

## East West Link

The East West Link (EWL) 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.

NZTA will now take time to review the decision and consider how best to take the project forward in light of the Court's guidance. We will reflect on those matters together with project scope and funding options, with regard to government direction in the draft Government Policy Statement, before making any decisions about the project's future

The EWL project has been identified as a RoNS by the Government in the draft GPS 2024.

In 2018, the EWL project was granted approvals (consents and designations) by a Board of Inquiry (BOI). Those approvals were subsequently appealed to the High Court, and then eventually to the Supreme court by Royal Forest & Bird (RFB) on points of law.

The Supreme Court has now released a majority decision which NZTA is reviewing and considering how best to take the project forward in light of the Court's guidance.

### Background

The EWL 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.

The project was designed to deliver:

- improved travel times and travel time reliability between businesses in the Onehunga-Penrose industrial area and State Highways 1 and 20.
- improved safety and accessibility for cycling and walking between Māngere Bridge, Onehunga and Sylvia Park, and accessing Ōtāhuhu East.
- improved journey time reliability for buses between State Highway 20 and Onehunga Town Centre.

### Current state

The EWL project has been identified as a RoNS by the Government in the draft GPS 2024.

In 2018, the EWL project was granted approvals (consents and designations) by a Board of Inquiry (BOI). Those approvals were subsequently appealed to the High Court, and then eventually to the Supreme court by RFB on points of law.

The Supreme Court has now released a majority decision (3-2) which has 'allowed' the RFB appeal and remitted the EWL project approvals to the original BOI for consideration, in line with the terms of the judgment. There were two dissenting judgments; one would have upheld the BOI decision, and other would have set the approvals aside as unlawful. There is notable division in the judgments.

### Implications of Court decision for current EWL approvals and next steps

The decision means that the current EWL approval package - the consents and designations - have been set aside and cannot be utilised. The two EWL designations have now reverted to Notices of Requirement, so they still provide interim protection of the land underlying the preferred corridor.

In terms of process from here, there are now two primary options available for obtaining approvals for the EWL.

- (a) Proceed to remit the Project in its current form to the BOI as directed by the Supreme Court.

- (b) Withdraw the Project from the BOI process, and progress it (or a variation) through a fresh process (eg a new BOI, the new Fast Track Approvals process, or the existing fast track process in the Resource Management Act).

Reconstituting a BOI after seven years has not occurred before. s 9(2)(g)(i)

**Additional considerations**

The EWL project was previously subject to a re-evaluation in 2017/2018 that sought to deliver the same outcomes as the consented project but at a reduced cost. Alternative approaches were identified but not developed further at the time as they had lower or less enduring benefits.

A further review of project objectives will need to be undertaken. This may result in identification of a different scheme with different outcomes which could be a risk given the previous commitments outlined below.

s 9(2)(ba)(i)

s 9(2)(ba)(ii)

**Next steps**

NZTA will now take time to review the decision and consider how best to take the project forward in light of the Court's guidance. We will reflect on those matters together with project scope and funding options, with regard to government direction in the draft GPS, before making any decisions about the project's future

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