

**BEFORE THE BOARD OF INQUIRY  
WATERVIEW CONNECTION PROJECT**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** a Board of Inquiry appointed under s149J of the Resource Management Act 1991 to decide notices of requirement and resource consents applications by the NZ Transport Agency in relation to the Waterview Connection Project

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**SUBMISSIONS ON BEHALF OF THE ALBERT-EDEN LOCAL BOARD**

**DATED 10 MARCH 2011**

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## 1. INTRODUCTION

1.1 These legal submissions and the evidence to be presented are in support of submissions by the Albert-Eden Local Board (**Local Board**).

1.2 The Local Board has been elected by residents of the Albert-Eden Ward to represent their interests. As noted by the Board on 9 March 2011, the Albert-Eden Ward includes the suburbs of Pt Chevalier, Waterview, Owairaka, Mt Albert, Mt Eden, Kingsland, Balmoral, Epsom and Greenlane. **Annexure 1** shows the location of the Albert-Eden Ward and its division between the Owairaka and Maungawhau subdivisions of the Albert-Eden Ward, from which different representatives were elected. The Waterview Connection Project (**project**) will directly affect residents within the Owairaka subdivision of the Albert-Eden Ward. Specifically, the Waterview, Owairaka and, to a lesser extent, Mt Albert communities.

1.3 These submissions will:

- (a) provide an overview of the Local Board's position, including its alignment with others;
- (b) introduce the evidence presented on behalf of the Local Board;
- (c) explain the Local Board's status;
- (d) address the statutory framework;
- (e) identify the remaining effects that need to be addressed;
- (f) expand on the relief sought; and
- (g) make the Local Board's principal submission.

## 2. OVERVIEW

2.1 The Local Board strongly believes that the mitigation measures proposed by the New Zealand Transport Agency (**NZTA**) will not adequately mitigate effects on the Owairaka subdivision of the Local Board. The Local Board considers that there are numerous cumulative adverse effects of the project that have not been adequately addressed and effects, like the increased severance of

Waterview, which have not been mitigated. I will address effects in more detail later.

2.2 Consequently the Local Board seeks that the Board of Inquiry (**Board**) decline the resource consent applications and cancel the notices of requirement for the project. In the alternative, the Local Board seeks that the Board modify the requirements and impose conditions of consent to ensure that the adverse effects of the project are adequately avoided, remedied or mitigated.

2.3 To respond to a range of adverse effects the Local Board seeks additional mitigation that generally aligns with the relief sought by Living Communities (Auckland) Incorporated, North Western Community Association Incorporated, Sir Harold Marshall and the Mt Albert Residents Association (together the **Living Communities Group**) and Auckland Council. That is:

- (a) movement of the stack of the northern portal to a slightly modified location of Alternative 1 so that it comes within the designation boundaries (recognising the legal issues associated with the preferred Alternative 2);
- (b) movement of the structures at the southern portal in accordance with Option 3;
- (c) provision of an at-grade pedestrian and cycle bridge across Oakley Creek between Great North Road and Unitec in the vicinity of Alford Street (the **Alford bridge**) and the provision of a pedestrian bridge across the railway between Soljak Place and Harbutt Reserve (the **Soljak bridge**). Alternatively, a fund equivalent to the costs of constructing these bridges as well as the administrative costs in obtaining any third party agreements and resource consents to obtain these outcomes in due course would be appropriate. The Local Board notes that the s42A final addendum *Environmental Management Services* report dated 7 March 2011 (**EMS report**) contemplates provision of a fund for residents of Waterview and Owairaka / New Windsor to address unmitigated construction effects. While Local Board considers that there are also permanent unmitigated effects that also ought to be

contemplated, the Local Board would not object to the provision of funds for these bridges in a manner that could enable the bridges to be erected;

- (d) design of parks in accordance with Auckland Council's proposals set out in the evidence of Mr Gallagher and Mr Beer;
- (e) certainty that the fundamental requirements for essential open space in Waterview are achieved by conditions. This includes an expansion of Saxon Reserve by four properties.

2.4 In an endeavour to assist the Board and to focus on the relief that will provide the greatest benefits for the most directly affected areas the Local Board has considered its position carefully in relation to other matters that it has been pursuing through evidence and questioning.

- (a) It has recognised practical constraints involved in achieving the direct connection across SH16 from Waterview to Eric Armishaw Park (the **Eric Armishaw bridge**) as part of NZTA's mitigation package.<sup>1</sup> The Local Board would rather that the costs for the Eric Armishaw bridge be contributed toward the relief it has sought through these submissions;
- (b) In terms of an access way between Blockhouse Bay Road and the Phyllis Street Reserve (**Phyllis bridge**), again, the Local Board would rather that the costs for the Phyllis bridge be contributed toward the relief it seeks in these submissions. The Phyllis bridge has fewer benefits than the Alford and Soljak bridges for those residents who are predominantly impacted by the project;
- (c) Like the Living Communities Group, the Local Board considers the adoption of Option 3 at the southern tunnel portal would address its need for a pedestrian / cycleway bridge across the motorway between Olympus Street and Methuen Road (the **Olympus bridge**). If Option 3 is not adopted the Local Board continue to seek that bridge as it was requested to mitigate the fragmentation of Alan Wood Reserve due to the design and location of the base option for the southern ventilation building;

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<sup>1</sup> Clark, page 815 (1 March 2011) Transcript.

- (d) The Local Board's position on sports fields in Waterview has progressed since the commencement of this hearing when it did not accept that they would form any part of compensation for the community.<sup>2</sup> The Local Board accepts that "formal" sports fields are regional assets and that an upgrade of Phyllis Reserve (instead of replacing a single sports field at Waterview Reserve) is acceptable, with two caveats. The first is that the replacement sports fields must be of a suitable quality. This is a matter that Auckland Council addresses in its evidence. The second caveat is that if NZTA does elect to provide financial contributions instead of the sports field,<sup>3</sup> the Local Board has an expectation that Waterview Reserve will be restored to include an informal grassed area. That grassed area would then maintain the opportunity for active recreation activities in the Waterview area, such as kicking a ball around, a bike park and a skate park.
- (e) The Local Board supports the Council's request for improved cycle ways but considers that the bridge connections are strategically most important to its residents as mitigation for effects of the project. The Local Board considers that once bridge connections are established it will be more likely that cycle ways will be provided.

### 3. EVIDENCE PRESENTED

- 3.1 Ms Margaret Watson, the Deputy Chairperson of the Local Board, has filed evidence on behalf of the Local Board.<sup>4</sup> Ms Watson's evidence explains the background to the Local Board's involvement in the project. It also provides an overview of the potential effects of the project on the communities of Waterview, Owairaka, and New Windsor and the gaps in the mitigation measures proposed.

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<sup>2</sup> Watson, evidence in chief (EIC),, para 37.

<sup>3</sup> Green book of conditions (1 March 2011), page 55, OS.4(a) (i) and (ii).

<sup>4</sup> Watson EIC, 17 December 2010, submitter 252-1.

#### 4. THE LOCAL BOARD'S STATUS

- 4.1 The Local Board was created<sup>5</sup> at the same time as the amalgamation of the one regional and seven local authorities that previously existed across the wider Auckland region.<sup>6</sup>
- 4.2 Prior to amalgamation the former Eden-Albert Community Board had been involved in presenting the community's views on the project and had lodged a submission opposing the Project.<sup>7</sup> The Board later accepted a submission lodged by the Local Board which was identical to that lodged by the Eden-Albert Community Board.<sup>8</sup>
- 4.3 During questioning, Ms Linzey accepted<sup>9</sup> that it would be appropriate to amend the conditions to include reference to local boards in the list of participants in the community and working liaison groups.<sup>10</sup> These changes have been included in the green version of the conditions proposed by NZTA. The Board queried whether that amendment ought to also be subject to the Local Board receiving the appropriate delegation.<sup>11</sup>
- 4.4 While allocations of responsibilities are not yet settled in practice and delegations have not yet occurred the Local Board is of the view that it currently has an initial allocation of decision-making responsibility for advocating local priorities relating to planning and land use, community development, recreation and sports, open space, street environment, town centres and environmental management, protection and enhancement.<sup>12</sup> This allocation of responsibilities was made by the Transition Agency in the Auckland Council's Long-Term Plan (**Long-Term Plan**) before amalgamation occurred. **Annexure 2** is an extract from the Long Term Plan which shows responsibilities of

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<sup>5</sup> In accordance with s10 of the Local Government (Auckland Council) Act 2009 (**Auckland Council Act**). It is an unincorporated body, in accordance with s12(1) Auckland Council Act 2009.

<sup>6</sup> The structure of the Auckland Council was established by the Local Government (Tamaki Makaurau Reorganisation) Act 2009, the Auckland Council Act and the Local Government (Auckland Transitional Provisions) Act 2010.

<sup>7</sup> Eden-Albert Community Board, 14 October 2010, submitter 129.

<sup>8</sup> Albert-Eden Local Board, 14 December 2010, submitter 252.

<sup>9</sup> Pages 375 and 376 (16 February), Transcript.

<sup>10</sup> The relevant conditions are proposed public information condition PI.5 and proposed social condition SO.6.

<sup>11</sup> Page 376 (16 February), Transcript.

<sup>12</sup> *Your Auckland: Auckland Council's Long-Term Plan*, 1 November 2010 - 30 June 2019, Volume 3: The Local Boards, pages 100-110.

local boards for open space and is provided for the Board's wider information.<sup>13</sup>

4.5 The Long-Term Plan specifically recognises that a key strategic issue facing the Local Board in the Albert-Eden local area is the extension of State Highway 20 and the impact this will have on communities in the area. The Long-Term Plan states that the Local Board will need to work closely with the NZTA to ensure appropriate mitigation measures are put in place.<sup>14</sup>

4.6 To address uncertainties about how Auckland Council may address the allocation of responsibilities or delegations in future, the Local Board supports adding the following or similar to the two places where the local boards are mentioned.<sup>15</sup>

“... (provided they maintain a relevant allocation of decision-making responsibility or other delegation);”

## 5. STATUTORY FRAMEWORK

5.1 Counsel for NZTA has adequately set out the relevant statutory framework for the Board to consider the notices of requirement and resource consent applications that together make up the project and I will not repeat that. Like counsel for the Living Communities Group, given that the greatest concerns of the Local Board relate to the notices of requirement in Sectors 5, 7, 8 and 9, so my focus is on the legal framework regarding the assessment by the Board of those notices of requirement.

### Effects of allowing the requirements and Part 2

5.2 When deciding whether to grant the applications for resource consents and whether to confirm, modify, impose conditions on, or cancel the requirements the Board is tasked by sections 149P(4) and 171(1) of the Resource Management Act 1991 (**RMA**) to consider, subject to Part 2 of the RMA, the effects on the environment of allowing the requirement.

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<sup>13</sup> Page 105 of the extracts provided in Annexure 2 shows the open space responsibilities allocated.

<sup>14</sup> Long-Term Plan at page 15.

<sup>15</sup> Public information condition PI.5 and proposed social condition SO.6.

- 5.3 The Board must also have regard to the reasons for the Minister's direction that the project is a proposal of national significance,<sup>16</sup> as well as specific matters (planning documents, consideration to alternatives, and objectives of the requiring authority).

## Part 2

- 5.4 In considering whether a proposal will promote the sustainable management of natural and physical resources, the Board will exercise an overall broad judgement as to whether the adverse effects on the local community, during and after construction, have been adequately avoided, remedied or mitigated.<sup>17</sup> The words "avoid, remedy or mitigate" are read conjunctively and with equal importance.<sup>18</sup> As NTZA accepts that some adverse effects are always unavoidable with a project of this scale,<sup>19</sup> a key element of the Board's decision will be determining whether the measures proposed will adequately remedy or mitigate those unavoidable adverse effects on the local community.
- 5.5 In his submissions, Mr Allan referred the Board to paragraph 51 of the *Volcanic Cones Decision* which notes the need to identify matters of importance in Part 2 and the measures taken to avoid, remedy or mitigate adverse effects with particular regard to sections 6 and 7 of the RMA and then assess whether the measures are sufficient or if the proposal should be declined.<sup>20</sup>
- 5.6 In relation to section 7 matters, it is submitted that the Board should consider the efficient use and development of natural and physical resources,<sup>21</sup> the maintenance and enhancement of amenity values<sup>22</sup> and the quality of the environment.<sup>23</sup>

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<sup>16</sup> s149P(1)(a) RMA.

<sup>17</sup> s5(2)(c) RMA.

<sup>18</sup> *Winstone Aggregates Limited and Auckland Regional Council v Papakura District Council* EnvC A049/2002 (Judge Whiting) at [24].

<sup>19</sup> Foster, page 141 (11 February), Transcript; Opening Legal Submissions on behalf of the New Zealand Transport Agency, 7 February 2011, para 77.

<sup>20</sup> Legal submissions on behalf of Living Communities (Auckland) Incorporated and others, 7 March 2011, para 3.13(a).

<sup>21</sup> s7(b) RMA.

<sup>22</sup> s7(c) RMA.

<sup>23</sup> s7(f) RMA.



- 5.7 Mr Allan added to the *Volcanic Cones Decision* that an alternative response would be to impose conditions of consent that will adequately address those effects. I support that addition as being consistent with the *Volcanic Cones Decision* and the powers available to the Board.
- 5.8 While cost is a factor to consider in terms of reasonableness of any condition imposed, consideration of the project and any potential modifications or mitigation measures must be driven by Part 2 and an assessment of effects on the environment and not “whether the requests that the community are making represent good value for money”.<sup>24</sup>
- 5.9 Further, it is the effects of the proposal as lodged that must be considered. The fact that alternative designs with more significant adverse effects were considered and rejected before lodging this proposal does not mitigate the adverse effects of this proposal. This is a material flaw in the approach of several of the NZTA experts to the mitigation package that NZTA is offering.<sup>25</sup> In adopting this approach, NZTA has inappropriately inflated its proposed mitigation measures.

#### **Jurisdiction to modify or impose conditions on the requirements**

- 5.10 It is noted that all counsel agreed that the Board has jurisdiction to modify the requirements, or to impose conditions, if the modifications do not alter the essential nature or character of the proposed works.<sup>26</sup>
- 5.11 In relation to affected parties, Mr Lanning suggested, and Ms Janissen agreed,<sup>27</sup> that the appropriate approach is to consider “whether the amendments made after the period for lodging submissions had commenced [were] such that [it was plausible that] any person who did not lodge a submission would have done so if the application information available for examination had incorporated the

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<sup>24</sup> Parker, page 82 (11 February), Transcript.

<sup>25</sup> Linzey second statement of EIC (social effects) 12 November 2010, para 77. Parker, pages 78-79 and Foster pages 148 – 149 (11 February), Transcript.

<sup>26</sup> Memorandum of counsel for Auckland Council and Auckland Transport responding to the Board of Inquiry’s Minute of 14 February 2011, 18 February 2011, para 7; Memorandum of counsel for Living Communities (Auckland) Incorporated and Others concerning a preliminary issue, 18 February 2011, paras 7, 8; Memorandum of counsel for Albert-Eden Local Board in response to a minute from the Board concerning a preliminary legal issue, 18 February 2011, paras 3.1 – 3.7.

<sup>27</sup> Janissen, pages 722 – 723 (28 February), Transcript.

amendment.”<sup>28</sup> I agree with Mr Lanning and Mr Allan that this is ultimately a matter of judgement for the Board and in making that judgement considerations will include whether the effects of the change are positive or no more than minor and whether people affected by the modification have been involved in the decision making process.

- 5.12 In relation to the southern ventilation building I note that Ms Linzey and Mr McKenzie have both considered the effects of moving it. Ms Linzey acknowledges that while there will be “changed effects”, the NZTA experts consider the effects would be minor.<sup>29</sup> Mr McKenzie has concluded that while there will be changed effects on three properties, overall the effects would be either neutral to positive or neutral.<sup>30</sup> In addition, Mr Scott acknowledged that the landscaping planned by NZTA, would remain in place to screen the view of the building for those properties.<sup>31</sup>
- 5.13 Housing New Zealand owns a number of the relevant properties on Hendon Avenue.<sup>32</sup> Housing New Zealand agrees that the impact of Option 3 on its housing stock in the vicinity of the southern portal, on balance, will have more positive environmental effects than that of the base option. Housing New Zealand also noted that it considers that any potential adverse environmental effects on its individual properties along Hendon Avenue will be off-set by the reduced scale and bulk of the associated buildings within Alan Wood Reserve, their orientation and the retention of a greater extent of public open space as a result of moving the tunnel portal 70m to the south east.<sup>33</sup>
- 5.14 In relation to relocating the northern ventilation stack within the boundaries of the designation, the Living Communities Group accepts that this relocation does not alter the essential nature or character of the project. Counsel for Waterview Primary and Waterview

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<sup>28</sup> Memorandum of counsel for Auckland Council and Auckland Transport responding to the Board of Inquiry’s Minute of 14 February 2011, 18 February 2011, paras 11(d)-(f) *Haslam v Selwyn District Council* (1993) 2 NZRMA 628, page 634.

<sup>29</sup> Linzey, first statement of supplementary rebuttal evidence (Planning) (9 February 2011), paras 18, 19, and Annexure F.

<sup>30</sup> McKenzie, supplementary statement of evidence, 28 February 2011, paras 3.19-3.22.

<sup>31</sup> Urban design and landscape plans F.16, sheet 219, note 14 and Scott, Transcript pages 764-765.

<sup>32</sup> Legal submissions on behalf of Housing New Zealand Corporation, 7 March 2011, para 16.

<sup>33</sup> Ibid, paras 17-18.

Kindergarden will express their views during their submissions to the Board.

- 5.15 In relation to the bridges, no detailed plans or assessments of effects have been prepared and the finer details are not known. However, they are located close to the designated works and are associated with the motorway infrastructure. Further linkages were contemplated during the consultation process. It is submitted that the Board could require that NZTA provide these bridges as part of this Project. However, it is recognised that this would require conditions that are subject to the appropriate consents and landowner approval being obtained. In the alternative, a condition could require the payment of an equivalent contribution to the Council to enable development of the bridges.
- 5.16 It is submitted that the mitigation measures requested by the Local Board do not alter the essential nature or character of the project. Rather, they are required to adequately avoid, remedy, or mitigate the adverse effects of the project on the local community. In my submission, the Board has been and will be presented with evidence and submissions which demonstrates that it is reasonable to conclude that on balance the changed effects are not such that it would change any affected person's view on making a submission.
- 5.17 In any event, this approach has been recognised by NZTA in relation to other mitigation measures beyond the boundary of the requirement, including developing the open space at Saxon and Howlett Reserves, the proposed relocation of the Waterview Kindergarden, and noise mitigation measures, as indicated in section 11 of the Construction Noise and Vibration Management Plan.<sup>34</sup>

## 6. EFFECTS

- 6.1 There are a range of effects on the environment from the project for the Board to consider. These arise from the long-term construction part of the project as well as the permanent effects arising from the establishment of motorway infrastructure. It is submitted that the Board must consider the effects on all potentially affected parties

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<sup>34</sup> Linzey, Third supplementary statement; Annexure A sets out a summary process for construction activities and noise assessment/mitigation responses including offsite mitigation, such as acoustic ventilation and relocation

except where a person has given written approval to a resource consent application.<sup>35</sup> Then the Board must not have regard to that effect. (I am not aware of any approvals being given, by Waterview School, Waterview Kindergarden or anyone else.) No similar provision exists in relation to notices of requirement so the Board must consider all effects regardless of the extent to which individuals pursue them.

- 6.2 NZTA accepts that the benefits of the project will be predominantly at a regional and national level,<sup>36</sup> and the adverse effects will be localised within the community that the project impacts upon.<sup>37</sup> It is submitted that the adverse effects of this project will be disproportionately borne by members of the Waterview, Owairaka and New Windsor communities.
- 6.3 As was acknowledged by NZTA's economist, Mr Copeland, the adverse effects that will be borne by the local residents are outside of the calculation of the benefit cost ratio. Mr Copeland also acknowledged that there could be other non-mitigated costs over and above the costs that NZTA incurs in constructing the project, that have to be considered separately.<sup>38</sup>

### **Environmental compensation**

- 6.4 From the local community's perspective they are receiving very little in return for significant disruption of their lives during construction and the permanent placement of the tunnel infrastructure within their local environment.<sup>39</sup>
- 6.5 In these circumstances I agree with Mr Lanning's submission that it may be necessary to enhance the overall benefits of the project to tip

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<sup>35</sup> Section 104(3)(a)(ii) of the RMA.

<sup>36</sup> Mr Parker, page 80 (11 February 2011) and Ms Linzey, page 347 (16 February 2011), New Zealand Transport Agency Waterview Connection Proposal Transcript (**Transcript**).

<sup>37</sup> Opening Legal Submissions on behalf of the New Zealand Transport Agency, 7 February 2011, para 233; Chapter 23.11 of the AEE: Part D, page 23.53. The Assessment of Social Effects (Technical Report G14) states "It is at the local level where most adverse social impacts will be realised" section 9.2, page 164.

<sup>38</sup> Copeland, page 207 (15 February), Transcript.

<sup>39</sup> Kivell and Thomas, the authors of the Section 42A Final Addendum Report (7 March 2011) note in their Executive Summary that the cumulative adverse effects on the Waterview, and Owairaka/New Windsor communities during the lengthy construction period will be more than minor and possibly significant, and that further initiatives to address this are warranted. Further detail is provided in section 4.2 of that report.

the balance in favour of granting consent or confirming the notices of requirement.<sup>40</sup>

- 6.6 The courts have accepted environmental compensation as being a valid alternative in situations where the adverse effects of a proposal are not able to be adequately avoided, remedied or mitigated. Environmental compensation has been defined by the Environment Court as:<sup>41</sup>

*“Any action (work, services or restrictive covenants) to avoid, remedy or mitigate adverse effects of activities on the relevant area, landscape or environment as compensation for the unavoided and unmitigated adverse effects of the activity for which consent is being sought.”*

- 6.7 Environmental compensation or offsets will be appropriate where it is of the same kind and scale as the activity it is mitigating, is located close to that activity, is effective and transparent, and has been the subject of public consultation.<sup>42</sup> Here connectivity via bridges is contemplated as part of the project (with the Hendon bridge), the bridges are on a small scale compared to the larger infrastructure programme of works and a variety of bridges have been part of NZTA’s consultation programme, albeit that NZTA did not proceed with the full range of bridges identified through consultation.

- 6.8 In *Upper Clutha Tracks Trust v Queenstown Lakes District Council*<sup>43</sup> the Environment Court found that the adverse effects of a proposed residential development and golf course had not been adequately avoided, remedied, or mitigated. The Court considered that environmental compensation was likely to be necessary to add sufficient weight to the applicant’s side of the scales and so explored various possibilities. After consideration of mitigation and compensation the Court added the creation of four off-site walking and cycling tracks to other environmental compensation and

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<sup>40</sup> Opening legal submissions for Auckland Council and Auckland Transport, para 4.4.

<sup>41</sup> *J F Investments Limited v Queenstown Lakes District Council* EnvC C48/2006 at [8] (Judge Jackson).

<sup>42</sup> *Ibid* at [42].

<sup>43</sup> [2010] NZEnvC 432.

mitigation offered (e.g. covenants against further development and other walking tracks).<sup>44</sup>

### **Cumulative effects**

7. Effects include any cumulative effect which arises over time or in combination with other effects. They also include any past, present, or future effects.<sup>45</sup> If an existing activity (or a consented and probable activity) has adverse effects, and a proposed activity also has adverse effects which would add to the existing effects, then regard should be had to the combined effects of both.<sup>46</sup> Cumulative effects also relate to the adverse effects of other, including past, activities on the site and on neighbouring parts of the relevant environment.<sup>47</sup>
- 7.1 While in some cases the effect alone may not be worthy of a mitigation response, it is submitted that the cumulative effect of all the effects from one project on a small group of communities (particularly where effects are concentrated at the portals) is worthy of further mitigation than that provided by NZTA. The authors of EMS Report agree to an extent. They consider the cumulative adverse effects on the Waterview, and Owairaka/New Windsor communities during the lengthy construction period will be more than minor and possibly significant,<sup>48</sup> and that further initiatives to address these effects are warranted. It is submitted that this recognition should also be extended to the permanent effects of the motorway on those communities.
- 7.2 In a related vein, it is submitted that the cumulative effect of this project's emissions into the existing overloaded air shed also justifies further mitigation. The Local Board supports the finding in the section 42A Air Quality Report, that mitigation of particulate emissions is appropriate and justified for the new surface road in Sector 9.<sup>49</sup> The report suggests three possible schemes for offsetting these emissions, retrofitting catalytic converters into heavy duty diesel

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<sup>44</sup> Ibid [280].

<sup>45</sup> s3 RMA.

<sup>46</sup> *The Outstanding Landscape Protection Society Inc v Hastings District Council* [2008] NZRMA 8 at [50] (Judge Thompson).

<sup>47</sup> *J F Investments Limited v Queenstown Lakes District Council* EnvC C48/2006 at [23] (Judge Jackson).

<sup>48</sup> Kivell and Thomas, Section 42A Final Addendum Report (7 March 2011), Executive Summary.

<sup>49</sup> Emission Impossible, Update to the s42A Report for Air Quality, 25 February 2011, para 53.

vehicles, replacing domestic wood fires with heat pumps or replacing school boilers with cleaner alternatives.<sup>50</sup> It is submitted that reducing local vehicle emissions by providing additional pedestrian and cycle links is another valid option to offset emissions.

- 7.3 The range of effects for those residents of Waterview and Owairaka are summarised below.

### **Social effects**

- 7.4 The project will have adverse social effects, both during construction and in the longer term. The most significant of these effects will be experienced by those living close to the area where construction will take place.<sup>51</sup>

### *Construction*

- 7.5 Ms Linzey places a lot of emphasis on the establishment of community liaisons, communication plans and dissemination of project information and the Construction Environmental Management Plan to address those construction effects that can be addressed. NZTA's experts accept that there will be, in some respects, significant adverse effects on the local community.<sup>52</sup> During the construction period, there will be adverse social effects on the residents including noise, vibration, traffic disruption, reduced use of outdoor living areas, and disturbed sleep.<sup>53</sup> Despite the existence of the Construction Environmental Management Plan, Ms Linzey accepted these effects will impact on the liveability of the affected neighbourhoods.<sup>54</sup>
- 7.6 Mr Parker accepted that effects on the local communities include adverse visual, noise and construction effects, loss of housing space, and effects on open space. He also accepted that some of these effects cannot be mitigated.<sup>55</sup>

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<sup>50</sup> See para 55.

<sup>51</sup> Linzey, page 348 (16 February), Transcript.

<sup>52</sup> Linzey, second statement of EIC (social effects) 12 November 2010, paras 10, 11, 33, 34, and 40.

<sup>53</sup> Pages 349 – 351 (16 February), Transcript.

<sup>54</sup> Page 352 (16 February), Transcript.

<sup>55</sup> Parker Pages 80- 81 (11 February), Transcript.

7.7 Environmental Management Services is also concerned about the cumulative effects on the communities at Waterview and Owairaka / New Windsor during the lengthy construction period. They suggest that the Board consider what further mitigation is justified for these communities during the construction period.<sup>56</sup>

*Permanent*

7.8 The neighbourhoods of Waterview, Owairaka, and New Windsor will be permanently altered as a result of the project. The evidence before the Board is that the long-term effects of the project will be particularly evident at either end of the tunnel where the additional traffic lanes, interchange ramps, portals, ventilation stacks, and associated motorway infrastructure will result in a concentration of adverse effects. At those points in particular, the Local Board considers that people's perception of and relationship with their local environment will be negatively affected.

7.9 Ms Watson's evidence is that the community will have a negative perception of the additional motorway infrastructure and of the northern stack in particular. Ms Watson states that, as it is in close proximity to the Waterview Primary School and kindergarten, it "will create an adverse perception of negative health effects".<sup>57</sup> If the potential risk is real, such as the dust discharges and air contamination from the operation of the highway and tunnel in this case,<sup>58</sup> then the fear of adverse health effects is a valid matter that can be taken into account under the RMA.<sup>59</sup>

7.10 During questioning, Ms Linzey accepted that residents are likely to experience a loss of community cohesion and structure, loss of suburban character, a changed noise environment, and fear of adverse health effects when the motorway becomes operational.<sup>60</sup>

7.11 From the Local Board's perspective, the project does not promote the sustainable management of its natural and physical resources. The provision of a motorway will further sever Waterview from its

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<sup>56</sup> Final report dated 7 March 2011 at paras 4.2.1 and 4.2.2.

<sup>57</sup> Watson EIC para 11.

<sup>58</sup> Dr David Black EIC, paras 32 – 34.

<sup>59</sup> *Shirley Primary School v Telecom Mobile Communications Ltd* [1999] NZRMA 66 at [190].

<sup>60</sup> Page 350 and 362 to 364 (16 February), Transcript.



neighbours and will split the New Windsor and Owairaka communities in a manner that does not provide for their social wellbeing.

- 7.12 The project will remove 8.5% of the housing in Waterview together with the associated levels of population.<sup>61</sup> The removal of buildings is recognised as having a social cost.<sup>62</sup> The consequential loss of community cohesion and structure has been acknowledged by Ms Linzey.<sup>63</sup> It is submitted that the project does not address this effect.

### **Amenity**

- 7.13 The project will permanently affect the amenity of the local area.<sup>64</sup> There will be permanent audible amenity effects from the movement of vehicles on the motorways. This will also have an effect on the pleasantness and experience for users of Waterview and Alan Wood Reserves.<sup>65</sup> While there will be conditions addressing operational noise, the amenity experience of residents in their neighbourhood will be negative due to noise.
- 7.14 The project infrastructure will also be visible from Waterview School and kindergarten and, to differing degrees, from the local reserves. The stacks will be seen by users of these facilities, including people walking or driving to school or using the school fields or school hall. The existing visual amenity will be changed for all those living along the designation route. This may be particularly noticeable to those whose views of open space expanses change to roads and motorway infrastructure. While there will be treatment by landscaping in most cases and, in relation to the stacks, treatment as urban art; that amenity effect will remain.

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<sup>61</sup> Linzey second statement of evidence in chief (EIC) (social effects) 12 November 2010, para 118.

<sup>62</sup> Beer EIC para 5.4.

<sup>63</sup> Page 350 (16 February), Transcript.

<sup>64</sup> Scott EIC, para 3.53, accepted by Brown, evidence in rebuttal (EIR), para 21.3.

<sup>65</sup> Watson EIC, 17 December 2010, para 25; Brown pages 440, 451 (16 February), Transcript; Little EIC paras 82, 117 and 154.

## Severance

- 7.15 The witnesses acknowledge that the concept of connectivity is important as well as creating access to and between open spaces.<sup>66</sup> The project will widen the urban gap between Waterview and Pt Chevalier, increasing the physical and visual separation between these communities.<sup>67</sup> This is predominantly a result of the five additional lanes of traffic (three car lanes and two bus shoulders), ramps, flyovers, tunnel portals, the northern ventilation building and the works at the Great North Road interchange.
- 7.16 Ms Hancock accepted during questioning that the project exacerbates the separation between Waterview and Pt Chevalier and Waterview and Mt Albert, and that the amenity of the pedestrian connection from Waterview to Point Chevalier would be diminished.<sup>68</sup> Ms Linzey also accepts that the project will compound the isolation of the Waterview community<sup>69</sup> and Mr Stephen Brown accepts that the project will increase the perception of severance.<sup>70</sup>
- 7.17 This increased severance and loss of connectivity as a result of further intensification of the existing motorway activities is a cumulative effect on the local community which should be mitigated.
- 7.18 In considering the measures needed to sufficiently mitigate adverse effects, the existing environment must be taken as it is with any strengths or frailties which make it more or less able to absorb the effects of the proposal.<sup>71</sup>
- 7.19 Consequently the adverse effects on connectivity cannot be downplayed or disregarded on the basis that Waterview suffers from historical severance. Rather, it is submitted, the historical severance makes Waterview less able to absorb the adverse effects from the project. In particular, with limited pedestrian links to Pt Chevalier available, delays with pedestrian walkways to Eric Armishaw until

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<sup>66</sup> Little EIC, para 39.1; Scott EIC para 4.1.

<sup>67</sup> Hancock EIC, paras 80 – 81; Ms Linzey, page 365 (16 February), Transcript. Linzey second statement of EIC (Social effects), 12 November 2010, para 34.8; Mr Robert Black, EIC, para 16.

<sup>68</sup> Pages 576 and 578 (18 February), Transcript.

<sup>69</sup> Linzey, second EIC (Social effects) 12 November 2010, paras 34.7 - 34.8.

<sup>70</sup> Brown EIC, para 56.

<sup>71</sup> *The Outstanding Landscape Protection Society Inc v Hastings District Council* [2008] NZRMA 8 at [53].

construction is complete leave residents in an adverse position for an uncertain time.<sup>72</sup> Likewise, the significantly enlarged motorway interchange will impact on the safety and experience of pedestrians in this area.

### **Open space and connectivity**

- 7.20 There will be adverse effects on open space both during and after construction. Those effects are set out below. The adverse effects on connectivity are addressed in more detail in considering the merits of the Alford and Soljak bridges.

#### *Construction effects*

- 7.21 The entire active reserve part of Waterview Reserve, and around three quarters<sup>73</sup> of the area of Alan Wood Reserve/Hendon Park will be required throughout construction. Other adverse effects include noise, dust, visual and amenity effects, social effects, fragmentation and reduced usability.<sup>74</sup>
- 7.22 Ms Linzey accepted that “it is important and essential that the project provides access to recreation and open space areas during construction”.<sup>75</sup> Ms Watson has filed evidence for the Local Board that the fragmentation and loss of connectivity caused by the location and number of construction yards is not adequately addressed:<sup>76</sup>

*“Significant portions of the open space are away from the most affected communities and no suitable connections are provided to access the replacement or alternative open space. Therefore our community is not being compensated with adequate quality, quantity or accessible open space.”*

- 7.23 Ms Linzey, Mr Little, Mr McKenzie, Mr McKay and Mr Beer agree that during the construction period there will be unmitigated effects on the passive open space function of Alan Wood Reserve.<sup>77</sup> Construction

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<sup>72</sup> Green book, page 59, OS.15.

<sup>73</sup> Little, page 523, Transcript (18 February) and Linzey, second supplementary statement, 26 February 2011 para 28.

<sup>74</sup> Linzey, pages 348 – 352 (16 February), Transcript; Social Report G14, pages 116-121.

<sup>75</sup> Linzey, page 354, (16 February), Transcript.

<sup>76</sup> Watson EIC, 17 December 2010, para 30.

<sup>77</sup> Linzey, pages 344, 354 (16 February) Transcript; Little, page 543 – 544 (18 February), Transcript; Joint caucusing report on open space, 4 February 2011, paras 76.

activities will also generate noise and dust,<sup>78</sup> which will reduce the amenity and experience for users of the remaining space.

- 7.24 The level of disruption will be dependent on the timing of mitigation and restoration works. Mr Brown has estimated that full restoration of open space may not be completed until 10 years after construction is concluded.<sup>79</sup>

#### *Operational effects*

- 7.25 Mr Little, Mr Beer, Mr McKay and Mr McKenzie agreed that the effects on the quantity of passive open space at Alan Wood Reserve would not be fully mitigated.<sup>80</sup> Ms Wilkening and Mr Little acknowledge that there will be an increase in noise in some areas of Alan Wood Reserve which cannot be fully mitigated.<sup>81</sup> Mr Little acknowledges that the project's permanent infrastructure will be visible, to differing degrees, from parts of the Alan Wood and Waterview Reserves.<sup>82</sup>
- 7.26 Mr Little has calculated that the quantity of permanent open space being offered by NZTA in the northern Waterview area exceeds that affected by 0.46ha.<sup>83</sup> He relies on the enlargement of Saxon Reserve (0.30ha) and Howlett Reserve (0.15ha) in arriving at this figure. Without those additions NZTA can only just claim that it is returning more (0.01ha) in terms of quantity open space in this area. It cannot claim mitigation credit for the provision of facilities that it has not committed to supply (such as an enlarged playground, picnic and BBQ and toilet facilities to establish Saxon Reserve as a community 'heart').<sup>84</sup>
- 7.27 Mr Beer described the proposed enlargement of Saxon Reserve as fundamental to achieving a good open space outcome for the Waterview community.<sup>85</sup> In his opinion, it is essential that four properties be purchased to provide this outcome. Under NZTA's

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<sup>78</sup> David Black EIC, para 12.

<sup>79</sup> Brown, page 452 (16 February), Transcript.

<sup>80</sup> Joint caucusing report on open space, 4 February 2011, paras 78 - 80.

<sup>81</sup> Little page 536 – 537 (18 February), Transcript. Wilkening, joint caucusing report on open space, 4 February 2011, para 79.

<sup>82</sup> Little EIR, paras 29 and EIC, paras 82-83 and 168-176.

<sup>83</sup> Little EIC para 68 and Annexure A. EIR para 29.

<sup>84</sup> Little EIC para 18.5.

<sup>85</sup> Beer, in response to questions from Ms Devine on 9 March 2011, Transcript not yet available.

proposed conditions this is not required nor is an alternative, that funds are set aside for acquisition of open space in the vicinity of Saxon Reserve.<sup>86</sup> The Local Board has a similar concern in respect of the Howlett Reserve enlargement.<sup>87</sup>

- 7.28 While NZTA may not want to accept conditions that oblige it to provide open space land that it has not already obtained or to be compelled to act outside the boundary of its designation, it is submitted that the Board has the power to impose such conditions and / or require that funds from NZTA be provided for those purposes.

### **Air quality**

- 7.29 In respect of the height of the stacks, the Local Board's position remains that the Waterview School, kindergarten and the community remain affected by the project. This is supported by Mr Fisher's evidence that if the height of the stacks is reduced to 15m then there will be an increase, albeit slight, in the ground level concentrations of particulates within 50m of the stacks.<sup>88</sup>

- 7.30 That said, the Local Board does not oppose the reduction in minimum height of the stacks to 15m provided that the Board is satisfied that the monitoring conditions will ensure that potential adverse health effects are sufficiently addressed.

## **8. EXPANSION ON RELIEF SOUGHT**

### **Connections**

- 8.1 As discussed earlier, NZTA recognises that there will be some unavoidable and unremedied effects on the local community<sup>89</sup> but maintains that there are no direct adverse effects on pedestrian or cycle connections that warrant the provision of the bridges requested by the Local Board. Given the scale of the project and the permanent nature of the effects on the community, it is submitted that this is a narrow approach to take to mitigation. The two bridges requested by the Local Board would improve access to additional open space for the local community and would go some way towards off-setting the

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<sup>86</sup> Green book, OS.9(b).

<sup>87</sup> Green book, OS.9(c).

<sup>88</sup> Fisher, Supplementary evidence (Air Quality) 17 February), para 6.

permanent adverse effects on open space in Waterview and Alan Wood Reserves and on connectivity through Alan Wood Reserve and the cumulative effects from the construction and operation of the project on local residents. The bridges would enhance the social wellbeing of the community and would also provide for the matters in sections 7(c) and 7(f) of the RMA.

- 8.2 Mr Little and Mr Murray accept that upgrading existing or providing alternative links may improve access to open space and other facilities.<sup>90</sup> Mr Clark agreed that upgrading or providing alternative connections may offset some of the adverse construction effects on the local community.<sup>91</sup>
- 8.3 It is acknowledged that the bridges are not part of the proposal as notified and depending on their design and final location; the bridges could require works outside the proposed designation boundaries. Therefore, if the Board agrees that the bridges are appropriate mitigation then I submit that a condition could be imposed requiring the payment of an equivalent contribution to enable Auckland Council to complete the development of the bridges.

#### **Alford bridge**

- 8.4 Ms Watson states in her evidence that the Alford bridge will improve the connection between Waterview and the open space and facilities within the Unitec and the Oakley Creek Esplanade Reserve.<sup>92</sup> It will also improve access for cyclists<sup>93</sup> and will mitigate, to some extent, the cumulative severance effects for Waterview as it will provide a safer, more direct route to Point Chevalier.<sup>94</sup>
- 8.5 This bridge will mitigate to some extent the adverse effects on the amenity of the Waterview Reserve from having the permanent project infrastructure located adjacent to it. Mr Haarhoff states it will make a crucial difference and will provide mitigation for the loss of open space

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<sup>89</sup> See para 5.4 above.

<sup>90</sup> Murray, page 172 (7 February 2011) Transcript; Little, pages 530 - 531 (18 February) Transcript.

<sup>91</sup> Clark, page 814 (1 March 2011) Transcript.

<sup>92</sup> Watson, EIC, para 43(iv).

<sup>93</sup> Beer, in response to questions from Ms Devine (on 9 March 2011) Transcript not yet available.

<sup>94</sup> Haarhoff, EIC, para 6.7(2).

in Waterview and for the deterioration in amenity.<sup>95</sup>

- 8.6 Unitec supported the provision of a bridge in this location.<sup>96</sup> Mr Little considers that this bridge is preferable to the Phyllis Reserve bridge and would have the dual benefits of providing access to Unitec and south to Phyllis Reserve.<sup>97</sup>

### **Soljak bridge**

- 8.7 The Soljak bridge would provide an important link for the proposed cycleway. Mr Murray acknowledged that this link could increase access to Harbutt and Phyllis Reserve for residents to the south.<sup>98</sup> Mr Little indicated that out of the five bridges, this is his preferred option as it provides a connection function that does not currently exist.<sup>99</sup>
- 8.8 In Mr Little's opinion, if the location and design of the southern ventilation building remain as indicated in the "base option" then there will be unaddressed impacts on the quality of open space at Alan Wood Reserve. He considered that providing the Soljak bridge, could have:<sup>100</sup>

*... positive mitigation effects for the unaddressed quality impacts at Alan Wood Reserve, particularly if associated with upgrading of Harbutt Reserve and the linkage from Soljack Bridge to Harbutt Reserve.*

- 8.9 KiwiRail accepts that a cycleway/footbridge would be acceptable in the medium to short term, although notes that it may need to be removed and/or replaced with another structure if the Southdown/Avondale line is developed.<sup>101</sup> KiwiRail has indicated that it does not foresee development of the Avondale /Southdown rail line in the near future. It has not undertaken any detailed design works or

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<sup>95</sup> Haarhoff, EIC, para 6.7(2).

<sup>96</sup> Conder, page 898 (2 March) Transcript.

<sup>97</sup> Little, EIR para 39.

<sup>98</sup> Murray, page 181 (11 February), Transcript.

<sup>99</sup> Little, page 532 (18 February), Transcript.

<sup>100</sup> Little, page 555 (18 February) Transcript. Ms Hancock also agreed with this position, page 581 (18 February), Transcript.

<sup>101</sup> Supplementary evidence of Neil Buchanan on behalf of KiwiRail, 7 March 2011, para 5.

assessed the effects of constructing and operating it.<sup>102</sup> In the meantime, this bridge could provide a valuable connection for the local community.

### **NZTA's proposed link to Eric Armishaw Park**

- 8.10 The requirement to provide a shared pedestrian and cycle connection to Eric Armishaw Park (through the Great North Road interchange) prior to construction has been removed from the conditions. This is now being provided after this area is no longer required for construction<sup>103</sup> and the community could potentially be left without this connection for a significant length of time. The Local Board requests that the original condition be re-instated. This will ensure that the connection will be available prior to and during construction works.

### **Facilities at reserves**

- 8.11 As noted at the outset, the Local Board supports the design of parks in accordance with Auckland Council's proposals set out in the evidence of Mr Gallagher and Mr Beer. The Local Board accepts that involves:
- (a) an upgrading of the Phyllis Street Reserve instead of NZTA's proposed sports field at Waterview Reserve and the temporary fields at Alan Wood Reserve;
  - (b) expansion of Valonia Street Reserve, instead of NZTA's proposed sports fields at Alan Wood Reserve.

### **Saxon and Howlett Reserves**

- 8.12 In respect of the proposed enlargement of Saxon and Howlett Reserves, the Local Board requests that the conditions OS.9(b) and (c) be amended to require NZTA to clearly provide what they have offered and to address the situation if the enlargements are not able to proceed. Alternatively the Local Board seeks as an alternative, that funds be required from NZTA for the acquisition of open space in the vicinity of Saxon Reserve.

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<sup>102</sup> Buchanan, EIC, para 2.16

<sup>103</sup> Green book dated 1 March 2011, condition OS.15.



## Southern building

- 8.13 In respect of the current proposed Southern portal buildings (the “base option”), Ms Linzey accepts that it would, to some extent, reinforce the barrier between the Owairaka and New Windsor communities.<sup>104</sup> It is also located at what the experts agree is a “pinch point” at the western end of the Alan Wood Reserve. This compromises the connections through the reserve,<sup>105</sup> and reduces the passive recreation value of Alan Wood Reserve.
- 8.14 In Mr Beer’s opinion the “base option” will have a “significant effect on the quality/amenity of open space within Alan Wood Reserve.”<sup>106</sup> This is due to:<sup>107</sup>
- (a) the new motorway and buildings being located adjacent to the remnant open space and associated negative amenity and noise effects;
  - (b) the proposed planting resulting in a substantial change in the function of many parts of Alan Wood Reserve from open grass landscape (providing a passive recreation function) to principally an ecological function; and
  - (c) the proposed re-grading, to provide for the Oakley Creek realignment, removes a relatively flat, open area and replaces it with a steep, vegetated walkway.
- 8.15 As a result of caucusing, NZTA has provided further detail of three options that were explored for locating the southern ventilation building partially underground.<sup>108</sup> The Local Board has a strong preference for Option 3 which moves the southern ventilation building approximately 70 metres further to the south east. The Local Board supports Mr Allan’s submissions as to the benefits of Option 3 as outlined in section 7 of his submissions.<sup>109</sup> This includes avoiding the fragmentation and loss of connectivity at Alan Wood Park to such an

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<sup>104</sup> Linzey, First supplementary rebuttal evidence (Planning) 9 February 2011, Annexure E.

<sup>105</sup> Hancock, EIC, para 112.

<sup>106</sup> Beer, EIC, para 11.22.

<sup>107</sup> Beer, EIC, paras 11.17-11.21 and urban design and landscape plans, F.16 sheets 219, and 220.

<sup>108</sup> Walter EIR, para 45 and Annexure J.

<sup>109</sup> Legal submissions on behalf of Living Communities (Auckland) Incorporated and others, 7 March 2011, section 7.

extent that the Olympus Bridge connection would not be required. Ms Linzey has estimated the cost of that bridge to be in the vicinity of \$3.5M.<sup>110</sup> The placing of the ventilation building within a deep cut also mitigates its visual impact.

- 8.16 In addition, it is noted that NZTA's experts agree that Option 3 is technically achievable<sup>111</sup> and provides the greatest opportunity for environmental benefits over the base option.<sup>112</sup> It is Mr Brown's preferred option. He described the improvements over the base option as being fairly significant.<sup>113</sup> Option 3 is also accepted as having better visual outcomes,<sup>114</sup> better social effects and providing greater mitigation of the effects of the building.<sup>115</sup>
- 8.17 The EMS Report also supports Option 3 over the base option as having the least adverse effects. The authors consider the extra cost is justified due to the cumulative effects of the Project in this location.<sup>116</sup>
- 8.18 NZTA's reluctance to provide Option 3 relates to the additional cost,<sup>117</sup> which it estimates to be within the range of \$11M to \$21M.<sup>118</sup> The Board interpreted Mr Parker's answers during questioning as acknowledging that the cost is the overriding factor, despite the experts' preference for Option 3.<sup>119</sup> Mr Parker's view appears to be largely based on the impact that the additional cost may have on other NZTA projects in Auckland and New Zealand.<sup>120</sup>
- 8.19 It is submitted that speculating about the financial implications for other NZTA projects is not helpful to the Board's assessment of whether the adverse effects of this project have been adequately

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<sup>110</sup> Linzey, second supplementary, para 44.2.

<sup>111</sup> Walter EIR, paras 57 – 58.

<sup>112</sup> Linzey, First Statement of SRE (Planning), 9 February 2011, para 16. This is also accepted by Parker at page 84 (11 February), Linzey at page 385 (16 February), Gibbs at page 433 (18 February), and Brown at pages 450, 471 (16 February), Transcript.

<sup>113</sup> Brown, page 471 (16 February), Transcript.

<sup>114</sup> Brown, page 450 (16 February), Transcript.

<sup>115</sup> Linzey, pages 379 and 385 (16 February), Transcript.

<sup>116</sup> Environmental Management Services, section 42A Final Addendum Report, 7 March 2011, para 3.4.18.

<sup>117</sup> Parker, page 82 (11 February); Linzey, page 386 (16 February) Transcript.

<sup>118</sup> Linzey first supplementary rebuttal evidence (planning) 9 February, Annexures E and G and in response to questions at page 701 (28 February), Transcript.

<sup>119</sup> Page 84 (11 February), Transcript.

<sup>120</sup> Pages 87 – 88 (11 February), Transcript.

avoided, remedied, or mitigated. Mr Copeland recognises that it is impossible for the Board to assess whether the resources required to be invested in the project would be better used elsewhere, as the Board does not have sufficient information about alternative options.<sup>121</sup>

8.20 In light of the above, it would be appropriate for the Board to modify the conditions to include Option 3.

### **Northern stack**

8.21 In respect of the “base option” of the northern ventilation stack adjacent to Waterview School, the Board has heard evidence that it will be perceived negatively by the local community for the following reasons:

- (a) Mr Brown accepts there will be permanent adverse visual effects;<sup>122</sup>
- (b) Mr Scott agrees that the stack represents a significant change to the existing residential environment<sup>123</sup> and that moving it across the road would reduce the dominance of the stack on the Waterview community;<sup>124</sup>
- (c) Mr Conder agreed that the stack would have a negative visual impact and indicated that there was a risk of it being seen as an "entrance marker" to the Unitec campus if it was relocated;<sup>125</sup> and
- (d) in its current location, the risk is that it will be seen as the symbol of Waterview,<sup>126</sup> which the community does not want.

8.22 The benefits of moving the stack to Alternative 1 include:

- (a) mitigating the negative perception of emissions close to school children by providing greater separation between the stack and

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<sup>121</sup> Copeland EIR, para 29.

<sup>122</sup> Brown EIC para 51 - 52 and page 449 (16 February), Transcript.

<sup>123</sup> Scott EIC para 5.32.

<sup>124</sup> Scott page 764, Transcript.

<sup>125</sup> Conder, pages 895 and 898 (2 March), Transcript.

<sup>126</sup> Brown referred to the stack acting as a "local landmark" in his EIC at para 81, and acknowledged the potential association with Waterview, page 458 (16 February), Transcript.

the school and kindergarten. Mr Brown accepted greater separation is a factor in favour of relocation;<sup>127</sup>

- (b) aligning with the preferred option of landscape and visual experts for Living Communities, Ms Absolum and the Auckland Kindergarten Association, Mr Pryor;<sup>128</sup>
- (c) improving the open space experience within Waterview Reserve, by reducing the industrial elements surrounding the park;<sup>129</sup> and
- (d) having no impact on the function or usability of the Oakley Esplanade Reserve.<sup>130</sup>

8.23 It is acknowledged that there is a fine balance between the alternatives, even for experts. However, it is the local community who will have to live with the final form and location of the infrastructure. It is submitted that their view ought to have some weight in the Board's decision.

8.24 In that regard, I note that on 17 February 2011 the Council's Parks Recreation and Heritage Forum resolved to support and endorse to the Regional Development and Operations Committee the relocation of the northern vent to the eastern side of Great North Road.<sup>131</sup> **Annexure 3** contains a copy of that resolution.

8.25 The EMS Report has recommended that the Board should determine the final location of the northern stack as part of this process.<sup>132</sup> Further design assessment may be required before the Board can make that decision as there is little detail on the design and assessment of the alternative locations.<sup>133</sup> This could occur through further caucusing or after an indication of the Board's initial direction before it issues its decision. The Local Board submits that such

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<sup>127</sup> Page 445 (16 February), Transcript.

<sup>128</sup> Joint caucusing report of landscape and visual design experts, 4 February 2011, para 2.

<sup>129</sup> Beer, in response to questions from Ms Devine on 9 March 2011, Transcript not yet available.

<sup>130</sup> Ibid, in response to re-examination by Mr Lanning.

<sup>131</sup> Open Minutes of meeting of Parks, Recreation and Heritage Forum, 17 February 2011, page 5, para 11 (b)(viii) and 11(c) (as at 10 March 2011 a confirmed version of the minute is not yet available).

<sup>132</sup> Environmental Management Services, section 42A Final Addendum Report, 7 March 2011, Executive Summary.

further work would provide the community with certainty. The authors also note that the final location may turn on the height of the stack.<sup>134</sup>

8.26 At this stage, the height of the stack remains uncertain. The conditions only proposing that it be a minimum of 15 metres high. If the stack were to be closer to 25 metres high then the EMS Report notes the extra expense of moving it across the road may be justified. It is submitted that it would also provide clarity for the community if specific height parameters could be identified in any decision.

8.27 Modifications could conceivably be made to the alternative sites to improve the visual aspects and amenity of the stack. One example might be providing room adjacent to the stack to enable screening. The EMS Report notes that there are options that have not been fully explored, such as making the stack a feature adjacent to the reserve<sup>135</sup> and notes that there is potential for a large sculptured structure to fit more easily into a reserve backdrop rather than a residential/education environment.<sup>136</sup> While the outline plan of works can address design, the Local Board considers it would be beneficial for more detailed design parameters to be refined as part of the Board's decision should the stack be relocated.

## 9. PRINCIPAL SUBMISSION OF THE LOCAL BOARD

9.1 In conclusion, the Board should decline consent to the applications and cancel the notices of requirement for the project (as modified by the green version of conditions proposed by NZTA) because:

- (a) the effects on the local community (without further mitigation) are adverse;
- (b) it does not involve the use and development of natural and physical resources in a way or at a rate which enables people and communities to provide for their social and economic and cultural well-being while avoiding, remedying or mitigating any adverse effects of activities on the environment and

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<sup>133</sup> Environmental Management Services, section 42A Final Addendum Report, 7 March 2011, Executive Summary

<sup>134</sup> Ibid, para 3.4.11.

<sup>135</sup> Environmental Management Services, section 42A Final Addendum Report, 7 March 2011, Executive Summary

consequently the project does not promote the sustainable management of natural and physical resources;

- (c) it is not an efficient use and development of natural and physical resources;
- (d) it will not maintain and enhance amenity values in the local community;
- (e) it will not maintain and enhance the quality of the environment.

9.2 In the alternative, if the Board decides that the requirements can be confirmed and the consents granted, it is submitted that the project should be subject to conditions that address the concerns raised by the Local Board.

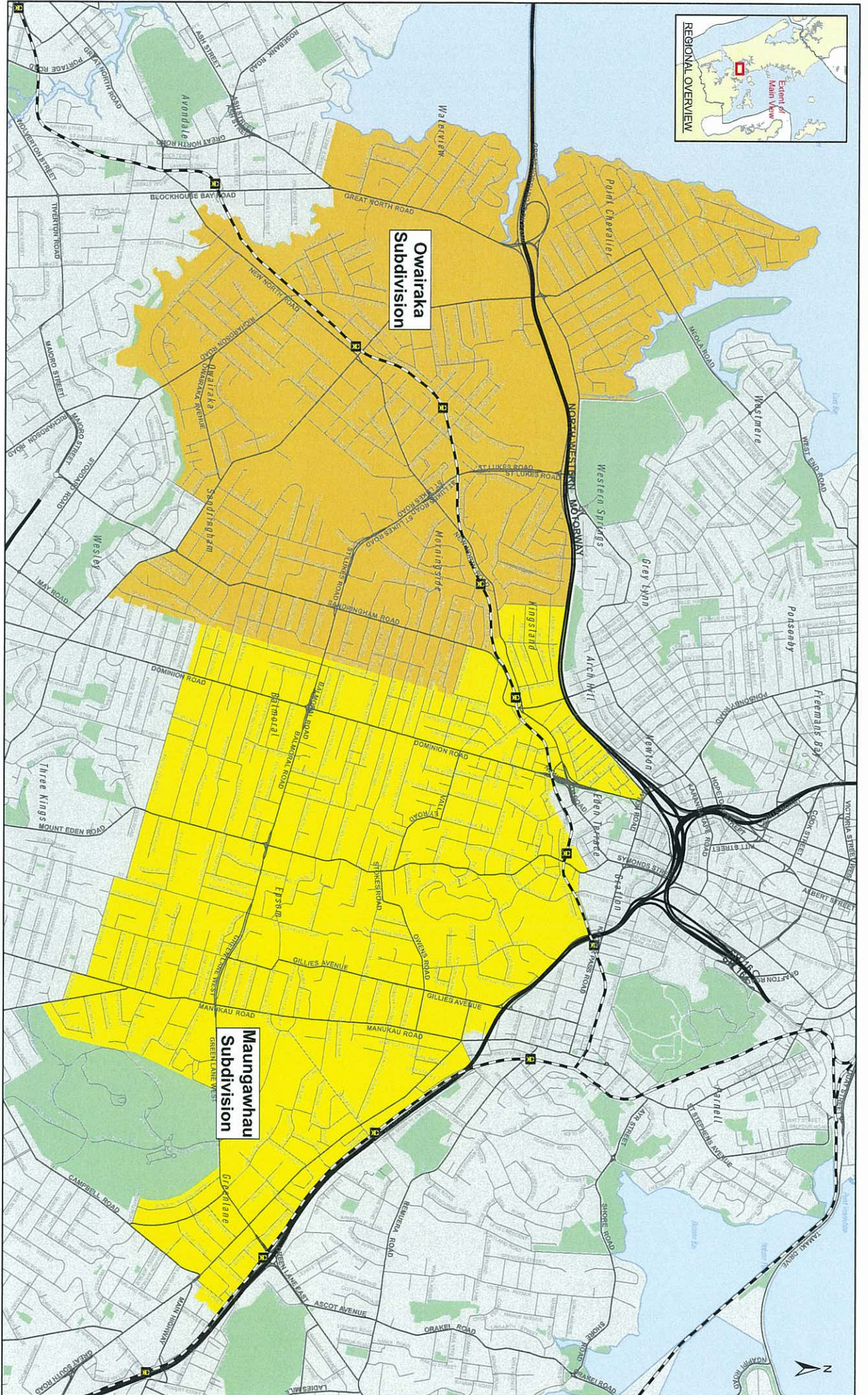
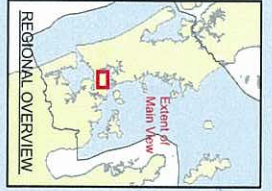
**DATED** 10 March 2011



R M Devine  
Counsel for the Albert-Eden Local Board



# Annexure 1



Owastraka Subdivision

Maungawhau Subdivision

- Legend**
- Motorway
  - Arterial Road
  - Major Road
  - Rail
  - Rail Station
  - Public Open Space



Albert - Eden Local Board



# INITIAL DECISION-MAKING RESPONSIBILITIES FOR LOCAL BOARDS

## HOW THE DECISION-MAKING RESPONSIBILITY OF LOCAL BOARDS IS DETERMINED

There are three ways that legislation gives decision-making responsibilities to local boards:

- directly by legislation: the Local Government (Auckland Council) Act 2009
- by allocation from the governing body
- by delegation from the governing body.

### ALLOCATION OF NON-REGULATORY RESPONSIBILITIES

The Auckland Transition Agency is required by legislation to make the initial allocation of non-regulatory activities to local boards, in accordance with the principles set out in the legislation. This initial allocation is set out in the following tables.

The allocation of non-regulatory activities will remain in place until Auckland Council adopts its long-term plan for the period beginning 1 July 2012. In the period before 1 July 2012, the governing body may allocate additional responsibilities to local boards but must not remove or alter a non-regulatory responsibility which has been allocated to a local board and included in this planning document.

The table on the following pages sets out the initial allocation of non-regulatory responsibilities and responsibilities either directly conferred by the legislation or allocated by the Auckland Transition Agency under the principles set out in legislation. It does not identify any responsibilities that the governing body may in the future delegate to local boards.



Activity	Local board responsibilities (allocated in accordance with the principles of the act or directly given by the act)	Governing body responsibilities
<p><b>Governance, civic duties, leadership, advocacy, place shaping, community and stakeholder engagement and input</b></p>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ local place-shaping activities, including local leadership to create a local identity and celebrate community diversity</li> <li>▪ local strategic visioning, policy making and planning, including through local board plans</li> <li>▪ development of local policy positions such as determining areas in which activities may take place and local service levels (variations above/below region-wide standard)</li> <li>▪ community engagement, including with community organisations and special interest groups, to identify community interests, preferences and priorities across the four well-beings (social, economic, environmental and cultural)</li> <li>▪ submissions from local board to government on legislation relevant to local board areas and communities</li> <li>▪ civic duties, engagements and functions in the local area, including citizenship ceremonies and recognition of volunteers</li> <li>▪ communicating the interests and preferences of people in the local board area to the governing body relating to regional matters, including priorities for the region, regional strategies, policies, and plans, the number and general location of community facilities, libraries and parks and the delivery of Auckland Council services in the local area</li> <li>▪ input to the governing body relating to the direction and priorities of CCOs</li> <li>▪ engagement with Maori, Pacific and ethnic advisory boards and panels and other stakeholders</li> <li>▪ engagement and consultation with Maori, including local iwi and hapu</li> <li>▪ reports to the governing body on any matters of interest or concern to the board</li> <li>▪ communicating governing body views to local communities</li> <li>▪ advocacy to the governing body, CCOs, central government departments and other agencies for the achievement of community interests, priorities and preferences.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ region-wide place-shaping activities, including regional leadership to create Auckland's identity and celebrate community diversity</li> <li>▪ regional strategic visioning, policy making and planning</li> <li>▪ development of regional strategies, policies, plans and bylaws taking into account local interests, preferences and priorities</li> <li>▪ submissions to government on legislation, including official submissions of Auckland Council</li> <li>▪ governance of CCOs, including statements of intent</li> <li>▪ allocation of decision-making to local boards (except for the initial allocation)</li> <li>▪ delegations to local boards</li> <li>▪ regional civic duties, engagements and functions</li> <li>▪ public engagement and consultation, including with special interest groups, on regional matters including regional strategies, policies, plans and bylaws. Note that consultation will often be through and with local boards</li> <li>▪ advocacy to central government departments and other agencies for achieving regional interests, priorities and preferences</li> <li>▪ engagement with CCOs</li> <li>▪ engagement with Maori, Pacific and ethnic advisory boards and panels and other engagement and consultation with Maori</li> <li>▪ engagement with other stakeholders.</li> </ul>

Activity	Local board responsibilities (allocated in accordance with the principles of the act or directly given by the act)	Governing body responsibilities
<b>Strategic planning framework and policy</b>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ local board plans</li> <li>▪ local policies and plans</li> <li>▪ advocacy to achieve local priorities relating to planning and land use</li> <li>▪ early involvement and input into the formulation of regional planning strategies, policies and plans</li> <li>▪ advocating for draft public plan changes to the governing body.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ regional planning strategies, policies and plans, including the spatial plan and district plan</li> <li>▪ public and private plan changes to the district plan and notices of requirements for designations</li> <li>▪ urban design and sustainable development strategies, policies and guidelines</li> <li>▪ integration of local policies and plans with the region-wide planning framework</li> <li>▪ master plans for key strategic sites</li> </ul>
<p>Note: Bylaws are an important mechanism to give effect to the strategic planning framework for Auckland. The act provides a role for both the governing body and local boards on bylaws.</p>		
<b>Arts and culture</b>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ specific location, design, build and fit-out of local arts and culture facilities</li> <li>▪ local arts and culture facilities, including changes of use of facilities</li> <li>▪ new local public artwork and works of art which have a functional purpose</li> <li>▪ local arts and culture programmes and events</li> <li>▪ variations to region-wide service levels for the local area, such as opening hours, fees and charges</li> <li>▪ advocacy to achieve local priorities relating to arts and culture</li> <li>▪ early involvement and input into the formulation of regional arts and culture strategy and policy.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ regional arts and culture strategy and policy</li> <li>▪ number and general location of arts and culture facilities</li> <li>▪ regional arts and culture facilities such as the Aotea Centre</li> <li>▪ new regional public artwork and works of art which have a functional purpose</li> <li>▪ development, maintenance and access to the regional visual arts collection, including exhibitions and interpretive programmes</li> <li>▪ regional arts and culture programmes and events</li> <li>▪ region-wide service levels and guidelines, such as opening hours, fees and charges.</li> </ul> <p><b>Note:</b> Decisions in relation to some regional arts and culture facilities are likely to be the responsibility of the proposed regional facilities CCO. Accordingly, the key role for the governing body in relation to these facilities is likely to relate to the adoption of regional strategies and policies and to the governance of the CCO, including through a statement of intent.</p>

Activity	Local board responsibilities (allocated in accordance with the principles of the act or directly given by the act)	Governing body responsibilities
<b>Community development</b>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ specific location, design, build and fit-out of local community facilities, including citizens advice bureaux</li> <li>▪ local community facilities, including leasing and changes of use</li> <li>▪ tailored community programmes in the local area, such as youth, community safety, graffiti reduction and migrant advice services</li> <li>▪ community advisory services</li> <li>▪ variations to region-wide service levels for the local area, such as opening hours, fees and charges</li> <li>▪ advocacy to achieve local priorities relating to community development, including the number and location of community facilities and community safety</li> <li>▪ early involvement and input into the formulation of regional community development strategy and policy, and involvement in health and social impact assessments for local communities</li> <li>▪ allocating funding and operational grants to local community interest organisations, locally focused trusts, and special interest groups.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ regional community development strategy and policy, including community safety</li> <li>▪ number and general location of community facilities, including citizens advice bureaux</li> <li>▪ regional community facilities</li> <li>▪ regional community programmes, which can then be tailored to local needs, such as youth, community safety, graffiti reduction, migrant advice services</li> <li>▪ region-wide service standards and guidelines, such as opening hours, fees and charges</li> <li>▪ social housing, such as housing for the elderly</li> <li>▪ allocating regional funding and operational grants to community interest organisations.</li> </ul>
<b>Libraries</b>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ specific location, design, build and fit out of local libraries such as library furniture, fittings and artwork</li> <li>▪ design and type of community facilities within libraries such as learning facilities, meeting spaces</li> <li>▪ local exhibitions, programmes and events within libraries, including prioritisation</li> <li>▪ local collections such as bequests to specific libraries or local areas</li> <li>▪ variations to region-wide service standards for the local area, such as opening hours, fees and charges</li> <li>▪ advocacy to achieve local priorities relating to library services, including the number and general location of libraries in the local area</li> <li>▪ early involvement and input into the formulation of regional libraries' strategy and policy.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ libraries strategy and policy</li> <li>▪ number and general location of new libraries</li> <li>▪ the libraries' collection policy and practice (including development and maintenance)</li> <li>▪ region-wide service standards and guidelines for library services such as opening hours, fees and charges</li> <li>▪ regional exhibitions, programmes and events within libraries.</li> </ul>

Activity	Local board responsibilities (allocated in accordance with the principles of the act or directly given by the act)	Governing body responsibilities
<b>Recreation and sports (including sports stadiums)</b>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ specific location, design, build and fit-out of local recreation and sports facilities</li> <li>▪ local recreation and sports facilities, including variations to regional policy relating to leasing and changes of use</li> <li>▪ local recreation and sports programmes</li> <li>▪ variations to region-wide service standards for the local area, such as opening hours, fees and charges</li> <li>▪ advocacy to achieve local priorities relating to recreation and sports</li> <li>▪ early involvement and input into the formulation of regional recreation and sports strategy and policy.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ regional recreation and sports strategy and policy</li> <li>▪ number and general location of recreation and sports facilities (including sports stadiums)</li> <li>▪ regional recreation and sports facilities (including sports stadiums)</li> <li>▪ coordination of the use of recreation and sports facilities on a regional basis</li> <li>▪ regional recreation and sports programmes, which can then be tailored to local needs</li> <li>▪ region-wide service standards and guidelines, such as water quality for swimming pools, fees and charges.</li> </ul> <p>Note: Decisions in relation to regional recreation and sports facilities (including sports stadiums) are likely to be the responsibility of the regional facilities CCO. Accordingly, the key role for the governing body in relation to these facilities is likely to relate to the adoption of regional strategies and policies and to the governance of the CCO, including through a statement of intent.</p>

Activity	Local board responsibilities (allocated in accordance with the principles of the act or directly given by the act)	Governing body responsibilities
<p><b>Open space (including beaches, volcanic cones, parks, reserves and farming of regional parks)</b></p>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ all local parks (being all parks with the exception of current regional parks and parks containing a volcanic cone or feature)</li> <li>▪ specific location and naming of new local parks</li> <li>▪ giving effect to, or having regard to, national legislation and policy in relation to open space as required, such as for the Waitakere Ranges</li> <li>▪ reserve management plans for local parks</li> <li>▪ local open space improvements and place shaping, such as park design, type and location of park benches, lighting and landscaping, and other contributions to the distinctiveness of local open spaces</li> <li>▪ community events in local parks</li> <li>▪ beaches and camping grounds within local parks</li> <li>▪ coordination of volunteers, Auckland Council staff and other agencies working to improve parks in the local area</li> <li>▪ community planting programmes in local parks</li> <li>▪ maintenance of local parks, including sports fields, playgrounds, boat ramps, other structures and landscaping within parks</li> <li>▪ variations to region-wide service levels for the local area, such as mowing frequency, planting and weed control</li> <li>▪ advocacy to achieve local priorities relating to open space</li> <li>▪ early involvement and input into the formulation of regional open space strategy and policy, and input into regional parks and the classification, purchase and disposal of parks.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ all current regional parks and parks containing a volcanic cone or feature</li> <li>▪ regional open space strategy and policy, including open space network plan and volcanic cones strategy</li> <li>▪ giving effect to, or having regard to, national legislation and policy in relation to open space as required, such as for the Waitakere Ranges</li> <li>▪ reserve management plans for regional parks</li> <li>▪ parks design guidelines</li> <li>▪ number and general location of new parks, including land acquisitions and divestments</li> <li>▪ disposal of surplus parks</li> <li>▪ beaches and camping grounds within regional parks</li> <li>▪ improvements to, maintenance and use of regional parks, walkways and beaches</li> <li>▪ farming of regional parks</li> <li>▪ opportunities for outdoor recreation, accommodation (in baches, lodges and camping grounds) and events within regional parks</li> <li>▪ coordination of the use of sports fields on a regional basis</li> <li>▪ region-wide service levels such as mowing frequency, planting and weed control.</li> </ul>
	<p>Note: The crown and the Tamaki Collective of 12 mana whenua iwi and hapu (to be known as Nga Mana Whenua o Tamaki Makaurau) signed a framework agreement on 12 February 2010. Under the agreement, crown-owned parts of 11 maunga/volcanic cones in the Auckland region will be vested in the Tamaki Collective and governed by a statutory body comprising equal membership of the Collective and Auckland Council. How the governing body and the local boards will be involved in the co-management of the maunga/volcanic cones needs to be worked through.</p>	

Activity	Local board responsibilities (allocated in accordance with the principles of the act or directly given by the act)	Governing body responsibilities
<b>Street environment and town centres</b>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ improvements to local centres and town centres which have a local rather than regional impact</li> <li>▪ prioritisation of local programmes and events within centres</li> <li>▪ use of local open spaces for local community events, including temporary occupation and banners and signage</li> <li>▪ tailored local programmes to target graffiti, such as physical deterrent projects, community education and volunteer programmes</li> <li>▪ variations to region-wide service levels for the local area, such as rubbish removal and graffiti and weed control</li> <li>▪ advocacy to achieve local priorities relating to street environment and town centres</li> <li>▪ early involvement and input into the formulation of relevant strategy and policy, including the classification of town centres and design guidelines.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ street environment and town centres strategy and policy, including the classification of town centres</li> <li>▪ centres design guidelines and precinct plans</li> <li>▪ significant improvements to the CBD, including the CBD fringe, and Newmarket, Albany, Henderson and Manukau City Centre</li> <li>▪ region-wide public assets, such as the types of amenities in the CBD</li> <li>▪ region-wide service levels, such as rubbish removal, graffiti, and weed control</li> <li>▪ banners and signage for regional community events.</li> </ul>
<p>Note: Auckland Transport will generally be responsible for matters falling within the road corridor, in such cases the governing body or the local boards, as appropriate, will need to work with Auckland Transport. It is possible for Auckland Transport to delegate a range of local decisions to local boards, within parameters that do not unduly compromise traffic flow, traffic safety and asset integrity.</p>		

Activity	Local board responsibilities (allocated in accordance with the principles of the act or directly given by the act)	Governing body responsibilities
<p><b>Economic development</b></p>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ political representation where requested on local Mainstreet associations and Business Improvement District (BID) programme executive boards</li> <li>▪ local centre branding and marketing</li> <li>▪ local business events</li> <li>▪ allocation of funding for improvements to local Mainstreet and business areas by relevant Mainstreet and business associations and BID boards, such as street furniture, the look and feel of an area, public art, open space enhancements and community safety improvements, such as CCTV and lighting</li> <li>▪ advocacy to achieve local priorities relating to economic development and tourism, including engaging with Tourism Auckland</li> <li>▪ early involvement and input into of the formulation of regional economic strategy and policy, including Mainstreet and BID policy and the location of and controls for business zones.</li> <li>▪ input into regional business support and attraction and retention programmes.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ regional economic development strategy and policy, such as Auckland economic development strategy, investment framework, BID policy</li> <li>▪ research, such as infrastructure needs, labour market, industry and sector research</li> <li>▪ advocacy, such as for convention centres, regeneration projects and submissions on legislation</li> <li>▪ economic sector development programmes, such as in the tourism, creative and biotechnology sectors, as well as support for industry clusters</li> <li>▪ region-wide and principal centres branding and marketing</li> <li>▪ investment attraction and retention programmes</li> <li>▪ regional business events</li> <li>▪ tourism, including engaging with Tourism Auckland</li> <li>▪ international relationships, including sister cities</li> <li>▪ labour market support programmes, such as partnerships with tertiary and vocational providers as well as migrant attraction</li> <li>▪ CBD Board recommendations</li> <li>▪ business support</li> <li>▪ skills training and enterprise development programmes, such as skills matching and capability building.</li> </ul> <p><b>Note:</b> Many of these activities are likely to be the responsibility of the economic development CCO. Accordingly, the key role for the governing body is likely to relate to the adoption of regional strategies and policies and to the governance of the CCO, including through its statement of intent.</p>

<b>Activity</b>	<b>Local board responsibilities (allocated in accordance with the principles of the act or directly given by the act)</b>	<b>Governing body responsibilities</b>
<b>Events</b>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ local events, including attraction, development, delivery and promotion</li> <li>▪ local events sponsorship</li> <li>▪ advocacy to achieve local priorities relating to regional events, input into regional events and input into decisions regarding filming within the local board area</li> <li>▪ early involvement and input into the formulation of regional events strategy and policy.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ regional events strategy and policy, including region-wide events plan</li> <li>▪ events facilities, such as Vector Arena</li> <li>▪ coordinating regional events, including attraction, development, delivery and promotion</li> <li>▪ regional events sponsorship</li> <li>▪ facilitation of filming, and film consenting/permitting.</li> </ul> <p>Notes:</p> <ol style="list-style-type: none"> <li>1. Many of these activities are likely to be the responsibility of the economic development, tourism and events and/or regional facilities CCOs. Accordingly, the key role for the governing body is likely to relate to the adoption of regional strategies and policies and to the governance of the CCOs, including through statements of intent.</li> <li>2. The facilitation of filming is a regional responsibility because of the regulatory components of the activity and the benefits of a one-stop shop for filmmakers. Accordingly, fees will go to the governing body or the Economic Development, Tourism and Events CCO.</li> </ol>



Activity	Local board responsibilities (allocated in accordance with the principles of the act or directly given by the act)	Governing body responsibilities
<p><b>Environmental management, protection and enhancement</b></p>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ input into regional natural and cultural heritage and conservation programmes and projects, and tailoring regional programmes to local circumstances, such as Waicare, Enviroschools, tree planting, heritage walks, plant and animal pest management programmes</li> <li>▪ assistance in identifying significant natural and cultural resources for conservation</li> <li>▪ input into regional coastal and freshwater management programmes and projects and tailoring regional programmes to local circumstances, such as beach and stream clean-ups</li> <li>▪ wetland restoration and beautification of waterways in local parks in the local board area</li> <li>▪ input into regional education programmes to improve air, water and stormwater quality, minimise waste, and tailoring regional programmes to local circumstances</li> <li>▪ input into regional programmes relating to climate change, and tailoring regional programmes to local circumstances</li> <li>▪ local stormwater quality projects and local waste management plans and projects, within regional parameters</li> <li>▪ variations to region-wide service levels for the local area such as refuse and recycling services</li> <li>▪ advocating to achieve local priorities to protect the environment</li> <li>▪ early involvement and input into the formulation of environmental strategy and policy and bylaws.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ regional environmental strategy and policy, including natural and cultural heritage, biosecurity and pest management, coastal and freshwater management, land and soil management and air, water and stormwater quality</li> <li>▪ advocating to protect significant natural and cultural heritage resources through statutory and non-statutory processes</li> <li>▪ regional natural and cultural heritage and conservation programmes and projects, such as Waicare, Enviroschools, tree planting, heritage walks and plant and animal pest management</li> <li>▪ regional coastal and freshwater management programmes and projects, such as beach and stream clean-ups</li> <li>▪ regional projects and programmes relating to improving air, water and stormwater quality and minimising waste</li> <li>▪ regional programmes relating to climate change</li> <li>▪ region-wide water quality standards and targets within national parameters</li> <li>▪ region-wide air quality standards and guidelines within national parameters</li> <li>▪ management of the stormwater network, including the stormwater infrastructure investment plan</li> <li>▪ region-wide minimum service levels for stormwater</li> <li>▪ governance of Watercare Services Ltd, including statement of intent</li> <li>▪ integration of four waters (water, stormwater, greywater, wastewater) strategy, policy and planning</li> <li>▪ the waste management plan</li> <li>▪ standards and guidelines for waste management and disposal</li> <li>▪ region-wide service standards, such as refuse and recycling services</li> <li>▪ landfill management.</li> </ul>

Activity	Local board responsibilities (allocated in accordance with the principles of the act or directly given by the act)	Governing body responsibilities
<p><b>Financial and asset management</b></p>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ local board plans, including proposing variations to region-wide service standards for the local area and proposals for local revenue raising, such as targeted rates</li> <li>▪ local board agreements to be agreed between the governing body of Auckland Council and each local board</li> <li>▪ implementing local board agreements, including monitoring and reporting</li> <li>▪ prioritising local capital works projects</li> <li>▪ approving design specifications for local capital works</li> <li>▪ advocating to reflect local preferences on financial management</li> <li>▪ early involvement and input into the formulation of regional financial strategy and policy, such as a development contributions policy</li> <li>▪ input into asset management plans and the purchase and disposal of local assets.</li> </ul>	<p>Decision-making and oversight in respect of:</p> <ul style="list-style-type: none"> <li>▪ regional financial strategy and policy</li> <li>▪ decisions under the Local Government Act 2002, including raising rates, developing LTCCPs and annual plans and reports, and decisions relating to financial management</li> <li>▪ implementing LTCCPs and annual plans, including monitoring and reporting (but excluding implementing local board agreements)</li> <li>▪ capacity of Auckland Council to provide, or ensure the provision of, services and facilities including local activities</li> <li>▪ local boards funding policy, including a funding formula to allocate funds between local boards</li> <li>▪ financial support to local boards, including for local board support staff</li> <li>▪ local board agreements to be agreed between the governing body of Auckland Council and each local board</li> <li>▪ policy for development contributions and financial contributions. Development contributions are collected from developers to help fund new infrastructure required by growth, and include financial contributions</li> <li>▪ funding to be allocated to Auckland Transport through the Auckland Regional Land Transport Programme and LTCCP process</li> <li>▪ asset management planning, including determining region-wide baseline (standard) service levels, and capital works planning</li> <li>▪ regional capital works projects, including new asset creation, existing asset enhancement, and asset renewals.</li> </ul>
<p><b>All other non-regulatory responsibilities</b></p>		<p>Any non-regulatory responsibility not specifically allocated to either the governing body or local boards, is allocated to the governing body</p>



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## Parks Recreation and Heritage Forum

### OPEN MINUTES

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Minutes of a meeting of the Parks Recreation and Heritage Forum held in the Reception Lounge, Auckland Town Hall, 301-305 Queen Street, Auckland on Thursday 17 February 2011 at 1.40pm.

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#### PRESENT

Chairperson	Councillor Sandra Coney, QSO
Deputy Chairperson	Councillor Wayne Walker
Councillors	Alf Filipaina Michael Goudie Mike Lee Noelene Raffills, JP Sir John Walker, KNZM, CBE

From 2.35 pm (Item 10)

#### APOLOGIES

Councillors Chris Fletcher, Ann Hartley, Sharon Stewart and Penny Webster for absence.  
Councillors Alf Filipaina, Noelene Raffills and John Walker for lateness.

#### ALSO PRESENT

Councillor Cathy Casey  
Deputy Chair of the Albert-Eden Local Board, Margi Watson

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**1 Apologies**

Resolution number PH/2011/1

MOVED by Councillor Coney, seconded Councillor W Walker:

That the apologies for absence from Councillors Fletcher, Hartley, Stewart and Webster and the apologies for lateness from Councillors Filipaina, Raffills and J Walker be accepted.

**CARRIED**

**2 Declaration of interest**

Members were reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

There were no declarations of interest.

**3 Confirmation of minutes**

Resolution number PH/2011/2

MOVED by Councillor Coney, seconded Councillor W Walker:

That the minutes of the meeting of the Parks Recreation and Heritage Forum held on Thursday, 2 December 2010, be confirmed as a true and correct record of the meeting.

**CARRIED**

**4 Leave of absence**

There were no leaves of absence.

**5 Acknowledgements**

The Chairperson gave a tribute to William (Bill) Beveridge.

**6 Petitions**

There were no petitions.

**7 Deputations / Public Forum**

There were no deputations or public forum requests.

**8 Extraordinary business**

There was no extraordinary business.

**9 Notices of Motion**

There were no notices of motion.

Resolution number PH/2011/3

MOVED by Councillor Coney, seconded Councillor W Walker:

That Item 14, *Briefing to Parks, Recreation and Heritage Forum*, be taken prior to Item 10.

**CARRIED**

**14 Briefing to Parks, Recreation and Heritage Forum**

*Secretarial Note: A PowerPoint presentation was provided, a hard copy of which has been placed on file and will be available on the Auckland Council website.*

Resolution number PH/2011/4

MOVED by Councillor Filipaina, seconded Councillor Coney:

- a) That the presentation be received.
- b) That a report on the acquisition of an elephant herd and the expansion at the Auckland Zoo into Western Springs Park be brought to the March 2011 meeting of the Forum.

**CARRIED**

**10 Heritage Plan and Priorities**

Resolution number PH/2011/5

MOVED by Councillor Coney, seconded Councillor Goudie:

- a) That the report be received.
- b) That the Forum recommend to the Regional Development and Operations Committee the development of an integrated approach to heritage management, through the creation of a draft Heritage Management Plan.
- c) That the Forum recommend to the Regional Development and Operations Committee the adoption of the proposed outline of the draft Heritage Plan, including the immediate actions identified.
- d) That officers report back to the Forum on the proposed Heritage Panel, with options for composition, roles and Terms of Reference.

**CARRIED**

11 Western Ring Route (State Highway 20 Waterview Connection)

*Secretarial Note: A PowerPoint presentation was provided, a hard copy of which has been placed on file and will be available on the Auckland Council website.*

Resolution number PH/2011/6

MOVED by Councillor W Walker, seconded Councillor Coney:

- a) That the report be received.
- b) That the Forum endorses to the Regional Development and Operations Committee:
  - i) The development of Phyllis and Valonia Reserves as per the Auckland Council plans outlined in the report and presentation.
  - ii) That no temporary or permanent field at Waterview Reserve be constructed.
  - iii) That no temporary fields at Alan Wood Reserve be constructed.
  - iv) The completion of a continuous cycleway be undertaken by the NZTA as part of the development.
  - v) That the NZTA make a financial contribution to the development of Phyllis Reserve.
  - vi) That cycleway bridges be provided at Alford Street, Phyllis Reserve and Soljack Place.
  - vii) The partial undergrounding of the southern portal buildings.
  - viii) The relocation of the northern vent to the eastern side of Great North Road.
- c) That the Forum supports:
  - i) The provision of a pedestrian/cycle bridge connecting Waterview and Eric Armishaw Park, Point Chevalier over State Highway 16.
  - ii) That the Albert-Eden Local Board be engaged in the design of reinstated open space.

**CARRIED**

**12 Delegations requested for Environmental and Heritage funding**

Resolution number PH/2011/7

MOVED by Councillor Coney, seconded Councillor Filipaina:

- a) That the report be received.
- b) That it be recommended to the Regional Development and Operations Committee that interim officer delegations for remaining 2010/11 grant allocation decisions for the Scheduled Trees Fund, Regional Resource Consents Subsidy and Manukau Resource Consents Subsidy, be confirmed to the Manager Environmental Services, Infrastructure and Environmental Services.

**CARRIED**

**13 Consideration of Extraordinary Business Items**

There was no consideration of extraordinary business items.

*Secretarial Note: Item 14 was taken prior to Item 10.*

**15 Report from the Manager Environmental Services**

Resolution number PH/2011/8

MOVED by Councillor Coney, seconded Councillor Lee:

That the report be received.

**CARRIED**

**16 Report from the Environmental Strategy and Policy Manager**

Resolution number PH/2011/9

MOVED by Councillor Coney, seconded Councillor Filipaina:

- a) That the report be received.

**CARRIED**

**17 Report from the Parks, Sports and Recreation Manager**

Resolution number PH/2011/10

MOVED by Councillor Coney, seconded Councillor W Walker:

- a) That the report be received.

**CARRIED**

**18 Consideration of Extraordinary Information Items**

There was no consideration of extraordinary information items.

4.14 pm

The Chairperson thanked Members for their attendance and attention to business and declared the meeting closed.

CONFIRMED AS A TRUE AND CORRECT RECORD  
AT A MEETING OF THE PARKS, RECREATION AND  
HERITAGE FORUM HELD ON

**DATE:**.....

**CHAIRPERSON:**.....