

Before the Board of Inquiry
Waterview Connection Project

in the matter of: the Resource Management Act 1991

and

in the matter of: a Board of Inquiry appointed under s 149J of the Resource Management Act 1991 to decide notices of requirement and resource consent applications by the NZ Transport Agency for the Waterview Connection Project

Rebuttal evidence of **Graham Don (Avifauna)** on behalf of the NZ Transport Agency

Dated: 1 February 2011

Hearing start date: 7 February 2011

REFERENCE: Suzanne Janissen (suzanne.janissen@chapmantripp.com)
Cameron Law (cameron.law@chapmantripp.com)

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REBUTTAL EVIDENCE OF GRAHAM DON ON BEHALF OF THE NZ TRANSPORT AGENCY

INTRODUCTION

- 1 My full name is Graham Lloyd Don. I refer the Board of Inquiry to the statement of my qualifications and experience set out in my evidence in chief (*EIC*) (dated 9 November 2010).
- 2 I repeat the confirmation given in that statement that I have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court.

PURPOSE OF EVIDENCE

- 3 The purpose of this rebuttal evidence is to respond to certain aspects of the evidence lodged by submitters. Specifically, my evidence will respond to the evidence of:
 - 3.1 Dr Andrea Julian (Botanist, Auckland Council EPA No. 111-12)
 - 3.2 Mr Bill McKay (North Western Community Association; EPA No. 185-1)
 - 3.3 Mr Michael Coote (Forest and Bird Motu Manawa Restoration Group, EPA No. 217-1)
 - 3.4 Ms Hiltrud Gruger (Springhleigh Residents Association; EPA No. 43-1)
 - 3.5 Ms Bernadette McBride (Te Atatu Pony Club; EPA No. 64-1).
- 4 I note that neither of the Section 42A reports prepared by Environmental Management Services (*EMS*) dated 7 and 20 December 2010 raises any issues relating to avifauna. EMS consider that the proposed mitigation of cumulative habitat loss is generally appropriate¹.

DR ANDREA JULIAN

- 5 In her evidence on behalf of Auckland Council, Dr Julian² comments as follows –

“Vegetation clearance timing (Condition A.5) – Consent condition A.5 states that ‘Where practicable, vegetation clearance shall occur outside the bird breeding season of September to December’. It is therefore not required under the proposed conditions that vegetation only be cleared outside the bird breeding season. No bird survey was carried

¹ Section 42A Report, paragraphs 7.7.4 and 7.7.5.

² Dr Andrea Julian Evidence, paragraph 5.2.

out on Traherne Island itself as shown in Figure 3.4 of Technical report G3 'Assessment of avian ecological effects'. In my opinion, it is not necessary to undertake this survey, but only if a precautionary approach is taken during works. In the absence of a comprehensive survey, it needs to be assumed that the threatened and secretive bird species, banded rail and fernbird, that have a stronghold on and around nearby Pollen Island are present on Traherne Island. In my view, vegetation should only be cleared on Traherne Island outside the breeding season of these two species. The condition of consent should be reworded to achieve this by the removal of the words 'Where practicable'."

- 6 In response, I note that no fernbird or banded rail were found within the construction area footprint for the Project as it affects Traherne Island and the Motu Manawa Marine Reserve (*MMMMR*) during the surveys and none have been reported by other parties. The extent of the Traherne Island surveys is shown on Figure 3.4 of Technical Report G.3 to the NORs (*my Report*).
- 7 Banded rail have been reported from Traherne Island South in its southern area, but not fernbirds.
- 8 Both fernbird and banded rail occur in the wider *MMMMR* on the northern side of the motorway, including Pollen Island, but that area is well beyond the construction area footprint.
- 9 There is no issue regarding breeding fernbird on Traherne Island because they have not been recorded on that Island. The only potential issue could be breeding banded rail,³ however, in my opinion their preferential use of the habitat immediately adjacent to the public walkway (pedestrians, cyclists, dogs) and the motorway, as opposed to other less disturbed parts of Traherne Island, is unlikely.
- 10 I agree however that a precautionary approach would be to undertake vegetation clearance at Traherne Island outside the bird breeding season. In other areas I remain of the opinion that vegetation clearance should only be required to occur outside the bird breeding season where that is practicable.
- 11 Caucusing with Dr Julian has resulted in an agreed, amended Avian Condition A.5 which reflects this precautionary approach. That amended condition is attached to this evidence as **Annexure A**.

³ Banded rail is an "at risk" species (but not threatened) that is considered to be "naturally uncommon" (with the caveat of "data poor").

MR BILL MCKAY

- 12 In his evidence,⁴ on behalf of the North Western Community Association, Mr McKay seeks the following relief (in relation to birds):

“A monitoring programme for at-risk species (such as NZ Dotterel) and trapping programme for pests (such as introduced mammals), especially in riparian areas and the Marine Reserve”.

- 13 I note that establishing the baseline condition of populations of “at risk” and “threatened” species of birds is proposed by the NZTA to be part of the MMMR Application under the Marine Reserves Act. Ongoing monitoring for at risk species using areas well beyond the construction footprint is not warranted in my opinion. The conclusion of my Report⁵ was that following completion of the works, coastal birds will acclimatise to the altered situation and continue to use causeway and motorway edges. The key feeding habitats will not be reduced significantly, no major high tidal roost for wading birds will be affected, no breeding area is affected and shags will continue to use the built structures for roosting. Sectors 6 to 9 of the Project, including the riparian areas, are colonised by common species of birds that are not of conservation concern (and which are likely to benefit in any event from the mitigation planting proposed). Monitoring of at risk and threatened species will occur in directly affected areas in the Pony Club grounds and at the temporary Causeway roosting structures.
- 14 Animal pest control along the MMMR frontage is already provided for in Condition A.6.⁶

MR MICHAEL COOTE

- 15 In his evidence⁷ on behalf of the Forest and Bird Motu Manawa Restoration Group, Mr Coote seeks the following changes –

“Recognition that there will be actual and potential adverse effects on Motu Manawa (Pollen Island) Marine Reserve (as opposed to the motorway works footprint only), and these adverse effects must be catalogued (it appears from a number of evidence in chief reports that the area looked at involves ONLY that area immediately in the footprint of the works);

Potential and real effects on the avian life and any other flora and fauna in the Motu Manawa (Pollen Island) Marine Reserve are listed and ways these adverse effects will be minimised, remedied or avoided be made. (In the evidence in chief report #32 on avian biology, for example, it is said that

⁴ Bill McKay Evidence, paragraph 8.10.

⁵ EIC, paragraph 29.

⁶ Refer Annexure A.

⁷ Michael Coote Evidence, paragraph 8.

“banded rail were not recorded within the project area” and yet Forest and Bird field trips have definitely recorded seeing fresh banded rail prints at Traherne Island, so throwing confusion on what exactly is the “project area” and what is the “area effected by the motorway works”. Similarly the same report goes on to say that there are no fernbirds recorded in the project area, and again, a Forest and Bird field trip has recently (October 2009) seen and heard fernbirds on Pollen Island. Therefore we stress that evidence should cover the immediate area in total which the motorway works may likely have effects on);”

- 16 In response I note that the areas surveyed for avifauna are clearly shown on Figure 3.4 of Technical Report G.3 to the NORs (*my Report*). The “Project Area footprint” is clearly defined on Figure 7.1 of that Report. The surveys focused on the construction footprint where habitat will be physically removed, either temporarily or permanently. For example my EIC states⁸ that marsh bird surveys were along the edges of Traherne and Pollen Islands. The fact that banded rail has been recorded in the southern end of Traherne Island by Forest and Bird is stated in my Report. That Report also states that both fernbird and banded rail occur on Pollen Island.⁹
- 17 Wider ranging effects such as noise and light that will affect areas beyond the construction area footprint have also been analysed in my Report.¹⁰ Accordingly, I disagree with Mr Coote that the actual and potential effects on the MMMR have not been catalogued and addressed. In my opinion this has been done adequately and appropriately.
- 18 I consider that wider disturbance effects of the Project on avifauna will be minor and consider that the benefits of the proposed pest control within the MMMR and Traherne Island will be significant.

MS HILTRUD GRUGER

- 19 In her evidence, on behalf of the Springhleigh Residents Association, Ms Gruger comments as follows –

“The breeding and feeding sites of the several native bird species, including the NZ Dotterel are affected. ” ¹¹

“Birdlife will be affected and intertidal habitats restricted. There will be loss of habitat and scarcity of resources for bird species including the NZ dotterel as a result of the proposal. Mitigation is not proposed.” ¹²

⁸ Refer my EIC, paragraph 14.

⁹ Refer my Technical Report G3 section 4.3.

¹⁰ Refer my Technical Report G3 section 7.7 – Disturbance Effects.

¹¹ Hiltrud Gruger Evidence paragraph 8.4.

¹² Hiltrud Gruger Evidence paragraph 8.7.

- 20 No NZ dotterel would be adversely affected by the construction area footprint and no shorebirds have been recorded breeding in that area. NZ dotterel breed on the northern shellbanks of the MMMR and the proposed pest control will increase the quality of that breeding habitat. Accordingly I disagree that NZ dotterel will be adversely affected.
- 21 The overall conclusion of my Report and evidence is that the effect of the Project on terrestrial, coastal and marsh birds will be minor and will not result in a decrease in the diversity of birdlife. Any effects that do result are likely to be temporary and low level and would be mitigated by the proposed Avian conditions.

MS BERNADETTE MCBRIDE

- 22 In her evidence on behalf of the Te Atatu Pony Club Ms McBride comments¹³ as follows –

“We suggest more consultation is required on bird habitat. We believe that the birds settle everywhere over the Pony Club lease and on reserve land that is not mown. The wetland area in the Eastern/Motorway paddock arises from poorly completed works by roading construction in 2008/2009. The flooding is caused by these works and no remedial action has ever been taken. We have recent photos of Dotterels nesting in the area between Construction Yard 1 and the clubhouse, and of ducklings and their parents in Construction Yard 1”. [Photographs are attached to Ms McBride’s evidence].

- 23 From the surveys undertaken to date, a reasonably consistent pattern of roosting by the key bird species has been recorded at high tide (although that may alter at times according to the locations of paddocks occupied by horses at the time of the survey and the height of grass and weeds). In general the oystercatchers have been recorded throughout the Pony Club area at various times and are less susceptible to disturbance generally and by horses in particular. The smaller NZ dotterels, banded dotterels and wrybills however generally utilise the southern-most (pylon) paddock beside SH 16 and the more elevated coastal edge paddocks along the escarpment.
- 24 I understand that an alternative layout for Construction Yard No. 1 has been proposed to address the Pony Club’s concerns. In my opinion that alternative layout would not adversely affect roosting birds.
- 25 I also note that the “Dotterels” shown in Ms McBride’s photographs are spur-winged plovers. This is a common, self-introduced native species that is not threatened or at risk. No other shorebirds utilised the Pony Club grounds for breeding over the 2010-11 season even though a large area had been earthworked and was essentially bare soil. A pair of paradise shelduck (gamebirds which are not threatened or at risk) raised

¹³ Bernadette McBride Evidence, paragraph 5(b)(iii).

four juveniles within the Club's grounds. As a result I disagree that dotterels have been recorded utilising the Pony Club grounds for breeding.

- 26 **Annexure B** to my rebuttal evidence provides a complete and updated summary of birds recorded within the Club grounds at high tide.¹⁴
- 27 Finally, I note that I am also recommending minor amendments to conditions A.3 and A.6. These amendments are set out in Annexure A and are for clarification purposes and the correction of minor typographical errors.



Graham Don

¹⁴ Surveys completed to establish baseline data with which, during construction, monitoring survey data will be compared.

**ANNEXURE A –
AMENDED AVIAN CONDITIONS**

A.1	The NZTA shall finalise, and implement through the CEMP, the Ecological Management Plan (ECOMP) submitted with this application <u>to include the matters set out in Condition A.2 to A.64.</u>
A.3	<p>The NZTA shall employ a suitably qualified ecologist to undertake monitoring of the roosting areas located at:</p> <p>(a) The existing high tide roost in Harbourview-Orangihina Park;</p> <p>(b) The temporary construction roosting structures(s) pursuant to Condition A.23.</p> <p>Monitoring shall be undertaken on a monthly basis, with a monitoring report prepared on a quarterly basis. The monitoring report shall be made available to the Auckland Council and for Department of Conservation upon request.</p>
A.5	<p>Where practicable, vegetation clearance shall occur outside the bird breeding season of September to December.</p> <p><u>Vegetation clearance at Traherne Island shall occur outside the bird breeding season of September to December. Elsewhere, vegetation clearance shall occur outside the bird breeding season of September to December where practicable.</u></p>
A.6	<p><u>Animal pest control shall be undertaken on Traherne Island (northern and southern sides) and on the coastal marine area (CMA) frontage of SH16 from Traherne Island North to Whau Creek, and on the southern side of SH16 from Traherne Island South to Whau Creek.</u></p>

ANNEXURE B – WATERVIEW - UPDATED TE ATATU PONY CLUB BIRD DATA

Common Name	25.3.10	30.3.10	15.4.10	19.4.10	20.4.10	30.4.10	14.5.10	20.5.10	15.6.10	29.6.10	15.7.10	29.7.10	26.8.10	27.8.10
banded dotterel, tuturiwhatu*	54	77	2	-	-	89	81	81	75	102	117	110	12	8
black-backed gull, karoro	-	-	-	-	-	-	-	-	-	2	2	-	-	-
N.Z. dotterel, tuturiwhatu*	20	14	16	9	7	11	10	6	5	11	3	11	-	3
paradise shelduck, putangitangi	-	-	-	-	-	-	-	-	-	-	-	-	-	-
red-billed gull, tarapunga*	-	-	-	-	-	-	-	-	8	10	-	-	-	-
South Island pied oystercatcher, torea†	-	-	-	121	69	48	-	186	270	329	351	164	46	71
spur-winged plover	-	-	2	2	-	2	5	2	2	6	1	1	2	2
variable oystercatcher, toreapango†	-	-	-	-	-	-	-	-	4	10	7	-	-	2
white-faced heron	-	-	1	-	1	1	-	1	6	-	-	-	1	-
wrybill, ngutuparore*	-	9	-	-	-	-	-	-	-	-	-	-	-	-
Total	74	100	20	132	77	151	96	276	458	474	481	300	61	86

Common Name	9.9.10	14.9.10	26.10.10	27.10.10	8.11.10	24.11.10	9.12.10	23.12.10	6.1.11	20.1.11	XXX	XXX	XXX	XXX
banded dotterel, tuturiwhatu*	-	-	-	-	-	-	-	-	31	38				
black-backed gull, karoro	1	1	-	-	-	-	-	-	-	1				
N.Z. dotterel, tuturiwhatu*	-	-	-	-	3	2	-	3	1	4				
paradise shelduck, putangitangi	-	-	2 + 7 J	2 + 7 J	2 + 8 J	-	2 + 4 J	2 + 4 J	6 (a)	-				
red-billed gull, tarapunga*	-	-	-	-	-	-	-	-	-	-				
South Island pied oystercatcher, torea†	36	5	-	-	-	-	-	-	-	-				
spur-winged plover	5	3	-	2	1	3	2	-	4	2				
variable oystercatcher, toreapango†	-	-	-	-	-	-	-	-	-	-				
white-faced heron	-	-	-	-	-	-	-	1	-	2				
wrybill, ngutuparore*	-	-	-	-	-	-	-	-	-	-				
Total	42	9	9	11	14	5	8	10	42	47				

* threatened species † at risk species J juvenile (a) four offspring - all males

All results at high tide (3.0 – 3.4 m)

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