

**BOARD OF INQUIRY
WATERVIEW CONNECTION PROPOSAL**

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Waterview Connection
Proposal**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a Board of Inquiry appointed under s149J of the Resource Management Act 1991 to consider applications by New Zealand Transport Authority for resource consents and notices of requirement for the Waterview Connection Proposal.

Board of Inquiry members presiding:

Environment Judge Laurie Newhook
Member Sue Jackson
Member Alan Dormer
Environment Commissioner Ross Dunlop
Member Sandra Hardie

FURTHER MINUTE AND DIRECTIONS OF THE BOARD

Editing and Changes to Draft Conditions of Consent

1. Yesterday (6 May) the Board issued a Minute and Directions calling for edits and changes to conditions and other documentation.
2. Today we have further considered some of the contents of that document, noted and attended to some typographical errors, and decided on some refinements.
3. **Attached** is an amended version of the Minute. It replaces that of yesterday.
4. The timetable for lodging and serving the required materials is unaltered.

If you have any questions arising from this Board Direction please do not hesitate to contact the EPA on 0800 H2OVIEW (0800 4268439) or waterview@epa.govt.nz.

For the Board:



**Environment Judge L J Newhook
Chairman - Waterview Connection Proposal Board of Inquiry
7 May 2011**

Attachment

SCHEDULE OF WORK REQUIRED ON DRAFT CONDITIONS OF CONSENT AND OTHER DOCUMENTS

1. Traffic and Transport

- 1.1 Draft condition OT.1 at p. 28 of the Red Book, concerns the preparation of a Network Integration Plan (“NIP”) in collaboration with Auckland Transport, particularly as to relationships with existing local road network and future improvements and such matters as pedestrian and cycleways etc.

Item (a) appears only to address the issue of bus priority measures northbound on Great North Road, being one of three matters addressed by NZTA to Auckland Transport in a letter, annexure B to the rebuttal evidence of Mr Parker, dated 17 December 2010. We recall from Mr Lanning’s Opening that the council is not pursuing the first of the 3 items (St Lukes Interchange). The third of them (Sector8 cycle/pedestrian way) is dealt with below (see 2.11).

- 1.2 The Board is not happy with deletion of words in OT.1(a) agreed by the transport caucus concerning pedestrian and cycle infrastructure. This seems to us to be covered by the PT and Active Mode Transport drawings 109 and 113, refer DC.1(d) of the Red Book. OT.1(a) should cross reference to that condition and be made subject to consultation with Auckland Transport. The Board is not happy for room to be left for the work not to be done. In OT.1(a) the bus priority measure is to be provided on Great North Road. The reference to “where it can be achieved in the Project Designation” appears inappropriate, and we believe should be deleted.
- 1.3 Draft condition OT.2 provides for the creation of a Tunnel Traffic Operation Plan. It fails expressly to address the topic of operational safety, and it must. Then, particularly in that context, it is clearly inappropriate that such a plan should not be completed until sometime within three months of the date of practical completion of SH20. The requirement must be to have the plan completed, provided to Auckland Transport and Auckland Council, and all testing of equipment etc completed before operational use of the motorway.

- 1.4 In TT.5, in the last line after “major construction” insert “or major traffic generating event”.
- 1.5 In TT.7, add a requirement for vehicle access, including for emergency service vehicles, be maintained to the Te Atatu Peninsula north of SH16 at all times.
- 1.6 In TT.3(h), there is reference to OS.13. The Board considers that OS.13 is (and must be) an unqualified commitment to maintain access to open space and education facilities. Sub-condition (h) should be reworded to make it clear that it doesn't act as a qualification on OS.13 (the issue is not helped by an example being given in brackets, mid sentence).

2 *Open space*

- 2.1 The Board considers that there is a flaw in the audit trail concerning the preparation of Open Space Restoration Plans. It starts in draft conditions OS.2 and OS.3, which require such plans for the areas listed in schedule A, Row 30. Included in the list of drawings referred to in Row 30, is a set of drawings attached to the caucus statements of the joint open space and planning witnesses dated 21 March 2011, in particular plan 304. Condition OS.6 refers to the Open Space Restoration Plan for Alan Wood Reserve (Schedule A, Row 17) amongst which plan references is sheet 219 of the series attached to the Annexures A and B of the rebuttal evidence of Ms Hancock. The flaw is that while the latter sheet 219 depicts (confirmed by note 11) planting with low growing native species, sheet 304 shows no planting on much of the rail designation, contrary to the express agreement of the experts. Sheet 304 will need to be amended in that regard, and a new revision supplied to the Board and parties when the revised draft conditions of consent are lodged.
- 2.2 As noted by Ms Janissen in her Reply, the first Open Space Caucus Report recorded agreement that the improved cycleway and pedestrian paths etc are to be provided as shown on the PT and Active Mode Transport Routes [28.1.11]. This is appropriately locked in by draft condition DC.1(d). The reference, however, in the fourth column of Row 22, of Schedule A [28.1.11], must be incorrect (so, too, the date referred to by Ms Janissen) because the plans were updated and a further set lodged with the Board of Inquiry after 25 February 2011. This can be seen from the revision table on many of the sheets, recording a revision date of 25 February 2011. Obviously the latest set is what must be referred to. (While on the subject, it does not seem to accord with good practice for some of the plans in the latest set to be described as being within revision D, while others are described as being within revision E. One would imagine that they would all be of the one revision set, be it D or E.)

Further, should there not be an OS condition that requires that where PT and Active Mode Transport Routes facilities are on reserve areas for which restoration plans are required, the latter are to incorporate such facilities to ensure design integration. But one example is drawing 220 of the F:16 UDL series, not showing what is on the PT and Active Mode Transport Routes drawings sheet 117. Yet another example is with UDL sheet 220 not showing the Hendon pedestrian bridge link to Methuen Road at number 174 of that street.

2.3 While draft condition OS.4 refers, in relation to certain reserves, to educational signs, directional signs, and artworks in a general way, the Board is reminded that it hasn't found a draft condition committing NZTA to decoration or artworks on its structures, for instance as recently as employed on new infrastructure in the "Spaghetti Junction" area, and as illustrated quite extensively in the ULDF.

2.4 Referring again to condition OS.4, the Open Space Restoration Plans are to be "in general accordance" with the relevant UDL drawings. We noted that Ms Hancock answered a question to the effect that this would ideally be determined by reference to the principles in the ULDF and Plans. On a related matter, she said that if there were management plans and proposals on the F:16 UDL drawings, which the Board considered should be secured as part of any consent, it might be appropriate to make those matters the subject of conditions. The ULDF was not previously a lodged document, but came to the Board at its request. We have been considerably assisted by being able to refer to its contents from time to time during our deliberations. Our direction is that the following F:16 UDL Management Plan matters, are to be made subject to conditions of consent requiring their implementation:

- (i) Sheet 210 M1 – M4
- (ii) Sheet 211 M1 – M3
- (iii) Sheet 212 M1, M11, M12 and M13
- (iv) Sheet 218 M1, M2, M4-5, M8-9
- (v) Sheet 219 M2
- (vi) Sheet 220 M1-5
- (vii) Sheet 221 M1-3, M7-10, M12, M13
- (viii) Sheet 222 M1-2. M4-6
- (ix) Sheet 223, M1, M3

(x) Sheet 224 M1

(xi) Sheet 229 M1

2.5 There appears to be a problem with references to the F series drawings in many of the Rows in Schedule A. The Board has not yet been able to check every last item, but as far as it has, up to today, it has found 20 errors. Three examples are:

- Row 6 – in the first line the “C” we think should be “N”.
- Row 9 – in the first line we think there should be a “3” before “D”.
- Row 16 – we think there should be a reference to Revision B in the first line, not Revision A.

This issue has the potential to cause grave problems. We have not checked off all the references against drawings included in the Rebuttals, or Ms Linzey’s supplementary evidence and the like, and frankly should not have to. This issue must be sorted out. Further, and for ease of enforcement, it would be better if NZTA listed the drawings in numerical order in each of the rows, rather than grouping them by revision, even if in some cases some extra rows are needed due to single pages being updated.

2.6 The Board is not convinced that there should be the proposed playing field at Waterview Reserve (see OS.5), but instead favours the changes to the Phyllis Reserve sought by the Council. This will require changes at least in OS.5, if not the creation of a new condition.

While on the subject of changes, the Board does not favour the Council position relating to the Valonia Reserve, believing that the possibility of acquiring the 8 additional residential sections along Valonia Street is too speculative. Furthermore, the Board lacks jurisdiction over them in this case. The Board therefore requires that the conditions of consent provide for the layout proposed by the NZTA. Waterview Reserve should receive from NZTA, pursuant to appropriate condition of consent, a skatepark and BMX bike mountain track as suggested by local witnesses in addition to the items listed in OS.5 (iii) to (vi). While on the subject of a skatepark, there is to be one at Alan Wood Reserve as well. If there is a need to express these to be subject to a resource consent, that can be done.

2.7 OS.5(a)(i) and (ii) provide for a financial contribution in lieu of a permanent field at Waterview Reserve. Through counsel, the Council sought the financial contribution. In case that wasn’t its last position, OS.5(a)(i) is to be amended to read:

(Or if the Council elects... .

The Board considers that it does not need to be concerned about lack of imprecision in the amount of financial contribution, because it will be referable to the contents of (i), must be done before construction commences, and there is a dispute resolution clause.(On reflection, CEMP.14 would not appear to go far enough to cover this. There should probably be some new and more general dispute resolution clauses in the DC and RC sections).

- 2.8 Draft condition OS.10(d) refers to the payment of a financial contribution if certain arrangements cannot be made by way of land purchased to enable the proposed access. There is to be a mechanism for deciding the amount of financial contribution, because unlike the previous item, there is no description of alternative equivalent works. Also, it is to be clarified that “site clearance” means vacant possession clear of any existing improvements of whatever site is deemed suitable by the Council for the connection.
- 2.9 It is unclear to the Board what OS.11(a) means where it refers to “the pathway linkage north of Oakley Creek Esplanade Reserve...connecting to Oakley Creek”, bearing in mind that the creek is generally on a north-south axis at this point. We doubt that it would be a reference to the Great North Road-Unitec track, as this is dealt with in OS.13. (Is it Plan Note 6 on F:16 Sheet 229 ?)
- 2.10 In his evidence Mr Little discussed two properties on Hendon Avenue that he said were included in the Project as open space; however Ms Richmond and Mr Beer on behalf of Council rejected acquisition of spaces of that size as not being consistent with the Council’s approach on acquisition on open space. We cannot presently see reference to them in the draft conditions of consent, and perhaps they have already been excluded because of the attitude of the Council. If, however, they have been included, reference to them is to be deleted. We imagine at least however that Management Plan Note M6 on UDL 220, might need amending.
- 2.11 When the draft decision of the Board is issued in a few weeks time, it will be seen that the Board is concerned about unmitigated adverse effects on passive open space, particularly in Waterview, Owairaka, and New Windsor, both during the construction years, and longer term. Also, that the Board favours and is strongly persuaded by the policies in statutory and non-statutory instruments about connectivity and networking around open space and reserves. The Board would, if it could, direct the formation of pedestrian and cycle access between these two locations (Waterview and

Owairaka/New Windsor), inclusive of some of the bridges mentioned in evidence, in order to provide this mitigation (but not, of course, as mitigation of the sector 8 part of the Project, because that is underground). However, it cannot do that, on account of issues of land ownership and resource consenting. It is of the view, as a matter of law, and will be its finding should consent be forthcoming, that it will impose a condition requiring the payment of a financial contribution in mitigation of construction and long term adverse effects on open space and reserves, and will describe how it has gone about this.

Meantime, a condition is to be drafted requiring a financial contribution of \$8 million in total on this score. The condition is not to provide that the money simply be paid to Auckland Council. It is to be drawn in terms that it is payable when Auckland Council certifies to NZTA that it and Auckland Transport have acquired all necessary land, or obtained all necessary interests and/or landowner approvals on a permanent basis, sufficient to form a cycle and pedestrian way to AUSTRROADS Standards, between Alan Wood Reserve and Unitec; obtained all necessary resource consents; and resolved to proceed with that project. The bridges needed are what have been called the Soljak and Alford bridges. The Hendon bridge is to have a pathway extension as agreed by the experts in caucus.

- 2.12 A condition is to be prepared providing for the property of 1.9ha at 6 Barrymore Place to be transferred to Auckland Council for vesting as a reserve when construction yard 11 is decommissioned.
- 2.13 In OS.3, amend the schedule by adding (g) McCormick Green Restoration Plan (recognizing that it is proposed that the reserve host stormwater management devices during construction, which will create the need for restoration on their removal). Make consequential changes to OS.2 and Schedule A, Row 30 documentation.
- 2.14 In OS.5 add at the end of the Advice Note "... if it is all able to be acquired and consented".
- 2.15 In OS.7, add a (c) requiring contours to be reinstated in a manner that approximates to those shown on F:16, Sheet 229.
- 2.16 In OS.16, add "together with the footpath connections shown on PT and Active Mode Transport Route Sheet 9 to Berbridge Avenue, Alberta Street, and Montrose Street".

- 2.17 LV.8 refers in the first line to “any landscaped areas within the designation”. It should simply say “any areas”.

3 *Cultural Impacts*

- 3.1 NZTA offered to Te Kawerau a Maki to liaise at the detailed design stage concerning how lighting effects might be mitigated without compromising traffic safety and breaching relevant standards, district plans and bylaws. A condition is to be drafted to that effect, we imagine in the SO section.

4 *Coastal Processes*

- 4.1 Draft condition ARCH.6 (a) is to have words added that expressly call for its design, in particular its height above water, to accommodate the passage of kayaks.
- 4.2 (See now 17.1 following).

5 *Vegetation*

- 5.1 Condition M.3 provides for certain monitoring to be undertaken every six months but M.8 provides that the monitoring results shall be compiled and a report provided to Auckland Council only annually. The latter should also be six monthly.
- 5.2 Draft conditions V.11 and V.17 refer to an existing Traherne Island Natural Heritage Restoration Plan (2009-2014), as the basis for weed and pest control on that island. In counsel’s Reply, NZTA offered to extend the purview of that plan to 2020. The Board considers that the weed and pest control function should extend for the life of the designation, based on the evidence. The Board notes from the introductory words to that Plan, the basis of concerns by knowledgeable people leading to the need for its creation. It also notes that NZTA has developed the Plan in consultation with others including DOC and ARC, apparently by reference to the statutory Auckland Regional Pest Management Strategy. The latter is a document presently extending only to 2012, and is of quite patchy provision in relation to, for instance, the control of weed species. The Board is concerned that neither document adequately deals with the special circumstances of Traherne Island. A condition is to be drafted expressly requiring the preparation of a pest and weed management plan for Traherne Island, with condition V.17 being redrafted to provide for the preparation of

the same in consultation with DOC and for approval of the Council, before construction works commence.

- 5.3 A difference has emerged between V.14 as recommended by the caucus experts, and V.14 in the Red Book. The approach recommended by the experts, being approval by Auckland Council, is to be put back into the condition in place of the suggested words about confirmation of consistency.

6 Freshwater Ecology

- 6.1 Similar to the issue in 5.1 above, draft condition F.6 is to be changed to six-monthly.
- 6.2 In F5, insert “six monthly” after the word “review”, and add that review findings are to be reported to the Council six monthly. Also in F.5, after the words “are identified” in the third line, words should be added: “including through review of the G.10 monitoring results by the hydrologist and freshwater ecologist required by G.12,...”.
- 6.3 F.3 has some words missing in (b). The words “end of the” should be added before “earthworks season” at the end.

7 Stormwater and Streamworks

- 7.1 While the Board considers that draft conditions SW.11-SW.23 in the Red Book are appropriate for the purpose of avoiding, remedying and mitigating the likely adverse effects of stormwater treatment during the operation phase of the Project, it directs the addition of another condition of consent along the following lines:
- Operational runoff and/or water collected at the northern SH20 portal that is not suitable for treatment within the Project, shall be collected by the consent holder and transferred for treatment and disposal off site in accordance with any necessary council approvals or consents.*
- 7.3 The design philosophy statement about “mimicking the existing hydrologic regime” contained in Technical Report G.27, needs to be included in condition SW.13 as an outcome, and without the “best practicability” qualifier.
- 7.4 STW.20; the word in the first line “review” is to be replaced by “approval”. In the third line, “confirm it is consistent” is to be replaced by “gives effect to”.
- 7.5 SW.3(b) is to have words added, “swales and overland flow paths”.

- 7.6 Amend STW.27 by inserting after “shall be” the words “in accordance with the final design of the operational stormwater system approved by the Council [SW.13] and be undertaken...”.

8 *Ground Settlement, Groundwater and Streamworks*

- 8.1 The proposed conditions are generally satisfactory. Note, however, that sub clause (d) of G.1 repeats (c) in part, and should be removed. Also, the second paragraph in condition S.1 could be more happily worded by adding: “... are greater than those allowed for in Figure E.14 (...” Also, we consider that there should be another sub-heading “Differential Settlement”, before S.17.
- 8.2 G.13 is an example (there are others) of a water-take resource consent condition sitting in the topic called Groundwater. This is but one example of how in future it could be challenging for the consent authority to monitor, approve and enforce conditions of consent if conditions are not referenced to one or more of the consents listed in Schedule B. We will have more to say about this (it is part of a major issue) in the General section at the end of this Schedule. (see paragraph 20.5).
- 8.3 In STW.5(a) delete the word “any” before “freshwater”. There must be habitat improvement and riparian measures undertaken in accordance with the guidelines, particularly at STW.1 and STW.20(d).
- 8.4 NZTA and the Council should at this time discuss and agree what will happen to the basalt blocks that are removed from the creek sections that are being realigned, and present an appropriate condition of consent. See G.6 Appendix C :Oakley Creek Realignment and Rehabilitation Guidelines, for example Sections 3.1 [34] and 3.6.
- 8.5 STW.31 should probably have reference to “sea level change”.
- 8.6 Condition G.1 has been amended in the Red Book by removing words recommended by the caucusing experts requiring “written approval of the Manager”. This has been replaced by provision for certification that certain things were included. The provision for written approval is to be restored.

9 *Air Quality*

- 9.1 The matters in the AQ section relating to odour, dust, and visible emissions, as described in paragraph 28 of the 25 February s42A Update Report, are, despite the evidence in response by Mr Fisher, to be elevated to conditions.
- 9.2 Referring to draft condition OA.1, we confirm that emissions from the vent stacks are to be discharged at a height of 15 metres above ground. Not more.

Not less. The Board directs that a ground level definition be built into the condition, along the lines of definition of ground level in part 13 of the Operative District Plan (Isthmus Section), and bearing in mind the definition of height in the same plan. While on the subject of the so-called “vertical efflux velocity value”, should not more be said about what it is and what precise value should attach?

- 9.3 Under questioning, Dr Black essentially made an offer to NZTA and the Board of Inquiry to provide advice on an individual basis to people who hold concerns about what comes out of the stacks. This should be imported into a condition, perhaps the PI set. For obvious reasons it should not be personalized to Dr Black, but should make reference to a person holding equivalent or similar qualifications to him.
- 9.4 In AQ.17, second line, substitute 10 working days.
- 9.5 In OA.5, the Board queries whether it might not be appropriate to specify both the “relevant air quality standards” and the document within which the Regional Air Quality Targets reside. That is, does the relationship between these general performance measures and the quantified control in OA.7 require clarification recognizing that OA.2 and .5 are concerned with the “ventilation system from the tunnels” and OA.7 with the portal emissions.

10 Construction Noise and Vibration

- 10.1 In CNV.1(xi), first bullet point, the 35 metres is to be expressed in terms of the horizontal dimension. In the second bullet point, the affected residents are to be identified or a clear means of identifying them, expressed. We note that the experts agreed that maps would be incorporated into the CNVMP showing the extent of dwellings requiring night-time notification, and annexed to their agreement is a set of seven coloured sheets showing those details, being drawings number GIS-3814238-42-1 to 7, on which the relevant dwellings in the aerial photography base are coloured gold. A tightening up of matters as between the condition and the CNVMP, may serve the purpose. In the third bullet point, the word “so” is missing between “be” and “notified”.
- 10.2 In draft condition CNV.7, in the last sentence, there should be words added after the word “implemented”, “*prior to noise-generating construction works*”. Provision should also be made setting out who decides that the long term mitigation is not practicable on such occasions and as to what the temporary mitigation measures should be; and there should be some reasonable control over these issues by the Council.
- 10.3 CNV.9 needs to be extended to refer as well to rock crushing plants. Furthermore, concrete batch plants and rock crushing plants must also have

their loading bays and conveyers enclosed. Those things must be specified in the condition.

- 10.4 On 17 March the noise experts lodged a further caucus report, and one of the matters they said that they were reporting on was “greater certainty around the process for construction noise management; in particular the conditions had been revised to reflect the process illustrated and proposed to be included in the further draft CNVMP attached to Ms Wilkening’s supplementary statement of 28 February.” Annexure B to that statement contains additional sections rather than a new CNVMP per se. Be that as it may, we don’t see the additional contents listed in Conditions Schedule A, but think they should be, probably together with Annexure C (flow chart) from the same statement.
- 10.5 In CNV.13 add a new sentence at the end as follows, or to the same effect: “*If monitoring shows that levels specified in a SSNMP are being exceeded, work shall stop and not recommence until further mitigation is implemented in accordance with an amended SSNMP prepared in consultation with the Council.*”

11 Explosives

- 11.1 A prescriptive sentence should be added to condition CEMP.10, expressly precluding the storage of explosives on-site. (See 20.17 following).

12 Operational Noise

- 12.1 The draft decision will reveal that the Board did not accept the final (voluntary) caucus statement of the noise experts regarding mitigation for houses in categories A to C, and in some measure preferred the earlier evidence of Mr Hegley. Essentially, all the dwellings mapped as categories A, B and C are to be treated as was proposed in connection with category C. The conditions are to be redrafted to provide as follows:
- (a) NZTA to identify all PFFs located 100m or less from the motorways with habitable space likely to receive in excess of $40\text{dB}_{\text{LAeq}(24\text{hr})}$ from motorway operational noise with windows closed, in the design year.
 - (b) That NZTA apprise the owners of such properties of its assessment and seek the opportunity to inspect the properties to establish a method for providing the properties’ habitable space with building mitigation so that that noise level is not exceeded in those spaces. Mitigation may include forced ventilation and may require windows to remain closed.
 - (c) NZTA is to advise the owners of affected buildings of the mitigation measures identified by it as necessary to achieve the indoor noise level above.

- (d) If the building owner elects, NZTA shall install the building mitigation described above at its own cost in all things prior to completion of construction of the project. Workmanship, materials and equipment shall be specified to a standard agreed by the Council.
- (e) If the opportunity for NZTA to make an assessment is denied by the building owner, NZTA need take the matter no further.
- (f) Work on the preceding and all other noise related matters shall be undertaken on NZTA's behalf by a suitably qualified and experienced acoustic engineer approved by the Council.

These directions do not affect any voluntary agreement entered into on noise mitigation matters between parties.

- 12.2 In ON.6, (and this may apply to other conditions as well), the reference to a specialist shall be to a "suitably qualified and experienced acoustic specialist approved by the Council".
- 12.3 The words "to the extent practicable" are to be deleted in ON.12
- 12.4 Condition ON.12 is not to be limited until the design year, but for the life of the consent.

13 *Location of Construction Yard 1 and Pony Club*

- 13.1 The Board has considered the recent communications from the Henderson-Massey Local Board, and the correspondence of NZTA and the Pony Club interests. If consent were to be granted to the Project, we agree with NZTA that SO.11 should be amended so that it applies unless the Club is granted an extension of its lease to both areas A and B, that covers the life of the project.
- 13.2 SO.8 should also be amended to convert the advice note about pro-rating compensation for the cost of feed, subject to the forage on that pasture being suitable for food for horses, to bring the advice note into the condition itself (on the same "unders or overs" basis). The condition should be along the lines that NZTA would provide financial support to the Club over the period of development, occupation and restoration of construction yard 1 for additional feed supplement required as a consequence of the area of lost grazing; and support paid on receipt of proof of purchase up to a maximum of \$12,000.00 per year. Provided that the land is made available to the Pony Club and the feed value of pasture on the additional grazing land (areas A and B from the Board minutes) is suitable for horses then the amount payable by NZTA to the Pony Club to be pro-rated based on shortfall in area from the pre-construction lease area only.

SO.10: NZTA to construct a raceway on the alignment shown on Drawing “Te Atatu Interchange”: Construction Yard 1A and Modified Yard 1. (See Ms McBride’s representation Appendix 2 and NZTA letter 21 March [4.3]. The raceway not to be less than 5 metres wide, and enclosed on both sides by timber rail fencing.

A new construction yard 1 drawing is to be prepared that deals with the council the consent recently granted. –Conditions of project consent must all be aligned as between the original project consent documentation, the Council consent, and the TAPC agreement. We expect that the latter will necessitate an additional condition.

14 *Impacts on Cultural and Historic Areas*

- 14.1 The Parties will recall the keenness of Mr McCurdy for heritage boat builder interests to have Robinia wood for boat building if not already allowed for. That should be placed into the conditions, probably in the ARCH series. Star Mills Preservation Group is to be expressly identified in condition PI.5.

15 *Northern Portal Stack, and Buildings*

- 15.1 The northern stack is to be moved across Great North Road to a position close to option 1, but within the jurisdiction of the designation footprint. Changes will be required to the DC conditions, in particular DC.8, to require that the stack be moved to the location marked “Alternative Vent” on Exhibit 8, with scope for its precise location to be determined by NZTA in consultation with the Community Liaison Group described in condition PI.5 and Council. For instance, there may be advantages in moving the location slightly north-east into the grassed area visible on Exhibit 8 at a slightly lower elevation removed from the road frontage. The change is to be recorded as well in Schedule A to the conditions as appropriate. Provision for planting at the base of the stack to be incorporated into and undertaken as part of the Oakley Creek Esplanade (Waterview Glades) Restoration Plan (conditions OS.3 and .7). Provision is also to be made for retention of as much existing vegetation as possible in any direction from the stack. Design of the stack is to be determined in accordance with the Outline Plan of Works process (DC.8) and condition OA.1 as to height. The Plan DC.A – OPW 1, Northern Ventilation Buildings and Stack, at P.8 of the Red Book, will need the area subject to OPW added to on the eastern side of Great North Road.

15.2 DC.8(d) should expressly record that the design of the northern ventilation buildings (west side of Great North Road) and the stack on the east side, is to avoid an industrial character.

- 15.3 Condition DC.8(h) concerns maintenance of opportunities for residential development at “1145 and 1449 Great North Road”. The first number should clearly be 1445.
- 15.4 The Operational Scheme Plans in the F2 series will need modification to reflect the amended stack location.
- 15.5 Condition DC.9 could usefully have a sub-clause equivalent to that imposed on the buildings in DC.8(i), both in relation to the buildings on the western side of Great North Road and the stack on the eastern.
- 15.6 DC.8(a) is too loose. The full title of F:8 should be given, and reference made as well to Schedule A, Row 9, specifying which of the Construct drawings in Annexure A (1 to 15) are relevant. We consider that this may include drawing 8 showing building modules above ground, and drawing 9 showing below ground component. The same comments will apply in relation to DC.9.
- 15.7 DC.8(g) should now reflect that the stack is to be 15m. While on the subject, we understand that there may be more than one stack, perhaps a group of slender stacks. But they cannot be of variable height, given that they have to discharge at 15m.

DC.1(j) is to provide that the matters provided are all to be in accordance with D.C1(d).

16 Southern Portal Building

- 16.1 The conditions are to be amended to give effect to moving the southern ventilation building, stack, and control building a distance of between 70 and 80 m to the south-east of the position shown in the consent documentation. The extent of the shift as between 70-80m is to be determined by the consent holder in consultation with the Council and groups in PI.5. This will require amendment to condition DC.9 to require that these structures be relocated to the extent indicated, from the location shown in the AEE Part 5: Part 2 Operational Scheme Plans (sheet 117). The revised location of the facilities, relating to access, parking and manoeuvring areas to be as shown in the rebuttal evidence of Mr Walter in Annexure J: Drawings of Vent South 003 and 003A. The stack height is to be as determined in the condition OA.1 as directed to be amended. Design to be determined in accordance with the DC.9 concerning Outline Plan of Works, and again any industrial appearance to be avoided. AEE Part F: 16 UDL Plans (sheets 219 and 220) as notified and subsequently amended in the rebuttal evidence of Ms Hancock, Annexure B, to be revised to provide for the preceding changes and to be submitted to the Council as part of the OPW procedure in DC.9. AEE Part F: 2 Operation Scheme Plan (Sheet 17) and any other components of the consent

documentation showing the notified location of the southern ventilation building, stack, control buildings and southern portal, be amended to reflect these directions. The changes to be recorded in Schedule A to the conditions. Consequential change to Figure DC.B-OPW2 to be made to incorporate the site of the relocated structures and access within the area subject to OPW.

The conditions are expressly to preclude the inclusion or attachment of equipment for any activity unrelated to the north and south stacks.

- 16.2 The Operational Scheme Plans in the F2 series will need modification to reflect the amended southern portal buildings and structures.

17 Whau River Navigation

- 17.1 Condition C.11(a) needs to relate not only to the construction period, but the long term as well.

18 Waterview Primary School, Ministry of Education and Kindergarten

- 18.1 Conditions of consent to reflect, with complete accuracy, the terms of the now finalised agreements.

19 Unitec

- 19.1 NZTA and Unitec agreed on a number of items of mitigation being undertaken by the former. An important one that does not seem to have found its way into the draft conditions of consent is the early provision of building modification measures at Unitec to mitigate operational noise. This was to be implemented through the vehicle of proposed condition CNV.1(xiv) and a related change to proposed condition ON.10.

20 General

- 20.1 The Board acknowledges NZTA's proffering of the S128 review condition in C.2. We also note Ms Janissen's careful acceptance of the decision of the Environment Court in the *Villages of New Zealand* decision, about wording to be employed around reconsideration of conditions of consent on designations. In the DC set of conditions, there should be, in like fashion to RC.2, a new condition about "further assessment" with suitable explanation about undertaking monitoring and, if issues result, the provision of further appropriate mitigation.
- 20.2 On the page i of the Red Book ("Explanation"), the fourth paragraph should list all the documents in DC.1 Introductory paragraph, and (a) to (d), or at least cross reference to that provision.

- 20.3 In connection with the operation of DC.1(d), we direct amendment of Schedule A, Row 22, to refer to up to date revisions:

20.1.11-3-D-N-903-100 Rev E
20.1.11-3-D-N-909-101 to 119 Rev D

These references are as provided in Annexure A of Ms Linzey's second supplementary evidence dated 26 February.

- 20.4 Again on page i, sixth paragraph should read "the community will have the opportunity to be ...".
- 20.5 The Red Line addition on lines 8 and 9 on page ii, referring to Schedule B, raises a matter of major importance. Clearly, Schedule B, as it stands is necessary and useful. However, it offers a form of extreme shorthand because nowhere in the book of conditions can it readily be seen what conditions attach to which resource consent or to which designation. Acknowledging that there are general topics likely to be applicable across the board, such as the general designations (DC) and resource consent conditions (RC), it then becomes something of a minefield, particularly one imagines for the consent authority undertaking its monitoring, approval, and enforcement functions, to ascertain what conditions apply to what consents. This is a problem that must be solved now. A suggestion that we tentatively put forward is that there could be an additional column on every page, recording which designations and resource consents are subject to each and every listed condition. Then, at some point, comprehensive sets of conditions should be attached to each consent for ease of reference, monitoring, approval, and enforcement activities. If that is not to be done at the present juncture, there should at least be a general condition (both in relation to designations and resource consents) requiring that it be done before any construction activity can commence, to the satisfaction of the Council.
- 20.6 On a slightly related matter, there should be a general condition both in relation to the resource consents and the designation, requiring NZTA to lodge with Council a full set of the application and consent documents, updated by inclusion of all Schedule A material. Otherwise it could be very difficult in years to come for Council to source rebuttal evidence and caucus notes and updated drawings.
- 20.7 The Table of Contents will need to be updated to take account of the workings of the amendments directed in the last two points.
- 20.8 In DC.10 it will be noted by way of example that the designation will need to come off 6 Barrymore Place after construction works are completed, and Council apply the appropriate open space zoning thereafter.

- 20.9 DC.10 is to be amended to require the action (alteration of designation footprint to match operational requirements) to be taken within six months of the motorway becoming operational.
- 20.10 CEMP.1 requires that the CEMP be updated and finalised to ensure compliance with the consent and designation conditions. DC.1(c)(xxi) secures that for the designations. Where relevant, every resource consent will need a condition requiring compliance with the CEMP and any other relevant management plans. Item (vi) is an example of how this can be done. NZTA and the Council should confirm that the proposed “consenting scheme” is secured for every relevant topic and consent.
- 20.11 CEMP.2 – the “certification process” should first and foremost confirm that the CEMP gives effect to the relevant consent conditions (refer CEMP.1 Advice Note).
- 20.12 CEMP.5 needs revision to acknowledge that more than one construction site is intended and that more than a single copy is required.
- 20.13 CEMP.3 lists the suite of management plans. Somewhere between CEMP.1, 2, and .3, it must be spelled out that all of the plans in the suite are in effect part of the CEMP, and are subject to the approval, review and certification procedures. Also, that construction work is not to occur until the certification is obtained. If there is any concern about the potential for the Council’s certification process to delay commencement of construction, there should be an express provision for dealing with that. (CEMP.14 could be expanded to that effect).
- 20.14 In CEMP.6, item (i) requires better definition of “immediate vicinity” by adding a distance, for instance 400m. It might also be necessary as a related action for certain works, for instance on the Whau River, to post a Notice to Mariners, and any relevant organizations, in this instance the Te Atatu Boating Club.
- 20.15 Although CEMP.6(m) requires that the CEMP address worker parking, this will be in a general fashion. CEMP.7, which requires individual construction yard layout plans, should be amended by adding an item (f) “location of workers and Project vehicle parking”.
- 20.16 In the fifth line of CEMP.7, the word confirmation is to be changed to certification.
- 20.17 CEMP.10 requires a Hazardous Substances Management Plan. This might be the condition into which to place the restriction on storage of explosives discussed in section 11 of this schedule, above.

- 20.18 In CEMP.12, the last sentence is to be amended to allow for the annual review summary to be served on Council each year and for related data to be available to Council on request. (PI.4(c) and (f) are acknowledged).
- 20.19 In CEMP.16, amend Advice Note (a) by expressly applying its provisions to both network utility operators and any affected landowner.
- 20.20 Amend condition PI.5(f) to read “Iwi groups with Mana Whenua”.