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# Penlink Notice of Requirement Decision

## Recommendations

That the Board:

- i. Accepts the recommendation of Auckland Council to confirm the Penlink Notice of Requirement and accepts the proposed conditions including the insertion of condition 5.2, which requires Auckland Transport as part of the final design to look at the best practicable alignment for Penlink where it interfaces with Cedar Terrace, outlined in the independent commissioners' recommendation received on 20 November 2015.
- ii. Requests the Auckland Transport's General Counsel to issue the decision to Auckland Council as required by section 172 (1) Resource Management Act 1991 with a 20 year lapse date (31 December 2035).

## Executive summary

The Penlink Notice of Requirement (NoR) and consents were lodged, under delegated authority by the Group Manager Property and Planning, on 28 November 2014. The application was publically notified on 5 March 2015. Submissions closed on 2 April 2015. The hearing was held on 22 - 24 September 2015 before a panel of independent commissioners' acting under a delegation from Auckland Council (AC). The hearing was formally closed on 20 October 2015.

On 20 November 2015, Auckland Transport (AT) received the independent commissioners' recommendation to confirm the designation with a lapse date of 31 December 2035 (20 years), subject to the inclusion of an additional condition (5.2) and minor amendments (Attachment 1 Commissioners' Recommendation, Attachment 2 Conditions Auckland Transport PA 191). The addition of condition 5.2 was in response to the concerns raised by the Cedar Terrace residents who requested the alignment be moved to minimise the effects of the road on them. The insertion Condition 5.2 requires AT as part of the final design to look at the best practicable alignment for Penlink where it interfaces with Cedar Terrace. This is a process normally undertaken by AT as part of the final design outcome and as such it is recommended this additional condition is accepted.

AT has a statutory timeframe of 30 working days to give written notification to AC of its decision in relation to the recommendations from the independent commissioners' on or before 22 January 2016.

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This paper seeks a decision from the Board to accept the recommendations of the commissioners', under delegated authority from AC on the NoR and relevant conditions under section 172 (1) of the Resource Management Act 1991.

## **Strategic context**

Penlink provides for the objectives of the Auckland Plan, and contributes to the Integrated Transport Plan 2012-2041 and Statement of Intent 2015/16-2018/19.

## **Background**

Auckland Transport has an existing designation (designation 167- Wēiti Crossing (Penlink)) for the construction and operation of a two lane road between SH1 and the Whangaparaoa Peninsula. The current NoR application is for an alteration to the existing designation to increase the level of service from two lanes to four lanes. A suite of new resource consents are required for regional matters including works in the coastal marine area, stormwater, and works in watercourses.

At the October 2014 Board meeting the Board endorsed a recommendation to lodge the NoR application to alter the existing Penlink designation and the associated resource consents with AC.

The application was lodged with AC on 28 November 2014. AC notified the application on 5 March 2015 and the submission period closed on the 2 April 2015. 51 submissions were received. Two submissions were neutral, 14 submissions were in support, 34 submissions were in opposition and one submission both supported and opposed the project in part. The submissions in support were received from Whangaparaoa residents and property developers. The submissions in opposition were mostly from adjacent property owners, of the 34, 17 were from the Cedar Terrace residents, 10 from Stillwater residents, and three from 307 Duck Creek Road (Attachment 3 Location Plan).

The submissions in opposition related specifically to access arrangements, design, terrestrial ecology, significant ecological areas, landscaping, noise, vibration, and discharges to air, unknown cultural effects and the Queen Elizabeth the Second (QEII) covenant which covers land within the designation at 307 Duck Creek Road. These issues will be managed by the conditions put forward jointly by AT and AC and attached to the commissioners' recommendation.

AT engaged Mana Whenua early in the process of preparing the NoR and resource consents. Fourteen Iwi were approached, 4 confirmed an interest in being part of the assessment and two (Ngati Manuhiri and Te Kawerau a Maki) completed and submitted a joint Cultural Values Assessment (CVA). The outcomes of the CVA have been reviewed and a tracking register has been completed to outline how the concerns raised have been

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considered by AT. Subsequently further discussions have been held with Nga Maunga Whakihii o Kaipara Development Trust who indicated in their submission that they would prepare a CVA. To date, AT has not received the CVA, however should one be provided it will be reviewed and responded to in accordance with Condition 17 which sets out the process for on-going engagement with Mana Whenua.

The Hibiscus and Bays Local Board has been consulted and support the project.

The Long Term Plan (LTP) funding is currently programmed for the second decade (2025 to 2035). In recognition of this funding timeframe, AT put forward a 20 year lapse date for both the NoR and resource consents and this has been recommended by the commissioners'.

The project, once completed will provide significant benefits by providing an alternative route to and from Whangaparaoa Peninsula, including a reduction in peak hour traffic flows on Whangaparaoa Road of 20%-30%. The project also includes the provision of a dedicated shared path between Stillwater and Whangaparaoa providing a safe connection for the local community. The design of the road future proofs for the Northern Busway extension and north facing ramps associated with SH1 and does not preclude a western connection to the Silverdale west growth area.

## **The Commissioners' recommendation**

The commissioners' were required to consider the Penlink proposal, submissions and evidence from AT and AC and to consider whether the NoR and resource conditions proposed by AT were sufficient to address the effects generated by the project.

The proposed NoR conditions were agreed with AC and provided to the commissioners'. The commissioners' have endorsed the NoR conditions put forward by AT with one additional condition 5.2 as follows:

Prior to finalising the design of the route from the proposed Weiti Bridge to the interchange with Whangaparaoa Road, the Requiring Authority shall reconsider the alignment of the road so as to achieve the greatest possible separation distance between the road and the adjacent properties on Cedar Terrace. The best practicable alignment shall take into account:

- a. The extent of earthworks and vegetative clearance;
- b. The length and height of retaining walls and noise attenuation devices from both a cost and visual appearance perspective;
- c. The minimisation of adverse visual effects, in both the short and long term.

The commissioners' reasoning for inserting this condition is *"Given the long lapse period in particular, we consider that the position of the road and related effects will benefit from further reconsideration in the final design process, and have recommended a condition accordingly"*. This reasoning is accepted as it is a process that AT and the contractor would normally undertake as part of the final design.

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The commissioners accepted that a 20 year lapse date is appropriate. The new lapse date for the Penlink designation is 31 December 2035.

The commissioners' also approved the resource consents with conditions. A review of the conditions has been undertaken and they are acceptable to AT. A 20 year lapse date has also been placed on the resource consents.

**Next steps**

- Auckland Transport has a statutory timeframe of 30 working days to give written notification to AC of its decision in relation to the recommendations from the independent commissioners (on or before 22 January 2016).
- Following Board approval, a decision will be issued under delegated authority by the General Counsel to accept the recommendation of the independent commissioners' to confirm the designation and to accept the proposed amendments to the conditions under section 172 (1) Resource Management Act 1991 with a 20 year lapse date (31 December 2035).
- AC and submitters have 15 working days to lodge an appeal to the Environment Court following notification by AC of the Board decision.
- Where there are no appeals the altered designation will be included in the operative Auckland Council District Plan (Rodney Section) and the Proposed Auckland Unitary Plan.

**Attachments**

Attachment Number	Description
1	Commissioners' recommendation
2	Commissioners' recommended conditions Auckland Transport PA191
3	Location Plan

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## Document ownership

Submitted by	Sonya McCall <b>Principal Planner Central and Joint Initiatives</b>	
	Theunis Van Schalkwyk <b>Project Director Key Strategic Initiatives</b>	
Recommended by	Aimee Barwick <b>Planning Integration Manager</b>	
	Deb Godinet <b>Group Manager Property &amp; Planning</b>	
	Greg Edmonds <b>Chief Infrastructure Officer</b>	
Approved for submission	David Warburton <b>Chief Executive</b>	

## Glossary

Acronym	Description
AC	Auckland Council
AT	Auckland Transport
CVA	Cultural Values Assessment
NoR	Notice of Requirement



## Decision following the hearing of a Notice of Requirement and applications for resource consent under the Resource Management Act 1991

### Proposal

Notice of Requirement for an alteration to the existing Designation 167: Weiti Crossing (Penlink) and associated applications for resource consent.

The Notice of Requirement is **CONFIRMED SUBJECT TO CONDITIONS**, and the resource consents are **GRANTED**. The reasons are set out below.

<b>Application numbers</b>	Rodney PA 191 - Designation 167 - Weiti Crossing and various associated resource consents: LAN-63657 Contaminated Land REG-64134 Contaminated Land REG-63666 Earthworks COA-63667 Coastal Occupation, Use and Works LAN-63669 s125 & s127 Coastal Occupation Permit REG-63664 Diversion and Discharge of Streams REG-63665 Structures and Culverts in Streams REG-63659 Vegetation Removal REG-63887 Groundwater Diversion REG-63658 Stormwater Discharge Permits
<b>Site address</b>	East Coast Road in the vicinity of Bawden Road, Redvale, crossing Weiti River and connecting with Whangaparaoa Road in the vicinity of Cedar Terrace, Whangaparaoa.
<b>Applicant</b>	Auckland Transport
<b>Hearing commenced</b>	9.30am, 22 September 2015, Orewa, former Council Chamber
<b>Independent Hearing Commissioners</b>	Dave Serjeant (Chairperson) Cherie Lane William Kapea Michael Parsonson
<b>Appearances</b>	<b><u>For the Applicant</u></b> Mr Andrew Beatson – Legal Counsel Ms Sarah Anderton – Legal Counsel Mr Theunis Van Schalkwyk – Project Director

Mr Kimdon Nguyen – Consultation/AT Project Manager  
Ms Amelia Linzey – Planning (Strategic)  
Mr Shannon Bray – Landscape Architect  
Ms Siiri Wilkening – Acoustic Consultant  
Mr Andrew Murray – Traffic & Transport Engineer  
Mr Simon Bickler – Archaeologist  
Mr Graham Levy – Water Resources Engineer  
Mr David Slaven – Terrestrial Ecologist  
Ms Jennifer Hart – Coastal Engineer  
Ms Camilla Needham – Environmental Engineer  
Mr Hugh Leersnyder – Erosion & Sediment Control  
Dr Sharon De Luca – Marine Ecologist  
Mr Edward Sides – Freshwater Ecologist  
Dr Theofilos Sarris – Hydrogeologist  
Mr Phillip Ware – Contamination Consultant  
Mr Blair Masefield – Planning (Statutory)  
Ms Sonya McCall – Consultant Planner, Auckland Transport

**For the Submitters**

Hamish Eglinton on behalf of Queen Elizabeth II National Trust  
John Collinge on behalf of Green & McCahill Holdings Limited  
Beverley McLeod  
Janet Fitzgerald on behalf of Penlink Now  
Kay Harrison on behalf of Equestrian 4 Everyone  
Glenys Ferguson  
Nicola & Doug Falloon on behalf of the residents of Cedar Terrace  
Terry Baker  
William & Angela Byfleet  
Sarah Porter  
Anne Graham on behalf of Forest and Bird  
Daniel Minhinnick & Simon Matthews on behalf of Weiti Development LP  
Jason Prescott

**For the Council**

Ms Jo Hart - Planner (Notice of Requirement)  
Ms Aimee Simons – Planner (Resource Consenting)  
Mr Rue Statham – Terrestrial Ecologist  
Mr Jon Styles – Acoustic Consultant  
Mr Stephen Brown – Landscape Architect

<b>Hearing adjourned</b>	24 September 2015
<b>Commissioners' site visit</b>	17 and 29 September 2015
<b>Hearing Closed</b>	20 October 2015

## **A. Introduction**

1. This recommendation on the Notice of Requirement (**NoR**) and decision on resource consents is made on behalf of the Auckland Council (**Council**) by Independent Hearing Commissioners Mr Dave Serjeant, Ms Cherie Lane, Mr William Kapea and Mr Michael Parsonson appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (**RMA**).
2. This recommendation and decision contain the findings from our deliberations on the NoR and applications and has been prepared in accordance with sections 171 and 113 of the RMA respectively.
3. The applications were publicly notified on 5 March 2015. A total of 48 submissions were received on the NoR and 10 submissions on the resource consents. Due to some repetition and cross-over of matters referred to in the submissions, the planning report suggested that consideration of submissions be combined. We have adopted that approach also.

## **B. Procedural Matters**

4. Four submissions were received after the close of submissions, these being:
  - Submission 45 – Martin Drabble
  - Submission 46 – LM Painton Estate
  - Submission 47 – Silverdale Golf Range Limited; and
  - Submission 48 – Runwild Trust
5. Pursuant to section 37 of the RMA we resolved to extend the timeframe for receiving these submissions for the following reasons:
  - The submissions were received within three days of the submission closing time;
  - The submissions are within scope;
  - The submissions do not include additional issues that are not raised by other submitters and therefore could not disadvantage other parties who may be directly affected by the granting of the waiver to extend the time period.
6. The applicant had no objection to the granting of the waiver to extend the time period.

## **C. Summary of proposal**

7. This summary refers for convenience and brevity to sections of the planning report. The planning report in turn refers to the application material which was both extensive and detailed. The summary also has the benefit of the evidence from the applicant



which efficiently 'packaged' the application for us at the hearing, and covered the key matters without unnecessary repetition.

8. Penlink is a legacy project developed by the former Rodney District Council over 15 years ago. The road will provide a link between State Highway 1 (SH1)/ East Coast Road interchange in the west at Redvale and the Whangaparaoa Peninsula in the east, across the Wēiti River.
9. The original two-lane scheme was designated in 2001. Since the existing designation was confirmed, and the original resource consents granted for its construction, Auckland Transport has undertaken ongoing investigation into Penlink in response to planned future growth and development in Whangaparaoa, Silverdale and Redvale. The implications of this growth on the level of service on the Whangaparaoa Road, Hibiscus Coast Highway and the two-lane Penlink alignment have been considered in that investigation. The investigation resulted in amendments to the design of Penlink which are set out in Section 3 of the planning report, which we repeat here for reference:
  - An arterial road with two lanes in each direction, from SH1 to the Whangaparaoa intersection including the consented bridge crossing the Wēiti River;
  - Reconfiguration of the Redvale interchange to future proof for the northern busway and not preclude north facing ramps or a connection to the west;
  - Local road connections provided to the Wēiti Station/Wēiti Forest park developments via grade separated intersections;
  - Local road connection to Duck Creek Road, Stillwater via a grade separated intersection;
  - Traffic signals, required on Whangaparaoa Road, at the eastern end of the project area (compared to a roundabout intersection, which was also contemplated by the existing designation);
  - Provision to accommodate cyclists including a separated shared path from Whangaparaoa Road to Duck Creek Road and 2.5m shoulders along the route; and
  - Relocation of the toll gantry from near the Redvale interchange to the eastern side of the Wēiti Crossing (approx. 400 metres from the Whangaparaoa end of the route).
10. The amendments require both an alteration to the designation and new or amended consents related to the works. The alteration to the designation was summarised in Section 3.3 of the planning report, which we adopt, as follows:
  - To provide for an increase to the level of service delivered by the existing Penlink designation from a two lane to a four lane arterial along the full 7 kilometre length of the project;
  - To include six areas of land through minor boundary alterations to the existing designation, comprising of two areas at Redvale for the reconfigured interchange,

land along the western part of the route to provide for grade-separated interchanges in two places, land inside the upper hairpin bend in Duck Creek Road for construction and the avoidance of adverse amenity effects; an adjustment to the CMA boundary of the existing designation, and land to overlap the Penlink designation with the Whangaparaoa Road widening designation to enable Penlink to tie into the Whangaparaoa Road corridor;

- To amend some of the conditions applying to the existing designation to accurately reflect the proposed changes in design and to update to current standards (e.g. noise); and
  - To extend the lapse period to 20 years.
11. In order to implement the designated works there are a number of resource consents required relating to activities in the coastal marine area (**CMA**), vegetation clearance, earthworks, and related surface water and groundwater activities. We adopt the summary of these activities as recorded in Section 3.4 of the planning report as follows:
- Contaminated land, both in relation to contamination above the NES Soil (human health) standards and discharge of contaminants due to land disturbance;
  - Earthworks, approximately 3,000,000m<sup>3</sup> are proposed across the entire length of the project;
  - Temporary occupation and use of the CMA for the construction of the bridge;
  - Removal of mangroves;
  - Reclamation of permanent streams in the Stanmore Bay and Dairy Stream catchments;
  - Use, placement and erection of structures, in, on, under, or over the bed or rivers and streams and the diversion of permanent streams and new culverts in excess of 30m in length;
  - Vegetation removal within a Significant Ecological Area;
  - Stormwater discharge within a SMAF and new stormwater outfall structures and erosion control structures; and
  - Groundwater diversion.
12. In addition to these new consents the applicant also applied to extend the lapse date and to modify an existing consent for the occupation of the CMA (Permit 23103) by the road. The extension is to tie in with the proposed lapse dates for the above consents. The modification provides for the increased area of occupation for the four lanes and shared path for pedestrians and cyclists over the bridge.
13. Two other existing consents relating to stormwater (Permits 23015 and 23018) are to be surrendered upon the granting of the new consents for these activities currently being sought.

## D. Relevant plan provisions and activity status

14. Section 4 of planning report identifies the specific plan provisions from the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, Auckland Council Regional Plan: Air, Land and Water (**ACRP: ALW**), Auckland Council Regional Plan: Sediment Control (**ACRP: SC**), Auckland Council Regional Plan: Coastal (**ACRP: C**), and Proposed Auckland Unitary Plan (**PAUP**) which provide the activity status and conditions for the above activities. We adopt that information for the purpose of this recommendation and decision.
15. We note that there is no disagreement between the applicant and the Council as to activity status. In particular, due to several of the activities being classified as non-complying activities (structures and occupation of CPA1 in the ACRP: C and SEA-M1 & SEA-M2 in the PAUP, removal of mangroves under both ACRP: C and PAUP in some areas, reclamation of a stream in the ACRP: ALW and the PAUP, culverts over a specified dimension in the PAUP), the consents for the proposal were to be considered overall as a non-complying activity and subject to the tests of section 104D of the RMA.

## E. Site and locality

16. Section 4 of the AEE and Section 3.7 of the planning report provided us with a detailed description of the designated route (**Penlink or the route**). We adopt these descriptions for the purpose of this recommendation and decision. The descriptions were also reinforced by our two site visits.
17. Prior to the hearing we visited the five sections of the route, adopting the divisions in the above reports as follows:
  - We inspected the Redvale interchange area on both the Top Road and East Coast Road sides;
  - We traversed the alignment of the route towards Stillwater through the farmland and logged out forestry area which afforded views down into the terrain and vegetation of the Duck Creek area;
  - We then visited the Duck Creek area itself, observing the challenging topography through which the route would need to pass;
  - We then viewed the CMA environment and the western crossing approach from both the property where the western bridge piers will be located and the boat ramp at Stillwater.
  - Finally, we went along Whangaparaoa Road and up Cedar Terrace to gain an appreciation of the eastern crossing approach, the route through the vegetated valley and the eastern interchange area. We also viewed the Weiti crossing environment from Matheson Road (Karaka Cove) further north along Whangaparaoa Road.
18. During the hearing we were requested by submitters in two areas to re-visit their locality. Firstly, Mr Terry Baker asked us to visit his family property at 307 Duck Creek

Road in order to gain some appreciation of the vegetation and relationship between the dwelling and the route alignment. We undertook a second site visit to Duck Creek Road and Stillwater including a visit to 307 Duck Creek Road. There were no persons present at this property at the time. We were not able to advance too far beyond the immediate surrounds of the house, however we did gain a better understanding of Mr Baker's attachment to the property. Further comment is provided in our findings below on the actual and potential effects of the route on the vegetation of 307 Duck Creek Road and the other properties in the vicinity.

19. While at Stillwater on this second occasion we also went to Inlet Views Road and Gurnard Road to view the route from the selected viewpoints in Mr Bray's visual and landscape analysis.
20. Secondly, Mr Falloon, and other residents of Cedar Terrace asked us to inspect the natural environment of the valley to the north of their residences, through which the route passes. We visited Mr Falloon's property at 39E Cedar Terrace. Again, there were no persons present on the property during our inspection. We walked across the property into the regenerating bush area through which the route passes. We return to consider the actual and potential effects of the route on this vegetation and the proximity of the route to the Cedar Terrace properties to the south.

## **F. Summary of evidence**

21. The application material, Council's planning report and the applicant's expert evidence was circulated prior to the hearing. We therefore had the opportunity to read all of this material. As noted above, the applicant's evidence was concise and it usefully focussed on a response to matters which had not been agreed with Council, the submissions, and the proposed conditions of consent.

### **Tabled evidence**

22. Evidence was tabled from the following persons:
23. Tane Trafford, a resident of 9B Cedar Terrace provided a written list of conditions for the proposal, in support of his original submission. We note that Mr Trafford is one of the closest residents to the route and that his submission expressed concern about noise, vibration and lighting effects. Mr Trafford is also concerned about the removal of vegetation within a Significant Ecological Area and resulting effects on local wildlife and water quality and flows. Mr Trafford also considered that the four lane proposal was in excess of what is required to service the peninsula.
24. Emma Bayly, planning consultant, provided a written brief of evidence on behalf of Hugh Green Limited (HGL). HGL is a management company for Hugh Green Group, the owners of 359ha of land, mainly to the north of the NoR route, but also with a parcel of land to the south of the route at the East Coast Road end. The land is currently zoned Countryside Living Rural and the submitter is seeking that the land be included within the RUB, and have Future Urban zoning in the PAUP. Consequently, access to the land from the route is important to the submitter, as are stormwater runoff effects.

25. HGL have had several communications with Auckland Transport about its submission. Ms Bayly's evidence set out the content of conditions, which if accepted by Auckland Transport, would ensure that the potential adverse effects of the proposed NoR route would be avoided or appropriately mitigated. These matters will be returned to later in this decision.
26. Catherine Reaburn, planning consultant, provided a written brief of evidence on behalf of Stanmore Investments Limited (SIL). SIL own sites at 570 – 588 Whangaparaoa Road, directly adjacent to the Penlink intersection. The sites are currently being redeveloped for retail purposes, including a supermarket. Its submission expressed concern about construction effects, the detailed design of the intersection, including access to its site, and the lapse period. These matters will be returned to later in this decision.
27. Asher Davidson, acting as counsel for Runwild Trust, Silverdale Golf Range Ltd and LM Painton Estate, provided written submissions on behalf of these parties, who own land south of the Hibiscus Coast Highway at Silverdale. The submissions outlined how the full development of the parties' land was unable to be developed, in accordance with the current Operative District Plan provisions, due to the constraint of limited capacity on the Hibiscus Coast Highway, particularly during the 4pm to 6pm commuter peak. That limitation would be lifted with the construction of Penlink. Apparently, their land is not the only land in Silverdale which has such a limitation. These parties support Penlink but want the lapse period reduced to 10 years.
28. The submitter's position was succinctly stated in paragraph 13 as follows:

*“The problem that land owners face is that, on the one hand Auckland Transport is saying that the traffic situation is so bad that no development can occur – but on the other hand it is saying it will not deliver the infrastructure necessary to address that situation for 2 decades.”*
29. The submissions provided case law that in setting a lapse date various interests must be balanced. These matters will be returned to later in this decision.

### **Applicant**

30. The applicant's case was presented by Mr Andrew Beatson and Ms Sarah Anderton as legal counsel for Auckland Transport. Mr Beatson explained the need for the alteration to the designation and introduced the key points to be covered in the expert evidence for Auckland Transport. He submitted that the scope of the inquiry is limited to the change in effects from a 2 lane road to a 4 lane road, because the current designation and consents form part of the existing environment. As a consequence, our decision was not “whether Penlink should proceed at all, but rather whether the change in effects as a result of the alteration to the designation (the additional two lanes) is acceptable”.
31. Mr Beatson outlined the statutory tests in Section 171 of the RMA and then introduced the consideration of alternatives (s171(1)(b)) and addressed the ‘reasonable necessity’ for the project (s171(1)(c)) in terms of the projects objectives and the achievement of

these objectives. Mr Beatson also outlined the statutory framework for the resource consents being sought.

32. In response to submissions, Mr Beatson grouped the submissions on a geographic basis, being the Stillwater residents on the western part of the route and the Cedar Terrace residents on the eastern, Whangaparaoa Road, part of the route, and also addressed significant landowner's concerns specifically. These submissions are outlined below and the matters that they raise are returned to later in this decision.
33. Mr Theunis van Schalkwyk (engineer) has been the project director for the Penlink alteration since 2011, and more recently taken over project management, being involved in post-lodgement consultation with interested parties. His evidence traversed the various strategic plans relevant to the project and identified the project objectives.
34. Mr van Schalkwyk advised that funding for the project was not programmed until the 2025 – 2035 period, given the available funding envelope for transport projects. In answer to a question from the Panel on the contribution from toll funds, Mr van Schalkwyk explained that there was no cap on the amount of the toll and that this was market driven in relation to the alternative (longer) route that could be taken. However, a higher predicted toll income could lead to an earlier implementation of the project. The Government, Auckland Council and Auckland Transport are also discussing ways to increase transport funding which would enable implementation of Penlink to be accelerated. The lapse period of 20 years sought for the alteration to the designation reflected the current programming.
35. Mr van Schalkwyk provided a summary of the consultation outcomes with various interested parties. These included the Hibiscus and Bays Local Board and Nga Maunga Whakahii O Kaipara as mana whenua. The Local Board supported the project.
36. The key outcomes from engagement with Georgina Parata of Nga Maunga Whakahii o Kaipara (NMWoK) were as follows:
  - Ms Parata confirmed that NMWoK were not aware of any urupa within the alignment;
  - Mana whenua engagement conditions were to be included in the conditions of the NoR; and
  - NMWoK offered to produce a Cultural Impact Assessment, however, to date, that had not been received.
37. One other matter of interest Mr van Schalkwyk confirmed in relation to some submissions was that the shared 3m wide pathway for pedestrians and cyclists between Stillwater and Whangaparaoa Road was retained from the original design, and that a 2.5m wide shoulder would provide for cyclists between Stillwater and Redvale.
38. Mr Kimdon Nguyen (engineer/consultation/AT project manager). Mr Nguyen had been project manager until that role had transferred to Mr van Schalkwyk as noted above.

Consequently, he had been centrally involved in consultation for the project and he provided us with a summary of that consultation. In response to a question from the Panel on the view of the New Zealand Transport Agency (NZTA) on the NoR, Mr Nguyen advised that Auckland Transport had engaged with NZTA at an early date, particularly in relation to the Redvale interchange with State Highway 1. Ms McCall advised that they had more recently received an email from NZTA confirming that it had no objection to the alteration to the designation. This email, from Mr Deepak Rama, Principal Planning Advisor for NZTA was subsequently provided to the Panel.

39. Ms Amelia Linzey (planner/strategic) provided the first of two planning briefs of evidence from the applicant. Ms Linzey described the existing environment and the existing designation and resource consents. Her evidence on these matters provided the basis upon which all the other assessments of environmental effects were undertaken.
40. Ms Linzey then took us through the policy and planning documents that are relevant to consider pursuant to sections 171 and 104 of the RMA. These are the documents referred to already above, plus the NES for Air Quality, the NPS for Freshwater Management, the New Zealand Coastal Policy Statement, the Hauraki Gulf Marine Park Act 2000, the Auckland Council Regional Policy Statement, and the Auckland Council District Plan: Operative Rodney Section. In each case she pointed out the relevant provisions and drew on the assessment of environmental effects provided by the applicant's expert witnesses to support her conclusions that the designation and related consents were consistent with these provisions.
41. In relation to sections 171(1)(d), Ms Linzey referred us to several strategic documents relating to economic development and the transport network, including the recently adopted Auckland Land Transport Plan for 2015-2025. In terms of timing for Penlink construction we note that none of these documents schedule the road for construction within the next 10 years, notwithstanding that the Hibiscus Bays Local Board Plan advocates for an earlier construction date.
42. Addressing section 171(1)(b), Ms Linzey provided an analysis of alternatives to the designation against the project objectives. The alternatives included the status quo of two lanes, either with additional public transport or the four laning of Whangaparaoa Road, and a three lane (tidal flow) option. The four lane option is preferred by Ms Linzey due to a better level of service through improved travel times and journey reliability. Ms Linzey also noted the ability of the four lanes to support economic growth in the area and to provide network resilience in the case of accidents or natural disasters.
43. Mr Andrew Murray (traffic engineer) described the principles of the project alignment and design, and the need for increasing the project from two lanes to four lanes, based on the relevant planning documents, including the Draft Future Urban Land Release Strategy. Expanding on the evidence of Ms Linzey, Mr Murray considered that the change sought by the alteration of the designation (and associated consents) will result

in “positive transportation benefits, including against the stated Project objectives”<sup>1</sup>, through reduced travel time and improved reliability and resilience, potential enhanced bus services, enhanced safety, improved connections and integration with current and future development area, and enhanced pedestrian and cycling options. Mr Murray also considered that with the expansion of the route to four lanes, construction traffic would be increased but effects would be managed in accordance with an “enhanced management approach for all construction traffic, thereby mitigating the effect of the marginal additional construction traffic”<sup>2</sup>. When questioned, Mr Murray provided further information on the design of the Redvale interchange, and the reasons why a north bound onramp to SH1 is not proposed at this time. He also noted the need for the design to provide for a future link responding to growth in Dairy Flat. Mr Murray concurred with the findings of the Auckland Council reviewer, as repeated in the s42A report.

44. Mr Shannon Bray (landscape architect) summarised his evidence, with particular regard to the proposed design options for the new toll gantry; likely effects of the proposed toll gantry lighting; and landscape assessment analysis undertaken. This work included detailed concept landscape mitigation plans (CLMP) for the route, which we understood was now possible given the availability of preliminary retaining wall and infrastructure design (such as stormwater wetlands). The CLMP was described as providing ‘guidance on planting’ and increased certainty in the final design that was previously not possible with the baseline designation. Some of this work responded to an additional information request from Council’s landscape consultant, Mr Stephen Brown. This included a ‘fly through’ presentation which was made at the opening of the applicant’s case. Development of the CLMP was considered by Mr Bray to be beneficial in providing guidance on proposed mitigation for the project and was, as a consequence, referenced further in the recommended conditions.
45. Mr Bray discussed possible toll gantry designs (given that they are yet to be confirmed) and advised that the lighting associated with the area in the vicinity of the gantry would be low impact. He did however acknowledge that there would be a new ‘area of visibility’ from the Cedar Terrace locality. He advised that he had undertaken site visits with some of the residents and had revised the CLMP to include denser vegetation in response. The impact of the widened Weiti bridge was addressed by Mr Bray, with supporting visual analysis by way of photo impressions. The preferred colour of the bridge was examined by Mr Bray and although he acknowledged that this was subjective, he stated a preference for the use of white concrete (rather than the agreed red oxide). In terms of the overall comparative assessment of the bridge structure, Mr Bray considered the proposed viaduct structure to be preferred to the ‘baseline’ scheme as there would be greater potential to plant and screen the retaining walls and less earthworks required. Mr Bray provided viewpoints from within Stillwater of the proposed bridge to further describe the likely change in visual impact from the baseline two lane bridge to the proposed four lane structure. It was his conclusion that the increased width of the road in its entirety would result in low incremental landscape,

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<sup>1</sup> Statement of Evidence, Andrew Murray, paragraphs 8(a) – (c).

<sup>2</sup> Ibid, paragraph 8(d)



visual and natural character effects; and that there was now in place proposed landscape mitigation by way of the CLMP.

46. Ms Siiri Wilkening (acoustic consultant) confirmed the main findings of her evidence, reiterating that the existing designation noise conditions, in her opinion, remained generally appropriate. Ms Wilkening identified that the vibration conditions did however require updating. She outlined the noise assessment process that she had undertaken which involved identifying ambient noise levels at various locations within the vicinity of route. She concluded that the general noise environment had not changed from when the designation was originally applied. She did however confirm that there would be three properties where there is expected to be an exceedance of the noise design levels. These are 43 Cedar Terrace, 173 Duck Creek Road and 301 Duck Creek Road. Various mitigation measures were detailed in evidence and referenced in the recommended conditions, with the ultimate mitigation measures being dependent upon the final design of the road.
47. Updated construction noise and vibration conditions were put forward by Ms Wilkening in evidence. We understood that these had been reviewed by Mr Styles, Council's acoustic advisor, and general agreement reached. However, there seemed to be less agreement between the acoustic experts in relation to the practicality of some mitigation measures, specifically noise barriers which would ultimately be tested at the detailed design stage and therefore may create a degree of uncertainty. It was our understanding that Ms Wilkening's position was that regardless, there would be a requirement, through the conditions, for the noise design levels to be met.
48. Ms Wilkening advised that, in response to concerns raised by Mr Styles, she had undertaken further monitoring in respect of properties in Cedar Terrace that were constructed after the original designation had been granted. The ambient noise levels in the vicinity of 39A to 39G Cedar Terrace had been measured and Ms Wilkening offered amended wording for the respective conditions in response.
49. Mr David Slaven (terrestrial ecologist) addressed the potential terrestrial ecological effects of the proposal. Mr Slaven considered that while the expansion of the route to four lanes would increase the area of vegetation affected (including native vegetation), the change "should not materially influence the magnitude of adverse ecological effects"<sup>3</sup>. The vegetation affected, some of which is now denoted as within Significant Ecological Areas (SEAs) under the PAUP, is in his view "secondary bush and scrub of compromised botanical conservation value"<sup>4</sup>. Mr Slaven explained the mitigation proposed to offset the loss of protected vegetation and terrestrial habitats, and the relationship between the proposed Ecological Mitigation Programme and the Restoration Planting Programme. He also explained amendments that had been made to the ecological mitigation conditions in consultation with Mr Rue Statham of Auckland Council. When questioned, Mr Statham confirmed his support for the amended conditions.

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<sup>3</sup> Statement of Evidence, David Slaven, paragraph 7.

<sup>4</sup> Ibid, paragraph 8.

50. Ms Camilla Needham (environmental engineer/air quality) outlined her methodology for air quality assessment, based on the increased traffic generated by the proposed four lane road compared to the existing two lane road, as designated. She concluded that there would be only a very slight increase in vehicle emissions and that, in her opinion, air pollutants arising from vehicle traffic would not be expected to exceed relevant air quality standards.
51. In response to submissions, Ms Needham confirmed that she had considered concerns regarding possible contamination of tank water supplies from vehicle emissions. She acknowledged that residents in the area typically rely on rainwater for their domestic water supply. She believed that the risk of tank water contamination from the road was no greater than 'windblown dust'.
52. Dr Simon Bickler (archaeological consultant) outlined in his evidence that there were no archaeological constraints across the majority of the proposed Penlink route and the likelihood of discovery was of low probability. However, he acknowledged that six shell midden sites had been identified within Section 4 of the route and that these will be destroyed due to the proposed earthworks, as is the case with the existing authorised road corridor. His evidence also concludes that these sites were recorded in 1997, 1998 and 2000 being accurately surveyed at that time and that they were generally in poor condition and not of such significance that they must be avoided. When asked if the significance of these sites from an archaeological position differed from that of a cultural perspective, Dr Bickler acknowledged that this was not his area of expertise and that these sites may well be very significant to Maori.
53. Mr Hugh Leersnyder (environmental consultant – erosion and sediment control) outlined the generally parameters of the project as they relate to erosion and sediment control, including the probable area of earthworks (75-80ha) and the five catchments through which the alignment will pass. He detailed the erosion and sediment control principles that are proposed to be adopted for the project; which is to implement controls that are designed, constructed and maintained in accordance with Auckland Council Technical Publication 90 Erosion and Sediment Control Guideline for Land Disturbing Activities in the Auckland Region (TP90). On the basis of ecological reports and evidence prepared by other specialists (Mr Sides, Mr Slaven and Dr de Luca), Mr Leersnyder considered that TP90 represented the best practicable option for the project. When questioned, Mr Leersnyder agreed that the inclusion of some additional conditions would be appropriate, including an explicit requirement to comply with TP90, minimum sizing for sediment retention ponds (SRPs) and decanting earth bunds (DEBs), and adoption of chemical treatment of SRPs and DEBs.
54. Dr Theo Sarris (hydrogeologist) summarised his written statement of evidence which addressed predicted groundwater changes as a result of the Penlink construction works. It was his opinion that it would be unlikely that any noticeable adverse effects would occur on the groundwater system of the wider environment. He identified conditions that he did not support and felt should be deleted or amended. In response, we understood that Mr Pat Shorten, Council's groundwater advisor, had no issue with the changes to conditions advanced by Dr Sarris.

55. Dr Sarris also addressed concerns raised by submitters in respect of potential effects on groundwater availability and quality of existing water bores. While some of these existing bores may be affected by a permanent lowering of the groundwater level, he considered that as this would be less than 0.3m, this would not affect these bore owners ability to continue to take water.
56. Mr Graham Levy (engineer – water resources) addressed the proposed management of stormwater from the completed project alignment. He explained the three stormwater related potential effects, being flooding, water quality and stream erosion. Mr Levy identified the five catchments that will receive stormwater from the road carriageway (Dairy Stream, Okura River tributary, Duck Creek, several small streams discharging to Weiti River, and Stanmore Bay), and explained the approach to stormwater management based on Auckland Council Technical Publication 10 Design Guideline Manual – Stormwater Treatment Devices (TP10), Auckland Council Technical Publication 108 Guidelines for Stormwater Runoff Modelling in the Auckland Region (TP108) and the Auckland Council Code of Practice for Land Development and Subdivision: Chapter 4 Stormwater. Mr Levy confirmed that the project will not result in an increased flood risk, although the footprint of the temporary ponding area adjacent to Whangaparaoa Road would increase as a result of the increase to four lanes. Stormwater quality would be provided via a series of wetlands, which are proposed to be re-sized to accommodate the additional lanes. Peak flow attenuation would be provided within the wetlands, as would extended detention (ED) for stream protection. When questioned, Mr Levy considered that the proposed ED which would be in accordance with TP10, would achieve a similar outcome to the SMAF 1 hydrology mitigation specified in the PAUP. Mr Levy considered the proposed stormwater management approach to be the BPO for the project. Mr Levy proposed a minor amendment to Condition 121 to clarify the intent of the condition.<sup>5</sup>
57. Mr Phillip Ware (environmental consultant – contaminated soil) advised that while there is a potential for localised soil contamination to occur in the form of hydrocarbons from fuel storage spills and contamination from gas works waste and hydrocarbon migration it was his expert opinion that “there is a low risk of any contamination being present which would prevent the area being developed as roading”. The Panel accepts his evidence as accurately assessing the extent of risk from soil contamination.
58. Ms Jennifer Hart (coastal engineer) advised that, by way of background, she had been involved in the Penlink project since 1996 and had been responsible for undertaking the coastal processes assessment in the course of the original consent in 2000. Her current evidence was based on an update of this previous material. It was her conclusion that any incremental effects would be minor and could be managed by way of the measures contained in the recommended conditions. She was in agreement with the conditions that related to coastal processes.
59. Mr Edward Sides (freshwater ecologist) addressed the freshwater (stream) environments that are within or downstream of the project alignment, and the potential effects that the project may have on those environments. He explained how the project

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<sup>5</sup> This has since become condition 17 of REG-63658 (Stormwater) Auckland Transport Designation 167 Weiti Crossing (Penlink) and Resource Consents LAN (63657,63669), COA (63667) & REG (63658, 63659, 63664, 63665, 63666, 63887, 64134)

will cross numerous streams located within the four main catchments, those being the Dairy Stream, Duck Creek, Stillwater and Stanmore Bay, as well as a small section of the headwaters of the Okura catchment. Mr Sides classified the streams as permanent, intermittent or ephemeral based on the ACRP:ALW and PAUP definitions. An estimated total of 1970m of permanent stream habitat will be lost as a result of culverting and filling required by the project. Detailed surveys were undertaken in representative permanent streams to assess ecological values and functions, including the application of the Stream Ecological Valuation (SEV) protocol developed by Auckland Council.

60. Mr Sides explained how the loss of stream habitat will be off-set by environmental compensation to enhance stream systems within the alignment and in alternative locations. The applicant has an agreement in principle with Auckland Council Parks that off-set mitigation planting can occur within Parks managed land in nearby catchments. The quantum of mitigation will be calculated using the Environmental Compensation Ratio (ECR) method developed by Auckland Council. That approach was applied through the recommended consent conditions, which Mr Sides accepted.
61. With respect to the potential adverse effects of sediment discharges to streams during construction, Mr Sides considered that the proposed erosion and sediment control methodology would be adequate to ensure that those effects would be minor. He did, however, consider that the values of the Doctor's Creek warranted additional monitoring during construction and provided a suggested amendment to Condition 45 to that end.
62. Dr Sharon de Luca (marine ecologist) described the existing marine ecological values within the project area and the potential effects on these values. She also provided a background on the significance of the resources and conservation values that exist within the vicinity of the proposed bridge regionally and nationally.
63. Dr de Luca explained the differences between the two construction methodologies pointing out that the new proposal will no longer require reclamation, as the new construction will consist of a temporary platform supported by piles. She states in her report "Assuming the temporary platform piles are removed at the end of construction and not cut off and left in-situ, the effects magnitude of the temporary staging is considered to be low and the significance of adverse effects to be minor and temporary".
64. Dr de Luca's evidence also assessed the actual and potential effects over and above those that had been established for a two lane crossing. She explained the methodology that she applied to establish invertebrate community composition, conclusions on sediment effects, along with an assessment of ecological value, effect magnitude and significance. When questioned on what effect the growing of mussels on the piers would have on improving water quality, she considered that this effect would be "minimal".
65. Mr Blair Masefield (planner/statutory) as the Lead Planner for the project, managed the design and expert assessment interface and co-authored the AEE. In his evidence he

provided a summary of the actual and potential environmental effects of the route based on the evidence of the specialist witnesses. Mr Masefield helpfully set out what the existing environment was in terms of the currently designated route and unimplemented resource consents, and the anticipated difference between this state and a future with a four lane Penlink. Taking into account the proposed conditions, which included a suite of management plans, Mr Masefield concluded that the overall effects on the environment would be minor.

66. Mr Masefield provided additional information on two aspects of design that were important, being the Weiti Bridge construction methodology and the location of the toll gantry. In relation to the bridge, a temporary staging platform approach had obviated the need for a temporary reclamation and clearing an access track through an SEA area on the eastern approaches. He explained the location alternatives considered for the toll gantry, which avoids adverse effects on less developed environments, but has a higher degree of visibility within an urban location near the Whangaparaoa Road intersection with Penlink.
67. Mr Masefield provided us with his conclusions on the various sections of the RMA, including that in relation to the non-complying activity status of the application, it passed both of the 'gateway' tests set by section 104D. This included consideration of the fact that, without the proposed mitigation, the effects of stream loss from reclamation would be significant. However, the off-set mitigation proposed on land controlled by Auckland Council Parks department reduced these effects to minor.
68. On the matter of the 20 year lapse period sought for the designation, Mr Masefield advised that the funding programme for Penlink aligned with the land release programme for Silverdale/Dairy Flat/Wainui, which he considered appropriate from a planning perspective. In relation to his support for the extension of the lapse date for the existing coastal occupation resource consent, Mr Masefield took into account the need to align this with the overall project and that the land that had been purchased for the designation, demonstrating substantial progress.
69. Mr Masefield provided a response to the matters raised by submitters (as summarised below in relation to their submissions) and to the Council's section 42A report. The applicant's response to these submissions in terms of modifications to proposed conditions was provided by Mr Masefield. This set of conditions was subsequently updated in the applicant's reply.
70. Mr Masefield also provided a supplementary statement of evidence which described the applicant's engagement with mana whenua and its response to matters raised.
71. Sonya McCall (planner), who is the Auckland Transport planner, helpfully assisted in responding to a range of questions from the Panel that were in addition to the written evidence presented.

### **Submitters**

72. As noted above, a total of 48 submissions were received on the NoR and 10 submissions on the resource consents, with some overlap between these. We heard

from 13 of these submitters and had additional tabled evidence from four parties as also noted above. We have read all the submissions and consider that the matters raised by parties we did not hear further from were well presented by the parties who attended the hearing, with the exception of matters of importance to tangata whenua. We had expected to receive further evidence from Nga Maunga Whakahii O Kaipara at the hearing, but that did not eventuate. Consequently, we will address that submission directly below. Below we summarise the main points that we took from the submitters in attendance.

73. Queen Elizabeth II National Trust (QEII Trust). Mr Hamish Eglinton explained the location and purpose of the QEII Trust covenant on the Baker property at 307 Duck Creek Road and the history of the covenant area swap undertaken as a result of the original designation process. Mr Eglinton provided a colour-coded map showing the area affected by the existing designation and the proposed altered designation. The QEII Trust sought that the amount of covenanted land to be taken be kept to a minimum and a condition requiring involvement of the Trust in confirming mitigation for the loss of covenanted areas before works commence. Mr Eglinton confirmed that the Trust was satisfied with the conditions presented to the hearing. He emphasised that the QEII Trust did not seek to represent the views of the land owners (the Baker family).
74. Mr John Collinge, on behalf of Green & McCahill Holdings Limited (GMHL), presented a written submission on access and a number of other land development matters. GMHL owns most of the land south of the Penlink route to the Okura Estuary, west of Stillwater. The portion of land not owned by GMHL is adjacent to East Coast Road. The GMHL land was now subject to a sale and purchase agreement with Weiti Development LP (WDLP)(see submission below), and WDLP are in the process of developing the land.
75. Mr Collinge provided us with details of how the purchase by Council (as the former Rodney District Council) of the Penlink corridor had severed the company's frontage with East Coast Road, essentially through the purchase of what was described by Mr Collinge and WDLP as the 'panhandle' land which ran from East Coast Road to the bulk of the GMHL land through land belonging to Hugh Green Limited. The panhandle land has since been sold to Hugh Green Limited with legal access now provided to GMHL by a Public Works Act agreement. A key aspect of the relief sought by GMHL was the maintenance of access to East Coast Road, especially as the development of the GMHL land is to precede Penlink.
76. Mr Collinge proposed conditions of consent in relation to access, fencing, landscaping, the formation of the proposed interchanges and consultation. We discuss these matters below.
77. Mrs Beverley McLeod, representing herself and John McLeod, resides at 62/101 Red Beach Road, which she confirmed was within the Red Beach retirement village on the corner of Whangaparaoa Road and Red Beach Road. Mrs McLeod's submission was in support of Penlink and wanted the road to be built as soon as possible. She gave us a very informative, well-researched submission which also relied on her observations of

traffic congestion along Whangaparaoa Road in the morning peak. Mrs McLeod examined alternatives to Penlink and considered that they were all inferior to building the road with the additional lanes. She also provided information on the economic benefits of Penlink in the local area.

78. Ms Janet Fitzgerald, represented the Penlink Now Team. The Penlink Now Team is a group of ratepayers that was formed 10 years ago to pressure the then Rodney District Council and other authorities in to building Penlink as soon as possible. Ms Fitzgerald considered that the Auckland Transport business case for Penlink failed to take into account the growth that is already taking place in the local area. As with the Runwild Trust parties at Silverdale, she identified development resource consents that had restrictions placed on them until Penlink was in place.
79. Ms Fitzgerald provided local examples of the additional flexibility that Penlink would provide for the roading network in the case of accidents happening on the Whangaparaoa peninsula.
80. Ms Kay Harrison on behalf of Equestrian 4 Everyone presented a written and oral submission, requesting the consenting authority to include a bridleway in addition to the proposed shared pedestrian and cycle way. In response to a question from the Panel on this matter, Auckland Transport advised that it was not a matter of exclusion of horses but one around safety as they were not opposed in principle to such a proposition. The Panel accepts that this will be a matter for the road controlling authority in the future.
81. Ms Glenys Ferguson, read her written statement which drew on her recent health scare while in Australia which made her very aware of the need for improved access on the Whangaparaoa peninsula. She lives at Tindalls Bay and submitted that the time it would take for emergency services to reach her home would have been life threatening. She was therefore fully supportive of the Penlink project.
82. Ms Ferguson reiterated her understanding that housing development was expanding within the peninsula and that there was now an urgent need to provide this road link to the northern motorway, for safety and efficiency reasons. She also referred to the recent fatal accident on Whangaparaoa Road which had left the road closed for over five hours; indicating the vulnerability of this one road access. It was Ms Ferguson's position that Penlink should be 'approved' in order to enable 'economic growth, productivity and employment to the Hibiscus Coast'.
83. Mr Doug Falloon appeared on behalf of Nicola Falloon and the residents of the enclave at 39 Cedar Terrace. Mr Falloon spoke to these submissions and reiterated opposition to the proposed new alignment by these parties. While not 'anti- Penlink', he had concerns that the latest alignment (4 lanes) would increase earthworks and visual effects in relation to his immediate neighbourhood. In response to the Commissioners advice that it was understood that the increase to 4 lanes had not changed the original alignment, Mr Falloon noted that there was now proposed to be a large retaining wall in proximity to these residential boundaries.

84. Mr Falloon confirmed that the properties in this area had been purchased and developed after the original Penlink designation was consented. He noted that he knew of the designation at the time of purchasing (2005/2006) but that this has been on the basis of a two lane carriageway. The additional two lanes now proposed had created the need for greater earthworks and the associated retaining walls. Mr Falloon considered that some resolution of his, and his neighbours concerns, would be achieved if the four lane carriageway could be moved to the north within the designated alignment.
85. The Commissioners asked if they could undertake a site visit of these Cedar Terrace properties. This was agreed by respective landowners / submitters.
86. Mr Terry Baker made a heartfelt and passionate presentation to the Panel, highlighting the concerns that he had with the four lane proposal, emphasising the long connection that his family had had with their property. It was clear to us from our site visit to the property that he and his parents have put a great deal of work into their property over many years. However, we do note that the route alignment is at a considerable distance and below the house and gardens. The panel also acknowledge the effort that Auckland Transport has undertaken to keep the lines of communication and engagement meaningful and ongoing.
87. Mr William Byfleet, representing himself and Angela Byfleet, read his statement and answered questions from the Panel. Mr and Mrs Byfleet's property (173 Duck Creek Road, Stillwater) immediately adjoins the route. Mr Byfleet summarised the relevant history of the site, as it had been purchased for the Penlink designation by ARC but later sold to Mrs Byfleet in 2010.
88. The principle issue in contention, as expressed by Mr Byfleet, was that this purchase was undertaken on the basis of a two lane highway, not four lane, as now proposed. The new proposal, he contended, would result in increased effects of noise, vibration and visual intrusion; culminating in reduce property value. He understood that the increased noise levels would require the construction of sound barriers which would add to the adverse visual impact of the alignment on their property. Mr Byfleet also raised the issue of ownership of the barn located partially on their land.
89. Sarah Porter, spoke to her submission, as land owner of 39H Cedar Terrace. She identified the site as being to the south of Mr Falloon's land. She purchased the property around two years ago and enjoyed the bush outlook. She was therefore concerned that the increase to four lanes would impact on the serenity of this bush environment. Ms Porter sought to have the alignment (or at least the carriageway) moved to the north in order to reduce this potential impact of the designation on the visual and ecological values which her property currently enjoyed. She also identified concerns regarding tank water pollution and noise effects from the alignment of the four lane highway.
90. Anne Graham, on behalf of Forest and Bird emphasised the importance of enhancing and maintaining not only the integrity of SEAs, both land and marine, but also the wildlife linkages that exist and their extension wherever possible. She also addressed



terrestrial vegetation values, mangrove habitat biodiversity and hydrology concerns covering ecological processes and sedimentation impacts. She concluded by providing a list of conditions which the Panel has taken into account.

91. Daniel Minhinnick and Simon Mathews on behalf of Weiti Development LP, presented written submissions and evidence in support of the WDLP submission. As noted above, WDLP is developing the GMHL land. Mr Minhinnick advised that by 2025, possibly the earliest date that Penlink would commence construction, a substantial amount of the WDLP land would be complete and new residents and businesses will be located in the area. Mr Minhinnick sought conditions on the designation that provided for vehicle access to pass along the Penlink route to the GMHL/WDLP land prior to, during and following construction of Penlink.
92. Mr Matthews provided additional detail on the WDLP proposals including the extent and timing of development. He explained that WDLP and Auckland Transport had already been working together on the access road and he saw benefits in a joint approach to landscaping and ecological measures through the implementation of construction and landscape management plans. He sought WDLP involvement in the content of these plans.
93. Jason Prescott, presented a written statement, as landowner of 9A Cedar Terrace. The proximity of the alignment to his site (northern boundary) would, he believed, have effects in terms of noise, vibration, water supply pollution, and flooding. Mr Prescott offered suggested measures as resolution which included sound barriers and landscaping; financial compensation; restricted hours of construction; realignment of the carriageway further to the north; connection to the town water supply at the cost of the applicant; and increased drainage.

### **Council officers**

94. Stephen Brown (consultant landscape architect) was present for Mr Bray's evidence and the initial part of the hearing. Mr Brown was in general agreement with Mr Bray and considered that Council now had a better understanding of the effects of the project in terms of visual and landscape effects in light of additional information provided (ie: location and size of retaining walls, bridges and cuts required). Mr Brown confirmed, in reply to a question from the Panel, that he was confident that the recommended conditions would achieve the desired outcomes, even though it would be a 10 to 15 year timeframe until the Outline Plan of Works would be submitted.
95. Both Messrs Rue Statham (terrestrial ecology) and Jon Styles (noise and vibration) were present for parts of the hearing relevant to their areas of expertise. Their response to evidence and issues raised is recorded in the discussion of issues below.
96. Ms Aimee Simons (planner) had responsibility for the regional consents at the hearing (although we note that she had taken over the project from Ms Francis who had written the section 42A report on the resource consents). Ms Simons provided a written reply to the matters raised in the hearing. She confirmed her agreement with the recommendation set out in the section 42A report and then made some detailed

comments on a number of the proposed conditions, with reliance on the input of Council specialists.

97. Ms Hart (planner) confirmed her report on the designation subject to resolution on the conditions.

## **G. Principal issues in contention/matters of concern**

98. We considered the principal issues in contention to be as follows:

- The preliminary matter of the baseline for assessment;
- The lapse period and timing of the project. This was a general concern expressed by a number of submitters. Hugh Green Limited, Green and McCahill Holdings Limited, Weiti Development LP, the Runwild Trust and Stanmore Investments had more specific concerns with the timing of the project;
- Property access and other property matters;
- Ecological impacts. This was an issue in two discrete areas of the project – to the west of Duck Creek Road and to the north of Cedar Terrace, where the route requires the removal of a permanent stream;
- Construction effects, including potential sediment effects, and in particular noise and vibration in relation to persons living in close proximity to the proposed route;
- Operational noise;
- Landscape and visual impact associated with the toll gantry and additional lanes; and
- Matters of importance to mana whenua.

### **Baseline for assessment**

99. Some of the submissions in relation to adverse amenity effects and effects on the natural environment have measured the nature and extent of the adverse effect on the basis of the environment as it exists in reality today. That is an understandable approach by persons with an interest in Penlink, but it does not accord with established legal principles on how to undertake this assessment.

100. We also noted that section 181 of the RMA states that:

*Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*[underlining added]

101. In response to a question from the Panel on this clause, Mr Beatson advised that this direction was administrative, and that the baseline for assessment needed to take into account the effects of the two lane designation and the unimplemented resource consents.

102. Mr Beatson referred us to the legal position clearly established in 2006 in the Hawthorn Estates case which addressed the meaning of the word 'environment' in the context of

a future environment against which to assess the effects of a specific proposal. Ms Linzey and Mr Masefield also addressed this matter in their evidence, as noted previously.

103. We accept the applicant's position on this and note that we had no legal submissions or evidence to the contrary.

### **The lapse period and timing of the project**

104. A significant aspect of the NoR, and the related consents, was the seeking of a 20 year lapse period.

Section 11 of the NoR states:

*"Pursuant to section 184(1)(c) of the RMA, Auckland Transport proposes a lapse period of 20 years for the implementation of the alteration to the designation.*

*This period provides sufficient time for Auckland Transport to secure funding based on the priorities of funding allocation in the Auckland Transport Programme (2012-2041). This timeframe is also consistent with the Mayor's Long-Term Plan 2015-2025)".*

105. The lapse period was also a significant matter for submitters, in particular those persons who wanted Penlink to be constructed sooner than during the second decade into the future (ie 2025 -2035). We have no doubts about the benefits of the project in terms of the travel time savings, safety improvements and network resilience, and the economic benefits of the project in terms of unlocking land for development. Our observation of development in the local area, including Silverdale and Millwater, is that this development will place increasing pressure on government decision makers at all levels to bring the start date for Penlink forward.
106. The default time for a lapse period is defined in sections 125 and 184 of the RMA to be five years for consents and designations respectively. Extended lapse periods have become quite common for major infrastructure projects, particularly roading projects. The usual concern with an extended lapse period from 'directly affected' and 'affected in proximity' parties is that a designation identifies land to be taken and the requiring authority then has a very long period to acquire the land, or not. That is not the situation with Penlink as Auckland Council is now the owner of almost all the route. Furthermore, the existence of the designation and the future construction and operation of the road is well known enough for 'affected in proximity' parties to be aware of the potential effects arising on the development of their properties in the interim period.
107. The section 42A report noted some recent case law on this matter where determining issues for the Courts to weigh up had been:
- The timeframe in which the project was likely to be constructed;
  - Safeguarding the alignment from inappropriate use and development;
  - Certainty for affected landowners and the local community; and
  - The ability to implement the designation in due course.

108. In support of the 20 year lapse period, Mr Beatson submitted that this period was appropriate for the following reasons:
- (a) Substantial progress and effort had been made towards giving effect to the consent including purchase of land for the designation, the update of technical reports to support the new application, and the application for new consents for construction;*
  - (b) The granting of the extension to the lapse date is unlikely to generate adverse effects on any person; and*
  - (c) The Project is consistent with the policies and objectives of the District Plan and PAUP.*
109. In summary, despite our support for the early commencement of the construction of Penlink, an earlier lapse period would not result in the road being built earlier. Our finding is that a 20 year lapse period is justified in the case of Penlink and consistent with the approach being taken to significant roading projects in other parts of the country.

#### **Property access and other property related matters**

110. Green & McCahill Holdings Limited and Weiti Development LP submissions raised concerns about access to their land holdings referred to as the 'Weiti land'. Mr Collinge and then Mr Minhinnick and Mr Matthews respectively provided the history to the current access situation for the Weiti land. While property access was the main concern there were other issues raised including fencing, compensation, and ongoing consultation in relation to the implementation of construction and landscape management plans.
111. Auckland Transport provided amended conditions at the hearing to address some of the issues raised. Mr Minhinnick indicated that he was satisfied with the proposed access conditions, although he suggested an expanded explanatory note in relation to the additional access points along the route for the GMHL land. On this matter, Mr Collinge sought wording that incorporated four access points into the access condition. Our finding is that the condition itself is sufficient to address the access issues raised by the land severance. However, we see no impediment to amending the explanatory note as suggested by Mr Minhinnick.
112. On other development matters we note that the proposed conditions include both parties for consultation on the required Outline Plan of Works which includes construction management and landscape plan matters.
113. In relation to fencing and compensation matters raised by Mr Collinge we find that these are property matters outside the scope of our recommendation on the NoR.
114. Also on property access matters were the submissions by Stanmore Investments Limited and Hugh Green Limited.

115. Ms Reaburn proposed two conditions in relation to final interchange design and traffic management to address Stanmore Investments Limited's concerns. We note that these proposed conditions have been accepted by the applicant.
116. Hugh Green Limited sought that it be included in the consultation list on the Outline Plan of Works, as it is for the existing designation. The proposed conditions refer to Hugh Green Limited (Group) as requested.

### **Ecological impacts**

117. This was an issue in two discrete areas of the project – to the west of Duck Creek Road and to the north of Cedar Terrace, where the route requires the removal of a permanent stream.
118. The project will impact on various areas of terrestrial and freshwater ecology. The potential effects will result from the installation of culverts, vegetation removal and sediment discharges. Impacts from East Coast Road to the southern boundary of 307 Duck Creek Road are limited to the headwaters of predominantly pastoral stream systems, and the removal of pine forest, much of which having already been harvested. Key areas of concern raised by submitters related to impacts on the covenanted vegetation within 307 Duck Creek Road, and the stream and vegetation to the north of Cedar Terrace.
119. With respect to the potential effects of sediment discharges from stream works and general earthworks, we accept the evidence of Mr Sides regarding freshwater ecology. If appropriately managed in accordance with industry best practice, we do not anticipate significant adverse effects on freshwater receiving environments and provide no further comment.
120. In regard to 307 Duck Creek Road, Mr Baker's concern was based on the incremental encroachment of the project into the covenanted area, which holds significant personal association and value to him and his family. We note that his submission did not raise specific concerns regarding the evaluation of ecological effects, although it did raise concerns regarding edge effects, and how those would extend further into his property under the proposed four lane route. He sought to lock in the location of the alignment such that it could not extend further into his covenanted land. We empathise with his concerns and consider that these have been incorporated into the agreed position with the QEII Trust. We note that the QEII Trust does not oppose the alignment, based on the agreed provision of an off-set covenant area.
121. In regard to the stream and vegetation north of Cedar Terrace, Mr Falloon expressed strong concern about the further encroachment onto this area, and stated his views on the values that the area provides in terms of ecology, privacy and amenity. Likewise, Ms Porter added her appreciation of the area in terms of amenity for her children, and the contribution that access to the area provides for their lifestyle.
122. In considering the ecological elements of these matters, we are reliant on the evidence of Mr Slaven and Mr Sides, and the review and responses provided by Mr Statham of Auckland Council. The experts were in agreement regarding the overall assessment of

potential ecological effects, and the proposed conditions that will guide the process for determining the quantum, type and location of mitigation to be proposed. While recognising and commenting below on the other related matters of concern to submitters, we have not received expert evidence that contradicts that provided by Messrs Sides, Slaven and Statham. On that basis, we accept their findings and conclude that if environmental compensation is provided in accordance with the proposed conditions, the potential effects of the project on terrestrial ecology will be adequately mitigated.

123. With respect to the potential impact of the project footprint on the vegetation north of Cedar Terrace, we are constrained in the extent that we can recommend modifications of the alignment beyond the route that has been considered through the application and hearing. Mr Falloon suggested that the alignment should be moved north to provide a greater buffer between the Cedar Terrace properties and the stream and the construction activities and alignment. There may be some value in that but there may also be geotechnical and geometric reasons why it is not the best option. In this case we must consider the alignment proposed, and the extent that that increases adverse effects. On that basis we recognise that the extent that the works footprint will extend towards Mr Falloon's property, and consequently the area of vegetation to be removed, will be dependent on detailed design and the final location and height of retaining walls. Given the long lapse period in particular, we consider that the position of the road and related effects will benefit from further reconsideration in the final design process, and have recommended a condition accordingly.

## **Construction effects**

### *Sediment effects*

124. Having considered the proposed conditions, and the evidence provided by the applicant's experts, and in particular Ms De Luca and Mr Leersnyder, we retained some concern regarding the potential sediment related effects that could occur with the recognised high value receiving environment of the Weiti River and to a lesser extent, the Long Bay Marine Reserve.
125. Some of our concern is based on the apparent level of detail provided for this proposal, and in particular with respect to potential estuarine effects, when compared with other recently considered roading projects within the Auckland region. This is not to say that we find the overall approach to erosion and sediment control as being inadequate. However, we do note the following points which has resulted in us strengthening the relevant consent conditions.
126. With the extended lapse periods and terms of consent sought, the details and anticipated performance outlined in technical reports supporting consent applications can become somewhat lost if it is not explicitly included in the consent conditions. Thus, the existing consent conditions could lead to ambiguity regarding the requirements presently intended and understood by parties at the hearing.
127. Ms De Luca was satisfied that the sediment related effects could be appropriately minimised, based on the information provided to her by Mr Leersnyder. That

information, as detailed in his technical report<sup>6</sup>, comprised the adoption of TP90 and the provision of an estimate of sediment yield for the project alignment split into 10 sub-catchments, based on the Universal Soil Loss Equation (USLE). It did not proposed staging of works. When questioned about the likelihood of approximately 36ha of earthworks occurring concurrently within the Weiti catchment, Mr Leersnyder confirmed his view that additional staging restrictions were not necessary.

128. The USLE provides a fairly coarse estimate of sediment yield, but the values inputted into the equation are accepted albeit that an assumed sediment control efficiency of 90% implies that most runoff will pass through sediment retention ponds. Likewise, the assessment does not account for risk associated with storms of various size and intensity. Ms De Luca's assessment is based on sampling locations along the alignment of the proposed bridge, and her general familiarity with the Weiti Estuary receiving environment. When questioned, she agreed that the marine monitoring condition could be amended to provide more specifically for monitoring at each location that a stream (that drains the works alignment) enters the Weiti River. This would allow better identification of site performance and potential effects within specific sub-catchments. We note that the set of conditions provided with the applicant's reply reflect that amendment.
129. Mr Leersnyder acknowledged that additional conditions that provide more specificity as to anticipated design and performance of erosion and sediment controls, as detailed in the technical report, would be appropriate. Furthermore, we are aware that industry best-practice has evolved over the past 10 years or more such that it exceeds some of the minimum design standards imposed in TP90. It would not be appropriate to allow an erosion and sediment control standard that does not meet best practice. We recognise that Mr Leersnyder anticipates that best practice will be adopted. To that end, additional conditions have been included to address the following matters:
- Specifically require the adoption of industry best practice, TP90 or better
  - Chemical treatment of SRPs and DEBs
  - Minimum volumes and T-bar decants for all DEBs
  - Progressive stabilisation of completed works areas.
130. With respect to the adoption of TP90 as a minimum standard (in addition to the above measures), we are anticipate that TP90 may be updated between now and the commencement of construction, which could be 10 or more years away. We recognise the requirement for consent conditions to provide certainty for consent holders and regulators but also note that any such update is likely to reflect industry best practice at that time. Consequently, we provide flexibility within the relevant condition to allow for the adoption of best practice at that time, the condition has been amended to recognise revisions of TP90 that may be in effect at the time of construction.

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<sup>6</sup> Penlink – Erosion and Sediment Control Plan, dated 13 November 2014, prepared by Beca Ltd Auckland Transport Designation 167 Weiti Crossing (Penlink) and Resource Consents LAN (63657,63669), COA (63667) & REG (63658, 63659, 63664, 63665, 63666, 63887, 64134)

131. With the adoption of the additional conditions addressing the matters listed above, and the amendments already provided by the applicant, we are satisfied that the project can be constructed in a manner that ensures that any adverse sediment-related effects on the receiving environments are minor and temporary.

*Construction noise and vibration*

132. It was submitted by the applicant's acoustic expert, Ms Wilkening, that the conditions relating to construction noise in respect of the current designation remained generally appropriate for the extended designation.<sup>7</sup> However, new conditions were proposed for vibration effects to bring them in line with updated standards. There was agreement that this was appropriate. As construction noise effects had not been assessed in detail at the time that the original designation was consented to, this assessment was made for the current designation extension. This work was largely based on the measurement of ambient noise levels. The main noise and vibration generating activities were identified by Ms Wilkening as including bulk earthworks (which we assume would include the construction of retaining walls) and bridge construction.
133. While several locations were identified as likely to experience construction noise (and possibly vibration) effects greater than the relevant standards in respect of the proposed alignment, it was Ms Wilkening's opinion that construction noise would be similar for the proposed road to that of the consented road. The property at 46 Cedar Terrace was identified by the applicant where this would not be the case due to retaining wall construction and proximity to the Weiti bridge construction.
134. Concerns were raised by submitters residing in the Cedar Terrace locality (39B to 39H and 9A and 9B) regarding construction noise and vibration effects given the proximity of these properties to retaining wall construction within the alignment and to construction yards. We consider these to be valid concerns, confirmed from our site visit. In response, we note that recommended conditions include provision of a Construction Noise and Vibration Management Plan (CNVMP) which includes procedures for monitoring vibration and for undertaking pre-activity building condition surveys; as well as protocols for community and stakeholder communication. We consider that these conditions should provide the necessary mitigation measures to address these potential effects.
135. Other identified construction effects include ensuring that vehicular access to and within the Stillwater community is available; and landscape /visual effects. We consider that conditions address the traffic effects by way of a Construction Traffic Management Plan and Site Specific Traffic Management Plans. In this regard we note the opinion of Mr Murray in evidence<sup>8</sup> where he acknowledged that the construction traffic effects will likely be greater for the proposed route than would have been for the 'baseline' project. We understand this to be in respect of both project duration and extent of work to be undertaken. However, Mr Murray is of the opinion that the management plans (by way of conditions) *'are likely to better manage adverse effects from construction traffic than the Baseline, as they provide greater focus and consideration of such effects than was*

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<sup>7</sup> Evid of Siiri Wilkening, para 9, pg 3

<sup>8</sup> Evid of Andrew Murray, para 25, pg 9



*required under the previous conditions.’ We agree and consider these conditions to be essential to managing construction traffic effects.*

### **Operational noise**

136. We understand that there was agreement between the applicant's and the Council's acoustic experts as to the methodology undertaken upon which the operational noise assessment was based. However, Ms Wilkening did not agree with part of the recommended conditions related to this matter. Mr Styles (Council's acoustic expert) considered that the full text (as recommended in the s42A report) was necessary in order to ensure that compliance with predicted noise levels was achieved and that there was some certainty in respect of the mitigation measures that would be implemented where required.
137. Mr Styles' assessment was based on his concern that the operational noise conditions must adequately ensure a level of certainty for those property owners / noise receivers that mitigation was available and feasible. As a consequence Mr Styles also raised concerns that a complete assessment of the operational noise effects was not possible if there was no clarity and certainty of the mitigation options proposed. Further discussion between the applicant and Council took place during the hearing resulting in agreement to retain the recommended suite of operational noise conditions.
138. These conditions include specific steps in achieving mitigation for identified properties where traffic design limits are applied based on ambient noise levels. This method of mitigation takes into account those properties where an exceedance of noise design levels was predicted in the applicant's acoustic assessment.

### **Landscape and visual impact**

139. While Mr Bray reiterated that his landscape assessment was based on the likely effects within the context of the additional designation works, it was evident that a significant amount of new landscape analysis had taken place in comparison to that which was available at the time that the original designation was considered<sup>9</sup>. This provided the Panel with a good understanding of the potential visual and landscape effects and impacts. The Concept Landscape Mitigation Plan (CLMP) provided in evidence by Mr Bray was supplemented with photo impressions, tabled at the hearing. The later technique usefully presented comparative imagery of those components of the proposed designation that were additional or new to the original designation. These included the widened Weiti Bridge and the toll gantry. A 'zone of visibility' graphic accompanied the toll gantry depiction to address the proposed lighting effects of this new structure and associated road lighting. Imagery of the proposed Weiti Bridge in different colours was also provided. We understand that this information addressed the request for further information sought by Mr Brown on behalf of the Council.
140. Mr Bray further described the change in bridge design which, in his opinion, would be an improvement to the previous two lane bridge as there would be less earthworks as a consequence of the viaduct design. As more detailed information was now available

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<sup>9</sup> Evid of Shannon Bray, para 25, pg 6  
Auckland Transport Designation 167 Weiti Crossing (Penlink) and  
Resource Consents LAN (63657,63669), COA (63667) &  
REG (63658, 63659, 63664, 63665, 63666, 63887, 64134)

with respect to earthworks, retaining wall construction and noise barrier locations, the CLMP comprised respectively more detail on the location and types of vegetation considered appropriate. Mr Bray did however acknowledge that the final Landscape Mitigation Plan would be reliant on final engineering design. The recommended visual impact mitigation conditions are intended to serve this purpose.

141. Other aspects addressed by Mr Bray in considering the landscape and visual impact of the project included the design of the toll gantry. At this stage there was no information provided in respect of the detailed design and, as we understood Mr Bray, it was his preference that this design should seek to incorporate an 'artistic sculptural' element and not be simply an engineered structure. He referenced the Tauranga toll gantry as an example.
142. In summary, we found the landscape and visual analysis and associated imagery provided by Mr Bray to be of assistance in our consideration of this issue and useful reference when undertaking our site visit after the hearing. The recommended conditions reflect the additional information now available, based upon analysis undertaken. We note that in reply to questions from the Commissioners, Mr Brown confirmed that he was confident that these conditions would be sufficient to guide landscape and visual design as part of the Outline Plan of Works in ten or more years time should the lapse period be extended as requested by the applicant. We rely upon this advice and are satisfied with this position.

#### **Matters of importance to mana whenua**

143. These matters were not so much in contention as being important matters to address giving the long association of various mana whenua groups with the land affected by the designation. The Panel accepts that the four lane proposal had only marginally different effects to the two lane proposal, in terms of effects on resources of particular interest to mana whenua.
144. Mr Masefield's summary of mana whenua engagement recorded that sixteen mana whenua groups were contacted via letter and with a follow up phone call. The applicant then attempted to engage with those iwi who responded as having an interest in the area affected by the route. These groups were Te Kawerau a Maki, Ngati Manuhiri and Nga Maunga Whakahii o Kaipara.
145. The first two of these groups prepared a joint cultural impact assessment (CIA). Mr Masefield considered that most of the recommendations that the CIA had made about the management of specific resources and activities had been reflected in the proposed conditions, including the monitoring conditions and the mana whenua engagement conditions which refer to the accidental discovery protocol and the matauranga Maori input to final design.
146. The Panel had expected to hear from Ms Parata of Nga Maunga Whakahii o Kaipara at the hearing or by tabled submission. However we have recorded above the outcomes of consultation with this group in Mr van Schalkwyk's evidence.

147. Having read the section 42A report, the applicant's evidence, the very informative CIA and the evidence submitted by Ngati Whatua o Kaipara (Submission 42) along with the conditions proposed by the applicant, the Panel is satisfied that matters pertaining to Part 2 of the RMA and other statutory requirements pertaining to matters of significance to Maori have been addressed.

## **H. Relevant standards, policy statements and plan provisions considered**

### **Resource consents**

148. With respect to the resource consents applications considered, in accordance with section 104(1)(b)(i)-(vi) of the RMA, we have had regard to the relevant policy statements and plan provisions of the following documents. The specific relevant provisions of the documents listed below have been outlined in the s42A report prepared by Ms Francis and we accept her description for the purposes of this decision.

#### National Environmental Standards – s104(1)(b)(i)

- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES Soil)
- National Environmental Standard for Air Quality (NES:AQ)

#### National Policy Statements - s104(1)(b)(iv)

- New Zealand Coastal Policy Statement – (NZCPS)
- Hauraki Gulf Marine Park Act 2000 – (HGMPA) (to be considered as a coastal policy statement)
- National Policy Statement for Freshwater Management 2014

#### Regional Policy Statements – s104(1)(b)(v)

- Auckland Council Regional Policy Statement
- Chapter B of the Proposed Auckland Unitary Plan

#### Plan or Proposed Plan – section 104(1)(b)(vi)

- Auckland Council Regional Plan: Air, Land & Water
- Auckland Council Regional Plan: Sediment Control (ACRP:SC)
- Auckland Council Regional Plan: Coastal
- Proposed Auckland Unitary Plan

149. Having considered the matters listed in section 104 of the RMA, we are satisfied that we have received sufficient information to identify and assess the envelope of potential effects that may arise during construction and operation of the road. These effects and our findings are discussed earlier in this decision. We are also satisfied that the

proposed activities will be generally consistent with the relevant statutory provisions, including those of the operative and proposed plans.

### **Section 104D Particular Restrictions for Non-Complying Activities**

150. As previously identified, the following activities are considered non-complying:
- Occupation of the CPA1 with temporary staging, 'jack up' barges and associated land connections and bridge pier (ACRP: Coastal)
  - Location of temporary structures within the CPA1 (ACRP: Coastal)
  - Temporary staging structures as structures not provided for in SEA-M1 and SEA-M2 (PAUP)
  - Mangrove removal or pruning within SEA-M1 (PAUP)
  - Reclamation of 120m streams (ACRP: ALW and PAUP)
  - Culverts greater than 30m in length (PAUP)
151. Section 104D(1)(a) of the Act requires that a council have regard to any adverse effects on the environment of allowing the activity. Our overall conclusion on the effects of the proposed activities is that these would be minor. These effects can be adequately mitigated by the imposition of conditions of consent requiring a variety of measures to ensure the risk to the receiving environment and adjacent sites is mitigated. With regards to stream reclamation, we consider that a variety of measures including riparian planting and daylighting will off-set the effects.
152. Section 104D(1)(b) requires that the activities will not be contrary to the objectives and policies of the relevant plans or proposed plans. Our finding is that with the imposition of conditions to avoid, remedy or mitigate the expected effects, the proposed activity will not be contrary to the relevant objectives and policies of the ACRP: Coastal, ACRP: ALW and PAUP.
153. Our conclusion is therefore that, subject to conditions, the proposed activities meet the tests of section 104D.

### **Notice of Requirement**

154. With respect to the NoR for the alteration to the designation sought, section 171(1)(a) of the RMA applies. That section requires, subject to Part 2, that we consider the effects on the environment of allowing the requirement, having particular regard to the national policy statements, New Zealand coastal policy statement, regional policy statement and proposed regional policy statement, and plans and proposed plans listed above. For the NoR, we rely upon the detailed description of those matters provided by Ms Hart, and accept that for the purposes of our recommendation. Our findings in relation to the NoR under sections 181 and 171 are discussed in detail in the following section of this decision.

## **I. Relevant statutory provisions considered**

### **Notice of Requirement to Alter Designations**

Auckland Transport Designation 167 Weiti Crossing (Penlink) and Resource Consents LAN (63657,63669), COA (63667) & REG (63658, 63659, 63664, 63665, 63666, 63887, 64134)

155. With respect to the Alteration of Designations sought, Section 181 of the RMA allows a requiring authority to alter a designation, and requires that such an alteration be considered as if it were a new designation. In particular, that requires consideration of the alteration under the provisions of section 171 of the RMA.
156. Under section 171(1)(a), our findings are discussed in the preceding section of the decision and we do not repeat them here.
157. Under section 171(1)(b), the degree to which the requiring authority must consider alternatives in this case is framed by the existing designation and the anticipated extent of works (i.e. a 2 lane road) and the very minor amount of land that is not owned by the authority. Six small areas of additional land are sought to be added to the designation, and no matters of concern regarding those areas have been raised by submitters. No specific concerns relating to environmental effects resulting from the additional areas have been raised, and we do not comment further on that matter other than to find that the addition of areas to the designation is a minor increment and appropriate in the context of the change from a two lane to a four lane road.
158. The potential effects of most concern to submitters result from the change from two to four proposed lanes, with a corresponding increase in earthworks, vegetation impacts and potential construct and operation effects, including noise. The proposed route is essentially the same as the existing designated route so the consideration of alternatives in this case is limited to the justification for the increase from two to four proposed lanes, when considered against other transport options and route upgrades. Under section 171(1)(c), we are satisfied that the requiring authority has undertaken an appropriate consideration of alternatives, based on strategic traffic planning which incorporates land use and development assumptions based on the Auckland Plan and the PAUP. We are also satisfied that the alteration and associated works are reasonably necessary to achieve the objectives of the designation sought.

## **Resource Consents**

### *Matters relevant to discharge and coastal permits – s105*

159. The proposal requires consents to discharge contaminants to land and water under s15. Under section 105, regard must be had to additional matters for any application for a discharge permit or a coastal permit that would contravene s15 or s15B of the RMA. These matters relate to the nature of the discharge, the sensitivity of the receiving environment, the applicant's reasons for the proposed discharge and consideration of alternatives. These are all matters that have been considered. We agree with the reporting planner that the proposal satisfies the matters set out in section 105 for the reasons set out in her report.

### *Restrictions on discharge permits – s107*

160. Regard must be had to the restriction on the granting of certain discharge permits that would contravene sections 15 or 15A. Section 107 states that a discharge permit cannot be granted to do something that would otherwise contravene section 15 allowing the discharge of a contaminant or water into water, if, after reasonable mixing, the contaminant or water discharged is likely to give rise to all or any of stated effects in

the receiving waters. We are satisfied that the proposal satisfies the provisions of section 107.

*Change to conditions of Coastal Occupation and Use Permit 23103 – s127*

161. The proposal was considered to be within scope and meet the statutory tests of s127 in relation to extending the width of the existing consent for the proposed bridge across the Weiti River from 3 lanes to 4 lanes and a shared path.

*Extension of lapse date of Coastal Occupation and Use Permit 23103 – s125*

162. The proposal was considered to meet the tests of s125 where substantial progress or effort towards giving effect to the consent had been met when considering the project as a whole, in conjunction with the other resource consent applications and alteration to designation we currently have in front of us. The existing permanent occupation and use consent does not exist or operate on its own.

### **Other Matters**

163. Under section 104(1)(c) and section 171(1)(d) of the RMA, the following non-statutory matters are considered relevant. These have been discussed in detail in section 6.8.6.1 of the section 42A agenda report.

- Auckland Plan
- Hibiscus and Bays Area Plan (2013)
- Hibiscus and Bays Local Board Plan (2014)

164. We concur with the conclusions of Ms Francis and Ms Hart and find that the proposal is consistent with and supports the outcomes sought by these non-statutory planning documents.

### **Part 2 RMA**

165. We find that the proposal is consistent with Part 2 of the RMA because:

- The completed route will provide for the social and economic wellbeing of people and communities in Auckland by improving transport access to the Whangaparaoa Peninsula, as well as improving road network efficiency and resilience for Silverdale and Millwater and future links to the Dairy Flat growth area.
- The route will provide for multi-modal transport with a dedicated cycle lane, and sufficient lanes for the provision of dedicated bus lanes should those be deemed appropriate through future modelling and regional transport policy.
- The matters raised by submitters have been given particular attention through the discussions during the hearing regarding the inclusion of conditions of consent that have regard to submitters' concerns.
- The construction techniques and practices, coupled with conditions on the consent, will appropriately minimise potential and actual adverse effects on the environment. As such, the project represents an efficient use and development of natural and

physical resources and will appropriately avoid, remedy and mitigate effects that may occur.

- The natural character of the coastal environment (including the coastal marine area), wetlands, and streams and their margins, will be protected from inappropriate subdivision, use, and development, based on our finding that the proposal is reasonably necessary to meet the project objectives. Moreover, the management of earthworks will incorporate methodologies and monitoring to ensure that any adverse effects on the Weiti Estuary are appropriately minimised.
- Ecological effects, including those associated with Significant Ecological Areas, have been assessed and will be mitigated through consent conditions.
- Given the extent of consultation undertaken with Mana Whenua, the requirements of sections 6(e), 7(a), 7(aa), and 8 of the RMA have been provided for and had regard to. Accidental discovery protocols and consent conditions will enable the relationship of Mana Whenua with any unidentified archaeological sites within the project site to occur. In addition, the applicant has stated that on-going consultation and engagement will continue through all stages of planning and construction.

## J. Conclusions

166. In Section G of this decision we have considered the principle issues in contention and matters of concern, including effects on the environment of the proposed activities and the extent to which proposed conditions may avoid, remedy or mitigate those adverse effects. In that regard, we are satisfied that the adverse effects of the proposal can be appropriately managed, by the imposition of a robust set of conditions, as discussed elsewhere.
167. In Section H of this decision we have considered the relevant planning instruments and have concluded that the proposed activities before us are generally consistent with relevant provisions of the various planning instruments, and in relation to section 104D the proposed activities are not contrary to the relevant objectives and policies.
168. In Section I of this decision we have considered the statutory framework and have concluded that the proposals before us generally meet the statutory criteria.
169. Exercising a broad overall judgement, we consider that we should confirm the NoR subject to conditions and grant the resource consents, also subject to conditions.

## K. Decision

- L. In exercising our delegation under sections 34 and 34A of the RMA and having regard to the foregoing matters and the requirements of section 171 of the RMA we recommend to the requiring authority that the Notice of Requirement be **CONFIRMED SUBJECT TO CONDITIONS** attached to this decision. That pursuant to sections 104, 104B, 104D, 105, 107 and 108 these resource consents are **GRANTED**. Further, that pursuant to s125, the lapse date be extended to 20 years from the date of commencement of Coastal Occupation and Use Permit 23103 and that pursuant to s127, the conditions of Coastal Permit 23103 be changed to reflect the updated proposal. Both the recommendation on the NoR and decision to grant consents have also been subject to Part 2 of the RMA.



Chairperson

Dave Serjeant

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Date:

19 November 2015

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## Weiti Crossing (Penlink)

## Designation 167 Recommended Conditions and

## Resource Consent Conditions

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## Designation 167: Weiti Crossing (Penlink) Conditions

### 1. General Conditions

- 1.1 The scope and extent of the works (including the horizontal and vertical alignment of the carriageway) within the designation shall be generally in accordance with the plans contained in Volume 3 of the Notice of Requirement dated 21 October 2014.

Advice note: Where this designation covers the same land as Designation 211 (Operative District Plan) and 401 (Proposed District Plan 2000) it is noted that Designation 211/401 is the earlier designation in terms of section 177 of the Resource Management Act 1991.

- 1.2 The designation and proposed works on the area of land subject to the designation shall permit electronic toll gantry structures and associated infrastructure.

- 1.3 Before any construction is commenced an Outline Plan shall be submitted in terms of s.176A of the Resource Management Act 1991. The outline plan may be submitted in stages to reflect any proposed staging of the physical works. The Outline Plan(s) shall show those matters required to be included by s.176A(3) of the Act. Any Outline Plan shall be prepared in consultation with at least the following parties with the record of consultation being documented in the Outline Plan:

- (a) Hugh Green Group;
- (b) Green & McCahill Holdings Ltd;
- (c) Weiti Development LP;
- (d) The NZ Transport Agency (or equivalent);
- (e) Mana whenua (refer condition 17);
- (f) Affected utility providers;
- (g) The Queen Elizabeth II National Trust (QEII);
- (h) The Bakers at 307 Duck Creek Road;
- (i) The Websters at 236 and 266 Duck Creek Road; and
- (j) Bore owners at 165 and 236 Duck Creek Road.

- 1.4 The Requiring Authority (or its agents) shall physically peg, or similarly mark, the key points showing the extent of the roading earthworks and the designation for the Weiti Crossing, on Lot 3 DP 95982 and Lot 1 DP 100141 as part of the Outline Plan process.

### 2 Design Consideration Conditions

- 2.1 Prior to the construction of the route, the Requiring Authority (or its agents) shall permit vehicle access from the Weiti Crossing road alignment to the following parcels of land in consultation with the landowners and in accordance with the provisions of the Local Government Act 1974:

- (a) Lot 3 DP 95982 and Lot 1 DP 100141 being respectively the Kilmacrennan Farm and Kerrykeel Farm which are farmed as one unit known as Weiti Station; and
- (b) Lot 4 DP 465984 (through which access is provided to other lots) and Lots 1 and 2 DP 405498 being land owned by Green and McCahill Holdings Ltd.

- 2.2 The two local access points serving Lot 3 DP 95982, Lot 1 DP 100141 and Lot 4 DP 465984 shall be fully constructed at the time that the main alignment of Penlink is constructed, unless otherwise agreed with the landowners of these properties.

Explanation:

Given the size of the Green and McCahill Holdings Ltd landholding (840 hectares) two access points are currently provided for at chainage 960m and chainage 1,800m. A further access point is contemplated between chainage 2,700m and chainage 3,500m. A fourth access point to the Stillwater settlement between chainage 3,500m and chainage 4,200m should be the subject of other considerations apart from this designation.

- 2.3 Prior to finalising the design of the interchange with Whangaparaoa Road, the Requiring Authority shall take all practicable steps to consult with Stanmore Investments Ltd (or any subsequent owner) of the New World supermarket and retail activity at the corner of Whangaparaoa and Beverley Roads ('the retail site'). The purpose of the consultation will be to enable the interchange design to minimise effects on the safe and efficient operation of the retail site, particularly in relation to maintaining pedestrian and vehicle access. The Outline Plan of Works shall detail what consultation has been undertaken and how any matters raised in this consultation has been taken into consideration in finalising the Whangaparaoa Road interchange design.

### 3 Noise and Vibration Conditions

Construction Noise

- 3.1 During construction the guideline noise limits contained in New Zealand Standard 6803:1999, The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work shall be complied with and the principles for managing noise set out within that document shall be formally adopted. Where compliance is not practicable 3.4(e) shall apply.

Construction Vibration

- 3.2 Construction vibration shall comply with the criteria in Table A.

Table A – Construction Vibration Limits

Receiver	Location	Detail	Category A	Category B
Occupied PPFs*	Inside the building	Night-time 2000h-0630h	0.3mm/s PPV	1mm/s PPV
		Daytime 0630h-2000h	1mm/s PPV	5mm/s PPV
		Blasting-vibration	5mm/s PPV	10mm/s PPV
Other occupied buildings	Inside the building	Daytime 0630h - 2000h	2mm/s PPV	5mm/s PPV
All other buildings	Building Foundation	Vibration – transient (including blasting)	5mm/s PPV	BS 5228-2 Table B.2
		Vibration – continuous		BS 5228-2 50% of Table B.2 values

Notes:

Measurements of construction vibration shall be undertaken in accordance with German Standard DIN 4150-3:1999 Structural Vibration Part 3: Effects of vibration on structures

\*For vibration, protected premises and facilities (PPFs) are dwellings, educational facilities, boarding facilities, homes for the elderly and retirement villages, marae, accommodation hospitals that contain in-house patient facilities and buildings used as temporary (e.g. motels and hotels).

- 3.3 If measured or predicted vibration levels exceed the criteria in Table A above then;
- (a) If measured or predicted vibration levels exceed the Category A criteria a suitably qualified expert shall be engaged to assess and manage construction vibration to comply with the Category A criteria as far as practicable.
  - (b) If measured or predicted vibration levels exceed the Category B criteria then, where agreement with the land owner can practicably be obtained, a building condition survey and monitoring of vibration levels at those buildings shall be undertaken by a suitably qualified expert.
  - (c) If any exceedance of the criteria in Table A is measured or predicted, then any vibration effects on those buildings shall be identified, assessed and managed in accordance with Conditions 3.4(f) (Category A) and (g) (Category B).

#### Construction Noise and Vibration Management Plan

- 3.4 Prior to construction works commencing, the Requiring Authority shall prepare and submit for the approval of the Council a Construction Noise and Vibration Management Plan (CNVMP). The CNVMP and any management schedules prepared in accordance with 3.4(e) shall be implemented throughout the construction process and may be updated where necessary with the approval of the Council. The objective of the CNVMP shall be to describe and require the implementation of the Best Practicable Option (BPO) for the management and mitigation of construction noise and vibration effects from all works, including those works that comply with the standards set in these conditions.

The CNVMP shall, as a minimum, address the information required by NZS 6803:1999, Annex E2, and in particular the following aspects with regard to managing the adverse effects of construction noise and vibration:

- (a) Noise and/or vibration sources, including machinery, equipment and construction techniques to be used and their scheduled durations and hours of operation including times and days when work causing construction noise and/or vibration would occur;
- (b) The construction noise and vibration criteria for the project;
- (c) Affected houses and other sensitive locations where noise and/or vibration criteria apply;
- (d) Predicted noise levels set out as minimum compliance distances for key activities and items of plant and identification of any dwellings or other sensitive locations where works will be required within those minimum compliance distances;
- (e) Mitigation and management measures, including alternative strategies where full compliance with the noise criteria from NZS 6803: 1999 and the vibration criteria in Table A above cannot practicably be achieved, including the requirement for management schedules requiring the following content:
  - i. Describe the activity (including duration), plant and machinery that is expected not to comply with the noise and/or vibration limits in conditions 3.1 and 3.2;

- ii. Provide predicted levels for all receivers where the levels will not be compliant with the limits in conditions 3.1 and 3.2;
  - iii. Describe the mitigation measures proposed to reduce the noise and/or vibration levels as far as practicable, including any options that have been discounted due to cost or any other reason;
  - iv. Describe alternative mitigation of the impacts that is acceptable to affected parties e.g. temporary accommodation during the specific activity;
  - v. Describe the measures adopted to ensure that building damage will not arise where non-compliance with the Category B vibration limits occurs.
- (f) Procedures for management of vibrations where measured or predicted vibration levels exceed the Category A criteria;
  - (g) Procedures for continuous monitoring of vibration and pre-activity building condition surveys where noncompliance with the Category B vibration limits is predicted;
  - (h) Methods and frequency for monitoring and reporting on construction noise and vibration;
  - (i) Contact numbers for key construction staff, staff responsible for noise and/or vibration assessment and council officers; and
  - (j) Procedures for maintaining contact with stakeholders, notifying of proposed construction activities and handling complaints about construction noise and/or vibration.

#### Operational Noise

3.5 The road alignment shall be designed to achieve the following noise standards:

- (a) For the properties identified in Table B - the relevant traffic noise design limit contained in Table B.
- (b) For all other dwellings, the relevant noise standards contained in Transit New Zealand's Draft Guidelines for the Management of Traffic Noise for State Highway Improvements, December 1999.

Table B – Traffic Noise Design Limits

Location	Traffic Noise Design Limits Leq (24 hours)
Dwelling A (at the western end of the proposed road as indicated on the AEE document) (1695 East Coast Road)	65 dBA
All other existing* dwellings west of the Weiti River	55 dBA

Dwelling 1 on Lot 1 DP 138956 (43 Cedar Tce) Dwelling 2 on Lot 4 DP 64380 (45 Cedar Tce) Dwelling 3 on Lot 6 DP 64380 (41 Cedar Tce) Dwelling 4 on Lot 7 DP 64380 (39 Cedar Tce)	55 dBA
Dwellings at 7 to 37 Cedar Terrace inclusive	62 dBA
Dwellings at 39A – 39H Cedar Terrace inclusive	57 dBA
All existing* dwellings on Whangaparaoa Rd	65 dBA or ambient (whichever is greater)

\*Existing at 22 September 2015

Note: The assessment point for Table B is 1m in front of the most exposed point on the facades of the dwellings.

- 3.6 In addition to the standards in Table B above, the road alignment shall be designed with the appropriate noise mitigation measures to achieve compliance with a single event noise limit of 78 dBA L<sub>max</sub> at the facade of any residential building situated within 12 metres from the new road carriageway. This shall not apply to residential buildings currently located within 12 metres of the existing road carriageway.

Explanation:

This is in accordance with the Transit New Zealand Draft Guidelines for the Management of Road Traffic Noise, 1994.

- 3.7 If the adoption of the BPO for noise mitigation within the road corridor is insufficient to meet the Design Limits in condition 3.5, then prior to completion of the road, the Requiring Authority (or its agents) shall:
- (a) With the agreement of the owner of the dwelling and if so required by them, provide insulation (and, if required mechanical ventilation and provision for adequate thermal comfort where windows must be closed) to all living rooms (including kitchens) and bedrooms, to ensure that an internal criterion of 40 dBA Leq (24 hours) is not exceeded. This offer and mitigation shall be applied in conjunction with the adoption of the BPO for minimisation of noise in the road corridor; or
  - (b) If it is impracticable to design mitigation to achieve this internal criterion then the Requiring Authority (or its agents) shall, with the agreement of the owner, and at a price not exceeding market value, purchase the property.
- 3.8 Without limiting the requirements for consultation imposed under condition 3.7, the Requiring Authority shall consult with the owners of 236 Duck Creek Road, being Part Lot 3 DP 26549 and 266 Duck Creek Road, being Lot 2 DP 29403 ("the Webster properties") in relation to the location, nature and extent of any proposed noise mitigation measures.
- 3.9 In undertaking this consultation the Requiring Authority shall give special consideration to the need for additional or alternative noise mitigation measures which

mitigate to the greatest extent practicable the acoustic and amenity effects of the designation upon the Webster properties within the noise limit set out in condition 3.5.

- 3.10 In undertaking consultation with the owners of the Webster properties the Requiring Authority shall:
- (a) provide copies to the owners of all relevant reports and plans prepared by it in relation to the proposed noise mitigation measures; and
  - (b) ensure that the owners have at least two weeks to peruse this material and respond to the Requiring Authority with their position; and
  - (c) the Requiring Authority shall obtain (at its reasonable cost) a peer review of the proposed mitigation measures and consequential effects on the Webster properties to identify other mitigation measures which may be cost effective and meet the noise limits set out in condition 3.5 and shall give special consideration to the findings of any peer review in deciding what noise mitigation measures it implements for the Webster properties.
- 3.11 The Requiring Authority shall, at appropriate locations, install signs advising motorists to avoid using engine braking in residential areas.

#### **4. Terrestrial Ecological Mitigation Conditions**

- 4.1 The Requiring Authority (or its agents) shall, in conjunction with the Auckland Council and in consultation with directly affected property owners, occupiers, Mana Whenua listed in Condition 17, and the QEII Trust, produce an Ecological Mitigation Plan and a Restoration Planting Plan. The objective of these plans is to support the present-day biodiversity values of the local area, the resilience of the area's biodiversity habitat, and contributing to the North West Wildlife Link through the planting of connective corridors, while allowing for the construction and operation of a four-lane transport corridor. Both plans shall be submitted as part of the Outline Plan, or as appropriate having regard to 4.5.
- 4.2 The Ecological Mitigation Plan shall outline the survey methods and implementation and monitoring processes to be used for the purposes of avoiding, remedying or mitigating adverse ecological effects within the designation, particularly in relation to indigenous vegetation; ecosystem processes, native species (with specific regard to lizards, birds and bats); and areas of wildlife habitat. The mitigation proposed shall be calculated using best ecological practices that are current at the time that the Ecological Mitigation Plan is being developed. The Ecological Mitigation Plan may be comprised of individual management plans for flora and groups of indigenous fauna, to better reflect seasonal restrictions and considerations (i.e. wildlife).
- 4.3 The Restoration Planting Plan (consistent with the local biodiversity and wildlife habitat) shall outline the intended species, density of planting, the methods, the locations, implementation and monitoring processes for purposes of the restoring indigenous vegetation that is damaged or destroyed by construction works. The restoration plan shall detail any necessary management of the planting, including weed and animal pest control and replacement of plants, on an ongoing basis. All plants used within the restoration process shall be eco-sourced from the local area.
- 4.4 To fully realise possible staging requirements and/or seasonal considerations pertaining to appropriate management plans and/or mitigation, the Ecological Mitigation plan and/or Restoration Planting plans will be submitted no less than six (6) months prior to the start of any enabling earthworks or bulk earthworks and reflect best-practice methodologies current at that time.

For avoidance of doubt, and where appropriate, such preparatory works which could include vegetation removal, can be considered in the autumn immediately preceding the start of any enabling earthworks or bulk earthworks, where an acknowledged start of construction has been agreed (i.e. signed contracts)

Advice Note: The Requiring Authority shall ensure that the necessary Department of Conservation permits have been obtained prior to the start of work.

4.5 In relation to the QEII covenant area at 307 Duck Creek Road the outline plan shall:

- (a) Demonstrate how the final design has minimised to the extent practicable works within the QEII covenant area at 307 Duck Creek Road;
- (b) Detail any offer of additional land, plantings or other mitigation to offset any residual loss of QEII covenant area; and
- (c) Include any response from the QEII National Trust regarding whether or not it considers the residual loss has been adequately mitigated and if not why not.

Advice note:

Any residual effect of the removal of the covenant area that is unable to be mitigated or offset may be eligible for compensation under the Public Works Act 1981.

4.6 Without limiting the requirements for consultation imposed under condition 4.1, the Requiring Authority shall consult with the owners of the Webster properties in relation to the location, nature and extent of any proposed ecological mitigation measures.

4.7 In undertaking this consultation the Requiring Authority shall give special consideration to the need for mitigation measures which mitigate to the greatest extent practicable adverse effects of the designation and related works have upon existing trees and vegetation on the Webster properties.

4.8 In undertaking consultation with the parties in condition 4.1 and the owners of the Webster properties the Requiring Authority shall:

- (a) provide to the consulted parties copies of all relevant reports and plans prepared by it in relation to the proposed ecological mitigation measures; and
- (b) ensure that the consulted parties have at least two weeks to peruse this material and respond to the Requiring Authority with their position; and
- (c) the Requiring Authority shall obtain (at its reasonable cost) a peer review of the proposed ecological mitigation measures and consequential effects on the Webster properties and shall give special consideration to the findings of any peer review in deciding what ecological mitigation measures it implements for the Webster properties.

## **5. Visual Impact Mitigation Conditions**

5.1. A Detailed Landscape Plan shall be prepared by the Requiring Authority (or its agents) in consultation with directly affected property owners and occupiers, Mana Whenua listed in Condition 17, and the Queen Elizabeth II National Trust. The plan shall have as its primary purpose the mitigation of visual effects, and shall also incorporate, where relevant, the recommendations of the Conceptual Landscape Mitigation Plan (CLMP), and be consistent with the purposes of the Ecological Mitigation Plan and the Restoration Planting Plan and be submitted as part of the Outline Plan.

The Detailed Landscape Plan shall include, but not be limited to, details of all proposed planting (including species, species sizes, densities and locations), the planting programme and the required maintenance programme. Existing trees and vegetation on



the properties are to be included in any maintenance programme. Attention shall also be paid to the angle and extent of cut and batter slopes through highly visible ridgelines, for example where cut and batter slopes and the proposed roadway would be viewed from properties in Duck Creek Road. In the event that noise mitigation measures such as bunds or barriers are to be employed, these are also to be incorporated in to the Detailed Landscape Plan also.

- 5.2. Prior to finalising the design of the route from the proposed Weiti Bridge to the interchange with Whangaparaoa Road, the Requiring Authority shall reconsider the alignment of the road so as to achieve the greatest possible separation distance between the road and the adjacent properties on Cedar Terrace. The best practicable alignment shall take into account:
  - a. The extent of earthworks and vegetative clearance;
  - b. The length and height of retaining walls and noise attenuation devices from both a cost and visual appearance perspective;
  - c. The minimisation of adverse visual effects, in both the short and long term.
- 5.3. Without limiting the requirements for consultation imposed under condition 5.1, the Requiring Authority shall consult with the owners of the Webster properties in relation to the location, nature and extent of any proposed visual and landscape mitigation measures proposed.
- 5.4. In undertaking consultation on the Detailed Landscape Plan the Requiring Authority shall give special consideration to the need for measures which mitigate the greatest extent practicable adverse effects of the designation on the Webster properties. When undertaking this consultation any noise mitigation measures (such as bunds or barriers) that are employed to address the noise effects of the designation on the Webster properties are also to be considered by the Requiring Authority in terms of their visual effects.
- 5.5. In undertaking consultation with the parties in condition 5.1, 5.2 and the owners of the Webster properties the Requiring Authority shall:
  - (a) provide to the consulted parties copies of all relevant reports and plans prepared by it in relation to the proposed Detailed Landscape Plan; and
  - (b) ensure that the consulted parties have at least two weeks to peruse this material and respond to the Requiring Authority with their positions; and
  - (c) the Requiring Authority shall obtain (at its reasonable cost) a peer review of the proposed mitigation measures and consequential effects on the Webster properties and shall give special consideration to the findings of any peer review in deciding what visual mitigation measures it implements for the Webster properties.
- 5.6. The Weiti Crossing bridge concrete shall incorporate the use of red oxide.
- 5.7. If the bridge is to be lit then low level lighting on the bridge and directional LED lighting on the shared path below the level of the bridge barrier shall be used.
- 5.8. The Outline Plan shall demonstrate how the design of the toll gantry, in addition to primary functional and safety requirements of the structure, has considered the following principles:
  - (a) An artistic or sculptural form that integrates the structure with the surrounding landscape;

- (b) Colouring and materiality to achieve low reflectivity and recessive visibility of the structure;
- (c) Screening of lighting, cameras, cabling and other ancillary equipment. No signage to be attached to the gantry;

*Advice Notes:*

*Street lighting design should be in accordance with ATCoP street lighting requirements.*

*The construction standards shall reference ATCoP requirements.*

## **6. Archaeological Conditions**

- 6.1 The Requiring Authority (or its agents) shall ensure that prior to and/or during construction a qualified archaeologist is present to monitor all initial earthworks in Area 4 and investigate and record sites R10/929, R10/941, R10/942, R10/943, R10/944 and R10/945, if these sites are affected by the proposed works.

*Advice Note: the sites cannot be investigated, modified or destroyed unless an authority has first been issued by Heritage NZ under the HNZPTA.*

- 6.2 The archaeological sites recorded in the immediate vicinity of the proposed works (meaning outside the affected works footprint) shall be clearly marked on construction plans to be provided to the Council and pegged out/fenced off prior to, and during the period of construction.

- 6.3 The Requiring Authority shall develop comprehensive accidental discovery protocols in consultation with Heritage NZ, mana whenua and the Auckland Council Heritage Unit, which set out appropriate procedures in the event that unrecorded archaeological remains, koiwi tangata (human remains) or taonga (Maori artefacts) are exposed during construction (consistent with the relevant provisions of the HNZPTA and Protected Objects Act 1975). These protocols and procedures shall be provided to the Council with the Outline Plan of Works.

- 6.4 At least 6 months prior to works commencing the Requiring Authority shall complete an Archaeological Survey of all identified potential archaeological sites within the designation and on the additional areas of land to be designated as identified on the Land Requirement Plans GIS-4214919-01-NOR-21-1 to 21-4. The purpose of the survey shall be to confirm the Archaeological status of these sites and areas (except for those archaeological sites already identified in condition 6.1) and to inform the project design. A summary report of the survey will be provided to the Auckland Council Heritage Unit within 20 working days of survey completion.

If any potential Archaeological sites are confirmed then the Requiring Authority shall provide to Auckland Council details of how the project design has sought to avoid effects on any Archaeological site(s) identified by the survey. If avoidance cannot be achieved then the requirements of condition 6.1 shall also apply to all works in the vicinity of any newly identified Archaeological site(s).

## **7. Physical Works Contract Conditions**

- 7.1 All contract documentation for physical works shall include the designation conditions, any approved outline plan and any other resource consents (including conditions) held for the project at that time.

- 7.2 Construction shall be limited to the following hours:

Weekdays: 7.00am to 6.00pm

Saturdays 8.00am to 4.00pm

Sundays and Public Holidays: No work.

7.3 Construction can be extended to the hours of 7.00 a.m. to 6.00 p.m. every day (with the specific consent of the Consents Manager from the Council) between East Coast Road and the northern boundary of the Weiti Forest with the agreement of Green and McCahill Ltd and Green and McCahill Holdings Ltd or any successors in title. Construction hours for the Redvale interchange may be varied from those above (with the specific consent of the Consents Manager from the Council), where required to minimise any impact on the operation of SH1.

7.4 At all times reasonable access shall be maintained to properties directly affected by the construction and operation of the Weiti Crossing and the Whangaparaoa Road widening unless agreement is reached with the property occupier that access can be temporarily stopped.

## **8. Communications Conditions**

8.1 A Communications Plan shall be prepared and submitted with the Outline Plan. The plan shall include, but not be limited to, the following:

(a) Dates for the release of newsletters to directly affected and adjoining property occupiers. These letters shall include details of the construction programme and a single point of contact for the Requiring Authority (or its agents) for any concerns or enquiries relating to the project, including a contact person name and a telephone and facsimile number.

(b) Details of proposed signage to advise motorists of periods of likely traffic delays.

8.2 The Requiring Authority shall maintain the current status of the project on its website or equivalent media forum, until the time of road opening.

## **9. Duration of the Designation**

9.1 In accordance with s.184A(2)(c) of the Resource Management Act 1991, this designation will lapse on 31 December 2035 unless:

(a) It is given effect to before the end of that period; or

(b) The territorial authority resolves that it has made, and is continuing to make, substantial progress or effort towards giving effect to the designation and fixes a longer period to give effect to the designation.

Advice Note: The extension of lapse date was made through an alteration to the existing designation. Therefore, the new lapse date is specified rather than linking it to the time that the designation was originally included in the District Plan.

## **10. Local Access to the Stillwater Community**

10.1 Safe and efficient two-way access to the Stillwater community (on both sides of the Penlink route) shall be provided, including throughout the construction period. Such access shall include provision for public transport (including bus stops) and for the safe and efficient movement of school buses and boat trailers. The design of any such access shall be undertaken in full consultation with the Stillwater Ratepayers and Residents Association, the owners of the Webster properties and directly affected members of the Stillwater community.

10.2 Following such consultation, the Requiring Authority will submit the proposed access design to an independent auditor for a safety audit prior to construction. The cost of this

audit is to be met by the Requiring Authority.

## **11. Water Supply**

- 11.1 During the construction season the Requiring Authority shall periodically check and wash down any residences (including the roof) which are located along the designation route and which are affected by the construction of the bridge and its approaches. The cost of this cleaning will be met by the Requiring Authority.
- 11.2 During construction the Requiring Authority will test the water quality of the bores in the vicinity of 165 Duck Creek Road, being the land described in 1138/679 (North Auckland Registry), and 236 Duck Creek Road, being the land described in certificates of title 682/218 and 1020/274 (North Auckland Registry), on a monthly basis. Prior to construction a baseline test will be undertaken and subsequent monthly tests will check for deterioration.
- 11.3 In the event that either of the bores at 165 or 236 Duck Creek Road becomes contaminated (contamination means deterioration against the baseline as a result of construction works) as indicated by test results, the Requiring Authority will provide an equivalent alternative free water supply.
- 11.4 In response to a complaint about domestic water tank quality, as a result of the construction of the bridge and its approaches, the Requiring Authority will test the water quality of the complainants domestic water tank located along the designation route, including the Webster properties, affected by construction of the bridge and its approaches on a monthly basis during the construction season and for one month following (1 October- 31 May) of each year of the construction period. If the water in any such tank is contaminated, the Requiring Authority will immediately, and at its cost entirely, have any such tank cleaned out and refilled.
- 11.5 The Requiring Authority shall ensure that during construction and operation of the Weiti Crossing Road, a water supply is maintained for the purpose of watering livestock located at 236 Duck Creek Road, being Part Lot 3, DP 26549 and 266 Duck Creek Road, being Lot 2 DP 29403.

## **12. Condition Survey**

- 12.1 The Requiring Authority will conduct a "before and after" condition survey of the properties (including the interiors of buildings) located within 200m of the Duck Creek Road Bridge and, including the Webster properties where owners agree to entry, to assess any effects as a result of construction of the bridge and its approaches.
- 12.2 In any agreements entered into with any third party to carry out construction of the road and bridge, the Requiring Authority will require that party to accept liability for any damage or instability to land or buildings caused by construction and will also require that party to monitor slope stability throughout the duration of construction and for a period of 12 months following completion of the project. In the event that the Requiring Authority undertakes construction itself, it will accept such liability and conduct such monitoring.

## **13. Stillwater Community Hall**

- 13.1 The Requiring Authority will use its best endeavours to provide a building (which is surplus to roading requirements) to be used as the Stillwater community hall. The Requiring Authority shall arrange for the transport at its cost of any such building to the agreed site.

## **14. Stock Underpass**

- 14.1 The Requiring Authority shall enter into an agreement with the owners of the Webster

properties to provide them with a stock underpass (under the new carriageway provided for by the designation) to agreed specifications and with agreed rights of access or tenure, to provide the owners of the properties access between the two parts of the property which will be bisected by the new carriageway.

- 14.2 During the period of construction of the Weiti Link, while the Webster properties are bisected by works, but before the stock underpass is completed, the Requiring Authority shall provide reasonable stock access across the carriageway so owners of the properties can utilise all parts of their property.

## **15 Duck Creek Intersection**

- 15.1 No part of the realigned Duck Creek Road, including its intersection on the eastern side of the Weiti link will be positioned further north than indicated on the plan annexed as Appendix A.

## **16 Construction Traffic Management Plan**

- 16.1 The Requiring Authority shall manage construction traffic and construction parking to:
- (a) Protect public safety including the safe passage of pedestrians and cyclists;
  - (b) Minimise delays to road users;
  - (c) Minimise interruption to property access; and
  - (d) Inform the public about any potential impacts on the road network.
- 16.2 The Requiring Authority shall prepare a Construction Traffic Management Plan (CTMP) for the Project to identify how Condition 16.1 will be met. The CTMP shall include the following:
- (a) Details of traffic management activities and sequencing proposed for the Project;
  - (b) Methods for managing construction related traffic movements;
  - (c) A process for preparing Site Specific Traffic Management Plans (SSTMP(s));
  - (d) Provisions to minimise delays to local traffic by construction activities for an unreasonable period (such time period to be specified); and
  - (e) Provisions for emergency services to have access along all local road 24 hours per day, unless construction requires the temporary closure of a road, in which case, as part of the relevant SSTMP, an emergency action plan shall be developed and agreed with emergency services prior to any temporary closure so that an agreed access via an alternative route is available for the duration of that closure.
- 16.3 The Requiring Authority shall submit the CTMP to the Council for comment. The Requiring Authority shall consider any comments received from Auckland Council when finalising the CTMP. If the Requiring Authority has not received comments from Auckland Council within 20 working days of providing the CTMP, the Requiring Authority may consider that Auckland Council has no comments.
- 16.4 The Requiring Authority shall implement the CTMP for the duration of the Construction Works.

### **Site Specific Traffic Management Plans**

- 16.5 In compliance with the CTMP, the Requiring Authority shall prepare a SSTMP(s) where any Project construction activity varies the normal traffic conditions of any public road. The purpose of the SSTMP(s) is to identify specific construction methods to address the

particular circumstances, local traffic and community travel demands within the area covered by the SSTMP(s).

- 16.6 The SSTMP(s) shall comply with the version of the NZ Transport Agency Code of Practice for Temporary Traffic Management (COPTTM) which applies at the time the relevant SSTMP is prepared. Where it is not possible to adhere to this Code, the COPTTM's prescribed Engineering Exception Decision (EED) process shall be followed.
- 16.7 SSTMP(s) shall be prepared in accordance with Conditions 16.5 and 16.6 for Project access connections including:
- (a) State Highway 1
  - (b) East Coast Road;
  - (c) The Weiti Access Road;
  - (d) Duck Creek Road; and
  - (e) Whangaparaoa Road.
- 16.8 Prior to finalising the SSTMP required for Whangaparaoa Road under condition 16.7(e), the Requiring Authority shall take all practicable steps to consult with Stanmore Investments Ltd (or any subsequent owner) of the New World supermarket and retail activity at the corner of Whangaparaoa and Beverley Roads ('the retail site'). The purpose of the consultation will be to enable the proposed traffic management approach to minimise effects on the safe and efficient operation of the retail site, particularly in relation to maintaining pedestrian and vehicle access during operational hours. The Whangaparaoa Road SSTMP shall detail what consultation has been undertaken and how any matters raised in this consultation have been taken into consideration in finalising the SSTMP.
- 16.9 A least 5 days prior to the applicable construction traffic commencing, the Requiring Authority shall provide the SSTMP to the relevant Road Controlling Authority for approval.
- 16.10 The Requiring Authority shall implement each SSTMP for the duration of the Construction Works to which the particular SSTMP applies.

## **17 Mana Whenua Engagement**

- 17.1 The Outline Plan of Works shall demonstrate how the Requiring Authority has engaged with at least the following Mana Whenua in accordance with the Auckland Transport Māori engagement framework (or equivalent):
- (a) Te Kawerau a Maki;
  - (b) Ngati Whatua o Kaipara;
  - (c) Ngati Manuhiri; and
  - (d) Te Runanga o Ngati Whatua.

The purpose of the Mana Whenua engagement, this shall include (but is not limited to) the following:

- (a) Input into the preparation of the Ecological Mitigation Plan, Restoration Planting Plan, and Detailed Landscape Plan to identify how Te Aranga principles (or similar) can be applied to reflect the cultural landscape, including but not limited to:

- i. Bridge and underpass structures;
  - ii. Safety panels, noise walls and retaining structures;
  - iii. The Toll Gantry;
  - iv. Stormwater wetland ponds;
  - v. Selection of re-vegetation species.
- (b) Identification of any removed native vegetation suitable for customary purposes;
- (c) Development of a protocol between Mana Whenua and the Requiring Authority around implementation of archaeological conditions 6.1 - 6.4, including management and mitigation for disturbance of any waahi tapu sites (if any);
- (d) Undertaking kaitiakitanga responsibilities associated with the Penlink Project, including ceremonial, assisting with discovery procedures, and providing mātauranga Māori input in the relevant stages of the Project;
- (e) Naming of the Weiti Crossing bridge and shared path; and
- (f) Input to any matters requiring consultation with Mana Whenua under these NOR conditions.

## General Conditions for all Resource Consents

Conditions 1 – 16 are common to all of the following resource consents:

- **Vegetation removal within a SEA REG-63659**
- **Land use consent LAN-63657 (Contaminated Land and Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011)**
- **Discharge permit REG-64134 (Contaminated land)**
- **Land use consent LAN-63666 (Earthworks)**
- **Coastal permit COA-63667(Coastal occupation, use and works)**
- **Water permits REG-63664 (Diversion and Discharge of Streams and REG-63665 (Structures and Culverts – Streams)**
- **Water permit REG-63887 (Groundwater diversion)**
- **Discharge permit REG-63658 (Stormwater)**

**Specific Conditions for each of these consents have sequential numbering, in each case starting with Condition 17, to follow the General Conditions.**

### General Conditions

1. The scope and extent of works envisaged by this project shall be carried out in general accordance with the plans and all information submitted with the applications, detailed below, and all referenced by the Council as consent numbers LAN-63657, REG-64134, LAN-63666, COA-63667, REG-63664, REG-63659, REG-63887 & REG-63658.

Application Forms, and Assessment of Environmental Effects prepared by Beca Ltd, dated November 2014, Plans contained in volume 3 and the section 92 responses dated 22/02/2015, 27/07/2015 and 27/07/2015.

### Charges to be Paid

2. This consent (or any part thereof) shall not commence until such time as the following charges, which are owing at the time the Council's decision is notified, have been paid in full:

All fixed charges relating to the receiving, processing and granting of this resource consent under section 36(1) of the Resource Management Act 1991 (RMA); and

All additional charges imposed under section 36(3) of the RMA to enable the Council to recover its actual and reasonable costs in respect of this application, which are beyond challenge.

3. The consent holder shall pay any subsequent further charges imposed under section 36 of the RMA relating to the receiving, processing and granting of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under section 36(3) of the RMA that are subject to challenge, the consent



holder shall pay such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant decision.

### **Site Access**

4. Subject to compliance with the Consent Holder's health and safety requirements and provision of reasonable notice, the servants or agents of the Auckland Council shall be permitted to have access to relevant parts of the surface construction sites controlled by the Consent Holder at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements and/or to take samples.

### **Copies of Resource Consent**

5. All personnel working on the project shall be made aware of, and have access to, at least one copy of these resource consents, associated reference documents and associated approved/certified management plans.

### **Management Plans**

6. The Consent Holder shall submit all management plans, programmes and any other documents requiring certification (unless otherwise specified in these conditions) to be certified by the Council at least 20 working days prior to construction or the stage of the project or the activity (whichever is relevant) commencing, for Council to certify compliance with the criteria and purpose of the relevant condition(s). If the Consent Holder has not received a response (short of certification) from Council within 20 working days of submitting the information, the Consent Holder will be deemed to have certification.
7. The management plans and documents for certification under condition 7 include:
  - (a) Construction Environmental Management Plan;
  - (b) Erosion and Sediment Control Plan;
  - (c) Chemical Treatment Management Plan;
  - (d) Construction Erosion and Sediment Control Plans;
  - (e) Sediment Discharge Monitoring Plan;
  - (f) Navigation and Safety Communication Plan;
  - (g) Stormwater Operation and Maintenance Plan;
  - (h) Coastal Construction Management Plan;
  - (i) Mooring Safety Plan;
  - (j) Ecological Mitigation Plan;
  - (k) Contaminated Soils Management Plan;
  - (l) Groundwater Monitoring and Contingency Plan

- (m) Design drawings and a maintenance plan for permanent culverts (including fish passage), bridges and stream diversions; and
  - (n) Final design specifications of the stormwater system.
8. For the purposes of staging works, the Consent Holder may provide staged or site specific management plans, as listed in condition 7, for those works to the Team Leader Northern Monitoring, Auckland Council. The Consent Holder shall consult with the Team Leader Northern Monitoring, Auckland Council about the need and timing for any other site-specific or staged management plans and shall provide any required site-specific or staged management plans to the Team Leader Northern Monitoring, Auckland Council to certify compliance and consistency with the consents at least 20 working days prior to commencement of the specific stage or site works

If the Consent Holder has not received a response from the Team Leader Northern Monitoring, Auckland Council within 20 working days of submitting a management plan, the Consent Holder will be deemed to have an approval and can commence the activity addressed by that management plan.

The certified management plans shall be implemented and maintained for the relevant stage of works throughout the entire construction period.

9. At any time the consent holder shall be entitled to update or revise any management plan, programme or other document required to be certified by Council. The Consent Holder shall submit the updated or revised document to Council for certification at least 5 working days prior to or during construction, or the stage of the project commencing (whichever is relevant). If the Consent Holder has not received a response (short of certification) from Council within 5 working days of submitting the information, the Consent Holder will be deemed to have certification and can commence the works, stage or activity.

### **Construction Environmental Management Plan**

10. The Consent Holder shall prepare a Construction Environmental Management Plan (CEMP). The purpose of the CEMP is to assist with Project management during Construction Works. The CEMP will outline the responsibilities, procedures and methods that avoid, mitigate or remedy environmental effects from the works. The CEMP shall include:
- (a) The roles and responsibilities of (a) construction management staff, including the overall manager responsible for the erosion and sediment control;
  - (b) The name of the Consent Holder's representative on the Project;
  - (c) A description of the training and education programme that will be implemented to ensure compliance with conditions;
  - (d) Procedures for hazard identification and control;
  - (e) The details of at least two emergency contact people who shall be contactable 24 hours 7 days a week during construction who shall have authority to initiate immediate response actions; and

- (f) The contact details of any authorised construction staff living on site during the Project construction.
11. The Consent Holder shall provide the Team Leader Northern Monitoring, Auckland Council with a schedule of construction activities for the Project at annual intervals or at least the commencement of each earthworks season throughout the duration of construction works for the project.

### **Communications Plan**

12. A Communications Plan shall be prepared and submitted for information to the Council. The Communications Plan shall include the following:
- (a) Dates for the release of newsletters to directly affected and adjoining property occupiers. These letters shall include details of the construction programme and a single point of contact for the Requiring Authority (or its agents) for any concerns or enquiries relating to the project, including a contact person name and a telephone and facsimile number; and
  - (b) Details of proposed signage to advise motorists of periods of likely traffic delays.

### **Management Plan Amendments**

13. The Consent Holder may request amendments to any of the Management Plans required by these conditions by submitting material amendments in writing to the Team Leader Northern Monitoring, Auckland Council for certification at least 10 working days prior to any changes taking effect. Any changes to management plans shall remain consistent with the overall intent of the relevant management plan and shall be consistent with the requirements of the relevant conditions attached to these consents.

### **Duration and Lapse Date:**

14. Under section 123 of the RMA, the consents expire twenty five (25) years after the date of commencement of this consent.
15. Under section 125 of the RMA, the consents lapse twenty (20) years after the date of commencement unless:
- (c) The consent is given effect to; or
  - (d) The council extends the period after which the consent lapses.

### **Review Condition**

16. The conditions of these consents may be reviewed by the Auckland Council pursuant to Section 128 of the Resource Management Act 1991, , by giving notice pursuant to Section 129 of the Act in June 2020 and every five years thereafter in order to:
- (a) deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; and/or
  - (b) deal with any other adverse effect on the environment on which the exercise of the consent may have an influence; and/or

- (c) to incorporate standards that are given effect through changes to a regional plan in the case of a coastal, water or discharge permit that will require a higher standard of site management than is required by these consents; and/or
- (d) Insert conditions, or modify existing conditions, to require the Consent Holder to identify the character or nature of any discharges authorised by these consents and to report the results of that monitoring to the Auckland Council; and/or
- (e) Insert conditions, or modify existing conditions to require the Consent Holder to monitor the effects of any discharges authorised by these consents on the local receiving environment and to report the results of that monitoring to the Auckland Council;
- (f) Insert conditions, or modify existing conditions, requiring the Consent Holder to adopt the BPO to remedy, mitigate or minimise any adverse effects on the environment resulting from the discharges authorised by these consents, including remedying or mitigating any adverse effect on the environment which may arise from the exercise of these consents and which it is appropriate to deal with at a later stage.
- (g) to vary the quantities, monitoring and reporting requirements, and performance standards in order to take account of information, including the results of previous monitoring and changed environmental knowledge, on:-
  - (i) ground conditions
  - (ii) aquifer parameters
  - (iii) groundwater levels; and
  - (iv) ground surface deformation
- (h) to deal with any adverse effect on the environment arising or potentially arising from the exercise of this consent in particular effects on buildings, structures and services.

## Specific conditions – Vegetation removal within a SEA REG-63659

There are no specific conditions for this consent.

## Specific conditions – Land use consent LAN-63657(NES Contaminated Soil)

17. The earthworks shall not result in any airborne and deposited dust beyond the property boundary of the site that is determined to be noxious, objectionable or offensive. Good practice measures, such as those described in Section 8 of the Good Practice Guide for Assessing and Managing the Environmental Effects of Dust Emissions, Ministry for the Environment (2001), shall be adopted at all times.

## Specific conditions – Discharge permit REG-64134 (Contaminated land)

17. The Team Leader Earthworks and Contaminated Land, Natural Resources and Specialist Input, Auckland Council and the Team Leader Northern Monitoring, Auckland Council shall be notified at least ten (10) working days prior to works commencing in contaminated areas on the subject site.

*Advice Note:*

*Condition 17 requires the consent holder to notify the Council of their intention to begin works in contaminated areas a minimum of ten working days prior to commencement. Please contact the Team Leader, Earthworks and Contaminated Land, Natural Resources and Specialist Input and the Team Leader Northern Monitoring, Auckland Council to advise of the start of works. The following details should also be provided:*

- *Name and telephone number of the project manager and the site owner;*
- *Site address to which the consents relate;*
- *Activity to which the consents relate; and*
- *Expected duration of the works.*

18. All sampling and testing of contamination on the site shall be overseen by a suitably qualified contaminated land professional. All sampling shall be undertaken in accordance with Contaminated Land Management Guidelines number 5 – Site Investigation and Analysis of Soils, Ministry for the Environment, revised 2011.

*Advice Note:*

*In accordance for sampling and testing required by Condition 18 to comply with the Ministry for the Environment's Contaminated Land Management Guidelines (revised 2011), all testing and analysis should be undertaken in a laboratory with suitable experience and ability to carry out the analysis. For more details on how to confirm the suitability of the laboratory please refer to Part 4: Laboratory Analysis, of Contaminated Land Management Guidelines No.5.*

19. Prior to the commencement of bulk earthworks at the site a Detailed Site Investigation shall be undertaken on all areas of the site identified as contaminated or potentially contaminated, as determined by the results of the Preliminary Site Investigation, Beca Ltd, 27 May 2014 and in accordance with the Contaminated Land Management Guidelines number 5 – Site Investigation and Analysis of Soils, Ministry for the Environment, revised 2011. This is to be carried out to the satisfaction of the Team Leader Northern Monitoring, Auckland Council and the Team Leader, Earthworks and Contaminated Land, Natural Resources and Specialist Input, Auckland Council.
20. Following the detailed site investigation required by Condition 19 and prior to bulk earthworks at the site a revised Contaminated Soils Management Plan, and if necessary a Remedial Action Plan, shall be submitted to the Team Leader Northern Monitoring, Auckland Council and the Team Leader, Earthworks and Contaminated Land, Natural Resources and Specialist Input, Auckland Council. This is to be submitted by a suitably qualified and experienced contaminated land specialist for confirmation that it contains procedures that are appropriate to mitigate the risks to the environment from the type, concentration and extent of contamination found during the detailed site investigation.

21. The final Contaminated Soils Management Plan/Remedial Action Plan shall, as a minimum, contain the information summarised in the Outline Draft Contaminated Soils Management Plan, Beca Ltd, 24 July 2015.
22. No earthworks on the subject site shall commence until confirmation is provided from Council that the submitted material satisfactorily meets the requirements of the Contaminated Land Management Guidelines No. 1: Reporting on contaminated sites in New Zealand, Ministry for the Environment revised 2011.
23. All earthworks in areas of actual or potential contamination on the site, as determined by the results of the Preliminary Site Investigation and the Detailed Site Investigation pursuant to Condition 20, shall be carried out in accordance with the certified final Contaminated Soils Management Plan and any variations from the final Contaminated Soils Management Plan shall be approved in writing by the Team Leader Northern Monitoring, Auckland Council prior to the variation being actioned.
24. In the event that the Detailed Site Investigation required by Condition 19 reveals contaminated soils that are capable of producing vapours at a level which could cause a risk to human health then the following mitigation measures shall be undertaken within the area of potential contamination as defined by the detailed site investigation.
  - (a) All practicable action to prevent the generation of vapours shall be taken. This will require minimising the exposed excavated areas, covering the excavated soil, the use of water to dampen exposed soil surfaces, and/or implementation of other vapour suppressing measures; and
  - (b) Continuous vapour and lower explosive limit (LEL) monitoring shall be undertaken and a log of the readings shall be maintained and included in the Site Validation Report required by condition 31; and
  - (c) Should vapour levels exceed the current workplace exposure standards the works shall cease and remain suspended until the methodology of further work has been modified to minimise the generation of vapours below the specified limits; and
  - (d) The Team Leader, Earthworks and Contaminated Land, Natural Resources and Specialist Input, Auckland Council shall be immediately notified if the works are ceased as a result of Condition 26 and provided with the proposed modification to the work programme.

*Advice note:*

*Additional controls may be required for the protection of human health under building consent or land use consent.*

25. All earthworks shall be managed to avoid the potential for cross-contamination of materials to occur, in particular movement of contaminated soil around the site and/or deposition of contaminated soil on other parts of the site shall be avoided. Where soils are identified for off-site disposal, they shall be loaded directly for removal and all material shall be covered during transportation off site.
26. Where contaminants are identified that have not been anticipated by the application, works in the area containing the unexpected contamination shall cease until the contingency measures outlined in the revised Contaminated Soils Management Plan required by condition 21 and any

approved revisions, have been implemented, and have been notified to the Team Leader Northern Monitoring, Auckland Council and the Team Leader, Earthworks and Contaminated Land, Natural Resources and Specialist Input, Auckland Council. Any unexpected contamination and contingency measures shall be documented in the Site Validation Report required by condition 31.

*Advice Note:*

*In accordance with Condition 26 any unexpected contamination may include contaminated soil, perched water, groundwater, or underground tanks. The consent holder is advised that where unexpected contamination is significantly different in extent and concentration from that anticipated in the original site investigations, handling the contamination may be outside the scope of this consent. Advice should be sought from the Team Leader, Earthworks and Contaminated Land, Natural Resources and Specialist Input, Auckland Council prior to carrying out any further work in the area of the unexpected contamination to ensure this is within scope of this consent.*

27. Excess soil or waste materials removed from the subject site shall be deposited at a disposal site that holds consent to accept the relevant level of contamination. Where it can be demonstrated that the soil or waste materials have been fully characterised in accordance with the Ministry for the Environment's 'A guide to the management of cleanfills' (2002) and meets the definition of 'cleanfill', the removal to a consented disposal site is not required. Copies of the disposal dockets for the material removed from the site shall be kept and provided to Auckland Council in the Site Validation Report required by condition 31.
28. To minimise the spread of contaminated material, all stockpiles of excavated potentially contaminated material shall be located on an impermeable surface within the catchment of erosion and sediment controls for the site. All stockpiles shall be covered with either polythene or an equivalent impermeable material when the site is not being worked and during periods of heavy rain.
29. Any perched groundwater, groundwater, or surface run-off encountered within the excavation area requiring removal shall be considered as potentially contaminated, and shall either:
  - (a) be disposed of by a licensed liquid waste contractor; or
  - (b) pumped to sewer, providing relevant permits are obtained; or
  - (c) discharged to the stormwater system or surface waters provided testing demonstrates compliance with the Australian and New Zealand Environment Conservation Council (ANZECC) Guidelines for Fresh and Marine Water Quality (2000) for the protection of 95 percent of freshwater species.
30. All imported fill shall:
  - (a) Comply with the definition of 'cleanfill' in the Ministry for the Environment publication 'A Guide to the Management of Cleanfills' (2002);
  - (b) Be solid material of an inert nature; and
  - (c) Not contain hazardous substances or contaminants above recorded natural background levels of the receiving site.

*Advice note:*

*Recorded natural background contamination levels for the site receiving clean fill referred to by condition 30 can be found in the Auckland Regional Council, Technical Publication No. 153, Background concentrations of inorganic elements in soils from the Auckland Region (2001)*

31. Within three months of the completion of earthworks on the site, a Site Validation Report (SVR) shall be provided to the Team Leader Northern Monitoring, Auckland Council and the Team Leader, Earthworks and Contaminated Land, Natural Resources and Specialist Input, Auckland Council. The SVR shall be prepared by a suitably qualified contaminated land professional in accordance with the Contaminated Site Management Guidelines No. 1 Guidelines for Reporting on Contaminated Sites in New Zealand, Ministry for the Environment, 2011.

*Advice Note:*

*The Site Validation Report (SVR) required by Condition 31 should contain sufficient detail to address the following matters:*

- i. a summary of the works undertaken, including a statement confirming whether the excavations at the site have been completed in accordance with the approved Site Management Plan/Remedial Action Plan*
- ii. the location and dimensions of the excavations carried out, including a relevant site plan*
- iii. a summary of any testing undertaken, including tabulated analytical results, and interpretation of the results in the context of the Permitted Activity Criteria of the Auckland Council Regional Plan: Air, Land and Water (Schedule 10) and the Proposed Auckland Unitary Plan*
- iv. copies of the disposal dockets for the material removed from the site*
- v. records of any unexpected contamination encountered during the works, if applicable*
- vi. details regarding any complaints and/or breaches of the procedures set out in the approved Site Management Plan and the conditions of this consent*
- vii. results of testing of any imported fill material to ensure compliance with the definition of 'cleanfill', as per 'A Guide to the Management of Cleanfills', Ministry for the Environment (2002).*
- viii. plans detailing the location and depth of materials remaining on-site with contamination above the Permitted Activity Criteria of the Auckland Council Regional Plan: Air, Land and Water and the Proposed Auckland Unitary Plan.*

*Advice Note:*

*This consent does not relieve the consent holder of his/her responsibility to apply for any other consent, and as such upon completion of the proposed works the consent holder shall assess the remaining contamination at the site against the requirements of a contaminated land long-term discharge consent under the rule 5.5.43 of the ACRP:ALW. If elevated levels of contaminants remain above the Permitted Activity Criteria the applicant shall submit consent application for a long-term discharge consent under the rule 5.5.43 of the ACRP: ALW Auckland Council.*



## Specific conditions – Landuse consent R-63666 (Earthworks)

17. Prior to the commencement of the earthworks activity, the consent holder shall hold a pre-start meeting that:

- (a) is located on the subject site
- (b) is scheduled not less than five days before the anticipated commencement of earthworks
- (c) includes Auckland Council officer[s]
- (d) includes representation from the contractors who will undertake the works

The meeting shall discuss the erosion and sediment control measures, the earthworks and streamworks methodology and shall ensure all relevant parties are aware of and familiar with the necessary conditions of this consent.

The following information shall be made available at the pre-start meeting:

- (a) Timeframes for key stages of the works authorised under this consent
- (b) Resource consent conditions
- (c) Construction Environmental Management Plan (required by condition 10)
- (d) Erosion and Sediment Control Plan (required by condition 20)
- (e) Chemical Treatment Management Plan (required by condition 22)

A pre-start meeting shall be held prior to the commencement of the earthworks and streamworks activity in each period between October 1 and April 30 that this consent is exercised.

*Advice Note:*

*To arrange the pre-start meeting required by Condition 17 contact Team Leader Northern Monitoring to arrange this meeting. The conditions of consent should be discussed at this meeting. All additional information required by the Council should be provided 2 days prior to the meeting.*

### **Seasonal Restrictions**

- 18. No earthworks or streamworks on the site shall be undertaken between 30 April and 1 October in any year, without the prior written approval of the Team Leader Northern Monitoring at least two weeks prior to 30 April of any year.
- 19. All areas not subject to earthwork activities during any given winter period shall be stabilised by 30 April of that year

## Erosion and Sediment Control Plan

20. The Consent Holder shall prepare an Erosion and Sediment Control Plan (ESCP) in accordance with the conditions of this consent and shall implement all Construction Works in accordance with the certified ESCP to:
- (a) Minimise to the extent practicable, the volume and area of the proposed earthworks required for the Project through the design of batter slopes appropriate to expected soil types and geology;
  - (b) Maximise to the extent practicable, the effectiveness of erosion and sediment control measures associated with earthworks by minimising potential for sediment generation and sediment yield;
  - (c) Minimise to the extent practicable, effects on freshwater and marine water environments within or beyond the Project boundary; and
  - (d) Avoid, remedy or mitigate any adverse dust, odour and/or fume effects that might be created during the construction phase.
21. The ESCP shall include the following:
- (a) Identification of a suite of appropriate structural and non-structural erosion and sediment control measures, that meet the requirements of this consent, that are to be installed prior to and during all Construction Works for representative parts of the Project, including earthworks, coastal works and works within watercourses;
  - (b) An overview of the indicative staging of earthworks across the alignment;
  - (c) The procedures for decommissioning the erosion and sediment control measures;
  - (d) The procedures for determining staging and sequencing of earthworks; and
  - (e) Identification of:
    - i. A chain of responsibility for both the Project and its stages, including the overall manager (with authority to stop works), for managing erosion and sediment control on site;
    - ii. An erosion and sediment control management team (including representatives from the contractor, Council and the Consent Holder) to meet and review erosion and sediment control practices and procedures as required; and
    - iii. Training requirements for staff.

### *Advice Note:*

*In the event that minor amendments to the ESCP are required, any such amendments should be limited to the scope of this consent. Any amendments which affect the performance of the ESCP may require an application to be made in accordance with section 127 of the RMA. Any minor amendments should be provided to the Team Leader Northern Monitoring prior to implementation to confirm that they are within the scope of this consent.*

## Chemical Treatment Management Plan

22. A Chemical Treatment Management Plan (ChemTMP) shall be prepared and submitted to the Team Leader Northern Monitoring for certification in accordance with Condition 8. The purpose of the ChemTMP is to describe the means by which chemical flocculation of SRPs and DEBs will be implemented, and to appropriately minimise adverse effects of flocculation on receiving environments. The ChemTMP shall include as a minimum:
- (a) Specific design details of the chemical treatment systems for both rainfall activated and manual batch dosing methodologies for the site's sediment retention ponds (SRPs), decanting earth bunds (DEBs), container impoundment systems and any other sediment detention or flow device system as may be reasonably employed on site;
  - (b) A monitoring, maintenance (including post storm) and contingency programme (including a record sheet);
  - (c) Details of optimum dosage (including assumptions);
  - (d) Results of an initial chemical treatment trial;
  - (e) A flocculent spill contingency plan; and
  - (f) Details of the person or bodies that will hold responsibility for the operation and maintenance of the chemical treatment system and the organisational structure which will support this system.

### *Advice Note:*

*In the event that minor amendments to the ChemTMP are required, any such amendments should be limited to the scope of this consent. Any amendments which affect the performance of the ChemTMP may require an application to be made in accordance with section 127 of the RMA. Any minor amendments should be provided to the Team Leader Northern Monitoring prior to implementation to confirm that they are within the scope of this consent.*

## Erosion and Sediment Control Devices Requirements

22A At a minimum and unless otherwise required by a condition of this consent, the Consent Holder shall design, construct and maintain all erosion and sediment control devices to comply with TP90 (or in the event that that document has been revised, the version that is current at the time that the works are undertaken). Alternative methods that meet or exceed the performance of TP90 measures may be adopted if their use is approved by the Team Leader.

22B The following additional specific measures shall be implemented:

- a. All DEBs and SRPs shall be treated via a rainfall activated chemical treatment system, unless bench testing indicates that chemical treatment will not be effective in specific device catchment(s). In that case, the specific device(s) may be exempt from the requirement for chemical treatment, if that exemption is approved by the Team Leader.

Advice Note: Rainfall activated systems include flocculation socks and similar devices activated by flowing water.

- b. All DEB volumes are to be designed based on 2% of the contributing catchment area and all DEBs shall be fitted with floating decants that are designed to discharge at a rate of 3 litres/sec/ha;
- c. Earthworks shall be subject to Stabilisation in a progressive manner as earthworks are completed. If an area is not subject to earthworks activity for a 14 day period it shall be stabilised. Other progressive stabilisation shall include:
  - i. on completion of each 5m of vertical cuts (or the height between cut benches) over the length of the cut; and
  - ii. on completion of each 5m of vertical fills over the length of the fill.

### **Construction Erosion and Sediment Control Plans**

- 23. The Consent Holder shall prepare specific Construction Erosion and Sediment Control Plans (CESCP) for each stage of the Project and streamworks in accordance with the ESCP, which shall demonstrate how the objectives of Condition 20 and the requirements of Conditions 22A and 22B will be met.
- 24. The CESCPs shall include:
  - (a) Streamwork construction methodologies and stream assessments, fish species assessment, fish migration assessment and any required fish relocation provisions, and provision for the requirements in Conditions 19-26 of Permits 63664 and 63665;
  - (b) A schedule of current and planned open earthworks areas as applicable to that CESCP at the time of preparation of the CESCP;
  - (c) Estimated sediment yield for each stage of work;
  - (d) Detailed design specifications for all erosion and sediment control measures including supporting calculations where appropriate, contributing catchment area, retention volume of structure (dead storage and live storage measured to the top of the primary spillway); shape of structure (dimensions of structure); safety and access, position of inlets and outlets; stabilisation of the structure, and maintenance provisions;
  - (e) Identification of erosion and sediment control contingency measures to be employed;
  - (f) Identification of the location of all discharge points to watercourses;
  - (g) A site plan showing contours at suitable intervals, cut and fill operations, the specific location of all sediment and erosion control measures and catchment boundaries for the erosion and sediment controls;
  - (h) Chemical treatment design and details specific to the stage, consistent with the ChemTMP;
  - (i) Methods to be used to limit dust and odour nuisance, procedures for visual monitoring of dust emissions and responding to accidental dust discharges, and contingency measures in the event of dust nuisance;

- (j) Monitoring and maintenance requirements, including information on complaint investigation and response procedures, training, and roles and responsibilities; and
  - (k) Where discharges to the sensitive Doctors Creek receiving environment occur, any additional particular monitoring, maintenance and inspection frequencies, methods and processes to enable erosion and sediment control measures and devices to operate at their optimum efficiency.
25. At least 10 working days prior to the commencement of work in each stage of the Project, the Consent Holder shall submit a hard paper copy CESCOP for that stage of the Project to the Team Leader Northern Monitoring for certification that the CESCOP has been prepared in accordance with the ESCP and meets the requirements of Condition 23. Work shall not commence in any stage of the Project until the Consent Holder has received the Team Leader Northern Monitoring's written certification of the CESCOP for that stage. If the Consent Holder has not received a response (short of certification) from the Team Leader Northern Monitoring within 10 working days of submitting a CESCOP, the Consent Holder will be deemed to have certification and can commence earthworks.
26. Prior to construction works in the stage that the CESCOP applies (excluding the construction of the erosion and sediment controls themselves) as-built plans signed by an appropriately qualified and experienced erosion and sediment control practitioner shall be submitted to the Team Leader Northern Monitoring for information as confirmation that the erosion and sediment control measures for that CESCOP have been constructed in accordance with the relevant CESCOP. Bulk earthworks within the stage shall not commence until Auckland Council has certified that the as-built plan is in compliance with the CESCOP. If the Consent Holder has not received a response (short of certification) from the Team Leader Northern Monitoring within 10 working days of submitting the as-built plans, the Consent Holder will be deemed to have certification and can commence earthworks.

## **Construction Monitoring and Reporting**

### **Freshwater Monitoring**

27. Freshwater monitoring shall be undertaken prior to and during construction to establish a baseline and identify adverse effects on freshwater receiving environments as a result of the construction works. The results of this monitoring shall be used to inform changes to work practices and methodologies in the CESCOP's including any review of these management plans under condition 9 and identify possible remedial or mitigation measures as may be required by the Incident Management Conditions. The monitoring shall be undertaken by a suitably qualified and experienced freshwater ecologist.
28. One representative freshwater site in each of the permanent streams affected by the works will be sampled at the following frequency and for the listed parameters:
- Pre-construction
- (a) Quarterly over a 12 month period for water quality, limited to Total Suspended Solids, pH and turbidity;
  - (b) Twice at least 6 months apart for noticeable stream channel erosion and sedimentation from visual observations and photographic comparisons; and
  - (c) Twice at least 6 months apart for Freshwater Ecology. Monitoring shall be undertaken by a suitably qualified and experienced freshwater ecologist at one (1) representative

freshwater site upstream and one (1) representative freshwater site downstream of the extent of proposed earthworks within each permanent stream. Ecological surveys shall include both macroinvertebrate and fish communities.

#### Construction

- (a) Monthly for water quality, limited to Total Suspended Solids, pH and turbidity;
  - (b) Quarterly for noticeable stream channel erosion and sedimentation from visual observations and photographic comparisons; and
  - (c) Annually for Freshwater Ecology. Monitoring shall be undertaken by a suitably qualified and experienced freshwater ecologist at one (1) representative freshwater site upstream and one (1) representative freshwater site downstream of the extent of proposed earthworks within each permanent stream. Ecological surveys shall include both macroinvertebrate and fish communities.
29. The Consent Holder shall provide to Council the results of the preconstruction freshwater monitoring prior to bulk earthworks commencing and within 60 working days of the final preconstruction monitoring being undertaken, and annually during construction unless condition 38 applies.

#### Marine Monitoring

30. Prior to and during construction the consent holder shall undertake marine monitoring to avoid, remedy and / or mitigate adverse effects on marine receiving environments as a result of the construction works. The results of this monitoring shall be used to inform changes to work practices and methodologies in the CЕСSР's including any review of these management plans under condition 9. The monitoring shall be undertaken by a suitably qualified and experienced marine ecologist.
31. The monitoring shall be undertaken once in February and once in August in the 12 months prior to the commencement of the Project and annually during construction unless condition 36 applies.
32. Unless alternative locations are agreed with Council, the following monitoring locations shall be used:
- (a) in catchments where open earthworks occur or erosion and sediment control devices discharge, the monitoring location shall be immediately at the mouth of each waterway where it discharges to the Weiti River (including its tidal arms) and Stanmore Bay;
  - (b) at two locations in the Weiti River intertidal area, one being at a point immediately upstream of the bridge and the other at a point immediately downstream of the bridge; and
  - (c) at one control site within the Weiti River and one control site in Stanmore Bay that will not be affected by the Project.
33. At each of the survey sites identified in condition 32 above, at least:

- (a) three (3) sediment cores (13cm diameter and 15 cm deep) shall be collected, sieved through a 0.5mm mesh and the invertebrate taxa extracted, identified and counted; and
  - (b) two composite surface sediment (top 2cm) samples shall be collected and analysed for grain size .
34. The Consent Holder shall provide to Council the results of the preconstruction marine monitoring within 60 working days of the final preconstruction monitoring being undertaken and annually during construction.

### **Earthworks Monitoring**

35. The Consent Holder shall prepare a Sediment Discharge Monitoring Plan (SDMP) for the purpose of achieving the objectives in Condition 20 and to address the Freshwater and Marine monitoring and reporting requirements of conditions 27-34 and shall submit this plan to the Team Leader Northern Monitoring for approval. The SDMP shall identify how the objectives will be provided for and shall be based on the monitoring schedule in the ESCP submitted with the application and the requirements of conditions 27-34.
- 35A The Consent Holder shall implement the SDMP throughout the duration of the earthworks and until the project area is stabilised.
36. The Consent Holder shall ensure that all monitoring required under the SDMP is implemented by a suitably qualified and experienced erosion and sediment control practitioner, except as required to be undertaken by suitably qualified and experienced ecologists and that records are to be kept to demonstrate where monitoring has been undertaken and where it is not possible due to dry conditions.

### **Incident Management**

37. Where monitoring undertaken under Condition 35A identifies one of the following incidents, the Consent Holder shall notify the Team Leader Northern Monitoring within 1 working day after identifying that any contaminants (including sediment) or materials have been released in the undertaking of the work and entered any water body:
- (a) discharges from non-stabilised areas that are not treated by erosion and sediment control measures as required under this consent;
  - (b) failure of any erosion and sediment control measures;
  - (c) discharge of a hazardous substances, including cement, to a water body;
  - (d) failure of any temporary stream diversion; and/or
  - (e) any other incident which either directly or indirectly causes, or is likely to cause, adverse ecological effects in any water body that is not authorised.

This notification shall be either by telephone or email, or via an alternative method as agreed with the Team Leader Northern Monitoring.

38. If any of the incidents identified in Condition 37 occur, or if any significant effects are indicated from the freshwater, marine or sediment monitoring undertaken in accordance with conditions 27-34 above the Consent Holder shall:

- (a) Re-establish control measures where these have failed or have not been implemented in accordance with the relevant management plan as soon as practicable;
- (b) Liaise as soon as practicable with the Team Leader Northern Monitoring to establish what monitoring, changes in erosion and sediment standards / controls, remediation or rehabilitation is required and whether such actions are practicable to implement;
- (c) Carry out any practical remedial or mitigation action as required by and to the satisfaction of the Team Leader Northern Monitoring; and
- (d) Maintain a permanent record of the incident at the site, which shall include the date and time of the incident, the nature, manner and cause of the release of the contaminants, weather conditions at the time of the incident and the steps taken to prevent any further incidents and to remedy any adverse effects.

This notification (if not in person) shall be either by telephone or email, or via an alternative method as agreed with the Team Leader Northern Monitoring.

39. If monitoring is determined to be necessary under 38(b) the same testing regime and approach as set out in relevant monitoring conditions 27-36 shall be used unless otherwise agreed between the Consent Holder and the Team Leader Northern Monitoring.



## Specific conditions – Coastal permit COA-63667 (coastal occupation, use and works)

### Coastal Construction Management Plan

17. The consent holder shall submit a Coastal Construction Management Plan (CCMP) for the proposed works in the coastal marine area, for the certification of the Team Leader – Coastal in accordance with condition 8 (at least 20 working days prior to the commencement of coastal works). No coastal works shall commence until the CCMP has been certified.
18. The purpose of the CCMP is to ensure that all works are undertaken in a manner which avoids, remedies or mitigates potential adverse effects during construction works. The CCMP shall specify, but not necessarily be limited to the following matters:
  - (a) Construction timetable;
  - (b) Confirmation of construction methodology, including:
  - (c) Detailed plans of all temporary construction related structures located in the coastal marine area (including dimensioned cross sections, elevations and site plans);
  - (d) Removal methodology for the temporary staging;
  - (e) Methods to remedy any disturbance resulting from works.
  - (f) Contingency plans in case of discharges to the coastal marine area during works;
  - (g) Site management, including details of:
  - (h) Site access;
  - (i) Methods to ensure that any equipment or machinery to be stored on the temporary staging is appropriately secured above mean high water springs, and methods to ensure that no spills into the coastal marine area will occur;
  - (j) Methods to ensure compliance with noise standards; and
  - (k) Site clean-up following works completion.

*Advice note:*

*Management of noise may be addressed via reference to the Construction Noise and Vibration Management Plan required under the Designation conditions*

19. The consent holder shall notify the Team Leader – Coastal in writing of the date of the proposed commencement of works, at least 10 working days prior to the proposed start date.

### General Coastal

20. A copy of the conditions of consent shall be available at all times on the work site as a requirement for contractors to be aware of restrictions.

21. The consent holder shall undertake works in accordance with the certified coastal construction management plan required under conditions 7 and 17.
22. All construction works, including the off-loading of materials onto the subject site, shall be restricted to the hours between 7.00am to 6.00pm Monday to Friday and 8.00am to 5.00pm Saturday. No work shall occur on Sundays or public holidays unless otherwise certified via the CCMP.
23. For the duration of the works, the consent holder shall maintain the site in good order to the satisfaction of the Team Leader - Coastal.

### **Navigation and safety**

24. The consent holder shall provide for a minimum 8m width of navigable clearance past the temporary staging. Navigation availability through the temporary staging platform is to be balanced against the need to safely and efficiently undertake bridge construction. Periods where unintended delays are to be minimised are:
  - (a) Tidal Availability - periods across the tidal cycle eg. during the 1hr period either side of high tide;
  - (b) Weekend Availability - days of the week eg. during weekends; and
  - (c) Seasonal Availability - times of the year e.g. during summer holiday periods.
25. The consent holder shall consult the Auckland Transport Harbourmaster in regards to any required lighting or navigational aids for the temporary and permanent structures in the coastal marine area. If the piers need to be lit for navigational purposes then positioning of the lighting shall minimise upward glare. If the bridge is to be lit then low level lighting on the bridge and directional LED lighting on the shared path below the level of the bridge barrier shall be used.
26. A minimum of 20 working days prior to commencement of coastal works, the consent holder shall submit a Navigational Safety Management Plan (NSMP), for the certification of the Team Leader – Coastal.
27. The purpose of the NSMP is to provide for safe navigation during bridge construction works, including safe passage of vessels past the bridge site and safe mooring locations, and shall be prepared in collaboration with key stakeholders and the Auckland Council Harbourmaster. The NSMP shall detail, but not necessarily be limited to the following matters:
  - (a) The establishment of a Waterways Users Group, members to include representatives from:
    - i. Auckland Council Harbourmaster
    - ii. Stillwater Boating Club
    - iii. Wentworth College Rowing
    - iv. Weiti River mooring holders
    - v. Other persons as the consent holder or Team Leader – Coastal consider appropriate.

- (b) The operation of the lifting or removable span to enable navigation during construction in accordance with condition 24.
- (c) A communications strategy addressing communication between the consent holder, bridge constructor, the Auckland Council Harbourmaster, and waterway users including such mechanisms as signage, VHF channels and phone numbers, Notices to Mariners and general advertising.

### **Moorings**

- 28. The consent holder shall consult with the Auckland Council Harbourmaster and the mooring holders in regards to the relocation of any effected moorings during the construction period.

### **Coastal process effects**

- 29. In the event of any significant scour or stream bank erosion that can be attributed to the temporary works, the consent holder shall submit to the Team Leader – Coastal, response options to address such effects.

### **Post-development**

- 30. The Team Leader – Coastal shall be notified in writing of the date of completion of the works, within one week of the completion date.
- 31. The consent holder shall, within 40 days following the completion of the works remove all construction materials and temporary staging from the coastal marine area, to the satisfaction of the Team Leader - Coastal.
- 32. Within one month of the completion of the proposed works, a complete set of “as built” plans shall be supplied to the Team Leader – Coastal.
- 33. A copy of the “as built” plans shall be provided to the Hydrographic Office (Chief Hydrographer, National Topo/Hydro Authority, Land Information New Zealand, Private Box 5501, Wellington”

### **Extent of Occupation**

- 34. The right to occupy part of the common marine and coastal area shall be limited to the area of the temporary staging, ‘jack up’ barges and associated land connection, and the motorway bridge identified in the documents listed in Condition 1.
- 35. The right to occupy part of the common marine and coastal area with the temporary staging, ‘jack up’ barges and associated land connection, and the motorway bridge shall not be an exclusive right.

### **Maintenance Requirements**

- 36. The structures permitted to occupy part of the common marine and coastal area by this consent shall be maintained in a good and sound condition, and any repairs that are necessary shall be made, subject to obtaining any necessary resource consents.

## **Marine Ecology Conditions**

37. All saline vegetation removal activities shall be undertaken at low tide by hand or using hand-held mechanical methods or using machinery operating from the temporary staging platform. Any variation to the proposed mangrove removal methodology shall be submitted for the approval of the Team Leader-Coastal and shall include a description of the proposed methodology and an Assessment of Environmental Effects, if required.
38. During the period between August and Early February (inclusive) of any year no mangrove (excluding seedlings) shall be removed from any area unless a bird survey carried out by a person with the relevant qualifications and experience determines that threatened or "at risk" nesting birds will not or are likely to be displaced by the removal of mangroves at that time in that location. A copy of the bird survey shall be provided to the Team Leader-Coastal for approval prior to saline vegetation clearance.
39. All mangroves removed under this permit shall be disposed of outside the coastal marine area (CMA) at the completion of work, or as agreed by the Team Leader-Coastal.
40. For the duration of the mangrove removal works, the site shall be maintained in good order. The consent holder shall, as far as practicable, shall remedy all damage and disturbance caused by vehicle traffic and equipment to the foreshore, to the satisfaction of the Team Leader-Coastal.

## Specific conditions – Water permits REG-63664 (Diversion and Discharge of Streams and REG-63665 (Structures and Culverts – Streams)

### Construction

17. All works in a watercourse shall be carried out in accordance with a certified CЕСCP.
18. Streamworks shall be carried out only during periods when all flows, up to the 24 hour 20 year return period storm event, can be diverted around the area of works. During periods of flow greater than the capacity of the diversion, up to the 100 year flood event, a stabilised flowpath shall be provided to ensure no scour or erosion occurs and so that flows can pass safely around or through the area of works with minimum nuisance, damage and sediment generation or discharge. Works within any given stream should not commence within the peak fish migration period of 1 September to 30 November and for that stream shall, as far as practicable, avoid that period in subsequent years.

### Requirements for Streamworks

19. Works in any watercourse (for example bridges, culverts and permanent stream diversions) shall:
  - (a) Allow for the 100 year ARI event;
  - (b) Minimise loss of stream length; and
  - (c) Include provision for fish relocation in accordance with Condition 26.
20. Culvert design shall:
  - (a) Be designed to minimise flooding effects;
  - (b) Address the risks of non-performance, such as blockage, taking into account the risk of a soil/rock debris flow;
  - (c) Incorporate provisions to enable fish passage between upstream and downstream habitats as determined by a suitably qualified and experienced freshwater ecologist in accordance with Conditions 23-25; and
  - (d) Incorporate energy dissipation and erosion control to minimise the occurrence of bed scour and bank erosion in receiving environments.
21. The Consent Holder shall design and construct all stream diversions in general accordance with the requirements in Plan 4214919-100-CE-321 for flow, channel stability, instream habitat and riparian planting and to replace any loss of habitat functionality by assessing the habitat functionality of the area of stream to be diverted pre-construction. This should be certified by the Team Leader Northern Monitoring.
22. Prior to commencement of the relevant works within a watercourse, the Consent Holder shall submit to the Team Leader Northern Monitoring for certification design drawings and a maintenance plan for permanent culverts (including fish passage), bridges and stream

diversions in accordance with Conditions 19-21, and fish passage objectives and testing methodology in accordance with Conditions 23-25.

### **Fish Passage**

23. Fish passage shall be provided on all culverts as deemed necessary by a suitably qualified freshwater ecologist, who has assessed the fish passage requirements in accordance with NZ Transport Agency's "Fish passage guidance for state highways" (August 2013). Where fish passage is deemed unnecessary, appropriate data and rationale for this decision shall be provided with the design drawings to the Team Leader Northern Monitoring for certification.
24. The ecologist will develop fish passage objectives for each culvert. The fish passage objectives shall:
  - (a) be informed by the upstream fish community data collected in Conditions 27, 28 and 29 of Consent R 63666 (Earthworks)
  - (b) specify the type of fish passage provision under Condition 23; and
  - (c) specify the success level for assessment of effectiveness of fish passage as per condition 25.
25. The Consent Holder shall assess the effectiveness of fish passage for culverts that require fish passage provision. Effectiveness of fish passage shall be determined using the release and capture of marked juvenile fish upstream and downstream of the culverts, or other method as agreed with the Team Leader Northern Monitoring. The results will be used to determine if fish passage objectives set under condition 24 for the selected culverts have been achieved, in which case no further monitoring will be required. If fish passage objectives have not been achieved, remedial measures to further improve fish passage will be identified and implemented, and subsequently assessed by a repeat fish passage assessment.

### **Fish Relocation**

26. Prior to the commencement of works in sections of a suitably qualified freshwater ecologist shall undertake to recover fish present in that section of stream and then transfer recovered fish to another section of that stream. If required, the stream section where the fish are transferred to shall be isolated from the section of the stream where the works are being undertaken to prevent fish re-entering. This transfer process shall be detailed within the CESP for that specific stage of works and is to include transportation methodology and the location of the site the fish will be relocated to. A suitably qualified freshwater ecologist shall be present at the time of any stream dewatering.

### **Mitigation**

27. The Consent Holder shall mitigate any loss of Permanent Stream habitat resulting from reclamation and culverting by undertaking mitigation to stream habitat functions at suitable mitigation site(s). In the first instance improvements will occur on land owned by the Consent Holder within the affected catchments. If insufficient stream length is available on land owned by the Consent Holder then land owned by Auckland Council Parks in as close proximity to the works as feasible shall be used. If these options are not able to fulfil the mitigation requirements, other locations will need to be secured by the Consent Holder.

28. Such mitigation will be determined in accordance with the methods and principles described in Technical Report 2011/009 "Stream Ecological Valuation: a method for assessing the ecological functions of Auckland Streams", or other method if agreed with the Team Leader Northern Monitoring. If riparian planting is to be undertaken, this will be done in accordance with the principles laid out in Technical Publication 148 2001 "Riparian Zone Management – Strategy for the Auckland Region".
29. The location, methods and extent of proposed mitigation and the supporting Stream Ecological Valuation calculations will be included in the Ecological Mitigation Plan (refer condition 4.1 of the Designation), and will be provided to Team Leader Northern Monitoring for approval at least two months prior to commencement of streamworks.
30. All stream mitigation works outside the designation shall be undertaken within a 3 year period after construction commences. Any stream works within the designation shall commence within one year of stream works being completed and shall be finished within a 3 year period after construction is completed. Riparian planting works shall be conducted between the months of May and August and planting shall be managed in accordance with the Ecological Mitigation Plan.

## Specific conditions – Water permit REG-63887 (Groundwater diversion)

### DEFINITIONS:

AC:	Means the Auckland Council
Commencement of Dewatering:	Means commencement of bulk excavation and/or commencing taking any groundwater
Completion of Excavation:	When all bulk excavation has been completed and all structural elements have been completed
Completion of Dewatering:	Means when all retaining structures have been completed and effectively no further groundwater is being taken for construction
Completion of Construction:	Means when the Certificate of Completion is issued by AC
Significant damage:	When damage is considered to affect serviceability or structural integrity
Serviceability damage (Burland 1995 and Mair et al 1996):	<p><u>Moderate:</u> Cracks may require cutting out and patching. Recurrent cracks can be masked by suitable linings. Brick pointing and possible replacement of a small amount of exterior brickwork may be required. Doors and windows sticking.</p> <p>Utility services may be interrupted. Weather tightness often impaired. Typical crack widths are 5mm to 15mm or several greater than 3mm.</p> <p><u>Severe:</u> Extensive repair involving removal and replacement of walls especially over doors and windows required. Window and door frames distorted. Floor slopes noticeably. Walls lean or bulge noticeably. Some loss of bearing in beams. Utility services disrupted. Typical crack widths are 15mm to 25mm but also depend on the number of cracks.</p>
Negligible damage (Burland 1995 and Mair et al 1996):	Hairline cracks
Aesthetic Damage (Burland 1995 and Mair et al 1996):	<p><u>Very Slight Damage:</u> Fine cracks easily treated during normal redecoration. Perhaps isolated slight fracture in building. Cracks in exterior visible upon close inspection. Typical crack widths up to 1mm.</p> <p><u>Slight Damage:</u> Cracks easily filled. Redecoration probably required. Several slight fractures inside building. Exterior cracks visible, some repainting may be required for weathertightness. Doors and windows may stick</p>



slightly. Typical crack widths up to 5mm.

Damage:	Includes aesthetic, serviceability and significant damage
Alert Level:	Monitored parameter reaches a level close to, or equal to the design value, which is below the level where damage is expected to occur unless movement continues unchecked, and requires review of available monitoring information (plus other information) to assess the future trend
Alarm Level:	Monitored parameter reaches the value and/or level close to which damage could occur, and requires immediate action including the cessation of ground dewatering and other construction activities that may have an effect on ground deformation
NRSI:	Means Natural Resources and Specialist Input, AC
RL:	Means Reduced Level
Services:	Includes for example fibre optic cables, sanitary drainage, stormwater drainage, gas and water mains, power and telephone, road infrastructure assets such as footpaths, kerbs, catch-pits, pavements and street furniture, all existing ground and building settlement marks and groundwater monitoring bores.

## Performance Standards

17. The Consent Holder shall ensure that all excavation, dewatering systems, retaining structures and associated works for the road construction and associated works shall be designed, constructed and maintained so as to avoid any damage to buildings, structures and services on the site or adjacent properties.
18. The activity shall not cause:
  - (a) Greater (steeper) than 1:500 differential settlement between any two Ground Surface Settlement Monitoring Stations required under this consent (the Differential Ground Surface Settlement Alarm Level)
  - (b) Greater than 20mm total settlement at the Ground Surface Settlement Monitoring Stations (the Total Ground Surface Settlement Alarm Level) measured below the lowest recorded baseline level
  - (c) Greater (steeper) than 1:500 differential settlement between any two adjacent Building Settlement Monitoring Stations required under this consent (the Differential Building Settlement Alarm Level)
  - (d) Greater than 10mm total settlement at any Building Settlement Monitoring Stations required under this consent (the Total Building Settlement Alarm Level) measured below the lowest recorded baseline level.

## Monitoring and Contingency Plan

19. The Consent Holder shall prepare a Groundwater Monitoring and Contingency Plan (GMCP) for the purpose of managing adverse construction effects from groundwater drawdown or mounding in proximity to the works. The GMCP shall be prepared by a Suitably Qualified and Experienced Practitioner (SQEP).
20. At least 20 working days prior to Commencement of Dewatering, the Consent Holder shall submit a GMCP to Council (Team Leader Water Allocation, NRSI) for approval. No bulk excavation and/or dewatering activity on the subject site shall commence until approval from Council is provided.
  - (a) The GMCP shall include the requirements of this resource consent including but not limited to:
    - (1) An “as built” location plan of all deformation monitoring marks and of monitoring bores based on approximate positions located on the plans prepared by Beca Ltd entitled “Proposed Monitoring Piezometers near Duck Creek Road” (Figure D13 of Penlink – Hydrogeology Assessment, Beca Ltd, Rev 3, 17 July 2014); and “Updated Plan of the Proposed Monitoring Locations in Whangaparaoa Peninsula” (Attachment 3 of the Penlink Second Response to Auckland Council Section 92 Letter, dated 24 July 2015).
    - (2) Full details of the groundwater monitoring programme required by this consent, including as-built details of monitoring points (construction, geological log, reduced level, coordinates), staging of excavation, and how this triggers initiation and maintenance of weekly monitoring during construction i.e. clarification of the 500 m reference in Condition 22(b).
    - (3) Identification of any adjacent structures susceptible to damage and details of any proposed monitoring or inspection prior, during and post construction
    - (4) A bar chart, such as a Gantt chart, showing the timing and frequency of the condition surveys and monitoring required by this consent relative to the Commencement of Dewatering and the Completion of Dewatering.
    - (5) Proposed groundwater Alert and Alarm Levels, including methodology for their determination. Groundwater Alert and Alarm Levels should also take into account seasonal variability.
    - (6) Proposed Ground and Building Deformation Marks, and Alert and Alarm levels for each.
    - (7) Details of the contingency measures to be implemented if Alert or Alarm Levels are exceeded including a response plan; and
    - (8) Reporting requirements.
  - (b) The GMCP shall be submitted and written approval obtained from the Team Leader Water Allocation, NRSI, prior to the Commencement of Dewatering.
  - (c) The GMCP may be varied on request of the Consent Holder, subject to the written approval of the Team Leader Water Allocation, NRSI.
  - (d) The GMCP once approved shall be implemented.
21. Where the Consent Holder is required to access property owned by a third party, (including buildings or structures) to undertake monitoring, construction of a bore, condition surveys or inspections and that access is declined or subject to what the Consent Holder considers to be unreasonable terms, the Consent Holder shall notify the Team Leader Water Allocation, NRSI, of that circumstance, and provide an alternative monitoring plan in accordance with Condition 20.

## **Groundwater Monitoring**

22. Groundwater monitoring shall occur at locations specified in the approved GMCP and at frequencies as follows unless otherwise approved via the GMCP:
  - (a) Monthly monitoring for at least 12 months prior to Commencement of Dewatering;
  - (b) Weekly measurements from one month prior to commencement of dewatering till completion of dewatering, within 500m of any monitoring point; and
  - (c) Monthly measurements for three months following completion of construction, decreasing to three-monthly for the 12 month period after construction is completed (with the ability to cease monitoring if steady state conditions are reached and in agreement with Council).
23. Council must be informed of any monitoring bore damaged or made inoperable immediately and a new monitoring bore, to the same depth and specification, is to be drilled at a nearby location.
24. Provisional Groundwater drawdown Triggers of Alert Level and Alarm Level will be set at 0.5m and 1.5m respectively below the seasonal low level or RL for the monitoring bores. These levels may be amended through the GCMP approval process.

## **Building Inspections**

25. Prior to the Commencement of Dewatering, the Consent Holder shall employ a suitably qualified independent person (Chartered Professional Engineer or Chartered Building Surveyor) to undertake as a minimum an external condition survey, or a detailed condition survey of buildings and structures as specified in Schedule A, to confirm their existing condition prior to the lodgement of the GMCP. The survey shall include but not be limited to:

Any information about the type of foundations

- (a) Existing levels of damage considered to be of an aesthetic or superficial nature
- (b) Existing levels of damage considered to affect the serviceability or function of the building
- (c) A professional opinion as to whether observed damage may or may not be associated with actual structural damage
- (d) Susceptibility of structure to further movement
- (e) Photographic evidence of the points above
- (f) Review of proposed Alarm / Alert trigger levels to confirm they are appropriately set and any ground settlement less than the Alarm trigger level will not cause damage, and whether the monitoring frequency and monitoring locations are adequate.

<b>Schedule A: Building Settlement Marks and Inspection</b>				
<b>Building Settlement Marks ID</b>	<b>Address</b>	<b>Detailed Structural Condition Survey</b>	<b>Settlement Pins (Yes/No)</b>	<b>Legal Title</b>
TBC	266 Duck Creek Road	Yes	Yes	Pt Lot 3 DP 26549
TBC	236 Duck Creek Road	Yes	Yes	Lot 2 DP 29403
TBC	43 Cedar Terrace	Yes	Yes	Lot 5 DP 336937

*Advice notes:*

*Additional properties may be added to Schedule A if further risk of ground settlement is identified during detailed design.*

*If a Chartered Building Surveyor is employed, an independent Chartered Professional Engineer shall be employed to provide engineering advice / opinion with respect to items (d), (e) and (g) of this Condition.*

26. The Consent Holder shall carry out a Visual Inspection of the surrounding ground and neighbouring buildings and structures (listed in Schedule A) for the duration of dewatering adjacent to these property boundaries to monitor any deterioration of existing damage or cracking. Inspections are to be carried out at least twice weekly from the Commencement of Dewatering until Completion of Excavation and the at least weekly until Completion of Dewatering. A record is to be maintained of the time, date and any observations for each inspection. This record is to be maintained and submitted to the Team Leader Water Allocation, NRSI, in accordance with Condition 38.
27. No earlier than 6 months after Completion of Dewatering and within 6 months of Completion of Construction, the Consent Holder must complete a post-construction condition survey covering the matters identified in Condition 25 of any building that had a pre-construction condition survey as identified in Condition 25. The condition survey report shall include a determination of the cause of damage identified (if any) since the pre-construction condition or previous survey. A copy of the survey shall be provided to the Team Leader Water Allocation. The requirements of this condition need not be fulfilled for any particular building where the Consent Holder can provide written evidence to the Team Leader Water Allocation, NRSI, that the current owner of that building has agreed they do not require such a condition survey.
28. The Consent Holder shall, without delay, at the reasonable request of the Team Leader Water Allocation, NRSI, undertake an additional survey on any building (within the area defined by the extent of groundwater drawdown) for the purpose of checking for damage and for following up on a report of damage to that building. The requirement for any such survey will cease 6 months after the Completion of Construction unless the requirements of Condition 27 have not been met and subject to a consistent pattern of deformation records having been obtained in this period in which no evidence of adverse effects is apparent.

<b>Schedule B: Ground and Building Deformation Monitoring</b>				
<b>Location</b>		<b>Pre-Excavation/ Baseline</b>	<b>Commencement of Dewatering to Completion of Dewatering</b>	<b>Post Completion of Dewatering</b>
<i>As per approved GMCP</i>	<b>Frequency</b>	Monthly monitoring for at least 12 months prior to commencement of earthworks to a horizontal and vertical accuracy of +/- 2 mm achieved by precise levelling	At a minimum frequency of weekly intervals. <sup>1</sup>	Monthly for 6 months or for a shorter period if written approval is obtained from the Team Leader, Water Allocation, NRSI
	<b>Reporting</b>	Submitted to the Team Leader Water Allocation, NRSI, prior to the Commencement of Excavation	As per Condition 39	As per Condition 39

### **Ground and Building Deformation Monitoring**

29. Ground Surface and Building Deformation monitoring stations shall be established, maintained, monitored and reported as per Schedule B and the approved GMCP. Locations are to correspond to areas of greatest risk, to record any vertical and horizontal movements. Benchmark positions shall be established no less than 50m away from the works.

### **Services Monitoring**

30. The Consent Holder shall identify the adjacent services (including gas, water, sewerage, telecoms, stormwater, fibre optics and power) and undertake a condition survey of the neighbouring services in consultation with the relevant services providers (water and sewer as a minimum) immediately adjacent to the site before the Commencement of Dewatering.
31. A condition survey of services immediately adjacent to the site must be completed by the Consent Holder no earlier than 6 months after Completion of Dewatering and no later than Completion of Construction to confirm in writing to the Team Leader Water Allocation, NRSI and the asset owner the results of the survey. The survey shall include a determination of the cause of damage identified (if any) since the condition survey provided for in condition 25. The

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<sup>1</sup> The Consent Holder may request the Team Leader Water Allocation, NRSI, approval for this monitoring to be extended up to monthly periods, subject to the level of deformation that has occurred on site

post condition survey need not be completed where the Consent Holder has written evidence that a post condition survey was not required by the service provider.

### **Contingency**

32. If any damage to buildings, structures and/or services is caused wholly or in part by the exercising of this consent, the Consent Holder shall:
- (a) Notify the Team Leader Water Allocation, NRSI and the asset owner as soon as practical, and
  - (b) Engage a Chartered Professional Engineer to prepare a report as soon as practical describing the damage, ascertaining its cause, identifying methods to avoid, remedy and mitigate any damage caused and identify the potential for causing further damage. A copy of the report shall be provided to the Team Leader Water Allocation, NRSI and the asset owner.

### **Alert and Alarm Level Notification**

33. The Team Leader Water Allocation, NRSI, shall be notified within 24 hours should any of the following monitoring results eventuate:
- (a) Total ground surface settlement exceeds 15mm (the Total Ground Surface Settlement Alert Level) measured below the lowest recorded baseline level;
  - (b) Firstly if groundwater levels drop below the Alert Level in monitoring bores, and secondly if groundwater levels drop below the Alarm levels, due to the operation of dewatering during construction of Penlink; or
  - (c) Total Building Settlement exceeds 7mm (Building Settlement Alert Level) measured below the lowest recorded baseline level; or
  - (d) The differential ground surface settlement between any Ground Surface Settlement Stations exceeds 1:700 (The Differential Ground Settlement Alert Level); or
  - (e) The differential settlement between any two Building Monitoring Stations exceeds 1:700 (The Differential Building Settlement Alert Level).
34. In the event of any Alert Trigger Level exceedance of Ground Surface or Building monitoring trigger levels, and/or Alert or Alarm Level exceedance of groundwater levels in the monitoring bores, associated with construction of Penlink, then the Consent Holder must:-
- (1) Notify the Team Leader Water Allocation, NRSI within 24 hours.
  - (2) Re-measure all Monitoring Stations within 50 metres of the affected monitoring locations(s) to confirm the extent of apparent movement and exceedance of the Alert Level.
  - (3) Ensure the data is reviewed by a suitably qualified Chartered Professional Engineer and seek advice on the need for mitigation measures or other actions and implement such recommendations as appropriate.

- (4) Commission and submit a written report by the suitably qualified Chartered Professional Engineer responsible for overview of the monitoring to the Team Leader Water Allocation, NRSI, within one week of Alert Trigger Level exceedance, which provides analyses of all monitoring data relating to the exceedance of any of the Alert Trigger levels and any recommendations for remedial actions which may include additional monitoring, and what actions will be or have already been taken to address the Alert Level or potentially triggered Alarm Level.
  - (5) All monitoring pins within 50 metres are to be measured every two days until such time the written report in condition 34(4) above has been submitted to the Team Leader, Consents and Compliance, Water Resources, NRSI.
  - (6) The recommendations of the report shall be implemented.
35. In the event of any Alarm Trigger Level exceedance of Ground Surface or Building Monitoring trigger levels, associated with construction of Penlink, then the Consent Holder must take advice from the Chartered Professional Engineer providing the report in condition 34(4) on actions to avoid, remedy or mitigate effects, taking into account any monitoring information subsequent to the report provided and:-
- (1) Immediately halt all construction activity, including excavation, dewatering and any works contributing to increasing deformation, unless this is considered more harmful than continuing.
  - (2) Review construction activities which have the potential to cause deformation to minimise any further exceedance of triggers, investigate the causes, and allow for any mitigation to be instigated. Once the mitigation measures have been implemented and considered to be effective in avoiding further damage to the satisfaction of the Engineer, then construction activities can recommence.
  - (3) The consent holder must notify the Team Leader Water Allocation, NRSI, within 24 hours of the Alarm exceedance.
  - (4) The results of mitigation measures and any remedial works and/or agreements with affected parties shall be reported to the Team Leader Water Allocation, NRSI, within one week of recommencement of works.

## **Reporting**

36. The Consent Holder shall advise the Team Leader Water Allocation, NRSI, in writing at least 10 working days prior, of the date of the proposed Commencement of Dewatering.
37. The Consent Holder shall ensure that a copy of all building condition survey reports (required by this consent) be held on file by the Consent Holder and forwarded to the Team Leader Water Allocation, NRSI, within 15 working days of completing the reports.
38. All data collected as required by conditions of this consent from Commencement of Dewatering to completion of monitoring are to be compiled, compared with the relevant trigger levels and submitted to the Team Leader, Water Allocation, NRSI, at two monthly intervals, unless otherwise specified in this consent, setting out the previous results, providing an explanation for any trends and providing a construction progress timeline. All reports as per above will confirm if differential settlement Alert and Alarm levels between any deformation monitoring marks were exceeded, and if so provide an explanation and details of any remedial actions taken.

39. The Consent Holder, shall within 10 working days of completion of construction, advise the Team Leader Water Allocation, NRSI, in writing, of the date of completion.
40. The Consent Holder shall, at the Completion of Construction provide the Team Leader Water Allocation, NRSI, with a long term maintenance programme of the groundwater drainage system.



## Specific conditions – Discharge permit REG-63658 (Stormwater)

### Stormwater works

17. The following stormwater management works are constructed to the following design standards and they are completed prior to construction of impervious surfaces.

Works to be undertaken	Design guideline(s)
<i>Wetlands</i>	<ul style="list-style-type: none"> <li>• 75% TSS removal on a long term average basis</li> <li>• Peak flow attenuation for the 2, 10 and 100 Year ARI rainfall events maintained at pre development levels for the same footprint.</li> <li>• Extended detention of the runoff from a 34.5mm rainfall event</li> </ul>
<i>Culverts and Outfall Structures</i>	<ul style="list-style-type: none"> <li>• Design in accordance with the Auckland Council Code of Practice for Land Development and Subdivision Chapter 4 – Stormwater, except where Conditions 19 and 20 of permit 63664 and 63665 and 27 of this permit take precedence</li> </ul>
<i>Temporary Construction Yard(s)</i>	<ul style="list-style-type: none"> <li>• 75% TSS removal on a long term average basis</li> <li>• Peak flow attenuation for the 2, 10 and 100 Year ARI rainfall events maintained at pre development levels for the same footprint</li> <li>• Extended detention of the runoff from a 34.5mm rainfall event</li> </ul>

18. Final design specifications of the stormwater management works listed in Condition 17 shall be submitted to the Team Leader – Northern Monitoring for written approval prior to the commencement of site construction works. The stormwater management system shall provide conveyance and treatment for all impervious surfaces within the designation, including the Penlink mainline alignment, temporary construction yard(s), connections and intersections, and those parts of local road connections that it is practicable to connect by gravity to the main alignment drainage infrastructure. The runoff from any local road connections that cannot practicably be connected to the main alignment drainage infrastructure shall be managed in a manner that is consistent with the existing drainage system for those local roads.

The final design specification for the stormwater management works shall include but not be limited to the following:

- i. Treatment efficiency, hydraulic neutrality and extended detention calculations for each wetland;
- ii. Design drawings for each wetland;

- iii. Planting plans and schedules for each wetland;
  - iv. Catchment plans detailing the area draining to each wetland;
  - v. Outfall and culvert design drawings and locations;
  - vi. Temporary construction yard stormwater management system.
19. In the event that any minor modifications to the stormwater management system are required, the following shall be provided:
- (a) Plans and drawings outlining the details of the modifications; and
  - (b) Supporting information that details how the proposal does not affect the capacity or performance of stormwater management system.

All information shall be submitted to, and verified by the Team Leader – Northern Monitoring, prior to implementation.

### **Construction meetings**

20. The Consent Holder shall arrange and conduct pre-construction site meetings between the Auckland Council and all relevant parties, including the site stormwater engineer, for the installation of each of the operational stormwater management works stages. The Council shall be provided with 5 working days written notice of the date and time of each pre-construction site visit. Any resulting amendments to the design of the works may be reviewed at that time and shall be approved in accordance with Condition 19.
21. Within 30 days of Practical Completion and prior to operation of the stormwater management works, a post construction site meeting shall be arranged and conducted between the Team Leader – Northern Monitoring and all relevant parties, including the site stormwater engineer. As-Built certification and plans shall be available for this meeting, as specified in Condition 22.

### **Certification of construction works**

22. Within 30 days of the practical completion of each part of the stormwater management system, "As Built" plans and documentation of the stormwater system which are certified as a true record of the stormwater management system by a suitably qualified Chartered Professional Engineer shall be supplied to the Team Leader – Northern Monitoring.
23. In the second year of operation of stormwater treatment wetlands, during the months of December to February, the consent holder shall arrange and conduct a site meeting with the Auckland Council, including the design stormwater engineer, in order to assess plant health of the stormwater treatment wetlands. Any resulting improvements to the wetland design may be reviewed at that time and shall be approved by the Team Leader – Northern Monitoring, Auckland Council.

### **Operation and maintenance**

24. An Operation and Maintenance Plan for the stormwater management and treatment system shall be submitted to the Team Leader – Northern Monitoring within three months of completion of the installation of the stormwater management works set out in Condition 17
25. The Operation and Maintenance Plan shall set out how the stormwater management and treatment system is to be operated and maintained. The plan shall include, but not be limited to:
  - (a) A programme for regular maintenance and inspection of the stormwater management system;
  - (b) A programme for the collection and disposal of debris, litter and sediment collected by the stormwater management devices or practices;
  - (c) General inspection checklists for all aspects of the stormwater management system, including visual checks;
26. The stormwater management and treatment system shall be managed in accordance with the approved Operation and Maintenance Plan.
27. Any amendments to the Operation and Maintenance Plan shall be submitted to and approved by the Team Leader – Northern Monitoring, in writing prior to implementation.

#### **Overland Flow**

28. The consent holder shall ensure that, for major overland flow paths in excess of the capacity of the primary systems, secondary flow paths shall be provided and maintained to allow surplus stormwater from critical storms, up to the 100-year ARI event, to discharge with the minimum of nuisance and damage. In the event that the highway alignment relative to topography makes a secondary flow path impracticable, the design shall provide for the 100 year runoff within the primary system. Where this is necessary, the design shall also consider debris and blockage risk, the possible need for debris screening and maintenance, and the consequences of increased heading up of flood water. Departure from the provision of a secondary flow path at any location shall be approved in writing by the Team Leader – Northern Monitoring.

#### **Flooding**

29. The Consent Holder shall ensure that the design of the Project in the Stanmore Bay catchment does not result in any more than a negligible increase in downstream peak flood levels and/or flood flow up to the 100 year ARI event. Compliance with this Condition shall be demonstrated by a hydraulic and hydrological model with the level of detail and reporting to be agreed with Council.

## Specific conditions – LAN-63669: s125 & s127 application for permit 23103 (Coastal Occupation and Use Permit)

### Duration

- A. The duration of this consent will remain at 35 years from when the original permit 23103 commenced (s123 of the RMA). The expiry date for permit 23103 is February 2036.

### Lapse

- B. This consent will lapse twenty (20) years from the date of commencement (s125 of the RMA).

### General Conditions

1. The servants or agents of the Council shall be permitted access to the relevant parts of the work site/s at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
2. The consent holder shall carry out the activities permitted by this consent generally in accordance with the documentation submitted in support of the application the AEE, relevant technical reports and plans as referenced in General Condition 1 of consent numbers LAN-63657, REG-64134, LAN-63666, COA-63667, REG-63664, REG-63659, REG-63887 & REG-63658, dated 2015.
3. The Consent Holder shall ensure that any structure permitted to occupy the coastal marine area by this consent is maintained in a good and sound conditions, and shall make sure any repairs that are necessary, subject to obtaining any necessary resource consents.
4. The Consent Holder shall no carry out, modify, extent, alter or reconstruct any works in the part of the coastal marine area subject to his consent without first obtaining any other resource consents for such works which are required.

### Management Plan Approvals

5. Construction works in the coastal marine area shall be undertaken in accordance with a certified Coastal Construction Management Plan (CCMP) that shall include plans (including dimensioned cross sections, elevations and site plans) of the temporary structures within the coastal marine area during the construction.
6. The Consent Holder shall submit to the Team Leader Coastal for approval no later than one month prior to the proposed date for the commencement of works a CCMP that relates to the activities covered by this consent amended to incorporate any changes proposed by the Consent Holder and the requirements specified within this consent.
7. The Consent Holder shall submit to the Manager for approval no later than one month prior to the proposed date for the commencement of works a Mooring Safety Plan.
8. Any changes or amendments to the CCMP or Mooring Safety Plan shall be approved by the Team Leader – Coastal in writing prior to implementation.

## Extent of occupation and use

9. During the construction period the Consent Holder may restrict public access to the area of the works in order to maintain public safety.
10. The Consent Holder shall as far as practical, during the construction period, maintain at least a 8m wide section of enable passage through the main Weiti estuary navigation channel for navigation purposes.
11. During the post construction period, the right to occupy that part of the coastal marine area along the bridge alignment shall not be an exclusive right, and the Consent Holder shall at all times allow public access to, from and along the foreshore. This condition does not preclude the Consent Holder from operating the PenLink Roadway and bridge as a toll road.
12. The Consent Holder shall maintain a public walkway and cycle way on the Weiti Bridge at all time. The cycle way and walkway shall not be subject to any toll provisions.
13. The Consent Holder shall ensure that appropriate navigation markers are installed on completed bridge piers to denote the navigation channel.

## Review Condition

14. The conditions of this consent may be reviewed by the Manager, pursuant to Section 128 of the Resource Management Act 1991, by giving the notice pursuant to Section 129 of the Act, 6 months after the completion of the Weiti Bridge and every 3 years thereafter in order:
  - (a) To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
  - (b) To deal with any other adverse effect on the environment on which the exercise of the consent may have an influence.

## Advice Notes:

1. *If you disagree with any of the above conditions, or disagree with the additional charges relating to the processing of the application, you have a right of objection pursuant to sections 357A or 357B of the Resource Management Act 1991. Any objection must be made in writing to Council within 15 working days of notification of the decision.*
2. *If any archaeological features are uncovered on the site, works should cease and the Team Leader Northern Monitoring and Heritage New Zealand (09 307 9920) should be notified immediately. The Heritage New Zealand Pouhere Taonga Act 2014 provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. It is an offence under this Act to destroy, damage or modify any archaeological site without an authority from Heritage New Zealand Pouhere Taonga. An archaeological site is defined as a place associated with pre-1900 human activity where there may be evidence relation to history of New Zealand. Archaeological features' may include old whaling stations, ship wrecks, shell middens, hangi or ovens, pit depressions, defensive ditches, artefacts, or koiwi tangata (human skeletal remains), etc. For guidance and advice on managing the discovery of archaeological features, contact the Team Leader Cultural Heritage Implementation on 09 301 0101.*
3. *The Consent holder is advised that they will be required to pay to the Council any administrative charge fixed in accordance with Section 36(1) of the Resource Management Act*

1991, or any additional charge required pursuant to Section 36(3) of the Resource Management Act 1991 in respect of this consent.

4. *The Consent Holder is advised that the date of commencement of this consent will be determined by Section 116 of the Resource Management Act 1991, unless a later date is stated as a condition of consent. The provisions of Section 116 of the Resource Management Act 1991 are summarized in the covering letter issued with this consent.*
5. *The Consent Holder is advised that, pursuant to Section 126 of the Resource Management Act 1991, if this resource consent has been exercised, but is not subsequently exercised for a continuous period of two years, the consent may be cancelled by the Council unless other criteria within Section 126 are met.*
6. *The Consent Holder is advised that should they wish to transfer this permit to any other person they must do so by advising the Council in writing in accordance with Section 135(1)(a) of the Resource Management Act. A fee is payable at the time of transfer to cover the cost of administration.*
7. *The Consent holder is advised that they are required to comply with all relevant provisions of the Building Act 1991, prior to commencing work.*

## Definitions and Abbreviations

COUNCIL:	means The Auckland Council
DISTRICT PLAN:	Auckland Council District Plan (Rodney Section)
REGIONAL PLAN:	means any regional plan administered by the former Auckland Regional Council prior to 1 November 2010. Auckland Council Regional Plan: Sediment Control Auckland Council Regional Plan: Coastal Auckland Council Regional Plan: Air, Land and Water (operative in part) Transitional Auckland Council Regional Plan
ACRPS:	means Auckland Council Regional Policy Statement
LGAAA:	means Local Government Amendment Act 2004
Manager:	Means: for any consents required under a Regional Plan, an Auckland Council Team Manager, Resource Consents & Consents Compliance – AC Land / Water / Major Projects; and/or for any land use consents required under any District Plan an Auckland Council Manager Resource Consenting & Compliance; and/or any nominated AC staff acting on the relevant Manager's behalf.
NZCPS:	means New Zealand Coastal Policy Statement 2010
Outline Plan	means an Outline Plan of Works pursuant to section 176A of the RMA
RMA:	means Resource Management Act 1991 and all amendments



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### Attachment 3

#### Location Plan

