

<b>To</b>	Nicole Rosie, Chief Executive Brett Gliddon, Group General Manager, Transport Services
<b>From:</b>	
<b>Subject:</b>	EWL Outcome
<b>Date:</b>	12 April 2024

## Purpose

1. This memo provides an update on the appeal process for the East West Link (EWL) project in Auckland, following an outcome from the Supreme Court on 11 April 2024.

## Background

2. The Onehunga-Penrose area is a key locality for New Zealand's industrial and manufacturing economy and its transport network. Many of the largest distribution and logistics facilities in New Zealand are based in the area because it is accessible to arterial routes, state highways, the rail network, the Auckland International Airport and ports.
3. The East West Link project (as proposed in 2016 when Resource Management Act approvals were sought) includes a four-lane road between the Neilson Street interchange at State Highway 20 and the Mt Wellington interchange at State Highway 1. It includes connections to local roads in Onehunga and Penrose, a shared use walking and cycling path, improvements for public transport and rehabilitation of foreshore, headland and wetland areas through which it passes.
4. The project was designed to deliver:
  - a. improved travel times and travel time reliability between businesses in the Onehunga-Penrose industrial area and State Highways 1 and 20;
  - b. improved safety and accessibility for cycling and walking between Māngere Bridge, Onehunga and Sylvia Park, and accessing Ōtāhuhu East;
  - c. improved journey time reliability for buses between State Highway 20 and Onehunga Town Centre.

## Board of Inquiry process and previous appeals

5. Designations for the East West Link project were confirmed, and the resource consents granted on 23 January 2018 by an independent Board of Inquiry (BOI).
6. The BOI decision was appealed on points of law by five parties; two of those appeals proceeded to the High Court. The High Court dismissed those appeals in its decision of March 2021, ruling in favour of NZTA.
7. One party (Royal Forest & Bird Protection Society of New Zealand Inc.) appealed further to the Supreme Court, and the hearing concluded in November 2021. The outcome of this is outlined in the next section.

## Supreme Court outcome on 11 April 2024

8. The Court has allowed Royal Forest & Bird Protection Society of New Zealand's appeal and determined that the decision should be "remitted to the Board of Inquiry for reconsideration". This was agreed by a majority of 4-1 although there was a different majority (3-2) as to the reasons for this outcome.
9. The Court expects that the matter will go back to the Board of Inquiry (BOI), to reconsider its decision in accordance with the 'right' approach to its reasoning and evaluation.

### **Next steps**

10. Although the Court has allowed the recent appeal, there are pathways to preserve the East West Link project.
11. NZTA will work with the government to investigate further policy and consenting options to agree options for the future East West Link project.
12. NZTA understands the importance of the East West Link project as one of the Government's Roads of National Significance (RoNS).

**END**

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