

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

Memorandum of Counsel on behalf of the **NZ Transport Agency** in relation to the Board of Inquiry's Directions and Schedules dated 6 and 7 May 2011

Dated: 13 May 2011

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

Chapman Tripp
T: +64 9 357 9000
F: +64 9 357 9099

23 Albert Street
PO Box 2206, Auckland 1140
New Zealand

www.chapmantripp.com
Auckland, Wellington,
Christchurch



MEMORANDUM OF COUNSEL ON BEHALF OF THE NZ TRANSPORT AGENCY IN RELATION TO THE BOARD OF INQUIRY'S DIRECTIONS AND SCHEDULES DATED 6 AND 7 MAY 2011

- 1 This Memorandum is written in response to the Minute and Directions of the Board of Inquiry (Board) dated 6 and 7 May 2011 requiring editing and changes to the draft conditions of consent for the Waterview Connection Project. The Board did not direct the precise methodology which the parties' experts were to follow in complying with the Board's directions. This Memorandum is provided to advise the Board what process was followed by the experts and parties in order to achieve the changes to the draft consent conditions as directed by the Board.
- 2 Given the short time available and considerable task involved, a "first cut" of the redrafting and other tasks was undertaken by the NZTA's experts (as suggested by the Board). At the same time, various parties' planning, noise, visual and air quality experts in particular, were consulted with on relevant conditions and input was obtained from the representatives of various parties potentially affected by those conditions (including the Waterview Primary School Board of Trustees, the Ministry of Education, the Auckland Kindergarten Association and Unitec).
- 3 Given the very clear and prescriptive nature of many of the Board's Directions in relation to what changes needed to be made to the draft conditions, it was not considered necessary to convene a meeting of all parties' experts this week. Rather, there have been separate discussions undertaken amongst the parties' experts (for example, the noise and air quality experts), a meeting of some parties' planning and visual experts, and circulation of draft amended conditions to relevant parties/experts.
- 4 Following initial discussions with some parties, a meeting was held on 11 May 2011 with experts and representatives of some of the parties (Auckland Council/Auckland Transport, the Albert Eden Local Board, Living Communities et al, and the NZTA), which included visual and noise experts convened to review the "first cut" of the amended draft conditions prepared by the NZTA's experts.
- 5 Following that meeting, further work was carried out by various experts and a draft of the amended set of conditions, together with a draft cover Response, was circulated to various experts and parties on the evening of May 11th for review, input and comment. The draft Response document was prepared so as to confirm to the Board that all changes contained in its Directions (notably the Schedule) have been made, together with an explanation for any variance. That draft Response was also intended to assist various parties' experts when reviewing the amended set of draft conditions (in particular as to why various changes were made).

- 6 Further expert discussion and parties' review of the documents occurred on May 12th and 13th.
- 7 As a result of that process, the following documents are now lodged on behalf of various experts and parties who provided feedback (noting that various parties' interests are confined only to specific conditions):
 - 7.1 **Annexure A** – Response to the Board of Inquiry's 7 May 2011 schedule of work required on draft conditions of consent and other documents;
 - 7.2 **Annexure B** – Compiled Proposed Conditions dated 13 May 2011 – both a copy showing "purple-lined" changes (**Annexure B1**), and a clean copy (separately spiral bound) (**Annexure B2**). An electronic version in Word format will also be forwarded separately to the Board as requested;
 - 7.3 **Annexure C** – New Construction Yard 1 plan (pursuant to direction 13.2); and
 - 7.4 **Annexure D** – Potential SH20 to SH16 Concept Options for Cycle Route, detailing Option 3, pursuant to new condition for the pedestrian/cycle access between Waterview and Owairaka/New Windsor.

Dated: 13 May 2011



Counsel for the NZ Transport Agency
S M Janissen / C Law

ANNEXURE A – RESPONSE TO THE BOARD’S DIRECTIONS

ANNEXURE A

RESPONSE TO THE BOARD OF INQUIRY'S 7 MAY 2011 SCHEDULE OF WORK REQUIRED ON DRAFT CONDITIONS OF CONSENT AND OTHER DOCUMENTS

This document confirms, very briefly, all the changes made to the NZTA's proposed set of conditions pursuant to the Board's 6 and 7 May 2011 Directions.¹ Where further comment is required (e.g. if there is any variance from the Board's directions), that is noted and explained.

The parties have complied with the Board's directions without commenting on the necessity for or appropriateness of the revised conditions as directed, and without prejudice to their ability to make comments under s149Q of the RMA once the Draft Board Report is released and/or to pursue any appeal under s149V of the RMA once the Final Report and Decision is released.

For ease of reference, this document follows exactly the same number order as the 7 May 2011 Schedule from the BOI.

1. Traffic and Transport

1.1 Nothing required.

1.2 OT.1 – New subclause (b) added to require that works the NZTA is already committed to (i.e. pedestrian/cycleway on Great North Road between Oakley Avenue and the Great North Road Interchange (northbound) and the existing pedestrian/cycle bridge over Great North Road), as shown in the PT and Active Mode Transport Routes drawings (Schedule A, Row 33), will be integrated with wider transport network.

Auckland Council's submission only sought bus priority measures on a portion of Great North Road potentially impacted by the Project (Great North Road is considerably longer than that). The experts understand that the following amended OT.1(a) will give effect to the Board's direction and provide more clarity on the section of Great North Road affected:

“... the NIP will address:

- (a) The commitment of the NZTA to progress bus priority measures northbound on Great North Road as part of the reinstatement of Great North Road, as proposed by Auckland Transport and indicated on plans 'Great North Road Option 1 Proposed Road Marking' (Schedule A, Row 33), subject to the agreement with Auckland Transport.”

¹ The new set of conditions, both a clean copy and a copy showing (in purple) the changes made in compliance with the Board's directions, is contained in **Annexures B1** and **B2** (separately bound).

In the review of the conditions against the caucusing reports (specifically the transport caucusing report), an omission to Condition OT.1 has been identified and a new sub-clause (g) added as follows:

“As part of detailed design, whether or not improvements to the cycle connections (such as underpasses or overbridges) would be feasible to reduce the number of signalised cycle crossings at the Te Atatu Interchange.”

1.3 OT.2 – changes made.

1.4 TT.5 – change made.

1.5 TT.7 – change made.

1.6 TT3(h) – change made.

2 Open space

2.1 The intent of the Open Space Restoration Plans (of which Plan 304 is one) is to show the land subject to the Open Space Restoration Plan process defined in the OS Conditions. These areas will (in the main) become reserve administered by the Auckland Council, following withdrawal of the Designation, as per condition DC.10. On this basis, these plans exclude other land areas, such as the future rail corridor as this will not be returned as open space. However, this is not intended to remove the landscaping proposed in this area, which is indicated in the Urban Design and Landscaping Plans for the Project (of which Sheet 219 is one).

In response to the Board’s comments, the following has been added to the Advice Note to Condition OS.4 for clarification: *“It is also noted that the UDL Plans identify landscaping, planting and other works beyond the Open Space Restoration Plans (refer Conditions LV.1-LV.6, LV.9 and LV.10).”*

2.2 Schedule A, Row 22, fourth column – change made (Rev E has been included).

With respect to the Board’s concern about plans within the same set having different revisions, it is noted that good Quality Assurance (QA) practice for engineering drawings is to issue drawing sets by purpose (in this case 'Issued for Approval', being the national consenting process). Therefore any status of the drawing only changes when the purpose of that drawing has changed (e.g. if it were to be issued for tender or for construction). The revision number of a Plan only changes if the content or detail shown on that particular drawing changes. If there is information being changed on plans which will affect the entire series of drawings then the whole series will change revision number. Otherwise only the relevant individual

drawings will change revision number. This helps to track any changes made on the drawings and is considered general QA practice.

That is the QA process which the NZTA's consultants have followed in this case. Because of this, the revisions of drawing sets are not necessarily all amended at once, as only those plans where there is evidence of change are updated.

In response to the Board's related comment in direction 2.5, the NZTA has now listed the drawings in numerical order in each of the Rows in Schedule A.

Open Space condition (OS.4(e)) has been amended to ensure that all Open Space Restoration Plans incorporate the relevant contents of the PT and Active Mode Transport Routes.

- 2.3 Landscape and Visual condition LV.2(j) has been added to more specifically require the UDL Plans to include *“details of artworks or art through design of structures within the Project (e.g. design detailing of median barriers, bridge railings or safety barriers)”*.
- 2.4 The Board has directed that the various F:16 UDL Management Plan matters are to be made subject to conditions of consent requiring their implementation.

The “Management Plan Approach” items shown on the UDL Plans were *“conceptual [items] only, shown for reference for discussion and agreement with Council through the management plan process (including future cost share arrangements).”* Many of these elements are located either outside the NZTA Project designation or in areas where Auckland Council is the ultimate asset owner. As a result, where now included in conditions, the experts consider that the implementation of those elements must necessarily be made subject to obtaining relevant landowner approval and/or resource consents.

With respect to each of the Sheets the Board has identified, a note is made below of the specific conditions where these additional matters have been included:

- (i) Sheet 210 M1 – M4 (see Condition OS.5(b)(vii)).
- (ii) Sheet 211 M1 – M3 (see comments below re Notes M1 and M2. It is considered that Note M3 is sufficiently provided for in the PT and Active Mode Transport Routes Plans and in Condition OT.1(f) in particular).

- (iii) Sheet 212 M1, M11, M12 and M13 (see Condition OS.5(b)(vii) in relation to M1 and M11, OS.5(b)(v) in relation to M12, and OS.5(b)(vi) in relation to M13)
- (iv) Sheet 218 M1, M2, M4-5, M8-9 (see Condition OS.6(b)(v)).
- (v) Sheet 219 M2 (see Condition OS.6(b)(v)).
- (vi) Sheet 220 M1-5 (see Condition OS.6(b)(vi)).
- (vii) Sheet 221 M1-3, M7-10, M12, M13 (see Condition OS.6(b)(vi)).
- (viii) Sheet 222 M1-2, M4-6 (see Condition OS.6(b)(vi). Note, M5 is already provided for through the SEV conditions (STW.20 and STW.21).
- (ix) Sheet 223, M1, M3 (see Condition OS.6(b)(vii)).
- (x) Sheet 224 M1 (see Condition OS.5(b)(vii)).
- (xi) Sheet 229 M1 (see condition OS.7(b)).

In respect of inclusion of the Management Plan Notes, specifically on Sheet 211 Notes M1 and M2, the following comments are made:

Notes M1 and M2 have not currently been included in the revised Proposed Conditions (13 May 2011) because the pathways proposed do not link to any existing pathways within Eric Armishaw Park.

If the Board is of a mind that the NZTA should undertake both the works of Notes M1 and M2 on Plan 211 and further work within Eric Armishaw Park to complete the walkway or boardwalk linkage, a further revision to Condition OS.16 would be required, and the following is put forward as possible wording:

“The NZTA shall:

- (a) Subject to obtaining necessary resource consents and Auckland Council landowner approval, provide a 3m all-weather shared cycle/pedestrian path with boardwalks as required, to provide a continuous shared cycle/pedestrian path from the Great North Road Interchange through into Eric Armishaw Park. The works shall be sufficient to connect this path to the existing walkways and paths within Eric Armishaw Park (e.g. to the playground or the entrance to Eric Armishaw Park at Walker Road); and
- (b) Provide the pedestrian connections to Berridge Avenue, Albert Street and Montrose Street as shown on the PT and Active Mode Transport Routes (Sheet 109) (Refer Schedule A, Row 22),

once these areas are no longer required for construction.”

- 2.5 The reference numbers to all the drawings in Schedule A have been checked and corrected.

The BOI noted that *“for ease of enforcement, it would be better if NZTA listed the drawings [in Schedule A] in numerical order in each of the rows, rather than grouping them by revision, even if in some cases some extra rows are needed due to single pages being updated”*. That has now been done.

- 2.6 OS.5(a) – change made to delete provision of a playing field at Waterview Reserve. With respect to provision of such a field at Phyllis Reserve, the Auckland Council confirms that it seeks an equivalent financial payment in lieu,² as now provided for in amended Condition OS.5(b). (Phyllis Reserve is owned by Council and is not designated by the NZTA.) The condition has been worded accordingly.

OS.6 – change made to provide for the layout at Valonia Reserve as proposed by the NZTA.

OS.5(c) – addition made to include reference to provision of a skate park, BMX bike track and a mountain bike track in Waterview Reserve, subject to obtaining any resource consents required and landowner (Auckland Council) approval. The parties understand that a BMX bike track is different to a mountain bike track. It is not clear if the Board would like one or both tracks. Both have been referred to in the condition for the Board’s consideration.

OS.6(b)(iv) – addition made to include reference to provision of a skate park in Alan Wood Reserve, subject to obtaining any resource consents required and landowner approval.

- 2.7 Auckland Council confirms that it wishes to receive an equivalent financial payment in lieu of a permanent field at Waterview Reserve. Condition OS.5 has been amended accordingly (in conjunction with direction 2.6 above).

Given the Council’s confirmed position in relation to this financial payment in lieu, the experts consider that there is no need to further amend CEMP.14.

- 2.8 OS.10(d) – changes made.

² Legal counsel for Auckland Council/Transport, Albert Eden Local Board, Living Communities et al and the NZTA submit that it would be more appropriate and legally accurate for the references to “financial contribution” in the OS set of conditions to be replaced by the words “financial payment in lieu”. Those changes have been made.

- 2.9 OS.11(a) – clarification made.
- 2.10 The NZTA confirms that the NZTA has not included the two referenced properties on Hendon Avenue as part of the Project. (Note M6 Plan on UDL Plan 220 need not be amended.)
- 2.11 The Board’s direction reads:

“When the draft decision of the Board is issued in a few weeks time, it will be seen that the Board is concerned about unmitigated adverse effects on passive open space, particularly in Waterview, Owairaka, and New Windsor, both during the construction years, and longer term. Also, that the Board favours and is strongly persuaded by the policies in statutory and non-statutory instruments about connectivity and networking around open space and reserves. 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. It is of the view, as a matter of law, and will be its finding should consent be forthcoming, that it will impose a condition requiring the payment of a financial contribution in mitigation of construction and long term adverse effects on open space and reserves, and will describe how it has gone about this.

Meantime, a condition is to be drafted requiring a financial contribution of \$8 million in total on this score. The condition is not to provide that the money simply be paid to Auckland Council. It is to be drawn in terms that it is payable when Auckland Council certifies to NZTA that it and Auckland Transport have acquired all necessary land, or obtained all necessary interests and/or landowner approvals on a permanent basis, sufficient to form a cycle and pedestrian way to AUSTROADS Standards, between Alan Wood Reserve and Unitec; obtained all necessary resource consents; and resolved to proceed with that project. The bridges needed are what have been called the Soljak and Alford bridges. The Hendon bridge is to have a pathway extension as agreed by the experts in caucus.”

Parties other than the NZTA have suggested the following wording:

“The NZTA shall provide a financial contribution of \$8 million to Auckland Council to mitigate adverse effects on passive open space and reserves, both during the construction years and longer term, particularly in the Waterview, Owairaka and New Windsor communities. The financial contribution will be used for the construction of a pedestrian and cycleway between Waterview and Owairaka/New Windsor (as generally indicated as Option 3 shown on drawing labelled as "Potential

SH20 – SH16 Concept Options for Cycle Route" (refer to Schedule A, Row 39)),³ the Soljak and Alford bridges and a pathway extension to the Hendon bridge. (The pedestrian and cycleway is in addition to the cycling and pedestrian facilities required by the other conditions.) The financial contribution shall be payable to Auckland Council once the NZTA has received certification from Auckland Council that Auckland Council and Auckland Transport have:

- (a) Acquired all necessary land, or obtained all necessary interests and/or landowner approvals on a permanent basis; and
- (b) Sufficient land to form a cycle and pedestrian way to AUSTRROADS standards between Alan Wood Reserve and Unitec; and
- (c) Obtained all necessary resource consents required for construction and operation of these facilities; and
- (d) Resolved to proceed with the project (i.e. the cycleway, bridges and pathway extension noted above)."

The parties (including the NZTA) wish to indicate that this draft condition is likely to require further refinement to address issues including the timing of when Auckland Council/Transport need to complete (a) to (d) and the description of the actual cycleway and pedestrian route.

While the NZTA accepts what the Board's intention is with respect to the mitigation required, the NZTA remains concerned if a condition is imposed in the form above because, in order to comply with it, that condition may require the NZTA to breach its obligations under the LTMA. The NZTA is currently working on developing a form of condition wording that will achieve the intention of the Board but avoid any LTMA implications.

While that work is ongoing, the NZTA advises that it is considering wording along the following lines:

"Construction of a pedestrian and cycleway between Waterview and Owairaka/New Windsor, the Soljak and Alford bridges and a pathway extension to the Hendon bridge (as generally indicated as Option 3 shown on drawing labelled as "Potential SH20 – SH16 Concept Options for Cycle Route" (refer to Schedule A, Row 39) is required to mitigate adverse effects on passive open space and reserves, particularly in the Waterview, Owairaka and New Windsor communities, both during the construction years and longer term. Once the NZTA has received certification from Auckland Council that Auckland Council and Auckland Transport have:

- (a) Acquired all necessary land, or obtained all necessary interests and/or landowner approvals on a permanent basis; and
- (b) Sufficient land to form a cycle and pedestrian way to AUSTRROADS standards between Alan Wood Reserve and Unitec; and

³ See **Annexure D** to this Response.

- (c) Obtained all necessary resource consents required for construction and operation of these facilities; and
- (d) Resolved to proceed with the project (i.e. the cycleway, bridges and pathway extension noted above),

then the NZTA will take all reasonable steps to secure the necessary funding approval under the Land Transport Management Act 2003 for the mitigation works described above and, once funding approval is secured, will transfer \$8 million to Auckland Council forthwith for construction of those works (unless agreed with Auckland Council and Auckland Transport that it shall undertake the works on their behalf.) This condition will have no legal effect from [date].”

- 2.12 The Board has directed that a “*condition is to be prepared providing for the property of 1.9ha at 6 Barrymore Place to be transferred to Auckland Council for vesting as a reserve when construction yard 11 is decommissioned.*”

Land held for public works is owned by the Crown, so 6 Barrymore Road is owned by the Crown rather than the NZTA. If Crown land is surplus to the public work for which it was acquired, it can be transferred to another Crown Agency with its own requirement for the land (including the Council); but that transfer is subject to the land disposal procedures of the Public Works Act 1981. Land Information New Zealand (LINZ), rather than the NZTA has the statutory responsibility of managing that process. Further, some of the land within the 6 Barrymore Road title will be needed in perpetuity for either the operational motorway or the future rail corridor.

A new condition OS.17 has been added to address the Board’s direction, while taking into account the above points.

- 2.13 The experts propose, as a preferred alternative to preparing a separate Open Space Restoration Plan for McCormick Green, the inclusion of a new condition LV.11 as follows:

“The UDL Plans shall make provision for the rehabilitation of McCormick Green at the completion of the SH16 construction works and removal of the construction stormwater pond. Works will be in general accordance with the UDL Plan [XX] (refer Schedule A, Row 17), providing for replacement Amenity Tree planting in accordance with Condition LV.10 above.”

- 2.14 OS.5 – change made to Advice Note.
- 2.15 OS.7(c) – addition made.
- 2.16 OS.16 – addition of (b) made.
- 2.17 LV.8 – change made.

3 ***Cultural Impacts***

3.1 SO.6 – amended to include a new (e).

4 ***Coastal Processes***

4.1 ARCH.6(a) – change made.

4.2 See direction 17.1 below.

5 ***Vegetation***

5.1 M.8 – change made.

5.2 Condition V.17 – redrafted as directed with consequent new V.18.

5.3 V.14 – change made regarding approval.

6 ***Freshwater Ecology***

6.1 F.6 – change made.

6.2 F.5 – changes made.

6.3 F.3 – change made.

7 ***Stormwater and Streamworks***

7.1 A new stormwater condition has been added, being SW.24.

7.3 SW.13 – change made.

7.4 STW.20 – changes made.

7.5 SW.3(b) – change made.

7.6 STW.27 – changes made. The stormwater experts note that the appropriate cross references should be to STW.5 and STW.29 (instead of SW.13), and they have been included accordingly.

8 ***Ground Settlement, Groundwater and Streamworks***

8.1 G.1(d) – deleted. S.1 – change made. Heading before S.17 added.

8.2 Nothing required.

8.3 STW.5(a) – change made.

8.4 The parties suggest that a new condition STW.20(g) be added to read:

“How the basalt blocks from sections of the existing Oakley Creek channel that are to be realigned will be reused, with preference given to use within the channel realignment works and within other works identified in the Alan Wood Open Space Restoration Plan. Options for reuse shall take into account, but not be limited to:

- The heritage (cultural) values of the basalt blocks in the channel walls, insitu basalt e.g. at the Stoddard Confluence and the basalt columnar blocks; and
- The ecological values of the basalt block substrates with terrestrial and aquatic vegetation (e.g. endangered moss *Fissidens berteroi*).”

8.5 STW.31 – change made. (It is noted that the design of flood defences to provide for “sea level change” at the southern portal should not be required given that the works are more than 30m RL.)

8.6 G.1 – change made.

9 Air Quality

9.1 New Air Quality conditions added as AQ.5-AQ.8.

9.2 OA.1 – 15m height retained in the condition. An appropriate ground level definition has been included and the “vertical efflux velocity” has been defined.

9.3 PI.2(e) – change made to include reference to a specialist in Environmental and Occupational Medicine, to be appointed pursuant to new Condition SO.13. The experts agreed it was appropriate that the condition should run for the duration of the air quality monitoring period and should be available to residents of Owairaka/New Windsor and Waterview/Point Chevalier.

9.4 AQ.17 – change made (now AQ.20).

9.5 OA.5 – changes made to specify both the relevant air quality standards and the document within which the Regional Air Quality Targets reside. In addition, Advice Note added to OA.7 (now OA.8) to clarify that the standard set out in OA.7 is consistent with the National Environmental Standard referred to in conditions OA.2 and OA.5.

10 Construction Noise and Vibration

10.1 CNV.1(xi) – changes made to 1st, 2nd and 3rd bullet points. The seven coloured sheets (being GIS-3814238-42-1) are now referred to in the condition and included in Schedule A, Row 35. This provides a draft identification of properties within 100m of the construction footprint (which is to be reviewed, finalized and included in the Final CNVMP).

It is noted that the change to the 35m measurement has been made notwithstanding that the noise experts (including Mr Hunt) advise this was not the intent of the requirement.

- 10.2 CNV.7 – change made to last sentence. In addition, CNV.1 has been amended to address other matters noted by the Board (as a new CNV.1(xiv)).
- 10.3 CNV.9 – changes made.
- 10.4 Schedule A – new Rows 36 and 37 now include reference to the contents of (final) Annexures B and C of Ms Wilkening’s supplementary evidence dated 28 February 2011. (Note, amended Annexure B became Hearing Exhibit 10.)
- 10.5 CNV.13 – new sentence added to the end as directed by the Board, with the addition of the words (shown in bold below) to clarify that only the work generating the exceedance is required to stop (i.e., not all works):

If monitoring shows that levels specified in a SSNMP are being exceeded, work **generating the exceedance** shall stop and not recommence until further mitigation is implemented in accordance with an amended SSNMP prepared in consultation with the Council.

11 Explosives

- 11.1 CEMP.10 – change made.

12 Operational Noise

- 12.1 Changes made to Conditions ON.6 to ON.11. (Amendments to ON.10 reflect that building modifications meeting the standards required in Section 8.3 of NZS 6806:2010 will be appropriate to meet the satisfaction of Council.)
- 12.2 ON.6 – change made (in addition to conditions ON.3 and ON.14).
- 12.3 ON.12 – change made.
- 12.4 ON.12 – condition reworded to read “*The NZTA shall manage and maintain the Detailed Mitigation Options to ensure that these mitigation works are maintained to retain their noise attenuation*”. While the Board referred to maintaining the Options for the “life of the consent”, the designation has no duration (unlike a resource consent). To avoid confusion, the experts submit that the condition be reworded as above.

13 Location of Construction Yard 1 and Pony Club

- 13.1 The experts understand that the Board’s reference to “that covers the life of the project” is intended to mean “that covers the life of the construction works affecting the Pony Club”. Condition SO.11 has been amended to add an exception clause should the Pony Club be granted an extension of its lease.

- 13.2 SO.8 – amended to convert the Advice Note into part of the condition, and amended to provide the wording directed by the Board.

SO.10 – changes made (with correct Drawing name provided). The experts note that this drawing shows an altered designation boundary. Assuming that this altered boundary was confirmed, then some of the works proposed by the NZTA to address Pony Club concerns would be outside the NZTA designation and would likely require consent and landowner (Council) approval. SO.10 and SO.12 have been drafted to reflect this.

A new Construction Yard 1 plan is/has been prepared (formalizing the hand annotations of the Plan provided in the NZTA letter of 21 March 2011) and is submitted to the Board (**see Annexure C**).

The proposed conditions have been updated to ensure consistency with the 21 March 2011 letter agreement between the NZTA and the Pony Club, which has required a new Condition SO.12.

14 *Impacts on Cultural and Historic Areas*

- 14.1 SO.7 has been amended to make express reference to making Robinia wood available for heritage boat building purposes, and reference to this condition has been in Condition PI.6. PI.5(c) – change made.

15 *Northern Portal Stack, and Buildings*

- 15.1 Various changes made to Figure DC.1A and Condition DC.8.
- 15.2 DC.8(d) – change made (now DC.8(e)).
- 15.3 DC.8(h) – change made (now DC.8(i)).
- 15.4 New condition DC.1A added to ensure that all the Operational Scheme Plans in the F2 series will be modified both to reflect the amended northern stack location and more generally to reflect the final conditions of designations/consents. Such modified Plans to be lodged with Auckland Council within 3 months of the designations for the Project being confirmed (DC.1A) or resource consent commencing (RC.3), or at least 1 month prior to any Council approvals or certificates required by the conditions, whichever is the earlier.
- 15.5 DC.9 – change made.
- 15.6 DC.8(a) – change made (also to DC.9(a)).

- 15.7 DC.8(q) – new clause added to specify the 15m height of the ventilation stack. Reference to “subdivision” of stack in (now) DC.8(h) has been deleted as varying heights no longer possible and slender criteria unable to be achieved.

DC.1(j) – change made.

16 Southern Portal Building

- 16.1 Various changes made to Figure DC.B and Condition DC.9.

The Board’s direction noted that “*The conditions are expressly to preclude the inclusion or attachment of equipment for any activity unrelated to the north and south stacks.*” The parties understand the Board intended to preclude the addition of equipment for activities unrelated to the tunnel operations and its ventilation systems (rather than the stacks).

- 16.2 New condition DC.1A added to ensure that all the Operational Scheme Plans in the F2 series will be modified both to reflect the amended southern portal buildings and location and more generally to reflect the final conditions of designations/consents. Such modified Plans to be lodged with Auckland Council within 3 months of the designations for the Project being confirmed (DC.1A) or resource consent commencing (RC.3), or at least 1 month prior to any Council approvals or certificates required by the conditions, whichever is the earlier.

17 Whau River Navigation

- 17.1 C.11 – change made to (a) and new (b) added.

18 Waterview Primary School, Ministry of Education and Kindergarten

- 18.1 The Board has directed that “*Conditions of consent to reflect, with complete accuracy, the terms of the now finalised agreements*”. This refers to the signed Project Agreement between the NZTA, Ministry of Education (MoE) and Waterview Primary School Board of Trustees dated April 2011, and the (yet to be) signed Project Agreement between the NZTA, MoE and Auckland Kindergarten Association (AKA).

It is considered that legal difficulties will arise with the blanket inclusion of all terms of the Project Agreements in the conditions of NZTA’s designations, given that those Agreements also involve 3rd party obligations or require 3rd party decisions/input (e.g. the negotiation still to occur between the School Board, Ministry of Education and the Auckland Kindergarten Association as to the expansion of the kindergarten or the requirement on the School Board to sign off the Master Plan by a specified date). New conditions SO.3 and SO.5A have therefore been drafted which require the NZTA to meet its

obligations under both Project Agreements, subject to the provision of such approvals, agreements or other inputs required of the other parties. (It is noted that the requirement to maintain the School and Kindergarten rolls are not among the agreement clauses specified in SO.3 or SO.5A because conditions SO.4 and SO.5 already reflect those obligations).

19 Unitec

- 19.1 Conditions CNV.1(xiv) and ON.10 already contain requirements in relation to *“the early provision of building modification measures at Unitec to mitigate operational noise”*. No further amendment is required, although a specific reference to Unitec has been added to Condition CNV.1(xiv) to avoid any doubt.

20 General

- 20.1 New General Designation Condition DC.12 added to read:

“Unless otherwise provided for by Condition RC.2, if any monitoring required by the designation conditions indicates non-compliance with any designation condition, the NZTA must give written notice to the Auckland Council stating the following:

- (a) A description of the non-compliance; and
- (b) The proposed measures to address the non-compliance, including any additional mitigation measures.

Subject to the Council’s approval, the NZTA must implement the proposed measures to address the non-compliance.”

- 20.2 Explanation – change made, on page i, fourth paragraph.
- 20.3 Schedule A, Row 22 – change made.
- 20.4 Explanation – change made on page i, sixth paragraph.
- 20.5 As noted in footnote 5 to the “Red book” set of conditions (page 126), *“This Schedule [B] is intentionally blank and it is anticipated it would be completed in the final issue of the conditions of designation and resource consents (as confirmed in the Planning Caucusing Report, 5 March 2011).”* The parties accept that completion of Schedule B will be a very important and necessary component of the Project. However, it is not possible to include all the requisite cross-referencing now (i.e. by 13 May), nor is there time this week to provide the “additional column on every page” of the conditions as suggested by the Board. Parties except the Council agree with the Board’s suggestion that there be a general condition requiring that the cross-referencing of conditions to designations and consents be done before any construction activity can commence, to the satisfaction of Auckland Council. Accordingly

new conditions DC.1A and RC.3 have been added in relation to future completion of Schedule B.

The Council would prefer that this work be done as part of the Board's decision (suggesting that the parties can do the work as part of the response under section 149Q(4) of the RMA).

- 20.6 New conditions added as DC.1A and RC.3.
- 20.7 The Table of Contents has been automatically updated with each condition set revision.
- 20.8 DC.10 – addition made to the Note under DC10(a) to include reference to 6 Barrymore Road. (Note that 6 Barrymore Road already has an Open Space zoning under the Operative Auckland City District Plan.)
- 20.9 DC.10 – change made.
- 20.10 A new Condition RC.1 has been added.
- 20.11 CEMP.2 – change made.
- 20.12 CEMP.5 – change made.
- 20.13 CEMP – changes made in CEMP.2, CEMP.3 and CEMP.14.
- 20.14 CEMP.6(h) – definition of immediate vicinity and additional wording provided in clause (h).
- 20.15 CEMP.7 – clause (f) added.
- 20.16 CEMP.7 – change made.
- 20.17 CEMP.10 – change made.
- 20.18 CEMP.12 – change made.
- 20.19 CEMP.16, Advice Note (a) – change made.
- 20.20 PI.5(f) – change made.

Further CEMP Condition

In reviewing the CEMP conditions, the Auckland Council/ Auckland Transport and the NZTA have concluded that a further CEMP condition is required to make specific provision for a site specific CEMP for the trial embankment works as those works will occur well in advance of the other Causeway or project works. As a result those parties request the inclusion of a new Condition CEMP.1A.

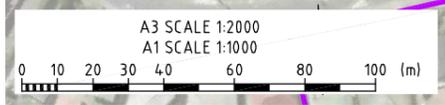
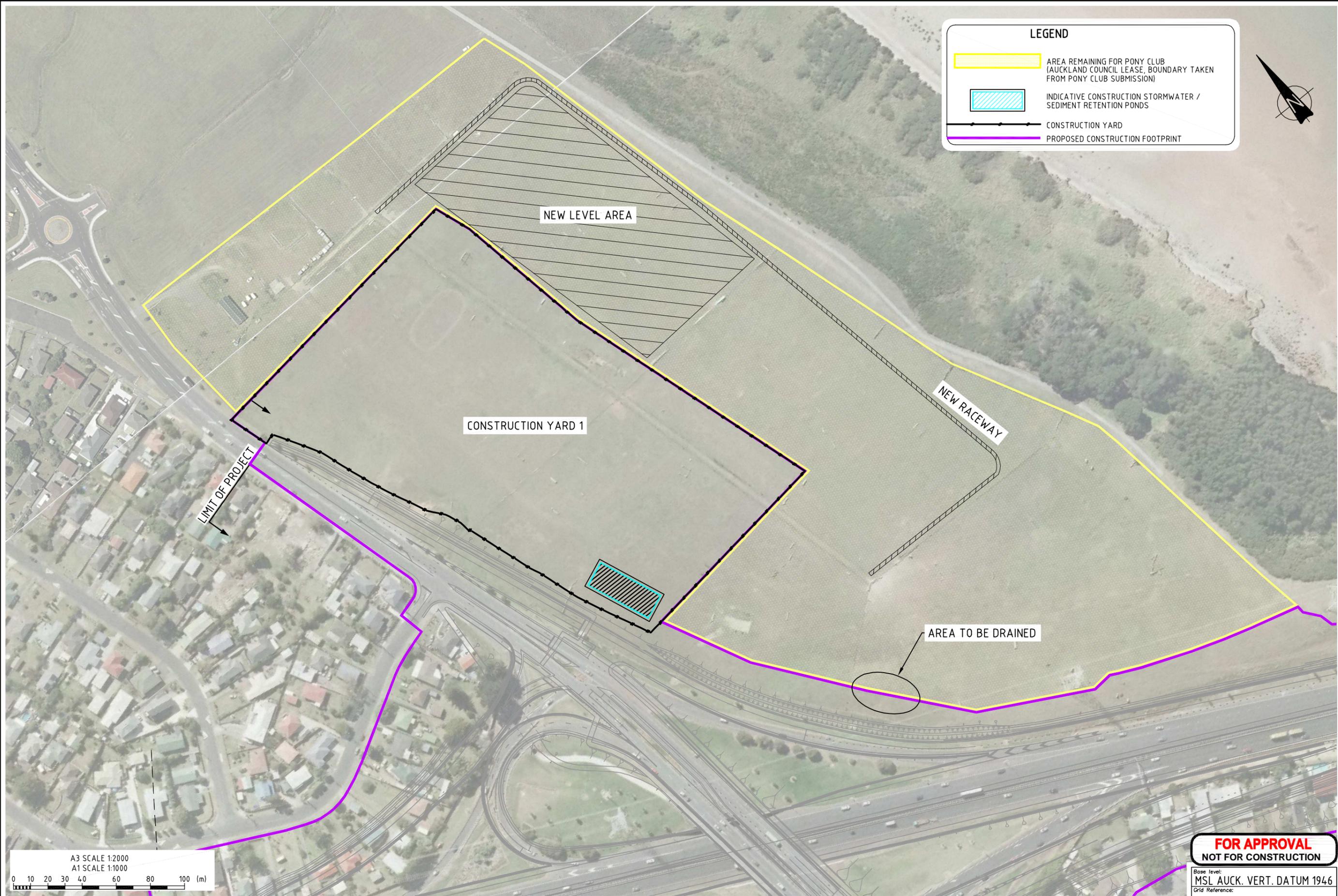
ANNEXURES B1 AND B2 – COMPILED CONDITIONS

(Note: separately bound condition booklets)

ANNEXURE C – CONSTRUCTION YARD 1 PLAN

LEGEND

-  AREA REMAINING FOR PONY CLUB (AUCKLAND COUNCIL LEASE, BOUNDARY TAKEN FROM PONY CLUB SUBMISSION)
-  INDICATIVE CONSTRUCTION STORMWATER / SEDIMENT RETENTION PONDS
-  CONSTRUCTION YARD
-  PROPOSED CONSTRUCTION FOOTPRINT



**FOR APPROVAL
NOT FOR CONSTRUCTION**

Base Level:
MSL AUCK. VERT. DATUM 1946
Grid Reference:
MT EDEN 2000

| No. | Revision | By | Chk | Appd | Date |
|-----|-------------------------------|-----|-----|------|----------|
| A | ISSUED FOR STATUTORY APPROVAL | JRH | | | 12.05.11 |

Drawing Originator:

| | |
|---------------------|--------|
| Original Scale (A1) | 1:1000 |
| Reduced Scale (A3) | 1:2000 |

| | |
|---------------------|----|
| Designer | BM |
| Reviewer | BM |
| Drafting Checked | - |
| Consultant Approval | AL |
| Received by Beca | - |

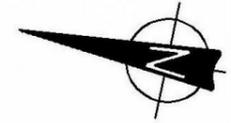


Project: **WATERVIEW CONNECTION PROJECT**
SH16 / SH20

Title: **CONSTRUCTION SCHEME PLANS
TE ATATU INTERCHANGE
CONSTRUCTION YARD 1**

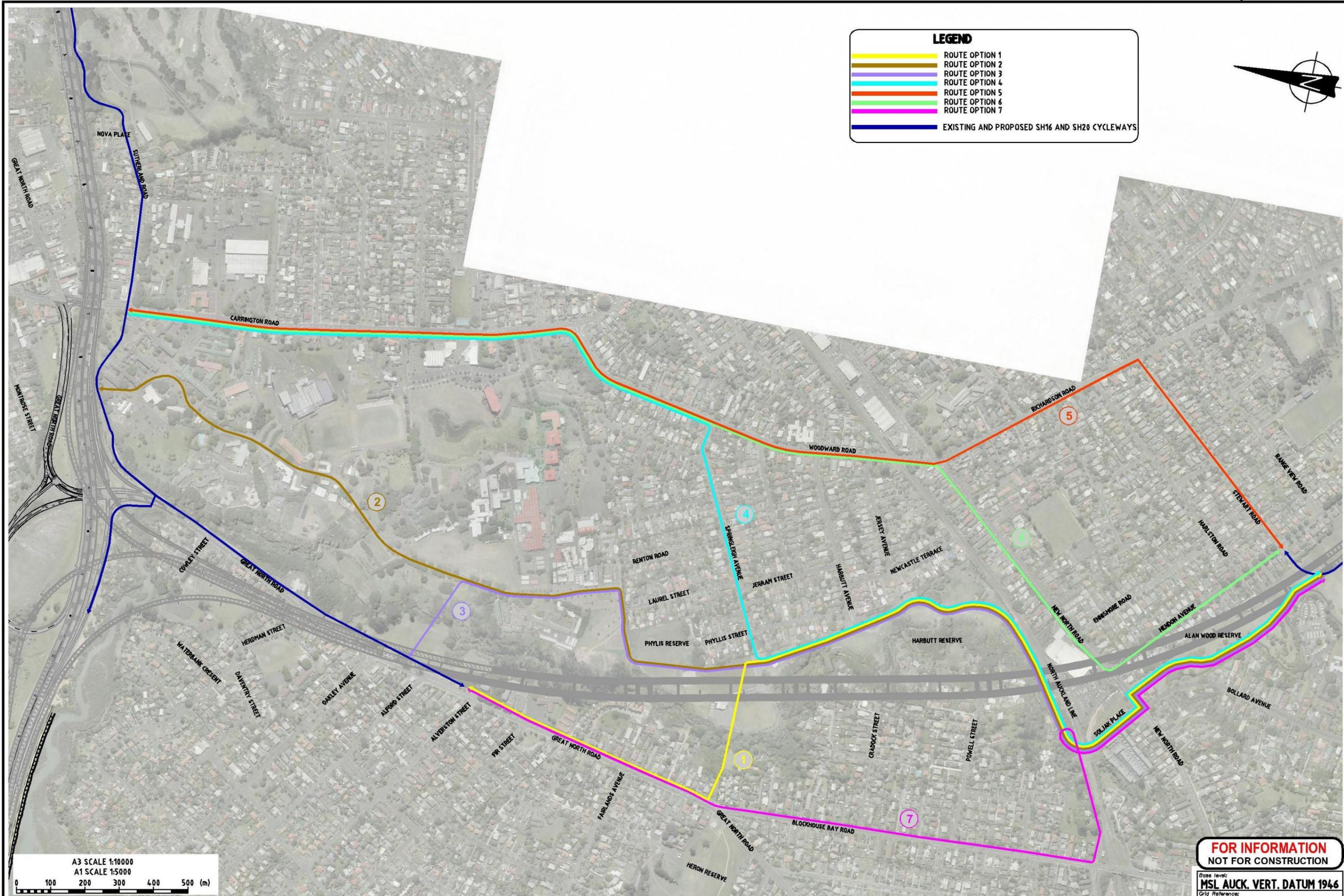
| | |
|----------------|----------------------|
| Originator No. | |
| Project No. | 20.111-3-D-N-912-401 |
| Rev. | A |

ANNEXURE D – OPTION 3 CYCLE ROUTE



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 SH16 AND SH20 CYCLEWAYS



A3 SCALE 1:10000
 A1 SCALE 1:5000
 0 100 200 300 400 500 (m)

**FOR INFORMATION
 NOT FOR CONSTRUCTION**

Date level:
MSL AUCK. VERT. DATUM 1946
 Grid Reference:
MT EDEN 2000
 Originator No.
 Project No. **20.111-3-D-N-912-221** Rev. **A**

| | | | | | |
|-----|-----------------------|-----|-----|------|----------|
| No. | Revision | By | Chk | Appd | Date |
| A | ISSUE FOR INFORMATION | JRH | | | 03.02.11 |

Drawing Originator:

| | | |
|---------------------|---------------------|-----|
| Original Scale (A1) | Designer | RH |
| 1:5000 | Reviewer | BH |
| Reduced Scale (A3) | Drafting Checked | JRH |
| 1:10000 | Consultant Approval | AL |
| | Received by Base | - |



Project: **SH20 TO SH16
 CYCLE ROUTE PROJECT**

Title: **POTENTIAL SH20 TO SH16
 CONCEPT OPTIONS
 FOR CYCLE ROUTE**