

**BEFORE THE BOARD OF INQUIRY CONCERNING THE WATERVIEW
CONNECTION PROPOSAL**

IN THE MATTER The Resource Management Act 1991 and
the deliberations of a Board of Inquiry
appointed under S 149J of the Act to
consider applications by New Zealand
Transport Authority (NZTA) for resource
consents and designations for the
Waterview Connection Proposal

Board: Environment Court Judge L J Newhook
Alan Dormer
Environment Commissioner Ross Dunlop
Susan Jackson
Sandra Hardie

**MINUTE FROM THE BOARD TO THE PARTIES CONCERNING
IMPORTANT MATTERS THAT NZTA SHOULD RESPOND TO**

[1] In the course of pre-reading of the evidence, members of the Board have encountered some issues that seem sufficiently key or important to the efficient disposal of the case, that they consider they should flag them to the parties. That is, they are issues that would be better responded to by NZTA, for the information of other parties and of the Board, early, rather than left to emerge during the course of the hearing.

[2] In the main the issues are ones for NZTA to address by various means, whether in rebuttal, or in opening submissions. The Board would appreciate receiving a concise response by way of a single document lodged at the time the case opens, with an indication of where more detailed responses may be found (for instance in statements of rebuttal evidence, or elsewhere). Clearly the document must be served on the parties; the sooner the better.

[3] Some of the questions merit a response from Auckland Council, as well.

[4] It is appreciated that some of the issues may well have arisen during the facilitated expert and non-expert sessions that are occurring ahead of the commencement of the hearing. If so, the response by NZTA (and where called for, Auckland City), will say so, and refer to the Statements of Agreement being filed by the relevant group or groups of experts.

[5] The issues, in no particular order, are:

- A. What is the state of the play concerning approvals being available under S 177 RMA from existing holders of designations? (see for instance Para 6.2.5 of EMS Report 7 December).
- B. (Probably attended to pursuant to earlier requisition from the Board). Need for drawings and descriptions of existing and proposed pedestrian and cycleways, bus lanes, and priority measures for the whole project in an holistic form. See for instance EMS Report 7 December, para 7.2.23 and EMS Report 20 December, para 3.6.3.
- C. A response on the issue of analysis of alternatives raised in EMS Report 7 December, para 8.8.
- D. Does the applicant (and do other parties) accept that NZCPS 2010 Policy 29(3) means that on a transitional basis the Board still needs to provide a

recommendation to the Minister of Conservation about reclamation aspects (see for instance EMS Report 7 December, para 9.5.2).

- E. Referring to EMS Report 7 December, para 9.7.2, is it still the case that a cultural assessment is still not provided. Is this required by reference to the Regional Policy Statement?
- F. Advice is needed as to the timing of securing of NZHPT consents to modify archaeological sites (refer EMS Report 7 December, para 10.4.0)
- G. The Board awaits details of the foreshadowed partnership agreement with Auckland City over replacement reserves and open space restoration (refer for instance EMS Report 7 December, para 10.6.6).
- H. Are all necessary road stopping procedures concluded? (See for instance EMS Report 7 December, para 10.6.7). However, is there a legal issue of such land presently being road, and remaining as road, and may therefore a stopping not required?
- I. Answers required on the 9 matters in the Schedule in the EMS December 20 report, para 3.2, re project definition, especially the four matters remaining blank.
- J. Ditto the 18 matters in the EMS 20 December report, para 3.3 on transportation improvements, especially the five blank matters
- K. There would seem to be a need for adequate evaluative materials and drawings concerning local connections said not to be viable or at the Waterview Interchange (See for instance EMS Report 20 December, paras 3.3.2 and 3.3.5).
- L. The southern ventilation building is acknowledged in evidence to be better if largely underground. What is the NZTA attitude, and what are the technical and cost implications? (See for instance EMS Report 20 December, para 3.4.12). Also as to both ventilation buildings, refer EMS Report 20 December, paras 3.4.15 and 18.
- M. Is an additional resource consent needed for the trial embankment proposal? Refer EMS 20 December report, paras 3.5.5 and 3.5.6.
- N. What is the extent of agreement with Auckland City over open space and partnering (to the extent possibly not already covered in question G above). (See for instance EMS Report 20 December, paras 3.6.5 and 3.8).
- O. Answers needed on the 8 blank items concerning specific and sector effects described in EMS Report 20 December, para 3.7.
- P. Query the missing reference materials concerning re-radiated noise and vibration, noted at EMS Report 20 December, para 3.7.15.
- Q. Ditto for construction yard 9, refer EMS report 20 December, para 3.7.16.
- R. Information required concerning the four blank items referred to in EMS Report 20 December, para 3.9 re condition-setting.
- S. Emission Impossible, in their 14 January report, in section 4.11.1, agree with NZTA's witness Mr Gavin Fisher, that treatment of tunnel air is unlikely to be

cost effective. We presently presume that this is a reference to paras 59 and 60 of his evidence (perhaps amongst others). We note his rough estimates in those paras of some extremely large capital and operational costs, but note from 59 that those may be regional, and from 60 unstated, but perhaps national. No analysis of cost appears to have been done regarding this project, which is what is before the Board of Inquiry. Mr Fisher and the Board's reporting experts would appear to need to consider this further, especially as the offsets being suggested by them both appear to involve the tackling of national or regional emission problems, on a national or regional basis, rather than being project specific mitigation. Alternatively there may be project-related aspects, perhaps on some sort of neighbourhood basis, where project-related offsets could be employed, but that is not immediately apparent to us.

The Board's current thinking is that a simple rough order breakdown of the costs, efficiency of the selected techniques and design life expectancy of the equipment, and additional environmental adverse effects which result (if any) from the containment by the treatment, would assist, along with any advice about potential cost savings, for instance can the shaft height be reduced if treatment is incorporated? There seems to be a lot of reliance on past tunnel construction where treatment of air quality in tunnels has more to do with tunnel users than the surrounding environment.

- T. Has NZTA applied for air discharge consents, and if not, on what basis has that approach been taken? If their response refers to Rule 4.5.3 of the District Plan concerning permitted activities, would it not be incorrect to rely on that, because that deals with mobile sources, and the stacks and portals are of course fixed, offering concentrated discharges of earlier mobile emissions?
- U. Does NZTA propose that designations will specifically authorize all aspects of the project, and if not, what aspects does it propose be dealt with by way of subsequent outline plan?
- V. Does NZTA accept the revised designs for the portals and associated buildings, or are they still just options?
- W. Why does the concrete batching plant have to work 24 hours a day? Could product be trucked in during the night, reducing noise emission from the plant?
- X. Will NZTA be accepting the proposed "rotation" of the Pony Club works?
- Y. Commencing at the start of the hearing, but then advancing on an iterative basis, NZTA should consider putting forward a schedule, that can be updated as and when required, of amendments it accepts to conditions that other parties and witnesses put forward from time to time. A second part of the Schedule could list those proposed amendments that are not accepted.
- Z. G15 refers to G27 for design philosophy for civil stormwater and stream works. They refer to a design life of 100 years. There is an end of design life at 2110. Whilst designs generally based on the date of design submission, this design has yet to be completed, and the construction period is extensive, so at the time the

project is operational, the design life could already been 1/10th through. Is the design for 100 years, or is it limited to year 2090?

Initial rainfall data is based on 100 ARI (modified for climate change). Are there any records indicating that 100 ARI has been exceeded to date in this area?

The climate change scenario appears to be limited to 2090 (ie 90 years, not 100 years). The evidence notes climate predictions do not extend to the end of the design life – but perhaps some projection of the base data is required.

The increase in rainfall has been based on mean predicted temperature increase (which is the average of the average over the year at 2.1°C). What effect does taking the average of the maximum estimate make (ie 4.2°C compared with 2.1 °C increase)?

G27.5.3 concerning the Oakley Inlet suggests a combination of extreme sea levels with flood events – has the stormwater model been run for the 100 year ARI rainfall event plus 20 year ARI sea level (including climate change), and similarly for the 20 ARI rainfall event plus 100 year ARI sea level (including climate change). G15 seems to indicate modified rainfall only.

Whilst a minimum crest level for rock protection of 3m RL has been adopted, ponds situated in or close to the CMA shall have minimum crest elevation of 3.25m RL. So the pond embankment could be higher than the rock revetment?

AA. Will a revised set of drawings be provided at the time rebuttal evidence is filed, or at the very least will there be a schedule of all plans concerning the Proposal, including as to revisions, with notes about where the latter are to be found?

DATED at AUCKLAND this 28th day of January 2011

For the Board of Inquiry:



L J Newhook
Chairman