

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 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 **Simon Chapman (Herpetofauna)** on behalf of the **NZ Transport Agency**

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Dated: 1 February 2011

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## **REBUTTAL EVIDENCE OF SIMON CHAPMAN ON BEHALF OF THE NZ TRANSPORT AGENCY**

### **INTRODUCTION**

- 1 My full name is Simon Percival Chapman. I refer the Board of Inquiry to the statement of my qualifications and experience set out in my evidence in chief (*EIC*) (dated 8 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 Peter Anderson for Auckland Council (EPA No. 111-13); and
  - 3.2 Wendy John for Friends of Oakley Creek (EPA No. 179-1).
- 4 I note that neither the section 42A Report prepared by Environmental Management Services (*EMS*) dated 7 December 2010) nor the Addendum dated 20 December 2010 raised any concerns relating to herpetofauna. I note that the EMA Section 42A Report states "From our experience the approach adopted project wide for translocation of copper skink is an accepted best practice approach",<sup>1</sup> and later notes "We are confident that [copper skinks] can be managed through the Ecological Management Plan".<sup>2</sup>

### **PETER ANDERSON (FOR AUCKLAND COUNCIL)**

- 5 The evidence of Mr Anderson raises three points relating to herpetofauna, which I discuss below.
- 6 On the topic of silt fences, Mr Anderson notes:<sup>3</sup>

I consider that there needs to be a requirement, or condition added to [section 1.1.1 of the Lizard Management Plan], to ensure that any vegetation growing up against the inside and outside of the silt fence walls will be controlled.

- 7 I concur with Mr Anderson. Silt fences utilised as herpetofauna protective fencing should be inspected regularly, and any faults rectified, to ensure their ongoing effectiveness. However,

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<sup>1</sup> Section 42A Report, dated 20 December 2010, paragraph 10-2-21.

<sup>2</sup> Section 42A Report, dated 20 December 2010, paragraph 10-6-21.

<sup>3</sup> Anderson statement paragraph 4.1.

vegetation encroaching on the fences is only one factor that may potentially compromise the integrity of the fencing. Accordingly, I would go further and recommend an approach based on regular (e.g. fortnightly or monthly) inspections of fencing and the rectification of any faults identified, including but not limited to vegetation encroachment.

- 8 I note that Mr Anderson suggests amending the Lizard Management Plan (*LMP*) to address his concern. Lizard management provisions have been incorporated into the Ecological Management Plan (*ECOMP*)<sup>4</sup> and the draft LMP no longer exists as a separate entity. Consequently, the Proposed Herpetofauna Condition, H.1, attached to my EIC had been amended, to address this procedural change<sup>5</sup>. Proposed condition H.1 is attached as **Annexure A** to this evidence<sup>6</sup>.
- 9 To address Mr Anderson's concern about silt fences I recommend amending part (d) of condition H.1 to require the inclusion of details of herpetofauna protective fencing maintenance in the finalised *ECOMP*, as follows (with the additional text in bold):

H.1. (d) Locations, **monitoring and maintenance** of lizard protective fencing.

- 10 I note that this amendment has been agreed with Mr Anderson in the Herpetofauna expert caucusing. For convenience a copy of the "Expert Caucusing Joint Report for the Board of Inquiry – Herpetofauna" is attached as **Annexure B**.
- 11 Mr Anderson also refers to Section 1.1.4 "Lizard Relocation" of the LMP and notes:<sup>7</sup>

Section 1.1.4 Lizard Relocation, I consider that the last sentence should also include "pest control" to read "Release areas will require additional habitat enhancement together with pest control, in particular with regard to rodents, and restoration prior to the release of any salvaged lizards". Pest control has been identified ... under Section 1.4 Pest Management of the LMP. However, I consider that identifying it again under section 1.1.4 would prevent any future misunderstandings if this work were undertaken by another agency.

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<sup>4</sup> The *ECOMP* itself forms Appendix H to the Construction Environmental Management Plan (*CEMP*).

<sup>5</sup> As shown in the master set of conditions attached as Annexure B to Amelia Linzey's 3<sup>rd</sup> statement of evidence.

<sup>6</sup> Annexure A has been updated to incorporate the further changes now agreed with Mr Anderson during expert caucusing.

<sup>7</sup> Anderson Evidence, paragraph 4.2. Underlining is Mr Anderson's and denotes his revised wording.

12 I concur that pest control (especially rodent control) is an important component of lizard relocations, and that there should be no room for misunderstandings about the requirement for pest control. However, I note that the proposed Herpetofauna Condition already requires that the ECOMP is finalised to include a “detailed pest control programme” at lizard release sites. I consider that the proposed condition’s requirement for the development and implementation of a detailed pest control programme for lizard protection will bring the issue to prominence and ensure this requirement is not overlooked. Therefore, I consider that the amendment requested by Mr Anderson is not required.

13 In relation to Section 1.4 Pest Management of the LMP, Mr Anderson notes<sup>8</sup> that the second to last sentence reads:

This time frame is estimated to be at least one year, after which time pest control may be terminated.

14 Mr Anderson then states in his evidence:

In my opinion, the time frame of “at least one year”, needs to be extended to “at least three years”, as “at least one year”, is too short a time frame. The reason I suggest three years is because the copper skink is a relatively long lived species, and only bears a few young at a time.

15 I am in partial agreement with this point. It is possible that three or more years of pest control may be required to ensure that lizards establish and thrive at release sites. However it is also possible that relocated lizards may establish and thrive within three years or less.

16 In caucusing, however, I have agreed with Mr Anderson to an amendment to the proposed Herpetofauna condition, setting a minimum period of three years pest management, which I consider is a very cautious approach.<sup>9</sup>

17 I note finally, in response to Mr Anderson’s evidence, that he and I held a caucusing meeting on 27 January, agreed the two condition amendments noted above, and agreed that no herpetofauna issues remained unresolved.

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<sup>8</sup> Anderson Evidence, paragraph 4.3.

<sup>9</sup> Refer Annexure B.

**WENDY JOHN (FOR FRIENDS OF OAKLEY CREEK - FOOC)**

18 Ms John on behalf of FOOC states:<sup>10</sup>

Detailed lizard monitoring was not undertaken in Sector 7 in the Application. Artificial refuges to survey potential lizard populations were not used in Sector 7, despite the presence of potential lizard habitat in the area. (Refer G.8, 3.2) According to the Assessment of Herpetofauna Ecological Effects (AEE, Section G.8, 3.4) approximately 15 hours of manual searching was undertaken in Sectors 5, 7 and 9. However, Sector 7 was omitted from more detailed herpetofauna investigation, by use of artificial refuges.

19 No lizards were found in Sector 7 during manual searches and the habitat there, at that time, was not considered to be of sufficiently quality to warrant further investigation.

20 Ms John later states<sup>11</sup>:

FOOC considers that within Sector 7, specifically around Waterview Glades/Construction Yard 7, there is potential for lizard populations to be present. We consider that this area should be investigated thoroughly by the Applicant, and should lizards be identified, that appropriate management is undertaken.

21 I have revisited Sector 7 to conduct further herpetofauna investigations as requested by Ms John. I conducted a two-hour lizard refuge search there on the 24<sup>th</sup> of January 2011. I found one native copper skink within the footprint of Construction Yard 7. In my opinion the presence of the native lizard is likely to be the result of recent habitat enhancement undertaken by FOOC, subsequent to the assessment. The detection of the copper skink triggers the requirement for lizard management (i.e. relocation) in that area in accordance with Section 3.1 of the ECOMP (Section 3.2).

**CONDITIONS**

22 As previously noted, the proposed Herpetofauna condition H.1 is attached as Annexure A. I note that it differs from that set out in my EIC as follows:

22.1 Amendments necessary to reflect the inclusion of the LMP provisions in the ECOMP (which has its own approval procedure),<sup>12</sup> and

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<sup>10</sup> John Evidence, paragraph 9.6.

<sup>11</sup> John Evidence, paragraph 9.9.

<sup>12</sup> These amendments (and the amendments made in my EIC) are in red.

22.2 Amendments agreed with Mr Anderson.<sup>13</sup>

23 I am advised that the NZTA accepts this amended Herpetofauna condition.



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**Simon Chapman**  
**February 2011**

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<sup>13</sup> This amendment is in blue and bold.

**ANNEXURE A: PROPOSED HERPETOFAUNA CONDITION  
(FEBRUARY 2011 VERSION)**

H.1	<p>The NZTA shall finalise <u>and implement through the CEMP</u>, the <u>Ecological Lizard</u> Management Plan (ECOMP) submitted with this application to include details of <u>lizard management to be undertaken, including</u> the following:</p> <ul style="list-style-type: none"> <li>(a) Lizard capture methodology, <u>including timing</u>;</li> <li>(b) Lizard release locations(s);</li> <li>(c) Lizard habitat enhancement at <u>population</u> release sites, <u>including a detailed pest control programme for a minimum of one month prior to release and for a minimum of three consecutive years' duration after release</u>;</li> <li>(d) Location(s) <u>monitoring and maintenance</u> of lizard protective fencing;</li> <li>(e) Post-release monitoring methodology; and</li> <li>(f) Lizard captive management methodology.</li> </ul> <p><del>The NZTA shall submit the finalised LMP to [Auckland Council] prior to the commencement of site works and shall implement the LMP.</del></p>
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**ANNEXURE B: EXPERT CAUCUSING JOINT REPORT TO THE BOARD  
OF INQUIRY - HERPETOFAUNA**

Before the Board of Inquiry  
Waterview Connection Project

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

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Expert Caucusing Joint Report to the Board of Inquiry – Herpetofauna

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Dated: 27 February 2011

Due: 7 February 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's Minute and Directions dated 23 December 2010. The Directions require the experts, following caucusing, to provide a report by 10am on 7 February 2011 "that includes:
  - Areas that have been resolved and how.
  - Areas that are not resolved, and succinctly why.
- 2 This report relates to the caucusing topic of Herpetofauna.
- 3 Caucusing meeting(s) were held on Thursday 27<sup>th</sup> February 2011.
- 4 Attendees at the meetings were:
  - Mr Simon Chapman – Principal (Ecology) Boffa Miskell Ltd
  - Mr Peter Anderson – Regional Advisor Ecology, Auckland Council

### AREAS THAT HAVE BEEN RESOLVED

- 5 Amend Condition H.1 Part (d) to read "The NZTA shall finalise **and implement through the CEMP, the ECOMP submitted with this application to include details of lizard management to be undertaken, including the following:** ...
  - (c) Lizard habitat enhancement at **population** release sites including a detailed pest control programme **for a minimum of one month prior to release and for a minimum of three consecutive years' duration after release.**
  - (d) Location(s), **monitoring and maintenance** of lizard protective fencing".

### AREAS THAT HAVE NOT BEEN RESOLVED

- 6 No herpetofauna Conditions are unresolved.

Date: 27 January 2011

  
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 Mr Simon Chapman

Peter Anderson.  
Mr Peter Anderson