

Before the Board of Inquiry  
Waterview Connection Project

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*in the matter of:* the Resource Management Act 1991

*and*

*in the matter of:* a Board of Inquiry appointed under s149J 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

Expert Caucusing Joint Report to the Board of Inquiry – Planning

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Dated: 8 March 2011

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## EXPERT CAUCUSING JOINT REPORT TO THE BOARD OF INQUIRY

### INTRODUCTION

1. This joint signed report is written in response to the Board of Inquiry Direction at the Hearing on 1 March 2010. The Direction sought that the planning experts undertake caucusing on the Proposed Conditions dated 3 or 4 March 2011, on the topic of **planning**.
2. A caucusing meeting **was held on 4 March 2011**.
3. Attendees at the meeting were:
  - 3.1. Amelia Linzey (Planning consultant for the NZTA)
  - 3.2. Tania Richmond (Planning consultant for Auckland Council and Auckland Transport)
  - 3.3. Pam Butler (Planner for KiwiRail) – by telephone, signed off conference 12.50pm (addressing paragraphs 8 and 9 below only)
  - 3.4. Orchid Atimalala (Planning consultant for Housing New Zealand Corporation) – left at 3pm
  - 3.5. Poul Israelson (Planning consultant for Unitec)
  - 3.6. Murray Kivell (Planning consultant for the Board of Inquiry and author of the Section 42A report)
  - 3.7. Jenny Vince (Planning consultant for the NZTA)
  - 3.8. Mike Foster (Strategic Planning Advisor for the NZTA)
4. Duncan McKenzie (Planning consultant for Living Communities) was invited to the planning caucusing but did not attend.

### SCOPE OF CAUCUSING

5. Given the limited time for caucusing and the scope of matters to be considered (the proposed Conditions submitted in the third supplementary evidence of Ms Linzey 1 March 2011)<sup>1</sup>, the session focused on those Conditions where amendment could be agreed by all participants. Where agreement on a condition has not been reached this has been recorded in this report.
6. It was considered by Ms Linzey, Mr Kivell, Ms Richmond and Mr Foster that a further caucusing session between the Planners, once the Board had indicated the key directions of its decision would be beneficial, particularly for the following reasons:
  - 6.1. There are a number of conditions where the scope of conditions would likely require amendment once the direction of the Board's decision was understood. This is particularly in relation to matters of the Northern and Southern ventilation buildings and stacks; and
  - 6.2. There are a number of conditions where amendment may be

<sup>1</sup> Compiled Proposed Conditions dated 1 March 2011, referred to as the 'green-line set'.

required to 'narrow' the intent of the Conditions. For example, in the proposed Open Space conditions (e.g. Conditions OS.4(a) and OS.8) where alternatives are currently incorporated in the Conditions, or in proposed Condition DC.8(g); and

- 6.3. The proposed schedule of which conditions apply to which designations or consents (Schedule B).

## CONDITIONS SOUGHT BY SPECIFIC SUBMITTERS

### Resolved

7. Proposed new general designation condition in relation to Rail by KiwiRail. There was general acceptance on the intent of this Condition. However, it was noted that this was subject to confirmation by Orchid Atimalala on the position from Housing New Zealand Corporation (Housing NZ).
8. A proposed wording for a new Condition has been proposed by KiwiRail:

*A number of conditions of the designation require works on land that is to be acquired by the NZTA to provide land for a rail corridor to replace existing rail land required for the Project ("replacement rail land"). Any conditions applying to the replacement rail land must be met by the NZTA up until (and if) construction of rail commences on that land. Once construction of rail commences on the replacement rail land, any conditions relating to the replacement rail land shall cease to have effect.*

*Advice note: The expectation is that the planning process authorising the construction of such rail will have imposed appropriate conditions to apply in respect of the rail corridor and any mitigation and interface with the Waterview Project.*

9. Further to discussions between HNZA and KiwiRail immediately following the caucus session, and as per the legal submission for HNZA to the Board of Inquiry on Monday 7<sup>th</sup> March; agreement has been reached subject to a minor amendment to the above condition as presented by KiwiRail in the caucus session. The **new Condition DC.11** (on Page 6<sup>2</sup>) as agreed is:

*A number of conditions of the designation require works on land that is to be acquired by the NZTA to provide land for a rail corridor to replace existing rail land required for the Project ("replacement rail land"). Any conditions applying to the replacement rail land must be met by the NZTA up until (and if) construction of rail commences on that land. Once construction of rail commences on the replacement rail land, under a new or altered rail designation imposed through a publicly notified process, any conditions relating to the replacement rail land shall cease to have effect.*

<sup>2</sup> Throughout page references are to the green-line set of proposed conditions, 1 March 2011.

Advice note: The expectation is that the planning process authorising the construction of such rail will have imposed appropriate conditions to apply in respect of the rail corridor and any mitigation and interface with the Waterview Project,

10. Housing NZ sought specific change to the CNVMP in respect of the specific notification requirements for Housing NZ in the case of any tenant relocations from its properties. Ms Atimalala wanted to ensure that this amendment is not lost. Given the proposed amendment to Condition CNV.10 (refer paragraph 34), it was agreed by all that a new condition to cover all other properties was appropriate. It was agreed to include proposed **new Condition CNV.10b**:

For all other properties, if noise and vibration monitoring of the tunnelling works for the Project (in accordance with CNV.1), indicates that the noise or vibration criteria of Conditions CNV.2(c) or CNV.4 will potentially be exceeded, then the process set out in the CNVMP will be undertaken including Site Specific Noise Management Plans. Where relocation for residents is proposed, notification of such relocation with residents and property owners will be undertaken in accordance with the processes contained in the CNVMP.

11. In response to the evidence of Mr Israelson, amendment has been made to the proposed Conditions and these amendments are reflected in the green-line set (1 March 2011). It is recorded that:

- 11.1. Proposed **Condition PI.4** (page 20) is agreed and accepted by Mr Israelson, Mr Foster and Ms Linzey and no issues were identified by others;
- 11.2. Proposed **Condition CNV.1(xiv)** (page 30) is agreed and accepted by Mr Israelson, Mr Foster and Ms Linzey as addressing the concerns of Unitec (further discussion on this condition is provided in paragraph 33 below);
- 11.3. Proposed **Condition CNV.2(d)** (page 31) is agreed and accepted by Mr Israelson, Mr Foster and Ms Linzey and no issues were identified by others;
- 11.4. Proposed **Condition ON.10** (page 38) is agreed and accepted by Mr Israelson, Mr Foster and Ms Linzey and no issues were identified by others;
- 11.5. Proposed **Condition OS.12** (page 59) is agreed and accepted by Mr Israelson, Mr Foster and Ms Linzey and no issues were identified by others. It was further noted and agreed that cross reference in TT.3 to this Condition was appropriate;
- 11.6. Proposed **Condition SO.1** (page 60) is agreed and accepted by Mr Israelson, Mr Foster and Ms Linzey as addressing the concerns of Unitec;
- 11.7. Proposed **Condition S.7d** (page 80) is agreed and accepted by Mr Israelson, Mr Foster and Ms Linzey and no issues were identified by others. It was however agreed to add in Schedule A of the Conditions, reference to the plan tabled at the Hearing on 2 March 2011 (Exhibit 4) showing the Unitec buildings, as

follows:

*(d) Unitec Buildings 76, and 310-313 (as per Unitec Site Plan in Schedule A, Row 31);*

12. In response to evidence on behalf of Housing NZ and caucusing, a number of amendments have been proposed to Conditions and it is recorded that:

12.1. The intent of proposed **Condition PI.2** (page 19) is agreed and accepted by Ms Atimalala, Mr Foster and Ms Linzey but the following minor correction is proposed and accepted as appropriate by all:

*"... Ministry of Social Development, (including Housing New Zealand) and other organisations representing...";* and

*"... throughout the construction and monitoring periods (as defined prescribed in the designation and consent conditions";*  
and

*"... and provided at least 20 working days prior to construction commencing, to the Auckland Council, Working Liaison Group, and the Community Liaison Group(s)..."*

12.2. The proposed **Figure PI.A** (page 23) is agreed and was considered appropriate for the understanding of the Conditions by all.

12.3. It was accepted as appropriate by all that the following clarification to proposed **Condition SO.1(e)** (page 60), would provide more certainty to the Conditions:

*"...*

*(e) Learning and teaching opportunities for educational facilities to participate in Project works associated..."*

## **EXPLANATION TO CONDITIONS**

### **Resolved**

13. The following amendments were suggested by various persons and agreed by all:

13.1. Explanation: acknowledged that this is explanatory text to the Conditions and has no statutory effect

13.2. Explanation, Page i: Minor amendment "The following integrated set of conditions relate to designation and resource consents for the construction, operation..."

13.3. Explanation, Page i: Minor amendment "The community will be given the opportunity to be actively..."

13.4. Explanation, Page ii: Add reference to a 'Schedule B', that would provide a summary of which conditions relate to which

consents / designations and the duration of specific conditions, to the end of paragraph 1 (this Schedule was not developed in caucusing and it was considered appropriate to defer this until the Board's decision was drafted).

## RESOURCE CONSENT CONDITIONS

### Resolved

14. Proposed **new Designation Condition DC.11** (page 6) agreed by all:

*Following completion of construction, the NZTA shall give notice to the Council in accordance with section 182 of the RMA for the designation to be altered to remove those conditions no longer required for long term operation and maintenance of the Project.*

This amendment was considered appropriate to reduce the bulk of conditions once construction activities were completed (particularly given the scale of these conditions which are to be attached to the District Plan).

15. Proposed **new condition RC.2** (page 9) to provide a new schedule of which conditions relate to which consents (Schedule B) including the consent number, the conditions that apply and the duration of consents (not drafted at caucusing session).

## GENERAL DESIGNATION CONDITIONS

### Resolved

16. Proposed **Condition DC.1** (page 1), be revised as follows:

*"Except as modified by the conditions below ~~and subject to final design~~, the works shall be undertaken in general accordance with the..."*

17. Proposed **Condition DC.5** (page 3), minor revision:

*"In the event of any dispute or disagreement arising as to any Auckland Council Manager certification / approvals..."*

18. All agreed that the intent of the defined level of detail as set out in **Figures DC.A or DC.B** needs to be included in the conditions. It was noted that these plans may however need to be amended depending on the decision of the Board of Inquiry.
19. Agreed to add a glossary, describing the various structural elements of the Outline Plan of Works (e.g. the ventilation building, control building and stack), to proposed **Conditions DC.8 and DC.9** (not drafted in caucusing).
20. All agreed that **Condition DC.9(j)** (page 6) be amended to delete "So far as practicable" (acknowledging this is dependent on the Board direction on the location of this operation / control building).

### Unresolved

21. There was no agreement from Ms Richmond that DC.6 covers

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everything that needs to be covered by the proposed OPW process, in particular whether there were additional structures other than northern and southern ventilation buildings and stacks that may require an outline plan.

22. Ms Richmond has undertaken a subsequent review of the Plans and considers that further detail is required for the Richardson Road Bridge (sheet 480 of the structural plans in F.8, see Schedule A, Row 9).
23. It was agreed by Ms Linzey and Ms Richmond that this matter could be appropriately addressed by amendment to the condition relating to the Network Integration Plan (Condition OT.1) or the addition of a new condition (Condition OT.3). This was agreed to be deferred to subsequent caucusing session between these parties.

## **CEMP CONDITIONS**

### **Resolved**

24. Agreed the following with respect of proposed **Condition CEMP.7** (page 14):
  - 24.1. *"... The layout drawings shall be provided to the Auckland Council at least 20 working days prior to ~~their development~~ the occupation of the yard..."*
  - 24.2. All agreed to retain wording "as far as practicable" in respect of CEMP.7(b) to recognise that the siting of activities is a first mitigation measure or option for noise mitigation set out in the CNVMP, with other alternatives for mitigation available if this alternative is not practicable.
25. Agreed to amend proposed **Condition CEMP.10** (page 15), to include reference to Condition CEMP.1 for timing of delivery of the Hazardous Substances Management Plan, by drafting as follows:
 

*"The NZTA shall finalise and implement the Hazardous Substances Management Plan (HSMP), through the CEMP (as per Condition CEMP.1)..."*
26. Agreed to amend proposed **Condition CEMP.14** (page 16) as per duplicate condition DC.5. It was noted that this Condition is a duplicate of DC.5 for the resource consents (rather than designations) and such duplication may not be required if the suite of Conditions is retained in an 'omnibus' form.
27. Agreed to amend proposed **Condition CEMP.15** (page 17) as follows:
 

*"The EISDMP shall be provided to the Auckland Council and for review ~~and certification that it includes~~: ...*

*(d) Confirmation that Transpower has been provided a copy of the EISCDMP for their review at least 20 working days prior to construction."*
28. Ms Linzey proposed a new **Condition CEMP.16** (page 17) to respond to concerns raised by Ms Rhynd in stormwater caucusing as follows:

*"The NZTA shall liaise with the providers of infrastructure service networks (including, but not limited to, water, gas, stormwater, wastewater, power and telecommunications), to develop methodologies and timing for necessary services relocation required for the Project, with the objective of minimising disruption to the operation of these networks and the environmental effects of any service relocations during construction of the Project.*

*Advice Note: It is noted that if separate resource consents are required for service relocations (if any), such consents will be obtained before construction commences in the relevant area, and any effects of those relocations would be considered at that time."*

## **PUBLIC INFORMATION CONDITIONS**

### **Resolved**

29. Agreed to amend proposed Condition P1.6 to move the Outline Plan of Works condition (c) to be first, to acknowledge that there is a range of opportunities for public input in the various matters identified in this Condition and to cross reference this to Conditions DC.8(k) and DC.9(h) which state that the outcomes from this consultation (the views and concerns expressed) will be reported to Auckland Council in their consideration of the OPW. Therefore the **Condition P1.6** (page 22) be amended as follows:

*The Community Liaison Group(s) shall be provided opportunities to review and comment on the following (amongst other things):*

- (a) The Outline Plan of Works detailing designs for the northern and southern ventilation buildings and stacks (the outcomes of this consultation will be reported in accordance with the processes required in DC.8(k) and DC.9(h));*

## **TEMPORARY TRAFFIC CONDITIONS**

### **Resolved**

30. Agreed to amend proposed **Condition TT.1(b)** (page 24) as follows:

*"The NZTA shall update and finalise the Construction Traffic Management Plan...*

- (b) Include measures to avoid road closures and restrictions of vehicle, bus, cycle and pedestrian movements, as far as practicable, noting the particularly vulnerabilities and sensitivities of pedestrian diversions and restricted conditions;*

- (c) Where road closures or restrictions cannot reasonably be avoided, the particular vulnerabilities and sensitivities of pedestrian diversions and restricted conditions shall be taken into account in the planning of any closures or restrictions.*



## OPERATIONAL TRAFFIC CONDITIONS

### Resolved

31. Agreed to amend proposed **Condition OT.1** (page 27) as follows:

*"The NIP will consider and identify address: ..."*

32. Minor correction to proposed **Condition OT.2**, page 28 was agreed:  
*"in respect of Condition OT.2(ed)"*

## NOISE AND VIBRATION CONSTRUCTION CONDITIONS

### Resolved

33. Agreed to amend proposed **Condition CNV.1** (page 34) as follows:

*The CNVMP shall describe the measures adopted to ~~as far as practicable meet~~:*

(a) *the noise criteria set out in Conditions CNV.2 and CNV.3 below; and*

(b) *the vibration criteria set out in Condition CNV.4 below; or*

(c) *where (a) or (b) cannot be met, the process that will be followed to appropriately mitigate noise and vibration effects.*

34. Agreed to amend proposed **Condition CNV.10** (page 34) as follows:

*If noise and vibration monitoring of the tunnelling works for the Project (in accordance with CNV.1), indicates that the noise or vibration criteria of Conditions CNV.2(c) or CNV.4 will potentially be exceeded and that temporary relocation will be offered for occupants at 1510 Great North Road, then relocation (and temporary transportation) shall be arranged at 1510 Great North Road for occupants (with at least 1 months' notice prior to relocation). Any accepted offer of relocation is to be in place prior to tunnelling works commencing within 50m of the building at 1510 Great North Road.*

35. Agreed to amend proposed **Condition CNV.12** (page 34) as follows:

*The SSNMPs (required by Condition CNV.1(xv) above, shall be submitted to the Council Noise Officer and Council Compliance Officer for review and certification at least 5 7 days prior to the proposed works commencing. Certification or otherwise will be provided by the Council within 5 3 working days of receipt of the SSNMP. Works will not commence until certification is received from the Auckland Council.*

### Unresolved

36. Ms Richmond considered that given the amendments to CNV.1(c) the words 'as far as practicable' needed to be deleted from CNV.2 and CNV.4. Ms Linzey did not accept this suggested amendment as the CNVMP and particularly the Site Specific Noise Management Plan process of Condition CNV.1 would be followed if the criteria could not practicably be met (which is set out in the amendment to Condition

CNV.1).

## **OPERATIONAL NOISE CONDITIONS**

### **Resolved**

37. Agreed to amend proposed **Condition ON.4(a)** (page 36) to refer to a "suitably qualified expert" rather than "~~suitably qualified planner~~".

38. Agreed to amend proposed **Condition ON.7** (page 37) as follows:

(a) *Prior to commencement of construction of any sector of the Project in the vicinity...*

(b) *If the owner(s) of the Category C Building approve... then no more than six months prior to commencement of construction in any sector...*

## **CONSTRUCTION AIR QUALITY CONDITIONS**

### **Resolved**

39. Agreed to amend proposed **Condition OA.8** (page 47) as follows:

*"The Peer Review Panel shall... provide a summary report ... to NZTA, Auckland Council and the ~~Public Information~~ Community Liaison Group(s)..."*

## **LANDSCAPE AND VISUAL CONDITIONS**

### **Resolved**

40. Agreed to amend proposed **Condition LV.4** (page 51) as follows:

*Should the landscaping be implemented in stages (depending on construction phases), landscaping ~~may~~ shall be implemented in accordance with this Condition ~~after the first planting season of~~ for each stage unless subsequent construction staging requires use of the proposed landscaping area.*

### **Unresolved**

41. Ms Richmond considers that LV.1(a) and LV.2(a) require amendment to specify more clearly the outcomes being sought by the conditions and an indication of how these outcomes were being achieved by the plans (particularly the integration of the Plans to the UDLF (Section B)). It was agreed by Ms Richmond and Ms Linzey that this could be progressed in the specific caucusing proposed (see paragraph 43 below).

## **OPEN SPACE CONDITIONS**

42. These Conditions were only reviewed in terms of structure and application (noting the wider issues identified as unresolved in the Open Space Caucusing).

43. A separate and specific caucusing is proposed to be undertaken

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regarding the open space conditions as they relate to Auckland Council. This caucusing is proposed to be between the following: Ms Richmond, Ms Linzey, Mr Little and Mr Beer.

## **SOCIAL CONDITIONS**

### **Unresolved**

44. The following comments were made in respect of Proposed Condition SO.2 (page 60):

- 44.1. Mr Kivell considered that there should be no infringement of the criteria in relation to construction noise for adjacent schools or childcare facilities;
- 44.2. Ms Linzey noted that there is a substantial proposal for redevelopment of the Waterview Primary School which should address issues of internal noise criteria for teaching facilities (as set out in Condition CNV.2(d)). For construction noise, the intent of this Condition is to highlight one particular consideration in the hierarchy of mitigation options considered and defined in the CNVMP for schools and childcare facilities.
- 44.3. Ms Linzey proposed the following amendment to Condition SO.2 (page 60) for consideration by others:

*In addition to Condition SO.1 (b) above, where noisy construction activities (that are projected to exceed the Noise Criteria in the CNVMP) are proposed in close proximity or adjacent to schools / childcare centres, the NZTA shall, when preparing the SSNMP (in accordance with Condition CNV.1), give specific consideration to options to carry out these works outside school hours or during school holidays as a mitigation option.*

## **VEGETATION**

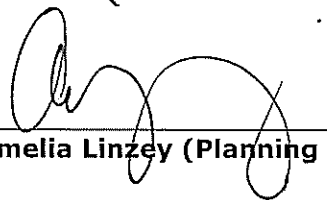
### **Unresolved**

45. Mr Kivell and Ms Richmond sought clarification as to why proposed **Condition V.8** (page 64) was not also increased to 10 years. Ms Linzey noted pest and weed management is not directly comparable to landscape maintenance.

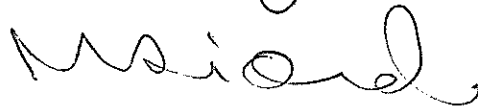
### **Resolved**

46. Agreed to amend proposed **Condition V.17** (page 66) to include reference to the Schedule A for the UDL Plans.

Date: 4 March 2011



**Amelia Linzey (Planning consultant for the NZTA)**



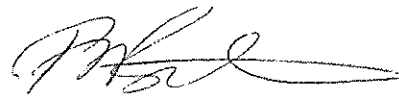
**Tania Richmond (Planning consultant for Auckland Council and Auckland Transport)**



**Orchid Atimalala (Planning consultant for Housing New Zealand Corporation)**



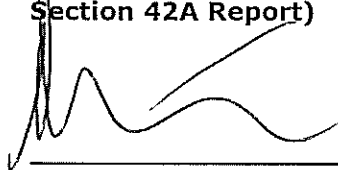
**Poul Israelson (Planning consultant for Unitec)**

 08/03/2011

**Pam Butler (Planner for KiwiRail)**



**Murray Kivell (Planning consultant for BOI and author of the Section 42A Report)**



**Mike Foster (Strategic Planning Advisor for NZTA)**