

## **Before the Board of Inquiry**

### **Waterview Connection Project Registry**

**In the matter of** the Resource Management Act 1991

**And in the matter of** a Board of Inquiry appointed under Section 149J of the Resource Management Act 1991 to decide Notices of Requirement and Resource Consent applications by the New Zealand Transport Agency

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## **Memorandum of Counsel on Behalf of Unitec Institute of Technology**

**15 June 2011**

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## **BELL GULLY**

BARRISTERS AND SOLICITORS

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1. This Memorandum is written in response to the Board of Inquiry's (the **Board**) Draft Report and Decision issued on 25 May 2011 (**Draft Decision**). This Memorandum addresses the matter of the Alford Bridge and the associated Cycle way / Pedestrian access that is planned to cross Unitec Institute of Technology (**Unitec**) land.

**Proposed Social Conditions SO.14 - Financial contribution for the construction of the pedestrian and cycle way**

2. Unitec is neutral to the inclusion of condition SO.14 requiring the New Zealand Transport Agency (**NZTA**) to provide a financial contribution for the construction of a pedestrian walkway and cycleway between Waterview and Owairaka/New Windsor, and the Soljak and Alford Bridges (together the **Walkway**).
3. Unitec's land has been identified as an integral part of the Walkway. Option 3 on the Drawing labelled "Potential SH20 – SH16 Concept Options for Cycle Route" (**Option 3**) (a copy of this Drawing is **attached**), which is referenced in condition SO.14(b)(i) shows the path through Unitec land that the Walkway will take. Although Option 3 is only generally indicative, it is clear from the Drawing and the substantial discussion in the Draft Decision regarding the Walkway that Unitec land is anticipated to be in the path of the Walkway.

**Unitec Comments**

4. Unitec agrees with paragraph 2.11 of the Board's direction dated 7 May 2011 (attached as Annexure C to the Draft Decision), that on account of land ownership and resource consenting issues, the Board cannot direct that the Walkway be constructed (although Unitec recognises the purpose of condition SO.14 in the Draft Decision to provide for the Walkway's construction subject to qualifications as discussed at paragraph 5 below). In the Board's own words it stated:

The Board would, if it could, direct the formation of pedestrian and cycle access between these two locations (Waterview and Owairaka/New Windsor), inclusive of some of the bridges mentioned in evidence, in order to provide this mitigation (but not, of course, as mitigation of the Sector 8 part of the Project, because that is

underground). However it cannot do that on account of issues of land ownership and resource consenting.

Therefore the Walkway can only be constructed, and NZTA's financial contribution will only be payable, if consent is forthcoming from all affected landowners.

5. The Walkway is by no means guaranteed and there will need to be a process of engagement between Auckland Council (**Council**) / Auckland Transport and landholders regarding the Walkway as the NZTA financial contribution is only payable subject to Council certifying to NZTA that Council and Auckland Transport have acquired all necessary land, or obtained all necessary resource interests and/or landowner approvals on a permanent basis, acquired sufficient land to form a cycle and pedestrian way to AUSTRROADS standards between Alan Wood Reserve and Unitec, obtained all necessary resource consents for construction and operation of these facilities, and resolved to proceed with the project (i.e. the cycleway, bridges, and pathway extensions noted above).
6. During the Board of Inquiry Hearing, Unitec did not participate in discussions concerning the pedestrian walkway / cycleway option as a mitigation measure to address the adverse effects on passive open space. Unitec would like to take this opportunity to make it clear that it has not acquiesced as to the location of the Walkway as it applies to Unitec land, and the ultimate location of the Walkway on Unitec land (if constructed at all) must be determined in close consultation with Unitec through a separate statutory process.

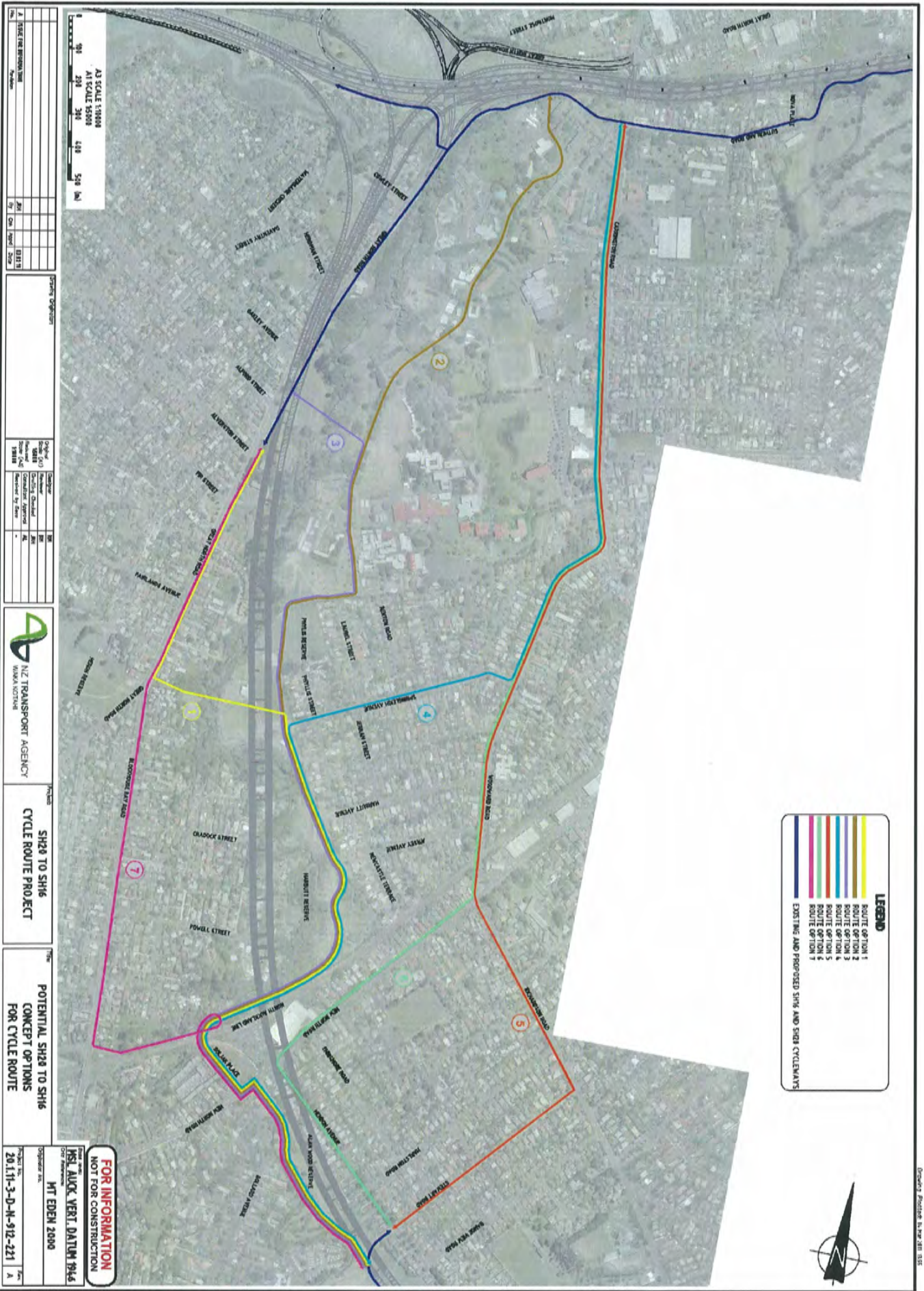
7. It is also advised that some of the Unitec land that is crossed by the Walkway as generally indicated by Option 3, has been earmarked as Treaty of Waitangi Settlement Land for Ngati Whatua, and Unitec does not make any submissions on the behalf of Ngati Whatua. The Walkway as it affects potential Ngati Whatua Settlement Land will need to be discussed with Ngati Whatua in due course.

Dated 15 June 2011

A handwritten signature in blue ink, appearing to be 'D McGregor / J N Gear', written over a horizontal line.

D McGregor / J N Gear

Counsel for the Unitec Institute of Technology



**LEGEND**

- ROUTE OPTION 1
- ROUTE OPTION 2
- ROUTE OPTION 3
- ROUTE OPTION 4
- ROUTE OPTION 5
- ROUTE OPTION 6
- ROUTE OPTION 7
- EXISTING AND PROPOSED SIGN AND SIGN CYCLEWAYS



AS SCALE 1:1000  
 AT SCALE 1:5000  
 0 95 190 285 380 475 570 665

A STATE OF THE ENVIRONMENT	
Category	Score
Visual Quality	1
Heritage	1
Ecology	1
Soil	1
Water	1
Climate Change	1
Other	1
<b>Total</b>	<b>7</b>

Other	
Number	Value
1	1
2	1
3	1
4	1
5	1
6	1
7	1
8	1
9	1
10	1
11	1
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13	1
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**NZ TRANSPORT AGENCY**  
 WAIKATO REGION

**SH28 TO SH16  
 CYCLE ROUTE PROJECT**

**POTENTIAL SH28 TO SH16  
 CONCEPT OPTIONS  
 FOR CYCLE ROUTE**

**FOR INFORMATION  
 NOT FOR CONSTRUCTION**  
 HSLA/CLK\_VERT\_DATUM 1944  
 DATE: 20.11.11-3-D-N-912-221  
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