standard Details Sheet 1	31.05.2013
215023-D-C-918-052	B	Noise Walls and Fences Notes and Standard Details Sheet 2	31.05.2013
215023-D-C-918-053	B	Noise Walls and Fences Notes and Standard Details Sheet 3	31.05.2013
215023-D-C-918-054	B	Noise Walls and Fences Notes and Standard Details Sheet 4	31.05.2013
215023-D-C-918-933	A	Single Left Turn Lane Option - Great North Road - Noise Walls & Fences - Sheet 3 of 8	10.12.2013
<b>Land Requirement</b>			
215023-D-C-951-001	B	Land Requirement	02.10.2013

215023-D-C-951-004	B	Land Requirement and Existing Designations - Sheet 1 of 1	02.10.2013
<b>Existing Stormwater</b>			
215023-D-D-300-001	C	Existing Stormwater Drainage - Sheet 1 of 8	15.07.2013
215023-D-D-300-002	D	Existing Stormwater Drainage - Sheet 2 of 8	09.10.2013
215023-D-D-300-003	E	Existing Stormwater Drainage - Sheet 3 of 8	09.10.2013
215023-D-D-300-004	C	Existing Stormwater Drainage - Sheet 4 of 8	15.07.2013
215023-D-D-300-005	C	Existing Stormwater Drainage - Sheet 5 of 8	15.07.2013
215023-D-D-300-006	D	Existing Stormwater Drainage - Sheet 6 of 8	09.10.2013
215023-D-D-300-007	C	Existing Stormwater Drainage - Sheet 7 of 8	15.07.2013
215023-D-D-300-008	C	Existing Stormwater Drainage - Sheet 8 of 8	15.07.2013
<b>Proposed Stormwater Catchment Plan</b>			
215023-D-D-310-001	B	Proposed Stormwater Catchment Plan Sheet 1 of 8	31.05.2013
215023-D-D-310-002	C	Proposed Stormwater Catchment Plan Sheet 2 of 8	14.10.2013

215023-D-D-310-004	B	Proposed Stormwater Catchment Plan Sheet 4 of 8	31.05.2013
215023-D-D-310-005	B	Proposed Stormwater Catchment Plan Sheet 5 of 8	31.05.2013
215023-D-D-310-006	B	Proposed Stormwater Catchment Plan Sheet 6 of 8	31.05.2013
215023-D-D-310-007	B	Proposed Stormwater Catchment Plan Sheet 7 of 8	31.05.2013
215023-D-D-310-008	B	Proposed Stormwater Catchment Plan Sheet 8 of 8	31.05.2013
215023-D-D-310-101	D	<del>Stormwater Catchment Plan Proposed Treatment/ Extended Detention Areas Sheet 1 of 4</del>	14.10.2013
215023-D-D-310-103	B	<del>Stormwater Catchment Plan Proposed Treatment/ Extended Detention Areas Sheet 3 of 4</del>	12.09.2013
215023-D-D-310-104	B	<del>Stormwater Catchment Plan Proposed Treatment/ Extended Detention Areas Sheet 4 of 4</del>	12.09.2013
215023-D-D-310-302	A	<del>Single Left Turn Lane Option – Great North Road – Prop Treatment/ Extended Detention Areas SW Catchment Plan – Sheet 2 of 4</del>	14.10.2013
215023-D-D-310-303	A	<del>Single Left Turn Lane Option – Great North Road – SW Catchment Plan – Sheet 3 of 8</del>	14.10.2013
<b>Proposed Stormwater Catchment Plan</b>			
215023-D-D-320-001	C	Proposed Stormwater Drainage – Sheet 1 of 8	15.07.2013
215023-D-D-320-002	D	Proposed Stormwater Drainage – Sheet 2 of 8	9.10.2013

215023-D-D-320-004	C	Proposed Stormwater Drainage - Sheet 4 of 8	15.07.2013
215023-D-D-320-005	C	Proposed Stormwater Drainage - Sheet 5 of 8	15.07.2013
215023-D-D-320-006	D	Proposed Stormwater Drainage - Sheet 6 of 8	9.10.2013
215023-D-D-320-007	C	Proposed Stormwater Drainage - Sheet 7 of 8	15.07.2013
215023-D-D-320-008	C	Proposed Stormwater Drainage - Sheet 8 of 8	15.07.2013
215023-D-D-320-010	F	Water Quality Pond - Plan	09.10.2013
215023-D-D-320-011	C	Water Quality Pond - Cross Sections	15.07.2013
215023-D-D-320-303	A	Single Left Turn Lane Option - Great North Road - Proposed Stormwater Drainage - Sheet 3 of 8	14.10.2013
<b>General Drainage Standard Details</b>			
215023-D-D-330-051	C	General Drainage Standard Details - Edge Treatment Details - Sheet 1 of 13	15.07.2103
215023-D-D-330-051A	A	General Drainage Standard Details - Edge Treatment Details - Swale 3 and 4 Details	09.10.2013
215023-D-D-330-052	C	General Drainage Standard Details - Catchpit Details - Sheet 2 of 13	15.07.2013
215023-D-D-330-053	C	General Drainage Standard Details - Pipe Bedding - Sheet 3 of 13	15.07.2013

215023-D-D-330-054	G	General Drainage Standard Details - Typical Manhole Details - Sheet 4 of 13	15.07.2013
215023-D-D-330-055	G	General Drainage Standard Details - Catchpit Details - Sheet 5 of 13	15.07.2013
215023-D-D-330-056	G	General Drainage Standard Details - Catchpit Details - Sheet 6 of 13	15.07.2013
215023-D-D-330-057	G	General Drainage Standard Details - Catchpit Details Adjacent - Sheet 7 of 13	15.07.2013
215023-D-D-330-058	G	General Drainage Standard Details - Drop Manhole Details Types 1 & 2 - Sheet 8 of 13	15.07.2013
215023-D-D-330-059	G	General Drainage Standard Details - Cut Pipe Rockwall (HW4) - Sheet 9 of 13	15.07.2013
215023-D-D-330-060	D	General Drainage Standard Details - Soakhole Details - Sheet 10 of 13	9.10.2013
215023-D-D-330-061	D	General Drainage Standard Details - Stormfilter Detail - Stormfilter 1 - Sheet 11 of 13	9.10.2013
215023-D-D-330-062	B	General Drainage Standard Details - Stormfilter Detail - Stormfilter 3/4 - Sheet 12 of 13	9.10.2013
215023-D-D-330-063	A	General Drainage Standard Details - Stormfilter Detail - Stormfilter 3/4 - Sheet 13 of 13	9.10.2013
215023-D-D-330-070	G	Water Quality Pond - Details	15.07.2013
215023-D-D-330-100	D	SH16 St Lukes Stormwater - Pipe Schedules - Sheet 1 of 2	9.10.2013
215023-D-D-330-101	D	SH16 St Lukes Stormwater - Pipe Schedules - Sheet 2 of 2	9.10.2013

215023-D-D-330-102	D	SH16 St Lukes Stormwater Catchpit/Manhole Schedule - Sheet 1 of 2	9.10.2013
215023-D-D-330-103	D	SH16 St Lukes Stormwater Catchpit/Manhole Schedule - Sheet 2 of 2	9.10.2013
215023-D-D-330-104	C	SH16 St Lukes Stormwater Catchpit/Manhole Schedule	15.07.2013
<b>Proposed Stormwater Longsections</b>			
215023-D-D-340-001	C	Proposed Stormwater Long Sections - Sheet 1 of 16	15.07.2013
215023-D-D-340-002	D	Proposed Stormwater Long Sections - Sheet 2 of 16	9.10.2013
215023-D-D-340-003	C	Proposed Stormwater Long Sections - Sheet 3 of 16	15.07.2013
215023-D-D-340-004	D	Proposed Stormwater Long Sections - Sheet 4 of 16	9.10.2013
215023-D-D-340-005	D	Proposed Stormwater Long Sections - Sheet 5 of 16	9.10.2013
215023-D-D-340-006	C	Proposed Stormwater Long Sections - Sheet 6 of 16	15.07.2013
215023-D-D-340-007	C	Proposed Stormwater Long Sections - Sheet 7 of 16	15.07.2013
215023-D-D-340-008	C	Proposed Stormwater Long Sections - Sheet 8 of 16	15.07.2013
215023-D-D-340-009	C	Proposed Stormwater Long Sections - Sheet 9 of 16	15.07.2013



215023-D-D-340-010	D	Proposed Stormwater Long Sections - Sheet 10 of 16	9.10.2013
215023-D-D-340-011	D	Proposed Stormwater Long Sections - Sheet 11 of 16	9.10.2013
215023-D-D-340-012	D	Proposed Stormwater Long Sections - Sheet 12 of 16	9.10.2013
215023-D-D-340-014	D	Proposed Stormwater Long Sections - Sheet 14 of 16	9.10.2013
215023-D-D-340-016	D	Proposed Stormwater Long Sections - Sheet 16 of 16	9.10.2013
215023-D-D-340-050	C	Water Quality Pond - Long Section	15.07.2013
215023-D-D-340-313	A	Single Left Turn Lane Option - Great North Road - Proposed Int Stormwater LS - Sheet 13 of 16	05.11.2013
215023-D-D-340-315	A	Single Left Turn Lane Option - Great North Road - Proposed Int Stormwater LS - Sheet 15 of 16	05.11.2013
215023-D-D-340-316	A	Single Left Turn Lane Option - Great North Road - Proposed Int Stormwater LS - Sheet 16 of 16	05.11.2013
<b>Road Lighting</b>			
215023-D-E-161-001	C	Road Lighting Sheet 1 of 8	31.05.2013
215023-D-E-161-002	C	Road Lighting Sheet 2	31.05.2013
215023-D-E-161-004	C	Road Lighting Sheet 4	31.05.2013

215023-D-E-161-005	C	Road Lighting Sheet 5	31.05.2013
215023-D-E-161-006	C	Road Lighting Sheet 6	31.05.2013
215023-D-E-161-007	C	Road Lighting Sheet 7	31.05.2013
215023-D-E-161-008	B	Road Lighting Sheet 8	31.05.2013
<b>Schematic Montrose Box</b>			
215023-D-E-161-052	B	Schematic Montrose Box MB1	31.05.2013
215023-D-E-161-053	B	Schematic Montrose Box MB2	31.05.2013
215023-D-E-161-054	B	Schematic Montrose Box MB3	31.05.2013
215023-D-E-161-055	B	Schematic Montrose Box MB4	31.05.2013
215023-D-E-161-056	B	Schematic Montrose Box MB5	31.05.2013
215023-D-E-161-057	B	Schematic Montrose Box MB6	31.05.2013
<b>Proposed Gearplate Cable Termination</b>			
215023-D-E-161-058	B	Typical Details Gearplate Cable Termination Within Single Arm Lighting Pole	31.05.2013

215023-D-E-161-059	B	Typical Details Gearplate Cable Termination Within Double Arm Lighting Pole	31.05.2013
215023-D-E-161-060	B	Typical Details Gearplate Cable Termination Single Phase Power Supply	31.05.2013
215023-D-E-161-061	B	Underground Reticulation Typical Vector's Cable and Duct Configurations	31.05.2013
<b>Lighting</b>			31.05.2013
215023-D-E-161-070	B	Lighting Standard Details	31.05.2013
215023-D-E-161-071	B	Lighting Standard Details Sheet 2	31.05.2013
215023-D-E-161-072	B	Lighting Standard Details Sheet 3	31.05.2013
215023-D-E-161-100	A	Legend Sheet	31.05.2013
215023-D-E-161-101	B	Road Lighting Sheet 1	31.05.2013
215023-D-E-161-303	A	Single Left Turn Lane Option - Great North Road - Road Lighting Sheet 3	05.11.2013
215023-D-E-161-312	A	Single Left Turn Lane Option - Great North Road - Road Lighting Sheet 2	05.11.2013
<b>Retaining Walls Elevation and Plans</b>			
215023-D-J-240-001	B	Retaining Walls General Arrangement Sheet 1 of 3	31.05.2013

215023-D-J-240-003	B	Retaining Walls General Arrangement Sheet 3 of 3	31.05.2013
215023-D-J-240-100	B	Retaining Walls Sheet Layout	31.05.2013
215023-D-J-240-101	B	General Integral TL5 Barrier Wall Notes and Details	31.05.2013
215023-D-J-240-102	B	General Integral TL5 Barrier Wall Typical Details	31.05.2013
215023-D-J-240-201	B	RW-102 Meola Creek MSE Stone Strong Wall General Notes	31.05.2013
215023-D-J-240-202	B	RW-102 Meola Creek MSE Stone Strong Wall Elevation and Plan	31.05.2013
215023-D-J-240-203	B	RW-102 Meola Creek MSE Stone Strong Wall Details Sheet 1 of 2	31.05.2013
215023-D-J-240-204	B	RW-102 Meola Creek MSE Stone Strong Wall Details Sheet 2 of 2	31.05.2013
215023-D-J-240-301	B	RW-104 Chamberlain park Stone Strong Wall Elevation and Plan Sheet 1 of 2	31.05.2013
215023-D-J-240-302	B	RW-104 Chamberlain park Stone Strong Wall Elevation and Plan Sheet 2 of 2	31.05.2013
215023-D-J-240-303	B	RW-104 Chamberlain park Stone Strong Wall General Notes and Details	31.05.2013
215023-D-J-240-311	B	RW-120 Great North Road Stone Strong Wall Elevation and Plan	31.05.2013
215023-D-J-240-312	B	RW-120 Great North Road Stone Strong Wall General Notes and Details	31.05.2013

215023-D-J-240-321	B	RW-124 Cycle Path Stone Strong Wall Elevation and Plan	31.05.2013
215023-D-J-240-322	B	RW-124 Cycle Path Stone Strong Wall General Notes and Details	31.05.2013
215023-D-J-240-401	B	RW-105 Western Springs Community Centre L-Shape Barrier Elevation and Plan – Sheet 1 of 5	31.05.2013
215023-D-J-240-402	B	RW-105 Western Springs Community Centre L-Shape Barrier Elevation and Plan – Sheet 2 of 5	31.05.2013
215023-D-J-240-403	B	RW-105 Western Springs Community Centre L-Shape Barrier Elevation and Plan – Sheet 3 of 5	31.05.2013
215023-D-J-240-404	B	RW-105 Western Springs Community Centre L-Shape Barrier Elevation and Plan – Sheet 4 of 5	31.05.2013
215023-D-J-240-405	B	RW-105 Western Springs Community Centre L-Shape Barrier Elevation and Plan – Sheet 5 of 5	31.05.2013
215023-D-J-240-406	B	RW-105 Western Springs Community Centre L-Shape Barrier General Notes and Details	31.05.2013
215023-D-J-240-411	B	RW-122 Great North Road Carpark L-Shape Wall General Notes and Details	31.05.2013
215023-D-J-240-412	B	RW-122 Great North Road Carpark L-Shape Wall Elevation and Plan – Sheet 1 of 2	31.05.2013
215023-D-J-240-413	B	RW-122 Great North Road Carpark L-Shape Wall Elevation and Plan – Sheet 2 of 2	31.05.2013
215023-D-J-240-501	A	St Lukes Road Interchange General Basalt Cut Slope General Notes	31.05.2013
215023-D-J-240-502	A	St Lukes Road Interchange General Basalt Cut Slope Detail – Sheet 1 of 2	31.05.2013

215023-D-J-240-503	A	St Lukes Road Interchange General Basalt Cut Slope Detail — Sheet 2 of 2	31.05.2013
215023-D-J-240-504	A	RW-111 St Lukes Road Interchange Southern Abutment Basalt Cut Slope Elevation and Plan — Sheet 1 of 2	31.05.2013
215023-D-J-240-505	A	RW-111 St Lukes Road Interchange Southern Abutment Basalt Cut Slope Elevation and Plan — Sheet 2 of 2	31.05.2013
215023-D-J-240-510	B	RW-112 St Lukes Road Interchange Northern Abutment Basalt Cut Slope Elevation and Plan — Sheet 1 of 4	31.05.2013
215023-D-J-240-511	B	RW-112 St Lukes Road Interchange Northern Abutment Basalt Cut Slope Elevation and Plan — Sheet 2 of 4	31.05.2013
215023-D-J-240-512	B	RW-112 St Lukes Road Interchange Northern Abutment Basalt Cut Slope Elevation and Plan — Sheet 3 of 4	31.05.2013
215023-D-J-240-513	B	RW-112 St Lukes Road Interchange Northern Abutment Basalt Cut Slope Elevation and Plan — Sheet 4 of 4	31.05.2013
215023-D-J-240-520	B	RW-123 Westbound On-ramp Basalt Cut Slope Elevation and Plan	31.05.2013
215023-D-J-240-605	B	St Lukes Bridge Southern Abutment Pile Ground Improvement Details	31.05.2013
215023-D-J-240-606	A	St Lukes Bridge Southern Abutment Pile Ground Improvement Elevation	31.05.2013
215023-D-J-240-701	A	RW-115 St Lukes Road Interchange Stone Strong Pile Wall General Notes	31.05.2013
215023-D-J-240-702	A	RW-115 St Lukes Road Interchange Stone Strong Pile Wall Elevation and Plan — Sheet 1 of 2	31.05.2013
215023-D-J-240-703	A	RW-115 St Lukes Road Interchange Stone Strong Pile Wall Elevation and Plan — Sheet 2 of 2	31.05.2013

215023-D-J-240-704	A	RW-115 St Lukes Road Interchange Stone Strong Pile Wall Details — Sheet 1	31.05.2013
215023-D-J-240-705	A	RW-115 St Lukes Road Interchange Stone Strong Pile Wall Details — Sheet 2	31.05.2013
215023-D-J-240-706	E	Southern Abutment and Wall Detail (Previously 215023-D-A-919-070)	26.08.2013
215023-D-J-240-801	B	RW-119 Eastbound On-ramp Gabion Wall Elevation and Plan	31.05.2013
215023-D-J-240-802	B	RW-119 Eastbound On-ramp Gabion Wall General Notes and Details	31.05.2013
215023-D-J-240-811	B	RW-121 St Lukes Road Gabion Wall Elevation and Plan	31.05.2013
215023-D-J-240-812	B	RW-121 St Lukes Road Gabion Wall General Notes and Details	31.05.2013
215023-D-J-240-932	A	RW- Single Left Turn Lane Option Great North Road	10.12.2013
<b>Proposed Vector Relocations</b>			
215023-D-U-146-001	A	Proposed Vector Plans Electricity and Gas Sheet 1 of 8	18.03.2013
215023-D-U-146-002	A	Proposed Vector Plans Electricity and Gas Sheet 2 of 8	18.03.2013
215023-D-U-146-004	A	Proposed Vector Plans Electricity and Gas Sheet 3 of 8	18.03.2013
215023-D-U-146-005	A	Proposed Vector Plans Electricity and Gas Sheet 4 of 8	18.03.2013

215023-D-U-146-006	A	Proposed Vector Plans Electricity and Gas Sheet 5 of 8	18.03.2013
215023-D-U-146-007	A	Proposed Vector Plans Electricity and Gas Sheet 7 of 8	18.03.2013
215023-D-U-146-008	A	Proposed Vector Plans Electricity and Gas Sheet 8 of 8	18.03.2013
215023-D-U-146-303	A	<del>Single Left Turn Lane Option - Great North Road - Proposed Vector Plans Electricity and Gas Sheet 3 of 8</del>	01.11.2013
<b>Proposed Chorus Relocations</b>			
215023-D-U-148-001	A	Proposed Chorus Plans Sheet 1 of 8	18.03.2013
215023-D-U-148-002	A	Proposed Chorus Plans Sheet 2 of 8	18.03.2013
215023-D-U-148-004	A	Proposed Chorus Plans Sheet 4 of 8	18.03.2013
215023-D-U-148-005	A	Proposed Chorus Plans Sheet 5 of 8	18.03.2013
215023-D-U-148-006	A	Proposed Chorus Plans Sheet 6 of 8	18.03.2013
215023-D-U-148-007	A	Proposed Chorus Plans Sheet 7 of 8	18.03.2013
215023-D-U-148-008	B	Proposed Chorus Plans Sheet 8 of 8	18.03.2013
215023-D-U-148-303	A	<del>Single Left Turn Lane Option - Great North Road - Proposed Chorus Plans Sheet 3 of 8</del>	01.11.2013



<b>Proposed Telstra Clear Relocations</b>			
<del>215023-D-U-149-001</del>	<del>A</del>	<del>Proposed Telstra Clear Plans Sheet 1 of 8</del>	<del>31.05.2013</del>
<del>215023-D-U-149-002</del>	<del>B</del>	<del>Proposed Telstra Clear Plans Sheet 2 of 8</del>	<del>31.05.2013</del>
<del>215023-D-U-149-004</del>	<del>B</del>	<del>Proposed Telstra Clear Plans Sheet 4 of 8</del>	<del>31.05.2013</del>
<del>215023-D-U-149-005</del>	<del>B</del>	<del>Proposed Telstra Clear Plans Sheet 5 of 8</del>	<del>31.05.2013</del>
<del>215023-D-U-149-006</del>	<del>B</del>	<del>Proposed Telstra Clear Plans Sheet 6 of 8</del>	<del>31.05.2013</del>
<del>215023-D-U-149-007</del>	<del>A</del>	<del>Proposed Telstra Clear Plans Sheet 7 of 8</del>	<del>31.05.2013</del>
<del>215023-D-U-149-008</del>	<del>B</del>	<del>Proposed Telstra Clear Plan Sheet 8 of 8</del>	<del>31.05.2013</del>
<del>215023-D-U-149-303</del>	<del>A</del>	<del>Single Left Turn Lane Option - Great North Road - Proposed Telstra Clear Plan Sheet 3 of 8</del>	<del>01.11.2013</del>
<b>Existing Designation</b>			
<del>215023-SK-C-100-021</del>	<del>B</del>	<del>General Arrangement Existing Designations Sheet 1 of 1</del>	<del>03.10.2013</del>
<b>Great North Rd - Single Left Turn Lane Option</b>			
<del>215023-SK-C-100-500</del>	<del>A</del>	<del>Single Left Turn Lane Option - Great North Road - General Arrangement</del>	<del>03.10.2013</del>

215023-SK-C-103-503	A	Single Left Turn Lane Option - GNR Cross Sections - MCG0 - Sheet 1 of 4	03.10.2013
215023-SK-C-103-504	A	Single Left Turn Lane Option - GNR Cross Sections - MCG0 - Sheet 2 of 4	03.10.2013
215023-SK-C-103-505	A	Single Left Turn Lane Option - GNR Cross Sections - MCG0 - Sheet 3 of 4	03.10.2013
215023-SK-C-103-506	A	Single Left Turn Lane Option - GNR Cross Sections - MCG0 - Sheet 4 of 4	03.10.2013
<b>Earthworks</b>			
215023-SK-C-400-001	A	Earthworks - General Arrangement Sheet 1 of 3	23.09.2013
215023-SK-C-400-002	A	Earthworks - General Arrangement Sheet 2 of 3	03.10.2013
215023-SK-C-400-003	A	Earthworks - General Arrangement Sheet 3 of 3	03.10.2013
<b>Watercare Works Over Approval</b>			
215023-SK-C-300-010	B	Water Quality Pond - Cut/Fill Depth Bands	15.07.2013
215023-SK-C-300-011	A	Watercare - Works Over - Approval (Construction Works)	11.10.2013
215023-SK-D-001	A	Orakei Main Sewer - Section Layout Plan	18.09.2013
215023-SK-D-002	A	Orakei Main Sewer - Earthworks Sections - Sheet 1 of 3	18.09.2013

215023-SK-D-003	A	Orakei Main Sewer Earthworks Sections - Sheet 2 of 3	18.09.2013
215023-SK-D-004	A	Orakei Main Sewer Earthworks Sections - Sheet 3 of 3	18.09.2013
215023-SKE-LT-001	03	Spill Lighting Assessment - Area: Eastern Designation	15.10.2013
215023-SKE-LT-002	03	Spill Lighting Assessment - Area: Western Designation	15.10.2013
215023-SKE-LT-003	03	Spill Lighting Assessment - Area: St Lukes Interchange Southern Area	15.10.2013
215023-SKE-LT-004	03	Spill Lighting Assessment - Area: St Lukes Interchange Northern Area	15.10.2013

And all information and methodologies, being:

Reference Number	Title	Author	Date
Updated Planning Assessment	Project: SH16 St Lukes Western Ring Route Project Planning Assessment	Aurecon	6 November 2013, received by the Auckland Council on 29 November 2013
Appendix B	State Highway Management Team Report Rev 15	NZTA	Undated, lodged with application on 12 July 2013
Appendix C	Project: SH16 St Lukes Western Ring Route Project St Lukes Interchange Options Assessment	Aurecon	27 May 2013
Appendix D	Waterview Connection - SH16 to St Lukes Landscape and Urban Design Masterplan	LA4 Landscape Architects	31 May 2013
Appendix E	SH16 Waterview Connection St Lukes Road/Great South Road Intersection	LA4 Landscape Architects	May 2013
Appendix E	SH16 Waterview Connection St Lukes/Great North Road Intersection Landscape and Visual Assessment	LA4 Landscape Architects	September 2013
Appendix E	SH16 Waterview Connection St Lukes/Great North Road Intersection Landscape and Visual Assessment - Addendum	LA4 Landscape Architects	October 2013

Appendix F	Project: Waterview St Lukes Interchange	Aurecon	17 May 2013
	Stormwater Design Report		
Appendix G	Project: SH16 St Lukes Detailed Design Report: Stormwater	Aurecon	15 July 2013
Appendix H	Arboricultural Implication Report	The Specimen Tree Company Ltd	October 2013
Appendix H	Addendum Arboricultural Implication Report	The Specimen Tree Company Ltd	October 2013
Appendix J	Project: SH16 St Lukes Interchange Project Indicative Constructability Report	Aurecon	24 April 2013
Appendix K	Auckland SH16 Motorway Widening St Lukes Interchange (St Lukes to Great North Road) Preliminary Design Safety Audit	Traffic Planning Consultants Ltd, MWH and O'Brien Traffic	13 December 2013
Appendix L	SH16—Sector 6 Road—Traffic Noise Assessment	Aurecon	7 May 2013
Appendix M	Project: SH16 St Lukes Erosion and Sediment Control Plan	Aurecon	22 May 2013
Appendix N	Land Requirement Plan 215023-D-C-951-001B	Aurecon	2 October 2013
Appendix O	BoI conditions—Waterview Connection Project	LA4 Landscape Architects	19 April 2013
Appendix Q	Consultation records	NZTA/AT	various
Appendix R	Iwi letters	NZTA/AT	various
Appendix S	Landowner Approval application letter	Aurecon	4 October 2013 and 30 October 2013
Appendix T	Objectives and policies	Aurecon	N/A
S92 Response	Letter titled “Section 92 Request for Further Information” dated 10 September 2013 Including Appendices as bound.	Aurecon	10 September 2013
S92 Response	Letter titled “Section 92 Request for Further Information” dated 23 September 2013 Including Appendices as bound.	Aurecon	23 September 2013
S92 Response	Letter titled “Section 92 Request for Further Information Dated 23 August and 2, 4 and 7 October 2013” dated 15 October 2013 Including Appendices as bound.	Aurecon	15 October 2013
Urban Design and Landscape Design Framework	Western Ring Route—Waterview Connection Urban Design and Landscape Design Framework	Beca/Jasmax/ Stephen Brown Environments	June 2010

In addition, to the above, the following plans and documents also apply to this Notice of Auckland Unitary Plan Operative in part

Requirement:

The SH16 St Lukes Western Ring Route Project shall be carried out in accordance with the plans submitted with the application, being:

Item	Document reference	Rev	Title
1	215023-D-C-CS0-421	A	St Lukes WB Off-Ramp Option – Drawing Index (Consenting)
2	215023-D-C-100-403	A	St Lukes WB Off-Ramp Option – General Arrangement
3	215023-D-C-102-410	A	St Lukes WB Off-Ramp Option – Plan & Long Section – St Lukes Road (MC3S) (Consenting)
4	215023-D-C-104-403	A	St Lukes WB Off-Ramp Option – Pavement Plan (Consenting)
5	215023-D-C-105-403	A	St Lukes WB Off-Ramp Option – Road Barrier Plan (Consenting)
6	215023-D-C-107-403	A	St Lukes WB Off-Ramp Option – Kerb Plan (Consenting) – Sheet 1 of 2
7	215023-D-C-107-409	A	St Lukes WB Off-Ramp Option – Kerb Plan (Consenting) – Sheet 2 of 2
8	215023-D-C-120-403	A	St Lukes WB Off-Ramp Option – Road Marking & Signage (Consenting)
9	215023-D-C-120-411	A	St Lukes WB Off-Ramp Option – Interchange Traffic Signs Plan (Consenting)
10	215023-D-C-120-457	A	St Lukes WB Off-Ramp Option – Road Marking & Signage – Traffic Island Details (Consenting)
11	215023-D-C-130-401	A	St Lukes WB Off-Ramp Option – Traffic Signal Plan – St Lukes Road (Consenting)
12	215023-D-C-130-410	A	St Lukes WB Off-Ramp Option – ATMS Plan (Consenting)
13	215023-D-U-143-403	A	St Lukes WB Off-Ramp Option – Proposed Services Relocations (Consenting)
14	215023-D-E-161-403	A	St Lukes WB Off-Ramp Option – Road Lighting – Sheet 1 (Consenting)
15	215023-D-E-161-410	A	St Lukes WB Off-Ramp Option – Road Lighting – Sheet 2 (Consenting)
16	215023-D-E-161-411	A	St Lukes WB Off-Ramp Option – Lighting Column Schedule – Sheet 1 (Consenting)
17	215023-D-E-161-412	A	St Lukes WB Off-Ramp Option – Lighting Column Schedule – Sheet 2 (Consenting)
18	215023-D-J-240-920	A	St Lukes WB Off-Ramp Option – Retaining Walls – General Arrangement (Consenting)

19	215023-D-J-240-921	A	St Lukes WB Off-Ramp Option – RW 126 Off-Ramp Wall – Elevation & Plan (Consenting)
20	215023-D-J-240-922	A	St Lukes WB Off-Ramp Option – RW 126 Off-Ramp Wall – General Notes and Details (Consenting)
21	215023-D-J-240-923	A	St Lukes WB Off-Ramp Option – RW 126 Off-Ramp Wall – Details (Consenting)
22	215023-D-D-320-403	A	St Lukes WB Off-Ramp Option-Proposed Stormwater Drainage (Consenting)
23	215023-D-B-600-401	A	St Lukes WB Off-Ramp Option – Services and Lighting (Consenting)
24	215023-D-B-600-402	A	St Lukes WB Off-Ramp Option – Services Details (Consenting)
25	215023-D-C-740-403	A	St Lukes WB Off-Ramp Option – Erosion & Sediment Control (Consenting)
26	215023-D-A-919-403	B	St Lukes Westbound Off-ramp option – Planting Details (Consenting)
27	215023-D-A-919-412	A	St Lukes WB Off-Ramp Option – Master Plan (Consenting)
28	215023-D-C-951-005	A	Land Requirement
29	215023-D-C-951-006	A	Proposed Designations

and all information and methodologies, being:

Application Form, and Assessment of Environmental Effects, titled “Project: SH16 St Lukes Western Ring Route Project, Alteration to Designation A07-01 & Resource Consents” Rev 2, prepared by Aurecon New Zealand Ltd, dated 30 January 2014. Including Appendices:

- Appendix B Certificate of Title and Gazette Notice
- Appendix C Indicative Constructability Report Addendum – RW126
- Westbound Off-Ramp Wall
- Appendix D Email Communication 4 December 2013
- Appendix E Arboricultural Implication Report
- Appendix F Adverse Environmental Effects Report – Street Lighting
- Appendix G Spill Lighting Assessment Drawings 11/02/2013
- Appendix H Indicative Constructability Report
- Appendix I A Erosion and Sediment Control Plan
- Appendix I B Erosion and Sediment Control Plan Drawings
- Appendix J Assessment of Noise & Vibration Effects 10 December 2013
- Appendix K Road Safety Audit
- Appendix L – Part A) The Obtrusive Light – Compliance Report for the westbound off-ramp
- Appendix L – Part B) The Obtrusive Light – Compliance Report for the westbound off-ramp Drawings

- Appendix N Letter to Auckland Council 29 November 2013
- Appendix O Technical Memorandum – Stormwater

If there is any conflict between the application documents and the specific conditions which follow, the specific conditions are to prevail. If there is any conflict between the plans in the stated volumes and the plans revised/updated/produced during processing the application, the later plans prevail.

## **DISPUTES RESOLUTION**

2. In the event of any dispute, disagreement or inaction arising as to any Auckland Council Manager certification/ approvals required by the designation conditions, or as to implementation of, or monitoring required by, the conditions, the disputed matters shall be referred in the first instance to the NZTA Regional State Highway Manager and to the Resource Consents Manager, Auckland Council to determine a resolution process.

If a resolution cannot be agreed, then the matter may be referred to an independent and appropriately qualified expert in resource management and/or roading matters, agreeable to both parties (such agreement not to be unreasonably withheld by either party), setting out in writing the details of the matter to be referred for determination and the reasons the parties have not agreed.

The independent and appropriately qualified expert shall be appointed within 10 working days of the NZTA or the Auckland Council giving notice to the other of its intention to seek an expert determination. The expert shall, as soon as possible, issue a written decision on the matter including the reasons for his or her decision. In making the decision, the expert shall be entitled to seek further information and to hear from the parties as he or she sees fit in his or her sole discretion. The reasonable fees of the expert, including GST (if any), shall be paid equally by both disputing parties.

*Advice note:*

*The dispute resolution process provided for by this condition does not prejudice any party's right to take enforcement action in relation to implementation of the designation conditions. However, the dispute resolution process will be applied before any formal enforcement action is taken by the Council, except for urgent situations.*

3. This alteration to designation will lapse if it is not given effect to before the expiry of 5 years from the date on which it is included in the District Plan under section 184(1) of the Resource Management Act 1991 ("the Act").
4. Except as modified by the conditions below, the works shall be undertaken in general accordance with the information provided by the New Zealand Transport Agency ("NZTA", being the Requiring Authority), the Notice(s) of Requirement ("NoR") and the supporting documents, and supplementary information provided. In summary, this information is:
- (a) Waterview Connection Project. Assessment of Environmental Effects report (dated August 2010). Parts A-E;
  - (b) Waterview Connection Project. Assessment of Environmental Effects report (dated August 2010). Part F: Plans and Drawings, except as updated through processing the NoR and applications (Refer Schedule A for current plan and drawing references); and
  - (c) Waterview Connection Project. Assessment of Environmental Effects report (dated August 2010). Part G: Technical Reports:
    - (i) Technical Report G.1 Assessment of Air Quality Effects
    - (ii) Technical Report G.2 Assessment of Archaeological Effects
    - (iii) Technical Report G.3 Assessment of Avian Ecological Effects
    - (iv) Technical Report G.4 Assessment of Coastal Processes

- (v) ~~Technical Report G.5 Assessment of Construction Noise Effects~~
- (vi) ~~Technical Report G.6 Assessment of Freshwater Ecological Effects~~
- (vii) ~~Technical Report G.7 Assessment of Groundwater Effects~~
- (viii) ~~Technical Report G.8 Assessment of Herpetofauna Ecological Effects~~
- (ix) ~~Technical Report G.9 Assessment of Land and Groundwater Contamination~~
- (x) ~~Technical Report G.10 Assessment of Lighting Effects~~
- (xi) ~~Technical Report G.11 Assessment of Marine Ecological Effects~~
- (xii) ~~Technical Report G.12 Assessment of Operational Noise Effects~~
- (xiii) ~~Technical Report G.13 Assessment of Ground Settlement Effects~~
- (xiv) ~~Technical Report G.14 Assessment of Social Effects~~
- (xv) ~~Technical Report G.15 Assessment of Stormwater and Streamworks Effects~~
- (xvi) ~~Technical Report G.16 Assessment of Temporary Traffic Effects~~
- (xvii) ~~Technical Report G.17 Assessment of Terrestrial Vegetation Effects~~
- (xviii) ~~Technical Report G.18 Assessment of Transport Effects~~
- (xix) ~~Technical Report G.19 Assessment of Vibration Effects~~
- (xx) ~~Technical Report G.20 Assessment of Visual and Landscape Effects~~
- (xxi) ~~Technical Report G.21 Construction Environmental Management Plan (CEMP)~~
- (xxii) ~~Technical Report G.22 Erosion and Sediment Control Plan (ESCP)~~
- (xxiii) ~~Technical Report G.23 Coastal Works~~
- (xxiv) ~~Technical Report G.24 Geotechnical Interpretive Report~~
- (xxv) ~~Technical Report G.25 Traffic Modelling Report~~
- (xxvi) ~~Technical Report G.26 Operational Model Validation Report~~
- (xxvii) ~~Technical Report G.27 Stormwater Design Philosophy Statement~~
- (xxviii) ~~Technical Report G.28 Geotechnical Factual Report – 500 Series~~
- (xxix) ~~Technical Report G.29 Geotechnical Factual Report – 700 Series~~
- (xxx) ~~Technical Report G.30 Assessment of Associated Sediment and Contaminant Loads~~
- (xxxi) ~~Technical Report G.31: Technical Addendum Report (September 2010)~~
- (d) ~~PT & Active Mode Transport Routes Existing and Proposed (Refer Schedule A, Row 22).~~
- (e) ~~Waterview Connection Project, evidence and supplementary information provided to the Board of Inquiry:~~
  - (i) ~~Evidence in Chief (Numbers 1–37)~~
  - (ii) ~~Rebuttal Evidence (Numbers 1–33)~~
  - (iii) ~~Supplementary Information (Numbers 1–8)~~
- (f) ~~SH16 – St Lukes – Western – Ring Route Project Planning Assessment and supporting documentation.~~

## **CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (“CEMP”)**

5. ~~The NZTA shall update and finalise the draft Construction Environmental Management Plan (“CEMP”) submitted with the NZTA Waterview Connection Project, including all the~~



~~Plans which form part of the CEMP and are included as appendices, submitted with this application, to ensure compliance with the consent and designation conditions imposed by the Board of Inquiry. The CEMP shall be provided to the Major Infrastructure Projects Team Manager, Auckland Council, for review at least 20 working days prior to the commencement of works to certify compliance and consistency with the conditions. Construction shall not commence until the certification is obtained.~~

~~Advice note:~~

~~For clarity, the CEMP will be updated and finalised in accordance with the Board of Inquiry conditions for both the resource consents and designations. Any amendments will be limited to reflecting the requirements of the conditions, specifying personnel, and completing the Environmental Risk Register.~~

- ~~6. As some works may commence well in advance of others, for the purposes of staging works, NZTA may provide staged or site-specific CEMPs for these works to the Major Infrastructure Team Manager, Auckland Council. The NZTA shall consult with the Major Infrastructure Team Manager about the need and timing for any other site-specific or staged CEMPs and shall provide any required site-specific or staged CEMPs to the Major Infrastructure Team Manager, Auckland Council for review at least 20 working days prior to commencement of such the specific stage (including enabling) or site works.~~
- ~~7. The certification process of the CEMP (and its appendices) shall confirm that the CEMP gives effect to the relevant conditions, as well as those matters in CEMP.6, and that it includes details of:
 
  - ~~(a) Staff and contractors' responsibilities;~~
  - ~~(b) Training requirements for employees, sub-contractors and visitors;~~
  - ~~(c) Environmental incident and emergency management;~~
  - ~~(d) Communication and interface procedures (in accordance with the Communication Plan required under condition PI.2 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent;~~
  - ~~(e) Environmental complaints management (including the procedures required under condition PI.4 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent;~~
  - ~~(f) Compliance monitoring;~~
  - ~~(g) Reporting (including detail on the frequency of reporting to the Auckland Council);~~
  - ~~(h) Environmental auditing; and~~
  - ~~(i) Corrective action.~~~~
- ~~8. The management of key environmental effects associated with the construction phase of the project is detailed in environmental management plans included in the CEMP as appendices. This suite of management plans as shown on Figure CEMP.A comprises:
 
  - ~~(a) Construction Noise and Vibration Management Plan (“CNVMP”);~~
  - ~~(b) Construction Air Quality Management Plan (“CAQMP”);~~
  - ~~(c) Erosion and Sediment Control Plan (“ESCP”);~~
  - ~~(d) Temporary Stormwater Management Plan (“TSMP”);~~
  - ~~(e) Ecological Management Plan (“ECOMP”);~~
  - ~~(f) Groundwater Management Plan (“GWMP”);~~
  - ~~(g) Settlement Effects Management Plan (“SEMP”);~~
  - ~~(h) Contaminated Soils Management Plan (“CSMP”);~~~~

- (i) Hazardous Substances Management Plan (“HSMP”);
  - (j) Archaeological Site Management Plan (“ASMP”);
  - (k) Construction Traffic Management Plan (“CTMP”);
  - (l) Concrete Batching and Crushing Plant Management Plan (“CBCPMP”);
  - (m) ~~Electrical Infrastructure Site Development and Construction Management Plan (“EISDCMP”) (to be prepared in accordance with condition CEMP.15 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent;~~
  - (n) ~~Waste Management Plan (to be prepared in accordance with condition CEMP.10 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent; and~~
  - (o) ~~Temporary Construction Lighting Management Plan (to be prepared in accordance with condition L.2 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent.~~
9. ~~The CEMP shall be implemented and maintained throughout the entire construction period.~~
10. ~~A copy of the CEMP shall be held on each construction site at all times and shall be available for inspection on request by the Auckland Council.~~
11. ~~The finalised CEMP shall include specific details on demolition, construction and management of all works associated with the project. The certification process for the CEMP shall confirm that the CEMP includes details of the following:~~
- (a) ~~Details of the site or project manager and the community liaison person, including their contact details (phone, facsimile, postal address, email address);~~
  - (b) ~~The location of large notice boards that clearly identify NZTA and the project name, together with the name, telephone, email address and address for service of the site or project manager and the community liaison person;~~
  - (c) ~~An outline construction programme of the work indicating in particular likely time periods for road closures and anticipated traffic diversion effects;~~
  - (d) ~~The hours of work, which should reflect the need to ensure that residents enjoy reasonable freedom from noisy or intrusive construction activity in their neighbourhood at night, on Sundays and during public holidays;~~
  - (e) ~~Measures to be adopted to maintain the land affected by the works in a tidy condition in terms of disposal/ storage of rubbish, storage and unloading of building materials and similar construction activities;~~
  - (f) ~~Location of worker’s offices and conveniences (e.g. portaloos);~~
  - (g) ~~Procedures of controlling sediment run-off, dust and the removal of soil, debris and demolition and construction materials from public roads or places. Dust mitigation measures should include use of water sprays to control dust nuisance on dry or windy days;~~
  - (h) ~~Methods to stabilise ingress and egress points to construction sites, to the standard required by the former ARC’s Technical Publication 90 (Nov 2007) (“TP 90”);~~
  - (i) ~~Procedures for ensuring that residents within 100 metres of construction areas or other people whose use of an area may be disrupted by construction works are given notice of the commencement of construction activities and are informed about the expected duration of the works, including potentially through the community liaison person;~~
  - (j) ~~Procedures to be followed to ensure that those working in the vicinity of identified heritage and ecological features are aware of the heritage or ecological values of these features and the steps which need to be taken to meet the conditions applying to work on the site;~~

- ~~(k) Means of ensuring the safety of the general public;~~
- ~~(l) Procedures for the community liaison person to receive and respond to complaints about construction activities, including dust and odour from the works;~~
- ~~(m) Methods of mitigating the local and network wide effects of construction of individual elements of the project, including measures to ensure that parking of staff vehicles on surrounding streets is restricted;~~
- ~~(n) All temporary boundary/ security fences shall be maintained in good order, with any graffiti removed as soon as possible;~~
- ~~(o) Confirmation of a project arborist; and completion of a "STEM" assessment of the preliminary list of Amenity Trees in Schedule E.7 of the AEE lodged with the Board of Inquiry for the Waterview Connection Project to confirm the final amenity trees; and~~
- ~~(p) The process to minimise the removal of amenity trees, maximise the protection of those retained, undertake relocation of amenity trees and replacement of specimen trees (in accordance with conditions LV.10 and ARCH.9 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent.~~

*Advice note:*

*For the purposes of this condition, "amenity tree" in o) and p) is defined as a tree or trees that contribute significantly to amenity, taking account of its form, size, health, ecological or historical significance (a preliminary list of these trees is provided in Appendix E.7 of the AEE lodged with the Board of Inquiry for the Waterview Connection Project).*

- ~~12. The layout of the construction yards, including associated buildings, fencing and site access shall be developed in accordance with Waterview Connection Project Construction Yards Plans submitted as part of the AEE for the Waterview Connection Project. The layout drawings shall be provided to the Major Infrastructure Projects Team Manager, Auckland Council, at least 20 working days prior to occupation of the yard, for review and certification that the final layout of the construction yards is in accordance with the conditions. The layout drawings shall incorporate the following:~~
  - ~~(a) The main access to the construction yards to be located as far as practicable from residential dwellings, taking into account site and public safety and environmental constraints, in the locations shown on Waterview Connection Project Construction Yards Plans;~~
  - ~~(b) Noisy construction activities to be located as far as practicable, and preferably no less than 100m, from residential dwellings;~~
  - ~~(c) Construction of temporary boundary/ security fences to be undertaken in a manner which minimises impacts on existing trees;~~
  - ~~(d) Temporary acoustic fences and visual barriers;~~
  - ~~(e) Temporary buildings greater than 8 metres in height to be located in a position which minimises visual impact on adjacent residential dwellings; and~~
  - ~~(f) Location of workers' and project vehicle parking.~~
- ~~13. All storage of material and equipment associated with the construction works shall take place within the boundaries of the designation.~~
- ~~14. Temporary protection shall be installed to prevent vehicles damaging drains, footpaths, berms, kerbs, vehicle crossings and the roads during the site preparation and construction phase of the project. Any damage to the drains, footpaths, berms, kerbs, vehicle crossings and the road attributable to any vehicle associated with construction activities shall be repaired to the same or similar standards as existed prior to such damage at no cost to the Auckland Council.~~

15. ~~The NZTA shall finalise and implement the Hazardous Substances Management Plan (“HSMP”), through the CEMP (as required by CEMP.1), submitted with the NZTA Waterview Connection Project, prior to works commencing on the site. The certification process of the CEMP shall confirm that the HSMP clearly identifies the requirements for proper storage, handling, transport and disposal of hazardous substances during the construction phase of the project and confirm that there shall be no storage of explosives on the project site.~~
16. ~~The NZTA shall develop and implement a Waste Management Plan in accordance with the waste management principles, controls and methods set out in the certified CEMP. The Plan shall be provided to the Major Infrastructure Projects Team Manager, Auckland Council for approval and the approved Plan is to be implemented throughout the entire construction period.~~
17. ~~The approved CEMP shall be reviewed by the NZTA at least annually or as a result of a material change to the project. The review shall take into consideration:~~
  - ~~(a) Compliance with designation and consent conditions;~~
  - ~~(b) Any changes to construction methods;~~
  - ~~(c) Key changes to roles and responsibilities for the project;~~
  - ~~(d) Changes in industry best practice standards;~~
  - ~~(e) Changes in legal or other requirements;~~
  - ~~(f) Results of inspections, monitoring, incidents, corrective actions, internal or external assessments; and~~
  - ~~(g) Public complaints.~~

~~A summary of the review process undertaken shall be kept by the NZTA, provided annually to the Major Infrastructure Projects Team Manager, Auckland Council and made available (with any related data) to the Auckland Council on request.~~

18. ~~Following the review process (as described in CEMP.12 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent) the CEMP may require updating. Any material change proposed to the CEMP (including appended Management Plans) shall be submitted for approval to the Major Infrastructure Projects Team Manager, Auckland Council at least 10 working days prior to the proposed changes taking effect.~~

*Advice Note:*

*~~“Material change” will include amendment to any base information informing the CEMP or any process, procedure or method of the CEMP (such as the environmental constraints map, compliance monitoring process, complaints procedure or mitigation / remedial methods identified) which has the potential to increase adverse effects on a particular value. For clarity changes to personnel and contact schedules do not constitute a material change.~~*

19. ~~The CEMP shall include, as an appendix, an Electrical Infrastructure Site Development and Construction Management Plan (“EISDCMP”). The EISDCMP shall be provided to the Major Infrastructure Projects Team Manager, Auckland Council, and include:~~
  - ~~(a) Methods and measures:~~
    - ~~(i) To ensure that the existing high voltage infrastructure can be accessed for maintenance at all reasonable times, or emergency works at all times, during and after construction activities.~~
    - ~~(ii) To appropriately manage the effects of dust and any other material potentially resulting from construction activities and able to cause material damage, beyond normal wear and tear, to the overhead transmission lines~~
    - ~~(iii) To ensure that no activity is undertaken during construction that would result in~~

~~ground vibrations and/or ground instability likely to cause material damage to the transmission lines, including support structures.~~

- ~~(iv) To ensure that changes to the drainage patterns and runoff characteristics do not result in adverse effects from stormwater on the foundations for any high voltage transmission line support structure.~~
- ~~(b) Sufficient detail to confirm that new planting and maintenance of vegetation will comply with the New Zealand Electricity (Hazard from Trees) Regulations 2003, including, but not limited to, the provisions of Schedule (Growth Limit Zones) to those Regulations.~~
- ~~(c) Sufficient detail to confirm that the works will comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001), including, but not limited to, the provisions of:~~
- ~~(i) Clause 2.2 with respect to excavations near overhead support structures;~~
  - ~~(ii) Clause 2.4 with respect to buildings near overhead support structures;~~
  - ~~(iii) Section 3 with respect to minimum separation between buildings and conductors;~~
  - ~~(iv) Section 5 with respect to minimum safe distances for the operation of mobile plant; and,~~
  - ~~(v) Table 4 with respect to minimum safe separation distances between the ground and the overhead conductors.~~
- ~~(d) Confirmation that Transpower has been provided a copy of the EISCDMP for its review at least 20 working days prior to construction.~~

*Advice note:*

*~~With respect to clause (c), specific consideration must be given to the height and location of temporary structures (such as project offices and other construction site facilities) and permanent structures (such as lighting poles, signage, gantries and acoustic barriers).~~*

- ~~20. The NZTA will be responsible for all service relocations required for construction of the project. The NZTA shall liaise with the providers of infrastructure service networks (including, but not limited to, water, gas, stormwater, wastewater, power and telecommunications) and private property owners with on-site services to develop methodologies and timing for necessary services relocation required for the project, with the objective of minimising disruption to the operation of these service networks and on-site services.~~

*Advice note:*

- ~~(a) It is noted that if separate consents are required for relocations for any services of network utility operators or landowners, such consents will be obtained before construction commences in the relevant area, and any effects of those relocations would be considered at that time. The same applies to any alteration of consents if required.~~
- ~~(b) Network infrastructure owned and operated by Watercare Services is located within the designation. An operating agreement will be developed by NZTA and Watercare Services which will include appropriate notification and access protocols where works are to be undertaken by either network operator on or adjacent to Watercare Services infrastructure within the designations.~~

## **AIR QUALITY**

- ~~21. The NZTA shall finalise and implement, through the CEMP, the Construction Air Quality Management Plan ("CAQMP") submitted with the Waterview Connection Project notices of requirement and resource consent applications.~~

~~At least 20 working days prior to construction activities being undertaken the CAQMP shall be provided by the requiring authority to the Major Infrastructure Projects Team Manager, Auckland Council for review and certification that it includes the following details:~~

- ~~(a) Daily visual monitoring of dust emissions;~~
  - ~~(b) Procedures for responding to process malfunctions and accidental dust discharges;~~
  - ~~(c) Criteria, including consideration of weather conditions and procedures for use of water sprays on stockpiles and operational areas of the site;~~
  - ~~(d) Continuous monitoring of Total Suspended Particulate ("TSP") concentrations and meteorology;~~
  - ~~(e) Monitoring of the times of detectable odour emissions from the ground;~~
  - ~~(f) Procedures for responding to discharges of odour (including in the event of excavation of contaminated sites);~~
  - ~~(g) Monitoring of construction vehicle maintenance;~~
  - ~~(h) Process equipment inspection, maintenance, monitoring and recording, including baghouses, pressure relief valves and high level alarms;~~
  - ~~(i) Complaints investigation, monitoring and reporting; and~~
  - ~~(j) The identification of staff and contractors' responsibilities.~~
- ~~22. The NZTA shall review the CAQMP at least annually and at any time there is a material change to the project. Any consequential changes will be undertaken in accordance with CEMP.13 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent.~~
- ~~23. All construction activities shall be operated, maintained, supervised, monitored and controlled at all times so that all emissions authorised by this consent are maintained at the minimum practicable level.~~
- ~~24. The NZTA shall undertake construction activities in accordance with the approved CEMP and CAQMP, such that:~~
- ~~(a) Hard surfaced areas of the construction yards and active construction areas are vacuum swept or scraped down at least twice each week and additionally as reasonably required;~~
  - ~~(b) All unsealed areas of the site used for vehicle movement are maintained visibly damp by the use of water sprays or a water cart during weather conditions where the potential for dust emissions exist;~~
  - ~~(c) Wheelwash systems are installed at all truck exits from unpaved areas of the site onto public roads are used for all trucks that depart from the site;~~
  - ~~(d) All stockpiles are constructed and positioned to minimise the potential for dust emissions. The surfaces of all stockpiles are maintained adequately damp at all times to minimise the release of particulate matter;~~
  - ~~(e) Belt conveyors for moving dry materials are fitted with water sprays or enclosed to minimise wind entrainment of dust. Where installed, water suppression is used whenever the conveyors are used for moving dry materials.~~
- ~~25. Unless expressly provided for by conditions of this designation, there shall be no odour, dust or fumes beyond the site boundary caused by discharges from the site which, in the opinion of a Council enforcement officer, is noxious, offensive or objectionable.~~
- ~~26. All offensive or objectionable dust beyond the designation boundaries caused as a result of construction processes shall be mitigated forthwith in accordance with the requirements of the Construction Air Quality Management Plan.~~
- ~~27. Beyond the designation boundaries there shall be no hazardous air pollutant caused by discharges that causes, or is likely to cause, adverse effects on human health, environment~~

- or property.
- ~~28. No discharges from any activity carried out as part of the project works shall give rise to visible emissions, other than water vapour, to an extent which, in the opinion of a Council enforcement officer, is noxious, dangerous, offensive or objectionable.~~
- ~~29. The NZTA shall undertake visual inspections of dust emissions as follows:~~
- ~~(a) Visual inspections of all active construction areas at least three times daily during October to April inclusive, whenever there are construction activities. The results of visual monitoring shall be logged.~~
  - ~~(b) Visual inspections of dust emissions from the concrete batching plants and rock crushing plant shall be undertaken daily while the plant is operating.~~
- ~~30. The operation of water sprays shall be checked by or on behalf of the requiring authority at least once each day.~~
- ~~31. All records, logs, monitoring and test results that are required by the conditions of this designation shall be made available on request, during operating hours, to an Auckland Council enforcement officer and shall be kept by the consent holder for the duration of the designation.~~
- ~~32. Construction logbooks shall be maintained that record all relevant information that is required to demonstrate compliance with the conditions of this designation. This information shall include, but is not limited to:~~
- ~~(a) Visual assessments of any dust emissions from the site and the source;~~
  - ~~(b) Any dust control equipment malfunction and any remedial action taken;~~
  - ~~(c) When a water cart was used and, if so, the frequency of use and the volume of water used (including identification of location);~~
  - ~~(d) Any additional dust control measures undertaken; and~~
  - ~~(e) The date and time of the entry and the signature of the person entering the information.~~
- ~~33. The NZTA shall maintain a log of any complaints received relating to air quality. Details of each complaint received shall be forwarded to the Major Infrastructure Projects Team Manager, Auckland Council, within 24 hours of receipt of the complaint. The log shall include any complaints lodged with the Auckland Council where the Council has informed the NZTA of the complaint. The log shall include, but not be limited to the following:~~
- ~~(a) The date, time, location and nature of the complaint;~~
  - ~~(b) Weather conditions at the time of the complaint (including approximate wind speed, wind direction, cloud cover);~~
  - ~~(c) Any possible other contributing factors (such as a fire, smoky vehicle, a local chimney emission, etc.);~~
  - ~~(d) The name, phone number and address of the complainant (unless the complainant elects not to supply these details);~~
  - ~~(e) Any remedial actions undertaken; and~~
  - ~~(f) The date and time of the entry and the signature of the person entering the information.~~

## **TRAFFIC**

- ~~34. The NZTA shall update and finalise the Construction Traffic Management Plan ("CTMP") submitted with the Waterview Connection Project AEE, in accordance with these conditions, and implement it through the CEMP. In finalising the CTMP, the NZTA shall:~~
- ~~(a) Provide simulation modelling demonstrations to understand the effects of construction of the project on the affected road network better;~~

- (b) ~~Include measures to avoid road closures and restrictions of vehicle, bus, cycle and pedestrian movements;~~
  - (c) ~~Where road closures or restrictions cannot reasonably be avoided, the particular vulnerabilities and sensitivities of pedestrian diversions and restricted conditions shall be taken into account in the planning of any closures or restrictions.~~
35. ~~The CTMP shall require the development of Site Specific Traffic Management Plans ("SSTMPs") and their approval by the Traffic Management Project Governance Group (as defined by the CTMP) for each construction activity that may affect traffic or transportation infrastructure and services. The SSTMPs shall be provided to the Traffic Management Coordinator(s) for the relevant road controlling authority at least 10 working days prior to each construction activity.~~
36. ~~Each SSTMP shall describe the measures that will be undertaken to avoid, remedy or mitigate the local and network wide effects of construction of the project. In particular, the SSTMP shall include the following matters:~~
- (a) ~~Traffic management measures to address and maintain, traffic capacity, including bus services, at peak traffic periods during weekdays (6:00 to 9:00 and 16:00 to 19:00) and peak traffic periods at weekends (including Great North Road);~~
  - (b) ~~Methods to manage the effects of traffic during construction including the requirement to detour or divert traffic. These methods shall seek to avoid, remedy or mitigate effects on access to and from businesses and other organisations in the area;~~
  - (c) ~~Any road closures that will be required and the nature and duration of any traffic management measures that will result, including any temporary restrictions, detours or diversions for general traffic and buses;~~
  - (d) ~~Methods to avoid, remedy or mitigate the local and network wide effects of the construction of individual elements of the project (e.g. intersections/ overbridges) and the use of staging to allow sections of the project to be opened to the traffic while other sections are still under construction;~~
  - (e) ~~Methods to manage the effects of the delivery of construction material, plant and machinery (including cranes and oversized trucks) during construction;~~
  - (f) ~~Any routes where construction traffic movements will be restricted (either for particular times or construction periods);~~
  - (g) ~~Measures to maintain existing vehicle access, as far as practicable, or where the existing property access is to be removed or becomes unsafe as a result of the construction works, measures to provide alternative access arrangements in consultation with the Auckland Council and the affected landowner; and~~
  - (h) ~~Measures to maintain pedestrian and cycle access with thoroughfare to be maintained on all roads and footpaths adjacent to the construction works, where practicable (e.g. unless provision of such access is severed by the works or such access will become unsafe as a result of the construction works). Such access shall be safe, clearly identifiable, provide permanent surfacing and seek to minimise significant detours. (This condition does not act as a qualification to the commitment to maintain access to open space and education facilities as required in condition OS.13 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent).~~
37. ~~The SSTMPs shall include traffic management measures developed in consultation with Auckland Transport, Bus and Coach Association and the Auckland Council, to address and maintain, where practicable, existing levels of service for buses particularly at peak periods (6:00 to 9:00 and 16:00 to 19:00) on weekdays.~~
38. ~~The NZTA shall consult with the Traffic Operations Manager, Auckland Transport with regard to the most appropriate means for providing access on Council roads within and adjacent to the designation. The NZTA shall also coordinate and consult directly with the proponents~~



~~of any major construction or major traffic generating event occurring concurrently with, and in the vicinity of, the project.~~

- ~~39. The SSTMPs shall include measures developed in consultation with Auckland Transport to enable, as far as practicable, continued public walking and cycling passage along the existing North-western Cycleway (between the Te Atatu Interchange and the St Lukes Interchange) and along Great North Road and the public walkway along Oakley Creek, with any interruptions being as short as feasible.~~
- ~~40. The NZTA shall restrict construction truck movements during peak hours (6:00 to 9:00 and 16:00 to 19:00) on weekdays and during the peak periods at the weekends to avoid the following:
  - ~~(a) Great North Road Interchange, city bound during the morning peak hours~~
  - ~~(b) Great North Road Interchange, west bound onto SH16 and southbound onto Great North road during the afternoon peak.~~
  - ~~(c) St Lukes Interchange, during afternoon peak hours, and morning peak hours from eastbound onto SH16.~~~~

~~Construction truck movements during these hours shall be allowed only under exceptional circumstances agreed in advance with the Traffic Management Project Governance Group.~~

- ~~41. The NZTA shall maintain at least the existing active traffic lane configuration capacity on SH16, at St Lukes Road at the St Lukes interchange and on Great North Road during peak periods being 6:00 to 9:00 and 16:00 to 19:00 on weekdays and during the peak periods on weekends, for the duration of the temporary construction programme.~~
- ~~42. The NZTA shall monitor the impact of construction traffic in terms of traffic speeds and volumes on SH16, Great North Road and St Lukes Road at the St Lukes interchange throughout the construction period to confirm the expected traffic effects as set out in the Temporary Traffic Assessment (Technical Report G.16) submitted with the Notice of Requirement.
  - ~~(a) This monitoring will be undertaken on a daily, weekly and monthly basis; and~~
  - ~~(b) Monitoring results will be made available to the Traffic Operations Manager, Auckland Transport on request.~~~~
- ~~43. If monitoring undertaken pursuant to TT.10 indicates that traffic volumes or traffic conditions are significantly different from those expected, the SSTMPs will be reviewed by the requiring authority and as appropriate amended to the satisfaction of the Traffic Management Project Governance Group.~~
- ~~44. In collaboration with Auckland Transport, the NZTA shall prepare a Network Integration Plan ("NIP") for the project, or relevant project phases, to demonstrate how the project integrates with the existing local road network and with future improvements (identified in NZTA's Western Ring Route (Northwest) Network Plan, dated September 2010) planned by the Auckland Council. The NIP shall include details of proposed physical works at the interface between the State Highway and the local road network, and shall address such matters as pedestrian/ cycleways, lane configuration, traffic signal co-ordination, signage and provision for buses. In addition, the NIP is to address:
  - ~~(a) The commitment of the NZTA to progress bus priority measures northbound on Great North Road as part of the reinstatement of Great North Road, as proposed by Auckland Transport. This is subject to the agreement with Auckland Transport;~~
  - ~~(b) How the works committed to by the NZTA for pedestrian and cycleways, as detailed in the PT and Active Mode Transport Routes Plan Set (condition DC.1(d) of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent) integrate with pedestrian and cycleways on the wider transport network;~~~~

- (e) The commitment of the NZTA to provide for cycle “aspects” (cycle signal lights) at the Great North Road Interchange.

Works identified in the NIP which are the responsibility of the NZTA will be undertaken as at the time of construction works for the project.

## **GEOTECHNICAL**

45. The proposed development must be generally located as indicated on the Aurecon drawings “General Arrangement Sheets 1 to 8” dated 31-05-2013 (ref: 215023-D-C-100-001 Rev D to 007 Rev D and 215023-D-C-100-008 Rev B).
46. A further detailed geotechnical investigation must be undertaken to confirm design parameters including foundation depths for the St Lukes interchange widening (including both the proposed new bridge and any widening to the approach ramps, including the new retaining wall for Chamberlain Golf Course) plus the new cycleway bridge and abutments and the stormwater pond.
47. Any foundations and piles plus the excavation for these must be specifically designed by a chartered professional structural engineer based on the above detailed geotechnical investigation and the Aurecon study (Ref: ‘Indicative Constructability Report: SH16 St Lukes Interchange Project’, prepared by Aurecon and dated 24 April 2013 and ‘Indicative Constructability Report Addendum – RW126 Westbound Off-Ramp Wall’, prepared by Aurecon and dated 17 January 2014).
48. A chartered professional engineer with experience of geotechnics shall inspect and certify any pile holes for foundations and any retaining works.
49. Any foundations in the vicinity or that span over the reinforced earth retaining structure of the current St Lukes Rd overbridge must be suitably designed to ensure the retaining structure is not damaged.
50. A chartered professional engineer with appropriate experience shall design the groundwater control measures.
51. All temporary excavations (except those in rock) unless suitably designed by a chartered professional engineer are limited to an open face of not more than 3 metres horizontal distance at any one time and shall be limited to an unsupported gradient of 1 vertical to 2 horizontal.
52. Excavations through any basalt shall be inspected by a chartered professional engineer with experience of geotechnical engineering or an experienced engineering geologist who shall advise the Major Infrastructure Projects Team Manager on the stability of the excavation and any requirement for support measures (including any necessity for rock bolting or netting etc).
53. All excavations (other than in rock) that intercept a line 1 vertical to 2 horizontal from an adjacent boundary are to be retained with a suitable retaining structure designed for at-rest conditions.
54. Construction works shall be under the control of a chartered professional engineer with experience of geotechnical engineering. The construction works shall follow the recommendations of the detailed geotechnical report for foundation types (including depth of foundations required), retaining works and earthworks, including temporary works and any required stability measures) provided with the AEE (Ref: ‘Indicative Constructability Report: SH16 St Lukes Interchange Project’, prepared by Aurecon and dated 24 April 2013 and ‘Indicative Constructability Report Addendum – RW126 Westbound Off-Ramp Wall’, prepared by Aurecon and dated 17 January 2014). This will include supervision of piling, excavations, the foundations, retention measures and floor slabs. Provision must be made for over deepening of any foundations where soft or weak soils are encountered.
55. Prior to commencement of any works on the site, the requiring authority shall provide to the Major Infrastructure Projects Team Manager, a site management plan (“SMP”) that includes an excavation and construction methodology acceptable to the Council that shall include specific details relating to the construction/management/ monitoring of all works associated

~~with the SH16 St Lukes Western Ring Route Project. The Major Infrastructure Projects Team Manager shall have approved the SMP prior to construction works commencing. The approved SMP shall be implemented and maintained throughout the entire works period. Items to be included in the construction methodology are:~~

- ~~(a) Key inspection stages during excavation, retaining and foundation construction;~~
  - ~~(b) Timeframes for exposed excavated ground;~~
  - ~~(c) Monitoring procedures for vibration and noise;~~
  - ~~(d) Location and timeframes for temporary support of excavations.~~
56. ~~No fill material shall be placed as part of the final development without being supervised by a chartered professional engineer with geotechnical experience.~~
57. ~~Excavations in exposed ground shall be protected from the detrimental effects of weathering e.g. by the use of polythene, basecourse or other similar methods. Alternatively, material damaged by the weather shall be removed to a depth determined by a chartered professional engineer with experience of geotechnics.~~
58. ~~All spread foundations should be founded a minimum of 600mm below cleared ground level and into natural ground or engineered made ground (fill). If non-engineered made ground exists at this level, then the excavation must be deepened to penetrate through the made ground and into the natural materials. For made ground greater than 1m depth, specific design of foundations is required.~~
59. ~~All stormwater from any new hard surfaces and any groundwater collected from behind retaining walls is to be collected and disposed of to an appropriate reticulated or otherwise Council approved system.~~
60. ~~The requiring authority shall implement appropriate sediment control measures prior to and during all earthworks to ensure that all stormwater runoff from the site is managed and controlled to ensure that no silt, sediment or water containing silt or sediment is discharged into stormwater pipes, drains, channels or soakage systems in accordance with the Auckland Council "Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region", June 2016, Guideline Document 20161005.~~
61. ~~Prior to any work commencing on the site, the requiring authority shall submit to the Major Infrastructure Projects Team Manager for approval, a plan of action to arrest and remedy any adverse effects that may occur to any adjacent structure in the event the structure may be affected during construction.~~

## **LIGHTING**

62. ~~Lighting shall be designed and screened to minimise the amount of lighting overspill and illumination of residential areas in general accordance with the 'SH16 St Lukes Adverse Environmental Effects Report — Street Lighting', prepared by Aurecon and dated 30 September 2013 and 'The Obtrusive Light — Compliance Report for the westbound off-ramp', prepared by Aurecon and dated 9 December 2013 and the plans referenced in series '215023-D-E-161'. All lighting shall be designed in accordance with relevant rules provided in Part 13 of the Auckland City Bylaw (April 2008).~~
63. ~~A Temporary Construction Lighting Management Plan shall be prepared for all construction zones and construction yards prior to commencement of any night time works within the construction zones and construction yards. The Temporary Construction Lighting Management Plan shall be independently verified by a lighting specialist and that verification shall be provided to the Major Infrastructure Projects Team Manager, Auckland Council for certification of compliance 10 working days prior to any night time work commencing.~~

~~The certification process shall ensure that the Temporary Construction Lighting Management Plan includes (but is not limited to):~~

- ~~(a) The layout and arrangement of all temporary lighting required for night time works, and that shows that the temporary lighting complies with relevant rules provided in the~~

Unitary Plan;

- (b) ~~Provision for a 10m buffer between the night time work and any residential boundary at all times to minimise potential for light spill; and~~
  - (c) ~~General operating procedures requiring lighting as outlined in the CEMP.~~
64. ~~Asymmetrical floodlights with horizontal glass visors that are not raised more than 3 degrees above the horizontal plane shall be used for any temporary construction night time lighting requirements. Alternative temporary lighting arrangements may be used, subject to the prior approval of the Major Infrastructure Projects Team Manager, Auckland Council, where it can be demonstrated to the satisfaction of the Team Manager that the proposed lighting is similar or better to asymmetrical floodlights with glass visors. Glare shall be kept below the recommendation given in AS 4282 – 1997 “Control of the Obtrusive Effects of Outdoor Lighting” Tables 2.1 and 2.2.~~

## **NOISE AND VIBRATION**

65. ~~The NZTA shall finalise and implement, through the CEMP, a Construction Noise and Vibration Management Plan (“CNVMP”) throughout the entire construction period of the project.~~

~~The CNVMP shall describe the measures adopted to meet:~~

- (a) ~~the noise criteria set out in CNV.2 and CNV.3 below;~~
- (b) ~~the vibration criteria set out in CNV.4 below; or~~
- (c) ~~where (a) or (b) cannot be met, the process that will be followed to appropriately mitigate noise and vibration effects including methods that may be applied outside the designation.~~

~~The CNVMP shall be provided to the Major Infrastructure Projects Team Manager, Auckland Council at least 20 working days prior to construction activities being undertaken for review and certification that the CNVMP, as a minimum, addresses the following:~~

- (i) ~~Construction noise and vibration criteria CNV.2, CNV.3, and CNV.4 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent;~~
- (ii) ~~Hours of operation, including times and days when noisy and/or vibration inducing construction activities would occur;~~
- (iii) ~~Machinery and equipment to be used as part of construction works;~~
- (iv) ~~Vibration testing of equipment to confirm safe distances to buildings prior to construction;~~
- (v) ~~Preparation of building condition surveys of critical dwellings prior to, during and after completion of construction works;~~
- (vi) ~~Roles and responsibilities of personnel on site;~~
- (vii) ~~Construction operator training procedures;~~
- (viii) ~~methods for monitoring and reporting on construction noise and vibration;~~
- (ix) ~~A hierarchy of mitigation options that will be assessed for the project noise mitigation, including alternative strategies where full compliance with the relevant noise and/or vibration criteria cannot be achieved;~~
- (x) ~~Management schedules containing site specific information;~~
- (xi) ~~Measures for liaising with and notifying potentially affected receivers of proposed construction activities and the potential for noise and vibration effects, specifically:~~
  - ~~Methods for ensuring residents affected by night works (within 100m of the construction site night works), are notified of such works (i.e. any works during the hours of 20:00~~

to 06:30) at least 5 days prior to the commencement of any such work.

- (xii) ~~Methods for receiving and handling complaints about construction noise and vibration;~~
- (xiii) ~~Measures for preventing the occurrence of rogue fly rock, including management of charge weights and face loading procedures, stemming of charge holes and profiling of the face to maintain minimum burden (face cover);~~
- (xiv) ~~Investigations on the practicability of implementing permanent noise mitigation works for construction mitigation in accordance with CNV.7 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent;~~
- (xv) ~~Investigations of the practicability of implementing building modification mitigation, as required in accordance with conditions ON.6 and ON.11 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent, prior to commencement of construction within 100m of the relevant Protected Premises and Facilities (“PPFs”) (including those on the Unitec site); and~~
- (xvi) ~~The process for developing Site Specific Noise Management Plans (“SSNMP”), and a certification process for the Major Infrastructure Projects Team Manager, Auckland Council in accordance with CNV.13 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent to confirm the process of SSNMP review of noise mitigation options where the modelled/ predicted levels or subsequent actual levels exceed the criteria in CNV.2 and/or CNV.4 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent.~~

66. ~~Except where certified by the Council through the SSNMP in accordance with CNV.13, construction noise (excluding noise from blasting Monday to Saturday inclusive) shall be measured and assessed in accordance with NZS 6803:1999 “Acoustics – Construction Noise” and shall comply with the following criteria:~~

~~*Note: In this condition, (T) means a duration between 15 minutes and 60 minutes, in accordance with NZS6803:1999.*~~

~~(a) Project Construction Noise Criteria: Residential Receivers~~

Time of the week	Time Period	Project Construction Noise Criteria –			
		Sector 6 Works, dBA		St Lukes Bridge Works (dBA)	
		L <sub>eq</sub>	L <sub>Max</sub>	L <sub>eq</sub>	L <sub>Max</sub>
Monday to Saturday	0630-0730	60	75	55	75
	0730-1800	70	85	70	85
	1800-2000	65	80	65	80
	2000-0630	60	75	50	75
Sunday and Public Holidays	0630-0730	45	75	45	75
	0730-1800	60	85	55	85
	1800-2000	45	75	45	75
	2000-0630	45	75	45	75

(b) Project Construction Noise Criteria: Commercial and Industrial Receivers

Time Period	Project Construction Noise Criteria (Long Term Construction) dB
	$L_{Aeq}(T)$
0730-1800	70
1800-0730	75

(c) Project Construction Noise Criteria: Internal noise for Licensed Educational Facilities

Time Period (School Days)	Project Construction Noise Criteria Inside
Teaching Hours	45 dB $L_{Aeq}(T)$ or existing, whichever is the higher Classrooms, library, offices, teaching, laboratories, manual, arts, workshops
Teaching Hours	40 dB $L_{Aeq}(T)$ or existing, whichever is the higher School hall, lecture theatre

*Note: In part (c) of this condition "Teaching hours" means: Primary schools and Kindergartens: 9am to 3pm Unitec: 8am to 9pm*

67. Project Construction Noise Criteria: Airblast (excluding Sundays)

Category	Type of Blasting Operations	Peak Sounds Level ( $LZ_{peak}$ dB)
Human Comfort Limits		
Sensitive Site	Operations lasting longer than 12 months or more than 20 blasts	115 dB for 95% blasts per year. 120 dB maximum unless agreement is reached with occupier that a higher limit may apply
Sensitive Site	Operations lasting less than 12 months or less than 20 blasts	120 dB for 95% blasts per year. 125 dB maximum unless agreement is reached with occupier that a higher limit may apply

Occupied non-sensitive sites such as factories and commercial properties	All blasting	125 dB maximum unless agreement is reached with the occupier that a higher limit may apply. For sites containing equipment sensitive to vibration, the vibration should be kept below manufacturer's specifications of levels that can be shown to adversely affect the equipment operation
<b>Damage Control Limits</b>		
Structures that include masonry, plaster and plasterboard in their construction and also unoccupied structures of reinforced concrete or steel construction	All Blasting	133 dB unless agreement is reached with owner that a higher limit may apply.
Service structures such as pipelines, powerlines and cables located above ground	All Blasting	Limit to be determined by structural design methodology

68. Except where certified by the Council through the SSNMP in accordance with CNV.13 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent, construction vibration received by any building shall be measured and assessed in accordance with the German Standard DIN 4150-3:1999 “Structural vibration – Part 3: Effects of vibration on structures”, and shall comply with the following criteria:

Type of Structure	Short-term vibration			Long-term vibration	
	PPV at the foundation at the frequency of			PPV at horizontal plane of highest floor (mm/s)	PPV at horizontal plane of highest floor (mm/s)
	1-10Hz (mm/s)	1-50 10Hz (mm/s)	50-100 10Hz (mm/s)		
Commercial/Industrial	20	20-40	40-50	40	10
Residential/School	5	5-15	15-20	15	5
Historic or Sensitive Structures	3	3-8	8-10	8	2.5

69. Notwithstanding condition 67:

- (a) ~~Blasting activities shall be conducted so that at least 95% of the blasts undertaken (measured over any twenty blasts on the foundation of any building outside the designation boundary) shall produce peak particle velocities not exceeding 5mm/s and 100% of the blasts undertaken shall produce peak particle velocities not exceeding 10mm/s irrespective of the frequency of the blast measured.~~
- (b) ~~Construction activities, which occur within Sectors 1, 6, 8 and 9 of the Waterview Connection Project which are identified in the Technical Report no. G.19 Assessment of Vibration Effects, submitted with the AEE for the Waterview Connection Project, as being at a 'High Risk' of exceeding the DIN 4150-3:1999 criteria (being excavation, piling, compaction and drilling) shall be conducted so that 95% of the activities undertaken (measured over at least 20 representative samples of the relevant activity on any residential building) shall produce peak particle velocities not exceeding the relevant criterion in DIN 4150-3:1999 and 100% of the activities undertaken shall not exceed 10mm/s irrespective of the frequency of the activity measured.~~

70. ~~Blasting shall be undertaken between 09:00h and 17:00h, Monday to Saturday, except that blasting may be undertaken between 09:00h and 17:00h on Sundays where:~~

- (a) ~~The blasting produces peak particle velocities at any residential building not exceeding 0.5mm/s; and~~
- (b) ~~The project construction noise criteria set out in CNV.2 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent for Sundays are complied with.~~

71. ~~Where practicable, the permanent (traffic) noise barriers detailed in the Noise Walls and Fences plans (referenced in plan series '215023-D-C-918-001') shall be erected prior to noise generating construction works commencing. Where this is not practicable, temporary noise mitigation measures shall be implemented by the consent holder in accordance with the CNVMP prior to noise generating construction works commencing.~~

72. ~~Pile driving or pile removal shall not be undertaken at night (i.e. during the hours of 20:00–06:30).~~

73. ~~Construction SSNMPs required by CNV.1(xvi) of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent shall be submitted to Major Infrastructure Projects Team Manager, Auckland Council for review and certification at least 7 working days prior to the proposed works commencing.~~

*Advice Note:*

*A decision will be provided by the Council within 5 working days of receipt of the SSNMP.*

~~Works are not to commence until certification is received from the Major Infrastructure Projects Team Manager, Auckland Council. The Council may, in its sole discretion, waive the requirement for individual SSNMPs to be submitted to the Council where an SSNMP is required.~~

~~If monitoring shows that construction noise levels specified in an approved SSNMP are being exceeded, the work generating the exceedance is to stop and not recommence until further mitigation is implemented in accordance with an amended SSNMP approved by the Major Infrastructure Projects Team Manager, Auckland Council.~~

*Advice note:*

*It is accepted that the criteria of CNV.2 and CNV.4 of the Final Report and Decision of the Board of Inquiry into the NZTA Waterview Connection Proposal – Volume 2 Conditions of Consent may not be met at all times, but that the NZTA will take all practical steps to achieve compliance, taking into account the hierarchy of mitigation options outlined in CNV.1 (ix) of the Final Report and Decision of the Board of Inquiry into the NZTA*



74. Existing ambient vibration levels shall be measured at critical locations nominated by the NZTA, and submitted to the Major Infrastructure Projects Team Manager, Auckland Council for approval prior to the commencement of works. These baseline measurements will establish pre-project vibration levels for comparison with future vibration levels.
75. The NZTA shall implement the traffic noise mitigation measures identified in the Acoustic Report prepared by Aurecon and dated 14 October 2013 (Ref: 'SH16 – Sector 6: Changes in Noise and Vibration Effects', 'Widening of St Lukes Bridge: Assessment of Construction Noise and Vibration Effects', and 'St Lukes Bridge Widening: Assessment of Operational Noise Effects') and dated 5 March 2013 (Ref: 'SH16 – Sector 6: Road Traffic Noise Assessment'), and dated 10 December 2013 (Ref: 'SH16 – St Lukes Road Westbound Off-Ramp Realignment: Assessment of Noise and Vibration Effects').

## **GENERAL DESIGNATION CONDITIONS (DC)**

### **DC.1**

Except as modified by the conditions below, and subject to final design, the Project shall be undertaken in general accordance with the information provided by the Requiring Authority in the Notice of Requirement dated December 2016, and in particular, the following supporting documents:

(a) Part C: Description of the Project in Volume 1: Assessment of Effects on the Environment Report dated December 2016;

(b) The following plan sets in Volume 2: Drawing Set:

- (i) Plan Set 3: Road Alignment
- (ii) Plan Set 4: Landscape
- (iii) Plan Set 6: Plan and Long Section
- (iv) Plan Set 7: Typical Cross Section
- (v) Plan Set 8: Structural
- (vi) Plan Set 12: Utilities Relocation

(bb) Except as modified by the revised plans and plan sets presented at the close of the BoI hearing which are listed in Appendix 1.

(c) The Key Design Principles and Sector Outcomes of the Project's Urban and Landscape Design Framework dated November 2016 and Addendum dated December 2016; and

(d) The Draft Construction Traffic Management Plan Framework.

### **DC.1A**

For Notice of Requirement to Alter Designation 6718 (NoR 2) dated December 2016, the conditions only apply to Construction Works described in NoR 2 and include Construction Works on land within the existing designation for SH1 between approximately Clemow Drive and the location where Trenwith Street passes under SH1.

## **DC.2**

Except where explicitly provided for, the construction related conditions of this designation do not apply to works associated with on-going operation and maintenance of the State highway following construction, such as changes to street furniture or signage over time. The provisions of section 176A of the RMA apply to on-going operation, maintenance or other works within the designation.

## **DC.3**

The Project website shall include these conditions and the plans and reports referred to in these conditions prior to and throughout Construction Works, and a hard copy shall be available at the Project site office(s).

## **DC.4**

Where there is inconsistency between:

(a) The documents listed in Condition DC.1 above and the requirements of these conditions, these conditions shall prevail;

(b) The information and plans lodged with the NoR and further information provided post lodgement, the most recent information and plans shall prevail; and

(c) The draft management plans and/or management plan frameworks lodged with the NoR and the management plans required by the conditions of this designation and submitted through the Outline Plan process, the requirements of the management plans as set out in the relevant conditions shall prevail.

## **DC.5**

As soon as practicable following Completion of Construction, the Requiring Authority shall:

(a) Review the extent of the area designated for the Project;

(b) In consultation with the relevant landowners, identify any areas of designated land that are no longer necessary for the on-going operation, maintenance or mitigation of effects of the Project. For the avoidance of doubt, this shall include the designated land on the Onehunga Wharf to the south of the EWL Trench and shared path;

(c) Identify any areas of designated land that apply to local roads to be vested in Auckland Council; and

(d) Give notice to the Manager in accordance with section 182 of the RMA for the removal of those parts of the designation identified in (b) and (c) above.

## **DC.6**

The designation shall lapse if not given effect to within 15 years from the date on which it is included in the Auckland Unitary Plan under section 175 of the RMA.

## **Outline Plan(s) – General**

### **DC.7**

An Outline Plan or Plans shall be prepared in accordance with section 176A of the RMA.

### **DC.8**

Any Outline Plan or Plans may be submitted in parts or in stages to address particular activities (e.g. design or construction aspects) or to reflect the staged implementation of the Project.

**DC.9**

The Outline Plan or Plans shall include the following plans for the relevant stage(s) of the Project:

- (a) Construction Noise and Vibration Management Plan (CNVMP) prepared in accordance with Condition CNV.1;
- (b) Construction Traffic Management Plan (CTMP) in accordance with Condition CT.1;
- (c) Heritage Management Plan (HMP) in accordance with Condition HH.3; and
- (d) Urban and Landscape Design Master Plan (ULDMP) in accordance with Condition LV.1.

**DC.10**

The CNVMP, CTMP, HMP and ULDMP may be amended following submission of the Outline Plan(s) if necessary to reflect any changes in design, construction methods or management of effects. Any amendments are to be discussed with and submitted to the Manager for information without the need for a further Outline Plan process, unless those amendments once implemented would result in a materially different outcome to that described in the original plan.

For the avoidance of doubt, this condition does not apply to any Site Specific Construction Noise Management Plan, Site Specific Construction Vibration Management Plan, Site Specific Traffic Management Plan or other management plans required by the conditions of these designations. These management plans do not form part of the OPW.

**DC.11**

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**DC.11A**

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**DC.11AA**

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**DC.11B**

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**DC.12**

The Requiring Authority shall consult with Auckland Transport during the preparation of the Outline Plan(s) in relation to:

- (a) Local roads, including walking and cycling and public transport facilities, and other interfaces between the State highway and local roading networks; and
- (b) The proposed Auckland Transport projects identified in Condition DC.12A of Designation 6774, East West Link, Designations, New Zealand Transport Agency.

The Outline Plan(s) shall detail the input and comments from Auckland Transport, describe how this has been incorporated into the design and, where any input has not been incorporated, set out the reason why.

**DC.12A**

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**DC.13A**

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**DC.13B**

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**DC.13C**

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**DC.13D**

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**DC.13E**

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**DC.13F**

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**DC.13G**

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**DC.14A**

Left intentionally blank.

**DC.14B**

Left intentionally blank.

**DC.14C**

Left intentionally blank.

**DC.15A**

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**DC.15B**

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**DC.15C**

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**DC.15D**

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**DC.15E**

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**COMMUNICATION AND SOCIAL (CS)**

**Liaison person**

**CS.1**

A Project Liaison Person shall be appointed by the Requiring Authority for the duration of the construction phase of the Project to be the main and readily accessible point of contact for persons affected by Construction Works. The Requiring Authority shall take appropriate steps to advise all affected parties of the liaison person's contact details. This person must

be reasonably available for on-going consultation on matters of concern to affected persons arising from Construction Works. If the liaison person will not be available for any reason, an alternative contact shall be provided, to ensure that a Project contact person is available by telephone 24 hours per day/seven days per week during the construction phase of the Project.

The Requiring Authority shall inform the Manager of the Project Liaison Person's contact details 20 working days prior to the Commencement of Construction and/or Enabling Works for the Project.

## **Communications Plan**

### **CS.2**

Prior to the Commencement of Construction and/or Enabling Works, the Requiring Authority shall prepare and implement a **Communications Plan**.

The purpose of the plan is to set out procedures detailing how the public, stakeholders, businesses and residents will be communicated with throughout the pre-construction and construction phases of the Project.

As a minimum, the Communications Plan shall include:

(a) Details of the Project Liaison Person (Condition CS.1). The contact details shall be on the Project website and prominently displayed at the entrance to the site(s) so that they are clearly visible to the public at all times;

(b) A list of stakeholders, organisations, businesses and residents who will be communicated with;

(c) Methods to consult on and to communicate the proposed hours of construction activities outside of normal working hours and on weekends and public holidays, to surrounding businesses and residential communities, and methods to deal with concerns raised about such hours;

(d) Methods to record concerns raised about hours of construction activities and methods to avoid particular times of day which have been identified as being particularly sensitive for neighbours;

(e) Methods to provide early notification to businesses of construction activities.

(f) Methods to consult with businesses to identify and implement:

(i) Measures to maximise opportunities for pedestrian and service access to businesses that will be maintained during construction;

(ii) Measures to mitigate potential severance and loss of business visibility issues by way-finding and supporting signage for pedestrian detours required during construction;

(iii) Other measures to assist businesses to maintain customer accessibility, including but not limited to customer information on temporary parking or parking options for access;

(iv) Other measures to assist businesses to provide for service delivery requirements; and

(v) The process (if any) for re-establishment and promotion of normal business operation following construction.

(g) Any stakeholder/business specific communication plans required;

(h) Details of communications activities proposed including:

(i) Publication of newsletters, or similar, and proposed delivery areas;

(ii) Information days, open days or other mechanisms to facilitate community engagement;

(iii) Newspaper advertising;

(iv) Notification and consultation with business owners and operators and individual property owners and occupiers with premises/dwellings within 100 metres of active construction;

(v) Identify processes, mechanisms and / or specific methods to facilitate two-way communication with those with impairments or for those for whom English is a second language;

(vi) The use of social media tools.

(i) Details of the Project website for providing information to the public;

(i) Linkages and cross-references to communication methods set out in other conditions and management plans where relevant (e.g. consultation); and

(k) Details of when the Plan will be reviewed and amended.

The Communications Plan shall be provided to the Manager for information 20 working days prior to Commencement of Construction and following any material amendments of the Plan.

### **Community Liaison Groups**

#### **CS.3**

(a) The Requiring Authority shall establish and co-ordinate a Community Liaison Group (CLG) in each of the following areas at least 3 months prior to the Commencement of Construction in each of those areas:

(i) Onehunga and Penrose including the Onehunga Harbour Road and Onehunga Mall Cul-de-Sac residential area and Māngere Bridge; and

(ii) State Highway 1 including the Ōtāhuhu and Panama Road residential areas.

(b) The purpose of the CLG is to provide a means for:

(i) Sharing information on design (including the ULDMPs prepared under Condition LV.1), Construction Works and programme;

(ii) Reporting and responding to concerns and issues raised in relation to Construction Works; and

(iii) Monitoring the effects on the community arising from Construction Works in these areas.

(c) The Requiring Authority shall assist the CLG to hold regular meetings (at least once every three months) throughout the construction period in these areas. The CLG shall continue until six months after Completion of Construction so that on-going monitoring information can continue to be shared, discussed and responded to. The frequency and

duration of the meetings can be reduced where the majority of the members of the group agree.

(d) In addition to the Project Liaison Person and representative(s) of the Requiring Authority and its principal construction contractor, membership of the CLG shall be open to all interested parties within the Project area including, but not limited to representatives of the following groups:

- (i) Council, Auckland Transport and other Council Controlled Organisation;
- (ii) Department of Conservation;
- (iii) Mana Whenua;
- (iv) Business groups;
- (v) Community/environmental/historical groups;
- (vi) Transport user groups;
- (vii) Local Boards;
- (viii) Local residents and business owners/operators;
- (ix) Representatives from those organisations identified in the Communications Plan (as required by Condition CS.2); and
- (x) Ministry of Education.

(e) The Requiring Authority shall prepare an agenda for each meeting and prepare minutes recording actions. A copy of the minutes shall be provided to the meeting invitees within a reasonable time following the meeting.

(f) The Requiring Authority shall be responsible for all reasonable costs associated with resourcing of the CLGs.

## **Business Forums**

### **CS.4**

(a) The Requiring Authority shall establish and coordinate **Business Forums** in each of the following industrial/commercial areas, or a combined Business Forum in two or more of those areas, at least 3 months prior to Commencement of Construction in those areas:

- (i) Onehunga (including businesses on Neilson Street (east), Onehunga Mall, Onehunga Harbour Road, Galway Street and Gloucester Park Road);
- (ii) Onehunga Industrial (including businesses on Neilson Street (west), Captain Springs Road, Miami Parade and Hugo Johnston Drive);
- (iii) Sylvia Park Road (including Pacific Rise, Great South Road and Vestey Drive);  
and
- (iv) SH1 (including Vestey Drive, Monahan Road and Clemow Drive).

(b) In addition to the Project Liaison Person and representative(s) of the Requiring Authority and its principal construction contractor, membership of the Business Forum(s) shall be open to all interested parties within the Project area including, but not limited to representatives of the following groups:

- (i) Business owners;

(ii) Land owners;

(iii) Business groups including the Onehunga Business Association;

(iv) Road carriers / freight operators in the area and NZ Heavy Haulage Association;  
and

(v) Auckland Transport.

(c) The purpose of the Business Forums is to provide a forum for:

(i) Timely provision of information on the Construction Works and programme and planned business and community activities;

(ii) Reporting and responding to concerns and issues raised in relation to Construction Works; and

(iii) Monitoring the effects on the business community arising from Construction Works in these areas.

(d) The Requiring Authority shall assist the Business Forum(s) to hold regular meetings (at least once every three months) throughout the construction period in these areas. The Business Forum(s) shall continue until six months after Completion of Construction so that on-going monitoring information can continue to be shared, discussed and responded to. The frequency and duration of the forums can be reduced where the majority of the members of the group agree.

(e) In addition to the general purpose set out in (b) above, the matters to be considered by the Business Forums may include, but are not limited to, the following matters:

(i) The timing of construction activities including consideration of specific operational requirements for businesses;

(ii) Temporary traffic management including closures, detours, parking restrictions and signage; and

(iii) Alternative access to and from businesses during construction.

(f) The Requiring Authority shall prepare an agenda for each meeting and prepare minutes recording actions. A copy of the minutes shall be provided to the meeting invitees within a reasonable time following the meeting.

(g) The Requiring Authority shall be responsible for all reasonable costs associated with the resourcing of the Business Forum.

## **Complaints Management**

### **CS.5**

At all times during Construction Works, the Requiring Authority shall maintain a record of any complaints received in relation to the Construction Works.

The record shall include:

(a) The name and address (as far as practicable) of the complainant;

(b) Identification of the nature of the complaint;

(c) Location, date and time of the complaint and of the alleged event giving rise to the complaint;



(d) The weather conditions at the time of the complaint (as far as practicable), and including wind direction and approximate wind speed if the complaint relates to air quality or noise.

(e) The outcome of the Requiring Authority's investigation into the complaint;

(f) Measures taken by the Requiring Authority to respond to the complaint or confirmation of no action if deemed appropriate;

(g) Any other activities in the area, unrelated to the Project that may have contributed to the complaint, such as non-project construction, fires, traffic accidents or unusually dusty conditions generally; and

(h) The response provided to the complainant.

The Requiring Authority shall also keep a record of any remedial actions undertaken.

The complaints record shall be made available to the Manager upon request.

### **CS.6**

The Requiring Authority shall respond to a complaint related to Construction Works as soon as reasonably practicable and as appropriate to the circumstances.

## **RECREATION AND OPEN SPACE (ROS)**

### **ROS.1**

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### **ROS.2**

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## **Open Space Reinstatement Plans**

### **ROS.3**

Prior to any works that affect Auckland Council parks and open space, the Requiring Authority shall prepare a register of assets and a photographic record of the preconstruction state of the parks and open space. This shall be provided to the Manager prior to construction commencing.

### **ROS.4**

(a) The Requiring Authority shall prepare a Reinstatement Plan in consultation with the landowner for the following parks and reserves (or parts thereof) directly impacted by Construction Works:

(i) Gloucester Park North and South;

(ii) Waikaraka Park; and

(iii) Bedingfield Memorial Park.

(b) Where other areas of open space are affected by Construction Works, the reinstatement of those areas shall be based on a like-for-like reinstatement based on the record prepared under ROS.3.

(c) The purpose of the Reinstatement Plans is to provide details of the reinstatement works in open space areas directly affected by construction works.

(d) The Reinstatement Plans shall:

(i) Be prepared in accordance with the ULDMP for the area prepared under Condition LV.1;

(ii) Include details for the reinstatement of land used for Construction Works including:

- Removal of structures, plant and materials associated with construction (unless otherwise agreed with the landowner);
- Replacement or reinstatement of boundary fences to the same or similar type to that removed (as recorded through Condition ROS.3);
- Reinstatement of grassed areas to a similar condition as existed prior to construction;
- Replacement of trees and other planting removed for Construction Works on a one-for-one basis (or as otherwise agreed with the landowner);
- Details of way finding and interpretation signage within and adjacent to the open space.

(iii) Include record of consultation and agreement with the landowner; and

(iv) Take account of any Council management plans prepared for the park, reserve or area of open space.

(e) The Reinstatement Plan shall be provided to the Manager and implemented within 3 months of Completion of Construction, or at a later date as agreed with the landowner.

#### **ROS.5**

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#### **ROS.6**

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#### **ROS.6A**

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#### **ROS.7**

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### **NETWORK UTILITIES (NU)**

#### **Design – Permanent Access to Network Utilities**

##### **NU.1A**

The Requiring Authority shall design permanent batters, retaining walls, crash barriers, fencing, acoustic barriers, and other such physical measures to be constructed as part of the Project in a manner which does not prevent practical ongoing access to existing and relocated Network Utilities during construction and operation of the works authorised by the designation.

##### **NU.1B**

If, prior to the Commencement of Construction, Transpower has developed a proposal to underground any transmission line through the designated land of a sufficient detail of design that resource consents and/or a notice of requirement could be sought by Transpower, the Requiring Authority shall take all reasonable measures to accommodate that work in the design and construction of the EWL.

The measures taken to accommodate any proposed undergrounding of transmission lines shall be set out in the Outline Plan or Plans prepared in accordance with Condition DC.7.

### **Design – New Network Utilities Opportunities**

#### **NU.2**

The Requiring Authority shall consult with Network Utility Operators during the detailed design phase to identify opportunities to enable, or to not preclude, the development of new network utility and telecommunications facilities within the Project, where practicable to do so.

The consultation undertaken, opportunities considered, and whether or not they have been incorporated into the detailed design, shall be summarised in the Outline Plan or Plans prepared in accordance with Condition DC.7.

### **Utilities Management Plan**

#### **NU.3**

(a) The Requiring Authority shall prepare and implement a **Network Utilities Management Plan** (NUMP). The NUMP shall be prepared in consultation with the Network Utility Operators who have existing assets that are directly affected by the Project.

(b) The purpose of the NUMP is to ensure that the design and construction of the Project takes account of, and includes measures to, address the safety, integrity, protection and (where necessary) the relocation of existing network utilities.

(c) The NUMP shall include methods and measures to:

(i) Ensure that network utilities can be accessed for maintenance at all reasonable times, or emergency works at all times, during construction activities;

(ii) Manage the effects of dust and any other material potentially resulting from construction activities and able to cause material damage, beyond normal wear and tear, to overhead high voltage transmission lines through the Project area ; and

(iii) Ensure that no activity is undertaken during construction that would result in ground vibrations, ground instability and/or ground settlement likely to cause material damage to network utilities.

(d) Demonstrate compliance with relevant standards and Codes of Practice including:

i) NZECP 34:2001 New Zealand Electrical Code of Practice for Electrical Safe Distances 2001; and

ii) AS/ONZS 4853:2012 Electrical hazards on Metallic Pipelines.

(e) The NUMP shall also include the specific matters set out in Conditions NU.5 – NU.9.

(f) At least 40 working days prior to commencement of Construction Works affecting a network utility, the Requiring Authority shall provide a draft of the NUMP to the relevant Network Utility Operator for review and comment. The NUMP shall describe how the input from the Network Utility Operator in relation to its assets has been incorporated. The Requiring Authority shall consider any comments received from the Network Utility Operator when finalising the NUMP.

(g) Any amendments to the NUMP related to assets of a Network Utility Operator shall be prepared in consultation with that asset owner.

#### **NU.4**

A copy of the NUMP shall be provided to the Manager for information at least 20 working days prior to the commencement of any Enabling Works or Commencement of Construction where those enabling or Construction Works impact on network utilities.

#### **NU.5**

(a) The NUMP shall include procedures, methods and measures to manage effects of the construction works on the following transmission lines:

- (i) Māngere-Mt Roskill A 110 kV Line;
- (ii) Penrose – Mt Roskill A 110 kV Line; and
- (iii) Henderson – Ōtāhuhu A 220 kV Line.

(b) The NUMP shall include:

(i) Details of any dispensations and associated procedures, methods and measures agreed with Transpower for construction works that cannot meet New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP 34:2001) or any subsequent revision of the code;

(ii) For all other works, procedures, methods and measures to demonstrate how construction works will meet the safe distances within the NZECP 34:2001 or any subsequent revision of the code and including specific measures and methods relating to:

- Excavation or disturbance of the land around any Transpower transmission support structures under Clause 2.2.3;
- Building to conductor clearances under Section 3;
- Depositing of material under or near overhead electric lines under Clause 4.3.1;
- Mobile plant or load to Transpower transmission lines under Clause 5.2;
- People to conductor clearances; and
- Warning notices during use of mobile plant in proximity of overhead lines under Clause 5.

(iii) Details of measures to control induction and transferred voltages and Earth Potential Rise where use of conductive material for road infrastructure or relocated network utilities is within 12 metres of the outer foundations of any transmission tower or proposed tower or monopole;

(iv) Details of areas within which additional management measures are required, such as fencing off, entry and exit hurdles and the minimum height for any hurdles;

(v) Details of contractor training for those working near transmission lines and other assets; and

(vi) Provision for Transpower involvement in contractor briefings for works involving the following:

- Works within 12m of any Transpower overhead transmission line support structure;
- Works within the maximum extent of line swing (at maximum operating temperature) of any Transpower overhead transmission line; and

- Works within 20m of or encroaching into the Southdown Rail Supply Substation.

#### **NU.6**

(a) The NUMP shall include procedures, methods and measures to manage effects of the construction works on the following Watercare assets:

- (i) Hunua 1 at Sylvia Park Road/Great South Road intersection;
- (ii) Sylvia Park watermain;
- (iii) Hunua 3 transmission watermain;
- (iv) Hunua 4 transmission watermain;
- (v) Eastern Interceptor Westfield Siphon; and
- (vi) Onehunga Harbour Road watermain.

(b) The NUMP shall:

- (i) Demonstrate how construction works will meet safety procedures required by Watercare for works within the vicinity of its assets; and
- (ii) Describe the areas within which additional management measures are required; and
- (iii) Describe the process for obtaining approval from Watercare before works commence within close proximity to Watercare assets under the Water Supply and Wastewater Network Bylaw 2015.

#### **NU.7**

Left intentionally blank.

#### **NU.8**

The NUMP shall include procedures, methods and measures to manage effects of the construction works on Spark assets, and in particular, shall include provisions so that:

(a) The relocated AOHB Otāhuhu cellular site at Princes Street is fully operational prior to decommissioning of the existing AOHB Otāhuhu cellular site; and

(b) The relocated and/or reconfigured AHAM Hamlins Hill cellular site at Great South Road is fully operational before the existing AHAM Hamlins Hill site Radio Frequency coverage is impacted by the construction of the EWL Project.

#### **Network Utility Approvals**

##### **NU.9**

The Requiring Authority shall not require Auckland Transport or Network Utility Operators with existing infrastructure within the designated land to seek written consent under section 176 of the RMA for on-going access to enable work associated with the routine construction, operation and maintenance of existing assets. To the extent that written approval is required, this condition shall constitute written approval.

##### **Advice Note:**

*In addition to the RMA processes, there are other additional processes and approvals applying to any work or activity that affect network utilities. The Requiring Authority may*

require additional approvals from Network Utility Operators prior to any works commencing in proximity to network utilities.

## **MANA WHENUA COLLABORATION (MW)**

### **Mana Whenua Group**

#### **MW.1**

(a) Six months prior to the Commencement of Construction, the Requiring Authority shall invite mandated representatives of Mana Whenua to participate in a Mana Whenua Group (MWG).

(b) The purpose of the MWG is to facilitate engagement between the Requiring Authority and Mana Whenua in respect of the activities authorised by this designation.

(c) The group will include invited representatives from:

(i) Ngāi Tai Ki Tāmaki;

(ii) Ngāti Maru;

(iii) Ngāti Paoa;

(iv) Ngāti Tamaoho;

(v) Ngāti Te Ata Waiohua;

(vi) Ngāti Whātua Ōrākei;

(vii) Te Ahiwaru;

(viii) Te Ākitai Waiohua;

(ix) Te Kawerau ā Maki; and

(x) Te Rūnanga o Ngāti Whātua.

(d) The MWG will hold regular meetings (at least three monthly) throughout the construction period. The MWG shall continue until six months after Completion of Construction. The frequency and duration of the meetings can be reduced or increased where the majority of the members of the group agree.

(e) The Requiring Authority shall record the main points arising from each meeting of the MWG, and shall provide a copy of that record to the meeting invitees within a reasonable time following the meeting.

(f) The Requiring Authority shall be responsible for all reasonable costs associated with the resourcing of the MWG.

#### **MW.2**

The MWG will be provided opportunities to review and comment on the following (amongst other things):

(a) The ULDMP, with particular reference to design elements of the following features:

i) Works in the vicinity of Te Hōpua a Rangi including how Mana Whenua artworks or design themes are incorporated and delivered into that design and nomination of an artist to design the artwork referred to in Condition LV.5B of Designation 6774, East West Link, Designations, New Zealand Transport Agency;

- ii) Design of the reclamation, coastal paths and boardwalk along the Mangere Inlet.
- iii) Landscape treatment (including plant species, plant sources and planting methodology), alignment and design of the recreation walkway, interpretive signage and other amenities along the Māngere Inlet foreshore recreation walkway;
- iv) Aesthetic design through the upper reaches of the Māngere Inlet (Anns Creek), including reflection of the Kāretu Portage in the design of the viaduct and interpretive signage;
- v) Design associated with the Kāretu Portage Path (an elevated shared path from west of Great South Road and along Sylvia Park Road), including reflection of the historic Kāretu Portage in design of this feature;
- vi) Structures in the vicinity of the waahi tapu at Mt Wellington Interchange; and
- vii) Design of the Ōtāhuhu Creek bridges and in particular the treatment beneath these structures to reflect and respond to the Ōtāhuhu portage.

(b) The Heritage Management Plan (as required by designation Condition HH.3) including details of Mana Whenua construction monitoring for sites identified as having significance to the Mana Whenua Group (including but not limited to Te Hōpua a Rangī, Anns Creek and foreshore, Mt Wellington Interchange area, Ōtāhuhu Creek);

(c) Accidental Discovery Protocol (as required by designation Condition HH.2);

(d) The ECOMP (as required by consent Condition EM.1) including the detail of ecological restoration planting along the northern shoreline of the Māngere Inlet, Anns Creek and Ōtāhuhu Creek;

(e) The CEMP and Coastal Works CEMP (as required by consent Conditions RC.10 and C.4), including details on site inductions, training programme(s) and tikanga for construction works (particularly for works in sensitive areas such as Te Apunga o Tainui at Mt Wellington Interchange) to respond to matters of significance to Mana Whenua; and

(f) Results of environmental monitoring prior to and during construction as required by conditions of the designation and related resource consents (e.g. water and leachate design performance monitoring under Condition C.1H and the scientific analysis of material of geological interest from the cut into the Te Hōpua a Rangī tuff ring under Condition HH.8 of Designation 6774, East West Link, Designations, New Zealand Transport Agency), including information to support cultural monitoring requirements.

### **Cultural Monitoring Plan (Construction)**

#### **MW.3**

Prior to the Commencement of Construction, a **Cultural Monitoring Plan** or plans shall be prepared by a person endorsed by the Mana Whenua Group.

#### **MW.4**

The purpose of the Cultural Monitoring Plan is to set out the agreed cultural monitoring requirements and measures to be implemented during construction activities, to acknowledge the historic and living cultural values of the area to Mana Whenua and to minimise potential adverse effects on these values.

#### **MW.5**

The Cultural Monitoring Plan shall include (but not be limited to):

(a) Requirements for formal dedication or cultural interpretation to be undertaken prior to works commencing in areas identified as having significance to Mana Whenua (including but not limited to Te Hōpua a Rangī, Anns Creek and foreshore, Mt Wellington Interchange area, Ōtāhuhu Creek):

(b) Requirements and protocols for cultural inductions:

(c) Identification of sites and areas where cultural monitoring is required during particular Construction Works:

(d) Identification of any other specific activities requiring cultural monitoring (e.g. implementation of spill contingency measures or specific works in the CMA):

(e) Identification of personnel nominated by Mana Whenua to undertake cultural monitoring, including any geographic definition of their responsibilities:

(f) Details of personnel nominated by the Requiring Authority and Mana Whenua to assist with management of any issues identified during cultural monitoring, including implementation of the Accidental Discovery Protocol developed under Condition HH.2:

(g) Identification of any opportunities and intent from Mana Whenua to reuse excavated natural material from the EWL Trench at Te Hōpua a Rangī, and if so, proposed measures to achieve this; and

(h) Details of any pre-construction monitoring that may assist Mana Whenua in their monitoring role (e.g. avifauna monitoring, baseline water quality monitoring).

## **HISTORIC HERITAGE (HH)**

### **Archaeology**

#### **HH.1**

Left intentionally blank.

#### **HH.2**

The Requiring Authority shall prepare an Accidental Discovery Protocol for any accidental archaeological discoveries which occur during Construction Works.

The Accidental Discovery Protocol shall be consistent with Auckland Unitary Plan Accidental Discovery Rule in Standard E.11.6.1, and E.12.6.1.

The Accidental Discovery Protocol shall be prepared in consultation with the Mana Whenua Group and modified to reflect the site specific Project detail.

The Accidental Discovery Protocol shall be implemented throughout the Construction Works.

### **Heritage Management Plan**

#### **HH.3**

(a) Prior to Commencement of Construction, the Requiring Authority shall prepare and implement a **Heritage Management Plan (HMP)**.

(b) The purpose of the HMP is to identify procedures and practices to be adopted to protect, as far as reasonably practicable, historic heritage and remedy and mitigate any residual effects.

(c) The HMP shall be implemented throughout Construction Works.



#### **HH.4**

The HMP shall be prepared by a Suitably Qualified Person in consultation with Council, HNZPT and Mana Whenua, and shall identify:

- (a) Known historic heritage within the designation boundary;
- (b) Any pre-1900 areas covered by an Archaeological Authority under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA);
- (c) Roles, responsibilities and contact details of personnel and/or relevant agencies (including but not limited to Auckland Council, New Zealand Police, HNZPT, and mana whenua representatives) involved with historic heritage matters including surveys and monitoring of conditions;
- (d) Methods for identifying avoiding, protecting and/or minimising effects on historic heritage during construction where practicable in line with the ICOMOS NZ Charter and including construction methods that minimise vibration;
- (e) Details for recording and salvage prior to removal of the historic railway bridge and tunnel located adjacent to Onehunga Harbour Road. The recording and salvage shall be aligned, as appropriate, with the Salvage and Conservation Heritage Plan for the proposed removal of the 1875/1915 Māngere Bridge (being part of a separate works project planned by the NZ Transport Agency).
- (f) Training requirements for contractors and subcontractors on historic heritage areas/features within the designation boundary and any accidental discovery protocols. The training shall be undertaken under the guidance of a Suitably Qualified Person and representatives of the Mana Whenua Group;
- (g) Cultural inductions for site/places of importance to Mana Whenua;
- (h) Proposed methodology for assessing the condition of historic heritage, and the means to mitigate any adverse effects (if any) on the built heritage features listed in Condition HH.5 of Designation 6774, East West Link, Designations, New Zealand Transport Agency, including allocation of resources and the timeframe for implementing the proposed methodology in accordance with Heritage New Zealand guideline AGS 1A: Investigation and Recording of Buildings and Standing Structures for assessing and recording built heritage dated 4 July 2014 (or any subsequent revision); and
- (i) Proposed methodology for documentation of historic heritage exposed during construction and the recording of these sites in the Auckland Council Cultural Heritage Inventory ([www.chi.net/Home.aspx](http://www.chi.net/Home.aspx)).

#### **HH.4A**

Electronic copies of all historic heritage reports relating to historic heritage investigations (evaluation, excavation and monitoring etc.), including interim reports, shall be submitted to the Manager as soon as they are produced.

#### **Advice note:**

*HNZPTA provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. All archaeological sites are protected by the provisions of the Act (section 42). It is unlawful to modify, damage or destroy an archaeological site without prior authority from HNZPT. An Authority is required whether or not the land on which an archaeological site may be present is designated, a resource or*

building consent has been granted, or the activity is permitted under Unitary, District or Regional Plans.

According to the Act (section 6) archaeological site means, subject to section 42(3) –

a) any place in New Zealand, including any building or structure (or part of a building or structure), that –

i. was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and

ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and

b) includes a site for which a declaration is made under section 43(1) It is the responsibility of the Requiring Authority to consult with HNZPT about the requirements of the Act and to obtain the necessary Authorities under the Act should these become necessary, as a result of any activity associated with the consented proposals.

For information please contact the HNZPT Northern Regional Archaeologist – 09 307 0413 / [archaeologistMN@historic.org.nz](mailto:archaeologistMN@historic.org.nz).

#### **HH.5**

Left intentionally blank.

#### **HH.6**

Left intentionally blank.

#### **HH.6A**

Prior to the removal of the houses at 69 Panama Road and 31 Frank Grey Place, the houses shall be photographically recorded and the record shall be provided to the Manager.

#### **HH.7**

Left intentionally blank.

#### **HH.7A**

Left intentionally blank.

#### **HH.8**

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### **URBAN DESIGN, LANDSCAPE AND VISUAL (LV)**

#### **LV.1**

The Requiring Authority shall prepare an **Urban and Landscape Design Master Plan (ULDMP)** for the Project. The ULDMP may be submitted in sectors or in parts.

The ULDMP shall be included in the Outline Plan submitted prior to the Commencement of Construction of permanent works.

A ULDMP is not required for Enabling Works and Site Investigations.

#### **LV.2**

The purpose of the ULDMP is to:

- (a) Integrate the Project's permanent works into the surrounding landscape and urban context and to illustrate the urban and landscape design elements of the Project.
- (b) Outline the requirements for the Project's permanent landscape mitigation works; and
- (c) Outline the maintenance and monitoring requirements for planting undertaken as part of the ULDMP.

### **LV.3**

The ULDMP shall be prepared in consultation with:

- i) Council for areas of the Project to become Council assets;
- ii) Auckland Transport for areas within and adjoining local roads;
- iii) the Mana Whenua Group;
- iv) HNZPT;
- v) Landowners;
- vi) Adjacent landowners in relation to noise barriers on their boundary;
- vii) Auckland Council Heritage Unit for works within AUP Historic Heritage Overlay Extent of Place and/or affecting AUP Historic Heritage Overlay and Schedule items; and
- viii) Panuku Development Auckland for works adjacent to Onehunga Wharf.

Any comments and inputs received from the parties listed above shall be summarised within the ULDMP or supporting document, along with explanation of where any comments or suggestions have not been incorporated and the reasons why.

### **LV.4**

The ULDMP shall be prepared by a Suitably Qualified Person and shall:

- (a) Reflect the Key Design Principles and Sector Outcomes of the Project's *Urban and Landscape Design Framework* dated November 2016 and the Addendum dated December 2016 (hereafter referred to as the ULDF);
- (b) Be prepared in general accordance with the following (or equivalent update):
  - i) NZ Transport Agency's Urban Design Guidelines: *Bridging the Gap* (2013); and
  - ii) NZ Transport Agency Landscape Guidelines (final draft dated 2014); and NZ Transport Agency's P39 *Standard Specification for Highway Landscape Treatments*, 2013; and
- (c) Be integrated with the ULDMP for the areas of the Project within the Coastal Marine Area, and, where relevant, the Ecological Management Plan, both plans to be prepared in accordance with conditions of the resource consents granted for the Project.

### **LV.5**

The ULDMP shall demonstrate how the Sector-Specific Outcomes in Chapter 5 of the ULDF have been incorporated and shall include the following:

(a) Design that describes and illustrates the overall urban and landscape design concept, and explains the rationale for the landscape and urban design proposal if different from the ULDF concepts;

(b) Developed design details for the urban and landscape design features. These shall cover the following:

i) Roadside furniture – elements such as lighting, sign gantries and signage, guard rails, fences and median barriers;

ii) Architecture and landscape treatment of all major structures, including bridges, structures, underpasses and retaining walls;

iii) Architecture and landscape treatment of noise barriers;

iv) Land use re-instatement following construction;

v) Landscape treatment of permanent stormwater management wetlands and swales;

vi) Integration of passenger transport facilities;

vii) Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/ cycle bridges or underpasses;

viii) Features (such as interpretive signage) for the purpose of identifying and interpreting cultural heritage, built heritage, archaeology, geological heritage and ecology in the Project area;

ix) Proposed maintenance boundaries;

x) Consideration of:

- Crime Prevention Through Environmental Design (CPTED) principles;
- Safety in Design (SID) requirements;
- Maintenance requirements and anti-graffiti measures; and
- Protected viewshafts, character areas and protected heritage sites, structures or features, as identified in the Auckland Unitary Plan.

The ULDM shall also describe how road design elements such as median width and treatment, roadside width and treatment, and earthworks contouring, have taken into account the Sector-Specific Outcomes in Chapter 5 of the ULDF.

#### **LV.5A**

Left intentionally blank.

#### **LV.5B**

Left intentionally blank.

#### **LV.5C**

Left intentionally blank.

#### **LV.5D**

Left intentionally blank.

#### **LV.5E**

Left intentionally blank.

#### **LV.5F**

Left intentionally blank.

#### **LV.5G**

Left intentionally blank.

#### **LV.5H**

Left intentionally blank.

#### **LV.6**

The ULDMP shall include the following planting details:

(a) Identification of vegetation to be retained (including trees identified in accordance with Condition TR.1), protection measures, and planting to be established along cleared edges;

(b) Details of the sourcing of native plants. Any planting using native plants shall use plants genetically sourced from the Tamaki Ecological District where possible or otherwise shall use plants that have been genetically sourced from within the Auckland Ecological Region;

(c) Proposed planting including plant species, plant/grass mixes, spacing/densities, sizes (at the time of planting) and layout and planting methods including trials;

(d) Planting programme – the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of Construction Works in each stage of the Project;

(e) Detailed specifications for landscape planting relating to (but not limited to) the following:

i) Weed control and clearance;

ii) Pest animal management;

iii) Ground preparation (topsoiling and decompaction);

iv) Mulching; and

v) Plant sourcing and planting, including hydroseeding and grassing;

(f) The detailed specifications above are to be consistent with the ECOMP required by Condition EM.1 and with planting plans for the stormwater treatment wetlands required by Condition SW.1.

(g) For any landscape planting, a maintenance regime including monitoring and reporting requirements, which is to apply for the 2 years following that planting being undertaken; and

(h) For any ecological restoration planting, a maintenance regime including monitoring and reporting requirements, which is to apply for the 5 years following that planting being undertaken.

#### **LV.7**

Planting shall be implemented:

(a) Wherever practicable prior to Commencement of Construction; or

(b) As soon as areas become available for planting due to the progress of the works and seasonal conditions; and/or

(c) Within twelve months of Completion of Construction, unless the seasonal timing of works makes some planting impracticable, in which case such planting shall be completed no later than twenty four months after Completion of Construction.

### **LV.8**

Where the Requiring Authority installs noise barriers immediately adjacent to residential properties between Panama Road and the southern extent of the works, it shall offer to undertake planting to soften the appearance of the barrier.

The offer shall be made no later than 3 months prior to Completion of Construction. If the offer is not accepted by a property owner within that timeframe, this condition is deemed to have been complied with.

## **TREES (TR)**

### **TR.1**

Arboricultural assessments shall be carried out prior to Commencement of Construction to assess if any existing trees within the construction area are worthy of retention or relocation and if it is practicable to retain or relocate those trees.

The assessment shall include a survey of trees prior to the Commencement of Construction within parks, reserves and local roads to inform the replacement of these trees in accordance with Condition TR.2. The survey methodology shall be provided to the Manager for certification.

If retention or relocation of a tree is determined appropriate, specific tree protection/management measures shall be developed and implemented throughout the Construction Works so that health of the trees is not adversely affected. Where any retained or relocated trees are located on Council owned land (including Council owned open space and road reserve), the Council's nominated arborist shall be consulted regarding appropriate tree protection/management measures.

### **TR.2**

Trees within parks, reserves and local roads that require removal for the Project shall be replaced with trees of suitable/comparable species and size to achieve comparable canopy footprint after 10 years in a location agreed with Council (for parks and reserves) or Auckland Transport (for local roads and paths). Details of the location, species and size of the replacement trees shall be included in the ULDMMP prepared in accordance with Condition LV.1.

### **TR.3**

Where any works occur within the dripline of a notable tree or trees within a Historic Heritage Overlay Extent of Place (as identified in the maps of the AUP), those works shall be undertaken in accordance with best arboricultural practice and the methodology for the works submitted to the Manager for certification.

## **TRAFFIC NOISE (OPERATION) (ON)**

### **ON.1**

For the purposes of Conditions ON.2 to ON.14:

- (a) BPO – means the Best Practicable Option;
- (b) Building-Modification Mitigation – has the same meaning as in NZS 6806:2010 *Acoustics – Road-traffic noise – New and altered roads*;
- (c) Habitable Space – has the same meaning as in NZS 6806;
- (d) Noise Assessment – Means the *Traffic Noise and Vibration Assessment Report* (Technical Report 7) submitted with the NoR;
- (e) Noise Criteria Categories – means the groups of preference for sound levels established in accordance with NZS 6806 when determining the BPO for noise mitigation (i.e. Categories A, B and C);
- (f) NZS 6806 – means New Zealand Standard NZS 6806:2010 *Acoustics – Roadtraffic noise – New and altered roads*;
- (g) P40 – means NZ Transport Agency NZTA P40:2014 Specification for noise mitigation;
- (h) PPFs – means only the premises and facilities identified in green, orange or red in the *Noise Assessment*, and
- (i) Structural Mitigation – has the same meaning as in NZS 6806.

### **Structural Mitigation**

#### **ON.2**

The road-traffic noise mitigation measures identified as the ‘Recommended Traffic Noise Mitigation’ in the Noise Assessment must be implemented to achieve the Noise Criteria Categories indicated in the *Noise Assessment* (‘Identified Categories’), where practicable and subject to Conditions ON.3 to ON.14.

#### **ON.3**

Prior to Commencement of Construction, a Suitably Qualified Person must undertake the detailed design of the Structural Mitigation measures in the Noise Assessment (the ‘Detailed Mitigation Options’), which, subject to Condition ON.4, must include at least:

- (a) Noise barriers with location, length and height in general accordance with the *Noise Assessment*, and
- (b) Low-noise road surfaces with location in general accordance with the *Noise Assessment*.

#### **ON.4**

If it is not practicable to implement a particular Structural Mitigation measure in the location or of the length or height included in the *Noise Assessment*, a changed design can be included in the Detailed Mitigation Options if either:

- (a) the changed design would result in the same Identified Category at all PPFs or better, and a Suitably Qualified Person certifies to the Manager that the changed Structural Mitigation would be consistent with adopting the BPO in accordance with NZS 6806; or
- (b) the changed design would result in an increase in the noise level at any PPF of greater than 2dB and the Manager confirms that the changed Structural Mitigation would be consistent with adopting the BPO in accordance with NZS 6806.

## **Noise Mitigation Design Report**

### **ON.5**

Prior to Commencement of Construction, a Noise Mitigation Design Report written in accordance with NZ Transport Agency P40 Specification for Noise Mitigation 2014 must be provided to the Manager.

The purpose of the Noise Mitigation Design Report is to confirm that the Detailed Mitigation Options meet the requirements of ON.2-ON.4. The Noise Mitigation Design Report shall include confirmation that consultation has been undertaken with affected property owners for site specific design requirements and the implementation programme.

Where a Noise Mitigation Design Report is required, it shall be included in the Outline Plan for the relevant stage(s) of the Project.

### **ON.6**

The Detailed Mitigation Options must be implemented prior to Completion of Construction, with the exception of any low-noise road surfaces, which must be implemented within twelve months of Completion of Construction.

### **ON.7**

Within twelve months of Completion of Construction, a post-construction review report written in accordance with NZ Transport Agency P40 Specification for Noise Mitigation 2014 must be provided to the Manager.

### **ON.8**

The Detailed Mitigation Options must be maintained so they retain their noise reduction performance as far as practicable.

## **Building-Modification Mitigation**

### **ON.9**

Prior to Commencement of Construction, a Suitably Qualified Person must identify those PPFs which, following implementation of all the Detailed Mitigation Options, will not achieve Noise Criteria Category A or B and where Building-Modification Mitigation might be required to achieve 40 dB LAeq(24h) inside habitable spaces ('Category C Buildings').

### **ON.10**

Prior to Commencement of Construction in the vicinity of each Category C Building, the Requiring Authority must write to the owner of the Category C Building requesting entry to assess the noise reduction performance of the existing building envelope. If the building owner agrees to entry within twelve months of the date of the Requiring Authority's letter, the Requiring Authority must instruct a Suitably Qualified Person to visit the building and assess the noise reduction performance of the existing building envelope.

### **ON.11**

For each Category C Building identified, the Requiring Authority is deemed to have complied with Condition ON.10 if:

(a) The Requiring Authority's acoustics specialist has visited the building; or

(b) The building owner agreed to entry, but the Requiring Authority could not gain entry for some reason (such as entry denied by a tenant and the building owner has been notified of that denial); or



(c) The building owner did not agree to entry within twelve months of the date of the Requiring Authority's letter sent in accordance with Condition ON.10 (including where the owner did not respond within that period); or

(d) The building owner cannot, after reasonable enquiry, be found prior to Completion of Construction.

If any of (b) to (d) above apply to a Category C Building, the Requiring Authority is not required to implement Building-Modification Mitigation to that building.

#### **ON.12**

Subject to Condition ON.11, within six months of the assessment required by Condition ON.10, the Requiring Authority must write to the owner of each Category C Building advising:

(a) If Building-Modification Mitigation is required to achieve 40 dB LAeq(24h) inside habitable spaces; and

(b) The options available for Building-Modification Mitigation to the building, if required; and

(c) That the owner has three months to decide whether to accept Building-Modification Mitigation to the building and to advise which option for Building-Modification Mitigation the owner prefers, if the Requiring Authority has advised that more than one option is available.

#### **ON.13**

Once an agreement on Building-Modification Mitigation is reached between the Requiring Authority and the owner of a Category C Building, the mitigation must be implemented, including any third party authorisations required, in a reasonable and practical timeframe agreed between the Requiring Authority and the owner.

#### **ON.14**

Subject to Condition ON.11, where Building-Modification Mitigation is required, the Requiring Authority is deemed to have complied with Condition ON.13 if:

(a) The Requiring Authority has completed Building-Modification Mitigation to the building; or

(b) An alternative agreement for mitigation is reached between the Requiring Authority and the building owner; or

(c) The building owner did not accept the Requiring Authority's offer to implement Building-Modification Mitigation within three months of the date of the Requiring Authority's letter sent in accordance with Condition ON.12 (including where the owner did not respond within that period); or

(d) The building owner cannot, after reasonable enquiry, be found prior to Completion of Construction.

### **CONSTRUCTION NOISE AND VIBRATION (CNV)**

#### **CNV.1**

A Construction Noise and Vibration Management Plan (CNVMP) shall be prepared by a Suitably Qualified Person, and shall be implemented and maintained throughout the entire construction period.

The purpose of the CNVMP is to provide a framework for the development and implementation of Best Practicable Option for the management of construction noise and vibration effects, and to minimise any exceedance of the construction noise and vibration criteria set out in Conditions CNV.4 and CNV.5.

## **CNV.2**

(a) The CNVMP shall be prepared in accordance with Annex E2 of New Zealand Standard NZS6803:1999 'Acoustics – Construction Noise' (NZS6806:1999) and the NZ Transport Agency's *State highway construction and maintenance noise and vibration guide* (version 1.0, 2013).

(b) The CNVMP shall, as a minimum, address the following:

(i) Description of the works, anticipated equipment/processes and their scheduled durations;

(ii) Hours of operation, including times and days when construction activities would occur;

(iii) The construction noise and vibration criteria for the project;

(iv) Identification of affected houses and other sensitive locations where noise and vibration criteria apply;

(v) Management and mitigation options, including alternative strategies adopting the Best Practicable Option where full compliance with the relevant noise and/or vibration criteria cannot be achieved;

(vi) A procedure for developing and implementing the management plans (as required by conditions CNV.6A, CNV.7A and CNV.7B) forming part of this CNVMP;

(vii) Methods and frequency for monitoring and reporting on construction noise and vibration;

(viii) Procedures for maintaining contact with stakeholders, notifying of proposed construction activities, the period of construction activities, and handling noise and vibration complaints;

(ix) Identification of major construction work areas and activities which are anticipated to generate noise and / or vibration levels which will require site specific management plans (in accordance with Condition CNV.6A, CNV.7A and CNV.7B) as soon as reasonably practicable, and procedures for the early engagement with the receivers;

(x) Construction equipment operator training procedures and expected construction site behaviours;

(xi) Contact details of the site supervisor or project manager and the Requiring Authority's Project Liaison Person (phone, postal address, email address);

(xii) Procedures for the regular training of the operators of construction equipment to minimise noise and vibration as well as expected construction site behaviours for all workers; and

(xiii) Identification of businesses which operate processes, machinery or equipment that may be unreasonably disrupted by construction vibration even where the Project vibration standards are met or are sensitive to vibration due to the nature of the

building materials (e.g. asbestos). For any such businesses a site specific management plan in accordance with CNV.7B shall be prepared and implemented.

### **CNV.3**

The CNVMP shall identify which mitigation measures required by Conditions ON. 1 to ON.6 would also attenuate construction noise. Where practicable, those measures identified in the CNVMP shall be implemented prior to commencing major construction works or early during construction that generate noise in the vicinity.

### **CNV.4**

(a) Noise arising from construction activities shall be measured and assessed in accordance with NZS 6803:1999 *Acoustics - Construction Noise* and shall comply with the noise criteria set out in the following table:

**Table CNV1: Construction noise criteria**

<u>Timeframe</u>	<u>Time</u>	<u>L<sub>Aeq(15min)</sub></u>	<u>L<sub>AFmax</sub></u>
<b><u>Residential buildings</u></b>			
<u>0630 Sunday to 0630 Friday</u>	<u>0630h - 0730h</u>	<u>60 dB</u>	<u>75 dB</u>
	<u>0730h - 1800h</u>	<u>70 dB</u>	<u>85 dB</u>
	<u>1800h - 2000h</u>	<u>65 dB</u>	<u>80 dB</u>
	<u>2000h - 0630h</u>	<u>60 dB</u>	<u>75 dB</u>
<u>0630 Friday to 0630 Saturday</u>	<u>0630h - 0730h</u>	<u>60 dB</u>	<u>75 dB</u>
	<u>0730h - 1800h</u>	<u>70 dB</u>	<u>85 dB</u>
	<u>1800h - 2000h</u>	<u>45 dB</u>	<u>75 dB</u>
	<u>2000h - 0630h</u>	<u>45 dB</u>	<u>75 dB</u>
<u>0630 Saturday to 0630 Sunday and from midnight to midnight on Public Holidays</u>	<u>0630h - 0730h</u>	<u>45 dB</u>	<u>75 dB</u>
	<u>0730h - 1800h</u>	<u>55 dB</u>	<u>85 dB</u>
	<u>1800h - 2000h</u>	<u>45 dB</u>	<u>75 dB</u>
	<u>2000h - 0630h</u>	<u>45 dB</u>	<u>75 dB</u>
<b><u>Commercial and industrial receivers</u></b>			
<u>All</u>	<u>0730h – 1800h</u>	<u>70dB</u>	
	<u>1800h – 0730h</u>	<u>75 dB</u>	

(b) Where compliance with the noise criteria set out in Table CNV1 is not practicable, then the methodology in Condition CNV.6A shall apply.

### **CNV.5**

Construction vibration shall be measured in accordance with ISO 4866:2010 *Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures*, and shall, as far as practicable, comply with the Category A construction vibration criteria in Table CNV2.

(a) If measured or predicted vibration from construction activities exceeds the Category A criteria, a Suitably Qualified Person must assess and manage construction vibration during those activities. This shall involve engagement with the affected receivers to:

(i) discuss the nature of the work and the anticipated days and hours when the exceedance is likely to occur; and

(ii) assess, where practicable, if the exceedance could be timed or managed to reduce the effects on the receiver.

(b) If measured or predicted vibration from construction activities exceeds the Category B criteria those activities may only proceed subject to Condition CNV.7A.

**Table CNV2 Construction Vibration Criteria for People and Buildings**

<b><u>Receiver</u></b>	<b><u>Details</u></b>	<b><u>Category A</u></b>	<b><u>Category B</u></b>
<b><u>Occupied PPFs</u></b>			
Inside the building	Night-time 2000h - 0630h	0.3mm/s PPV	1mm/s PPV
	Daytime 0630h - 2000h	1mm/s PPV	5mm/s PPV
	Blasting – vibration	5mm/s PPV	10mm/s PPV
Free field	Blasting - airblast	120dB <sub>L<sub>Zpeak</sub></sub>	=
<b><u>Other occupied buildings</u></b>			
Inside the building	Daytime 0630h - 2000h	2mm/sPPV	5mm/s PPV
<b><u>All other buildings</u></b>			
Building foundation		5mm/s PPV	Tables 1 and 3 of DIN4150-3:1999**
Free field	Airblast	=	133dB <sub>L<sub>Zpeak</sub></sub>

For vibration, protected premises and facilities (PPFs) are dwellings, educational facilities, boarding houses, homes for the elderly and retirement villages, marae, hospitals that contain in-house patient facilities and buildings used as temporary accommodation (e.g. motels and hotels).

German Standard DIN 4150-3:1999 “Structural Vibration - Part 3: Effects of Vibration on Structures”

**Table CNV3 Construction Vibration Criteria for buried pipework\*\*\***

<b><u>Pipe material</u></b>	<b><u>Guideline values for velocity measured on the pipe, v<sub>i</sub>, in mm/s</u></b>
Steel (including welded pipes)	100
Clay, concrete, reinforced concrete, metal (with or without flange)	80
Masonry, plastic	50

\*\*\* Based on the German Standard DIN 4150-3:1999 "Structural Vibration - Part 3: Effects of Vibration on Structures".

#### **CNV.6A**

(a) A Site Specific Construction Noise Management Plan (SSCNMP) shall be prepared by a Suitably Qualified Person, in consultation with the owners and occupiers of sites subject to the SSCNMP, when construction noise is either predicted or measured to exceed the criteria in Condition CNV.4, except where the exceedance of the criteria in Condition CNV.4 is no greater than 5 decibels and does not exceed:

i) 0700-2200: 1 period of up to 2 consecutive weeks in any 2 months; or

ii) 2200-0700: 1 period of up to 2 consecutive nights in any 10 days.

(b) The objective of the SSCNMP is to set out the best practicable option for the management of noise effects of the construction activity. The SSCNMP shall as a minimum set out:

i) Construction activity location, start and finish dates;

ii) The predicted noise level for the construction activity;

iii) Noise limits to be applied for the duration of the activity;

iv) The mitigation options that have been selected and the options that have been discounted as being impracticable and the reasons why. The mitigation options shall take into account where practicable, the use of the site and/or any operational requirements of the site. Mitigation options may include:

a. managing times of activities to avoid night works and other sensitive times;

b. liaising with neighbours so they can work around specific activities;

c. selecting equipment and methodologies to restrict noise;

d. using screening, enclosures or barriers;

e. if appropriate and reasonable, offering neighbours temporary relocation;

v) The proposed noise monitoring regime;

vi) Document the consultation undertaken with owners and occupiers of sites subject to the SSCNMP, and how consultation outcomes have and have not been taken into account. The consultation shall be in addition to the requirements set out in Condition CS.2.

(c) The SSCNMP shall be submitted to the Manager for certification at least 5 working days, except in unforeseen circumstances, in advance of Construction Works which are covered by the scope of the SSCNMP.

(d) Where changes are made to a certified SSCNMP, the Requiring Authority shall consult the owners and occupiers of sites subject to the SSCNMP prior to submitting the amended SSCNMP to the Manager for certification in accordance with Clause (c). The amended SSCNMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.

### **CNV.7A**

(a) A Site Specific Construction Vibration Management Plan (SSCVMP) shall be prepared by a Suitably Qualified Person, in consultation with the owners and occupiers of sites subject to the SSCVMP, when construction vibration is either predicted or measured to exceed the Category B criteria at the receivers in Condition CNV.5.

(b) The objective of the SSCVMP is to set out the Best Practicable Option for the management of construction vibration effects. The SSCVMP shall as a minimum set out:

- i) Construction activity location, start and finish dates;
- ii) The predicted vibration level for the construction activity;
- iii) An assessment of each building and any pipe work to determine susceptibility to damage from vibration and define acceptable vibration limits that the works must comply with to avoid damage;
- iv) The mitigation options that have been selected and the options that have been discounted as being impracticable and the reasons why. The mitigation options shall take into account where practicable, the use of the site and/or any operational requirements of the site. Mitigation options may include:
  - a. Phasing of vibration-generating activities;
  - b. Avoiding impact pile driving and vibratory rollers where possible in vibration-sensitive areas;
  - c. Liaising with neighbours so they can work around specific vibration-generating activities;
  - d. Selecting equipment and methodologies to minimise vibration;
- v) The proposed vibration monitoring regime;
- vi) The consultation undertaken with owners and occupiers of sites subject to the SSCVMP, and how consultation outcomes have and have not been taken into account. The consultation shall be in addition to the requirements set out in Condition CS.2; and
- vi). The pre-condition survey of buildings which document their current condition and any existing damage.

(c) The SSCVMP shall be submitted to the Council for certification at least 5 working days, except in unforeseen circumstances, in advance of Construction Works which are covered by the scope of the SSCVMP.

(d) Where changes are made to a certified SSCVMP, the Requiring Authority shall consult the owners and occupiers of sites subject to the SSCVMP prior to submitting the amended SSCVMP to the Manager for certification in accordance with Clause (c). The amended SSCVMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.

### **CNV.7B**

(a) In addition to the matters in CNV.7A, a SSCVMP shall also be required in circumstances when construction vibration is predicted to adversely affect commercial activities located within 50m of Construction Works that are verified by a Suitably Qualified Person as being uniquely sensitive to construction vibration due to the nature of specialised equipment and/or

the nature of the building materials (e.g. asbestos). At a minimum, a SSCVMP shall be prepared for:

(i) Stratex Group Limited site, 19 - 21 Sylvia Park Road; and

(ii) Fonterra Tip Top site, 113 Carbine Road. With respect to this site, "activities" and "processes, machinery or equipment" in Condition CNV7.B(b) includes:

- underground wet services (including stormwater drainage and wastewater);
- earthenware pipes;
- underground cabling (including 11kV and 400V power cables and associated switchboxes);
- ducted services; and
- other core underground infrastructure which the landowner has confirmed to the Requiring Authority, in writing, prior to Commencement of Construction.

(b) In addition to the requirements of CNV.7A, the SSCVMP shall include, with respect to those vibration sensitive commercial activities:

i) Informed by consultation with the owners and/or occupiers of sites, identification of the processes, machinery or equipment which are uniquely sensitive to construction vibration, and the reasons why;

ii) An assessment of the sensitivity of the processes, machinery or equipment to construction vibration;

iii) Construction vibration criteria for the vibration sensitive commercial activities;

iv) A process for dealing with any disagreement which may arise, particularly in relation to the determination of the vibration limits; and

v) Procedures and methods for monitoring compliance with the vibration criteria established under (iii) above.

(c) Where changes are made to a certified SSCVMP required by this condition, the Requiring Authority shall consult the owners and/or occupiers of sites subject to the SSCVMP prior to submitting the amended SSCVMP to the Manager for certification in accordance with Condition CNV.7A(c). The amended SSCVMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.

## **CONSTRUCTION TRAFFIC (CT)**

### **Construction Traffic Management Plan**

#### **CT.1**

A Construction Traffic Management Plan (CTMP) shall be prepared by a Suitably Qualified Person and in consultation with Auckland Transport.

The purpose of the CTMP is to manage the various traffic management, safety and efficiency effects associated with Construction Works to:

(a) Protect public safety including the safe passage of and connectivity for pedestrians and cyclists, particularly for school students travelling to and from school;

(b) Minimise increases to existing delay to road users, public transport services, pedestrians and cyclists;

(c) Minimise interruption to property access;

(d) Inform the public about any potential impacts on the road network;

(e) Minimise disruptions on the arterial road network and rail network; and

(f) Manage the effects on and/or any changes required to existing Over Dimension and Over Weight routes.

## **CT.2**

The CTMP shall:

(a) Identify how Condition CT.1 will be achieved;

(b) Be in general accordance with the Draft Construction Traffic Management Plan Framework listed in DC.1;

(c) Where road capacity may be significantly affected by temporary traffic management, identify potential effects of the capacity reduction, and proposed measures to minimise delays. Traffic Impact Assessment (with possible inclusion of traffic modelling) may be required, particularly where the arterial network is affected;

(d) Include measures to avoid road closures and restrictions on vehicle, bus, cycle and pedestrian movements;

(e) Identify site access routes and access points for heavy vehicles;

(f) Identify possible temporary changes to bus routes and bus stops, whether these can be safely accommodated on the relevant roads and the considerations to maintain service to key destinations and minimise of levels of service reduction;

(g) Where road closures or restrictions cannot reasonably be avoided, the particular vulnerabilities and sensitivities of pedestrian diversions and reduced conditions shall be taken into account in the planning of any closures or restrictions;

(h) Confirm that a safe alternative shared cycle/pedestrian path connection between Onehunga Harbour Road and Old Māngere Bridge or the New Old Māngere Bridge (if constructed) is available at all times during the Construction Works;

(i) Identify proposed measures to minimise the duration of closure of the existing shared path facility along the Māngere Inlet, and proposed measures to stage works and / or provide detours to minimise inconvenience. Detours shall be sign posted, and shall where practicable, minimise the increase in length relative to the existing facility, the increase in vertical ascent, and minimise the duration of the construction period. The alternate route shall have an appropriate surface maintained throughout its period of use; a; and

(j) Include the process for rail closures, including how scheduled block-of-lines are to be utilised and the timing of any closures to avoid or minimise level of service reduction to passenger rail services at peak commuter times and rail freight services; and

(k) Identify any changes required to Over Dimension and Over Weight routes and how impacts on these routes, including alternate diversion routes, will be managed during construction so as to minimise the impact of any changes (both temporary and permanent) on Over Dimension and Overweight vehicles.



### **CT.3**

At least 40 working days prior to commencement of Construction Works the Requiring Authority shall provide a draft of the CTMP to Auckland Transport for comment.

The CTMP shall summarise the input and comments from Auckland Transport, describe how this has been incorporated and, where any input has not been incorporated, set out the reason why.

Any amendments to the CTMP shall be prepared in consultation with Auckland Transport prior to submission in accordance with Condition DC.10.

### **Site/Activity Specific Traffic Management Plans**

#### **CT.4**

(a) Site/activity specific Traffic Management Plans (TMPs) shall be prepared where any Project construction activity varies the normal traffic conditions of any public road.

(b) The TMP shall be reviewed by an engineer with a minimum of a current Level 2/3 Site Traffic Management Supervisor Non-Practicing qualification. Any comments and inputs received from the reviewer shall be clearly documented.

(c) The Requiring Authority shall provide the TMP to the relevant Road Controlling Authority for approval.

(d) The purpose of the TMP is to identify specific construction methods to address the particular circumstances, local traffic and community travel demands within the area covered by the TMP. The TMP shall describe the measures that will be taken to manage the traffic effects associated with Construction Works within the area covered by the TMP.

(e) In particular the TMP shall describe:

(i) Temporary traffic management measures required to manage impacts on road users during proposed working hours;

(ii) Temporary effects on on-street parking and proposed measures to minimise those effects;

(iii) Delay calculations associated with the proposed closure/s and detour routes; (iv) The capacity of any proposed detour route(s) and their ability to carry the additional traffic volumes and any known safety issues associated with the detour route, including any mitigation measures the Requiring Authority proposes to put in place to address any identified safety issues;

(v) Individual traffic management plans for intersections of the Project with arterial roads;

(vi) Measures to maintain, subject to health and safety requirements, existing vehicular access to adjacent properties and businesses to accommodate the types of vehicles normally accessing the site during normal working hours for that site unless alternative access arrangements are agreed;

(vii) Measures to maintain 24 hour per day access for road legal vehicles from Onehunga Harbour Road to Onehunga Wharf for existing businesses and for emergency vehicles. If any particular access point cannot be maintained or reconfigured, appropriate alternative arrangements for continued access to the wharf are to be made where practicable. Short term closures of access to the wharf may occur only after prior consultation with existing business operators regarding the

timing and duration of the proposed closure. Unless otherwise agreed with existing business owners, no closure of access to the wharf shall exceed a duration of 4 hours within any 24 hour period;

(viii) Measures to minimise the temporary effects of Construction Works on on-site parking on directly affected properties and opportunities to provide alternative temporary parking where practicable to do so;

(ix) Measures to maintain, where practicable, safe and clearly identified pedestrian and cyclist access on roads and footpaths adjacent to the Construction Works. Where detours are necessary to provide such access the Requiring Authority shall provide, as far as practicable, the shortest and most convenient detours;

(x) Consideration of over dimension and overweight routes including any feedback received from established organisations representing the freight industry;

(xi) Any proposed temporary changes in speed limit;

(xii) Provision for safe and efficient access of construction vehicles to and from construction site(s);

(xiii) The measures that will be undertaken by the Requiring Authority to communicate traffic management measures to affected road users, cyclists and pedestrian and other stakeholders;

(xiv) The measures that will be undertaken by the Requiring Authority (e.g. instructions to contractors) to restrict Project-related heavy vehicles using residential streets and the section of Onehunga Mall north of Neilson Street; and

(xv) The consultation undertaken with CLGs, business forums and affected properties owners/occupiers in relation to proposed temporary traffic management and measures that will be undertaken to address issues raised.

(f) Where changes are made to an approved TMP, the Requiring Authority shall consult the parties in Clause (e)(xv), prior to submitting the amended TMP to the Road Controlling Authority for approval. The amended TMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.

#### **CT.4A**

Any contractors carrying out works on, beneath, or in close proximity to, the existing tanker truck turning circle at the western edge of Fonterra's Tip Top Site at 113 Carbine Road, shall adopt and implement construction techniques that do not impact on the use of that turning circle, unless otherwise agreed with the landowner.

#### **Construction traffic - general requirements**

##### **CT.5**

The CTMP and TMP(s) shall be consistent with the version of the NZ Transport Agency *Code of Practice for Temporary Traffic Management* or the Auckland Transport *Auckland Transport Code of Practice* (which applies at the time the CTMP or the relevant TMP is prepared).

##### **CT.6**

The site/activity specific TMP(s) shall be prepared following consultation with the following key stakeholders (as relevant):

- (a) Auckland Transport (where local roads and paths will be affected);
- (b) National Road Carriers Incorporated and NZ Heavy Haulage Association;
- (c) Public transport providers (where public transport services will be affected);
- (d) Emergency services (police, fire and ambulance); and
- (e) Schools and childcare centres with frontage or access to roads within which works in relation to the relevant part of the Project will take place; and
- (f) Directly affected property and business owners and operators, including (for the relevant works) the Onehunga Business Association and the residents of Onehunga Mall Cul-de-Sac.

### **CT.7**

The Requiring Authority shall implement each TMP for the duration of the Construction Works to which the particular TMP applies.

### **CT.9**

Any damage to a local road or arterial road which is verified by a Suitably Qualified Person as being directly attributable to heavy vehicles entering or exiting construction sites shall be repaired within two weeks or within an alternative timeframe to be agreed with Auckland Transport. All repairs shall be undertaken by the Requiring Authority in accordance with the *Auckland Transport Code of Practice*.

### **Advice Note:**

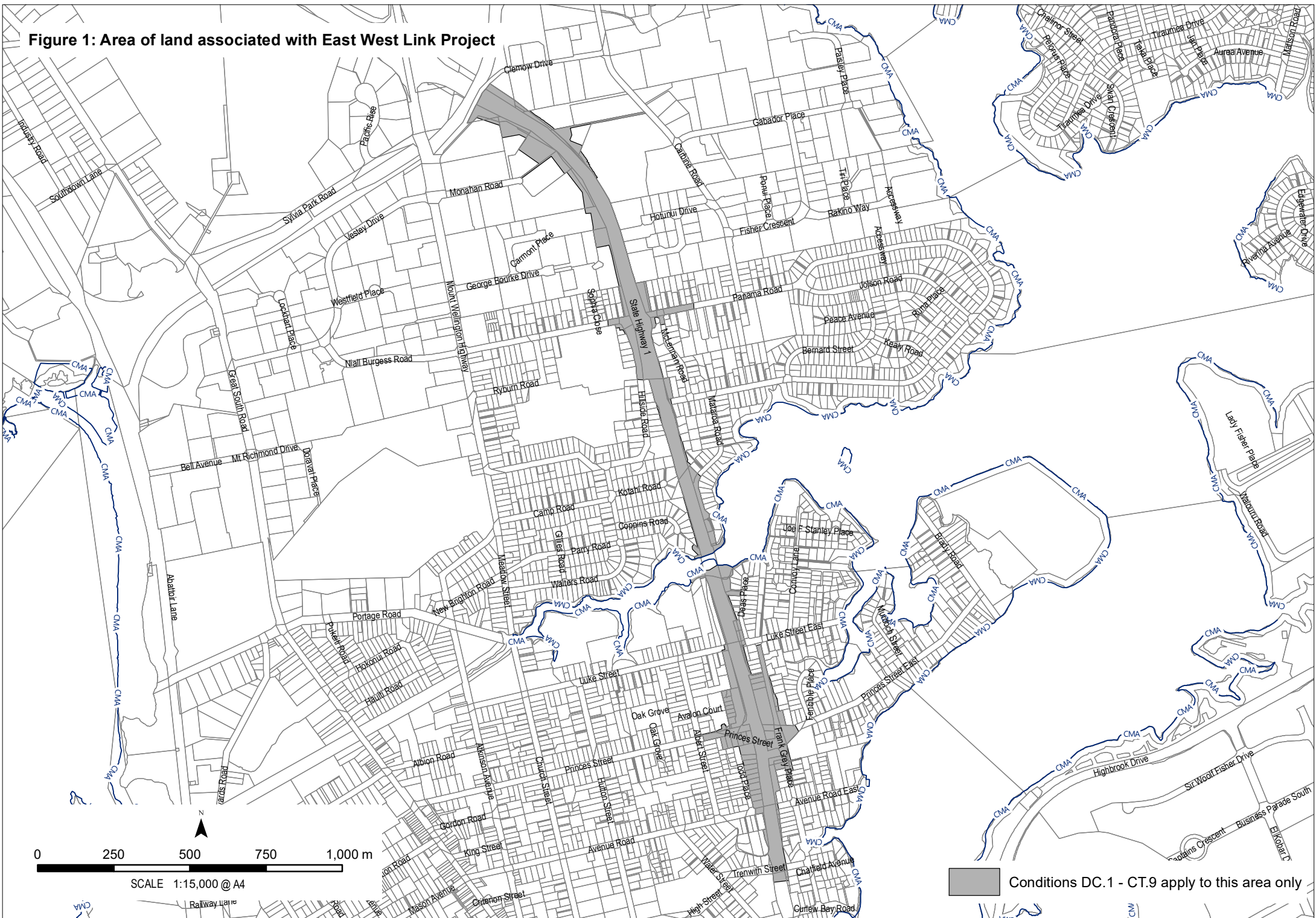
*In addition to the RMA processes, there are other additional processes applying to any work or activity that affects the normal operation of a local road, footpath or berm. For such activities, a Corridor Access Request must be submitted to the Road Controlling Authority under the National Code of Practice for Utility Operators' Access to Transport Corridor to ensure that all work is done safely and complies with national regulations.*

## **Attachments**

### **Figure 1**

[Delete Figure 1 and replace with Diagram in Attachment 3]

Figure 1: Area of land associated with East West Link Project



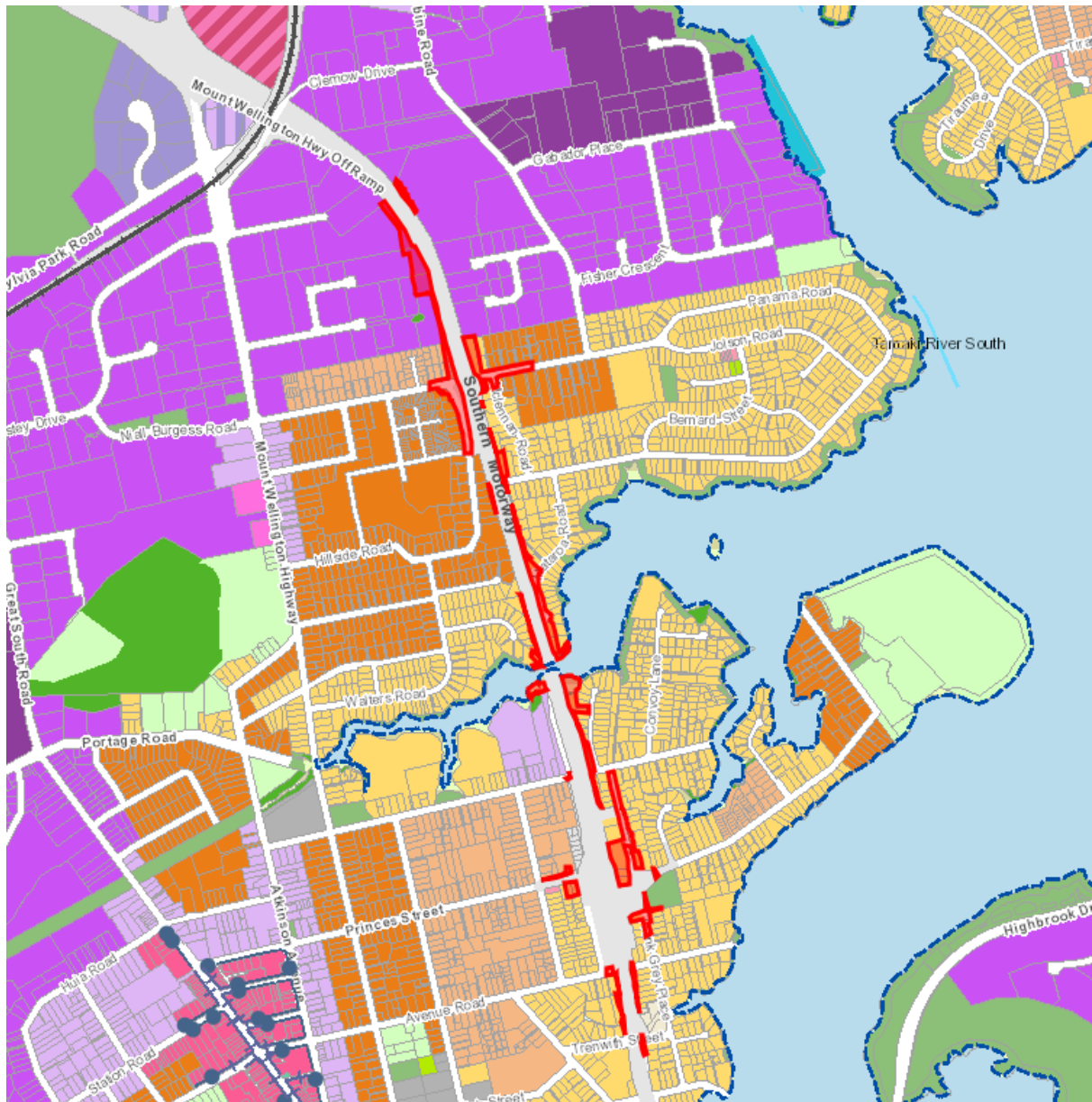
#### Attachment 4 Changes to Spatial Data

- Amend Designation 6718 Unitary Plan Management Layers - Designations to include the additions shown in the Plan Modifications layer, identified in red below.
- Amend the Unitary Plan Appeals and Plan Modifications – Properties affected by Appeals layer to include the additions shown in the Plan Modifications layer, identified in red below. Include the description:

*Seeking changes to zones or management layers, East West Link - Multi Appeals, Designations, [View PDF\\*](#)*

*Note: PDF link to <https://www.epa.govt.nz/public-consultations/decided/east-west-link/>*

- Amend the Unitary Plan Appeals and Plan Modifications – Modifications – Notices of Requirements layer to remove the data identified as 'Notice of Requirements, EPA, Alteration to SH1 Designation 6718, Designations, View PDF, Decision, 23/01/2018'.



## 6718 State Highway 1 - Auckland Harbour Bridge to Otahuhu

Designation Number	6718
Requiring Authority	New Zealand Transport Agency
Location	State Highway 1 from (1) Auckland Harbour Bridge, Westhaven to Fanshawe Street, Freemans Bay and from (2) Grafton Road, Grafton to Tamaki River, Otahuhu, and State Highway 16 from (3) Newton Road, Eden Terrace to Whau River bridge, Avondale and State Highway 20 from (4) Hillsborough Road, Hillsborough to Manukau Harbour
Rollover Designation	Yes
Legacy Reference	Designation A07-01, Auckland Council District Plan (Isthmus Section) 1999
Lapse Date	Given effect to (i.e. no lapse date), except for Conditions DC.1 – CT.9 relating to the area shown in Figure 1, which shall lapse if not given effect to within 15 years from the date on which it is included in the Auckland Unitary Plan under section 175 of the RMA.

## Purpose

Motorway.

## Conditions

The following relate only to the area shown in Figure 1 below

### General designation conditions (DC)

#### DC.1

Except as modified by the conditions below, and subject to final design, the Project shall be undertaken in general accordance with the information provided by the Requiring Authority in the Notice of Requirement dated December 2016, and in particular, the following supporting documents:

- (a) Part C: Description of the Project in Volume 1: Assessment of Effects on the Environment Report dated December 2016;
- (b) The following plan sets in Volume 2: Drawing Set:
  - (i) Plan Set 3: Road Alignment
  - (ii) Plan Set 4: Landscape
  - (iii) Plan Set 6: Plan and Long Section
  - (iv) Plan Set 7: Typical Cross Section
  - (v) Plan Set 8: Structural
  - (vi) Plan Set 12: Utilities Relocation

(bb) Except as modified by the revised plans and plan sets presented at the close of the BoI hearing which are listed in Appendix 1.

(c) The Key Design Principles and Sector Outcomes of the Project's Urban and Landscape Design Framework dated November 2016 and Addendum dated December 2016; and

(d) The Draft Construction Traffic Management Plan Framework.

**DC.1A**

For Notice of Requirement to Alter Designation 6718 (NoR 2) dated December 2016, the conditions only apply to Construction Works described in NoR 2 and include Construction Works on land within the existing designation for SH1 between approximately Clemow Drive and the location where Trenwith Street passes under SH1.

**DC.2**

Except where explicitly provided for, the construction related conditions of this designation do not apply to works associated with on-going operation and maintenance of the State highway following construction, such as changes to street furniture or signage over time. The provisions of section 176A of the RMA apply to on-going operation, maintenance or other works within the designation.

**DC.3**

The Project website shall include these conditions and the plans and reports referred to in these conditions prior to and throughout Construction Works, and a hard copy shall be available at the Project site office(s).

**DC.4**

Where there is inconsistency between:

(a) The documents listed in Condition DC.1 above and the requirements of these conditions, these conditions shall prevail;

(b) The information and plans lodged with the NoR and further information provided post lodgement, the most recent information and plans shall prevail; and

(c) The draft management plans and/or management plan frameworks lodged with the NoR and the management plans required by the conditions of this designation and submitted through the Outline Plan process, the requirements of the management plans as set out in the relevant conditions shall prevail.

**DC.5**

As soon as practicable following Completion of Construction, the Requiring Authority shall:

(a) Review the extent of the area designated for the Project;

(b) In consultation with the relevant landowners, identify any areas of designated land that are no longer necessary for the on-going operation, maintenance or mitigation of effects of the Project. For the avoidance of doubt, this shall include the designated land on the Onehunga Wharf to the south of the EWL Trench and shared path;

(c) Identify any areas of designated land that apply to local roads to be vested in Auckland Council; and

(d) Give notice to the Manager in accordance with section 182 of the RMA for the removal of those parts of the designation identified in (b) and (c) above.

**DC.6**

The designation shall lapse if not given effect to within 15 years from the date on which it is included in the Auckland Unitary Plan under section 175 of the RMA.

**Outline Plan(s) – General****DC.7**

An Outline Plan or Plans shall be prepared in accordance with section 176A of the RMA.

**DC.8**

Any Outline Plan or Plans may be submitted in parts or in stages to address particular activities (e.g. design or construction aspects) or to reflect the staged implementation of the Project.

**DC.9**

The Outline Plan or Plans shall include the following plans for the relevant stage(s) of the Project:

(a) Construction Noise and Vibration Management Plan (CNVMP) prepared in accordance with Condition CNV.1;

(b) Construction Traffic Management Plan (CTMP) in accordance with Condition CT.1;

(c) Heritage Management Plan (HMP) in accordance with Condition HH.3; and

(d) Urban and Landscape Design Master Plan (ULDMP) in accordance with Condition LV.1.

**DC.10**

The CNVMP, CTMP, HMP and ULDMP may be amended following submission of the Outline Plan(s) if necessary to reflect any changes in design, construction methods or management of effects. Any amendments are to be discussed with and submitted to the Manager for information without the need for a further Outline Plan process, unless those amendments once implemented would result in a materially different outcome to that described in the original plan.

For the avoidance of doubt, this condition does not apply to any Site Specific Construction Noise Management Plan, Site Specific Construction Vibration Management Plan, Site Specific Traffic Management Plan or other management plans required by the conditions of these designations. These management plans do not form part of the OPW.

**DC.11**

Left intentionally blank.

**DC.11A**

Left intentionally blank.

**DC.11AA**

Left intentionally blank.

**DC.11B**

Left intentionally blank.

**DC.12**

The Requiring Authority shall consult with Auckland Transport during the preparation of the Outline Plan(s) in relation to:

(a) Local roads, including walking and cycling and public transport facilities, and other interfaces between the State highway and local roading networks; and

(b) The proposed Auckland Transport projects identified in Condition DC.12A of Designation 6774,



East West Link, Designations, New Zealand Transport Agency.

The Outline Plan(s) shall detail the input and comments from Auckland Transport, describe how this has been incorporated into the design and, where any input has not been incorporated, set out the reason why.

**DC.12A**

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**DC.13A**

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**DC.13B**

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**DC.13C**

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**DC.14A**

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**DC.15A**

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**DC.15E**

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## Communication and social (CS)

### Liaison person

#### CS.1

A Project Liaison Person shall be appointed by the Requiring Authority for the duration of the construction phase of the Project to be the main and readily accessible point of contact for persons affected by Construction Works. The Requiring Authority shall take appropriate steps to advise all affected parties of the liaison person's contact details. This person must be reasonably available for on-going consultation on matters of concern to affected persons arising from Construction Works. If the liaison person will not be available for any reason, an alternative contact shall be provided, to ensure that a Project contact person is available by telephone 24 hours per day/seven days per week during the construction phase of the Project.

The Requiring Authority shall inform the Manager of the Project Liaison Person's contact details 20 working days prior to the Commencement of Construction and/or Enabling Works for the Project.

### Communications Plan

#### CS.2

Prior to the Commencement of Construction and/or Enabling Works, the Requiring Authority shall prepare and implement a **Communications Plan**.

The purpose of the plan is to set out procedures detailing how the public, stakeholders, businesses and residents will be communicated with throughout the pre-construction and construction phases of the Project.

As a minimum, the Communications Plan shall include:

(a) Details of the Project Liaison Person (Condition CS.1). The contact details shall be on the Project website and prominently displayed at the entrance to the site(s) so that they are clearly visible to the public at all times;

(b) A list of stakeholders, organisations, businesses and residents who will be communicated with;

(c) Methods to consult on and to communicate the proposed hours of construction activities outside of normal working hours and on weekends and public holidays, to surrounding businesses and residential communities, and methods to deal with concerns raised about such hours;

(d) Methods to record concerns raised about hours of construction activities and methods to avoid particular times of day which have been identified as being particularly sensitive for neighbours;

(e) Methods to provide early notification to businesses of construction activities.

(f) Methods to consult with businesses to identify and implement:

(i) Measures to maximise opportunities for pedestrian and service access to businesses that will be maintained during construction;

(ii) Measures to mitigate potential severance and loss of business visibility issues by way-finding and supporting signage for pedestrian detours required during construction;

(iii) Other measures to assist businesses to maintain customer accessibility, including but not limited to customer information on temporary parking or parking options for access;

(iv) Other measures to assist businesses to provide for service delivery requirements; and

(v) The process (if any) for re-establishment and promotion of normal business operation following construction.

- (g) Any stakeholder/business specific communication plans required;
- (h) Details of communications activities proposed including:
  - (i) Publication of newsletters, or similar, and proposed delivery areas;
  - (ii) Information days, open days or other mechanisms to facilitate community engagement;
  - (iii) Newspaper advertising;
  - (iv) Notification and consultation with business owners and operators and individual property owners and occupiers with premises/dwellings within 100 metres of active construction;
  - (v) Identify processes, mechanisms and / or specific methods to facilitate two-way communication with those with impairments or for those for whom English is a second language;
  - (vi) The use of social media tools.
- (i) Details of the Project website for providing information to the public;
- (j) Linkages and cross-references to communication methods set out in other conditions and management plans where relevant (e.g. consultation); and
- (k) Details of when the Plan will be reviewed and amended.

The Communications Plan shall be provided to the Manager for information 20 working days prior to Commencement of Construction and following any material amendments of the Plan.

**Community Liaison Groups**  
**CS.3**

(a) The Requiring Authority shall establish and co-ordinate a Community Liaison Group (CLG) in each of the following areas at least 3 months prior to the Commencement of Construction in each of those areas:

(i) Onehunga and Penrose including the Onehunga Harbour Road and Onehunga Mall Cul-de-Sac residential area and Māngere Bridge; and

(ii) State Highway 1 including the Ōtāhuhu and Panama Road residential areas.

(b) The purpose of the CLG is to provide a means for:

(i) Sharing information on design (including the ULDMs prepared under Condition LV.1), Construction Works and programme;

(ii) Reporting and responding to concerns and issues raised in relation to Construction Works; and

(iii) Monitoring the effects on the community arising from Construction Works in these areas.

(b) The purpose of the CLG is to provide a means for:

(i) Sharing information on design (including the ULDMs prepared under Condition LV.1), Construction Works and programme;

(ii) Reporting and responding to concerns and issues raised in relation to Construction Works; and

(iii) Monitoring the effects on the community arising from Construction Works in these areas.

(c) The Requiring Authority shall assist the CLG to hold regular meetings (at least once every three months) throughout the construction period in these areas. The CLG shall continue until six months after Completion of Construction so that on-going monitoring information can continue to be shared, discussed and responded to. The frequency and duration of the meetings can be reduced where the majority of the members of the group agree.

(d) In addition to the Project Liaison Person and representative(s) of the Requiring Authority and its principal construction contractor, membership of the CLG shall be open to all interested parties within the Project area including, but not limited to representatives of the following groups:

(i) Council, Auckland Transport and other Council Controlled Organisation;

(ii) Department of Conservation;

(iii) Mana Whenua;

(iv) Business groups;

(v) Community/environmental/historical groups;

(vi) Transport user groups;

(vii) Local Boards;

(viii) Local residents and business owners/operators;

(ix) Representatives from those organisations identified in the Communications Plan (as required by Condition CS.2); and

(x) Ministry of Education.

(e) The Requiring Authority shall prepare an agenda for each meeting and prepare minutes recording actions. A copy of the minutes shall be provided to the meeting invitees within a reasonable time following the meeting.

(f) The Requiring Authority shall be responsible for all reasonable costs associated with resourcing of the CLGs.

### **Business Forums**

#### **CS.4**

(a) The Requiring Authority shall establish and coordinate **Business Forums** in each of the following industrial/commercial areas, or a combined Business Forum in two or more of those areas, at least 3 months prior to Commencement of Construction in those areas:

(i) Onehunga (including businesses on Neilson Street (east), Onehunga Mall, Onehunga Harbour Road, Galway Street and Gloucester Park Road);

(ii) Onehunga Industrial (including businesses on Neilson Street (west), Captain Springs Road, Miami Parade and Hugo Johnston Drive);

(iii) Sylvia Park Road (including Pacific Rise, Great South Road and Vestey Drive); and

(iv) SH1 (including Vestey Drive, Monahan Road and Clemow Drive).

(b) In addition to the Project Liaison Person and representative(s) of the Requiring Authority and its principal construction contractor, membership of the Business Forum(s) shall be open to all interested parties within the Project area including, but not limited to representatives of the following groups:

(i) Business owners;

(ii) Land owners;

(iii) Business groups including the Onehunga Business Association;

(iv) Road carriers / freight operators in the area and NZ Heavy Haulage Association; and

(v) Auckland Transport.

(c) The purpose of the Business Forums is to provide a forum for:

(i) Timely provision of information on the Construction Works and programme and planned business and community activities;

(ii) Reporting and responding to concerns and issues raised in relation to Construction Works; and

(iii) Monitoring the effects on the business community arising from Construction Works in these areas.

(d) The Requiring Authority shall assist the Business Forum(s) to hold regular meetings (at least once every three months) throughout the construction period in these areas. The Business Forum(s) shall continue until six months after Completion of Construction so that on-going monitoring information can continue to be shared, discussed and responded to. The frequency and duration of the forums can be reduced where the majority of the members of the group agree.

(e) In addition to the general purpose set out in (b) above, the matters to be considered by the Business Forums may include, but are not limited to, the following matters:

(i) The timing of construction activities including consideration of specific operational requirements for businesses;

(ii) Temporary traffic management including closures, detours, parking restrictions and signage; and

(iii) Alternative access to and from businesses during construction.

(f) The Requiring Authority shall prepare an agenda for each meeting and prepare minutes recording actions. A copy of the minutes shall be provided to the meeting invitees within a reasonable time following the meeting.

(g) The Requiring Authority shall be responsible for all reasonable costs associated with the resourcing of the Business Forum.

### **Complaints Management CS.5**

At all times during Construction Works, the Requiring Authority shall maintain a record of any complaints received in relation to the Construction Works.

The record shall include:

- (a) The name and address (as far as practicable) of the complainant;
  - (b) Identification of the nature of the complaint;
  - (c) Location, date and time of the complaint and of the alleged event giving rise to the complaint;
  - (d) The weather conditions at the time of the complaint (as far as practicable), and including wind direction and approximate wind speed if the complaint relates to air quality or noise.
  - (e) The outcome of the Requiring Authority's investigation into the complaint;
  - (f) Measures taken by the Requiring Authority to respond to the complaint or confirmation of no action if deemed appropriate;
  - (g) Any other activities in the area, unrelated to the Project that may have contributed to the complaint, such as non-project construction, fires, traffic accidents or unusually dusty conditions generally; and
  - (h) The response provided to the complainant.
- The Requiring Authority shall also keep a record of any remedial actions undertaken.  
The complaints record shall be made available to the Manager upon request.

#### **CS.6**

The Requiring Authority shall respond to a complaint related to Construction Works as soon as reasonably practicable and as appropriate to the circumstances.

#### **Recreation and open space (ROS)**

##### **ROS.1**

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##### **ROS.2**

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#### **Open Space Reinstatement Plans**

##### **ROS.3**

Prior to any works that affect Auckland Council parks and open space, the Requiring Authority shall prepare a register of assets and a photographic record of the preconstruction state of the parks and open space. This shall be provided to the Manager prior to construction commencing.

##### **ROS.4**

(a) The Requiring Authority shall prepare a Reinstatement Plan in consultation with the landowner for the following parks and reserves (or parts thereof) directly impacted by Construction Works:

- (i) Gloucester Park North and South;
- (ii) Waikaraka Park; and
- (iii) Bedingfield Memorial Park.

(b) Where other areas of open space are affected by Construction Works, the reinstatement of those areas shall be based on a like-for-like reinstatement based on the record prepared under ROS.3.

(c) The purpose of the Reinstatement Plans is to provide details of the reinstatement works in open space areas directly affected by construction works.

(d) The Reinstatement Plans shall:

(i) Be prepared in accordance with the ULDMP for the area prepared under Condition LV.1;

(ii) Include details for the reinstatement of land used for Construction Works including:

- Removal of structures, plant and materials associated with construction (unless otherwise agreed with the landowner);
- Replacement or reinstatement of boundary fences to the same or similar type to that removed (as recorded through Condition ROS.3);
- Reinstatement of grassed areas to a similar condition as existed prior to construction;
- Replacement of trees and other planting removed for Construction Works on a one-for-one basis (or as otherwise agreed with the landowner);
- Details of way finding and interpretation signage within and adjacent to the open space.

(iii) Include record of consultation and agreement with the landowner; and

(iv) Take account of any Council management plans prepared for the park, reserve or area of open space.

(e) The Reinstatement Plan shall be provided to the Manager and implemented within 3 months of Completion of Construction, or at a later date as agreed with the landowner.

#### **ROS.5**

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#### **ROS.6**

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#### **ROS.6A**

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#### **ROS.7**

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#### **Network Utilities (NU)**

##### **Design – Permanent Access to Network Utilities**

###### **NU.1A**

The Requiring Authority shall design permanent batters, retaining walls, crash barriers, fencing, acoustic barriers, and other such physical measures to be constructed as part of the Project in a manner which does not prevent practical ongoing access to existing and relocated Network Utilities during construction and operation of the works authorised by the designation.

###### **NU.1B**

If, prior to the Commencement of Construction, Transpower has developed a proposal to underground any transmission line through the designated land of a sufficient detail of design that resource consents and/or a notice of requirement could be sought by Transpower, the Requiring Authority shall take all reasonable measures to accommodate that work in the design and construction of the EWL.

The measures taken to accommodate any proposed undergrounding of transmission lines shall be

set out in the Outline Plan or Plans prepared in accordance with Condition DC.7.

## **Design – New Network Utilities Opportunities**

### **NU.2**

The Requiring Authority shall consult with Network Utility Operators during the detailed design phase to identify opportunities to enable, or to not preclude, the development of new network utility and telecommunications facilities within the Project, where practicable to do so.

The consultation undertaken, opportunities considered, and whether or not they have been incorporated into the detailed design, shall be summarised in the Outline Plan or Plans prepared in accordance with Condition DC.7.

## **Utilities Management Plan**

### **NU.3**

(a) The Requiring Authority shall prepare and implement a **Network Utilities Management Plan** (NUMP). The NUMP shall be prepared in consultation with the Network Utility Operators who have existing assets that are directly affected by the Project.

(b) The purpose of the NUMP is to ensure that the design and construction of the Project takes account of, and includes measures to, address the safety, integrity, protection and (where necessary) the relocation of existing network utilities.

(c) The NUMP shall include methods and measures to:

(i) Ensure that network utilities can be accessed for maintenance at all reasonable times, or emergency works at all times, during construction activities;

(ii) Manage the effects of dust and any other material potentially resulting from construction activities and able to cause material damage, beyond normal wear and tear, to overhead high voltage transmission lines through the Project area ; and

(iii) Ensure that no activity is undertaken during construction that would result in ground vibrations, ground instability and/or ground settlement likely to cause material damage to network utilities.

(d) Demonstrate compliance with relevant standards and Codes of Practice including:

(i) NZECP 34:2001 New Zealand Electrical Code of Practice for Electrical Safe Distances 2001; and

(ii) AS/0NZS 4853:2012 Electrical hazards on Metallic Pipelines.

(e) The NUMP shall also include the specific matters set out in Conditions NU.5 – NU.9.

(f) At least 40 working days prior to commencement of Construction Works affecting a network utility, the Requiring Authority shall provide a draft of the NUMP to the relevant Network Utility Operator for review and comment. The NUMP shall describe how the input from the Network Utility Operator in relation to its assets has been incorporated. The Requiring Authority shall consider any comments received from the Network Utility Operator when finalising the NUMP.

(g) Any amendments to the NUMP related to assets of a Network Utility Operator shall be prepared in consultation with that asset owner.

### **NU.4**

A copy of the NUMP shall be provided to the Manager for information at least 20 working days prior to the commencement of any Enabling Works or Commencement of Construction where those enabling or Construction Works impact on network utilities.



## **NU.5**

(a) The NUMP shall include procedures, methods and measures to manage effects of the construction works on the following transmission lines:

- (i) Māngere-Mt Roskill A 110 kV Line;
- (ii) Penrose – Mt Roskill A 110 kV Line; and
- (iii) Henderson – Ōtāhuhu A 220 kV Line.

(b) The NUMP shall include:

(i) Details of any dispensations and associated procedures, methods and measures agreed with Transpower for construction works that cannot meet New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP 34:2001) or any subsequent revision of the code;

(ii) For all other works, procedures, methods and measures to demonstrate how construction works will meet the safe distances within the NZECP 34:2001 or any subsequent revision of the code and including specific measures and methods relating to:

- Excavation or disturbance of the land around any Transpower transmission support structures under Clause 2.2.3;
- Building to conductor clearances under Section 3;
- Depositing of material under or near overhead electric lines under Clause 4.3.1;
- Mobile plant or load to Transpower transmission lines under Clause 5.2;
- People to conductor clearances; and
- Warning notices during use of mobile plant in proximity of overhead lines under Clause 5.

(iii) Details of measures to control induction and transferred voltages and Earth Potential Rise where use of conductive material for road infrastructure or relocated network utilities is within 12 metres of the outer foundations of any transmission tower or proposed tower or monopole;

(iv) Details of areas within which additional management measures are required, such as fencing off, entry and exit hurdles and the minimum height for any hurdles;

(v) Details of contractor training for those working near transmission lines and other assets; and

(vi) Provision for Transpower involvement in contractor briefings for works involving the following:

- Works within 12m of any Transpower overhead transmission line support structure;
- Works within the maximum extent of line swing (at maximum operating temperature) of any Transpower overhead transmission line; and
- Works within 20m of or encroaching into the Southdown Rail Supply Substation.

## **NU.6**

(a) The NUMP shall include procedures, methods and measures to manage effects of the construction works on the following Watercare assets:

- (i) Hunua 1 at Sylvia Park Road/Great South Road intersection;
- (ii) Sylvia Park watermain;
- (iii) Hunua 3 transmission watermain;

- (iv) Hunua 4 transmission watermain;
- (v) Eastern Interceptor Westfield Siphon; and
- (vi) Onehunga Harbour Road watermain.

(b) The NUMP shall:

- (i) Demonstrate how construction works will meet safety procedures required by Watercare for works within the vicinity of its assets; and
- (ii) Describe the areas within which additional management measures are required; and
- (iii) Describe the process for obtaining approval from Watercare before works commence within close proximity to Watercare assets under the Water Supply and Wastewater Network Bylaw 2015.

#### **NU.7**

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#### **NU.8**

The NUMP shall include procedures, methods and measures to manage effects of the construction works on Spark assets, and in particular, shall include provisions so that:

- (a) The relocated AOHB Otāhuhu cellular site at Princes Street is fully operational prior to decommissioning of the existing AOHB Otāhuhu cellular site; and
- (b) The relocated and/or reconfigured AHAM Hamlins Hill cellular site at Great South Road is fully operational before the existing AHAM Hamlins Hill site Radio Frequency coverage is impacted by the construction of the EWL Project.

#### **Network Utility Approvals**

##### **NU.9**

The Requiring Authority shall not require Auckland Transport or Network Utility Operators with existing infrastructure within the designated land to seek written consent under section 176 of the RMA for on-going access to enable work associated with the routine construction, operation and maintenance of existing assets. To the extent that written approval is required, this condition shall constitute written approval.

#### **Advice Note:**

In addition to the RMA processes, there are other additional processes and approvals applying to any work or activity that affect network utilities. The Requiring Authority may require additional approvals from Network Utility Operators prior to any works commencing in proximity to network utilities.

#### **Mana Whenua collaboration (MW)**

##### **Mana Whenua Group**

###### **MW.1**

- (a) Six months prior to the Commencement of Construction, the Requiring Authority shall invite mandated representatives of Mana Whenua to participate in a Mana Whenua Group (MWG).
- (b) The purpose of the MWG is to facilitate engagement between the Requiring Authority and Mana Whenua in respect of the activities authorised by this designation.
- (c) The group will include invited representatives from:

- (i) Ngāi Tai Ki Tāmaki;
- (ii) Ngāti Maru;
- (iii) Ngāti Paoa;
- (iv) Ngāti Tamaoho;
- (v) Ngāti Te Ata Waiohua;
- (vi) Ngāti Whātua Ōrākei;
- (vii) Te Ahiwaru;
- (viii) Te Ākitai Waiohua;
- (ix) Te Kawerau ā Maki; and
- (x) Te Rūnanga o Ngāti Whātua.

(d) The MWG will hold regular meetings (at least three monthly) throughout the construction period. The MWG shall continue until six months after Completion of Construction. The frequency and duration of the meetings can be reduced or increased where the majority of the members of the group agree.

(e) The Requiring Authority shall record the main points arising from each meeting of the MWG, and shall provide a copy of that record to the meeting invitees within a reasonable time following the meeting.

(f) The Requiring Authority shall be responsible for all reasonable costs associated with the resourcing of the MWG.

## **MW.2**

The MWG will be provided opportunities to review and comment on the following (amongst other things):

(a) The ULDMP, with particular reference to design elements of the following features:

(i) Works in the vicinity of Te Hōpua a Rangi including how Mana Whenua artworks or design themes are incorporated and delivered into that design and nomination of an artist to design the artwork referred to in Condition LV.5B of Designation 6774, East West Link, Designations, New Zealand Transport Agency;

(ii) Design of the reclamation, coastal paths and boardwalk along the Mangere Inlet.

(iii) Landscape treatment (including plant species, plant sources and planting methodology), alignment and design of the recreation walkway, interpretive signage and other amenities along the Māngere Inlet foreshore recreation walkway;

(iv) Aesthetic design through the upper reaches of the Māngere Inlet (Anns Creek), including reflection of the Kāretu Portage in the design of the viaduct and interpretive signage;

(v) Design associated with the Kāretu Portage Path (an elevated shared path from west of Great South Road and along Sylvia Park Road), including reflection of the historic Kāretu Portage in design of this feature;

(vi) Structures in the vicinity of the waahi tapu at Mt Wellington Interchange; and

(vii) Design of the Ōtāhuhu Creek bridges and in particular the treatment beneath these structures to reflect and respond to the Ōtāhuhu portage.

(b) The Heritage Management Plan (as required by designation Condition HH.3) including details of Mana Whenua construction monitoring for sites identified as having significance to the Mana Whenua Group (including but not limited to Te Hōpua a Rangi, Anns Creek and foreshore, Mt

Wellington Interchange area, Ōtāhuhu Creek);

(c) Accidental Discovery Protocol (as required by designation Condition HH.2);

(d) The ECOMP (as required by consent Condition EM.1) including the detail of ecological restoration planting along the northern shoreline of the Māngere Inlet, Anns Creek and Ōtāhuhu Creek;

(e) The CEMP and Coastal Works CEMP (as required by consent Conditions RC.10 and C.4), including details on site inductions, training programme(s) and tikanga for construction works (particularly for works in sensitive areas such as Te Apunga o Tainui at Mt Wellington Interchange) to respond to matters of significance to Mana Whenua; and

(f) Results of environmental monitoring prior to and during construction as required by conditions of the designation and related resource consents (e.g. water and leachate design performance monitoring under Condition C.1H and the scientific analysis of material of geological interest from the cut into the Te Hōpua a Rangi tuff ring under Condition HH.8 of Designation 6774, East West Link, Designations, New Zealand Transport Agency), including information to support cultural monitoring requirements.

### **Cultural Monitoring Plan (Construction)**

#### **MW.3**

Prior to the Commencement of Construction, a **Cultural Monitoring Plan** or plans shall be prepared by a person endorsed by the Mana Whenua Group.

#### **MW.4**

The purpose of the Cultural Monitoring Plan is to set out the agreed cultural monitoring requirements and measures to be implemented during construction activities, to acknowledge the historic and living cultural values of the area to Mana Whenua and to minimise potential adverse effects on these values.

#### **MW.5**

The Cultural Monitoring Plan shall include (but not be limited to):

(a) Requirements for formal dedication or cultural interpretation to be undertaken prior to works commencing in areas identified as having significance to Mana Whenua (including but not limited to Te Hōpua a Rangi, Anns Creek and foreshore, Mt Wellington Interchange area, Ōtāhuhu Creek):

(b) Requirements and protocols for cultural inductions;

(c) Identification of sites and areas where cultural monitoring is required during particular Construction Works;

(d) Identification of any other specific activities requiring cultural monitoring (e.g. implementation of spill contingency measures or specific works in the CMA);

(e) Identification of personnel nominated by Mana Whenua to undertake cultural monitoring, including any geographic definition of their responsibilities;

(f) Details of personnel nominated by the Requiring Authority and Mana Whenua to assist with management of any issues identified during cultural monitoring, including implementation of the Accidental Discovery Protocol developed under Condition HH.2;

(g) Identification of any opportunities and intent from Mana Whenua to reuse excavated natural material from the EWL Trench at Te Hōpua a Rangi, and if so, proposed measures to achieve

this; and

(h) Details of any pre-construction monitoring that may assist Mana Whenua in their monitoring role (e.g. avifauna monitoring, baseline water quality monitoring).

## **Historic heritage (HH)**

### **Archaeology**

#### **HH.1**

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#### **HH.2**

The Requiring Authority shall prepare an Accidental Discovery Protocol for any accidental archaeological discoveries which occur during Construction Works.

The Accidental Discovery Protocol shall be consistent with Auckland Unitary Plan Accidental Discovery Rule in Standard E.11.6.1, and E.12.6.1.

The Accidental Discovery Protocol shall be prepared in consultation with the Mana Whenua Group and modified to reflect the site specific Project detail.

The Accidental Discovery Protocol shall be implemented throughout the Construction Works.

### **Heritage Management Plan**

#### **HH.3**

(a) Prior to Commencement of Construction, the Requiring Authority shall prepare and implement a **Heritage Management Plan** (HMP).

(b) The purpose of the HMP is to identify procedures and practices to be adopted to protect, as far as reasonably practicable, historic heritage and remedy and mitigate any residual effects.

(c) The HMP shall be implemented throughout Construction Works.

#### **HH.4**

The HMP shall be prepared by a Suitably Qualified Person in consultation with Council, HNZPT and Mana Whenua, and shall identify:

(a) Known historic heritage within the designation boundary;

(b) Any pre-1900 areas covered by an Archaeological Authority under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA);

(c) Roles, responsibilities and contact details of personnel and/or relevant agencies (including but not limited to Auckland Council, New Zealand Police, HNZPT, and mana whenua representatives) involved with historic heritage matters including surveys and monitoring of conditions;

(d) Methods for identifying avoiding, protecting and/or minimising effects on historic heritage during construction where practicable in line with the ICOMOS NZ Charter and including construction methods that minimise vibration;

(e) Details for recording and salvage prior to removal of the historic railway bridge and tunnel located adjacent to Onehunga Harbour Road. The recording and salvage shall be aligned, as appropriate, with the Salvage and Conservation Heritage Plan for the proposed removal of the 1875/1915 Māngere Bridge (being part of a separate works project planned by the NZ Transport Agency).

(f) Training requirements for contractors and subcontractors on historic heritage areas/features within the designation boundary and any accidental discovery protocols. The training shall be undertaken under the guidance of a Suitably Qualified Person and representatives of the Mana Whenua Group;

(g) Cultural inductions for site/places of importance to Mana Whenua;

(h) Proposed methodology for assessing the condition of historic heritage, and the means to mitigate any adverse effects (if any) on the built heritage features listed in Condition HH.5 of Designation 6774, East West Link, Designations, New Zealand Transport Agency, including allocation of resources and the timeframe for implementing the proposed methodology in accordance with Heritage New Zealand guideline AGS 1A: Investigation and Recording of Buildings and Standing Structures for assessing and recording built heritage dated 4 July 2014 (or any subsequent revision); and

(i) Proposed methodology for documentation of historic heritage exposed during construction and the recording of these sites in the Auckland Council Cultural Heritage Inventory ([www.chi.net/Home.aspx](http://www.chi.net/Home.aspx)).

#### **HH.4A**

Electronic copies of all historic heritage reports relating to historic heritage investigations (evaluation, excavation and monitoring etc.), including interim reports, shall be submitted to the Manager as soon as they are produced.

#### **Advice note:**

HNZPTA provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. All archaeological sites are protected by the provisions of the Act (section 42). It is unlawful to modify, damage or destroy an archaeological site without prior authority from HNZPT. An Authority is required whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under Unitary, District or Regional Plans.

According to the Act (section 6) archaeological site means, subject to section 42(3) –

(a) any place in New Zealand, including any building or structure (or part of a building or structure), that –

(i) was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and

(ii) provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and

(b) includes a site for which a declaration is made under section 43(1) It is the responsibility of the Requiring Authority to consult with HNZPT about the requirements of the Act and to obtain the necessary Authorities under the Act should these become necessary, as a result of any activity associated with the consented proposals.

For information please contact the HNZPT Northern Regional Archaeologist – 09 307 0413 / [archaeologistMN@historic.org.nz](mailto:archaeologistMN@historic.org.nz).

#### **HH.5**

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#### **HH.6**

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#### **HH.6A**

Prior to the removal of the houses at 69 Panama Road and 31 Frank Grey Place, the houses shall be photographically recorded and the record shall be provided to the Manager.

#### **HH.7**

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#### **HH.7A**

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#### **HH.8**

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### **URBAN DESIGN, LANDSCAPE AND VISUAL (LV)**

#### **LV.1**

The Requiring Authority shall prepare an **Urban and Landscape Design Master Plan (ULDMP)** for the Project. The ULDMP may be submitted in sectors or in parts.

The ULDMP shall be included in the Outline Plan submitted prior to the Commencement of Construction of permanent works.

A ULDMP is not required for Enabling Works and Site Investigations.

#### **LV.2**

The purpose of the ULDMP is to:

- (a) Integrate the Project's permanent works into the surrounding landscape and urban context and to illustrate the urban and landscape design elements of the Project.
- (b) Outline the requirements for the Project's permanent landscape mitigation works; and
- (c) Outline the maintenance and monitoring requirements for planting undertaken as part of the ULDMP.

#### **LV.3**

The ULDMP shall be prepared in consultation with:

- (i) Council for areas of the Project to become Council assets;
- (ii) Auckland Transport for areas within and adjoining local roads;
- (iii) the Mana Whenua Group;
- (iv) HNZPT;
- (v) Landowners;
- (vi) Adjacent landowners in relation to noise barriers on their boundary;
- (vii) Auckland Council Heritage Unit for works within AUP Historic Heritage Overlay Extent of Place and/or affecting AUP Historic Heritage Overlay and Schedule items; and
- (viii) Panuku Development Auckland for works adjacent to Onehunga Wharf.

Any comments and inputs received from the parties listed above shall be summarised within the

ULDMP or supporting document, along with explanation of where any comments or suggestions have not been incorporated and the reasons why.

#### **LV.4**

The ULDMP shall be prepared by a Suitably Qualified Person and shall:

(a) Reflect the Key Design Principles and Sector Outcomes of the Project's *Urban and Landscape Design Framework* dated November 2016 and the Addendum dated December 2016 (hereafter referred to as the ULDF);

(b) Be prepared in general accordance with the following (or equivalent update):

(i) NZ Transport Agency's Urban Design Guidelines: *Bridging the Gap* (2013); and

(ii) NZ Transport Agency Landscape Guidelines (final draft dated 2014); and NZ Transport Agency's *P39 Standard Specification for Highway Landscape Treatments*, 2013; and

(c) Be integrated with the ULDMP for the areas of the Project within the Coastal Marine Area, and, where relevant, the Ecological Management Plan, both plans to be prepared in accordance with conditions of the resource consents granted for the Project.

#### **LV.5**

The ULDMP shall demonstrate how the Sector-Specific Outcomes in Chapter 5 of the ULDF have been incorporated and shall include the following:

(a) Design that describes and illustrates the overall urban and landscape design concept, and explains the rationale for the landscape and urban design proposal if different from the ULDF concepts;

(b) Developed design details for the urban and landscape design features. These shall cover the following:

(i) Roadside furniture – elements such as lighting, sign gantries and signage, guard rails, fences and median barriers;

(ii) Architecture and landscape treatment of all major structures, including bridges, structures, underpasses and retaining walls;

(iii) Architecture and landscape treatment of noise barriers;

(iv) Land use re-instatement following construction;

(v) Landscape treatment of permanent stormwater management wetlands and swales;

(vi) Integration of passenger transport facilities;

(vii) Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/ cycle bridges or underpasses;

(viii) Features (such as interpretive signage) for the purpose of identifying and interpreting cultural heritage, built heritage, archaeology, geological heritage and ecology in the Project area;

(ix) Proposed maintenance boundaries;

(x) Consideration of:

- Crime Prevention Through Environmental Design (CPTED) principles;



- Safety in Design (SID) requirements;
- Maintenance requirements and anti-graffiti measures; and
- Protected viewshafts, character areas and protected heritage sites, structures or features, as identified in the Auckland Unitary Plan.

The ULDM shall also describe how road design elements such as median width and treatment, roadside width and treatment, and earthworks contouring, have taken into account the Sector-Specific Outcomes in Chapter 5 of the ULDF.

**LV.5A**

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**LV.5B**

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**LV.5C**

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**LV.5D**

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**LV.5E**

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**LV.5H**

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**LV.6**

The ULDM shall include the following planting details:

(a) Identification of vegetation to be retained (including trees identified in accordance with Condition TR.1), protection measures, and planting to be established along cleared edges;

(b) Details of the sourcing of native plants. Any planting using native plants shall use plants genetically sourced from the Tamaki Ecological District where possible or otherwise shall use plants that have been genetically sourced from within the Auckland Ecological Region;

(c) Proposed planting including plant species, plant/grass mixes, spacing/densities, sizes (at the time of planting) and layout and planting methods including trials;

(d) Planting programme – the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of Construction Works in each stage of the Project;

(e) Detailed specifications for landscape planting relating to (but not limited to) the following:

(i) Weed control and clearance;

- (ii) Pest animal management;
  - (iii) Ground preparation (topsoiling and decompaction);
  - (iv) Mulching; and
  - (v) Plant sourcing and planting, including hydroseeding and grassing;
- (f) The detailed specifications above are to be consistent with the ECOMP required by Condition EM.1 and with planting plans for the stormwater treatment wetlands required by Condition SW.1.
- (g) For any landscape planting, a maintenance regime including monitoring and reporting requirements, which is to apply for the 2 years following that planting being undertaken; and
- (h) For any ecological restoration planting, a maintenance regime including monitoring and reporting requirements, which is to apply for the 5 years following that planting being undertaken.

#### **LV.7**

Planting shall be implemented:

- (a) Wherever practicable prior to Commencement of Construction; or
- (b) As soon as areas become available for planting due to the progress of the works and seasonal conditions; and/or
- (c) Within twelve months of Completion of Construction, unless the seasonal timing of works makes some planting impracticable, in which case such planting shall be completed no later than twenty four months after Completion of Construction.

#### **LV.8**

Where the Requiring Authority installs noise barriers immediately adjacent to residential properties between Panama Road and the southern extent of the works, it shall offer to undertake planting to soften the appearance of the barrier.

The offer shall be made no later than 3 months prior to Completion of Construction. If the offer is not accepted by a property owner within that timeframe, this condition is deemed to have been complied with.

### **Trees (TR)**

#### **TR.1**

Arboricultural assessments shall be carried out prior to Commencement of Construction to assess if any existing trees within the construction area are worthy of retention or relocation and if it is practicable to retain or relocate those trees.

The assessment shall include a survey of trees prior to the Commencement of Construction within parks, reserves and local roads to inform the replacement of these trees in accordance with Condition TR.2. The survey methodology shall be provided to the Manager for certification.

If retention or relocation of a tree is determined appropriate, specific tree protection/management measures shall be developed and implemented throughout the Construction Works so that health of the trees is not adversely affected. Where any retained or relocated trees are located on Council owned land (including Council owned open space and road reserve), the Council's nominated arborist shall be consulted regarding appropriate tree protection/management measures.

#### **TR.2**

Trees within parks, reserves and local roads that require removal for the Project shall be replaced with trees of suitable/comparable species and size to achieve comparable canopy footprint after

10 years in a location agreed with Council (for parks and reserves) or Auckland Transport (for local roads and paths). Details of the location, species and size of the replacement trees shall be included in the ULDMP prepared in accordance with Condition LV.1.

### **TR.3**

Where any works occur within the dripline of a notable tree or trees within a Historic Heritage Overlay Extent of Place (as identified in the maps of the AUP), those works shall be undertaken in accordance with best arboricultural practice and the methodology for the works submitted to the Manager for certification.

## **TRAFFIC NOISE (OPERATION) (ON)**

### **ON.1**

For the purposes of Conditions ON.2 to ON.14:

- (a) BPO – means the Best Practicable Option;
- (b) Building-Modification Mitigation – has the same meaning as in NZS 6806:2010 *Acoustics – Road-traffic noise – New and altered roads*;
- (c) Habitable Space – has the same meaning as in NZS 6806;
- (d) Noise Assessment – Means the *Traffic Noise and Vibration Assessment Report* (Technical Report 7) submitted with the NoR;
- (e) Noise Criteria Categories – means the groups of preference for sound levels established in accordance with NZS 6806 when determining the BPO for noise mitigation (i.e. Categories A, B and C);
- (f) NZS 6806 – means New Zealand Standard NZS 6806:2010 *Acoustics – Roadtraffic noise – New and altered roads*;
- (g) P40 – means NZ Transport Agency NZTA P40:2014 Specification for noise mitigation;
- (h) PPFs – means only the premises and facilities identified in green, orange or red in the *Noise Assessment*; and
- (i) Structural Mitigation – has the same meaning as in NZS 6806.

### **Structural Mitigation**

#### **ON.2**

The road-traffic noise mitigation measures identified as the 'Recommended Traffic Noise Mitigation' in the Noise Assessment must be implemented to achieve the Noise Criteria Categories indicated in the *Noise Assessment* ('Identified Categories'), where practicable and subject to Conditions ON.3 to ON.14.

#### **ON.3**

Prior to Commencement of Construction, a Suitably Qualified Person must undertake the detailed design of the Structural Mitigation measures in the Noise Assessment (the 'Detailed Mitigation Options'), which, subject to Condition ON.4, must include at least:

- (a) Noise barriers with location, length and height in general accordance with the *Noise Assessment*; and
- (b) Low-noise road surfaces with location in general accordance with the *Noise Assessment*.

#### **ON.4**

If it is not practicable to implement a particular Structural Mitigation measure in the location or of

the length or height included in the *Noise Assessment*, a changed design can be included in the Detailed Mitigation Options if either:

(a) the changed design would result in the same Identified Category at all PPFs or better, and a Suitably Qualified Person certifies to the Manager that the changed Structural Mitigation would be consistent with adopting the BPO in accordance with NZS 6806; or

(b) the changed design would result in an increase in the noise level at any PPF of greater than 2dB and the Manager confirms that the changed Structural Mitigation would be consistent with adopting the BPO in accordance with NZS 6806.

### **Noise Mitigation Design Report**

#### **ON.5**

Prior to Commencement of Construction, a Noise Mitigation Design Report written in accordance with NZ Transport Agency *P40 Specification for Noise Mitigation 2014* must be provided to the Manager.

The purpose of the Noise Mitigation Design Report is to confirm that the Detailed Mitigation Options meet the requirements of ON.2-ON.4. The Noise Mitigation Design Report shall include confirmation that consultation has been undertaken with affected property owners for site specific design requirements and the implementation programme.

Where a Noise Mitigation Design Report is required, it shall be included in the Outline Plan for the relevant stage(s) of the Project.

#### **ON.6**

The Detailed Mitigation Options must be implemented prior to Completion of Construction, with the exception of any low-noise road surfaces, which must be implemented within twelve months of Completion of Construction.

#### **ON.7**

Within twelve months of Completion of Construction, a post-construction review report written in accordance with NZ Transport Agency *P40 Specification for Noise Mitigation 2014* must be provided to the Manager.

#### **ON.8**

The Detailed Mitigation Options must be maintained so they retain their noise reduction performance as far as practicable.

### **Building-Modification Mitigation**

#### **ON.9**

Prior to Commencement of Construction, a Suitably Qualified Person must identify those PPFs which, following implementation of all the Detailed Mitigation Options, will not achieve Noise Criteria Category A or B and where Building-Modification Mitigation might be required to achieve 40 dB LAeq(24h) inside habitable spaces ('Category C Buildings').

#### **ON.10**

Prior to Commencement of Construction in the vicinity of each Category C Building, the Requiring Authority must write to the owner of the Category C Building requesting entry to assess the noise reduction performance of the existing building envelope. If the building owner agrees to entry within twelve months of the date of the Requiring Authority's letter, the Requiring Authority must instruct a Suitably Qualified Person to visit the building and assess the noise reduction performance of the existing building envelope.

#### **ON.11**

For each Category C Building identified, the Requiring Authority is deemed to have complied with Condition ON.10 if:

(a) The Requiring Authority's acoustics specialist has visited the building; or

(b) The building owner agreed to entry, but the Requiring Authority could not gain entry for some reason (such as entry denied by a tenant and the building owner has been notified of that denial); or

(c) The building owner did not agree to entry within twelve months of the date of the Requiring Authority's letter sent in accordance with Condition ON.10 (including where the owner did not respond within that period); or

(d) The building owner cannot, after reasonable enquiry, be found prior to Completion of Construction.

If any of (b) to (d) above apply to a Category C Building, the Requiring Authority is not required to implement Building-Modification Mitigation to that building.

#### **ON.12**

Subject to Condition ON.11, within six months of the assessment required by Condition ON.10, the Requiring Authority must write to the owner of each Category C Building advising:

(a) If Building-Modification Mitigation is required to achieve 40 dB LAeq(24h) inside habitable spaces; and

(b) The options available for Building-Modification Mitigation to the building, if required; and

(c) That the owner has three months to decide whether to accept Building-Modification Mitigation to the building and to advise which option for Building-Modification Mitigation the owner prefers, if the Requiring Authority has advised that more than one option is available.

#### **ON.13**

Once an agreement on Building-Modification Mitigation is reached between the Requiring Authority and the owner of a Category C Building, the mitigation must be implemented, including any third party authorisations required, in a reasonable and practical timeframe agreed between the Requiring Authority and the owner.

#### **ON.14**

Subject to Condition ON.11, where Building-Modification Mitigation is required, the Requiring Authority is deemed to have complied with Condition ON.13 if:

(a) The Requiring Authority has completed Building-Modification Mitigation to the building; or

(b) An alternative agreement for mitigation is reached between the Requiring Authority and the building owner; or

(c) The building owner did not accept the Requiring Authority's offer to implement Building-Modification Mitigation within three months of the date of the Requiring Authority's letter sent in accordance with Condition ON.12 (including where the owner did not respond within that period); or

(d) The building owner cannot, after reasonable enquiry, be found prior to Completion of Construction.

### **CONSTRUCTION NOISE AND VIBRATION (CNV)**

#### **CNV.1**

A **Construction Noise and Vibration Management Plan (CNVMP)** shall be prepared by a Suitably Qualified Person, and shall be implemented and maintained throughout the entire construction period.

The purpose of the CNVMP is to provide a framework for the development and implementation of

Best Practicable Option for the management of construction noise and vibration effects, and to minimise any exceedance of the construction noise and vibration criteria set out in Conditions CNV.4 and CNV.5.

## **CNV.2**

(a) The CNVMP shall be prepared in accordance with Annex E2 of New Zealand Standard NZS6803:1999 'Acoustics – Construction Noise' (NZS6806:1999) and the NZ Transport Agency's *State highway construction and maintenance noise and vibration guide* (version 1.0, 2013).

(b) The CNVMP shall, as a minimum, address the following:

(i) Description of the works, anticipated equipment/processes and their scheduled durations;

(ii) Hours of operation, including times and days when construction activities would occur;

(iii) The construction noise and vibration criteria for the project;

(iv) Identification of affected houses and other sensitive locations where noise and vibration criteria apply;

(v) Management and mitigation options, including alternative strategies adopting the Best Practicable Option where full compliance with the relevant noise and/or vibration criteria cannot be achieved;

(vi) A procedure for developing and implementing the management plans (as required by conditions CNV.6A, CNV.7A and CNV.7B) forming part of this CNVMP;

(vii) Methods and frequency for monitoring and reporting on construction noise and vibration;

(viii) Procedures for maintaining contact with stakeholders, notifying of proposed construction activities, the period of construction activities, and handling noise and vibration complaints;

(ix) Identification of major construction work areas and activities which are anticipated to generate noise and / or vibration levels which will require site specific management plans (in accordance with Condition CNV.6A, CNV.7A and CNV.7B) as soon as reasonably practicable, and procedures for the early engagement with the receivers;

(x) Construction equipment operator training procedures and expected construction site behaviours;

(xi) Contact details of the site supervisor or project manager and the Requiring Authority's Project Liaison Person (phone, postal address, email address);

(xii) Procedures for the regular training of the operators of construction equipment to minimise noise and vibration as well as expected construction site behaviours for all workers; and

(xiii) Identification of businesses which operate processes, machinery or equipment that may be unreasonably disrupted by construction vibration even where the Project vibration standards are met or are sensitive to vibration due to the nature of the building materials (e.g. asbestos). For any such businesses a site specific management plan in accordance with CNV.7B shall be prepared and implemented.

## **CNV.3**

The CNVMP shall identify which mitigation measures required by Conditions ON. 1 to ON.6 would also attenuate construction noise. Where practicable, those measures identified in the CNVMP shall be implemented prior to commencing major construction works or early during construction

that generate noise in the vicinity.

#### CNV.4

(a) Noise arising from construction activities shall be measured and assessed in accordance with NZS 6803:1999 *Acoustics - Construction Noise* and shall comply with the noise criteria set out in the following table:

**Table CNV1: Construction noise criteria**

Timeframe	Time	LAeq(15min)	LAFmax
<b>Residential buildings</b>			
0630 Sunday to 0630 Friday	0630h - 0730h	60 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	65 dB	80 dB
	2000h - 0630h	60 dB	75 dB
0630 Friday to 0630 Saturday	0630h - 0730h	60 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB
0630 Saturday to 0630 Sunday and from midnight to midnight on Public Holidays	0630h - 0730h	45 dB	75 dB
	0730h - 1800h	55 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB
<b>Commercial and industrial receivers</b>			
All	0730h – 1800h	70dB	
	1800h – 0730h	75 dB	

(b) Where compliance with the noise criteria set out in Table CNV1 is not practicable, then the methodology in Condition CNV.6A shall apply.

#### CNV.5

Construction vibration shall be measured in accordance with ISO 4866:2010 *Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures*, and shall, as far as practicable, comply with the Category A construction vibration criteria in Table CNV2.

(a) If measured or predicted vibration from construction activities exceeds the Category A criteria, a Suitably Qualified Person must assess and manage construction vibration during those activities. This shall involve engagement with the affected receivers to:

(i) discuss the nature of the work and the anticipated days and hours when the exceedance is likely to occur; and

(ii) assess, where practicable, if the exceedance could be timed or managed to reduce the effects on the receiver.

(b) If measured or predicted vibration from construction activities exceeds the Category B criteria those activities may only proceed subject to Condition CNV.7A.

**Table CNV2 Construction Vibration Criteria for People and Buildings**

Receiver	Details	Category A	Category B
<b>Occupied PPFs</b>			
Inside the building	Night-time 2000h - 0630h	0.3mm/s PPV	1mm/s PPV
	Daytime 0630h - 2000h	1mm/s PPV	5mm/s PPV
	Blasting – vibration	5mm/s PPV	10mm/s PPV
Free field	Blasting - airblast	120dB <sub>L<sub>Zpeak</sub></sub>	-
<b>Other occupied buildings</b>			
Inside the building	Daytime 0630h - 2000h	2mm/sPPV	5mm/s PPV
<b>All other buildings</b>			
Building foundation		5mm/s PPV	Tables 1 and 3 of DIN4150-3:1999**
Free field	Airblast	-	133dB <sub>L<sub>Zpeak</sub></sub>

For vibration, protected premises and facilities (PPFs) are dwellings, educational facilities, boarding houses, homes for the elderly and retirement villages, marae, hospitals that contain in-house patient facilities and buildings used as temporary accommodation (e.g. motels and hotels).

German Standard DIN 4150-3:1999 “Structural Vibration - Part 3: Effects of Vibration on Structures”

**Table CNV3 Construction Vibration Criteria for buried pipework\*\*\***

Pipe material	Guideline values for velocity measured on the pipe, v <sub>i</sub> , in mm/s
Steel (including welded pipes)	100
Clay, concrete, reinforced concrete, metal (with or without flange)	80
Masonry, plastic	50

\*\*\* Based on the German Standard DIN 4150-3:1999 “Structural Vibration - Part 3: Effects of Vibration on Structures”.

**CNV.6A**

(a) A Site Specific Construction Noise Management Plan (SSCNMP) shall be prepared by a Suitably Qualified Person, in consultation with the owners and occupiers of sites subject to the SSCNMP, when construction noise is either predicted or measured to exceed the criteria in Condition CNV.4, except where the exceedance of the criteria in Condition CNV.4 is no greater than 5 decibels and does not exceed:

- (i) 0700-2200: 1 period of up to 2 consecutive weeks in any 2 months; or
- (ii) 2200-0700: 1 period of up to 2 consecutive nights in any 10 days.

(b) The objective of the SSCNMP is to set out the best practicable option for the management of



noise effects of the construction activity. The SSCNMP shall as a minimum set out:

- (i) Construction activity location, start and finish dates;
  - (ii) The predicted noise level for the construction activity;
  - (iii) Noise limits to be applied for the duration of the activity;
  - (iv) The mitigation options that have been selected and the options that have been discounted as being impracticable and the reasons why. The mitigation options shall take into account where practicable, the use of the site and/or any operational requirements of the site. Mitigation options may include:
    - a. managing times of activities to avoid night works and other sensitive times;
    - b. liaising with neighbours so they can work around specific activities;
    - c. selecting equipment and methodologies to restrict noise;
    - d. using screening, enclosures or barriers;
    - e. if appropriate and reasonable, offering neighbours temporary relocation;
  - (v) The proposed noise monitoring regime;
  - (vi) Document the consultation undertaken with owners and occupiers of sites subject to the SSCNMP, and how consultation outcomes have and have not been taken into account. The consultation shall be in addition to the requirements set out in Condition CS.2.
- (c) The SSCNMP shall be submitted to the Manager for certification at least 5 working days, except in unforeseen circumstances, in advance of Construction Works which are covered by the scope of the SSCNMP.
- (d) Where changes are made to a certified SSCNMP, the Requiring Authority shall consult the owners and occupiers of sites subject to the SSCNMP prior to submitting the amended SSCNMP to the Manager for certification in accordance with Clause (c). The amended SSCNMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.

#### **CNV.7A**

- (a) A Site Specific Construction Vibration Management Plan (SSCVMP) shall be prepared by a Suitably Qualified Person, in consultation with the owners and occupiers of sites subject to the SSCVMP, when construction vibration is either predicted or measured to exceed the Category B criteria at the receivers in Condition CNV.5.
- (b) The objective of the SSCVMP is to set out the Best Practicable Option for the management of construction vibration effects. The SSCVMP shall as a minimum set out:
- (i) Construction activity location, start and finish dates;
  - (ii) The predicted vibration level for the construction activity;
  - (iii) An assessment of each building and any pipe work to determine susceptibility to damage from vibration and define acceptable vibration limits that the works must comply with to avoid damage;
  - (iv) The mitigation options that have been selected and the options that have been discounted as

being impracticable and the reasons why. The mitigation options shall take into account where practicable, the use of the site and/or any operational requirements of the site. Mitigation options may include:

- a. Phasing of vibration-generating activities;
  - b. Avoiding impact pile driving and vibratory rollers where possible in vibration-sensitive areas;
  - c. Liaising with neighbours so they can work around specific vibration-generating activities;
  - d. Selecting equipment and methodologies to minimise vibration;
- (v) The proposed vibration monitoring regime;
- (vi) The consultation undertaken with owners and occupiers of sites subject to the SSCVMP, and how consultation outcomes have and have not been taken into account. The consultation shall be in addition to the requirements set out in Condition CS.2; and
- (vi). The pre-condition survey of buildings which document their current condition and any existing damage.
- (c) The SSCVMP shall be submitted to the Council for certification at least 5 working days, except in unforeseen circumstances, in advance of Construction Works which are covered by the scope of the SSCVMP.
- (d) Where changes are made to a certified SSCVMP, the Requiring Authority shall consult the owners and occupiers of sites subject to the SSCVMP prior to submitting the amended SSCVMP to the Manager for certification in accordance with Clause (c). The amended SSCVMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.

#### **CNV.7B**

(a) In addition to the matters in CNV.7A, a SSCVMP shall also be required in circumstances when construction vibration is predicted to adversely affect commercial activities located within 50m of Construction Works that are verified by a Suitably Qualified Person as being uniquely sensitive to construction vibration due to the nature of specialised equipment and/or the nature of the building materials (e.g. asbestos). At a minimum, a SSCVMP shall be prepared for:

- (i) Stratex Group Limited site, 19 - 21 Sylvia Park Road; and
- (ii) Fonterra Tip Top site, 113 Carbine Road. With respect to this site, "activities" and "processes, machinery or equipment" in Condition CNV7.B(b) includes:
  - underground wet services (including stormwater drainage and wastewater);
  - earthenware pipes;
  - underground cabling (including 11kV and 400V power cables and associated switchboxes);
  - ducted services; and
  - other core underground infrastructure which the landowner has confirmed to the Requiring Authority, in writing, prior to Commencement of Construction.

(b) In addition to the requirements of CNV.7A, the SSCVMP shall include, with respect to those vibration sensitive commercial activities:

- (i) Informed by consultation with the owners and/or occupiers of sites, identification of the

processes, machinery or equipment which are uniquely sensitive to construction vibration, and the reasons why;

(ii) An assessment of the sensitivity of the processes, machinery or equipment to construction vibration;

(iii) Construction vibration criteria for the vibration sensitive commercial activities;

(iv) A process for dealing with any disagreement which may arise, particularly in relation to the determination of the vibration limits; and

(v) Procedures and methods for monitoring compliance with the vibration criteria established under (iii) above.

(c) Where changes are made to a certified SSCVMP required by this condition, the Requiring Authority shall consult the owners and/or occupiers of sites subject to the SSCVMP prior to submitting the amended SSCVMP to the Manager for certification in accordance with Condition CNV.7A(c). The amended SSCVMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.

## **Construction Traffic (CT)**

### **Construction Traffic Management Plan**

#### **CT.1**

A **Construction Traffic Management Plan** (CTMP) shall be prepared by a Suitably Qualified Person and in consultation with Auckland Transport.

The purpose of the CTMP is to manage the various traffic management, safety and efficiency effects associated with Construction Works to:

(a) Protect public safety including the safe passage of and connectivity for pedestrians and cyclists, particularly for school students travelling to and from school;

(b) Minimise increases to existing delay to road users, public transport services, pedestrians and cyclists;

(c) Minimise interruption to property access;

(d) Inform the public about any potential impacts on the road network;

(e) Minimise disruptions on the arterial road network and rail network; and

(f) Manage the effects on and/or any changes required to existing Over Dimension and Over Weight routes.

#### **CT.2**

The CTMP shall:

(a) Identify how Condition CT.1 will be achieved;

(b) Be in general accordance with the Draft Construction Traffic Management Plan Framework listed in DC.1;

(c) Where road capacity may be significantly affected by temporary traffic management, identify potential effects of the capacity reduction, and proposed measures to minimise delays. Traffic Impact Assessment (with possible inclusion of traffic modelling) may be required, particularly

where the arterial network is affected;

(d) Include measures to avoid road closures and restrictions on vehicle, bus, cycle and pedestrian movements;

(e) Identify site access routes and access points for heavy vehicles;

(f) Identify possible temporary changes to bus routes and bus stops, whether these can be safely accommodated on the relevant roads and the considerations to maintain service to key destinations and minimise of levels of service reduction;

(g) Where road closures or restrictions cannot reasonably be avoided, the particular vulnerabilities and sensitivities of pedestrian diversions and reduced conditions shall be taken into account in the planning of any closures or restrictions;

(h) Confirm that a safe alternative shared cycle/pedestrian path connection between Onehunga Harbour Road and Old Māngere Bridge or the New Old Māngere Bridge (if constructed) is available at all times during the Construction Works;

(i) Identify proposed measures to minimise the duration of closure of the existing shared path facility along the Māngere Inlet, and proposed measures to stage works and / or provide detours to minimise inconvenience. Detours shall be sign posted, and shall where practicable, minimise the increase in length relative to the existing facility, the increase in vertical ascent, and minimise the duration of the construction period. The alternate route shall have an appropriate surface maintained throughout its period of use; a; and

(j) Include the process for rail closures, including how scheduled block-of-lines are to be utilised and the timing of any closures to avoid or minimise level of service reduction to passenger rail services at peak commuter times and rail freight services; and

(k) Identify any changes required to Over Dimension and Over Weight routes and how impacts on these routes, including alternate diversion routes, will be managed during construction so as to minimise the impact of any changes (both temporary and permanent) on Over Dimension and Overweight vehicles.

### **CT.3**

At least 40 working days prior to commencement of Construction Works the Requiring Authority shall provide a draft of the CTMP to Auckland Transport for comment.

The CTMP shall summarise the input and comments from Auckland Transport, describe how this has been incorporated and, where any input has not been incorporated, set out the reason why.

Any amendments to the CTMP shall be prepared in consultation with Auckland Transport prior to submission in accordance with Condition DC.10.

### **Site/Activity Specific Traffic Management Plans**

#### **CT.4**

(a) Site/activity specific **Traffic Management Plans** (TMPs) shall be prepared where any Project construction activity varies the normal traffic conditions of any public road.

(b) The TMP shall be reviewed by an engineer with a minimum of a current Level 2/3 Site Traffic Management Supervisor Non-Practicing qualification. Any comments and inputs received from the reviewer shall be clearly documented.

(c) The Requiring Authority shall provide the TMP to the relevant Road Controlling Authority for approval.

(d) The purpose of the TMP is to identify specific construction methods to address the particular circumstances, local traffic and community travel demands within the area covered by the TMP. The TMP shall describe the measures that will be taken to manage the traffic effects associated with Construction Works within the area covered by the TMP.

(e) In particular the TMP shall describe:

(i) Temporary traffic management measures required to manage impacts on road users during proposed working hours;

(ii) Temporary effects on on-street parking and proposed measures to minimise those effects;

(iii) Delay calculations associated with the proposed closure/s and detour routes; (iv) The capacity of any proposed detour route(s) and their ability to carry the additional traffic volumes and any known safety issues associated with the detour route, including any mitigation measures the Requiring Authority proposes to put in place to address any identified safety issues;

(v) Individual traffic management plans for intersections of the Project with arterial roads;

(vi) Measures to maintain, subject to health and safety requirements, existing vehicular access to adjacent properties and businesses to accommodate the types of vehicles normally accessing the site during normal working hours for that site unless alternative access arrangements are agreed;

(vii) Measures to maintain 24 hour per day access for road legal vehicles from Onehunga Harbour Road to Onehunga Wharf for existing businesses and for emergency vehicles. If any particular access point cannot be maintained or reconfigured, appropriate alternative arrangements for continued access to the wharf are to be made where practicable. Short term closures of access to the wharf may occur only after prior consultation with existing business operators regarding the timing and duration of the proposed closure. Unless otherwise agreed with existing business owners, no closure of access to the wharf shall exceed a duration of 4 hours within any 24 hour period;

(viii) Measures to minimise the temporary effects of Construction Works on on-site parking on directly affected properties and opportunities to provide alternative temporary parking where practicable to do so;

(ix) Measures to maintain, where practicable, safe and clearly identified pedestrian and cyclist access on roads and footpaths adjacent to the Construction Works. Where detours are necessary to provide such access the Requiring Authority shall provide, as far as practicable, the shortest and most convenient detours;

(x) Consideration of over dimension and overweight routes including any feedback received from established organisations representing the freight industry;

(xi) Any proposed temporary changes in speed limit;

(xii) Provision for safe and efficient access of construction vehicles to and from construction site(s);

(xiii) The measures that will be undertaken by the Requiring Authority to communicate traffic management measures to affected road users, cyclists and pedestrian and other stakeholders;

(xiv) The measures that will be undertaken by the Requiring Authority (e.g. instructions to contractors) to restrict Project-related heavy vehicles using residential streets and the section of Onehunga Mall north of Neilson Street; and

(xv) The consultation undertaken with CLGs, business forums and affected properties

owners/occupiers in relation to proposed temporary traffic management and measures that will be undertaken to address issues raised.

(f) Where changes are made to an approved TMP, the Requiring Authority shall consult the parties in Clause (e)(xv), prior to submitting the amended TMP to the Road Controlling Authority for approval. The amended TMP shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.

#### **CT.4A**

Any contractors carrying out works on, beneath, or in close proximity to, the existing tanker truck turning circle at the western edge of Fonterra's Tip Top Site at 113 Carbine Road, shall adopt and implement construction techniques that do not impact on the use of that turning circle, unless otherwise agreed with the landowner.

#### **Construction traffic - general requirements**

##### **CT.5**

The CTMP and TMP(s) shall be consistent with the version of the NZ Transport Agency *Code of Practice for Temporary Traffic Management* or the Auckland Transport *Auckland Transport Code of Practice* (which applies at the time the CTMP or the relevant TMP is prepared).

##### **CT.6**

The site/activity specific TMP(s) shall be prepared following consultation with the following key stakeholders (as relevant):

- (a) Auckland Transport (where local roads and paths will be affected);
- (b) National Road Carriers Incorporated and NZ Heavy Haulage Association;
- (c) Public transport providers (where public transport services will be affected);
- (d) Emergency services (police, fire and ambulance); and
- (e) Schools and childcare centres with frontage or access to roads within which works in relation to the relevant part of the Project will take place; and
- (f) Directly affected property and business owners and operators, including (for the relevant works) the Onehunga Business Association and the residents of Onehunga Mall Cul-de-Sac.

##### **CT.7**

The Requiring Authority shall implement each TMP for the duration of the Construction Works to which the particular TMP applies.

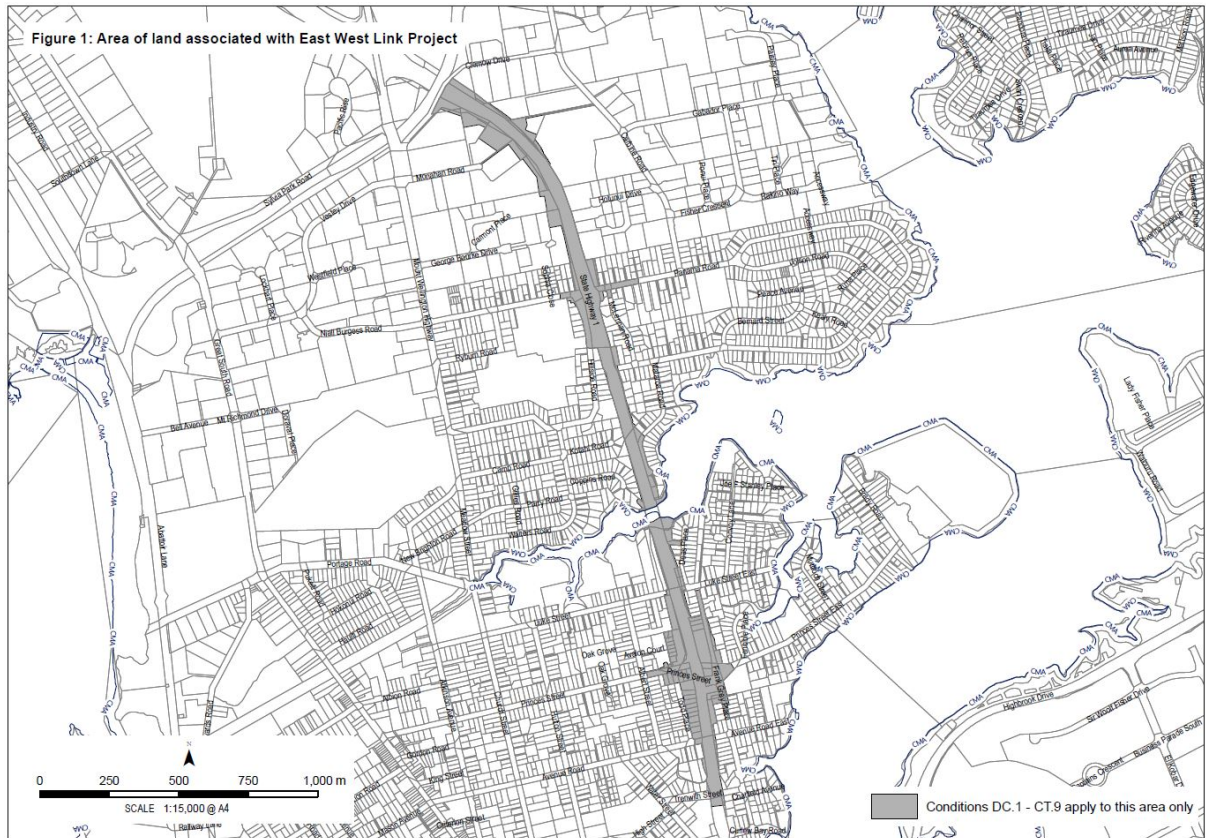
##### **CT.9**

Any damage to a local road or arterial road which is verified by a Suitably Qualified Person as being directly attributable to heavy vehicles entering or exiting construction sites shall be repaired within two weeks or within an alternative timeframe to be agreed with Auckland Transport. All repairs shall be undertaken by the Requiring Authority in accordance with the *Auckland Transport Code of Practice*.

#### **Advice Note:**

In addition to the RMA processes, there are other additional processes applying to any work or activity that affects the normal operation of a local road, footpath or berm. For such activities, a Corridor Access Request must be submitted to the Road Controlling Authority under the National Code of Practice for Utility Operators' Access to Transport Corridor to ensure that all work is done safely and complies with national regulations.

# Attachments



New/Alterations & Withdrawals to Designations  
(Go Live 29th November 2018)

Amendments to Auckland Unitary Plan GIS Viewer (maps)

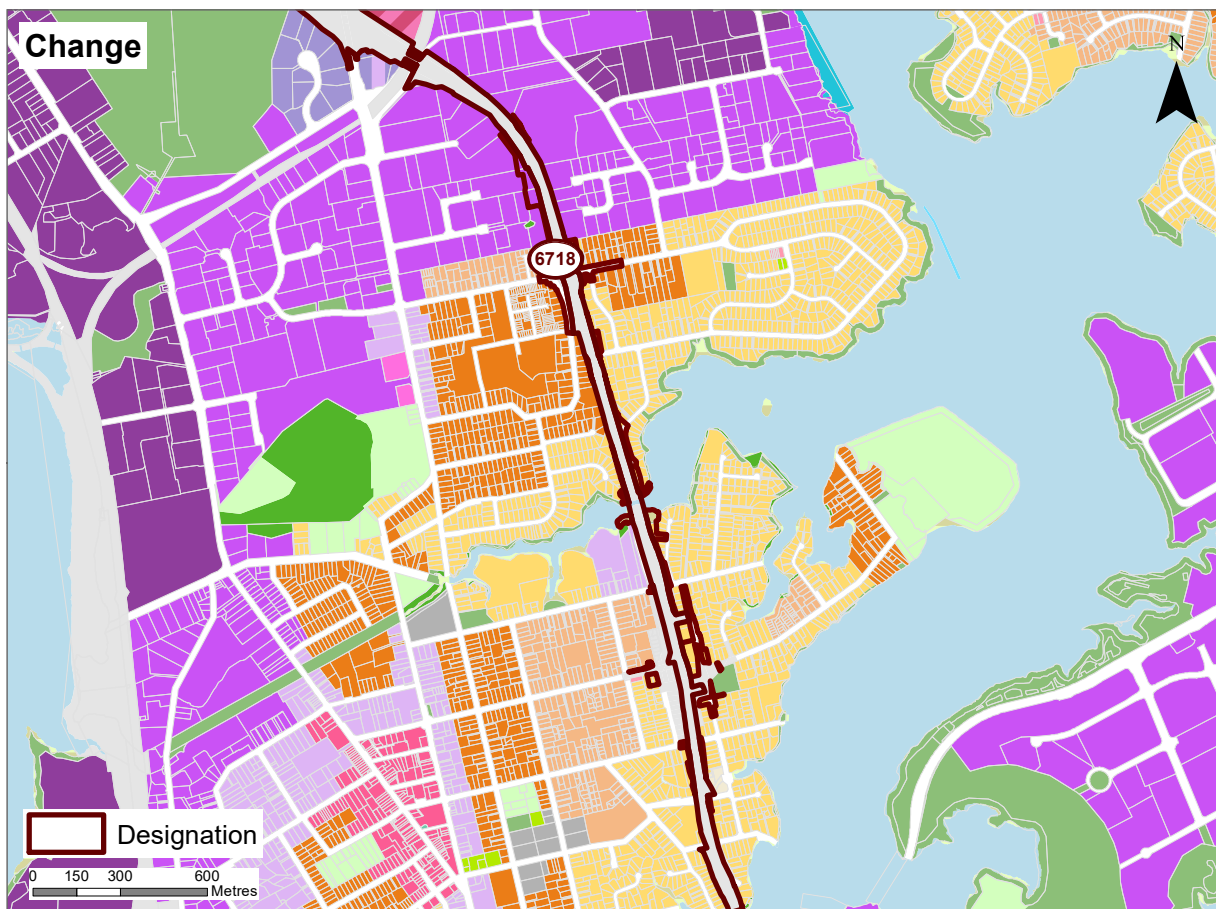
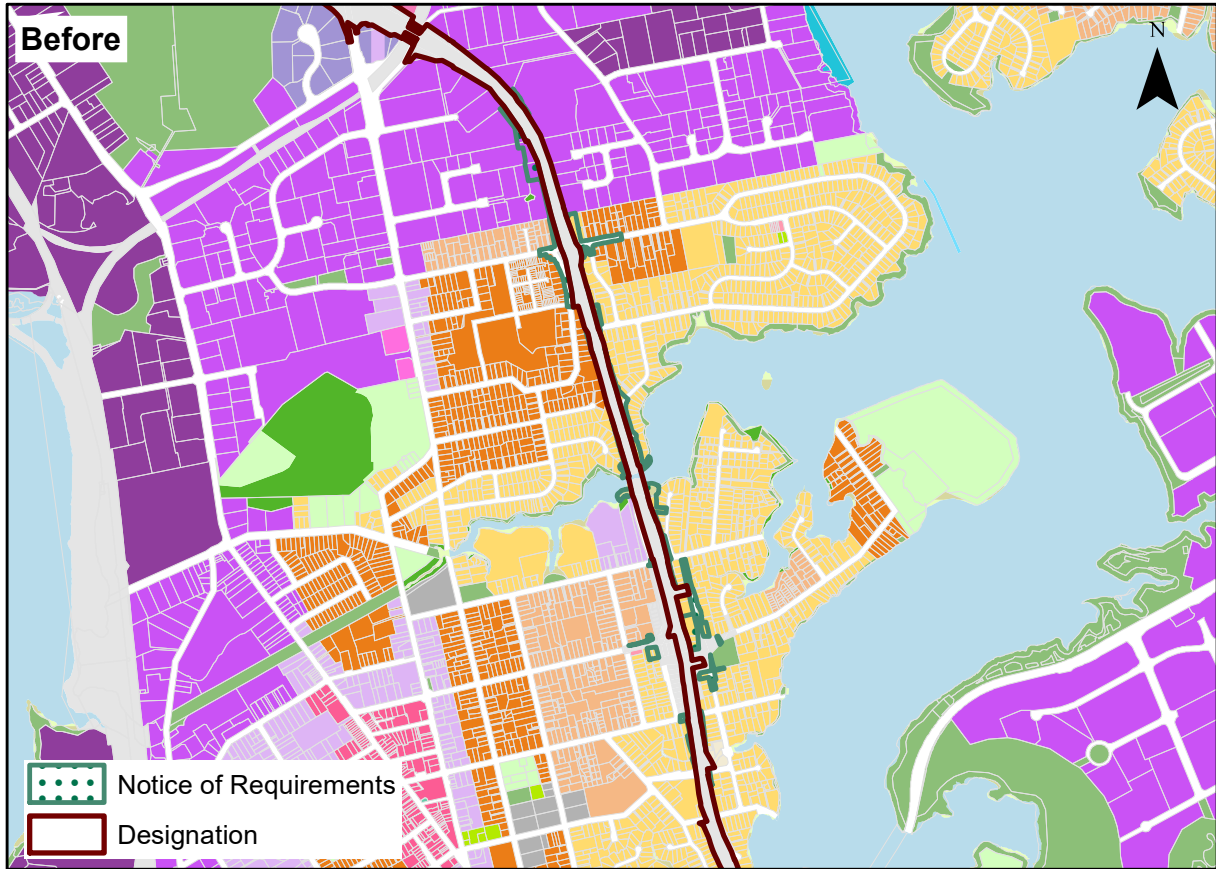
Affected map layers : Designations

Designation: 6718

Name: EPA : Alteration to SH1 Designation 6718

Requiring Authority: New Zealand Transport Agency

Notice of Requirement  
to become Designation





**UNITARY PLAN UPDATE REQUEST MEMORANDUM****TO** Celia Davison**FROM** Sanjay Bangs**DATE** 25 October 2018**SUBJECT**

This memorandum requests an update to Auckland Unitary Plan Operative in part

<b>Reason for update:</b> A decision has been made to confirm a partial removal of a designation under Section 182 of the RMA	
<b>Chapter</b>	Chapter K Designations
<b>Section</b>	Schedules and Designations – New Zealand Transport Agency
<b>Designation only</b>	
<b>Designation #6734</b>	<b>State Highway 1 – Otahuhu</b>
<b>Location:</b>	State Highway 1 at Otahuhu interchange, Otahuhu
<b>Lapse Date</b>	Given effect to (i.e. no lapse date)
<b>Type of Designation</b>	Existing
<b>Purpose</b>	Otahuhu Southern Motorway interchange.
<b>Changes to text</b> (shown in underline and strikethrough)	No changes to text.
<b>Changes to diagrams</b>	No changes to diagrams.
<b>Changes to spatial data</b>	Remove extent of designation from the land identified in <b>Attachment 1</b> .
<b>Attachments</b>	Attachment 1: Map showing partial removal of Designation 6734

**Prepared by:**

Sanjay Bangs, Planner, Plans &amp; Places

**Signature:**
**Text entered by:**

Planning Technician

N/A

**Signature:****Maps prepared by:**

Mitesh Bhula –  
Senior Geospatial Analyst  
Aucklandwide

**Signature****Reviewed by:**

Sanjay Bangs, Planner, Plans & Places  
Area Planner

**Signature:**

**Manager**

Celia Davison

Manager Planning - Central and South

**Signature:**

Handwritten signature in black ink that reads "C. Davison".

**Team Leader**

Trevor Watson

Team Leader Planning Central and South

**Signature: 21/11/18**

Handwritten signature in blue ink that reads "T. Watson" with a horizontal line underneath.

## NOTICE OF REMOVAL OF DESIGNATION UNDER SECTION 182 OF THE RESOURCE MANAGEMENT ACT 1991

**To:** Auckland Council  
Private Bag 92300  
Auckland 1142

**And to:** The owners of property listed in attached Schedule 1

**From:** New Zealand Transport Agency  
Private Bag 106602  
Auckland 1143

Pursuant to section 182 of the Resource Management Act 1991, the NZ Transport Agency gives notice that it no longer requires part of the following designation:

**Designation 6734: "Ōtāhuhu Southern Motorway"**

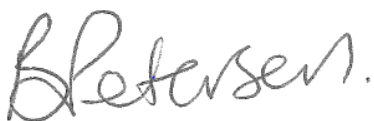
The existing interchange was upgraded to its current form as part of the Waiouru Peninsula to State Highway 1 Connection project. This project was completed around 10 years ago, with the majority of the designated land being utilised for the construction and operation of the interchange.

Part of Designation 6734 was not utilised as part of the Waiouru Peninsula to State Highway 1 Connection project, and is not required for ongoing operation of the existing interchange. The NZ Transport Agency advised Auckland Council in June 2016 that it considered some parts of the designation had lapsed, but this partial lapsing of the designation was not reflected in the Auckland Unitary Plan.

The NZ Transport Agency confirms that part of Designation 6734 is no longer required and is to be removed. The attached **Figure 1** shows the area of designation to be removed. The attached **Schedule 1** lists the properties from which the designation is to be removed.

The NZ Transport Agency requests that Auckland Council amends the Auckland Unitary Plan accordingly as required by section 182 of the Resource Management Act 1991.

Signed by:



Belinda Petersen  
Principal Planner – Consents and Approvals  
System Design and Delivery

Pursuant to authority delegated by the NZ Transport Agency

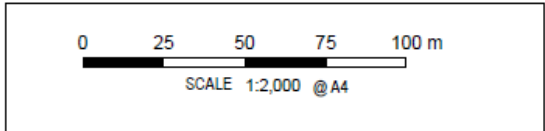
Dated: 17 October 2018

Address for service of requiring authority  
Contact person: Belinda Petersen  
Telephone: 027 406 2047  
E-mail: [Belinda.Petersen@nzta.govt.nz](mailto:Belinda.Petersen@nzta.govt.nz)

### **Attachments**

Figure 1 Removal of Designation 6734 in Part, Ōtāhuhu Southern Motorway

Schedule 1 Removal of Designation 6734 – Property List

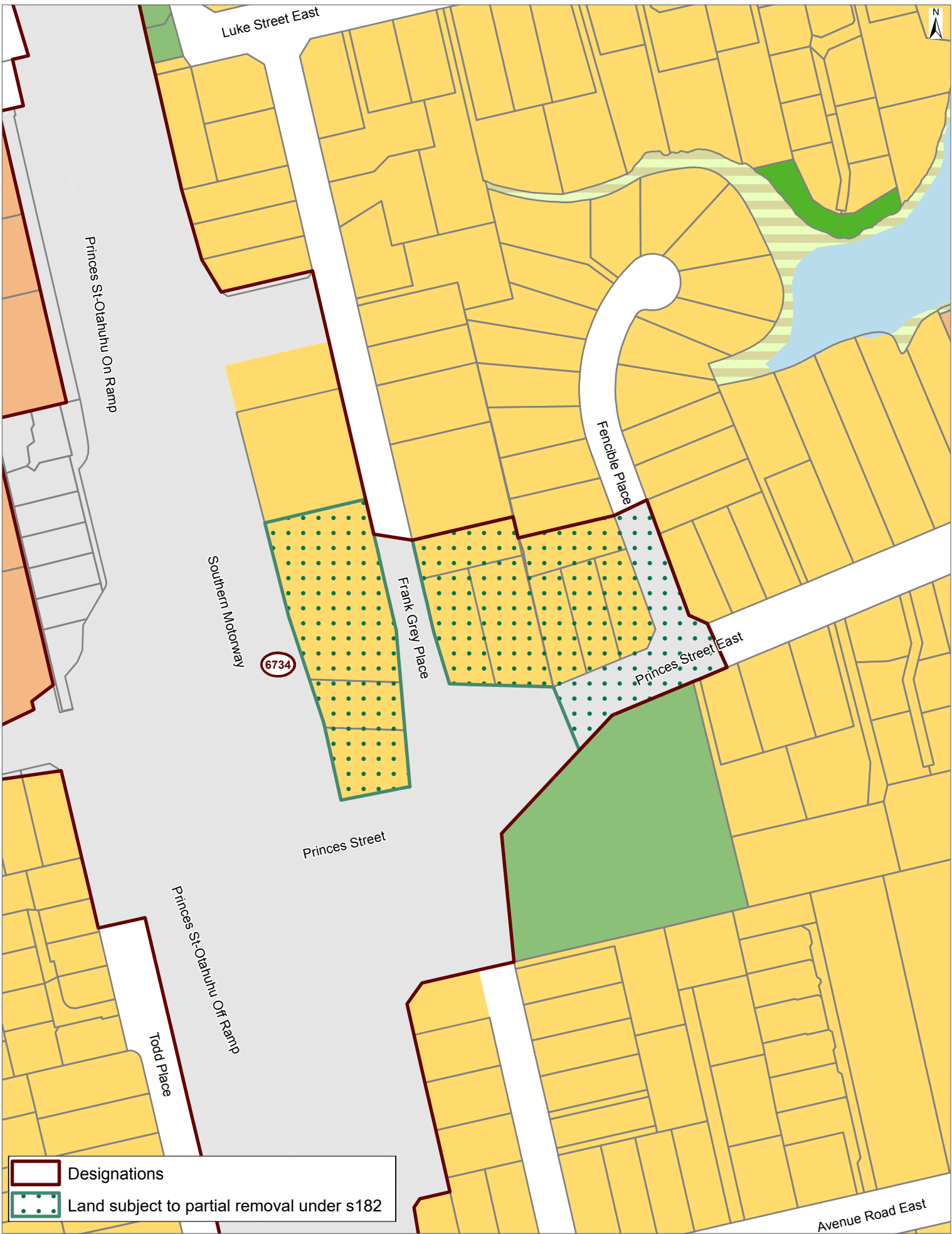


0	Issued For Notice of Removal of Designation	BMM2	BAP	PN	28/08/18
No	Issued Status	Drawn	Check'd	App'd	Date

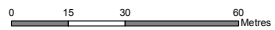
Project		-
Drawing Title		FIGURE 1 REMOVAL OF DESIGNATION 6734 IN PART, OTAHUHU SOUTHERN MOTORWAY
Drawing Number	Figure 1	Rev No. 0

## Schedule 1 Removal of Designation 6734 - Property List

Address	Legal Description	Title	Owner
18 Frank Grey Place	Lot 2 DP 58175	NA11B/460	HMQ
20 Frank Grey Place	Lot 2 DP 58175 AND Flat 5 DP 182660	NA113D/298	HMQ
22 Frank Grey Place	Lot 2 DP 58175 AND Flat 8 DP 182660	NA113D/301	HMQ
24 Frank Grey Place	Lot 2 DP 58175 AND Flat 9 DP 182660	NA113D/302	HMQ
26 Frank Grey Place	Lot 2 DP 58175 AND Flat 10 DP 182660	NA113D/303	HMQ
28 Frank Grey Place	Lot 2 DP 58175 AND Flat 7 DP 182660	NA113D/300	HMQ
30A Frank Grey Place	Lot 2 DP 58175 AND Flat 2 DP 181674	NA112D/78	HMQ
30B Frank Grey Place	Lot 2 DP 58175 AND Flat 4 DP 182660	NA113D/297	HMQ
30C Frank Grey Place	Lot 2 DP 58175 AND Flat 3 DP 182660	NA113D/296	HMQ
30D Frank Grey Place	Lot 2 DP 58175 AND Flat 6 DP 182660	NA113D/299	HMQ
32 Frank Grey Place	Lot 2 DP 58175 AND Flat 1 DP 181674	NA112D/77	HMQ
34 Frank Grey Place	Allotment 101 SMALL Farms Near Otahuhu	NA40C/640	Transpower New Zealand Limited
36 Frank Grey Place	Lot 1 Deposited Plan 47216	NA82C/464	Transpower New Zealand Limited
29 Frank Grey Place	Lot 1 DP 61857	NA17C/1275	Choy Leen Lee Sang and Colin Lee Sang
31 Frank Grey Place	Lot 1 DP 52675	NA5B/467	Choy Leen Lee Sang and Colin Lee Sang
31A Frank Grey Place			
142 Princes Street	Lot 2 DP 52675	NA4B/231	Choy Leen Lee Sang and Colin Lee Sang
1/144 Princes Street East	Unit C AND Accessory Unit 3 and 6 DP 116789	NA66B/877	Choy Leen Lee Sang and Colin Lee Sang
2/144 Princes Street East	Unit A AND Accessory Unit 1 and 4 DP 116789	NA66B/875	
3/144 Princes Street East	Unit B AND Accessory Unit 2 and 5 DP 116789	NA66B/876	
144 Princes Street East	Lot 1 DP 54734	NA66B/878	
146 Princes Street	Lot 2 DP 54734	NA8D/102	HMQ
2 Fencible Place	Lot 3 DP 54734	NA9B/1433	Ashvin Kumar and Rosalyn Joti Kumar
4 Fencible Place	Lot 4 DP 54734	NA8D/103	Denise Ketia Downs and Russell Jeromy Dean Downs
Princes Street	Road reserve	n/a	Auckland Council



- Designations
- Land subject to partial removal under s182



Whilst due care has been taken, Auckland Council gives no warranty as to the accuracy and completeness of any information on this map/plan and accepts no liability for any error, omission or use of the information.

Date: 19/10/2018

## Confirmed Notice of Requirement to partially remove Designation 6734



Plans and Places

# New/Alterations & Withdrawals to Designations (Go Live 29th November 2018)

## Amendments to Auckland Unitary Plan GIS Viewer (maps)

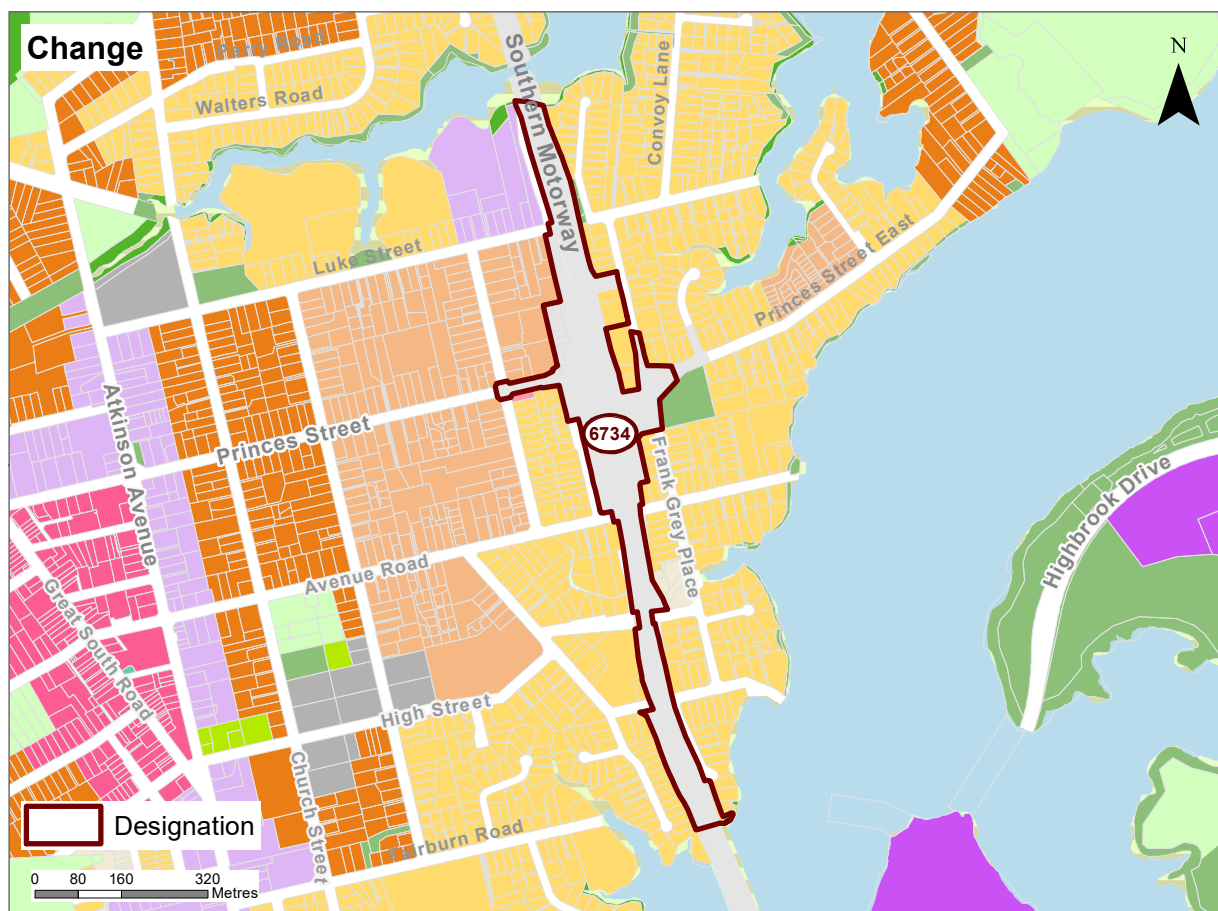
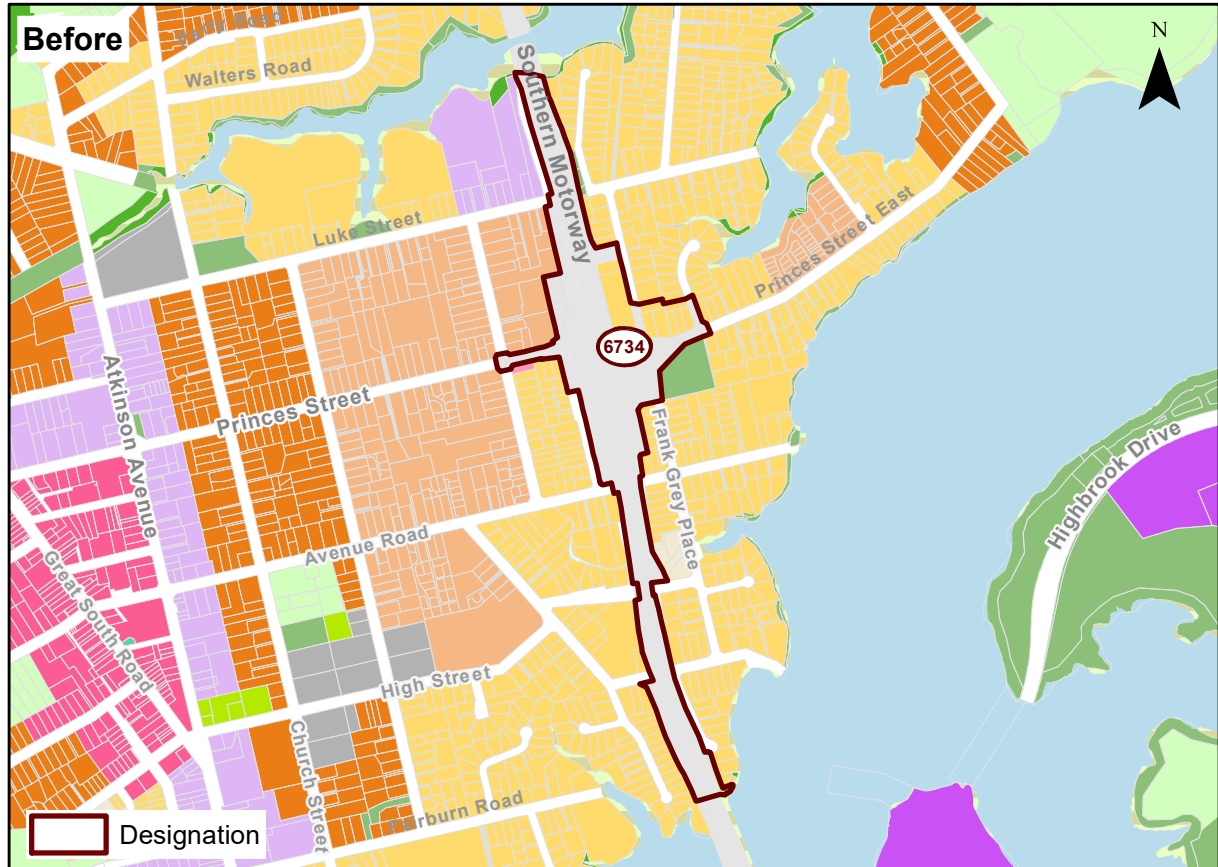
**Affected map layers :** Designations

**Designation:** 6734

**Name:** State Highway 1: To undertake maintenance, operation, use and improvement to the State highway network

**Requiring Authority:** New Zealand Transport Agency

Partial Removal of Designation





## UNITARY PLAN UPDATE REQUEST MEMORANDUM

**TO** Warren MacLennan, Manager Planning North West and Islands

**FROM** Jo Hart, Principal Planner, Planning North West and Islands

**DATE** 29 August 2018

**SUBJECT** **Designation in accordance with s181(3) of the Resource Management Act of the Auckland Unitary Plan(AUP) Operative in part (15 November 2016)**



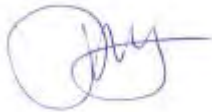
This memorandum requests an update to Auckland Unitary Plan Operative in part

<b>Reason for update: Confirmed notices of requirement to alter Designation 6750 (as part of the Northern Corridor Improvements project)</b>	
<b>Chapter</b>	Chapter K Designations
<b>Section</b>	New Zealand Transport Agency
<b>Designation only</b>	
<b>Designation # 6750</b>	State Highway 1 – Auckland Harbour Bridge to Albany
<b>Locations:</b>	State Highway 1 from Auckland Harbour Bridge, Northcote to Greville Road interchange, Albany
<b>Lapse Date</b>	7 years (for the alteration)
<b>Purpose</b>	Auckland-Waiwera Motorway (State Highway 1), including planning, design, supervision, construction and maintenance in accordance with the Government and Roading Powers Act 1989.
<b>Changes to text (shown in underline and strikethrough)</b>	<p>This update incorporates amendments to conditions arising from the following alterations to the designations associated with the Northern Corridor Improvements Project (NCI):</p> <ul style="list-style-type: none"> <li>Northern Corridor Improvements Project (as confirmed by the Board of Inquiry (BOI) 16 November 2016)</li> <li>Section 181(3) notice of requirement for an alteration to a designation associated with the NCI – Conditions DC.1a, DC2.A, ON.3b(iii), UDL.4(iii) and UDL.15 (confirmed 8 May 2018)</li> <li>Section 181(3) notice of requirement for an alteration to Designation 6750 to remove obsolete conditions to enable integration of the BOI conditions (confirmed 31 July 2018).</li> </ul> <p>Refer to the link below for the NCI Board of Inquiry Final Report and Decision and to the attachments for details of the two Section 181(3) notices of requirement for an alteration to a designation:</p> <ul style="list-style-type: none"> <li>NCI Board of Inquiry Final Report and Decision  <a href="https://www.epa.govt.nz/public-consultations/decided/northern-corridor-improvements/final-report-and-decision/">https://www.epa.govt.nz/public-consultations/decided/northern-corridor-improvements/final-report-and-decision/</a></li> </ul>

<b>Changes to diagrams</b>	N/A
<b>Changes to spatial data</b>	Multiple amendments to spatial data associated with the Northern Corridor Improvements Project (as confirmed by the Board of Inquiry 16 November 2016).
<b>Attachments</b>	<ul style="list-style-type: none"> <li>• Section 181(3) Report and decision (confirmed 8 May 2018) including track changes to the BOI confirmed conditions.</li> <li>• Section 181(3) Report and decision (including a table which provides details of the alterations to the conditions) and track change version of conditions for Designation 6750 (confirmed 31 July 2018).</li> <li>• 6750 State Highway 1 – Auckland Harbour Bridge to Albany text</li> <li>• 6750 State Highway 1 – Auckland Harbour Bridge to Albany Map</li> </ul>

**Prepared by:**

Jo Hart  
Principal Planner  
Planning North West and Islands



**Signature:**

**Text entered by:**

Bronnie Styles  
Planning Technician  
Planning Auckland-wide



**Signature:**

**Maps prepared by:**

Mitesh Bhula –  
Senior Geospatial Analyst  
Aucklandwide



**Signature**

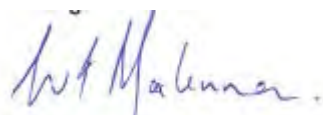
**Reviewed by:**

Jo Hart  
Principal Planner



**Signature:**

**Warren MacLennan  
Manager**



**Signature**

8 May 2018

Northern Corridor Improvements  
Level 1 Jacobs House  
12 Nicholls Lane  
Parnell  
Auckland 1052

Attention: Maree Drury

Dear Maree

**Re: Notice of for a minor alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road in the Auckland Unitary Plan.**

Auckland Council has considered your request to alter the existing designations associated with the Northern Corridor Improvements Project as listed above.

The proposed alteration to the designations has been processed and confirmed in accordance with the statutory tests of Section 181(3) of the Resource Management Act 1991. The Section 181(3) confirmation report for the minor alteration is attached.

The Auckland Unitary Plan will be amended in due course.

If you have any questions please contact Jo Hart on 09 8908291

Yours sincerely



David Sanders  
Team Leader – Planning North West and Islands  
**Plans and Places**

# Notice of requirement for a minor alteration to a designation under section 181(3) of the Resource Management Act 1991



## Notice of requirement description

Designation number:	Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road.
Requiring authority:	New Zealand Transport Agency
Site address:	Various – between Oteha Valley Road and SH1/SH18 intersection and along SH18 to Albany Highway.

## Summary

Auckland Council has received a request from the New Zealand Transport Agency under section 181(3) of the Resource Management Act 1991 (RMA), dated 15 February 2018, to alter designations associated with the Northern Corridor Improvements Project (Attachment A).

It is considered after undertaking an assessment of the notice, that the proposed alteration meets the statutory tests of section 181(3) of the RMA and can therefore be processed and confirmed as a minor alteration.

## Recommendation

1. That the proposed alteration of Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road in the Auckland Unitary Plan be **confirmed**, subject to the amended conditions (Attachment B) for the following reasons:
  - the alteration involves no more than minor changes to the effects on the environment associated with the use of the land;
  - there are no adjustments to the boundaries of the existing designation;
  - both the requiring authority and Auckland Council agree with the alteration; and

- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
2. That the text for the Designations, as listed above, is altered in Chapter K Designations in the Auckland Unitary Plan.

## **1. Background**

### **1.1. Minor alteration to a designation**

Auckland Council has received a notice of requirement (NoR) for an alteration to designations associated with the Northern Corridor Improvements Project (NCI), as listed above, from the New Zealand Transport Agency under section 181(3) of the RMA.

The alteration is required to modify conditions confirmed in the Board of Inquiry (BOI) decision, dated 16 November 2017, to reflect minor changes made during the detailed design process. These changes are as follows:

- a minor reconfiguration of the Paul Matthews Road and Caribbean Drive connection
- the replacement of the State Highway 1 to State Highway 18 flyover with an underpass.

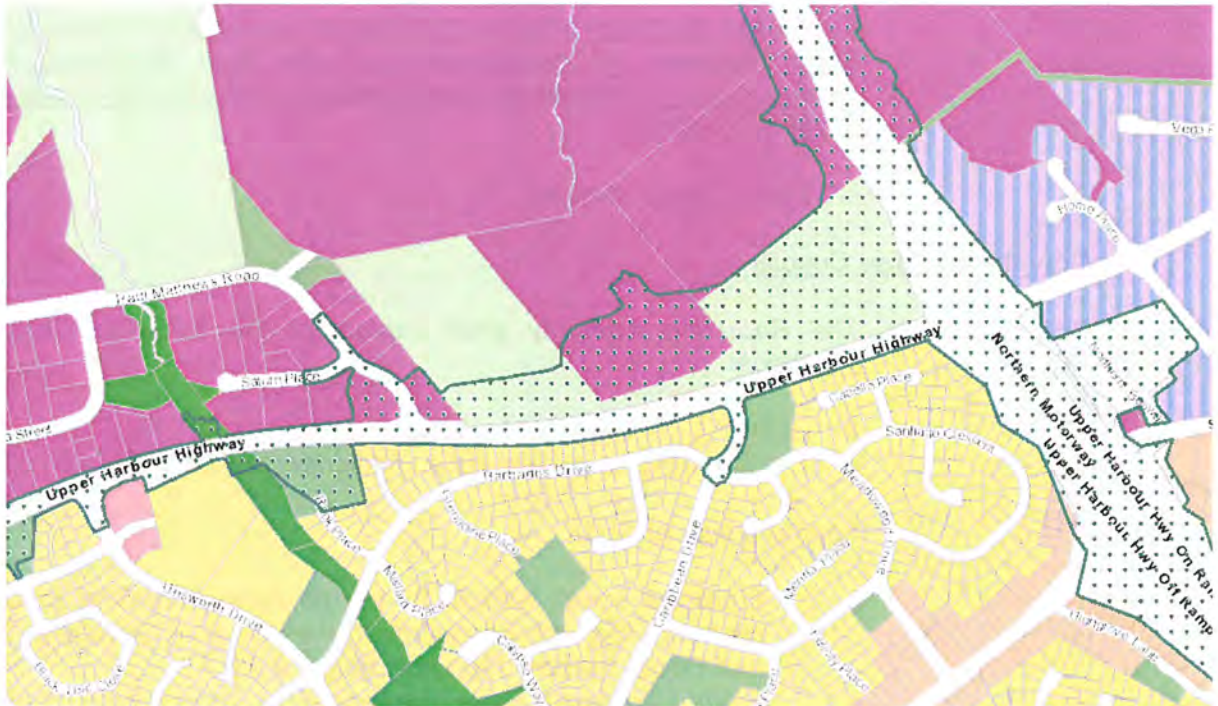
The alteration involves an amendment to General Condition DC.1 to change the reference of two of the drawings presented to the BOI to the NCI Alliance updated detailed design drawings. Minor consequential amendments and additions are also proposed in relation to:

- the operational noise conditions (ON.3 (a)(iii)) to allow for the construction of a slightly higher noise wall
- the urban design conditions (UDL.4 (e)(iii) and UDL.15) to ensure mitigation of the higher noise wall proposed in relation to visual effects on adjacent properties.

There are no alterations proposed to the boundaries of the designations.

### **1.2. Land affected by the alteration**

The land affected by the alteration to the designation is located around the SH18 interchange with SH1 and at Paul Matthews Road, near the Watercare Rosedale Treatment Plant and Constellation Reserve, as shown in the Auckland Unitary Plan map below:



Map 1: AUP map showing vicinity of proposed alterations.

### 1.3. Description of the site and existing environment

This section of the Northern Corridor contains the SH1 and SH18 highway corridors. The intersection of SH1 and Constellation Road is to the east and SH18 to the west. Residential housing is located to the south of the SH18 alignment. Constellation Reserve, which forms part of Watercare’s odour buffer designation, and the Rosedale Wastewater Treatment Plant (RWTP) and ponds are located to the north. An area of General Business zoned land lies to the north-east of the SH1/SH18 intersection. The Constellation Bus Station is located to the south-east of the intersection and is currently accessed via the Constellation off-ramp and crossing Constellation Drive to get to the beginning of the Northern Busway.

### 1.4. Proposed alterations to conditions

The requiring authority has requested the alteration of four of the confirmed EPA conditions. These are as follows:

#### General Conditions:

*Condition DC.1 Except as modified by the conditions below, and subject to final design, the Northern Corridor Improvements Project shall be carried out in general accordance with:*

#### *a. General arrangements drawings*

*Sheet 1 and 2, DRG 0201-0202, Rev J*

*Sheets 3 - 8, DRG 0203-0208, Rev H*

*Sheets 9 – 10, DRG 0209-0210, Rev I (Revised Alteration to Designation Boundary – Bluebird Reserve)*

**Subject to the minor changes in relation to the State Highway 1 to State Highway 18 underpass and the Paul Matthews Road configuration as shown in Sheets NCI-R-1002-DG-108-A and NCI-R-1002-DG-106-A.**

b. Typical cross sections...

Operational Noise Conditions

Condition ON.3 The Requiring Authority shall implement the following Structural Mitigation:

- a. [...]
- b. The following noise barriers and heights shall be provided:

Southern side of SH18

- i. From the corner formed by the off ramp from SH1 to Upper Harbour Highway, westwards to the corner of Caribbean Drive and Upper Harbour Highway, height 2.4m.
- ii. From Caribbean Drive westwards to approximate chainage 1280, height 2.4m
- iii. From chainage 1280 to 1410 approximately, height ~~3m~~ **4m**.
- iv. From chainage 1555 to 1765 approximately, height 2.4m...

Urban Design and Landscape Conditions

Condition UDL.4 The Outcomes set out in Chapters 5 and 6 of the UDLF (Revision 3) shall be given effect to through the UDLP in relation to the following matters:

- [...]
- e. Design and treatment options on or adjacent the following properties:  
[...]
- iii. 33, 35, 37, 39, 41B, 43,45, and 4 ~~79, 51, 57, 59~~ Barbados Drive, **and 9, 11, 13 and 14 Wren Place** directly adjacent to the proposed Paul Matthews Road overbridge; and...

Condition UDL.15 During the detailed design phase of the Paul Matthews Road **Connection** Bridge, the Requiring Authority shall consult Bike Auckland on the layout and detailed design of the shared use path. ~~on the Bridge.~~

It is common for requiring authorities to lodge NoRs with preliminary design drawings with the final design to be processed through the Outline Plan of Works (OPW). This allows flexibility in the final design of a project from when the designation is confirmed without having to alter the conditions every time the design changes. In this case the drawing numbers have been included in Condition DC.1. The requiring authority has decided to take a precautionous approach to update the condition so that the correct drawing numbers are included. Consequential amendments to Condition ON.3, UDL.4 and UDL.15 are also required because of the change to the design.

After an assessment of the environmental effects, I consider that the alterations to the above conditions involve no more than a minor effect on the environment above that permitted by the confirmed BOI designations. The conditions as confirmed by the BOI, as amended by the minor alteration, and the inclusion of a new condition (DC.1A – refer to Section 2.1 Traffic and Transport Effects), will ensure that any potential adverse effects on the environment will be avoided, remedied or mitigated. The environmental effects are discussed further below in Section 2.1.

### **1.5. Delegated authority**

The Team Leader - Planning North West and Islands has delegated authority, in accordance with Schedule 2A of the Auckland Council Delegations: Chief Executive Officer (updated February 2017), to exercise the council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to section 181(3).

The NoR can therefore be considered by the Team Leader – Planning North West and Islands and confirmed or declined under section 181(3)(c).

### **1.6. Relevant statutory provisions**

Section 181 "Alteration of designation" of the Resource Management Act 1991 states:

- (1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*
- (2) Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*
- (3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if-*
  - (a) The alteration-*
    - (i) Involves no more than minor changes to the effects on the environment associated with the use or proposed use of land or any water concerned; or*
    - (ii) Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*
  - (b) Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*
  - (c) Both the territorial authority and the requiring authority agree with the alteration –*

*and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.*
- (4) This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.*



## **2. Analysis of the proposed alteration**

The relevant matters to consider are contained in section 181(3) of the RMA as outlined above.

### **2.1. Assessment of Environmental effects (s181(3)(a)(i))**

An assessment is required to determine whether the alteration to the conditions involves no more than a minor change to the effects on the environment above those permitted (and mitigated for) by the designations confirmed through the BOI process.

The requiring authority has provided an assessment of environmental effects (AEE) with the NoR. The following effects have been considered:

- Social
- Traffic and transport
- Archaeology and built heritage
- Cultural heritage
- Urban design and landscape
- Noise including increasing the height of the noise wall.

The requiring authority considers that the proposed alterations to the designation conditions involves no more than minor changes to the effects on the environment. The requiring authority also considers that they can still comply with the rest of the conditions with the amended design from a flyover to an underpass and the Paul Matthews Road and Caribbean Drive connection.

### **Social Effects**

The requiring authority, in its AEE, considers that the realignment and revised design of the Paul Matthews Road allows for some improvements in relation to any potential social effects. These include the following:

- SUP will be enhanced through greater separation and provides a direct connection from the area south of Caribbean Drive to Paul Matthews Road
- the visual impacts of the revised design are reduced in bulk and dominance providing improved urban amenity for the surrounding community
- viaduct design over Caribbean Drive allows for a potential additional open space area and stormwater attenuation through provision of open space amenity and potential reduction in flood risk
- off-line construction of parts of the connections allows greater construction flexibility with reduced impact on traffic, transport and earthwork requirements. This will contribute to a more efficient and expedited construction period with reduced adverse effects on the surrounding communities and businesses.

NZTA also recognises that the proposed realignment creates some potential adverse social effects due to the raised final height of the connection to SH18 compared to the BOI concept design. Potential operational noise effects were identified for up to six residential properties to the south. The mitigation proposed by the requiring authority is a slightly higher noise wall section at this location.

The requiring authority considers that there aren't any adverse social effects associated with the replacement of the SH1 southbound to SH18 overpass with an underpass and that the design provides for the following positive benefits:

- improved transport safety for users over the BOI concept design through a compliant exit ramp from SH1 in terms of sight distance and vertical grade while maintaining the weave length of the BOI concept design
- reduced height and bulk of the underpass option results in significant reduction of visual impacts
- reduced height of connection results in improved privacy for residential properties to the south with less opportunity for overlooking from traffic using the road
- consequential reduction in operational noise effects

### Comment

I agree with the requiring authority that the overall social effects of the alteration are no more than minor. I consider that the conditions as confirmed in the BOI decision will ensure that any potential adverse social effects can be mitigated, remedied or avoided.

It should be noted that Auckland Council's Urban Design Panel had reservations, within their review to the requiring authority in December 2017, about the use of the area under the viaducts as a formal area of open space. This is discussed further below in the section on urban design, visual and landscape effects.

### **Traffic and Transport**

The requiring authority has stated in its AEE that alteration will have positive effects in regards the construction traffic and transport effects in that:

- the NCI Alliance design significantly reduces disruption to traffic during construction on SH 18 and around Paul Matthews Road by avoiding the diversion of 70,000 vehicles per day.
- construction of an underpass instead of an overpass removes the need for a significant number of overnight motorway closures for the placement of bridge beams, deck pours and barriers.
- Evacuation of the underpass void will take place with live traffic travelling above and motorists will be unaware of the intensive excavation activity happening below them therefore reducing drive distraction.

The requiring authority also considers that the proposed changes will have positive effects in terms of operational traffic and transport for the following reasons:

- The underpass for the westbound link from SH1 to SH18 has improved safety aspects due to the underpass alignment providing compliant sight distances and maintaining the existing weave length between the Greville Road interchange and the SH18 off-ramp.
- the underpass for the westbound link from SH1 to SH18 has reduced grades and therefore benefits freight vehicles.

NZTA has been in consultation with Bike Auckland on the NCI Alliance design (as required by Condition UDL.15 in relation to the layout and design of the shared used path on the Paul Matthews Road overbridge). NZTA/NCI Alliance has advised that the design to date has been based on these discussions

## Comment

Duncan Tindall, consultant traffic and transport specialist for Auckland Council, has undertaken an assessment of the minor alteration (Attachment C). Mr Tindall is supportive, in principal, of the proposed amendments resulting from the changes to the design. The review has been considered in the context of the discussions that occurred during the BOI processes including Joint Witness Statements and the hearing. The issues at that time related to construction effects, pedestrian and cycle amenity, legibility of road layout and the potential affects on the Caribbean Drive arm.

As a result of further information, the following matters have had a satisfactory response:

- drawings that accompanied the application did not specifically show the Cabello Place pedestrian link as confirmed to be retained in the future through the BOI process. NZTA confirmed that this would be retained.
- the drawings did not identify where the pedestrian and cycle crossings of the Upper Harbour Highway and realigned Paul Matthews Drive were located, and how they integrated with the signal phasing. This was viewed as particularly important as a result of the discussions related to accessibility, potential severance effects during construction and post opening and the new Paul Matthew link to Caribbean Drive. Modelling provided by NZTA/NCI Alliance confirmed that the intention is to provide signalised crossings which would provide an amenity that is broadly equivalent to the confirmed BOI designation.

However, Mr Tindall still had the following concerns:

- the length of the crossing of the Upper Harbour Highway which would potentially be a barrier for some users, particularly pedestrians. However, he did not consider the proposed alteration fundamentally created a significant adverse effect although this outcome is heavily dependent on the detailed design.
- The tension with providing the level of service (LOS) for the Caribbean Drive traffic. A queue length on Caribbean Drive of 118m or less 95%ile was agreed in the Joint Witness Statement with additional modelling showing that this could be achieved (although this did not include the closely linked eastbound off ramp that had been in the initial modelling). While modelling received from the NCI Alliance individually shows that the performance of the intersection is equivalent, or better, than the confirmed designation, he has not received reassurance that it is possible to simultaneously meet the level of service for pedestrians and traffic with the proposed alteration layout.

Mr Tindall considered that there were two options available:

- That NZTA/NCI Alliance provide full modelling of the intersection, including all arms, a common cycle time and explicit representation of pedestrians which meets or exceeds to the degree that it shows that the alteration involves no more than a minor change to the effects on the environment above that of the confirmed designation.
- That an agreed condition between the council and NZTA/NCI Alliance be included that contains specific criteria for the queue length on Caribbean Drive and the cycle time (relevant to pedestrian amenity). The addition of a condition would allow the NCI Alliance to proceed with the design of the modified scheme but provide certainty

to council that the alteration to the designation 'involves no more than a minor change on the effects on the environment' above that of the confirmed designation in relation to traffic and transport.

After discussion with NZTA/NCI Alliance, it was agreed that a way forward could be the inclusion of a condition. This would also help to satisfy the requirement that the alteration involves no more than minor environmental effects in relation to this aspect of the traffic and transport effects (pedestrian and cyclist amenity). The proposed condition (or similar wording) is as below:

*'The final design shall ensure that:*

- *the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service D for any individual movement during the AM or PM peaks. In addition, the 95%ile queue on Caribbean Drive should not exceed 118m.*
- *The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled., and in the latter case require no more than two separate phases to connect between the SUP.*

Further information via emails, dated 18 April 2018 and 30 April 2018, was provided by NZTA/NCI Alliance (refer to Attachment D). Mr Tindall still considers that the effects on pedestrians and cyclists is more than minor and that it is important that the queue length of 118m is retained. However, if the assessment of the overall transport effects is considered then potentially the effects are minor taking into account the large number of motorists that benefit against the smaller number of pedestrians and cyclists disadvantaged.

NZTA/NCI Alliance consider that the additional modelling shows that the level of service can be met (but that the condition needs to align with NZTA's Minimum Requirements (MRs) of LOS E) and that the increase in travel and wait times for pedestrians and cyclists are no more than minor and therefore a condition is not required. They also consider that the queue length can be achieved through the design but would not accept this to be part of a condition as there may be times where queuing is longer than 118m and would not comply with the condition. However, NZTA/NCI Alliance has agreed that if Auckland Council considers a condition is required then the following condition is acceptable:

*'DC.2A*

*Where there are changes to layout and crossings the final design shall ensure that:*

- *the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service E for any individual movement during the AM or PM peaks.*
- *The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled'.*

I recommend that the condition as above be included to provide certainty to Auckland Council that the alteration involves no more than minor environmental effects above that permitted by the BOI confirmed designations in relation to traffic and transport.

### **Archaeology, Built and Cultural Heritage**

The requiring authority provided an archaeological assessment with the original NoR applications. The assessment concluded that there were no heritage sites recorded within the Project corridor, and there was no indication through subsequent field surveys and assessment of any areas with archaeological or heritage potential. Therefore, the requiring authority considers that the design changes will not alter the effect on archaeology and built heritage.

In relation to cultural heritage, the requiring authority has engaged throughout the Project with mana whenua groups and with the Central-North Area Iwi Integration Group (IIG). Mana Whenua feedback has been incorporated into the Project and includes the following:

- detailed design of structures to develop a cultural narrative (designation)
- stormwater management and treatment (resource consent)
- avoidance of adverse effects on indigenous bird species and lizards (resource consent)
- flocculation treatment (resource consent)
- management of contaminated land associated with earthworks (resource consent)
- input into management plans (both designations and resource consents)

The requiring authority considers that the proposed alterations to the conditions do not impact the cultural values of mana whenua as expressed and considered through consultation and the BOI process. The relationship with mana whenua through IIG and adherence to the conditions and management plans will continue through the lifetime of the project. Therefore, the requiring authority considers that the proposed changes will have no effect on cultural heritage values.

### Comment

The council's submission on the original NCI applications to the Environmental Protection Agency (EPA) was limited to specific matters that were of concern to the council, such as traffic, stormwater, noise and vibration, urban design, landscape and visual, and effects on public reserves. A full assessment of archaeology or cultural and built heritage was not undertaken. However, the AUP objectives, policies and overlays were assessed, in relation to earthworks, as part of the planning evidence for the BOI hearing which stated as follows:

*'While there are no sites and places of significance to Mana Whenua identified in the AUP and the area within the Proposal is highly modified, there is still the possibility of accidental discovery of kōiwi, archaeology or artefacts of Māori origin. NZTA has addressed archaeology and historic heritage effects, in Section 9.12 of the AEE, and provided mitigation through proposed conditions (ARC.1 to ARC.5). Condition ARC.1 requires NZTA to appoint a suitably qualified archaeologist to oversee the earthworks required for the Proposal. Condition ARC.2 requires a contractor's briefing by the Project Archaeologist which needs to include the appropriate procedures to follow if archaeological or historic heritage materials are uncovered when the Project Archaeologist is not on site to safeguard the materials. I consider that the Proposal is generally consistent with Policy 11.3(3).'*

My view remains the same as above and I agree that the minor alteration does not involve a change to the effects on archaeology or built and cultural heritage above that permitted by

the confirmed designations. It should be noted that the archaeological conditions are attached to the resource consents. In relation to cultural heritage, conditions attached to the designations, as confirmed by the BOI, require that the IIG, as a key stakeholder, are consulted with during the project. In addition, Condition UDL.11 requires that the Urban Design Landscape Plans are prepared in partnership with the IIG.

## **Urban Design, Landscape and Visual**

### *Visual impact assessment*

The requiring authority states the following in its AEE:

*'The underpass has little or no visual impact on the surrounding environment as it has been designed as a gradual decline from the existing SH1 road alignment to pass under SH1 as SH1 is rising in a southbound direction. As the underpass replaces the need for elevated viaduct structures the overall effect of the underpass on visual impact is positive.*

*Like the BOI concept design, the westbound on-ramp originates from the Caribbean Drive intersection and the eastbound off-ramp joins Paul Matthews Road at a newly formed signalised intersection'.*

The BOI concept design overbridge at Paul Matthews Road required the lowering of SH18 by four metres below existing ground level. The alternative NCI Alliance detailed design, now only lowers the existing ground level by 0.7 metres. The westbound road alignment is lower by approximately 14 metres nearer SH18/SH1 because of the proposed underpass rather than the BOI design viaduct structure.

The Requiring Authority has assessed the difference in visual and landscape effects between the BOI design and the NCI Alliance detailed design. This included using Autodesk Infracore which was used to create models of the BOI and NCI Alliance designs to understand the differences in visibility. The visibility assessment concludes that the extent of visibility of the two models can be seen to be similar in area but there are some differences in locations that gain views to the proposed motorway. These differences are predominantly that the BOI concept design is more visible from Barbados Drive and the eastern higher ground of Santiago Crescent, while the NCI detailed design is more visible from the central SH18 area.

A visual impact assessment was also undertaken by a landscape and visual impact assessment specialist. The findings of the visibility assessment were used to assess the scale of the landscape and visual effects associated with the NCI Alliance detailed design. The AEE concludes the following:

- the NCI Alliance design will result in less residential properties being visually affected than the BOI design and there is no increase in the scale of impact
- there are some properties in the lower Barbados Drive and Caribbean Drive area that now may be able to view the NCI alignment.
- The overall assessment of the properties above remains low and the scale of the change in effects for these properties is no more than minor, given the NCI detailed design is lower, the distance from the road (approximately 150 metres), and intervening buildings and trees
- there will still be a number of properties directly adjacent to SH18 that will experience effects. These effects will be reduced once the planting mitigation is established and the noise and landscape walls installed.

The requiring authority considers that based on the visual impact assessment and mitigation required by conditions, and proposed in the UDLP, the change in the scale of visual effects for properties that have visibility of the Project is no more than minor.

#### *SH18 Noise Wall*

A higher noise wall of four metres, compared to 3 metres required by Condition ON.3, is required adjacent to SH18 between 13 Wren Place and 49 Barbados Drive. Due to the road alignment and ground levels in this area, because of the changes in design of the Paul Matthews Road/Caribbean Drive connection, a portion of the noise wall will be retaining wall. This effectively replaces the existing embankment and the maximum height above ground level which will be visible to adjoining properties is up to 2 metres.

The height in the wall has been assessed in terms of visual and shading impacts on the adjacent properties. The visual impact assessment concludes that whilst up to 2 metres of the wall will be visible, any potential visual effects can be effectively mitigated through the retention of existing planting and new planting. There is a potential increase in shading on some properties during June. However, existing shading currently occurs due to other shading sources along the affected properties such as neighbouring buildings or existing trees. These have been excluded from the assessment but do contribute to overall shading on the properties.

The requiring authority considers that the effects of the noise wall due to shading and amenity values are no more than minor. When existing sources of shading are considered, the effects of the increased height of the noise wall on shading is not likely to be discernible to residents.

#### Comment

Stephen Brown, consultant urban design and visual landscape specialist for Auckland Council, has undertaken an assessment of the minor alteration (Attachment E). He generally concurs with the findings of the Isthmus Group's appraisal of the revised proposal's effects. However, he has one area of concern in relation to the new elevated overpass over Caribbean Drive. His report states the following:

*'The increase in 'blue houses' in Isthmus Group's Figure 1 and 'blue areas' in their Figure 3 appears to reflect the increasing visual presence of the overpass, especially around Cabello Place and Santiago Crescent. Whereas the original embankments were to be both planted and (around their lower margins) grassed, the new 'overbridge' would retain a more structural profile, with its ramparts, piers, side walls, lighting and other elements facing housing to the immediate south of SH18. It would clearly be a "bridge" and traffic movements across it would also be clearly apparent.*

*In this regard, it is also noteworthy that the Council's UDP review of the modified NCI (14th December 2017) commented as follows on the new interchange:*

#### **Possible 'Open Space Frame'**

*The Panel considers that from an urban design perspective there is very little benefit to be gained from the 'open space frame' concept for the area under the proposed Viaduct due to its restricted access and visibility from surrounding land-uses.*

*The Panel would support a realignment of the SUP along the northern side of Caribbean Drive and designed to provide a physical separation between vehicles and the SUP.*

*The Panel suggests that the use of the space adjacent to the Viaduct be utilised for native bush planting, inclusive of larger-growing trees, to help screen and visually absorb the flyover and support the future ecology of the area.*

*I agree with, and support, these findings. In my opinion, every effort should be made to screen and buffer the new overpass, with tree and shrub planting across its embankments as well as within the suggested 'open space / recreation space' under, and around, the viaduct. In my assessment, this would help to reduce the effects of the revised proposal in the vicinity of both Caribbean Drive and Paul Matthews Road – to the point where the resulting level of effect more closely approximates that anticipated in relation to the original NCI proposal.*

*Without such planting, the overpass, and vehicle movements on it, would generate a level of visual effect not fully anticipated in the course of the BOI process and hearing. As such, it is considered important that mitigation in line with these comments is provided. In all other respects, the revised NCI proposal is considered to be appropriate and acceptable'.*

He considers that with the mitigation proposed above the alterations will 'involve no more than a minor change to the effects on the environment'.

An email, dated 7 March 2018, was forwarded to the requiring authority requesting a response. A response from the requiring authority was received by email on 12 March 2018 and states:

*'Thanks for your email. In response to Stephen Browns review I can now confirm that the NCI design will no longer feature an open space around the viaduct. Instead the area is to be planted for various reasons including visual mitigation.*

*Planting plans are still being finalised, but they will include:*

- *Rows of specimen tree planting of Kauri and Nikau to the outside edges of the overpass and between the northbound and southbound structures.*
- *A planting mix for the area that consists of planting that is 9% tree, 57% shrub and 34% groundcover.*
- *Planting will cover the embankments and extend underneath the structures where applicable'.*

In response to the above, Stephen Brown has provided the following comment:

*'In my assessment, this would help to reduce the effects of the revised proposal in the vicinity of both Caribbean Drive and Paul Matthews Road – to the point where the resulting level of effect is aligned with that anticipated in relation to the original NCI proposal. Accordingly, any increase in amenity effects generated by the revised proposal would be 'less than minor' to 'minor' and are considered acceptable in relation to my assessment of the NCI project'.*

I agree with Mr Brown's statement. The council will also be able to provide comment on the landscape plan when this is submitted. Condition DC.6 (c) requires that UDLP(s) are prepared in accordance with UDL.1 to UDL.12 as part of the OPW process. Any amendments are to be discussed with and submitted to the council for information. A further OPW is required if the amendments result in materially different effects to the described in the original UDLP.



## Noise

### *Operational Noise*

The requiring authority considers that the effects of the NCI design change on operational noise levels are no more than minor. Modelling of the noise walls shows that an increased barrier of four metres between 14 Wren Place and 49 Barbados Drive will be effective in reducing predicted noise levels to the same as those predicted for the BOI design.

### *Construction Noise*

The requiring authority concludes that there will no more than minor changes in effects due to the changes in design. A summary has been provided of the difference in the effects generated by the NCI Alliance construction activities and alignment compared to the BOI anticipated construction noise and vibration effects. These are as follows:

- properties identified as receiving construction noise and vibration which exceed the designation conditions are very similar due to mitigation employed to reduce the impacts
- more Protected Premises and Facilities (PPFs) are identified as being affected due to night time works in the Construction Noise and Vibration Plan (CNVP) than in the BOI noise assessment because of the increase in the night time construction noise sources modelled
- areas requiring specific noise and vibration plans have been identified allowing for consultation with these parties
- noise and vibration contour mapping has been produced and mitigation measures at source and through early construction of noise walls identified
- mitigation mechanisms and pre-construction building inspections to manage risk associated with construction vibration have been identified.

A process has been developed to ensure any complaints received by community engagement personnel are relayed to the environmental manager where compliance is at risk.

### Comment

Rhys Hegley, consultant noise and vibration specialist for Auckland Council, has undertaken an assessment of the proposed alterations (Attachment F). His report states:

*'The BOI Alignment, via ON. 3, included a 3.0m high barrier between chainage 1280 to 1410 to screen PPFs on Barbados Drive and Wren Place. To remain compliant with ON. 2, it was found that this barrier needed to increase in height by 1.0m so that there would be no change in noise level to the six PPFs on Barbados Drive and Wren Place. There appears to be some differences between the way that the Operational Noise Assessment and the Proposed Alteration report describe this proposed change to the barrier height, which relates to the fact that the ground level beneath the barrier will also change. After talking to the author of the Operational Noise Report, it is my understanding that:*

- a) The BOI Alignment had a 3.0m barrier from chainage 1280 to 1410;*
- b) The NCI alignment proposes to increase the height of this barrier by 1.0m to 4.0m;*
- c) As the topography slopes up from the road to the PPFs, an option being considered by the NCI team is to construct a 2.5m high retaining to lift the ground behind the*

*retailing wall and then add a 1.5m high barrier on top. This gives an effective screening of 4.0m as described in the Proposed Alteration report.*

*This effective increase in barrier height requires an alteration to ON. 3iii), which is the subject of the application'.*

He concludes:

*'The Proposed Alteration to Designation report concluded that the noise effects of the proposed NCI carriageway realignment with the barrier extended to 4m will be no more than minor. Given that the reported levels will increase by not more than 2dB at up to seven PPFs and the changes in level remain compliant with the requirements of ON. 2, I agree with this conclusion'.*

## **2.2. Assessment of minor changes or adjustments to the boundary (s181(3)(a)(ii))**

The alteration to the designation does not involve any changes to the boundary of the existing designation.

## **2.3. Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners and occupiers agree with the alteration (s181(3)(b))**

The requiring authority considers that Auckland Council is the only owner or occupier of land directly affected by the alteration to the designation.

The location of the new SH1/SH18 underpass and reconfiguration of the Paul Matthews Road and Caribbean Drive connection sits entirely within the designation boundaries confirmed through the BOI process. A large proportion of the land is owned by NZTA within its existing highway corridors. The areas of land currently not owned by NZTA, such as Watercare's land on the south-eastern side of SH1 and Auckland Council reserve land at Constellation Reserve and Rook Reserve, are currently going through other processes e.g. acquisitions under the Public Works Act, temporary occupation agreements, or easements etc. There are also other separate agreements outside of the designation conditions with various parties including Auckland Transport. The proposed alterations do not have any effect on these separate processes.

## **2.4. Agreement of both the territorial authority and the requiring authority (181(3)(c))**

The alteration to the designation has been requested by the requiring authority, and therefore it agrees to the alteration. Auckland Council agrees with the proposed alteration for the following reasons:

- The alteration involves no more than minor changes to the environmental effects
- The alteration does not involve any changes to the boundary
- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- Adherence with recommended conditions will ensure any potential adverse effects are avoided, remedied or mitigated.

### 3. CONCLUSIONS AND RECOMMENDATIONS

#### 3.1. Conclusions

The proposed alteration meets the statutory tests of Section 181(3) of the Resource Management Act 1991, in that:

- The alteration involves no more than minor changes to the environmental effects.
- Existing conditions as amended will ensure any potential adverse effects are avoided, remedied or mitigated.
- There are no changes or adjustments to the boundaries of the existing designation.
- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- The council and the requiring authority agree with the alteration.

#### 3.2 Recommendation

1. That pursuant to Section 181(3) of the Resource Management Act 1991, the New Zealand Transport Agency's notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed**.
2. That the designations as listed above are amended in Chapter K Designations in the Auckland Unitary Plan Operative in part as recommended in Section 4 and Attachment B of this report.

#### 4. Agreed alterations

The agreed text alterations are as set out in Section 1.4. The recommendation of the inclusion of a new condition (Condition DC.2A – refer to Section 2.1 Traffic and Transport effects) has also been agreed to by NZTA. A full set of the designation conditions is attached (Attachment B). Amendments are shown as either strikethrough or bold and underlined.

Date: 7/05/2018

**Report Prepared by:**

Jo Hart

Principal Planner

Planning North West and Islands



**5. SECTION 181(3) DETERMINATION**

Having read the council planner's report and recommendations on the notice or requirement, I am satisfied I have adequate information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision under delegated authority.

Accordingly, the notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed** under section 181(3) of the RMA.

Name: David Sanders

Title: Team Leader – Planning North West and Islands

Signed: 

Date: 8/5/18

**SCHEDULE OF ATTACHMENTS**

- Attachment A:** Section 181(3) Notice of Requirement
- Attachment B:** Amended Designation Conditions
- Attachment C:** Traffic and Transport Assessment
- Attachment D:** Further information – traffic and transport
- Attachment E:** Visual and Landscape Assessment
- Attachment F:** Noise Assessment



# Notice of requirement for a minor alteration to a designation under section 181(3) of the Resource Management Act 1991



## Notice of requirement description

Designation number:	Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; Designation 6758: Constellation Drive Station.
Requiring authority:	New Zealand Transport Agency
Site address:	Various – between Oteha Valley Road and SH1/SH18 intersection and along SH18 to Albany Highway.

## Summary

Auckland Council has received a request from the New Zealand Transport Agency under section 181(3) of the Resource Management Act 1991 (RMA), dated 28 June 2018, to alter designations associated with the Northern Corridor Improvements Project (Attachment A).

It is considered after undertaking an assessment of the notice, that the proposed alteration meets the statutory tests of section 181(3) of the RMA and can therefore be processed and confirmed as a minor alteration.

## Recommendation

1. That the proposed alteration of Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; and Designation 6758: Constellation Drive Station in the Auckland Unitary Plan be **confirmed**, subject to the amended conditions (Attachment B) for the following reasons:
  - the alteration involves no more than minor changes to the effects on the environment associated with the use of the land;
  - there are no adjustments to the boundaries of the existing designation;
  - both the requiring authority and Auckland Council agree with the alteration; and
  - the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
2. That the text for the Designations, as listed above, is altered in Chapter K Designations in the Auckland Unitary Plan.

## **1. Background**

### **1.1. Minor alteration to a designation**

Auckland Council has received a notice of requirement (NoR) for an alteration to designations associated with the Northern Corridor Improvements Project (NCI), as listed above, from the New Zealand Transport Agency under section 181(3) of the RMA.

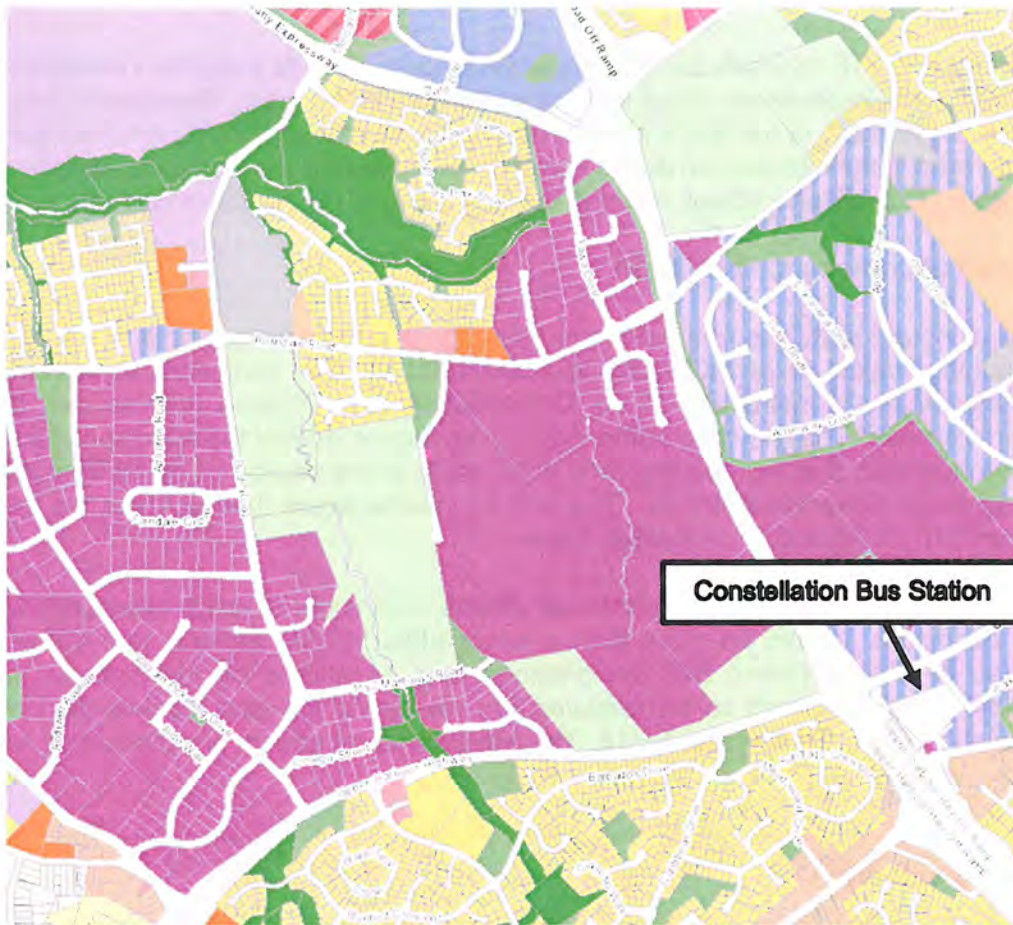
The alteration is required to modify conditions attached to the existing designations associated with State Highway 1, State Highway 18 and the Constellation Bus Station. These designations were included in the Board of Inquiry (BOI) process as part of the NCI. However, the existing conditions were not considered during the BOI process or included in the BOI decision, dated 16 November 2017. It should be noted that there has also been a earlier section 181(3) notice of requirement for a minor alteration, dated 15 February 2018, which amended the BOI decision conditions.

Amendments are now required to either remove obsolete construction conditions, or to renumber ongoing operational conditions, from the existing designations. This will allow for the conditions from the BOI decision, along with the changes from the previous alteration to be inserted cleanly into the AUP.

There are no alterations proposed to the boundaries of the designations.

### **1.2. Land affected by the alteration**

The land affected by the alteration to the designation is located around State Highway 1, State Highway 18 and the Constellation Drive Bus Station as shown in the Auckland Unitary Plan map below:



Map 1: AUP map showing vicinity of proposed alterations.

### 1.3. Description of the site and existing environment

The section of State Highway 1 (SH1), to which the NCI conditions apply, extends from Oteha Valley Road in the north to the intersection of the SH1 and State Highway 18 (SH18). The area affected by this alteration, and to which the existing conditions apply, extends from the Greville Road intersection with SH1 to the intersection with SH18 and Constellation Drive. The land to the north-west of the Greville Road intersection is zoned Business – Business Park and consists of established, newly developed or currently being constructed business buildings. The land immediately to the north-east is zoned Residential – Mixed Housing Suburban and this part of the subdivision is currently still in the process of being constructed with the roading network and services for the individual sections in place.

The intersection of SH1, SH18 and Constellation Drive is further to the south. The land to the west of SH1 is zoned Business – Light Industry between Greville Road and SH18. This land consists of established large lot business activities and land owned and occupied by Watercare Services Limited (Watercare). There is also a portion of land adjacent to SH18, known as Constellation Reserve, which is zoned Open Space – Sports and Active Recreation. The former Rosedale landfill, zoned Open Space – Sport and Active Recreation is immediately to the south-east of the Greville Road intersection. The land between this and Constellation Road is zoned Business – General Business and Business Light Industry and consists of established business activities and further land owned by Watercare (Pond 2).



The section of SH18 to which the NCI conditions apply extends from the intersection of SH1, SH18 and Constellation Road to Albany Highway in the west. Residential housing is located to the south of the SH18 alignment. The Constellation Bus Station is located to the south-east of the intersection and is currently accessed via the Constellation off-ramp and crossing Constellation Drive to get to the beginning of the Northern Busway.

#### **1.4. Proposed alterations to conditions**

The requiring authority has requested the alteration of conditions on three of the existing designations subject to the NCI (refer to Attachment B). The conditions to be removed are related to the construction of the Constellation Drive Station built as part of the Northern Busway. The requiring authority has also requested that the conditions for SH18 be restructured so that the existing conditions apply to the section of SH18 from Albany Highway to the Greenhithe Bridge. The NCI conditions would then apply to the section from the SH1, SH18 and Constellation Drive.

After an assessment of the environmental effects, I consider that the alterations to the above conditions involve no more than a minor effect on the environment above that permitted by the confirmed BOI designations, and as altered by the previous minor alteration. The conditions to be removed are related to the prior construction of the Constellation Drive Station and SH18. The environmental effects are discussed further below in Section 2.1.

#### **1.5. Delegated authority**

The Team Leader - Planning North West and Islands has delegated authority, in accordance with Schedule 2A of the Auckland Council Delegations: Chief Executive Officer (updated February 2017), to exercise the council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to section 181(3).

The NoR can therefore be considered by the Team Leader – Planning North West and Islands and confirmed or declined under section 181(3)(c).

#### **1.6. Relevant statutory provisions**

Section 181 "Alteration of designation" of the Resource Management Act 1991 states:

- (1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*
- (2) Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*
- (3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if-*
  - (a) The alteration-*
    - (i) Involves no more than minor changes to the effects on the environment associated with the use or proposed use of land or any water concerned; or*

(ii) *Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*

(b) *Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*

(c) *Both the territorial authority and the requiring authority agree with the alteration –*

*and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.*

(4) *This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.*

## **2. Analysis of the proposed alteration**

The relevant matters to consider are contained in section 181(3) of the RMA as outlined above.

### **2.1. Assessment of Environmental effects (s181(3)(a)(i))**

An assessment is required to determine whether the alteration to the conditions involves no more than a minor change to the effects on the environment above those permitted (and mitigated for) by the designations confirmed through the BOI process, and as amended by the previous alteration.

I consider that the alteration involves no more than a minor effect on the environment above the permitted baseline. The removal of obsolete conditions is administrative in nature and will allow for the clean integration of the NCI conditions into the Auckland Unitary Plan.

### **2.2. Assessment of minor changes or adjustments to the boundary (s181(3)(a)(ii))**

The alteration to the designation does not involve any changes to the boundary of the existing designation.

### **2.3. Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners and occupiers agree with the alteration (s181(3)(b))**

The requiring authority has not considered whether there are owners or occupiers directly affected by the alteration.

A large proportion of the land is owned by NZTA within its existing highway corridors. The areas of land currently not owned by NZTA, such as Watercare's land and Auckland Council reserve land at Constellation Reserve and Rook Reserve, are currently going through other processes e.g. acquisitions under the Public Works Act, temporary occupation agreements, or easements etc. There are also other separate agreements outside of the designation conditions with various parties including Auckland Transport. The proposed alterations do not have any effect on these separate processes.

The land at the Constellation Drive Station is owned by Auckland Council. There are also 2 Auckland Transport designations which sit on this land (Designation 1420: Constellation Bus Station and Designation 1428: Constellation Drive Station). Whilst the AUP doesn't show which is the primary designation, NZTA have advised that it is their designation. Research into the history of the Northern Busway designations shows that the NZTA designation was NOR 3 whereas the former North Shore City Council designations (now AT), was NOR 10. This would indicate to me that that NZTA designation is the primary designation.

The documentation for this notice of requirement was forwarded to Auckland Transport for their comment. Alastair Lovell from Auckland Transport has provided comment on NZTA's proposed removal of conditions. He has concerns around the removal of Condition 2 unless NZTA can confirm that the removal will not result in an impact on AT's bus operations either during or post construction. Condition 2 states the following:

*'2. That should the New Zealand Transport Agency construct additional lanes on the state highway between Constellation Drive and Greville Road before construction of the busway priority lane provided for by this requirement the construction of the additional lane shall be undertaken in a manner which does not preclude subsequent construction of the priority lane.'*

I consider that the removal of this condition is not an issue. Condition 2 relates to the construction of the additional lane between Upper Harbour Highway and Greville Road. The configuration of the highway will be different with traffic still able to access SH1 from Constellation Drive which will then merge with traffic using the direct connection from the west to the north. The bus priority lane will not exist after the NCI works for the busway and SUP have been completed. The reference to 'this requirement' is to the alteration which provided for the construction of the additional lane (and bus priority lane) and not to this minor alteration. In addition, the NCI conditions also apply to this section of SH1. The Construction Traffic Management Plan conditions CTMP.1 to CTMP.6D requires NZTA to avoid or mitigate the adverse effects on traffic safety and efficiency. Conditions CTMP.5 to CTMP.6D requires the preparation of a specific Public Transport Traffic Management Plan (PTTMP) in consultation with Auckland Transport. The purpose of the PTTMP is to define the process for identifying and managing the potential effects of the NCI project on bus services.

Mr Lovell also has concerns that NZTA has not provided evidence that the conditions to be removed have been met. I consider that the environmental effects of removing these conditions is less than minor, administrative in nature and enables the clean integration of the NCI conditions in to the AUP. The designation as confirmed by the BOI provides for proposed works at the bus station which will alter the current layout and landscaping. The NCI conditions apply to the designation and the proposed works and includes conditions to mitigate the potential effects on bus services as well as provide for landscaping. Conditions UDL.1 to UDL.15 requires NZTA to submit an Urban Design Landscape Plan as part of the Outline Plan of Works. Condition UDL.4(b) specifically relates to the urban design and landscape treatment of the new structures at both the Constellation and Albany Bus Stations. The NCI conditions also include those for noise and vibration (both construction and operational) and a stakeholder and communications plan. Auckland Transport is specifically listed in Condition SCP.6(b) and has other agreements with NZTA outside of the designation conditions.

#### **2.4. Agreement of both the territorial authority and the requiring authority (181(3)(c))**

The alteration to the designation has been requested by the requiring authority, and therefore it agrees to the alteration. Auckland Council agrees with the proposed alteration for the following reasons:

- The alteration involves no more than minor changes to the environmental effects
- The alteration does not involve any changes to the boundary
- the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- Adherence with recommended conditions will ensure any potential adverse effects are avoided, remedied or mitigated.

### 3. CONCLUSIONS AND RECOMMENDATIONS

#### 3.1. Conclusions

The proposed alteration meets the statutory tests of Section 181(3) of the Resource Management Act 1991, in that:

- The alteration involves no more than minor changes to the environmental effects.
- Existing conditions as amended will ensure any potential adverse effects are avoided, remedied or mitigated.
- There are no changes or adjustments to the boundaries of the existing designation.
- the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- The council and the requiring authority agree with the alteration.

#### 3.2 Recommendation

1. That pursuant to Section 181(3) of the Resource Management Act 1991, the New Zealand Transport Agency's notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; Designation 6758: Constellation Drive Station is **confirmed**.
2. That the designations as listed above are amended in Chapter K Designations in the Auckland Unitary Plan Operative in part as recommended in Section 4 and Attachment B of this report.

#### 4. Agreed alterations

The agreed text alterations are as set out in Section 1.4. A full set of the designation conditions is attached (Attachment C). Amendments are shown as either strikethrough or bold and underlined.

Date:

**Report Prepared by:**

Jo Hart

Principal Planner

Planning North West and Islands

**5. SECTION 181(3) DETERMINATION**

Having read the council planner's report and recommendations on the notice or requirement, I am satisfied I have adequate information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision under delegated authority.

Accordingly, the notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed** under section 181(3) of the RMA.

Name: David Sanders

Title: Team Leader – Planning North West and Islands

Signed:



Date:

31/7/18.

**SCHEDULE OF ATTACHMENTS**

**Attachment A:** Notice of Requirement  
**Attachment B:** Designation Condition Table  
**Attachment C:** Amended Conditions

## 6750 State Highway 1 - Auckland Harbour Bridge to Albany

Designation Number	6750
Requiring Authority	New Zealand Transport Agency
Location	State Highway 1 from Auckland Harbour Bridge, Northcote to Greville Road interchange, Albany
Rollover Designation	Yes
Legacy Reference	Designation 110, Auckland Council District Plan (North Shore Section) 2002
Lapse Date	Given effect to (i.e. no lapse date)

## Purpose

Auckland-Waiwera Motorway (State Highway 1), including planning, design, supervision, construction and maintenance in accordance with the Government and Roading Powers Act 1989.

## Conditions

**The following conditions apply to the area subject to the section 181 alteration to the designation for the Northern Corridor Improvements Project on State Highway 1 between the Greville Road Interchange to the vicinity of the Oteha Valley Road Interchange.**

Acronym/Abbreviation	Full Term or Definition
AUP	Auckland Unitary Plan
BPO	Best Practicable Option, and in relation to the Traffic Noise conditions BPO is in accordance with s16 of the Resource Management Act 1991
Building-Modification Mitigation	Has the same meaning as in NZS 6806
CNV	Construction Noise and Vibration Conditions
CNVMP	Construction Noise and Vibration Management Plan
Council	Auckland Council
Commencement of construction or construction works	In all conditions which refer to 'commencement of construction', construction includes work such as earthmoving and earthworks excavation; and the construction, erection, installation, carrying out, alteration, repair, restoration, renewal, maintenance, extension, demolition, removal, or dismantling of any building or structure.
CTMP	Construction Traffic Management Conditions and Construction Traffic Management Plan
DC	General Designation Conditions
Design Year	Means 2031 in relation to the Traffic Noise conditions
FIH	International Hockey Federation
Habitable Space	Has the same meaning as in NZS 6806
HHCT	Harbour Hockey Charitable Trust

IHF	North Harbour Hockey Stadium Conditions
IIG	Iwi Integration Group
Key Stakeholders	Includes community groups, business groups, residents organisations, childcare groups, Council, Watercare Services Limited, Auckland Transport, Ministry of Education, Waste Management NZ Limited, the IIG, and local boards.
Landfill	Rosedale Closed Landfill
Major Construction Activity	For the purposes of the Noise and Vibration Conditions, means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4
Noise Assessment	Means the <i>Traffic Noise and Vibration Assessment Report</i> submitted with the NoR
NZ 8606	Means New Zealand Standard NZS 6806:2010 <i>Acoustics – Road-traffic noise – New and altered roads</i>
ON	Operational Noise and Vibration Conditions
OP	Outline Plan as required under section 176A of the RMA
PPF	Protected Premises and Facilities and has the same meaning as in NZS 6806. For the purpose of these conditions they also include all dwellings in Stage 1 of the Colliston Rise subdivision where Building Consent or Resource Consent which authorises the construction of a dwelling has been granted
PPV	Peak Particle Velocity
Practical completion	Means completion of all construction works.
Project	The Northern Corridor Improvements Project.
Proposed Design	The design of the project as indicated on General Arrangements Sheets 1 – 2 (Revised Albany Busway Bridge – Rev J), 3 – 8 (Consent Issue – Rev H), 9 – 10 (Revised Alteration to Designation Boundary – Bluebird Reserve)
PTTMP	Public Transport Traffic Management Plan
RAMM	Road Assessment and Maintenance Management
RMA	Resource Management Act 1991
RWWTP	Rosedale Wastewater Treatment Plant
SCP	Stakeholder and Communications Plan and Stakeholder and Communications Plan Conditions
SSCNMP	Site Specific Construction Noise Management Plan
SSCVMP	Site Specific Construction Vibration Management Plan
Structural Mitigation	Has the same meaning as in NZS 6806. For the purpose of these conditions the structural mitigation measures are low noise road surface materials and noise barriers
SUP	Shared Use Path

Suitably qualified and experienced person	Means a person with a tertiary qualification in the field to which a particular condition relates; or having sufficient technical expertise that is at least equivalent; and having at least 5 years working experience, unless otherwise specified in the conditions.
Transport Agency	New Zealand Transport Agency
UDL	Urban Design and Landscape Conditions
UDLF	Urban Design and Landscape Framework
UDLP	Urban Design and Landscape Plan
Watercare	Watercare Services Limited
Work Area	For the purposes of the Noise and Vibration conditions, means any area where construction works associated with the Project are undertaken (e.g. all active works areas and construction support areas)



**These conditions relate to the following designations:**

EPA reference	Lapse period	Duration granted
<b>Designations OR NOR</b>		
<p><b>NSP39/001</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6750) for the construction, operation and maintenance of a State highway, being the Auckland-Waiwera Motorway between Greville Road Interchange and the Sunset Road overbridge.</p>	7 years	N/A
<p><b>NSP39/002</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6751) for the construction, operation and maintenance of a State highway, being the Auckland Waiwera Motorway between Greville Road Interchange and Oteha Valley Road.</p>	7 years	N/A
<p><b>NSP39/003</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6756) for the construction, operation and maintenance of a State highway, being State Highway 18 between Albany Highway and State Highway 1.</p>	7 years	N/A
<p><b>NSP39/004</b></p> <p>A designation for the construction, operation and maintenance of the Northern Busway adjacent to State Highway 1 from Albany Bus Station to Constellation Bus Station.</p>	7 years	N/A
<p><b>NSP39/005</b></p> <p>A designation for the construction, operation and maintenance of a shared use path adjacent to State Highway 1 from Constellation Bus Station to Oteha Valley Road.</p>	7 years	N/A
<p><b>NAP39/006</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6758) for the upgrade of the Constellation Bus Station.</p>	7 years	N/A

**General Conditions**

DC.1 Except as modified by the conditions below, and subject to final design, the Northern Corridor Improvements Project ('Project') shall be carried out in general accordance with:

- a. General arrangements drawings

Sheets 1 and 2, DRG 0201 – 0202, Rev J

Sheets 3 – 8, DRG 0203 – 0208, Rev H

Sheets 9 – 10, DRG 0209 – 0210, Rev I (Revised Alteration to Designation Boundary – Bluebird Reserve)

**Subject to the minor changes in relation to the State Highway 1 to State Highway 18 underpass and the Paul Matthews Road configuration as shown in Sheets NCI-R-1002-DG-108-A and NCI-R-1002-DG-0106A.**

b. Typical cross sections

Sheets 1 to 9, DRG 0301 - 0309, Rev F

Sheet 10, DRG 0310, Rev C

c. *Plan and long section SH1 Mainline*

Sheets 1 – 7, DRG 0401 – 0407, Rev. A

Plan and long section SH18 Westbound

Sheets 1 – 4, DRG 0415 – 0418, Rev. A

d. *Civil structures*

DRG 1310 (Rev. C), and 1315, 1320, 1325, 1330, 1335, 1340, 1345, 1350, 1355, 1365, 1370, 1375 (all Rev. B).

e. Stormwater layout plans

Sheets 1 – 10, DRG 1401 – 140, Rev B

f. Stormwater catchment plan

Sheets 1 – 10, DRG 1451 – 1460, Rev B

g. Conceptual construction water management plan

Sheets 1 – 10, DRG 1601 – 1610, Rev B

h. Erosion and sediment control standard details

Sheets 1 – 2, DRG 1620 - 1621, Rev A

i. The notice of requirement plans DRG 2001 Rev C, 2002 Rev C, DRG 2003-2008 Rev B, DRG 2009 Rev C, DRG 2010 Rev C and DRG 2011 Rev C.

DC.2 Where there is inconsistency between the General Arrangements referred to in Condition DC.1 above and these conditions, these conditions shall prevail.

DC.2A Where there are changes to layout and crossings the final design shall ensure that:

- the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service E for any individual movement during the AM or PM peaks.
- The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled.

DC.3 Conditions DC.8, ON.1-ON.11, OV.1, UDL.5A, UDL.13, UDL.14 and SCP.10 on this designation apply to the operational matters that are intended to address ongoing effects of the activities authorised by the designation or impose obligations that are required to be satisfied

following practical completion of the Project. The other conditions on this designation are intended only to apply to construction related activities. As soon as practicable after practical completion of the Project construction works, the Requiring Authority shall provide written notice of practical completion. Upon confirmation of receipt by the Council of the notice of practical completion, all conditions other than conditions relating to operational matters (i.e. DC.8, ON.1-ON.11, OV.1, UDL.5A, UDL.13, UDL.14 and SCP.10) shall cease to have effect.

DC.4 The Requiring Authority shall provide written notice to the Council on completion of the monitoring required by conditions UDL.5A. This condition shall cease to have effect from the date of this notice being received.

DC.5 The designation shall lapse if not given effect to within seven years from the date on which it is included in the Auckland Unitary Plan ('AUP').

DC.6 The outline plans ('OP') shall include the following plans for the relevant stage(s) of the Project:

- a. Construction Noise and Vibration Management Plan ('CNVMP') prepared in accordance with conditions CNV.1 to CNV.9;
- b. Construction Traffic Management Plan ('CTMP') prepared in accordance with conditions CTMP.1 to CTMP.5D; and
- c. Urban Design and Landscape Plan(s) ('UDLP') prepared in accordance with conditions UDL.1 to UDL.12.

The CNVMP, CTMP and UDLPs may be amended following the submission of the OP(s) if necessary to reflect any changes in design, construction methods, or management of effects.

Any amendments are to be discussed with and submitted to the Council for information without the need for a further OP process, unless those amendments once implemented would result in materially different effects to that described in the original CNVMP, CTMP, and UDLPs.

DC.7 Any OP(s) or plans may be submitted in parts or in stages to address particular activities or to reflect the staged implementation of the Project.

DC.8 As soon as practicable following completion of the construction of the Project, the Requiring Authority shall give notice in accordance with Section 182 of the Resource Management Act 1991 ('RMA') to the Council, for the removal of those parts of the designation that are not required for the long term operation, maintenance and mitigation of effects of the Project including from land within the Watercare Services Ltd ('Watercare') Designations 9310 and 9311, the Rosedale Closed Landfill ('Landfill') Designation 417 and other areas where infrastructure owned and operated by other organisations are located.

For the purpose of this condition as it relates to land within the Watercare Designations 9310 and 9311, the Requiring Authority shall remove the parts of its designation in general accordance with areas of land identified as 'Occupation During Construction' in the Aurecon Design Drawings:

- Auckland Northern Corridor Improvements SH1 and SH18 Land Requirement Plan #36, Drawing No. 250310-5DOC-1PRP-DRG-1855-A.

Any changes to the operational boundaries of the 'Land Required' and the 'Occupation during Construction' identified in Drawing No. 250310-5DOC-1PRP-DRG-1855-A shall be made following

consultation with Watercare prior to any such change being implemented.

### **Construction Noise and Vibration (CNV)**

For the purpose of the CNV conditions:

BPO – means the Best Practicable Option in accordance with s16 of the RMA

Major Construction Activity – means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4

Work Area – means any area where construction works associated with the Project are undertaken (all active works areas and construction support areas)

CNV.1 A CNVMP shall be prepared by a suitably qualified and experienced person, and shall be submitted as part of the relevant OP. The purpose of the CNVMP is to provide a framework for the development and implementation of the Best Practicable Option ('**BPO**') for the management of all construction noise and vibration effects, and additionally to define the procedures to be followed when the noise and vibration standards in the CNV conditions are not met following the adoption of the BPO.

The CNVMP shall be prepared in accordance with the requirements of Annex E2 of *New Zealand Standard NZS 6803:1999 'Acoustics – Construction Noise'* (NZS 6803:1999) and shall address the following matters as a minimum:

- (a) Description of the works, anticipated equipment/processes and their scheduled durations;
- (b) Hours of operation and duration for the Major Construction Activities;
- (c) The construction noise and vibration standards for the Project as set out in Tables CNV.A to CNV.B below;
- (d) Identification of affected occupied buildings and any other sensitive receivers (including unoccupied buildings) at each Work Area;
- (e) Management and mitigation options to be adopted for all works during the Project, including prohibition of tonal reverse alarms;
- (f) Minimum separation distances from receivers for plant and machinery where compliance with the construction noise and vibration standards are met;
- (g) A procedure for developing and implementing the Site Specific Construction Noise Management Plans ('**SSCNMPs**') and Site Specific Construction Vibration Management Plans ('**SSCVMPs**') (as required by conditions CNV.6, CNV.7 and CNV.8 below) forming part of this CNVMP;
- (h) Methods and frequency for monitoring and reporting on construction noise and vibration;
- (i) Procedures for engaging with stakeholders, notification of proposed construction activities and responding to noise and vibration complaints consistent with conditions SCP.1-SCP.16;
- (j) Procedures for the regular training of the operators of construction equipment to minimise noise and vibration and procedures for the management of behaviours for all construction workers;
- (k) Contact details for the Project Manager (or nominee) and the Requiring Authority's

Project Liaison Person (phone and email addresses); and

(l) The process for identifying businesses which operate processes, machinery or equipment that may be unreasonably disrupted by construction vibration even where the project vibration standards are met. For any such businesses identified, a SSCVMP shall be prepared in accordance with CNV.8 and complied with.

CNV.2 Where construction noise is predicted to exceed the standards in CNV.3, at any location, and a traffic noise barrier will ultimately be required for the operational phase, the Requiring Authority shall implement the required traffic noise barrier at that location in accordance with the SSCNMP. In the event that it is not practicable to install the traffic noise barrier at the location for construction-related reasons, prior to the commencement of work, the Requiring Authority shall install the traffic noise barrier as soon as it is practicable to do so.

CNV.3 Noise arising from construction activities shall be measured and assessed in accordance with NZS 6803:1999 Acoustics - Construction Noise and (subject to CNV.6) shall comply with the noise standards set out Table CNV.A:

**Table CNV.A: Construction noise standards**

Day	Time	LAeq	LAFmax
<b>Residential Receivers</b>			
0630h Monday to 0630h Saturday	0630h - 0730h	55 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	65 dB	80 dB
	2000h - 0630h	45 dB	75 dB
Saturdays 0630h Saturday to 0630h Sunday	0630h - 0730h	45 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB
Sundays 0630h Sunday and Public Holidays to 0630h the following morning	0630h - 0730h	45 dB	75 dB
	0730h - 1800h	55 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB
<b>Industrial and commercial receivers</b>			
All days	0730h – 1800h	70dB	--
	1800h – 0730h	75dB	--

CNV.4 Vibration arising from construction activities which may affect people and buildings shall be measured in accordance with ISO 4866:2010 Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures, and shall comply with the Category A vibration standards

**Table CNV.B: Construction vibration standards for people and buildings**

Receiver	Details	Category A	Category B
Occupied PPFs*	Night-time 2000h - 0630h	0.3mm/s PPV	1mm/s PPV
	Daytime 0630h - 2000h	1mm/s PPV	5mm/s PPV
Other occupied buildings	At all times	2mm/s PPV	5mm/s PPV
All other buildings	At all times	5mm/s PPV	Tables 1 and 3 of DIN4150-3:1999

\* For vibration, protected premises and facilities (PPFs) are defined as dwellings, educational facilities, boarding houses, homes for the elderly and retirement villages, marae, hospitals that contain in-house patient facilities and buildings used as temporary accommodation (e.g. motels and hotels).

If measured or predicted vibration from construction activities exceeds the Category A standards, the Requiring Authority shall consult with the affected receivers to:

- (a) Discuss the nature of the work and the anticipated days and hours when the exceedances are likely to occur; and
- (b) Determine whether the exceedances could be timed or managed to reduce the effects on the receiver.

The Requiring Authority shall maintain a record of these discussions and make them available to the Council on its request.

If measured or predicted vibration from construction activities exceeds the Category B standards, those activities may only proceed subject to condition CNV.7

CNV.5 Vibration arising from construction activities which may affect underground pipe work shall be measured in accordance with DIN4150-3:1999 *Structural vibration – Part 3: Effects of vibration on structures*, and (subject to condition CNV.7) shall comply with the vibration standards in Table CNV.C.

**Table CNV.C: Construction vibration standards for underground pipe work**

Pipe material	PPV (measured on the pipe)
Steel (including welded pipes)	100 mm/s
Clay, concrete, reinforced concrete, pre-stressed concrete, metal (with or without flange)	80 mm/s
Masonry, plastic	50 mm/s

CNV.6 A SSCNMP shall be prepared when construction noise is either predicted or measured to exceed the standards in Table CNV.A, except where the exceedance of the standards in Table CNV.A is no greater than 5 decibels and:

- a. For day time between 0700 and 2200 - the exceedance of the standards in Table CNV.A does not occur on more than 14 consecutive days in any rolling 8 week period; or
- b. For night time between 2200 and 0700 - the exceedance of the standards in Table CNV.A does not occur on more than 2 consecutive nights in any rolling 10 day period.

The objective of the SSCNMP is to set out the BPO for the minimisation of noise effects of the construction activity. The SSCNMP shall as a minimum set out:

- i. Construction activity location, start and finish dates;
- ii. The predicted noise level for the construction activity;
- iii. Noise limits to be complied with for the duration of the activity;
- iv. The mitigation options that have been selected and the options that have been discounted as being impracticable;
- v. The proposed noise monitoring regime; and
- vi. The consultation undertaken with owners and occupiers of sites subject to the SSCNMP, and how consultation outcomes have and have not been taken into account.

The SSCNMP shall be submitted to the Council for certification at least 7 working days in advance of Construction Works which are covered by the scope of the SSCNMP. If the Council does not respond within 5 working days (excluding time associated with requesting and receiving further information) then certification is deemed to have been given.

CNV.7 A SSCVMP shall be prepared when construction vibration is either predicted or measured to exceed the Category B standards in Table CNV.B and the standards in Table CNV.C. The objective of the SSCVMP is to set out the BPO for the minimisation of vibration effects of the construction activity. The SSCVMP shall as a minimum set out:

- a. The relevant construction activity location, start and finish dates;
- b. The predicted vibration level for the construction activity;
- c. The pre-condition surveys of buildings and pipe work which document their current condition and any existing damage;
- d. An assessment of each building and any pipe work to determine susceptibility to damage from vibration and define acceptable vibration limits that the works must comply with to avoid damage;
- e. The mitigation options that have been selected and the options that have been discounted as being impracticable;
- f. The proposed vibration monitoring regime;
- g. The methods adopted to minimise amenity effects on buildings which remain occupied during the works;
- h. The consultation undertaken with owners and occupiers of sites subject to the SSCVMP, and how consultation outcomes have and have not been taken into account.

The SSCVMP shall be submitted to the Council for certification at least 7 working days in advance of Construction Works which are covered by the scope of the SSCVMP. If the Council does not respond within 5 working days (excluding time associated with requesting and receiving further information) then certification is deemed to have been given.

CNV.8 For any buildings identified in condition CNV.1(l), the Requiring Authority shall prepare an SSCVMP which shall include:

- a. Consultation with the owners and/or occupiers of sites identified to ascertain the sensitivity of processes, machinery or equipment to construction vibration;
- b. Construction vibration limits specific to the sensitive activities which must be complied with that will avoid unreasonable disruption of the businesses;
- c. Procedures and methods for monitoring compliance with the vibration limits established;
- d. A process for dealing with any disagreement which may arise, particularly in relation to the determination of specific vibration limits;
- e. The relevant construction activity location, start and finish dates;
- f. The mitigation options that have been selected and the options that have been discounted as being impracticable; and
- g. The consultation undertaken with owners and occupiers of sites subject to the SSCVMP, and how consultation outcomes have and have not been taken into account.

CNV.9 If any damage to buildings or pipe work is shown to have occurred, by reference to pre-condition survey findings from CNV.7(c), as a result of vibration from the construction of the Project, any such damage shall be remedied by the Requiring Authority as soon as reasonably practicable subject to any associated asset and/or owner agreement.

### **Construction Traffic Management Plan**

CTMP.1 A CTMP shall be prepared by a suitably qualified and experienced person and shall be submitted as part of the relevant OP.

CTMP.2 The purpose of the CTMP is to avoid or mitigate adverse effects on traffic safety and efficiency resulting from the construction works, in order to:

- a. Protect public safety, including the safe passage of pedestrians and cyclists;
- b. Minimise delays to road users, pedestrians and cyclists, and particularly public transport at all times, especially bus travel times at peak traffic periods during weekdays (06:30 to 09:30 and 16:00 to 19:00); and
- c. Inform the public about any potential impacts on the road network.

CTMP.3 The CTMP shall be prepared using best practice (to better understand the effects of construction of the works subject of the OP on the affected road network), which may include the use of traffic modelling tools. Any such assessment shall be undertaken in consultation with Auckland Transport (including Auckland Transport Metro) and have the ability to simulate lane restrictions and road closures (unless otherwise agreed with Auckland Transport). The outcome of consultation undertaken between the Requiring Authority and Auckland Transport shall be documented and any Auckland Transport comments not acted on provided with the final CTMP when submitted to the Council.

CTMP.4 The CTMP shall describe the methods for avoiding, remedying or mitigating the local and network wide transportation effects resulting from the Project works subject of the relevant OP, and shall address the following matters:

- a. Methods to avoid, remedy or mitigate the local and network wide effects of the construction of individual elements of the Project (e.g. intersections/overbridges) and the use of staging to allow sections of the Project to be opened to traffic while other sections are still under construction;



- b. Methods to manage the effects of the delivery of construction material, plant and machinery (including oversized trucks);
- c. The numbers, frequencies, routes and timing of construction traffic movements;
- d. Traffic management measures to address and maintain traffic capacity and minimise adverse effects including, where applicable to the relevant OP:
  - i. Retaining the existing number of traffic lanes along SH1 (between Tristram Avenue and Oteha Valley Road);
  - ii. Retaining the extent of existing bus priority measures along SH1 (between the Albany Station and the Constellation Station), noting that the bus only on ramp from McClymonts Road and the bus only access to the Constellation Station may need to be temporarily closed. Any temporary closure will minimise adverse effects on buses and general traffic. The duration of any temporary closure shall be minimised as far as reasonably practicable;
  - iii. Retaining the existing number of through traffic lanes along SH18 between the Upper Harbour interchange and the Albany Highway interchange, noting that right turning movements to and from Paul Matthews Road may need to be temporarily closed. Any temporary closure will minimise adverse effects on buses and general traffic. The duration of any temporary closure shall be minimised as far as reasonably practicable;
  - iv. Retaining two traffic lanes on McClymonts Road, over SH1, noting that temporary restrictions to one lane or temporary full closures may be required; and
  - v. Retaining at least one traffic lane and one footpath on Rosedale Road, under SH1, except where night time or weekend closures may be required for heavy civil works such as bridge or deck lifting. This single traffic lane is to allow signalised one way traffic in alternate directions; and
  - vi. Maintaining pedestrian connectivity across SH18 via a controlled pedestrian and cycle crossing should the Alexandra Stream underpass be closed during construction.
- e. Measures to maintain existing vehicle access to private properties, or where the existing property access is to be removed or becomes unsafe as a result of the construction works, measures to provide alternative access arrangements in consultation with Auckland Transport and the affected landowner; and
- f. Measures to maintain pedestrian and cycle access with thoroughfare to be maintained on all roads and footpaths adjacent to the construction works, (e.g. unless provision of such access is severed by the works or such access will become unsafe as a result of the construction works). Such access shall be safe, clearly identifiable, provide permanent surfacing and seek to minimise significant detours.
- g. Where applicable to the relevant OP, measures to ensure no more than 20 car parking spaces are removed from the Albany Park and Ride during the construction period unless otherwise provided for at an alternative nearby site agreed between Auckland Transport and the Requiring Authority during the construction of the Project.
- h. Include measures to avoid road closures, and the restriction of vehicle, cycle and pedestrian movements. Where there may be:
  - i. A restriction of cycle and pedestrian connectivity to schools, consultation with the Ministry of Education shall be undertaken; and
  - ii. A restriction on access to Waste Management NZ Limited ('WMNZ') from Rosedale Road, consultation with WMNZ shall be undertaken.

- i. Identify alternative routes for over-dimension and over-weight vehicles where these routes are affected during construction and consult with Auckland Transport and the freight industry (including affected local businesses) on the alternative routes or closures.

### **Public Transport Traffic Management Plan**

CTMP.5 The CTMP shall include a specific Public Transport Traffic Management Plan ('**PTTMP**'). The PTTMP (and any amendments) shall be prepared in consultation with Auckland Transport. The purpose of the PTTMP is to define the process for identifying and managing the potential adverse effects of the Project on bus services. More specifically, the PTTMP shall address those road network/bus routes/bus services which interface with SH1, SH18, and the Busway, and which may be affected by the construction of the Project, in such areas as:

- a. Delays to services and reliability;
- b. Increased journey distances and/or duration;
- c. Frequency of services;
- d. Loss of service/replacement services; and
- e. The procedures and timeframes needed for planning and communicating any road network/bus routes/bus services changes with Auckland Transport (and its bus operators) and customers.

CTMP.5A For each of the above matters, the Requiring Authority shall develop and agree with Auckland Transport acceptable performance thresholds that shall be met to agreed key destinations, having regard to:

- a. Staging of the Project works;
- b. Duration of the Project works;
- c. Time of day/night that the works are conducted;
- d. Convenience to public transport patrons;
- e. Safety;
- f. Public transport patronage.

CTMP.5B The performance thresholds shall be developed with specific acknowledgement of the necessary temporary closure of: the bus only on ramp at McClymonts Road; the bus only access to the Constellation Station; and the right turn movements to and from Paul Matthews Road.

CTMP.5C The performance thresholds for the specified road network/bus routes/bus services shall be monitored by the Requiring Authority, using, where appropriate, data provided by Auckland Transport. The methods and frequency for the monitoring of the performance thresholds (and the reporting of the outcome of the monitoring) shall be agreed between the Requiring Authority and Auckland Transport.

CTMP.5D Where the monitoring undertaken demonstrates that the performance thresholds are not being met, then traffic management measures shall be reviewed by the Requiring Authority (in consultation with Auckland Transport). In order to achieve the thresholds, such a review shall include,

amongst other things:

- a. The staging of the construction activity;
- b. Methods to provide further prioritisation of bus services on certain routes;
- c. Methods to provide bus priority beyond the site(s) of the construction activity;
- d. The provision of additional or revised bus services to respond to delays/frequency of service;
- e. The measures to communicate changes to the road network/bus routes/bus services to the community.

#### **Local roads used for heavy vehicle access to construction areas**

CTMP.6 Prior to the commencement of construction of the works subject of the relevant OP, the Requiring Authority shall:

- a. Identify all access points from the Project construction areas accessing onto the local road network;
- b. Confirm existing levels of traffic using the road to which the proposed site access points relate;
- c. Estimate proposed construction vehicle volumes;
- d. Identify, in consultation with Auckland Transport, a monitoring programme to be implemented for the duration of construction of the Project (or relevant Project stage) to validate the construction vehicle volumes identified in (c)

CTMP.6A At least four weeks prior to the commencement of construction works identified in CTMP.6, the Requiring Authority shall submit to Auckland Transport, a RAMM visual condition assessment including a high-definition video and Pavement Strength Testing of the following:

- a. Where the construction site access point is onto an arterial road, the expected tracking curves of construction vehicles entering/ exiting via the relevant construction site access points; and
- b. Where the construction site access point is onto a local road between the access point(s), along the local road(s) to arterial road(s) and including the expected tracking curves of construction vehicles entering/ exiting the arterial road(s)

CTMP.6B At least two weeks prior to the Project construction works identified in condition CTMP.6 commencing, the Requiring Authority shall arrange a meeting with Auckland Transport to discuss and agree the findings of the RAMM visual condition assessment and the results of Pavement Strength Testing. The purpose of the meeting is to agree on any measures needed (if any) to manage the effects of construction traffic on the physical condition of the road(s), including limiting the volume of heavy vehicles, physical works to strengthen the road pavement before use or repairing/maintaining the road(s) in the event of damage attributable to the Project.

CTMP.6C Subject to condition CTMP.6B, the Requiring Authority shall undertake a weekly inspection of the matters identified in condition CTMP.6A or upon any complaints received, and a final inspection within one week of ceasing using each access point for construction. The inspections shall record photographic or video evidence of any damage on the road(s) and provide this to Auckland Transport upon request.

CTMP.6D Any damage identified as attributable to the Project by an appropriately qualified and

experienced person in the areas identified by the inspections required in condition CTMP.6C shall be repaired within one week or within an alternative timeframe to be agreed with Auckland Transport. All repairs shall be undertaken by the Requiring Authority and shall be to the satisfaction of Auckland Transport.

### **Traffic noise (operation)**

ON.1 For the purposes of conditions ON.2 to ON.11:

- a. BPO – means the Best Practicable Option in accordance with s16 of the RMA;
- b. NZ 6806 – means New Zealand Standard NZS 6806:2010 Acoustics – Road-traffic noise – New and altered roads (“NZS 6806”);
- c. Building-Modification Mitigation – has the same meaning as in NZS 6806
- d. Habitable Space – has the same meaning as in NZS 6806;
- e. Noise Assessment – means the Assessment of Operational Noise and Vibration submitted with the NoR;
- f. Major Construction Activity - means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4
- g. PPFs – means Protected Premises and Facilities and has the same meaning as in NZS 6806. For the purpose of these conditions they also include all dwellings in Stage 1 of the Colliston Rise subdivision where Building Consent or Resource Consent which authorises the construction of a dwelling has been granted;
- h. Structural Mitigation – has the same meaning as in NZS 6806. For the purpose of these conditions the structural mitigation measures are low noise road surface materials and noise barriers;
- i. Work Area - means any area where construction works associated with the Project are undertaken (e.g. all active works areas and construction support areas); and
- j. The Design Year means 2031.

### **Structural mitigation**

ON.2 Subject to conditions ON.7 and ON.7A, the Requiring Authority shall design and construct the Project to ensure that the predicted noise levels for the Proposed Design (contained in Appendix A to these conditions) are not exceeded by more than 2dB at any PPF.

#### **Advice Note:**

The predicted noise levels for the Proposed Design (including the full noise barrier along Upper Harbour Highway as recommended in the JWS) are contained in Appendix A.

ON.3 The Requiring Authority shall implement the following Structural Mitigation:

- a. Open Graded Porous Asphalt (or other low-noise road surfaces with equal or better noise reduction performance) on all sections of the Project except where a higher friction (for safety) or stronger surface is required; and
- b. The following noise barriers and heights shall be provided:  
  
Southern side of SH18
  - i. From the corner formed by the off ramp from SH1 to Upper Harbour Highway, westwards to the corner of Caribbean Drive and Upper Harbour Highway, height 2.4m.
  - ii. From Caribbean Drive westwards to approximate chainage 1280, height 2.4m.
  - iii. From chainage 1280 to 1410 approximately, height 4m.

- iv. From chainage 1555 to 1765 approximately, height 2.4m.
- v. From chainage 1880 to 1950 approximately, height 2.4m.  
Northern side of SH18
- vi. 40m long in front of the childcare centre in Saturn Place, height 2.4m.
- vii. 50m long in front of the childcare centre in Omega Street, height 2.4m.

In the event that the Requiring Authority proposes to change any of the requirements of (a) and (b) above, it shall provide documentation from a suitably qualified and experienced acoustics specialist to the Council demonstrating that condition ON.2 will continue to be complied with.

ON.4 Within twelve months of completion of construction of the Project, the Requiring Authority shall prepare and submit a report to the Council which demonstrates compliance with conditions ON.2 and ON.3. The report shall be prepared by a suitably qualified and experienced acoustics specialist and shall contain a description of, and the results from, a computer noise model of the Project as constructed.

The report shall include the results of field measurements at a minimum of six representative PPFs within the Project. The results of the noise level monitoring shall be used to verify the computer noise model.

Field measurements shall be in accordance with NZS 6806.

ON.5 The noise barriers shall be maintained so that they retain their designed noise reduction performance.

ON.6 The low noise road surfaces shall be maintained so that they retain their noise reduction performance as far as practicable.

### **Building-Modification Mitigation**

ON.7 Prior to construction of each stage of the Project, a suitably qualified acoustics specialist approved by the Council shall identify those PPFs where, following implementation of the Structural Mitigation measures, either:

- a. Both of the following occur:
  - i. A noise level increase of more than 2dB will occur due to road-traffic noise from the Project (determined by comparing the predicted noise levels for the final design with the predicted noise levels for the Do-nothing option as contained in Appendix A to these conditions); and
  - ii. Habitable spaces are expected to receive in excess of 45dB LAeq(24hr) from motorway operational noise with windows closed, in the Design Year;

or

- b. Noise levels are greater than 67dB LAeq(24hr) (assessed in accordance with NZS6806).

For those PPFs that (a) or (b) apply to, the Requiring Authority shall set out options as to what Building Modification Mitigation are available to achieve 40 dB LAeq(24hr) for habitable spaces using the process set out in Conditions ON.8 to ON.11.

Where sites contain PPFs that are subject to resource consents requiring noise attenuation, this condition shall only apply to the extent that Project noise exceeds the noise level predicted when the resource consent was granted.

ON.7A Prior to Major Construction Activity in the relevant Work Area, the Requiring Authority shall

write to the owner of that PPF requesting entry to assess the noise reduction performance of the existing building envelope. If the owner agrees to entry within 3 months of the date of the Requiring Authority's letter, the Requiring Authority shall instruct a suitably qualified acoustics specialist to visit the building and assess the noise reduction performance of the existing building envelope and determine what Building-Modification measures are required to achieve an operational noise level of 40 dB L Aeq(24h) for habitable spaces.

ON.8 For each PPF identified under condition ON.7, the Requiring Authority is deemed to have complied with condition ON.7A if:

- a. The Requiring Authority's acoustics specialist has visited and assessed the PPF; or
- b. The owner agreed to entry, but the Requiring Authority could not gain entry for some reason (such as entry denied by a tenant); or
- c. The owner did not agree to entry within three months of the date of a Requiring Authority letter seeking entry for assessment purposes (including where the owner did not respond within that period); or
- d. The owner cannot, after reasonable enquiry, be found prior to completion of construction of the Project or after reasonable time has not responded.

If any of (b) to (d) above applies to a PPF identified under condition ON.7, the Requiring Authority is not required to implement Building-Modification Mitigation to that PPF.

ON.9 Subject to condition ON.8, within three months of the assessment required by condition ON.7A, the Requiring Authority shall write to the owner of each PPF identified under condition ON.7 advising:

- a. If Building-Modification Mitigation is required to achieve 40 dB LAeq(24h) inside habitable spaces; and
- b. The options for Building-Modification Mitigation to the building, if required; and
- c. That the owner has twelve months to decide whether to accept Building-Modification Mitigation to the building and to advise which option for Building-Modification Mitigation the owner prefers, if the Requiring Authority has advised that more than one option is available.

ON.10 Once an owner has confirmed which Building-Modification Mitigation option is preferred, the mitigation shall be implemented by the Requiring Authority, including obtaining any Council consents, within a mutually agreeable and reasonable timeframe, and where practicable, prior to a Major Construction Activity commencing in the relevant Work Area.

ON.11 Where Building-Modification Mitigation is required, the Requiring Authority is deemed to have complied with condition ON.10 if:

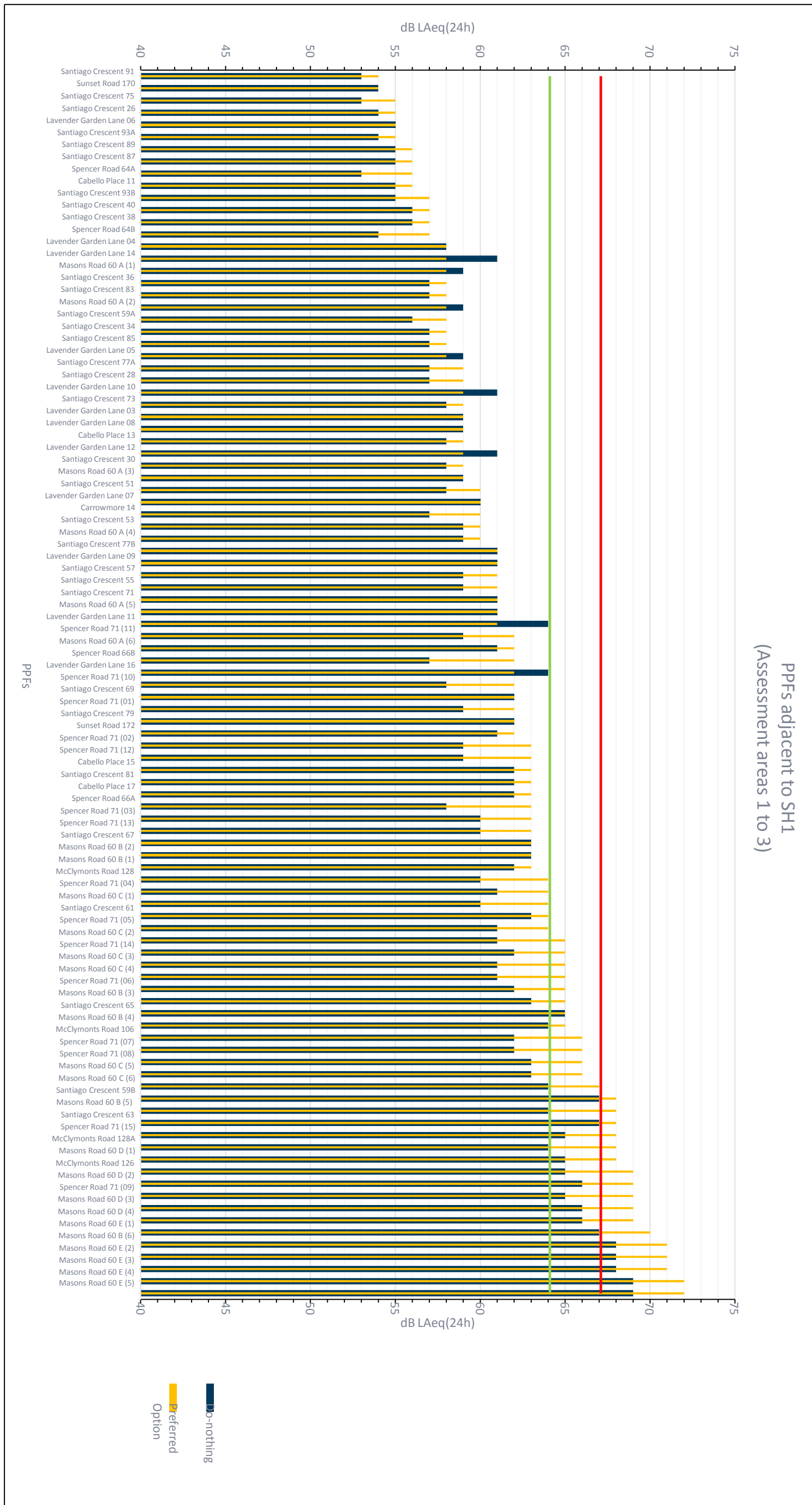
- a) The Requiring Authority has completed Building-Modification Mitigation to the PPF; or
- b) An alternative agreement for mitigation is reached between the Requiring Authority and the owner, and that mitigation option has been completed; or
- c) The owner did not accept the Requiring Authority's offer to implement Building-Modification Mitigation within three months of the date of the Requiring Authority's letter sent in accordance with condition ON.9 (including where the owner did not respond within that period).

## **Operational Noise Conditions**

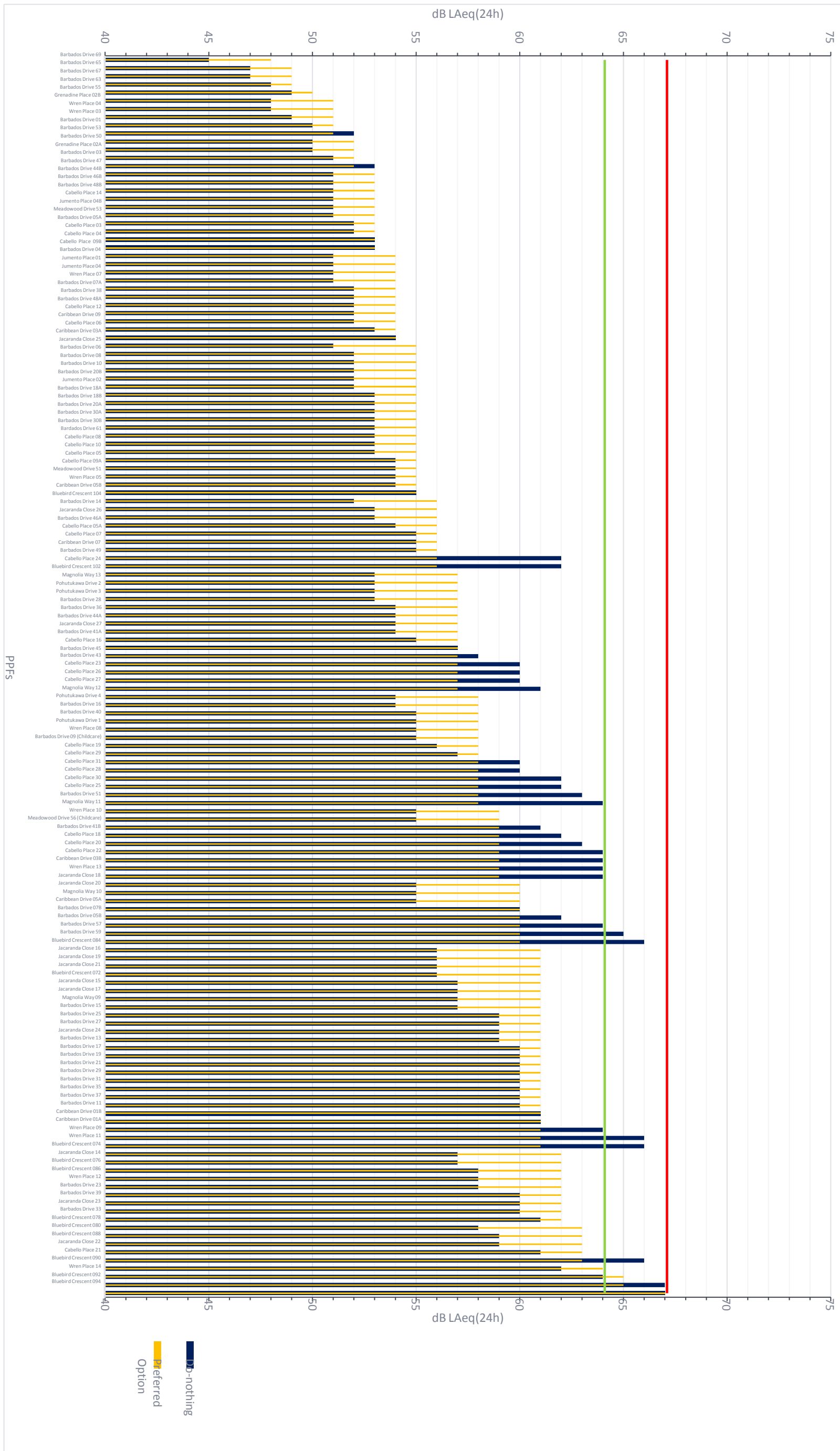
### **Appendix A**

The following graphs show predicted noise levels for all PPFs identified in accordance with ON.2, and are based on the following factors:

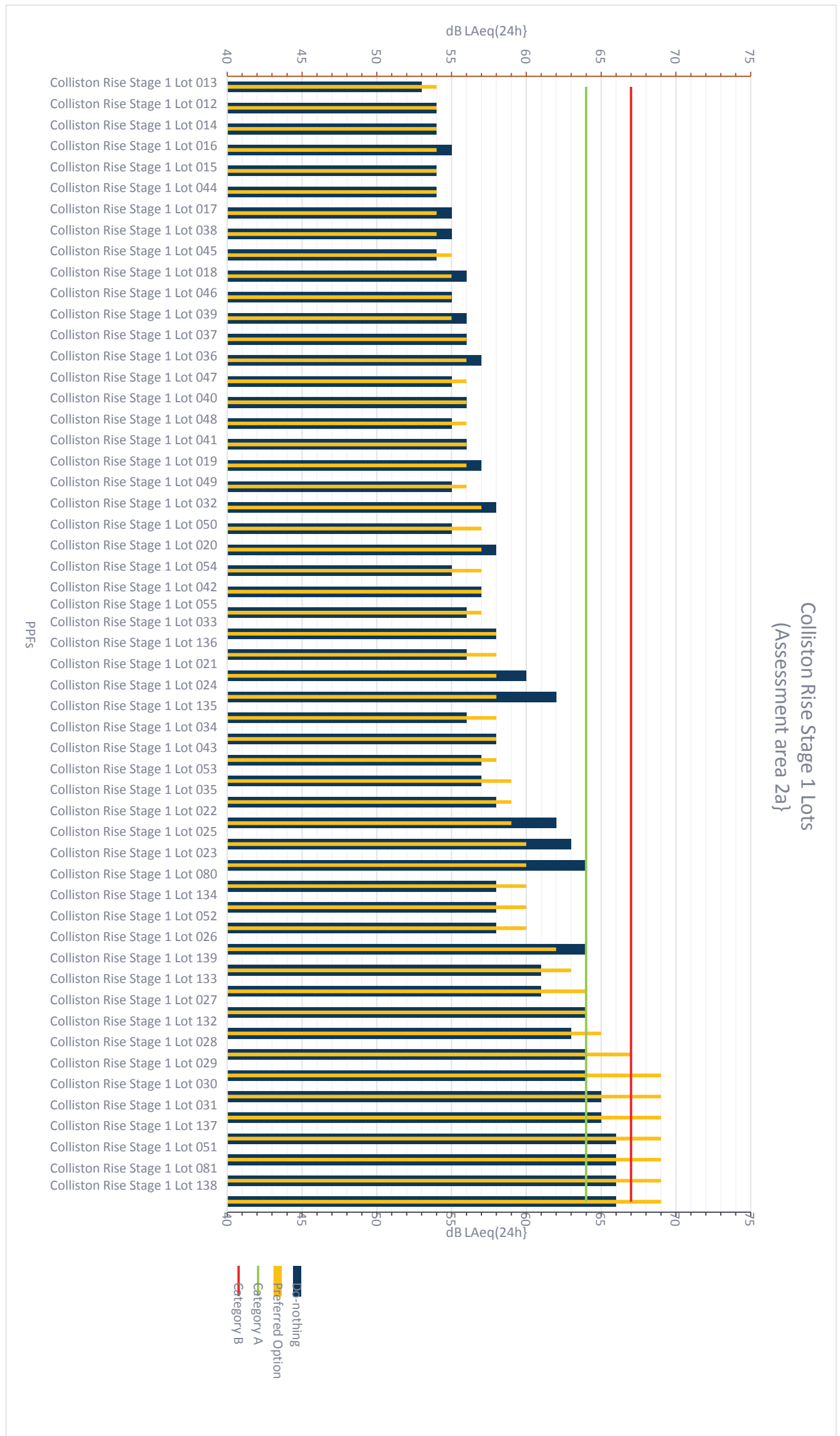
- a) All noise levels are predicted for the design year (2031), with all structural mitigation (noise barriers and low noise road surface) implemented.
- b) All predictions are for the highest floor of each building.
- c) For Colliston Rise Stage 1, the predictions are for a nominal location 3 metres from the western boundary of each Lot, at a height of 4.5 metres above ground level, representing the second floor level.
- d) Predictions are sorted from lowest to highest for the Proposed Design.







PPFs adjacent to Upper Harbour Highway  
(Assessment areas 4 to 8)



## **Operational Vibration**

OV.1 Vibration generated by traffic shall comply with Class C of Norwegian Standard NS8176.E:2005 *Vibration and Shock* – Measurement of vibration in buildings from land-based transport and guidance to evaluation of its effects on human beings in any lawfully established occupied building.

In the event that there is a complaint about vibration in any lawfully established occupied building, the Requiring Authority shall, subject to land owner approval, investigate whether:

- a. The vibration complies with the Standard; and
- b. It is caused by defects in the motorway.

If the vibration does not comply with the Standard and is caused by defects in the motorway, the Requiring Authority shall rectify the defects so that the Standard is complied with in the building that is the subject of the complaint.

## **Urban Design and Landscape**

UDL.1 The Requiring Authority shall submit an Urban Design and Landscape Plan ('**UDLP**') to the Council as part of the OP required under section 176A of the RMA.

UDL.2 The purpose of the UDLP is to outline:

- c. The methods and measures to avoid, remedy and mitigate adverse effects on landscape amenity during the construction phase of the Project;
- d. The requirements for the Project's permanent landscape mitigation works; and
- e. The landscape mitigation maintenance and monitoring requirements.

UDL.3 The UDLP shall be prepared by a suitably qualified and experienced person in accordance with:

- a. The NZ Transport Agency's *Urban Design Guidelines: Bridging the Gap* (2013) or any subsequent updated version
- b. The NZ Transport Agency's P39 Standard Specification for Highway Landscape Treatments (2013).

UDL.4 The Outcomes Sought set out in Chapters 5 and 6 of the UDLF (Revision 3) shall be given effect to through the UDLP in relation to the following matters:

- a. Urban design and landscape treatment of all major structures, including bridges, underpasses, retaining walls and noise walls and barriers;
- b. Urban design and landscape treatment of the new structures at Constellation and Albany Bus Stations;
- c. Integrated landscape treatment of permanent stormwater management ponds, wetlands

and swales;

- d. Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/cycle bridges or underpasses; and
- e. Design and treatment options on or adjacent the following properties:
  - i. The western most residences at 60B Masons Road that overlook the proposed Albany Busway overbridge;
  - ii. Lots 25, 26, 27 and 28 in Colliston Rise, directly adjacent to the proposed retaining walls;
  - iii. 33, 35, 37, 39, 41B, 43, 45, 49, 51, 57, 59 Barbados Drive, and 9, 11, 13 and 14 Wren Place and
  - iv. The solid 2m high wall on the edge of the SUP adjacent to the Waste Management Ltd facility at 117 and 123 Rosedale Road.
- f. Design and maintenance of lighting, including on the carriageways, bridges and other structures, busway, and shared use paths
- g. Detailed design of the shared use path, busway and flyover adjacent to the Kiwi Storage Ltd site, with the object of minimising any adverse visual effect on that site, as far as practicable

UDL.5 The Requiring Authority shall undertake mitigation and enhancement planting in general accordance with the requirements of Sections 5 and 6 of the UDLF (Rev. 3). The UDLP shall include details of proposed mitigation planting including as follows:

- a. Identification of vegetation to be retained, protection measures, and planting to be established along cleared edges;
- b. Proposed planting including plant species, plant/grass mixes, spacing/densities, sizes (at the time of planting) and layout and planting methods;
- c. The proposed staging of planting in relation to the construction programme, including provision for planting within each planting season following completion of works in each stage of the Project and detailed specifications relating to (but not limited to) the following:
  - i. Weed control and clearance;
  - ii. Pest animal management;
  - iii. Ground preparation (topsoiling and decompaction);
  - iv. Mulching;
  - ix. Plant sourcing and planting, including hydroseeding and grassing; and
  - d. Details of a proposed maintenance and monitoring programme.

UDL.5A The Requiring Authority shall maintain and monitor the mitigation and enhancement planting for a minimum of 4 years following the planting being undertaken. The Requiring Authority shall monitor the planting in accordance with the programme required by condition UDL.5(d),

including monitoring for any patches in planted areas greater than 4m<sup>2</sup> where there is multiple plant failure (either stunted growth or death) and replant these areas as necessary.

UDL.6 The UDLP shall include a Reserve Reinstatement Plan for the following reserves (or parts thereof) directly affected by the construction works:

- a. Rook Reserve;
- b. Arrenway Reserve; and
- c. Meadowood Reserve.

#### **Advice Note**

Appendix A to the Board of Inquiry Decision illustrates the location of affected reserves.

UDL.6A The Reserve Reinstatement Plans shall be prepared in consultation with Council Parks and shall include the following details (as appropriate to the subject reserve):

- a. Removal of structures, plant and materials associated with construction;
- b. Replacement of boundary fences to the same or similar type to that removed;
- c. Reinstatement of grassed areas to a similar condition as existed prior to construction;
- d. Replacement of trees and other planting removed for construction on a one-for-one basis (or as otherwise agreed with Council Parks); and
- e. Details of way finding interpretation signage within and adjacent to the reserve.

UDL.6B The Rook Reserve Reinstatement Plan shall be prepared in consultation with Council Parks and shall include the following details:

- a. A level grassed area minimum dimensions of 30m by 30m suitable for informal ball games;
- b. A 10m by 10m level surface located adjacent to the stormwater pond, with the dual function of providing for occasional use by stormwater pond maintenance machinery and a single basketball hoop and half court, located at the eastern end of the pond;
- c. Amenity and screen planting along the boundary of the reserve with State highway 18;
- d. Details of the proposed access around the stormwater pond for maintenance, including any additional necessary hard stand areas;
- e. Grassed slopes (where possible) at the upper levels of the reserve to allow passive surveillance from neighbouring residential properties (with scattered amenity trees);
- f. All grassed areas are to have a slope of no more than 1:5 to allow for mowing, with steeper gradients to be landscaped;
- g. Re-contouring and landscaping of the remainder of the reserve, including features such as walkways and seating; and

h. Prior to commencement of construction on the reserve, the existing fitness equipment in Rook Reserve is to be removed and replaced with three new equivalent pieces of equipment in Barbados Reserve.

UDL.6C In addition to the Reserve Reinstatement Plans above, the UDLP shall in relation to the Landfill provide boundary fencing, replace any trees and landscaping equivalent to those removed or affected by the construction of the retaining wall, provided that any landscaping does not compromise sightlines required for the new motorway and / or busway and/or the shared use path.

UDL.7 A draft of the UDLP shall be submitted to the Council Urban Design Advisory Panel for comment before finalisation and submission with any OP in accordance with Condition UDL.1.

UDL.8 All work shall be carried out in accordance with the UDLP.

UDL.9 For the purpose of staging works, the Requiring Authority may prepare staged or site specific UDLPs. The Requiring Authority shall consult with the Council about the need and timing for any site-specific or staged UDLPs.

UDL.10 The Requiring Authority may submit amendments to the UDLP to the Council. Any works in accordance with the amended UDLP shall not commence until the process under section 176A of the RMA has been completed in relation to those aspects of the UDLP that are being amended.

UDL.11 The UDLPs shall be prepared in partnership with the Transport Agency Central Northern Iwi Integration Group ('IIG'). This consultation shall commence at least 30 working days prior to submission of each UDLP to the Council. Any comments and inputs received from the IIG shall be clearly documented within the UDLP, along with a clear explanation of where any comments or suggestions have not been incorporated and the reasons why.

UDL.12 Any UDLP that includes land within the Watercare Designations 9310 and 9311 shall be prepared in consultation with Watercare Services Limited.

### **Alexandra Stream Underpass**

UDL.13 The Requiring Authority shall implement the following measures to address public safety concerns associated with the Alexandra Stream Underpass:

- a. Path realignment of the southern entrance to the underpass to suit a minimum cyclist design speed of 15km/h, provided realignment works do not impact the Alexandra Stream;
- b. Improved lighting within the underpass; and
- c. Inclusion of CCTV within the underpass.

UDL.14 The measures outlined in UDL.13 shall be designed and implemented in consultation with Council Parks, Bike Auckland and Auckland Transport.

### **Paul Matthews Road Bridge**

UDL.15 During the detailed design phase of the Paul Matthews Road Connection, the Requiring Authority shall consult Bike Auckland on the layout and detailed design of the shared use path.

## **Stakeholder and Communications Plan ('SCP')**

SCP.1 The Requiring Authority shall appoint a community liaison person for the duration of the construction phase of the Project to be the main point of contact for persons affected by the Project.

SCP.2 The Requiring Authority shall ensure that the contact details (phone, postal address, and email address) of the community liaison person and the details of the complaints process set out in Condition SCP.12 are:

- a. Included in the SCP required under Condition SCP.3;
- b. Advertised in the relevant local newspapers and community noticeboards prior to the commencement of the Project;
- c. For each Project stage, included in a leaflet to be issued to all properties within that Project stage contained within the 45 dB LAeq Contour (Residential Night) as shown on the Construction Noise Mark Up drawings contained at Appendix E of the Assessment of Construction Noise and Vibration (9 December 2016) prior to the commencement of the relevant Project stage;
- d. Provided at the community events required under Condition SCP.6 and
- e. Included within the Requiring Authority's website pages for the Project.

SCP.3 At least two months prior to the commencement of construction works for the relevant OP, the Requiring Authority shall submit a SCP to the Council.

SCP.4 The Requiring Authority shall provide a draft SCP to the Council for comment at least three months prior to the commencement of construction. In finalising the SCP, the Requiring Authority shall detail how comments received from the Council have been addressed.

SCP.5 The purpose of the SCP is to set out the procedures for communicating with the affected communities and key stakeholders throughout the construction period including types and regularity of engagement events and the methods proposed to avoid, remedy or mitigate, as far as practicable, disruption to residents, businesses and schools as a result of construction activities.

SCP.6 The SCP shall contain the following:

- a. Communication methods for informing the affected community of construction progress, including the expected duration of the works and proposed hours of operation outside normal working hours and Project contact details;
- b. Identification of key stakeholders including community groups, business groups, residents' organisations, childcare groups, the Council, Auckland Transport, Watercare, Ministry of Education, Waste Management NZ Limited, the Melanesian Mission and St Johns Trust Board, the IIG and the Local Boards;
- c. Consultation processes to reach the affected communities and key stakeholders in order to foster good relationships and to provide opportunities for learning about the Project and detail on when each of these processes will be used; and

d. Business and education disruption management processes.

SCP.7 The consultation processes required under SCP.6(c) shall provide for, as a minimum, the following:

a. At least two months prior to construction commencing for the relevant Project stage, provision of an inaugural community information event or events, to explain the Project and outline the process to review and comment on Project mitigation and UDLPs;

b. Briefings for key stakeholders (including emergency services, business associations, local boards and road user groups) at least quarterly, and ahead of all major milestones or road closures;

c. Regular consultation events or information days, held as appropriate, but at least once per month when construction works are taking place, to provide the opportunity for the affected communities to have input into the Project.

d. Targeted community events at least one month prior to construction commencing in each of the following Work Areas:

- SH1/SH18 interchange;
- SH18 realignment;
- Rook Reserve;
- Rosedale Road;
- Constellation and Albany Bus Stations; and
- McClymonts Road (including Albany Busway Bridge).

e. Notification of consultation events and information days to the public and community groups.

f. Publication and circulation of records from consultation events and information days.

g. A requirement for the Requiring Authority to ensure that appropriate personnel attend both the stakeholder and community events to explain the Project programme and staging, how the effects are proposed to be managed and to respond to any questions.

h. A requirement to produce a draft report summarising the main points arising from each consultation event, reporting on any social impacts unforeseen effects of the Project, along with recommendations on the measures to mitigate those effects. The Requiring Authority shall ensure that a copy of the draft report is provided to the Council and to meeting attendees within 10 working days of the event to provide an opportunity for feedback. Feedback will be provided within 5 working days of receiving the draft report.

i. A requirement to finalise and circulate the consultation summary report within 5 working days of receiving feedback.

SCP.8 The events required under condition SCP.7(b), shall:

a. Provide regular updates on Project progress, in particular advanced notice of upcoming works including closures and traffic management plans.



- b. Enable the effects of Project construction on the community (including businesses) to be monitored by providing regular forums through which information about the Project can be provided.
- c. Enable opportunities for feedback on proposed construction impact measures.
- d. Enable the affected communities and key stakeholders the opportunity to provide feedback on the development of, and any material changes to the UDLPs.
- e. Enable opportunities for concerns and issues to be reported to and responded to by the Requiring Authority, including opportunities for updates to the SCP.

SCP.9 The business and education disruption management processes required under condition SCP.6(d) shall include details of the measures to be implemented to avoid, remedy or mitigate, as far as reasonably practicable, disruption to businesses and education facilities as a result of construction activities including:

- a. Measures to maximise opportunities for customer and service access to businesses that will be maintained during construction;
- b. Measures to mitigate potential severance and loss of business visibility issues by way-finding and supporting signage for pedestrian detours required during construction; and
- c. Other measures to assist businesses to maintain client/customer accessibility, including but not limited to client/customer information on temporary parking or parking options for access and delivery.
- d. Measures to enable ongoing pedestrian and cycle connectivity to education facilities during the Project.

SCP.10 The Requiring Authority shall implement the SCP for the duration of the construction works and for six months following practical completion of the Project.

SCP.11 The SCP shall be reviewed six monthly for the duration of the construction works and updated as required. Any updates to the SCP shall be provided to the key stakeholders and reported at the events required under condition SCP.7(c)

### **Complaints process**

SCP.12 Prior to the commencement of construction, the Requiring Authority shall establish a 24 hour toll free telephone number and an email address for receipt of complaints from the community. The 24 hour toll free telephone number shall be answered at all times and shall be maintained for the duration of the Project.

SCP.13 At all times during construction work, the Requiring Authority shall maintain a permanent register of any complaints received relating to the construction works, including the full details of the complainant and the nature of the complaint.

SCP.14 The Requiring Authority shall respond to any complaint within 24 hours of receipt of the complaint, except where an immediate hazard is present or where the complaint relates to construction noise or vibration, in which case the Requiring Authority shall use its best endeavours to respond immediately. A formal written response shall be provided to the

complainant and the Council within 10 days of complaint receipt.

SCP.15 For the period of the construction of the Project, the Requiring Authority shall maintain a written complaints register containing the following information:

- a. The details of the complainant;
- b. The nature of the complaint;
- c. The investigations undertaken into the complaint; and
- d. Any remedial actions undertaken to address the complaint.

SCP.16 The Requiring Authority shall keep a copy of the complaints register required under SCP.15 on site and shall provide a copy to the Council once a month and more frequently upon request

### **Greenwich Way Shops**

SCP.17 At least two weeks prior to the closure of the off-ramp from SH18 onto Unsworth Drive, the Requiring Authority shall, in consultation with the Greenwich Way shop owners and operators and if requested by those owners and operators:

- a. Provided that all necessary approvals can be obtained from the road controlling authority, install wayfinding signage at the junction of Barbados Drive and Unsworth Drive; and
- b. Advertise the range of services, location and trading hours of the Greenwich Way shops by:
  - i. Undertaking a leaflet drop to all properties contained between SH18, Caribbean Drive, Sunset Road and Albany Highway; and
  - ii. Placing advertisements in the relevant local newspapers.

SCP.18 The Requiring Authority shall carry out the actions required by Condition SCP.17 (a) and (b) at least two weeks prior to closure of the off ramp from SH18 onto Unsworth Drive and repeat the advertising required by Condition SCP.17 (b) once a month for three months following the first leaflet drop and newspaper advertisements.

SCP.19 At least two months prior to the closing of the off ramp from SH18 onto Unsworth Drive the Requiring Authority shall, in consultation with the Greenwich Way shop owners and operators, and if requested by those owners and operators, provide advice and assistance to those owners and operators to prepare a business/marketing plan for their premises,

### **International Hockey Facility**

IHF.1 Unless otherwise agreed between the Requiring Authority and the Harbour Hockey Charitable Trust, prior to any works commencing within any part of the North Harbour Hockey Facility lease area, the Requiring Authority shall, in consultation with Harbour Hockey Charitable Trust, relocate the North Harbour Hockey facility on an equivalent basis. This shall include the following elements:

- a. Three water-based artificial hockey pitches with all fields to meet equivalent current International Hockey Federation ('**FIH**') design standards as existing fields;

- b. One grass pitch (or land prepared for installation of a fourth artificial hockey pitch);
- c. A pavilion building of similar size, quality and finish that provides clubrooms, function rooms, changing rooms, and other amenities consistent with those at the existing North Harbour Hockey Facility but shall be designed to meet current FIH and building code standards; and
- d. Lighting, car parking, public address system, storage sheds, dug-outs, and associated other facilities consistent with those at the existing North Harbour Hockey Facility.

If the replacement facility is located proximate to the existing satellite sand based pitch within Rosedale Park, suitable access from the replacement facility to the existing sand based pitch will be provided. In the event that the new hockey facility is not located sufficiently close to the existing satellite sand pitch (which is in Rosedale Park to the north of the existing North Harbour Hockey Facility) to enable convenient access, an equivalent sand based pitch shall be provided as part of the replacement facility.

If agreed with HHCT, relocation to the new North Harbour Hockey Facility may be undertaken in stages.

## Attachments

No attachments.

New/Alterations & Withdrawals to Designations  
(Go Live 29th November 2018)

Amendments to Auckland Unitary Plan GIS Viewer (maps)

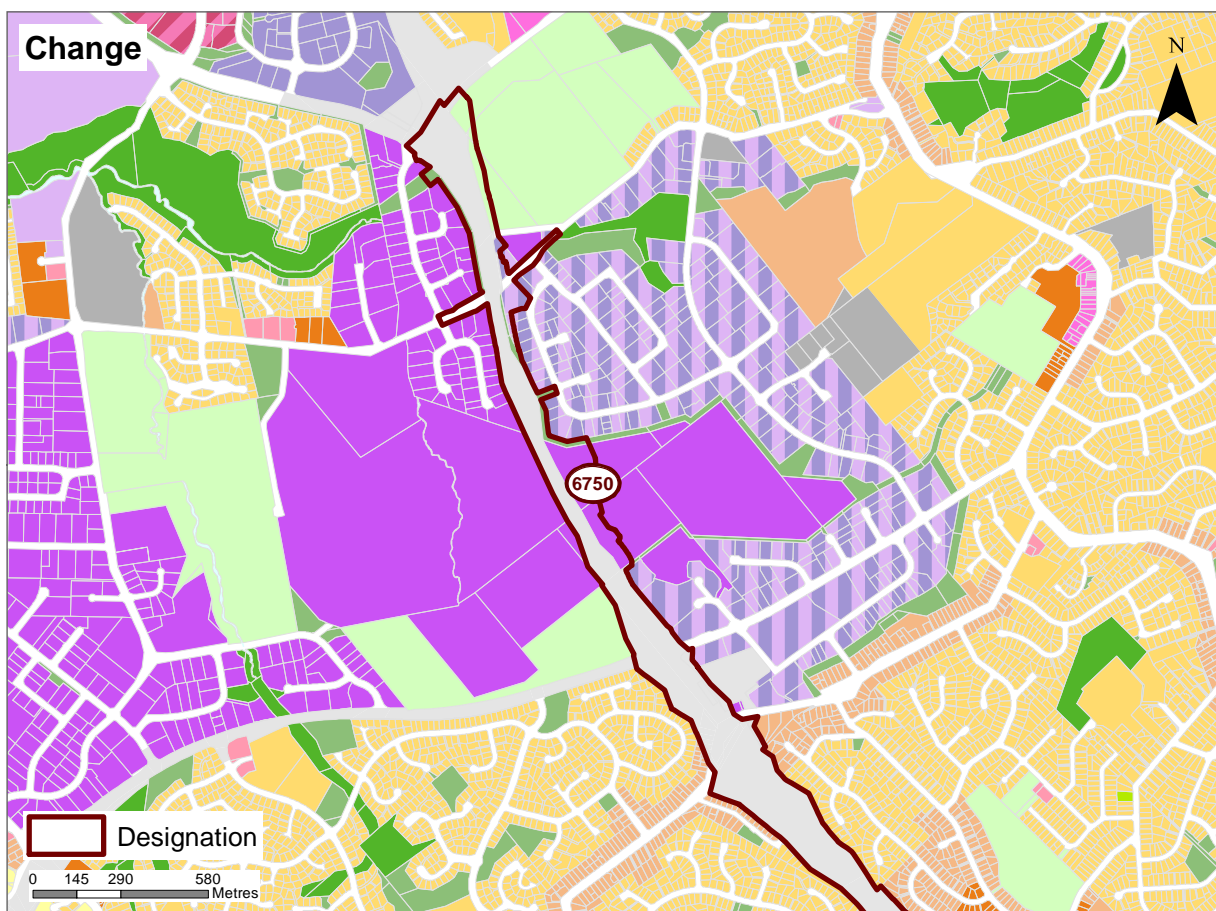
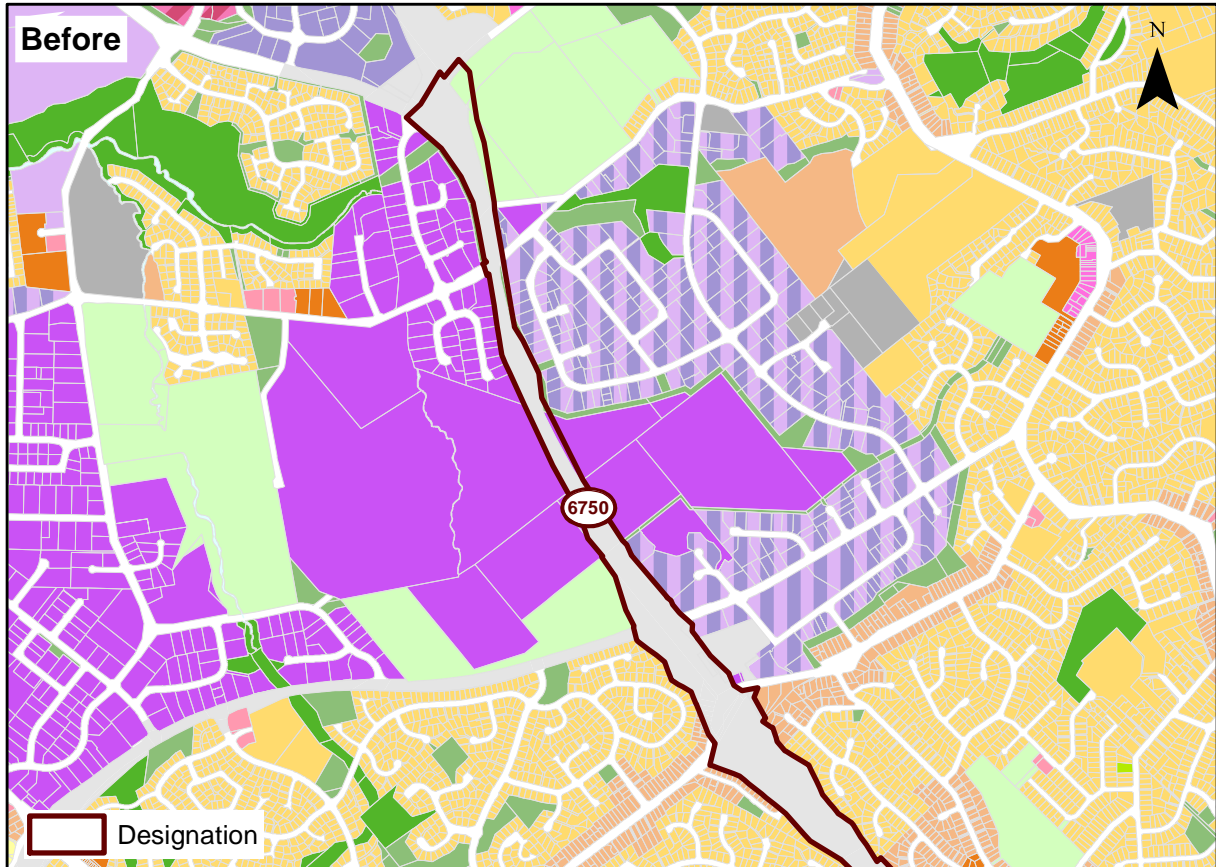
Affected map layers : Designations

Designation: 6750

Name: State Highway 1: To undertake maintenance, operation, use and improvement to the State Highway network.

Requiring Authority: New Zealand Transport Agency

Alternation to the Designation



## UNITARY PLAN UPDATE REQUEST MEMORANDUM

**TO** Warren MacLennan, Manager Planning North West and Islands

**FROM** Jo Hart, Principal Planner, Planning North West and Islands

**DATE** 29 August 2018

**SUBJECT** **Designation in accordance with s181(3) of the Resource Management Act of the Auckland Unitary Plan(AUP) Operative in part (15 November 2016)**



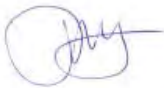
This memorandum requests an update to Auckland Unitary Plan Operative in part

<b>Reason for update – Confirmed notices of requirement to alter Designation 6751 (as part of the Northern Corridor Improvements Project)</b>	
<b>Chapter</b>	Chapter K Designations
<b>Section</b>	New Zealand Transport Agency
<b>Designation only</b>	
<b>Designation # 6751</b>	<b>State Highway 1 - Albany</b>
<b>Locations:</b>	SH1 from the Greville Road Interchange, Albany to Lonely Track Road, Albany
<b>Lapse Date</b>	7 years (for the alteration)
<b>Purpose</b>	Proposed Motorway (Auckland-Waiwera Motorway State Highway 1), including planning, design, supervision, construction and maintenance in accordance with the Government and Roading Powers Act 1989.
<b>Changes to text (shown in underline and strikethrough)</b>	<p>This update incorporates amendments to conditions arising from the following alterations to the designations associated with the Northern Corridor Improvements Project (NCI):</p> <ul style="list-style-type: none"> <li>• Northern Corridor Improvements Project (as confirmed by the Board of Inquiry (BOI) 16 November 2016)</li> <li>• Section 181(3) notice of requirement for an alteration to a designation associated with the NCI – Conditions DC.1a, DC2.A, ON.3b(iii), UDL.4(iii) and UDL.15 (confirmed 8 May 2018)</li> <li>• Section 181(3) notice of requirement for an alteration to Designation 6751 to enable integration of the BOI conditions (confirmed 31 July 2018).</li> </ul> <p>Refer to the link below for the NCI Board of Inquiry Final Report and Decision and to the attachment for details of the two Section 181(3) notice of requirements for an alteration to a designation:</p> <ul style="list-style-type: none"> <li>• NCI Board of Inquiry Final Report and Decision  <a href="https://www.epa.govt.nz/public-consultations/decided/northern-corridor-improvements/final-report-and-decision/">https://www.epa.govt.nz/public-consultations/decided/northern-corridor-improvements/final-report-and-decision/</a> </li> </ul>

<b>Changes to diagrams</b>	N/A
<b>Changes to spatial data</b>	Multiple amendments to spatial data associated with the Northern Corridor Improvements Project (as confirmed by the Board of Inquiry 16 November 2016).
<b>Attachments</b>	<ul style="list-style-type: none"> <li>• Section 181(3) Report and decision (confirmed 8 May 2018) including track changes to the BOI confirmed conditions.</li> <li>• Section 181(3) Report and decision (including a table which provides details of the alterations to the conditions) and track change version of conditions for Designation 6751</li> <li>• 6751 State Highway 1 – Albany text</li> <li>• 6751 State Highway 1 – Albany Map</li> </ul>

**Prepared by:**

Jo Hart  
Principal Planner  
Planning North West and Islands



**Signature:**

**Text entered by:**

Bronnie Styles  
Planning Technician  
Planning Auckland-wide



**Signature:**

**Maps prepared by:**

Mitesh Bhula –  
Senior Geospatial Analyst  
Aucklandwide



**Signature**

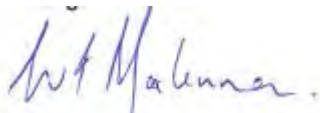
**Reviewed by:**

Jo Hart  
Principal Planner  
Planning North West and Islands



**Signature:**

**Warren Maclennan  
Manager**



**Signature**

8 May 2018

Northern Corridor Improvements  
Level 1 Jacobs House  
12 Nicholls Lane  
Parnell  
Auckland 1052

Attention: Maree Drury

Dear Maree

**Re: Notice of for a minor alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road in the Auckland Unitary Plan.**

Auckland Council has considered your request to alter the existing designations associated with the Northern Corridor Improvements Project as listed above.

The proposed alteration to the designations has been processed and confirmed in accordance with the statutory tests of Section 181(3) of the Resource Management Act 1991. The Section 181(3) confirmation report for the minor alteration is attached.

The Auckland Unitary Plan will be amended in due course.

If you have any questions please contact Jo Hart on 09 8908291

Yours sincerely



David Sanders  
Team Leader – Planning North West and Islands  
**Plans and Places**





# Notice of requirement for a minor alteration to a designation under section 181(3) of the Resource Management Act 1991



## Notice of requirement description

Designation number:	Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road.
Requiring authority:	New Zealand Transport Agency
Site address:	Various – between Oteha Valley Road and SH1/SH18 intersection and along SH18 to Albany Highway.

## Summary

Auckland Council has received a request from the New Zealand Transport Agency under section 181(3) of the Resource Management Act 1991 (RMA), dated 15 February 2018, to alter designations associated with the Northern Corridor Improvements Project (Attachment A).

It is considered after undertaking an assessment of the notice, that the proposed alteration meets the statutory tests of section 181(3) of the RMA and can therefore be processed and confirmed as a minor alteration.

## Recommendation

1. That the proposed alteration of Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road in the Auckland Unitary Plan be **confirmed**, subject to the amended conditions (Attachment B) for the following reasons:
  - the alteration involves no more than minor changes to the effects on the environment associated with the use of the land;
  - there are no adjustments to the boundaries of the existing designation;
  - both the requiring authority and Auckland Council agree with the alteration; and

- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
2. That the text for the Designations, as listed above, is altered in Chapter K Designations in the Auckland Unitary Plan.

## **1. Background**

### **1.1. Minor alteration to a designation**

Auckland Council has received a notice of requirement (NoR) for an alteration to designations associated with the Northern Corridor Improvements Project (NCI), as listed above, from the New Zealand Transport Agency under section 181(3) of the RMA.

The alteration is required to modify conditions confirmed in the Board of Inquiry (BOI) decision, dated 16 November 2017, to reflect minor changes made during the detailed design process. These changes are as follows:

- a minor reconfiguration of the Paul Matthews Road and Caribbean Drive connection
- the replacement of the State Highway 1 to State Highway 18 flyover with an underpass.

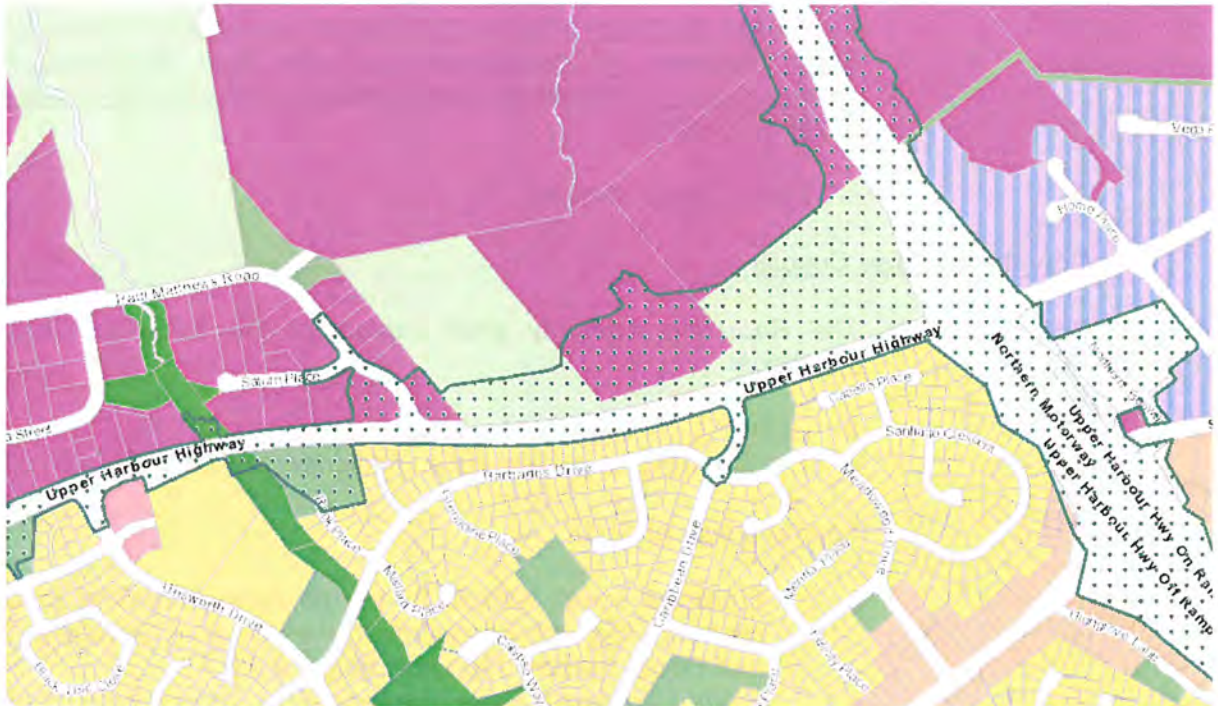
The alteration involves an amendment to General Condition DC.1 to change the reference of two of the drawings presented to the BOI to the NCI Alliance updated detailed design drawings. Minor consequential amendments and additions are also proposed in relation to:

- the operational noise conditions (ON.3 (a)(iii)) to allow for the construction of a slightly higher noise wall
- the urban design conditions (UDL.4 (e)(iii) and UDL.15) to ensure mitigation of the higher noise wall proposed in relation to visual effects on adjacent properties.

There are no alterations proposed to the boundaries of the designations.

### **1.2. Land affected by the alteration**

The land affected by the alteration to the designation is located around the SH18 interchange with SH1 and at Paul Matthews Road, near the Watercare Rosedale Treatment Plant and Constellation Reserve, as shown in the Auckland Unitary Plan map below:



Map 1: AUP map showing vicinity of proposed alterations.

### 1.3. Description of the site and existing environment

This section of the Northern Corridor contains the SH1 and SH18 highway corridors. The intersection of SH1 and Constellation Road is to the east and SH18 to the west. Residential housing is located to the south of the SH18 alignment. Constellation Reserve, which forms part of Watercare’s odour buffer designation, and the Rosedale Wastewater Treatment Plant (RWTP) and ponds are located to the north. An area of General Business zoned land lies to the north-east of the SH1/SH18 intersection. The Constellation Bus Station is located to the south-east of the intersection and is currently accessed via the Constellation off-ramp and crossing Constellation Drive to get to the beginning of the Northern Busway.

### 1.4. Proposed alterations to conditions

The requiring authority has requested the alteration of four of the confirmed EPA conditions. These are as follows:

#### General Conditions:

*Condition DC.1 Except as modified by the conditions below, and subject to final design, the Northern Corridor Improvements Project shall be carried out in general accordance with:*

#### *a. General arrangements drawings*

*Sheet 1 and 2, DRG 0201-0202, Rev J*

*Sheets 3 - 8, DRG 0203-0208, Rev H*

*Sheets 9 – 10, DRG 0209-0210, Rev I (Revised Alteration to Designation Boundary – Bluebird Reserve)*

**Subject to the minor changes in relation to the State Highway 1 to State Highway 18 underpass and the Paul Matthews Road configuration as shown in Sheets NCI-R-1002-DG-108-A and NCI-R-1002-DG-106-A.**

b. Typical cross sections...

Operational Noise Conditions

Condition ON.3 The Requiring Authority shall implement the following Structural Mitigation:

- a. [...]
- b. The following noise barriers and heights shall be provided:

Southern side of SH18

- i. From the corner formed by the off ramp from SH1 to Upper Harbour Highway, westwards to the corner of Caribbean Drive and Upper Harbour Highway, height 2.4m.
- ii. From Caribbean Drive westwards to approximate chainage 1280, height 2.4m
- iii. From chainage 1280 to 1410 approximately, height ~~3m~~ **4m**.
- iv. From chainage 1555 to 1765 approximately, height 2.4m...

Urban Design and Landscape Conditions

Condition UDL.4 The Outcomes set out in Chapters 5 and 6 of the UDLF (Revision 3) shall be given effect to through the UDLP in relation to the following matters:

- [...]
- e. Design and treatment options on or adjacent the following properties:  
[...]
- iii. 33, 35, 37, 39, 41B, 43,45, and 4 ~~79, 51, 57, 59~~ Barbados Drive, **and 9, 11, 13 and 14 Wren Place** directly adjacent to the proposed Paul Matthews Road overbridge; and...

Condition UDL.15 During the detailed design phase of the Paul Matthews Road **Connection** Bridge, the Requiring Authority shall consult Bike Auckland on the layout and detailed design of the shared use path. ~~on the Bridge.~~

It is common for requiring authorities to lodge NoRs with preliminary design drawings with the final design to be processed through the Outline Plan of Works (OPW). This allows flexibility in the final design of a project from when the designation is confirmed without having to alter the conditions every time the design changes. In this case the drawing numbers have been included in Condition DC.1. The requiring authority has decided to take a precautionous approach to update the condition so that the correct drawing numbers are included. Consequential amendments to Condition ON.3, UDL.4 and UDL.15 are also required because of the change to the design.

After an assessment of the environmental effects, I consider that the alterations to the above conditions involve no more than a minor effect on the environment above that permitted by the confirmed BOI designations. The conditions as confirmed by the BOI, as amended by the minor alteration, and the inclusion of a new condition (DC.1A – refer to Section 2.1 Traffic and Transport Effects), will ensure that any potential adverse effects on the environment will be avoided, remedied or mitigated. The environmental effects are discussed further below in Section 2.1.

### **1.5. Delegated authority**

The Team Leader - Planning North West and Islands has delegated authority, in accordance with Schedule 2A of the Auckland Council Delegations: Chief Executive Officer (updated February 2017), to exercise the council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to section 181(3).

The NoR can therefore be considered by the Team Leader – Planning North West and Islands and confirmed or declined under section 181(3)(c).

### **1.6. Relevant statutory provisions**

Section 181 "Alteration of designation" of the Resource Management Act 1991 states:

- (1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*
- (2) Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*
- (3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if-*
  - (a) The alteration-*
    - (i) Involves no more than minor changes to the effects on the environment associated with the use or proposed use of land or any water concerned; or*
    - (ii) Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*
  - (b) Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*
  - (c) Both the territorial authority and the requiring authority agree with the alteration –*

*and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.*
- (4) This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.*

## **2. Analysis of the proposed alteration**

The relevant matters to consider are contained in section 181(3) of the RMA as outlined above.

### **2.1. Assessment of Environmental effects (s181(3)(a)(i))**

An assessment is required to determine whether the alteration to the conditions involves no more than a minor change to the effects on the environment above those permitted (and mitigated for) by the designations confirmed through the BOI process.

The requiring authority has provided an assessment of environmental effects (AEE) with the NoR. The following effects have been considered:

- Social
- Traffic and transport
- Archaeology and built heritage
- Cultural heritage
- Urban design and landscape
- Noise including increasing the height of the noise wall.

The requiring authority considers that the proposed alterations to the designation conditions involves no more than minor changes to the effects on the environment. The requiring authority also considers that they can still comply with the rest of the conditions with the amended design from a flyover to an underpass and the Paul Matthews Road and Caribbean Drive connection.

### **Social Effects**

The requiring authority, in its AEE, considers that the realignment and revised design of the Paul Matthews Road allows for some improvements in relation to any potential social effects. These include the following:

- SUP will be enhanced through greater separation and provides a direct connection from the area south of Caribbean Drive to Paul Matthews Road
- the visual impacts of the revised design are reduced in bulk and dominance providing improved urban amenity for the surrounding community
- viaduct design over Caribbean Drive allows for a potential additional open space area and stormwater attenuation through provision of open space amenity and potential reduction in flood risk
- off-line construction of parts of the connections allows greater construction flexibility with reduced impact on traffic, transport and earthwork requirements. This will contribute to a more efficient and expedited construction period with reduced adverse effects on the surrounding communities and businesses.

NZTA also recognises that the proposed realignment creates some potential adverse social effects due to the raised final height of the connection to SH18 compared to the BOI concept design. Potential operational noise effects were identified for up to six residential properties to the south. The mitigation proposed by the requiring authority is a slightly higher noise wall section at this location.

The requiring authority considers that there aren't any adverse social effects associated with the replacement of the SH1 southbound to SH18 overpass with an underpass and that the design provides for the following positive benefits:

- improved transport safety for users over the BOI concept design through a compliant exit ramp from SH1 in terms of sight distance and vertical grade while maintaining the weave length of the BOI concept design
- reduced height and bulk of the underpass option results in significant reduction of visual impacts
- reduced height of connection results in improved privacy for residential properties to the south with less opportunity for overlooking from traffic using the road
- consequential reduction in operational noise effects

### Comment

I agree with the requiring authority that the overall social effects of the alteration are no more than minor. I consider that the conditions as confirmed in the BOI decision will ensure that any potential adverse social effects can be mitigated, remedied or avoided.

It should be noted that Auckland Council's Urban Design Panel had reservations, within their review to the requiring authority in December 2017, about the use of the area under the viaducts as a formal area of open space. This is discussed further below in the section on urban design, visual and landscape effects.

### **Traffic and Transport**

The requiring authority has stated in its AEE that alteration will have positive effects in regards the construction traffic and transport effects in that:

- the NCI Alliance design significantly reduces disruption to traffic during construction on SH 18 and around Paul Matthews Road by avoiding the diversion of 70,000 vehicles per day.
- construction of an underpass instead of an overpass removes the need for a significant number of overnight motorway closures for the placement of bridge beams, deck pours and barriers.
- Evacuation of the underpass void will take place with live traffic travelling above and motorists will be unaware of the intensive excavation activity happening below them therefore reducing drive distraction.

The requiring authority also considers that the proposed changes will have positive effects in terms of operational traffic and transport for the following reasons:

- The underpass for the westbound link from SH1 to SH18 has improved safety aspects due to the underpass alignment providing compliant sight distances and maintaining the existing weave length between the Greville Road interchange and the SH18 off-ramp.
- the underpass for the westbound link from SH1 to SH18 has reduced grades and therefore benefits freight vehicles.

NZTA has been in consultation with Bike Auckland on the NCI Alliance design (as required by Condition UDL.15 in relation to the layout and design of the shared used path on the Paul Matthews Road overbridge). NZTA/NCI Alliance has advised that the design to date has been based on these discussions

## Comment

Duncan Tindall, consultant traffic and transport specialist for Auckland Council, has undertaken an assessment of the minor alteration (Attachment C). Mr Tindall is supportive, in principal, of the proposed amendments resulting from the changes to the design. The review has been considered in the context of the discussions that occurred during the BOI processes including Joint Witness Statements and the hearing. The issues at that time related to construction effects, pedestrian and cycle amenity, legibility of road layout and the potential affects on the Caribbean Drive arm.

As a result of further information, the following matters have had a satisfactory response:

- drawings that accompanied the application did not specifically show the Cabello Place pedestrian link as confirmed to be retained in the future through the BOI process. NZTA confirmed that this would be retained.
- the drawings did not identify where the pedestrian and cycle crossings of the Upper Harbour Highway and realigned Paul Matthews Drive were located, and how they integrated with the signal phasing. This was viewed as particularly important as a result of the discussions related to accessibility, potential severance effects during construction and post opening and the new Paul Matthew link to Caribbean Drive. Modelling provided by NZTA/NCI Alliance confirmed that the intention is to provide signalised crossings which would provide an amenity that is broadly equivalent to the confirmed BOI designation.

However, Mr Tindall still had the following concerns:

- the length of the crossing of the Upper Harbour Highway which would potentially be a barrier for some users, particularly pedestrians. However, he did not consider the proposed alteration fundamentally created a significant adverse effect although this outcome is heavily dependent on the detailed design.
- The tension with providing the level of service (LOS) for the Caribbean Drive traffic. A queue length on Caribbean Drive of 118m or less 95%ile was agreed in the Joint Witness Statement with additional modelling showing that this could be achieved (although this did not include the closely linked eastbound off ramp that had been in the initial modelling). While modelling received from the NCI Alliance individually shows that the performance of the intersection is equivalent, or better, than the confirmed designation, he has not received reassurance that it is possible to simultaneously meet the level of service for pedestrians and traffic with the proposed alteration layout.

Mr Tindall considered that there were two options available:

- That NZTA/NCI Alliance provide full modelling of the intersection, including all arms, a common cycle time and explicit representation of pedestrians which meets or exceeds to the degree that it shows that the alteration involves no more than a minor change to the effects on the environment above that of the confirmed designation.
- That an agreed condition between the council and NZTA/NCI Alliance be included that contains specific criteria for the queue length on Caribbean Drive and the cycle time (relevant to pedestrian amenity). The addition of a condition would allow the NCI Alliance to proceed with the design of the modified scheme but provide certainty



to council that the alteration to the designation 'involves no more than a minor change on the effects on the environment' above that of the confirmed designation in relation to traffic and transport.

After discussion with NZTA/NCI Alliance, it was agreed that a way forward could be the inclusion of a condition. This would also help to satisfy the requirement that the alteration involves no more than minor environmental effects in relation to this aspect of the traffic and transport effects (pedestrian and cyclist amenity). The proposed condition (or similar wording) is as below:

*'The final design shall ensure that:*

- *the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service D for any individual movement during the AM or PM peaks. In addition, the 95%ile queue on Caribbean Drive should not exceed 118m.*
- *The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled., and in the latter case require no more than two separate phases to connect between the SUP.*

Further information via emails, dated 18 April 2018 and 30 April 2018, was provided by NZTA/NCI Alliance (refer to Attachment D). Mr Tindall still considers that the effects on pedestrians and cyclists is more than minor and that it is important that the queue length of 118m is retained. However, if the assessment of the overall transport effects is considered then potentially the effects are minor taking into account the large number of motorists that benefit against the smaller number of pedestrians and cyclists disadvantaged.

NZTA/NCI Alliance consider that the additional modelling shows that the level of service can be met (but that the condition needs to align with NZTA's Minimum Requirements (MRs) of LOS E) and that the increase in travel and wait times for pedestrians and cyclists are no more than minor and therefore a condition is not required. They also consider that the queue length can be achieved through the design but would not accept this to be part of a condition as there may be times where queuing is longer than 118m and would not comply with the condition. However, NZTA/NCI Alliance has agreed that if Auckland Council considers a condition is required then the following condition is acceptable:

*'DC.2A*

*Where there are changes to layout and crossings the final design shall ensure that:*

- *the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service E for any individual movement during the AM or PM peaks.*
- *The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled'.*

I recommend that the condition as above be included to provide certainty to Auckland Council that the alteration involves no more than minor environmental effects above that permitted by the BOI confirmed designations in relation to traffic and transport.

### **Archaeology, Built and Cultural Heritage**

The requiring authority provided an archaeological assessment with the original NoR applications. The assessment concluded that there were no heritage sites recorded within the Project corridor, and there was no indication through subsequent field surveys and assessment of any areas with archaeological or heritage potential. Therefore, the requiring authority considers that the design changes will not alter the effect on archaeology and built heritage.

In relation to cultural heritage, the requiring authority has engaged throughout the Project with mana whenua groups and with the Central-North Area Iwi Integration Group (IIG). Mana Whenua feedback has been incorporated into the Project and includes the following:

- detailed design of structures to develop a cultural narrative (designation)
- stormwater management and treatment (resource consent)
- avoidance of adverse effects on indigenous bird species and lizards (resource consent)
- flocculation treatment (resource consent)
- management of contaminated land associated with earthworks (resource consent)
- input into management plans (both designations and resource consents)

The requiring authority considers that the proposed alterations to the conditions do not impact the cultural values of mana whenua as expressed and considered through consultation and the BOI process. The relationship with mana whenua through IIG and adherence to the conditions and management plans will continue through the lifetime of the project. Therefore, the requiring authority considers that the proposed changes will have no effect on cultural heritage values.

### Comment

The council's submission on the original NCI applications to the Environmental Protection Agency (EPA) was limited to specific matters that were of concern to the council, such as traffic, stormwater, noise and vibration, urban design, landscape and visual, and effects on public reserves. A full assessment of archaeology or cultural and built heritage was not undertaken. However, the AUP objectives, policies and overlays were assessed, in relation to earthworks, as part of the planning evidence for the BOI hearing which stated as follows:

*'While there are no sites and places of significance to Mana Whenua identified in the AUP and the area within the Proposal is highly modified, there is still the possibility of accidental discovery of kōiwi, archaeology or artefacts of Māori origin. NZTA has addressed archaeology and historic heritage effects, in Section 9.12 of the AEE, and provided mitigation through proposed conditions (ARC.1 to ARC.5). Condition ARC.1 requires NZTA to appoint a suitably qualified archaeologist to oversee the earthworks required for the Proposal. Condition ARC.2 requires a contractor's briefing by the Project Archaeologist which needs to include the appropriate procedures to follow if archaeological or historic heritage materials are uncovered when the Project Archaeologist is not on site to safeguard the materials. I consider that the Proposal is generally consistent with Policy 11.3(3).'*

My view remains the same as above and I agree that the minor alteration does not involve a change to the effects on archaeology or built and cultural heritage above that permitted by

the confirmed designations. It should be noted that the archaeological conditions are attached to the resource consents. In relation to cultural heritage, conditions attached to the designations, as confirmed by the BOI, require that the IIG, as a key stakeholder, are consulted with during the project. In addition, Condition UDL.11 requires that the Urban Design Landscape Plans are prepared in partnership with the IIG.

## **Urban Design, Landscape and Visual**

### *Visual impact assessment*

The requiring authority states the following in its AEE:

*'The underpass has little or no visual impact on the surrounding environment as it has been designed as a gradual decline from the existing SH1 road alignment to pass under SH1 as SH1 is rising in a southbound direction. As the underpass replaces the need for elevated viaduct structures the overall effect of the underpass on visual impact is positive.*

*Like the BOI concept design, the westbound on-ramp originates from the Caribbean Drive intersection and the eastbound off-ramp joins Paul Matthews Road at a newly formed signalised intersection'.*

The BOI concept design overbridge at Paul Matthews Road required the lowering of SH18 by four metres below existing ground level. The alternative NCI Alliance detailed design, now only lowers the existing ground level by 0.7 metres. The westbound road alignment is lower by approximately 14 metres nearer SH18/SH1 because of the proposed underpass rather than the BOI design viaduct structure.

The Requiring Authority has assessed the difference in visual and landscape effects between the BOI design and the NCI Alliance detailed design. This included using Autodesk Infracore which was used to create models of the BOI and NCI Alliance designs to understand the differences in visibility. The visibility assessment concludes that the extent of visibility of the two models can be seen to be similar in area but there are some differences in locations that gain views to the proposed motorway. These differences are predominantly that the BOI concept design is more visible from Barbados Drive and the eastern higher ground of Santiago Crescent, while the NCI detailed design is more visible from the central SH18 area.

A visual impact assessment was also undertaken by a landscape and visual impact assessment specialist. The findings of the visibility assessment were used to assess the scale of the landscape and visual effects associated with the NCI Alliance detailed design. The AEE concludes the following:

- the NCI Alliance design will result in less residential properties being visually affected than the BOI design and there is no increase in the scale of impact
- there are some properties in the lower Barbados Drive and Caribbean Drive area that now may be able to view the NCI alignment.
- The overall assessment of the properties above remains low and the scale of the change in effects for these properties is no more than minor, given the NCI detailed design is lower, the distance from the road (approximately 150 metres), and intervening buildings and trees
- there will still be a number of properties directly adjacent to SH18 that will experience effects. These effects will be reduced once the planting mitigation is established and the noise and landscape walls installed.

The requiring authority considers that based on the visual impact assessment and mitigation required by conditions, and proposed in the UDLP, the change in the scale of visual effects for properties that have visibility of the Project is no more than minor.

#### *SH18 Noise Wall*

A higher noise wall of four metres, compared to 3 metres required by Condition ON.3, is required adjacent to SH18 between 13 Wren Place and 49 Barbados Drive. Due to the road alignment and ground levels in this area, because of the changes in design of the Paul Matthews Road/Caribbean Drive connection, a portion of the noise wall will be retaining wall. This effectively replaces the existing embankment and the maximum height above ground level which will be visible to adjoining properties is up to 2 metres.

The height in the wall has been assessed in terms of visual and shading impacts on the adjacent properties. The visual impact assessment concludes that whilst up to 2 metres of the wall will be visible, any potential visual effects can be effectively mitigated through the retention of existing planting and new planting. There is a potential increase in shading on some properties during June. However, existing shading currently occurs due to other shading sources along the affected properties such as neighbouring buildings or existing trees. These have been excluded from the assessment but do contribute to overall shading on the properties.

The requiring authority considers that the effects of the noise wall due to shading and amenity values are no more than minor. When existing sources of shading are considered, the effects of the increased height of the noise wall on shading is not likely to be discernible to residents.

#### Comment

Stephen Brown, consultant urban design and visual landscape specialist for Auckland Council, has undertaken an assessment of the minor alteration (Attachment E). He generally concurs with the findings of the Isthmus Group's appraisal of the revised proposal's effects. However, he has one area of concern in relation to the new elevated overpass over Caribbean Drive. His report states the following:

*'The increase in 'blue houses' in Isthmus Group's Figure 1 and 'blue areas' in their Figure 3 appears to reflect the increasing visual presence of the overpass, especially around Cabello Place and Santiago Crescent. Whereas the original embankments were to be both planted and (around their lower margins) grassed, the new 'overbridge' would retain a more structural profile, with its ramparts, piers, side walls, lighting and other elements facing housing to the immediate south of SH18. It would clearly be a "bridge" and traffic movements across it would also be clearly apparent.*

*In this regard, it is also noteworthy that the Council's UDP review of the modified NCI (14th December 2017) commented as follows on the new interchange:*

#### **Possible 'Open Space Frame'**

*The Panel considers that from an urban design perspective there is very little benefit to be gained from the 'open space frame' concept for the area under the proposed Viaduct due to its restricted access and visibility from surrounding land-uses.*

*The Panel would support a realignment of the SUP along the northern side of Caribbean Drive and designed to provide a physical separation between vehicles and the SUP.*

*The Panel suggests that the use of the space adjacent to the Viaduct be utilised for native bush planting, inclusive of larger-growing trees, to help screen and visually absorb the flyover and support the future ecology of the area.*

*I agree with, and support, these findings. In my opinion, every effort should be made to screen and buffer the new overpass, with tree and shrub planting across its embankments as well as within the suggested 'open space / recreation space' under, and around, the viaduct. In my assessment, this would help to reduce the effects of the revised proposal in the vicinity of both Caribbean Drive and Paul Matthews Road – to the point where the resulting level of effect more closely approximates that anticipated in relation to the original NCI proposal.*

*Without such planting, the overpass, and vehicle movements on it, would generate a level of visual effect not fully anticipated in the course of the BOI process and hearing. As such, it is considered important that mitigation in line with these comments is provided. In all other respects, the revised NCI proposal is considered to be appropriate and acceptable'.*

He considers that with the mitigation proposed above the alterations will 'involve no more than a minor change to the effects on the environment'.

An email, dated 7 March 2018, was forwarded to the requiring authority requesting a response. A response from the requiring authority was received by email on 12 March 2018 and states:

*'Thanks for your email. In response to Stephen Browns review I can now confirm that the NCI design will no longer feature an open space around the viaduct. Instead the area is to be planted for various reasons including visual mitigation.*

*Planting plans are still being finalised, but they will include:*

- *Rows of specimen tree planting of Kauri and Nikau to the outside edges of the overpass and between the northbound and southbound structures.*
- *A planting mix for the area that consists of planting that is 9% tree, 57% shrub and 34% groundcover.*
- *Planting will cover the embankments and extend underneath the structures where applicable'.*

In response to the above, Stephen Brown has provided the following comment:

*'In my assessment, this would help to reduce the effects of the revised proposal in the vicinity of both Caribbean Drive and Paul Matthews Road – to the point where the resulting level of effect is aligned with that anticipated in relation to the original NCI proposal. Accordingly, any increase in amenity effects generated by the revised proposal would be 'less than minor' to 'minor' and are considered acceptable in relation to my assessment of the NCI project'.*

I agree with Mr Brown's statement. The council will also be able to provide comment on the landscape plan when this is submitted. Condition DC.6 (c) requires that UDLP(s) are prepared in accordance with UDL.1 to UDL.12 as part of the OPW process. Any amendments are to be discussed with and submitted to the council for information. A further OPW is required if the amendments result in materially different effects to the described in the original UDLP.

## Noise

### *Operational Noise*

The requiring authority considers that the effects of the NCI design change on operational noise levels are no more than minor. Modelling of the noise walls shows that an increased barrier of four metres between 14 Wren Place and 49 Barbados Drive will be effective in reducing predicted noise levels to the same as those predicted for the BOI design.

### *Construction Noise*

The requiring authority concludes that there will no more than minor changes in effects due to the changes in design. A summary has been provided of the difference in the effects generated by the NCI Alliance construction activities and alignment compared to the BOI anticipated construction noise and vibration effects. These are as follows:

- properties identified as receiving construction noise and vibration which exceed the designation conditions are very similar due to mitigation employed to reduce the impacts
- more Protected Premises and Facilities (PPFs) are identified as being affected due to night time works in the Construction Noise and Vibration Plan (CNVP) than in the BOI noise assessment because of the increase in the night time construction noise sources modelled
- areas requiring specific noise and vibration plans have been identified allowing for consultation with these parties
- noise and vibration contour mapping has been produced and mitigation measures at source and through early construction of noise walls identified
- mitigation mechanisms and pre-construction building inspections to manage risk associated with construction vibration have been identified.

A process has been developed to ensure any complaints received by community engagement personnel are relayed to the environmental manager where compliance is at risk.

### Comment

Rhys Hegley, consultant noise and vibration specialist for Auckland Council, has undertaken an assessment of the proposed alterations (Attachment F). His report states:

*'The BOI Alignment, via ON. 3, included a 3.0m high barrier between chainage 1280 to 1410 to screen PPFs on Barbados Drive and Wren Place. To remain compliant with ON. 2, it was found that this barrier needed to increase in height by 1.0m so that there would be no change in noise level to the six PPFs on Barbados Drive and Wren Place. There appears to be some differences between the way that the Operational Noise Assessment and the Proposed Alteration report describe this proposed change to the barrier height, which relates to the fact that the ground level beneath the barrier will also change. After talking to the author of the Operational Noise Report, it is my understanding that:*

- a) The BOI Alignment had a 3.0m barrier from chainage 1280 to 1410;*
- b) The NCI alignment proposes to increase the height of this barrier by 1.0m to 4.0m;*
- c) As the topography slopes up from the road to the PPFs, an option being considered by the NCI team is to construct a 2.5m high retaining to lift the ground behind the*

*retailing wall and then add a 1.5m high barrier on top. This gives an effective screening of 4.0m as described in the Proposed Alteration report.*

*This effective increase in barrier height requires an alteration to ON. 3iii), which is the subject of the application'.*

He concludes:

*'The Proposed Alteration to Designation report concluded that the noise effects of the proposed NCI carriageway realignment with the barrier extended to 4m will be no more than minor. Given that the reported levels will increase by not more than 2dB at up to seven PPFs and the changes in level remain compliant with the requirements of ON. 2, I agree with this conclusion'.*

## **2.2. Assessment of minor changes or adjustments to the boundary (s181(3)(a)(ii))**

The alteration to the designation does not involve any changes to the boundary of the existing designation.

## **2.3. Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners and occupiers agree with the alteration (s181(3)(b))**

The requiring authority considers that Auckland Council is the only owner or occupier of land directly affected by the alteration to the designation.

The location of the new SH1/SH18 underpass and reconfiguration of the Paul Matthews Road and Caribbean Drive connection sits entirely within the designation boundaries confirmed through the BOI process. A large proportion of the land is owned by NZTA within its existing highway corridors. The areas of land currently not owned by NZTA, such as Watercare's land on the south-eastern side of SH1 and Auckland Council reserve land at Constellation Reserve and Rook Reserve, are currently going through other processes e.g. acquisitions under the Public Works Act, temporary occupation agreements, or easements etc. There are also other separate agreements outside of the designation conditions with various parties including Auckland Transport. The proposed alterations do not have any effect on these separate processes.

## **2.4. Agreement of both the territorial authority and the requiring authority (181(3)(c))**

The alteration to the designation has been requested by the requiring authority, and therefore it agrees to the alteration. Auckland Council agrees with the proposed alteration for the following reasons:

- The alteration involves no more than minor changes to the environmental effects
- The alteration does not involve any changes to the boundary
- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- Adherence with recommended conditions will ensure any potential adverse effects are avoided, remedied or mitigated.

### 3. CONCLUSIONS AND RECOMMENDATIONS

#### 3.1. Conclusions

The proposed alteration meets the statutory tests of Section 181(3) of the Resource Management Act 1991, in that:

- The alteration involves no more than minor changes to the environmental effects.
- Existing conditions as amended will ensure any potential adverse effects are avoided, remedied or mitigated.
- There are no changes or adjustments to the boundaries of the existing designation.
- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- The council and the requiring authority agree with the alteration.

#### 3.2 Recommendation

1. That pursuant to Section 181(3) of the Resource Management Act 1991, the New Zealand Transport Agency's notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed**.
2. That the designations as listed above are amended in Chapter K Designations in the Auckland Unitary Plan Operative in part as recommended in Section 4 and Attachment B of this report.

#### 4. Agreed alterations

The agreed text alterations are as set out in Section 1.4. The recommendation of the inclusion of a new condition (Condition DC.2A – refer to Section 2.1 Traffic and Transport effects) has also been agreed to by NZTA. A full set of the designation conditions is attached (Attachment B). Amendments are shown as either strikethrough or bold and underlined.



Date: 7/05/2018

**Report Prepared by:**

Jo Hart

Principal Planner

Planning North West and Islands



**5. SECTION 181(3) DETERMINATION**

Having read the council planner's report and recommendations on the notice or requirement, I am satisfied I have adequate information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision under delegated authority.

Accordingly, the notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed** under section 181(3) of the RMA.

Name: David Sanders

Title: Team Leader – Planning North West and Islands

Signed:



Date:

8/5/18

**SCHEDULE OF ATTACHMENTS**

- Attachment A:** Section 181(3) Notice of Requirement
- Attachment B:** Amended Designation Conditions
- Attachment C:** Traffic and Transport Assessment
- Attachment D:** Further information – traffic and transport
- Attachment E:** Visual and Landscape Assessment
- Attachment F:** Noise Assessment



# Notice of requirement for a minor alteration to a designation under section 181(3) of the Resource Management Act 1991



## Notice of requirement description

Designation number:	Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; Designation 6758: Constellation Drive Station.
Requiring authority:	New Zealand Transport Agency
Site address:	Various – between Oteha Valley Road and SH1/SH18 intersection and along SH18 to Albany Highway.

## Summary

Auckland Council has received a request from the New Zealand Transport Agency under section 181(3) of the Resource Management Act 1991 (RMA), dated 28 June 2018, to alter designations associated with the Northern Corridor Improvements Project (Attachment A).

It is considered after undertaking an assessment of the notice, that the proposed alteration meets the statutory tests of section 181(3) of the RMA and can therefore be processed and confirmed as a minor alteration.

## Recommendation

1. That the proposed alteration of Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; and Designation 6758: Constellation Drive Station in the Auckland Unitary Plan be **confirmed**, subject to the amended conditions (Attachment B) for the following reasons:
  - the alteration involves no more than minor changes to the effects on the environment associated with the use of the land;
  - there are no adjustments to the boundaries of the existing designation;
  - both the requiring authority and Auckland Council agree with the alteration; and
  - the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
2. That the text for the Designations, as listed above, is altered in Chapter K Designations in the Auckland Unitary Plan.

## **1. Background**

### **1.1. Minor alteration to a designation**

Auckland Council has received a notice of requirement (NoR) for an alteration to designations associated with the Northern Corridor Improvements Project (NCI), as listed above, from the New Zealand Transport Agency under section 181(3) of the RMA.

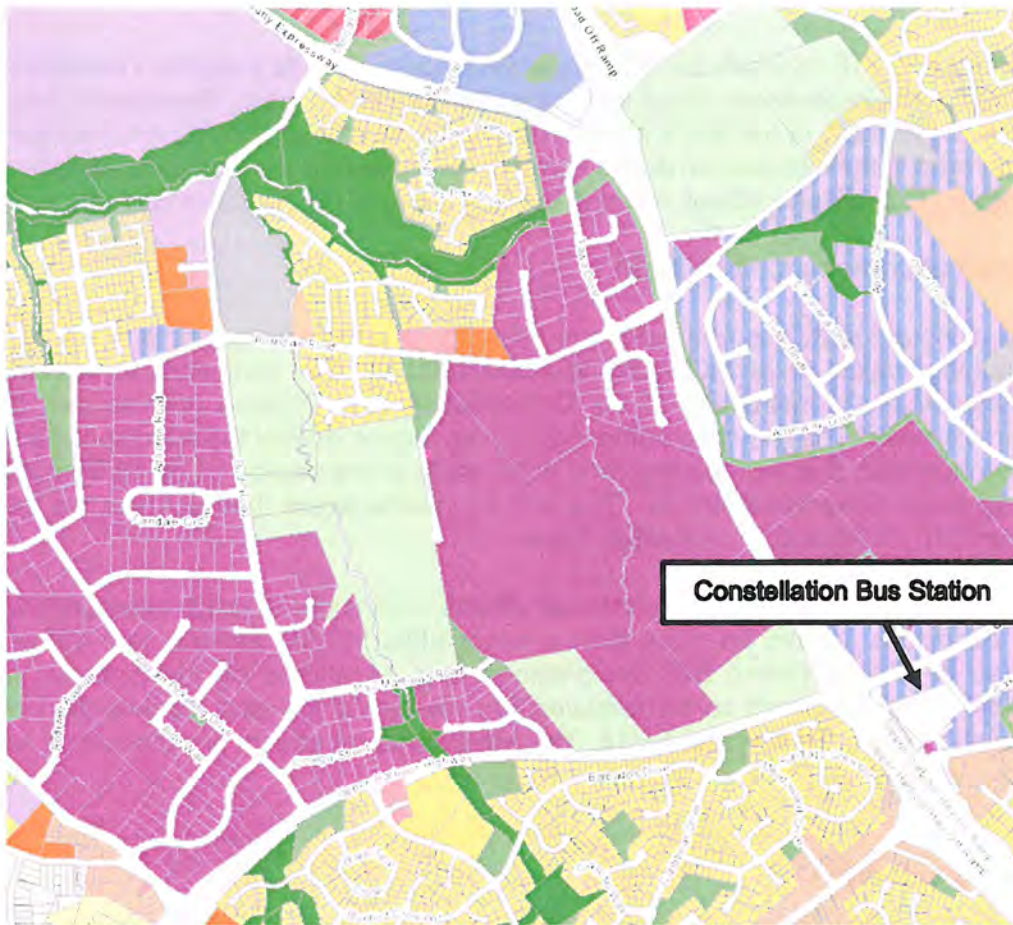
The alteration is required to modify conditions attached to the existing designations associated with State Highway 1, State Highway 18 and the Constellation Bus Station. These designations were included in the Board of Inquiry (BOI) process as part of the NCI. However, the existing conditions were not considered during the BOI process or included in the BOI decision, dated 16 November 2017. It should be noted that there has also been a earlier section 181(3) notice of requirement for a minor alteration, dated 15 February 2018, which amended the BOI decision conditions.

Amendments are now required to either remove obsolete construction conditions, or to renumber ongoing operational conditions, from the existing designations. This will allow for the conditions from the BOI decision, along with the changes from the previous alteration to be inserted cleanly into the AUP.

There are no alterations proposed to the boundaries of the designations.

### **1.2. Land affected by the alteration**

The land affected by the alteration to the designation is located around State Highway 1, State Highway 18 and the Constellation Drive Bus Station as shown in the Auckland Unitary Plan map below:



Map 1: AUP map showing vicinity of proposed alterations.

### 1.3. Description of the site and existing environment

The section of State Highway 1 (SH1), to which the NCI conditions apply, extends from Oteha Valley Road in the north to the intersection of the SH1 and State Highway 18 (SH18). The area affected by this alteration, and to which the existing conditions apply, extends from the Greville Road intersection with SH1 to the intersection with SH18 and Constellation Drive. The land to the north-west of the Greville Road intersection is zoned Business – Business Park and consists of established, newly developed or currently being constructed business buildings. The land immediately to the north-east is zoned Residential – Mixed Housing Suburban and this part of the subdivision is currently still in the process of being constructed with the roading network and services for the individual sections in place.

The intersection of SH1, SH18 and Constellation Drive is further to the south. The land to the west of SH1 is zoned Business – Light Industry between Greville Road and SH18. This land consists of established large lot business activities and land owned and occupied by Watercare Services Limited (Watercare). There is also a portion of land adjacent to SH18, known as Constellation Reserve, which is zoned Open Space – Sports and Active Recreation. The former Rosedale landfill, zoned Open Space – Sport and Active Recreation is immediately to the south-east of the Greville Road intersection. The land between this and Constellation Road is zoned Business – General Business and Business Light Industry and consists of established business activities and further land owned by Watercare (Pond 2).

The section of SH18 to which the NCI conditions apply extends from the intersection of SH1, SH18 and Constellation Road to Albany Highway in the west. Residential housing is located to the south of the SH18 alignment. The Constellation Bus Station is located to the south-east of the intersection and is currently accessed via the Constellation off-ramp and crossing Constellation Drive to get to the beginning of the Northern Busway.

#### **1.4. Proposed alterations to conditions**

The requiring authority has requested the alteration of conditions on three of the existing designations subject to the NCI (refer to Attachment B). The conditions to be removed are related to the construction of the Constellation Drive Station built as part of the Northern Busway. The requiring authority has also requested that the conditions for SH18 be restructured so that the existing conditions apply to the section of SH18 from Albany Highway to the Greenhithe Bridge. The NCI conditions would then apply to the section from the SH1, SH18 and Constellation Drive.

After an assessment of the environmental effects, I consider that the alterations to the above conditions involve no more than a minor effect on the environment above that permitted by the confirmed BOI designations, and as altered by the previous minor alteration. The conditions to be removed are related to the prior construction of the Constellation Drive Station and SH18. The environmental effects are discussed further below in Section 2.1.

#### **1.5. Delegated authority**

The Team Leader - Planning North West and Islands has delegated authority, in accordance with Schedule 2A of the Auckland Council Delegations: Chief Executive Officer (updated February 2017), to exercise the council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to section 181(3).

The NoR can therefore be considered by the Team Leader – Planning North West and Islands and confirmed or declined under section 181(3)(c).

#### **1.6. Relevant statutory provisions**

Section 181 "Alteration of designation" of the Resource Management Act 1991 states:

- (1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*
- (2) Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*
- (3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if-*
  - (a) The alteration-*
    - (i) Involves no more than minor changes to the effects on the environment associated with the use or proposed use of land or any water concerned; or*

(ii) *Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*

(b) *Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*

(c) *Both the territorial authority and the requiring authority agree with the alteration –*

*and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.*

(4) *This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.*

## **2. Analysis of the proposed alteration**

The relevant matters to consider are contained in section 181(3) of the RMA as outlined above.

### **2.1. Assessment of Environmental effects (s181(3)(a)(i))**

An assessment is required to determine whether the alteration to the conditions involves no more than a minor change to the effects on the environment above those permitted (and mitigated for) by the designations confirmed through the BOI process, and as amended by the previous alteration.

I consider that the alteration involves no more than a minor effect on the environment above the permitted baseline. The removal of obsolete conditions is administrative in nature and will allow for the clean integration of the NCI conditions into the Auckland Unitary Plan.

### **2.2. Assessment of minor changes or adjustments to the boundary (s181(3)(a)(ii))**

The alteration to the designation does not involve any changes to the boundary of the existing designation.

### **2.3. Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners and occupiers agree with the alteration (s181(3)(b))**

The requiring authority has not considered whether there are owners or occupiers directly affected by the alteration.

A large proportion of the land is owned by NZTA within its existing highway corridors. The areas of land currently not owned by NZTA, such as Watercare's land and Auckland Council reserve land at Constellation Reserve and Rook Reserve, are currently going through other processes e.g. acquisitions under the Public Works Act, temporary occupation agreements, or easements etc. There are also other separate agreements outside of the designation conditions with various parties including Auckland Transport. The proposed alterations do not have any effect on these separate processes.

The land at the Constellation Drive Station is owned by Auckland Council. There are also 2 Auckland Transport designations which sit on this land (Designation 1420: Constellation Bus Station and Designation 1428: Constellation Drive Station). Whilst the AUP doesn't show which is the primary designation, NZTA have advised that it is their designation. Research into the history of the Northern Busway designations shows that the NZTA designation was NOR 3 whereas the former North Shore City Council designations (now AT), was NOR 10. This would indicate to me that that NZTA designation is the primary designation.

The documentation for this notice of requirement was forwarded to Auckland Transport for their comment. Alastair Lovell from Auckland Transport has provided comment on NZTA's proposed removal of conditions. He has concerns around the removal of Condition 2 unless NZTA can confirm that the removal will not result in an impact on AT's bus operations either during or post construction. Condition 2 states the following:

*'2. That should the New Zealand Transport Agency construct additional lanes on the state highway between Constellation Drive and Greville Road before construction of the busway priority lane provided for by this requirement the construction of the additional lane shall be undertaken in a manner which does not preclude subsequent construction of the priority lane'.*

I consider that the removal of this condition is not an issue. Condition 2 relates to the construction of the additional lane between Upper Harbour Highway and Greville Road. The configuration of the highway will be different with traffic still able to access SH1 from Constellation Drive which will then merge with traffic using the direct connection from the west to the north. The bus priority lane will not exist after the NCI works for the busway and SUP have been completed. The reference to 'this requirement' is to the alteration which provided for the construction of the additional lane (and bus priority lane) and not to this minor alteration. In addition, the NCI conditions also apply to this section of SH1. The Construction Traffic Management Plan conditions CTMP.1 to CTMP.6D requires NZTA to avoid or mitigate the adverse effects on traffic safety and efficiency. Conditions CTMP.5 to CTMP.6D requires the preparation of a specific Public Transport Traffic Management Plan (PTTMP) in consultation with Auckland Transport. The purpose of the PTTMP is to define the process for identifying and managing the potential effects of the NCI project on bus services.

Mr Lovell also has concerns that NZTA has not provided evidence that the conditions to be removed have been met. I consider that the environmental effects of removing these conditions is less than minor, administrative in nature and enables the clean integration of the NCI conditions in to the AUP. The designation as confirmed by the BOI provides for proposed works at the bus station which will alter the current layout and landscaping. The NCI conditions apply to the designation and the proposed works and includes conditions to mitigate the potential effects on bus services as well as provide for landscaping. Conditions UDL.1 to UDL.15 requires NZTA to submit an Urban Design Landscape Plan as part of the Outline Plan of Works. Condition UDL.4(b) specifically relates to the urban design and landscape treatment of the new structures at both the Constellation and Albany Bus Stations. The NCI conditions also include those for noise and vibration (both construction and operational) and a stakeholder and communications plan. Auckland Transport is specifically listed in Condition SCP.6(b) and has other agreements with NZTA outside of the designation conditions.

#### **2.4. Agreement of both the territorial authority and the requiring authority (181(3)(c))**

The alteration to the designation has been requested by the requiring authority, and therefore it agrees to the alteration. Auckland Council agrees with the proposed alteration for the following reasons:



- The alteration involves no more than minor changes to the environmental effects
- The alteration does not involve any changes to the boundary
- the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- Adherence with recommended conditions will ensure any potential adverse effects are avoided, remedied or mitigated.

### 3. CONCLUSIONS AND RECOMMENDATIONS

#### 3.1. Conclusions

The proposed alteration meets the statutory tests of Section 181(3) of the Resource Management Act 1991, in that:

- The alteration involves no more than minor changes to the environmental effects.
- Existing conditions as amended will ensure any potential adverse effects are avoided, remedied or mitigated.
- There are no changes or adjustments to the boundaries of the existing designation.
- the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- The council and the requiring authority agree with the alteration.

#### 3.2 Recommendation

1. That pursuant to Section 181(3) of the Resource Management Act 1991, the New Zealand Transport Agency's notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; Designation 6758: Constellation Drive Station is **confirmed**.
2. That the designations as listed above are amended in Chapter K Designations in the Auckland Unitary Plan Operative in part as recommended in Section 4 and Attachment B of this report.

#### 4. Agreed alterations

The agreed text alterations are as set out in Section 1.4. A full set of the designation conditions is attached (Attachment C). Amendments are shown as either strikethrough or bold and underlined.

Date:

**Report Prepared by:**

Jo Hart

Principal Planner

Planning North West and Islands

**5. SECTION 181(3) DETERMINATION**

Having read the council planner's report and recommendations on the notice or requirement, I am satisfied I have adequate information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision under delegated authority.

Accordingly, the notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed** under section 181(3) of the RMA.

Name: David Sanders

Title: Team Leader – Planning North West and Islands

Signed:



Date:

31/7/18.

**SCHEDULE OF ATTACHMENTS**

**Attachment A:** Notice of Requirement  
**Attachment B:** Designation Condition Table  
**Attachment C:** Amended Conditions

## 6751 State Highway 1 - Albany

Designation Number	6751
Requiring Authority	New Zealand Transport Agency
Location	State Highway 1 from Greville Road interchange, Albany to Lonely Track Road, Albany
Rollover Designation	Yes
Legacy Reference	Designation 111, Auckland Council District Plan (North Shore Section) 2002
Lapse Date	Given effect to (i.e. no lapse date)

## Purpose

Proposed Motorway (Auckland/Waiwera Motorway State Highway 1), including planning, design, supervision, construction and maintenance in accordance with the Government and Roadway Powers Act 1989.

## Conditions

**The following conditions apply to the area subject to the section 181 alteration to the designation for the Northern Corridor Improvements Project on State Highway 1 between the Greville Road Interchange to the vicinity of the Oteha Valley Road Interchange.**

Acronym/Abbreviation	Full Term or Definition
AUP	Auckland Unitary Plan
BPO	Best Practicable Option, and in relation to the Traffic Noise conditions BPO is in accordance with s16 of the Resource Management Act 1991
Building-Modification Mitigation	Has the same meaning as in NZS 6806
CNV	Construction Noise and Vibration Conditions
CNVMP	Construction Noise and Vibration Management Plan
Council	Auckland Council
Commencement of construction or construction works	In all conditions which refer to 'commencement of construction', construction includes work such as earthmoving and earthworks excavation; and the construction, erection, installation, carrying out, alteration, repair, restoration, renewal, maintenance, extension, demolition, removal, or dismantling of any building or structure.
CTMP	Construction Traffic Management Conditions and Construction Traffic Management Plan
DC	General Designation Conditions
Design Year	Means 2031 in relation to the Traffic Noise conditions
FIH	International Hockey Federation
Habitable Space	Has the same meaning as in NZS 6806
HHCT	Harbour Hockey Charitable Trust

IHF	North Harbour Hockey Stadium Conditions
IIG	Iwi Integration Group
Key Stakeholders	Includes community groups, business groups, residents organisations, childcare groups, Council, Watercare Services Limited, Auckland Transport, Ministry of Education, Waste Management NZ Limited, the IIG, and local boards.
Landfill	Rosedale Closed Landfill
Major Construction Activity	For the purposes of the Noise and Vibration Conditions, means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4
Noise Assessment	Means the <i>Traffic Noise and Vibration Assessment Report</i> submitted with the NoR
NZ 8606	Means New Zealand Standard NZS 6806:2010 <i>Acoustics – Road-traffic noise – New and altered roads</i>
ON	Operational Noise and Vibration Conditions
OP	Outline Plan as required under section 176A of the RMA
PPF	Protected Premises and Facilities and has the same meaning as in NZS 6806. For the purpose of these conditions they also include all dwellings in Stage 1 of the Colliston Rise subdivision where Building Consent or Resource Consent which authorises the construction of a dwelling has been granted
PPV	Peak Particle Velocity
Practical completion	Means completion of all construction works.
Project	The Northern Corridor Improvements Project.
Proposed Design	The design of the project as indicated on General Arrangements Sheets 1 – 2 (Revised Albany Busway Bridge – Rev J), 3 – 8 (Consent Issue – Rev H), 9 – 10 (Revised Alteration to Designation Boundary – Bluebird Reserve)
PTTMP	Public Transport Traffic Management Plan
RAMM	Road Assessment and Maintenance Management
RMA	Resource Management Act 1991
RWWTP	Rosedale Wastewater Treatment Plant
SCP	Stakeholder and Communications Plan and Stakeholder and Communications Plan Conditions
SSCNMP	Site Specific Construction Noise Management Plan
SSCVMP	Site Specific Construction Vibration Management Plan
Structural Mitigation	Has the same meaning as in NZS 6806. For the purpose of these conditions the structural mitigation measures are low noise road surface materials and noise barriers
SUP	Shared Use Path

Suitably qualified and experienced person	Means a person with a tertiary qualification in the field to which a particular condition relates; or having sufficient technical expertise that is at least equivalent; and having at least 5 years working experience, unless otherwise specified in the conditions.
Transport Agency	New Zealand Transport Agency
UDL	Urban Design and Landscape Conditions
UDLF	Urban Design and Landscape Framework
UDLP	Urban Design and Landscape Plan
Watercare	Watercare Services Limited
Work Area	For the purposes of the Noise and Vibration conditions, means any area where construction works associated with the Project are undertaken (e.g. all active works areas and construction support areas)

**These conditions relate to the following designations:**

EPA reference	Lapse period	Duration
<b>Designations OR NOR</b>		
<p><b>NSP39/001</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6750) for the construction, operation and maintenance of a State highway, being the Auckland-Waiwera Motorway between Greville Road Interchange and the Sunset Road overbridge.</p>	7 years	N/A
<p><b>NSP39/002</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6751) for the construction, operation and maintenance of a State highway, being the Auckland Waiwera Motorway between Greville Road Interchange and Oteha Valley Road.</p>	7 years	N/A
<p><b>NSP39/003</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6756) for the construction, operation and maintenance of a State highway, being State Highway 18 between Albany Highway and State Highway 1.</p>	7 years	N/A
<p><b>NSP39/004</b></p> <p>A designation for the construction, operation and maintenance of the Northern Busway adjacent to State Highway 1 from Albany Bus Station to Constellation Bus Station.</p>	7 years	N/A
<p><b>NSP39/005</b></p> <p>A designation for the construction, operation and maintenance of a shared use path adjacent to State Highway 1 from Constellation Bus Station to Oteha Valley Road.</p>	7 years	N/A
<p><b>NAP39/006</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6758) for the upgrade of the Constellation Bus Station.</p>	7 years	N/A

**General Conditions**

DC.1 Except as modified by the conditions below, and subject to final design, the Northern Corridor Improvements Project ('Project') shall be carried out in general accordance with:

- a. General arrangements drawings

Sheets 1 and 2, DRG 0201 – 0202, Rev J

Sheets 3 – 8, DRG 0203 – 0208, Rev H

Sheets 9 – 10, DRG 0209 – 0210, Rev I (Revised Alteration to Designation Boundary – Bluebird Reserve)

**Subject to the minor changes in relation to the State Highway 1 to State Highway 18 underpass and the Paul Matthews Road configuration as shown in Sheets NCI-R-1002-DG-108-A and NCI-R-1002-DG-0106A.**

b. Typical cross sections

Sheets 1 to 9, DRG 0301 - 0309, Rev F

Sheet 10, DRG 0310, Rev C

c. *Plan and long section SH1 Mainline*

Sheets 1 – 7, DRG 0401 – 0407, Rev. A

Plan and long section SH18 Westbound

Sheets 1 – 4, DRG 0415 – 0418, Rev. A

d. *Civil structures*

DRG 1310 (Rev. C), and 1315, 1320, 1325, 1330, 1335, 1340, 1345, 1350, 1355, 1365, 1370, 1375 (all Rev. B).

e. Stormwater layout plans

Sheets 1 – 10, DRG 1401 – 140, Rev B

f. Stormwater catchment plan

Sheets 1 – 10, DRG 1451 – 1460, Rev B

g. Conceptual construction water management plan

Sheets 1 – 10, DRG 1601 – 1610, Rev B

h. Erosion and sediment control standard details

Sheets 1 – 2, DRG 1620 - 1621, Rev A

i. The notice of requirement plans DRG 2001 Rev C, 2002 Rev C, DRG 2003-2008 Rev B, DRG 2009 Rev C, DRG 2010 Rev C and DRG 2011 Rev C.

DC.2 Where there is inconsistency between the General Arrangements referred to in Condition DC.1 above and these conditions, these conditions shall prevail.

DC.2A Where there are changes to layout and crossings the final design shall ensure that:

- the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service E for any individual movement during the AM or PM peaks.
- The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled.

DC.3 Conditions DC.8, ON.1-ON.11, OV.1, UDL.5A, UDL.13, UDL.14 and SCP.10 on this designation apply to the operational matters that are intended to address ongoing effects of the activities authorised by the designation or impose obligations that are required to be satisfied following practical completion of the Project. The other conditions on this designation are intended only

to apply to construction related activities. As soon as practicable after practical completion of the Project construction works, the Requiring Authority shall provide written notice of practical completion. Upon confirmation of receipt by the Council of the notice of practical completion, all conditions other than conditions relating to operational matters (i.e. DC.8, ON.1-ON.11, OV.1, UDL.5A, UDL.13, UDL.14 and SCP.10) shall cease to have effect.

DC.4 The Requiring Authority shall provide written notice to the Council on completion of the monitoring required by conditions UDL.5A. This condition shall cease to have effect from the date of this notice being received.

DC.5 The designation shall lapse if not given effect to within seven years from the date on which it is included in the Auckland Unitary Plan ('AUP').

DC.6 The outline plans ('OP') shall include the following plans for the relevant stage(s) of the Project:

- a. Construction Noise and Vibration Management Plan ('CNVMP') prepared in accordance with conditions CNV.1 to CNV.9;
- b. Construction Traffic Management Plan ('CTMP') prepared in accordance with conditions CTMP.1 to CTMP.5D; and
- c. Urban Design and Landscape Plan(s) ('UDLP') prepared in accordance with conditions UDL.1 to UDL.12.

The CNVMP, CTMP and UDLPs may be amended following the submission of the OP(s) if necessary to reflect any changes in design, construction methods, or management of effects.

Any amendments are to be discussed with and submitted to the Council for information without the need for a further OP process, unless those amendments once implemented would result in materially different effects to that described in the original CNVMP, CTMP, and UDLPs.

DC.7 Any OP(s) or plans may be submitted in parts or in stages to address particular activities or to reflect the staged implementation of the Project.

DC.8 As soon as practicable following completion of the construction of the Project, the Requiring Authority shall give notice in accordance with Section 182 of the Resource Management Act 1991 ('RMA') to the Council, for the removal of those parts of the designation that are not required for the long term operation, maintenance and mitigation of effects of the Project including from land within the Watercare Services Ltd ('Watercare') Designations 9310 and 9311, the Rosedale Closed Landfill ('Landfill') Designation 417 and other areas where infrastructure owned and operated by other organisations are located.

For the purpose of this condition as it relates to land within the Watercare Designations 9310 and 9311, the Requiring Authority shall remove the parts of its designation in general accordance with areas of land identified as 'Occupation During Construction' in the Aurecon Design Drawings:

- Auckland Northern Corridor Improvements SH1 and SH18 Land Requirement Plan #36, Drawing No. 250310-5DOC-1PRP-DRG-1855-A.

Any changes to the operational boundaries of the 'Land Required' and the 'Occupation during Construction' identified in Drawing No. 250310-5DOC-1PRP-DRG-1855-A shall be made following consultation with Watercare prior to any such change being implemented.



## Construction Noise and Vibration (CNV)

For the purpose of the CNV conditions:

BPO – means the Best Practicable Option in accordance with s16 of the RMA

Major Construction Activity – means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4

Work Area – means any area where construction works associated with the Project are undertaken (all active works areas and construction support areas)

CNV.1 A CNVMP shall be prepared by a suitably qualified and experienced person, and shall be submitted as part of the relevant OP. The purpose of the CNVMP is to provide a framework for the development and implementation of the Best Practicable Option ('BPO') for the management of all construction noise and vibration effects, and additionally to define the procedures to be followed when the noise and vibration standards in the CNV conditions are not met following the adoption of the BPO.

The CNVMP shall be prepared in accordance with the requirements of Annex E2 of *New Zealand Standard NZS 6803:1999 'Acoustics – Construction Noise'* (NZS 6803:1999) and shall address the following matters as a minimum:

- (a) Description of the works, anticipated equipment/processes and their scheduled durations;
- (b) Hours of operation and duration for the Major Construction Activities;
- (c) The construction noise and vibration standards for the Project as set out in Tables CNV.A to CNV.B below;
- (d) Identification of affected occupied buildings and any other sensitive receivers (including unoccupied buildings) at each Work Area;
- (e) Management and mitigation options to be adopted for all works during the Project, including prohibition of tonal reverse alarms;
- (f) Minimum separation distances from receivers for plant and machinery where compliance with the construction noise and vibration standards are met;
- (g) A procedure for developing and implementing the Site Specific Construction Noise Management Plans ('SSCNMPs') and Site Specific Construction Vibration Management Plans ('SSCVMPs') (as required by conditions CNV.6, CNV.7 and CNV.8 below) forming part of this CNVMP;
- (h) Methods and frequency for monitoring and reporting on construction noise and vibration;
- (i) Procedures for engaging with stakeholders, notification of proposed construction activities and responding to noise and vibration complaints consistent with conditions SCP.1-SCP.16;
- (j) Procedures for the regular training of the operators of construction equipment to minimise noise and vibration and procedures for the management of behaviours for all construction workers;
- (k) Contact details for the Project Manager (or nominee) and the Requiring Authority's

Project Liaison Person (phone and email addresses); and

(l) The process for identifying businesses which operate processes, machinery or equipment that may be unreasonably disrupted by construction vibration even where the project vibration standards are met. For any such businesses identified, a SSCVMP shall be prepared in accordance with CNV.8 and complied with.

CNV.2 Where construction noise is predicted to exceed the standards in CNV.3, at any location, and a traffic noise barrier will ultimately be required for the operational phase, the Requiring Authority shall implement the required traffic noise barrier at that location in accordance with the SSCNMP. In the event that it is not practicable to install the traffic noise barrier at the location for construction-related reasons, prior to the commencement of work, the Requiring Authority shall install the traffic noise barrier as soon as it is practicable to do so.

CNV.3 Noise arising from construction activities shall be measured and assessed in accordance with NZS 6803:1999 Acoustics - Construction Noise and (subject to CNV.6) shall comply with the noise standards set out Table CNV.A:

**Table CNV.A: Construction noise standards**

Day	Time	LAeq	LAFmax
<b>Residential Receivers</b>			
0630h Monday to 0630h Saturday	0630h - 0730h	55 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	65 dB	80 dB
	2000h - 0630h	45 dB	75 dB
Saturdays 0630h Saturday to 0630h Sunday	0630h - 0730h	45 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB
Sundays 0630h Sunday and Public Holidays to 0630h the following morning	0630h - 0730h	45 dB	75 dB
	0730h - 1800h	55 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB
<b>Industrial and commercial receivers</b>			
All days	0730h – 1800h	70dB	--
	1800h – 0730h	75dB	--

CNV.4 Vibration arising from construction activities which may affect people and buildings shall be measured in accordance with ISO 4866:2010 Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures, and shall comply with the Category A vibration standards

**Table CNV.B: Construction vibration standards for people and buildings**

Receiver	Details	Category A	Category B
Occupied PPFs*	Night-time 2000h - 0630h	0.3mm/s PPV	1mm/s PPV
	Daytime 0630h - 2000h	1mm/s PPV	5mm/s PPV
Other occupied buildings	At all times	2mm/s PPV	5mm/s PPV
All other buildings	At all times	5mm/s PPV	Tables 1 and 3 of DIN4150-3:1999

\* For vibration, protected premises and facilities (PPFs) are defined as dwellings, educational facilities, boarding houses, homes for the elderly and retirement villages, marae, hospitals that contain in-house patient facilities and buildings used as temporary accommodation (e.g. motels and hotels).

If measured or predicted vibration from construction activities exceeds the Category A standards, the Requiring Authority shall consult with the affected receivers to:

- (a) Discuss the nature of the work and the anticipated days and hours when the exceedances are likely to occur; and
- (b) Determine whether the exceedances could be timed or managed to reduce the effects on the receiver.

The Requiring Authority shall maintain a record of these discussions and make them available to the Council on its request.

If measured or predicted vibration from construction activities exceeds the Category B standards, those activities may only proceed subject to condition CNV.7

CNV.5 Vibration arising from construction activities which may affect underground pipe work shall be measured in accordance with DIN4150-3:1999 *Structural vibration – Part 3: Effects of vibration on structures*, and (subject to condition CNV.7) shall comply with the vibration standards in Table CNV.C.

**Table CNV.C: Construction vibration standards for underground pipe work**

Pipe material	PPV (measured on the pipe)
Steel (including welded pipes)	100 mm/s
Clay, concrete, reinforced concrete, pre-stressed concrete, metal (with or without flange)	80 mm/s
Masonry, plastic	50 mm/s

CNV.6 A SSCNMP shall be prepared when construction noise is either predicted or measured to exceed the standards in Table CNV.A, except where the exceedance of the standards in Table CNV.A is no greater than 5 decibels and:

- a. For day time between 0700 and 2200 - the exceedance of the standards in Table CNV.A does not occur on more than 14 consecutive days in any rolling 8 week period; or
- b. For night time between 2200 and 0700 - the exceedance of the standards in Table CNV.A does not occur on more than 2 consecutive nights in any rolling 10 day period.

The objective of the SSCNMP is to set out the BPO for the minimisation of noise effects of the construction activity. The SSCNMP shall as a minimum set out:

- i. Construction activity location, start and finish dates;
- ii. The predicted noise level for the construction activity;
- iii. Noise limits to be complied with for the duration of the activity;
- iv. The mitigation options that have been selected and the options that have been discounted as being impracticable;
- v. The proposed noise monitoring regime; and
- vi. The consultation undertaken with owners and occupiers of sites subject to the SSCNMP, and how consultation outcomes have and have not been taken into account.

The SSCNMP shall be submitted to the Council for certification at least 7 working days in advance of Construction Works which are covered by the scope of the SSCNMP. If the Council does not respond within 5 working days (excluding time associated with requesting and receiving further information) then certification is deemed to have been given.

CNV.7 A SSCVMP shall be prepared when construction vibration is either predicted or measured to exceed the Category B standards in Table CNV.B and the standards in Table CNV.C. The objective of the SSCVMP is to set out the BPO for the minimisation of vibration effects of the construction activity. The SSCVMP shall as a minimum set out:

- a. The relevant construction activity location, start and finish dates;
- b. The predicted vibration level for the construction activity;
- c. The pre-condition surveys of buildings and pipe work which document their current condition and any existing damage;
- d. An assessment of each building and any pipe work to determine susceptibility to damage from vibration and define acceptable vibration limits that the works must comply with to avoid damage;
- e. The mitigation options that have been selected and the options that have been discounted as being impracticable;
- f. The proposed vibration monitoring regime;
- g. The methods adopted to minimise amenity effects on buildings which remain occupied during the works;
- h. The consultation undertaken with owners and occupiers of sites subject to the SSCVMP, and how consultation outcomes have and have not been taken into account.

The SSCVMP shall be submitted to the Council for certification at least 7 working days in advance of Construction Works which are covered by the scope of the SSCVMP. If the Council does not respond within 5 working days (excluding time associated with requesting and receiving further information) then certification is deemed to have been given.

CNV.8 For any buildings identified in condition CNV.1(l), the Requiring Authority shall prepare an SSCVMP which shall include:

- a. Consultation with the owners and/or occupiers of sites identified to ascertain the sensitivity of processes, machinery or equipment to construction vibration;
- b. Construction vibration limits specific to the sensitive activities which must be complied with that will avoid unreasonable disruption of the businesses;
- c. Procedures and methods for monitoring compliance with the vibration limits established;
- d. A process for dealing with any disagreement which may arise, particularly in relation to the determination of specific vibration limits;
- e. The relevant construction activity location, start and finish dates;
- f. The mitigation options that have been selected and the options that have been discounted as being impracticable; and
- g. The consultation undertaken with owners and occupiers of sites subject to the SSCVMP, and how consultation outcomes have and have not been taken into account.

CNV.9 If any damage to buildings or pipe work is shown to have occurred, by reference to pre-condition survey findings from CNV.7(c), as a result of vibration from the construction of the Project, any such damage shall be remedied by the Requiring Authority as soon as reasonably practicable subject to any associated asset and/or owner agreement.

### **Construction Traffic Management Plan**

CTMP.1 A CTMP shall be prepared by a suitably qualified and experienced person and shall be submitted as part of the relevant OP.

CTMP.2 The purpose of the CTMP is to avoid or mitigate adverse effects on traffic safety and efficiency resulting from the construction works, in order to:

- a. Protect public safety, including the safe passage of pedestrians and cyclists;
- b. Minimise delays to road users, pedestrians and cyclists, and particularly public transport at all times, especially bus travel times at peak traffic periods during weekdays (06:30 to 09:30 and 16:00 to 19:00); and
- c. Inform the public about any potential impacts on the road network.

CTMP.3 The CTMP shall be prepared using best practice (to better understand the effects of construction of the works subject of the OP on the affected road network), which may include the use of traffic modelling tools. Any such assessment shall be undertaken in consultation with Auckland Transport (including Auckland Transport Metro) and have the ability to simulate lane restrictions and road closures (unless otherwise agreed with Auckland Transport). The outcome of consultation undertaken between the Requiring Authority and Auckland Transport shall be documented and any Auckland Transport comments not acted on provided with the final CTMP when submitted to the Council.

CTMP.4 The CTMP shall describe the methods for avoiding, remedying or mitigating the local and network wide transportation effects resulting from the Project works subject of the relevant OP, and shall address the following matters:

- a. Methods to avoid, remedy or mitigate the local and network wide effects of the construction of individual elements of the Project (e.g. intersections/overbridges) and the use of staging to allow sections of the Project to be opened to traffic while other sections are still under construction;

- b. Methods to manage the effects of the delivery of construction material, plant and machinery (including oversized trucks);
- c. The numbers, frequencies, routes and timing of construction traffic movements;
- d. Traffic management measures to address and maintain traffic capacity and minimise adverse effects including, where applicable to the relevant OP:
  - i. Retaining the existing number of traffic lanes along SH1 (between Tristram Avenue and Oteha Valley Road);
  - ii. Retaining the extent of existing bus priority measures along SH1 (between the Albany Station and the Constellation Station), noting that the bus only on ramp from McClymonts Road and the bus only access to the Constellation Station may need to be temporarily closed. Any temporary closure will minimise adverse effects on buses and general traffic. The duration of any temporary closure shall be minimised as far as reasonably practicable;
  - iii. Retaining the existing number of through traffic lanes along SH18 between the Upper Harbour interchange and the Albany Highway interchange, noting that right turning movements to and from Paul Matthews Road may need to be temporarily closed. Any temporary closure will minimise adverse effects on buses and general traffic. The duration of any temporary closure shall be minimised as far as reasonably practicable;
  - iv. Retaining two traffic lanes on McClymonts Road, over SH1, noting that temporary restrictions to one lane or temporary full closures may be required; and
  - v. Retaining at least one traffic lane and one footpath on Rosedale Road, under SH1, except where night time or weekend closures may be required for heavy civil works such as bridge or deck lifting. This single traffic lane is to allow signalised one way traffic in alternate directions; and
  - vi. Maintaining pedestrian connectivity across SH18 via a controlled pedestrian and cycle crossing should the Alexandra Stream underpass be closed during construction.
- e. Measures to maintain existing vehicle access to private properties, or where the existing property access is to be removed or becomes unsafe as a result of the construction works, measures to provide alternative access arrangements in consultation with Auckland Transport and the affected landowner; and
- f. Measures to maintain pedestrian and cycle access with thoroughfare to be maintained on all roads and footpaths adjacent to the construction works, (e.g. unless provision of such access is severed by the works or such access will become unsafe as a result of the construction works). Such access shall be safe, clearly identifiable, provide permanent surfacing and seek to minimise significant detours.
- g. Where applicable to the relevant OP, measures to ensure no more than 20 car parking spaces are removed from the Albany Park and Ride during the construction period unless otherwise provided for at an alternative nearby site agreed between Auckland Transport and the Requiring Authority during the construction of the Project.
- h. Include measures to avoid road closures, and the restriction of vehicle, cycle and pedestrian movements. Where there may be:
  - i. A restriction of cycle and pedestrian connectivity to schools, consultation with the Ministry of Education shall be undertaken; and
  - ii. A restriction on access to Waste Management NZ Limited ('WMNZ') from Rosedale Road, consultation with WMNZ shall be undertaken.

- i. Identify alternative routes for over-dimension and over-weight vehicles where these routes are affected during construction and consult with Auckland Transport and the freight industry (including affected local businesses) on the alternative routes or closures.

### **Public Transport Traffic Management Plan**

CTMP.5 The CTMP shall include a specific Public Transport Traffic Management Plan ('**PTTMP**'). The PTTMP (and any amendments) shall be prepared in consultation with Auckland Transport. The purpose of the PTTMP is to define the process for identifying and managing the potential adverse effects of the Project on bus services. More specifically, the PTTMP shall address those road network/bus routes/bus services which interface with SH1, SH18, and the Busway, and which may be affected by the construction of the Project, in such areas as:

- a. Delays to services and reliability;
- b. Increased journey distances and/or duration;
- c. Frequency of services;
- d. Loss of service/replacement services; and
- e. The procedures and timeframes needed for planning and communicating any road network/bus routes/bus services changes with Auckland Transport (and its bus operators) and customers.

CTMP.5A For each of the above matters, the Requiring Authority shall develop and agree with Auckland Transport acceptable performance thresholds that shall be met to agreed key destinations, having regard to:

- a. Staging of the Project works;
- b. Duration of the Project works;
- c. Time of day/night that the works are conducted;
- d. Convenience to public transport patrons;
- e. Safety;
- f. Public transport patronage.

CTMP.5B The performance thresholds shall be developed with specific acknowledgement of the necessary temporary closure of: the bus only on ramp at McClymonts Road; the bus only access to the Constellation Station; and the right turn movements to and from Paul Matthews Road.

CTMP.5C The performance thresholds for the specified road network/bus routes/bus services shall be monitored by the Requiring Authority, using, where appropriate, data provided by Auckland Transport. The methods and frequency for the monitoring of the performance thresholds (and the reporting of the outcome of the monitoring) shall be agreed between the Requiring Authority and Auckland Transport.

CTMP.5D Where the monitoring undertaken demonstrates that the performance thresholds are not being met, then traffic management measures shall be reviewed by the Requiring Authority (in consultation with Auckland Transport). In order to achieve the thresholds, such a review shall include,

amongst other things:

- a. The staging of the construction activity;
- b. Methods to provide further prioritisation of bus services on certain routes;
- c. Methods to provide bus priority beyond the site(s) of the construction activity;
- d. The provision of additional or revised bus services to respond to delays/frequency of service;
- e. The measures to communicate changes to the road network/bus routes/bus services to the community.

#### **Local roads used for heavy vehicle access to construction areas**

CTMP.6 Prior to the commencement of construction of the works subject of the relevant OP, the Requiring Authority shall:

- a. Identify all access points from the Project construction areas accessing onto the local road network;
- b. Confirm existing levels of traffic using the road to which the proposed site access points relate;
- c. Estimate proposed construction vehicle volumes;
- d. Identify, in consultation with Auckland Transport, a monitoring programme to be implemented for the duration of construction of the Project (or relevant Project stage) to validate the construction vehicle volumes identified in (c)

CTMP.6A At least four weeks prior to the commencement of construction works identified in CTMP.6, the Requiring Authority shall submit to Auckland Transport, a RAMM visual condition assessment including a high-definition video and Pavement Strength Testing of the following:

- a. Where the construction site access point is onto an arterial road, the expected tracking curves of construction vehicles entering/ exiting via the relevant construction site access points; and
- b. Where the construction site access point is onto a local road between the access point(s), along the local road(s) to arterial road(s) and including the expected tracking curves of construction vehicles entering/ exiting the arterial road(s)

CTMP.6B At least two weeks prior to the Project construction works identified in condition CTMP.6 commencing, the Requiring Authority shall arrange a meeting with Auckland Transport to discuss and agree the findings of the RAMM visual condition assessment and the results of Pavement Strength Testing. The purpose of the meeting is to agree on any measures needed (if any) to manage the effects of construction traffic on the physical condition of the road(s), including limiting the volume of heavy vehicles, physical works to strengthen the road pavement before use or repairing/maintaining the road(s) in the event of damage attributable to the Project.

CTMP.6C Subject to condition CTMP.6B, the Requiring Authority shall undertake a weekly inspection of the matters identified in condition CTMP.6A or upon any complaints received, and a final inspection within one week of ceasing using each access point for construction. The inspections shall record photographic or video evidence of any damage on the road(s) and provide this to Auckland Transport upon request.

CTMP.6D Any damage identified as attributable to the Project by an appropriately qualified and



experienced person in the areas identified by the inspections required in condition CTMP.6C shall be repaired within one week or within an alternative timeframe to be agreed with Auckland Transport. All repairs shall be undertaken by the Requiring Authority and shall be to the satisfaction of Auckland Transport.

### **Traffic noise (operation)**

ON.1 For the purposes of conditions ON.2 to ON.11:

- a. BPO – means the Best Practicable Option in accordance with s16 of the RMA;
- b. NZ 6806 – means New Zealand Standard NZS 6806:2010 Acoustics – Road-traffic noise – New and altered roads (“NZS 6806”);
- c. Building-Modification Mitigation – has the same meaning as in NZS 6806
- d. Habitable Space – has the same meaning as in NZS 6806;
- e. Noise Assessment – means the Assessment of Operational Noise and Vibration submitted with the NoR;
- f. Major Construction Activity - means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4
- g. PPFs – means Protected Premises and Facilities and has the same meaning as in NZS 6806. For the purpose of these conditions they also include all dwellings in Stage 1 of the Colliston Rise subdivision where Building Consent or Resource Consent which authorises the construction of a dwelling has been granted;
- h. Structural Mitigation – has the same meaning as in NZS 6806. For the purpose of these conditions the structural mitigation measures are low noise road surface materials and noise barriers;
- i. Work Area - means any area where construction works associated with the Project are undertaken (e.g. all active works areas and construction support areas); and
- j. The Design Year means 2031.

### **Structural mitigation**

ON.2 Subject to conditions ON.7 and ON.7A, the Requiring Authority shall design and construct the Project to ensure that the predicted noise levels for the Proposed Design (contained in Appendix A to these conditions) are not exceeded by more than 2dB at any PPF.

#### **Advice Note:**

The predicted noise levels for the Proposed Design (including the full noise barrier along Upper Harbour Highway as recommended in the JWS) are contained in Appendix A.

ON.3 The Requiring Authority shall implement the following Structural Mitigation:

- a. Open Graded Porous Asphalt (or other low-noise road surfaces with equal or better noise reduction performance) on all sections of the Project except where a higher friction (for safety) or stronger surface is required; and
- b. The following noise barriers and heights shall be provided:  
Southern side of SH18
  - i. From the corner formed by the off ramp from SH1 to Upper Harbour Highway, westwards to the corner of Caribbean Drive and Upper Harbour Highway, height 2.4m.
  - ii. From Caribbean Drive westwards to approximate chainage 1280, height 2.4m.
  - iii. From chainage 1280 to 1410 approximately, height 4m.

- iv. From chainage 1555 to 1765 approximately, height 2.4m.
- v. From chainage 1880 to 1950 approximately, height 2.4m.  
Northern side of SH18
- vi. 40m long in front of the childcare centre in Saturn Place, height 2.4m.
- vii. 50m long in front of the childcare centre in Omega Street, height 2.4m.

In the event that the Requiring Authority proposes to change any of the requirements of (a) and (b) above, it shall provide documentation from a suitably qualified and experienced acoustics specialist to the Council demonstrating that condition ON.2 will continue to be complied with.

ON.4 Within twelve months of completion of construction of the Project, the Requiring Authority shall prepare and submit a report to the Council which demonstrates compliance with conditions ON.2 and ON.3. The report shall be prepared by a suitably qualified and experienced acoustics specialist and shall contain a description of, and the results from, a computer noise model of the Project as constructed.

The report shall include the results of field measurements at a minimum of six representative PPFs within the Project. The results of the noise level monitoring shall be used to verify the computer noise model.

Field measurements shall be in accordance with NZS 6806.

ON.5 The noise barriers shall be maintained so that they retain their designed noise reduction performance.

ON.6 The low noise road surfaces shall be maintained so that they retain their noise reduction performance as far as practicable.

### **Building-Modification Mitigation**

ON.7 Prior to construction of each stage of the Project, a suitably qualified acoustics specialist approved by the Council shall identify those PPFs where, following implementation of the Structural Mitigation measures, either:

- a. Both of the following occur:
  - i. A noise level increase of more than 2dB will occur due to road-traffic noise from the Project (determined by comparing the predicted noise levels for the final design with the predicted noise levels for the Do-nothing option as contained in Appendix A to these conditions); and
  - ii. Habitable spaces are expected to receive in excess of 45dB LAeq(24hr) from motorway operational noise with windows closed, in the Design Year;

or

- b. Noise levels are greater than 67dB LAeq(24hr) (assessed in accordance with NZS6806).

For those PPFs that (a) or (b) apply to, the Requiring Authority shall set out options as to what Building Modification Mitigation are available to achieve 40 dB LAeq(24hr) for habitable spaces using the process set out in Conditions ON.8 to ON.11.

Where sites contain PPFs that are subject to resource consents requiring noise attenuation, this condition shall only apply to the extent that Project noise exceeds the noise level predicted when the resource consent was granted.

ON.7A Prior to Major Construction Activity in the relevant Work Area, the Requiring Authority shall

write to the owner of that PPF requesting entry to assess the noise reduction performance of the existing building envelope. If the owner agrees to entry within 3 months of the date of the Requiring Authority's letter, the Requiring Authority shall instruct a suitably qualified acoustics specialist to visit the building and assess the noise reduction performance of the existing building envelope and determine what Building-Modification measures are required to achieve an operational noise level of 40 dB L Aeq(24h) for habitable spaces.

ON.8 For each PPF identified under condition ON.7, the Requiring Authority is deemed to have complied with condition ON.7A if:

- a. The Requiring Authority's acoustics specialist has visited and assessed the PPF; or
- b. The owner agreed to entry, but the Requiring Authority could not gain entry for some reason (such as entry denied by a tenant); or
- c. The owner did not agree to entry within three months of the date of a Requiring Authority letter seeking entry for assessment purposes (including where the owner did not respond within that period); or
- d. The owner cannot, after reasonable enquiry, be found prior to completion of construction of the Project or after reasonable time has not responded.

If any of (b) to (d) above applies to a PPF identified under condition ON.7, the Requiring Authority is not required to implement Building-Modification Mitigation to that PPF.

ON.9 Subject to condition ON.8, within three months of the assessment required by condition ON.7A, the Requiring Authority shall write to the owner of each PPF identified under condition ON.7 advising:

- a. If Building-Modification Mitigation is required to achieve 40 dB LAeq(24h) inside habitable spaces; and
- b. The options for Building-Modification Mitigation to the building, if required; and
- c. That the owner has twelve months to decide whether to accept Building-Modification Mitigation to the building and to advise which option for Building-Modification Mitigation the owner prefers, if the Requiring Authority has advised that more than one option is available.

ON.10 Once an owner has confirmed which Building-Modification Mitigation option is preferred, the mitigation shall be implemented by the Requiring Authority, including obtaining any Council consents, within a mutually agreeable and reasonable timeframe, and where practicable, prior to a Major Construction Activity commencing in the relevant Work Area.

ON.11 Where Building-Modification Mitigation is required, the Requiring Authority is deemed to have complied with condition ON.10 if:

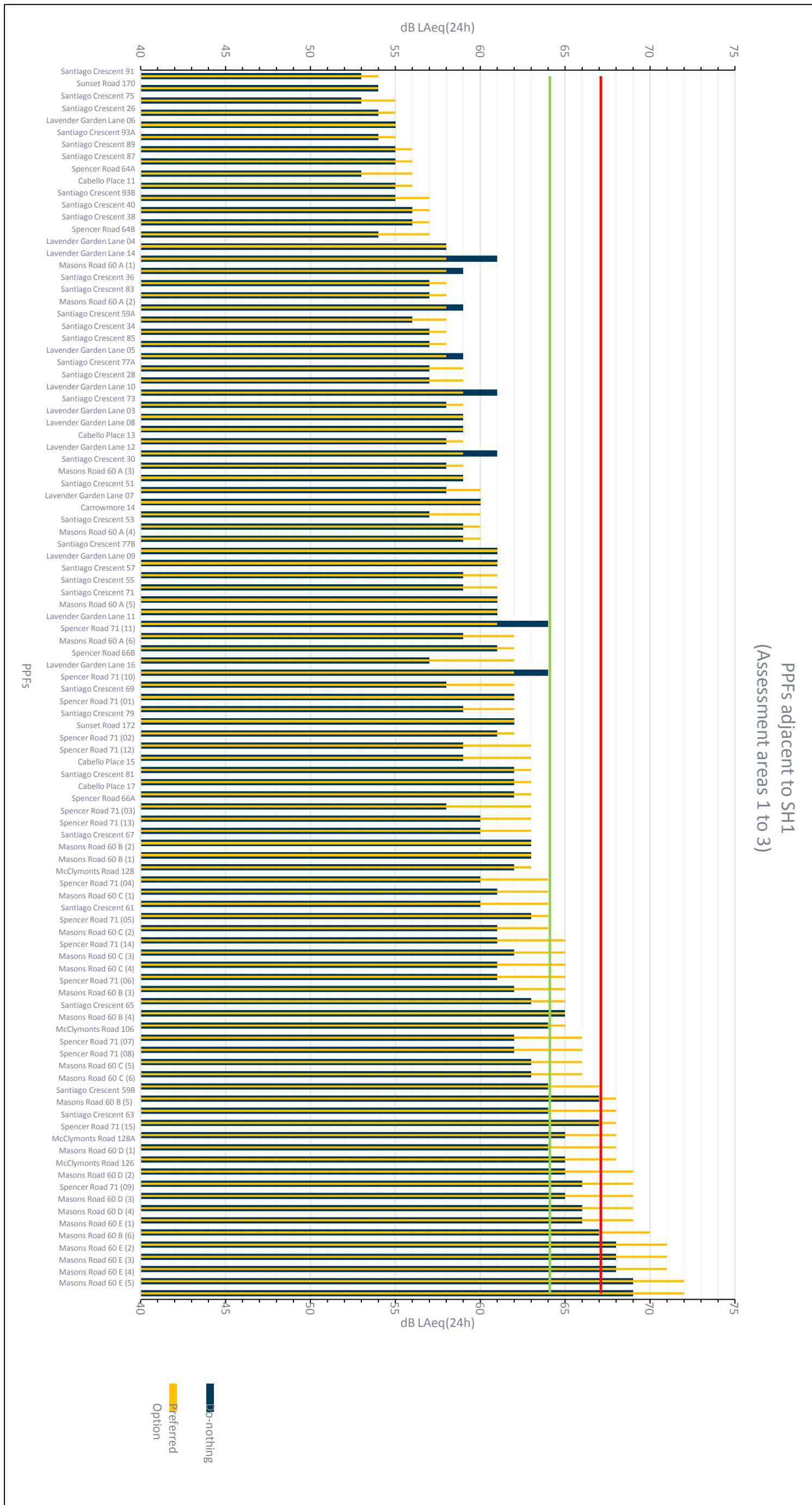
- a) The Requiring Authority has completed Building-Modification Mitigation to the PPF; or
- b) An alternative agreement for mitigation is reached between the Requiring Authority and the owner, and that mitigation option has been completed; or
- c) The owner did not accept the Requiring Authority's offer to implement Building-Modification Mitigation within three months of the date of the Requiring Authority's letter sent in accordance with condition ON.9 (including where the owner did not respond within that period).

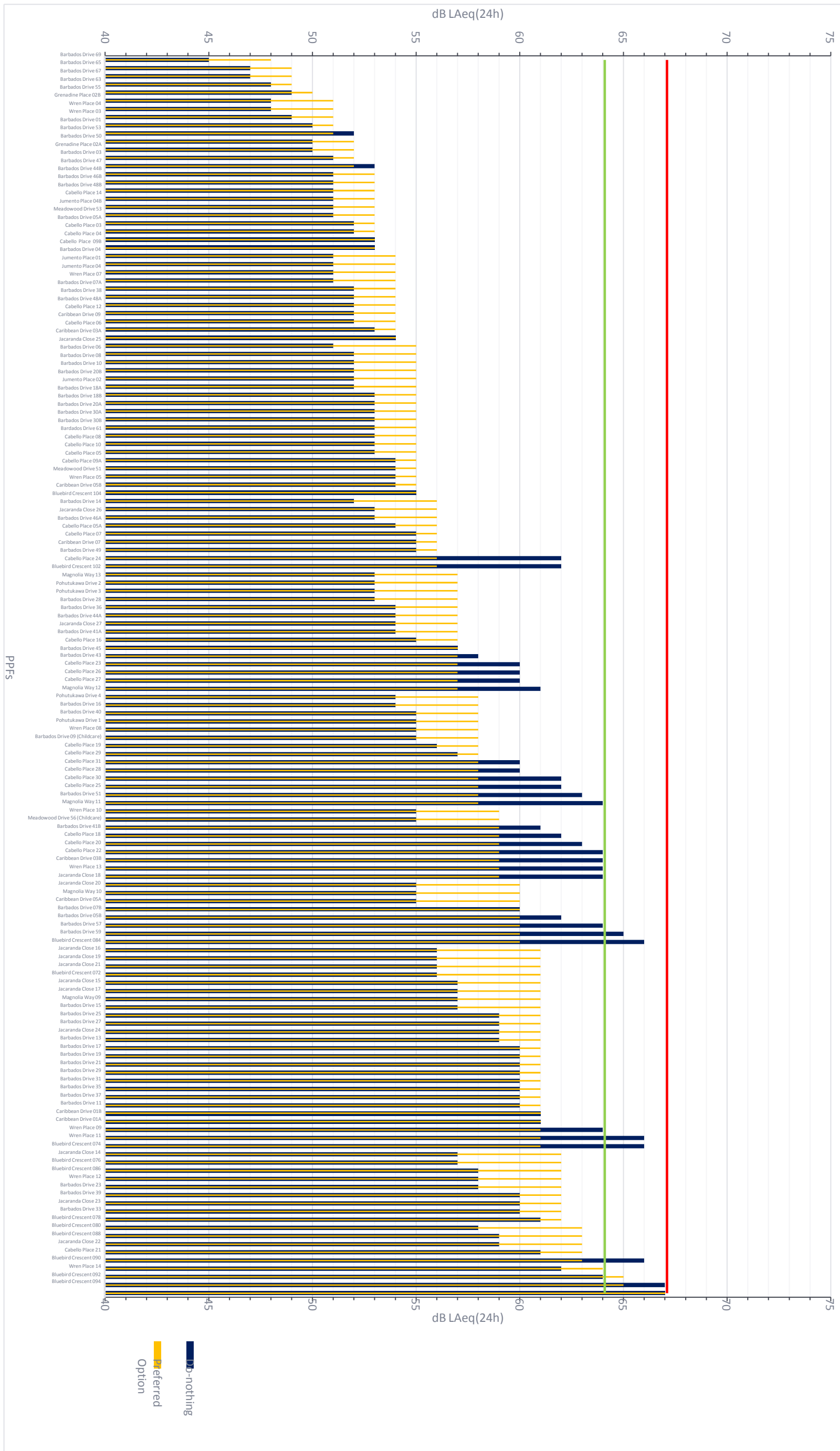
## **Operational Noise Conditions**

### **Appendix A**

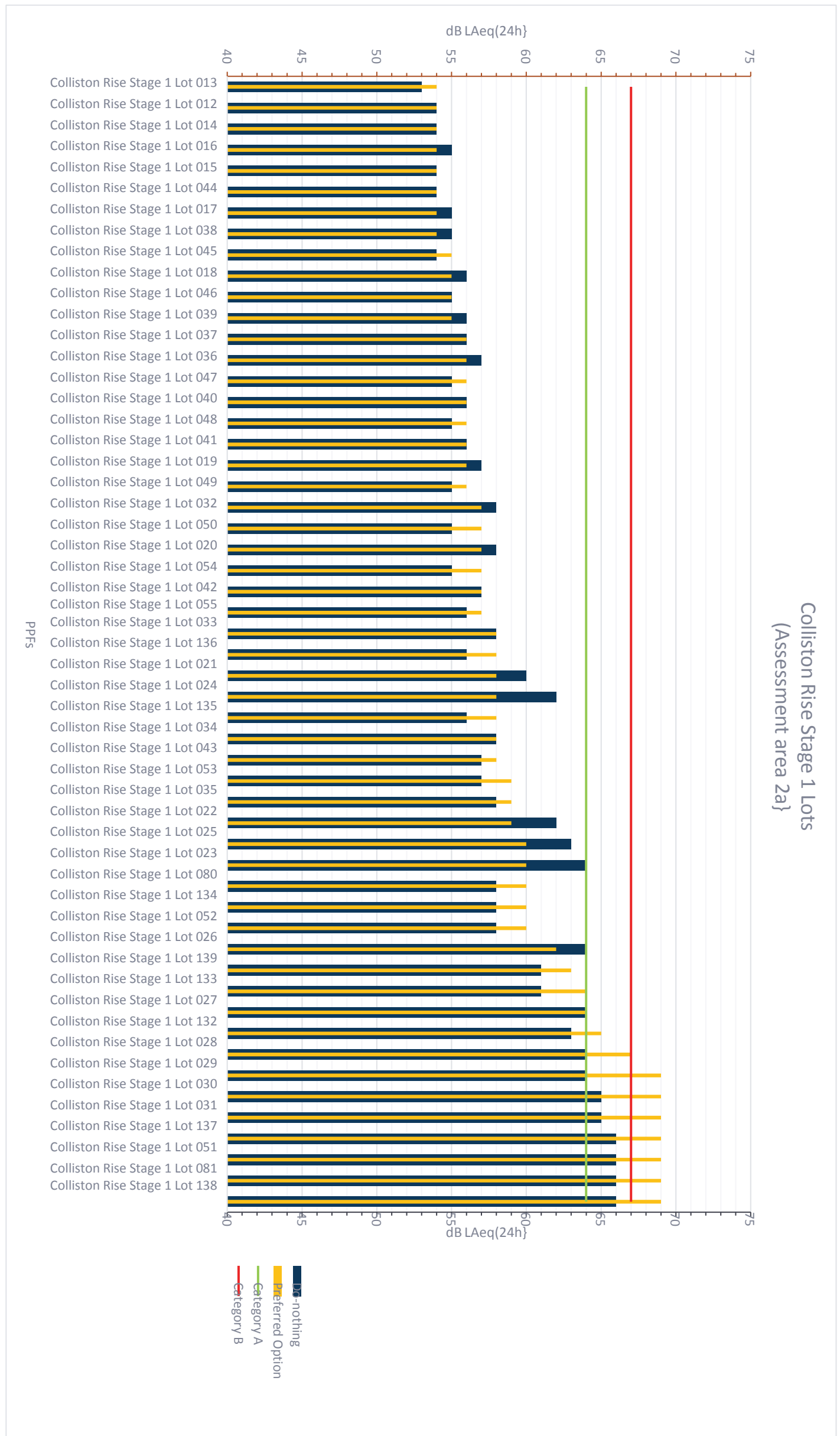
The following graphs show predicted noise levels for all PPFs identified in accordance with ON.2, and are based on the following factors:

- a) All noise levels are predicted for the design year (2031), with all structural mitigation (noise barriers and low noise road surface) implemented.
- b) All predictions are for the highest floor of each building.
- c) For Colliston Rise Stage 1, the predictions are for a nominal location 3 metres from the western boundary of each Lot, at a height of 4.5 metres above ground level, representing the second floor level.
- d) Predictions are sorted from lowest to highest for the Proposed Design.





PPFs adjacent to Upper Harbour Highway  
(Assessment areas 4 to 8)



## **Operational Vibration**

OV.1 Vibration generated by traffic shall comply with Class C of Norwegian Standard NS8176.E:2005 *Vibration and Shock* – Measurement of vibration in buildings from land-based transport and guidance to evaluation of its effects on human beings in any lawfully established occupied building.

In the event that there is a complaint about vibration in any lawfully established occupied building, the Requiring Authority shall, subject to land owner approval, investigate whether:

- a. The vibration complies with the Standard; and
- b. It is caused by defects in the motorway.

If the vibration does not comply with the Standard and is caused by defects in the motorway, the Requiring Authority shall rectify the defects so that the Standard is complied with in the building that is the subject of the complaint.

## **Urban Design and Landscape**

UDL.1 The Requiring Authority shall submit an Urban Design and Landscape Plan ('**UDLP**') to the Council as part of the OP required under section 176A of the RMA.

UDL.2 The purpose of the UDLP is to outline:

- c. The methods and measures to avoid, remedy and mitigate adverse effects on landscape amenity during the construction phase of the Project;
- d. The requirements for the Project's permanent landscape mitigation works; and
- e. The landscape mitigation maintenance and monitoring requirements.

UDL.3 The UDLP shall be prepared by a suitably qualified and experienced person in accordance with:

- a. The NZ Transport Agency's *Urban Design Guidelines: Bridging the Gap* (2013) or any subsequent updated version
- b. The NZ Transport Agency's P39 Standard Specification for Highway Landscape Treatments (2013).

UDL.4 The Outcomes Sought set out in Chapters 5 and 6 of the UDLF (Revision 3) shall be given effect to through the UDLP in relation to the following matters:

- a. Urban design and landscape treatment of all major structures, including bridges, underpasses, retaining walls and noise walls and barriers;
- b. Urban design and landscape treatment of the new structures at Constellation and Albany Bus Stations;
- c. Integrated landscape treatment of permanent stormwater management ponds, wetlands



and swales;

- d. Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/cycle bridges or underpasses; and
- e. Design and treatment options on or adjacent the following properties:
  - i. The western most residences at 60B Masons Road that overlook the proposed Albany Busway overbridge;
  - ii. Lots 25, 26, 27 and 28 in Colliston Rise, directly adjacent to the proposed retaining walls;
  - iii. 33, 35, 37, 39, 41B, 43, 45, 49, 51, 57, 59 Barbados Drive, and 9, 11, 13 and 14 Wren Place and
  - iv. The solid 2m high wall on the edge of the SUP adjacent to the Waste Management Ltd facility at 117 and 123 Rosedale Road.
- f. Design and maintenance of lighting, including on the carriageways, bridges and other structures, busway, and shared use paths
- g. Detailed design of the shared use path, busway and flyover adjacent to the Kiwi Storage Ltd site, with the object of minimising any adverse visual effect on that site, as far as practicable

UDL.5 The Requiring Authority shall undertake mitigation and enhancement planting in general accordance with the requirements of Sections 5 and 6 of the UDLF (Rev. 3). The UDLP shall include details of proposed mitigation planting including as follows:

- a. Identification of vegetation to be retained, protection measures, and planting to be established along cleared edges;
- b. Proposed planting including plant species, plant/grass mixes, spacing/densities, sizes (at the time of planting) and layout and planting methods;
- c. The proposed staging of planting in relation to the construction programme, including provision for planting within each planting season following completion of works in each stage of the Project and detailed specifications relating to (but not limited to) the following:
  - i. Weed control and clearance;
  - ii. Pest animal management;
  - iii. Ground preparation (topsoiling and decompaction);
  - iv. Mulching;
  - ix. Plant sourcing and planting, including hydroseeding and grassing; and
  - d. Details of a proposed maintenance and monitoring programme.

UDL.5A The Requiring Authority shall maintain and monitor the mitigation and enhancement planting for a minimum of 4 years following the planting being undertaken. The Requiring Authority shall monitor the planting in accordance with the programme required by condition UDL.5(d),

including monitoring for any patches in planted areas greater than 4m<sup>2</sup> where there is multiple plant failure (either stunted growth or death) and replant these areas as necessary.

UDL.6 The UDLP shall include a Reserve Reinstatement Plan for the following reserves (or parts thereof) directly affected by the construction works:

- a. Rook Reserve;
- b. Arrenway Reserve; and
- c. Meadowood Reserve.

#### **Advice Note**

Appendix A to the Board of Inquiry Decision illustrates the location of affected reserves.

UDL.6A The Reserve Reinstatement Plans shall be prepared in consultation with Council Parks and shall include the following details (as appropriate to the subject reserve):

- a. Removal of structures, plant and materials associated with construction;
- b. Replacement of boundary fences to the same or similar type to that removed;
- c. Reinstatement of grassed areas to a similar condition as existed prior to construction;
- d. Replacement of trees and other planting removed for construction on a one-for-one basis (or as otherwise agreed with Council Parks); and
- e. Details of way finding interpretation signage within and adjacent to the reserve.

UDL.6B The Rook Reserve Reinstatement Plan shall be prepared in consultation with Council Parks and shall include the following details:

- a. A level grassed area minimum dimensions of 30m by 30m suitable for informal ball games;
- b. A 10m by 10m level surface located adjacent to the stormwater pond, with the dual function of providing for occasional use by stormwater pond maintenance machinery and a single basketball hoop and half court, located at the eastern end of the pond;
- c. Amenity and screen planting along the boundary of the reserve with State highway 18;
- d. Details of the proposed access around the stormwater pond for maintenance, including any additional necessary hard stand areas;
- e. Grassed slopes (where possible) at the upper levels of the reserve to allow passive surveillance from neighbouring residential properties (with scattered amenity trees);
- f. All grassed areas are to have a slope of no more than 1:5 to allow for mowing, with steeper gradients to be landscaped;
- g. Re-contouring and landscaping of the remainder of the reserve, including features such as walkways and seating; and

h. Prior to commencement of construction on the reserve, the existing fitness equipment in Rook Reserve is to be removed and replaced with three new equivalent pieces of equipment in Barbados Reserve.

UDL.6C In addition to the Reserve Reinstatement Plans above, the UDLP shall in relation to the Landfill provide boundary fencing, replace any trees and landscaping equivalent to those removed or affected by the construction of the retaining wall, provided that any landscaping does not compromise sightlines required for the new motorway and / or busway and/or the shared use path.

UDL.7 A draft of the UDLP shall be submitted to the Council Urban Design Advisory Panel for comment before finalisation and submission with any OP in accordance with Condition UDL.1.

UDL.8 All work shall be carried out in accordance with the UDLP.

UDL.9 For the purpose of staging works, the Requiring Authority may prepare staged or site specific UDLPs. The Requiring Authority shall consult with the Council about the need and timing for any site-specific or staged UDLPs.

UDL.10 The Requiring Authority may submit amendments to the UDLP to the Council. Any works in accordance with the amended UDLP shall not commence until the process under section 176A of the RMA has been completed in relation to those aspects of the UDLP that are being amended.

UDL.11 The UDLPs shall be prepared in partnership with the Transport Agency Central Northern Iwi Integration Group ('IIG'). This consultation shall commence at least 30 working days prior to submission of each UDLP to the Council. Any comments and inputs received from the IIG shall be clearly documented within the UDLP, along with a clear explanation of where any comments or suggestions have not been incorporated and the reasons why.

UDL.12 Any UDLP that includes land within the Watercare Designations 9310 and 9311 shall be prepared in consultation with Watercare Services Limited.

### **Alexandra Stream Underpass**

UDL.13 The Requiring Authority shall implement the following measures to address public safety concerns associated with the Alexandra Stream Underpass:

- a. Path realignment of the southern entrance to the underpass to suit a minimum cyclist design speed of 15km/h, provided realignment works do not impact the Alexandra Stream;
- b. Improved lighting within the underpass; and
- c. Inclusion of CCTV within the underpass.

UDL.14 The measures outlined in UDL.13 shall be designed and implemented in consultation with Council Parks, Bike Auckland and Auckland Transport.

### **Paul Matthews Road Bridge**

UDL.15 During the detailed design phase of the Paul Matthews Road Connection, the Requiring Authority shall consult Bike Auckland on the layout and detailed design of the shared use path.

## **Stakeholder and Communications Plan ('SCP')**

SCP.1 The Requiring Authority shall appoint a community liaison person for the duration of the construction phase of the Project to be the main point of contact for persons affected by the Project.

SCP.2 The Requiring Authority shall ensure that the contact details (phone, postal address, and email address) of the community liaison person and the details of the complaints process set out in Condition SCP.12 are:

- a. Included in the SCP required under Condition SCP.3;
- b. Advertised in the relevant local newspapers and community noticeboards prior to the commencement of the Project;
- c. For each Project stage, included in a leaflet to be issued to all properties within that Project stage contained within the 45 dB LAeq Contour (Residential Night) as shown on the Construction Noise Mark Up drawings contained at Appendix E of the Assessment of Construction Noise and Vibration (9 December 2016) prior to the commencement of the relevant Project stage;
- d. Provided at the community events required under Condition SCP.6 and
- e. Included within the Requiring Authority's website pages for the Project.

SCP.3 At least two months prior to the commencement of construction works for the relevant OP, the Requiring Authority shall submit a SCP to the Council.

SCP.4 The Requiring Authority shall provide a draft SCP to the Council for comment at least three months prior to the commencement of construction. In finalising the SCP, the Requiring Authority shall detail how comments received from the Council have been addressed.

SCP.5 The purpose of the SCP is to set out the procedures for communicating with the affected communities and key stakeholders throughout the construction period including types and regularity of engagement events and the methods proposed to avoid, remedy or mitigate, as far as practicable, disruption to residents, businesses and schools as a result of construction activities.

SCP.6 The SCP shall contain the following:

- a. Communication methods for informing the affected community of construction progress, including the expected duration of the works and proposed hours of operation outside normal working hours and Project contact details;
- b. Identification of key stakeholders including community groups, business groups, residents' organisations, childcare groups, the Council, Auckland Transport, Watercare, Ministry of Education, Waste Management NZ Limited, the Melanesian Mission and St Johns Trust Board, the IIG and the Local Boards;
- c. Consultation processes to reach the affected communities and key stakeholders in order to foster good relationships and to provide opportunities for learning about the Project and detail on when each of these processes will be used; and

d. Business and education disruption management processes.

SCP.7 The consultation processes required under SCP.6(c) shall provide for, as a minimum, the following:

a. At least two months prior to construction commencing for the relevant Project stage, provision of an inaugural community information event or events, to explain the Project and outline the process to review and comment on Project mitigation and UDLPs;

b. Briefings for key stakeholders (including emergency services, business associations, local boards and road user groups) at least quarterly, and ahead of all major milestones or road closures;

c. Regular consultation events or information days, held as appropriate, but at least once per month when construction works are taking place, to provide the opportunity for the affected communities to have input into the Project.

d. Targeted community events at least one month prior to construction commencing in each of the following Work Areas:

- SH1/SH18 interchange;
- SH18 realignment;
- Rook Reserve;
- Rosedale Road;
- Constellation and Albany Bus Stations; and
- McClymonts Road (including Albany Busway Bridge).

e. Notification of consultation events and information days to the public and community groups.

f. Publication and circulation of records from consultation events and information days.

g. A requirement for the Requiring Authority to ensure that appropriate personnel attend both the stakeholder and community events to explain the Project programme and staging, how the effects are proposed to be managed and to respond to any questions.

h. A requirement to produce a draft report summarising the main points arising from each consultation event, reporting on any social impacts unforeseen effects of the Project, along with recommendations on the measures to mitigate those effects. The Requiring Authority shall ensure that a copy of the draft report is provided to the Council and to meeting attendees within 10 working days of the event to provide an opportunity for feedback. Feedback will be provided within 5 working days of receiving the draft report.

i. A requirement to finalise and circulate the consultation summary report within 5 working days of receiving feedback.

SCP.8 The events required under condition SCP.7(b), shall:

- a. Provide regular updates on Project progress, in particular advanced notice of upcoming works including closures and traffic management plans.
- b. Enable the effects of Project construction on the community (including businesses) to be monitored by providing regular forums through which information about the Project can be provided.
- c. Enable opportunities for feedback on proposed construction impact measures.
- d. Enable the affected communities and key stakeholders the opportunity to provide feedback on the development of, and any material changes to the UDLPs.
- e. Enable opportunities for concerns and issues to be reported to and responded to by the Requiring Authority, including opportunities for updates to the SCP.

SCP.9 The business and education disruption management processes required under condition SCP.6(d) shall include details of the measures to be implemented to avoid, remedy or mitigate, as far as reasonably practicable, disruption to businesses and education facilities as a result of construction activities including:

- a. Measures to maximise opportunities for customer and service access to businesses that will be maintained during construction;
- b. Measures to mitigate potential severance and loss of business visibility issues by way-finding and supporting signage for pedestrian detours required during construction; and
- c. Other measures to assist businesses to maintain client/customer accessibility, including but not limited to client/customer information on temporary parking or parking options for access and delivery.
- d. Measures to enable ongoing pedestrian and cycle connectivity to education facilities during the Project.

SCP.10 The Requiring Authority shall implement the SCP for the duration of the construction works and for six months following practical completion of the Project.

SCP.11 The SCP shall be reviewed six monthly for the duration of the construction works and updated as required. Any updates to the SCP shall be provided to the key stakeholders and reported at the events required under condition SCP.7(c)

### **Complaints process**

SCP.12 Prior to the commencement of construction, the Requiring Authority shall establish a 24 hour toll free telephone number and an email address for receipt of complaints from the community. The 24 hour toll free telephone number shall be answered at all times and shall be maintained for the duration of the Project.

SCP.13 At all times during construction work, the Requiring Authority shall maintain a permanent register of any complaints received relating to the construction works, including the full details of the complainant and the nature of the complaint.

SCP.14 The Requiring Authority shall respond to any complaint within 24 hours of receipt of the complaint, except where an immediate hazard is present or where the complaint relates to

construction noise or vibration, in which case the Requiring Authority shall use its best endeavours to respond immediately. A formal written response shall be provided to the complainant and the Council within 10 days of complaint receipt.

SCP.15 For the period of the construction of the Project, the Requiring Authority shall maintain a written complaints register containing the following information:

- a. The details of the complainant;
- b. The nature of the complaint;
- c. The investigations undertaken into the complaint; and
- d. Any remedial actions undertaken to address the complaint.

SCP.16 The Requiring Authority shall keep a copy of the complaints register required under SCP.15 on site and shall provide a copy to the Council once a month and more frequently upon request

### **Greenwich Way Shops**

SCP.17 At least two weeks prior to the closure of the off-ramp from SH18 onto Unsworth Drive, the Requiring Authority shall, in consultation with the Greenwich Way shop owners and operators and if requested by those owners and operators:

- a. Provided that all necessary approvals can be obtained from the road controlling authority, install wayfinding signage at the junction of Barbados Drive and Unsworth Drive; and
- b. Advertise the range of services, location and trading hours of the Greenwich Way shops by:
  - i. Undertaking a leaflet drop to all properties contained between SH18, Caribbean Drive, Sunset Road and Albany Highway; and
  - ii. Placing advertisements in the relevant local newspapers.

SCP.18 The Requiring Authority shall carry out the actions required by Condition SCP.17 (a) and (b) at least two weeks prior to closure of the off ramp from SH18 onto Unsworth Drive and repeat the advertising required by Condition SCP.17 (b) once a month for three months following the first leaflet drop and newspaper advertisements.

SCP.19 At least two months prior to the closing of the off ramp from SH18 onto Unsworth Drive the Requiring Authority shall, in consultation with the Greenwich Way shop owners and operators, and if requested by those owners and operators, provide advice and assistance to those owners and operators to prepare a business/marketing plan for their premises,

### **International Hockey Facility**

IHF.1 Unless otherwise agreed between the Requiring Authority and the Harbour Hockey Charitable Trust, prior to any works commencing within any part of the North Harbour Hockey Facility lease area, the Requiring Authority shall, in consultation with Harbour Hockey Charitable Trust, relocate the North Harbour Hockey facility on an equivalent basis. This shall include the following elements:

- a. Three water-based artificial hockey pitches with all fields to meet equivalent current

International Hockey Federation ('**FIH**') design standards as existing fields;

- b. One grass pitch (or land prepared for installation of a fourth artificial hockey pitch);
- c. A pavilion building of similar size, quality and finish that provides clubrooms, function rooms, changing rooms, and other amenities consistent with those at the existing North Harbour Hockey Facility but shall be designed to meet current FIH and building code standards; and
- d. Lighting, car parking, public address system, storage sheds, dug-outs, and associated other facilities consistent with those at the existing North Harbour Hockey Facility.

If the replacement facility is located proximate to the existing satellite sand based pitch within Rosedale Park, suitable access from the replacement facility to the existing sand based pitch will be provided. In the event that the new hockey facility is not located sufficiently close to the existing satellite sand pitch (which is in Rosedale Park to the north of the existing North Harbour Hockey Facility) to enable convenient access, an equivalent sand based pitch shall be provided as part of the replacement facility.

If agreed with HHCT, relocation to the new North Harbour Hockey Facility may be undertaken in stages.

## **Attachments**

No attachments.



# New/Alterations & Withdrawals to Designations (Go Live 29th November 2018)

## Amendments to Auckland Unitary Plan GIS Viewer (maps)

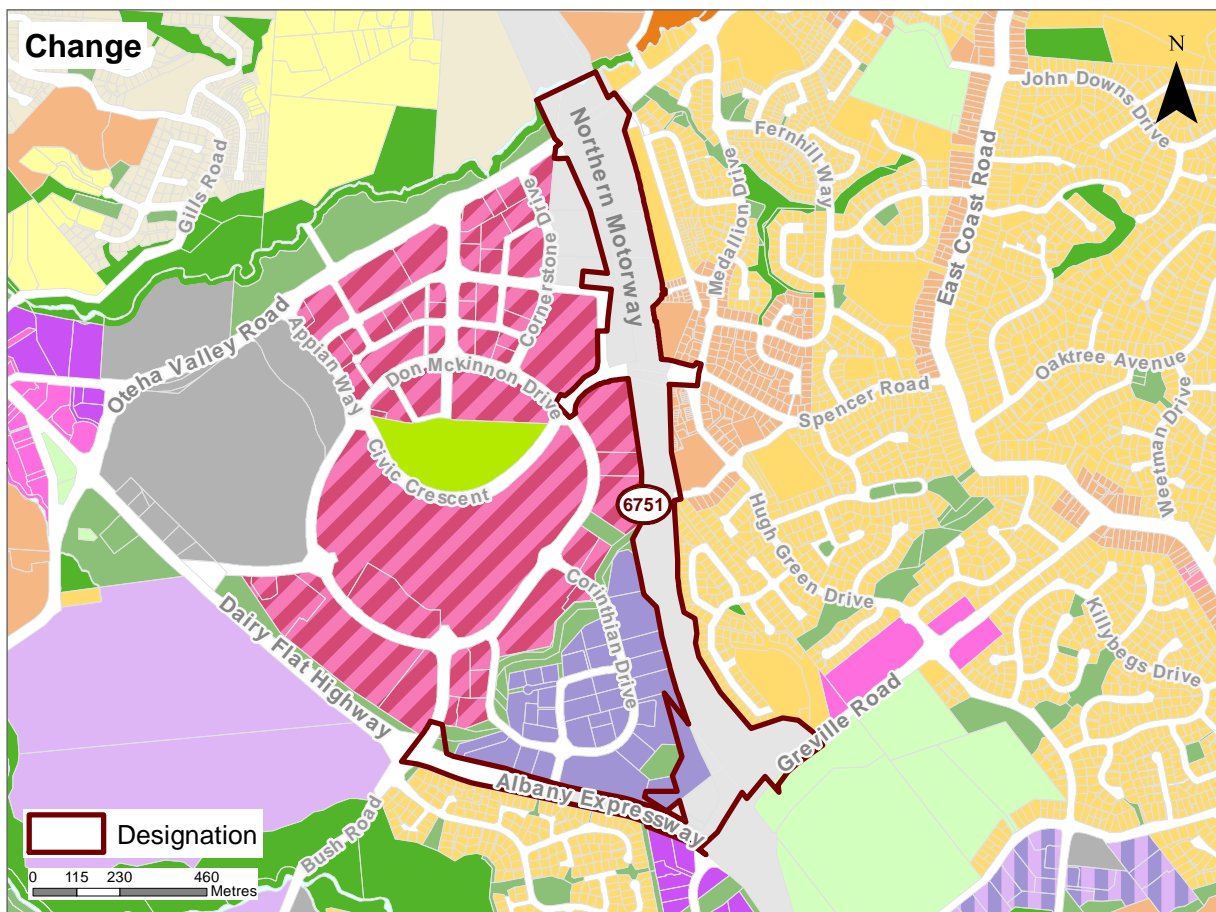
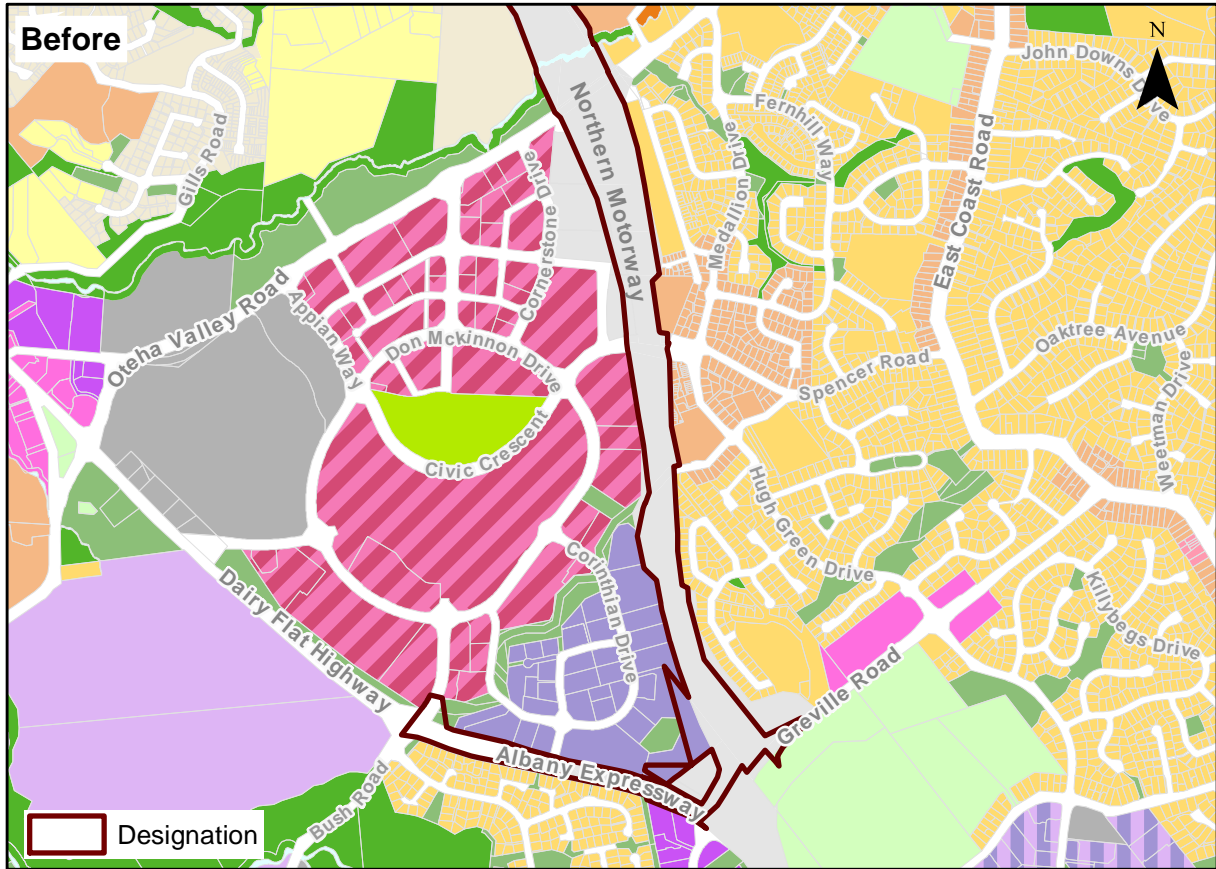
Affected map layers : Designations

Designation: 6751

Name: State Highway 1: To undertake maintenance, operation, use and improvement to the State Highway network.

Requiring Authority: New Zealand Transport Agency

Addition to Designation 6751



## UNITARY PLAN UPDATE REQUEST MEMORANDUM

**TO** Warren MacLennan, Manager Planning North West and Islands

**FROM** Jo Hart, Principal Planner, Planning North West and Islands

**DATE** 29 August 2018

**SUBJECT** **Designation in accordance with s181(3) of the Resource Management Act of the Auckland Unitary Plan(AUP) Operative in part (15 November 2016)**



This memorandum requests an update to Auckland Unitary Plan Operative in part

<b>Reason for update – Confirmed notices of requirement to alter Designation 6756 (as part of the Northern Corridor Improvements Project)</b>	
<b>Chapter</b>	Chapter K Designations
<b>Section</b>	New Zealand Transport Agency
<b>Designation only</b>	
<b>Designation # 6756</b>	State Highway 18 – Upper Harbour Highway
<b>Locations:</b>	State Highway 18 (Upper Harbour) from west of Paul Matthews Road, Rosedale to Upper Harbour Bridge, Greenhithe
<b>Lapse Date</b>	7 years
<b>Purpose</b>	State Highway 18 - the control, management and improvement of the State Highway, including planning, design, research, construction, operation and maintenance relating to all land within the State Highway designation and in accordance with the Government and Roading Powers Act 1989.
<b>Changes to text (shown in underline and strikethrough)</b>	<p>This update incorporates amendments to conditions arising from the following alterations to the designations associated with the Northern Corridor Improvements Project (NCI):</p> <ul style="list-style-type: none"> <li>• Northern Corridor Improvements Project (as confirmed by the Board of Inquiry (BOI) 16 November 2016)</li> <li>• Section 181(3) notice of requirement for an alteration to a designation associated with the NCI – Conditions DC.1a, DC2.A, ON.3b(iii), UDL.4(iii) and UDL.15 (confirmed 8 May 2018)</li> <li>• Section 181(3) notice of requirement for an alteration to Designation 6756 to remove obsolete conditions to enable integration of the BOI conditions (confirmed 31 July 2018).</li> </ul> <p>Refer to the link below for the NCI Board of Inquiry Final Report and Decision and to the attachment for details of the two Section 181(3) notice of requirements for an alteration to a designation:</p> <ul style="list-style-type: none"> <li>• NCI Board of Inquiry Final Report and Decision</li> </ul> <p><a href="https://www.epa.govt.nz/public-consultations/decided/northern-corridor-improvements/final-report-and-decision/">https://www.epa.govt.nz/public-consultations/decided/northern-corridor-improvements/final-report-and-decision/</a></p>

<b>Changes to diagrams</b>	N/A
<b>Changes to spatial data</b>	Multiple amendments to spatial data associated with the Northern Corridor Improvements Project (as confirmed by the Board of Inquiry 16 November 2016).
<b>Attachments</b>	<ul style="list-style-type: none"> <li>• Section 181(3) Report and decision (confirmed 8 May 2018) including track changes to the BOI confirmed conditions.</li> <li>• Section 181(3) Report and decision (including a table which provides details of the alterations to the conditions) and track change version of conditions for Designation 6756</li> <li>• 6756 State Highway 18 – Upper Harbour Highway designation text</li> <li>• 6756 State Highway 18 – Upper Harbour Highway designation map</li> </ul>

**Prepared by:**

Jo Hart  
Principal Planner  
Planning North West and Islands

**Signature:**

**Text entered by:**

Bronnie Styles  
Planning Technician  
Planning Auckland-wide

**Signature:**

**Maps prepared by:**

Mitesh Bhula –  
Senior Geospatial Analyst  
Auckland-wide

**Signature**

**Warren MacLennan  
Manager**

**Signature**

**Reviewed by:**

Jo Hart  
Principal Planner  
Planning North West and Island

**Signature:**

8 May 2018

Northern Corridor Improvements  
Level 1 Jacobs House  
12 Nicholls Lane  
Parnell  
Auckland 1052

Attention: Maree Drury

Dear Maree

**Re: Notice of for a minor alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road in the Auckland Unitary Plan.**

Auckland Council has considered your request to alter the existing designations associated with the Northern Corridor Improvements Project as listed above.

The proposed alteration to the designations has been processed and confirmed in accordance with the statutory tests of Section 181(3) of the Resource Management Act 1991. The Section 181(3) confirmation report for the minor alteration is attached.

The Auckland Unitary Plan will be amended in due course.

If you have any questions please contact Jo Hart on 09 8908291

Yours sincerely



David Sanders  
Team Leader – Planning North West and Islands  
**Plans and Places**

# Notice of requirement for a minor alteration to a designation under section 181(3) of the Resource Management Act 1991



## Notice of requirement description

Designation number:	Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road.
Requiring authority:	New Zealand Transport Agency
Site address:	Various – between Oteha Valley Road and SH1/SH18 intersection and along SH18 to Albany Highway.

## Summary

Auckland Council has received a request from the New Zealand Transport Agency under section 181(3) of the Resource Management Act 1991 (RMA), dated 15 February 2018, to alter designations associated with the Northern Corridor Improvements Project (Attachment A).

It is considered after undertaking an assessment of the notice, that the proposed alteration meets the statutory tests of section 181(3) of the RMA and can therefore be processed and confirmed as a minor alteration.

## Recommendation

1. That the proposed alteration of Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road in the Auckland Unitary Plan be **confirmed**, subject to the amended conditions (Attachment B) for the following reasons:
  - the alteration involves no more than minor changes to the effects on the environment associated with the use of the land;
  - there are no adjustments to the boundaries of the existing designation;
  - both the requiring authority and Auckland Council agree with the alteration; and

- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
2. That the text for the Designations, as listed above, is altered in Chapter K Designations in the Auckland Unitary Plan.

## **1. Background**

### **1.1. Minor alteration to a designation**

Auckland Council has received a notice of requirement (NoR) for an alteration to designations associated with the Northern Corridor Improvements Project (NCI), as listed above, from the New Zealand Transport Agency under section 181(3) of the RMA.

The alteration is required to modify conditions confirmed in the Board of Inquiry (BOI) decision, dated 16 November 2017, to reflect minor changes made during the detailed design process. These changes are as follows:

- a minor reconfiguration of the Paul Matthews Road and Caribbean Drive connection
- the replacement of the State Highway 1 to State Highway 18 flyover with an underpass.

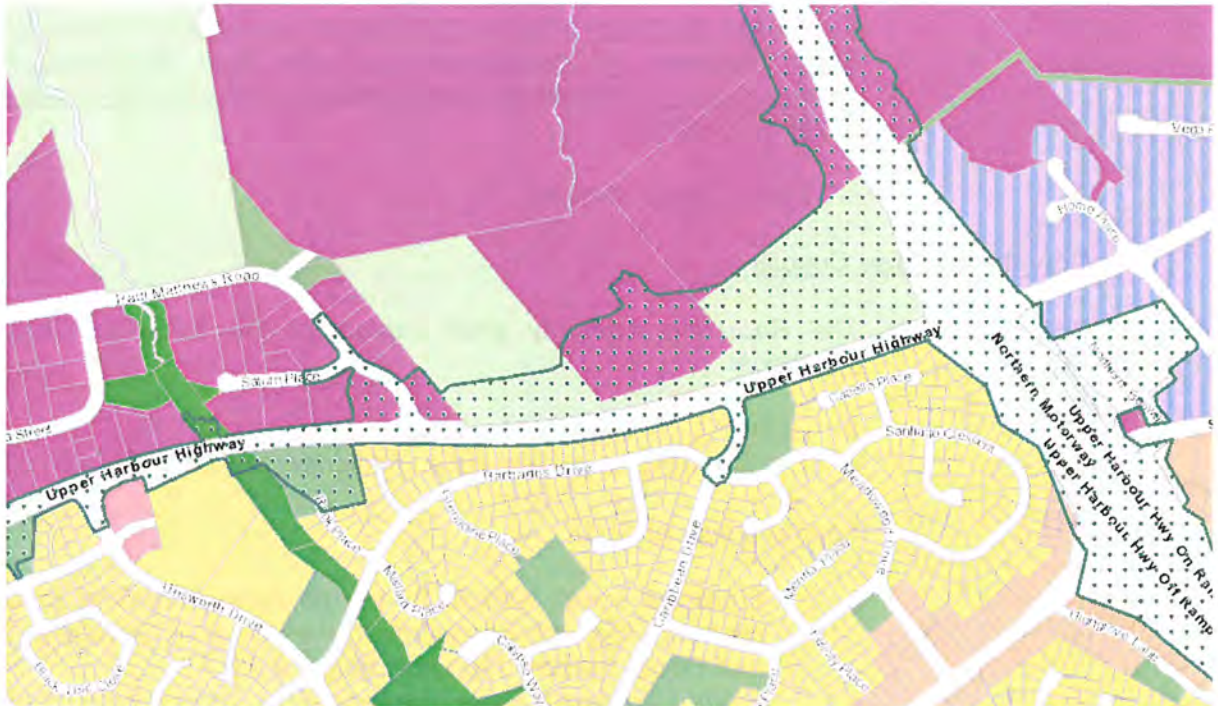
The alteration involves an amendment to General Condition DC.1 to change the reference of two of the drawings presented to the BOI to the NCI Alliance updated detailed design drawings. Minor consequential amendments and additions are also proposed in relation to:

- the operational noise conditions (ON.3 (a)(iii)) to allow for the construction of a slightly higher noise wall
- the urban design conditions (UDL.4 (e)(iii) and UDL.15) to ensure mitigation of the higher noise wall proposed in relation to visual effects on adjacent properties.

There are no alterations proposed to the boundaries of the designations.

### **1.2. Land affected by the alteration**

The land affected by the alteration to the designation is located around the SH18 interchange with SH1 and at Paul Matthews Road, near the Watercare Rosedale Treatment Plant and Constellation Reserve, as shown in the Auckland Unitary Plan map below:



Map 1: AUP map showing vicinity of proposed alterations.

### 1.3. Description of the site and existing environment

This section of the Northern Corridor contains the SH1 and SH18 highway corridors. The intersection of SH1 and Constellation Road is to the east and SH18 to the west. Residential housing is located to the south of the SH18 alignment. Constellation Reserve, which forms part of Watercare’s odour buffer designation, and the Rosedale Wastewater Treatment Plant (RWTP) and ponds are located to the north. An area of General Business zoned land lies to the north-east of the SH1/SH18 intersection. The Constellation Bus Station is located to the south-east of the intersection and is currently accessed via the Constellation off-ramp and crossing Constellation Drive to get to the beginning of the Northern Busway.

### 1.4. Proposed alterations to conditions

The requiring authority has requested the alteration of four of the confirmed EPA conditions. These are as follows:

#### General Conditions:

*Condition DC.1 Except as modified by the conditions below, and subject to final design, the Northern Corridor Improvements Project shall be carried out in general accordance with:*

#### *a. General arrangements drawings*

*Sheet 1 and 2, DRG 0201-0202, Rev J*

*Sheets 3 - 8, DRG 0203-0208, Rev H*

*Sheets 9 - 10, DRG 0209-0210, Rev I (Revised Alteration to Designation Boundary – Bluebird Reserve)*

**Subject to the minor changes in relation to the State Highway 1 to State Highway 18 underpass and the Paul Matthews Road configuration as shown in Sheets NCI-R-1002-DG-108-A and NCI-R-1002-DG-106-A.**

b. Typical cross sections...

Operational Noise Conditions

Condition ON.3 The Requiring Authority shall implement the following Structural Mitigation:

- a. [...]
- b. The following noise barriers and heights shall be provided:

Southern side of SH18

- i. From the corner formed by the off ramp from SH1 to Upper Harbour Highway, westwards to the corner of Caribbean Drive and Upper Harbour Highway, height 2.4m.
- ii. From Caribbean Drive westwards to approximate chainage 1280, height 2.4m
- iii. From chainage 1280 to 1410 approximately, height ~~3m~~ **4m**.
- iv. From chainage 1555 to 1765 approximately, height 2.4m...

Urban Design and Landscape Conditions

Condition UDL.4 The Outcomes set out in Chapters 5 and 6 of the UDLF (Revision 3) shall be given effect to through the UDLP in relation to the following matters:

- [...]
- e. Design and treatment options on or adjacent the following properties:  
[...]
- iii. 33, 35, 37, 39, 41B, 43,45, and 4 ~~79, 51, 57, 59~~ Barbados Drive, **and 9, 11, 13 and 14 Wren Place** directly adjacent to the proposed Paul Matthews Road overbridge; and...

Condition UDL.15 During the detailed design phase of the Paul Matthews Road **Connection** Bridge, the Requiring Authority shall consult Bike Auckland on the layout and detailed design of the shared use path. ~~on the Bridge.~~

It is common for requiring authorities to lodge NoRs with preliminary design drawings with the final design to be processed through the Outline Plan of Works (OPW). This allows flexibility in the final design of a project from when the designation is confirmed without having to alter the conditions every time the design changes. In this case the drawing numbers have been included in Condition DC.1. The requiring authority has decided to take a precautionous approach to update the condition so that the correct drawing numbers are included. Consequential amendments to Condition ON.3, UDL.4 and UDL.15 are also required because of the change to the design.



After an assessment of the environmental effects, I consider that the alterations to the above conditions involve no more than a minor effect on the environment above that permitted by the confirmed BOI designations. The conditions as confirmed by the BOI, as amended by the minor alteration, and the inclusion of a new condition (DC.1A – refer to Section 2.1 Traffic and Transport Effects), will ensure that any potential adverse effects on the environment will be avoided, remedied or mitigated. The environmental effects are discussed further below in Section 2.1.

### **1.5. Delegated authority**

The Team Leader - Planning North West and Islands has delegated authority, in accordance with Schedule 2A of the Auckland Council Delegations: Chief Executive Officer (updated February 2017), to exercise the council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to section 181(3).

The NoR can therefore be considered by the Team Leader – Planning North West and Islands and confirmed or declined under section 181(3)(c).

### **1.6. Relevant statutory provisions**

Section 181 "Alteration of designation" of the Resource Management Act 1991 states:

- (1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*
- (2) Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*
- (3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if-*
  - (a) The alteration-*
    - (i) Involves no more than minor changes to the effects on the environment associated with the use or proposed use of land or any water concerned; or*
    - (ii) Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*
  - (b) Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*
  - (c) Both the territorial authority and the requiring authority agree with the alteration –*

*and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.*
- (4) This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.*

## **2. Analysis of the proposed alteration**

The relevant matters to consider are contained in section 181(3) of the RMA as outlined above.

### **2.1. Assessment of Environmental effects (s181(3)(a)(i))**

An assessment is required to determine whether the alteration to the conditions involves no more than a minor change to the effects on the environment above those permitted (and mitigated for) by the designations confirmed through the BOI process.

The requiring authority has provided an assessment of environmental effects (AEE) with the NoR. The following effects have been considered:

- Social
- Traffic and transport
- Archaeology and built heritage
- Cultural heritage
- Urban design and landscape
- Noise including increasing the height of the noise wall.

The requiring authority considers that the proposed alterations to the designation conditions involves no more than minor changes to the effects on the environment. The requiring authority also considers that they can still comply with the rest of the conditions with the amended design from a flyover to an underpass and the Paul Matthews Road and Caribbean Drive connection.

### **Social Effects**

The requiring authority, in its AEE, considers that the realignment and revised design of the Paul Matthews Road allows for some improvements in relation to any potential social effects. These include the following:

- SUP will be enhanced through greater separation and provides a direct connection from the area south of Caribbean Drive to Paul Matthews Road
- the visual impacts of the revised design are reduced in bulk and dominance providing improved urban amenity for the surrounding community
- viaduct design over Caribbean Drive allows for a potential additional open space area and stormwater attenuation through provision of open space amenity and potential reduction in flood risk
- off-line construction of parts of the connections allows greater construction flexibility with reduced impact on traffic, transport and earthwork requirements. This will contribute to a more efficient and expedited construction period with reduced adverse effects on the surrounding communities and businesses.

NZTA also recognises that the proposed realignment creates some potential adverse social effects due to the raised final height of the connection to SH18 compared to the BOI concept design. Potential operational noise effects were identified for up to six residential properties to the south. The mitigation proposed by the requiring authority is a slightly higher noise wall section at this location.

The requiring authority considers that there aren't any adverse social effects associated with the replacement of the SH1 southbound to SH18 overpass with an underpass and that the design provides for the following positive benefits:

- improved transport safety for users over the BOI concept design through a compliant exit ramp from SH1 in terms of sight distance and vertical grade while maintaining the weave length of the BOI concept design
- reduced height and bulk of the underpass option results in significant reduction of visual impacts
- reduced height of connection results in improved privacy for residential properties to the south with less opportunity for overlooking from traffic using the road
- consequential reduction in operational noise effects

### Comment

I agree with the requiring authority that the overall social effects of the alteration are no more than minor. I consider that the conditions as confirmed in the BOI decision will ensure that any potential adverse social effects can be mitigated, remedied or avoided.

It should be noted that Auckland Council's Urban Design Panel had reservations, within their review to the requiring authority in December 2017, about the use of the area under the viaducts as a formal area of open space. This is discussed further below in the section on urban design, visual and landscape effects.

### **Traffic and Transport**

The requiring authority has stated in its AEE that alteration will have positive effects in regards the construction traffic and transport effects in that:

- the NCI Alliance design significantly reduces disruption to traffic during construction on SH 18 and around Paul Matthews Road by avoiding the diversion of 70,000 vehicles per day.
- construction of an underpass instead of an overpass removes the need for a significant number of overnight motorway closures for the placement of bridge beams, deck pours and barriers.
- Evacuation of the underpass void will take place with live traffic travelling above and motorists will be unaware of the intensive excavation activity happening below them therefore reducing drive distraction.

The requiring authority also considers that the proposed changes will have positive effects in terms of operational traffic and transport for the following reasons:

- The underpass for the westbound link from SH1 to SH18 has improved safety aspects due to the underpass alignment providing compliant sight distances and maintaining the existing weave length between the Greville Road interchange and the SH18 off-ramp.
- the underpass for the westbound link from SH1 to SH18 has reduced grades and therefore benefits freight vehicles.

NZTA has been in consultation with Bike Auckland on the NCI Alliance design (as required by Condition UDL.15 in relation to the layout and design of the shared used path on the Paul Matthews Road overbridge). NZTA/NCI Alliance has advised that the design to date has been based on these discussions

## Comment

Duncan Tindall, consultant traffic and transport specialist for Auckland Council, has undertaken an assessment of the minor alteration (Attachment C). Mr Tindall is supportive, in principal, of the proposed amendments resulting from the changes to the design. The review has been considered in the context of the discussions that occurred during the BOI processes including Joint Witness Statements and the hearing. The issues at that time related to construction effects, pedestrian and cycle amenity, legibility of road layout and the potential affects on the Caribbean Drive arm.

As a result of further information, the following matters have had a satisfactory response:

- drawings that accompanied the application did not specifically show the Cabello Place pedestrian link as confirmed to be retained in the future through the BOI process. NZTA confirmed that this would be retained.
- the drawings did not identify where the pedestrian and cycle crossings of the Upper Harbour Highway and realigned Paul Matthews Drive were located, and how they integrated with the signal phasing. This was viewed as particularly important as a result of the discussions related to accessibility, potential severance effects during construction and post opening and the new Paul Matthew link to Caribbean Drive. Modelling provided by NZTA/NCI Alliance confirmed that the intention is to provide signalised crossings which would provide an amenity that is broadly equivalent to the confirmed BOI designation.

However, Mr Tindall still had the following concerns:

- the length of the crossing of the Upper Harbour Highway which would potentially be a barrier for some users, particularly pedestrians. However, he did not consider the proposed alteration fundamentally created a significant adverse effect although this outcome is heavily dependent on the detailed design.
- The tension with providing the level of service (LOS) for the Caribbean Drive traffic. A queue length on Caribbean Drive of 118m or less 95%ile was agreed in the Joint Witness Statement with additional modelling showing that this could be achieved (although this did not include the closely linked eastbound off ramp that had been in the initial modelling). While modelling received from the NCI Alliance individually shows that the performance of the intersection is equivalent, or better, than the confirmed designation, he has not received reassurance that it is possible to simultaneously meet the level of service for pedestrians and traffic with the proposed alteration layout.

Mr Tindall considered that there were two options available:

- That NZTA/NCI Alliance provide full modelling of the intersection, including all arms, a common cycle time and explicit representation of pedestrians which meets or exceeds to the degree that it shows that the alteration involves no more than a minor change to the effects on the environment above that of the confirmed designation.
- That an agreed condition between the council and NZTA/NCI Alliance be included that contains specific criteria for the queue length on Caribbean Drive and the cycle time (relevant to pedestrian amenity). The addition of a condition would allow the NCI Alliance to proceed with the design of the modified scheme but provide certainty

to council that the alteration to the designation 'involves no more than a minor change on the effects on the environment' above that of the confirmed designation in relation to traffic and transport.

After discussion with NZTA/NCI Alliance, it was agreed that a way forward could be the inclusion of a condition. This would also help to satisfy the requirement that the alteration involves no more than minor environmental effects in relation to this aspect of the traffic and transport effects (pedestrian and cyclist amenity). The proposed condition (or similar wording) is as below:

*'The final design shall ensure that:*

- *the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service D for any individual movement during the AM or PM peaks. In addition, the 95%ile queue on Caribbean Drive should not exceed 118m.*
- *The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled., and in the latter case require no more than two separate phases to connect between the SUP.*

Further information via emails, dated 18 April 2018 and 30 April 2018, was provided by NZTA/NCI Alliance (refer to Attachment D). Mr Tindall still considers that the effects on pedestrians and cyclists is more than minor and that it is important that the queue length of 118m is retained. However, if the assessment of the overall transport effects is considered then potentially the effects are minor taking into account the large number of motorists that benefit against the smaller number of pedestrians and cyclists disadvantaged.

NZTA/NCI Alliance consider that the additional modelling shows that the level of service can be met (but that the condition needs to align with NZTA's Minimum Requirements (MRs) of LOS E) and that the increase in travel and wait times for pedestrians and cyclists are no more than minor and therefore a condition is not required. They also consider that the queue length can be achieved through the design but would not accept this to be part of a condition as there may be times where queuing is longer than 118m and would not comply with the condition. However, NZTA/NCI Alliance has agreed that if Auckland Council considers a condition is required then the following condition is acceptable:

*'DC.2A*

*Where there are changes to layout and crossings the final design shall ensure that:*

- *the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service E for any individual movement during the AM or PM peaks.*
- *The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled'.*

I recommend that the condition as above be included to provide certainty to Auckland Council that the alteration involves no more than minor environmental effects above that permitted by the BOI confirmed designations in relation to traffic and transport.

### **Archaeology, Built and Cultural Heritage**

The requiring authority provided an archaeological assessment with the original NoR applications. The assessment concluded that there were no heritage sites recorded within the Project corridor, and there was no indication through subsequent field surveys and assessment of any areas with archaeological or heritage potential. Therefore, the requiring authority considers that the design changes will not alter the effect on archaeology and built heritage.

In relation to cultural heritage, the requiring authority has engaged throughout the Project with mana whenua groups and with the Central-North Area Iwi Integration Group (IIG). Mana Whenua feedback has been incorporated into the Project and includes the following:

- detailed design of structures to develop a cultural narrative (designation)
- stormwater management and treatment (resource consent)
- avoidance of adverse effects on indigenous bird species and lizards (resource consent)
- flocculation treatment (resource consent)
- management of contaminated land associated with earthworks (resource consent)
- input into management plans (both designations and resource consents)

The requiring authority considers that the proposed alterations to the conditions do not impact the cultural values of mana whenua as expressed and considered through consultation and the BOI process. The relationship with mana whenua through IIG and adherence to the conditions and management plans will continue through the lifetime of the project. Therefore, the requiring authority considers that the proposed changes will have no effect on cultural heritage values.

### Comment

The council's submission on the original NCI applications to the Environmental Protection Agency (EPA) was limited to specific matters that were of concern to the council, such as traffic, stormwater, noise and vibration, urban design, landscape and visual, and effects on public reserves. A full assessment of archaeology or cultural and built heritage was not undertaken. However, the AUP objectives, policies and overlays were assessed, in relation to earthworks, as part of the planning evidence for the BOI hearing which stated as follows:

*'While there are no sites and places of significance to Mana Whenua identified in the AUP and the area within the Proposal is highly modified, there is still the possibility of accidental discovery of kōiwi, archaeology or artefacts of Māori origin. NZTA has addressed archaeology and historic heritage effects, in Section 9.12 of the AEE, and provided mitigation through proposed conditions (ARC.1 to ARC.5). Condition ARC.1 requires NZTA to appoint a suitably qualified archaeologist to oversee the earthworks required for the Proposal. Condition ARC.2 requires a contractor's briefing by the Project Archaeologist which needs to include the appropriate procedures to follow if archaeological or historic heritage materials are uncovered when the Project Archaeologist is not on site to safeguard the materials. I consider that the Proposal is generally consistent with Policy 11.3(3).'*

My view remains the same as above and I agree that the minor alteration does not involve a change to the effects on archaeology or built and cultural heritage above that permitted by

the confirmed designations. It should be noted that the archaeological conditions are attached to the resource consents. In relation to cultural heritage, conditions attached to the designations, as confirmed by the BOI, require that the IIG, as a key stakeholder, are consulted with during the project. In addition, Condition UDL.11 requires that the Urban Design Landscape Plans are prepared in partnership with the IIG.

## **Urban Design, Landscape and Visual**

### *Visual impact assessment*

The requiring authority states the following in its AEE:

*'The underpass has little or no visual impact on the surrounding environment as it has been designed as a gradual decline from the existing SH1 road alignment to pass under SH1 as SH1 is rising in a southbound direction. As the underpass replaces the need for elevated viaduct structures the overall effect of the underpass on visual impact is positive.*

*Like the BOI concept design, the westbound on-ramp originates from the Caribbean Drive intersection and the eastbound off-ramp joins Paul Matthews Road at a newly formed signalised intersection'.*

The BOI concept design overbridge at Paul Matthews Road required the lowering of SH18 by four metres below existing ground level. The alternative NCI Alliance detailed design, now only lowers the existing ground level by 0.7 metres. The westbound road alignment is lower by approximately 14 metres nearer SH18/SH1 because of the proposed underpass rather than the BOI design viaduct structure.

The Requiring Authority has assessed the difference in visual and landscape effects between the BOI design and the NCI Alliance detailed design. This included using Autodesk Infracore which was used to create models of the BOI and NCI Alliance designs to understand the differences in visibility. The visibility assessment concludes that the extent of visibility of the two models can be seen to be similar in area but there are some differences in locations that gain views to the proposed motorway. These differences are predominantly that the BOI concept design is more visible from Barbados Drive and the eastern higher ground of Santiago Crescent, while the NCI detailed design is more visible from the central SH18 area.

A visual impact assessment was also undertaken by a landscape and visual impact assessment specialist. The findings of the visibility assessment were used to assess the scale of the landscape and visual effects associated with the NCI Alliance detailed design. The AEE concludes the following:

- the NCI Alliance design will result in less residential properties being visually affected than the BOI design and there is no increase in the scale of impact
- there are some properties in the lower Barbados Drive and Caribbean Drive area that now may be able to view the NCI alignment.
- The overall assessment of the properties above remains low and the scale of the change in effects for these properties is no more than minor, given the NCI detailed design is lower, the distance from the road (approximately 150 metres), and intervening buildings and trees
- there will still be a number of properties directly adjacent to SH18 that will experience effects. These effects will be reduced once the planting mitigation is established and the noise and landscape walls installed.

The requiring authority considers that based on the visual impact assessment and mitigation required by conditions, and proposed in the UDLP, the change in the scale of visual effects for properties that have visibility of the Project is no more than minor.

#### *SH18 Noise Wall*

A higher noise wall of four metres, compared to 3 metres required by Condition ON.3, is required adjacent to SH18 between 13 Wren Place and 49 Barbados Drive. Due to the road alignment and ground levels in this area, because of the changes in design of the Paul Matthews Road/Caribbean Drive connection, a portion of the noise wall will be retaining wall. This effectively replaces the existing embankment and the maximum height above ground level which will be visible to adjoining properties is up to 2 metres.

The height in the wall has been assessed in terms of visual and shading impacts on the adjacent properties. The visual impact assessment concludes that whilst up to 2 metres of the wall will be visible, any potential visual effects can be effectively mitigated through the retention of existing planting and new planting. There is a potential increase in shading on some properties during June. However, existing shading currently occurs due to other shading sources along the affected properties such as neighbouring buildings or existing trees. These have been excluded from the assessment but do contribute to overall shading on the properties.

The requiring authority considers that the effects of the noise wall due to shading and amenity values are no more than minor. When existing sources of shading are considered, the effects of the increased height of the noise wall on shading is not likely to be discernible to residents.

#### Comment

Stephen Brown, consultant urban design and visual landscape specialist for Auckland Council, has undertaken an assessment of the minor alteration (Attachment E). He generally concurs with the findings of the Isthmus Group's appraisal of the revised proposal's effects. However, he has one area of concern in relation to the new elevated overpass over Caribbean Drive. His report states the following:

*'The increase in 'blue houses' in Isthmus Group's Figure 1 and 'blue areas' in their Figure 3 appears to reflect the increasing visual presence of the overpass, especially around Cabello Place and Santiago Crescent. Whereas the original embankments were to be both planted and (around their lower margins) grassed, the new 'overbridge' would retain a more structural profile, with its ramparts, piers, side walls, lighting and other elements facing housing to the immediate south of SH18. It would clearly be a "bridge" and traffic movements across it would also be clearly apparent.*

*In this regard, it is also noteworthy that the Council's UDP review of the modified NCI (14th December 2017) commented as follows on the new interchange:*

#### **Possible 'Open Space Frame'**

*The Panel considers that from an urban design perspective there is very little benefit to be gained from the 'open space frame' concept for the area under the proposed Viaduct due to its restricted access and visibility from surrounding land-uses.*



*The Panel would support a realignment of the SUP along the northern side of Caribbean Drive and designed to provide a physical separation between vehicles and the SUP.*

*The Panel suggests that the use of the space adjacent to the Viaduct be utilised for native bush planting, inclusive of larger-growing trees, to help screen and visually absorb the flyover and support the future ecology of the area.*

*I agree with, and support, these findings. In my opinion, every effort should be made to screen and buffer the new overpass, with tree and shrub planting across its embankments as well as within the suggested 'open space / recreation space' under, and around, the viaduct. In my assessment, this would help to reduce the effects of the revised proposal in the vicinity of both Caribbean Drive and Paul Matthews Road – to the point where the resulting level of effect more closely approximates that anticipated in relation to the original NCI proposal.*

*Without such planting, the overpass, and vehicle movements on it, would generate a level of visual effect not fully anticipated in the course of the BOI process and hearing. As such, it is considered important that mitigation in line with these comments is provided. In all other respects, the revised NCI proposal is considered to be appropriate and acceptable'.*

He considers that with the mitigation proposed above the alterations will 'involve no more than a minor change to the effects on the environment'.

An email, dated 7 March 2018, was forwarded to the requiring authority requesting a response. A response from the requiring authority was received by email on 12 March 2018 and states:

*'Thanks for your email. In response to Stephen Browns review I can now confirm that the NCI design will no longer feature an open space around the viaduct. Instead the area is to be planted for various reasons including visual mitigation.*

*Planting plans are still being finalised, but they will include:*

- *Rows of specimen tree planting of Kauri and Nikau to the outside edges of the overpass and between the northbound and southbound structures.*
- *A planting mix for the area that consists of planting that is 9% tree, 57% shrub and 34% groundcover.*
- *Planting will cover the embankments and extend underneath the structures where applicable'.*

In response to the above, Stephen Brown has provided the following comment:

*'In my assessment, this would help to reduce the effects of the revised proposal in the vicinity of both Caribbean Drive and Paul Matthews Road – to the point where the resulting level of effect is aligned with that anticipated in relation to the original NCI proposal. Accordingly, any increase in amenity effects generated by the revised proposal would be 'less than minor' to 'minor' and are considered acceptable in relation to my assessment of the NCI project'.*

I agree with Mr Brown's statement. The council will also be able to provide comment on the landscape plan when this is submitted. Condition DC.6 (c) requires that UDLP(s) are prepared in accordance with UDL.1 to UDL.12 as part of the OPW process. Any amendments are to be discussed with and submitted to the council for information. A further OPW is required if the amendments result in materially different effects to the described in the original UDLP.

## Noise

### *Operational Noise*

The requiring authority considers that the effects of the NCI design change on operational noise levels are no more than minor. Modelling of the noise walls shows that an increased barrier of four metres between 14 Wren Place and 49 Barbados Drive will be effective in reducing predicted noise levels to the same as those predicted for the BOI design.

### *Construction Noise*

The requiring authority concludes that there will no more than minor changes in effects due to the changes in design. A summary has been provided of the difference in the effects generated by the NCI Alliance construction activities and alignment compared to the BOI anticipated construction noise and vibration effects. These are as follows:

- properties identified as receiving construction noise and vibration which exceed the designation conditions are very similar due to mitigation employed to reduce the impacts
- more Protected Premises and Facilities (PPFs) are identified as being affected due to night time works in the Construction Noise and Vibration Plan (CNVP) than in the BOI noise assessment because of the increase in the night time construction noise sources modelled
- areas requiring specific noise and vibration plans have been identified allowing for consultation with these parties
- noise and vibration contour mapping has been produced and mitigation measures at source and through early construction of noise walls identified
- mitigation mechanisms and pre-construction building inspections to manage risk associated with construction vibration have been identified.

A process has been developed to ensure any complaints received by community engagement personnel are relayed to the environmental manager where compliance is at risk.

### Comment

Rhys Hegley, consultant noise and vibration specialist for Auckland Council, has undertaken an assessment of the proposed alterations (Attachment F). His report states:

*'The BOI Alignment, via ON. 3, included a 3.0m high barrier between chainage 1280 to 1410 to screen PPFs on Barbados Drive and Wren Place. To remain compliant with ON. 2, it was found that this barrier needed to increase in height by 1.0m so that there would be no change in noise level to the six PPFs on Barbados Drive and Wren Place. There appears to be some differences between the way that the Operational Noise Assessment and the Proposed Alteration report describe this proposed change to the barrier height, which relates to the fact that the ground level beneath the barrier will also change. After talking to the author of the Operational Noise Report, it is my understanding that:*

- a) The BOI Alignment had a 3.0m barrier from chainage 1280 to 1410;*
- b) The NCI alignment proposes to increase the height of this barrier by 1.0m to 4.0m;*
- c) As the topography slopes up from the road to the PPFs, an option being considered by the NCI team is to construct a 2.5m high retaining to lift the ground behind the*

*retailing wall and then add a 1.5m high barrier on top. This gives an effective screening of 4.0m as described in the Proposed Alteration report.*

*This effective increase in barrier height requires an alteration to ON. 3iii), which is the subject of the application'.*

He concludes:

*'The Proposed Alteration to Designation report concluded that the noise effects of the proposed NCI carriageway realignment with the barrier extended to 4m will be no more than minor. Given that the reported levels will increase by not more than 2dB at up to seven PPFs and the changes in level remain compliant with the requirements of ON. 2, I agree with this conclusion'.*

## **2.2. Assessment of minor changes or adjustments to the boundary (s181(3)(a)(ii))**

The alteration to the designation does not involve any changes to the boundary of the existing designation.

## **2.3. Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners and occupiers agree with the alteration (s181(3)(b))**

The requiring authority considers that Auckland Council is the only owner or occupier of land directly affected by the alteration to the designation.

The location of the new SH1/SH18 underpass and reconfiguration of the Paul Matthews Road and Caribbean Drive connection sits entirely within the designation boundaries confirmed through the BOI process. A large proportion of the land is owned by NZTA within its existing highway corridors. The areas of land currently not owned by NZTA, such as Watercare's land on the south-eastern side of SH1 and Auckland Council reserve land at Constellation Reserve and Rook Reserve, are currently going through other processes e.g. acquisitions under the Public Works Act, temporary occupation agreements, or easements etc. There are also other separate agreements outside of the designation conditions with various parties including Auckland Transport. The proposed alterations do not have any effect on these separate processes.

## **2.4. Agreement of both the territorial authority and the requiring authority (181(3)(c))**

The alteration to the designation has been requested by the requiring authority, and therefore it agrees to the alteration. Auckland Council agrees with the proposed alteration for the following reasons:

- The alteration involves no more than minor changes to the environmental effects
- The alteration does not involve any changes to the boundary
- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- Adherence with recommended conditions will ensure any potential adverse effects are avoided, remedied or mitigated.

### 3. CONCLUSIONS AND RECOMMENDATIONS

#### 3.1. Conclusions

The proposed alteration meets the statutory tests of Section 181(3) of the Resource Management Act 1991, in that:

- The alteration involves no more than minor changes to the environmental effects.
- Existing conditions as amended will ensure any potential adverse effects are avoided, remedied or mitigated.
- There are no changes or adjustments to the boundaries of the existing designation.
- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- The council and the requiring authority agree with the alteration.

#### 3.2 Recommendation

1. That pursuant to Section 181(3) of the Resource Management Act 1991, the New Zealand Transport Agency's notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed**.
2. That the designations as listed above are amended in Chapter K Designations in the Auckland Unitary Plan Operative in part as recommended in Section 4 and Attachment B of this report.

#### 4. Agreed alterations

The agreed text alterations are as set out in Section 1.4. The recommendation of the inclusion of a new condition (Condition DC.2A – refer to Section 2.1 Traffic and Transport effects) has also been agreed to by NZTA. A full set of the designation conditions is attached (Attachment B). Amendments are shown as either strikethrough or bold and underlined.

Date: 7/05/2018

**Report Prepared by:**

Jo Hart

Principal Planner

Planning North West and Islands



**5. SECTION 181(3) DETERMINATION**

Having read the council planner's report and recommendations on the notice or requirement, I am satisfied I have adequate information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision under delegated authority.

Accordingly, the notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed** under section 181(3) of the RMA.

Name: David Sanders

Title: Team Leader – Planning North West and Islands

Signed: 

Date: 8/5/18

**SCHEDULE OF ATTACHMENTS**

- Attachment A:** Section 181(3) Notice of Requirement
- Attachment B:** Amended Designation Conditions
- Attachment C:** Traffic and Transport Assessment
- Attachment D:** Further information – traffic and transport
- Attachment E:** Visual and Landscape Assessment
- Attachment F:** Noise Assessment



# Notice of requirement for a minor alteration to a designation under section 181(3) of the Resource Management Act 1991



## Notice of requirement description

Designation number:	Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; Designation 6758: Constellation Drive Station.
Requiring authority:	New Zealand Transport Agency
Site address:	Various – between Oteha Valley Road and SH1/SH18 intersection and along SH18 to Albany Highway.

## Summary

Auckland Council has received a request from the New Zealand Transport Agency under section 181(3) of the Resource Management Act 1991 (RMA), dated 28 June 2018, to alter designations associated with the Northern Corridor Improvements Project (Attachment A).

It is considered after undertaking an assessment of the notice, that the proposed alteration meets the statutory tests of section 181(3) of the RMA and can therefore be processed and confirmed as a minor alteration.

## Recommendation

1. That the proposed alteration of Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; and Designation 6758: Constellation Drive Station in the Auckland Unitary Plan be **confirmed**, subject to the amended conditions (Attachment B) for the following reasons:
  - the alteration involves no more than minor changes to the effects on the environment associated with the use of the land;
  - there are no adjustments to the boundaries of the existing designation;
  - both the requiring authority and Auckland Council agree with the alteration; and
  - the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
2. That the text for the Designations, as listed above, is altered in Chapter K Designations in the Auckland Unitary Plan.

## **1. Background**

### **1.1. Minor alteration to a designation**

Auckland Council has received a notice of requirement (NoR) for an alteration to designations associated with the Northern Corridor Improvements Project (NCI), as listed above, from the New Zealand Transport Agency under section 181(3) of the RMA.

The alteration is required to modify conditions attached to the existing designations associated with State Highway 1, State Highway 18 and the Constellation Bus Station. These designations were included in the Board of Inquiry (BOI) process as part of the NCI. However, the existing conditions were not considered during the BOI process or included in the BOI decision, dated 16 November 2017. It should be noted that there has also been a earlier section 181(3) notice of requirement for a minor alteration, dated 15 February 2018, which amended the BOI decision conditions.

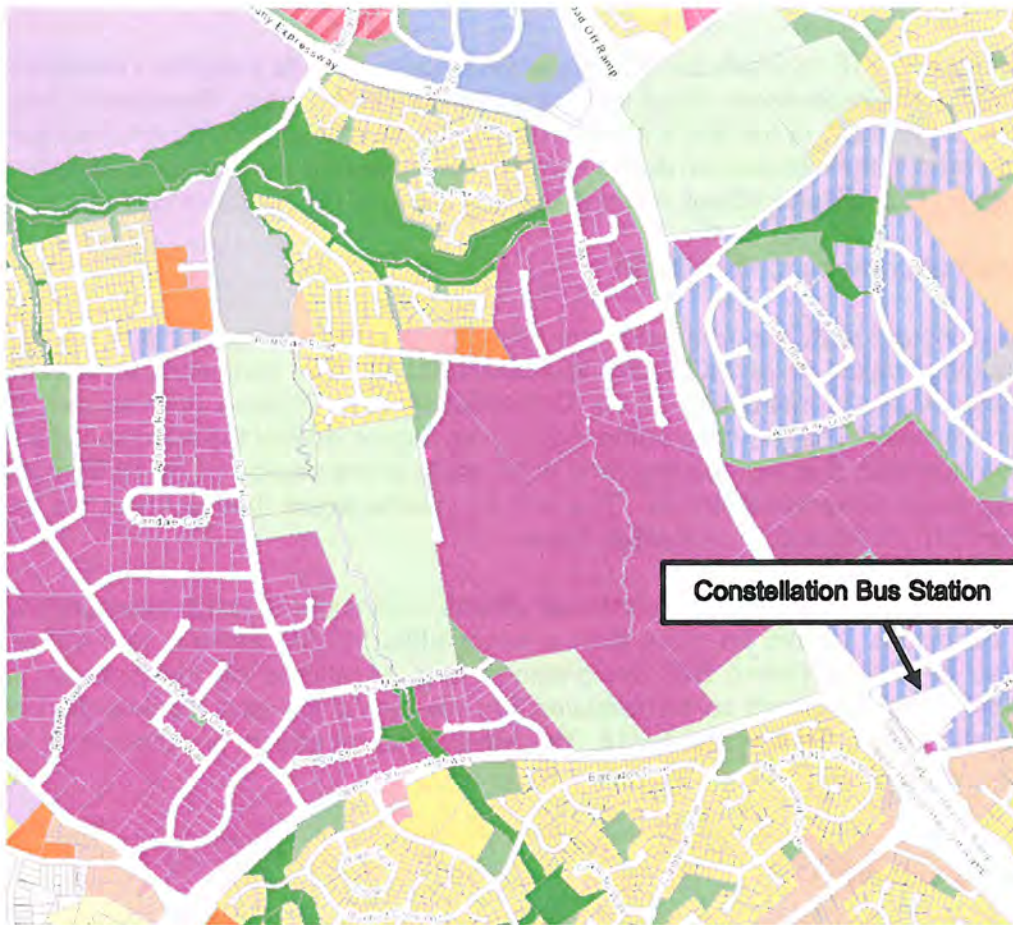
Amendments are now required to either remove obsolete construction conditions, or to renumber ongoing operational conditions, from the existing designations. This will allow for the conditions from the BOI decision, along with the changes from the previous alteration to be inserted cleanly into the AUP.

There are no alterations proposed to the boundaries of the designations.

### **1.2. Land affected by the alteration**

The land affected by the alteration to the designation is located around State Highway 1, State Highway 18 and the Constellation Drive Bus Station as shown in the Auckland Unitary Plan map below:





Map 1: AUP map showing vicinity of proposed alterations.

### 1.3. Description of the site and existing environment

The section of State Highway 1 (SH1), to which the NCI conditions apply, extends from Oteha Valley Road in the north to the intersection of the SH1 and State Highway 18 (SH18). The area affected by this alteration, and to which the existing conditions apply, extends from the Greville Road intersection with SH1 to the intersection with SH18 and Constellation Drive. The land to the north-west of the Greville Road intersection is zoned Business – Business Park and consists of established, newly developed or currently being constructed business buildings. The land immediately to the north-east is zoned Residential – Mixed Housing Suburban and this part of the subdivision is currently still in the process of being constructed with the roading network and services for the individual sections in place.

The intersection of SH1, SH18 and Constellation Drive is further to the south. The land to the west of SH1 is zoned Business – Light Industry between Greville Road and SH18. This land consists of established large lot business activities and land owned and occupied by Watercare Services Limited (Watercare). There is also a portion of land adjacent to SH18, known as Constellation Reserve, which is zoned Open Space – Sports and Active Recreation. The former Rosedale landfill, zoned Open Space – Sport and Active Recreation is immediately to the south-east of the Greville Road intersection. The land between this and Constellation Road is zoned Business – General Business and Business Light Industry and consists of established business activities and further land owned by Watercare (Pond 2).

The section of SH18 to which the NCI conditions apply extends from the intersection of SH1, SH18 and Constellation Road to Albany Highway in the west. Residential housing is located to the south of the SH18 alignment. The Constellation Bus Station is located to the south-east of the intersection and is currently accessed via the Constellation off-ramp and crossing Constellation Drive to get to the beginning of the Northern Busway.

#### **1.4. Proposed alterations to conditions**

The requiring authority has requested the alteration of conditions on three of the existing designations subject to the NCI (refer to Attachment B). The conditions to be removed are related to the construction of the Constellation Drive Station built as part of the Northern Busway. The requiring authority has also requested that the conditions for SH18 be restructured so that the existing conditions apply to the section of SH18 from Albany Highway to the Greenhithe Bridge. The NCI conditions would then apply to the section from the SH1, SH18 and Constellation Drive.

After an assessment of the environmental effects, I consider that the alterations to the above conditions involve no more than a minor effect on the environment above that permitted by the confirmed BOI designations, and as altered by the previous minor alteration. The conditions to be removed are related to the prior construction of the Constellation Drive Station and SH18. The environmental effects are discussed further below in Section 2.1.

#### **1.5. Delegated authority**

The Team Leader - Planning North West and Islands has delegated authority, in accordance with Schedule 2A of the Auckland Council Delegations: Chief Executive Officer (updated February 2017), to exercise the council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to section 181(3).

The NoR can therefore be considered by the Team Leader – Planning North West and Islands and confirmed or declined under section 181(3)(c).

#### **1.6. Relevant statutory provisions**

Section 181 "Alteration of designation" of the Resource Management Act 1991 states:

- (1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*
- (2) Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*
- (3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if-*
  - (a) The alteration-*
    - (i) Involves no more than minor changes to the effects on the environment associated with the use or proposed use of land or any water concerned; or*

(ii) *Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*

(b) *Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*

(c) *Both the territorial authority and the requiring authority agree with the alteration –*

*and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.*

(4) *This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.*

## **2. Analysis of the proposed alteration**

The relevant matters to consider are contained in section 181(3) of the RMA as outlined above.

### **2.1. Assessment of Environmental effects (s181(3)(a)(i))**

An assessment is required to determine whether the alteration to the conditions involves no more than a minor change to the effects on the environment above those permitted (and mitigated for) by the designations confirmed through the BOI process, and as amended by the previous alteration.

I consider that the alteration involves no more than a minor effect on the environment above the permitted baseline. The removal of obsolete conditions is administrative in nature and will allow for the clean integration of the NCI conditions into the Auckland Unitary Plan.

### **2.2. Assessment of minor changes or adjustments to the boundary (s181(3)(a)(ii))**

The alteration to the designation does not involve any changes to the boundary of the existing designation.

### **2.3. Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners and occupiers agree with the alteration (s181(3)(b))**

The requiring authority has not considered whether there are owners or occupiers directly affected by the alteration.

A large proportion of the land is owned by NZTA within its existing highway corridors. The areas of land currently not owned by NZTA, such as Watercare's land and Auckland Council reserve land at Constellation Reserve and Rook Reserve, are currently going through other processes e.g. acquisitions under the Public Works Act, temporary occupation agreements, or easements etc. There are also other separate agreements outside of the designation conditions with various parties including Auckland Transport. The proposed alterations do not have any effect on these separate processes.

The land at the Constellation Drive Station is owned by Auckland Council. There are also 2 Auckland Transport designations which sit on this land (Designation 1420: Constellation Bus Station and Designation 1428: Constellation Drive Station). Whilst the AUP doesn't show which is the primary designation, NZTA have advised that it is their designation. Research into the history of the Northern Busway designations shows that the NZTA designation was NOR 3 whereas the former North Shore City Council designations (now AT), was NOR 10. This would indicate to me that that NZTA designation is the primary designation.

The documentation for this notice of requirement was forwarded to Auckland Transport for their comment. Alastair Lovell from Auckland Transport has provided comment on NZTA's proposed removal of conditions. He has concerns around the removal of Condition 2 unless NZTA can confirm that the removal will not result in an impact on AT's bus operations either during or post construction. Condition 2 states the following:

*'2. That should the New Zealand Transport Agency construct additional lanes on the state highway between Constellation Drive and Greville Road before construction of the busway priority lane provided for by this requirement the construction of the additional lane shall be undertaken in a manner which does not preclude subsequent construction of the priority lane.'*

I consider that the removal of this condition is not an issue. Condition 2 relates to the construction of the additional lane between Upper Harbour Highway and Greville Road. The configuration of the highway will be different with traffic still able to access SH1 from Constellation Drive which will then merge with traffic using the direct connection from the west to the north. The bus priority lane will not exist after the NCI works for the busway and SUP have been completed. The reference to 'this requirement' is to the alteration which provided for the construction of the additional lane (and bus priority lane) and not to this minor alteration. In addition, the NCI conditions also apply to this section of SH1. The Construction Traffic Management Plan conditions CTMP.1 to CTMP.6D requires NZTA to avoid or mitigate the adverse effects on traffic safety and efficiency. Conditions CTMP.5 to CTMP.6D requires the preparation of a specific Public Transport Traffic Management Plan (PTTMP) in consultation with Auckland Transport. The purpose of the PTTMP is to define the process for identifying and managing the potential effects of the NCI project on bus services.

Mr Lovell also has concerns that NZTA has not provided evidence that the conditions to be removed have been met. I consider that the environmental effects of removing these conditions is less than minor, administrative in nature and enables the clean integration of the NCI conditions in to the AUP. The designation as confirmed by the BOI provides for proposed works at the bus station which will alter the current layout and landscaping. The NCI conditions apply to the designation and the proposed works and includes conditions to mitigate the potential effects on bus services as well as provide for landscaping. Conditions UDL.1 to UDL.15 requires NZTA to submit an Urban Design Landscape Plan as part of the Outline Plan of Works. Condition UDL.4(b) specifically relates to the urban design and landscape treatment of the new structures at both the Constellation and Albany Bus Stations. The NCI conditions also include those for noise and vibration (both construction and operational) and a stakeholder and communications plan. Auckland Transport is specifically listed in Condition SCP.6(b) and has other agreements with NZTA outside of the designation conditions.

#### **2.4. Agreement of both the territorial authority and the requiring authority (181(3)(c))**

The alteration to the designation has been requested by the requiring authority, and therefore it agrees to the alteration. Auckland Council agrees with the proposed alteration for the following reasons:

- The alteration involves no more than minor changes to the environmental effects
- The alteration does not involve any changes to the boundary
- the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- Adherence with recommended conditions will ensure any potential adverse effects are avoided, remedied or mitigated.

### 3. CONCLUSIONS AND RECOMMENDATIONS

#### 3.1. Conclusions

The proposed alteration meets the statutory tests of Section 181(3) of the Resource Management Act 1991, in that:

- The alteration involves no more than minor changes to the environmental effects.
- Existing conditions as amended will ensure any potential adverse effects are avoided, remedied or mitigated.
- There are no changes or adjustments to the boundaries of the existing designation.
- the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- The council and the requiring authority agree with the alteration.

#### 3.2 Recommendation

1. That pursuant to Section 181(3) of the Resource Management Act 1991, the New Zealand Transport Agency's notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; Designation 6758: Constellation Drive Station is **confirmed**.
2. That the designations as listed above are amended in Chapter K Designations in the Auckland Unitary Plan Operative in part as recommended in Section 4 and Attachment B of this report.

#### 4. Agreed alterations

The agreed text alterations are as set out in Section 1.4. A full set of the designation conditions is attached (Attachment C). Amendments are shown as either strikethrough or bold and underlined.

Date:

**Report Prepared by:**

Jo Hart

Principal Planner

Planning North West and Islands

**5. SECTION 181(3) DETERMINATION**

Having read the council planner's report and recommendations on the notice or requirement, I am satisfied I have adequate information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision under delegated authority.

Accordingly, the notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed** under section 181(3) of the RMA.

Name: David Sanders

Title: Team Leader – Planning North West and Islands

Signed:



Date:

31/7/18.

**SCHEDULE OF ATTACHMENTS**

**Attachment A:** Notice of Requirement  
**Attachment B:** Designation Condition Table  
**Attachment C:** Amended Conditions

## 6756 State Highway 18 - Upper Harbour Highway

Designation Number	6756
Requiring Authority	New Zealand Transport Agency
Location	State Highway 18 (Upper Harbour) from west of Paul Matthews Road, Rosedale to Upper Harbour Bridge, Greenhithe
Rollover Designation	Yes
Legacy Reference	Designation 160, Auckland Council District Plan (North Shore Section) 2002
Lapse Date	Given effect to (i.e. no lapse date)

### Purpose

State Highway 18 - the control, management and improvement of the State Highway, including planning, design, research, construction, operation and maintenance relating to all land within the State Highway designation and in accordance with the Government and Roading Powers Act 1989.

### Conditions

**The following conditions apply to the section of the State Highway 18 from the west of the Albany Highway Interchange to the Upper Harbour Bridge, Greenhithe only.**

#### 1. General

- i. The scope and extent of the works envisaged within the designation shall be generally in accordance with the requirement, the plans contained in "Appendix C – Designation Drawings" accompanying the Notice of Requirement, and the relevant detailed plans in the Technical Documents in Appendix A, subject to the final design and the conditions set out below and modifications to the designation boundaries approved by the Environment Court.
- ii. Prior to any works being commenced the New Zealand Transport Agency shall obtain all requisite resource consents under the Resource Management Act 1991, including the Auckland Council's relevant Regional Plans.
- iii. The New Zealand Transport Agency and its contractors, in addition to complying with any other construction-related conditions, shall take all reasonable steps to avoid, minimize or mitigate any nuisance or damage (including dust and ground vibration) to adjacent properties during construction.
- iv. Any land taken or held for the works shall be maintained to a reasonable standard until physical works commence.
- v. At all times reasonable vehicular access shall be maintained to private properties not directly affected by construction and/or operation. Where private properties are directly affected by construction and/or operations causing vehicular access to be temporarily prevented and no alternative can be utilised, the New Zealand Transport Agency shall ensure that the property owner is consulted about the most suitable time for carrying out the work and the New Zealand Transport Agency shall minimize the period during which vehicular access is prevented.
- vi. A permanent liaison person shall be immediately appointed for the duration of the Highway project to be the main and readily accessible point of contact for all persons affected by the designation and construction works. The liaison person's name and contact details shall be advised to affected parties by the New Zealand Transport Agency. This person must be available for ongoing consultation on all matters Auckland Unitary Plan Operative in part

of concern to affected persons.

vii. The New Zealand Transport Agency shall use its best endeavours to ensure that all existing network utility services are protected during construction phases of State Highway 18 and that adequate access (other than from the Highway itself) is provided to all such services for operational and maintenance purposes.

viii. All contract documentation for physical works shall include copies of the designation conditions, any other resource consents (including conditions) and any approved outline plan(s) held for the project.

ix. The New Zealand Transport Agency shall use its best endeavours to secure the requisite funding to enable it to complete the earthworks for the ultimate 4-lane width of the Highway at the time of initial construction.

x. For the purposes of these conditions, in determining whether a proposed activity is “practicable”, the New Zealand Transport Agency shall have regard to:

- a. The nature of the proposed activity; and
- b. The sensitivity of the environment which will be affected by the proposed activity; and
- c. The financial implications of the proposed activity when compared with other options; and
- d. The effects on the environment of the proposed activity when compared with other options; and
- e. The current state of technical knowledge and the likelihood that the proposed activity can be successfully carried out.

xi. The works which are the subject of conditions 2.i., 4.ii., 4.v., 5.i. and 6.i. below shall not be implemented until the relevant Management or Mitigation Plans are finalized:

- a. In the manner requested by the Auckland Council, which requests must be made within a reasonable timeframe, or if the New Zealand Transport Agency does not accept the Council’s requests for finalization of any part(s) of the Plan(s), then;
- b. In accordance with section 176A of the Resource Management Act 1991 as to any part of a Plan in respect of which the New Zealand Transport Agency and the Council have been unable to reach agreement pursuant to subclause (a) above.

## **2. Dust and Ground Vibration Management Plan**

i. Prior to the commencement of any construction activity authorised by the designation (excluding site investigations), the New Zealand Transport Agency shall ensure that a Dust and Ground Vibration Management Plan is prepared and submitted to the Manager Resource Consents, Auckland Council (or equivalent officer if that position no longer exists).

ii. The purpose of the Dust and Ground Vibration Management Plan is to set out methods by which any dust nuisance from construction will, as far as practicable, be avoided or minimized and by which the possibility of ground vibration during construction can be notified to adjacent land owners and occupiers. In particular, the Dust and Ground Vibration Management Plan shall identify:

a. Specific methods by which dust will be managed, including cleaning vehicle wheels or tracks before vehicles enter public roads, wetting or covering surfaces and remediation of disturbed areas;

b. Monitoring, auditing and reporting procedures;



c. Contingency measures to ensure that, in the event of any dust nuisance arising, remedial measures are implemented (including cleaning out and refilling of roof-water tanks on properties adjoining the designation as necessary, if water in those roof-water tanks becomes unpotable);

d. Procedures for prior notification to affected land owners and occupiers of the use of machinery likely to generate vibration effects beyond the area of the designation; and

e. Procedures for handling any dust and ground vibration complaints.

iii. The New Zealand Transport Agency shall ensure that the Dust and Ground Vibration Management Plan is complied with at all times during construction work.

### **3. Social Impact Mitigation**

i. Should construction work uncover any archaeological remains, the New Zealand Transport Agency will immediately advise local Kaumatua and Heritage New Zealand and cease working in the affected area until any necessary authority required by Heritage New Zealand is obtained. (All archaeological sites are protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014, whereby it is unlawful to modify, damage or destroy an archaeological site, whether recorded or not, without the prior consent of Heritage New Zealand.

ii. Where requested by the owners, the New Zealand Transport Agency shall physically peg out the extent of the alignment on individually affected properties once the designation has been confirmed or all appeals have been determined, whichever is the later.

iii. If any or all of the properties at numbers 105, 175 and 177 Kyle Road affected by the alignment are in private ownership at the time of construction of the alignment then the New Zealand Transport Agency, in consultation with the affected owner(s), shall provide suitable alternative access to the said property or compensate the owner(s) in compliance with the Public Works Act 1981.

iv. Within 12 months of the date of the sealing of the Consent Order determining the Vector appeal (RMA 1175/99), Vector, in consultation with the Vector Limited (or its successor), shall provide a suitable alternative substation site adjacent to the existing site. The new substation site shall be located fronting Kyle Road, shall be of the same land areas as the existing site and, subject to the relevant provision of the Resource Management Act 1991, shall be designated in the District Plan in accordance with the relevant provision of the Act.

v. The New Zealand Transport Agency shall provide footpaths on both sides of structures proposed to carry existing roads across the motorway at Albany Highway, Greenhithe Road and Tauhinu Road, and on one side of the structure proposed to carry the existing road across the motorway at Ashby Place.

vi. The New Zealand Transport Agency shall ensure that the design and construction methods for the Highway do not preclude the achievement of the required linkages in the Unitary Plan and in the Greenhithe South Structure Plan.

vii. The New Zealand Transport Agency shall provide lighting along the entire route to the New Zealand Transport Agency's normal urban arterial standards.

viii. The intersection of the Ashby Place extension with Upper Harbour Drive shall be designed to provide sufficient sight distance for a 60 km/hr design speed west-bound on Upper Harbour Drive and for a 70 km/hr design speed east-bound on Upper Harbour Drive.

ix. The New Zealand Transport Agency shall construct that section of State Highway 18 which is the

subject of this designation as a route suitable for appropriate over-dimension vehicles.

x. In carrying out detailed design, the New Zealand Transport Agency shall consult with the owners of 30 Wicklam Lane and implement the following mitigation measures to minimise the adverse effects on that property:

a. The minimisation of the land take from the property;

b. The minimization of the size of the settlement pond on the property;

c. Prior to opening of the motorway to traffic, noise mitigation measures shall be implemented so as to achieve compliance with noise conditions 4(i) to 4(vi) below, but in any event, a noise design level of 55dB(A) Leq (24 hours) shall apply and shall relocate or replace to a similar standard the affected vegetation on the property (including the Tasmanian Blackwood trees).

xi. In relation to the property at 38 Wicklam Lane, Greenhithe, being Lot 6, DP 102714 and Part Allotment 84 Parish of Paremoremo ("the property"), the New Zealand Transport Agency shall:

a. Design and implement the works pursuant to this designation so as to avoid:

- Any adverse geotechnical or structural effects on the tennis court, shed and adjacent carport (shown on the plan entitled "SH18 Requirement Plan 38 Wicklam Lane – E.J McEwan" (sic) ) ("the Structures"); or
- The drainage and soak holes situation on the Property;

b. Remedy, at the New Zealand Transport Agency's cost, any damage to the Structures, drainage or soak holes on the Property resulting from the designation works if the New Zealand Transport Agency is unable to comply with subclause (a) above;

c. Construct retaining walls at the New Zealand Transport Agency's cost on the Crown's land to support the Structures if necessary;

d. Consult with Ms McEwen (or the registered proprietor of the Property at the relevant time) during the process of completing detailed design of the works regarding the design of any fence and/or other noise mitigation measures relating to the Property; and

e. Clean out the water tank at the property and pay for the tank to be refilled with potable water in the event that the tank and water become contaminated by dust or dirt from the New Zealand Transport Agency's works during the construction period on the designation, if reasonably requested to do so by Ms McEwen or the registered proprietor of the Property at the relevant time.

#### **4. Noise Impact Mitigation**

i. The alignment shall be designed and constructed in accordance with New Zealand Transport Agency's Guidelines for the Management of Traffic Noise for State Highway Improvements, December 1999.

ii. A detailed Noise Mitigation Plan shall be prepared by a suitably qualified noise consultant in consultation with the Manager Resource Consents, Auckland Council (or equivalent officer if that position no longer exists). The Noise Mitigation Plan shall be submitted to the Manager Resource Consents, Auckland Council, prior to construction. The purpose of the Plan is to describe the method by which noise associated with traffic using the roading within the designation will be made to comply with specified noise limits. Where the ambient sound level is required to be monitored to determine design limits then this shall be done prior to construction commencing.

iii. Noise monitoring shall be undertaken in accordance with NZS6801:2008 Acoustics – Measurement of

environmental sound. The New Zealand Transport Agency shall ensure that representative noise monitoring of the Highway route is undertaken at its expense by a suitably qualified and experienced acoustical consultant within nine months of the opening of the Highway over any part of the route and subsequently within nine months of the opening of the whole route if that occurs separately. Results of all noise monitoring shall be supplied to Auckland Council within six weeks of the monitoring being completed.

iv. The New Zealand Transport Agency shall ensure that all construction works are carried out in accordance with NZS 6803: 1999 “Acoustics – Construction noise”

v. Prior to commencement of any construction activity (excluding site investigations), the New Zealand Transport Agency shall prepare a Construction Noise Management Plan which shall be submitted to the Manager Resource Consents, Auckland Council (or equivalent officer if that position no longer exists). The purpose of the Plan is to describe the methods by which noise associated with the construction of the work will be managed to comply with condition 4(iv) above. In particular, the Construction Noise Management Plan shall identify:

a. The matters referred to in paragraph 2.1.1(a) to (e) of NZS 6803: 1999 “Acoustics – Construction noise”.

b. Methods of managing noise;

c. Noise monitoring methods, including details of methods, equipment, location and frequency (by reference to NZS 6803: 1999 “Acoustics – Construction noise”);

d. Contingency measures in the event of any incidence of non-compliance; and

e. Procedures for handling noise complaints.

vi. The New Zealand Transport Agency shall ensure that the Construction Noise Management Plan is complied with at all times during construction works.

## **5. Ecological Mitigation Impact**

i. An Ecological Impact Mitigation Plan shall be prepared by a suitably qualified ecologist and submitted to the Manager Resource Consents, Auckland Council (or equivalent officer if that position no longer exists). The Plan shall be included in all relevant Environmental Management Plan documentation. The Plan shall address the matters contained in conditions 5.ii.-xiii. below.

ii. Wherever practicable, any disturbance to areas of existing vegetation and those areas to be revegetated as specifically demarcated within red on the attached figure entitled “Sensitive Areas Within the Designation but Outside of the Alignment Footprint” shall be avoided. Where vegetation disturbance in these areas cannot be practicably avoided, the New Zealand Transport Agency shall ensure that any necessary disturbance is minimised as far as practicable. For the avoidance of doubt, this condition is not intended to prohibit necessary disturbance, which is defined as including, but is not limited to vegetation clearance, the construction and operation of all roads, depots, storage facilities and spoil disposal areas.

iii. Prior to construction The New Zealand Transport Agency shall, in consultation with a suitably qualified freshwater ecologist:

a. Offer to the owner of that land containing an artificial pond adjacent to the Auckland Council reserve near Wicklam Ave to carry out remedial works on the presently perched culvert downstream of the artificial pond shown on the attached figure entitled “Sensitive Areas Within the Designation but Outside of the Alignment Footprint”. For the purposes of this condition, “remedial works” means the placement of rock/concrete aprons which will connect overhanging (or “perched”) culvert outlets with the stream waters below, so as not to impede the movement of migratory native fish species.

iv. The New Zealand Transport Agency, in consultation with relevant landowners and a terrestrial ecologist  
Auckland Unitary Plan Operative in part

shall investigate reasonable and practicable bush protection mechanisms and, if the landowners are amenable, shall implement these before the conclusion of the construction period. The mechanisms to be considered shall include fencing (where the bush and adjacent land is or could be grazed) and covenanting. Costs for this are to be met by The New Zealand Transport Agency. Bush blocks covered by this condition are as follows:

- a. The areas of native forest and regenerating native bush outside of the designation which adjoin the alignment;
- b. The swamp maire population located to the south of the NSCC reserve; and
- c. The Kahikatea and swamp maire forest in the vicinity of Black's Road.
- v. The New Zealand Transport Agency shall transplant all saplings and seedlings of swamp maire found within the carriageway footprint of the Highway and replant them within an environment in the Greenhithe area that is appropriate to their habitat preferences.
- vi. The New Zealand Transport Agency shall ensure that all specimens of swamp maire located within the area demarcated as the "Swamp Maire Non-Disturbance Zone" on the attached plan titled entitled "Sensitive Areas Within the Designation But Outside of the Alignment Footprint" are neither damaged nor destroyed as a result of The New Zealand Transport Agency's construction activities.
- vii. A fauna salvage operation is to be undertaken where the new Highway within the proposed designation crosses native bush areas prior to work commencing in those areas. The fauna to be salvaged include native lizard species (i.e. geckos and skinks), and any native fish species in accordance with the advice of a suitably qualified freshwater biologist. The salvage operations are to take place directly prior to works beginning in the relevant habitats.
- viii. In the case of perennial streams (i.e. those that flow all year round), culverts shall be designed and placed in a manner to facilitate the passage of fish and aquatic life through the natural stream system. These culverts shall be designed and placed with the assistance of a suitably qualified freshwater biologist.
- ix. Revegetation of native bush shall be undertaken to the level of that which will be lost due to road construction, to the extent that such can be practicably accommodated within the areas demarcated for revegetation.
- x. In consultation with a suitably qualified ecologist, a revegetation programme is to be carried out upon those batter slopes demarcated for revegetation. This revegetation programme will focus upon the planting of hardy native edge species appropriate to the site (with manuka predominant) as soon as practicable after construction. These species are to be sourced from local genetic stock and be densely planted. Once this initial vegetation has established then native forest canopy trees appropriate to the local environment should be interplanted at suitable spacings to promote a future canopy of these trees.
- xi. Any realigning of existing perennial waterways shall be minimised as far as is practicable. Where streams are realigned, the design of any new channel shall be carried out with the advice of a freshwater biologist, and shall include the creation of appropriate habitat opportunities for aquatic fauna and the retention and establishment of riparian vegetation.
- xii. That placement of silt ponds within existing waterways be minimised as far as possible, but where such ponds must occur then fish passes are to be provided in those cases where the ponds will be permanent features. In the case of temporary ponds (i.e., those in place during the construction period only) no fish passes are necessary, but the stream areas affected will be reinstated to at least their previous condition (including provision for the unobstructed passage of aquatic fauna).

xiii. The New Zealand Transport Agency shall implement enrichment planting in that land within the designation not required for road construction which is situated adjacent to the Auckland Council reserve to the south of Wicklam Lane. The objective of such planting is to reinforce the existing gully wetland bush type, by the use of appropriate and locally sourced species.

## **6. Visual Impact Mitigation**

i. A Landscape Mitigation Plan shall be prepared by a suitably qualified landscape architect in consultation with the Manager Resource Consents, Auckland Council (or equivalent officer if that position no longer exists) and the Manager Heritage, Auckland Council or nominated representative. The landscape plan shall be submitted to the Manager Resource Consents, Auckland Council, prior to construction and shall take into account, where practicable:

- a. The integration of the Highway alignment into the surrounding landscape;
- b. Mitigation of effects on properties in the vicinity of the alignment;
- c. Appropriate consideration of the angle and extent of batter slopes;
- d. Design of borrow and disposal areas for excess fill to avoid significant visual impact, and to maximize integration with the general form of the surrounding landscape;
- e. Noise mitigation measure (e.g. noise barriers) required in accordance with the Noise Impact Mitigation Conditions;
- f. Ecological mitigation measures (.e.g revegetation) required in accordance with the Ecological Impact Mitigation Conditions;
- g. Planting to screen horizontal edges and hard landscaping associated with the works (such as noise barriers), up to a height that is level with the height of those features (excluding lighting and bridges); and
- h. Planting in those areas identified for re-vegetation and planting in the figure titled "State Highway 18: Greenhithe: Proposed Mitigation Plan" April 1999 Sheet 95221/02/01 Figures a-d inclusive, including the planting of appropriate native species alongside streams in those areas demarcated as "Proposed Mass Planting (Exotic/Native Species)" on that figure.

ii. The Landscape Mitigation Plan shall include details of:

- a. All proposed planting (including species, species size, densities, areas and locations);
- b. The planting programme;
- c. The maintenance programme. This programme shall include details of weed control, performance standards specifying allowable percentage survival rates, and replacement of any planting failures;
- d. The sufficiency of the soil medium to sustain all planting proposed.

iii. The Landscape Mitigation Plan shall be implemented to the satisfaction of the landscape architect engaged by The New Zealand Transport Agency. All landscape mitigation planting shall be implemented during the first planting season following completion of the project construction works for the relevant section of the road. Following completion of planting, the New Zealand Transport Agency shall submit to the Auckland Council a report by the landscape architect on the implementation of the landscape plan.

iv. The maintenance programme shall be implemented to the satisfaction of the landscape architect engaged by The New Zealand Transport Agency, for a minimum period of three years following planting. Three months prior to expiry of the maintenance period, The New Zealand Transport Agency

shall submit to the Auckland Council a report by the landscape architect on the implementation of the maintenance programme. The New Zealand Transport Agency shall also submit one interim report during the maintenance period if required to do so in writing by the Auckland Council.

v. Where practicable, any planting utilising native plants shall use plants genetically sourced from the ecological district.

#### **Duration of the designation**

7.i. In accordance with Section 184(1)(c) of the Resource Management Act 1991, the designation will lapse on the expiry of fifteen years after the date on which it is included in the District Plan unless:

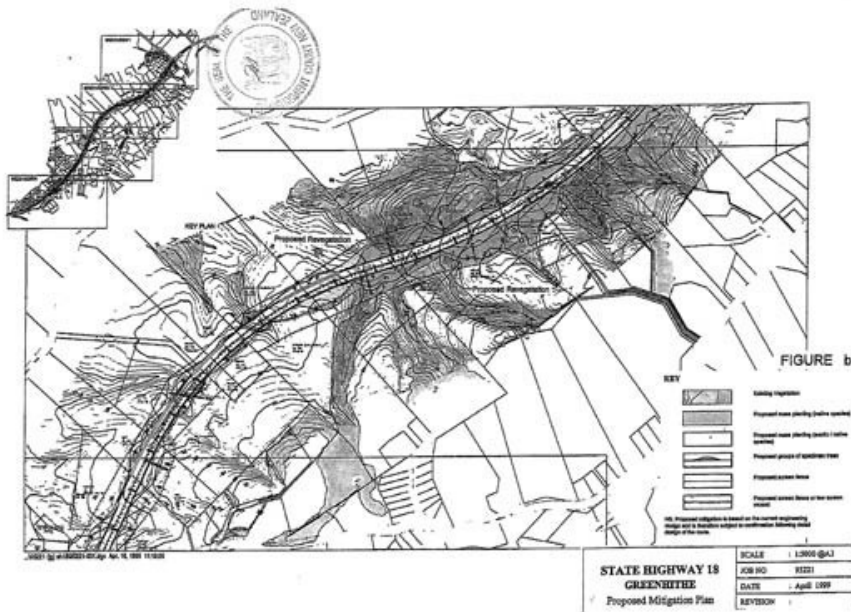
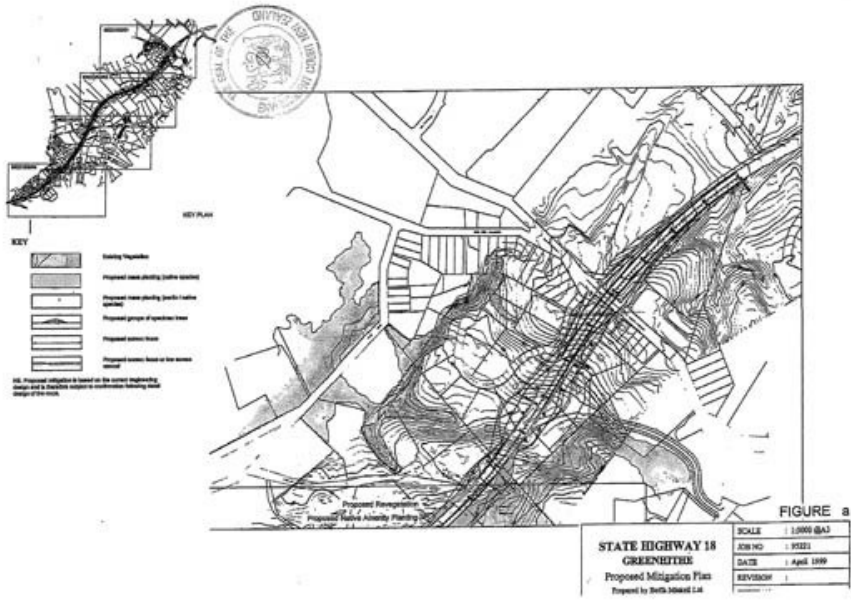
- a. It is given effect to before the end of that period; or
- b. The territorial authority determines, on an application made within three months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period to give effect to the designation.

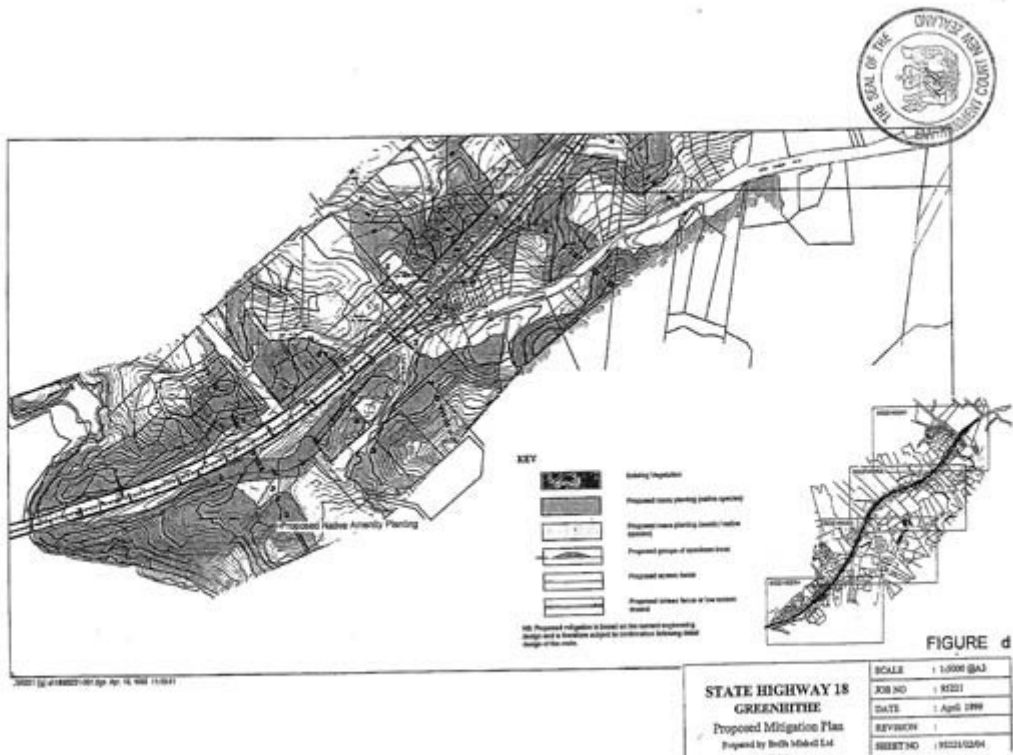
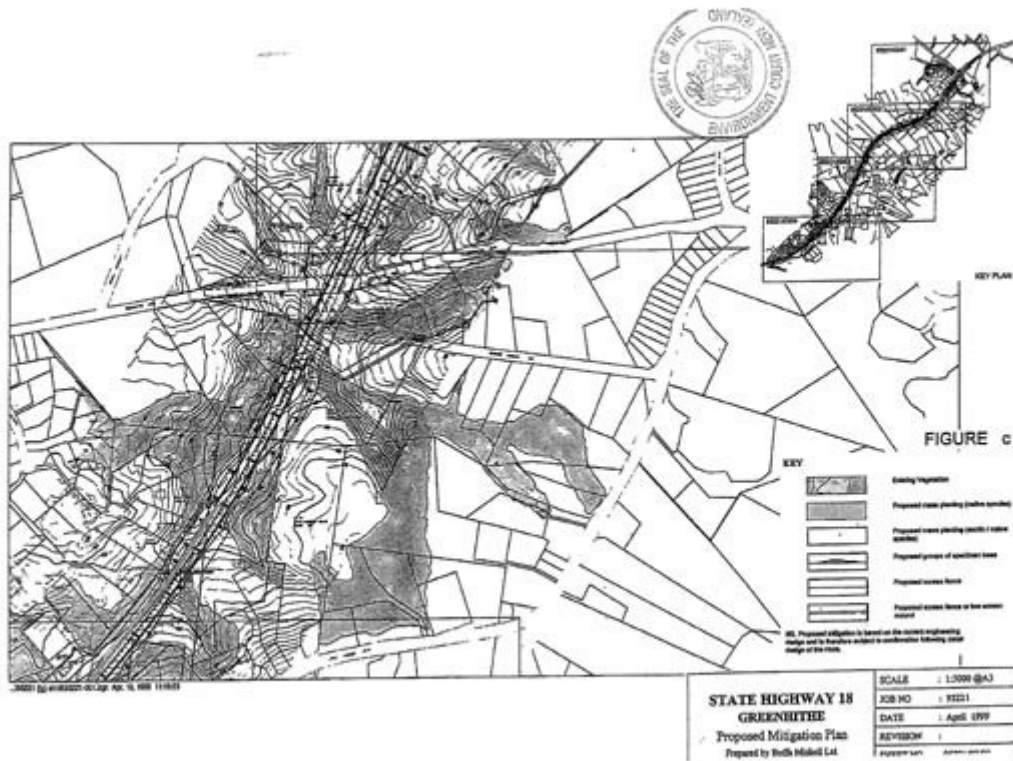
#### **Advice Notes**

1. Auckland Council requests that The New Zealand Transport Agency take all necessary steps to resolve issues of land purchase as soon as possible.
  
2. Prior to preparing an assessment of effects under section 88(4)(b) of the Resource Management Act 1991 for resource consents required from the Auckland Council, The New Zealand Transport Agency (or its agents) is to prepare and submit a Scoping Report to the Auckland Council. The report should include a comprehensive annotated table of contents which indicate what will be addressed in the assessment of effects.
  
3. In a consent order approved by the Environment Court in September 2000, The New Zealand Transport Agency agreed to amend its existing requirement for designation by removing that part of the requirement relating to land east of a point approximately 22 metres east of Unsworth Drive in accordance with a plan prepared by Beca Cater Hollings & Ferner Fig L1.9, Reference 2106485 (Rev. 3.4.00), File 6485L209 DWG. In agreeing to exclude the land east of Unsworth Drive from its requirement, The New Zealand Transport Agency also acknowledges that in any future relevant requirement or application which may be necessary as part of a subsequent motorway development, the New Zealand Transport Agency will address:
  - a. The issue of the potential for an extended highway to interfere with access between Unsworth Heights and North Harbour Industrial Estate; and
  - b. Provision of any bus shoulder lanes between Unsworth Drive and State Highway 1.
  
4. Where the “details” of the proposed works (as that term is defined in s176A Resource Management Act 1991) have not been incorporated into the designation or the works have not been otherwise approved under the Resource Management Act 1991 or the Auckland Council does not waive the requirement for an outline plan, then an outline plan or plans shall be submitted by The New Zealand Transport Agency to the Auckland Council under section 176A of the Resource Management Act 1991. Any outline plan or plans may be submitted in stages to reflect any proposed staging of the physical works.
  
5. Where agreement is reached between The New Zealand Transport Agency and the Auckland Council pursuant to condition 1(xi) above in relation to any plan or part of a plan, that shall constitute waiver pursuant to section 176A(2)(c) of the Resource Management Act 1991 in relation to that plan or the relevant part of that plan.

# Attachments

## State Highway 38: Greenhithe: Proposed Mitigation Plan" April 1999 Sheet 95221/02/01 Figures A-D







**The following conditions apply to the area subject to the section 181 alteration to the designation for the Northern Corridor Improvements Project between the State Highway 18 and Constellation Drive Interchange to the west of the Albany Highway Highway Interchange.**

<b>Acronym/Abbreviation</b>	<b>Full Term or Definition</b>
AUP	Auckland Unitary Plan
BPO	Best Practicable Option, and in relation to the Traffic Noise conditions BPO is in accordance with s16 of the Resource Management Act 1991
Building-Modification Mitigation	Has the same meaning as in NZS 6806
CNV	Construction Noise and Vibration Conditions
CNVMP	Construction Noise and Vibration Management Plan
Council	Auckland Council
Commencement of construction or construction works	In all conditions which refer to 'commencement of construction', construction includes work such as earthmoving and earthworks excavation; and the construction, erection, installation, carrying out, alteration, repair, restoration, renewal, maintenance, extension, demolition, removal, or dismantling of any building or structure.
CTMP	Construction Traffic Management Conditions and Construction Traffic Management Plan
DC	General Designation Conditions
Design Year	Means 2031 in relation to the Traffic Noise conditions
FIH	International Hockey Federation
Habitable Space	Has the same meaning as in NZS 6806
HHCT	Harbour Hockey Charitable Trust
IHF	North Harbour Hockey Stadium Conditions
IIG	Iwi Integration Group
Key Stakeholders	Includes community groups, business groups, residents organisations, childcare groups, Council, Watercare Services Limited, Auckland Transport, Ministry of Education, Waste Management NZ Limited, the IIG, and local boards.
Landfill	Rosedale Closed Landfill
Major Construction Activity	For the purposes of the Noise and Vibration Conditions, means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4
Noise Assessment	Means the <i>Traffic Noise and Vibration Assessment Report</i> submitted with the NoR
NZ 8606	Means New Zealand Standard NZS 6806:2010 <i>Acoustics – Road-traffic noise – New and altered roads</i>
ON	Operational Noise and Vibration Conditions
OP	Outline Plan as required under section 176A of the RMA

PPF	Protected Premises and Facilities and has the same meaning as in NZS 6806. For the purpose of these conditions they also include all dwellings in Stage 1 of the Colliston Rise subdivision where Building Consent or Resource Consent which authorises the construction of a dwelling has been granted
PPV	Peak Particle Velocity
Practical completion	Means completion of all construction works.
Project	The Northern Corridor Improvements Project.
Proposed Design	The design of the project as indicated on General Arrangements Sheets 1 – 2 (Revised Albany Busway Bridge – Rev J), 3 – 8 (Consent Issue – Rev H), 9 – 10 (Revised Alteration to Designation Boundary – Bluebird Reserve)
PTTMP	Public Transport Traffic Management Plan
RAMM	Road Assessment and Maintenance Management
RMA	Resource Management Act 1991
RWWTP	Rosedale Wastewater Treatment Plant
SCP	Stakeholder and Communications Plan and Stakeholder and Communications Plan Conditions
SSCNMP	Site Specific Construction Noise Management Plan
SSCVMP	Site Specific Construction Vibration Management Plan
Structural Mitigation	Has the same meaning as in NZS 6806. For the purpose of these conditions the structural mitigation measures are low noise road surface materials and noise barriers
SUP	Shared Use Path
Suitably qualified and experienced person	Means a person with a tertiary qualification in the field to which a particular condition relates; or having sufficient technical expertise that is at least equivalent; and having at least 5 years working experience, unless otherwise specified in the conditions.
Transport Agency	New Zealand Transport Agency
UDL	Urban Design and Landscape Conditions
UDLF	Urban Design and Landscape Framework
UDLP	Urban Design and Landscape Plan
Watercare	Watercare Services Limited
Work Area	For the purposes of the Noise and Vibration conditions, means any area where construction works associated with the Project are undertaken (e.g. all active works areas and construction support areas)

**These conditions relate to the following designations:**

EPA reference	Lapse period	Duration
<b>Designations OR NOR</b>		
<p><b>NSP39/001</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6750) for the construction, operation and maintenance of a State highway, being the Auckland-Waiwera Motorway between Greville Road Interchange and the Sunset Road overbridge.</p>	7 years	N/A
<p><b>NSP39/002</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6751) for the construction, operation and maintenance of a State highway, being the Auckland Waiwera Motorway between Greville Road Interchange and Oteha Valley Road.</p>	7 years	N/A
<p><b>NSP39/003</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6756) for the construction, operation and maintenance of a State highway, being State Highway 18 between Albany Highway and State Highway 1.</p>	7 years	N/A
<p><b>NSP39/004</b></p> <p>A designation for the construction, operation and maintenance of the Northern Busway adjacent to State Highway 1 from Albany Bus Station to Constellation Bus Station.</p>	7 years	N/A
<p><b>NSP39/005</b></p> <p>A designation for the construction, operation and maintenance of a shared use path adjacent to State Highway 1 from Constellation Bus Station to Oteha Valley Road.</p>	7 years	N/A
<p><b>NAP39/006</b></p> <p>An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6758) for the upgrade of the Constellation Bus Station.</p>	7 years	N/A

**General Conditions**

DC.1 Except as modified by the conditions below, and subject to final design, the Northern Corridor Improvements Project ('Project') shall be carried out in general accordance with:

- a. General arrangements drawings

Sheets 1 and 2, DRG 0201 – 0202, Rev J

Sheets 3 – 8, DRG 0203 – 0208, Rev H

Sheets 9 – 10, DRG 0209 – 0210, Rev I (Revised Alteration to Designation Boundary – Bluebird Reserve)

**Subject to the minor changes in relation to the State Highway 1 to State Highway 18 underpass and the Paul Matthews Road configuration as shown in Sheets NCI-R-1002-DG-108-A and NCI-R-1002-DG-0106A.**

b. Typical cross sections

Sheets 1 to 9, DRG 0301 - 0309, Rev F

Sheet 10, DRG 0310, Rev C

c. *Plan and long section SH1 Mainline*

Sheets 1 – 7, DRG 0401 – 0407, Rev. A

Plan and long section SH18 Westbound

Sheets 1 – 4, DRG 0415 – 0418, Rev. A

d. *Civil structures*

DRG 1310 (Rev. C), and 1315, 1320, 1325, 1330, 1335, 1340, 1345, 1350, 1355, 1365, 1370, 1375 (all Rev. B).

e. Stormwater layout plans

Sheets 1 – 10, DRG 1401 – 140, Rev B

f. Stormwater catchment plan

Sheets 1 – 10, DRG 1451 – 1460, Rev B

g. Conceptual construction water management plan

Sheets 1 – 10, DRG 1601 – 1610, Rev B

h. Erosion and sediment control standard details

Sheets 1 – 2, DRG 1620 - 1621, Rev A

i. The notice of requirement plans DRG 2001 Rev C, 2002 Rev C, DRG 2003-2008 Rev B, DRG 2009 Rev C, DRG 2010 Rev C and DRG 2011 Rev C.

DC.2 Where there is inconsistency between the General Arrangements referred to in Condition DC.1 above and these conditions, these conditions shall prevail.

DC.2A Where there are changes to layout and crossings the final design shall ensure that:

- the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service E for any individual movement during the AM or PM peaks.
- The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled.

DC.3 Conditions DC.8, ON.1-ON.11, OV.1, UDL.5A, UDL.13, UDL.14 and SCP.10 on this designation apply to the operational matters that are intended to address ongoing effects of the activities authorised by the designation or impose obligations that are required to be satisfied following practical completion of the Project. The other conditions on this designation are intended only

to apply to construction related activities. As soon as practicable after practical completion of the Project construction works, the Requiring Authority shall provide written notice of practical completion. Upon confirmation of receipt by the Council of the notice of practical completion, all conditions other than conditions relating to operational matters (i.e. DC.8, ON.1-ON.11, OV.1, UDL.5A, UDL.13, UDL.14 and SCP.10) shall cease to have effect.

DC.4 The Requiring Authority shall provide written notice to the Council on completion of the monitoring required by conditions UDL.5A. This condition shall cease to have effect from the date of this notice being received.

DC.5 The designation shall lapse if not given effect to within seven years from the date on which it is included in the Auckland Unitary Plan ('AUP').

DC.6 The outline plans ('OP') shall include the following plans for the relevant stage(s) of the Project:

- a. Construction Noise and Vibration Management Plan ('CNVMP') prepared in accordance with conditions CNV.1 to CNV.9;
- b. Construction Traffic Management Plan ('CTMP') prepared in accordance with conditions CTMP.1 to CTMP.5D; and
- c. Urban Design and Landscape Plan(s) ('UDLP') prepared in accordance with conditions UDL.1 to UDL.12.

The CNVMP, CTMP and UDLPs may be amended following the submission of the OP(s) if necessary to reflect any changes in design, construction methods, or management of effects.

Any amendments are to be discussed with and submitted to the Council for information without the need for a further OP process, unless those amendments once implemented would result in materially different effects to that described in the original CNVMP, CTMP, and UDLPs.

DC.7 Any OP(s) or plans may be submitted in parts or in stages to address particular activities or to reflect the staged implementation of the Project.

DC.8 As soon as practicable following completion of the construction of the Project, the Requiring Authority shall give notice in accordance with Section 182 of the Resource Management Act 1991 ('RMA') to the Council, for the removal of those parts of the designation that are not required for the long term operation, maintenance and mitigation of effects of the Project including from land within the Watercare Services Ltd ('Watercare') Designations 9310 and 9311, the Rosedale Closed Landfill ('Landfill') Designation 417 and other areas where infrastructure owned and operated by other organisations are located.

For the purpose of this condition as it relates to land within the Watercare Designations 9310 and 9311, the Requiring Authority shall remove the parts of its designation in general accordance with areas of land identified as 'Occupation During Construction' in the Aurecon Design Drawings:

- Auckland Northern Corridor Improvements SH1 and SH18 Land Requirement Plan #36, Drawing No. 250310-5DOC-1PRP-DRG-1855-A.

Any changes to the operational boundaries of the 'Land Required' and the 'Occupation during Construction' identified in Drawing No. 250310-5DOC-1PRP-DRG-1855-A shall be made following consultation with Watercare prior to any such change being implemented.

## Construction Noise and Vibration (CNV)

For the purpose of the CNV conditions:

BPO – means the Best Practicable Option in accordance with s16 of the RMA

Major Construction Activity – means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4

Work Area – means any area where construction works associated with the Project are undertaken (all active works areas and construction support areas)

CNV.1 A CNVMP shall be prepared by a suitably qualified and experienced person, and shall be submitted as part of the relevant OP. The purpose of the CNVMP is to provide a framework for the development and implementation of the Best Practicable Option ('BPO') for the management of all construction noise and vibration effects, and additionally to define the procedures to be followed when the noise and vibration standards in the CNV conditions are not met following the adoption of the BPO.

The CNVMP shall be prepared in accordance with the requirements of Annex E2 of *New Zealand Standard NZS 6803:1999 'Acoustics – Construction Noise'* (NZS 6803:1999) and shall address the following matters as a minimum:

- (a) Description of the works, anticipated equipment/processes and their scheduled durations;
- (b) Hours of operation and duration for the Major Construction Activities;
- (c) The construction noise and vibration standards for the Project as set out in Tables CNV.A to CNV.B below;
- (d) Identification of affected occupied buildings and any other sensitive receivers (including unoccupied buildings) at each Work Area;
- (e) Management and mitigation options to be adopted for all works during the Project, including prohibition of tonal reverse alarms;
- (f) Minimum separation distances from receivers for plant and machinery where compliance with the construction noise and vibration standards are met;
- (g) A procedure for developing and implementing the Site Specific Construction Noise Management Plans ('SSCNMPs') and Site Specific Construction Vibration Management Plans ('SSCVMPs') (as required by conditions CNV.6, CNV.7 and CNV.8 below) forming part of this CNVMP;
- (h) Methods and frequency for monitoring and reporting on construction noise and vibration;
- (i) Procedures for engaging with stakeholders, notification of proposed construction activities and responding to noise and vibration complaints consistent with conditions SCP.1-SCP.16;
- (j) Procedures for the regular training of the operators of construction equipment to minimise noise and vibration and procedures for the management of behaviours for all construction workers;
- (k) Contact details for the Project Manager (or nominee) and the Requiring Authority's

Project Liaison Person (phone and email addresses); and

(l) The process for identifying businesses which operate processes, machinery or equipment that may be unreasonably disrupted by construction vibration even where the project vibration standards are met. For any such businesses identified, a SSCVMP shall be prepared in accordance with CNV.8 and complied with.

CNV.2 Where construction noise is predicted to exceed the standards in CNV.3, at any location, and a traffic noise barrier will ultimately be required for the operational phase, the Requiring Authority shall implement the required traffic noise barrier at that location in accordance with the SSCNMP. In the event that it is not practicable to install the traffic noise barrier at the location for construction-related reasons, prior to the commencement of work, the Requiring Authority shall install the traffic noise barrier as soon as it is practicable to do so.

CNV.3 Noise arising from construction activities shall be measured and assessed in accordance with NZS 6803:1999 Acoustics - Construction Noise and (subject to CNV.6) shall comply with the noise standards set out Table CNV.A:

**Table CNV.A: Construction noise standards**

Day	Time	LAeq	LAFmax
<b>Residential Receivers</b>			
0630h Monday to 0630h Saturday	0630h - 0730h	55 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	65 dB	80 dB
	2000h - 0630h	45 dB	75 dB
Saturdays 0630h Saturday to 0630h Sunday	0630h - 0730h	45 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB
Sundays 0630h Sunday and Public Holidays to 0630h the following morning	0630h - 0730h	45 dB	75 dB
	0730h - 1800h	55 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB
<b>Industrial and commercial receivers</b>			
All days	0730h – 1800h	70dB	--
	1800h – 0730h	75dB	--

CNV.4 Vibration arising from construction activities which may affect people and buildings shall be measured in accordance with ISO 4866:2010 Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures, and shall comply with the Category A vibration standards

**Table CNV.B: Construction vibration standards for people and buildings**

Receiver	Details	Category A	Category B
Occupied PPFs*	Night-time 2000h - 0630h	0.3mm/s PPV	1mm/s PPV
	Daytime 0630h - 2000h	1mm/s PPV	5mm/s PPV
Other occupied buildings	At all times	2mm/s PPV	5mm/s PPV
All other buildings	At all times	5mm/s PPV	Tables 1 and 3 of DIN4150-3:1999

\* For vibration, protected premises and facilities (PPFs) are defined as dwellings, educational facilities, boarding houses, homes for the elderly and retirement villages, marae, hospitals that contain in-house patient facilities and buildings used as temporary accommodation (e.g. motels and hotels).

If measured or predicted vibration from construction activities exceeds the Category A standards, the Requiring Authority shall consult with the affected receivers to:

- (a) Discuss the nature of the work and the anticipated days and hours when the exceedances are likely to occur; and
- (b) Determine whether the exceedances could be timed or managed to reduce the effects on the receiver.

The Requiring Authority shall maintain a record of these discussions and make them available to the Council on its request.

If measured or predicted vibration from construction activities exceeds the Category B standards, those activities may only proceed subject to condition CNV.7

CNV.5 Vibration arising from construction activities which may affect underground pipe work shall be measured in accordance with DIN4150-3:1999 *Structural vibration – Part 3: Effects of vibration on structures*, and (subject to condition CNV.7) shall comply with the vibration standards in Table CNV.C.

**Table CNV.C: Construction vibration standards for underground pipe work**

Pipe material	PPV (measured on the pipe)
Steel (including welded pipes)	100 mm/s
Clay, concrete, reinforced concrete, pre-stressed concrete, metal (with or without flange)	80 mm/s
Masonry, plastic	50 mm/s



CNV.6 A SSCNMP shall be prepared when construction noise is either predicted or measured to exceed the standards in Table CNV.A, except where the exceedance of the standards in Table CNV.A is no greater than 5 decibels and:

- a. For day time between 0700 and 2200 - the exceedance of the standards in Table CNV.A does not occur on more than 14 consecutive days in any rolling 8 week period; or
- b. For night time between 2200 and 0700 - the exceedance of the standards in Table CNV.A does not occur on more than 2 consecutive nights in any rolling 10 day period.

The objective of the SSCNMP is to set out the BPO for the minimisation of noise effects of the construction activity. The SSCNMP shall as a minimum set out:

- i. Construction activity location, start and finish dates;
- ii. The predicted noise level for the construction activity;
- iii. Noise limits to be complied with for the duration of the activity;
- iv. The mitigation options that have been selected and the options that have been discounted as being impracticable;
- v. The proposed noise monitoring regime; and
- vi. The consultation undertaken with owners and occupiers of sites subject to the SSCNMP, and how consultation outcomes have and have not been taken into account.

The SSCNMP shall be submitted to the Council for certification at least 7 working days in advance of Construction Works which are covered by the scope of the SSCNMP. If the Council does not respond within 5 working days (excluding time associated with requesting and receiving further information) then certification is deemed to have been given.

CNV.7 A SSCVMP shall be prepared when construction vibration is either predicted or measured to exceed the Category B standards in Table CNV.B and the standards in Table CNV.C. The objective of the SSCVMP is to set out the BPO for the minimisation of vibration effects of the construction activity. The SSCVMP shall as a minimum set out:

- a. The relevant construction activity location, start and finish dates;
- b. The predicted vibration level for the construction activity;
- c. The pre-condition surveys of buildings and pipe work which document their current condition and any existing damage;
- d. An assessment of each building and any pipe work to determine susceptibility to damage from vibration and define acceptable vibration limits that the works must comply with to avoid damage;
- e. The mitigation options that have been selected and the options that have been discounted as being impracticable;
- f. The proposed vibration monitoring regime;
- g. The methods adopted to minimise amenity effects on buildings which remain occupied during the works;
- h. The consultation undertaken with owners and occupiers of sites subject to the SSCVMP, and how consultation outcomes have and have not been taken into account.

The SSCVMP shall be submitted to the Council for certification at least 7 working days in advance of Construction Works which are covered by the scope of the SSCVMP. If the Council does not respond within 5 working days (excluding time associated with requesting and receiving further information) then certification is deemed to have been given.

CNV.8 For any buildings identified in condition CNV.1(l), the Requiring Authority shall prepare an SSCVMP which shall include:

- a. Consultation with the owners and/or occupiers of sites identified to ascertain the sensitivity of processes, machinery or equipment to construction vibration;
- b. Construction vibration limits specific to the sensitive activities which must be complied with that will avoid unreasonable disruption of the businesses;
- c. Procedures and methods for monitoring compliance with the vibration limits established;
- d. A process for dealing with any disagreement which may arise, particularly in relation to the determination of specific vibration limits;
- e. The relevant construction activity location, start and finish dates;
- f. The mitigation options that have been selected and the options that have been discounted as being impracticable; and
- g. The consultation undertaken with owners and occupiers of sites subject to the SSCVMP, and how consultation outcomes have and have not been taken into account.

CNV.9 If any damage to buildings or pipe work is shown to have occurred, by reference to pre-condition survey findings from CNV.7(c), as a result of vibration from the construction of the Project, any such damage shall be remedied by the Requiring Authority as soon as reasonably practicable subject to any associated asset and/or owner agreement.

### **Construction Traffic Management Plan**

CTMP.1 A CTMP shall be prepared by a suitably qualified and experienced person and shall be submitted as part of the relevant OP.

CTMP.2 The purpose of the CTMP is to avoid or mitigate adverse effects on traffic safety and efficiency resulting from the construction works, in order to:

- a. Protect public safety, including the safe passage of pedestrians and cyclists;
- b. Minimise delays to road users, pedestrians and cyclists, and particularly public transport at all times, especially bus travel times at peak traffic periods during weekdays (06:30 to 09:30 and 16:00 to 19:00); and
- c. Inform the public about any potential impacts on the road network.

CTMP.3 The CTMP shall be prepared using best practice (to better understand the effects of construction of the works subject of the OP on the affected road network), which may include the use of traffic modelling tools. Any such assessment shall be undertaken in consultation with Auckland Transport (including Auckland Transport Metro) and have the ability to simulate lane restrictions and road closures (unless otherwise agreed with Auckland Transport). The outcome of consultation undertaken between the Requiring Authority and Auckland Transport shall be documented and any Auckland Transport comments not acted on provided with the final CTMP when submitted to the Council.

CTMP.4 The CTMP shall describe the methods for avoiding, remedying or mitigating the local and network wide transportation effects resulting from the Project works subject of the relevant OP, and shall address the following matters:

- a. Methods to avoid, remedy or mitigate the local and network wide effects of the construction of individual elements of the Project (e.g. intersections/overbridges) and the use of staging to allow sections of the Project to be opened to traffic while other sections are still under construction;

- b. Methods to manage the effects of the delivery of construction material, plant and machinery (including oversized trucks);
- c. The numbers, frequencies, routes and timing of construction traffic movements;
- d. Traffic management measures to address and maintain traffic capacity and minimise adverse effects including, where applicable to the relevant OP:
  - i. Retaining the existing number of traffic lanes along SH1 (between Tristram Avenue and Oteha Valley Road);
  - ii. Retaining the extent of existing bus priority measures along SH1 (between the Albany Station and the Constellation Station), noting that the bus only on ramp from McClymonts Road and the bus only access to the Constellation Station may need to be temporarily closed. Any temporary closure will minimise adverse effects on buses and general traffic. The duration of any temporary closure shall be minimised as far as reasonably practicable;
  - iii. Retaining the existing number of through traffic lanes along SH18 between the Upper Harbour interchange and the Albany Highway interchange, noting that right turning movements to and from Paul Matthews Road may need to be temporarily closed. Any temporary closure will minimise adverse effects on buses and general traffic. The duration of any temporary closure shall be minimised as far as reasonably practicable;
  - iv. Retaining two traffic lanes on McClymonts Road, over SH1, noting that temporary restrictions to one lane or temporary full closures may be required; and
  - v. Retaining at least one traffic lane and one footpath on Rosedale Road, under SH1, except where night time or weekend closures may be required for heavy civil works such as bridge or deck lifting. This single traffic lane is to allow signalised one way traffic in alternate directions; and
  - vi. Maintaining pedestrian connectivity across SH18 via a controlled pedestrian and cycle crossing should the Alexandra Stream underpass be closed during construction.
- e. Measures to maintain existing vehicle access to private properties, or where the existing property access is to be removed or becomes unsafe as a result of the construction works, measures to provide alternative access arrangements in consultation with Auckland Transport and the affected landowner; and
- f. Measures to maintain pedestrian and cycle access with thoroughfare to be maintained on all roads and footpaths adjacent to the construction works, (e.g. unless provision of such access is severed by the works or such access will become unsafe as a result of the construction works). Such access shall be safe, clearly identifiable, provide permanent surfacing and seek to minimise significant detours.
- g. Where applicable to the relevant OP, measures to ensure no more than 20 car parking spaces are removed from the Albany Park and Ride during the construction period unless otherwise provided for at an alternative nearby site agreed between Auckland Transport and the Requiring Authority during the construction of the Project.
- h. Include measures to avoid road closures, and the restriction of vehicle, cycle and pedestrian movements. Where there may be:
  - i. A restriction of cycle and pedestrian connectivity to schools, consultation with the Ministry of Education shall be undertaken; and
  - ii. A restriction on access to Waste Management NZ Limited ('WMNZ') from Rosedale Road, consultation with WMNZ shall be undertaken.

- i. Identify alternative routes for over-dimension and over-weight vehicles where these routes are affected during construction and consult with Auckland Transport and the freight industry (including affected local businesses) on the alternative routes or closures.

### **Public Transport Traffic Management Plan**

CTMP.5 The CTMP shall include a specific Public Transport Traffic Management Plan ('**PTTMP**'). The PTTMP (and any amendments) shall be prepared in consultation with Auckland Transport. The purpose of the PTTMP is to define the process for identifying and managing the potential adverse effects of the Project on bus services. More specifically, the PTTMP shall address those road network/bus routes/bus services which interface with SH1, SH18, and the Busway, and which may be affected by the construction of the Project, in such areas as:

- a. Delays to services and reliability;
- b. Increased journey distances and/or duration;
- c. Frequency of services;
- d. Loss of service/replacement services; and
- e. The procedures and timeframes needed for planning and communicating any road network/bus routes/bus services changes with Auckland Transport (and its bus operators) and customers.

CTMP.5A For each of the above matters, the Requiring Authority shall develop and agree with Auckland Transport acceptable performance thresholds that shall be met to agreed key destinations, having regard to:

- a. Staging of the Project works;
- b. Duration of the Project works;
- c. Time of day/night that the works are conducted;
- d. Convenience to public transport patrons;
- e. Safety;
- f. Public transport patronage.

CTMP.5B The performance thresholds shall be developed with specific acknowledgement of the necessary temporary closure of: the bus only on ramp at McClymonts Road; the bus only access to the Constellation Station; and the right turn movements to and from Paul Matthews Road.

CTMP.5C The performance thresholds for the specified road network/bus routes/bus services shall be monitored by the Requiring Authority, using, where appropriate, data provided by Auckland Transport. The methods and frequency for the monitoring of the performance thresholds (and the reporting of the outcome of the monitoring) shall be agreed between the Requiring Authority and Auckland Transport.

CTMP.5D Where the monitoring undertaken demonstrates that the performance thresholds are not being met, then traffic management measures shall be reviewed by the Requiring Authority (in consultation with Auckland Transport). In order to achieve the thresholds, such a review shall include,

amongst other things:

- a. The staging of the construction activity;
- b. Methods to provide further prioritisation of bus services on certain routes;
- c. Methods to provide bus priority beyond the site(s) of the construction activity;
- d. The provision of additional or revised bus services to respond to delays/frequency of service;
- e. The measures to communicate changes to the road network/bus routes/bus services to the community.

#### **Local roads used for heavy vehicle access to construction areas**

CTMP.6 Prior to the commencement of construction of the works subject of the relevant OP, the Requiring Authority shall:

- a. Identify all access points from the Project construction areas accessing onto the local road network;
- b. Confirm existing levels of traffic using the road to which the proposed site access points relate;
- c. Estimate proposed construction vehicle volumes;
- d. Identify, in consultation with Auckland Transport, a monitoring programme to be implemented for the duration of construction of the Project (or relevant Project stage) to validate the construction vehicle volumes identified in (c)

CTMP.6A At least four weeks prior to the commencement of construction works identified in CTMP.6, the Requiring Authority shall submit to Auckland Transport, a RAMM visual condition assessment including a high-definition video and Pavement Strength Testing of the following:

- a. Where the construction site access point is onto an arterial road, the expected tracking curves of construction vehicles entering/ exiting via the relevant construction site access points; and
- b. Where the construction site access point is onto a local road between the access point(s), along the local road(s) to arterial road(s) and including the expected tracking curves of construction vehicles entering/ exiting the arterial road(s)

CTMP.6B At least two weeks prior to the Project construction works identified in condition CTMP.6 commencing, the Requiring Authority shall arrange a meeting with Auckland Transport to discuss and agree the findings of the RAMM visual condition assessment and the results of Pavement Strength Testing. The purpose of the meeting is to agree on any measures needed (if any) to manage the effects of construction traffic on the physical condition of the road(s), including limiting the volume of heavy vehicles, physical works to strengthen the road pavement before use or repairing/maintaining the road(s) in the event of damage attributable to the Project.

CTMP.6C Subject to condition CTMP.6B, the Requiring Authority shall undertake a weekly inspection of the matters identified in condition CTMP.6A or upon any complaints received, and a final inspection within one week of ceasing using each access point for construction. The inspections shall record photographic or video evidence of any damage on the road(s) and provide this to Auckland Transport upon request.

CTMP.6D Any damage identified as attributable to the Project by an appropriately qualified and

experienced person in the areas identified by the inspections required in condition CTMP.6C shall be repaired within one week or within an alternative timeframe to be agreed with Auckland Transport. All repairs shall be undertaken by the Requiring Authority and shall be to the satisfaction of Auckland Transport.

### **Traffic noise (operation)**

ON.1 For the purposes of conditions ON.2 to ON.11:

- a. BPO – means the Best Practicable Option in accordance with s16 of the RMA;
- b. NZ 6806 – means New Zealand Standard NZS 6806:2010 Acoustics – Road-traffic noise – New and altered roads (“NZS 6806”);
- c. Building-Modification Mitigation – has the same meaning as in NZS 6806
- d. Habitable Space – has the same meaning as in NZS 6806;
- e. Noise Assessment – means the Assessment of Operational Noise and Vibration submitted with the NoR;
- f. Major Construction Activity - means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4
- g. PPFs – means Protected Premises and Facilities and has the same meaning as in NZS 6806. For the purpose of these conditions they also include all dwellings in Stage 1 of the Colliston Rise subdivision where Building Consent or Resource Consent which authorises the construction of a dwelling has been granted;
- h. Structural Mitigation – has the same meaning as in NZS 6806. For the purpose of these conditions the structural mitigation measures are low noise road surface materials and noise barriers;
- i. Work Area - means any area where construction works associated with the Project are undertaken (e.g. all active works areas and construction support areas); and
- j. The Design Year means 2031.

### **Structural mitigation**

ON.2 Subject to conditions ON.7 and ON.7A, the Requiring Authority shall design and construct the Project to ensure that the predicted noise levels for the Proposed Design (contained in Appendix A to these conditions) are not exceeded by more than 2dB at any PPF.

#### **Advice Note:**

The predicted noise levels for the Proposed Design (including the full noise barrier along Upper Harbour Highway as recommended in the JWS) are contained in Appendix A.

ON.3 The Requiring Authority shall implement the following Structural Mitigation:

- a. Open Graded Porous Asphalt (or other low-noise road surfaces with equal or better noise reduction performance) on all sections of the Project except where a higher friction (for safety) or stronger surface is required; and
- b. The following noise barriers and heights shall be provided:  
  
Southern side of SH18
  - i. From the corner formed by the off ramp from SH1 to Upper Harbour Highway, westwards to the corner of Caribbean Drive and Upper Harbour Highway, height 2.4m.
  - ii. From Caribbean Drive westwards to approximate chainage 1280, height 2.4m.
  - iii. From chainage 1280 to 1410 approximately, height 4m.

- iv. From chainage 1555 to 1765 approximately, height 2.4m.
- v. From chainage 1880 to 1950 approximately, height 2.4m.  
Northern side of SH18
- vi. 40m long in front of the childcare centre in Saturn Place, height 2.4m.
- vii. 50m long in front of the childcare centre in Omega Street, height 2.4m.

In the event that the Requiring Authority proposes to change any of the requirements of (a) and (b) above, it shall provide documentation from a suitably qualified and experienced acoustics specialist to the Council demonstrating that condition ON.2 will continue to be complied with.

ON.4 Within twelve months of completion of construction of the Project, the Requiring Authority shall prepare and submit a report to the Council which demonstrates compliance with conditions ON.2 and ON.3. The report shall be prepared by a suitably qualified and experienced acoustics specialist and shall contain a description of, and the results from, a computer noise model of the Project as constructed.

The report shall include the results of field measurements at a minimum of six representative PPFs within the Project. The results of the noise level monitoring shall be used to verify the computer noise model.

Field measurements shall be in accordance with NZS 6806.

ON.5 The noise barriers shall be maintained so that they retain their designed noise reduction performance.

ON.6 The low noise road surfaces shall be maintained so that they retain their noise reduction performance as far as practicable.

#### Building-Modification Mitigation

ON.7 Prior to construction of each stage of the Project, a suitably qualified acoustics specialist approved by the Council shall identify those PPFs where, following implementation of the Structural Mitigation measures, either:

a. Both of the following occur:

i. A noise level increase of more than 2dB will occur due to road-traffic noise from the Project (determined by comparing the predicted noise levels for the final design with the predicted noise levels for the Do-nothing option as contained in Appendix A to these conditions); and

ii. Habitable spaces are expected to receive in excess of 45dB LAeq(24hr) from motorway operational noise with windows closed, in the Design Year;

or

b. Noise levels are greater than 67dB LAeq(24hr) (assessed in accordance with NZS6806).

For those PPFs that (a) or (b) apply to, the Requiring Authority shall set out options as to what Building Modification Mitigation are available to achieve 40 dB LAeq(24hr) for habitable spaces using the process set out in Conditions ON.8 to ON.11.

Where sites contain PPFs that are subject to resource consents requiring noise attenuation, this condition shall only apply to the extent that Project noise exceeds the noise level predicted when the resource consent was granted.

ON.7A Prior to Major Construction Activity in the relevant Work Area, the Requiring Authority shall

write to the owner of that PPF requesting entry to assess the noise reduction performance of the existing building envelope. If the owner agrees to entry within 3 months of the date of the Requiring Authority's letter, the Requiring Authority shall instruct a suitably qualified acoustics specialist to visit the building and assess the noise reduction performance of the existing building envelope and determine what Building-Modification measures are required to achieve an operational noise level of 40 dB L Aeq(24h) for habitable spaces.

ON.8 For each PPF identified under condition ON.7, the Requiring Authority is deemed to have complied with condition ON.7A if:

- a. The Requiring Authority's acoustics specialist has visited and assessed the PPF; or
- b. The owner agreed to entry, but the Requiring Authority could not gain entry for some reason (such as entry denied by a tenant); or
- c. The owner did not agree to entry within three months of the date of a Requiring Authority letter seeking entry for assessment purposes (including where the owner did not respond within that period); or
- d. The owner cannot, after reasonable enquiry, be found prior to completion of construction of the Project or after reasonable time has not responded.

If any of (b) to (d) above applies to a PPF identified under condition ON.7, the Requiring Authority is not required to implement Building-Modification Mitigation to that PPF.

ON.9 Subject to condition ON.8, within three months of the assessment required by condition ON.7A, the Requiring Authority shall write to the owner of each PPF identified under condition ON.7 advising:

- a. If Building-Modification Mitigation is required to achieve 40 dB LAeq(24h) inside habitable spaces; and
- b. The options for Building-Modification Mitigation to the building, if required; and
- c. That the owner has twelve months to decide whether to accept Building-Modification Mitigation to the building and to advise which option for Building-Modification Mitigation the owner prefers, if the Requiring Authority has advised that more than one option is available.

ON.10 Once an owner has confirmed which Building-Modification Mitigation option is preferred, the mitigation shall be implemented by the Requiring Authority, including obtaining any Council consents, within a mutually agreeable and reasonable timeframe, and where practicable, prior to a Major Construction Activity commencing in the relevant Work Area.

ON.11 Where Building-Modification Mitigation is required, the Requiring Authority is deemed to have complied with condition ON.10 if:

- a) The Requiring Authority has completed Building-Modification Mitigation to the PPF; or
- b) An alternative agreement for mitigation is reached between the Requiring Authority and the owner, and that mitigation option has been completed; or
- c) The owner did not accept the Requiring Authority's offer to implement Building-Modification Mitigation within three months of the date of the Requiring Authority's letter sent in accordance with condition ON.9 (including where the owner did not respond within that period).

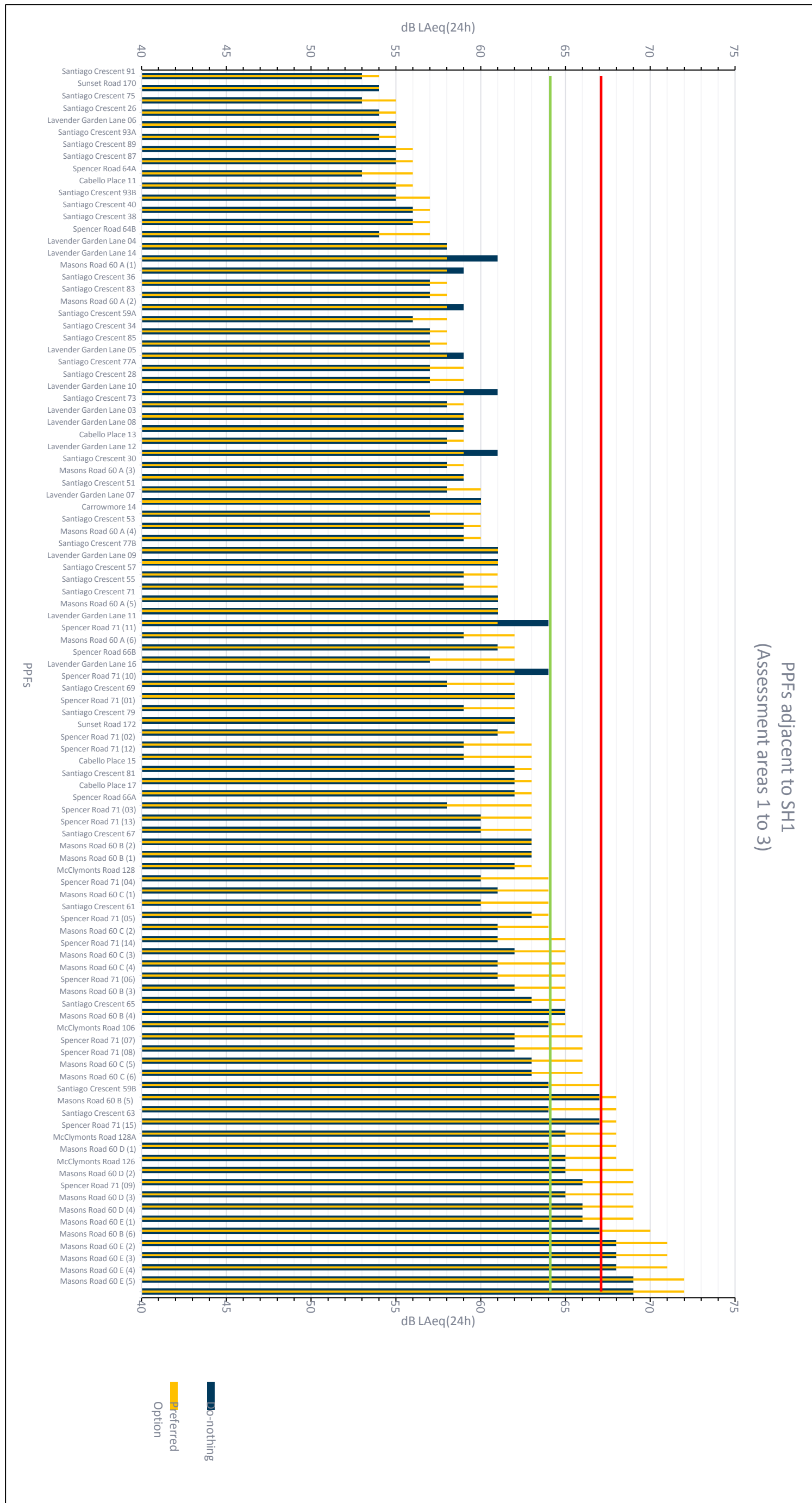


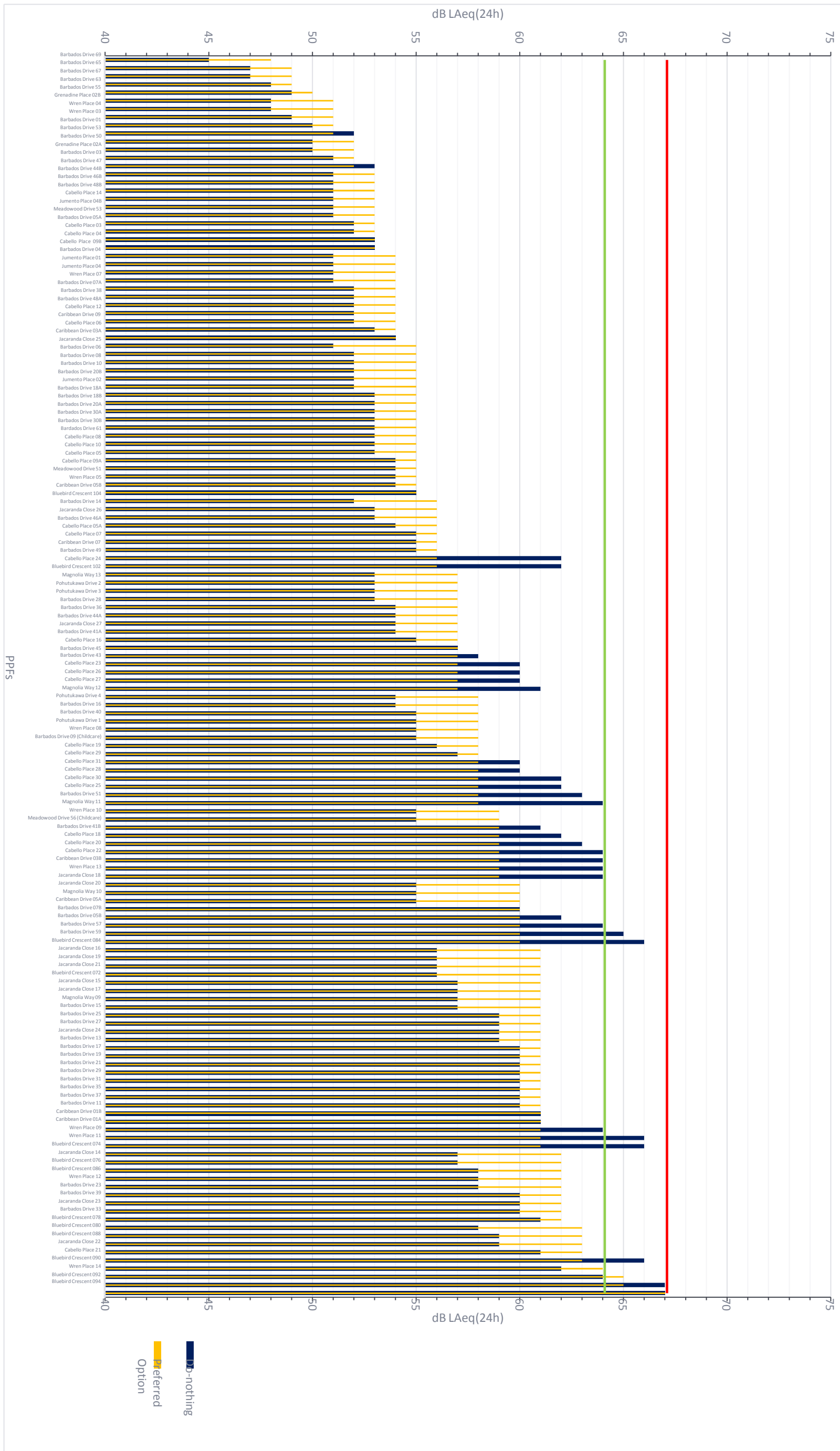
## **Operational Noise Conditions**

### **Appendix A**

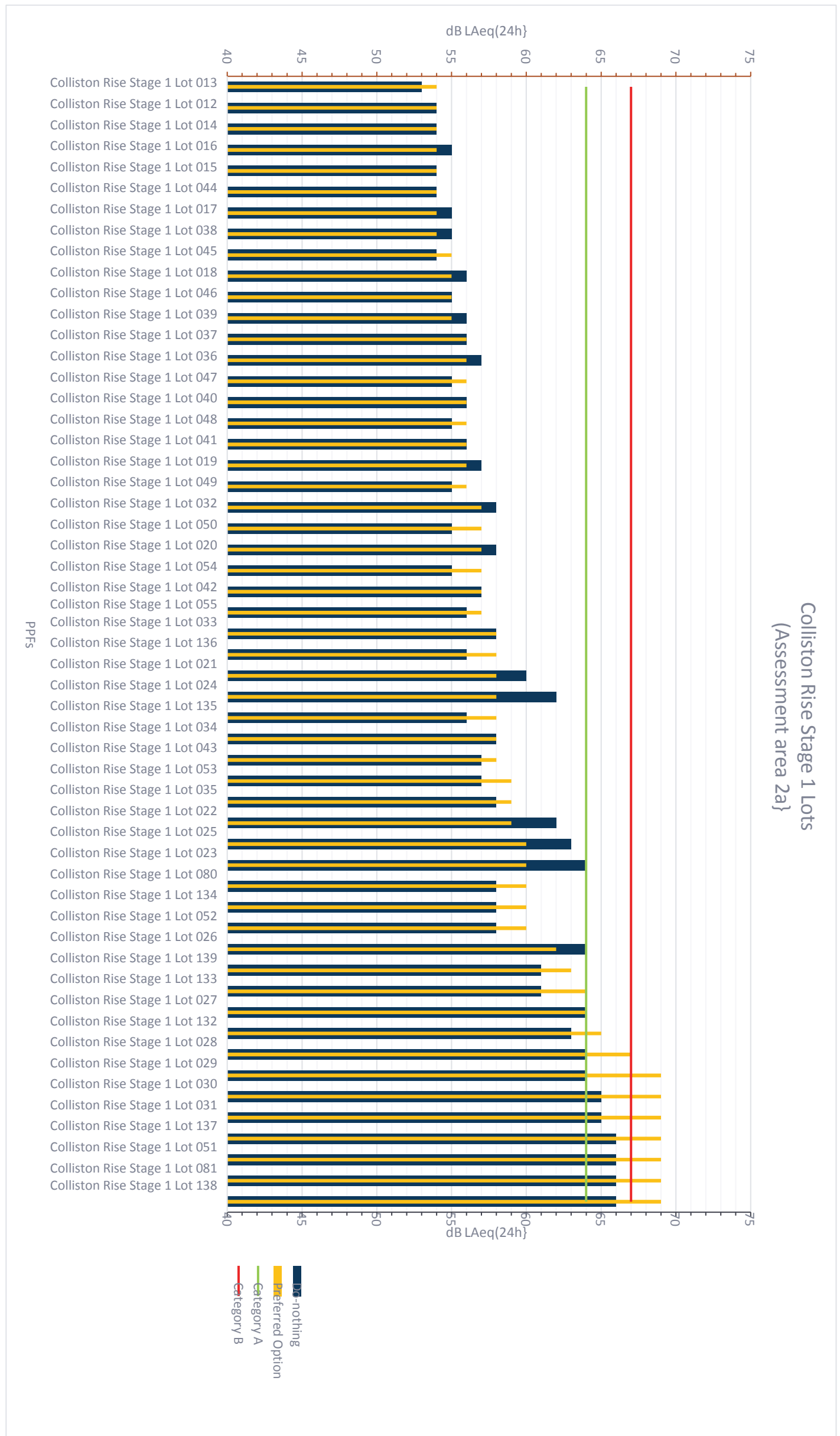
The following graphs show predicted noise levels for all PPFs identified in accordance with ON.2, and are based on the following factors:

- a) All noise levels are predicted for the design year (2031), with all structural mitigation (noise barriers and low noise road surface) implemented.
- b) All predictions are for the highest floor of each building.
- c) For Colliston Rise Stage 1, the predictions are for a nominal location 3 metres from the western boundary of each Lot, at a height of 4.5 metres above ground level, representing the second floor level.
- d) Predictions are sorted from lowest to highest for the Proposed Design.





PPFs adjacent to Upper Harbour Highway  
(Assessment areas 4 to 8)



## **Operational Vibration**

OV.1 Vibration generated by traffic shall comply with Class C of Norwegian Standard NS8176.E:2005 *Vibration and Shock* – Measurement of vibration in buildings from land-based transport and guidance to evaluation of its effects on human beings in any lawfully established occupied building.

In the event that there is a complaint about vibration in any lawfully established occupied building, the Requiring Authority shall, subject to land owner approval, investigate whether:

- a. The vibration complies with the Standard; and
- b. It is caused by defects in the motorway.

If the vibration does not comply with the Standard and is caused by defects in the motorway, the Requiring Authority shall rectify the defects so that the Standard is complied with in the building that is the subject of the complaint.

## **Urban Design and Landscape**

UDL.1 The Requiring Authority shall submit an Urban Design and Landscape Plan ('**UDLP**') to the Council as part of the OP required under section 176A of the RMA.

UDL.2 The purpose of the UDLP is to outline:

- c. The methods and measures to avoid, remedy and mitigate adverse effects on landscape amenity during the construction phase of the Project;
- d. The requirements for the Project's permanent landscape mitigation works; and
- e. The landscape mitigation maintenance and monitoring requirements.

UDL.3 The UDLP shall be prepared by a suitably qualified and experienced person in accordance with:

- a. The NZ Transport Agency's *Urban Design Guidelines: Bridging the Gap* (2013) or any subsequent updated version
- b. The NZ Transport Agency's P39 Standard Specification for Highway Landscape Treatments (2013).

UDL.4 The Outcomes Sought set out in Chapters 5 and 6 of the UDLF (Revision 3) shall be given effect to through the UDLP in relation to the following matters:

- a. Urban design and landscape treatment of all major structures, including bridges, underpasses, retaining walls and noise walls and barriers;
- b. Urban design and landscape treatment of the new structures at Constellation and Albany Bus Stations;
- c. Integrated landscape treatment of permanent stormwater management ponds, wetlands

and swales;

- d. Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/cycle bridges or underpasses; and
- e. Design and treatment options on or adjacent the following properties:
  - i. The western most residences at 60B Masons Road that overlook the proposed Albany Busway overbridge;
  - ii. Lots 25, 26, 27 and 28 in Colliston Rise, directly adjacent to the proposed retaining walls;
  - iii. 33, 35, 37, 39, 41B, 43, 45, 49, 51, 57, 59 Barbados Drive, and 9, 11, 13 and 14 Wren Place and
  - iv. The solid 2m high wall on the edge of the SUP adjacent to the Waste Management Ltd facility at 117 and 123 Rosedale Road.
- f. Design and maintenance of lighting, including on the carriageways, bridges and other structures, busway, and shared use paths
- g. Detailed design of the shared use path, busway and flyover adjacent to the Kiwi Storage Ltd site, with the object of minimising any adverse visual effect on that site, as far as practicable

UDL.5 The Requiring Authority shall undertake mitigation and enhancement planting in general accordance with the requirements of Sections 5 and 6 of the UDLF (Rev. 3). The UDLP shall include details of proposed mitigation planting including as follows:

- a. Identification of vegetation to be retained, protection measures, and planting to be established along cleared edges;
- b. Proposed planting including plant species, plant/grass mixes, spacing/densities, sizes (at the time of planting) and layout and planting methods;
- c. The proposed staging of planting in relation to the construction programme, including provision for planting within each planting season following completion of works in each stage of the Project and detailed specifications relating to (but not limited to) the following:
  - i. Weed control and clearance;
  - ii. Pest animal management;
  - iii. Ground preparation (topsoiling and decompaction);
  - iv. Mulching;
  - ix. Plant sourcing and planting, including hydroseeding and grassing; and
  - d. Details of a proposed maintenance and monitoring programme.

UDL.5A The Requiring Authority shall maintain and monitor the mitigation and enhancement planting for a minimum of 4 years following the planting being undertaken. The Requiring Authority shall monitor the planting in accordance with the programme required by condition UDL.5(d),

including monitoring for any patches in planted areas greater than 4m<sup>2</sup> where there is multiple plant failure (either stunted growth or death) and replant these areas as necessary.

UDL.6 The UDLP shall include a Reserve Reinstatement Plan for the following reserves (or parts thereof) directly affected by the construction works:

- a. Rook Reserve;
- b. Arrenway Reserve; and
- c. Meadowood Reserve.

#### **Advice Note**

Appendix A to the Board of Inquiry Decision illustrates the location of affected reserves.

UDL.6A The Reserve Reinstatement Plans shall be prepared in consultation with Council Parks and shall include the following details (as appropriate to the subject reserve):

- a. Removal of structures, plant and materials associated with construction;
- b. Replacement of boundary fences to the same or similar type to that removed;
- c. Reinstatement of grassed areas to a similar condition as existed prior to construction;
- d. Replacement of trees and other planting removed for construction on a one-for-one basis (or as otherwise agreed with Council Parks); and
- e. Details of way finding interpretation signage within and adjacent to the reserve.

UDL.6B The Rook Reserve Reinstatement Plan shall be prepared in consultation with Council Parks and shall include the following details:

- a. A level grassed area minimum dimensions of 30m by 30m suitable for informal ball games;
- b. A 10m by 10m level surface located adjacent to the stormwater pond, with the dual function of providing for occasional use by stormwater pond maintenance machinery and a single basketball hoop and half court, located at the eastern end of the pond;
- c. Amenity and screen planting along the boundary of the reserve with State highway 18;
- d. Details of the proposed access around the stormwater pond for maintenance, including any additional necessary hard stand areas;
- e. Grassed slopes (where possible) at the upper levels of the reserve to allow passive surveillance from neighbouring residential properties (with scattered amenity trees);
- f. All grassed areas are to have a slope of no more than 1:5 to allow for mowing, with steeper gradients to be landscaped;
- g. Re-contouring and landscaping of the remainder of the reserve, including features such as walkways and seating; and

h. Prior to commencement of construction on the reserve, the existing fitness equipment in Rook Reserve is to be removed and replaced with three new equivalent pieces of equipment in Barbados Reserve.

UDL.6C In addition to the Reserve Reinstatement Plans above, the UDLP shall in relation to the Landfill provide boundary fencing, replace any trees and landscaping equivalent to those removed or affected by the construction of the retaining wall, provided that any landscaping does not compromise sightlines required for the new motorway and / or busway and/or the shared use path.

UDL.7 A draft of the UDLP shall be submitted to the Council Urban Design Advisory Panel for comment before finalisation and submission with any OP in accordance with Condition UDL.1.

UDL.8 All work shall be carried out in accordance with the UDLP.

UDL.9 For the purpose of staging works, the Requiring Authority may prepare staged or site specific UDLPs. The Requiring Authority shall consult with the Council about the need and timing for any site-specific or staged UDLPs.

UDL.10 The Requiring Authority may submit amendments to the UDLP to the Council. Any works in accordance with the amended UDLP shall not commence until the process under section 176A of the RMA has been completed in relation to those aspects of the UDLP that are being amended.

UDL.11 The UDLPs shall be prepared in partnership with the Transport Agency Central Northern Iwi Integration Group ('IIG'). This consultation shall commence at least 30 working days prior to submission of each UDLP to the Council. Any comments and inputs received from the IIG shall be clearly documented within the UDLP, along with a clear explanation of where any comments or suggestions have not been incorporated and the reasons why.

UDL.12 Any UDLP that includes land within the Watercare Designations 9310 and 9311 shall be prepared in consultation with Watercare Services Limited.

### **Alexandra Stream Underpass**

UDL.13 The Requiring Authority shall implement the following measures to address public safety concerns associated with the Alexandra Stream Underpass:

- a. Path realignment of the southern entrance to the underpass to suit a minimum cyclist design speed of 15km/h, provided realignment works do not impact the Alexandra Stream;
- b. Improved lighting within the underpass; and
- c. Inclusion of CCTV within the underpass.

UDL.14 The measures outlined in UDL.13 shall be designed and implemented in consultation with Council Parks, Bike Auckland and Auckland Transport.

### **Paul Matthews Road Bridge**

UDL.15 During the detailed design phase of the Paul Matthews Road Connection, the Requiring Authority shall consult Bike Auckland on the layout and detailed design of the shared use path.



## **Stakeholder and Communications Plan ('SCP')**

SCP.1 The Requiring Authority shall appoint a community liaison person for the duration of the construction phase of the Project to be the main point of contact for persons affected by the Project.

SCP.2 The Requiring Authority shall ensure that the contact details (phone, postal address, and email address) of the community liaison person and the details of the complaints process set out in Condition SCP.12 are:

- a. Included in the SCP required under Condition SCP.3;
- b. Advertised in the relevant local newspapers and community noticeboards prior to the commencement of the Project;
- c. For each Project stage, included in a leaflet to be issued to all properties within that Project stage contained within the 45 dB LAeq Contour (Residential Night) as shown on the Construction Noise Mark Up drawings contained at Appendix E of the Assessment of Construction Noise and Vibration (9 December 2016) prior to the commencement of the relevant Project stage;
- d. Provided at the community events required under Condition SCP.6 and
- e. Included within the Requiring Authority's website pages for the Project.

SCP.3 At least two months prior to the commencement of construction works for the relevant OP, the Requiring Authority shall submit a SCP to the Council.

SCP.4 The Requiring Authority shall provide a draft SCP to the Council for comment at least three months prior to the commencement of construction. In finalising the SCP, the Requiring Authority shall detail how comments received from the Council have been addressed.

SCP.5 The purpose of the SCP is to set out the procedures for communicating with the affected communities and key stakeholders throughout the construction period including types and regularity of engagement events and the methods proposed to avoid, remedy or mitigate, as far as practicable, disruption to residents, businesses and schools as a result of construction activities.

SCP.6 The SCP shall contain the following:

- a. Communication methods for informing the affected community of construction progress, including the expected duration of the works and proposed hours of operation outside normal working hours and Project contact details;
- b. Identification of key stakeholders including community groups, business groups, residents' organisations, childcare groups, the Council, Auckland Transport, Watercare, Ministry of Education, Waste Management NZ Limited, the Melanesian Mission and St Johns Trust Board, the IIG and the Local Boards;
- c. Consultation processes to reach the affected communities and key stakeholders in order to foster good relationships and to provide opportunities for learning about the Project and detail on when each of these processes will be used; and

d. Business and education disruption management processes.

SCP.7 The consultation processes required under SCP.6(c) shall provide for, as a minimum, the following:

a. At least two months prior to construction commencing for the relevant Project stage, provision of an inaugural community information event or events, to explain the Project and outline the process to review and comment on Project mitigation and UDLPs;

b. Briefings for key stakeholders (including emergency services, business associations, local boards and road user groups) at least quarterly, and ahead of all major milestones or road closures;

c. Regular consultation events or information days, held as appropriate, but at least once per month when construction works are taking place, to provide the opportunity for the affected communities to have input into the Project.

d. Targeted community events at least one month prior to construction commencing in each of the following Work Areas:

- SH1/SH18 interchange;
- SH18 realignment;
- Rook Reserve;
- Rosedale Road;
- Constellation and Albany Bus Stations; and
- McClymonts Road (including Albany Busway Bridge).

e. Notification of consultation events and information days to the public and community groups.

f. Publication and circulation of records from consultation events and information days.

g. A requirement for the Requiring Authority to ensure that appropriate personnel attend both the stakeholder and community events to explain the Project programme and staging, how the effects are proposed to be managed and to respond to any questions.

h. A requirement to produce a draft report summarising the main points arising from each consultation event, reporting on any social impacts unforeseen effects of the Project, along with recommendations on the measures to mitigate those effects. The Requiring Authority shall ensure that a copy of the draft report is provided to the Council and to meeting attendees within 10 working days of the event to provide an opportunity for feedback. Feedback will be provided within 5 working days of receiving the draft report.

i. A requirement to finalise and circulate the consultation summary report within 5 working days of receiving feedback.

SCP.8 The events required under condition SCP.7(b), shall:

- a. Provide regular updates on Project progress, in particular advanced notice of upcoming works including closures and traffic management plans.
- b. Enable the effects of Project construction on the community (including businesses) to be monitored by providing regular forums through which information about the Project can be provided.
- c. Enable opportunities for feedback on proposed construction impact measures.
- d. Enable the affected communities and key stakeholders the opportunity to provide feedback on the development of, and any material changes to the UDLPs.
- e. Enable opportunities for concerns and issues to be reported to and responded to by the Requiring Authority, including opportunities for updates to the SCP.

SCP.9 The business and education disruption management processes required under condition SCP.6(d) shall include details of the measures to be implemented to avoid, remedy or mitigate, as far as reasonably practicable, disruption to businesses and education facilities as a result of construction activities including:

- a. Measures to maximise opportunities for customer and service access to businesses that will be maintained during construction;
- b. Measures to mitigate potential severance and loss of business visibility issues by way-finding and supporting signage for pedestrian detours required during construction; and
- c. Other measures to assist businesses to maintain client/customer accessibility, including but not limited to client/customer information on temporary parking or parking options for access and delivery.
- d. Measures to enable ongoing pedestrian and cycle connectivity to education facilities during the Project.

SCP.10 The Requiring Authority shall implement the SCP for the duration of the construction works and for six months following practical completion of the Project.

SCP.11 The SCP shall be reviewed six monthly for the duration of the construction works and updated as required. Any updates to the SCP shall be provided to the key stakeholders and reported at the events required under condition SCP.7(c)

### **Complaints process**

SCP.12 Prior to the commencement of construction, the Requiring Authority shall establish a 24 hour toll free telephone number and an email address for receipt of complaints from the community. The 24 hour toll free telephone number shall be answered at all times and shall be maintained for the duration of the Project.

SCP.13 At all times during construction work, the Requiring Authority shall maintain a permanent register of any complaints received relating to the construction works, including the full details of the complainant and the nature of the complaint.

SCP.14 The Requiring Authority shall respond to any complaint within 24 hours of receipt of the complaint, except where an immediate hazard is present or where the complaint relates to Auckland Unitary Plan Operative in part

construction noise or vibration, in which case the Requiring Authority shall use its best endeavours to respond immediately. A formal written response shall be provided to the complainant and the Council within 10 days of complaint receipt.

SCP.15 For the period of the construction of the Project, the Requiring Authority shall maintain a written complaints register containing the following information:

- a. The details of the complainant;
- b. The nature of the complaint;
- c. The investigations undertaken into the complaint; and
- d. Any remedial actions undertaken to address the complaint.

SCP.16 The Requiring Authority shall keep a copy of the complaints register required under SCP.15 on site and shall provide a copy to the Council once a month and more frequently upon request

### **Greenwich Way Shops**

SCP.17 At least two weeks prior to the closure of the off-ramp from SH18 onto Unsworth Drive, the Requiring Authority shall, in consultation with the Greenwich Way shop owners and operators and if requested by those owners and operators:

- a. Provided that all necessary approvals can be obtained from the road controlling authority, install wayfinding signage at the junction of Barbados Drive and Unsworth Drive; and
- b. Advertise the range of services, location and trading hours of the Greenwich Way shops by:
  - i. Undertaking a leaflet drop to all properties contained between SH18, Caribbean Drive, Sunset Road and Albany Highway; and
  - ii. Placing advertisements in the relevant local newspapers.

SCP.18 The Requiring Authority shall carry out the actions required by Condition SCP.17 (a) and (b) at least two weeks prior to closure of the off ramp from SH18 onto Unsworth Drive and repeat the advertising required by Condition SCP.17 (b) once a month for three months following the first leaflet drop and newspaper advertisements.

SCP.19 At least two months prior to the closing of the off ramp from SH18 onto Unsworth Drive the Requiring Authority shall, in consultation with the Greenwich Way shop owners and operators, and if requested by those owners and operators, provide advice and assistance to those owners and operators to prepare a business/marketing plan for their premises,

### **International Hockey Facility**

IHF.1 Unless otherwise agreed between the Requiring Authority and the Harbour Hockey Charitable Trust, prior to any works commencing within any part of the North Harbour Hockey Facility lease area, the Requiring Authority shall, in consultation with Harbour Hockey Charitable Trust, relocate the North Harbour Hockey facility on an equivalent basis. This shall include the following elements:

- a. Three water-based artificial hockey pitches with all fields to meet equivalent current Auckland Unitary Plan Operative in part

International Hockey Federation ('**FIH**') design standards as existing fields;

- b. One grass pitch (or land prepared for installation of a fourth artificial hockey pitch);
- c. A pavilion building of similar size, quality and finish that provides clubrooms, function rooms, changing rooms, and other amenities consistent with those at the existing North Harbour Hockey Facility but shall be designed to meet current FIH and building code standards; and
- d. Lighting, car parking, public address system, storage sheds, dug-outs, and associated other facilities consistent with those at the existing North Harbour Hockey Facility.

If the replacement facility is located proximate to the existing satellite sand based pitch within Rosedale Park, suitable access from the replacement facility to the existing sand based pitch will be provided. In the event that the new hockey facility is not located sufficiently close to the existing satellite sand pitch (which is in Rosedale Park to the north of the existing North Harbour Hockey Facility) to enable convenient access, an equivalent sand based pitch shall be provided as part of the replacement facility.

If agreed with HHCT, relocation to the new North Harbour Hockey Facility may be undertaken in stages.

## **Attachments**

No attachments.

New/Alterations & Withdrawals to Designations  
(Go Live 29th November 2018)

Amendments to Auckland Unitary Plan GIS Viewer (maps)

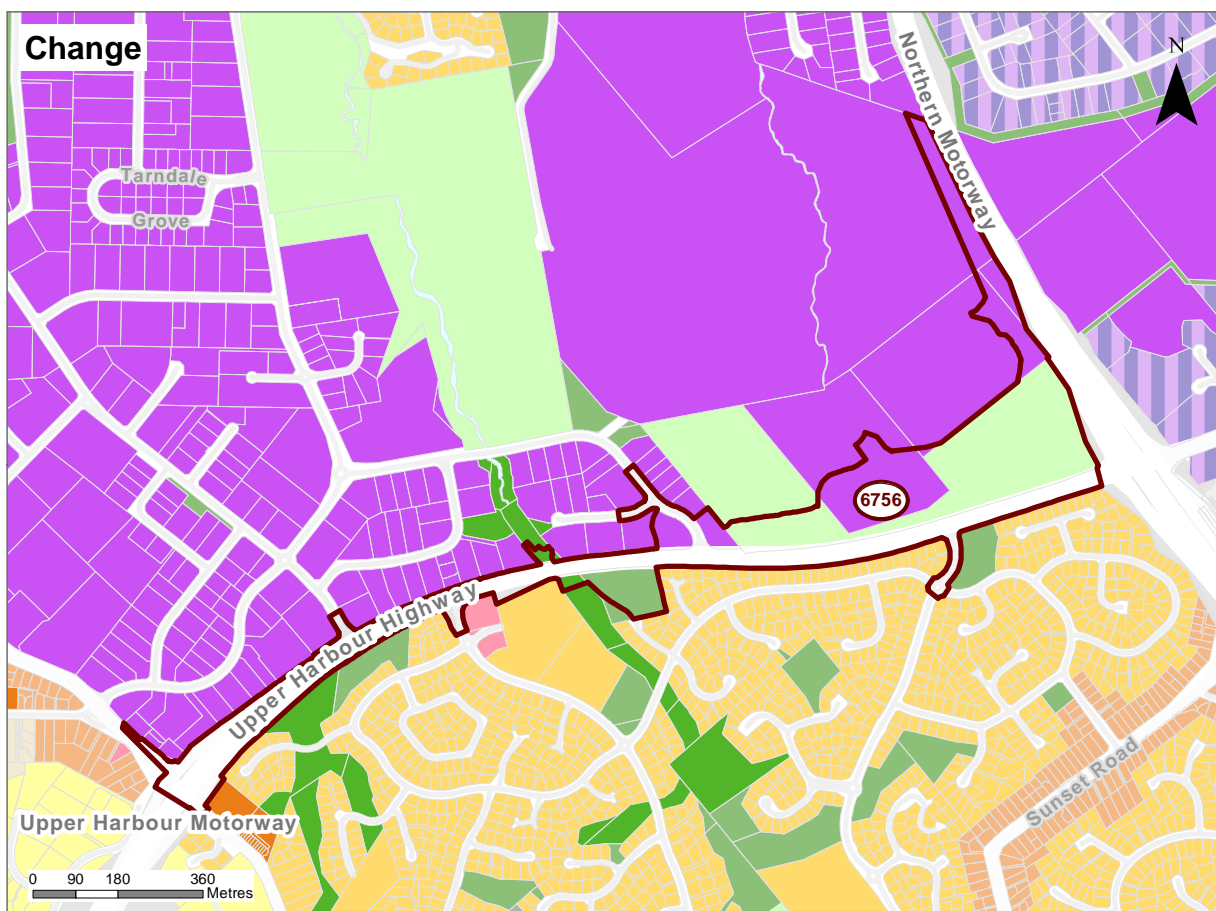
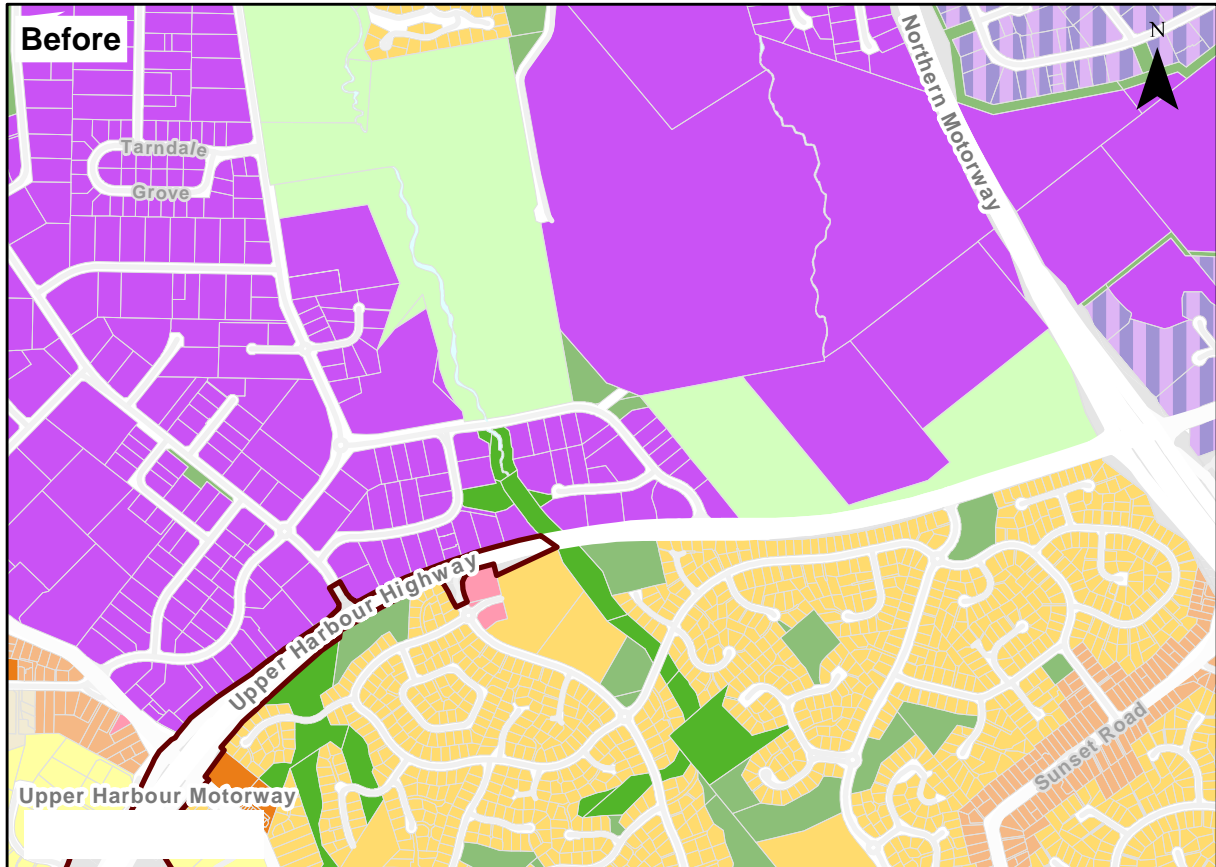
Affected map layers : Designations

Designation: 6756

Name: State Highway 18: To undertake maintenance, operation, use and improvement to the State Highway network.

Requiring Authority: New Zealand Transport Agency

Addition to Designation 6756



## UNITARY PLAN UPDATE REQUEST MEMORANDUM

**TO** Warren MacLennan, Manager Planning North West and Islands

**FROM** Jo Hart, Principal Planner, Planning North West and Islands

**DATE** 29 August 2018

**SUBJECT** **Designation in accordance with s181(3) of the Resource Management Act of the Auckland Unitary Plan(AUP) Operative in part (15 November 2016)**



This memorandum requests an update to Auckland Unitary Plan Operative in part

<b>Reason for update – Confirmed notices of requirement to alter Designation 6758 (as part of the Northern Corridor Improvements Project)</b>	
<b>Chapter</b>	Chapter K Designations
<b>Section</b>	New Zealand Transport Agency
<b>Designation only</b>	
<b>Designation # 6758</b>	State Highway 1 – Constellation Drive Station
<b>Locations:</b>	Southeast corner Constellation Drive and State Highway 1, Rosedale
<b>Lapse Date</b>	7 years (for the alteration)
<b>Purpose</b>	Constellation Drive Station - for the construction, operation and maintenance of roads, buildings, facilities and amenities and park and ride facilities (including a Busway control room and any ancillary structures, works and activities) for the purpose of providing a rapid transit facility for buses and high occupancy vehicles.
<b>Changes to text (shown in underline and strikethrough)</b>	<p>This update incorporates amendments to conditions arising from the following alterations to the designations associated with the Northern Corridor Improvements Project (NCI):</p> <ul style="list-style-type: none"> <li>• Northern Corridor Improvements Project (as confirmed by the Board of Inquiry (BOI) 16 November 2016)</li> <li>• Section 181(3) notice of requirement for an alteration to a designation associated with the NCI – Conditions DC.1a, DC2.A, ON.3b(iii), UDL.4(iii) and UDL.15 (confirmed 8 May 2018)</li> <li>• Section 181(3) notice of requirement for an alteration to Designation 6758 to remove obsolete conditions to enable integration of the BOI conditions (confirmed 31 July 2018).</li> </ul> <p>Refer to the link below for the NCI Board of Inquiry Final Report and Decision and to the attachments for details of the two Section 181(3) notice of requirements for an alteration to a designation:</p> <ul style="list-style-type: none"> <li>• NCI Board of Inquiry Final Report and Decision</li> </ul> <p><a href="https://www.epa.govt.nz/public-">https://www.epa.govt.nz/public-</a></p>

	<a href="#">consultations/decided/northern-corridor-improvements/final-report-and-decision/</a>
<b>Changes to diagrams</b>	N/A
<b>Changes to spatial data</b>	Multiple amendments to spatial data associated with the Northern Corridor Improvements Project (as confirmed by the Board of Inquiry 16 November 2016).
<b>Attachments</b>	<ul style="list-style-type: none"> <li>• Section 181(3) Report and decision (confirmed 8 May 2016) including track changes to the BOI confirmed conditions.</li> <li>• Section 181(3) Report and decision (including a table which provides details of the alterations to the conditions) and track change version of conditions for Designation 6758</li> <li>• 6758 State Highway 1 – Constellation Drive Station designation text</li> </ul>

**Prepared by:**

Jo Hart  
Principal Planner  
Planning North West and Islands

**Signature:**

**Text entered by:**

Bronnie Styles  
Planning Technician  
Planning Auckland-wide

**Signature:**

**Maps prepared by:**

Mitesh Bhula –  
Senior Geospatial Analyst  
Aucklandwide

N/A

**Signature**

**Reviewed by:**

Jo Hart  
Principal Planner  
Planning North West and Island

**Signature:**

**Warren MacLennan  
Manager**

**Signature**



8 May 2018

Northern Corridor Improvements  
Level 1 Jacobs House  
12 Nicholls Lane  
Parnell  
Auckland 1052

Attention: Maree Drury

Dear Maree

**Re: Notice of for a minor alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road in the Auckland Unitary Plan.**

Auckland Council has considered your request to alter the existing designations associated with the Northern Corridor Improvements Project as listed above.

The proposed alteration to the designations has been processed and confirmed in accordance with the statutory tests of Section 181(3) of the Resource Management Act 1991. The Section 181(3) confirmation report for the minor alteration is attached.

The Auckland Unitary Plan will be amended in due course.

If you have any questions please contact Jo Hart on 09 8908291

Yours sincerely



David Sanders  
Team Leader – Planning North West and Islands  
**Plans and Places**



# Notice of requirement for a minor alteration to a designation under section 181(3) of the Resource Management Act 1991



## Notice of requirement description

Designation number:	Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road.
Requiring authority:	New Zealand Transport Agency
Site address:	Various – between Oteha Valley Road and SH1/SH18 intersection and along SH18 to Albany Highway.

## Summary

Auckland Council has received a request from the New Zealand Transport Agency under section 181(3) of the Resource Management Act 1991 (RMA), dated 15 February 2018, to alter designations associated with the Northern Corridor Improvements Project (Attachment A).

It is considered after undertaking an assessment of the notice, that the proposed alteration meets the statutory tests of section 181(3) of the RMA and can therefore be processed and confirmed as a minor alteration.

## Recommendation

1. That the proposed alteration of Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road in the Auckland Unitary Plan be **confirmed**, subject to the amended conditions (Attachment B) for the following reasons:
  - the alteration involves no more than minor changes to the effects on the environment associated with the use of the land;
  - there are no adjustments to the boundaries of the existing designation;
  - both the requiring authority and Auckland Council agree with the alteration; and

- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
2. That the text for the Designations, as listed above, is altered in Chapter K Designations in the Auckland Unitary Plan.

## **1. Background**

### **1.1. Minor alteration to a designation**

Auckland Council has received a notice of requirement (NoR) for an alteration to designations associated with the Northern Corridor Improvements Project (NCI), as listed above, from the New Zealand Transport Agency under section 181(3) of the RMA.

The alteration is required to modify conditions confirmed in the Board of Inquiry (BOI) decision, dated 16 November 2017, to reflect minor changes made during the detailed design process. These changes are as follows:

- a minor reconfiguration of the Paul Matthews Road and Caribbean Drive connection
- the replacement of the State Highway 1 to State Highway 18 flyover with an underpass.

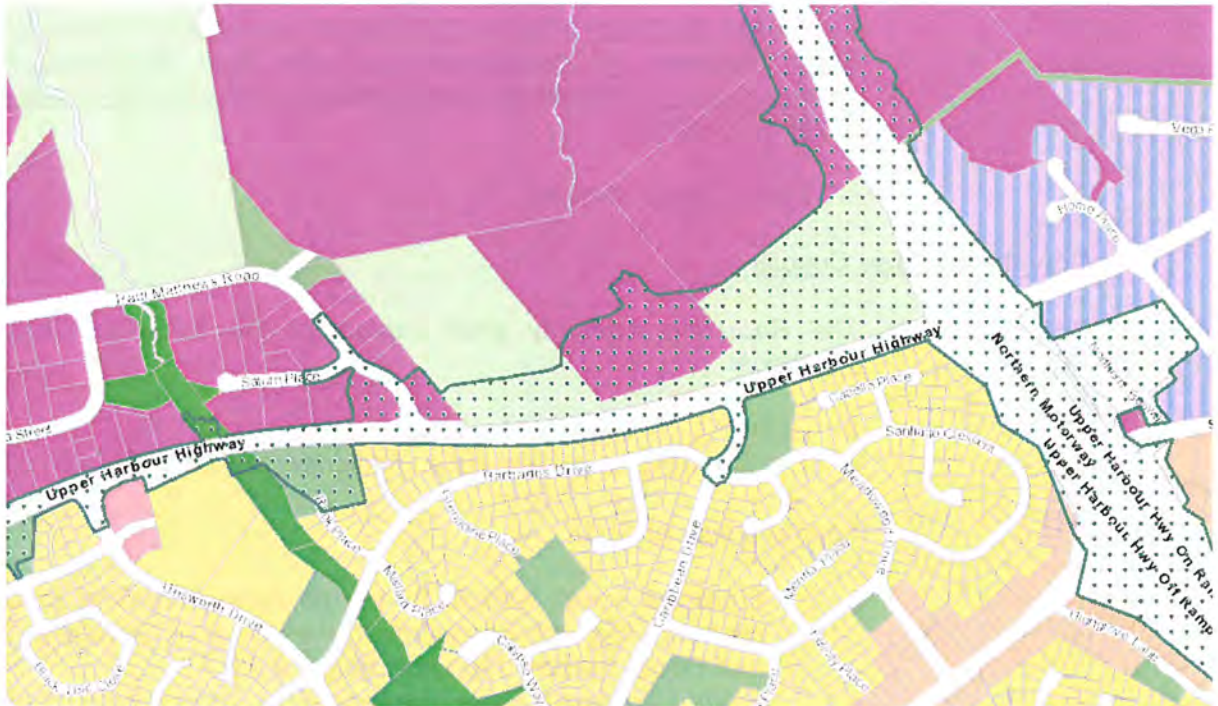
The alteration involves an amendment to General Condition DC.1 to change the reference of two of the drawings presented to the BOI to the NCI Alliance updated detailed design drawings. Minor consequential amendments and additions are also proposed in relation to:

- the operational noise conditions (ON.3 (a)(iii)) to allow for the construction of a slightly higher noise wall
- the urban design conditions (UDL.4 (e)(iii) and UDL.15) to ensure mitigation of the higher noise wall proposed in relation to visual effects on adjacent properties.

There are no alterations proposed to the boundaries of the designations.

### **1.2. Land affected by the alteration**

The land affected by the alteration to the designation is located around the SH18 interchange with SH1 and at Paul Matthews Road, near the Watercare Rosedale Treatment Plant and Constellation Reserve, as shown in the Auckland Unitary Plan map below:



Map 1: AUP map showing vicinity of proposed alterations.

### 1.3. Description of the site and existing environment

This section of the Northern Corridor contains the SH1 and SH18 highway corridors. The intersection of SH1 and Constellation Road is to the east and SH18 to the west. Residential housing is located to the south of the SH18 alignment. Constellation Reserve, which forms part of Watercare’s odour buffer designation, and the Rosedale Wastewater Treatment Plant (RWTP) and ponds are located to the north. An area of General Business zoned land lies to the north-east of the SH1/SH18 intersection. The Constellation Bus Station is located to the south-east of the intersection and is currently accessed via the Constellation off-ramp and crossing Constellation Drive to get to the beginning of the Northern Busway.

### 1.4. Proposed alterations to conditions

The requiring authority has requested the alteration of four of the confirmed EPA conditions. These are as follows:

#### General Conditions:

*Condition DC.1 Except as modified by the conditions below, and subject to final design, the Northern Corridor Improvements Project shall be carried out in general accordance with:*

#### *a. General arrangements drawings*

*Sheet 1 and 2, DRG 0201-0202, Rev J*

*Sheets 3 - 8, DRG 0203-0208, Rev H*

*Sheets 9 – 10, DRG 0209-0210, Rev I (Revised Alteration to Designation Boundary – Bluebird Reserve)*

**Subject to the minor changes in relation to the State Highway 1 to State Highway 18 underpass and the Paul Matthews Road configuration as shown in Sheets NCI-R-1002-DG-108-A and NCI-R-1002-DG-106-A.**

b. Typical cross sections...

Operational Noise Conditions

Condition ON.3 The Requiring Authority shall implement the following Structural Mitigation:

- a. [...]
- b. The following noise barriers and heights shall be provided:

Southern side of SH18

- i. From the corner formed by the off ramp from SH1 to Upper Harbour Highway, westwards to the corner of Caribbean Drive and Upper Harbour Highway, height 2.4m.
- ii. From Caribbean Drive westwards to approximate chainage 1280, height 2.4m
- iii. From chainage 1280 to 1410 approximately, height ~~3m~~ **4m**.
- iv. From chainage 1555 to 1765 approximately, height 2.4m...

Urban Design and Landscape Conditions

Condition UDL.4 The Outcomes set out in Chapters 5 and 6 of the UDLF (Revision 3) shall be given effect to through the UDLP in relation to the following matters:

- [...]
- e. Design and treatment options on or adjacent the following properties:  
[...]
- iii. 33, 35, 37, 39, 41B, 43,45, and 4 ~~79, 51, 57, 59~~ Barbados Drive, **and 9, 11, 13 and 14 Wren Place** directly adjacent to the proposed Paul Matthews Road overbridge; and...

Condition UDL.15 During the detailed design phase of the Paul Matthews Road **Connection** Bridge, the Requiring Authority shall consult Bike Auckland on the layout and detailed design of the shared use path. ~~on the Bridge.~~

It is common for requiring authorities to lodge NoRs with preliminary design drawings with the final design to be processed through the Outline Plan of Works (OPW). This allows flexibility in the final design of a project from when the designation is confirmed without having to alter the conditions every time the design changes. In this case the drawing numbers have been included in Condition DC.1. The requiring authority has decided to take a precautionous approach to update the condition so that the correct drawing numbers are included. Consequential amendments to Condition ON.3, UDL.4 and UDL.15 are also required because of the change to the design.

After an assessment of the environmental effects, I consider that the alterations to the above conditions involve no more than a minor effect on the environment above that permitted by the confirmed BOI designations. The conditions as confirmed by the BOI, as amended by the minor alteration, and the inclusion of a new condition (DC.1A – refer to Section 2.1 Traffic and Transport Effects), will ensure that any potential adverse effects on the environment will be avoided, remedied or mitigated. The environmental effects are discussed further below in Section 2.1.

### **1.5. Delegated authority**

The Team Leader - Planning North West and Islands has delegated authority, in accordance with Schedule 2A of the Auckland Council Delegations: Chief Executive Officer (updated February 2017), to exercise the council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to section 181(3).

The NoR can therefore be considered by the Team Leader – Planning North West and Islands and confirmed or declined under section 181(3)(c).

### **1.6. Relevant statutory provisions**

Section 181 "Alteration of designation" of the Resource Management Act 1991 states:

- (1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*
- (2) Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*
- (3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if-*
  - (a) The alteration-*
    - (i) Involves no more than minor changes to the effects on the environment associated with the use or proposed use of land or any water concerned; or*
    - (ii) Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*
  - (b) Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*
  - (c) Both the territorial authority and the requiring authority agree with the alteration –*

*and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.*
- (4) This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.*

## **2. Analysis of the proposed alteration**

The relevant matters to consider are contained in section 181(3) of the RMA as outlined above.

### **2.1. Assessment of Environmental effects (s181(3)(a)(i))**

An assessment is required to determine whether the alteration to the conditions involves no more than a minor change to the effects on the environment above those permitted (and mitigated for) by the designations confirmed through the BOI process.

The requiring authority has provided an assessment of environmental effects (AEE) with the NoR. The following effects have been considered:

- Social
- Traffic and transport
- Archaeology and built heritage
- Cultural heritage
- Urban design and landscape
- Noise including increasing the height of the noise wall.

The requiring authority considers that the proposed alterations to the designation conditions involves no more than minor changes to the effects on the environment. The requiring authority also considers that they can still comply with the rest of the conditions with the amended design from a flyover to an underpass and the Paul Matthews Road and Caribbean Drive connection.

### **Social Effects**

The requiring authority, in its AEE, considers that the realignment and revised design of the Paul Matthews Road allows for some improvements in relation to any potential social effects. These include the following:

- SUP will be enhanced through greater separation and provides a direct connection from the area south of Caribbean Drive to Paul Matthews Road
- the visual impacts of the revised design are reduced in bulk and dominance providing improved urban amenity for the surrounding community
- viaduct design over Caribbean Drive allows for a potential additional open space area and stormwater attenuation through provision of open space amenity and potential reduction in flood risk
- off-line construction of parts of the connections allows greater construction flexibility with reduced impact on traffic, transport and earthwork requirements. This will contribute to a more efficient and expedited construction period with reduced adverse effects on the surrounding communities and businesses.

NZTA also recognises that the proposed realignment creates some potential adverse social effects due to the raised final height of the connection to SH18 compared to the BOI concept design. Potential operational noise effects were identified for up to six residential properties to the south. The mitigation proposed by the requiring authority is a slightly higher noise wall section at this location.

The requiring authority considers that there aren't any adverse social effects associated with the replacement of the SH1 southbound to SH18 overpass with an underpass and that the design provides for the following positive benefits:



- improved transport safety for users over the BOI concept design through a compliant exit ramp from SH1 in terms of sight distance and vertical grade while maintaining the weave length of the BOI concept design
- reduced height and bulk of the underpass option results in significant reduction of visual impacts
- reduced height of connection results in improved privacy for residential properties to the south with less opportunity for overlooking from traffic using the road
- consequential reduction in operational noise effects

### Comment

I agree with the requiring authority that the overall social effects of the alteration are no more than minor. I consider that the conditions as confirmed in the BOI decision will ensure that any potential adverse social effects can be mitigated, remedied or avoided.

It should be noted that Auckland Council's Urban Design Panel had reservations, within their review to the requiring authority in December 2017, about the use of the area under the viaducts as a formal area of open space. This is discussed further below in the section on urban design, visual and landscape effects.

### **Traffic and Transport**

The requiring authority has stated in its AEE that alteration will have positive effects in regards the construction traffic and transport effects in that:

- the NCI Alliance design significantly reduces disruption to traffic during construction on SH 18 and around Paul Matthews Road by avoiding the diversion of 70,000 vehicles per day.
- construction of an underpass instead of an overpass removes the need for a significant number of overnight motorway closures for the placement of bridge beams, deck pours and barriers.
- Evacuation of the underpass void will take place with live traffic travelling above and motorists will be unaware of the intensive excavation activity happening below them therefore reducing drive distraction.

The requiring authority also considers that the proposed changes will have positive effects in terms of operational traffic and transport for the following reasons:

- The underpass for the westbound link from SH1 to SH18 has improved safety aspects due to the underpass alignment providing compliant sight distances and maintaining the existing weave length between the Greville Road interchange and the SH18 off-ramp.
- the underpass for the westbound link from SH1 to SH18 has reduced grades and therefore benefits freight vehicles.

NZTA has been in consultation with Bike Auckland on the NCI Alliance design (as required by Condition UDL.15 in relation to the layout and design of the shared used path on the Paul Matthews Road overbridge). NZTA/NCI Alliance has advised that the design to date has been based on these discussions

## Comment

Duncan Tindall, consultant traffic and transport specialist for Auckland Council, has undertaken an assessment of the minor alteration (Attachment C). Mr Tindall is supportive, in principal, of the proposed amendments resulting from the changes to the design. The review has been considered in the context of the discussions that occurred during the BOI processes including Joint Witness Statements and the hearing. The issues at that time related to construction effects, pedestrian and cycle amenity, legibility of road layout and the potential affects on the Caribbean Drive arm.

As a result of further information, the following matters have had a satisfactory response:

- drawings that accompanied the application did not specifically show the Cabello Place pedestrian link as confirmed to be retained in the future through the BOI process. NZTA confirmed that this would be retained.
- the drawings did not identify where the pedestrian and cycle crossings of the Upper Harbour Highway and realigned Paul Matthews Drive were located, and how they integrated with the signal phasing. This was viewed as particularly important as a result of the discussions related to accessibility, potential severance effects during construction and post opening and the new Paul Matthew link to Caribbean Drive. Modelling provided by NZTA/NCI Alliance confirmed that the intention is to provide signalised crossings which would provide an amenity that is broadly equivalent to the confirmed BOI designation.

However, Mr Tindall still had the following concerns:

- the length of the crossing of the Upper Harbour Highway which would potentially be a barrier for some users, particularly pedestrians. However, he did not consider the proposed alteration fundamentally created a significant adverse effect although this outcome is heavily dependent on the detailed design.
- The tension with providing the level of service (LOS) for the Caribbean Drive traffic. A queue length on Caribbean Drive of 118m or less 95%ile was agreed in the Joint Witness Statement with additional modelling showing that this could be achieved (although this did not include the closely linked eastbound off ramp that had been in the initial modelling). While modelling received from the NCI Alliance individually shows that the performance of the intersection is equivalent, or better, than the confirmed designation, he has not received reassurance that it is possible to simultaneously meet the level of service for pedestrians and traffic with the proposed alteration layout.

Mr Tindall considered that there were two options available:

- That NZTA/NCI Alliance provide full modelling of the intersection, including all arms, a common cycle time and explicit representation of pedestrians which meets or exceeds to the degree that it shows that the alteration involves no more than a minor change to the effects on the environment above that of the confirmed designation.
- That an agreed condition between the council and NZTA/NCI Alliance be included that contains specific criteria for the queue length on Caribbean Drive and the cycle time (relevant to pedestrian amenity). The addition of a condition would allow the NCI Alliance to proceed with the design of the modified scheme but provide certainty

to council that the alteration to the designation 'involves no more than a minor change on the effects on the environment' above that of the confirmed designation in relation to traffic and transport.

After discussion with NZTA/NCI Alliance, it was agreed that a way forward could be the inclusion of a condition. This would also help to satisfy the requirement that the alteration involves no more than minor environmental effects in relation to this aspect of the traffic and transport effects (pedestrian and cyclist amenity). The proposed condition (or similar wording) is as below:

*'The final design shall ensure that:*

- *the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service D for any individual movement during the AM or PM peaks. In addition, the 95%ile queue on Caribbean Drive should not exceed 118m.*
- *The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled., and in the latter case require no more than two separate phases to connect between the SUP.*

Further information via emails, dated 18 April 2018 and 30 April 2018, was provided by NZTA/NCI Alliance (refer to Attachment D). Mr Tindall still considers that the effects on pedestrians and cyclists is more than minor and that it is important that the queue length of 118m is retained. However, if the assessment of the overall transport effects is considered then potentially the effects are minor taking into account the large number of motorists that benefit against the smaller number of pedestrians and cyclists disadvantaged.

NZTA/NCI Alliance consider that the additional modelling shows that the level of service can be met (but that the condition needs to align with NZTA's Minimum Requirements (MRs) of LOS E) and that the increase in travel and wait times for pedestrians and cyclists are no more than minor and therefore a condition is not required. They also consider that the queue length can be achieved through the design but would not accept this to be part of a condition as there may be times where queuing is longer than 118m and would not comply with the condition. However, NZTA/NCI Alliance has agreed that if Auckland Council considers a condition is required then the following condition is acceptable:

*'DC.2A*

*Where there are changes to layout and crossings the final design shall ensure that:*

- *the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service E for any individual movement during the AM or PM peaks.*
- *The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled'.*

I recommend that the condition as above be included to provide certainty to Auckland Council that the alteration involves no more than minor environmental effects above that permitted by the BOI confirmed designations in relation to traffic and transport.

### **Archaeology, Built and Cultural Heritage**

The requiring authority provided an archaeological assessment with the original NoR applications. The assessment concluded that there were no heritage sites recorded within the Project corridor, and there was no indication through subsequent field surveys and assessment of any areas with archaeological or heritage potential. Therefore, the requiring authority considers that the design changes will not alter the effect on archaeology and built heritage.

In relation to cultural heritage, the requiring authority has engaged throughout the Project with mana whenua groups and with the Central-North Area Iwi Integration Group (IIG). Mana Whenua feedback has been incorporated into the Project and includes the following:

- detailed design of structures to develop a cultural narrative (designation)
- stormwater management and treatment (resource consent)
- avoidance of adverse effects on indigenous bird species and lizards (resource consent)
- flocculation treatment (resource consent)
- management of contaminated land associated with earthworks (resource consent)
- input into management plans (both designations and resource consents)

The requiring authority considers that the proposed alterations to the conditions do not impact the cultural values of mana whenua as expressed and considered through consultation and the BOI process. The relationship with mana whenua through IIG and adherence to the conditions and management plans will continue through the lifetime of the project. Therefore, the requiring authority considers that the proposed changes will have no effect on cultural heritage values.

### Comment

The council's submission on the original NCI applications to the Environmental Protection Agency (EPA) was limited to specific matters that were of concern to the council, such as traffic, stormwater, noise and vibration, urban design, landscape and visual, and effects on public reserves. A full assessment of archaeology or cultural and built heritage was not undertaken. However, the AUP objectives, policies and overlays were assessed, in relation to earthworks, as part of the planning evidence for the BOI hearing which stated as follows:

*'While there are no sites and places of significance to Mana Whenua identified in the AUP and the area within the Proposal is highly modified, there is still the possibility of accidental discovery of kōiwi, archaeology or artefacts of Māori origin. NZTA has addressed archaeology and historic heritage effects, in Section 9.12 of the AEE, and provided mitigation through proposed conditions (ARC.1 to ARC.5). Condition ARC.1 requires NZTA to appoint a suitably qualified archaeologist to oversee the earthworks required for the Proposal. Condition ARC.2 requires a contractor's briefing by the Project Archaeologist which needs to include the appropriate procedures to follow if archaeological or historic heritage materials are uncovered when the Project Archaeologist is not on site to safeguard the materials. I consider that the Proposal is generally consistent with Policy 11.3(3).'*

My view remains the same as above and I agree that the minor alteration does not involve a change to the effects on archaeology or built and cultural heritage above that permitted by

the confirmed designations. It should be noted that the archaeological conditions are attached to the resource consents. In relation to cultural heritage, conditions attached to the designations, as confirmed by the BOI, require that the IIG, as a key stakeholder, are consulted with during the project. In addition, Condition UDL.11 requires that the Urban Design Landscape Plans are prepared in partnership with the IIG.

## **Urban Design, Landscape and Visual**

### *Visual impact assessment*

The requiring authority states the following in its AEE:

*'The underpass has little or no visual impact on the surrounding environment as it has been designed as a gradual decline from the existing SH1 road alignment to pass under SH1 as SH1 is rising in a southbound direction. As the underpass replaces the need for elevated viaduct structures the overall effect of the underpass on visual impact is positive.*

*Like the BOI concept design, the westbound on-ramp originates from the Caribbean Drive intersection and the eastbound off-ramp joins Paul Matthews Road at a newly formed signalised intersection'.*

The BOI concept design overbridge at Paul Matthews Road required the lowering of SH18 by four metres below existing ground level. The alternative NCI Alliance detailed design, now only lowers the existing ground level by 0.7 metres. The westbound road alignment is lower by approximately 14 metres nearer SH18/SH1 because of the proposed underpass rather than the BOI design viaduct structure.

The Requiring Authority has assessed the difference in visual and landscape effects between the BOI design and the NCI Alliance detailed design. This included using Autodesk Infracore which was used to create models of the BOI and NCI Alliance designs to understand the differences in visibility. The visibility assessment concludes that the extent of visibility of the two models can be seen to be similar in area but there are some differences in locations that gain views to the proposed motorway. These differences are predominantly that the BOI concept design is more visible from Barbados Drive and the eastern higher ground of Santiago Crescent, while the NCI detailed design is more visible from the central SH18 area.

A visual impact assessment was also undertaken by a landscape and visual impact assessment specialist. The findings of the visibility assessment were used to assess the scale of the landscape and visual effects associated with the NCI Alliance detailed design. The AEE concludes the following:

- the NCI Alliance design will result in less residential properties being visually affected than the BOI design and there is no increase in the scale of impact
- there are some properties in the lower Barbados Drive and Caribbean Drive area that now may be able to view the NCI alignment.
- The overall assessment of the properties above remains low and the scale of the change in effects for these properties is no more than minor, given the NCI detailed design is lower, the distance from the road (approximately 150 metres), and intervening buildings and trees
- there will still be a number of properties directly adjacent to SH18 that will experience effects. These effects will be reduced once the planting mitigation is established and the noise and landscape walls installed.

The requiring authority considers that based on the visual impact assessment and mitigation required by conditions, and proposed in the UDLP, the change in the scale of visual effects for properties that have visibility of the Project is no more than minor.

#### *SH18 Noise Wall*

A higher noise wall of four metres, compared to 3 metres required by Condition ON.3, is required adjacent to SH18 between 13 Wren Place and 49 Barbados Drive. Due to the road alignment and ground levels in this area, because of the changes in design of the Paul Matthews Road/Caribbean Drive connection, a portion of the noise wall will be retaining wall. This effectively replaces the existing embankment and the maximum height above ground level which will be visible to adjoining properties is up to 2 metres.

The height in the wall has been assessed in terms of visual and shading impacts on the adjacent properties. The visual impact assessment concludes that whilst up to 2 metres of the wall will be visible, any potential visual effects can be effectively mitigated through the retention of existing planting and new planting. There is a potential increase in shading on some properties during June. However, existing shading currently occurs due to other shading sources along the affected properties such as neighbouring buildings or existing trees. These have been excluded from the assessment but do contribute to overall shading on the properties.

The requiring authority considers that the effects of the noise wall due to shading and amenity values are no more than minor. When existing sources of shading are considered, the effects of the increased height of the noise wall on shading is not likely to be discernible to residents.

#### Comment

Stephen Brown, consultant urban design and visual landscape specialist for Auckland Council, has undertaken an assessment of the minor alteration (Attachment E). He generally concurs with the findings of the Isthmus Group's appraisal of the revised proposal's effects. However, he has one area of concern in relation to the new elevated overpass over Caribbean Drive. His report states the following:

*'The increase in 'blue houses' in Isthmus Group's Figure 1 and 'blue areas' in their Figure 3 appears to reflect the increasing visual presence of the overpass, especially around Cabello Place and Santiago Crescent. Whereas the original embankments were to be both planted and (around their lower margins) grassed, the new 'overbridge' would retain a more structural profile, with its ramparts, piers, side walls, lighting and other elements facing housing to the immediate south of SH18. It would clearly be a "bridge" and traffic movements across it would also be clearly apparent.*

*In this regard, it is also noteworthy that the Council's UDP review of the modified NCI (14th December 2017) commented as follows on the new interchange:*

#### **Possible 'Open Space Frame'**

*The Panel considers that from an urban design perspective there is very little benefit to be gained from the 'open space frame' concept for the area under the proposed Viaduct due to its restricted access and visibility from surrounding land-uses.*

*The Panel would support a realignment of the SUP along the northern side of Caribbean Drive and designed to provide a physical separation between vehicles and the SUP.*

*The Panel suggests that the use of the space adjacent to the Viaduct be utilised for native bush planting, inclusive of larger-growing trees, to help screen and visually absorb the flyover and support the future ecology of the area.*

*I agree with, and support, these findings. In my opinion, every effort should be made to screen and buffer the new overpass, with tree and shrub planting across its embankments as well as within the suggested 'open space / recreation space' under, and around, the viaduct. In my assessment, this would help to reduce the effects of the revised proposal in the vicinity of both Caribbean Drive and Paul Matthews Road – to the point where the resulting level of effect more closely approximates that anticipated in relation to the original NCI proposal.*

*Without such planting, the overpass, and vehicle movements on it, would generate a level of visual effect not fully anticipated in the course of the BOI process and hearing. As such, it is considered important that mitigation in line with these comments is provided. In all other respects, the revised NCI proposal is considered to be appropriate and acceptable'.*

He considers that with the mitigation proposed above the alterations will 'involve no more than a minor change to the effects on the environment'.

An email, dated 7 March 2018, was forwarded to the requiring authority requesting a response. A response from the requiring authority was received by email on 12 March 2018 and states:

*'Thanks for your email. In response to Stephen Browns review I can now confirm that the NCI design will no longer feature an open space around the viaduct. Instead the area is to be planted for various reasons including visual mitigation.*

*Planting plans are still being finalised, but they will include:*

- *Rows of specimen tree planting of Kauri and Nikau to the outside edges of the overpass and between the northbound and southbound structures.*
- *A planting mix for the area that consists of planting that is 9% tree, 57% shrub and 34% groundcover.*
- *Planting will cover the embankments and extend underneath the structures where applicable'.*

In response to the above, Stephen Brown has provided the following comment:

*'In my assessment, this would help to reduce the effects of the revised proposal in the vicinity of both Caribbean Drive and Paul Matthews Road – to the point where the resulting level of effect is aligned with that anticipated in relation to the original NCI proposal. Accordingly, any increase in amenity effects generated by the revised proposal would be 'less than minor' to 'minor' and are considered acceptable in relation to my assessment of the NCI project'.*

I agree with Mr Brown's statement. The council will also be able to provide comment on the landscape plan when this is submitted. Condition DC.6 (c) requires that UDLP(s) are prepared in accordance with UDL.1 to UDL.12 as part of the OPW process. Any amendments are to be discussed with and submitted to the council for information. A further OPW is required if the amendments result in materially different effects to the described in the original UDLP.

## Noise

### *Operational Noise*

The requiring authority considers that the effects of the NCI design change on operational noise levels are no more than minor. Modelling of the noise walls shows that an increased barrier of four metres between 14 Wren Place and 49 Barbados Drive will be effective in reducing predicted noise levels to the same as those predicted for the BOI design.

### *Construction Noise*

The requiring authority concludes that there will no more than minor changes in effects due to the changes in design. A summary has been provided of the difference in the effects generated by the NCI Alliance construction activities and alignment compared to the BOI anticipated construction noise and vibration effects. These are as follows:

- properties identified as receiving construction noise and vibration which exceed the designation conditions are very similar due to mitigation employed to reduce the impacts
- more Protected Premises and Facilities (PPFs) are identified as being affected due to night time works in the Construction Noise and Vibration Plan (CNVP) than in the BOI noise assessment because of the increase in the night time construction noise sources modelled
- areas requiring specific noise and vibration plans have been identified allowing for consultation with these parties
- noise and vibration contour mapping has been produced and mitigation measures at source and through early construction of noise walls identified
- mitigation mechanisms and pre-construction building inspections to manage risk associated with construction vibration have been identified.

A process has been developed to ensure any complaints received by community engagement personnel are relayed to the environmental manager where compliance is at risk.

### Comment

Rhys Hegley, consultant noise and vibration specialist for Auckland Council, has undertaken an assessment of the proposed alterations (Attachment F). His report states:

*'The BOI Alignment, via ON. 3, included a 3.0m high barrier between chainage 1280 to 1410 to screen PPFs on Barbados Drive and Wren Place. To remain compliant with ON. 2, it was found that this barrier needed to increase in height by 1.0m so that there would be no change in noise level to the six PPFs on Barbados Drive and Wren Place. There appears to be some differences between the way that the Operational Noise Assessment and the Proposed Alteration report describe this proposed change to the barrier height, which relates to the fact that the ground level beneath the barrier will also change. After talking to the author of the Operational Noise Report, it is my understanding that:*

- a) The BOI Alignment had a 3.0m barrier from chainage 1280 to 1410;*
- b) The NCI alignment proposes to increase the height of this barrier by 1.0m to 4.0m;*
- c) As the topography slopes up from the road to the PPFs, an option being considered by the NCI team is to construct a 2.5m high retaining to lift the ground behind the*



*retailing wall and then add a 1.5m high barrier on top. This gives an effective screening of 4.0m as described in the Proposed Alteration report.*

*This effective increase in barrier height requires an alteration to ON. 3iii), which is the subject of the application'.*

He concludes:

*'The Proposed Alteration to Designation report concluded that the noise effects of the proposed NCI carriageway realignment with the barrier extended to 4m will be no more than minor. Given that the reported levels will increase by not more than 2dB at up to seven PPFs and the changes in level remain compliant with the requirements of ON. 2, I agree with this conclusion'.*

## **2.2. Assessment of minor changes or adjustments to the boundary (s181(3)(a)(ii))**

The alteration to the designation does not involve any changes to the boundary of the existing designation.

## **2.3. Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners and occupiers agree with the alteration (s181(3)(b))**

The requiring authority considers that Auckland Council is the only owner or occupier of land directly affected by the alteration to the designation.

The location of the new SH1/SH18 underpass and reconfiguration of the Paul Matthews Road and Caribbean Drive connection sits entirely within the designation boundaries confirmed through the BOI process. A large proportion of the land is owned by NZTA within its existing highway corridors. The areas of land currently not owned by NZTA, such as Watercare's land on the south-eastern side of SH1 and Auckland Council reserve land at Constellation Reserve and Rook Reserve, are currently going through other processes e.g. acquisitions under the Public Works Act, temporary occupation agreements, or easements etc. There are also other separate agreements outside of the designation conditions with various parties including Auckland Transport. The proposed alterations do not have any effect on these separate processes.

## **2.4. Agreement of both the territorial authority and the requiring authority (181(3)(c))**

The alteration to the designation has been requested by the requiring authority, and therefore it agrees to the alteration. Auckland Council agrees with the proposed alteration for the following reasons:

- The alteration involves no more than minor changes to the environmental effects
- The alteration does not involve any changes to the boundary
- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- Adherence with recommended conditions will ensure any potential adverse effects are avoided, remedied or mitigated.

### 3. CONCLUSIONS AND RECOMMENDATIONS

#### 3.1. Conclusions

The proposed alteration meets the statutory tests of Section 181(3) of the Resource Management Act 1991, in that:

- The alteration involves no more than minor changes to the environmental effects.
- Existing conditions as amended will ensure any potential adverse effects are avoided, remedied or mitigated.
- There are no changes or adjustments to the boundaries of the existing designation.
- the land is either owned and occupied by the New Zealand Transport Authority or alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- The council and the requiring authority agree with the alteration.

#### 3.2 Recommendation

1. That pursuant to Section 181(3) of the Resource Management Act 1991, the New Zealand Transport Agency's notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed**.
2. That the designations as listed above are amended in Chapter K Designations in the Auckland Unitary Plan Operative in part as recommended in Section 4 and Attachment B of this report.

#### 4. Agreed alterations

The agreed text alterations are as set out in Section 1.4. The recommendation of the inclusion of a new condition (Condition DC.2A – refer to Section 2.1 Traffic and Transport effects) has also been agreed to by NZTA. A full set of the designation conditions is attached (Attachment B). Amendments are shown as either strikethrough or bold and underlined.

Date: 7/05/2018

**Report Prepared by:**

Jo Hart

Principal Planner

Planning North West and Islands



**5. SECTION 181(3) DETERMINATION**

Having read the council planner's report and recommendations on the notice or requirement, I am satisfied I have adequate information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision under delegated authority.

Accordingly, the notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed** under section 181(3) of the RMA.

Name: David Sanders

Title: Team Leader – Planning North West and Islands

Signed:



Date:

8/5/18

**SCHEDULE OF ATTACHMENTS**

- Attachment A:** Section 181(3) Notice of Requirement
- Attachment B:** Amended Designation Conditions
- Attachment C:** Traffic and Transport Assessment
- Attachment D:** Further information – traffic and transport
- Attachment E:** Visual and Landscape Assessment
- Attachment F:** Noise Assessment



# Notice of requirement for a minor alteration to a designation under section 181(3) of the Resource Management Act 1991



## Notice of requirement description

Designation number:	Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; Designation 6758: Constellation Drive Station.
Requiring authority:	New Zealand Transport Agency
Site address:	Various – between Oteha Valley Road and SH1/SH18 intersection and along SH18 to Albany Highway.

## Summary

Auckland Council has received a request from the New Zealand Transport Agency under section 181(3) of the Resource Management Act 1991 (RMA), dated 28 June 2018, to alter designations associated with the Northern Corridor Improvements Project (Attachment A).

It is considered after undertaking an assessment of the notice, that the proposed alteration meets the statutory tests of section 181(3) of the RMA and can therefore be processed and confirmed as a minor alteration.

## Recommendation

1. That the proposed alteration of Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; and Designation 6758: Constellation Drive Station in the Auckland Unitary Plan be **confirmed**, subject to the amended conditions (Attachment B) for the following reasons:
  - the alteration involves no more than minor changes to the effects on the environment associated with the use of the land;
  - there are no adjustments to the boundaries of the existing designation;
  - both the requiring authority and Auckland Council agree with the alteration; and
  - the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
2. That the text for the Designations, as listed above, is altered in Chapter K Designations in the Auckland Unitary Plan.

## **1. Background**

### **1.1. Minor alteration to a designation**

Auckland Council has received a notice of requirement (NoR) for an alteration to designations associated with the Northern Corridor Improvements Project (NCI), as listed above, from the New Zealand Transport Agency under section 181(3) of the RMA.

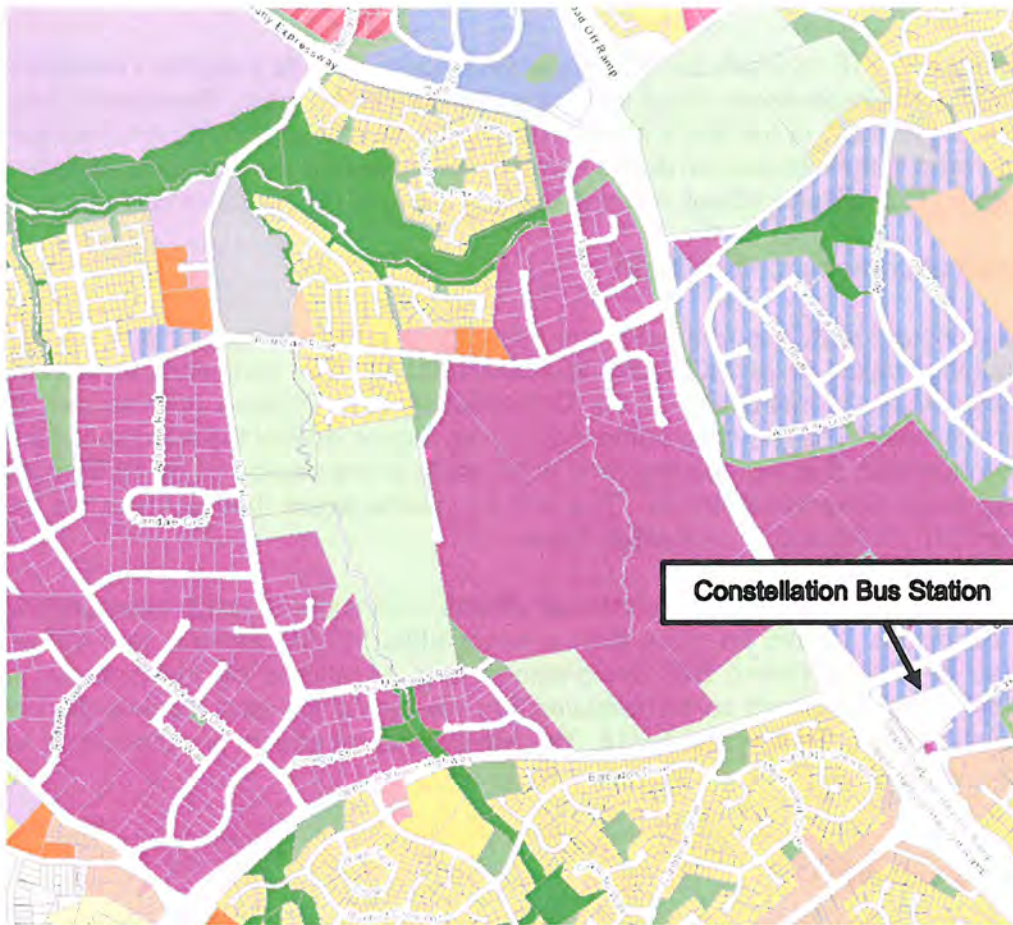
The alteration is required to modify conditions attached to the existing designations associated with State Highway 1, State Highway 18 and the Constellation Bus Station. These designations were included in the Board of Inquiry (BOI) process as part of the NCI. However, the existing conditions were not considered during the BOI process or included in the BOI decision, dated 16 November 2017. It should be noted that there has also been a earlier section 181(3) notice of requirement for a minor alteration, dated 15 February 2018, which amended the BOI decision conditions.

Amendments are now required to either remove obsolete construction conditions, or to renumber ongoing operational conditions, from the existing designations. This will allow for the conditions from the BOI decision, along with the changes from the previous alteration to be inserted cleanly into the AUP.

There are no alterations proposed to the boundaries of the designations.

### **1.2. Land affected by the alteration**

The land affected by the alteration to the designation is located around State Highway 1, State Highway 18 and the Constellation Drive Bus Station as shown in the Auckland Unitary Plan map below:



Map 1: AUP map showing vicinity of proposed alterations.

### 1.3. Description of the site and existing environment

The section of State Highway 1 (SH1), to which the NCI conditions apply, extends from Oteha Valley Road in the north to the intersection of the SH1 and State Highway 18 (SH18). The area affected by this alteration, and to which the existing conditions apply, extends from the Greville Road intersection with SH1 to the intersection with SH18 and Constellation Drive. The land to the north-west of the Greville Road intersection is zoned Business – Business Park and consists of established, newly developed or currently being constructed business buildings. The land immediately to the north-east is zoned Residential – Mixed Housing Suburban and this part of the subdivision is currently still in the process of being constructed with the roading network and services for the individual sections in place.

The intersection of SH1, SH18 and Constellation Drive is further to the south. The land to the west of SH1 is zoned Business – Light Industry between Greville Road and SH18. This land consists of established large lot business activities and land owned and occupied by Watercare Services Limited (Watercare). There is also a portion of land adjacent to SH18, known as Constellation Reserve, which is zoned Open Space – Sports and Active Recreation. The former Rosedale landfill, zoned Open Space – Sport and Active Recreation is immediately to the south-east of the Greville Road intersection. The land between this and Constellation Road is zoned Business – General Business and Business Light Industry and consists of established business activities and further land owned by Watercare (Pond 2).

The section of SH18 to which the NCI conditions apply extends from the intersection of SH1, SH18 and Constellation Road to Albany Highway in the west. Residential housing is located to the south of the SH18 alignment. The Constellation Bus Station is located to the south-east of the intersection and is currently accessed via the Constellation off-ramp and crossing Constellation Drive to get to the beginning of the Northern Busway.

#### **1.4. Proposed alterations to conditions**

The requiring authority has requested the alteration of conditions on three of the existing designations subject to the NCI (refer to Attachment B). The conditions to be removed are related to the construction of the Constellation Drive Station built as part of the Northern Busway. The requiring authority has also requested that the conditions for SH18 be restructured so that the existing conditions apply to the section of SH18 from Albany Highway to the Greenhithe Bridge. The NCI conditions would then apply to the section from the SH1, SH18 and Constellation Drive.

After an assessment of the environmental effects, I consider that the alterations to the above conditions involve no more than a minor effect on the environment above that permitted by the confirmed BOI designations, and as altered by the previous minor alteration. The conditions to be removed are related to the prior construction of the Constellation Drive Station and SH18. The environmental effects are discussed further below in Section 2.1.

#### **1.5. Delegated authority**

The Team Leader - Planning North West and Islands has delegated authority, in accordance with Schedule 2A of the Auckland Council Delegations: Chief Executive Officer (updated February 2017), to exercise the council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to section 181(3).

The NoR can therefore be considered by the Team Leader – Planning North West and Islands and confirmed or declined under section 181(3)(c).

#### **1.6. Relevant statutory provisions**

Section 181 "Alteration of designation" of the Resource Management Act 1991 states:

- (1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*
- (2) Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*
- (3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if-*
  - (a) The alteration-*
    - (i) Involves no more than minor changes to the effects on the environment associated with the use or proposed use of land or any water concerned; or*



(ii) *Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*

(b) *Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*

(c) *Both the territorial authority and the requiring authority agree with the alteration –*

*and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.*

(4) *This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.*

## **2. Analysis of the proposed alteration**

The relevant matters to consider are contained in section 181(3) of the RMA as outlined above.

### **2.1. Assessment of Environmental effects (s181(3)(a)(i))**

An assessment is required to determine whether the alteration to the conditions involves no more than a minor change to the effects on the environment above those permitted (and mitigated for) by the designations confirmed through the BOI process, and as amended by the previous alteration.

I consider that the alteration involves no more than a minor effect on the environment above the permitted baseline. The removal of obsolete conditions is administrative in nature and will allow for the clean integration of the NCI conditions into the Auckland Unitary Plan.

### **2.2. Assessment of minor changes or adjustments to the boundary (s181(3)(a)(ii))**

The alteration to the designation does not involve any changes to the boundary of the existing designation.

### **2.3. Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners and occupiers agree with the alteration (s181(3)(b))**

The requiring authority has not considered whether there are owners or occupiers directly affected by the alteration.

A large proportion of the land is owned by NZTA within its existing highway corridors. The areas of land currently not owned by NZTA, such as Watercare's land and Auckland Council reserve land at Constellation Reserve and Rook Reserve, are currently going through other processes e.g. acquisitions under the Public Works Act, temporary occupation agreements, or easements etc. There are also other separate agreements outside of the designation conditions with various parties including Auckland Transport. The proposed alterations do not have any effect on these separate processes.

The land at the Constellation Drive Station is owned by Auckland Council. There are also 2 Auckland Transport designations which sit on this land (Designation 1420: Constellation Bus Station and Designation 1428: Constellation Drive Station). Whilst the AUP doesn't show which is the primary designation, NZTA have advised that it is their designation. Research into the history of the Northern Busway designations shows that the NZTA designation was NOR 3 whereas the former North Shore City Council designations (now AT), was NOR 10. This would indicate to me that that NZTA designation is the primary designation.

The documentation for this notice of requirement was forwarded to Auckland Transport for their comment. Alastair Lovell from Auckland Transport has provided comment on NZTA's proposed removal of conditions. He has concerns around the removal of Condition 2 unless NZTA can confirm that the removal will not result in an impact on AT's bus operations either during or post construction. Condition 2 states the following:

*'2. That should the New Zealand Transport Agency construct additional lanes on the state highway between Constellation Drive and Greville Road before construction of the busway priority lane provided for by this requirement the construction of the additional lane shall be undertaken in a manner which does not preclude subsequent construction of the priority lane'.*

I consider that the removal of this condition is not an issue. Condition 2 relates to the construction of the additional lane between Upper Harbour Highway and Greville Road. The configuration of the highway will be different with traffic still able to access SH1 from Constellation Drive which will then merge with traffic using the direct connection from the west to the north. The bus priority lane will not exist after the NCI works for the busway and SUP have been completed. The reference to 'this requirement' is to the alteration which provided for the construction of the additional lane (and bus priority lane) and not to this minor alteration. In addition, the NCI conditions also apply to this section of SH1. The Construction Traffic Management Plan conditions CTMP.1 to CTMP.6D requires NZTA to avoid or mitigate the adverse effects on traffic safety and efficiency. Conditions CTMP.5 to CTMP.6D requires the preparation of a specific Public Transport Traffic Management Plan (PTTMP) in consultation with Auckland Transport. The purpose of the PTTMP is to define the process for identifying and managing the potential effects of the NCI project on bus services.

Mr Lovell also has concerns that NZTA has not provided evidence that the conditions to be removed have been met. I consider that the environmental effects of removing these conditions is less than minor, administrative in nature and enables the clean integration of the NCI conditions in to the AUP. The designation as confirmed by the BOI provides for proposed works at the bus station which will alter the current layout and landscaping. The NCI conditions apply to the designation and the proposed works and includes conditions to mitigate the potential effects on bus services as well as provide for landscaping. Conditions UDL.1 to UDL.15 requires NZTA to submit an Urban Design Landscape Plan as part of the Outline Plan of Works. Condition UDL.4(b) specifically relates to the urban design and landscape treatment of the new structures at both the Constellation and Albany Bus Stations. The NCI conditions also include those for noise and vibration (both construction and operational) and a stakeholder and communications plan. Auckland Transport is specifically listed in Condition SCP.6(b) and has other agreements with NZTA outside of the designation conditions.

#### **2.4. Agreement of both the territorial authority and the requiring authority (181(3)(c))**

The alteration to the designation has been requested by the requiring authority, and therefore it agrees to the alteration. Auckland Council agrees with the proposed alteration for the following reasons:

- The alteration involves no more than minor changes to the environmental effects
- The alteration does not involve any changes to the boundary
- the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- Adherence with recommended conditions will ensure any potential adverse effects are avoided, remedied or mitigated.

### 3. CONCLUSIONS AND RECOMMENDATIONS

#### 3.1. Conclusions

The proposed alteration meets the statutory tests of Section 181(3) of the Resource Management Act 1991, in that:

- The alteration involves no more than minor changes to the environmental effects.
- Existing conditions as amended will ensure any potential adverse effects are avoided, remedied or mitigated.
- There are no changes or adjustments to the boundaries of the existing designation.
- the land is either owned and occupied by the New Zealand Transport Authority (SH1 and SH18) or there are alternative processes are under way e.g. acquisitions through the Public Works Act, temporary occupation agreements, easements etc.
- The council and the requiring authority agree with the alteration.

#### 3.2 Recommendation

1. That pursuant to Section 181(3) of the Resource Management Act 1991, the New Zealand Transport Agency's notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; Designation 6758: Constellation Drive Station is **confirmed**.
2. That the designations as listed above are amended in Chapter K Designations in the Auckland Unitary Plan Operative in part as recommended in Section 4 and Attachment B of this report.

#### 4. Agreed alterations

The agreed text alterations are as set out in Section 1.4. A full set of the designation conditions is attached (Attachment C). Amendments are shown as either strikethrough or bold and underlined.

Date:

**Report Prepared by:**

Jo Hart

Principal Planner

Planning North West and Islands

**5. SECTION 181(3) DETERMINATION**

Having read the council planner's report and recommendations on the notice or requirement, I am satisfied I have adequate information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision under delegated authority.

Accordingly, the notice of requirement for an alteration to Designation 6750: State Highway 1 (SH1) from Greville Road in the north to the Sunset Road overbridge in the south; Designation 6751: State Highway 1 (SH1) from Greville Road in the south to Oteha Valley Interchange in the north; Designation 6756: State Highway 18 (SH18) from the Albany Highway in the west to SH1 in the east; The Northern Busway Designation adjacent to SH1 from Constellation Bus Station to Albany Bus Station; and the Shared Use Path (SUP) Designation adjacent to SH1 from Constellation Bus Station to Oteha Valley Road is **confirmed** under section 181(3) of the RMA.

Name: David Sanders

Title: Team Leader – Planning North West and Islands

Signed:



Date:

31/7/18.

**SCHEDULE OF ATTACHMENTS**

**Attachment A:** Notice of Requirement  
**Attachment B:** Designation Condition Table  
**Attachment C:** Amended Conditions

## 6758 State Highway 1 - Constellation Drive Station

Designation Number	6758
Requiring Authority	New Zealand Transport Agency
Location	Southeast corner Constellation Drive and State Highway 1, Rosedale
Rollover Designation	Yes
Legacy Reference	Designation 170, Auckland Council District Plan (North Shore Section) 2002
Lapse Date	Given effect to (i.e. no lapse date)

### Purpose

Constellation Drive Station - for the construction, operation and maintenance of roads, buildings, facilities and amenities and park and ride facilities (including a Busway control room and any ancillary structures, works and activities) for the purpose of providing a rapid transit facility for buses and high occupancy vehicles.

### Conditions

Notice of Requirement 3 - The New Zealand Transport Agency – Constellation Drive

The conditions from Notice 1 listed below shall also apply to Notice 3 other than as varied below.

1. General Conditions (with appropriate amendments to refer to the separate assessments undertaken which specifically relate to the Constellation Drive Station).
2. Duration Of Designation
3. PMP and Outline Plan
4. Archaeological Mitigation Conditions (other than 4.3 and 4.4)
5. Ecological Mitigation Conditions (other than 5.5, 5.6 and 5.7)
6. Landscape Mitigation Conditions
7. Noise Mitigation Conditions (other than 7.8)
8. Geotechnical Mitigation Conditions
9. Vibration Mitigation Conditions
10. Traffic Mitigation Conditions (other than 10.1(ii), (iv) and (v), 10.2 and 10.3)
11. Construction Management Conditions

#### 1. General Conditions

1.1 The scope and extent of the works envisaged within the designation shall be generally in accordance with the Notices of Requirement, the plans contained in "Volume 3 – A3 Plans" forming part of the documentation supporting the Notice of Requirement, and the relevant detailed plans in the Technical Reports in Volume 5, subject to the final design and the conditions set out below.

1.2 At all times reasonable vehicular access shall be maintained to private properties not directly affected by construction and/or operation in the area affected. Where private properties are directly affected by construction and/or operations causing vehicular access to be temporarily prevented and no alternative can be utilised, the Requiring Authority shall ensure that the property owner is consulted with respect to the most suitable time for carrying out the work and the Requiring Authority shall minimise the period during which vehicular access is prevented.

1.3 The Sunset Road access is to be limited to use by authorised busway users only, with appropriate signage being raised to this effect.

**The following conditions apply to the area subject to the section 181 alteration to the designation for the Northern Corridor improvements in relation to the Constellation Drive Station.**

<b>Acronym/Abbreviation</b>	<b>Full Term or Definition</b>
AUP	Auckland Unitary Plan
BPO	Best Practicable Option, and in relation to the Traffic Noise conditions BPO is in accordance with s16 of the Resource Management Act 1991
Building-Modification Mitigation	Has the same meaning as in NZS 6806
CNV	Construction Noise and Vibration Conditions
CNVMP	Construction Noise and Vibration Management Plan
Council	Auckland Council
Commencement of construction or construction works	In all conditions which refer to 'commencement of construction', construction includes work such as earthmoving and earthworks excavation; and the construction, erection, installation, carrying out, alteration, repair, restoration, renewal, maintenance, extension, demolition, removal, or dismantling of any building or structure.
CTMP	Construction Traffic Management Conditions and Construction Traffic Management Plan
DC	General Designation Conditions
Design Year	Means 2031 in relation to the Traffic Noise conditions
FIH	International Hockey Federation
Habitable Space	Has the same meaning as in NZS 6806
HHCT	Harbour Hockey Charitable Trust
IHF	North Harbour Hockey Stadium Conditions
IIG	Iwi Integration Group
Key Stakeholders	Includes community groups, business groups, residents organisations, childcare groups, Council, Watercare Services Limited, Auckland Transport, Ministry of Education, Waste Management NZ Limited, the IIG, and local boards.
Landfill	Rosedale Closed Landfill
Major Construction Activity	For the purposes of the Noise and Vibration Conditions, means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4
Noise Assessment	Means the <i>Traffic Noise and Vibration Assessment Report</i> submitted with the NoR
NZ 8606	Means New Zealand Standard NZS 6806:2010 <i>Acoustics – Road-traffic noise – New and altered roads</i>

ON	Operational Noise and Vibration Conditions
OP	Outline Plan as required under section 176A of the RMA
PPF	Protected Premises and Facilities and has the same meaning as in NZS 6806. For the purpose of these conditions they also include all dwellings in Stage 1 of the Colliston Rise subdivision where Building Consent or Resource Consent which authorises the construction of a dwelling has been granted
PPV	Peak Particle Velocity
Practical completion	Means completion of all construction works.
Project	The Northern Corridor Improvements Project.
Proposed Design	The design of the project as indicated on General Arrangements Sheets 1 – 2 (Revised Albany Busway Bridge – Rev J), 3 – 8 (Consent Issue – Rev H), 9 – 10 (Revised Alteration to Designation Boundary – Bluebird Reserve)
PTTMP	Public Transport Traffic Management Plan
RAMM	Road Assessment and Maintenance Management
RMA	Resource Management Act 1991
RWWTP	Rosedale Wastewater Treatment Plant
SCP	Stakeholder and Communications Plan and Stakeholder and Communications Plan Conditions
SSCNMP	Site Specific Construction Noise Management Plan
SSCVMP	Site Specific Construction Vibration Management Plan
Structural Mitigation	Has the same meaning as in NZS 6806. For the purpose of these conditions the structural mitigation measures are low noise road surface materials and noise barriers
SUP	Shared Use Path
Suitably qualified and experienced person	Means a person with a tertiary qualification in the field to which a particular condition relates; or having sufficient technical expertise that is at least equivalent; and having at least 5 years working experience, unless otherwise specified in the conditions.
Transport Agency	New Zealand Transport Agency
UDL	Urban Design and Landscape Conditions
UDLF	Urban Design and Landscape Framework
UDLP	Urban Design and Landscape Plan
Watercare	Watercare Services Limited
Work Area	For the purposes of the Noise and Vibration conditions, means any area where construction works associated with the Project are undertaken (e.g. all active works areas and construction support areas)

**These conditions relate to the following designations:**

EPA reference	Lapse period	Duration granted
<b>Designations OR NOR</b>		
<b>NSP39/001</b> An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6750) for the construction, operation and maintenance of a State highway, being the Auckland-Waiwera Motorway between Greville Road Interchange and the Sunset Road overbridge.	7 years	N/A
<b>NSP39/002</b> An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6751) for the construction, operation and maintenance of a State highway, being the Auckland Waiwera Motorway between Greville Road Interchange and Oteha Valley Road.	7 years	N/A
<b>NSP39/003</b> An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6756) for the construction, operation and maintenance of a State highway, being State Highway 18 between Albany Highway and State Highway 1.	7 years	N/A
<b>NSP39/004</b> A designation for the construction, operation and maintenance of the Northern Busway adjacent to State Highway 1 from Albany Bus Station to Constellation Bus Station.	7 years	N/A
<b>NSP39/005</b> A designation for the construction, operation and maintenance of a shared use path adjacent to State Highway 1 from Constellation Bus Station to Oteha Valley Road.	7 years	N/A
<b>NAP39/006</b> An alteration to a designation (Auckland Unitary Plan – Operative in Part 2016, Designation 6758) for the upgrade of the Constellation Bus Station.	7 years	N/A

### General Conditions

DC.1 Except as modified by the conditions below, and subject to final design, the Northern Corridor Improvements Project ('Project') shall be carried out in general accordance with:

a. General arrangements drawings

Sheets 1 and 2, DRG 0201 – 0202, Rev J

Sheets 3 – 8, DRG 0203 – 0208, Rev H

Sheets 9 – 10, DRG 0209 – 0210, Rev I (Revised Alteration to Designation Boundary



– Bluebird Reserve)

**Subject to the minor changes in relation to the State Highway 1 to State Highway 18 underpass and the Paul Matthews Road configuration as shown in Sheets NCI-R-1002-DG-108-A and NCI-R-1002-DG-0106A.**

b. Typical cross sections

Sheets 1 to 9, DRG 0301 - 0309, Rev F

Sheet 10, DRG 0310, Rev C

c. *Plan and long section SH1 Mainline*

Sheets 1 – 7, DRG 0401 – 0407, Rev. A

Plan and long section SH18 Westbound

Sheets 1 – 4, DRG 0415 – 0418, Rev. A

d. *Civil structures*

DRG 1310 (Rev. C), and 1315, 1320, 1325, 1330, 1335, 1340, 1345, 1350, 1355, 1365, 1370, 1375 (all Rev. B).

e. Stormwater layout plans

Sheets 1 – 10, DRG 1401 – 140, Rev B

f. Stormwater catchment plan

Sheets 1 – 10, DRG 1451 – 1460, Rev B

g. Conceptual construction water management plan

Sheets 1 – 10, DRG 1601 – 1610, Rev B

h. Erosion and sediment control standard details

Sheets 1 – 2, DRG 1620 - 1621, Rev A

i. The notice of requirement plans DRG 2001 Rev C, 2002 Rev C, DRG 2003-2008 Rev B, DRG 2009 Rev C, DRG 2010 Rev C and DRG 2011 Rev C.

DC.2 Where there is inconsistency between the General Arrangements referred to in Condition DC.1 above and these conditions, these conditions shall prevail.

DC.2A Where there are changes to layout and crossings the final design shall ensure that:

- the forecast delays on the Paul Matthews Drive and Caribbean Drive are no worse than a Level of Service E for any individual movement during the AM or PM peaks.
- The layout provides a safe and efficient passage through the intersection for users of the SUP. This connection should be grade separated or if at-grade be signal controlled.

DC.3 Conditions DC.8, ON.1-ON.11, OV.1, UDL.5A, UDL.13, UDL.14 and SCP.10 on this designation apply to the operational matters that are intended to address ongoing effects of the activities authorised by the designation or impose obligations that are required to be satisfied following practical completion of the Project. The other conditions on this designation are intended only to apply to construction related activities. As soon as practicable after practical completion of the

Project construction works, the Requiring Authority shall provide written notice of practical completion. Upon confirmation of receipt by the Council of the notice of practical completion, all conditions other than conditions relating to operational matters (i.e. DC.8, ON.1-ON.11, OV.1, UDL.5A, UDL.13, UDL.14 and SCP.10) shall cease to have effect.

DC.4 The Requiring Authority shall provide written notice to the Council on completion of the monitoring required by conditions UDL.5A. This condition shall cease to have effect from the date of this notice being received.

DC.5 The designation shall lapse if not given effect to within seven years from the date on which it is included in the Auckland Unitary Plan ('**AUP**').

DC.6 The outline plans ('**OP**') shall include the following plans for the relevant stage(s) of the Project:

- a. Construction Noise and Vibration Management Plan ('**CNVMP**') prepared in accordance with conditions CNV.1 to CNV.9;
- b. Construction Traffic Management Plan ('**CTMP**') prepared in accordance with conditions CTMP.1 to CTMP.5D; and
- c. Urban Design and Landscape Plan(s) ('**UDLP**') prepared in accordance with conditions UDL.1 to UDL.12.

The CNVMP, CTMP and UDLPs may be amended following the submission of the OP(s) if necessary to reflect any changes in design, construction methods, or management of effects.

Any amendments are to be discussed with and submitted to the Council for information without the need for a further OP process, unless those amendments once implemented would result in materially different effects to that described in the original CNVMP, CTMP, and UDLPs.

DC.7 Any OP(s) or plans may be submitted in parts or in stages to address particular activities or to reflect the staged implementation of the Project.

DC.8 As soon as practicable following completion of the construction of the Project, the Requiring Authority shall give notice in accordance with Section 182 of the Resource Management Act 1991 ('**RMA**') to the Council, for the removal of those parts of the designation that are not required for the long term operation, maintenance and mitigation of effects of the Project including from land within the Watercare Services Ltd ('**Watercare**') Designations 9310 and 9311, the Rosedale Closed Landfill ('**Landfill**') Designation 417 and other areas where infrastructure owned and operated by other organisations are located.

For the purpose of this condition as it relates to land within the Watercare Designations 9310 and 9311, the Requiring Authority shall remove the parts of its designation in general accordance with areas of land identified as 'Occupation During Construction' in the Aurecon Design Drawings:

- Auckland Northern Corridor Improvements SH1 and SH18 Land Requirement Plan #36, Drawing No. 250310-5DOC-1PRP-DRG-1855-A.

Any changes to the operational boundaries of the 'Land Required' and the 'Occupation during Construction' identified in Drawing No. 250310-5DOC-1PRP-DRG-1855-A shall be made following consultation with Watercare prior to any such change being implemented.

## Construction Noise and Vibration (CNV)

For the purpose of the CNV conditions:

BPO – means the Best Practicable Option in accordance with s16 of the RMA

Major Construction Activity – means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4

Work Area – means any area where construction works associated with the Project are undertaken (all active works areas and construction support areas)

CNV.1 A CNVMP shall be prepared by a suitably qualified and experienced person, and shall be submitted as part of the relevant OP. The purpose of the CNVMP is to provide a framework for the development and implementation of the Best Practicable Option ('**BPO**') for the management of all construction noise and vibration effects, and additionally to define the procedures to be followed when the noise and vibration standards in the CNV conditions are not met following the adoption of the BPO.

The CNVMP shall be prepared in accordance with the requirements of Annex E2 of *New Zealand Standard NZS 6803:1999 'Acoustics – Construction Noise'* (NZS 6803:1999) and shall address the following matters as a minimum:

- (a) Description of the works, anticipated equipment/processes and their scheduled durations;
- (b) Hours of operation and duration for the Major Construction Activities;
- (c) The construction noise and vibration standards for the Project as set out in Tables CNV.A to CNV.B below;
- (d) Identification of affected occupied buildings and any other sensitive receivers (including unoccupied buildings) at each Work Area;
- (e) Management and mitigation options to be adopted for all works during the Project, including prohibition of tonal reverse alarms;
- (f) Minimum separation distances from receivers for plant and machinery where compliance with the construction noise and vibration standards are met;
- (g) A procedure for developing and implementing the Site Specific Construction Noise Management Plans ('**SSCNMPs**') and Site Specific Construction Vibration Management Plans ('**SSCVMPs**') (as required by conditions CNV.6, CNV.7 and CNV.8 below) forming part of this CNVMP;
- (h) Methods and frequency for monitoring and reporting on construction noise and vibration;
- (i) Procedures for engaging with stakeholders, notification of proposed construction activities and responding to noise and vibration complaints consistent with conditions SCP.1-SCP.16;
- (j) Procedures for the regular training of the operators of construction equipment to minimise noise and vibration and procedures for the management of behaviours for all construction workers;
- (k) Contact details for the Project Manager (or nominee) and the Requiring Authority's Project Liaison Person (phone and email addresses); and

(l) The process for identifying businesses which operate processes, machinery or equipment that may be unreasonably disrupted by construction vibration even where the project vibration standards are met. For any such businesses identified, a SSCVMP shall be prepared in accordance with CNV.8 and complied with.

CNV.2 Where construction noise is predicted to exceed the standards in CNV.3, at any location, and a traffic noise barrier will ultimately be required for the operational phase, the Requiring Authority shall implement the required traffic noise barrier at that location in accordance with the SSCNMP. In the event that it is not practicable to install the traffic noise barrier at the location for construction-related reasons, prior to the commencement of work, the Requiring Authority shall install the traffic noise barrier as soon as it is practicable to do so.

CNV.3 Noise arising from construction activities shall be measured and assessed in accordance with NZS 6803:1999 Acoustics - Construction Noise and (subject to CNV.6) shall comply with the noise standards set out Table CNV.A:

**Table CNV.A: Construction noise standards**

Day	Time	LAeq	LAFmax
<b>Residential Receivers</b>			
0630h Monday to 0630h Saturday	0630h - 0730h	55 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	65 dB	80 dB
	2000h - 0630h	45 dB	75 dB
Saturdays 0630h Saturday to 0630h Sunday	0630h - 0730h	45 dB	75 dB
	0730h - 1800h	70 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB
Sundays 0630h Sunday and Public Holidays to 0630h the following morning	0630h - 0730h	45 dB	75 dB
	0730h - 1800h	55 dB	85 dB
	1800h - 2000h	45 dB	75 dB
	2000h - 0630h	45 dB	75 dB
<b>Industrial and commercial receivers</b>			
All days	0730h – 1800h	70dB	--
	1800h – 0730h	75dB	--

CNV.4 Vibration arising from construction activities which may affect people and buildings shall be measured in accordance with ISO 4866:2010 Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures, and shall comply with the Category A vibration standards

**Table CNV.B: Construction vibration standards for people and buildings**

Receiver	Details	Category A	Category B
Occupied PPFs*	Night-time 2000h - 0630h	0.3mm/s PPV	1mm/s PPV

	Daytime 0630h - 2000h	1mm/s PPV	5mm/s PPV
Other occupied buildings	At all times	2mm/s PPV	5mm/s PPV
All other buildings	At all times	5mm/s PPV	Tables 1 and 3 of DIN4150-3:1999

\* For vibration, protected premises and facilities (PPFs) are defined as dwellings, educational facilities, boarding houses, homes for the elderly and retirement villages, marae, hospitals that contain in-house patient facilities and buildings used as temporary accommodation (e.g. motels and hotels).

If measured or predicted vibration from construction activities exceeds the Category A standards, the Requiring Authority shall consult with the affected receivers to:

- (a) Discuss the nature of the work and the anticipated days and hours when the exceedances are likely to occur; and
- (b) Determine whether the exceedances could be timed or managed to reduce the effects on the receiver.

The Requiring Authority shall maintain a record of these discussions and make them available to the Council on its request.

If measured or predicted vibration from construction activities exceeds the Category B standards, those activities may only proceed subject to condition CNV.7

CNV.5 Vibration arising from construction activities which may affect underground pipe work shall be measured in accordance with DIN4150-3:1999 *Structural vibration – Part 3: Effects of vibration on structures*, and (subject to condition CNV.7) shall comply with the vibration standards in Table CNV.C.

**Table CNV.C: Construction vibration standards for underground pipe work**

Pipe material	PPV (measured on the pipe)
Steel (including welded pipes)	100 mm/s
Clay, concrete, reinforced concrete, pre-stressed concrete, metal (with or without flange)	80 mm/s
Masonry, plastic	50 mm/s

CNV.6 A SSCNMP shall be prepared when construction noise is either predicted or measured to exceed the standards in Table CNV.A, except where the exceedance of the standards in Table CNV.A is no greater than 5 decibels and:

- a. For day time between 0700 and 2200 - the exceedance of the standards in Table CNV.A does

not occur on more than 14 consecutive days in any rolling 8 week period; or

b. For night time between 2200 and 0700 - the exceedance of the standards in Table CNV.A does not occur on more than 2 consecutive nights in any rolling 10 day period.

The objective of the SSCNMP is to set out the BPO for the minimisation of noise effects of the construction activity. The SSCNMP shall as a minimum set out:

- i. Construction activity location, start and finish dates;
- ii. The predicted noise level for the construction activity;
- iii. Noise limits to be complied with for the duration of the activity;
- iv. The mitigation options that have been selected and the options that have been discounted as being impracticable;
- v. The proposed noise monitoring regime; and
- vi. The consultation undertaken with owners and occupiers of sites subject to the SSCNMP, and how consultation outcomes have and have not been taken into account.

The SSCNMP shall be submitted to the Council for certification at least 7 working days in advance of Construction Works which are covered by the scope of the SSCNMP. If the Council does not respond within 5 working days (excluding time associated with requesting and receiving further information) then certification is deemed to have been given.

CNV.7 A SSCVMP shall be prepared when construction vibration is either predicted or measured to exceed the Category B standards in Table CNV.B and the standards in Table CNV.C. The objective of the SSCVMP is to set out the BPO for the minimisation of vibration effects of the construction activity. The SSCVMP shall as a minimum set out:

- a. The relevant construction activity location, start and finish dates;
- b. The predicted vibration level for the construction activity;
- c. The pre-condition surveys of buildings and pipe work which document their current condition and any existing damage;
- d. An assessment of each building and any pipe work to determine susceptibility to damage from vibration and define acceptable vibration limits that the works must comply with to avoid damage;
- e. The mitigation options that have been selected and the options that have been discounted as being impracticable;
- f. The proposed vibration monitoring regime;
- g. The methods adopted to minimise amenity effects on buildings which remain occupied during the works;
- h. The consultation undertaken with owners and occupiers of sites subject to the SSCVMP, and how consultation outcomes have and have not been taken into account.

The SSCVMP shall be submitted to the Council for certification at least 7 working days in advance of Construction Works which are covered by the scope of the SSCVMP. If the Council does not respond within 5 working days (excluding time associated with requesting and receiving further information) then certification is deemed to have been given.

CNV.8 For any buildings identified in condition CNV.1(l), the Requiring Authority shall prepare an SSCVMP which shall include:

- a. Consultation with the owners and/or occupiers of sites identified to ascertain the

sensitivity of processes, machinery or equipment to construction vibration;

- b. Construction vibration limits specific to the sensitive activities which must be complied with that will avoid unreasonable disruption of the businesses;
- c. Procedures and methods for monitoring compliance with the vibration limits established;
- d. A process for dealing with any disagreement which may arise, particularly in relation to the determination of specific vibration limits;
- e. The relevant construction activity location, start and finish dates;
- f. The mitigation options that have been selected and the options that have been discounted as being impracticable; and
- g. The consultation undertaken with owners and occupiers of sites subject to the SSCVMP, and how consultation outcomes have and have not been taken into account.

CNV.9 If any damage to buildings or pipe work is shown to have occurred, by reference to pre-condition survey findings from CNV.7(c), as a result of vibration from the construction of the Project, any such damage shall be remedied by the Requiring Authority as soon as reasonably practicable subject to any associated asset and/or owner agreement.

### **Construction Traffic Management Plan**

CTMP.1 A CTMP shall be prepared by a suitably qualified and experienced person and shall be submitted as part of the relevant OP.

CTMP.2 The purpose of the CTMP is to avoid or mitigate adverse effects on traffic safety and efficiency resulting from the construction works, in order to:

- a. Protect public safety, including the safe passage of pedestrians and cyclists;
- b. Minimise delays to road users, pedestrians and cyclists, and particularly public transport at all times, especially bus travel times at peak traffic periods during weekdays (06:30 to 09:30 and 16:00 to 19:00); and
- c. Inform the public about any potential impacts on the road network.

CTMP.3 The CTMP shall be prepared using best practice (to better understand the effects of construction of the works subject of the OP on the affected road network), which may include the use of traffic modelling tools. Any such assessment shall be undertaken in consultation with Auckland Transport (including Auckland Transport Metro) and have the ability to simulate lane restrictions and road closures (unless otherwise agreed with Auckland Transport). The outcome of consultation undertaken between the Requiring Authority and Auckland Transport shall be documented and any Auckland Transport comments not acted on provided with the final CTMP when submitted to the Council.

CTMP.4 The CTMP shall describe the methods for avoiding, remedying or mitigating the local and network wide transportation effects resulting from the Project works subject of the relevant OP, and shall address the following matters:

- a. Methods to avoid, remedy or mitigate the local and network wide effects of the construction of individual elements of the Project (e.g. intersections/overbridges) and the use of staging to allow sections of the Project to be opened to traffic while other sections are still under construction;
- b. Methods to manage the effects of the delivery of construction material, plant and machinery (including oversized trucks);
- c. The numbers, frequencies, routes and timing of construction traffic movements;

- d. Traffic management measures to address and maintain traffic capacity and minimise adverse effects including, where applicable to the relevant OP:
- i. Retaining the existing number of traffic lanes along SH1 (between Tristram Avenue and Oteha Valley Road);
  - ii. Retaining the extent of existing bus priority measures along SH1 (between the Albany Station and the Constellation Station), noting that the bus only on ramp from McClymonts Road and the bus only access to the Constellation Station may need to be temporarily closed. Any temporary closure will minimise adverse effects on buses and general traffic. The duration of any temporary closure shall be minimised as far as reasonably practicable;
  - iii. Retaining the existing number of through traffic lanes along SH18 between the Upper Harbour interchange and the Albany Highway interchange, noting that right turning movements to and from Paul Matthews Road may need to be temporarily closed. Any temporary closure will minimise adverse effects on buses and general traffic. The duration of any temporary closure shall be minimised as far as reasonably practicable;
  - iv. Retaining two traffic lanes on McClymonts Road, over SH1, noting that temporary restrictions to one lane or temporary full closures may be required; and
  - v. Retaining at least one traffic lane and one footpath on Rosedale Road, under SH1, except where night time or weekend closures may be required for heavy civil works such as bridge or deck lifting. This single traffic lane is to allow signalised one way traffic in alternate directions; and
  - vi. Maintaining pedestrian connectivity across SH18 via a controlled pedestrian and cycle crossing should the Alexandra Stream underpass be closed during construction.
- e. Measures to maintain existing vehicle access to private properties, or where the existing property access is to be removed or becomes unsafe as a result of the construction works, measures to provide alternative access arrangements in consultation with Auckland Transport and the affected landowner; and
- f. Measures to maintain pedestrian and cycle access with thoroughfare to be maintained on all roads and footpaths adjacent to the construction works, (e.g. unless provision of such access is severed by the works or such access will become unsafe as a result of the construction works). Such access shall be safe, clearly identifiable, provide permanent surfacing and seek to minimise significant detours.
- g. Where applicable to the relevant OP, measures to ensure no more than 20 car parking spaces are removed from the Albany Park and Ride during the construction period unless otherwise provided for at an alternative nearby site agreed between Auckland Transport and the Requiring Authority during the construction of the Project.
- h. Include measures to avoid road closures, and the restriction of vehicle, cycle and pedestrian movements. Where there may be:
- i. A restriction of cycle and pedestrian connectivity to schools, consultation with the Ministry of Education shall be undertaken; and
  - ii. A restriction on access to Waste Management NZ Limited ('WMNZ') from Rosedale Road, consultation with WMNZ shall be undertaken.
- i. Identify alternative routes for over-dimension and over-weight vehicles where these routes are affected during construction and consult with Auckland Transport and the freight industry (including affected local businesses) on the alternative routes or closures.

#### **Public Transport Traffic Management Plan**



CTMP.5 The CTMP shall include a specific Public Transport Traffic Management Plan ('**PTTMP**'). The PTTMP (and any amendments) shall be prepared in consultation with Auckland Transport. The purpose of the PTTMP is to define the process for identifying and managing the potential adverse effects of the Project on bus services. More specifically, the PTTMP shall address those road network/bus routes/bus services which interface with SH1, SH18, and the Busway, and which may be affected by the construction of the Project, in such areas as:

- a. Delays to services and reliability;
- b. Increased journey distances and/or duration;
- c. Frequency of services;
- d. Loss of service/replacement services; and
- e. The procedures and timeframes needed for planning and communicating any road network/bus routes/bus services changes with Auckland Transport (and its bus operators) and customers.

CTMP.5A For each of the above matters, the Requiring Authority shall develop and agree with Auckland Transport acceptable performance thresholds that shall be met to agreed key destinations, having regard to:

- a. Staging of the Project works;
- b. Duration of the Project works;
- c. Time of day/night that the works are conducted;
- d. Convenience to public transport patrons;
- e. Safety;
- f. Public transport patronage.

CTMP.5B The performance thresholds shall be developed with specific acknowledgement of the necessary temporary closure of: the bus only on ramp at McClymonts Road; the bus only access to the Constellation Station; and the right turn movements to and from Paul Matthews Road.

CTMP.5C The performance thresholds for the specified road network/bus routes/bus services shall be monitored by the Requiring Authority, using, where appropriate, data provided by Auckland Transport. The methods and frequency for the monitoring of the performance thresholds (and the reporting of the outcome of the monitoring) shall be agreed between the Requiring Authority and Auckland Transport.

CTMP.5D Where the monitoring undertaken demonstrates that the performance thresholds are not being met, then traffic management measures shall be reviewed by the Requiring Authority (in consultation with Auckland Transport). In order to achieve the thresholds, such a review shall include, amongst other things:

- a. The staging of the construction activity;
- b. Methods to provide further prioritisation of bus services on certain routes;

- c. Methods to provide bus priority beyond the site(s) of the construction activity;
- d. The provision of additional or revised bus services to respond to delays/frequency of service;
- e. The measures to communicate changes to the road network/bus routes/bus services to the community.

#### **Local roads used for heavy vehicle access to construction areas**

CTMP.6 Prior to the commencement of construction of the works subject of the relevant OP, the Requiring Authority shall:

- a. Identify all access points from the Project construction areas accessing onto the local road network;
- b. Confirm existing levels of traffic using the road to which the proposed site access points relate;
- c. Estimate proposed construction vehicle volumes;
- d. Identify, in consultation with Auckland Transport, a monitoring programme to be implemented for the duration of construction of the Project (or relevant Project stage) to validate the construction vehicle volumes identified in (c)

CTMP.6A At least four weeks prior to the commencement of construction works identified in CTMP.6, the Requiring Authority shall submit to Auckland Transport, a RAMM visual condition assessment including a high-definition video and Pavement Strength Testing of the following:

- a. Where the construction site access point is onto an arterial road, the expected tracking curves of construction vehicles entering/ exiting via the relevant construction site access points; and
- b. Where the construction site access point is onto a local road between the access point(s), along the local road(s) to arterial road(s) and including the expected tracking curves of construction vehicles entering/ exiting the arterial road(s)

CTMP.6B At least two weeks prior to the Project construction works identified in condition CTMP.6 commencing, the Requiring Authority shall arrange a meeting with Auckland Transport to discuss and agree the findings of the RAMM visual condition assessment and the results of Pavement Strength Testing. The purpose of the meeting is to agree on any measures needed (if any) to manage the effects of construction traffic on the physical condition of the road(s), including limiting the volume of heavy vehicles, physical works to strengthen the road pavement before use or repairing/maintaining the road(s) in the event of damage attributable to the Project.

CTMP.6C Subject to condition CTMP.6B, the Requiring Authority shall undertake a weekly inspection of the matters identified in condition CTMP.6A or upon any complaints received, and a final inspection within one week of ceasing using each access point for construction. The inspections shall record photographic or video evidence of any damage on the road(s) and provide this to Auckland Transport upon request.

CTMP.6D Any damage identified as attributable to the Project by an appropriately qualified and experienced person in the areas identified by the inspections required in condition CTMP.6C shall be repaired within one week or within an alternative timeframe to be agreed with Auckland Transport. All repairs shall be undertaken by the Requiring Authority and shall be to the satisfaction of Auckland Transport.

#### **Traffic noise (operation)**

ON.1 For the purposes of conditions ON.2 to ON.11:

- a. BPO – means the Best Practicable Option in accordance with s16 of the RMA;
- b. NZ 6806 – means New Zealand Standard NZS 6806:2010 Acoustics – Road-traffic noise – New and altered roads (“NZS 6806”);
- c. Building-Modification Mitigation – has the same meaning as in NZS 6806
- d. Habitable Space – has the same meaning as in NZS 6806;
- e. Noise Assessment – means the Assessment of Operational Noise and Vibration submitted with the NoR;
- f. Major Construction Activity - means any construction activity that would result in an exceedance of the standards in CNV.3 and CNV.4
- g. PPFs – means Protected Premises and Facilities and has the same meaning as in NZS 6806. For the purpose of these conditions they also include all dwellings in Stage 1 of the Colliston Rise subdivision where Building Consent or Resource Consent which authorises the construction of a dwelling has been granted;
- h. Structural Mitigation – has the same meaning as in NZS 6806. For the purpose of these conditions the structural mitigation measures are low noise road surface materials and noise barriers;
- i. Work Area - means any area where construction works associated with the Project are undertaken (e.g. all active works areas and construction support areas); and
- j. The Design Year means 2031.

### **Structural mitigation**

ON.2 Subject to conditions ON.7 and ON.7A, the Requiring Authority shall design and construct the Project to ensure that the predicted noise levels for the Proposed Design (contained in Appendix A to these conditions) are not exceeded by more than 2dB at any PPF.

#### **Advice Note:**

The predicted noise levels for the Proposed Design (including the full noise barrier along Upper Harbour Highway as recommended in the JWS) are contained in Appendix A.

ON.3 The Requiring Authority shall implement the following Structural Mitigation:

- a. Open Graded Porous Asphalt (or other low-noise road surfaces with equal or better noise reduction performance) on all sections of the Project except where a higher friction (for safety) or stronger surface is required; and
- b. The following noise barriers and heights shall be provided:
  - Southern side of SH18
    - i. From the corner formed by the off ramp from SH1 to Upper Harbour Highway, westwards to the corner of Caribbean Drive and Upper Harbour Highway, height 2.4m.
    - ii. From Caribbean Drive westwards to approximate chainage 1280, height 2.4m.
    - iii. From chainage 1280 to 1410 approximately, height 4m.
    - iv. From chainage 1555 to 1765 approximately, height 2.4m.
    - v. From chainage 1880 to 1950 approximately, height 2.4m.

Northern side of SH18

- vi. 40m long in front of the childcare centre in Saturn Place, height 2.4m.
- vii. 50m long in front of the childcare centre in Omega Street, height 2.4m.

In the event that the Requiring Authority proposes to change any of the requirements of (a) and (b) above, it shall provide documentation from a suitably qualified and experienced acoustics specialist to the Council demonstrating that condition ON.2 will continue to be complied with.

ON.4 Within twelve months of completion of construction of the Project, the Requiring Authority shall prepare and submit a report to the Council which demonstrates compliance with conditions ON.2 and ON.3. The report shall be prepared by a suitably qualified and experienced acoustics specialist and shall contain a description of, and the results from, a computer noise model of the Project as constructed.

The report shall include the results of field measurements at a minimum of six representative PPFs within the Project. The results of the noise level monitoring shall be used to verify the computer noise model.

Field measurements shall be in accordance with NZS 6806.

ON.5 The noise barriers shall be maintained so that they retain their designed noise reduction performance.

ON.6 The low noise road surfaces shall be maintained so that they retain their noise reduction performance as far as practicable.

#### **Building-Modification Mitigation**

ON.7 Prior to construction of each stage of the Project, a suitably qualified acoustics specialist approved by the Council shall identify those PPFs where, following implementation of the Structural Mitigation measures, either:

a. Both of the following occur:

- i. A noise level increase of more than 2dB will occur due to road-traffic noise from the Project (determined by comparing the predicted noise levels for the final design with the predicted noise levels for the Do-nothing option as contained in Appendix A to these conditions); and
- ii. Habitable spaces are expected to receive in excess of 45dB LAeq(24hr) from motorway operational noise with windows closed, in the Design Year;

or

b. Noise levels are greater than 67dB LAeq(24hr) (assessed in accordance with NZS6806).

For those PPFs that (a) or (b) apply to, the Requiring Authority shall set out options as to what Building Modification Mitigation are available to achieve 40 dB LAeq(24hr) for habitable spaces using the process set out in Conditions ON.8 to ON.11.

Where sites contain PPFs that are subject to resource consents requiring noise attenuation, this condition shall only apply to the extent that Project noise exceeds the noise level predicted when the resource consent was granted.

ON.7A Prior to Major Construction Activity in the relevant Work Area, the Requiring Authority shall write to the owner of that PPF requesting entry to assess the noise reduction performance of the existing building envelope. If the owner agrees to entry within 3 months of the date of the Requiring Authority's letter, the Requiring Authority shall instruct a suitably qualified acoustics specialist to visit the building and assess the noise reduction performance of the existing building envelope and

determine what Building-Modification measures are required to achieve an operational noise level of 40 dB L Aeq(24h) for habitable spaces.

ON.8 For each PPF identified under condition ON.7, the Requiring Authority is deemed to have complied with condition ON.7A if:

- a. The Requiring Authority's acoustics specialist has visited and assessed the PPF; or
- b. The owner agreed to entry, but the Requiring Authority could not gain entry for some reason (such as entry denied by a tenant); or
- c. The owner did not agree to entry within three months of the date of a Requiring Authority letter seeking entry for assessment purposes (including where the owner did not respond within that period); or
- d. The owner cannot, after reasonable enquiry, be found prior to completion of construction of the Project or after reasonable time has not responded.

If any of (b) to (d) above applies to a PPF identified under condition ON.7, the Requiring Authority is not required to implement Building-Modification Mitigation to that PPF.

ON.9 Subject to condition ON.8, within three months of the assessment required by condition ON.7A, the Requiring Authority shall write to the owner of each PPF identified under condition ON.7 advising:

- a. If Building-Modification Mitigation is required to achieve 40 dB LAeq(24h) inside habitable spaces; and
- b. The options for Building-Modification Mitigation to the building, if required; and
- c. That the owner has twelve months to decide whether to accept Building-Modification Mitigation to the building and to advise which option for Building-Modification Mitigation the owner prefers, if the Requiring Authority has advised that more than one option is available.

ON.10 Once an owner has confirmed which Building-Modification Mitigation option is preferred, the mitigation shall be implemented by the Requiring Authority, including obtaining any Council consents, within a mutually agreeable and reasonable timeframe, and where practicable, prior to a Major Construction Activity commencing in the relevant Work Area.

ON.11 Where Building-Modification Mitigation is required, the Requiring Authority is deemed to have complied with condition ON.10 if:

- a) The Requiring Authority has completed Building-Modification Mitigation to the PPF; or
- b) An alternative agreement for mitigation is reached between the Requiring Authority and the owner, and that mitigation option has been completed; or
- c) The owner did not accept the Requiring Authority's offer to implement Building-Modification Mitigation within three months of the date of the Requiring Authority's letter sent in accordance with condition ON.9 (including where the owner did not respond within that period).

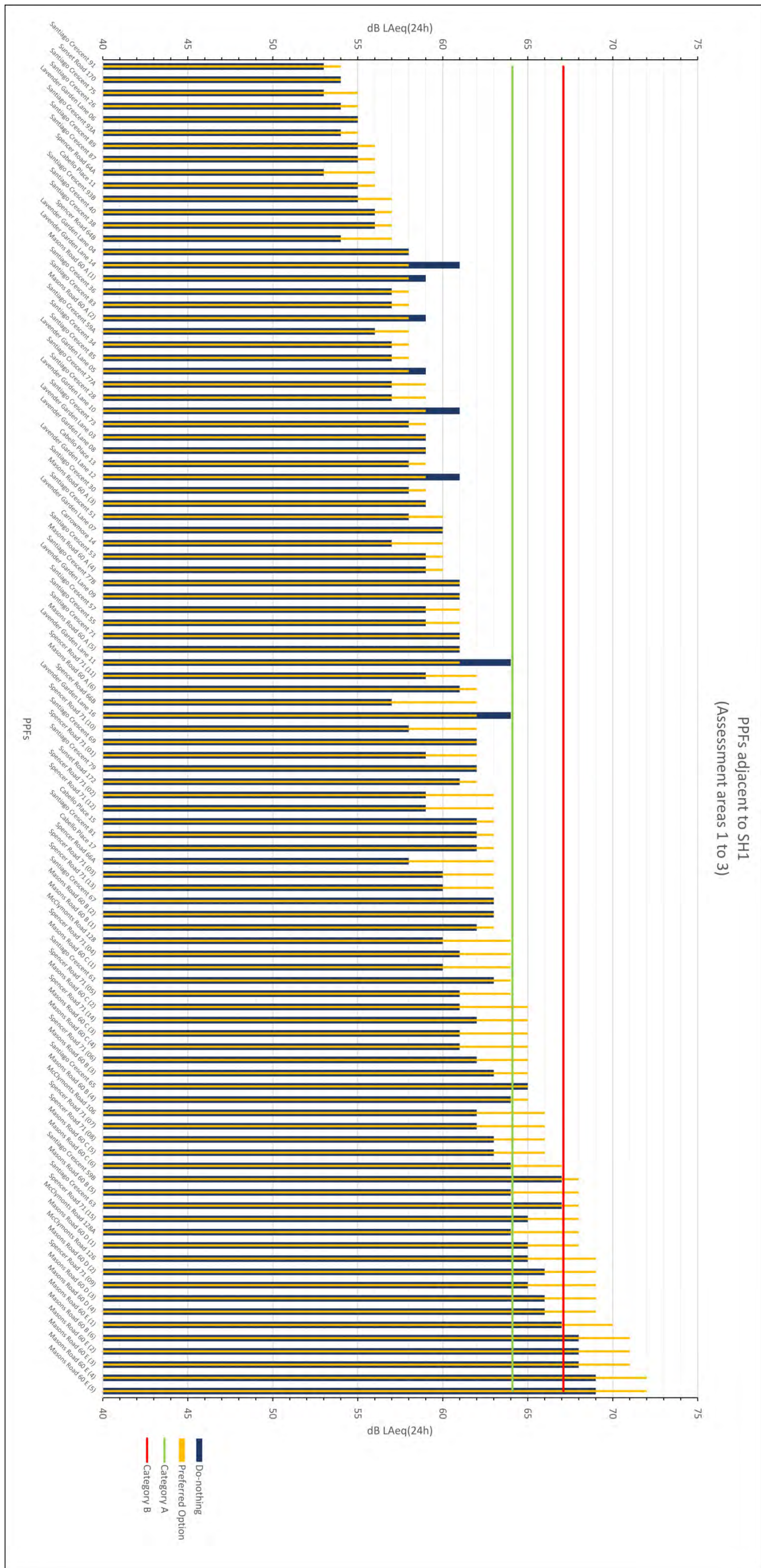
## **Operational Noise Conditions**

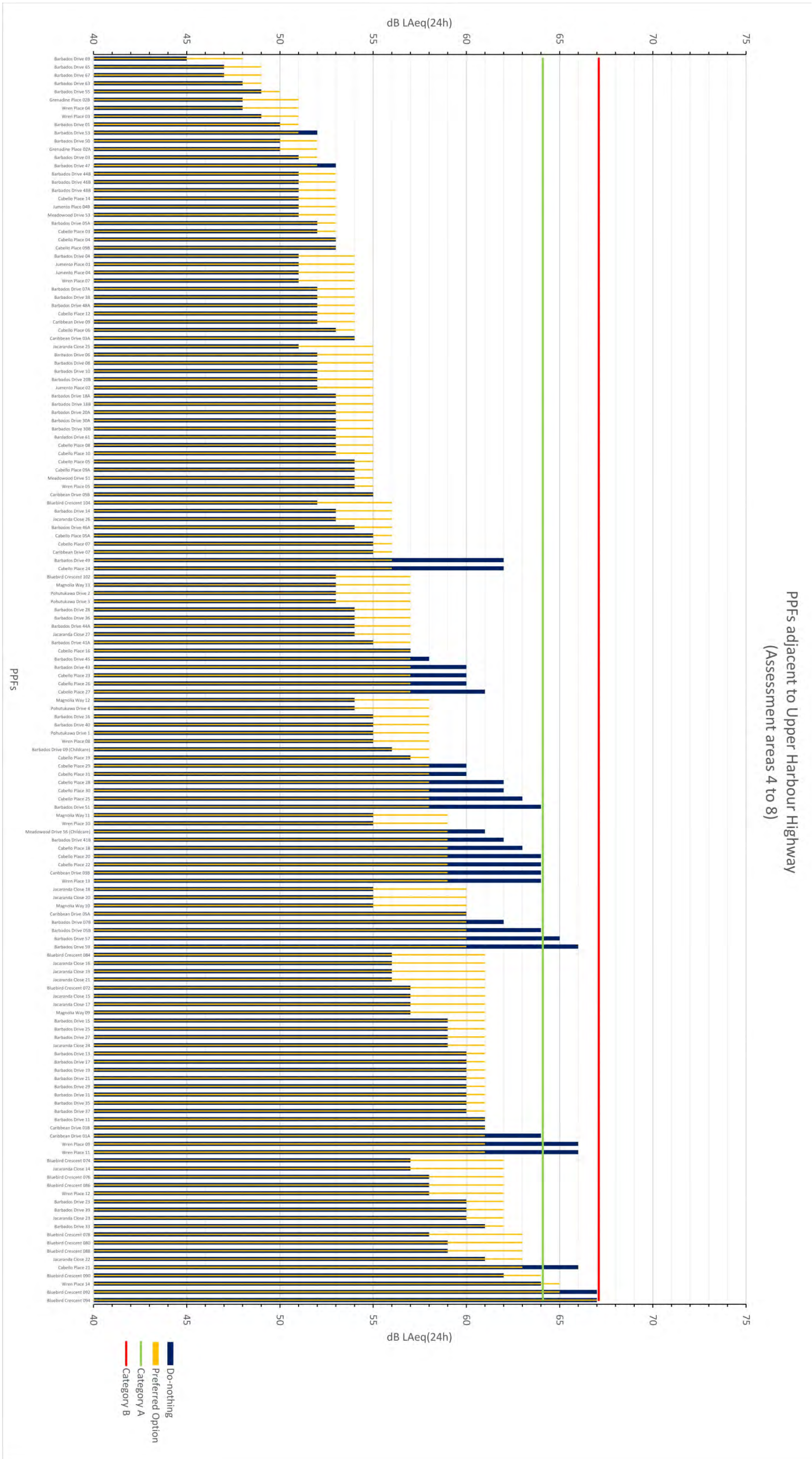
### **Appendix A**

The following graphs show predicted noise levels for all PPFs identified in accordance with ON.2, and are based on the following factors:

- a) All noise levels are predicted for the design year (2031), with all structural mitigation (noise barriers and low noise road surface) implemented.

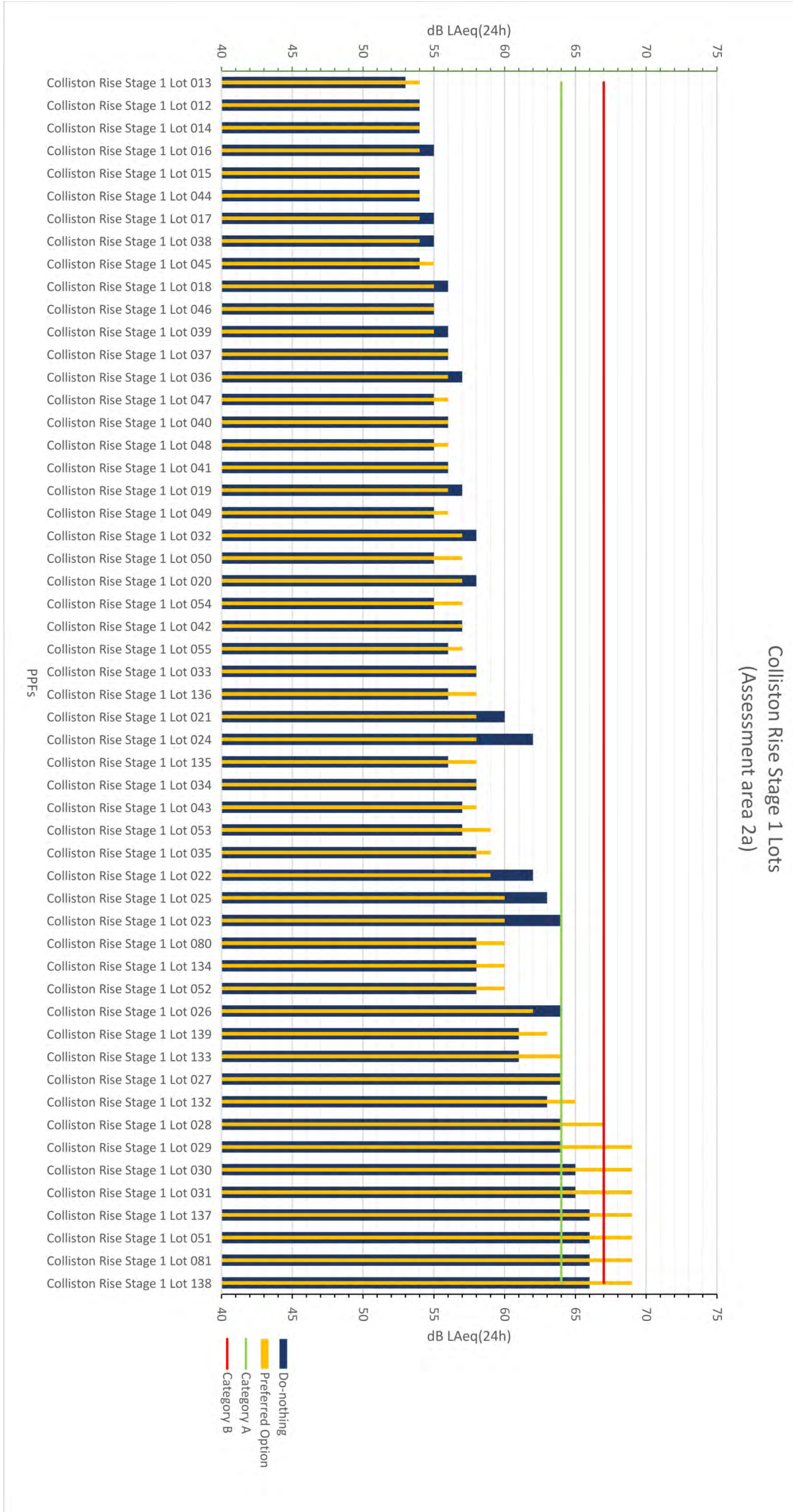
- b) All predictions are for the highest floor of each building.
- c) For Colliston Rise Stage 1, the predictions are for a nominal location 3 metres from the western boundary of each Lot, at a height of 4.5 metres above ground level, representing the second floor level.
- d) Predictions are sorted from lowest to highest for the Proposed Design.





PPFs adjacent to Upper Harbour Highway  
(Assessment areas 4 to 8)





## Operational Vibration

OV.1 Vibration generated by traffic shall comply with Class C of Norwegian Standard NS8176.E:2005 *Vibration and Shock* – Measurement of vibration in buildings from land-based transport and guidance to evaluation of its effects on human beings in any lawfully established occupied building.

In the event that there is a complaint about vibration in any lawfully established occupied building, the Requiring Authority shall, subject to land owner approval, investigate whether:

- a. The vibration complies with the Standard; and
- b. It is caused by defects in the motorway.

If the vibration does not comply with the Standard and is caused by defects in the motorway, the Requiring Authority shall rectify the defects so that the Standard is complied with in the building that is the subject of the complaint.

## Urban Design and Landscape

UDL.1 The Requiring Authority shall submit an Urban Design and Landscape Plan ('**UDLP**') to the Council as part of the OP required under section 176A of the RMA.

UDL.2 The purpose of the UDLP is to outline:

- c. The methods and measures to avoid, remedy and mitigate adverse effects on landscape amenity during the construction phase of the Project;
- d. The requirements for the Project's permanent landscape mitigation works; and
- e. The landscape mitigation maintenance and monitoring requirements.

UDL.3 The UDLP shall be prepared by a suitably qualified and experienced person in accordance with:

- a. The NZ Transport Agency's *Urban Design Guidelines: Bridging the Gap* (2013) or any subsequent updated version
- b. The NZ Transport Agency's P39 Standard Specification for Highway Landscape Treatments (2013).

UDL.4 The Outcomes Sought set out in Chapters 5 and 6 of the UDLF (Revision 3) shall be given effect to through the UDLP in relation to the following matters:

- a. Urban design and landscape treatment of all major structures, including bridges, underpasses, retaining walls and noise walls and barriers;
- b. Urban design and landscape treatment of the new structures at Constellation and Albany Bus

Stations;

- c. Integrated landscape treatment of permanent stormwater management ponds, wetlands and swales;
- d. Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/cycle bridges or underpasses; and
- e. Design and treatment options on or adjacent the following properties:
  - i. The western most residences at 60B Masons Road that overlook the proposed Albany Busway overbridge;
  - ii. Lots 25, 26, 27 and 28 in Colliston Rise, directly adjacent to the proposed retaining walls;
  - iii. 33, 35, 37, 39, 41B, 43, 45, 49, 51, 57, 59 Barbados Drive, and 9, 11, 13 and 14 Wren Place and
  - iv. The solid 2m high wall on the edge of the SUP adjacent to the Waste Management Ltd facility at 117 and 123 Rosedale Road.
- f. Design and maintenance of lighting, including on the carriageways, bridges and other structures, busway, and shared use paths
- g. Detailed design of the shared use path, busway and flyover adjacent to the Kiwi Storage Ltd site, with the object of minimising any adverse visual effect on that site, as far as practicable

UDL.5 The Requiring Authority shall undertake mitigation and enhancement planting in general accordance with the requirements of Sections 5 and 6 of the UDLF (Rev. 3). The UDLP shall include details of proposed mitigation planting including as follows:

- a. Identification of vegetation to be retained, protection measures, and planting to be established along cleared edges;
- b. Proposed planting including plant species, plant/grass mixes, spacing/densities, sizes (at the time of planting) and layout and planting methods;
- c. The proposed staging of planting in relation to the construction programme, including provision for planting within each planting season following completion of works in each stage of the Project and detailed specifications relating to (but not limited to) the following:
  - i. Weed control and clearance;
  - ii. Pest animal management;
  - iii. Ground preparation (topsoiling and decompaction);
  - iv. Mulching;
  - ix. Plant sourcing and planting, including hydroseeding and grassing; and
- d. Details of a proposed maintenance and monitoring programme.

UDL.5A The Requiring Authority shall maintain and monitor the mitigation and enhancement planting for a minimum of 4 years following the planting being undertaken. The Requiring Authority shall monitor the planting in accordance with the programme required by condition UDL.5(d), including monitoring for any patches in planted areas greater than 4m<sup>2</sup> where there is multiple plant failure (either stunted growth or death) and replant these areas as necessary.

UDL.6 The UDLP shall include a Reserve Reinstatement Plan for the following reserves (or parts thereof) directly affected by the construction works:

- a. Rook Reserve;
- b. Arrenway Reserve; and
- c. Meadowood Reserve.

### **Advice Note**

Appendix A to the Board of Inquiry Decision illustrates the location of affected reserves.

UDL.6A The Reserve Reinstatement Plans shall be prepared in consultation with Council Parks and shall include the following details (as appropriate to the subject reserve):

- a. Removal of structures, plant and materials associated with construction;
- b. Replacement of boundary fences to the same or similar type to that removed;
- c. Reinstatement of grassed areas to a similar condition as existed prior to construction;
- d. Replacement of trees and other planting removed for construction on a one-for-one basis (or as otherwise agreed with Council Parks); and
- e. Details of way finding interpretation signage within and adjacent to the reserve.

UDL.6B The Rook Reserve Reinstatement Plan shall be prepared in consultation with Council Parks and shall include the following details:

- a. A level grassed area minimum dimensions of 30m by 30m suitable for informal ball games;
- b. A 10m by 10m level surface located adjacent to the stormwater pond, with the dual function of providing for occasional use by stormwater pond maintenance machinery and a single basketball hoop and half court, located at the eastern end of the pond;
- c. Amenity and screen planting along the boundary of the reserve with State highway 18;
- d. Details of the proposed access around the stormwater pond for maintenance, including any additional necessary hard stand areas;
- e. Grassed slopes (where possible) at the upper levels of the reserve to allow passive surveillance from neighbouring residential properties (with scattered amenity trees);
- f. All grassed areas are to have a slope of no more than 1:5 to allow for mowing, with

steeper gradients to be landscaped;

g. Re-contouring and landscaping of the remainder of the reserve, including features such as walkways and seating; and

h. Prior to commencement of construction on the reserve, the existing fitness equipment in Rook Reserve is to be removed and replaced with three new equivalent pieces of equipment in Barbados Reserve.

UDL.6C In addition to the Reserve Reinstatement Plans above, the UDLP shall in relation to the Landfill provide boundary fencing, replace any trees and landscaping equivalent to those removed or affected by the construction of the retaining wall, provided that any landscaping does not compromise sightlines required for the new motorway and / or busway and/or the shared use path.

UDL.7 A draft of the UDLP shall be submitted to the Council Urban Design Advisory Panel for comment before finalisation and submission with any OP in accordance with Condition UDL.1.

UDL.8 All work shall be carried out in accordance with the UDLP.

UDL.9 For the purpose of staging works, the Requiring Authority may prepare staged or site specific UDLPs. The Requiring Authority shall consult with the Council about the need and timing for any site-specific or staged UDLPs.

UDL.10 The Requiring Authority may submit amendments to the UDLP to the Council. Any works in accordance with the amended UDLP shall not commence until the process under section 176A of the RMA has been completed in relation to those aspects of the UDLP that are being amended.

UDL.11 The UDLPs shall be prepared in partnership with the Transport Agency Central Northern Iwi Integration Group ('IIG'). This consultation shall commence at least 30 working days prior to submission of each UDLP to the Council. Any comments and inputs received from the IIG shall be clearly documented within the UDLP, along with a clear explanation of where any comments or suggestions have not been incorporated and the reasons why.

UDL.12 Any UDLP that includes land within the Watercare Designations 9310 and 9311 shall be prepared in consultation with Watercare Services Limited.

### **Alexandra Stream Underpass**

UDL.13 The Requiring Authority shall implement the following measures to address public safety concerns associated with the Alexandra Stream Underpass:

a. Path realignment of the southern entrance to the underpass to suit a minimum cyclist design speed of 15km/h, provided realignment works do not impact the Alexandra Stream;

b. Improved lighting within the underpass; and

c. Inclusion of CCTV within the underpass.

UDL.14 The measures outlined in UDL.13 shall be designed and implemented in consultation with Council Parks, Bike Auckland and Auckland Transport.

## **Paul Matthews Road Bridge**

UDL.15 During the detailed design phase of the Paul Matthews Road Connection, the Requiring Authority shall consult Bike Auckland on the layout and detailed design of the shared use path.

### **Stakeholder and Communications Plan ('SCP')**

SCP.1 The Requiring Authority shall appoint a community liaison person for the duration of the construction phase of the Project to be the main point of contact for persons affected by the Project.

SCP.2 The Requiring Authority shall ensure that the contact details (phone, postal address, and email address) of the community liaison person and the details of the complaints process set out in Condition SCP.12 are:

- a. Included in the SCP required under Condition SCP.3;
- b. Advertised in the relevant local newspapers and community noticeboards prior to the commencement of the Project;
- c. For each Project stage, included in a leaflet to be issued to all properties within that Project stage contained within the 45 dB LAeq Contour (Residential Night) as shown on the Construction Noise Mark Up drawings contained at Appendix E of the Assessment of Construction Noise and Vibration (9 December 2016) prior to the commencement of the relevant Project stage;
- d. Provided at the community events required under Condition SCP.6 and
- e. Included within the Requiring Authority's website pages for the Project.

SCP.3 At least two months prior to the commencement of construction works for the relevant OP, the Requiring Authority shall submit a SCP to the Council.

SCP.4 The Requiring Authority shall provide a draft SCP to the Council for comment at least three months prior to the commencement of construction. In finalising the SCP, the Requiring Authority shall detail how comments received from the Council have been addressed.

SCP.5 The purpose of the SCP is to set out the procedures for communicating with the affected communities and key stakeholders throughout the construction period including types and regularity of engagement events and the methods proposed to avoid, remedy or mitigate, as far as practicable, disruption to residents, businesses and schools as a result of construction activities.

SCP.6 The SCP shall contain the following:

- a. Communication methods for informing the affected community of construction progress, including the expected duration of the works and proposed hours of operation outside normal working hours and Project contact details;
- b. Identification of key stakeholders including community groups, business groups, residents' organisations, childcare groups, the Council, Auckland Transport, Watercare, Ministry of Education,

Waste Management NZ Limited, the Melanesian Mission and St Johns Trust Board, the IIG and the Local Boards;

c. Consultation processes to reach the affected communities and key stakeholders in order to foster good relationships and to provide opportunities for learning about the Project and detail on when each of these processes will be used; and

d. Business and education disruption management processes.

SCP.7 The consultation processes required under SCP.6(c) shall provide for, as a minimum, the following:

a. At least two months prior to construction commencing for the relevant Project stage, provision of an inaugural community information event or events, to explain the Project and outline the process to review and comment on Project mitigation and UDLPs;

b. Briefings for key stakeholders (including emergency services, business associations, local boards and road user groups) at least quarterly, and ahead of all major milestones or road closures;

c. Regular consultation events or information days, held as appropriate, but at least once per month when construction works are taking place, to provide the opportunity for the affected communities to have input into the Project.

d. Targeted community events at least one month prior to construction commencing in each of the following Work Areas:

- SH1/SH18 interchange;
- SH18 realignment;
- Rook Reserve;
- Rosedale Road;
- Constellation and Albany Bus Stations; and
- McClymonts Road (including Albany Busway Bridge).

e. Notification of consultation events and information days to the public and community groups.

f. Publication and circulation of records from consultation events and information days.

g. A requirement for the Requiring Authority to ensure that appropriate personnel attend both the stakeholder and community events to explain the Project programme and staging, how the effects are proposed to be managed and to respond to any questions.

h. A requirement to produce a draft report summarising the main points arising from each consultation event, reporting on any social impacts unforeseen effects of the Project, along with recommendations on the measures to mitigate those effects. The Requiring Authority shall ensure that a copy of the draft report is provided to the Council and to meeting attendees within 10 working days of the event to provide an opportunity for feedback. Feedback will be provided within 5 working days of receiving the draft report.

i. A requirement to finalise and circulate the consultation summary report within 5 working days of receiving feedback.

SCP.8 The events required under condition SCP.7(b), shall:

a. Provide regular updates on Project progress, in particular advanced notice of upcoming works including closures and traffic management plans.

b. Enable the effects of Project construction on the community (including businesses) to be monitored by providing regular forums through which information about the Project can be provided.

c. Enable opportunities for feedback on proposed construction impact measures.

d. Enable the affected communities and key stakeholders the opportunity to provide feedback on the development of, and any material changes to the UDLPs.

e. Enable opportunities for concerns and issues to be reported to and responded to by the Requiring Authority, including opportunities for updates to the SCP.

SCP.9 The business and education disruption management processes required under condition SCP.6(d) shall include details of the measures to be implemented to avoid, remedy or mitigate, as far as reasonably practicable, disruption to businesses and education facilities as a result of construction activities including:

a. Measures to maximise opportunities for customer and service access to businesses that will be maintained during construction;

b. Measures to mitigate potential severance and loss of business visibility issues by way-finding and supporting signage for pedestrian detours required during construction; and

c. Other measures to assist businesses to maintain client/customer accessibility, including but not limited to client/customer information on temporary parking or parking options for access and delivery.

d. Measures to enable ongoing pedestrian and cycle connectivity to education facilities during the Project.

SCP.10 The Requiring Authority shall implement the SCP for the duration of the construction works and for six months following practical completion of the Project.

SCP.11 The SCP shall be reviewed six monthly for the duration of the construction works and updated as required. Any updates to the SCP shall be provided to the key stakeholders and reported at the events required under condition SCP.7(c)

### **Complaints process**

SCP.12 Prior to the commencement of construction, the Requiring Authority shall establish a 24 hour toll free telephone number and an email address for receipt of complaints from the community. The 24 hour toll free telephone number shall be answered at all times and shall be maintained for the duration of the Project.



SCP.13 At all times during construction work, the Requiring Authority shall maintain a permanent register of any complaints received relating to the construction works, including the full details of the complainant and the nature of the complaint.

SCP.14 The Requiring Authority shall respond to any complaint within 24 hours of receipt of the complaint, except where an immediate hazard is present or where the complaint relates to construction noise or vibration, in which case the Requiring Authority shall use its best endeavours to respond immediately. A formal written response shall be provided to the complainant and the Council within 10 days of complaint receipt.

SCP.15 For the period of the construction of the Project, the Requiring Authority shall maintain a written complaints register containing the following information:

- a. The details of the complainant;
- b. The nature of the complaint;
- c. The investigations undertaken into the complaint; and
- d. Any remedial actions undertaken to address the complaint.

SCP.16 The Requiring Authority shall keep a copy of the complaints register required under SCP.15 on site and shall provide a copy to the Council once a month and more frequently upon request

### **Greenwich Way Shops**

SCP.17 At least two weeks prior to the closure of the off-ramp from SH18 onto Unsworth Drive, the Requiring Authority shall, in consultation with the Greenwich Way shop owners and operators and if requested by those owners and operators:

- a. Provided that all necessary approvals can be obtained from the road controlling authority, install wayfinding signage at the junction of Barbados Drive and Unsworth Drive; and
- b. Advertise the range of services, location and trading hours of the Greenwich Way shops by:
  - i. Undertaking a leaflet drop to all properties contained between SH18, Caribbean Drive, Sunset Road and Albany Highway; and
  - ii. Placing advertisements in the relevant local newspapers.

SCP.18 The Requiring Authority shall carry out the actions required by Condition SCP.17 (a) and (b) at least two weeks prior to closure of the off ramp from SH18 onto Unsworth Drive and repeat the advertising required by Condition SCP.17 (b) once a month for three months following the first leaflet drop and newspaper advertisements.

SCP.19 At least two months prior to the closing of the off ramp from SH18 onto Unsworth Drive the Requiring Authority shall, in consultation with the Greenwich Way shop owners and operators, and if requested by those owners and operators, provide advice and assistance to those owners and operators to prepare a business/marketing plan for their premises,

### **International Hockey Facility**

IHF.1 Unless otherwise agreed between the Requiring Authority and the Harbour Hockey Charitable Trust, prior to any works commencing within any part of the North Harbour Hockey Facility lease area, the Requiring Authority shall, in consultation with Harbour Hockey Charitable Trust, relocate the North Harbour Hockey facility on an equivalent basis. This shall include the following elements:

- a. Three water-based artificial hockey pitches with all fields to meet equivalent current International Hockey Federation ('**FIH**') design standards as existing fields;
- b. One grass pitch (or land prepared for installation of a fourth artificial hockey pitch);
- c. A pavilion building of similar size, quality and finish that provides clubrooms, function rooms, changing rooms, and other amenities consistent with those at the existing North Harbour Hockey Facility but shall be designed to meet current FIH and building code standards; and
- d. Lighting, car parking, public address system, storage sheds, dug-outs, and associated other facilities consistent with those at the existing North Harbour Hockey Facility.

If the replacement facility is located proximate to the existing satellite sand based pitch within Rosedale Park, suitable access from the replacement facility to the existing sand based pitch will be provided. In the event that the new hockey facility is not located sufficiently close to the existing satellite sand pitch (which is in Rosedale Park to the north of the existing North Harbour Hockey Facility) to enable convenient access, an equivalent sand based pitch shall be provided as part of the replacement facility.

If agreed with HHCT, relocation to the new North Harbour Hockey Facility may be undertaken in stages.

## Attachments

No attachments.