BEFORE THE NORTH WEST RAPID TRANSIT EXPERT PANEL

In the matter of	the Fast-Track Approvals Act 2024 (the *FTAA*) and the deliberations and final decision of the Expert Panel appointed under section 50 and Schedule 3 of the FTAA to: (a) grant resource consents under the Resource Management Act 1991; and (b) grant archaeological authorities under the Heritage New Zealand Pouhere Taonga Act 2014; and (c) confirm twelve notices of requirement for designations under the Resource Management Act 1991.
Expert Panel	Lachlan Muldowney (*Chair*) Richard Blakey (*Member*) Todd Langwell (*Member*)
Comments received under Section 53 of the FTAA:	26 May 2026
Details of any hearing under Section 57 of the FTAA:	No hearing was held.

Record of Decision of the Expert Consenting Panel under s 87 of the Fast-Track Approvals Act 2024

Dated: 1 October 2026

(Minor corrections)

Decision: The approvals are granted subject to conditions

Date of Decision:	1 October 2026
Date of Issue:	1 October 2026

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DECISION MADE BY THE PANEL: NORTH-WEST RAPID TRANSIT

PART A: EXECUTIVE SUMMARY

1 This is an application for resource consents, archaeological authorities and twelve notices of requirement for designations (**Application**) by the New Zealand Transport Agency Waka Kotahi (**the Applicant** or **NZTA**) to develop a rapid transit link and associated infrastructure and connections between Brigham Creek and Auckland City centre, alongside State Highway 16 (**SH16**), known as the "North West Rapid Transit" (also referred to as Te Ara Hauāuru) (**Project**).

2 The Project comprises:

(a) A bi-directional, offline busway extending from Brigham Creek Road to Te Atatū, and from the Waterview Interchange to Ian McKinnon Drive in the Auckland City Centre, with the existing bus shoulder lanes used along the causeway between Te Atatū and the Waterview Interchange; and

(b) Seven rapid transit stations located at Brigham Creek (which also includes a park and ride facility), Westgate, Royal Road, Lincoln Road, Te Atatū, Point Chevalier and Western Springs.

3 To enable the construction, operation and maintenance of the Project, NZTA seeks:

(a) Twelve designations: five primary designations to enable staged construction, and seven overlapping station designations to enable future transfer of the stations to an operator (**NoRs**);

(b) Resource consents required under ss 9, 12, 13, 14 and 15 of the RMA under the Auckland Unitary Plan (**AUP**),[1] the National Environmental Standard for Freshwater 2020 (**NES-F**) and the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (**NES-CS**), with an overall discretionary activity status; and

(c) Two archaeological authorities under the Heritage New Zealand Pouhere Taonga Act 2014 (**HNZPTA**) covering publicly owned land within the Project Area.

(Together, the **Applications**).

4 NZTA seeks a lapse period of 25 years for all of the 12 designations and lapse dates of 25 years for all required consents, and, unless unrestricted in duration (i.e., in terms of s 9), 35 years for the expiry of the consents from their commencement.

5 The Application was included as a listed project in Schedule 2 of the Fast-Track Approvals Act 2024 (**FTAA**). On 1 April 2026 the Associate Panel Convener (Helen Atkins) appointed an expert panel to determine the Application (**Panel**).

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[1] The AUP became fully operative on 23 July 2026.

6 The Panel has assessed the Application applying the relevant statutory criteria within the purpose and context of the FTAA.[2]

7 The Panel received comments from commentators and a response to those comments from NZTA. The Panel has carefully reviewed all of that information in evaluating the Application.

8 The Application engages the statutory tests in Schedule 5 (resource consents and designations) and Schedule 8 (archaeological authorities) of the FTAA. In accordance with s 81 FTAA, the Panel must consider the matters in those Schedules as well as the Applicant's substantive application and any comments received, and apply the "greatest weight" direction in favour of the purpose of the FTAA in s 3.[3]

9 The Panel has determined that, having considered all relevant matters, the Project meets the purpose of the FTAA.

10 There are no outstanding matters that must be addressed outside the FTAA process. The Applicant has confirmed that compliance with the Wildlife Act 1953 will be managed separately under that Act if any protected wildlife (e.g. copper skink) is encountered during construction.

11 The Panel therefore grants approval for the Applications subject to the conditions in **Appendix A** (NoRs), **Appendix B** (resource consents) and **Appendix C** (Archaeological Authorities).

PART B: OVERVIEW OF THE APPLICATIONS AND PROCEDURE

Applications

Applicant

12 NZTA is the authorised person for the Project as set out in s 42 of the FTAA. NZTA is also the Requiring Authority under s 167 of the Resource Management Act 1991 (**RMA**) in relation to state highways and motorways, rapid transit networks and projects, and cycleways and shared paths.

Site and surrounding environment

13 The site is located in a highly modified urban environment dominated by major transport infrastructure, namely SH16. The Project area extends along SH16 from the SH16/Brigham Creek Road intersection in northwest Auckland to Ian McKinnon Drive in the Auckland City Centre, and includes seven station locations at Brigham Creek,

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[2] Legislation Act 2019, s 10; and FTAA, s 10 and Sch 5.

[3] Sch 5, cl 17 sets out the criteria and other matters for assessment of resource consent applications. Sch 5, cl 24 sets out the criteria and other matters for assessment of notice of requirements. Sch 8, cl 4 sets out the criteria for assessment of an application for an archaeological authority.

Westgate, Royal Road, Lincoln Road, Te Atatū, Point Chevalier and Western Springs. The Applicant provides a detailed description of the site which we summarise as:[4]

(a) Extending alongside, and in some locations within, the existing SH16 corridor – the Project's impacts are therefore more akin to a road-widening project than a project creating a new road corridor.

(b) Situated in a highly modified urban 'brownfields' environment which has already been subject to significant modification in both built form and landform – remaining natural values are very limited.

(c) Crossing two estuarine waterways (Henderson Creek / Whau River and Huruhuru Creek), three Outstanding Natural Features (**ONFs**) (Harbour View Pleistocene terraces, Meola Creek lava flow and the North-west Motorway lava flow) and four Significant Ecological Areas (**SEAs**), each with low to moderate ecological values.

14 The site is located within an existing transport corridor characterised by SH16 and adjoining commercial, residential and open space land uses. The Project area extends through the Auckland City Centre, Arch Hill, Western Springs, Point Chevalier, Waterview, Te Atatū, Lincoln Road, Royal Road, Westgate and Brigham Creek. It crosses Henderson Creek / Whau River and Huruhuru Creek (both estuaries dominated by mangroves), and includes the Northwest Shared User Path. Adjoining land uses include residential, commercial, retail, open space and community facilities, including schools, parks (such as McCormick Green reserve and Western Springs Gardens), the historic core of Point Chevalier town centre and the Arch Hill Special Character Area (**SCA**).

15 The Project area traverses multiple zones under the AUP, including the Strategic Transport Corridor, Business and Residential zones, with various AUP overlays including SEAs, ONFs, SCAs (Arch Hill), historic heritage scheduled items (including the Ambassador Theatre and Auckland Savings Bank building in Point Chevalier town centre), and flood-prone area overlays. As noted previously, the Project area is also subject to the NES-F and the NES-CS.

Overview of the application

16 The Applications by NZTA are for 'Te Ara Hauāuru', the North West Rapid Transit project, involving the construction, operation and maintenance of a new bus rapid transit corridor alongside SH16, extending from the Brigham Creek/SH16 intersection in the west (Whenuapai) through to Ian McKinnon Drive in the east (Auckland City Centre). It includes seven rapid transit stations and one Park and Ride facility at Brigham Creek Rarawaru, as well as connections to the local bus and road network. As noted in the Applicant's Opening Legal Submissions (Part 1),[5] the Project will provide high-quality and frequent public transport services along SH16, increase transport choice and accessibility to key destinations, and support urban growth in the northwest of Auckland. The particular components of the Project are described further as follows:

(a) A bi-directional, offline busway will extend from Brigham Creek to Te Atatū and then from the Waterview Interchange to the Auckland City Centre. The Project

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[4] Landscape and Visual Assessment, at Section 3.
[5] Applicant legal submissions dated 15 December 2025.

will rely on the existing bus shoulder lanes along the causeway between Te Atatū and the Waterview Interchange, and no approvals are sought or required in this area; and

(b) Seven rapid transit stations located at Brigham Creek (which also includes a park and ride facility), Westgate, Royal Road, Lincoln Road, Te Atatū, Point Chevalier and Western Springs.

17 The Applications present an "Indicative Design" for the Project which has been developed for consenting purposes, to enable an assessment of the Project's potential effects and the development of an "effects envelope". It is anticipated that delivery of the Project will be staged over approximately 20 years, with construction likely to begin in the west at Brigham Creek Rarawaru Station in 2027.

18 The final design of each Project stage will be completed closer to construction and may be different from the Indicative Design. For this reason, the Applicant seeks approvals that provide flexibility for the final design to be confirmed through the detailed design phase, while managing adverse impacts of the final design through the suite of outcomes-based proposed conditions to ensure those impacts remain within the effects envelope as consented. This 'no Condition 1' approach is addressed later in this decision.

19 The Application also presents an indicative construction methodology for the Project. The key construction activities are enabling works (including demolition and utilities relocation), earthworks and construction of stations, bridges, underpasses, culverts and road pavement.

20 The Project is described in the Opening Legal Submissions for the Applicant as providing for transformative public transport infrastructure for Auckland, because:

> *It will enable fast, frequent, reliable and high-capacity bus rapid transit between Northwest Auckland and the City Centre, and will fill a missing link in Auckland's rapid transit network. It will support urban growth in one of the city's largest population growth areas (Northwest Auckland) and improve accessibility to key employment, retail, education and social destinations along the corridor. It will provide genuine transport choice for current and future generations.*

Designations

21 To enable the construction, operation, and maintenance of the Project, NZTA seeks 12 designations (five primary designations and seven overlapping station designations). The purpose of the proposed designations is to construct, operate, maintain, and improve a rapid transit corridor, and ancillary structures, works, and activities. The extent of the proposed designations (the area defined by the proposed designation boundary as shown on the proposed designation plans in Part 6 of the Application) is considered by NZTA to be sufficient to construct, operate, and maintain the Project. It includes (but is not limited to) areas for construction sites, compounds, access routes, stormwater infrastructure and other features required to appropriately manage effects. The proposed designations are shown on the designation plans in Part 6. The NoRs have been determined to allow flexibility in procurement, construction staging, and to enable the transfer of stations to a subsequent operator (if needed in future). NZTA

seeks a lapse period of 25 years for all 12 designations.

22 The 12 NoRs are summarised as follows:

NoR No.	**Description**
NoR 1	Busway between Brigham Creek Rarawaru station and north of Westgate Te Waiarohia station (including stations, Park and Ride and all local road connections)
NoR 2	Busway between north of Westgate Te Waiarohia station and north of Royal Road Mānutewhau station (including stations, Park and Ride and all local road connections)
NoR 3	Busway between Royal Road Mānutewhau Station and Te Whau River (including all stations and local road connections)
NoR 4	Brigham Creek Rarawaru station including Park and Ride
NoR 5	Westgate Te Waiarohia station
NoR 6	Royal Road Mānutewhau station
NoR 7	Lincoln Road Wai o Pareira station
NoR 8	Te Atatū Ōrangihina station
NoR 9	Busway between Waterview interchange and west of Ivanhoe Road (including all stations and local road connections)
NoR 10	Busway between Ivanhoe Road and Ian McKinnon Drive (including all stations and local road connections)
NoR 11	Point Chevalier station
NoR 12	Western Springs station

Resource Consents

23 NZTA also seeks all necessary resource consents that it considers are required to construct, operate, and maintain the Project and which are sought as discretionary activities overall, and in respect of the AUP and National Environmental Standards (**NES**) provisions.[6] This was provided by reference to relevant RMA sections (i.e., ss 9, 12, 13, 14 and 15), rather than AUP or NES provisions. Auckland Council (the **Council**) in its comments provided the relevant AUP chapter references as follows:

[6] Excluding consents under regulation 45 of the NES-F.

- AUP Chapter E3: Lakes, rivers, streams and wetlands;
- AUP Chapter E4: Other discharges of contaminants;
- AUP Chapter E8: Stormwater – Discharge and diversion;
- AUP Chapter E7: Taking, using, damming and diversion of water and drilling;[7]
- AUP Chapter E9: Stormwater quality;
- AUP Chapter E10: Stormwater management area;
- AUP Chapter E26: Infrastructure, relating to regional earthworks and vegetation alteration and removal;
- AUP Chapter E30: Contaminated land;
- AUP Chapter F2: Coastal – General Coastal Marine Zone; and
- National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health.

24 The Applicant's Part 4 – Resource Management Act 1991 Approvals report, which includes the Assessment of Environmental Effects (**Part 4 Report** or **AEE**), also referred to consents required under the NES-F, as a matter related to the s 13 land use consent.

25 The AEE does not identify the specific locations of the elements of the proposal which require consent, nor where permitted thresholds have exceeded the extent to which consent is required. It noted that "*the exercise of these consents can be undertaken in stages, as procurement allows and as such the proposed conditions of consent will apply to all delivery stages (if relevant) unless specifically noted to apply to a geographical area*".[8] The comments from the Council have helpfully summarised the geographical features and/or AUP definitions and overlays that are relevant to the consideration of regional consents within this Application, as follows:[9]

- SEA Overlays: where the following SEA have been identified within conditions by the Applicant:
  - SEA_T_2040: Across from the Westgate Drive stormwater ponds along Mānutewhau Stream;
  - SEA_T_5124: Triangle Road, Rarawaru Stream;
  - SEA_T_4938 and SEA_T_3262: Henderson Creek; together with
  - additional SEAs that are located within the designation boundaries in Te Atatu Peninsula, and Point Chevalier as identified in the Receiving

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[7] As identified in the Assessment of Groundwater and Settlement Effects, at Section 5.4.
[8] AEE, at Section 1.2.
[9] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, pp 9-10.

Environment.

- Wetlands: as identified within Schedule A of the Assessment of Ecological Effects (**AEcE**), within the designation boundaries at 74 Northside Drive, Westgate and Eric Armistead Park, Point Chevalier, and adjacent to the designation boundary at 4-6 Hobsonville Road West Harbour. A construction area is located within the designation adjacent to the Hobsonville Road wetland.

- Streams: as identified within hydrogeological features in the receiving environment.

- Riparian Areas: Resource consent is required for vegetation alteration or removal within 20m of a natural wetland, in the bed of a river or stream (permanent or intermittent), or lake, and within 10m of urban streams. This is different to the definition of riparian margin of within 20m of the centreline of a permanent or intermittent watercourse set out in the Proposed Resource Conditions (28 April 2026).

- Coastal Areas beyond the coastal marine area (**CMA**): Resource consent is required for vegetation alteration or removal of greater than 25m^2 of contiguous vegetation, or tree alteration or tree removal of any indigenous tree over 3m in height within 150m of mean high water springs (**MHWS**).[10]

- Sediment Control Protection Area (**SCPA**) – subject to land gradient and area thresholds, resource consent is required for earthworks:

  - 100m landward of the CMA (whichever is the more landward of MHWS); or

  - 50m landward of the edge of a lake, river or stream, or the edge of a wetland of 1,000m^2 or greater.

26 The Applicant notes that it is intended that the exercise of the resource consents can be undertaken in stages as procurement allows and as such the proposed conditions of consent will apply to all delivery stages if relevant unless specifically noted to apply to a geographical area. It seeks lapse dates of 25 years for all required consents and unless restricted in duration (i.e., in terms of s 9), 35 years for the expiry of the consents from their commencement.

27 The Council comments included a list of required consents against relevant sections of the RMA. The Panel has sought further clarification in this respect, by reference to its summary of consent reasons and identification of the relevant Council consent references at **Appendices B** and **D**, as part of its invitation to comment on the draft decision.

28 The Panel has reviewed all the documentation and the further information provided by NZTA. The Panel agrees with NZTA that overall, and in terms of the AUP and its various

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[10] The Council notes that this differs from the definition of coastal margin of within 20m of MHWS set out in the Proposed Resource Conditions (28 April 2026).

proposed plan changes, the Application is a discretionary activity.[11] This appeared to be agreed by the Council, albeit that certain consent categories were considered to be outstanding at the time their comments were first provided.

Approvals relating to an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014

29 Schedule 8, clause 4 sets out the criteria for assessment of an application for an archaeological authority. NZTA has applied for two archaeological authorities under s 44(a) HNZPTA: Authority 1 covering publicly owned land within the western portion of the Project from Brigham Creek to Te Whau River, and Authority 2 covering publicly owned land within the eastern portion of the Project from Waterview to the Auckland City Centre. Two recorded archaeological sites (both midden, associated with pre-European Māori land use around Meola Creek) will be modified or destroyed; both have been previously modified by SH16 works. NZTA submits that the archaeological effects (post-mitigation) will be less than minor and will be appropriately managed through archaeological management plans. This matter is discussed in more detail in Part E.

Procedure

30 The following section of the decision records the key procedural steps relevant to the decision.

Meetings and site visits

31 The Panel commenced work on 13 April 2026 in accordance with the directions set out in Minute 1 of the Panel Chair dated 13 April 2026. The Panel convened a project overview conference with the Applicant on 22 April 2026. That conference was recorded on MS Teams and made available for public viewing on the Environmental Protection Agency (**EPA**) Fast Track website. The conference was a highly efficient and very useful introduction to the Project detail. On 23 April 2026 the Panel conducted a site visit, accompanied by a representative from the EPA and three representatives for the Applicant: Ms Helen Hicks (Planner), Mr Matt Hawkes (Project Delivery Lead) and Mr Joel Belsham (System Design Lead). The site visit was comprehensive, and was undertaken by car and on foot and included travel on the WX1 bus service from Westgate to Auckland City Centre. The Panel viewed the entire extent of the proposed rapid transit route with visits to each proposed bus stopping point and the immediate surrounds.

32 Much of the Panel's correspondence, deliberations and decision-making occurred over email, in person meetings, and Microsoft Teams meetings. Primarily, the Panel had regular meetings via Microsoft Teams to deliberate and discuss issues and other decision-making matters, and these were supplemented by frequent email correspondence. Microsoft Teams meetings were held on 13 and 24 April; 1, 14, 25 and 29 May; 5, 12 and 22 June; 13, 15, 24 and 31 July, 3, 4, 7, 11, 12, 20, 24, 27 and

[11] AEE, at Section 1.2.

28 August 2026. An in-person deliberations meeting was held in Auckland on 2 July 2026.

Conflicts of interest

33 By email of 20 April 2026, New Zealand Retail Property Group Limited (**NZRPG**) (a landowner of the Westgate Shopping Centre) raised a potential conflict of interest issue concerning the Panel members. The matter was addressed by the Associate Panel Convener in Minute 4 of the Panel Convener dated 28 April 2026. Each Panel member completed formal disclosures of interests, which are available on the EPA Fast Track website. The disclosures record that each Panel member has had some professional involvement with land use and transportation issues relating to the Westgate Town Centre, including involvement in a recent High Court judicial review proceeding involving NZRPG: the Panel Chair as senior counsel for the applicant in that proceeding, Panel member Todd Langwell as a witness for NZRPG, and Panel member Blakey as the decision-making Auckland Council commissioner for the underlying decision. The Convener concluded that the matters raised are not so sufficiently related or connected to the Application as to give rise to a conflict of interest, or to any reasonable apprehension of bias, and that the Expert Panel will remain in place. The Panel members confirm they bring fair-minded impartiality to their decision-making.

34 A second conflict matter was raised by the Applicant by way of memorandum of counsel dated 3 June 2026, concerning Panel member Langwell. The Panel addressed this matter in Minute 12 of the Panel dated 12 June 2026. Panel member Langwell updated his initial disclosure to provide further detail to assist in the evaluation of the issue.

35 The Panel sought and obtained independent legal advice from Mr Philip Maw on 11 June 2026 addressing the issue. Mr Maw's advice (with Panel member Langwell's updated disclosure annexed) confirmed that the issue was capable of being managed without recusal. The Panel took further action to actively manage the issue, including by instructing the EPA to engage an independent transport expert (Mr Daryl Hughes of Hughes Traffic and Transport) to provide technical advice to the Panel in relation to transportation-related issues and conditions, to augment those of Panel member Langwell and assist the Panel in reaching its overall conclusions on all transport matters.

36 By Minute 12 the Panel invited the Applicant to advise whether any residual matters remained. By memorandum of counsel dated 23 June 2026, the Applicant advised that it considered the Panel’s approach did not address the issue satisfactorily and did not resolve it, for the two reasons set out at paragraphs 3.1 and 3.2 of that memorandum. The Applicant noted those matters for the record and reserved its rights with respect to the Panel’s decision, but did not request reconsideration of the issues, while indicating that counsel were available to attend a conference with the Panel if the Panel saw advantage in doing so.

37 The Panel responded to that memorandum in Minute 15 dated 26 June 2026. The Panel recorded that Panel member Langwell has had no contact with NZRPG regarding the relevant site (13–15 Westgate Drive) since 9 April 2026 and considers that no further input from him is required, and that the Applicant’s concern regarding any future role of his firm in relation to another development impacted by NoR 2 speculates on a future scenario that does not currently exist. The Panel reiterated that it regarded conflict management as an ongoing exercise under constant review, and that it would

address the implications if circumstances change. The Panel noted that it is clear on the role and function of each of its members, and while the Applicant's reservation of rights left the issue somewhat unresolved, the Panel was satisfied that its management of the conflict issue is appropriate. The Panel did not consider it necessary to convene a conference, but indicated that one would be convened if any matter arising from Minute 15 caused the Applicant to seek it. We record that no such matter was raised by the Applicant.

38 The Panel has remained alert to its natural justice responsibilities, and the principles regarding conflict management identified in Mr Maw's earlier advice dated 4 June 2026, throughout the processing of this application, and considers the matter has been satisfactorily managed.

Invitations to comment

39 The Panel invited comments on the Application by Minute dated 28 April 2026.[12] Responses to this invitation were due on 26 May 2026. Following the issue of the original invitations, two further groups of persons were invited to comment: (a) thirteen additional residential addresses identified in Minute 4 of the Panel dated 5 May 2026 as having been omitted from the original Minute 2 invitation list, with their deadline extended to 2 June 2026 to preserve their full 20 working days; and (b) further owners and occupiers within Westgate Shopping Centre invited in Minute 6 of the Panel dated 18 May 2026 in response to a letter from NZRPG dated 8 May 2026, with their deadline initially set at 2 June 2026 and subsequently extended to 15 June 2026 by Minute 9 of the Panel dated 22 May 2026 to provide the full 20-working-day period. Auckland Council was granted a short extension to 2 June 2026 by Minute 9. The Minister of Defence was invited to comment under s 53(2)(l) FTAA by Minute 9, with comments due by 22 June 2026, after the Applicant confirmed (in response to Minute 8 of the Panel dated 19 May 2026) that the Project potentially engages Airspace Designation 4311.[13]

40 The Panel received comments on the Application from a total of 43 parties, and these comments are recorded on the Fast Track website. A map of the Project area, with the location of each commenter is set out at **Appendix E** to this decision report.

41 The Panel expresses its thanks to all parties who commented for their contributions. 'Fast Track' hearing processes can be very foreign, and daunting, particularly for those not active within the development community, and the Panel wishes to acknowledge the very helpful and carefully considered comments received from all parties. The Panel has given close consideration to all comments, and summarises some of the key themes arising from the matters raised in the comments below, noting that this is not an exclusive list of themes or issues raised:

(a) Construction traffic: Several business owners and operators with properties within or adjacent to the Project at Westgate and Point Chevalier raised concerns regarding the impact of construction traffic on access to their business and the surrounding area. These comments largely focus on the potential impact on

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[12] Minute 2 of the Expert Panel dated 28 April 2026.

[13] The Minister of Defence subsequently confirmed on 4 June 2026 that he had no comments on the Application.

private vehicle access to businesses, and potential exacerbation of current traffic problems within this part of the local transport network.

(b) Directly impacted and adjacent residential landowners: A number of residential landowner commenters raised concerns regarding the potential impacts of the Project on their properties. Their concerns primarily relate to noise and vibration, construction traffic and access, landscaping and neighbourhood security. Some commenters also identified social and community related impacts arising from compulsory acquisition of their homes and their potential displacement.

(c) Te Ākitai Waiohua commented on impacts on the Arch Hill Scenic Reserve and the scope and particulars of the proposed cultural conditions.

(d) The Department of Conservation (**DoC**) raised concerns with respect to impacts on natural values of certain environments traversed by the Project.

(e) Heritage New Zealand Pouhere Taonga (**HNZPT**): HNZPT addressed archaeological-related matters, noting that discussions with NZTA have resolved all but one issue and that discussions are continuing in order to resolve that issue.

(f) The Council provided extensive comments based on input from local boards and specialist advisers, and which informed the overall input from their planning experts.

42 The Panel notes that a number of commenters (including the Council and businesses with landholdings affected by the Project) proposed new or amended conditions in respect of the NoRs. These proposed new or amended conditions have been carefully considered by the Panel, and in some cases, have been adopted or amended by the Panel in its final decision on conditions.

43 The Panel observes that although it issued invitations to comment to approximately 2,000 property owners/occupiers and entities, it received comments from only 43 parties. This response rate is noteworthy and we accept the Applicant's submission on the point that this "*low number reflects the extensive engagement undertaken by NZTA with the communities that the Project will affect*",[14] and that:[15]

> *...this general support for the Project demonstrates that there is a broad understanding that, notwithstanding concerns individual commenters have about Project effects, the Project will deliver substantial regional and national benefits.*

44 The most extensive of these comments were from the Council, which also incorporated comments from individual local boards, as representatives of the local areas in which the Project will traverse, as well as specialists across the various effects topic areas.

<u>Applicant's response to invited persons comments</u>

45 The Applicant's response to comments was provided in two main tranches. The first response was provided on 3 June 2026 in respect of the first set of comments received

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[14] Memorandum of counsel for the Applicant dated 3 June 2026, at [6.1].
[15] Memorandum of counsel for the Applicant dated 3 June 2026, at [7].

up to 26 May 2026 (as referred to above). Following receipt of the comments from the Council (2 June 2026), the Applicant requested by memorandum of counsel dated 8 June 2026 that the processing of the Application be suspended for 10 working days under s 64(1) of the FTAA, in order to allow sufficient time to liaise with the Council over certain matters raised in its comments. The Panel granted that suspension by Minute 11 dated 9 June 2026, with processing suspended from 8 June 2026 and (subject to extension) to resume on 23 June 2026. The Panel recorded by Minute 13 dated 12 June 2026 the resulting adjusted deadlines for the Applicant's response to the Council's comments (23 June 2026), for additional Westgate Shopping Centre invitees (30 June 2026), and for the Applicant's response to those comments (7 July 2026). Minute 13 also recorded that the Minister of Defence had confirmed that no comment would be provided.

46 By memorandum of counsel dated 19 June 2026, the Applicant requested that processing of the Application remain suspended indefinitely to allow further discussions with the Council prior to submitting its response to the Council's s 53 comments. The Panel granted the continuation of the suspension by Minute 14 dated 22 June 2026, noting that facilitated discussions between the Applicant and the Council were scheduled for 23 and 24 June 2026.

47 The Applicant's second response, addressing the Council's comments and including updated draft designation and resource consent conditions, was received on 9 July 2026 (**9 July Memorandum**), once the suspension was lifted. A response to the "Westgate" later comments was received on 24 July 2026. The Applicant's final response to comments, including the conditions proposed by the Council, was received on 29 July 2026 (**29 July Memorandum**).

Appointment of decision writer

48 On 22 May 2026 the Panel appointed Shaye Thomas (barrister employed by the Panel Chair) to provide the Panel with additional support for drafting documents, including the Panel's decision.[16] The appointment was made under clause 10(2) of Schedule 3 of the FTAA.

Appointment of legal adviser

49 As referred to previously, the Panel appointed Philip Maw (independent barrister) on 22 May 2026 as a technical adviser to provide the Panel with legal advice on legal issues arising in the course of the Panel's consideration of the Application.[17] This appointment was made under clause 10(3) of Schedule 3 of the FTAA. Mr Maw was also engaged by the Panel to provide independent legal advice on the conflicts matters addressed above.

Appointment of independent transport adviser

50 Following Minute 12 of the Panel dated 12 June 2026 (and as part of the active management of the conflicts matter described above), the Panel directed the EPA to engage Mr Hughes as a technical adviser to provide the Panel with independent transportation advice in respect of transport-related issues arising in respect of various

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[16] Minute 9 of the Expert Panel dated 22 May 2026.
[17] Minute 9 of the Expert Panel dated 22 May 2026.

sites and to advise the Panel in respect of proposed conditions. This appointment was confirmed by the Panel's Minute 16 dated 13 July 2026. The appointment was made under clause 10(3) of Schedule 3 of the FTAA.

Further information

51 Under s 67 of the FTAA, the Panel issued four requests for further information to the Applicant:

(a) Minute 3 of the Panel dated 5 May 2026, requesting a planning and legal assessment tracing each individual effects assessment through to the proposed conditions in light of the Applicant's 'no Condition 1' approach, with a response provided on 19 May 2026);

(b) Minute 5 of the Panel dated 7 May 2026, seeking further information on the proposed 25-year lapse period for the designations, the extent of consents sought (including s 12 RMA consents in Wai o Pareira/Henderson Creek and Huruhuru Creek), the redacted Ecological Assessment, and various matters arising from the Landscape and Visual Assessment and the Assessment of Transport Effects, with a response provided on 21 May 2026;

(c) Minute 7 of the Panel dated 19 May 2026, seeking the Applicant's position on the adequacy of its alternatives assessment under s 171(1)(b) RMA, having regard to *Queenstown Airport Corporation Ltd v Queenstown Lakes District Council* [2013] NZHC 2347 and *New Zealand Transport Agency v Architectural Centre Inc* [2015] NZHC 1991, with a response provided on 3 June 2026; and

(d) Minute 8 of the Panel dated 19 May 2026, seeking the Applicant's position on whether the Project engages Airspace Designation 4311 (Minister of Defence), with a response provided on 20 May 2026.

52 We have relied on these responses, and all other communications recorded on the EPA website, in our deliberations and decision making.

Conditions

53 The Application included a set of draft conditions in respect of both the designations and the resource consents. The Council, in its capacity as a regulatory authority provided detailed feedback and a set of amended draft conditions in respect of the designations with its formal comments as an invited commenter. It advised of its view that the changes required in respect of the resource consents would be extensive and suggested that it would be prepared to work with the Applicant to create a revised set of conditions if required by the Panel. We deal with the Council's proposed conditions later in the decision.

54 In addition to the Council, a number of commenters also commented on the draft conditions provided with the Application, and sought amendments to conditions. In Appendix A of the Applicant's response to comments dated 3 June there is a record of those proposed amendments to conditions assigned to each commenter, which the Panel found useful in its deliberations.

55 As discussed below, subsequent to receiving the Council's proposed conditions, the Applicant and the Council met to discuss, and where possible, resolve issues raised in

the Council comments. On 8 July 2026 the Council lodged its updated position in relation to conditions, and on 9 July the Applicant provided its response including its updated position in relation to the Council's proposed conditions. On 29 July 2026 the Applicant provided its final consolidated set of proposed conditions for the Panel's consideration.

56 In accordance with s 70 of the FTAA the Panel reviewed and amended these proposed conditions and provided its set of draft conditions to the Applicant and persons invited to comment on 12 August 2026, requiring responses by 19 August 2026, and any final response from the Applicant to commenters by 26 August 2026. The Panel received 15 responses on the draft conditions from:

(a) The Applicant, including responses to commenters;

(b) The Council;

(c) DoC;

(d) Foundry;

(e) General Distributors;

(f) HNPT;

(g) Hui Liu and Ji Ma;

(h) Kim Weston;

(i) NTC;

(j) NZRPG;

(k) Pauline Skeates;

(l) RBL;

(m) Stride;

(n) Te Ākitai Waiohua; and

(o) Transpower.

57 The Panel has considered all comments received on the draft conditions as is required under s 70 of the FTAA and Applicant responses, and has amended the conditions where it considers it appropriate.

Comments from the Minister for Māori Crown Relations: Te Arawhiti and Minister of Māori Development

58 Under s 72 of the FTAA the Panel invited comment from the Ministers for Māori Crown Relations: Te Arawhiti and Māori Development on 12 August 2026.[18]

59 Comment was received from the Minister by way of an undated letter on 26 August 2026, noting support for the draft decision, and encouraging *"the applicant to engage with Te Ākitai Waiohua regarding their concerns, when considering these draft conditions".*

Hearing

60 The Panel has exercised its discretion not to require a hearing on any issue under s 56 of the FTAA. The Panel was able to consider all issues based on the information available including the Application, comments received, responses to comments and the further information provided by the Applicant, the Council and invited persons. The material issues involved were comprehensively addressed in the documentation provided thereby resolving any technical expert differences of opinion. Residual issues were sufficiently clear for the Panel to consider and determine. The Panel is particularly grateful for the collaborative engagement between the Applicant and the Council and several other commenters, and was greatly assisted by the agreements reached and the refinement of outstanding issues.

61 The Panel considers that where insufficient design detail was available at the time of preparing the Application and the Panel's consideration of the Application, these matters can be appropriately addressed via conditions setting out a post-consent certification process where the Council has the authority to approve matters of detail.

62 In deciding not to hold a hearing, the Panel was mindful of the emphasis on time limited decision-making in the present process, the purpose of the FTAA in s 3, to facilitate the delivery of infrastructure and development projects with significant regional or national benefits, and the procedural principles in s 10 of the FTAA that require the Panel to take all practicable steps to use timely, efficient, consistent, and cost effective processes that are proportionate to the Panel's functions, duties or powers.

Suspension of processing for Applicant and Council conferencing and the timing of the Panel decision

63 Following receipt of a memorandum of counsel from the Applicant dated 8 June 2026, the processing of the Application was suspended under s 64(1) of the FTAA. The Panel granted that suspension by Minute 11 dated 9 June 2026, initially for 10 working days from 8 June 2026. By Minute 14 dated 22 June 2026, and following a further memorandum of counsel from the Applicant dated 19 June 2026, the Panel confirmed that the suspension would continue indefinitely to allow further discussions between the Applicant and the Council. The Applicant and the Council provided a joint progress update on 26 June 2026, following facilitated discussions held on 23 and 24 June 2026, recording that while progress had been made, a number of matters remained

[18] Minute 16 of the Expert Panel dated 13 July 2026.

outstanding, that a further facilitated discussion was scheduled for 30 June 2026, and that NZTA anticipated requesting resumption of processing under s 65 of the FTAA following a third facilitated discussion between the Applicant and the Council held on 30 June 2026.[19]

64 Following that further facilitated discussion, NZTA and the Council filed a joint memorandum of counsel dated 8 July 2026. That memorandum records the outcome of the facilitated discussions between the parties in a table (Attachment 1 to the memorandum), which sets out which matters are now agreed and which remain unresolved, together with brief explanations of some (but not all) positions. The Council confirmed that all matters raised in its comments on the Application dated 2 June 2026, including all matters raised in its Memorandum of Planning Matters and appended Technical Specialist Memos, have been discussed through the facilitated discussions.

65 Also on 8 July 2026, and as recorded in the joint memorandum as an agreed next step, the Council filed its updated tracked designation and resource consent conditions, representing its position following the facilitated discussions. The Council's updated designation conditions were tracked against the version at Appendix 1 to its Memorandum of Planning Matters dated 2 June 2026, with new changes shown; its updated resource consent conditions were tracked against NZTA's conditions as lodged. The Council's covering memorandum draws attention to a 'Groundwater conditions' placeholder in the resource consent conditions, noting that there remains a difference of opinion between the parties' specialists as to the methodology for determining settlement effects and the sufficiency of information, that the Council considers conditions are needed but that it is premature to settle them absent further information, and that any conditions are likely to include, but not be limited to, a Ground Settlement Monitoring and Contingency Plan (**GSMCP**) condition.

66 In the joint memorandum of 8 July 2026, NZTA requested that the Panel resume processing of the substantive application under s 65 of the FTAA by Wednesday 8 July 2026. By Minute 16 dated 13 July 2026, the Panel confirmed that processing of the Application resumed from 8 July 2026, and recorded that processing had, in total, been suspended for 22 working days.

67 By Minute 16 dated 13 July 2026, the Panel confirmed adjusted deadlines to reflect the 22-working-day suspension: 17 July 2026 for the additional Westgate Shopping Centre invitees to provide comment; and 24 July 2026 for the Applicant to respond to those comments. The Panel also recorded that, in addition to that response, the Applicant had signalled its intention to file legal submissions addressing legal issues arising since lodgement, together with updated proposed designation and resource consent conditions, and directed that this step be time bound, with these submissions and conditions to be lodged with the EPA by 29 July 2026. The Panel's final decision is now due on 7 September 2026.

68 By its Minute 16 dated 13 July 2026, the Panel also noted that several comments had been filed out of time following the closing of comments and, in exercise of its discretion under s 81(6) of the FTAA, determined to receive and consider late comments from the Ministry of Education, Sandy Fabrin, and Shyam Patel. Those

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[19] Minutes 11 and 14 of the Expert Panel dated 9 June 2026 and 22 June 2026 respectively; and the joint memorandum of counsel for the Applicant and the Council dated 26 June 2026.

comments were provided to the Applicant contemporaneously with Minute 16, and the Panel directed that, if the Applicant elects to respond, it do so within five working days of that minute, being 20 July 2026. The Applicant provided its response within that time period.

69 On 29 July 2026 the Applicant provided its legal submissions and final proposed conditions in accordance with the directions in Minute 13. On 7 August 2026 the Panel received the joint memorandum of counsel for the Applicant and HNZPT. At this point the Panel determined that, subject to any further comments on proposed conditions, it had all information necessary to make its decision in respect of the application.

PART C: LEGAL CONTEXT

Legal context for a listed project under the FTAA

70 In accordance with s 42 an authorised person[20] for a listed project may lodge a substantive application with the EPA. The substantive application is required to follow the process set out in ss 43 and 44 of the FTAA. The Applicant lodged the substantive application on 17 December 2025.

71 The EPA decided that the Application was complete and within scope[21] on 18 February 2026. The EPA made a recommendation on whether there are competing applications or existing resource consents for the same activity on 4 March 2026.[22] The EPA then provided the Application to the Panel Convenor and at the same time requested a report from the Ministry responsible agency[23] under s 18 of the FTAA. A report was received on 6 March 2026.

Decisions on approvals

72 In pursuing the required approvals for the Project via the FTAA, the Application is subject to a different approval process for designations and regional consents from that normally enabled under the RMA. Key differences are that, under the usual RMA process:

(a) A NoR is submitted by the requiring authority to the consent authority, who may make recommendations on the NoR following the consideration of the NoR and any submissions, with the decision on those recommendations resting with the requiring authority (with parties able to appeal that decision to the Environment Court); and

(b) Resource consent applications are made to the consent authority, who will grant or decline the consents with rights of appeal to the Environment Court (where those consents are subject to notification processes).

73 The Application has followed the usual RMA process in part, insofar as the NoRs are currently mapped as such within the AUP, until such time as they become designations (following the resolution of any appeals in respect of the NoRs arising from this decision). However, any appeals by either the Applicant or commenters to the Panel's

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[20] FTAA, ss 4 and 42.
[21] FTAA, s 43.
[22] FTAA, s 47.
[23] The Ministry for the Environment is the responsible agency for s 18.

decision, on both the designations and resource consents and associated conditions (if granted), would be determined by the High Court (per s 88(3) of the FTAA).

74 Section 81 of the FTAA requires that for each approval sought, the Panel must decide whether to grant that approval, and so far as is relevant to the Application in this case s 81 states that the Panel:

(a) Must consider the substantive application and any advice, report, comment, or other information received by the panel under ss 51, 52, 53, 55, 58, 67, 68, 69, 70, 72 or 90:

(b) Must apply the applicable clauses set out in subsection (3) (*see* those clauses in relation to the weight to be given to the purpose of this Act when making the decision):

(c) Must comply with s 82, if applicable:

(d) Must comply with s 83 in setting conditions:

(e) May impose conditions under s 84:

(f) May impose conditions under s 84A:

(g) May decline the approval only in accordance with s 85.

75 For the purposes of (b) above, the applicable clause is subsection (3)(a) which states that for an approval described in s 42(4)(a) (resource consent), clauses 17 to 22 of Schedule 5, and for an approval described in s 42(4)(d) (designation), clauses 24 and 25 of Schedule 5.

76 Section 81(4) goes on to relevantly provide that when taking the purpose of the FTAA into account under a clause referred to in subsection (3), the Panel must consider the extent of the project's regional or national benefits.

Ability to decline consent

77 Section 85 of the FTAA sets out the limited circumstances when approvals must or may be declined. Section 85(1) and (2) sets out the matters that apply to a mandatory decline decision, and do not apply in this case. Section 85(3) sets out the matters that must be considered by the Panel in forming a view that the approval sought should be declined:

> *Approval may be declined if adverse impacts out of proportion to regional or national benefits*
>
> (3) A panel may decline an approval if, in complying with section 81(2), the panel forms the view that—
> (a) there are 1 or more adverse impacts in relation to the approval sought; and
> (b) those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered under section 81(4), even after taking into account—
> (i) any conditions that the panel may set in relation to those adverse impacts; and
> (ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.

(4) To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).

(5) In subsections (3) and (4), **adverse impact** means any matter considered by the panel in complying with section 81(2) that weighs against granting the approval.

78 The AEE states that none of the matters set out under s 85 that require a panel to decline an approval are relevant to the Project, because the approvals are not for an ineligible activity; and granting the approvals would not be inconsistent with obligations arising under existing relevant Treaty settlements, and there are no customary rights applicable to the Project. The Panel agrees.

79 Section 85 also sets out that a panel may decline an approval if the adverse impacts of an approval are out of proportion to the Project's regional or national benefits, even after taking into account conditions. The AEE states that taking into account the potential adverse impacts of the Project and the recommended conditions of consent and designations, there are no adverse impacts associated with the Project that cannot be appropriately avoided, remedied or mitigated. Accordingly, the AEE concludes on this point that the "*significant regional and national benefits of the Project (outlined in Part 3 of this Application) far outweigh any residual adverse effects on the environment*".[24] The Panel agrees.

80 The consequence of these findings, together with s 85 FTAA is that the approvals should be granted, subject to conditions.

Approvals relating to the Resource Management Act 1991

81 The relationship of the FTAA with the RMA is outlined in Schedule 5 which provides the consent application process that applies rather than the standard RMA consent application process. Clause 17 states:

17 Criteria and other matters for assessment of consent application

(1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),
- (a) the purpose of this Act; and
- (b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and
- (c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.

(2) For the purpose of applying any provisions in subclause (1),—
- (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and
- (b) if the consent application relates to an activity that is the subject of a determination under section 23 of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991; and
- (c) to avoid doubt, for the purposes of subclause (1)(b), when taking into account section 104(1)(c) of the Resource Management Act 1991, any Mana Whakahono ā Rohe or joint management agreement that is relevant to the approval is a relevant matter.

[24] AEE, at Section 22.7.

(3) Subclause (4) applies to any provision of the Resource Management Act 1991(including, for example, section 87A(6)) or any other Act referred to in subclause (1)(c) that would require a decision maker to decline an application for a resource consent.

(4) For the purposes of subclause (1), the panel must take into account that the provision referred to in subclause (3) would normally require an application to be declined, but must not treat the provision as requiring the panel to decline the application the panel is considering.

...

(6) For the purposes of subclause (1), the provisions referred to in that subclause must be read with all necessary modifications, including that a reference to a consent authority must be read as a reference to a panel.

(7) Sections 123 and 123A of the Resource Management Act 1991 apply to a decision of the panel on the consent.

18 Conditions on resource consent

When setting conditions on a consent, the provisions of Parts 6, 9, and 10 of the Resource Management Act 1991 that are relevant to setting conditions on a resource consent apply to the panel, subject to all necessary modifications, including the following:
(a) a reference to a consent authority must be read as a reference to a panel; and
(b) a reference to services or works must be read as a reference to any activities that are the subject of the consent application.

82 The Panel has considered clauses 17 and 18 of Schedule 5 of the FTAA and concluded that the purpose and principles of the RMA in ss 5, 6, and 7 remain relevant to our decision-making. We note that we are required to give the greatest weight to the purpose of the FTAA which is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

Approvals relating to an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014

83 Schedule 8, clause 4 sets out the criteria for assessment of an application for an archaeological authority. This matter is addressed in Part E below.

PART D: IWI AUTHORITIES

Section 18 Report for a listed project

84 The Ministry for the Environment provided a report under s 18 of the FTAA on 6 March 2026 in accordance with s 49 (**Section 18 Report**). Section 18(2) requires that the report provide a list of relevant Māori groups, including relevant iwi authorities and Treaty settlement entities, noting that many of those groups must also be invited by a panel to comment on a substantive application under s 53(2). The key points from the Section 18 Report for the Project are as follows:

(a) Auckland has a complex Treaty settlement landscape with many overlapping interests. Some groups have settled while others are still in settlement negotiations with the Crown for both individual group and collective redress. There are also a number of applicants seeking recognition of their customary interests over the CMA, which forms part of the Project area. Accordingly, there are a significant number of relevant Māori groups for this Project area, which have been listed at Attachment 3 to the report.

(b) The Treaty settlements and other arrangements relevant to the Project area are: Ngāti Whātua Ōrākei Claims Settlement Act 2012; Ngāti Whātua o Kaipara Claims Settlement Act 2013; Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014; Te Kawerau ā Maki Claims Settlement Act 2015; Ngāi Tai ki Tāmaki Claims Settlement Act 2018; Ngāti Tamaoho Claims Settlement Act 2018; Ngāti Pāoa Claims Settlement Act 2025; Te Ākitai Waiohua deed of settlement; and the Te Patukirikiri deed of settlement.

(c) The Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, and Te Ākitai Waiohua settlements provide for statutory acknowledgements over statutory areas (Te Wai o Pareira/Henderson Creek, CMA, and Arch Hill Scenic Reserve) which incorporate parts of the Project area. Based on the information provided by the Applicant, the proposed works will directly affect these statutory areas.

(d) The report advises that Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, and Te Ākitai Waiohua be invited to comment on the Application under s 53 to meet the obligation under the statutory acknowledgement provisions to provide a summary of the Application to the holder of the statutory acknowledgement.

Substantive application information

85 The AEE advised that Te Kawerau ā Maki, Ngāti Whātua Ōrākei and Te Ākitai Waiohua were Project partners and have been involved throughout the development of the Project, with their involvement set out in Part 2 of the Application, and that:[25]

> *Representatives from these iwi formed the Project's Iwi Working Group (IWG), who have been involved in the details of the Project including the Investment Case Phase through to lodgement of the Substantive Application. In September, Ngāti Whātua o Kaipara joined the IWG hui and have participated in discussions prior to lodgement. The IWG hui have been held regularly (weekly or fortnightly) and used as an opportunity to discuss Project development and potential effects on cultural values.*
>
> *NZTA also meets with the wider Central Iwi Integration Group (CIIG) to keep other Iwi informed as detailed in Part 2. Engagement with iwi through these forums will continue through to the Project's implementation.*

86 The AEE also highlighted and included a letter of support that had been received from Te Kawerau ā Maki in relation to the Project.

Comments

87 The Panel invited comments from a range of iwi authorities, Treaty settlement entities, protected customary rights groups under s 53(2)(b) – (g). These were identified in Appendix 1 to the Panel's invitation issued under Minute 2 (28 April 2026).

88 Comments were received from Te Ākitai Waiohua, which acknowledged the partnership with NZTA for the Project and the engagement that had occurred during the development of the application. However, it expressed concern that "*[t]he accelerated process has resulted in insufficient understanding of the full impact on cultural effects*",

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[25] AEE, at Section 16.1.

and that "*[w]hile the pace is acknowledged, it does not justify omission of fundamental Treaty obligations or robust cultural safeguards*".

89 Te Ākitai Waiohua also did not consider that the proposed conditions would adequately address adverse effects on cultural values, as these were limited by their focus on engagement during detailed design to identify how cultural values will be reflected.

90 Further consideration in respect of cultural effects, and the interests of Te Ākitai Waiohua, are addressed in Parts E and H.

Statutory requirements

Treaty settlements and recognised customary rights

91 Section 7 requires all persons performing functions and exercising powers under the FTAA to act in a manner that is consistent with the obligations arising under existing Treaty settlements and customary rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 (**MACAA**) and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

Effect of treaty settlements and other obligations

92 Section 82 provides:

> **82 Effect of Treaty settlements and other obligations on decision making**
>
> (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval.
>
> (2) If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.
>
> (3) The panel must also consider whether granting the approval would comply with section 7.
>
> (4) In this section, **document**—
> (a) means any document, arrangement, or other matter; and
> (b) includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).

93 The Project will include works within the CMA, requiring consents/permits for including construction of structures in the CMA, disturbance of substrate, alteration or removal of vegetation, occupation and use of infrastructure structures within the CMA.

94 However, the AEE notes that no customary marine title or protected customary rights groups are relevant to the Project, although the Applicant has identified 16 applicant groups under the MACAA and engaged with all applicant groups in June 2025, irrespective of that fact. Of the 16 customary marine title applicants contacted, six responded requesting further information about the Project. It advises that the Applicant has met with those groups to discuss their areas of interest and further

correspondence will be sent prior to the end of 2025 with further Project updates, lodgement timeframes and next steps.

95 The AEE further notes that there are no Sites and Places of Significance to Mana Whenua within the Project Area as identified in the AUP and overlays, and there is no known marae or Māori freehold land within the Proposed Designations.

96 The Panel acknowledges the above advice, and notes that comments on the Application were received from one iwi only, Te Ākitai Waiohua, as referred to elsewhere in this decision. Overall, the Panel finds that the Applicant has appropriately addressed the requirements of the FTAA in terms of Treaty settlements and customary rights, and this treatment has been appropriately reflected in our decision.

Conditions relating to Treaty settlements and recognised customary rights

97 Section 84 provides:

> **84 Conditions relating to Treaty settlements and recognised customary rights**
>
> (1) For the purposes of section 7, the panel may set conditions to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
>
> (2) This section applies in addition to, and does not limit, any other powers to set conditions under this Act.

98 As stated above, the Project will include works within the CMA, requiring consents/permits for including construction of structures in the CMA, disturbance of substrate, alteration or removal of vegetation, occupation and use of infrastructure structures within the CMA.

99 Schedule 3, clause 5 of the FTAA provides:

> (1) This clause applies if any Treaty settlement Act, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or any other iwi participation legislation, or any Mana Whakahono a Rohe or joint management agreement, includes procedural arrangements relating to the appointment of a decision-making body for hearings and other procedural matters, such as the following:
>
> (a) a requirement for iwi or hapū to participate in the appointment of hearing commissioners to determine resource consent applications or notice of requirement lodged under the Resource Management Act 1991:
>
> (b) a requirement that notice be given to any person or specified class of person of any steps in a resource management process:
>
> (c) any consultation requirements with iwi or hapū:
>
> (d) any other matter of procedure for determining a matter granted under a specified Act that corresponds to an approval under this Act.
>
> (2) The panel convener or panel must—
>
> (a) comply with the arrangements in the legislation, arrangement, or agreement referred to in subclause (1) as if they were a relevant decision maker (such as a local authority, department, Crown entity, or board of inquiry); or
>
> (b) obtain the agreement of the relevant party under the legislation, arrangement, or agreement to adopt a modified arrangement that is consistent with achieving the purpose of this Act and the other legislation, arrangement, or agreement referred to in subclause (1).
>
> (3) The party referred to in subclause (2)(b) may not unreasonably withhold their agreement to a modified arrangement (as described in that subclause).
>
> (4) If the panel convener or panel are unable to obtain agreement under subclause (2)(b) (in circumstances where that agreement is not unreasonably withheld) they must stop processing the substantive application and must direct the EPA to return the application to the applicant immediately.

(5) The panel must also direct the EPA to give written notice to the following that processing of the substantive application has stopped:
(a) the relevant local authorities; and
(b) if advice or a report has been requested from a person under section 51 and is yet to be provided to the EPA, that person; and
(c) if a recommendation has been requested from the relevant chief executive under section 48 and is yet to be made, the relevant chief executive; and
(d) if persons or groups have been invited to provide comments under section 35 or 53, those persons or groups.
(6) The panel and a person referred to in subclause (5)(b) or (c) must stop processing the substantive application if they receive notice of the stoppage.

100 The Panel again notes that comments on the Application were received from one iwi only, Te Ākitai Waiohua, as referred to elsewhere in this decision. Overall, the Panel finds that the Applicant has addressed the requirements of the FTAA in terms of Treaty settlements and customary rights, and this treatment is appropriately reflected in the designation and consent conditions we have imposed.

PART E: EVALUATION OF EFFECTS

Introduction

101 Schedule 5, clause 5(4) requires a consent application to provide an assessment of an activity's effects on the environment covering the information in clauses 6 and 7. These matters include:

Clause 6

(a) an assessment of the actual or potential effects on the environment:

(b) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use:

(c) if the activity includes the discharge of any contaminant, a description of—

(i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

(ii) any possible alternative methods of discharge, including discharge into any other receiving environment:

(d) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect of the activity:

(e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal:

(f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision:

(g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how the effects will be monitored and by whom, if the activity is approved:

(h) an assessment of any effects of the activity on the exercise of a protected customary right.

…

Clause 7

(a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects:

(b) any physical effect on the locality, including landscape and visual effects:

(c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity:

(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:

(e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants:

(f) the unreasonable emission of noise:

(g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.

102 The Application provides an assessment of effects on the environment. The AEE provides information to satisfy the requirement in Schedule 5, clause 12 for a NoR. Section 3 outlines the statutory context for the Project and RMA approvals sought. It provides a thematic assessment against the relevant matters identified in national and regional planning documents (at Section 22.3).

103 A summary of the actual and potential effects of the Project is also provided and recommended conditions of consent for the proposed designations and resource consents (now updated) are set out in **Appendix A** and **Appendix B** in response to the effects identified in the AEE.

104 The assessment of effects provided in the AEE incorporates the assessments of its specialists/experts in respect of various topic areas. Those assessments, and the summaries provided in the AEE and the corresponding conditions have been the subject of some evolution through the consideration phase of the Application, both in response to queries from the Panel, as well as in respect of further consultation undertaken and in response to comments received. We address these changes later in this decision. The assessments of effects have also been further supplemented by the Applicant's response to Minute 3 (19 May 2026) and to comments and evidence presented on 3 June 2026 that addressed relevant effects topics with reference to corresponding expert opinion and associated conditions.

105 The Panel notes that a key matter raised at an early stage was whether the information provided with the Application was of sufficient detail to support the grant of particular resource consents sought concurrently with the designations. Following consideration of the Applicant's response to this matter, and with helpful input from the Council we have determined that consents can be granted.

106 Participants who commented identified a range of actual and potential effects, some of which overlapped with the AEE, and some of which we consider are additional to the content of the AEE.

107 As discussed previously, in response to the Council's comments, the Applicant sought a suspension to the Application on 8 June 2026 to enable work to be undertaken between the two parties in order to address the effects assessment and resolve or narrow the issues in contention.

108 The response was received in the form of a joint memorandum of counsel dated 8 July 2026, recording the outcome of the facilitated discussions (as set out in Part B above), together with a separate memorandum of counsel for the Council of the same date

attaching its updated tracked designation and resource consent conditions. The Panel notes that the matters remaining in contention as between the Applicant and the Council, as recorded in Attachment 1 to the joint memorandum, were confined to: works in watercourses (a Streamworks Method Design Statement condition); terrestrial vegetation (replanting of non-native vegetation and a Biodiversity Offset Accounting Model); freshwater ecology (offsetting/compensation modelling and a Native Fish Capture and Relocation Plan); coastal (an underwater noise condition); and groundwater (a Groundwater Settlement Monitoring and Contingency Plan). On 9 July 2026 the Applicant filed the 9 July Memorandum responding in detail to the Council's comments on these outstanding topics, together with response tables addressing the NoRs and consent applications by topic and statements of evidence on groundwater, terrestrial ecology and planning.[26] The Applicant's position on each outstanding topic, as set out in the 9 July Memorandum, is addressed in the relevant effects sections in Part E below.

109 The following main categories of actual and potential effects on the environment exist, and which we have grouped as 'positive effects', 'transport effects', 'construction-related effects' and 'operational effects'. Due to its significance, we have addressed transport effects separately, in an integrated manner, rather than under both the construction and operational heading. The Panel has addressed effects as follows:

(a) Positive effects;

(b) Transportation effects;

Construction-related effects

(c) Earthworks;

(d) Contaminated land;

(e) Industrial Trade Activities;

(f) Groundwater and settlement;

(g) Noise and vibration;

(h) Archaeology;

(i) Built heritage;

(j) Urban Design;

(k) Landscape and visual;

(l) Outstanding Natural Features;

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[26] Statement of evidence of Gregory Sheppard (groundwater) dated 9 July 2026, statement of evidence of Andrew Blayney (terrestrial ecology) dated 9 July 2026 and statement of evidence of Karyn Sinclair (planning) dated 9 July 2026.

(m) Cultural;

(n) Social and community;

(o) Arboricultural;

(p) Ecology – Terrestrial, Streams and Freshwater, Coastal

(q) Open Space and Parks;

(r) Infrastructure;

Operational effects

(s) Noise; and

(t) Flooding and stormwater.

110 The Panel has addressed these effects thematically throughout our discussion below. The Panel has also had regard to the relevant planning provisions in evaluating the effects of the Project, as noted in Part H: Planning Framework.

111 The Panel notes that the Council agreed in its comments (and which were not otherwise raised by other parties) that a number of the above effects categories were of relatively minor significance and/or able to be addressed or resolved through appropriate conditions of consent. We record our findings on those matters, with reference to amended or new conditions, within the discussion on effects below.

112 Other topics required us to make findings, including whether there are conditions of consent that could be imposed to ensure that an adverse effect is able to be appropriately mitigated, and that such matters would not result in impacts that would be out of proportion to the Project's benefits (i.e., the proportionality assessment required under s 85(3)). Effects relating to construction traffic effects, earthworks management, groundwater diversion and ecological effects, being key areas of disagreement between the Applicant and parties invited to comment, were the subject of facilitated joint conferencing between experts for the Applicant and the Council and affected parties. In addressing the various effects relevant to the proposal, we have been assisted by the various outputs of that conferencing process.

113 In terms of the relevant receiving environment, the Panel has applied the test in *Queenstown Lakes District Council v Hawthorn Estate Ltd*. [27] The environment includes that which presently exists and also:[28]

> …embraces the future state of the environment as it might be modified by the utilisation of rights to carry out a permitted activity under a district or regional plan or by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented.

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[27] *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424.
[28] *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 at [84].

Positive effects

114 Positive effects, or 'project benefits', are those transportation-related effects and benefits that are expected to arise following completion of the Project, and indeed reflect the actual purpose for which it is proposed to be built. These have been addressed in Part 3 of the Application, whereby the Applicant considers that the Project meets the overarching purpose of the FTAA by facilitating the delivery of an infrastructure project with significant regional and national benefits. We accept the Applicant's account of positive effects in Section 1 of Part 3 of the Application which states that the Project:

(a) will deliver significant economic benefits;

(b) will deliver new regionally and nationally significant infrastructure and associated social benefits by providing rapid transit to one of Auckland's largest growth areas;

(c) will improve the accessibility, attractiveness and efficiency of public transport to the northwest and will support Auckland's forecast growth and development; and

(d) has been identified as a priority project in the Government Policy Statement on Land Transport 2024-34, the Auckland Regional Land Transport Plan (**RLTP**) and in the Auckland Rapid Transit Pathway (**ARTP**).

115 The Landscape and Visual Assessment (**LVA**) prepared for the Application by Mr Jones also noted positive landscape-related aspects of the Project, comprised of:

(a) The Project becoming a feature of interest in the localised urban landscape, not dissimilar to the northern busway on the North Shore alongside State Highway 1 (**SH1**); and

(b) The busway (being alongside SH16) will integrate with the existing pattern of transport infrastructure in this part of the city and will be viewed as a complementary element in this context.

116 Most comments received by the Panel acknowledged the positive benefits of the Project, even where particular site-related impacts were of concern or opposed. For example, and as highlighted in the Applicant's 29 July Memorandum, commenters referred to the Project as, "*valuable infrastructure that will benefit the wider area",* stated that they were "*in broad agreement with…the benefits to [sic] improving public transport along this corridor*", and acknowledged "*the broader regional benefits of improved public transport Infrastructure*".[29] Comments from the Minister for Infrastructure referred to the expected positive outcomes of the Project and the Associate Minister for Transport noted that "*[t]he delivery of this regionally significant infrastructure will drive economic growth and productivity, and support growth and urban development while creating more viable transport choices*".

117 The Council comments also acknowledge the abovementioned benefits of the Project and that the benefits/positive effects of the Project must be considered when balancing any adverse effects on the environment. The Council also agreed that the Project will

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[29] 29 July Memorandum, at [65.5].

deliver new regionally and nationally significant infrastructure in accordance with the purpose of the FTAA, while also noting that:[30]

> *...the North West Rapid Transit Project is also listed in the recent Auckland Deal in Schedule 1 – Summary of Commitments where both Auckland Council and Central Government agree that one of the Deal transport priorities is progressing the delivery of Auckland's Rapid Transit Network, including as initial priorities the Northwest Busway and Botany-to Airport.*

118 These positive effects also incorporate the 'operational' effects in respect of transportation (as separate from construction traffic effects as discussed below), such as enhancements to network, reduced travel times, more certainty re timetables, and greater transport reliability.

119 The Panel acknowledges the comments of the Applicant and various parties as to the range of positive effects that will arise from the Project, and indeed, that form the very basis for it. We agree that the Project will give rise to significant positive effects from the perspective of the ongoing development of Auckland's public transport network, in accordance with national and regional priorities.

Transport effects

Applicant assessment

120 The transport effects of the NoRs are addressed in Section 19 of the AEE, which refers to the assessment of transport effects contained in the Transport Assessment report (**ATE**) prepared for the Applicant by Ms Bates, Mr Foy and Mr Hoyle. The ATE addresses the actual and potential effects of the future construction and operation of the Project as it relates to transport and recommends ways of managing these effects.

121 The AEE and the ATE state that overall, the Project will deliver significant operational benefits as follows:

- *Provide fast, frequent and reliable transport choices for communities in Auckland's northwest and inner west.*
- *Free up space on the motorway for heavy vehicles and those that need to drive their vehicle.*
- *Improve access to employment opportunities; and*
- *Deliver economic benefits (regionally and nationally) as a result of reductions in congestion, travel times and associated increases in productivity.*

122 The AEE also states that the Project may result in some adverse operational effects, but the ATE considers these are negligible and that no mitigation is considered necessary.

123 In all respects they considered the adverse transport effects relating to construction of the Project will result in a range of temporary transport effects. Overall, they consider these will be able to be appropriately addressed through future Construction Traffic

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[30] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [173].

Management Plans (**CTMPs**), such that the level of adverse effects after implementing a CTMP will be minor.

124 The Application also provided a letter from Auckland Transport (**AT**) confirming its support for the Project and the benefits that it will bring to the transport network. AT confirms that it has worked closely with NZTA which included engagement at both strategic and operational levels – predominately through AT representation on the Project steering committee, staff embedded in the Project team and collaborative working groups with representation from AT subject matter experts. AT also confirms that a Memorandum of Understanding (**MoU**) has been developed between the parties to manage the interface between the Project, the local road network and the operation of buses. The MoU broadly covers relationship, responsibilities, governance, decision making, funding, requiring authority, local network integration, land ownership, design and review, asset ownership, project delivery, operations and maintenance and construction impacts.

Panel RFI

125 Through its Minute 5, the Panel sought further comment in respect of specific aspects of the ATE, including the following questions:

a) *The ATE concludes that with mitigation of a CTMP, any temporary effects during construction can be managed to be no more than minor. The Panel requires the Applicant define what it considers to be 'minor' effects - e.g., could this be via a one or two step loss in LOS or a certain level of reduction in capacity?*

b) *The Panel was interested in testing the Applicant's definition of 'temporary effects' for each stage noting that some stages of construction are expected to take up to four years.*

c) *Section 3.3.1.3 of the ATE recommends widening of the Hobsonville off-ramp before construction works start – however this is not identified within the draft conditions and whether it will impact on the overall timeframe of construction or level of effects if it is not undertaken. The Panel sought clarification on this matter.*

d) *The ATE refers to several transport models utilised to determine both construction and operational effects on both SH16 and the local road network. However, it provides no material outputs to validate the conclusions made. The Panel sought more information in this regard to verify the assumptions on level of effect on the road network both during construction and operationally.*

e) *Westgate Shopping Centre: The ATE indicates the potential for the loss of 244 parking spaces. The Panel enquired what is the current usage rate of the 1,350 spaces referred to in the ATE and can 244 spaces be removed and parking supply be reasonably sustained?*

f) *Royal Road station: The ATE recommends (at p15): "the construction of the new bus overbridge to be completed prior to commencing the underpass construction. This will enable general traffic to be diverted onto the overbridge during underpass works, diverting traffic away from construction*

areas and maintaining east–west connectivity across Royal Road". However, this is not identified within the draft conditions. The Panel sought greater clarification on the effects of this diversion during construction and how it is to be secured via consent conditions.

g) *The Panel queried whether the expected construction timeframe for the Royal Road overbridge incorporates the existing piers (currently covered, as described during the site visit) on the western side of SH16, but also the need to relocate the Watercare NH1 main and associated connections.*

h) *Lincoln Road: The Panel sought clarification with respect to the overlap with AT designation 1477 as to the rationale for this overlap, and in terms of timeframes and compatibility of indicative design approaches for each designation (noting also the requirement within the AT designation for a Detailed Urban Design and Landscape Design Plan).*

i) *Ian McKinnon Drive Connection: The ATE identifies the effect of 'Short term congestion', but notes a three-year construction period. The Panel asked that this timeframe and description of effects be clarified.*

j) *Point Chevalier: The ATE at p21 indicates a construction timeframe of three and half years for the Point Chevalier Station and underpass. However, at p22) a construction period of three years is indicated. The Panel sought to clarify which one is correct.*

k) *Page 23 of the ATE states: "We recommend that two-way bus movements across the Carrington Road bridge are maintained throughout the construction period around Point Chevalier to preserve the operational reliability of existing bus services, including the OuterLink route, which operates every 12 minutes on weekdays from 6am to midnight." However, this is not identified within the draft conditions. The Panel sought clarification on how this will be accommodated or the level of effects if it is not undertaken.*

l) *On p23 the ATE states: "The Indicative Design shifts the SH16 motorway lanes southwards over a distance of approximately 800m to enable construction of a section of busway between the motorway and properties immediately north of the motorway, east of the Carrington Road bridge. This will require temporary narrowing and shifts of all motorway lanes. Widening occurs progressively from the south creating additional working room. Temporary speed limits and temporary traffic measures will slow vehicle movement on SH16 and lead to reduced road capacity, congestion and longer travel times for general traffic. In our opinion the temporary delays will be minor". There appeared to be no basis provided for this conclusion. The Panel sought clarification on this matter, on what basis was the conclusion formed and how is this addressed within the conditions.*

m) *The ATE at 3.5.4 states: "We recommend CTMPs to consider construction sequencing within individual work packages and in coordination with other work packages in the Project (if staging were to change or accelerate) and with other concurrent projects in the area. CTMPs should provide measures to address any cumulative effects that may arise from simultaneous*

activities". However, this is not identified within the conditions. The Panel sought clarification on how this will be addressed.

n) The ATE at 4.3.6 states: "We understand property access relocation will be addressed through PWA processes, and therefore there will be no adverse effects." The Panel asked why is there then specific conditions that relate to continued supermarket access (Point Chevalier and Westgate), and the basis and sufficiency of specific condition requirements?

126 This series of questions was responded to via the Applicant's memorandum dated 21 May 2026 (at Appendix A to the memorandum), and the following key points from that response are noted below:

(a) The construction traffic effects are likely to be in line with other major projects. While there would be a reduction in capacity, delays would be minimised through the measures set out in a CTMP.

(b) NZTA considers 'temporary effects' means effects that are not "lasting or permanent" and that transport effects will not be constant through a construction period – they will vary and be intermittent based on the specific construction activities and locations at any particular time. As a guide, temporary activities associated with building or construction for up to a 24-month period are a permitted activity under Rule E40.4.1(A20) of the AUP.

(c) In relation to construction sequencing for this Project more generally, the ATE is based on indicative construction sequencing but also provides sensitivity testing of changes to that construction sequencing (Section 3.5.4). NZTA's proposed Designation Condition 16 requires the CTMP to address minimum network performance parameters and measures to be implemented in the event of those parameters being exceeded. An amendment to Condition 16 was indicated in order to explicitly require construction sequencing to be addressed in the CTMP.

(d) Regardless of the conditions, NZTA is intrinsically motivated to ensure the construction sequencing is as efficient as possible and that it minimises construction transport effects given the potential impacts on its network.

(e) NZTA considers operational transport model outputs are not necessary to inform the Panel's decision-making on the Application given the operational transport effects of the Project are overwhelmingly positive.

(f) NZTA expects to address construction traffic matters in its response to comments.

(g) The Proposed Designation includes 244 car parking spaces at the Westgate Shopping Centre, which may not be able to be used during construction. The number of car parking spaces permanently impacted will depend on the final design of the Project. The loss of private car parking spaces will be addressed through the PWA process.

(h) For context, NZTA notes that it may undertake the specific works within SH16 under its existing designation, regardless of this Project. The works would not be subject to any conditions addressing construction traffic effects and would be managed by NZTA in the normal way to minimise disruption to its network.

(i) The Outline Plan is legally required to address vehicle access (s 176A(3)(d)). Further, the requirements of the Government Roading Powers Act 1989 and Public Works Act 1981 (**PWA**) will ensure that properties with existing access continue to be provided with access following roadworks. No specific conditions are needed to duplicate these existing (and well established) processes and obligations. The New World and Woolworths Westgate sites are unique as they must accommodate heavy vehicle loading and manoeuvring. The proposed conditions are intended to minimise any disruption to the continued operation of those businesses.

Comments received

127 Multiple invited parties have provided comments relating to transport effects as follows:

(a) Westgate Town Centre (2017) Limited (**WTCL**).

(b) NZRPG Management 2017 Ltd and Westgate Properties Limited (together, **WPL/NZRPG**).

(c) Stride Holdings Limited (**Stride**).

(d) Woolworths New Zealand Limited (**Woolworths**).

(e) Costco Wholesale New Zealand Limited (**Costco**).

(f) The National Trading Company of New Zealand Limited (**NTC**).

(g) Restaurant Brands Limited (**RBL**).

(h) Ministry of Education (**MoE**).

(i) Hui Liu & Ji Ma (8 Kasia Close, Massey).

(j) Matthew Richmond (16 Landsdale Place, Massey).

(k) Wei Bai Chen & Wen Yan Sun (12 Spedding Road, Whenuapai).

(l) Rob & Katrina Reinsfield (47 Montrose Street, Point Chevalier).

(m) Jugal Presswala (62A Royal View Road, Te Atatu South).

(n) Lily Li & Thomas Antunes (38 Bond Street, Grey Lynn).

(o) Kim Weston (141 Fred Taylor Drive, Whenuapai).

128 Some of these parties also provided expert transport evidence in support of their comments as follows:

(a) Mr Don McKenzie on behalf of Stride.

(b) Mr Terry Church on behalf of Costco.

(c) Mr Leo Hills on behalf of NTC.

129 Most commenters, including their transport experts, have acknowledged the wider operational benefits that the Project will bring to the transport network and Northwest Auckland. Many commenters accepted that the Project will drive economic growth, support urban growth and development and provide more viable transport choices for people travelling to and from the Northwest of Auckland.

130 The Panel notes that NTC acknowledges that they, and NZTA, have agreed a set of conditions which address NTC's key concerns regarding permanent and temporary access to the NTC site. NTC requested that the Panel include these conditions as part of any approvals granted.

131 All parties that have commented have raised the topic of construction effects including effects on property access and the operation of the road network during construction. While there are locations all along the route identified as important to commenters, there are two key locations in contention raised by commenters on transport effects relating to construction and operation of the busway project, being:

(a) Gunton Drive, Hobsonville interchange and the Westgate Centre and surrounds; and

(b) Point Chevalier station and surrounds.

132 Detailed analysis of the concerns relating to each of those key locations is discussed below.

Westgate - Realignment of Gunton Drive and Access to Northwest Mall and Costco

133 Concerns have been raised regarding the realigning of Gunton Drive to accommodate the busway alignment. This is primarily relating to the risk of closing the existing Gunton Drive, even if for short periods of times during construction and the effect it would have on the operation of the Northwest Mall, Woolworths and Costco, and in particular their vehicle entrances for customers and deliveries. Transport experts Mr Church and Mr Mckenzie advise that these activities and the balance of the Westgate metropolitan centre rely on Gunton Drive as the primary access route and it is particularly vulnerable to any changes and construction proposed in this area.

134 Both Mr Church and Mr McKenzie consider the ATE has understated the likely severity and duration of construction effects highlighting that the assessment describes the underpass works at Fred Taylor Drive to be "temporary" and "minor", but that the supporting construction documentation confirms that the works involve a substantial four-year construction period to be significant, and the on-going operation of the Westgate area to be a critical factor.

135 Mr Church and Costco seek that the alignment of the proposed busway and associated works is amended to avoid changes or alterations to any part of Gunton Drive and the Hobsonville Road interchange (including those parts of Fred Taylor Drive), ensuring that the existing access to Costco from the Hobsonville Road interchange and Gunton Drive is maintained, and that there is no reduction in traffic capacity or level of service at the interchange and surrounding road network during construction or operation.

136 Mr McKenzie considers that there has been insufficient analysis of alternative alignments of the busway and prefers an option that does not disrupt or realign Gunton Drive. Meanwhile, Stride seek reassurance through a refinement of the CTMP conditions

to ensure Gunton Drive remains open at the critical times and any planning for construction activity is certified a minimum of six months prior to allow planning to be completed by all parties.

Westgate - Effects on Hobsonville Interchange and Fred Taylor Drive during construction

137 Similar to Gunton Drive, concerns have been raised on the effects during construction of the busway under the interchange on the capacity of the interchange and Fred Taylor Drive that will impact on the accessibility of the Westgate Metropolitan Centre and the Westgate Precinct. This concern has been raised by Mr Church as well as WRCL and WPL/NZRPG.

138 Like the relief sought with Gunton Drive, commenters sought a refinement of conditions, primarily relating to CTMPs. Commenters wanted assurances that both the Hobsonville Interchange and Fred Taylor Drive remain as currently available under any CTMP. In addition, they sought that any engagement with stakeholders must enable sufficient timeframes for planning and discussion.

Westgate - Loss of car parking – Westgate Shopping Centre

139 Concerns were raised about the effects of the loss of parking in the Westgate Shopping Centre with circa 200 parking spaces expected to be removed during construction, however it is unknown how many would be lost once the busway is in operation.

Westgate - Access and loading for Woolworths Westgate Shopping Centre

140 Woolworths raised concerns with the accessibility of the Woolworths supermarket in the Westgate Shopping Centre, citing that the Project will have *"significant and direct adverse effects on the Westgate Woolworths, both during construction and following completion of the Project. Most fundamentally, the project will completely remove one of the stores loading docks, and will result in the inability for trucks to manoeuvre through the loading access area to use the other loading dock. This effectively means that Westgate Woolworths will no longer be able to receive deliveries…".* This was a view also shared by WPL/NZRPG.

141 Woolworths also states that the Project will prevent the use of the Eastern carpark which is used by delivery vehicles and contains at least 50 customer car parks. The customer carpark provides convenient access to the Westgate Woolworths and is popular with customers. It is at full or near-full capacity every day. As well as being the preferred carpark for several customers, the loss of at least 50 spaces will place further pressure on the main Westgate Woolworths carpark at the front of the store (which is already under significant pressure).

142 NZTA proposed a site-specific condition to address these issues. However, in its comments, Woolworths consider these conditions to be "*entirely deficient*" and simply requiring NZTA to consult on the Project design. Woolworths sought amendments to the draft conditions presented by NZTA to ensure the Westgate Woolworths can operate during construction and after the Project is completed.

143 The Panel notes that on 29 July 2026 NZTA and Woolworths filed a joint memorandum confirming agreement has been reached regarding Designation Conditions 13-15 which

relate to the Westgate Woolworths site. These agreed conditions are addressed later and are reflected in the Panel's decision.

Point Chevalier - Access to the service lane during construction

144 Concerns were raised by RBL in relation to the KFC site, specifically access to its site both during construction and following the completion for its deliveries through an existing service lane. Furthermore, RBL claimed the indicative design also introduces a loop road and kerbside area adjacent to Great North Road and Parr Road North which makes it unclear as to the future proposal for the existing service lane and what level of access will be provided to its site.

145 RBL also stated that while construction effects are generally described as temporary, the duration of works at Point Chevalier is measured in years rather than days or weeks and will overlap with peak trading periods for the KFC site on a recurring basis. The construction effects extend beyond temporary inconvenience and have the potential to result in sustained major operational disruption.

146 RBL sought a site-specific condition of consent to better protect its access arrangements during construction and post completion of the Project.

Point Chevalier Station – Future configuration of Parr Road North

147 Concerns were raised by NTC and its transport expert Mr Leo Hills with respect to the final configuration of Parr Road North and the effects of any additional demands because of the new station.

148 The loading of the supermarket (including truck and trailers and semi-trailers) as well as customers to the click and collect are reliant on access via Parr Road North, which is the access road to the new Point Chevalier station. Mr Hills considered that it is important the access road (Parr Road North) is designed so as not to conflict with the functional and operational requirements of the supermarket.

149 NTC considered that the conditions on the designation do not provide sufficient certainty that the matters of concern to NTC will be considered at the time of detailed design. NTC sought a condition which provides certainty at this stage regarding the minimum requirements for the station access road design and functionality of the intersection with Great North Road.

<u>Comments received</u>

150 The Council's comments included a review by Mr Mat Collins, consultant transport planning and engineering specialist. A summary of that review was provided within the Council's memorandum noting that Mr Collins generally agreed with the ATE, concluding that the transport effects of the Project are generally well understood and appropriately assessed at the designations stage with construction effects managed through CTMPs, is appropriate for the scale, duration, and current level of design detail.

151 The Council memorandum also highlighted that AT's letter of support confirms that effects on the wider operation performance of the transport network do not require further Council assessment.

152 Through further facilitated discussions with the Council, NZTA has confirmed that this topic was resolved as follows:

(a) NZTA and the Council agreed some amendments to Proposed Designation Condition 16 addressing the requirements of the CTMP(s).

(b) The Council agreed that its suggested "Existing Property Access" condition (TRAFc1) is not required.

(c) The Council has confirmed that no conditions are required to address parking-related matters raised at paragraphs 50-53 of the Memorandum of Planning Matters.

Applicant response

153 The response from the Applicant in response to traffic effects set out by the commenter are primarily set out in:

(a) A statement of evidence by Ms Ida Dowling, a Principal Transport Consultant and Associate at Commute. Ms Dowling was NZTA's Investment Case Lead for the Project.

(b) A statement of evidence by Ms Meredith Bates, the co-author of the ATE prepared for the Project.

(c) Memorandum of Counsel on behalf of NZTA dated 3 June 2026 and Appendices A and B, that has provided a detailed response to commenters.

(d) Memorandum of Counsel on behalf of NZTA dated 24 July 2026 that has provided a detailed response to further comments from WPL.

154 Ms Dowling's evidence specifically addresses the Project's overall transport effects, the alternative design (Option 3) that was preferred by Stride and, the transport-related conditions proposed by Stride, Costco, WTCL, WPL/NZRPG and Woolworths.

155 Ms Dowling notes that:[31]

> *[T]he Project will deliver significant benefits to the wider transport system, as well as the transport network specifically within the Westgate area. The Project will not add traffic to the existing transport environment. Rather, it will offer a reliable, rapid and frequent public transport service, which will give workers and shoppers a real alternative to private car usage. The Project supports the functionality of the wider transport system through the provision of transport choice. The increase in travel options will enable improved choice for those wishing to shop or work at Westgate.*

156 Ms Dowling acknowledged that there will be temporary transport impacts associated with the construction of the Project and that *"[a] Construction Traffic Management Plan (CTMP) will be prepared to ensure that the adverse construction traffic effects of the*

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[31] Statement of evidence of Ida Dowling (transport) dated 3 June 2026, at [10].

Project are managed appropriately. The CTMP will ensure the contractor appropriately manages any adverse traffic safety and efficiency impacts on other road users caused by the Project".[32]

157 Ms Dowling disagreed with Stride's view that NZTA adopt Option 3 from the alternatives assessment because (in Stride's view) Option 3 has lower construction traffic effects. She noted the following:[33]

(a) *The Indicative Design enables a less disruptive construction approach for the Fred Taylor Drive underpass, whereas Option 3 would require a construction approach with greater overall traffic disruption.*

(b) *The Indicative Design works proposed for Gunton Drive improve the ability to minimise construction traffic disruption more effectively than Option 3;*

(c) *The Indicative Design has less implications for SH16 than Option 3.*

158 Ms Dowling's view on the suggested relief by the commenters on the CTMP conditions is that they are not necessary and only add complexity without any additional benefits. Requiring multiple CTMP's to be managed over a small geographical area creates an administrative burden without any additional benefits. Ms Dowling preferred a single CTMP, as proposed, to allow for better integrated management of effects through one plan, and therefore be more likely to achieve good outcomes.

159 Ms Dowling responded to NZRPG's request to seek a condition *"to design the Project to provide for "effective and efficient site access and internal vehicle circulation within and around the Westgate Shopping Centre" and "a safe and efficient permanent vehicle access point for delivery Vehicles to loading zones in the Shopping Centre",* stating that it is not required. Ms Dowling was of the view that NZTA have proposed a specific condition for Woolworth Westgate however she considered that all other businesses owned by NZRPG and that the indicative design and the proposed designation do not restrict vehicle access.

160 Ms Bates' evidence specifically responded to the construction transport-related effects and the comments raised by Costco, NZRPG and Stride with specific reference to the indicative design of Gunton Drive and the Hobsonville Interchange.

161 Ms Bates used SIDRA modelling to inform her assessment of the project construction effects at and around the Hobsonville Road Interchange. She stated that her modelling focused on this interchange as it is the key constraint for construction traffic effects due to the function it plays in providing access to the wider Westgate network. Her analysis confirmed that "*the construction of the Indicative Design would not result in lane closures or turn/movement restrictions during the day/peak times that could result in network re-routing effects that might require a different assessment methodology".*[34]

162 The SIDRA results indicate that the construction activity will increase the queue lengths at three of four approaches to the Hobsonville Road Interchange in the PM peak (periods expected to attract the greatest effects). However, those increases in

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[32] Statement of evidence of Ida Dowling (transport) dated 3 June 2026, at [15].
[33] Statement of evidence of Ida Dowling (transport) dated 3 June 2026, at [19].
[34] Statement of evidence of Meredith Bates (construction transport) dated 3 June 2026, at [15].

queue length correspond to approximately 3-4 cars. Accordingly, Ms Bates considered those queue length increases to be negligible.

163 Ms Bates addresses the request by Stride and NZRPG to request conditions that the Northside Drive connection to be operational before construction of the project commences at Westgate. Ms Bates confirmed that her assessment does not rely on the Northside Drive connection being completed and therefore provides a conservative assessment of effects on the interchange.

164 Ms Bates concluded that:[35]

> *It is neither reasonable nor realistic to expect no reduction in traffic capacity or level of service during construction of this Project or any other major project. The impacts of the Project will be comparable with other major projects around the Auckland region. The effects will be appropriately managed and minimised in accordance with a [CTMP].*

165 The two memoranda of counsel on behalf of NZTA contain the full summary of the responses to all conditions. The position reiterating the findings of Ms Dowling and Ms Bates together with restating that they are generally satisfied with the application material and proposing to make some modifications to the transport-related Designation Conditions to address some of the concerns raised by commenters.

166 Final legal submissions from NZTA, supported by a revised set of designation and consent conditions were provided to the Panel on 29 July 2026. The key proposed changes to the transport-related Designation Conditions are described as follows:

(a) Updates to condition relating to access to the supermarket at 1136 Great North Road, Point Chevalier following discussion and agreement with NTC (Conditions 10-12).

(b) Updates to condition relating to access to the Westgate Woolworths supermarket following discussion and agreement with Woolworths (Conditions 13-15).

(c) Refinements to the CTMP related condition following discussions and agreements with Auckland Council (Condition 16).

(d) Addition of a new condition relating to the management of any full closures to Gunton Drive (Condition 16A). This condition was included by NZTA following their review of concerns raised by commenters in relation to potential impacts on the operational capacity and effectiveness of Gunton Drive during construction to restrict closures of Gunton Drive during daytime hours (with specific exceptions).

167 In its consideration of transportation matters, and the setting of transport-related conditions, the Panel was assisted by Mr Hughes, as an independent transport expert. Mr Hughes reviewed both the application material and the comments received relating to the transport matters raised in relation to the key areas of contention set out above,

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[35] Statement of evidence of Meredith Bates (construction transport) dated 3 June 2026, at [41].

along with a review of the proposed designation conditions to determine the extent to which they address these concerns raised.

168 Through his advice to the Panel dated 7 August 2026, Mr Hughes advised of his general support for the Project stating it will provide a significant improvement to public transport accessibility, travel time reliability and strategic transport choice in the northwest. In his view, the outstanding transport issues are not directed at whether the Project should proceed, rather they concern whether the conditions provide sufficient certainty that significant localised construction and access effects will be managed appropriately when the detailed design and construction methodology are developed.

169 Mr Hughes considered that the revised conditions represent a meaningful improvement over the previous condition set in some respects referencing that NZTA has now agreed more specific conditions with NTC and with Woolworths for site specific access, manoeuvrability, delivery vehicle and consultation requirements without unduly constraining the Project.

170 However, Mr Hughes considered that the revised conditions do not yet provide the same level of certainty for the broader Westgate network effects or for the wider Point Chevalier access and circulation environment. Mr Hughes was of the view that the key remaining gap is that the conditions still rely heavily on future CTMP processes, without sufficiently defining what must be tested, what minimum functionality must be retained, how affected parties can raise unanticipated issues, and what happens if the final traffic management arrangements produce effects greater than those anticipated in the application material. Mr Hughes recommended targeted amendments to the conditions to require Precinct-specific CTMP content, operational testing of capacity-reducing construction layouts, monitoring of key network performance parameters, and a practical issues resolution process for unanticipated effects.

171 Mr Hughes therefore recommended the following targeted changes to the Designation Conditions:

(a) Amend Condition 4 so permanent access and manoeuvrability outcomes are not extinguished following completion of construction.

(b) Retain the agreed NTC and Woolworths supermarket access conditions, subject to drafting clean-up and cross-reference corrections.

(c) Amend Condition 16 to define minimum network performance parameters and require monitoring, trigger levels and response measures.

(d) Add a Westgate Precinct section to the relevant CTMP where works may affect Gunton Drive, Fred Taylor Drive, the Hobsonville Road / SH16 interchange, SH16 ramps, Tawhia Drive, Maki Street, Kedgley Road, or access to the NorthWest Centre, Costco, Westgate Shopping Centre or Westgate Lifestyle Centre.

(e) Broaden Condition 16A so it addresses lane reductions, stop-line reductions, turning restrictions and access restrictions, not only full closure of Gunton Drive.

(f) Require either prior completion of the Hobsonville Road off-ramp widening / extension / remarking works before material capacity-reducing works at the

interchange, or updated modelling demonstrating acceptable operation without those works.

(g) Add a Point Chevalier Transport and Access Plan condition for NoRs 9 and 11.

(h) Add a Construction Traffic Issues Resolution condition to enable affected parties to report unanticipated transport or access effects during construction and require those effects to be investigated and addressed.

(i) Add a general Existing Property Access condition.

Panel findings

172 The Panel acknowledges that all parties have general agreement that the completed Project will provide significant benefits, and these have been described in the preceding section of this decision. The Project's transport benefits include significantly reduced bus travel times, improved public transport reliability and more efficient movement within the corridor for all users. The Project will also support urban intensification in the northwest and will enable wider economic benefits.

173 The Panel also acknowledges agreements that have been reached between the Applicant and both NTC and Woolworths regarding the management of effects relating to access by their delivery vehicles during construction.

174 The Panel also acknowledges the general support from both AT and the Council for the overall Project and the draft designation conditions relating to transport (with some minor updates).

175 The Panel has considered the conditions as proposed by the Applicant and those proposed by commenters as well as the recommended changes by Mr Hughes. In this regard it is apparent that there are differences of opinion with the level of detail required in conditions to manage property access during construction. The key areas the Panel has addressed are discussed below.

Westgate - Effects on Hobsonville Interchange and Fred Taylor Drive during construction

176 The Panel considers that there remains some uncertainty regarding the potential traffic effects during construction, particularly around the Westgate Precinct, Fred Taylor Drive and the SH16/Hobsonville Road Interchange. The Project relies heavily on a CTMP process, without sufficiently defining what minimum functionality will be retained and what happens if the final traffic management arrangements produce effects greater than those anticipated in the application material.

177 For example, the SIDRA testing undertaken for the Hobsonville Road interchange is useful, and it has tested the CTMP condition by applying a 10% reduction to lane capacity. The Panel agrees with Mr Hughes that this is a reasonable first-order sensitivity for a construction layout where all lanes and turning movements are retained, but it is not sufficient to represent construction stages where lanes, stop lines, turning lanes, access lanes, or critical queue storage are removed or reduced.

178 Furthermore, the reported SIDRA results assume that the Hobsonville Road off-ramp widening / remarking improvements are in place. If that improvement is relied upon,

as recommended within the ATE, to demonstrate that construction effects will be acceptable, then either those works should be completed before the relevant capacity-reducing construction works, or the relevant construction stage should be re-assessed without those improvements. Mr Hughes noted that NZTA had not provided any alternative traffic modelling as to the effect of not providing this lane. This was a matter that was raised by the Panel in Minute 5 requesting further information from NZTA on the recommended additional lane on the Hobsonville Road off-ramp and why this was not included in the proposed conditions.

179 The Panel therefore remains uncertain as to the potential effects on the Hobsonville Interchange and the accessibility of Gunton Drive and the wider Westgate Precinct.

180 To reduce any uncertainty and to ensure that construction-related traffic effects are clearly identified and managed, the Panel had largely adopted within its draft conditions the new condition that has been recommended by Mr Hughes to manage construction effects on property access in the Westgate Precinct generally, but described by reference to Sub-precincts (as defined in the AUP[36]) and via addresses and businesses for further clarity (Designation Conditions 16A and 16D). These conditions require the requiring authority to define and assess minimum network performance parameters where works affect key roads and accesses. The CTMP can then assess any lane closures, turning restrictions, access restrictions, queue storage, queue spillback, delivery vehicle access, and mitigation measures.

181 The Panel also expanded Condition 16A so that it does not only control full closure of Gunton Drive and requires specific assessment and mitigation when proposing lane closures and reductions, turning movement restrictions or access restrictions materially affecting access to Westgate properties. This is discussed further below.

Westgate - Realignment of Gunton Drive and Access to Northwest Mall and Costco

182 The Panel notes that commenters have sought the retention of the existing capacity within Gunton Drive, including two-northbound lanes, between Fred Taylor Drive and Tawhia Drive. While the Panel acknowledges that proposed Designation Condition 16A provided by the Applicant is a useful step in addressing effects and the commenters concerns about effects on the operation of Gunton Drive, it only addresses full closures. The Panel also considers that it is unrealistic to consider only two scenarios – i.e., full capacity or full closure. As set out by Mr Hughes, the more likely construction risk is partial capacity loss, including lane shifts, lane reductions, loss of turning capacity, reduced queue storage, construction vehicle conflicts and temporary restrictions to access.

183 The Panel has therefore adopted Mr Hughes recommendation to amend Condition 16A to address partial closures of Gunton Drive and to require specific assessment and mitigation when any CTMP materially affects access to Westgate properties via Gunton Drive.

184 The Panel has considered whether such a condition is any different from the general CTMP condition, however given the importance of Gunton Drive to the accessibility of some key properties, the Panel considers a specific condition is necessary in a similar

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[36] AUP I615.10.1 Precinct plan 1.

manner to those conditions relating to the supermarket access that have been agreed with Woolworths and NTC.

Westgate - Loss of car parking – Westgate Shopping Centre

185 The Panel has considered potential effects of the designation on the loss of parking. The Applicant's responses on this point acknowledge the removal of private parking spaces, and advised that it will seek to acquire property interests needed for the Project that will include parking spaces, through the statutory process set out in the PWA. It also notes that property acquisition issues per se are not a matter relevant to the Panel's decision-making, and that landowners will be compensated for the acquisition, such that there is no relevant environmental effect that can arise. The Panel generally agrees with that position, although we do not disregard the inevitable impact that the extent of parking loss is likely to have on surrounding businesses. We also observe the possibility that where a reduction in parking results in shortfalls against what is required within conditions of any underlying resource consents, the requiring authority may also be responsible for obtaining consent for whatever changes are necessary in that respect. That said, such issues would likely be of less or minimal significance in light of the removal of parking minimums under the AUP standards, and so we anticipate that any issues in this regard are indeed able to be confined to commercial considerations and capable of resolution through PWA processes.

Point Chevalier - Access to the service lane during construction

186 With regards to the concerns raised by NTC and RBL and the final station access environment and construction staging around the Point Chevalier Station, the Panel considers that there is insufficient details to ensure safe and practicable access, circulation and servicing for the existing commercial activities that rely on Parr Road North and the service lane has been provided. We agree with Mr Hughes that the operation of the Point Chevalier Station has the potential to result in potentially significant adverse effects on property access in this area.

187 Given the length of the lapse period and the absence of a traditional "in accordance with" condition, the Panel considers that the conditions should require the preparation of a Point Chevalier Transport and Access Plan at the Outline Plan stage. This would require the requiring authority to demonstrate how the final design and construction staging will maintain safe and practicable access, circulation and servicing for affected commercial properties.

188 The Panel has therefore largely adopted the recommendation of Mr Hughes for a new Access Plan condition applied to NoRs 9 and 11 (as Designation Condition 16E). The Access Plan would be required before or with the relevant Outline Plan and should include the final or proposed layout of Parr Road North, the service lane, station access, kerbside functions, taxi, bus layover and loading areas; tracking for relevant delivery and service vehicles; operational assessment of the Parr Road North / Great North Road intersection; and consultation with the Council, and other directly affected landowners or occupiers.

Unanticipated Effects

189 Mr Hughes has also raised concerns, and the Panel agrees, that the current condition framework proposed by the Applicant primarily addresses anticipated effects using CTMP requirements, and site-specific engagement with NTC and Woolworths. However,

there is no clear condition enabling affected parties to report unexpected transport, access, safety, servicing or circulation issues during construction, nor a clear requirement for NZTA to investigate and respond to such issues within defined timeframes.

190 This is a notable gap in a project where the detailed construction methodology and traffic management layouts will not be known until well after designation confirmation. It is also important because local transport effects can sometimes arise from detailed design or temporary traffic management interactions that are not obvious during the design and consenting process.

191 The Panel has considered Mr Hughes' recommended Construction Traffic Issues Resolution condition to be coupled within the CTMP framework. The condition would require the CTMP to identify a single point of contact, establish a process for affected parties to report transport and access issues, require investigation within defined timeframes, require reasonable corrective action where the issue is attributable to Project works, and require a register of complaints, responses and actions to be maintained and provided to the Council on request. This would provide practical certainty that affected parties can raise issues and that those issues will be addressed through a transparent process.

192 The Panel considers that the recommended Construction Traffic Issues Resolution condition has merit for the reasons described by Mr Hughes, and we therefore determined that it should apply to all NoRs.

Completion of Construction

193 Mr Hughes also commented on Condition 4 which, following completion of construction, all conditions (except Condition 37) will cease to have effect. Mr Hughes considered this to be too broad where certain conditions secure permanent access and manoeuvrability outcomes. For example, the site-specific conditions relating to Woolworths and NTC include permanent design obligations that should not be extinguished simply because construction is complete, otherwise there is a potential uncertainty as to whether permanent access outcomes continue to be protected.

194 The Panel has decided not to adopt Mr Hughes recommendation to expand this condition to include the conditions relating to Woolworths Westgate and NTC, acknowledging that agreement has been reached between NZTA and these parties relating to access to the respective properties.

Permanent Property Access Changes

195 Given the length of the lapse period and the absence of a traditional "in accordance with" condition, the Panel considered there to be a risk that there is no general condition requiring NZTA to demonstrate safe and practicable replacement or reconfigured access where existing lawful vehicle access to a property is permanently altered. This would be similar to that proposed in respect of Open Space (proposed Designation Condition 16B).

196 The Panel is of the view that a general condition of broader application that requires consultation with relevant landowners and occupiers before submission of an Outline Plan for works that permanently alter their existing lawful vehicle access, and requiring

the Outline Plan to demonstrate how safe and practicable vehicle access will be provided (proposed Designation Condition 16C).

Conclusion

197 Overall, and on the basis of the additional conditions that we have described above, the Panel is satisfied that the construction traffic effects of the Project can be appropriately managed. The Panel is also of the view that these additional conditions are not more onerous than necessary, but rather, what is necessary to ensure that these effects which will occur within already congested and constrained transport environments can be mitigated as far as practicable, and on a proportionate basis.

Construction-related effects

Earthworks effects

Applicant assessment

198 The AEE advises that the Project will involve a total earthworks area of approximately 35ha, with 25ha of that being required west of the SH16 causeway. The Applicant estimates that a total earthworks 500,000m^3 of cut, and 450,000m^3 of fill will be required. Details of the proposed cut and fill are limited to the Indicative Design Plans.

199 Resource consent has been sought for earthworks that are beyond the permitted area thresholds both within and outside the SCPAs and within a SEA.

200 No draft or indicative Erosion and Sediment Control Plan (**ESCP**) has been provided. The Applicant's Legal Submissions of 19 May 2026 notes in this regard, and in the absence of a Condition 1, that the envelope of effects will be secured through:

(a) The Proposed Designation boundary and extent of the coastal permits sought;

(b) Condition 5, relating to the provision of ESCP(s);

(c) Condition 6, relating to the stabilisation of earthworks; and

(d) Condition 20, relating to the provision of a Coastal Construction Management Plan (**CCMP**).

Comments received

201 The Council's reviewer, Mr Matt Byrne (the Council's Erosion & Sediment Control Consultant) was critical of the Applicant's approach to rely on "*generic, high-level commitments that defer critical matters to future plans, rather than demonstrating how GD05 compliant measures will be practically and effectively implemented, particularly in high-risk areas adjacent to streams and the coastal marine area*".[37] While he acknowledged that erosion and sediment control measures and construction staging may be achievable, "*the application does not provide a sufficient basis to conclude with certainty that the effects of earthworks will be less than minor in the absence of ESCPs*

[37] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [208].

and earthworks staging plans, indicative or otherwise".[38]

202 The Council's planners[39] also advised that the ESCPs are a 'special information requirement' under Rule E11.9(1) of the AUP, and agreed with Mr Byrne's request that they be provided. They also noted that Mr Byrne had identified additional reasons for consent, being Rule E26.5.3.2(A106) (i.e., for earthworks greater than 2,500m^2 where the land has a slope equal to or greater than 10 degrees).

203 The Council's planners go on to say that:[40]

> *The absence of a Condition 1, and in particular the ability to link the approximate location of earthworks within the Indicative Design, is compounded with the requirement to provide Management Plans, but there's no mechanism for their implementation or reporting. As will be discussed separately in the section specifically relating to Environmental Monitoring, our Environment Monitoring Specialist has also identified issues with the timing of such plans where the term "construction" can be interpreted as relating to structures, not land disturbance.*

Applicant response

204 Through the facilitated discussions between the Applicant and the Council it was agreed to replace the Applicant's proposed ESCP condition (Condition 6) for the land use and coastal permit resource consents with a requirement for a site-specific ESCP. This incorporated additional obligations relative to the original condition, including provisions for chemical treatment; certification of Erosion and Sediment Control measures by a suitably qualified and experienced practitioner (**SQEP**); a 5ha limit to any single exposed area; progressive stabilisation; maintenance of operational effectiveness; and avoidance of deposition of earth on public roads and footpaths.

Panel findings

205 The Panel accepts the agreement reached between the Applicant and the Council serves to resolve the particular issues of concern raised by its earthworks specialist. We note that this agreement does not appear to fully engage with the issues raised by the specialist in terms of the availability of appropriate areas in which to implement an ESCP, nor address the 'special information requirement' under Rule E11.9(1) of the AUP in respect of this matter. However, on the basis of agreement that the site-specific ESCPs that are to be prepared will be subject to certification requirements, the Panel considers that the grant of consents regarding this nature will enable effects associated with bulk earthworks to be appropriately managed.

Contaminated land effects

Applicant assessment

206 The Application includes a Contaminated Land Preliminary Site Investigation (**PSI**) prepared by Terry Widdowson. That assessment incorporates a review of publicly

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[38] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [208].

[39] The Council's covering memorandum to its comments were prepared by its Project Lead and Planners, being Warwick Pascoe (Principal Project Lead), Jo Hart and Louise Barclay (Senior Policy Planners for the NoRs) and Celia Wong (Senior Planner for the resource consents).

[40] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [211].

available environmental information (geology, hydrogeology, etc.), Council information (site contamination, closed landfills), and historical aerial images (supplied by the Council), together with a 'high level' site walkover. On the basis of that review, Mr Widdowson has identified potential Hazardous Activities and Industries List (**HAIL**) sites along the designation route and has advised that:

> *(i) In areas where I have found no evidence of HAIL activities, I consider it unlikely that proposed earthworks will pose a risk to human health or the environment.*
>
> *(ii) In areas where I have identified potential HAIL activities within the Proposed Designation, and where soil disturbance is proposed on that land, I recommend the preparation of a Detailed Site Investigation (**DSI**) before earthworks commence to characterise and delineate any contamination in soils.*

207 The Applicant's review recommends the preparation of a Contaminated Land Management Plan (**CLMP**), incorporating the findings of the DSIs, and implemented so that any contaminated land effects on human health and the environment can be managed or mitigated appropriately. Condition 7 has been recommended accordingly.

Comments received

208 The review for the Council was undertaken by Ms Duffy Visser (Council Specialist Contamination, Air & Noise) who advised of her agreement with the Applicant's assessment and confirmed that any contaminated land effects can be managed or mitigated by implementation of the CLMP. She noted that the Project requires consent under Regulation 11 of the NES-CS as a Discretionary Activity, as no DSI has been carried out, and that a discharge consent under Chapter E30 of the AUP may also be required depending on the outcome of the DSI.

209 However, Ms Visser also recommended the imposition of a suite of Contaminated Soil (**CS**) conditions to apply to both the land-use consent and discharge consent to mitigate potential effects to human health and the environment. The Council's planning experts noted that the CS conditions are standard for applications involving contaminated soils and are preferred because "*they provide clear direction and milestones for the provision and, implementation, of, and reporting on, the above-mentioned [DSIs] and [CSMPs] throughout the duration of consent*".[41] The inclusion of a review condition was also recommended in order to address the potential for any significant adverse effect on the environment that may not have been apparent during the consenting stage, "*and enables the requirement for the best practicable option to remove or reduce any adverse effect on the environment as knowledge, monitoring and performance standards may change over the course of the consent*".[42]

210 The Council's planners also noted an 'additional' recommendation to those conditions referred to by Ms Visser was for inclusion of an Advice Note to Condition CS.2.

211 Through the facilitated discussions, agreement between the Applicant and the Council was reached in respect of 'contaminated land' with respect to proposed Consent

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[41] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [226].
[42] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [227].

Conditions 7-7C. These incorporate a staged requirement for a DSI to be prepared for works involving land specified in a schedule to the conditions (Schedule B), and the preparation of a Contaminated Site Management Plan (**CSMP**) in the event that the DSI identifies contamination. In the event that a CSMP is required, a Site Validation Report is to be provided within three months of the completion earthworks.

Panel findings

212 The Panel acknowledges the agreed position reached between the Applicant and the Council in respect of the management of contaminated sites, and on the basis of those provisions finds that contamination is able to be appropriately addressed at the earthworks/construction stage such that any potential adverse effects on the environment will be minor. We have adopted those agreed conditions as part of the Consent Conditions attached to this decision.

Industrial trade activities

Council comment

213 The Council comments advise that the rules under Chapter E33 of the AUP which address stormwater quality aspects of the discharge of contaminants from an industrial or trade activity area have not been referenced as part of the Application.

214 The Council notes that Mr Meyer's review identifies that the proposed construction laydown spaces which may exist in excess of six months can be considered as Industrial and trade activities (**ITAs**) and have the potential to discharge contaminants "*without appropriate management of stockpiles, storage of vehicles/machinery and other activities associated with these areas*". Mr Meyer has recommended that information on proposed laydown areas is provided, including activities to take place, start and end dates where known or the estimated length of activity, and the necessary evaluation of these areas per the requirements of Chapter E33. This would enable confirmation that these areas are managed in a manner that will minimise the risks to the receiving environment, provide treatment where necessary, and prevent high-risk activities such as machinery/vehicle servicing.

215 The Council's planners note in this regard the identification of 'construction areas' within Appendix A: Habitat Areas of Mr Bredin's AEcE. They highlight that the proximity of such construction areas to watercourses both within the Project area and adjacent to the Project area (4-6 Hobsonville Road) is such that compliance with the Chapter E33 provisions needs to be demonstrated.

Applicant response

216 This topic was not resolved during the facilitated discussions. In its 9 July Memorandum, the Applicant advised that it did not agree that construction laydown spaces fall within the definition of an ITA under Chapter E33 of the AUP. This was on the basis that:

(a) E33 concerns the use, handling and storage of environmentally hazardous substances and the Project does not involve the use of any hazardous substances covered by E31;

(b) Table E33.4.3 does not identify road or busway construction or maintenance, or

their construction areas, as an ITA; and

(c) Construction laydown areas do not involve processing of a raw material into a product or waste material (aggregate, for example, being already crushed and used in that state).

217 The Applicant went on to draw a comparison with the Eastern Busway Alliance construction yard at William Roberts Road, for which the Council did not require consent under E33. Notwithstanding this disagreement, the Applicant advises that it has included construction yards within the scope of the Application and sought consents under ss 9(2) and 15, such that it considers all necessary consents have been sought and the Council's suggested advice note relating to Chapter E33 is unnecessary.

Panel findings

218 The Panel has reviewed the AUP provisions highlighted by the Council and the response by the Applicant, and as a result we were not able to identify the basis on which the Council would consider the laydown activities to be an ITA. We note the 'Background' to Chapter E33 (at E33.1) states:

> *Industrial and trade activities involve the use, handling and storage of environmentally hazardous substances as part of their production and operation. Unless these activities are appropriately managed, hazardous substances can be discharged from the site, as contaminants, onto land or into rivers and streams, groundwater systems and coastal waters.*

219 The Panel has further considered the AUP definition of ITAs, which is:

> *The area of land or coastal marine area where a particular industrial or trade activity is being undertaken, which may result in the discharge of environmentally hazardous substances associated with that activity onto or into land or water.*

220 It then sets out the basis for calculations of an ITA, none of which appear to be relevant to a construction laydown area. It goes on to then specifically exclude a number of other activities, including *"areas used for the storage of inert materials"*, provided that any suspended solids are treated or otherwise lawfully authorised.

221 To the extent that the laydown areas do not align with this exemption, we would note that the stormwater from the 'storage areas' will be addressed through appropriate management, including sediment control. The Panel therefore accepts the Applicant's reasoning as to why Chapter E33 does not apply, and in our view, to read into the provisions (including those of E31) as capturing construction laydown areas, would be a misrepresentation of the purpose of these provisions.

Groundwater and settlement effects

Applicant assessment

222 The application incorporated an Assessment of Groundwater and Settlement Effects (**AGSE**) prepared by Mr Greg Sheppard. Based on a desktop study of existing groundwater conditions across the Project area, Project specific groundwater

investigations, and analytic and numerical modelling, Mr Sheppard concluded that:[43]

> *There is no recorded abstractive groundwater use within the areas of excavation and predicted drawdown, and no impacts on groundwater users.*
>
> *...there will be no impacts on surface water bodies or wetlands resulting from groundwater drawdown, on account of there being no surface water bodies or wetlands within close proximity to the areas of substantial excavation and predicted groundwater drawdown.*
>
> *… potential building damage due to settlement resulting from groundwater drawdown outside of the Proposed Designation boundary is in the negligible to very slight categories. Further, it is noted that the assessment of settlement due to groundwater drawdown assumes unrestricted groundwater seepage to excavations. In reality, the excavation will be retained by secant pilings or similar that will act to restrict groundwater seepage and drawdown resulting in settlement. Accordingly, in my opinion, potential settlement effects resulting from groundwater drawdown will be less than minor to negligible.*
>
> *While there may be some ongoing groundwater seepage to drainage layers during Project operation, I consider there will be no further or additional effects, over and above those already assessed for the construction period.*

223 No conditions are proposed for the resource consents, with Mr Sheppard noting that:[44]

> *I consider the effects associated with groundwater dewatering and associated ground settlement will be less than minor to negligible. As noted earlier, my assessment is conservative, and in reality I expect the design of the excavations will include the use of preinstalled secant piling or diaphragm wall retaining walls, which will act to limit groundwater seepage and drawdown, and further reduce potential for ground settlement resulting from dewatering.*

<u>Comments received</u>

National Trading Company of New Zealand

224 The comments from NTC advised of their acceptance that adverse effects in terms of groundwater and settlement are likely to be limited, but state that this conclusion "*depends on either the final design remaining above the groundwater table or the adoption of low-permeability ground support such as secant piling or equivalent if deeper excavation is required*".[45] The comments from NTC sought that those assumptions be secured through conditions, including a Groundwater Settlement Monitoring and Contingency Plan (**GSMCP**), rather than left as narrative within the application documents. A condition was included in NTC's comments to this effect.

Auckland Council

225 The Council's review of groundwater and settlement effects was undertaken by Mr

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[43] AGSE.
[44] AGSE, at [6.1].
[45] NTC comments, at [1.9].

Richard Simonds, the Council's Groundwater Specialist consultant. Mr Simonds expressed a number of concerns with the Applicant's AGSE, considering that the assessment on third party assets is invalid and that it contains significant omissions, including that no conditions have been proposed in relation to the water permit, nor a draft GSMCP.

226 Overall, Mr Simonds concludes that:[46]

> *...without assessing the potential mechanical settlement associated with any retaining wall deflection, the assessment of settlement effects is incomplete and hence the assessment of effects on 3rd party assets, i.e. buildings, structures and infrastructure, is invalid. Based on information provided with the Application and subsequently by [the Applicant], I am still not able to confirm whether or not the settlement effects, associated with the proposed activity on neighbouring buildings, structures, infrastructure and services adjacent to, or in close proximity to, the designation boundary, where excavations and retaining walls are proposed, are less than minor.*

227 Mr Simonds concerns were agreed by the Council's planners, who noted that:[47]

> *Having regard to the Assessment of Groundwater and Settlement Effects which sets out six major cut areas with groundwater where cuts of up to 9.7m are proposed, together with the proximity of works to buildings, structures and infrastructure, I find the deliberate decision not to impose construction consent conditions addressing the construction methodology for cuts that have the potential to intercept groundwater (ie to ensure pre-installed secant pile walls or diaphragm walls are incorporated where necessary) curious, particularly in the light of such conditions imposed for similar infrastructure projects within an urban setting.*

<u>Applicant response</u>

National Trading Company of New Zealand

228 In response to the NTC the Applicant drew attention to the evidence of Mr Sheppard of 3 June 2025 who confirms that there will be no adverse groundwater drawdown and settlement effects on the New World site if the final Project design remains above the groundwater table (as per the Indicative Design). It notes Mr Sheppard's recommendation that if the final design requires deeper excavation that may result in adverse groundwater drawdown and settlement effects, then groundwater cut-off or containment measures can be installed, and that such measures would be used for deeper excavations as a matter of standard engineering practice.

229 The Applicant further states that it opposes the extensive groundwater-related conditions proposed by NTC, as they would go well beyond what is necessary to manage the Project's potential effects.

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[46] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [218].

[47] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [220], citing reference to the EB3C Project (BUN60423907, Conditions 81 – 91).

Auckland Council

230 The Council's 8 July 2026 conditions include a 'Groundwater conditions' placeholder in the resource consent conditions. The Council's covering memorandum noted that there remains a difference of opinion between the parties' specialists as to the methodology for determining settlement effects and the sufficiency of information. It further advised that the Council considers conditions are needed but that it is premature to settle them absent further information, and that any conditions are likely to include, but not be limited to, a GSMCP condition.

231 The Council's 8 July 2026 conditions also proposed a Designation Condition (for the Construction stage) requiring preparation of a Geotechnical Management Plan (**GMP**), as follows:

(a) *Prior to the start of construction, the Requiring Agency must engage a Suitably Qualified Geotechnical Professional (SQGP) to prepare a GMP. The purpose of the GMP is to review the geotechnical conditions along the alignment with respect to the detailed design proposal in order to confirm that there will be no adverse effects to land, buildings or infrastructure beyond the designation boundary.*

(b) *The GMP must consider effects of both temporary and permanent works.*

(c) *Where the works are located in areas of geotechnical hazard, such as steep slopes, poor soils, or landslide susceptibility the SQGP must undertake geotechnical investigations to ensure the hazard is well understood, and to demonstrate the proposed design mitigates any potential effects on land, buildings or infrastructure beyond the designation boundary.*

Applicant's 9 July 2026 Response

232 In Appendix B to the Applicant's 9 July Memorandum and the second statement of evidence of Mr Sheppard of the same date, the Applicant stated that it intended to propose consent conditions that:

(a) Apply to excavation or installation of structures below the seasonal low water table;

(b) Require the final design to ensure the Project does not result in total settlement at a building or services beyond the Designation of more than 10mm, or total differential settlement of more than 1:500; and

(c) Require a report, supported by analytical or numerical modelling, to be submitted to the Council for certification that the final design meets those requirements.

233 The Applicant considers the Groundwater Assessment Report appropriately assesses the Project's potential groundwater effects and does not accept the Council's characterisation of the assessment as invalid or as omitting necessary information. In particular, Mr Sheppard's second statement of evidence:

(a) Addresses the Council's concern that the Applicant's assessment at Point Chevalier Station and the Fred Taylor Drive underpass may not meet AUP

Standard E7.6.1.10(3), including by presenting a revised "leaky" secant piling scenario at Point Chevalier showing maximum groundwater drawdown of approximately 0.4m (0.2m at the Designation boundary), and explaining why groundwater is unlikely to be encountered at the Fred Taylor Drive underpass having regard to design and observed groundwater levels;

(b) Confirms that a borehole in the exact location of the underpass is not necessary, given the sufficiency of existing information and hydrogeological judgment; and

(c) Addresses mechanical settlement (as distinct from consolidation settlement due to dewatering), concluding by reference to established empirical relationships (Clough & O'Rourke, 1990) that mechanical settlement would be smaller in magnitude and more localised, and that the proposed total settlement and total differential settlement conditions will appropriately manage it.

234 The Applicant considers that additional conditions of the type suggested by the Council, including a GSMCP and independent peer review, are out of proportion to the potential groundwater effects and would be more onerous than necessary to manage those effects.

235 Associated with the topic of groundwater and settlement effects was the topic of geotechnical matters more broadly. This was not specifically addressed in the AEE or the Applicant's AGSE, beyond considerations of geology characteristics along the designation route, although the AEE made the statement that "*[o]ther natural hazard risks, such as land instability, have been considered through geotechnical investigations undertaken for the Project*".[48]

236 The Council's expert, Mr Greg Hall (Senior Development Engineer), suggested that the conditions require a GMP to be provided because:

> *4.6 .... in some locations such as at the Waterview interchange and in the vicinity of the Arch Hill Scenic Reserve … there are areas of steep land above the motorway alignment which may require detailed geotechnical investigation and design to ensure potential effects on both the project and on other land and property outside the project area are suitably managed. While I expect that NZTA will ensure the effects on their works are robustly managed, I believe it is also important to explicitly require that effects on neighboring land, infrastructure and buildings be managed to avoid damage to adjacent property*.

237 The Council therefore proposed a condition requiring preparation of a Geotechnical Investigation Report at each stage "*to discuss potential effects of the temporary and permanent works on adjacent land, infrastructure and buildings, and to provide recommendations on how to avoid these effects*". The proposed condition included the following suggested requirement:

> *(c) Where the works are located in areas of geotechnical hazard, such as steep slopes, poor soils, or landslide susceptibility the SQGP shall undertake geotechnical investigations to ensure the hazard is well understood, and to demonstrate the proposed design mitigates any potential effects on land,*

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[48] AEE, at Section 22.4.2.

buildings or infrastructure beyond the designation boundary.

238 The Applicant opposed the inclusion of such a condition. It considered that the basis of the condition was misplaced, highlighting that it will be required to consider potential effects for adjacent property under the law, and as part of its normal detailed design processes. In that respect, the Applicant referred to its expertise in designing and constructing major infrastructure, including roads, bridges and busways, in much more complex geotechnical environments, with its detailed design stage relying on extensive site and geotechnical investigations. It went on to say that:[49]

> *The Project will be designed in accordance with normal engineering/geotechnical design principles and standards, in compliance with the Building Act and subject to independent external review requirements. Accordingly, existing specialist technical inputs and statutory process will ensure the Project does not result in land instability. Council oversight of the final design and construction methodology is not required and is not appropriate.*

239 This matter was further responded to through the Applicant's 29 July Memorandum and updated conditions. In terms of geotechnical matters generally, and site stability specifically, it reiterated the above comments from its 9 July Memorandum. It further noted that, to the extent that there is a resource management issue to be addressed in this regard, "*it is one that is managed through engineering design and the Building Act, not conditions on planning approvals, particularly in the case of an experienced Crown delivery agency*".[50]

240 In terms of groundwater, the Applicant referred to the advice and evidence of Mr Sheppard, where he had concluded that:[51]

> *The Project is of low risk to groundwater and that groundwater effects beyond the Proposed Designation will typically be minor or less, even for the 'unmitigated scenario' [i.e., unrestricted groundwater seepage to excavations]. However, ground support would be used for deeper excavations as a matter of standard engineering practice.*

241 The Applicant notes that the Council's concerns were not resolved through facilitated discussions, and that the Council would seek conditions seeking a GSMCP (although no draft of the same was provided for the Applicant or Panel's consideration).

242 Notwithstanding this area of contention, the Applicant advised that it now proposed new Consent Conditions 23 and 24 to address the general concern relating to potential groundwater effects which would:

(a) Apply in respect of excavations or the installation of structures below the seasonal water table (described and defined as 'Major Cuts').

(b) Require the final design to ensure the Project does not result in:

(i) Total settlement at a building or services beyond the Designation of more

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[49] 9 July Memorandum, Appendix A, at p 4.
[50] 29 July Memorandum, at [165].
[51] Second statement of evidence of Gregory Sheppard (groundwater) dated 9 July 2026, at [25].

than 10mm; or

(ii) Total differential settlement at a building or services beyond the Designation of more than 1:500.

(c) Require a technical note and accompanying analytical or numerical modelling to be submitted to the Council for information to demonstrate that the final design meets the above requirements.

243 The Applicant goes on to say that any additional obligations, such as the requirement for a management plan or ongoing monitoring, would be more onerous than necessary, given the 'very low risk' of groundwater settlement effects. It submitted that the proposed condition "*is not merely proportionate to the Project's potential effects, it goes beyond what its expert considers necessary, and should be preferred by the Panel accordingly*".[52]

Panel findings

244 The Panel has considered the comments of the Applicant within its 29 July Memorandum relating to the Council's proposed GMP, to form part of the Designation Conditions. We have some concern that the Council seeks application of this condition across all NoRs, when the focus of the issue appears to be that encapsulated within its clause (c) as referenced in Mr Hall's assessment as referred to above.

245 That provision suggests that imposition of the condition would need to be predicated on analysis of the Project route and identification of locations that are potentially subject to such hazards. As we have noted previously, the Application documents did not provide that analysis, while Mr Hall noted that such locations (by reference to his Appendix 5) included the Waterview interchange and in the vicinity of the Arch Hill Scenic Reserve (NoRs 9 and 10) that contain steep land above the motorway alignment that may require detailed geotechnical investigation and design.

246 The Panel considers that the application of the Council's proposed GMP condition to NoRs 9 and 10 is an appropriate and proportionate response to the particular topographical characteristics of these areas. In the absence of any geotechnical analysis for these areas we do not consider the condition to be 'more onerous than necessary'. By confining the condition to NoRs 9 and 10 we have addressed the Applicant's complaint as to the untargeted nature of the condition as proposed by the Council. We do not see the possible duplication of existing engineering/geotechnical and statutory (i.e., Building Act) processes as a disqualifying factor, but rather a process that represents work that would be necessary in any event, and may subsequently inform such processes and the associated detailed design stage.

247 We further note that the Council has not sought that the GMP would form part of the suite of management plans to be subject to the certification process under Designation Condition 3, and so would not be subject to such processes.

248 Accordingly, it is our finding that it is appropriate to require the preparation of a GMP, and that be included within the Designation Conditions in respect of NoRs 9 and 10 (as

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[52] 29 July Memorandum, at [174].

Designation Condition 27A).

249 The Panel has also considered the subsequent conditions advanced by the Applicant as part of its 29 July Memorandum. We consider that the nature of the Council's queries and proposed conditions are not unusual in the context of a resource consent application involving groundwater drawdown issues, in particular in respect of the inclusion of a GSMCP condition(s). Typically, this would incorporate quite extensive provisions including requirements for such a management plan, pre-construction surveys of potentially affected structures, monitoring procedures and defining alarm level thresholds. Again, noting the lack of any design drawings (as separate from 'detailed design') the Panel has some concern that the Applicant's approach seeks to address this matter through the judgement of its expert on the basis of assumptions based on the current extent of knowledge of the proposed design and associated ground conditions.

250 The Panel has not been provided with an alternative suite of conditions, although it recognises the Council's reticence to suggest the same in the absence of further information. The additional information available to the Panel is limited to that provided by Mr Sheppard, and this indicates that additional conditions beyond those currently provided are sufficient to manage the extent of risk that has been identified (i.e., that it is very low). It is apparent from the memorandum of Mr Simonds and the outcome of facilitated discussions that this likely remains a contested position, but one which the Panel must progress on the basis of the conditions that have been proffered.

251 Accordingly, we have elected to grant the consents on the basis of the Applicant's additional proposed Consent Conditions 23 and 24. We recognise that these would appear to be somewhat more confined than would typically be applied to works of this nature, particularly in the absence of any drawings of the usual resource consent standard. In reaching that finding, we have, with some caution, found it necessary to place some reliance on the fact that the Project is being delivered by an experienced Crown agency.

Construction noise and vibration effects

Applicant assessment

252 The Application includes an Assessment of Construction Noise and Vibration Effects (**ACNVE**) report, prepared by Ms Siiri Wilkening. The ACNVE concludes that:[53]

> *The Project will be constructed adjacent to the existing SH16, a major transport corridor. The busway will be constructed in a manner similar to other large scale transport projects, using large earthmoving and construction machinery that will cause high levels of noise and, potentially, vibration when immediately adjacent to a building.*
>
> *Both construction noise and vibration criteria can generally be complied with for most works. When construction occurs within approximately 50m of buildings, there is a risk of noise criteria being infringed. Some high noise activities such as rock excavation (in the Western Springs area) or vibratory piling extend this area of influence to about 85m. Where effective noise barriers can be employed, the*

[53] ACNVE, at Section 6.

noise envelope reduces to about 1/3 of these distances, i.e. 16m and 28m respectively.

Construction will move along the alignment and therefore, works will only be close to each building for a few days or weeks. Station construction will be somewhat more contained in one location.

High vibration activities will be limited to vibratory rolling for the compaction of the busway when at grade, or where vibratory piling is employed. I recommend that all piling should be bored piling, avoiding high vibration generation.

Overall, any residual noise and vibration effects will be managed through a CNVMP and, where there is a risk of infringement of the noise or vibration criteria, Schedules to the [Construction Noise and Vibration Management Plan – CNVMP]. With these documents, proactive and responsive management and mitigation of noise and vibration effects will result in appropriate outcomes that are similar to those of other large infrastructure projects across Auckland and New Zealand.

253 Ms Wilkening's recommendations are adopted within the AEE, which concludes that through the implementation of the Construction Noise and Vibration Management Plan (**CNVMP**) and any required Schedules, "*the potential effects of the Project in relation to construction noise and vibration can be reduced to low*".[54]

Comments received

Auckland Council

254 The Council's memorandum referred to a review undertaken by Mr Peter Runcie (Consultant Acoustician). The memorandum notes that Mr Runcie considered the proposed approach and the conditions to manage construction noise and vibration effects proposed by the Applicant to be reasonable.

General comments

255 General comments regarding construction noise and vibration effects and their management were raised by nearby residents including how construction noise and vibration will be managed; requests to minimise noise and vibration during construction; how works at night will be managed; and concerns that there will be "significant" noise effects during construction.

Cabra Industrial Limited, Cabra Fred Taylor Limited and Foundry Industrial Limited

256 The comments from Cabra Industrial Limited, Cabra Fred Taylor Limited and Foundry Industrial Limited (**Foundry Group**) noted concerns with the content of the design-related Designation Conditions for construction noise and vibration effects as follows:

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[54] AEE, at Section 17.3.

(a) Condition 17(b) (Noise) allows for exceedances and redirects responsibility for noise limits to Condition 20, which, in summary, only requires consultation.

(b) Condition 18 (Vibration):

- The vibration limits in Condition 18 are numerically appropriate for the protection of structures and amenity, but the wording of the condition can cause confusion regarding applicability of the night time vibration limits in occupied sensitive receivers (first row). The wording in (a) states that vibrations shall comply with Category A if practicable and must comply with B daytime criteria. The wording implies that the works do not have to comply with night time limits for occupied sensitive receivers (the wording technically excludes the last column of the first row from the "shall comply").

- Point (b) allows for exceedances and redirects responsibility for noise limits to Condition 20.

- In the context of point (b) allowing for exceedances, there should be a limit associated with protection of structures. Putting temporary effects aside (e.g., noise and amenity vibrations), vibrations have the potential to cause permanent effects such as damage to structures (which are anticipated to be located on the site, in due time). There should be an upper limit of vibration levels on structures that cannot be overridden by the Condition 20 schedule.

(c) Condition 19 (CNVMP): The requirements for the CNVMP are typical and appropriate, other than in respect of complaints management.

(d) Condition 20 (CNVMP Schedules): As per (d), the schedule does not require certification or approval by an authority. It only needs to be submitted. This is effectively self-certification which is not typically appropriate when exceedances are proposed, especially during night time, and also considering the absence of hard limits on vibration for protection of structures.

Kāinga Ora

257 Kāinga Ora considers that external noise level of up to 65dB from construction noise would result in conversations becoming strained, particularly over a longer period of time. It also seeks clarification as to why the CNVE report does not include the effects for 50dB L to 65dB L, given that these levels are included in the noise standards noted in Condition 17 to be complied with on an "as far as practicable" basis.

Restaurant Brands Limited

258 The comments from RBL noted that while compliance with construction noise and vibration criteria may avoid building damage or technical exceedances, it does not, of itself, demonstrate that the KFC business at Point Chevalier can continue to operate efficiently during construction. The relevant issue is operational compatibility, including communication at ordering points, customer experience, and safe circulation, which are not expressly addressed by the proposed conditions.

National Trading Company of New Zealand

259 NTC, in respect of its supermarket at Point Chevalier, considered that the conditions framework is capable of managing construction noise and vibration effects but is reliant on the implementation of the CNVMP and associated Schedules responding to, rather than being informed by, the operational characteristics of the site.

Applicant response

260 The Applicant's response to comments on this topic refers back to Ms Wilkening's ACNVE as well as her further evidence statement dated 3 June 2026.

261 With respect to the matters raised by Foundry Group, the Applicant's response advised that:

(a) The Schedules are an important component of managing noise and vibration effects of which consultation is just one aspect.

(b) The Category A criteria and the Category B night-time criterion (for occupied sensitive use buildings) in Designation Condition 18(a) will manage the potential amenity effects from vibration. If the relevant amenity standards cannot be met, further management, mitigation and engagement is required.

(c) If construction cannot practicably comply with the Category A (amenity) criteria, then the Best Practicable Option shall be reviewed and refined to, as far as practicable, comply with the Category B (building protection) criteria. In either case, a Schedule would be prepared.

(d) The response notes in respect of (c) above that NZTA intended to propose minor amendments to Designation Condition 18 to clarify how it is to be applied. This was received on 29 July 2026 and makes it clear that compliance with the criteria set out in the condition table, and where those standards are not able to be met, then the methodology in Designation Condition 20 would apply.

(e) There is no missing element in terms of provisions relating to complaints management (per Designation Condition 19(c)(vii)).

(f) The Schedules will result in good environmental outcomes for affected residents without requiring Council certification. Practically, Schedules need to be prepared at short notice, and a requirement for Council certification would cause unnecessary delays for construction. Ms Wilkening considers NZTA's established practices for preparing Schedules to a CNVMP, including independent peer reviews, ensures that Schedules are prepared appropriately.

262 In response to Kāinga Ora, the Applicant noted that construction noise effects are assessed from inside neighbouring buildings, rather than outside where such effects are generally significantly louder than ongoing day-to-day activities. The Applicant considers the effects of these noise levels inside homes will be reasonable as levels at and above 65 dB L_{Aeq} are "*noticeable but unlikely to interfere with residential [...] daily activities*" as set out in Table 4-1 of the ACNVE. Accordingly, it considers that levels between 50 and 65 dB are also unlikely to interfere with those activities.

263 In terms of RBL, Ms Wilkening considers that the Indicative Design is not anticipated to result in disruption to the operation of the drive-through due to construction noise or vibration. If any additional noise mitigation is required to reduce noise levels further, it could be provided in the form of localised temporary construction barriers. She notes that the need for any such mitigation will be determined when the CNVMP is prepared. Vibration would not affect communication at the drive-through. In her view, Designation Conditions 17-20 will appropriately enable management and mitigation of potential construction noise or vibration effects on the drive-through operation.

264 With regard to the comments from NTC, the Applicant reaffirms its view that the proposed condition framework is the established and most appropriate method to address construction noise and vibration that may be generated in the future and will ensure the mitigation measures are designed to address the final design. They confirm that mitigation measures will be informed by the operational characteristics of NTC's New World supermarket at the time of the construction works because consultation is required when preparing a Schedule (per Designation Condition 20(c)(vi)). The Applicant notes that NTC has not proposed any amendments to the proposed conditions in this regard, and NZTA agrees that no amendments are required to address this matter.

265 We note that through their facilitated discussions, the Applicant and the Council were in agreement in respect of the Applicant's proposed construction noise and vibration conditions. In particular, the Applicant's 9 July Memorandum (at Appendix A) advised of the Council's agreement that no amendments (to address maintenance of noise mitigation or to address existing noise-related designation conditions) to proposed Designation Condition 29 are required.

Panel findings

266 Having regard to the evidence provided by the Applicant in respect of commenter concerns and the amended conditions, and the agreement of the Council to the conditions generally, the Panel finds that adverse construction noise and vibration effects can be appropriately managed and will be minor. We recognise that during times of construction in proximity to residents and businesses it will be adverse and noticeable, but are satisfied that these can be undertaken in compliance with relevant standards, or addressed more specifically through Schedules. This reflects what we understand to be reasonably standard practice associated with infrastructure works of this nature, and that the Applicant has extensive experience in managing such effects within urban environments.

Archaeological effects

Applicant assessment

267 Effects on archaeology are addressed in Part 5 Attachment A of the substantive application in relation to the archaeological authorities required under the HNZPTA.[55] The conclusion in Section 8 of the AEE states the following:

> *This assessment addresses the actual and potential archaeological and historic heritage effects arising from the Indicative Design as well as potential amendments to the Indicative Design within the Proposed Designation.*
>
> *The Proposed Designation was subject to desktop research and field survey, which identified two known archaeological sites: R11/2832 and R11/3567, both Midden associated with pre-European Māori land use around Meola Creek which will be affected by works. These two sites have previously been modified through works associated with SH16, which has affected their condition and potential information value. Although these values have been affected, any in situ features associated with them could, through archaeological investigation, provide information about the timing of occupation and subsistence patterns associated with the use of Meola Creek.*
>
> *Elsewhere along the Proposed Designation, it is possible that additional previously unrecorded pre-European Māori sites, most likely represented by midden/oven may exist in the proximity of waterways. There is also the potential for 19th century structures associated with domestic, commercial or industrial landscape use to be encountered, either near waterways or in council reserves where there hasn't been extensive ground modification. The values of these potential sites are not known but would be able to provide information about the timing of occupation and settlement in the area.*
>
> *Because any archaeological sites encountered within the proposed area of works (either known or unknown) are likely to be destroyed, the effects of the Project ahead of mitigation can be considered more than minor. If the mitigation and management measures discussed above are implemented, the Project will likely have less than minor effects on archaeological values. The mitigation measures will enable the delivery of the Project and meet the matters set out in section 59(1)(a) of the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA).*

Comments received

Historic Places Trust Pouhere Taonga

268 HNZPT provided comments in respect of the proposed Archaeological Authority, and related conditions, noting that:

> *7. The parties have agreed all but one condition and will continue discussions to resolve this and provide the Panel with an agreed condition set. The*

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[55] Part 5: Heritage New Zealand Pouhere Taonga – Archaeological Authorities. Appendix A. Assessment of Archaeological Effects - Arden Cruickshank, 15 December 2025.

outstanding matter of contention relates to a condition relating to landowner consent.

8. *The Applicant and HNZPT have identified a way forward that will provide for works to commence in a staged manner whilst also complying with the land owner consent requirement. This involves splitting the authorities and will require some work to identify the relevant land parcels for each of the authorities.*

9. *The parties have agreed they will continue to work on this approach and will provide a joint memo reflecting any agreement to the Panel before it issues its draft decision and conditions. Any joint memo will be accompanied by all draft archaeological authorities for the Project.*

10. *Attached at Appendix A is HNZPT's recommended condition set, noting that the disagreement sits with condition 4.*

269 The Panel notes that HNZPT's comments related to the earthworks associated with the construction of the Project between Brigham Creek and Whau River (Authority no.2026-568) and between Waterview and Ian McKinnon Drive (Authority no.2026-569). Condition 4 (Landowner Consent) of those authorities is as follows:

> *The Authority Holder must provide HNZPT with the written consent of all landowners of the land subject to this Authority prior to any archaeological works commencing.*

Auckland Council

270 The Council's archaeology specialist, Ms Mica Plowman has reviewed the application information, and by way of summary, Ms Plowman advises that she:

(a) Agrees with and supports the Applicant's assessment of the potential risk to previously unidentified archaeological/historic heritage features within the Project area;

(b) Agrees that it is appropriate to secure an archaeological authority under s 43 of the FTAA;

(c) Notes that the mitigation proposed and the proposed conditions are framed solely for the provisions of the HNZPTA (pre-1900 archaeological sites);

(d) Recommends that the provisions provided in the Archaeological Management Plans for early 20th century historic heritage, which are outside of the jurisdiction of the HNZPTA, should be carried over to the proposed NoR and the resource consent conditions sets; and

(e) Recommends the following amendment to both NoR and resource consent sets of construction-related conditions:

> *That any modification to significant post 1900 historic heritage is undertaken in accordance with the methodologies outlined in the projects Archaeological Management Plans.*

271 The Council's planning experts adopted Ms Plowman's assessment and provided proposed condition wording to give effect to her recommendations, noting that this

would "*assist in providing a clear and robust process for the management of potential archaeological effects, not otherwise covered by another statutory authority, and to ensure that these are minimised as far as practicable*".[56]

272 The Council further noted that its proposed condition should be standalone and be incorporated into both the Consent and Designation Conditions.

273 As part of the facilitated discussions, the Council's position appeared to have been modified to the requirement for a more confined condition to be applied to all NoRs. However, agreement was reached that this condition was not required.

Applicant response

274 The response from the Applicant in respect of HNZPT's comments advised that, in terms of Designation Condition 4, it should not be required to provide HNZPT with the written approval of owners of land subject to the Authority prior to commencing archaeological works. Instead: [57]

> *… NZTA considers it should only be required to provide the written consent of the owners of land on which the archaeological works will occur.*
>
> *For this Project, NZTA seeks two archaeological authorities (west and east) in relation to land owned by the Crown or Council only. Accordingly, in this particular case, HNZPT's proposed landowner condition is likely to be workable and NZTA does not intend to contest it. Nevertheless, to minimise any practical risk associated with the condition, NZTA and HNZPT have agreed to work together to split the two archaeological authorities to better reflect NZTA's intention to stage the construction of the Project. NZTA confirms that it will continue to work with HNZPT to split the authorities and agree all of the conditions, and provide the Panel with a joint memorandum prior to the Panel issuing its draft decision and conditions.*

275 It further advised that: [58]

> *…to minimise any practical risk associated with the condition, NZTA and HNZPT have agreed to work together to split the two archaeological authorities to better reflect NZTA's intention to stage the construction of the Project. NZTA confirms that it will continue to work with HNZPT to split the authorities and agree all of the conditions, and provide the Panel with a joint memorandum prior to the Panel issuing its draft decision and conditions.*

276 Further information was provided in respect of this matter on 7 August 2026, by way of a joint memorandum of counsel for the Applicant and HNZPT which included a set or archaeological authorities (four in the west, four in the east) and associated conditions.

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[56] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [43].
[57] Memorandum of Counsel for the Applicant dated 3 June 2026, Appendix A at p 45.
[58] Memorandum of Counsel for the Applicant dated 3 June 2026, Appendix A at p 45.

277 In terms of the comments from the Council, as noted above the more confined condition that was the subject of facilitated discussions was subsequently agreed by the parties to not be required.

Panel findings

278 The Panel is satisfied that the amended condition framework agreed between the Applicant and HNZPT will provide for the appropriate management of archaeological remains within the Project footprint. The Panel also notes the agreement between the Applicant and the Council that an additional condition related to the NoRs is not required, and accepts and agrees with that outcome.

279 We therefore confirm the inclusion of the agreed Archaeological Authorities and associated conditions as attached as Appendix C to this decision.

Built heritage effects

Applicant assessment

280 Effects on built heritage is included in Section 5 of Part 4 of the Application which references the Assessment of Built Heritage Effects (**BHE**) report prepared by Carolyn O'Neil. In terms of construction effects, it was Ms O'Neil's view that the complete loss of the three buildings in the Point Chevalier historic townscape (Commercial Building at 1224-1228 Great North Road, the Ambassador Theatre and Fisheries Building), associated with NoRs 9 and 11, would result in a significant adverse effect on built heritage values. The authors of the AEE therefore incorporated a hierarchy of measures to be considered through the detailed design stage of the Project that would "*appropriately avoid, remedy and/or mitigate the potential effects on the Point Chevalier historic townscape*". In the event that these three buildings all required demolition, the effects would be moderate, given that the Commercial Building and Fisheries Building are not scheduled and can be removed as a permitted activity under the AUP. In the event that the buildings can be retained in part, the AEE authors consider that the measures set out in the proposed conditions result in a low-moderate effect.

281 Ms O'Neil advised that the potential effects of the Project on the former Chamberlain Park Clubhouse at 990 Great North Road (NoR 9) would be moderate in the event that the building is not able to be retained, noting that the former Clubhouse is not the primary feature of the extent of place in the location. This was agreed within the AEE, which further comments that if the former Clubhouse can be retained, the potential effects on the building would be negligible.

282 Four dwellings within the Proposed Designation are within the Arch Hill SCA, and are assumed to require demolition to enable the Project. These dwellings are identified as 36 and 39 King Street, and 1 and 3 Partridge Street. Ms O'Neill considers the loss of those buildings (which are not scheduled) will not adversely affect the values of the SCA overall, and the Project's special character impacts will be low-moderate.

283 Operational effects on built heritage arising from the Project were assessed by Ms O'Neil as negligible, as the affected sites are already situated in urban environments or adjacent to arterial roads receiving bus traffic. A bridge is proposed to be constructed near Western Springs, adjacent to Great North Road and opposite MOTAT, with the former tram shelter being the closest scheduled heritage place to the NoR. Despite the

elevated structure's visibility, Ms O'Neil does not consider the operation of the Project will have adverse effects on the heritage values of the Pumphouse, Engineer's House, or tram shelter, as these buildings would remain legible within the streetscape, and the busway may enhance public appreciation and access to MOTAT. The AEE authors agreed with Ms O'Neil that no mitigation is necessary to manage potential operational effects of the Project on built heritage.

Comments received

284 Effects on built heritage were considered on behalf of the Council by Senior Built Heritage Specialist, Ms Mahshid Kakouei Ezbarami. Ms Ezbarami's assessment was focused on the built heritage areas located within, and adjacent to, the Point Chevalier Station, the Chamberlain Park Clubhouse and affected Special Character Properties (NoR 10).

285 The Council's comments noted that Ms Ezbarami does not support the Application from a built heritage perspective, and advised that the proposed range/hierarchy of options (as demonstrated through Designation Conditions 12-14), from total demolition to potential adaptive reuse, lacks certainty and is considered to present an unacceptable risk to significant heritage buildings. The comments advise that:

> *While the Point Chevalier town centre is not scheduled as a historic heritage area under Schedule 14.1 of the AUP, the Point Chevalier Historic Heritage Survey (Auckland Council, 2014) establishes that the area holds considerable historical, physical, aesthetic, and contextual significance. The group of commercial buildings, comprising both scheduled and unscheduled heritage places, collectively defines the heritage and townscape values of the Point Chevalier centre.*

286 The comments also highlight that Ms Ezbarami has provided a site-by-site assessment for each affected building/extent of place, which describes those areas where partial demolition could be accepted as a compromise, and specific conditions have been recommended to replace proposed Designation Conditions 12-14. The Council's planners recommended the inclusion of Ms Ezbarami's conditions, to ensure that historic heritage and special character values are protected, particularly with respect to the recommendations made in relation to the scheduled heritage buildings, as a recognised matter of importance under s 6(f) of the RMA. They also noted that the contributing value of the heritage buildings and commercial buildings which are of importance to the historical context of the Point Chevalier town centre is expressed in strong terms within the comments provided by the Albert-Eden Local Board.

287 The Council's conditions that formed the basis of facilitated discussions sought to provide some increased specificity as to the protection of the Commercial Building and Fisheries Building, the Ambassador Theatre, Chamberlain Park Gatehouse and special character buildings at 36 and 39 King Street and 1 and 3 Partridge Street. These conditions, as amendments (in part) to those proposed by the Applicant, generally sought to emphasise building protection in the first instance, and further provisions to be applied in the event that full or partial demolition is required. In particular:

(a) For the Ambassador Building, the Council sought stronger provisions given the scheduled heritage status of this building that does not enable full demolition, but sets out measures to enable partial demolition if required; and

(b) For the Chamberlain Park Clubhouse, the Council has amended the condition to be more spatially specific, noting that the removal of the later southern enclosed verandah portion of the building is supported in principle. Overall the Council considers that the Clubhouse is a significant contributor to the scheduled heritage extent of place.

288 An associated (and sequential) condition requiring a Built Heritage Construction Management Plan (**BHCMP**), as originally proposed by the Applicant, was agreed while noting the possibility of consequential cross-referencing changes dependent on the Panel's decision on the aforementioned conditions.

Applicant response and Panel findings

289 The Applicant states that Council agrees that proposed Designation Condition 23 shall require preparation of a BHCMP, but otherwise the conditions addressing the management and mitigation of heritage effects were not agreed. Appendix A to the Applicant's 9 July Memorandum sets out, in comprehensive detail, the Council's position, and its response, in relation to each heritage issue. That detail, which the Panel relies on, is not repeated in this decision. Each key site is addressed below.

290 *Ambassador Theatre (1218–1220 Great North Road):* The Council suggests that the designation conditions must explicitly require the retention of this building. Should partial demolition be proven absolutely unavoidable due to Project constraints, such loss must be strictly limited to the southern two vertical bays (which have been previously altered). The Applicant recommends prioritising retention of the original footprint of the Ambassador Theatre and adjacent commercial building and Fisheries Building. If that cannot be achieved, Ms O'Neil recommends retention of as much of the Ambassador Theatre as possible, and that removal is focused on the modified southern end of the building. In accordance with those recommendations, the Applicant's proposed Designation Condition 21 requires the original building footprint of the Ambassador Theatre to be retained if practicable and, if not, requires NZTA to consider retention in part, including adaptive re-use.

291 The Ambassador Theatre is scheduled in the AUP. However, Policy D17.3(26) recognises that total or substantial demolition or destruction of the Theatre may occur for infrastructure that will provide a significant public benefit, where there is a functional need or operational constraint, and there is no reasonable practicable alternative. The Panel accepts that the Project meets this policy and that proposed Designation Condition 21 reflects that policy.

292 The Applicant further states that it cannot commit absolutely to retaining the Ambassador Theatre in whole or in part. The Ambassador Theatre is much larger than the adjacent buildings and the Indicative Design directly impacts it (see Figures 4-1 and 5-3 in the Assessment of Built Heritage Effects). As set out in Section 5.1.2 of the AEE, the Applicant will address the practicability of retaining the Ambassador Theatre in whole or in part, during the detailed design process. That process will be informed by "*structural and topographical data and design detail"* and "*may also be contingent on the structural soundness of the building structure should alterations be made to the rear".*

293 The Panel is satisfied that while there is no absolute assurance that all heritage values associated with the Theatre will be retained, there is a hierarchy of effects management, with retention at the top of the hierarchy, and in the event it is not

practicable to retain the buildings in whole or part, proposed Designation Condition 21 requires archival documentation and recording, and the installation of interpretative material at the Point Chevalier Station. Under Chapter D17.3(26) of the AUP, the Applicant is not required to provide absolute assurance that historic heritage will be retained. Instead, the Applicant is required to minimise effects on heritage values to the extent practicable. We are satisfied that the Applicant's proposed conditions secure that outcome.

294 *Fisheries Building (1212-1216 Great North Road):* The Council does not support a total demolition outcome, noting partial demolition restricted to the heavily altered rear sections is acceptable, as are modifications to enable its adaptive reuse as part of the proposed station. The Applicant advises that the Fisheries (and Commercial Buildings) are not scheduled, and the alteration, demolition or removal of those buildings is permitted by the AUP (via Rule H10.4.1(A36)). The Applicant proposed conditions for these two buildings based on their collective value with the Ambassador Theatre, recognising however that they can be removed as of right.

295 *Commercial Building (1224-1228 Great North Road):* Like the Fisheries Building, the Council does not support a total demolition outcome, noting partial demolition restricted to the heavily altered rear sections is acceptable. For the Applicant, it is noted that this building is not scheduled, and alteration, demolition or removal is permitted.

296 Overall, the Council proposes deletion of the Applicant's proposed Designation Condition 21 for the Ambassador Theatre, Fisheries and Commercial Building and that it be replaced with a separate condition for the Ambassador Theatre (HERc1) and a separate condition for Fisheries and Commercial Buildings (new Designation Condition 21).

297 The Applicant's proposed designation conditions for the Ambassador, Fisheries and Commercial Buildings are described by it as a *"mitigation package to manage the Project's effects on built heritage in Point Chevalier".* Despite the permitted activity status for demolition or removal, the Applicant's proposed condition requires the retention, if practicable, of the original building footprints of the Fisheries and Commercial buildings, along with the Ambassador Theatre, as a 'package' which reflects the buildings' collective value. The proposed package sets out a hierarchy of mitigation, commencing with retention in the first instance if that is practicable.

298 Overall, the Panel accepts the Applicant's position in relation to these heritage matters, and supports the proposed 'mitigation package' under proposed Designation Condition 21.

299 *ASB Building (1210 Great North Road):* The Council has raised concerns that the demolition of adjacent buildings will permanently and irreversibly alter the ASB Building's historic context and setting, fracturing its contribution to the townscape. The Council does not however propose any conditions to address this matter.

300 The ASB Building is located outside the designation footprint. The Applicant acknowledges that demolition within it will diminish the ASB Building's context heritage value. Nevertheless, Ms O'Neil for the Applicant concludes that those effects "will not

result in adverse effects on the overall significance of the place such that it no longer meets the threshold for scheduling".[59]

301 The Applicant's proposed Designation Condition 21 requires retention of the Ambassador Theatre and adjacent buildings if practicable, and according to the Applicant, therefore also mitigates any effects of the ASB Building's context to the extent practicable. The Applicant further contends that although demolition of the Fisheries Building may alter the setting of the ASB Building, that demolition is a permitted activity, and as such, those changes to historic context and setting do not cause or constitute relevant effects.

302 Further, Ms O'Neil considers the potential indirect effects of Project works in proximity to the ASB Building (accidental damage and vibration effects) can be appropriately managed.[60] Proposed Designation Condition 19(c) addresses potential vibration effects and proposed Condition 23 addresses accidental damage risks, as well as pre- and post-construction building condition surveys and building monitoring during construction works.

303 Overall the Panel is satisfied that these proposed designation conditions work as an effective mitigation package, and are appropriate.

304 *Gateway (956-990 Great North Road):* The Council contends that the Chamberlain Park Clubhouse must be retained, and suggests a condition requiring the retention of the former Chamberlain Park Clubhouse and basalt boundary wall (except for the southern enclosed verandah portion of the building).

305 The Applicant did not agree with this outcome, noting that the Gateway is located outside the Proposed Designation and therefore direct impacts on it have been avoided. Ms O'Neil considers that "*any potential indirect effects generated by vehicles, machinery, or works in proximity to the Gateway can be managed*".[61]

306 The Applicant also notes that the former Chamberlain Park Clubhouse is not specifically identified as a scheduled feature, although it is located within the extent of place for the Gateway. Ms O'Neil considers the former Clubhouse makes a "*contribution to the understanding and appreciation of the heritage values of the Gateway*". Nevertheless, if it occurs, the loss of the former Clubhouse "*will not result in adverse effects on the overall significance of the place such that it no longer meets the threshold for scheduling*".[62]

307 The Panel notes that the Indicative Design of the busway shows it is located "*approximately 2-3m away from the rear corner of the clubhouse building*". Given this close proximity, it will not be possible to confirm if the building can be retained until the detailed design process.

308 To address this issue, Ms O'Neil recommends retention of the former Clubhouse if that can occur. In accordance with that recommendation, the Applicant's proposed Designation Condition 22 requires the former Clubhouse to be retained if practicable

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[59] BHE, at Section 4.2.1.1.2.
[60] BHE, at Section 4.2.1.1.2.
[61] ABHE, at Section 4.2.1.3.1.
[62] ABHE, at Section 4.2.1.3.1.

and, if not, requires NZTA to undertake archival documentation and recording and install interpretative material at the Western Springs Station.

309 The Applicant also points to the benefits of the Project as being significant and outweighing any residual heritage adverse effects from removal of the Chamberlain Park Clubhouse.

310 The Panel is satisfied that the Applicant's proposed Designation Condition 22 is appropriate.

311 Finally on this topic, an issue relating to special character has been raised by the Council, whose expert says the buildings at 36 and 39 King Street, and 1 and 3 Partridge Street, Grey Lynn *"make a significant contribution to the [SCA]. Therefore, the most appropriate approach would include either relocating the buildings within the site to provide the necessary space for the project or temporarily relocating the buildings off-site during the construction process…".* The Council suggests a condition requiring retention of these buildings if practicable, or relocation of the buildings.[63]

312 The Applicant considers that in light of the spatial extent of the SCAs in Auckland, Dr Ezbarami's view that four houses makes a significant contribution to the SCA is "objectively unsustainable". With respect, that is not the Council's assertion. The Panel understands the Council to be focussed on the contribution to the relevant SCA, not SCAs generally. To that point, the Applicant says the four dwellings in the SCA do "*support the broader values and qualities of the SCA*", but that the loss of those dwellings will not impact "*the collective and cohesive qualities of the streetscape and overall SCA*".[64] The Applicant says the loss of the Partridge Street dwellings will impact the immediate streetscape, but not the overall qualities of the SCA.[65] Ms O'Neil does not recommend any mitigation for the removal of the four dwellings.[66]

313 The AUP acknowledges that new infrastructure may need to be located in historic heritage and special character overlays, and requires consideration of "*the economic, cultural and social benefits derived from infrastructure and the adverse effects of not providing the infrastructure*" (Policy E26.2.2(6)(a)). The AUP directs consideration of "*whether there are any practicable alternative locations, routes or designs, which would avoid, or reduce adverse effects on the values of those places*" and "*the type, scale and extent of adverse effects on the identified values of the area or feature*" (Policy E26.2.2(6)(d) and (g)).

314 The Panel accepts that based on maintaining the balance of the Indicative Design, no practical alternative locations, routes or designs could be adopted to avoid this effect. Given the Project has significant economic and social benefits, while the loss of these houses will have an adverse effect on the SCA, the proposal remains in accordance with the relevant AUP policies in an overall sense. On this basis the Panel does not support the Council's proposed conditions.

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63 Memorandum of counsel for the Council dated 8 July 2026.
64 BHE, at Section 4.2.1.5.2.
65 BHE, at Section 4.2.1.5.2.
66 BHE, at Section 5.

Urban Design

Applicant assessment

315 Urban design considerations were not specifically addressed through the application documents other than in respect of the approach to 'indicative design', set out in section 4 of Part 2 of the Application, and was described as follows:

> *…The Indicative Design was prepared by a team that included urban design and station design experts. This approach has ensured that the Indicative Design addressed the urban design outcomes sought by the Project, such as promoting ease of use, connectivity and integration with walking, cycling and bus connections within the Proposed Designation.*
>
> *The final design of the Project will be refined and confirmed at the detailed design stage. The final design will include:*
>
> - *Final form of structures such as bridges, ramps, retaining walls;*
> - *Stormwater infrastructure locations;*
> - *Final earthwork extents, soil disposal sites;*
> - *Signage;*
> - *Lighting;*
> - *Final form of local access roads and pedestrian infrastructure; and*
> - *Final form of station facilities, operational and maintenance facilities.*
>
> *The detailed design for the Project will be undertaken before construction. Outline Plan/s will be submitted where relevant to Auckland Council as set out in s176A of the RMA in stages.*

316 Section 6 of Part 2 also refers to engagement with the Urban Integration Working Group which was described as a strategic-focussed group with representatives from NZTA, AT and the Council. This working group held regular meetings during 2024-2025 to discuss design developments with a particular focus on stations and urban design opportunities.

Comments received

317 The Council's comments addressed urban design matters with reference to the review by its Urban Design Specialist, Frank Pierard. That review was described as focusing on urban design matters relevant to the NoRs, including station and corridor integration, interfaces with adjacent land uses, accessibility, legibility, Crime Prevention Through Environmental Design (**CPTED**), amenity, station environment quality, and the adequacy of the proposed designation condition framework. Mr Pierard noted his support for the NoRs in principle, in recognition of the Project's strong strategic transport benefits for access, mode choice and connectivity. By way of summary, the

key matters arising from Mr Pierard's review were set out in the Council's memorandum as follows:[67]

> (a) *The key issue is the condition framework whereby substantial urban design detail is deferred to later stages, creating a risk that outcomes are not well coordinated. Mr Pierard notes the following: "The application's reliance on an indicative design and outcomes-based conditions reinforces the importance of a clear condition framework. From an urban design perspective, where the final design may differ from the indicative design relied on for assessment, the conditions need to provide sufficient direction on the urban design outcomes to be addressed through later Outline Plan stages"*
>
> (b) *Mr Pierard accepts reliance on [OPWs] but only if designation conditions clearly direct the urban design outcomes to be achieved. Otherwise, there is a risk of fragmented or lower-quality design responses.*
>
> (c) *Mr Pierard recommends strengthening designation conditions, particularly through requiring an Urban and Landscape Design Management Plan (ULDMP) (or equivalent) to accompany OPWs. The ULDMP should ensure later design stages address core urban design outcomes, including:*
>
> - *station and corridor integration with surrounding areas*
> - *safe, legible pedestrian and cycling access*
> - *accessibility and universal design*
> - *CPTED (safety, lighting, surveillance)*
> - *public realm quality and amenity*
> - *treatment of edges, retaining structures and level changes*
> - *integration with landscape, stormwater and ecological elements*
> - *management of residual or interim spaces*
> - *sensitive interfaces (e.g. town centres, schools, residential areas, open space, heritage contexts).*
>
> • *Existing conditions put forward by the applicant (e.g. landscape planting, construction traffic or noise and vibration management plans) do not adequately secure broader urban design outcomes.*
>
> *...*

[67] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [75].

(d) Emphasises a need for focused attention at key locations (e.g. major stations, town centres, school interfaces, constrained corridors), where integration, legibility, safety and public realm quality are most critical.

(e) Mr Pierard concludes that, subject to strengthened conditions (particularly a ULDMP), the project can achieve appropriate urban design outcomes through later detailed design stages.

318 The review by Mr Pierard concluded that the Project can achieve appropriate urban design outcomes on the basis of strengthened conditions, including the recommended Urban and Landscape Design Management Plan (**ULDMP**) provision (as drafted in conjunction with the Council's landscape architect, Mr Peter Kensington, per the following section regarding landscape effects). It was also confirmed that his assessment did not identify any information gaps, with the key issue being how intended urban design outcomes would be secured.

319 Through the facilitated discussion process, the Council proposed amended Designation Conditions to incorporate a CPTED condition, a 'Height in Relation to Boundary' (**HIRTB**) condition (NoRs 1-3) and a condition requiring a 'Form and Landscaping Statement' (at proposed Designation Condition 15). These were stated to form part of a package of conditions alongside amendments to Designation Condition 26 (Landscape Planting) and as part of an agreed collaborative approach between the Applicant and the Council described in a proposed 'Explanatory note' (forming a preface to the Designation Conditions). These conditions were in lieu of the Council's originally proposed ULDMP and Parks and Community Facilities (**PCF**) conditions. The 'Explanatory note' was as follows:

Explanatory note concerning design process and open space management

(a) The project's urban and landscape design and open space aspects are to be addressed through two complementary mechanisms operating over the life of the project:

(i) The first is a collaborative engagement process and way of working agreed between the Requiring Authority and Auckland Council in relation to design, open space and other matters.

(ii) The second is the designation conditions. Broadly, each outline plan of works is to be accompanied by a form and landscape statement articulating the design decisions reflected in that lodgement. Other conditions also address design-related matters, including, the condition requiring Crime Prevention Through Environmental Design (CPTED) and a height in relation to boundary condition. There is also a discrete condition addressing the maintenance of public access through open space as far as practicable.

(b) Together, these mechanisms provide an integrated approach: early and ongoing collaboration informs each stage, and the form and landscape statement lodged with each outline plan of works records the resulting design decisions made by the Requiring Authority, to help inform the Council's consideration of each outline plan of works.

(c) This note is explanatory only. The enforceable requirements are in the designation conditions.

Applicant response

320 The Applicant's 29 July Memorandum advised that disagreement remained with aspects of the wording of the three aforementioned Designation Conditions (re-numbered as 15A – 15C) as well as the Explanatory Note.

321 As previously noted, the Applicant's preferred wording of the conditions did not incorporate the Council's version, but a comparison between the two sets indicates the following differences:

(a) The difference in the first clause of the HIRTB condition arises from a difference in the activities captured by the condition ('buildings' versus 'retaining walls and/or bridge structures') and the allowable height at the designation boundary with a Residential zone, with the Council proposing 3m, in accordance with current residential standards (and a 45° setback thereafter) and the Applicant seeking 30m. The Applicant's 9 July Memorandum disagreed with the inclusion of stations (as buildings) and noted the potential for rezoning for areas adjacent to stations and it would therefore be inconsistent with that outcome for the stations that provide for that change to be restricted relative to the surrounding land.

(b) The Applicant's response suggests that the Council's approach has sought to apply the HIRTB condition to all proposed designations. However, this was not apparent from the version received from the Panel (i.e., the Council's version clearly shows that it would only apply to NoRs 1 – 3).

(c) The differences in respect of the Form and Landscaping Statement were confined to the objective of the condition as set out in clause (a) (the Council's addition shown in strikethrough and underline below):

> *...The objective of the Form and Landscaping Statement is to describe how the design of the permanent Project works has ~~responded to~~, as far as practicable, addressed the interface with the immediately adjoining environment.*

322 The Applicant considered that the term 'addressed' suggests an absolute requirement despite that aspect of design being inherently subjective. In addition, it expressed concern regarding the meaning of 'interface' as being unclear and introducing further subjectivity. The Applicant also considered that the term 'as far as practicable' to be inappropriate as it suggests a substantive requirement. It noted that this contrasts to the nature of the Form and Landscaping Statement as a descriptive document that records elements of design to be attached to an Outline Plan. In respect of the Explanatory Note, the Applicant considers that this does not assist with the interpretation or application of the relevant conditions or serve a useful purpose. It therefore submitted that the Council's drafting is 'more onerous than necessary', and that its drafting should be preferred.

Panel findings

323 In terms of the various matters raised in respect of these conditions, the Panel makes the following observations and findings:

(a) The Panel considers that the issue of stations being potentially captured by the HIRTB condition within a 'building' reference appears somewhat moot as NoRs 1 – 3 are not for station facilities. Therefore, the condition can more logically and without consequence be confined to 'retaining walls' and 'bridge structures'.

(b) The Panel notes, by reference to publicly available maps relating to Proposed Plan Change 120 (**PC120**), that the practical effect of the Applicant's HIRTB condition would appear limited to confined parts of the southern end of NoR 2, where it abuts Hobsonville Road and Orell Avenue (to the east) and Westgate Drive (to the west), where a height standard of 34.5m has been proposed. That is something of a moving target given that PC120 is about to be renotified (although we understand these heights are to be retained in the re-notified version). However, the Panel does not agree that the boundary height for the HIRTB condition should be set at 30m, irrespective of whatever re-zoning may emerge for Westgate Drive and Orell Avenue as a result of PC120 proceedings. The Panel does not consider that the boundary height of such structures should necessarily mirror the maximum height enabled for the adjacent zone, given the amenity, shading and dominance effects that would appear likely to arise and that would impact on the use of such land sought to be enabled by PC120.

(c) The Panel recognises, however, that a 3m height as sought by the Council may not be practical in the context of the topographical constraints of the Project, but in the absence of evidence as to the extent of this as an issue, we rely on the 3m standard as prescribed by the Terrace House and Apartment Buildings zone cited by the Applicant.

(d) The Panel agrees with the Applicant that the Council's proposed changes to the objective of the Form and Landscaping Statement appears somewhat superfluous and does not meaningfully add to the requirement to "respond to the immediately adjacent environment". We do not therefore adopt the Council's wording in this regard.

(e) While the Panel acknowledges the basis on which the Council's Explanatory Note has been advanced, we consider that an understanding of the purpose of the relevant conditions is sufficiently clear on their face and that the Explanatory Note does not add significantly to that understanding. The Panel also notes that the Form and Landscaping Statement condition includes the following advice note (which was not in contention):

> *During development of design for the Project, the Requiring Authority will work collaboratively with Auckland Council when considering the above matters. The Form and Landscaping Statement will be informed by that work.*

(f) The Panel considers that this advice note succinctly captures the overall intent of the Council's Explanatory Note, and we are satisfied that this is sufficient to guide the expected approach to the development of the Form and Landscaping Statement(s).

324 The conditions set out at Appendix A reflect the Panel's findings set out above.

Landscape and visual effects

Applicant assessment

325 The landscape and visual effects of the NoRs are addressed in Section 14 of the AEE, which refers to the LVA prepared for the Applicant by Mr Jones. The LVA addressed considerations related to effects on landscape character, visual amenity and natural character, as well as site-specific operational effects. In all respects he considered the adverse effects to be low – for example, the conclusion within the AEE with respect to Mr Jones' assessment of visual amenity effects is as follows:[68]

> *...from most locations, the busway will be viewed in the context of SH16 and associated transport infrastructure. Residents directly adjacent the proposed elevated busway structures and new interchange overpasses will experience a greater level of permanent change However, most proposed bridges and stations are within locations that transport infrastructure already exists. Where underpasses are proposed, they will reduce the potential visual prominence of these sections of busway. Overall, Mr Jones considers that the potential adverse effects of the Project on visual amenity are considered low.*

326 The LVA included sensitivity testing associated with the potential for alignment changes relative to the concept design. This identified the potential for a bridge (or overpass) at Westgate and bridges at Royal Road, Lincoln Road and Te Atatū Road, and Point Chevalier would result in moderate or moderate-high adverse effects on landscape character and visual amenity.

327 The AEE proposed certain landscape-related measures to address effects at the operation stage associated with the Project, including provision of landscape details as part of an Outline Plan, with the proviso that such measures are implemented "where practicable".

328 Mr Jones' assessment also sought retention of mature pōhutukawa alongside Great North Road in Western Springs to provide visual softening and separation of the works and bridge that crosses St Lukes Road. The AEE notes that it is not practicable to retain all mature trees in this area, as space is required to accommodate the construction of the Project and the permanent work. A condition is therefore proposed for the NoRs that requires the retention of these trees where this is practicable to manage this potential effect on visual amenity. The AEE concludes that with Mr Jones' recommended mitigation, the potential effects of the Project are considered acceptable, and while he considers that some discrete locations may receive a moderate or low-moderate level of effect, for these specific areas he has identified no specific mitigation measures are warranted.

Panel RFI

329 Through its Minute 5, the Panel sought further comment in respect of specific aspects of the LVA, including as to colocation and integration with SH16 across coastal areas, presumptions of landscaping (and lack of inclusion of Mr Jones' recommendations in

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[68] AEE, at Section 14.3.2.

the proposed conditions), the residential context of McCormick Green, Te Atatū and how vertical changes in the alignment of the Project would be managed.

330 This was responded to via the Applicant's memorandum dated 21 May 2026 (at Appendix A), and the following key points from that response are noted below:

(a) While the final design may differ from the Indicative Design, the works at Te Wai-o-Pareira/Henderson Creek are constrained by the limited extent of the Project area in this location, and the height requirements of proposed Designation Condition 21. The separation here from the SH16 bridge is to avoid other Watercare and Transpower infrastructure. It highlights the assessment at section 3.2.1.3 of the LVA as to the low-moderate natural character value of Henderson Creek, "*…attributed to the coastal edge and tidal flow margin, the mangrove and native vegetation cover and also the presence of the adjacent industrial land uses and the existing SH16 motorway bridges and the degraded stream margin*". It notes Mr Jones' advice (as author of the LVA) that the new bridge "*will be read as integrated transport infrastructure associated with the SH16 corridor*".

(b) NZTA is intrinsically motivated to undertake landscape planting in areas not under pavement to minimise its maintenance burden, and details of such planting, including a 'specific landscape strategy' will be determined closer to construction of the relevant stage. As required via proposed Designation Condition 26, the landscaping proposed for each stage of the Project will be shown in the Outline Plan.

(c) The attributes for which the Harbour View Pleistocene Terraces ONF is scheduled relate to scientific and geological matters, rather than landscape values.

(d) Although the Te Atatū Ōrangihina station will result in the loss of open space and an increase in transport infrastructure, the station's location is logically proximate to the SH16/Te Atatū Road intersection, which provides connection to the wider area, particularly into Te Atatū north and south. The Applicant notes Mr Jones' view that the proposed station and associated infrastructure is appropriate in this context.

(e) Visual simulations of the proposed crossing structures have not been provided due to the indicative design of the Project to avoid potentially misleading representations of their appearance.

(f) The Panel noted the LVA advice that there is a lack of design certainty and that the potential for more vertical changes would be 'moderate/moderate-high' in regard to Westgate, Royal Road, Lincoln Road, Te Atatū and Point Chevalier. The Applicant advises that it is not proposing any mitigation for the effects of the structures that are a necessary and integral part of the Project, and that elevated structures have unavoidable, but localised, adverse impacts. It refers to Policy 1(1) of the National Policy Statement for Infrastructure 2025 (**NPS-I**) which requires the Panel to "*ensure that the national, regional or local benefits of infrastructure, relative to any localised adverse effects on the environment, are recognised and provided for*". On that basis, the Applicant considers that localised adverse effects are acceptable in order to deliver the benefits that infrastructure such as the Project will provide, and is consistent with the purpose of the FTAA in that regard.

(g) The Applicant acknowledges the LVA recommendation that the Project "*implements landscaping as normally carried out as part of major transport infrastructure works*". However, it does not consider such a condition is necessary to achieve the recommendation set out in the LVA. The Outline Plan for each stage of the Project will show 'the height, shape, and bulk of the … work', 'the likely finished contour of the site' and 'the landscaping proposed' as required by s 176A(3) of the RMA and a condition is not necessary to duplicate those requirements, nor to require NZTA to comply with its own guidelines (which it notes may also change from time to time).

Comments received

331 The Council's comments included a review by Mr Kensington, consultant landscape architect. A summary of that review was provided within the Council's memorandum noting that Mr Kensington generally concurs with the LVA, concluding that the Project would be appropriate within the context of an existing infrastructure corridor. His review also confirms that no adverse effects are anticipated on protected volcanic viewshafts, and that construction-related effects are expected to be localised and temporary within the existing modified environment.

332 However, it was noted that Mr Kensington considered that the Applicant's recommendations do not adequately address the management of potential adverse effects, with a primary concern relating to the high level of design flexibility sought. In this regard, insufficient detail was considered to be provided to define the parameters of the 'effects envelope', including as to the scale, height, bulk and location of structures, which limits the ability to assess and manage effects with certainty. Furthermore:

(a) Mr Kensington agrees with the information requested by the Panel via Minute 5, in respect of further information to assist with an understanding of the actual and potential landscape and visual effects of various aspects of the proposal.

(b) Notwithstanding his overall support, several location-specific issues are identified, including insufficient design detail for bridge structures (particularly within the CMA), potential dominance and visual prominence of elevated structures such as ramps and flyovers, and uncertainty regarding integration of stations with adjacent land uses (as further detailed within a Designation matrix table attached to Mr Kensington's review, where designation-by-designation summary is provided).

(c) Additional concerns include potential adverse effects on open space amenity and landform, particularly at Harbourview Park, and the visual impact of prominent structures in sensitive local contexts where alternative design responses may be more appropriate.

(d) The proposed landscape planting condition is inadequate to manage effects for a project of this scale and complexity and is not supported. A recommended ULDMP condition, as drafted in conjunction with Mr Pierard, seeks to provide a more robust and comprehensive framework for managing urban design, landscape integration and visual effects through subsequent Outline Plan stages.

(e) To address the uncertainty associated with the effects envelope, it is recommended by Mr Kensington that the scale of final constructed elements be

constrained so as not to exceed the parameters indicated in the preliminary design, while enabling refinement to achieve improved outcomes.

333 The Council's planning experts agreed with the inclusion of the ULDMP condition in order to provide a more robust framework to achieve the recommendations of the LVA and manage landscape and visual effects. With regard to item (e) above, the Council's planners note that a clearer understanding of the "envelope" would be beneficial, to be achieved through more defined parameters in the condition.

334 As noted in respect of the preceding topic on 'Urban Design effects', the Council proposed a different suite of conditions to address those proposed by way of a ULDMP condition (with deletion of the ULDMP requirement), and incorporating matters related to CPTED and HIRTB requirements. The matters of concern in respect to landscape appeared to be incorporated within its 'Form and Landscaping Statement' and 'Landscape Planting' condition, and an Explanatory Note. As referred to above, these components of the revised condition were generally agreed by the Applicant, but the inclusion of an Explanatory Note was not.

Applicant response

335 For the reasons set out in the preceding discussion related to Urban Design effects, the Panel has adopted the agreed structure of three conditions related to CPTED, HIRTB and the Form and Landscaping Statement. In the main, we have agreed with the Applicant's version of those conditions, but with the Council's amendment to the HIRTB condition regarding boundary height. We have also found the Explanatory Note that was proposed by the Council to be unnecessary.

336 In terms of the Landscape Planting condition, the Applicant did not agree with certain additional clauses sought by the Council. From a comparison of the respective versions of the conditions, the additions sought by the Council are shown in underline below:

Landscape Planting

(a) The Requiring Authority must, where practicable:

(i) Retain existing mature, native vegetation;

(ii) Plant at stations and batter slopes <u>and any other location identified within the Form and Landscaping Statement [condition 15D];</u>

(iii) Use eco-sourced native vegetation; and

<u>(iv) Reinstate any pre-existing planting following disestablishment of construction and site compound areas that are not used for permanent works for operational needs as appropriate; and</u>

(iv) Integrate planting with any planting required by Designation Condition 26A and resource consents for the Project.

(b) For planting under (a), the Requiring Authority must:

(i) Undertake planting within the first planting season following Completion of Construction;

<u>(ii) undertake ground preparation (top soiling and decompaction) and mulching where appropriate;</u>

(ii) undertake pest plant control for a five year period; and

(iii) monitor planted areas and undertake replacement planting as necessary for a five year period or until 80% canopy cover is achieved (whichever is less).

(c) The measures described in (a) must be shown in the Form and Landscaping Statement submitted with the Outline Plan.

337 The Applicant's 9 July Memorandum also noted that they did not accept deletion of 'native' from clause (a)(i), and did not agree with the inclusion of the requirement to undertake pest animal control as part of clause (b)(ii). The latter was for the same reasons as expressed in its response on terrestrial ecology. It advised that it opposes the words "*any other location identified within the Form and Landscaping Statement*" because the landscape planting condition specifically includes planting recommended to mitigate the Project's effects in the LVA, and the Form and Landscaping Statement is a descriptive document and does not establish additional planting requirements.

338 The reason for opposing a requirement for animal pest control is that this is not necessary to ensure the successful establishment of vegetation when it is planted. Such control is considered by the Applicant to be of limited effectiveness for batter slopes and areas at stations (the areas to be planted), given the nature of surrounding land use, and the limited ability to implement control measures in this context. Pest animals are noted to be a pre-existing issue rather than an effect of the Project and the control of them is an unrelated matter.

Panel findings

339 Our findings in respect of the CPTED, HIRTB and Form and Landscaping Statement conditions have been set out previously, and as summarised above. For the Landscape Planting condition, we find as follows:

(a) The Applicant's reason for retaining the use of 'native' in clause (a)(i) is preferred. This aspect is discussed further in terms of the terrestrial ecology section later in this decision.

(b) The Council's requirement at clause (a)(ii) that planting incorporate any other locations in the Form and Landscaping Statement is somewhat circular, as reference to that condition requires (at clause (b)(iv)), a summary description of the approach to "*the landscaping – including the location of any planting that is required under Condition 26 Landscape Planting*". Accordingly, we are satisfied that the identification of any areas, significant or otherwise, beyond batter slopes and station locations does not appear to be provided for.

(c) We accept the Applicant's rationale for not including animal pest management, given the likely inability to secure extensive lengths of batter slopes from pest incursions. However, we anticipate that some management of such pests would be necessary in order to meet the establishment phase of planted areas.

(d) The Applicant did not expressly oppose two other condition clauses, relating to reinstatement of construction areas and undertaking appropriate ground preparation. These clauses appeared to be appropriate requirements, albeit likely to form part of any Form and Landscaping Statement, and have been retained by the Panel.

340 Our findings are reflected in the decision version of the Designation Conditions attached as **Appendix A**.

Outstanding Natural Features

Applicant assessment

341 The relevant ONFs potentially affected by the Project relate to the Harbour View Pleistocene terraces (8,900m^2 of this 770,000m^2 feature), Waitītiko / Meola Creek (1,300m^2 of this 92,180m^2 feature), and the North-west motorway lava flow ('not impacted'). Effects in this regard were addressed in the AEE, without a supporting technical report. The AEE concluded that effects:

(a) On the Harbour View Pleistocene Terraces would be low, such that no mitigation was recommended to be necessary;

(b) On Waitītiko / Meola Creek would be mitigated through a requirement for bridging that is not an extension of the existing culvert; and

(c) On the North-west Motorway lava flow are negligible as the works do not impact the feature. However, as the ONF is located within the NoR, a condition has been proposed that requires impacts on the exposed face of the ONF to be minimised as far as practicable.

Comments received

342 The Council memorandum referred to the assessment of Dr Kate Lewis, the Council's Geologist/Natural Features Specialist. It sets out the following summary of Dr Lewis' comments on the effects of the Project on the ONFs:

(a) Works are likely to have a minor effect on the values of the Harbour View Pleistocene terraces (ONF ID 40) but considers that a condition should still be included in the designation to ensure works are minimised to only those necessary for permanent structures and a requirement that earthworks not damage the ONF surface outside of the area of the proposed works.

(b) With regard to Meola Creek and Estuary (ONF ID 95), values associated with the feature may extend beyond the mapped overlay, so we consider the extent of the feature must still be protected from inappropriate use, development or subdivision in accordance with s 6(b) of the RMA, and in accordance with the B4.2 objectives and policies of the Regional Policy Statement (**RPS**).

(c) While Dr Lewis acknowledged that a bridge is proposed over Meola Creek to minimise effects on the ONF, proposed Designation Condition 24 does not restrict piers within the ONF.

(d) With regard to North-west motorway lava flow, Western Springs (ONF ID 132), the proximity of the works to the visible face of the flows may mean that rock breaking and vibration could affect the face of the flows. Accordingly, a condition is recommended to ensure that suitable information is submitted at the time of an Outline Plan to demonstrate effects are avoided.

343 In general, Dr Lewis was concerned at the sensitivity of ONFs and sought an avoidance-based approach rather than mitigation, and with regard to the full extent of the feature, and notes the lack of design detail which limits the ability to confirm the scale of effects at this stage. On that basis, more prescriptive conditions were proposed to protect the integrity of the ONFs.

344 The Council's planners noted their agreement with Dr Lewis' assessment, but noted that there were proposed conditions that were not able to be resolved internally and invited further discussion with the Applicant. They advised that:

(a) Part of Designation Condition 24 be retained which requires the Requiring Authority to design and construct a bridge structure to cross Waitītiko / Meola Creek. The reason for this was that while Dr Lewis has recommended deletion of Condition 24, in the absence of "Condition 1" this was the only condition which "locked in" bridging over Waitītiko / Meola Creek.

(b) While the Planners recognise values associated with the Waitītiko / Meola Creek ONF may extend beyond the mapped overlay, this must still be protected from inappropriate use, development or subdivision in accordance with s 6(b) of the RMA, and in accordance with the B2.4 objectives and policies of the RPS - i.e., that the assessment should be based on the qualities and values of the feature, and not be limited to its mapped extent.

(c) Dr Lewis' recommendation for a designation condition relative to the Harbour View Pleistocene terraces is recognised and adopted. The condition is intentionally simple compared to the other management plan conditions, reflecting the assessment completed and the level of risk.

345 Through the facilitated discussions, amended Designation Conditions were agreed between the Applicant and the Council. These addressed effects on the Waitītiko / Meola Creek ONF and the Northwest Lava Flow ONF in respect of NoR 9. The parties agreed that the Council's proposed condition relating to the Harbour View Pleistocene terraces (NoR 3) was not required.

Panel findings

346 The Panel acknowledges the agreements reached between the Applicant and the Council in respect of conditions related to the abovementioned ONFs, and finds that on the basis of those conditions, adverse effects on these features are able to be appropriately managed and will be minor. The agreed conditions form part of the conditions attached to this decision.

Cultural effects

Applicant assessment

347 The AEE acknowledges that only iwi/hapū can speak to the impact that the Project may have on their cultural values, heritage and aspirations. Section 16 of that document summarises the Applicant's engagement with iwi representatives during the development of the Indicative Design to explain the influence they have had within the Project as it has progressed.

348 In this regard, the AEE advised that Te Kawerau ā Maki,[69] Ngāti Whātua Ōrākei and Te Ākitai Waiohua are Project partners and have been involved throughout the development of the Project, with representatives from these iwi formed the Project's Iwi Working Group (**IWG**), who have been involved in the details of the Project including the Investment Case Phase through to lodgement of the application. In addition, it noted that Ngāti Whātua o Kaipara joined the IWG hui in September 2025 and have participated in discussions prior to lodgement, and that IWG hui have been ongoing and will continue through to implementation of the Project.

349 The AEE provided details of the cultural associations of the IWG to the Project area, and the matters set out within their respective Cultural Values Assessments or Cultural Impact Assessments provided for the Project. It also advised that:

(a) Of the 16 customary marine title applicants contacted by NZTA, six responded requesting further information about the Project. Subsequently NZTA have met with those groups to discuss their areas of interest and further correspondence will be sent prior to the end of 2025 with further Project updates, lodgement timeframes and next steps.

(b) There are no Sites and Places of Significance to Mana Whenua within the Project Area as identified in the AUP and overlays, and there is no known marae or Māori freehold land within the Proposed Designation.[70]

(c) In terms of the four Statutory Acknowledgement Areas within the Project area, NZTA is working closely with Te Kawerau ā Maki and Te Ākitai Waiohua as Project partners. It goes on to say that Ngāi Tai ki Tāmaki attend the wider Central Iwi Integration Group, but have not expressed an interest in the Project.

350 The AEE commented by way of summary that "*[t]he partnership between NZTA and Te Kawerau ā Maki, Ngāti Whātua Ōrākei, Te Ākitai Waiohua has involved extensive and regular engagement with the Project team through the IWG hui to discuss issues of interest and to address areas of concern*".[71] Conditions were proposed for both the designations and resource consents to provide for the ongoing involvement of iwi during design and construction, thereby ensuring the continued recognition of iwi cultural values throughout the Project life cycle. In particular:

(a) The designation conditions set out that NZTA will engage with Iwi during detailed design to identify how cultural values will be reflected in the Project. This includes:

(i) Te Kawerau ā Maki for west of the SH16 causeway to Brigham Creek station;

(ii) Ngāti Whātua o Kaipara from Westgate to Brigham Creek Station; and

(iii) Ngāti Whātua Ōrākei, Te Ākitai Waiohua and Ngaati Te Ata for works east from the Te Whau / SH16 causeway to Ian McKinnon Drive.

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69 A letter of support from Te Kawerau ā Maki is included in the application.
70 As also confirmed in Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [119].
71 AEE, at [16.6].

(b) The resource consent conditions include the requirement for a Cultural Monitoring Plan (**CMP**) is prepared prior to construction for each stage of work, to be prepared in collaboration with each of Te Kawerau ā Maki, Ngāti Whātua o Kaipara, Ngāti Whātua Ōrākei, Te Ākitai Waiohua and Ngaati Te Ata (within the geographic areas identified above for the proposed designation conditions).

351 The AEE describes the conditions that are proposed in order to address some of the matters raised through the IWG and cultural assessments, including:

(a) Minimising effects on geological features at Western Springs and Waitītiko / Meola Creek;

(b) Treatment of stormwater from impervious surfaces;

(c) Use of native eco sourced vegetation for landscape planting and in SEAs and riparian margins; and

(d) Retention of native, mature vegetation where practicable.

352 The Applicant's legal submissions provided with the Application submits on the basis of the above that the Project satisfies the requirements of s 7 of the FTAA.[72]

Comments received

353 Comments on the Application in respect of cultural values were received from Te Ākitai Waiohua. Te Ākitai Waiohua acknowledged the partnership with NZTA for the Project and the engagement that has occurred during the development of the application. However, through their comments Te Ākitai Waiohua set out the reasons and basis for their request for a conditions framework to "*properly recognise and give effect to Treaty settlement obligations, statutory acknowledgements, and the enduring cultural relationship of Te Ākitai Waiohua with the project area*".[73]

354 Te Ākitai Waiohua considers that the conditions:[74]

> *…fail to address impacts on cultural values across the full life cycle of the Project, nor what will be done to address the cultural values other than reflect them. The conditions do not require avoidance, mitigation or enhancement and is not a genuine effects management tool.*
>
> *It is not accepted that conditions addressing cultural values are [Augier] or offered because they are required to ensure that actual and potential adverse impact on cultural values are avoided, remedied or mitigated. This is yet to be demonstrated because the application doesn't contain sufficient detail to understand the scale of effects on cultural values.*
>
> *The requirement for Te Ākitai Waiohua to engage under a combined or shared condition with other iwi is not supported. This directly contradicts both the CVA*

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[72] Applicant Legal submissions dated 15 December 2025, at [33.5].
[73] Te Ākitai Waiohua comments, at p 4.
[74] Te Ākitai Waiohua comments, at pp 3 – 4.

and the full extent of Te Ākitai Waiohua interests across the project area.

NOR Condition 7 confines Te Ākitai Waiohua involvement to selected geographic sections. This approach dilutes Mana Whenua authority and obscures distinct Treaty-based rights and is also not supported.

Te Ākitai Waiohua expects standalone conditions, reflecting its specific status, interests, and obligations throughout the Project's life cycle:

(a) Adverse impacts on cultural values must be identified, avoided, remedied, or mitigated across all phases of the project (pre-design, design, construction, and operation).

- *The current approach reflects a minimal compliance model, rather than ensuring outcomes that "leave the environment better than it was".*

- *The expectation is for enduring, project-wide conditions that embed cultural values throughout.*

355 Further comments by Te Ākitai Waiohua in respect of the conditions noted:

(a) The application does not adequately assess the potential impacts of piers on the ONF and how effects would be appropriately mitigated, including addressing Policies D10.3(3) and (4). Impacts need to be minimised on the ONF with appropriate consideration of the effects and mitigation to be required by the condition as part of the Outline Plan.

(b) Conditions that require engagement for an Archaeological Authority under a combined or shared condition with other iwi are not accepted, particularly in respect of the Arch Hill Scenic Reserve (as a statutory acknowledgement area). Te Ākitai Waiohua consider that no other iwi has statutory acknowledgement over the reserve.

(c) Te Ākitai Waiohua supports the development of a Corridor Integration Design Framework (**CIDF**) to identify and respond to the adverse impacts on cultural values, but advises of concern that the NOR conditions do not require this. The long-term nature of the Project increases uncertainties about how effects on cultural values will be mitigated. They request a CIDF as an NoR condition to ensure that impacts will be considered at the Outline Plan stage, supporting not only the incorporation of cultural narratives but also in the landscaping and urban design stages.

356 The comments from the Council advised of their agreement with the Applicant that only iwi/hapu can speak to the potential effects on cultural values that may arise from the works provided for by the designations, and note that there is a letter of support from Te Kawerau ā Maki and a Cultural Values Assessment by Te Ākitai Waiohua, as provided with the Application.

<u>Applicant response</u>

357 The Applicant provided a detailed response to the comments from Te Ākitai Waiohua, and by way of summary, advised as follows:

(a) Arch Hill Scenic Reserve is not currently a statutory acknowledgement area, and while it is identified in the Te Ākitai Waiohua settlement deed, legislation has not yet been introduced to Parliament. The Te Ākitai Waiohua Deed of Settlement specifies that the settlement legislation will enable the statutory acknowledgement to be cited as evidence of the association of Te Ākitai Waiohua with an area, but the settlement legislation will not require protection of that area, whereby effects on a statutory acknowledgement area continue to be addressed under the RMA framework.

(b) The Applicant nevertheless acknowledges the cultural importance of the Arch Hill Scenic Reserve to Te Ākitai Waiohua, and has sought to minimise adverse effects on this reserve.

(c) Proposed Designation Condition 7 (which has been offered on an *Augier* basis) requires NZTA to engage with Te Ākitai Waiohua in relation to the detailed design of the Project *"to identify how their cultural values* ***will*** *be reflected in the Project".* However, NZTA does not consider it appropriate to have a condition naming Te Ākitai Waiohua as the only Iwi to have a relationship with Arch Hill Scenic Reserve. NZTA has been informed of interests and associations with Arch Hill that Ngati Whatua Orakei and Ngaati Te Ata Waiohua**.** The Applicant notes that "*it is not for NZTA to determine that those Iwi relationships have lesser importance, and the Panel may wish to exercise caution on this issue*", but that if the Panel considers that the Project will have adverse effects on the Te Ākitai Waiohua relationship with Arch Hill Scenic Reserve, that are not already addressed through Condition 7, it will need to impose an additional condition.

(d) The Applicant considers the potential effects of the Project on the Waititiko/Meola Creek ONF have been minimised and are mitigated by Condition 24, which requires a bridge structure to cross the ONF instead of extending the existing culvert in the Meola Creek which would have a greater impact on the ONF. It notes, however, that the Applicant will also include an amendment to the condition to limit the number of piers.

(e) The Proposed Archaeological Authority Conditions 7, 11 and 13 place obligations on NZTA to provide information to the identified iwi. Condition 10 requires NZTA to enable access to undertake tikanga, and Condition 12 requires NZTA to inform iwi if possible taonga or Māori artefacts are encountered to enable appropriate tikanga to be undertaken, for iwi with identified relationships with the part of the Project Area to the east of the causeway. The conditions do not require Te Ākitai Waiohua to do anything (and cannot impose obligations on a third party). It is the Applicant's understanding that Ngati Whatua Orakei, Te Akitai Waiohua and Ngaati Te Ata Waiohua have interests in the eastern part of the Project Area and the conditions reflect that information.

(f) The Applicant has not proposed a condition requiring a CIDF to be prepared, as it does not consider a CIDF is necessary to address any adverse environmental effect of the Project. It instead signals an intent to progress a CIDF within the Project as part of the detailed design process in order to ensure the Project will achieve NZTA's objectives.

358 The Applicant further addressed the matters raised by Te Ākitai Waiohua in its 29 July

Memorandum, noting by way of a concluding submission that:[75]

> *...NZTA's engagement with Te Ākitai Waiohua has been genuine, ongoing and effective and will continue through future phases of the Project. NZTA's proposed conditions meaningfully address the matters raised by Te Ākitai Waiohua and, in our submissions, the imposition of additional conditions is not justifiable.*

359 As noted previously, the Applicant provided a joint memorandum with NZHPT that included the approved archaeological authorities and associated conditions. The authorities for the 'East' area (Waterview to Ian McKinnon Drive) incorporate a different form of conditions and numbering to that referred to in its response to comments, but are nevertheless retained. In summary:

(a) Provision for access for Te Ākitai Waiohua (and Ngāti Whātua Ōrākei and Ngaati te Ata) to undertake tikanga in the event of any archaeological sites being encountered (Archaeological Condition 5);

(b) A requirement for notification to Te Ākitai Waiohua et al in the event of the discovery of any kōiwi (Archaeological Condition 6);

(c) A requirement to advise Te Ākitai Waiohua et al of the completion of archaeological works (Archaeological Condition 10); and

(d) A requirement for the final report relating to archaeological works for the Project be provided to Te Ākitai Waiohua et al (Archaeological Condition 12).

<u>Panel findings</u>

360 The Panel acknowledges the considered responses provided in response to the concerns expressed by Te Ākitai Waiohua in their comments. We note in particular the inclusion of proposed Consent Condition 4 to require a CMP to be prepared in collaboration with Te Ākitai Waiohua for works to the east of the causeway, and that the proposed Archaeological Authority conditions provide for the notification and involvement of Te Ākitai Waiohua as part of any archaeological works or discoveries (as described above).

361 The Panel notes the wording of Consent Condition 4 (CMP – *Augier* condition) is as follows:

> (a) *Prior to the start of construction, a Cultural Monitoring Plan (CMP) for each stage of work must be prepared by a SQEP(s) identified in collaboration with:*
>
> *...*
>
> *(iii) Ngāti Whātua Ōrākei, Te Ākitai Waiohua and Ngaati Te Ata for works east from Te Whau / SH16 causeway to Ian McKinnon Drive.*
>
> (b) *The objective of the CMP is to specify cultural monitoring methods and*

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[75] 29 July Memorandum, at [117].

activities to be undertaken during construction works.

362 In addition, we note the Designation Conditions include in Condition 7 (Cultural Values – *Augier* condition) a requirement that:

> *The Requiring Authority must engage with Ngāti Whātua Ōrākei, Te Ākitai Waiohua and Ngaati Te Ata Waiohua during detailed design to identify how their cultural values will be reflected in the Project.*

363 The Panel anticipates that the further consultative obligations required by these conditions may not wholly satisfy the interests of Te Ākitai Waiohua in terms of the primacy they contend for in this area, and in particular their concern about having to engage under a combined or shared condition with other iwi. However, we also acknowledge the Applicant's response that through its engagement with its iwi partners, it has been informed that Ngāti Whātua Ōrākei and Ngaati Te Ata Waiohua, as well as Te Ākitai Waiohua, have interests in the eastern part of the Project area, and the conditions reflect that information. The Panel accepts that submission.

364 In undertaking a review of this condition framework, we noted what appeared to be a disconnect within the proposed conditions between Consent Conditions 2 - 4. Specifically, clause (d) of Condition 4 (CMP) states that the CMP does not need to be submitted to the Council for certification. However, Condition 2 requires the management plans listed in Condition 3(b) be prepared in consultation with inter alia Te Ākitai Waiohua, for the works east from Te Whau/SH16 causeway to Ian McKinnon Drive. However, the purpose of that consultation is unclear, noting that the relevant plans for certification are proposed to be limited to the:

(a) Site specific ESCP(s);

(b) CSMP(s); and

(c) CCMP(s).

365 The Panel was unclear if this is an oversight, or that it is intended for a consultative process with the relevant iwi prior to these plans being submitted to the Council for certification. We have therefore retained Condition 2(c) in its proposed form, but invited the parties (at the draft conditions comment stage) to consider its expected purpose having regard to Conditions 3(b) and 4.

366 Notwithstanding the above issue, the Panel is satisfied overall that the Applicant has undertaken extensive and meaningful consultation with its iwi partners and including Te Ākitai Waiohua. We have further considered the basis on which Te Ākitai Waiohua seek the requirement for a CIDF-related condition, and accept the Applicant's rationale and explanation for why that is not necessary, notwithstanding their undertaking to prepare a CIDF as part of their detailed design process. The Panel anticipates that this would be a matter forming part of the Applicant's consultative obligations under the terms of both the resource consents and designations.

Social and community effects

<u>Applicant assessment</u>

367 The AEE has addressed other community facilities - schools, the Northwest Shared

Path, Westgate Medical Centre and Huruhuru and Henderson Creeks (from the perspective of navigation) – within its section addressing parks and open space. The Council has commented on these matters separately and we follow that approach. The following is noted in respect of these facilities:

(a) The AEE notes that there are a number of schools in the wider Project area, but only two are directly impacted by the Project, being Royal Road School (Royal Road in Royal Heights) and St Francis Catholic Primary School (2 Montrose Street, Pt Chevalier). It acknowledges the need and importance of careful planning to maintain safe and clearly marked access to schools during the construction stage. In this regard, it advises that "*[c]lear and timely messaging relating to traffic management, appropriate means of navigating construction areas safely, and ensuring access is available and maintained, especially during term time*".[76] The AEE author considers that outcomes in this respect will be effectively managed by the preparation of CTMPs which have been proposed as a condition on the designations.

(b) The NoR will impact a number of mature pōhutukawa along the southeast border of the grounds of St Francis Catholic Primary School, as addressed in respect of 'Arboricultural Effects' above.

(c) The AEE also confirms that there are two Early Childcare Centres (**ECEs**) within the Proposed Designations. The author considers that the owners of the ECEs will be compensated appropriately through the PWA process, which will provide sufficient time for operators to relocate to new facilities within the area as required.

(d) The AEE further acknowledges the potential need for the relocation of pedestrian and/or cycle facilities, highlighting that there are significant Project interfaces with the Northwest Shared Path, which is a popular commuter and recreational cycle route alongside SH16. Temporary diversions are noted to be possibly required during construction (including with respect to the Eric Armishaw Park to Alberta and Montrose Streets walkway adjacent to the city bound off-ramp at Waterview) to ensure public safety. Measures to manage this are included in the CTMP that are proposed as a condition on the designations.

(e) The AEE advises that the Westgate Medical Centre located on Maki Street, Westgate, a large medical centre with urgent care facilities, will no longer be able to operate from the premises from the time of construction. The PWA requires negotiation with the business owner and these negotiations may result in a relocation to new premises, or a business buyout.

(f) Some restrictions to the access and navigability of Henderson Creek and Huruhuru Creek are likely to be implemented during the construction stage for the health and safety of the public. The upper reaches of the Henderson Creek are understood to be frequently used by the local kayaking club, and by other members of the public for recreational purposes. The AEE advises that the Coastal Works Management Plan will require the maintenance of safe navigation past the works site and details of any restrictions, such as when bridge beams are

[76] AEE, at [7.3].

being installed, and how this will be communicated to users.

(g) The AEE author further notes that a condition has been proposed for the resource consents requiring that the height of the bridge structures have, at a minimum, the same clearance above MHWS as the existing downstream bridges.

Comments received

Auckland Council

368 The Council's comments focused on the impact of lapse dates in terms of effects on these matters, and that subject to feedback from individual parties in respect of these matters:

> *…the Panel may wish to consider whether additional conditions are required that would address the matters raised in the feedback to avoid, remedy or mitigate potential adverse effects of the works provided for by the designations on private and/or public land. This could include the following types of conditions:*
>
> - *Stakeholder communication and engagement management plan / communication and consultation plan*
> - *Project information*
> - *Complaints register;*
> - *Other site-specific conditions.*

Tāmaki Health Group

369 Tāmaki Health Group (**THG**) operates the Westgate Medical Centre. Its comments on the application noted the impacts of the designation on its clinic and highlighted the role of the clinic within West Auckland, serving over 10,000 enrolled patients and also being an urgent care service that services significant volumes of patients seven days per week. THG emphasised the importance that it be able to continue to operate in the locality, but was concerned about the ability to find a new location in a timeframe that may occur prior to the site being acquired and the Project commencing.

Selkprop Investments Limited

370 Selkprop Investments Limited (**Selkprop**) owns the site and building at which the Westgate Medical Centre operates, and lodged a separate comment. Selkprop expressed disappointment that the Proposal does not recognise the value of the clinic in its present location, noting that re-creation of the clinic at its current scale would be not only extremely difficult but also cost-prohibitive. Selkprop sought reconsideration of the Project to enable the clinic and its co-located facilities to remain at its present site.

Owners/occupiers

371 Some commenters who own or occupy residential homes within and adjacent to the Project also raised concerns over the potential loss of amenity and impacts on land values. While these issues may concern all owners and occupiers of land within or

adjacent to the Project to a greater or lesser degree, the Panel recognises that the number of commenters, compared to the number of landowners and occupiers affected by the Project and invited to comment, is very low. This may reflect the benefits of the Applicant's community engagement to date.

Applicant response

372 The Applicant responded in terms of THG that the part of the Project that impacts the Westgate Medical Centre is estimated to be constructed around 2033 – 2036, and that NZTA generally commences property acquisition two to three years ahead of construction. NZTA advises that it will work with THG in accordance with the PWA in order to relocate the business (or, in the unlikely event that is not possible, purchase the business), although it acknowledges that THG may wish to relocate earlier than NZTA's current expected date of acquisition. It further advises that all advance acquisitions are considered on a case-by-case basis and undertakes to engage with THG in the event of such request.

373 The Applicant's response noted that THG does not consider it necessary to remain in the same location (as compared with Selkprop's position) but is concerned at the issue of timing. In terms of Selkprop's concerns, the Applicant highlights its evaluation work in respect of alternative modes, corridors, routes and sites, and confirms that its prior work in this regard has 'robustly tested' the Proposed Designation. It will seek to acquire the Selkprop property interests needed for the Project through PWA processes.

374 In terms of the Council's comments, while it suggested that further conditions could be considered by the Panel, these were not pursued through the subsequent facilitated discussions and did not form part of any proposed conditions.

Panel findings

375 We consider that infrastructure projects of this nature, particularly those with extended lapse periods, can give rise to a range of adverse social and community effects. The lapse period can, of itself, give rise to uncertainty for landowners and occupiers within and adjacent to the Project, whose intentions must yield to the objectives of the designation holder. Social displacement arising from the compulsory acquisition of land under the PWA can also adversely impact owners and occupiers of affected land.

376 While valuation and compensation matters are addressed separately via the PWA, and are underpinned by the concept of full and fair compensation, there is nevertheless a need to ensure, within this FTAA process, that to the extent possible, social and community effects are mitigated through effective community engagement and communication. To that end, we consider that in light of the proposed lapse period, it will be vital that the Applicant remains in regular communication with stakeholders, even during periods where very little is occurring in relation to the Project. In fact, we consider communicating during these 'quiet' periods is key to ensuring the effects of uncertainty are mitigated. In this regard the Panel notes that the Applicant has already established a Project website,[77] which is subject to updating from time to time and which has included updates about lodgement of this present Application and ongoing community consultation. The website includes NZTA's standard 'contact us' link, which

[77] See https://www.nzta.govt.nz/projects/northwest-busway-te-ara-hauauru

we are satisfied addresses in-part the Council's recommendation for publication of Project contact details and a complaints process or register. We do not impose the conditions sought by the Council, but make the recommendation to the Applicant that it consider more direct feedback and direct contact options within this website that are specific to the Project.

Arboricultural effects

Applicant assessment

377 The proposed NoRs affect several stands of trees adjacent or within the Proposed Designation alignments, including works within the root zone of a scheduled tree (reference 837) and/or in the vicinity of a scheduled tree (reference 129).

378 The mature pōhutukawa trees along Great North Road are not scheduled but are generally protected in the AUP as they are within an Open Space zone under the AUP. The AEE acknowledges that they provide amenity values through their visual appeal and age and importance to the community. Based on the indicative design and designation it is estimated that approximately 26 trees will require removal, and 37 trees will be subject to trimming and/or works within their root zone.

379 A row of pōhutukawa trees and other species were also identified within or partially within the proposed designation, adjacent to St Francis School, Point Chevalier and which are located within land zoned Special Purpose-School. The AEE advises that through consultation with the school, it was requested that trees and vegetation on their southern boundary are retained if possible as they provide screening from the nearby Waterview Interchange.

380 Based on the indicative design it has been estimated that ten trees will require removal, and two will be subject to works within their root zones (Trees 80 and 81). Five trees, including numbers 80 and 81, will be retained and subject to the Tree Protection Methodology included as a proposed condition on NoRs 9 and 10.

381 Two notable pōhutukawa trees are within or partially within the Proposed Designation, located at 30 Potatau Street and 21 Kirk Street. The former has been assessed as not affected by the designation, while the latter may require minor canopy pruning to enable construction of the bridge structure and operation of the Project.

382 Overall, the AEE concludes in respect of effects on trees that:

> *...provided the recommended tree protection methodology is adhered to, the following trees can be retained during construction of the Project:*
>
> - *Trees adjacent to Great North Road shown in orange, blue, and yellow in Figure 6-1, Figure 6-2, and Figure 6-3 above;*
> - *Both notable trees identified in Grey Lynn/Arch hill shown in Figure 6-4; and*
> - *Trees 80-84 at St Francis School as shown if Figure 6-5.*
>
> *Therefore, any potential adverse effects on the trees to be retained will be appropriately managed through the preparation of a tree protection methodology*

by an arborist. I have recommended a condition on the Proposed Designations to this effect.

The pōhutukawa trees in open space on Great North Road are assets of Auckland Council. The removal of any trees within public land will require tree asset owner approval. Any replacement specimen trees will be subject to agreement with the tree asset owner at the time approval is needed. I consider that the potential effects on the trees subject to the proposed tree protection methodology are negligible – low.

383 The effects on vegetation were also addressed in the LVA, and its recommendations regarding the imposition of landscaping requirements has been incorporated by way a Landscape Planting condition (Designation Condition 26) for all the NoRs that specifies the landscaping to be undertaken following the construction of the Project. This provides that:

(a) The Requiring Authority shall, where practicable:

(i) Retain existing mature, native vegetation

(ii) Plant at stations and batter slopes

(iii) Use eco-sourced native vegetation

(iv) Integrate planting with any planting required by conditions of resource consents for the Project.

(b) For planting under (a), the Requiring Authority shall:

(c) Undertake planting within the first planting season following Completion of Construction;

(i) undertake pest plant control for a five year period; and

(ii) monitor planted areas and undertake replacement planting as necessary for a five year period or until 80% canopy cover is achieved (whichever is less).

(d) The measures described in (a) shall be shown in the Outline Plan.

<u>Comments received</u>

384 The Council provided comment on arboricultural effects from Ms Regine Leung, the Council's Senior Arborist. The Council's memorandum provided a summary of Ms Leung's comments, which noted that effects on trees in other NoRs are covered in general as vegetation clearance within SEAs and riparian margins as part of the ecological assessment, and that an assessment on the effects on trees within coastal areas within 150m of the MHWS has not been provided.

385 Overall, however, Ms Leung's assessment noted her support for the substantive Application based on the available information, subject to a recommendation that there is arboricultural input by a qualified arborist for proposed tree works, and that mature trees are retained in the first instance. Ms Leung also sought the provision of

mitigation planting within different habitats (SEAs, riparian margins, coastal area within 150m MHWS, road berm and open space zoned land) to ensure that there is no net loss of canopy coverage in each habitat.

386 The Council's memorandum also included comment from Mr Rue Statham, the Council's Senior Ecologist, in respect of the Applicant's terrestrial ecology assessment. Mr Statham recommended amendments to the aforementioned landscape planting condition, and the Arch Hill Scenic Reserve condition (Condition 26A). While Mr Statham acknowledged that the resource consent provisions triggered relate to regional consent issues, he recommended that ecological issues be a consideration of the NoRs especially as they relate to restoration/revegetation planting. In this respect, Mr Statham considered that the NoR conditions are not detailed enough and are subjective in their wording. In particular, it was his view that landscape planting should be additional to that of any remediation or planting required by the resource consent, and that the Arch Hill Scenic Reserve habitat loss is fully accounted for and appropriate planting is provided (through offsetting if required).

387 Comment in respect of the notable trees was provided by Mr West Fynn, the Council's Senior Heritage Arborist, who was satisfied with the Applicant's assessment, noting that "*[o]f greatest importance will be Works Arborist supervision to guide works methodologies and implementing control measures*".[78]

388 The Council's Planners adopted Mr Statham's recommended amendments to Condition 26A, to ensure that the potential effects on trees from the works provided for by the designations will be avoided, remedied, or mitigated. However, they did not adopt the recommended change to Condition 26 as this would conflict with the recommendation to replace the wording of this condition with that proposed by the ULDMP conditions.

389 The Council's planners also considered that the intent of the condition amendments proposed by Ms Leung could be incorporated into either the recommended ULDMP condition or the landscaping planting condition (Designation Condition 26) and/or the proposed tree condition (Condition 27). The Panel notes that there is some conflict in this regard, given their recommendation that the landscape planting condition be replaced by the ULDMP. However, that became of less significance due to the further evolution of the conditions associated with facilitated discussions between the Applicant and the Council.

390 The Council's Planners also highlight the need for landowner approval for any trees located in open space and road reserves. Tree Owner Approval (**TOA**) processes are separate to the FTAA (and Part 8 of the RMA) for designations. The TOA does not allow an applicant to proceed until all the relevant planning consent approvals have been given.

391 This decision also addresses the effect of the Project on trees within two schools along the designation route, within the topic related to Social Community Effects.

392 As part of the facilitated discussions between the Applicant and the Council, the Council's proposed Arboricultural condition ('ARBc1'), for all NoRs, was agreed as not needed. However, the Council sought the imposition of the following arboricultural

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[78] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [89].

condition to be applied to the land use consent relating to ecological management, in line with that recommended by Ms Leung, as follows:

> *X. Tree Removal*
>
> *An Arboricultural report prepared by a suitably qualified and experienced Arborist must be prepared and submitted to the Council for certification prior to the commencement of construction. The report must include detail to demonstrate that tree impacts on mature specimens are avoided, [minimised] and reduced through retention in the first instance, and provide for mitigation or offset planting to ensure there is no net loss of canopy coverage within the different habitats and areas including; SEAs, riparian margins, and coastal margins. Construction works must not commence until Council has certified that there will be no net loss of canopy cover within each of the habitats.*

Applicant response

393 The Applicant's 9 July Memorandum advised that it opposes the Council's suggested conditions related to arboriculture and trees because:

(a) NZTA's Proposed Designation Condition 26A and Proposed Consent Condition 14 already address impacts on indigenous vegetation within SEAs, riparian margins, coastal areas and relevant open space areas.

(b) These conditions apply in conjunction with any future TOA approval required in relation to street trees and trees in parks.

(c) As set out in Mr Blayney's statement of evidence, the condition is not required to address the Project's terrestrial vegetation ecology effects.

Panel findings

394 The Panel notes the agreement between the Applicant and the Council that the condition proposed by the latter for the NoRs is not required. We apprehend that this may have been on the basis that the Council's Landscape Planting condition was implemented. We have considered the areas of contention with respect to the Landscape Planting condition (Designation Condition 26) in the preceding section related to landscape and visual effects, and our findings as to the final form of that condition does not affect its overall utility in managing effects in terms of arboriculture and tree effects. The only qualifier in that regard is to note that we have agreed that this condition be limited in effect to existing, mature 'native' vegetation. However, we note that the Council's TOA process would not be confined in that manner such that it retains discretion in its approval processes.

395 The Panel also notes the differences between the Applicant and the Council in terms of Designation Condition 26A (Arch Hill Scenic Reserve – Native Vegetation Removal) and Consent Condition 14 (Terrestrial Native Vegetation Removal), noting also that the Applicant also does not agree with the Council's specific Tree Removal condition referred to above. We consider that further in the discussion of terrestrial vegetation effects generally and with respect to Arch Hill Scenic Reserve below.

Ecological effects

396 The extent of the Project means that it traverses a number of environments of ecological significance, relating to terrestrial indigenous vegetation, aquatic ecology, wetlands and marine estuaries. Ecological effects were of relevance to both aspects of the overall Application, but more particularly in respect of the resource consents.

397 The provision of ecological effects assessments was altered at an early stage in the Panel's consideration stage. The AEcE report prepared by Mr Ian Bredin (AECOM) was initially provided with the Application. However, the Applicant noted that, due to the differences in opinion between the authors of the AEcE and the AEE, "*NZTA sought a peer review of the freshwater and terrestrial ecology components of the Ecological Assessment. As a result of that peer review, terrestrial vegetation and freshwater ecology assessments have been prepared and they supersede some parts of the [AEcE]*".[79]

398 The memorandum therefore advised of the following revised documents:

(a) Assessment of Ecological Effects dated 15 December 2025 (with superseded sections redacted);

(b) Terrestrial Vegetation Ecology Assessment dated 24 April 2026, prepared by Andrew Blayney; and

(c) Freshwater Ecology Assessment dated 26 April 2026, prepared by Jeremy Garrett-Walker (Boffa Miskell).

399 The Panel adopts the summaries of the Applicant's approach provided by the Council's planning memorandum. Overviews of the ecological assessments have also been incorporated into the Applicant's memorandum of counsel in response to Minute 3 of 19 May 2026. This memorandum addressed the way in which effects would be managed in its proposed absence of 'Condition 1', by reference to the various ecological sub-topics. We adopt that summary as to the assessment of each effect in Appendix A to the memorandum as set out below.

Terrestrial vegetation

Applicant assessment

400 The Terrestrial Vegetation Assessment assesses the actual and potential effects of the Project on terrestrial indigenous vegetation within the scope of the assessment. The assessment by Mr Bredin includes a number of condition management measures to apply during construction relating to:

(a) Kauri dieback management;

(b) Bat management measures including avoidance of suitable bat habitat (where practicable) and the implementation of Bat Roost Protocols for the removal of the stand of pine trees;

(c) Bird management during construction including the consideration of the timing of

[79] Memorandum of counsel for the Applicant dated 27 April 2026, at [3].

vegetation removal to avoid the key nesting season and pre-clearance nest checks prior to vegetation removal during the nesting season; and

(d) Lizard management including the avoidance of suitable lizard habitat (where practicable), timing of vegetation clearance (between October-April, inclusive), and a Lizard Management Plan (**LMP**) to guide lizard salvage, relocation, and management.

401 Relative to terrestrial vegetation and the estimated 1.9ha of vegetation removal proposed, Mr Blayney recommended a 1:1 "area for area" native vegetation loss to replacement planting, applied within similar areas of the Proposed Designation or within 1.5 km of the Proposed Designation boundary. Replacement planting may be delivered through a combination of reestablishment on temporarily disturbed construction areas where loss has occurred and establishment of new native planting in suitable locations. This approach represents a hybrid of remedy and offsetting within the mitigation hierarchy.

402 The assessment by Mr Blayney was based on the likely extent of vegetation loss associated with the Indicative Design, and provides sensitivity testing for changes in design that result in:

(a) Indigenous vegetation removal in other locations within the Proposed Designation: The assessment concludes that the effects would remain similar as there are no areas of higher value indigenous vegetation within the Proposed Designation; and

(b) Increased scale of indigenous vegetation removal: The assessment concludes the effects could move up or down. However, a larger scale of loss would be appropriately managed through the recommended scalable effects management approach.

403 Proposed Designation Conditions related to terrestrial ecology require:

(a) Replacement planting for vegetation removed for temporary construction and permanent works from significant ecological areas, a coastal margin or riparian margin; and

(b) Replacement planting for vegetation removed for temporary construction and permanent works from Arch Hill Scenic Reserve.

<u>Comments received</u>

Director-General of Conservation

404 DoC provided extensive comments in respect of ecological effects. In terms of terrestrial ecology, DoC's comments addressed concerns related to the following:

(a) Lack of management of effects on lizard habitat through the approvals applied for in the Application, with reliance on a Wildlife Act Authority and LMP that will supposedly be applied for at a later date. Effects on lizard habitat should be enforced through clear and appropriate conditions of consent.

(b) Measures to manage effects on avifauna focus on the Project's potential effects

on avoiding the nesting season and checking for nests before removing vegetation, but do not address the loss of avifauna habitat. A similar concern is expressed in respect of bat habitat.

(c) The approach taken in the Boffa Miskell (Mr Garrett-Walker) report to the assessments of ecological values and effects differs significantly from the AECOM report, with the ecological assessment by AECOM (considered more accurate than that of Boffa Miskell).

Auckland Council

405 Mr Rue Statham, the Council's Senior Ecologist, considered the ecological effects associated with the NoRs and recommended amendments to the proposed landscape planting condition (Designation Condition 26) and Arch Hill Scenic Reserve condition (Designation Condition 26A), insofar as they relate to restoration/revegetation planting. In this regard, Mr Statham considers that the designation conditions are not detailed enough and are subjective in their wording. In his view, landscape planting should be additional to that of any remediation or planting required by the resource consent, and the Arch Hill Scenic Reserve habitat loss be fully accounted for and appropriate planting undertaken. The Council comments noted that it may not be possible or appropriate (noting land use and/or recreational constraints) to plant within the Reserve, in which case offsetting will be required.

406 In terms of the resource consents, Mr Statham was generally supportive but noted his principal issues related to "*the inconsistency with wildlife management during construction and the proposed conditions of consent; namely the quantum of 'mitigation' for the loss of terrestrial biodiversity values*".[80] Changes were recommended to the proposed conditions in order to:[81]

- *Clarify the Suitably Qualified and Experienced Practitioner (Biodiversity) involved in implementation of conditions;*
- *Address vegetation removal as a whole rather than the limitation to native vegetation;*
- *Implement the use of a Biodiversity Offset Accountancy Model (BOAM) to determine replacement planting as opposed to a 1:1 replacement;*
- *Require an evaluation of the impact using the Stream Ecological Valuation methodology to determine any required riparian planting;*
- *Update the bird management condition to recognise avifauna that may be encountered and to include residential properties;*
- *Update the bat management condition to provide for any survey result monitoring reports, recognise habitat alterations, detail timing or seasonal restrictions, provide for the specific competencies necessary to undertake the work required, and be Auckland-specific;*

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[80] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [178].
[81] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [179].

- *Introduce a lizard management condition; and*
- *Overall, recognise the staging of construction.*

407 The Council's planners adopted Mr Statham's recommendations, going on to note their view that adverse effects on terrestrial flora and fauna will not be limited to native vegetation. They advise that given the extent of vegetation removal proposed the use of a Biodiversity Offset Accountancy Model (**BOAM**) model is considered to be a more nuanced and suitable methodology to assess the associated impact and offsetting metrics of these works. They therefore also support the use of the Stream Ecological Valuation (**SEV**) methodology to mitigate any adverse impacts on riparian planting.

Applicant response

Department of Conservation

408 In terms of the matters on terrestrial ecology raised by DoC, the Applicant responded as follows:

(a) The DoC comments do not take into account the identification of only two native lizards during the baseline surveys. Further, its assessment concludes that the level of adverse effect on lizard habitat from the Project would be low without mitigation, and DoC has not explained why it considers that management of such a low level of effects would be reasonable or appropriate. Notwithstanding, its Consent Condition 14 requires mitigation planting for vegetation removed from SEAs or a coastal or riparian margin, and such replacement planting may provide for future lizard habitat.

(b) The management of direct effects on lizards will occur through the Wildlife Act, which is overseen by DoC. The RMA components of the application do not therefore need to ensure the mitigation of direct effects. It referenced previous panel decisions that found there to be no environmental benefit to requiring another version of a LMP to be certified by councils, and no separate such plan was required under the consent conditions.[82]

(c) The AEcE assesses the Project's effects on avifauna without mitigation as low-very low, such that Mr Bredin considers that no specific mitigation is considered to be required, and DoC has not explained why it considers that management of such a low level of effects would be reasonable or appropriate. A similar response is made in respect of long-tailed bats.

Auckland Council

409 The facilitated discussions between the Applicant and the Council incorporated the aforementioned Landscape Planting condition (Designation Condition 26) and changes to the Arch Hill Scenic Reserve – Native Vegetation Removal condition (Designation Condition 26A, NoR 10). For the latter, the Council sought the inclusion and use of BOAM for the calculation of offset area in respect of any habitat loss.

410 In terms of the resource consent conditions, the Council's proposed change to the

[82] Cambridge to Piarere, Ara Tuhono – Warkworth to Wellsford and Takitiumu North Link Stage 2.

Applicant's Terrestrial Native Vegetation Removal condition (Consent Condition 14) was not accepted by the Applicant, beyond references to 'eco-sourced' planting. The Council's amendments sought to widen the scope of areas covered by the condition (from coastal margins to natural inland wetlands and their buffers), and to introduce the abovementioned BOAM method for offsetting vegetation to be removed. We have also noted previously that the Council's proposed Tree Removal condition was not accepted by the Applicant, and this condition would apply to the same consent.

411 Terrestrial vegetation remained an outstanding topic following the facilitated discussions between the Applicant and the Council, save that the parties agreed to a single SQEP definition and that Proposed Designation Condition 26A and Proposed Consent Condition 14 will require eco-sourced planting. In its 8 July 2026 version of conditions, the Council sought further amendments to these conditions as follows:

(a) To replace "native vegetation" with "any vegetation", so as to require mitigation of exotic as well as indigenous vegetation loss;

(b) To require use of BOAM to determine replanting amounts;

(c) To cross-reference the Council's "Te Haumanu Taiao" restoration guidance; and

(d) To require pest animal control to support planting success.

412 In its 9 July Memorandum, supported by the statement of evidence of Mr Andrew Blayney of the same date, the Applicant maintained that:

(a) The focus on indigenous vegetation reflects the AUP framework and does not imply exotic vegetation lacks value, exotic vegetation removal outside SEAs, riparian/coastal margins and Arch Hill Scenic Reserve being a permitted activity;

(b) Biodiversity offset modelling (including BOAM) is not necessary given the low conservation importance and young age of the affected vegetation, the staged nature of the works, and the high likelihood that the recommended 1:1 ratio-based replacement planting will achieve no net loss within a relatively short period;

(c) Te Haumanu Taiao has no statutory basis and was not independently reviewed, and in any event does not itself contain "specifications" capable of being given contractual effect; and

(d) Pest animal control is not necessary to ensure planting success.

413 Mr Blayney's evidence also responded to the Council's suggestion that Consent Conditions 14(b) and 15(e) involve "double accountancy" for the same riparian planting. He disagreed on the basis that riparian vegetation performs both a terrestrial and an instream function and recognising both is not double counting. Mr Blayney also confirmed his support for the 1:1 area-based replacement planting approach within 1.5 km of the Proposed Designation boundary, and for the Terrestrial Vegetation Assessment's identification of restoration opportunities as indicative rather than fixed. The Applicant's planning evidence (Ms Karyn Sinclair, 9 July 2026) supports retention of "native" in Designation Condition 26A and Consent Condition 14 as consistent with the AUP's E15 objectives and policies and as being proportionate to the Project's effects.

Panel findings

414 The Panel has carefully considered the two sets of conditions put forward by the parties. As we have discussed previously, we find that the inclusion of 'native' in terms of the vegetation of concern to the removal clause is appropriate, and accept Ms Sinclair's evidence in this regard. We do not disregard the contribution that exotic vegetation may have to the ecological functioning of the Arch Hill Scenic Reserve (although Mr Blayney's evidence indicates that this is confined to grass and pest plants), but consider that the Applicant's approach better aligns with the AUP. As Ms Sinclair sets out, Chapter E15 addresses vegetation management and biodiversity, and the associated objectives and policies manage effects on indigenous biodiversity and vegetation cover. We do not therefore accept the Council's comments that the Applicant's approach is a departure from the AUP.

415 We also accept Ms Sinclair's analysis of the relevant consents and criteria that would apply had the Applicant progressed a land use consent for tree removals within the Reserve. She notes the relevance of Chapter E26 provisions, which have an overall intent to enable infrastructure, with no provision to support the protection of exotic vegetation, or the requirement for mitigation for ecological purposes. Accordingly, we agree with her conclusion that the proposed conditions that address the loss of vegetation in Arch Hill respond appropriately to the provisions of the AUP and the identified effects.

416 In terms of the proportionality of the proposed mitigation, we acknowledge Mr Blayney's assessment as to the predominance of native vegetation. Further, Ms Sinclair's evidence refers to vegetation that is permitted to be removed (through height and girth standards), whereas the Applicant's conditions do not make such a distinction (i.e., they require replacement of all native vegetation). As she also notes, the relevant AUP criteria do not require consideration of the ecological function of the vegetation to be removed.

417 We also accept Mr Blayney's evidence in respect of the competing positions between use of a 1:1 planting ratio versus use of BOAM as advocated by the Council. The Applicant's 29 July Memorandum notes that such modelling is not mandatory, and highlights Mr Blayney's evidence that the subject vegetation is of young age and has low conservation significance and the certainty that proposed mitigation (on a staged basis) will be effective in a relatively short period of time.

418 We also further accept the Applicant's submission as to the status of the Te Haumanu Taiao guidelines, and that, notwithstanding that issue, the Council has not identified what aspect of those guidelines would need to be met, or why. From the Panel's review of that document, we agree that a requirement for a SQEP "*to demonstrate compliance with the following: eco-system specification, appropriate location and determine plant species and eco-sourcing, density and sizing*", in accordance with the Te Haumanu Taiao guidelines, would incorporate a great deal of uncertainty as to what aspects of those guidelines apply, quite aside from their non-statutory status.

419 We have previously set out our findings in respect of the inclusion of pest animals, and that this is not required for the Project conditions.

420 We therefore find that the Applicant's Consent Condition 14 and Designation Condition 26A are appropriate and proportionate, and we adopt these conditions on that basis accordingly.

421 With respect to the Council's proposed Tree Removal condition, the Panel notes the combined effect of Designation Condition 26A and Consent Condition 14 in the preceding discussion, and which we are satisfied address effects on indigenous vegetation within SEAs, riparian margins, coastal areas and Open Space zoned areas. The Applicant also draws attention to the Council's TOA processes for street trees and trees in parks. We agree with the evidence of Mr Blayney in this regard, and accept the Applicant's submission that this additional condition duplicates effects management that is already addressed in the aforementioned conditions (as well as by reference to requirements for TOA approvals). We have therefore not included the proposed Tree Removal condition within the consent condition set.

Streams and Freshwater Ecology

Applicant assessment

422 The proposed works associated within the ten streams located within the proposed route have been assessed in the first instance within a Freshwater Ecology Assessment prepared by Mr Garrett-Walker, who concluded that:[83]

> *The Project will result in small, discrete areas of streambed enclosure and limited riparian vegetation removal across several degraded urban watercourses. The construction effects are assessed as Very Low to Low. Operational effects are assessed as Very Low.*
>
> *Under the EIANZ Ecological Impact Assessment Guidelines, effects assessed as Low or Very Low typically do not require mitigation. However, I have recommended precautionary riparian restoration and planting that is commensurate with the modified nature of the receiving environment and limited extent of Project effects. I have also recommended standard fish salvage and relocation protocols and construction water quality controls.*
>
> *With the implementation of these measures, I consider the Project will maintain, and in places incrementally improve, the overall freshwater ecological condition of the streams in the Project Area compared to the existing baseline.*

423 The Freshwater Ecology Assessment assessed the actual and potential effects of the Project on freshwater ecological values based on the following 'envelope of effects':

(a) It assesses effects on all ten perennial and intermittent watercourses that are intersected by the Proposed Designation, and is not limited to the seven streams that are intersected by the Indicative Design;

(b) It assesses effects on streams that might arise from bridging, culverting and pipe extensions, loss of riparian vegetation, short-term water quality effects, temporary disturbance from machinery and access, stormwater discharge effects, and changes in hydrology and flow regime;

(c) It does not assess reclamation or permanent diversion of streams, as no such works are proposed; and

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[83] Freshwater Ecology Assessment, at Section 6.

(d) It assumes bridges will have no instream piers or structures within the wetted channel of the streams.

424 The Freshwater Ecology Assessment provides sensitivity testing and concluded that shifting the locations of bridges and culverts/pipe extensions would not introduce new freshwater ecology effects or increase their significance (including if a design change resulted in works being undertaken in the streams not intersected by the Indicative Design). It also concluded that the freshwater ecology effects of the Project can be managed in a scalable way, so the management measures will remain proportionate to the effects regardless of the final design. It does not identify any streams or works that should be avoided to appropriately manage the freshwater effects of the Project.

425 Conditions related to the Designation to manage freshwater ecological effects were based on the following:

(a) NZTA would update the Proposed Consent Conditions to make it clear that the consents do not authorise permanent diversion or reclamation of any perennial or intermittent watercourse. With that change, Consent Condition 11 relating to Totara Creek will be deleted as it will be obsolete (this amendment formed part of the updated conditions submitted with the Applicant's 29 July Memorandum).

(b) The typical span of a bridge is 30-35m. Therefore, given the very small width of the streams within the Proposed Designation, it will not be necessary for the bridges to have any piers in the stream beds.

426 The Consent Conditions require:

(a) Standard erosion and sediment control measures;

(b) Fish passage in all new culverts unless unnecessary or impracticable;

(c) Riparian vegetation to be replaced (at a 1:1 ratio);

(d) Riparian planting to be undertaken (at a 1:1.5 ratio, by length) to address the impacts of culverting and stormwater outfalls;

(e) Fish and kākahi salvage and relocation prior to dewatering or diversion works; and

(f) Standard construction protocols will ensure fuels, oils and hazardous substances are stored and handled safely and wet concrete is contained.

<u>Comments received</u>

Department of Conservation

427 Comments from DoC in respect of freshwater effects raised concerns related to the following:

(a) The approach taken in the Boffa Miskell (Mr Garrett-Walker) report to the assessments of ecological values and effects differs significantly from the AECOM report, with the ecological assessment by AECOM (and were considered more accurate than that of Boffa Miskell).

(b) The Boffa Miskell report assesses the level of effects at the whole catchment scale, rather than the reach or sub-catchment scale as is standard practice, and reduces the level of effect to 'Low' or 'Very Low', on which basis they conclude that no mitigation for effects on streams is required. DoC notes that incremental loss of stream habitat through gradual development in urban areas is a significant problem that can only be resolved by requiring small areas of stream habitat loss to be managed.

(c) Boffa Miskell offers some riparian restoration planting to account for loss of riparian vegetation from bridge construction and loss of stream habitat through culverting. However, they provide no basis for the proposed ratios of planting to vegetation/habitat loss and the final amount of riparian planting offered is approximately one-third of the amount calculated using the SEV method.

(d) DoC seeks that the Applicant prepare an amended Freshwater Ecological Assessment to apply a scientifically robust and transparent method to calculate the appropriate amount of offsetting for the effects on streams, using the SEV method.

(e) DoC considers that a Complex Freshwater Fisheries Approval under the Freshwater Fisheries Regulations 1983 is required, because Consent Condition 13 (Fish Passage) allows for culverts to not provide fish passage if it is unnecessary or impracticable.

(f) DoC also provided further comments on Consent Conditions 1, 13, 15 (Works in Watercourses) and 17 (Fish Salvage and Relocation).

Auckland Council

428 The Application was reviewed by Dr Naz Tavasoli, the Council's Specialist (Earth and Stream Works). While Dr Tavasoli acknowledged that residual freshwater ecological effects would be expected to be no more than low, Dr Tavasoli noted that:[84]

> *... the application does not clearly demonstrate compliance with relevant regulatory standards and consent requirements. In addition, the absence of detailed culvert, outfall, and bridge designs specific to each stream creates uncertainty regarding fish passage provision, hydraulic performance, and the long-term functionality of the stream network. While mitigation planting is proposed, it does not adequately address the permanent loss of stream extent and ecological values through a robust offsetting or compensation framework.*
>
> *Overall, the application does not yet provide certainty regarding the potential effects on freshwater environments due to a lack of detailed design drawings. As a result, key information gaps remain and should be addressed...*

429 However, Dr Tavasoli went on to say that those matters of concern can be managed through consent conditions, including the replacement of Consent Conditions 12 and 13 proposed by the Applicant, with two new conditions recommended to be imposed regarding a finalised streamworks management plan and bridge design.

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[84] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [183].

Applicant response

Department of Conservation

430 The Applicant contended that DoC has not considered the context of this Project in terms of potential freshwater effects, having regard to the highly modified nature of affected streams with tolerant ecological communities and the minimal extent of streams impacted (even in a 'worst case' scenario). It highlighted that the Indicative Design involves approximately 78m of riparian disturbance and approximately 38m of stream bed enclosure over the entire Project length.

431 The Applicant stated that the Project's effects are quite different from those associated with other NZTA projects, and disagrees with DoC's comment that the Freshwater Assessment "*relied more on narrative descriptions and used non-standard methods to arrive at somewhat different conclusions*". It referenced the evidence of Mr Garrett-Walker where he states:[85]

> *My assessment relies on quantitative data, including SEV scores, macroinvertebrate indices, and fish records (much of which is sourced from or consistent with the AECOM dataset). I then did a site visit so that I could apply professional judgement and interpretation to place that data in context. This integrated approach is consistent with the ECIA Guidelines, which require the application of professional judgement to interpret multiple lines of evidence, rather than reliance on quantitative metrics in isolation. Accordingly, I consider my approach is consistent with standard practice.*

432 In terms of the assessment approach, the Applicant further references Mr Garrett-Walker's evidence that his approach was appropriate, and consistent with the Ecological Impact Assessment Guidelines (**EcIA Guidelines**). It is noted that these guidelines are intended to encourage a contextual interpretation of effects, rather than a purely site-based assessment, and that:[86]

> *The EcIA Guidelines recommend that the spatial scale of an assessment reflect the ecological systems and processes being considered. In the context of freshwater environments, streams operate as connected systems, with ecological function and values extending beyond individual reaches.*
>
> *On that basis, I have assessed effects at the catchment scale, which I consider best reflects the way stream systems function. In my view, assessing effects at an individual reach scale risks overstating effects by removing them from their wider ecological context, and conflating the loss of a discrete feature with a loss of ecological function at a system level.*
>
> *In other words, reach-based scale can inflate apparent magnitude by ignoring the ecological scale at which fish populations and macroinvertebrate assemblages interact and recover.*

433 The response further notes Mr Garrett-Walker's assessment that the overall level of effect of stormwater discharges on the low and moderate value streams is 'very low', as

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[85] Evidence of Jeremy Garrett-Walker (freshwater ecology) dated 3 June 2026, at [15].
[86] Evidence of Jeremy Garrett-Walker (freshwater ecology) dated 3 June 2026, at [19] and [21]-[23].

informed by the Assessment of Stormwater and Flooding Effects.

434 In terms of potential freshwater effects and the use of the SEV method, the Applicant noted Mr Garrett-Walker's evidence that potential ecological effects are assessed as low to very low, and do not result in adverse residual adverse effects on freshwater ecological values. It was his view, therefore, that aquatic offsetting is not required and that:

(a) The SEV method should be applied where it is an appropriate tool for the scale and context of the effects being addressed. It is inappropriate to apply SEV in a strictly formulaic manner where it results in an effects management response that is disproportionate to the ecological impact of the Project.

(b) NZTA's proposed measures are proportionate to the scale of effects identified and are appropriate to maintain, and in some cases improve, freshwater ecological values.

(c) The riparian planting ratios are proportionate and reasonable and all appropriately address the ecological effects of the Project.

435 The Applicant went on to say that there is no obligation (under the RMA or FTAA) requiring an applicant to undertake modelling or apply a specific methodology in order to assess the effects of a Project, nor that the SEV be used, and that "*[t]he methodology and assessment undertaken by Mr Garrett-Walker is fit for purpose and proportionate to the context of the Project within a highly modified, highly urbanised environment, the existing freshwater values and the Project's effects*".[87] It made further comment in this regard to the National Policy Statement on Freshwater Management (**NPS-FM**), which we address later in this decision, the key point for present purposes being that it says the Applicant's approach is consistent with the NPS-FM and the effects hierarchy.

436 In terms of DoC's suggestion as to the need for a Complex Freshwater Fisheries Approval, the Applicant stated that this is not required, based on the Indicative Design. It advised, however, that it will seek that approval at the appropriate time should the final Project design require the same.

437 The Applicant also further reiterated, with reference to DoC's Wildlands assessment, that NZTA is not seeking consents under regulation 45 of the National Environmental Standards for Freshwater (**NES-FW**), such that no effects on wetlands will arise, and that it would propose an amendment to the proposed conditions to ensure that this is clear (as subsequently confirmed through the conditions attached to its 29 July Memorandum).

Auckland Council

438 The facilitated discussions between the Applicant and the Council noted agreement being reached in respect of the conditions for works in watercourses regarding the deletion of Designation Condition 11 for diversion or reclamation of the bed of Totara

[87] Memorandum of counsel for the Applicant dated 3 June 2026, Appendix A, at p 8.

Creek.

439 However, the topic of 'works in watercourses' remained an outstanding topic following the facilitated discussions. The Council agreed that the Project's freshwater ecology effects will be low to very low, but in its 8 July 2026 conditions nevertheless sought that freshwater mitigation be determined through offsetting/compensation modelling, and that the Applicant be required to prepare a Native Fish Capture and Relocation Plan for Council certification. The Council's 8 July 2026 conditions also sought a Streamworks Method Design Statement (**SMDS**) condition. This was cast as follows:

> *Prior to any streamworks commencing for each new culvert, culvert extension, stormwater outfall or bridge structure, a Streamworks Method Design Statement (SMDS) and accompanying design drawings must be provided to the Council. The purpose of the SMDS is to ensure key structure design elements that avoid or minimise adverse effects on the stream bed are met. The SMDS must include:*
>
> *(a) The angle of discharge from the outfall(s) to the stream bed to confirm that the outfall(s) are constructed at an angle that avoids erosion and scour of thestream bed at the discharge point.*
>
> *(b) Confirmation of the location of outfall(s) and that where possible, the outfalls have been located outside of the stream bed to minimise stream bed erosion.*
>
> *(c) Final culvert design details that confirm the overall length of new culverts and/or culvert extension(s) have been designed to the minimum extent practicable, to minimise stream bed loss and modification.*
>
> *(d) The level of fish passage proposed through each new culvert and/or culvert extension and, where a reduction in fish passage is proposed, provide detail on how the provision for fish passage can be improved or retrofit where possible. This is to ensure that the culvert extensions will not result in fish passage impediments that do not currently exist, and new culverts provide for fish passage improvements.*
>
> *(e) Final length of erosion and scour protection associated with each structure, that confirms it has been designed to the minimum extent practicable, to minimise stream bed modification.*
>
> *(f) Final bridge designs that demonstrate the bridge structures including abutments and piles will not be constructed within the stream or riverbed.*

440 In its 9 July Memorandum (at Appendix B), the Applicant considered that a number of matters in the Council's proposed condition are impractical or otherwise not appropriate. It stated that they are unnecessary to secure the effects envelope, given that proposed Consent Conditions 9, 12, 13 and 15 already address hydraulic performance, scour protection, fish passage and other impacts from bridging and culverting. By way of example, the Applicant noted that:

(a) The condition would require the angle of discharge from an outfall to be specified, notwithstanding that this is dependent on discharge volume and can be managed through appropriate scour protection; and

(b) The condition would result in capacity constraints on retrofitting culverts for fish passage, which would in turn impact upstream flood plains.

441 The Applicant considered that its proposed conditions will appropriately constrain the envelope of effects, and that certification of technical designs (as contrasted with measures that manage effects) is more onerous than necessary. In the same memorandum, the Applicant responded to the Council's Technical Specialist Memo - Environmental Monitoring by submitting that it is not necessary to have 'approved plans and methodology' to verify compliance where outcomes-based conditions are imposed. It made the further observation that the 'no Condition 1' approach did not create compliance or monitoring issues on the Puhoi to Warkworth project, and therefore submitted that the Technical Specialist Memo should not be given weight by the Panel in relation to the 'no Condition 1'/effects envelope approach.

442 The Applicant went on to highlight that, given the low level of effects, no offsetting or compensation framework is necessary, noting that mitigation planting is in any event proposed under proposed Consent Condition 15 (as explained in the evidence of Mr Garrett-Walker dated 3 June 2026). As to fish salvage, the Applicant relied upon Mr Garrett-Walker's evidence that fish capture and relocation procedures are well understood and established practices, and that an outcomes-based condition allows for flexibility and adaptability appropriate to this constrained urban environment. On this basis, a separate Native Fish Capture and Relocation Plan condition was considered to be unnecessary and disproportionate.

443 The Applicant's 29 July Memorandum returned to these issues, noting the two options before the Panel in respect of the two sets of conditions proposed by the Applicant and those of the Council and DoC. It submitted that the Panel would need to make that determination as to which option manages the Project's potential effects in the 'least onerous' way (in terms of the purpose of the FTAA). It provides a clause-by-clause review of the Council's conditions and the reasons why they are opposed, and we set out that rationale below.

444 The Council's proposed SDMS (Consent Condition 12, as set out above) was opposed by the Applicant for the reasons that:

(a) Paragraph (a) is unnecessary as NZTA's Proposed Consent Condition 12 sets out a clear design standard for scour protection. Paragraph (a) is also unclear as drafted as it would require the "*angle of the discharge from the outfall*" to be specified – but that angle will be dependent on the volume and velocity of water being discharged at a particular time, and we understand that angle is not the only determinant of scour from an outfall.

(b) Paragraph (b) requiring NZTA to locate outfalls outside the stream bed "*where possible*" is also unclear as outfalls will generally be located in the stream bank – which is not always outside the stream bed.

(c) Paragraph (c) requiring NZTA to demonstrate that the length of culverts is "*the minimum extent practicable*" is unnecessary. The extent of culverting required for the Project is minimal due to the environment through which it passes, and NZTA's Proposed Consent Condition 15 will appropriately manage the effects of the culverts.

(d) Paragraph (d) requiring NZTA to provide fish passage details including "*how the provision for fish passage can be improved or retrofit [sic] where possible*" is unnecessary. NZTA's Proposed Consent Condition 13 will ensure appropriate fish passage is provided. Further, paragraph (d) would result in capacity constraints to achieve retrofitting of culverts for fish passage, which would adversely impact upstream flood plains.

(e) Paragraph (e) requiring NZTA to demonstrate that erosion and scour protection "*has been designed to the minimum extent practicable*" is unclear and unnecessary. The extent of erosion and scour protection required for the Project is minimal and NZTA's Proposed Consent Condition 15 will appropriately manage any effects.

(f) Paragraph (f) requiring NZTA to provide designs that demonstrate bridge structures will not be constructed within the stream or riverbed is now addressed to the extent appropriate in NZTA's Proposed Consent Condition 11 (which requires no supporting piers in the stream bed).

445 The Applicant therefore sought that the Panel prefer its consent conditions, and reject the Council's proposed SDMS requirement.

446 The Council and DoC also sought an amendment to Consent Condition 13(a)(ii) so that fish passage would need to be provided where there are existing man-made barriers to fish passage (but not where there are natural barriers). This was opposed by the Applicant for the reasons that (with reference to the Freshwater Ecology Assessment):[88]

> *…Stream reaches that are to be affected by culvert or pipe extensions (Streams 4, 6 and 9) for the Project are highly modified, in poor macroinvertebrate condition and fragmented by existing culverts. Several streams have existing fish passage constraints - Streams 1, 4, 6, 9 and 10. NZTA considers it would be inappropriate to require fish passage to be provided for in these reaches when there are existing barriers to fish passage. In our submission, providing fish passage in those circumstances would not address environmental effects from the Project and would therefore be "more onerous than necessary".*

447 The Council and DoC also sought the deletion of Consent Condition 13(b), such that fish passage would need to be provided even where it is impracticable to do so. This was also opposed by the Applicant, for the reasons that:[89]

> *…An example of where fish passage may be impracticable is where retrofitting fish passage into an existing culvert or incorporating fish passage into an extension of a culvert that currently does not provide for fish passage would be expected to reduce the culvert's hydraulic capacity and function, and could therefore affect flood conveyance and upstream water levels. In our submission, fish passage should not be required where it would result in other adverse impacts, particularly given the poor quality of the existing environment.*

448 The Applicant also addressed the Council's amendments to Consent Condition 15

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[88] 29 July Memorandum, at [146].
[89] 29 July Memorandum, at [148].

(Works in Watercourses), where the Council sought inclusion of the use of the SEV and Environmental Compensation Ratio (**ECR**) methodology, rather than the Applicant's proposal that applied a dimension-based riparian margin planting standard. The Applicant considered that the extent of streams impacted would be minimal (approximately 78m of riparian disturbance and 38m of stream bed enclosure over the entire Project length), and freshwater ecology effects were agreed to be low to very low. Nevertheless, the Applicant has noted that it has proposed conditions that require riparian planting that is proportionate to the extent of impact. The Applicant went on to submit that requiring the use of offsetting or compensation methods would be disproportionate, and 'more onerous than necessary', for the reasons that:

(a) The application of the effects management hierarchy under the NPS-FM (clause 3.21) would require freshwater offsetting or compensation for more than minor residual effects, which are not triggered for the proposal. However, even if they did, strict application of the NPS-FM is not required or appropriate in a FTAA context.

(b) There is no legal or other obligation (under the RMA or FTAA) to apply a particular methodology (such as the SEV/ECR) to assess effects or identify appropriate mitigation. The Applicant highlights Mr Garrett-Walker's view that the scale and context of effects in this case are not appropriate for the use of the SEV method and it "*would introduce additional complexity and design uncertainty without materially improving ecological outcomes*".[90]

449 The Council and DoC also sought amendments to proposed Consent Condition 17 to require a 'Native Fish Capture and Relocation Plan' or 'Fish Management Plan', with the Council including such a plan within those requiring certification. The Applicant's version required native fish capture and relocation (supervised by a SQEP) prior to dewatering, diversion or in-stream works. The Applicant's 29 July Memorandum outlined why it does not consider the plans sought by the Council and DoC are necessary. It referred to Mr Garrett-Walker's evidence which explains that fish salvage and relocation are "*well understood and established practices*", and that "*an outcomes-based condition allows for … flexibility and adaptability*" which will enable an appropriate response to the site-specific conditions in this constrained urban environment.[91]

450 Again, the Applicant considered that the above requirements advanced by the Council and DoC would be more onerous than necessary, and that the Panel should prefer the Applicant's Consent Conditions 15 and 17.

Panel findings

451 The Panel has carefully considered both sets of conditions. Overall, we find in favour of the Applicant. This is primarily because we agree that the extent of streams affected by the Project are minimal when considered in comparison to the length of the Project works. Nevertheless, we have also taken into account that when considered on an absolute basis (i.e., that irrespective of Project length), it will affect approximately 116m of streams within an urban environment where such features are valued and

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[90] 29 July Memorandum, at [150.2], with reference to the statement of evidence of Jeremy Garrett-Walker (freshwater ecology) dated 3 June 2026, at [57].

[91] 29 July Memorandum, at [153], with reference to the statement of evidence of Jeremy Garrett-Walker (freshwater ecology) dated 3 June 2026, at [60] – [61].

ecological habitats that are often under pressure from urbanisation. In this regard, however, we take note of what we have understood to be an agreed position that adverse effects will be low or very low. Further, the Applicant has proposed conditions that will require riparian planting that is proportionate to the extent of impact (i.e., 1.5 times the length of the watercourse to be occupied, and a minimum of 5m either side of the watercourse.

Coastal ecology

Applicant assessment

452 The AEcE assesses effects on both marine locations where works are proposed, being the Huruhuru Creek and Henderson Creek, as well as construction and operational effects on the marine environment that might result from bridging, and on the assumption that the Henderson Creek bridge will involve the installation of piles in the channel. In particular, two bridges are proposed to cross Huruhuru and Henderson Creeks, where bridge construction will require the installation of temporary staging from both ends to provide access for piling, piers, and crosshead construction, and one bridge pier may be located within the Henderson Creek channel due to the length of the bridge. This new bridge will be adjacent to the existing SH16 bridge that also has piers located in the CMA.

453 The AEcE addressed effects on marine areas including in terms of construction noise and construction stormwater, whereby:

(a) Erosion and sediment control measures, and good practice for removing mangroves during construction in the CMA, together with general construction management in the form of a CCMP are proposed to ensure that the effects on the marine environment as a result of the Project are very low.

(b) The absence of marine mammals in the area, together with the limited noise effects on other marine fauna (i.e., fish, invertebrates or birds), are such that construction noise and vibration effects on marine fauna in the CMA are considered low, with no specific mitigation required.

(c) Works in or near the CMA, or streams and watercourses, have a potentially higher risk of elevated sediment yields, but can be managed effectively and are not unusual or high-risk.

454 The AEcE did not recommend any specific mitigation as all potential effects of the Project are assessed as 'Very Low'.

455 The relevant conditions for the resource consents address potential effects in the coastal environment by:

(a) The extent of area for the coastal permits shown in Schedule A to the Proposed Consent Conditions, which is a highly confined extent of area that does not allow for material changes in the busway alignment; and

(b) A condition that requires permanent bridge crossings of Wai-o-Pareira/Henderson Creek and Huruhuru Creek so that the minimum freeboard height of any bridge soffit above MHWS is no less than that of the existing adjacent SH16 bridges that cross these watercourses.

Comments received

Department of Conservation

456 DoC's comments in respect of coastal ecology were confined to an issue related to effects on the Asian Date Mussel in Henderson Creek, which it considers would require the disposal of any removed mangroves on land or in proximity to the site of removal in order to mitigate any potential for translocation.

Auckland Council

457 The Council's review of coastal ecological effects was undertaken by Dr Kala Sivaguru (Senior Coastal Specialist), who has reviewed the coastal aspects of this proposal (Appendix 18). As previously noted, Dr Sivaguru has identified, under the provisions of the AUP and PC120, an additional reason for consent relating to the coastal outfall's location within coastal erosion hazard area adjacent to Henderson Creek.

458 Dr Sivaguru concurs with the assessment made by Mr Bredin of the quality of the benthic ecology, mangroves and sediment quality of the areas associated with the Project. While Dr Sivaguru generally agrees with Mr Bredin's assessment as to the magnitude of effects on marine ecology, she has made additional comments in respect of recommended conditions to manage the additional adverse effects that she has identified:[92]

- *the extent of mangrove removal should be minimised as far as practicable.*
- *measures to demonstrate how potential adverse effects on Threatened and At Risk (TAR) bird species including effects on banded rail population arising from mangrove removal would be avoided need to be demonstrated effects on benthic fauna would be temporary and localised,*
- *the SEA-M2 values are primarily associated with the Creeks' function as bird feeding habitat; however, there are no known bird breeding or nesting sites within the CMA at the subject Creeks. Birds and fish species are therefore expected to continue to utilise the area once the proposed works are completed,*
- *while some sediment contaminants, including zinc and copper, have been identified at concentrations exceeding sediment quality guideline values within the subject creeks, the associated effects on water and sediment quality are anticipated to be localised to the vicinity of the works and limited to the duration of the construction period,*
- *while the temporary staging structures are proposed to be removed following construction, the indicative construction methodology does not describe the methods for removal of these structures, but can be managed by way of a standard condition requiring the submission of a Construction Management Plan for the proposed bridge works, and*
- *an Underwater Noise Management Plan (UNMP) is required for both impact*

[92] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [192].

and vibratory piling to manage the potential effects of piling activities on marine fauna.

459 It is noted that Dr Sivaguru also identified that further information is required with regard to the location of piles within the creek to adequately assess potential effects on coastal processes. Otherwise, she concluded that:[93]

> *...any potential adverse effects arising from the proposed works are considered to be less than minor, subject to the provision of additional information identified through the recommended conditions and adherence to the proposed conditions of consent and good practice measures.*
>
> *On the basis that the identified information gaps would be addressed through the relevant consent conditions, I support the proposed works within the Coastal Marine Area and the Coastal Erosion Hazard Area.*

460 The Council's planners note that from a planning perspective, information on the bridge structures to determine their effect on coastal processes would have been preferred at this stage. However, they acknowledge given the limited extent of the CMA at issue, they defer to Dr Sivaguru's recommended approach to manage this by way of conditions. They go on to say that there is a lack of clarity in the recommended condition relating to avoiding effects on banded rail population arising from mangrove removal, as well as the recommended conditions relating to piles and coastal processes, and the effects on coastal erosion on the proposed coastal outfall. They note therefore that further feedback on additional or amended conditions may be required.

461 Further comments were made by the Council on arboricultural matters associated with regional consent requirements and of ecological significance and a review by Ms Regine Leung, Senior Arborist, relating to:

(a) Vegetation alteration or removal within SEAs, riparian margins (ten streams), and coastal areas; and

(b) The management of Kauri dieback disease.

462 The Council advised of Ms Leung's support for the proposed measures to ensure no net loss of protected vegetation. However, they note Ms Leung's identification of the existing environment and tree impacts for trees located within 150m of MHWS of the overall Project site (in particular for the works near to Waterview and Henderson Creek), and a condition is recommended "*requiring the provision of arboricultural input in assessing tree impacts in all habitats and the subsequent provision of for mitigation or offset planting to ensure no net loss of canopy coverage is proposed accordingly*". The condition would relate to both the designations and resource consents.

463 The Council highlighted that a kauri tree is located within SEA_T_4938 at Henderson Creek and would be impacted due to the proposed works in the vicinity, requiring that a Kauri Dieback Management Protocol be implemented within the Kauri Hygiene zone to prevent the spread of Kauri dieback disease.

464 The Council's planners noted their acceptance of an approach whereby the actual

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[93] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [194].

assessment of tree alteration or removal within coastal areas is deferred to the conditions stage, given the limited coastal areas that relate to the proposal. It was further acknowledged that if the suite of arboricultural input and works is aligned with the distinct stages of works, the proposed approach recognises the maturing of tree habitat over the duration of the consent timeframe.

465 The Council's planners also highlighted an issue in respect of the Applicant's omission through its conditions of the Kauri Hygiene Standard Operating Procedures (Auckland Council, 2021). Further to Ms Leung's comments on Kauri Dieback Management Protocol, they recommend that any condition relating Kauri Die-Back Management references all three relevant documents[94] or their updated versions.

466 Ms Leung also identified the 150m distance to MHWS as constituting a coastal area under the provisions of the AUP. The planners also noted that the Applicant's definition of riparian margin also differs from the AUP, and for the avoidance of doubt, they recommend that the definitions of these areas in any conditions aligns with the AUP definitions.

Applicant response

Department of Conservation

467 The Applicant commented in respect of DoC's concern regarding Asian Date Mussel that a condition addressing this matter was not necessary, noting that this species is long-established and widespread in New Zealand (including the Waitematā) and is not listed in the Auckland Pest Management Plan or under the Biosecurity Act 1993 as an 'unwanted organism'. It further comments that transporting removed mangroves to another harbour for disposal would be unusual, unnecessarily costly and logistically impractical.

Auckland Council

468 In terms of the facilitated discussions between the Applicant and the Council, agreement was reached in respect of:

(a) Amendments to Consent Condition 20 (CCMP), including a requirement to minimise the removal or pruning of mangroves, and a requirement to identify how restrictions on public access to the CMA will be communicated; and

(b) An addition to Consent Condition 22 (Permanent Occupation), to confirm the activity to which exclusive occupation under s 12(2) of the RMA.

469 The Applicant advised that all other aspects of coastal processes and marine ecology (coastal management, mangroves, and occupation of the CMA) were resolved, with the exception of the Council's proposed underwater noise condition. In Appendix B to its 9 July Memorandum, the Applicant maintains that an Underwater Noise Management Plan condition is unrelated to the Project's effects and overly onerous, on the basis

[94] The Biosecurity (National Pest Management Plan for Phytophthora agathidicida) Order 2022, the Auckland Regional Pest Management Plan 2020 – 2030 (Auckland Council, 2021), and the Kauri Hygiene Standard Operating Procedures (Auckland Council, 2021).

that:

(a) There is no evidence of marine mammals being present within the coastal permit area, which is a significant distance upstream from open water (the two bridges in the CMA being respectively some 4.5 km and 6 km upstream of narrow open channels from Hobsonville Marina, such that the Applicant considers the likelihood of a marine mammal venturing that far up a tidal creek to be very remote); and

(b) The AEcE and the ACNVE both assessed the level of effect of piling noise and vibration on marine fauna, without mitigation, as very low, on the basis of the low ecological value of the mangrove and sub-tidal habitat and the temporary nature of the works. The Applicant contrasts this with the Council's position that marine mammal presence "cannot be discounted" or "entirely ruled out", which it submits effectively requires the Applicant to prove a negative in the absence of any evidence of sightings.

470 Two further matters arose in respect of the Council's suggestion as to the requirement for a condition relating to measures to minimise underwater noise effects (including avoidance of activities when marine mammals are within 220m of the works area) and incorporation of a s 128 RMA review condition in respect of potential adverse effects on the coastal environment or surrounding structures. The Applicant responded in Appendix B of its 9 July Memorandum in respect of these issues that:

(a) The potential for noise and vibration disturbance to marine fauna from construction activities (including vibratory piling for bridge construction) was assessed in the AEcE, and found the level of effect without mitigation to be very low. That assessment included reference to the low ecological value of both the mangrove and sub-tidal areas, and the temporary nature of the activity. The ACNVE agreed with the AEcE, whereby the Applicant's expert considers that during piling (which would take place over a few days), fish and birds would avoid the area. Further, no effects would arise when piling occurs at low tide or outside the wetted channel.

(b) The s 128 review condition is not supported because this simply duplicates the requirements of the RMA and is not required to manage the Project's effects.

<u>Panel findings</u>

471 The Panel accepts the further commentary from the Applicant with respect to the DoC issue relating to Asian Date Mussel, and considers that as this species is not a recognised pest (under the Auckland Pest Management Plan or Biosecurity Act 1993), a condition of the nature proposed by DoC is not reasonable, for the reasons that the Applicant explains.

472 With regard to the matters raised by the Council, the Panel agrees that the imposition of an underwater noise condition is similarly unreasonable, and acknowledges the Applicant's point as to the upstream location of the works and the lack of evidence as to the existence of marine mammals in these areas. The Panel is aware of such conditions being imposed in respect of works within harbour and inner harbour areas, but does not consider that a level of risk of harm has been demonstrated by the Council that would justify imposition of a condition of this nature.

473 In terms of the proposed s 128 review condition, however, the Panel finds in favour of

the Council. Such a condition is a common feature of resource consent conditions where areas of uncertainty exist, and its imposition is particularly appropriate in the present situation where the details of proposed works are not yet known and are to be addressed through various management plans and other such mechanisms. Further, while reviews under s 128 are provided for under the RMA irrespective of their inclusion within a suite of conditions, the proposed condition in this case is specific to effects on the coastal environment and surrounding structures. We consider the proposed condition to be a helpful provision that outlines the particular area in which the Council may undertake such a review (relative to the more general power contained within s 128).

474 The Panel has therefore determined that it is appropriate to include this matter within the Consent Conditions relating to the coastal permit, as follows:

> *Review condition*
> *Under section 128 of the RMA the conditions of this consent may be reviewed by the Manager Resource Consents at the consent holder's cost on a five (5) yearly basis to deal with any adverse effect on the environment which may arise or potentially arise from the exercise of this consent and which it is appropriate to deal with at a later stage, in particular adverse effects on coastal environment or surrounding structures.*

Effects on Open Space and Parks

Applicant assessment

475 Section 7 of Part 4 of the AEE addresses the effects of the Project and associated works on various parks, areas of open space or community facilities, and recommended measures to avoid, remedy or mitigate adverse effects. The parks and areas of open space affected by the Project are summarised as follows:

(a) Areas affected by construction (and which the Applicant considers will not be affected when the Project is operational):

(i) 36 Westgate Drive: Stormwater storage basin reserve;

(ii) Oriel Drive / Holmes Drive: Mānutewhau walkway reserve;

(iii) 48 Westgate Drive: Tihema Stream Reserve and stormwater storage basin reserve;

(iv) 3 Chloe Place: Reserve and stormwater pond;

(v) 340 Triangle Road: Esplanade reserve;

(vi) Henderson Creek: Esplanade reserve;

(vii) 145 Flanshaw Road: Esplanade reserve;

(viii) Te Atatu Road: Ōrangihina Reserve; and

(ix) Ian McKinnon Drive: Suffolk Reserve.

(b) Areas affected during construction and operation:

(i) Royal View Road: McCormick Green reserve;

(ii) Great North Road: Western Springs Gardens; and

(iii) Arch Hill Scenic Reserve.

476 The Applicant's assessment concluded in regard to effects on these spaces that the landowner approval process with the Council will apply for all temporary construction works within Council land, while the permanent loss of parks, open space land and community facilities such as the Western Springs Memorial Halls will be addressed through the PWA process. It concluded that:[95]

> *Overall, I consider that the potential adverse effects on parks and open spaces is low to moderate and can be adequately managed through the proposed CTMP condition where relevant to construction effects, and the PWA. I also consider that the Project will provide public infrastructure that will greatly benefit the communities it is located within.*

477 The AEE also advised that the loss of public parking spaces at Western Springs will be offset by the Project and its purpose, insofar as local amenities will be more accessible via a high-quality public transport that is not readily available now. It also pointed to the recreation and amenity value enhancements associated with a potential reduction of traffic to the area.

478 In response to the Panel's queries set out in its Minute 3, the Applicant advised that it was not proposing conditions to address the effects of the Project on parks, open spaces and community facilities as they are either not needed or will be appropriately managed through other mechanisms, noting as follows:[96]

- *Temporary effects: NZTA will require landowner approval from Auckland Council in order to undertake construction works in parks and open spaces. This process will enable Council to impose requirements relating to management of access during construction and remediation of the park/open space following construction. There is no reasonable basis for conditions to duplicate that existing process (which is entirely subject to the Council's discretion).*

- *Permanent effects: NZTA considers the potential effects of the Indicative Design and any realistic design changes will be minimal, and that the 'envelope of effects' is secured as set out above. Council will be compensated for any land acquired permanently in accordance with the PWA, and is free to apply the funds from those acquisitions to community facilities at its discretion.*

<u>Comments received</u>

479 The Council's comments were provided by Mr Douglas Sadlier (Senior Planner, Parks &

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[95] AEE, at [7.2.1].
[96] Memorandum of counsel for the Applicant dated 19 May 2026, Appendix A at p 5.

Community Facilities Specialist) with an addendum memorandum from Ms Lesley Wolfensberger-Betts (Parks Planner, Parks & Community Facilities). Mr Sadlier's assessment advised that:

(a) The proposed designations will affect land owned by the Council and managed by Parks and Community Facilities (**PCF**) which provide wellbeing amenity, green space (recreational, environmental and ecological) and community infrastructure allowing for both passive and active activities for the neighbourhoods that connect and live in close (and not so close) proximity to them.

(b) The Project will also affect open space land purchased by the Council where there is an expectation that these areas can still be utilised for open space community passive and recreation use (and not be excluded as a result of the NoRs).

(c) PCF and Land and Property Advisory support the application based on the information available and subject to the Applicant agreeing to and including the recommended amended terms and conditions into the resource consent and designation consent conditions.

480 The memorandum from Ms Wolfensberger-Betts noted considerations related to the conditions, the PWA process and engagement on management plans as follows:

(a) References to Park Management and Mitigation Plans within Mr Sadlier's memorandum have been changed to Open Space Construction Management Plan and Open Space Mitigation Plan.

(b) That the PWA transfers land and ensures the original owner is appropriately compensated, while other measures such as tree retention, replacement planting or other open space outcomes must be secured through other statutory tools, prior to the PWA acquisition process.

(c) The lead in time for engagement on the management plans (as per recommended conditions) prior to detailed design is of particular importance to PCF.

481 The Council's planners adopt the assessment and recommendations provided by Mr Sadlier and Ms Wolfensberger-Betts, as well as the recommended changes to conditions, albeit they acknowledge that these require further refinement.

482 The Panel notes that concerns were also raised about effects on parks and open space within the comments from various local boards included with the Council's comments. The Panel has discerned the position of the Council's Parks officers to have incorporated those concerns within its overall position statements received within its covering memorandum and so we do not address these matters further.

483 In Appendix C to its 9 July Memorandum, the Applicant responded individually to each Local Board comment attached to the Council's comments (support for the Project generally, requests outside the scope of this Application, environmental effects, design details, land acquisition, and lapse period). Those responses are not otherwise addressed further in this decision.

484 Through facilitated discussions between the Applicant and the Council, amendments

were proposed in respect of vegetation removal within the Arch Hill Scenic Reserve, with only minor aspects of that wording agreed by the Applicant (in terms of the addition of 'eco-sourced' and 'Requiring Authority'). The Council's proposed suite of Designation Conditions relating to effects on open space generally (Open Space Mitigation Management Plan and Open Space Mitigation Plan) and on specific parks or facilities (Westgate Pedestrian and Cycle Bridge, Pukewhakataratara / Rush Creek Reserve, Huruhuru Reserve, Flanshaw Esplanade Reserve, Harbourview – Orangihina Park, McCormick Green, Western Springs Garden Park and Arch Hill Reserve) were deleted, although the Council noted that this was dependent on acceptance of its conditions relating to the 'package' requiring imposition of the Condition 15 matters (CPTED, HIRTB and the 'Form and Landscaping Statement') and Landscape Planting conditions.

485 The Applicant's 9 July Memorandum also noted that agreement had been reached to include a new condition to require NZTA to maintain safe and clearly identifiable public access (walking and cycling) through affected open space available for use during construction, as far as practicable. Other matters have been agreed to be addressed outside the consenting/FTAA process.

Panel findings

486 The Panel acknowledges the agreed position reached between the Applicant and the Council in respect of the management of open space and parks and associated planting provisions. We have adopted those agreed conditions as part of the Designation Conditions attached to this decision, with further discussion regarding the particulars of vegetation removal and replanting discussed under separate topic (Arboriculture and Terrestrial ecology).

Effects on infrastructure

Applicant assessment

487 The AEE advised of a number of existing utilities located directly adjacent to SH16 including regionally and nationally significant utilities, which are owned and operated by several network utility operators (**NUOs**). It notes that the Proposed Designation interacts with a number of these existing utilities. In addition, some of the land to be designated for the Project is already subject to existing designations for network utilities, whereby written consent of the relevant requiring authority for the earlier designation is required under s 177(1)(a) of the RMA before works can commence. The AEE states that these approvals will be sought by NZTA closer to the start of construction, once detailed design has been progressed so any works required to existing utilities is well understood, but that consultation with all NUOs has taken place and will continue as the Project is developed.

488 The Applicant's legal submissions provided with the application noted in respect of utilities that:[97]

> *Given the highly urbanised nature of the Project Area, there are a number of utilities that will need to be avoided, relocated or protected to enable construction of the Project. The interfaces between the Project and utilities are*

[97] Applicant legal submissions dated 15 December 2025, at [40.2].

governed by legislation and by mechanisms that are addressed, in routine manner, outside of consenting processes. They provide powers and protections to utility owners (in addition to the protections existing designations give many utilities under ss 176 and 177 of the RMA). Accordingly, we submit that the Panel does not need to, and should not, address the interfaces between the Project and utilities as part of its assessment of the Application.

489 The Panel received comments from two NUOs, and having considered the issues raised in those comments, we do not agree that we need not, or should not, consider the matters raised therein. These are therefore discussed further below.

490 In respect of those NUOs that provided comment, the AEE advised:

(a) With respect to Transpower New Zealand Ltd (**Transpower**), the Project traverses the National Grid Corridor Overlay at 23 various locations between Te Atatū peninsula and Triangle Road in Massey, with two areas in close proximity to Transpower's minimum clearance requirements (and traverse NoRs 3 and 7). Discussions with Transpower have occurred throughout the development of the Project and Indicative Design, and the Indicative Design has been modified to address initial advice from Transpower. However, the Applicant undertakes to manage the Project to avoid disruption to Transpower's assets and its users.

(b) In terms of Watercare Services Limited (**Watercare**), two Watercare designations in three locations intersect with the Project. These are the North Harbour 2 (**NH2**) Watermain/Northern Interceptor Shared Corridor (9377) at Gunton Drive and Moire Road, and the Central Interceptor Main Works (9466) at 770 Great North Road in Grey Lynn. Further to the pre-Application consultation, the AEE advises that with respect to the NH2 project, NZTA and Watercare are working together to ensure both projects can be accommodated and planned with the least amount of disruption. It also acknowledges the need for Watercare to provide continued services, with the ability to have safe and open access to their assets for maintenance and operational purposes, and for NZTA to plan and manage works well in advance of works needing to commence, particularly within constrained shut-down periods.

491 In summary, the AEE concludes, with respect to all NUOs that:[98]

Major utility assets were a key consideration during the optioneering undertaken to inform the Project's development. The Project works may require the protection, diversion and/or relocation of network utility services at various locations. I consider that there are a number of legislative protections for NUOs outside of the RMA approvals sought that will ensure that any Project interfaces that arise with utilities are appropriately managed. Engagement with NUOs will continue throughout the development of the Project.

Comments received

492 Transpower acknowledges through their comments on the Application as to the consultation that has been undertaken by the Applicant, as referred to above. However, it disagrees with commentary in the AEE that effects on the nationally

[98] AEE, at [20.2.4].

significant National Grid are irrelevant to the Panel's determination, and that there are several other Acts and regulations that provide for ongoing protection of the National Grid that will be observed.

493 Transpower advised that they disagree as that impacts on the National Grid are irrelevant, noting that the National Policy Statement for Electricity Networks (**NPS-EN**) contains objectives and policies that protect the Grid and remain relevant to the Panel's determination. Further, it disagreed that compliance with other legislation is sufficient to meet the requirements of the FTAA and the NPS-EN. Transpower stated that the FTAA does not provide that a national policy statement is irrelevant where the topic is covered by other legislation. In this regard, compliance with one piece of legislation does not negate the need to comply with another. Transpower sought a specific designation condition relating to construction works within 50m of its assets.

494 Comments from Watercare were provided as part of the Council's comments (at Appendix 3). It acknowledged that overlapping designations and relocation / co-location of different infrastructure assets are common in large infrastructure projects, and considers it has a constructive working relationship with NZTA in relation to these matters. It also agrees with NZTA that there are powers and protections available to utility owners outside the RMA which seek to address these interfaces.[99] However, it went on to say:

> *Watercare considers the proposed conditions of designation should also provide a mechanism for the parties to work together to resolve infrastructure interface issues (particularly when there are as many as this Project has), to ensure the best outcome is reached for Aucklanders. The conditions Watercare seeks are intentionally targeted and intended to complement, rather than duplicate, other statutory mechanisms outside the RMA.*

495 On that basis, and in order to address the challenges of overlapping interests and the co-location of infrastructure, Watercare seeks an outcome-based Water and Wastewater Management Plan (**WWMP**) condition, to apply to all of the NoRs. The first clause of that proposed condition seeks that:

> *(a) The WWMP must shall be prepared by the Requiring Authority prior to commencing preliminary design for the first and each subsequent stage. The objective of the WWMP is to set out a framework for early engagement and agreement on methods for protecting and/or relocating assets, and managing the adverse effects of working in close proximity to existing and authorised water and wastewater assets.*

496 The Council's planners relied on Watercare's expertise in their agreement that the condition was required "*to ensure that the Project is coordinated efficiently and effectively with existing and planned Watercare assets and works".* They highlighted a similar approach having been undertaken with respect to the recent Supporting Growth Alliance roading designations for the North-west, which included a Network Integration Management Plan (applicable to transport-related works), and a Network Utility Management Plan (**NUMP**). This requires the requiring authority (either AT or NZTA) to prepare a NUMP that sets out the framework for protecting, relocating and working in

[99] Watercare notes in this regard its own 'works over' approval process under the Water Supply and Wastewater Bylaw 2015.

proximity to existing network utilities.

497 For completeness, it is noted that AT provided a letter of support with the Application, advising:

> *In summary, AT supports the Project. There are key interfaces with the local road network and the operation of passenger transport services, that need to be managed. AT is comfortable the interface can be managed appropriately between the parties and there are no matters which AT considers may adversely affect project delivery.*

Applicant response

498 In its response to comments, the Applicant drew attention to its legal submissions provided with the Application, where it noted that the interface between the Project and utilities that may need to be either avoided, relocated or protected are governed by legislation and mechanisms that apply outside of consenting processes, that "*provide powers and protections to utility owners (in addition to the protections existing designations give many utilities under ss 176 and 177 of the RMA)*".[100]

499 With regard to Transpower, the Applicant stated that it is unnecessary to duplicate existing mechanisms through consent conditions. While the Applicant acknowledged through its response the importance of the National Grid and the relevance of the NPS-EN, it re-states its position that the Panel does not need to, and should not, address the interfaces between the Project and utilities as part of its assessment.

500 Notwithstanding the above, the Applicant's response to comments document also advised that:[101]

> *NZTA has engaged with Transpower throughout the development of the Indicative Design and will continue to engage with Transpower during development of the detailed design. NZTA and Transpower have discussed development of an agreement to formally record how they will work together, and what processes and obligations would usefully be agreed for this and other projects where their infrastructure shares space. NZTA intends to continue work on these matters, with an immediate focus on points of mutual interest for NWRT. NZTA will update the Panel on the progression of these discussions*.

501 The Applicant's 29 July Memorandum reaffirmed that discussions were ongoing, with an intent to reach a Project agreement with Transpower.

502 With respect to Watercare, the facilitated discussion process between the Applicant and the Council advises of the Applicant's disagreement to Watercare's proposed WWMP condition. The Applicant's Appendix A to its 9 July Memorandum advised that it did not consider that a condition was required to manage the coordination between Watercare and NZTA assets. It went on to highlight that utilities are managed through other statutory processes and the National Code of Practice for Utility Operators Access to Transport Corridors, and these processes already manage the matters that Watercare

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[100] For Transpower, the other legislation and mechanisms of relevance are noted to include the Electricity Act 1992 and the New Zealand Electrical Code of Practice for Electrical Safe Distances 2001.

[101] Memorandum of counsel for the Applicant dated 3 June 2026, Appendix A, at [35.1].

has raised. The Applicant went on to say that there are no effects that are not already managed by these existing processes, and therefore the suggested designation condition would be both redundant and unhelpful, noting Watercare's acknowledgement of these processes in its own letter, with no gap being identified in these processes or effect that would be managed by its proposed condition.

503 The Applicant emphasised that existing processes ensure that NZTA will continue engagement with Watercare, and that a WWMP condition is not necessary or warranted.

Panel findings

504 With respect to Transpower, the Applicant's 29 July Memorandum advised that the parties were continuing to work towards a Project agreement.[102] While such an agreement was not provided for the Panel's consideration and reference in the draft decision, comments were received from Transpower in respect of that decision confirming that an agreement had been reached. Accordingly, Transpower considered that the Designation Conditions that it had sought in respect of NoRs 3 and 7, and which had been included in the Panel's draft version of those conditions, were no longer required. That outcome also informs the Panel's consideration of the NPS-EN in Part G below.

505 With regard to Watercare, through its initial response to commenters and its 29 July Memorandum, the Applicant highlights that interactions are already managed through existing statutory processes and the National Code of Practice for Utility Operators Access to Transport Corridors. It notes that Watercare has acknowledged these processes and has not, through its comments, identified any gap or outstanding effects matter that would be properly addressed or filled by a condition. Having regard to the scope of s 108AA of the RMA, the Applicant submits that there is no lawful scope for the Panel to impose the management plan condition sought by Watercare.

506 The Panel has carefully reviewed Watercare's proposed condition. We are not aware of where the various clauses might overlap with other legislative mechanisms, but we understand that no such condition exists with respect to existing designations in and around SH16 or other roading designations more broadly. The Council's planners drew our attention to the NUMP condition approach applied in the Supporting Growth Alliance NoRs. However, the Panel understands this was proffered by the requiring authority(s) in respect of those NoRs, and were likely of greater necessity in respect of the growth in network utilities required within the future urban locations in which those NoRs were largely being applied, and the numerous submissions made by network utility providers in that case. It is also relevant to note that one of the advice notes expressly identifies the limits of the condition and its subordinate status with respect to the other legislative mechanisms highlighted by the Applicant, as follows:

> *Nothing in this condition limits or replaces requirements under the Government Roading Powers Act 1989, the Utilities Access Act 2010 and associated National Code of Practice for Utility Operators' Access to Transport Corridors, or any approvals reasonably required by a Network Utility Operator for works over, near*

[102] 29 July Memorandum, at [176].

to, or affecting its assets.

507 The Panel finds that Watercare's comments have not identified any particular shortcoming with those statutory requirements, nor identified the specific gap that is sought to be addressed in respect of those requirements through its proposed condition. We note that Watercare's comments acknowledge the dialogue already entered into with the Applicant, and we have no reason to conclude would not continue in the normal course of a requiring authority discharging its obligations under existing requirements. The Panel has not therefore discerned a basis to impose the condition sought by Watercare, and prefers the submission of the Applicant in this regard.

Operational effects

Noise effects

Applicant assessment

508 In addition to the ACNVE report, the Application included an Assessment of Operational Noise and Vibration Effects (**AONVE**) report, prepared by Ms Siri Wilkening. The AONVE concluded that:[103]

> *The Project itself will not result in any change in traffic noise levels received at any of the PPFs.[104] Any changes to noise levels will be due to the loss of shielding when buildings and existing noise barriers inside the Proposed Designation are removed to allow for the construction of the Project, and houses are now exposed to traffic noise from SH16. This change to noise levels is an indirect result of the Project.*
>
> *I have predicted traffic noise levels from the operation of the busway and, to address the indirect effect of building removal, recommended upgrades to existing noise barriers (where they can be retained) and some new noise barriers, to achieve similar outcomes for PPFs as if the Project was not to go ahead.*
>
> *For a small number of PPFs, building modification mitigation may need to be investigated since there appear to be no practicable options to provide effective barriers. This is the case where noise levels would increase by 1 dB or more and noise levels would be in Category C.*
>
> *Overall, the predicted changes in road traffic noise due to the Project implementation are small, ranging from +2 to -2 dB for the vast majority of PPFs.*
>
> *Stations can be designed and operated to not cause adverse additional noise effects on neighbouring sensitive receivers.*

509 The AONVE assessed that traffic vibration will only be generated when heavy vehicles drive over bumps or dips in the road. Because the assessment relates to what will be a newly sealed road, the AONVE predicted that vibration will only be experienced by receivers within 2m of the edge of the busway. It noted that it is unlikely that any receivers will remain in this 2m window following completion of construction of the busway, and no receivers outside of the Proposed Designation will be within this

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[103] AONVE, at Section 5.
[104] The reference to PPF's is 'Protected Premise and Facility in Accordance with NZS 6806:2010'.

identified risk contour.

510 In respect of the scheduled heritage buildings at Point Chevalier (former ASB and Ambassador Theatre), the AONVE considered that the likely vibration experienced as a result of the operation of the Project will be well below levels that may cause damage to features of these buildings, and that these buildings front Great North Road which experiences traffic volumes for heavy vehicles far greater than what is proposed for the busway.

Comments received

Auckland Council

511 As noted previously, a review was undertaken by Mr Runcie for the Council. The Council's memorandum summarises that Mr Runcie:[105]

- *concurs that the existing environment is already dominated by SH16 traffic and the noise modelling approach is appropriate. He agrees that the noise from buses is not a major noise contributor, noise increases along the alignment mainly arise from removal of existing screening (from buildings/barriers) exposing receivers to increased SH16 traffic noise. How this is managed is critical to the outcome of the Project.*

- *agrees that all mitigation identified at this stage (especially barriers) must be re-valuated and confirmed during design, and considers that clear performance criteria is critical to ensure best practicable outcomes (BPO)*

- *recommends changes to the wording of conditions which aim to ensure clear and transparent performance criteria and so that mitigation measures consider all properties present at detailed design stage (not just those that exist today).*

- *also recommends condition wording which aims to ensure the outcome matches the assessment of potential vibration effects and to ensure the outcome matches the assessment of potential station noise effects.*

512 The Council's planners considered that Mr Runcie's recommended amendments to the conditions would ensure that the potential noise and vibration effects of the works provided for by the designations will be avoided, remedied, or mitigated. However, they went on to note that Designation Condition 29 could be further amended as follows:[106]

> *As part of the detailed design of the project, a SQP must ~~shall~~ determine the BPO for mitigating noise effects on PPF's.*
>
> *Any BPO measures for mitigating noise must ~~shall~~ ensure ongoing compliance with Condition 12 of Designation 6738 (applicable to SH16 between Te Atatu and Henderson/Lincoln Road. The Requiring Authority must ~~shall~~ manage and*

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[105] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [58].
[106] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [60].

maintain the Detailed Mitigation Options to ensure that those mitigation works are maintained to retain their noise attenuation performance indefinitely.

513 They noted that alternatively this could be an advice note or sit within a network integration and/or land use integration process-type condition which requires the requiring authority to consider how the Project integrates with other developments. This would apply to either other roading works/development within the roading network, or with private developments that may have resource consents granted which could be made non-compliant by the Project - e.g., where resource consent conditions require the landowner to provide certain infrastructure as part of their development.

514 The Council's planners consider that the same approach as recommended above for Designation Condition 29 should also be taken for the new condition recommended by Mr Runcie, but with an alternative solution for each condition to include a condition that reflects the noise limits for station locations.

Kāinga Ora

515 The comments from Kāinga Ora was concerned that Condition 30(a)(ii) would enable the requiring authority to dispense with Condition 30 if access is not provided by a tenant despite an owner agreeing to access. Kāinga Ora did not identify any practical reason to deem compliance with Designation Condition 30 for tenant-related access constraints, and seeks that sub-clause (ii) is removed from the condition.

516 Kāinga Ora was also concerned that a low noise asphalt noise surface be maintained in perpetuity.

Residents

517 Some residents raised concerns about noise from the operation of the busway and the extent of planned mitigation. This included concerns raised by several residents within Alwyn Avenue regarding the noise effects arising from the removal of the existing planted bund that screens their street and homes from SH16.

518 One resident also referred to issues associated with existing vibration effects associated with heavy vehicles, including AT buses, within a site in Te Atatu and was concerned at further long-term or permanent issues for their home in this regard.

Applicant response

519 The Applicant's 9 July Memorandum (at Appendix A) advised of the following matters having been resolved through facilitated discussions:

(a) The Council does not consider that amendments to the conditions to address future Protected Premises and Facilities (**PPFs**) are required;

(b) The Council agreed that no amendments to require maintenance of a smooth road surface in respect of Designation Condition 28 are required;

(c) Agreement was reached in respect of referencing the design year 2051 for the future Best Practicable Outcomes (**BPO**) assessment regarding Designation Condition 30; and

(d) The Council agreed that no new condition to address station noise is required.

520 In terms of Kāinga Ora, the Applicant advised that it opposes the deletion of the condition clause "*because the condition would have no end point if, through no fault of its* own *NZTA was unable to gain access into a building*". The Applicant considered that such a situation would create an ongoing, unreasonable and potentially unachievable compliance burden, and that the processes under the Residential Tenancies Act 1986 cited in Kāinga Ora's comments are not relevant to the issue, and are entirely outside NZTA's control.

521 Nevertheless, the Applicant proposed amendments to Designation Condition 32 to address the basis of Kāinga Ora's concern, which would require NZTA to seek to gain entry over a 12-month period, following which if access cannot be obtained for whatever reason, compliance is deemed to have occurred. This change is considered by the Applicant to provide sufficient time for a landlord (including Kāinga Ora) to work through this process with their tenants, and provides compliance certainty while also ensuring that reasonable efforts will be made to undertake building modification mitigation.

522 The Applicant does not consider the proposed requirement in terms of low noise surfaces to be appropriate, noting that it maintains road surfaces across its network in the normal course, in accordance with standard asset management practices, to ensure the safe and efficient operation of that network (per NZTA's road controlling authority functions under the Land Transport Management Act 2003).

523 In respect of concerns raised by residential commentors, the Applicant reiterated the findings of the AONVE, whereby the SH16 motorway is assessed to be the dominant noise source for the full length of the Project, and any busway noise will not be discernible over, and will not add to, SH16 traffic noise.

524 The Applicant's response noted the potential for an increase of noise for some receivers where some buildings are to be removed that currently provide a shielding effect. In those cases, it advises that measures (including noise barriers, or upgrades to the same). For those dwellings predicted experience higher noise levels than 67 dB $L_{Aeg(24h)}$, due to topography differences, an assessment may be required for building modification (e.g., mechanical ventilation and upgraded joinery and/or glazing), and associated mitigation offered to the owners (per Designation Conditions 28 – 37).

525 In respect of specific commentors and locations (Westgate Drive and those near an existing bund near Alwyn Avenue), the Applicant comments:

(a) The noise level predictions show that noise levels would remain generally the same at the PPFs within Westgate Drive without and with the Project, with some minor changes in noise levels of less than 1 dB, which are considered to be too small to be noticeable.

(b) The partial removal of the bund near Alwyn Avenue will have no detrimental effect on the noise levels for adjacent houses as no noise level increase is predicted from the Project. However, Designation Conditions 28 - 37 set out a process for confirming noise mitigation based on the final design.

(c) In terms of the vibration effect of buses, traffic-related vibration is usually only generated when heavy vehicles such as buses drive over bumps or dips in the

road, although the 'risk contour' is limited to a 2m distance from the road edge. Ms Wilkening notes that the Project will utilise a newly sealed surface, with no receivers in such close proximity to a traffic lane edge, and that any vibration associated with buses on the newly formed busway will be well below the levels at which buildings could be damaged.

Panel findings

526 The Panel accepts the Applicant's expert evidence in respect of operational noise as provided by Ms Wilkening and notes the agreements reached with the Council in respect of its initial concerns regarding the Designation Conditions. We are also satisfied with the Applicant's response in terms of the issues raised by Kāinga Ora, including its amendment to Designation Condition 32 and considers that this provides an appropriate balance to matters of access to tenanted properties. In terms of other issues, we also accept that future road surfacing would be undertaken in the same way as the rest of the State Highway network where low noise surfaces are standard in most locations, including urban areas.

527 The Panel is also satisfied that the extent of any additional noise effects associated with locations adjacent to Westgate Drive, and in Alwyn Drive as a result of removal of the bund, will not be noticeably increased over existing and general traffic levels, noting the use of low noise surfaces and the use of electric buses. We note that Designation Conditions 28 – 37 nevertheless establish a process for confirming noise mitigation for affected properties based on the final design of the Project.

Flooding and stormwater effects

Applicant assessment

528 The effects of stormwater discharges are assessed within the Assessment of Stormwater and Flood Effects (**ASFE**) prepared by Mr Paul May. The AEE noted that stormwater effects from the Project can be broadly divided into stormwater quantity effects and stormwater quality effects, and addresses impacts on flooding and overland flow paths, water quality and stormwater discharge and stream channel erosion.

529 The AEE acknowledged that the Project has the potential to cause changes to flood depths, which can have effects on people and properties during heavy rainfall events. New impervious surfaces associated with the Project will generate stormwater run-off, which may contain pollutants from the operation of vehicles which can have effects on waterbodies and ecosystems that receive this run-off.

530 The AEE advised that new and upgraded stormwater outfalls and discharges are proposed to manage stormwater generated from new impervious surfaces. The operation of these outfalls and discharges can have effects on the quality of receiving waters and can also result in scouring and erosion of stream beds. The Council's memorandum noted in summary that the proposal involves 25 stormwater discharge points, comprising a mix of new and existing culverts and outfalls. Of these, ten discharge points are proposed to discharge via the Council's existing public stormwater network under the Regional Stormwater Network Discharge Consent (**NDC**). These discharge points will be managed by Healthy Waters. Regional consent to discharge stormwater on a private basis is required for the remaining 15 discharge points, with the associated culverts and outfalls to be operated and maintained by the Applicant. The Applicant has committed to treating all stormwater runoff, and Consent Condition

8 (stormwater discharge) is proposed accordingly.

531 All new and upgraded stormwater outfalls and culverts proposed for the Project are proposed to have energy dissipation and scour protection installed per Consent Condition 12 (works in watercourses, outfall and culvert design). While all but one treatment area will result in negligible effects on stream channel erosion, TA1 (Brigham Creek) may receive a moderate increase in stream channel erosion without mitigation. Installation of attenuation devices are proposed by way of Consent Condition 9 where required to ensure that effects on stream channel erosion as a result of the Project will be low to negligible.

Comments received

532 The Council's comments in respect of stormwater were prepared by Mr Martin Meyer (Senior Specialist Stormwater), who generally supports the Application subject to the following recommendations:

(a) That a geomorphic assessment is undertaken as part of proposed Consent Condition 9 to ensure that stream erosion at the point of discharge or downstream will not be exacerbated by a 5% or greater increase in stream velocities; and

(b) An assessment of the hydrological effects on the wetlands within 100m of the Project area is undertaken to determine whether consent is required under the NES-FW. Mr Meyer notes in this regard that while: "*The applicant states they do not expect to trigger NES-F 45(4) and 45(5), however further information on the wetlands within the bounds of these clauses should be provided along with their indicative catchments to show that they are not linked hydrologically or that the effects will not alter the hydrological function/water level of these wetlands from the proposed works*".

533 Recommendations were made by the Council to amend Designation Condition 9, along with additional conditions relating to the construction, operation and maintenance of NZTA's private stormwater management systems.

534 The Council's planners adopted Mr Meyer's recommendation, noting that the requirement to make the distinction between stormwater infrastructure subject to the NDC and private infrastructure is critical in ensuring the ongoing monitoring and maintenance obligations by the Applicant and Healthy Waters. Although they recognised the Applicant's desire for design flexibility, they considered that such flexibility can be enabled through either the 'In Accordance' requirement of a 'Condition 1', or s 127 RMA processes.

535 They also supported Mr Meyer's request for an assessment of the hydrological effects on the wetlands within 100m of the Project area. While they acknowledge that consent is explicitly not sought under the NES-FW, it is unknown whether the proposed works (particularly given the absence of a Condition 1) will trigger the requirements for consent regardless.

Applicant response

536 Resolution of the Council's concerns were resolved in part through the facilitated discussions. Specifically:

(a) It was agreed to amend Designation Condition 8(b) to clarify that "building(s)" include those "authorised by a relevant building consent";

(b) The Council's edits to Designation Condition 9 (relating to matters covered by the NDC process) were agreed to not be required; and

(c) The Council agreed that, with the exception of the two matters addressed below, all other parts of its comments relating to flooding are resolved.

537 The two matters not agreed were, firstly, that the definition of 'building' in Condition 8(b) should include a building that is "*authorised by a relevant ... resource consent*". The Applicant opposed this addition because a resource consent alone does not allow a building to be lawfully established, as a building consent will also need to be obtained. The latter is a requirement irrespective of any resource consent requirement, and the latter does not specifically identify floor levels of a building.

538 The second matter was the inclusion of an advice note to Consent Condition 9, as follows:

> *Where ...stormwater runoff is to the reticulated public stormwater network, it must comply with the requirements of ... [the NDC].*

539 The Applicant opposed the inclusion of this advice note because:

(a) The NDC does not apply to NZTA's own stormwater network; and

(b) NZTA will address the requirements of the NDC if and when the Project connects to the public stormwater network as part of the connection approval process. On that basis, "*[i]t is neither necessary nor appropriate for those requirements to be duplicated in the designation conditions or [as] an advice note, particularly when they will need to be addressed pursuant to a separate process in future, if that process becomes relevant*".[107]

Panel findings

540 The assessment by Mr Meyer advises that, in terms of Rule E8.4.1(A5/A10) (Stormwater Diversion & Discharge), 25 'treatment area' locations were identified, whereby ten areas (TA 13, TA 17 - TA 25) are proposed to discharge via the Council's existing public stormwater network under the NDC. The Healthy Waters and Flood Resilience technical memorandum further advised: [108]

> *Although the majority of runoff from the project will be directed to existing and proposed NZTA stormwater network and assets before discharging to the receiving environment, there are still relatively large areas that are proposed to be directed to the public reticulated stormwater network managed by Healthy Waters & Flood Resilience (HWFR) as outlined within Table 13-1 of Part 4 – Resource Management Act 1991 Approvals. Particularly within the Te Wai-o-Pareira / Henderson Creek Catchment (9,900m2), Te Auaunga / Oakley Creek*

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[107] 9 July Memorandum, Appendix A, at p 4.

[108] Technical Specialist Memorandum from Healthy Waters and Flood Resilience dated 25 May 2026, at Section 3.0.

Catchment (2,200m2), Waititiko / Meola Creek Catchment (17,750m2), and Waiateao / Motions Creek Catchment (45,200m2).

541 It goes on to advise that:

> *Table 1-2 of Part 4 outlines regional resource consents sought as part of the FTAA, and includes the 'Discharge of stormwater runoff from new impervious surfaces into or onto land or water within the Project Area including busway, stations and park and ride, updates to local roads and new and upgrades of stormwater infrastructure'*
>
> *HWFR holds a [NDC] which authorises the diversion into and discharge from public stormwater networks within the Auckland Region. These public stormwater networks are separate to those owned, operated, and maintained by the NZTA. The [NDC] includes provision for runoff from NZTA assets that is diverted into the HWFR public stormwater network under 'Development of new/ redevelopment of impervious area for: existing high use roads – that includes new impervious area greater than 1,000m2, other roads that includes new impervious area greater than 5,000m2, rail corridor projects with new impervious area greater than 1,000m2'.*
>
> *In order for the diversion and discharge of stormwater runoff from NZTA assets that enter the HWFR public stormwater network to be authorised under the [NDC], the Applicant would need to provide HWFR with an assessment that outlines how the 'general performance requirements' for NZTA projects under Schedule 4 of the [NDC] have been met, or otherwise provide a Stormwater Management Plan (SMP) which demonstrates how the stormwater management proposed meets Schedule 2 of the RWNDC and is the Best Practicable Option (BPO) for the project.*

542 The Panel considers that, on the basis that a connection to the Council's public stormwater system seems at least likely in respect of several of the proposed discharge connection points, that the inclusion of the Council's recommended advice note is appropriate, and does not result in an undue or onerous imposition on the Applicant.

Overall findings on effects

543 Overall, the Panel finds that the Project will deliver positive effects in terms of improvement to public transport accessibility, travel time reliability and strategic transport choice in the Northwest. In this regard it represents a significant item of infrastructure that will assist in achieving the growth outcomes for Auckland, particularly for the Northwest. The Panel is further satisfied that while adverse effects will inevitably arise as a result of the construction activities that are required to deliver the Project, these will be able to be appropriately avoided, remedied and/or mitigated both through the physical layout and position of the Project where it runs primarily alongside SH16 and thereby minimises its footprint adjacent urban land, and through the conditions that will apply to the Designations and resource consents.

PART F: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT

544 Section 3 of the FTAA states that the purpose of the FTAA is to facilitate the delivery of infrastructure and development projects with significant *regional or national benefits*.

As noted above in Part C, s 81(4) FTAA specifically requires the Panel to consider the extent of the Project's regional or national benefits.

545 The assessment of adverse impacts in relation to an approval sought is particularly relevant in the context of a decision to decline an approval. An approval can only be declined if the adverse impacts are out of proportion to regional or national benefits.[109]

546 There is no specific definition of significant regional or national benefits in the context of listed projects, of which the Project is one. Section 22 of the FTAA, which relates to the criteria for assessing a referral application, provides the following:

> (2) For the purposes of subsection (1)(a), the Minister may consider—
> (a) whether the project—
> (i) has been identified as a priority project in a central government local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list:
> (ii) will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure:
> (iii) will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
> (iv) will deliver significant economic benefits:
> (v) will support primary industries, including aquaculture:
> (vi) will support development of natural resources, including minerals and petroleum:
> (vii) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:
> (viii) will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:
> (ix) will address significant environmental issues:
> (x) is consistent with local or regional planning documents, including spatial strategies:

547 Part 3 of the Application set out the significant regional or national benefits of the Project. It highlights economic benefits associated with improved travel times, less congestion, vehicle operation cost savings, environmental effects, reliability improvements, active transport uptake and reduced crash rates. The Application points to the regional and national significance of the proposed infrastructure, including improved accessibility for northwest Auckland, a more attractive and efficient public transport network, support for urban development and growth, and the benefits to the wider strategic transport network. The Panel accepts that the Project will produce the regional and national benefits as set out by the Applicant. The regional benefits will be significant, and depending on the final scale of these regional benefits, they could be considered nationally significant.

548 The Panel is required to consider these claimed benefits with particular regard to whether they are disproportionately outweighed by the adverse effects of the Proposal. The Panel has found that subject to the conditions it has set, the adverse environmental effects are acceptable, and they do not disproportionately outweigh the benefits of the Project such as to warrant consent being declined.[53]

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[109] FTAA, s 85(3).

PART G: STATUTORY DOCUMENTS

549 Schedule 5, clause 5(1)(h) and clause 12(1)(d) of the FTAA require an assessment against the relevant provisions of the following documents:

(a) National environmental standards;

(b) Other regulations made under the RMA;

(c) National policy statements made under the RMA;

(d) The New Zealand Coastal Policy Statement (**NZCPS**);

(e) The RPS or a proposed regional policy statement;

(f) The AUP and any proposed plan changes; and

(g) A planning document recognised by a relevant iwi authority and lodged with a local authority.

550 The Applicant's RMA Approvals report addressed the relevant statutory documents and provisions (at Section 22). Rather than restating this material in full, this section addresses the documents and provisions of particular relevance to the Application, alongside the comments received. In reaching its conclusions in respect of these documents, the Panel also relies on its assessment of effects and the conditions it has determined appropriate (including Part H: Regional and District Planning Framework as relevant to the topic area).

Government Policy Statements

551 The RMA Approvals report notes that the Government Policy Statement (**GPS**) on land transport 2024-34 outlines strategic priorities for the next decade, including major public transport projects such as the Project, to enhance transport options, reduce congestion and emissions. The GPS emphasises the Government's commitment to the Project and sets clear expectations for the consideration of alternative funding sources to deliver the investment and delivery models to increase the speed of delivery.

552 The Project is identified as a priority rapid transit project for the Government within the public transport funding activity class, and is considered to be strongly aligned with the priority of supporting economic growth and productivity, through delivering a rapid transit corridor that provides an efficient public transport connection between residential growth areas and areas of employment.

553 The GPS sets an expectation to consider alternative funding sources to deliver the design, consenting, property acquisition and construction phases of the Project. The development of the Project is expected to focus on delivery of the primary transport objectives that most cost-effectively deliver on the strategic priorities in the GPS.

554 The Project is also provided for through further transport programmes and pathway documents:

(a) The National Land Transport Programme 2024–2027 identifies the Project as a key focus for investment in public transport, where $650 million of possible (but

not committed) funding has been allocated to the Project planning phase and for the start of construction. The National Land Transport Programme (**NLTP**) is a three-year programme of priority transport activities prepared by NZTA to give effect to GPS priorities. It includes revenue from the National Land Transport Fund (**NLTF**) on behalf of the Crown and funding from local councils (through rates).

(b) The State Highway Investment Proposal 2024–34 programme identifies the Project as a major public transport project funded through the NLTF for the project development phase as part of delivery on the Government's strategic objectives as set out in the GPS.

(c) The ARTP allocates the Project into Phase 1 as the most urgently needed project within Auckland's Rapid Transit Network (**RTN**) due to the scale of existing corridor deficiencies. The ARTP highlights that delivery could be staged over time and extend into Phase 2.

(d) The RLTP addresses the majority of problems identified for projects and services to be put forward for national funding from the NLTP. The RLTP is developed by the Council, AT, KiwiRail and NZTA. It is strongly aligned with the objectives sought from transport investment, including providing better connections between people, places, goods and services; improving the resilience and sustainability of the transport system; significantly reducing the greenhouse gas emissions it generates; and accelerating better travel choices for Aucklanders.

(e) The Project is also highlighted as giving effect to the high-level strategic direction of the Auckland Plan 2050, in particular under the Transport and Access outcome, by: addressing a significant gap in the rapid transit network; significantly improving travel reliability, travel times and customer experience; and delivering local improvements for bus passengers, pedestrians and cyclists to access proposed busway stations.

555 The Panel acknowledges the alignment between the Project and these higher order policy documents.

National Policy Statements

556 There are five National Policy Statements relevant to the Application which were addressed in Section 10 of the AEE and are as follows:

(a) NPS-FM;

(b) National Policy Statement on Urban Development (**NPS-UD**);

(c) National Policy Statement for Indigenous Biodiversity (**NPS-IB**);

(d) NPS-I; and

(e) NZCPS.

557 Sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 (**HGMPA**) are also relevant and must be treated as if they were a National Policy Statement and a New Zealand Coastal Policy Statement under the RMA. The Panel addresses each of these in turn

below.

558 The Panel also notes the relevance of the NPS-EN, as referred to in Part E above, and addresses this matter below. It is also considered that the National Policy Statement for Natural Hazards (**NPS-NH**) is relevant to part of the Project, and this is also addressed below.

National Policy Statement for Freshwater Management 2020

559 The NPS-FM sets out a framework under which local authorities are to manage freshwater (including groundwater).[110]

560 The objective of the NPS-FM is to ensure that natural and physical resources are managed in a way that prioritises:[111]

> *a. first, the health and well-being of water bodies and freshwater ecosystems*
>
> *b. second, the health needs of people (such as drinking water)*
>
> *c. third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*

561 This objective reflects the hierarchy of obligations in Te Mana o te Wai.[112]

562 The Applicant in the AEE has assessed the Project against the objective and policies of the NPS-FM, commenting that:[113]

> *Some freshwater environments may be impacted by the Project predominantly through discharge of stormwater from the Project, culvert extensions and bridge structures. Through the implementation of the proposed conditions, the quality of freshwater will be maintained while recognising the capacity constraints of streams and receiving water bodies.*
>
> *The proposed transport infrastructure is critical to enable existing and future communities to provide for their social, economic and cultural wellbeing. In my view, the Project contributes to the achievement of these objectives and policies by avoiding or minimising potential adverse effects on water bodies and freshwater ecosystems.*

563 DoC disagreed with the Applicant's approach and the Applicant's Freshwater Ecology Assessment prepared by Mr Garrett-Walker, and its comments stated in this regard that:[114]

> *Boffa Miskell assesses the level of effects at the whole catchment scale, rather than the reach or sub-catchment scale as is standard practice. This reduces the level of effect to 'Low' or 'Very Low', on which basis they conclude that no mitigation for effects on streams is required. This is inconsistent with the [NPS-*

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[110] NPS-FM, cl 1.5.
[111] NPS-FM, cl 2.1.
[112] NPS-FM, cl 1.3.
[113] AEE, at p 108.
[114] DoC comments, at [2.11].

FM], which states that any loss of stream habitat or function must be managed by applying the effects management hierarchy. In urban areas, incremental loss of stream habitat through gradual development is a significant problem that can only be resolved by requiring small areas of stream habitat loss to be managed. The Boffa Miskell report does not address the potential ongoing effects of stormwater discharge on stream ecology.

564 The Applicant's response to comments memoranda provided on 3 June 2026 provided additional comments in respect of the NPS-FM and in respect of the comments from DoC. It makes the submission that:[115]

> *The Freshwater Ecology Assessment is consistent with the NPS-FM and the effects management hierarchy because "the Project incorporates measures that avoid and minimise effects where practicable, including the use of bridge structures that avoid instream piers, and the application of standard construction management practices. In addition, mitigation measures such as riparian restoration are proposed, which will contribute to maintaining freshwater values" (evidence of Mr Jeremy Garrett-Walker (paragraph 33)).*
>
> *In any event, it is noted that the NPS-FM is policy, not a rule or requirement. A strict, narrow interpretation and application of the NPS-FM is neither justifiable nor appropriate in the context of the FTAA (noting the benefits of the Project, the Government Policy Statement on Land Transport, the mitigation proposed, the NPS-I and most importantly, the overall purpose of the FTAA).The NPS-FM, as an RMA planning instrument, also has less weight in FTAA decision-making than in standard RMA processes...*

565 The Panel has considered this analysis and agrees with it. The Panel further notes that the Applicant's undertaking, set out in its response to Minute 3, to update its proposed Consent Conditions to make it clear that the consents do not authorise permanent diversion or reclamation of any perennial or intermittent watercourse, was confirmed through the conditions attached to its 29 July Memorandum response. This included deletion of proposed Consent Condition 11 relating to Totara Creek.

566 Accordingly, the Panel is satisfied that the Project is able to be implemented and operated in a manner that will be in accordance with the NPS-FM.

National Policy Statement on Urban Development

567 The National Policy Statement on Urban Development (**NPS-UD**) seeks to ensure urban environments are well-functioning and enable all people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety. Auckland is recognised as a Tier 1 urban environment in the NPS-UD, and therefore is the subject of the strongest policy direction relating to intensification and density of urban form. The NPS-UD directs an integrated approach to infrastructure planning and funding decisions with urban development (Policy 10).

568 The AEE provided an analysis of the NPS-UD in conjunction with an assessment of the RPS and Chapter E27 of the AUP (and the Westgate Precinct) in respect of those

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[115] Memorandum of counsel for the Applicant dated 3 June 2026, Appendix A, at p 8.

provisions related to urban growth and development capacity. It stated that:[116]

> *The NPS-UD and AUP recognise the benefits of urban development where they contribute to people's social, economic, cultural, and environmental wellbeing. Policy 1 of the NPS-UD notes that a 'well-functioning urban environment' has, as a minimum, good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport. The Project will contribute to an accessible, high-quality, effective, efficient and safe transport route (including public and active transport modes) that support the movement of people, goods and services for Auckland's northwest and inner-west areas.*
>
> *...*
>
> *I consider that the Project is consistent with the NPS-UD and the relevant objectives and policies of the AUP in relation to urban growth and development capacity. I have placed no weight on objectives and policies pertaining to urban growth and form in PC120 as it is in its infancy, and the associated provisions do not have immediate legal effect.*

569 The Panel received no contradictory evidence with respect to the NPS-UD, and consider that the Project will, as highlighted by the Applicant, contribute to an accessible, high-quality, effective, efficient and safe transport route that supports the movement of people, goods and services for Auckland's northwest and inner-west areas.

570 It is also noted that Policy 6 of the NPS-UD applies to 'planning decisions that affect urban environments', requiring that councils have regard to, among other things:

> *a. that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:*
>
> *(i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
>
> *(ii) are not, of themselves, an adverse effect;*
>
> *b. … the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1);*
>
> *c. any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity; …*

571 As the Application is for a resource consent, in part, it is considered a 'planning decision' for the purposes of the NPS-UD.[117] The Applicant has stated that the proposed development of the proposal will assist the Council to fulfil its functions and responsibilities with respect to providing for urban growth and is consistent with the

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[116] AEE, at Table 22.1, pp 104-105 (comments related to the Westgate Precinct are addressed with regard to the AUP section below).

[117] NPS-UD, 1.4 interpretation, definition of 'planning decision'.

outcomes anticipated by the NPS-UD.[118] The Panel agrees with the Applicant's overall assessment of the NPS-UD, noting that the Council's comments do not indicate any discomfort with the Project in this regard.

National Policy Statement for Indigenous Biodiversity

572 The objective and policies of NPS-IB seek that a cautionary approach is used when considering effects on indigenous biodiversity both within and beyond Significant Natural Areas and including areas supporting highly mobile fauna. Increased indigenous vegetation cover in urban and non-urban environments is promoted, as is information gathering and the monitoring of indigenous biodiversity.

573 The objective of the NPS-IB is:

(a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and

(b) to achieve this:

(i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and

(ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and

(iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and

(iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

574 The AEE also notes that the NPS-IB sets out a need to recognise and allow for activities which contribute to New Zealand's social, economic, cultural and environmental wellbeing. In that respect the AEE notes that it provides a consenting pathway for specified infrastructure that provides significant national or regional public benefits and has a functional or operational need to locate in a particular location where there are no practicable alternatives

575 The Applicant's assessment identifies (in addition to Objective 1 above) that Policies 3, 4, 8, 10, 14, 15 and 17 are of relevance to the Project. In respect of these provisions, and associated policies of the RPS and AUP, it makes the following comments:[119]

(a) While the AUP was prepared prior to the NPS-IB being gazetted, I consider that the objectives and policies of the AUP are consistent with the NPS:IB. In relation to large scale infrastructure projects there is not a notable change in policy direction. The assessment of the Project against the NPS-

[118] AEE, at p 104.
[119] AEE, at Table 22-1, p 106.

IB is therefore aligned with the assessment of the corresponding AUP provisions and AUP is consistent with the NPS-IB.

(b) In my opinion, the Project falls within the definition of Specified Infrastructure in the NPS IB, as "infrastructure that is necessary to support housing development, that is included in a proposed or operative plan or identified for development in any relevant strategy document". The ecological habitats are detailed in the Assessment of Ecological Effects Report... The Project traverses a constrained and highly urbanised environment adjacent to the existing SH16 transport corridor. The policies of the NPS-IB and AUP provide for infrastructure in sensitive areas considering the benefits of providing the infrastructure, its role in supporting planned growth and the functional and operational need of the infrastructure to locate/traverse in those areas. The functional and operational need for the Project to pass through in SEAs is demonstrated through the detailed alternatives assessment process, the range of alternatives considered (which sought to balance benefits with constraints), and the need to meet the requiring authority's objectives for the Project. Additionally, the ecological effects of the Project identified generally fall within low to moderate levels. Proposed conditions of consent include the requirement for removal of pest plant species that will assist in improving the SEAs traversed by the Project.

(c) I consider that the Project is consistent with the relevant objectives and policies of the NPS-IB and AUP in relation to vegetation management and biodiversity values.

576 The Panel received comments regarding ecological matters from DoC, which we have addressed in Part E above. These were related primarily to freshwater effects and did not reference the NPS-IB. Having regard to our earlier findings in respect of those matters, and because we did not receive any competing evidence in respect of the NPS-IB, we find that appropriate regard has been given to the NPS-IB and will be consistent with it.

National Policy Statement for Infrastructure

577 The NPS-I came into effect on 15 January 2026. As this followed the completion and lodgement of the Application, it was addressed by the Applicant by way of an AEE Addendum provided on 1 May 2026.

578 The AEE Addendum confirmed that the NPS-I applies to the Project because it consists of "infrastructure activities" and "infrastructure supporting activities" (clause 1.3(1)). The objective of the NPS-I is to ensure the national, regional and local benefits of infrastructure are provided for; enable infrastructure to support social, economic and cultural wellbeing and health and safety; enable infrastructure to support the development and change of urban and rural environments to meet the diverse and changing needs of present and future generations; ensure infrastructure is well-functioning, resilient and compatible, as far as practicable, with other activities; and ensure infrastructure is delivered in a timely and efficient manner while managing adverse effects from or on infrastructure.

579 The AEE Addendum considered that the Project is aligned with the NPS-I objectives, as it will provide infrastructure with national, regional and local benefits, will support the

social, economic and cultural wellbeing of people and communities and their health and safety, and will provide enduring, reliable travel choices for growing communities in Auckland in an area currently poorly served by public transport choice. The AEE Addendum also addressed the 11 policies within the NPS-I, with Policy 11 ('Assessing and managing the interface between infrastructure and other activities') being applicable to the issues arising from many comments on the Application. The AEE Addendum acknowledges that the Project will give rise to some construction-related effects including noise, vibration, visual and amenity effects, which Policy 11 acknowledges are typical of infrastructure projects and are usually unavoidable but can be managed, and notes that Policy 11 also acknowledges that changes in amenity values from infrastructure activities can be necessary to achieve a well-functioning urban environment.

580 The Applicant also drew attention to the NPS-I in its response to the Panel's Minute 5 regarding landscape effects of elevated components of the Project, noting that Policy 1(1) requires the Panel to "*ensure that the national, regional or local benefits of infrastructure, relative to any localised adverse effects on the environment, are recognised and provided for*". It considered that this policy means that localised adverse effects are acceptable in order to deliver the benefits that infrastructure such as the NWRT will provide. The Panel accepts that approach.

National Policy Statement for Natural Hazards

581 The AEE Addendum advised that while the NPS-NH came into effect on 15 January 2026, clause 1.3(2) states that it does not apply to infrastructure (by reference to the RMA definition of the same), and therefore is not relevant to the Project. However, the Panel notes that the definition of infrastructure under s 2 of the RMA, in terms of transport, is "*(g) structures for transport* ***on land*** *by cycleways, rail, roads, walkways, or any other means*" (emphasis added). It is apparent, therefore, that those parts of the Project within the CMA are subject to the NPS-NH, albeit to a proportionally small extent.[120]

582 We have therefore had regard to the objective and policies of the NPS-NH, for those parts of the Project that traverse the CMA. In particular, we note Policy 2 that requires that "*[n]atural hazard risk associated with subdivision, use and development must be managed using an approach that is proportionate to the level of natural hazard risk*", and Policy 6 "*[t]he potential impacts of climate change to at least 100 years into the future must be considered*". In this respect, we are satisfied that the assessment of stormwater and flooding has not identified a natural hazard risk associated with the construction of the Project across the estuarine waterways of Henderson Creek / Whau River and Huruhuru Creek, and that the new structures will (in terms of future climate change risks relating to sea level rise) have a freeboard height consistent with existing SH16 viaducts.

583 The Panel is therefore satisfied that the Project is consistent with the NPS-NH for those parts that are subject to it.

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[120] 1.3.3 of the NPS-NH confirms its applicability to the coastal environment (and that in the event of any conflict with the NZCPS and the NPS-NH, the NZCPS prevails).

New Zealand Coastal Policy Statement

584 The NZCPS recognises the importance of infrastructure to the social, economic, and cultural well-being of communities, particularly where there is a functional need for it to be located in the coastal environment. The relevant objectives and policies of the NZCPS allow for infrastructure where potential adverse effects on natural character, landscapes, water quality, and public access are avoided or mitigated.

585 Two bridges over the CMA are proposed for the Project. In order to construct the bridges, some disturbance of the CMA will be required for earthworks and vegetation clearance and the NZCPS is acknowledged within the AEE to therefore be of direct relevance and identifies Objectives 1 – 6 and Policies 2, 6, 11, 13, 18, 21, 22, 23 and 25 as being applicable. An assessment has been undertaken by the Applicant in conjunction with the relevant objectives and policies of the AUP relating to the coastal environment, and concludes that:

> *...overall, the Project is consistent with the relevant NZCPS and AUP objectives and policies as it is necessary to locate the Project over the CMA as it is a significant infrastructure with a functional or operational need, of regional or national benefit and there are no practicable alternatives that are reasonably available. Adverse effects on the coastal environment have been avoided through the design where one pile is proposed in the channel of the CMA and potential effects can be appropriately mitigated and managed through the proposed ESCP and CCMP which will be implemented during construction.*

586 The Panel did not receive any evidence that would run counter to the Applicant's assessment (noting that the Council's review by its Coastal Specialist raised no issues in this regard), and accordingly we conclude that the Project has appropriate regard to the NZCPS, including with regard to the approach agreed with the Council in respect of the management of potential sediment discharges associated with earthworks.

587 The Panel notes that the coastal environment encompasses more than just the CMA (per Policy 1(2)), and so the Panel has considered this matter slightly more broadly than the Applicant, although no substantive difference in our findings, as set out above, arises in that regard.

Hauraki Gulf Marine Park Act

588 The HGMPA provides special recognition for the Hauraki Gulf/Tīkapa Moana and establishes an integrated management framework for its islands, catchments, and CMA. Sections 7 and 8 of the HGMPA are of relevance to this proposal and must be treated as if they were a National Policy Statement and a New Zealand Coastal Policy Statement under the RMA. Section 13 of the HGMPA requires that all persons exercising powers under the RMA have particular regard to these provisions when considering resource consent applications affecting the Gulf, its islands, or catchments.

589 The AEE considers that the Project demonstrates alignment with the intentions of the HGMPA, and has been designed to avoid, remedy or mitigate adverse effects on the ecological health and life-supporting capacity of the Gulf. Having regard to the Panel's conclusions with respect to the NZCPS, the Panel agrees with the Applicant's assessment.

National Policy Statement for Electricity Networks

590 The NPS-EN sets out the objective and policies for managing the electricity transmission network under the RMA. It seeks to ensure that the national significance of the electricity network (**EN**) is recognised, protected and provided for, and that it is developed and operated in an efficient and ongoing manner while managing adverse effects from or on the EN (per Objective 1).

591 Policies 11 and 12 address the management of effects of third parties on the EN:

> *Policy 11*
> *1. Decision-makers and local authorities must manage adverse effects of activities undertaken by third parties on the EN, including by:*
> *a. avoiding direct effects on the EN;*
> *b. avoiding reverse sensitivity effects on the EN, to the extent reasonably possible; and*
> *c. ensuring that the effective operation, maintenance, upgrading and development of the EN is not compromised.*
> *Policy 12*
> *1. To manage adverse effects of activities undertaken by third parties on the EN:*
> *…*
> *d. decision-makers must ensure that buildings, structures, earthworks, subdivision and land use activities are designed and located to maintain safe distances from, and allow sufficient space for access to, and maintenance, construction, development and upgrading of EN assets; and*
> *…*

592 As noted in Part E above, comments were received from Transpower which highlighted the objective and policies of the NPS-EN that protect the Grid and are relevant to the Panel's determination. Transpower also disagreed that compliance with other legislation is sufficient to meet the requirements of the FTAA and the NPS-EN. While the Applicant acknowledged the importance of the EN and relevance of the NPS-EN, it remained of the view that the Panel need not address the interface between the Project and utilities.

593 As previously noted, the Applicant's legal submissions dated 29 July 2026 noted that it was engaged in ongoing discussions with Transpower, towards a Project agreement. However, the existence of such an agreement was not known to the Panel at the time of its draft decision. By reference to Policies 11 and 12, the Panel noted a direct and specific obligation upon us to ensure the need for the avoidance of effects on the EN, and that we must ensure that land use activities maintain safe distances from, and allow space for access, maintenance, construction, development and upgrading of EN assets.

594 Transpower drew our attention in this regard to the decision of the High Court in Transpower *New Zealand v Auckland Council*,[121] which noted that the equivalent provisions in the now replaced National Policy Statement on Electricity Transmission

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[121] [2017] NZHC 281.

were strongly directive, and that *"[a] mandatory requirement to ensure that an asset of national significance is not compromised is, in my judgment, a relatively strong directive".*

595 The Panel was concerned to ensure that reference to the potential for an agreement(s) to achieve those outcomes outside of this process is a sufficient basis for us to meet our obligations under the NPS-EN.

596 As previously noted, Transpower sought that appropriate conditions were incorporated into the designations, taking the form of a Transpower Construction Management Plan (TCMP), apply to NoRs 3 and 7, and be prepared prior to commencing any physical works in proximity to the HEN-HEP-A, HEN-ROS-A or HEN-OTA-A National Grid transmission lines.

597 Through its response to comments on the draft Designation Conditions, Transpower advised that an agreement had been reached with the Applicant, and that it was "*satisfied that the terms of this Project Agreement provide sufficient protections for the National Grid assets and is consistent with the NPS-EN*". It therefore requests that draft Designation Condition 38 for a TCMP be removed from NoRs 3 and 7.

598 The Panel acknowledges the request of Transpower, and on the basis of the agreement reached, is satisfied that the Project has appropriate regard to the NPS-EN, and the TCMP condition has been deleted accordingly.

National Environmental Standards

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

599 As set out in Part E of this decision, the Application included a PSI prepared by Mr Terry Widdowson, which identified potential HAIL sites along the designation route. The Applicant's review recommended the preparation of a CLMP, incorporating the findings of the DSIs, and implemented so that any contaminated land effects on human health and the environment can be managed or mitigated appropriately. Consent Condition 7 has been recommended accordingly.

600 The Application has been reviewed by Ms Visser for the Council who advised of her agreement with the Applicant's assessment and confirmed that any contaminated land effects can be managed or mitigated by implementation of the CLMP. However, she also noted that the Project requires consent under Regulation 11 of the NES-CS as a Discretionary Activity, as no DSIs have been carried out, and that a discharge consent under Chapter E30 of the AUP may also be required depending on the outcome of the DSI.

601 As discussed in Part E, Ms Duffy Visser recommended the imposition of a suite of CS conditions to apply to both the land-use consent and discharge consent to mitigate potential effects to human health and the environment. Those conditions were addressed within the facilitated discussions with the Applicant, and the final version of those conditions as agreed were set out in Part E (Consent Conditions 7-7C). These incorporate a staged requirement for a DSI to be prepared for works involving land specified in a schedule to the conditions (Schedule B), and the preparation of a CSMP in the event that the DSI identifies contamination. In the event that a CSMP is required, a Site Validation Report is to be provided within three months of the

completion earthworks.

602 On that basis, the Panel is satisfied that the construction and implementation of the Project is able to be appropriately managed, and that it will not generate adverse contaminated land effects or be at odds with the intent and purpose of the NES-CS.

National Environmental Standard for Freshwater

603 The Application seeks resource consent in respect of the NES-FW for the placement, use, alteration or reconstruction of a culvert in, on, or over the bed of a river.

604 The AEE commented that these consents are sought in relation to culvert extensions, and that the associated infrastructure will have significant regional or national benefits. It went on to say:[122]

> *There is a functional need for the infrastructure to be located where proposed adjacent to the state highway, with stations at key destinations and areas of residential land use. Stormwater discharge from the Project will be treated before discharging to the environment. Best practice erosion and sediment control measures will be deployed during construction to ensure the potential effects on freshwater bodies are minimised.*
>
> *Some freshwater environments may be impacted by the Project predominantly through discharge of stormwater from the Project, culvert extensions and bridge structures. Through the implementation of the proposed conditions, the quality of freshwater will be maintained while recognising the capacity constraints of streams and receiving water bodies.*

605 The review undertaken by the Council's groundwater specialist, Mr Simonds, identified that the Application did not include a requirement for consent under regulation 45 of the NES-FW, on the basis that the indicative alignment is not located within close proximity to identified natural inland wetlands. However, Mr Simonds noted that "*as the indicative alignment may be altered within the Proposed Designation Boundary, a consent in relation to NES:FW 45 (4a to 4c) may be required if the indicative alignment is revised".*[123]

606 Comment was also received from the Council's stormwater specialist, Mr Meyer in this regard, that "*further information on the wetlands within the bounds of these clauses should be provided along with their indicative catchments to show that they are not linked hydrologically or that the effects will not alter the hydrological function/water level of these wetlands from the proposed works*".[124]

607 The Council's overall concern was that an assessment of the hydrological effects on identified wetlands had not been provided, with a medium level of risk associated with the potential loss of wetland habitat.

608 This matter was subsequently resolved through facilitated discussions, where agreement was reached between the Applicant and the Council to incorporate an

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[122] AEE, at p 108.
[123] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [216].
[124] Memorandum of Planning Matters for Auckland Council dated 2 June 2026, at [234].

exception statement within the Consent Conditions that the consents do not authorise works within or near wetlands, including with reference to AUP rules E3.4.1(A1) and E15.4.1(A18). This exception statement was incorporated into the updated conditions provided by the Applicant on 29 July 2026.

609 Overall, the Panel is satisfied that the requirements of the NES-FW have been appropriately addressed, and that the exclusion provision now incorporated into the Consent Conditions confirms an intent to avoid any impacts on wetlands within the vicinity of the Project.

PART H: REGIONAL AND DISTRICT PLANNING FRAMEWORK

Introduction

610 An assessment of the relevant statutory plans has been included within the AEE as is required by Schedule 5, clause 5(1)(h).

611 The Panel has reviewed and considered the assessment of the RPS and AUP (including PC120) provided by the Applicant. This was undertaken on a thematic basis (at section 22.3), albeit including relevant NPS provisions which we have addressed in Part G above, and we adopt the same approach here, by reference to the main conclusions reached within the AEE. It is also relevant to note that the Council's comments were provided in respect of the aforementioned topic areas discussed in Part E, and did not incorporate a broader statutory analysis that would indicate any concern with respect to the assessment provided in the AEE. No other commenters raised any particular inconsistency with AUP or RPS provisions. As previously discussed, most comments were supportive of the Project, notwithstanding individual concerns regarding particular property-related effects.

Enabling infrastructure, including within an Overlay

612 The Applicant's assessment of this theme addressed the infrastructure components of the RPS (Chapter B), as well as the SEA (D9), Notable trees (D13), Historic Heritage Overlay (D17), SCA Overlay (D18), Infrastructure (E26) and Transport (E27) and Westgate Precinct (I615) provisions of the AUP. It referred to the emphasis under RPS B3 for the recognition of infrastructure to enable Auckland to reach its full potential, and the need to integrate infrastructure with urban growth, avoidance of incompatible activities and increasing resilience. This includes the provision of infrastructure that may affect sensitive areas that are scheduled in the AUP relating to historic heritage, as well as in respect of the amenity, cultural, ecological and landscape values of trees.

613 The AEE summary of these provisions further advised that:[125]

> *The AUP directs that all modes of transport should be integrated with land use so that the benefits of an integrated transport network can be realised, and the adverse effects of traffic generation on the transport network can be managed. This includes enabling effective, efficient, and safe transport that supports the movement of people, goods and services, integrates with, and supports a quality compact urban form, enables growth, avoids, remedies or mitigates adverse*

[125] AEE, at p 103.

effects on the quality of the environment and amenity values, and facilitates transport choices.

614 It concluded in respect of these provisions that:

(a) The potential effects of the Project on the Overlays traversed by it are assessed above. The Project has a functional and operational need to be in its proposed position to deliver the desired transport outcomes and benefits, and the alternatives assessment undertaken concluded that it is not practicable or in some instances possible to avoid all sensitive overlays in the AUP.

(b) Chapter E26 recognises that linear infrastructure may have an operational need to traverse features or areas of value identified in the AUP and this theme permeates the other AUP provisions (e.g., E26.2.2(6), E17(3)(1)). These policies recognise the benefits derived from infrastructure, the adverse effects of not providing the infrastructure and seeks consideration of how the infrastructure contributes to the strategic form or function, or supports the planned growth and intensification, of Auckland. The Project has considered the impact on street trees and trees in Open Space zones and can retain some, whilst necessitating the removal of others.

(c) The Westgate Precinct provisions (specifically, Sub-precincts A, E and F) provide for public transport facilities, and in particular, seek that facilities are integrated with the wider precinct while supporting compact, intensive urban growth within Sub-precinct A.

(d) Ms Sinclair advises that she has considered the proposed amendments to the RPS in PC120 and notes that these proposed provisions still enable infrastructure in areas subject to natural hazards. The Indicative Design is within the flood plain overlay, which has immediate legal effect, at various points throughout the Project area.

(e) Ms Sinclair considers that the Project is consistent with Chapter B3 of the RPS and the relevant objectives and policies of the AUP in relation to infrastructure and transport including in overlays, zone and precinct provisions. While PC120 is still in its infancy, it is her opinion that the Project is consistent with the relevant provisions as they relate to infrastructure.

Urban growth and development capacity

615 Ms Sinclair's assessment of this theme addressed the NPS-UD (as has been discussed above) as well as the urban growth and form and infrastructure, transport and energy sections of the RPS, along with the Transport (E27) and Westgate Precinct (I615) provisions of the AUP.

616 By way of overview, the AEE characterised the objectives and policies of the AUP as seeking to provide sufficient feasible development capacity for housing with set dwelling targets over the next 30 years, and that to reach these targets, adequate infrastructure must exist or be provided prior to or with development. Ms Sinclair's summary of the relevant provisions stated that:

(a) The Project will be consistent with the relevant objectives and policies by providing transport infrastructure that supports eventual urban growth and

intensification identified in the AUP to meet the feasible development capacity targets over the next 30 years.

(b) The Project will contribute to an accessible, high-quality, effective, efficient and safe transport route (including public and active transport modes) that support the movement of people, goods and services for Auckland's northwest and inner-west areas.

(c) The Project aligns with infrastructure delivery timelines as directed within the Westgate Precinct provisions and supports compact urban growth.

Mana whenua

617 The AEE addressed the relevant sections of the RPS (Chapters B4 and B6) and the AUP (Chapters E1, E11 and E12) in respect of mana whenua, noting that the AUP requires recognition and the provision of the principles of Te Tiriti o Waitangi, in particular through ngā mana whenua participation in resource management processes, as well as in the sustainable management of natural and physical resources, wāhi tapu and other taonga.

618 Ms Sinclair highlighted that the Project has been developed in partnership with Te Kawerau ā Maki, Ngāti Whātua Ōrākei and Te Ākitai Waiohua, and the Applicant has met regularly with these Project iwi partners on a fortnightly basis from the early stages of Project development. It also maintains a wider Iwi integration forum with a wider group of Iwi of Tāmaki on a monthly basis. In addition, in response to invitations for the same, Cultural Values Assessments were received from Te Ākitai Waiohua and Ngaati Te Ata Waiohua. The Applicant advised that Ngāti Whātua Ōrākei did not believe a Cultural Values Assessment was required for the Project and preferred to continue to develop relationships and a common understanding with NZTA and the Project team. Te Kawerau ā Maki provided a letter in 2023 setting out their expectations for the Project as well as a letter of support.

619 Ms Sinclair confirmed that the Applicant is committed to ongoing engagement with Iwi/hapū which closely aligns with the long-term view of the AUP. In terms of specific conditions, she referred to the protocols set out in the Archaeological Management Plan and associated HNZPT General Authority application which will manage processes involved in any accidental discovery or archaeological resources. Overall, Ms Sinclair considered that the Project is consistent with the relevant objectives and policies of the AUP in relation to mana whenua values.

620 As discussed in Part E, comments were received from Te Ākitai Waiohua which raised a number of issues associated with consultation and the Applicant's proposed conditions in respect of cultural values and the management of effects on the Arch Hill Scenic Reserve. Notwithstanding the issues raised, the Panel is satisfied overall that the Applicant has undertaken extensive and meaningful consultation with its iwi partners and including Te Ākitai Waiohua. This engagement and undertakings towards further consultation is reflected in the Applicant's proposed Designation, Consent and Archaeological Authority Conditions that provide for the ongoing involvement of Iwi during the Project design and construction (Designation Conditions 5 – 7, Consent Condition 4, and Archaeological Authority Conditions 7 and 10-13).

621 Accordingly, the Panel accepts Ms Sinclair's assessment, and agrees that the Project has been developed, and will be implemented, in accordance with the expectations of

the RPS and AUP in respect of the upholding of cultural values in resource management processes and the sustainable management of natural and physical resources, including taonga.

Indigenous biodiversity and ecological values

622 The AEE referred to provisions of the NPS-IB (as discussed above) as well as the RPS (Chapter B7) and the AUP (Chapters E12 and E15) as applicable to considerations related to indigenous biodiversity and ecological values.

623 The provisions of the NPS-IB have been discussed in the preceding section of this decision. Ms Sinclair noted that while the AUP was prepared prior to the NPS-IB being gazetted, she nevertheless considers that the objectives and policies of the AUP are consistent with the NPS-IB and that in relation to large-scale infrastructure projects there is no notable change in policy direction. The assessment of the Project against the NPS-IB is therefore aligned with the assessment of the corresponding AUP provisions.

624 The AUP objectives and policies are summarised as seeking to protect and enhance ecological values across terrestrial, freshwater and coastal environments. The primary method used by the AUP in this regard is the identification of SEAs. The AUP requires that significant adverse effects are avoided as far as practicable, and where avoidance is not practicable, adverse effects are to be minimised. The provisions are noted to acknowledge that avoidance of areas with biodiversity values is not always practical for infrastructure, but where such effects arise, measures to protect and restore biodiversity through legal protection and active management should be considered.

625 Ms Sinclair's assessment referred to the description of ecological habitats within the AEcE, noting in summary that the Project traverses a constrained and highly urbanised environment adjacent to the existing SH16 transport corridor. She highlighted that the functional and operational need for the Project to pass through certain SEAs has been demonstrated through the detailed alternatives assessment process, the range of alternatives considered (which sought to balance benefits with constraints), and the need to meet the requiring authority's objectives for the Project. She further describes the ecological effects of the Project as generally falling within low to moderate levels, while proposed conditions of consent include the requirement for removal of pest plant species that will assist in improving the ecological value of SEAs traversed by the Project.

626 Ms Sinclair concluded that the Project will be consistent with the relevant objectives and policies of the NPS-IB and AUP in relation to vegetation management and biodiversity values.

Natural hazards

627 The AEE noted that the objectives and policies of the AUP enable and recognise the importance of infrastructure to support urban growth which includes integrating the provision of resilient transport networks and infrastructure in these areas and avoiding effects in areas subject to natural hazards and risk and adapting to the effects of climate change. Specific AUP objectives and policies reinforce the unique requirements of infrastructure and that it can have an operational or functional need to locate within a natural hazard area. Where infrastructure is required to be located within a hazard area, significant adverse effects on people and property are sought to be avoided and otherwise mitigated to the extent practicable.

628 New proposed policies in PC120 E36.3(36) and E36.3(37) also require the consideration of potential to reduce natural hazard risks to Māori Land, Treaty Settlement land, marae, urupā, and mana whenua cultural heritage and values, and, where practicable, avoid infrastructure that would require new or increased reliance on coastal protection structures within a 100-year timeframe.

629 Ms Sinclair considered that the objectives and policies of PC120 are aligned with the intent of AUP Chapter E36 regarding the need to enable construction, operation and maintenance of infrastructure where there is a functional or operational need for its proposed location, with risks to people, property and the environment to be mitigated to the extent practicable. In particular, proposed changes to Objective E36.2(4) direct that infrastructure located in natural hazard areas should avoid the creation or exacerbation of risks from natural hazards, or, where this is not achievable, the residual effects are mitigated to the extent practicable. Ms Sinclair highlighted in this regard the conclusions of the Assessment of Stormwater and Flooding Effects that in most cases, the Project will result in negligible/low effects, and in some cases will result in positive effects with respect to existing flooding on nearby property. She noted that the Project will not create new natural hazard risks.

630 Ms Sinclair further advised that through the options assessment process, and further design development and refinement, consideration has been given to the avoidance of areas subject to natural hazards such as flooding and sea-level rise. In this regard she noted that where natural hazards, such as floodplains, cannot be avoided, the Project has demonstrated the functional and operational need to cross these areas. However, the proposed flood hazard condition is considered to appropriately mitigate any residual effects by prompting consideration of flood hazard risks during detailed design.

631 Ms Sinclair concluded that the Project is consistent with the objectives and policies of the AUP in relation to natural hazards, including with respect to proposed objectives and policies within PC120.

Freshwater

632 The assessment of freshwater includes reference to the NPS-FM, as addressed previously, as well as the RPS (Chapter B7) and the AUP (Chapter E12). The AEE commented that the relevant AUP objectives and policies seek to protect and enhance ecological values in freshwater environments. The permanent loss and significant modification or diversion of lakes, rivers, streams (excluding ephemeral streams), and wetlands are to be avoided, unless, amongst other matters, it is necessary to provide for infrastructure, and no practicable alternative exists. The objectives and policies seek to limit the establishment of structures within the beds of lakes, rivers and streams and in wetlands to those that have a functional need or operational requirement to be located there.

633 The assessment within the AEE stated that there is a functional need for the infrastructure to be located where proposed adjacent to SH16, with stations at key destinations and areas of residential land use. Stormwater discharges from the Project will be treated before discharging to the environment and best practice erosion and sediment control measures will be deployed during construction to ensure the potential effects on freshwater bodies are minimised.

634 Ms Sinclair acknowledged that some freshwater environments may be impacted by the

Project predominantly through discharge of stormwater from the Project, culvert extensions and bridge structures. However, she commented that through the implementation of the proposed conditions, the quality of freshwater will be maintained while also noting the capacity constraints of streams and receiving water bodies. She concludes that the Project will contribute to the achievement of the relevant objectives and policies by avoiding or minimising potential adverse effects on water bodies and freshwater ecosystems.

635 The Panel further notes, as previously discussed, that the proposed Consent Conditions now incorporate exclusion statements that confirm that the conditions do not authorise activities within or near wetlands (including vegetation removal within 20m of a natural wetland). The Consent Conditions also exclude consents for the diversion of streams and associated disturbance, or reclamation and drainage of a stream.

636 Accordingly, the Panel is satisfied that the Project will not result in adverse effects on freshwater resources that would be inconsistent with the requirements of the relevant statutory provisions.

Coastal

637 The AEE includes consideration of the NZCPS and the RPS (Chapters B6, B7 and B8) and the AUP (Chapter F), and an analysis of the NZCPS has been provided in the previous section of this decision. The relevant AUP objectives and policies in relation to coastal matters are noted as seeking to enable infrastructure in the CMA where it has a functional or operational need to be located in the CMA, and where potential adverse effects are avoided, remedied or mitigated.

638 Ms Sinclair commented in respect of the AUP that the Project includes two bridge crossings over two tributaries of the Wai-o-Pareira/Henderson Creek (within the CMA). However, given that the Project runs parallel to SH16, there is a functional need to locate the Project over the CMA. Nevertheless, she considered that works within the CMA have been reduced as far as practicable through the design where one pile is proposed within the channel of the Wai-o-Pareira/Henderson Creek.

639 In terms of the quality of receiving waters, Ms Sinclair advised that the Applicant has proposed an ESCP Designation condition and associated mitigation measures to be implemented, as well as a Coastal Construction Management Plan (**CCMP**) through the proposed Consent Conditions, to manage the potential effects from construction of the Project on the coastal environment. She noted that all operational stormwater from the Project will be treated before discharging to the CMA via new or upgraded stormwater outfalls. While the CCMP was subject to some amendment though the facilitated discussion process with the Council, the Panel notes that no substantive changes arose and we consider that this provides an appropriate basis by which to manage construction effects within the CMA.

640 Ms Sinclair also commented that public access to the CMA will only be restricted during construction for health and safety reasons, and the new bridge crossings will be required to provide adequate clearance for recreation use in the watercourses below (consistent with existing structures).

641 Overall, Ms Sinclair concluded that the Project is consistent with the relevant AUP (and NZCPS) objectives and policies as it is necessary to locate the Project over the CMA as it is a significant item of infrastructure with a functional or operational need, of

regional or national benefit, and there are no practicable alternatives that are reasonably available.

642 The Panel notes that no parties raised issues specific to the statutory provisions related to coastal management, and is satisfied that the Project has appropriate regard to the relevant statutory provisions under the RPS and AUP related to the coastal environment.

Land disturbance

643 The AEE noted that the objectives and policies of the AUP related to land disturbance effects (Chapters E11, E12 and E30) seek to ensure that land disturbance is undertaken in a manner which protects the safety of people and avoids, remedies or mitigates adverse effects and that contaminant discharge from the land is managed to protect the environment and human health, and to enable land to be used for suitable activities now and in the future. The AUP also seeks that adverse effects in respect of scheduled natural and physical resources (relating to natural heritage, mana whenua, natural resources, the coastal environment, historic heritage, and special character) are avoided where practicable.

644 In this regard Ms Sinclair highlighted that the Project will be constructed in stages, with an even cut to fill ratio for proposed earthworks as a result of relatively flat topography directly adjacent to SH16. She also advised that ESCPs will be prepared for each stage of work in accordance with GD05 to ensure that the potential erosion and sedimentation effects of earthworks are mitigated effectively. The Panel notes that the Council's initial issues with respect to provision for ESCPs was resolved through facilitated discussions, with a new Site Specific ESCP provision to be added to the Designation Conditions. Accordingly, the Panel agrees with Ms Sinclair that the Application has appropriate regard to the relevant provisions of the AUP.

Historic heritage

645 The AEE addressed the provisions of the RPS (Chapters B3 and B5) and the AUP (Chapters D17 and E26) as relevant to the consideration of effects on historic heritage. Ms Sinclair commented that the provisions seek to avoid significant adverse effects on scheduled historic heritage, where practicable, and to encourage new development to have due regard to significant historic heritage.

646 The AEE identified the policies of Chapter B3 and E26 as incorporating provisions to enable the development, operation and maintenance of infrastructure, in sensitive areas that are scheduled in the AUP in relation to historic heritage, provided adverse effects are avoided or managed where practicable and an operational and functional need to locate in a sensitive area arises. Conversely, it notes that Objective D17(2) protects scheduled historic heritage from inappropriate use and development.

647 As set out in Part E, the Project has potential effects on scheduled heritage sites, primarily on the Ambassador Theatre in Point Chevalier, and the former Chamberlain Park clubhouse in Western Springs. Ms Sinclair stated that a thorough and robust approach was taken to select the preferred alignment for the Project, which included identification and consideration of the potential effects on built heritage. She considered that these effects are appropriate given the linear nature of the busway and the robust alternatives assessment undertaken to identify the busway alignment through Western Springs and the Point Chevalier Station location.

648 Ms Sinclair supports the conditions that seek the retention (or retention of parts), where practicable, of the identified scheduled built heritage. Additionally, and in response to Ms O'Neil's assessment regarding the potential effects on the Point Chevalier historic townscape, the recommendation that the original building footprints of the Fisheries Building and Commercial building either side on the Ambassador are also retained where practicable is supported, notwithstanding that the demolition of these buildings being provided for in the AUP as a permitted activity. If retention is not practicable, the reasons for this will be detailed in the Outline Plan as required by the proposed Designation Condition. A more onerous condition that would require absolute protection is not, in Ms Sinclair's opinion, appropriate given the permitted activity status of demolition. The potential construction effects on built heritage retained can be appropriately managed through the proposed CNVMP condition, and the proposed BHCMP.

649 The AEE noted that the Project may result in the removal of four dwellings subject to the Special Character Overlay. However, Ms Sinclair considered that the removal of these dwellings, located immediately adjacent to SH16, will not be a recognisable loss given the Overlay covers an extensive area from St Marys Bay, Ponsonby and Freemans Bay through to parts of Mt Eden, Epsom and Remuera. In her view, the Project passing through this Overlay, immediately adjacent to SH16, will reflect the existing infrastructure corridor, and will not detract from the overall values of the Overlay.

650 Overall, Ms Sinclair was of the view that the Project is consistent with the relevant objectives and policies of the AUP in relation to historic heritage and special character.

651 The Panel's overall findings on historic heritage and special character are addressed in Part E above. Overall, the Panel is generally satisfied with the Applicant's proposed management of these issues, and this is reflected in the Panel's Designation Conditions.

Open space

652 The AEE noted the relevant provisions under Chapters E16 and H7 of the AUP in respect of open space. The general objectives and policies for the Open Space zones (H7) seek to enable infrastructure while avoiding, remedying or mitigating adverse effects on residents, communities and the environment. Those under Chapter E16 seek to protect the cultural, amenity, landscape and ecological values of trees in open space and increase the quality and extent of tree canopy cover in Open Space zones.

653 Ms Sinclair's assessment advised that the Project will reallocate area of public open space to an alternative public use (the busway and its associated stations). She noted that in some instances, the loss of public open space zoned land will not change the current land use (for example where there are stormwater ponds that may be augmented to treat the runoff from the busway). In other instances, the land use will remain a public asset, but the use will change from open space reserve land to busway and associated activities such as stations, access by pedestrian, cyclist or private vehicle where there is a pick-up /drop-off facility. In addition, she highlighted that the Project will provide travel choices that may enhance accessibility of key open spaces and recreational facilities (such as Ōrangihina Reserve and Western Springs).

654 Overall, Ms Sinclair considered that the Project is not inconsistent with the relevant objectives and policies of the AUP in relation to open space zoned land, as the Project

will provide regionally and nationally significant infrastructure, and enhance access to parks and community facilities.

655 As set out in preceding analysis regarding effects on trees and terrestrial ecology, the Panel is satisfied that the extent of vegetation alteration or removal is generally acceptable having regard to the nature of an infrastructure work of high regional significance, and that adverse effects are able to be appropriately mitigated through implementation of conditions. The Panel therefore agrees with Ms Sinclair's conclusions in this regard.

Residential zones

656 The AEE summarised the relevant objectives and policies of the AUP in relation to residential zones (Chapters H3 – H6) adjacent to the Project as seeking to ensure land is efficiently used to provide higher density urban living, increase housing capacity and improve choice and access to public transport. It also highlighted that specific objectives and policies also seek to recognise the functional and operational requirements for development, in particular that non-residential activities provide for communities' social, economic and cultural well-being while avoiding, remedying or mitigating adverse effects on residential amenity. These latter provisions appear to the Panel to be directed towards non-residential activities within the zone that are provided for in the respective activity tables, rather than in respect of infrastructure.

657 Nevertheless, the Panel accepts the overall assessment of Ms Sinclair that the Project will serve current and future planned urban growth in Auckland's northwest and inner-west by improving connections within and between residential communities, economic opportunities and recreational sites. Further, we also agree with her conclusion that the Project is generally consistent with the relevant objectives and policies of the AUP in relation to residential zones.

Business zones

658 The AEE summarises the relevant objectives and policies of the AUP in respect of the Business zones traversed by or adjacent to the Project, noting that these seek to recognise the functional and operational needs of activities and development, while ensuring adverse effects on amenity values and the natural environment of adjoining open space and residential areas are appropriately avoided, remedied or mitigated. Ms Sinclair commented that the Project will improve access to major employment centres and provide contributions toward the future form and quality of major centres and business zones, and considers that the Project will be consistent with the relevant objectives and policies of these zones. The Panel agrees.

Future Urban zone

659 The AEE addressed the Future Urban zone (**FUZ**) provisions under Chapter H18 of the AUP. The FUZ is applied to land to be used in accordance with the Rural Production Zone until such time as it has been rezoned for urban purposes. The Project will traverse a small portion of FUZ land, near Brigham Creek. Ms Sinclair commented in this regard that the proposed Brigham Creek station (and busway between Brigham Creek and the city centre) will enable future urban developments to be efficiently and effectively serviced by fast, frequent public transport. Accordingly, she concluded that the Project is considered to respond to existing and proposed urban development in the surrounding FUZ land, and will be consistent with the objectives and policies that apply to it. The Panel agrees.

Notable trees

660 The AEE identified that the objective and policies under Chapter D13 are relevant to the Project, and that these seek to retain and protect notable trees from inappropriate subdivision, use and development.

661 Ms Sinclair's assessment noted that the Project will require the pruning of branches of Notable Tree 837 at 21 Kirk Street which overhang the Proposed Designation, and is needed in order to provide clear access for construction equipment required to construct the structure that will pass over SH16 at the eastern end of the Project. This work is assessed as being minor. It will also require access along Potatau Street, under the drip line of Notable Tree 129, but does not require any works on that tree, which will not as a result be impacted by the Project. Accordingly, she concluded that the Project will be consistent with the relevant provisions of D13.

662 The Panel notes that the works are not expected to result in significant pruning for the notable tree at 21 Kirk Street, and therefore accepts Ms Sinclair's assessment.

Conclusion regarding consistency with the regional and district planning framework

663 As will be apparent from our comments above, the Panel has not discerned any significant level of disagreement with the Applicant's assessment of the relevant aspects of the RPS or AUP. The Panel recognises and acknowledges some tensions arising in terms of those provisions based on its preceding discussion regarding effects, in particular in respect of historic heritage (and character), as well as effects on ecological and mana whenua values. However, we accept the Applicant's response to those issues set out in its 29 July Memorandum, and conclude that overall the Project has appropriate regard to these provisions (in terms of both ss 104(1)(b) and 171(1)(a)) and, when considered in terms of the overarching purpose of the FTAA, is sufficiently aligned with them.

Planning documents recognised by a relevant iwi authority and lodged with the Council

664 An application for a resource consent must include an assessment of the activity against any relevant provisions of a planning document recognised by a relevant Iwi authority and lodged with a local authority.[126]

665 The AEE advises that two Iwi management plans are recognised by Auckland Council and may be relevant to the Project and Project area, being the Te Kawerau ā Maki Resource Management Statement and Ngāti Whātua Ōrākei – Te Pou Kāhu Pōkere. An assessment of these documents is set out in Part 2 of the Application (The Project).

666 The Applicant's Part 2 document advises that the Project is generally consistent with the Te Kawerau ā Maki Resource Management Statement as demonstrated throughout the substantive application, and highlights the following:[127]

> *(a) Upholding the value of kaitiaki representation throughout the Project development (2.0 of the resource management statement);*

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[126] Sch 5, cl 5(1)(h) and cl 5(2)(g).
[127] Application, Part 2, at Section 7.2.1.

(b) Informing the Trust of the project at an early stage of development (section 3.0 of the resource management statement); and

(c) Providing opportunity for Te Kawerau ā Maki to provide cultural significance of places or areas within the Project area, consider the management of water and waterways, the recognition of coastal areas and native flora and fauna (Section 4.2, 4.4, 4.5, 4.6 and 4.7 of the resource management statement), through input into alternatives assessment, indicative design development and proposed mitigation.

667 It further noted that a letter of support has been provided by Te Kawerau ā Maki Trust as included in the substantive Application.

668 The Part 2 document also advises that the Project will be consistent with Ngāti Whātua Ōrākei – Te Pou Kāhu Pōkere for the reasons that:[128]

(a) [Is upholding] the expectations of Ngāti Whātua Ōrākei for engagement throughout the Project development (Section 3 of Te Pou Kāhu Pōkere);

(b) [It embeds] kaitiakitanga as a Project value (Section 4 of Te Pou Kāhu Pōkere);

(c) Directly [supports] the Ngāti Whātua Ōrākei priority for a shift towards low carbon, mass transit, transport systems (section 4.17 of Te Pou Kāhu Pōkere); and

(d) [Incorporates consideration] of native flora and fauna, pest management, water quality and management, coastal areas and cultural heritage (Section 4 of Te Pou Kāhu Pōkere) through input into alternatives assessment, indicative design development and proposed mitigation.

669 The Panel accepts the Applicant's overall assessment that the Project will give effect to these two Iwi management plans. It has also taken into account those statements of intent when reaching its findings on those conditions in contention as between the Applicant and the Council in respect of ecological matters and associated mitigation.

Treaty settlements

670 As noted in Part D, s 7 FTAA states:

7 Obligation relating to Treaty settlements and recognised customary rights

(1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
- (a) the obligations arising under existing Treaty settlements; and
- (b) customary rights recognised under—
  - (i) the Marine and Coastal Area (Takutai Moana) Act 2011:
  - (ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

(2) To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.

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[128] Application, Part 2, at Section 7.2.2.

(3) In this section, **existing Treaty settlements** means Treaty settlements that exist at the time the relevant function, power, or duty is performed or exercised (rather than only those that exist at the commencement of this Act).

671 The Panel understands[129] that Auckland has a complex Treaty settlement landscape and the following Settlement Acts (and associated Treaty settlement deeds) are of relevance to the Application area: Ngāti Whātua Ōrākei Claims Settlement Act 2012; Ngāti Whātua o Kaipara Claims Settlement Act 2013; Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014; Te Kawerau ā Maki Claims Settlement Act 2015; Ngāi Tai ki Tāmaki Claims Settlement Act 2018; Ngāti Tamaoho Claims Settlement Act 2018; Ngāti Pāoa Claims Settlement Act 2025; Te Ākitai Waiohua deed of settlement; and the Te Patukirikiri deed of settlement.

672 As noted in Part B the Panel directed the EPA to seek comment from the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development under s 72 of the FTAA. Comment was received from the Minister by way of an undated letter on 26 August 2026, noting support for the draft decision, and encouraging "*the applicant to engage with Te Ākitai Waiohua regarding their concerns, when considering these draft conditions*". The Panel is satisfied from its review of the Applicant's 26 August Memorandum that the Applicant has given appropriate regard to the comments on the conditions from Te Ākitai Waiohua. In that respect, and as related to the final form of the Consent Conditions, the Panel has adopted a requirement for the management plans to incorporate references to the outcome of consultation required with Te Ākitai Waiohua, as well as with Te Kawerau ā Maki, Ngāti Whātua o Kaipara, Ngāti Whātua Ōrākei and Ngaati Te Ata.

673 In accordance with s 82 of the FTAA the Panel is satisfied that, to the extent required, it has given effect to relevant settlements, and under s 84 of the FTAA, that this is reflected in the conditions imposed.

PART I: PRINCIPAL ISSUES IN CONTENTION

674 The Application, and the comments, give rise to a number of contentious issues, which have mostly been addressed within Part E: Assessment of Environmental Effects, Part G: Statutory Documents, and Part H: Regional and District Planning Framework of this decisions report.

675 There are a number of further issues which are in contention, and which have not been directly addressed in these preceding sections, as follows:

(a) No 'Condition 1';

(b) Adequacy of alternatives assessment;

(c) Reasonable necessity; and

(d) Lapse.

676 Each of these issues are addressed below. We note that the Panel's position on these, and other issues addressed earlier in the decision, are subject to any of the recorded

[129] Based on the AEE, s 18 Report and the lack of any contrary views or evidence provided to the Panel.

updates after receiving comments on conditions, as set out in Part J: Conditions below.

No 'Condition 1'

677 The Applicant has sought that the designations and resource consents to be approved by the Panel not contain the traditional 'Condition 1' which requires that the Project be constructed and operated 'in general accordance with specified technical information, drawings and plans set out in the application'. In the opening legal submissions accompanying the Application, counsel referred to other similar NZTA infrastructure projects, such as the Pūhoi to Warkworth, Warkworth to Wellsford, and Cambridge to Piarere State Highway projects, where 'Condition 1' was not included in the conditions set. Those legal submissions state:

> *121 A 'traditional Condition 1' is unnecessary and would be inappropriate for the Project because the Project's potential effects have been assessed on the basis of the Indicative Design. Accordingly, the documentation does not purport to contain a confirmed design or construction methodology and as such, requiring the Project to be undertaken "in general accordance with" the Application would be inappropriate.*
>
> *122 Additionally, the sheer volume of application material required for the Project would make a 'traditional Condition 1' difficult to implement (and enforce). It would require Council and contractors to go through the Application material in order to interpret and implement the designations and consents. That application material may be difficult, if not impossible, to locate in 20 or more years' time. Further, the requirement in a 'traditional Condition 1' for a Project to be undertaken "generally" in accordance with such documents adds another layer of uncertainty as to what aspects of the Application documentation must be complied with and to what extent.*
>
> *Condition 1 is unnecessary to manage Project impacts*
>
> *123 In developing the Application, the Project team has carefully ensured the assessment of effects considered both the Indicative Design, and potential amendments to the design that might occur within the Proposed Designation (ie 'sensitivity testing' was carried out in each of the technical assessments).*
>
> *124 Further, the Proposed Conditions will secure the 'envelope of effects' that has been assessed and provide for scalable, outcomes-based effects management that will appropriately mitigate the Project's effects regardless of design amendments and without the need to refer to specific supporting Application documents.*
>
> *125 As such, in our submission, the 'no Condition 1' approach is the best and most appropriate approach for this Project.*

678 In Minute 3 dated 5 May 2026 the Panel noted that while lawful, the absence of the traditional Condition 1 may not always be appropriate, particularly when the receiving environment is highly sensitive to changes or variations in the final built form, which could be the case within what could be described in the present case as a highly populated 'brownfields' urban environment. In that Minute, the Panel sought clarification on the relationship between the indicative design, the effects assessments and what the Applicant describes as the 'sensitivity testing', and the proposed

conditions. The Panel requested a planning/legal assessment which:

(a) References each individual effects assessment and identified effect;

(b) Shows how that effect was subjected to the 'sensitivity testing';

(c) Cross references that identified effect with the proposed condition(s) which address it;

(d) Identifies how the condition(s) establishes a clear 'environmental bottom line' or performance standard in relation to the effect; and

(e) Addresses any further relevant analysis to support its 'outcomes-based effects management' technique.

679 In response to Minute 3 the Applicant lodged a legal memorandum dated 19 May 2026 which contested the notion that the receiving environment was highly sensitive to changes or variations in the final built form, arguing that the environment is highly modified and not sensitive to the design of the Project. The Applicant reiterated its view that to justify no 'Condition 1' it needed to demonstrate that, via other conditions, outcomes based effects management will appropriately mitigate the Project's effects regardless of design amendments and without the need to refer to supporting Application documents. It then set out at Appendix 1 an analysis of potential effects and how each proposed condition created an 'envelope of effects' which set the environmental parameters relevant to each effect.

680 This analysis was later updated to reflect the evolving drafting of the proposed conditions, and the updated analysis was set out at Appendix C to the Applicant's further legal submissions dated 29 July 2026. In reliance on this updated analysis the Applicant stated:

> *201 NZTA has proposed amended or additional conditions to further secure the envelope of effects that has been assessed for the Application and to ensure appropriate mitigation outcomes regardless of the final design. NZTA does not consider further conditions are required to address the topics that have not been resolved with Council for the reasons set out in NZTA's response to the Council comments and reflected in Appendix C.*
>
> *202 In our submission, having regard to the limited effects the Project may have, and the suite of conditions that manage those effects, imposing a Condition 1 (on either the designations or resource consents) would plainly be "more onerous than necessary". NZTA has provided detailed analysis to demonstrate that its proposed conditions contain proven and effective measures to ensure the effects will remain within the 'envelope' that has been assessed. Neither commenters nor the Panel have identified any specific concerns with that analysis. If the Panel was minded to impose a Condition 1, there would be a number of implications for the condition set that would need to be addressed.*
>
> *203 In conclusion, the 'envelope of effects' approach has significant advantages and has been successfully applied previously. It will allow the final design and construction methodology for the Project to respond appropriately to the environment that exists at the time of construction and to adopt advances in technology and construction techniques. It will also provide opportunity for*

innovation and cost savings for the Crown, while ensuring effects management outcomes are achieved as intended. Accordingly, in our submission, the approach aligns with the purpose of the FTAA by enabling the Project benefits.

681 The Panel has given close consideration to the Applicant's position. It accepts that there is no express statutory requirement to include a 'Condition 1' and that it has become a matter of planning practice. However, that planning practice is soundly based in our view. The 'Condition 1' serves to create a close link between the land use activity proposed, the effects assessment, and what is ultimately authorised under the consent, or designation. It creates certainty by enabling as built outcomes to be readily compared to referenced plans, drawings and technical specifications, which in turn offers transparency and a sound basis for monitoring and compliance. These obvious benefits are what has driven the inclusion of a 'Condition 1' into many consents granted under the RMA.

682 The Panel recognises that the FTAA brings additional considerations to the question of whether the inclusion of a 'Condition 1' is appropriate. In particular, the requirement that when exercising a discretion to set a condition under the FTAA, the Panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of the FTAA that confers the discretion (s 83).

683 While this requires the Panel to consider whether some less onerous condition could be imposed, it does not require that less onerous condition to be imposed if doing so fails to appropriately address the reason for which the more onerous condition was set. Simply put, if a less onerous condition can achieve the same outcome, it should be applied.

684 Here, the Applicant says that the certainty delivered via a 'Condition 1' can be achieved via the conditions which set an 'envelope of effects', and that this approach has significant advantages as it will allow the final design and construction methodology for the Project to respond appropriately to the environment that exists at the time of construction and to adopt advances in technology and construction techniques. It will also provide opportunity for innovation and cost savings for the Crown, while ensuring effects management outcomes are achieved as intended, thus aligning with the purpose of the FTAA by enabling the Project benefits.[130]

685 The Applicant's position raises two important considerations:

(a) Whether the conditions imposed would remain adequate to avoid, remedy, or mitigate any potential adverse effects which might flow from changes arising out of this flexibility; and

(b) Whether parties who had been notified and/or presented submissions would be prejudiced by the proposed construction methodology being qualitatively or conceptually different from the project of which they had notice.

686 The Panel is satisfied that the nature of the Project, and the timescale over which it will be implemented, means that a degree of flexibility in the overall design is warranted. The Panel is satisfied that overall, the set of conditions will ensure that any effects

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[130] Applicant legal submissions dated 29 July 2026, at [203].

flowing from changes have been accounted for and will be controlled by the proposed conditions and that the 'envelope of effects' technique will deliver a generally satisfactory level of control.

687 However, the Panel has some discomfort regarding the risk that with this flexibility there might arise uncertainty, or even prejudice, to stakeholders if the final construction is qualitatively or conceptually different from the Project, as applied for. There is also, in the Panel's view, a need to ensure there is sufficient clarity for all stakeholders, in terms of what is actually enabled under the designation and the consents. This is particularly so given the nature of the receiving environment, which is a populated urban environment, where community expectations will be strongly linked to the application documents.

688 Accordingly, the Panel has decided that while it will not impose a traditional 'Condition 1', there does need to be some linkage between the designation and consents, and the application. We consider that this linkage can be made by reference to the Indicative Design drawings in a condition which is less directive than the traditional 'Condition 1'. At the time of the release of the draft decision, we considered that the appropriate conditions should read:

> Designation condition:
>
> *The works enabled by this designation, including its alignment and layout, shall be undertaken in a manner consistent with the Indicative Design West drawings and Indicative Design East drawings as set out at Schedule A to this set of conditions. Work will be deemed to be consistent with those drawings if it is compliant with the balance of these designation conditions and has been approved via the Outline Plan process.*
>
> Consent condition:
>
> *The location and layout of works enabled by this consent, including its alignment and layout, shall be undertaken in a manner consistent with the Indicative Design West drawings and Indicative Design East drawings as set out at Schedule A to this set of conditions. Work will be deemed to be consistent with those drawings if it is located within the designation boundary and is compliant with the balance of these conditions and any certified management plan.*

689 As noted above, since receiving the comments on draft conditions, which included comments in relation to the above drafting of 'Condition 1A', the Panel has further considered its proposed drafting and has reformulated the condition. This issue is addressed in more detail under 'PART J: Conditions' of this decision, set out below.

Adequacy of alternatives

690 Pursuant to s 81(3)(e) and clause 24 of Schedule 5 of the FTAA, when considering a notice of requirement, the Panel is required to take into account the relevant provision of the RMA, which includes, under s 171(1)(b) of the RMA, the requirement to have particular regard to whether adequate consideration has been given to alternative sites, routes or methods for undertaking the work. The key principles regarding the nature of the inquiry are well settled, and those of particular relevance to the Project are:

(a) The decision-maker does not hold the policy function of deciding the most suitable route. The requiring authority has that responsibility.

(b) The focus is on the process, not the outcome. This focus considers the sufficiency of the requiring authority's investigations into alternatives, which should be more than cursory and not arbitrary.

(c) The word 'adequate' means sufficient or satisfactory and does not require an exhaustive process. There is no requirement to eliminate speculative or suppositious options.

(d) There is no requirement to select the 'best' alternative. There may be other alternatives considered by some (including commenters) to be more suitable.

(e) The consideration of alternatives needs to be more careful where there is a greater impact on private land, although that is very much circumstances dependent.

691 The Panel received various comments from stakeholders questioning the adequacy of the alternatives assessment.[131] This was a matter the Panel raised in its Minute 7 dated 19 May 2026, particularly in light of the decisions in *Queenstown Airport and Basin Bridge* where it was held that the measure of adequacy will depend on the extent of the land affected by the designation, and the greater the impact on private land, the more careful the assessment of alternative sites not affecting private land will need to be.[132]

692 In its response to Minute 7 the Applicant stated that for this Project, in relation to private land, the consideration of alternatives is constrained by the feasible options available. It noted that the impacts of the Project on private land are unavoidable. The Project is a rapid transit busway connecting Brigham Creek and Auckland city centre. The Applicant contended that at a high level, the alternative alignment options were to locate the busway either within the existing SH16 corridor, or on either side of SH16, and that a busway located within SH16 would reduce the level of private property required, but did not meet the critical success factors. An alignment alongside SH16 was therefore chosen. Further evidence of the assessment was set out at Section 3.3.1 of Part 4 of the Application, and in the evidence of Ms Sinclair dated 3 June 2026.

693 The Applicant also pointed to Policy 4(2) of the NPS-I which provides that decision-makers must recognise it is the role of the infrastructure provider to identify the preferred location for the infrastructure activity; and have regard to existing information and assessments undertaken by the infrastructure provider, including, but not limited to, information prepared using the Better Business Cases methodology developed by Treasury New Zealand.

694 The Panel also recognises that under the FTAA, while we are to have regard to the

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[131] Residential landowners' comments (Comments #12 – Ban and Lana Niu, #13 – Shiree Taylor (Stout), #16 – Rob & Katrina Reinsfield, #21 – Lily Li & Thomas Antunes, #29 – Margaret McKinney, #31 – Paul Dragicevich); Comment #11 – Selkprop Investments Limited; Comment #28 – Costco Wholesale New Zealand Limited ; Comment #34 – Stride Holdings Ltd; #36 –Westgate Properties (2017) Limited and NZRPG Management 2017 Limited.

[132] *Queenstown Airport Corporation Ltd v Queenstown Lakes District Council* [2013] NZHC 2347 ("*Queenstown Airport*"); *New Zealand Transport Agency v Architectural Centre Inc and Ors* [2015] NZHC 1991 *("Basin Bridge"); and Queenstown Airport,* at [121].

adequacy of the assessment, we must also give weight to the purpose of the FTAA which is to facilitate the delivery of projects with significant national or regional benefits.

695 The Panel acknowledges the concerns raised by all commenters, including Stride and those other Westgate commenters, which consider that other alternatives should have been preferred. However, as discussed in the section addressing transport effects, the realistic alternatives would also give rise to adverse effects on the localised network. We consider that no realistic alternative would be free of adverse effects. Accordingly, we accept that the Applicant's assessment of alternatives was adequate within the context of s 171(1)(b) of the RMA. Despite the fact that other alternatives may have existed, this is no basis for determining the Applicant's assessment inadequate, nor that, in the FTAA context, this would provide a basis for declining the approvals sought.

Reasonably Necessary

696 The Panel must have regard to whether the work and designation are reasonably necessary for achieving the objectives for which the designation is sought. This consideration is subject to the requirement to give 'greatest weight' to the purpose of the FTAA while taking 'reasonable necessity' into account in the overall evaluation.[133]

697 The stated objective of the Project is to 'Provide bus rapid transit facilities alongside SH16 between the SH16/Brigham Creek Road intersection and Ian McKinnon Drive, including stations that integrate with the surrounding transport network'.

698 The Applicant seeks five primary designations for the Project (three to the west of the causeway and two to the east) to enable staged construction. It has issued notices for a further seven overlapping designations for the stations to enable future transfer of the stations to an operator.

699 In its opening legal submissions dated 15 December 2025 the Applicant stated:

> *96. A designation is preferable to land use consents as a means of authorising construction, operation and maintenance of the Project, because, among other reasons, it will be shown in the AUP and therefore provide planning certainty, it will protect against other persons doing anything that would prevent or hinder the Project and it is a more suitable planning tool for linear infrastructure that crosses multiple zones.*
>
> *97. The Proposed Designation is broader in some locations than the Indicative Design. In a number of these locations, NZTA owns the land subject to the Proposed Designation so the "reasonably necessary" test does not apply. Elsewhere, the width is reasonably necessary to provide NZTA with some flexibility to complete detailed design of the Project at a later time. However, given the highly constrained urban built environment, the Proposed Designation provides relatively limited flexibility for horizontal changes to the Indicative Design.*

700 This approach came under direct challenge from Stride, which was critical of the

[133] FTAA, sch 5, cl 24(1)(a).

boundaries identified in the NoRs, specifically NoR 2, stating that its boundaries are not reasonably necessary for the achievement of the Project objectives. The Applicant relied on Ms Dowling's evidence dated 3 June 2026, which claims that compared to Stride's preferred alternative Option 3, the Indicative Design will result in much less construction traffic disruption and wider transport network effects (including for the ongoing operation of Gunton Drive and SH16 during construction).

701 Overall, based on the Panel's evaluation of the transportation evidence and the related construction effects, we are satisfied that the work and the designations as framed are reasonably necessary to achieve the stated objective. Again, we make this finding in the context of the weighting exercise required under clause 24(1) of Schedule 5 of the FTAA, and do not consider that there is any material factor in this aspect of the evaluation which would, having appropriately accounted for the purpose of the FTAA, count against the grant of the approvals sought.

Lapse

702 The Applicant states that the Project is expected to be staged over 20 years. For this reason, it seeks a 25-year lapse period for the designations and resource consents, a 35-year duration for the resource consents required under ss 12-15 of the RMA, and a 25-year duration for the archaeological approvals.[134]

703 The Applicant says the designation and resource consent lapse periods sought are consistent with the FTAA, which specifies a minimum lapse period of two years, but does not specify a maximum lapse period.[135] It claims this lapse period will facilitate delivery of the Project, and its significant benefits, as funding becomes available and is therefore consistent with the purpose of the FTAA. The resource consent durations sought by NZTA are consistent with the maximum available, and for the same reasons as noted above for lapse, the durations sought are consistent with the purpose of the FTAA. The archaeological authority durations sought by NZTA are less than the maximum duration available (35 years).

704 The lapse period sought was the subject of RFI#2, set out in Minute 4 dated 7 May 2026. The Panel sought further information from the Applicant on this issue, particularly in light of the potential range of impacts on properties within and adjacent to the designation boundaries, and how a 25-year lapse period might contribute to those impacts.

705 The Applicant responded to Minute 4 and provided further justification for the proposed lapse period, saying:

> *The Project will be constructed over approximately 20-years, and while indicative construction staging for the Project has been provided in the Application, the staging of the Project is not fixed, and needs to be flexible to accommodate changes in priority, funding and a range of other matters.*
>
> *A lapse period shorter than 25 years would risk one or more of the approvals lapsing prior to being implemented, which would lead to additional, unnecessary approval processes, which would be an inefficient use of time, resources and*

[134] Application Part 2, Section 5.
[135] FTAA, Sch 5, cl 26.

public funds. It would also subject affected landowners/occupiers (and the wider community) to additional processes – increasing their efforts and their uncertainty.

706 The proposed lapse period was challenged by a number of commenters, including the Council, RBL, NTC, Stride, and NZRPG.[136]

707 In its legal submissions dated 29 July 2026 the Applicant highlighted that the lapse period would enable the staged delivery of the Project over time, with benefits delivered incrementally. It also claimed that the 25-year lapse period was consistent with the NPS-I objective requiring infrastructure to be delivered in a timely and efficient manner, and was consistent with the purpose of the FTAA, because it allows the Applicant to respond flexibly to when funding becomes available. The Applicant submits that a shorter lapse period which risks approvals lapsing and forcing an extension or new application, is uncertain and inefficient.

708 Overall, we accept the stated benefits of the lapse periods sought by the Applicant, and in the context of this Project, we consider the proposed lapse period to be appropriate. However, we consider it necessary to ensure that via conditions, the Applicant is required to maintain an effective communications and engagement process which ensures that the progressive status of the Project during the lapse period, particularly during pre-construction stages when little appears to be happening, is well communicated. In this regard, and as previously noted, the Panel acknowledges that the Applicant has already established a Project website that is subject to updating from time to time and which has included updates about lodgement of this present application and ongoing community consultation. As previously referred, the website includes NZTA's standard 'contact us' link, which we are satisfied addresses (in-part) the Council's recommendation for publication of Project contact details and a complaints process or register. Nevertheless, we repeat our earlier recommendation to the Applicant that it consider more direct feedback and direct contact options within this website that is specific to the Project.

PART J: CONDITIONS

FTAA general requirements for conditions

709 Section 81 provides that the Panel must set any conditions to be imposed on the approval. The statutory requirements on what conditions are set is determined by what approvals are being sought.

710 Section 83 must be complied with and provides:

> **83 Conditions must be no more onerous than necessary**
>
> When exercising a discretion to set a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.

711 How the Panel has complied with this section is discussed below in relation to the

[136] RBL Comment #30, paragraph 8.19; NTC Comment #39, paragraph 6.5; Stride Comment #34, Appendix A and NZRPG Comment #36, paragraph 5.2; Comment #43 –Council; Memorandum of Planning Matters for Auckland Council, paragraph 112 and 170.

conditions that have been set.

712 If a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval then s 82 applies. This section provides:

> **82 Effect of Treaty settlements and other obligations on decision making**
>
> (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval.
>
> (2) If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.
>
> (3) The panel must also consider whether granting the approval would comply with section 7.
>
> (4) In this section, **document**—
> (a) means any document, arrangement, or other matter; and
> (b) includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).

FTAA requirements for conditions

<u>Resource consent</u>

713 For a resource consent and designation, the following clauses of Schedule 5 apply:

> **18 Conditions on resource consent**
>
> When setting conditions on a consent, the provisions of Parts 6, 9, and 10 of the Resource Management Act 1991 that are relevant to setting conditions on a resource consent apply to the panel, subject to all necessary modifications, including the following:
> (a) a reference to a consent authority must be read as a reference to a panel; and
> (b) a reference to services or works must be read as a reference to any activities that are the subject of the consent application.
>
> **25 Conditions on designation**
>
> When setting conditions on a designation, the provisions of Part 8 of the Resource Management Act 1991 relevant to setting conditions on a designation apply to the panel, subject to all necessary modifications, as if references to a consent authority were references to a panel.

714 For the grant of an archaeological authority the following clause of Schedule 8 applies:

> **5 Imposition of conditions on archaeological authorities**
>
> (1) In relation to an archaeological authority, a panel may impose any conditions, including conditions that—
> (a) the consent of the land owner and the holder of any specified registered interest must be obtained before the holder of an archaeological authority may enter the relevant site or undertake any activity under that authority; and
> (b) the site must be returned as nearly as possible to its former state (unless otherwise agreed between the owner of the land on which the site is located and the panel); and
> (c) any activity undertaken at the site under the archaeological authority must conform to accepted archaeological practice; and
> (d) Heritage New Zealand Pouhere Taonga, or the person approved under this schedule to carry out an activity, must provide a report to—

(i) the holder of the authority; and
(ii) the owner of the archaeological site concerned, if different from the holder of the authority; and
(iii) Heritage New Zealand Pouhere Taonga, unless Heritage New Zealand Pouhere Taonga prepared the report.

(2) The panel may impose a condition requiring an investigation under the HNZPT Act, but only if the panel is satisfied on reasonable grounds that the investigation is likely to provide significant information in relation to the historical and cultural heritage of New Zealand.

715 Generally speaking, a resource consent condition must:[137]

(a) Be for a resource management purpose, not an ulterior one;

(b) Fairly and reasonably relate to the development authorised by the resource consent or designation; and

(c) Not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties could not have approved it.

716 The underlying purpose of the conditions of a resource consent is to manage environmental effects by setting outcomes, requirements or limits to that activity, and how they are to be achieved.[138]

717 Conditions must also be certain and enforceable.[139]

718 A condition must also not delegate the making of any consenting or other arbitrary decision to any person, but may authorise a person to certify that a condition of consent has been met or complied with or otherwise settle a detail of that condition.[140] Such authorisation is subject to the following:

(a) The basis for any exercise of a power of certification must be clearly set out with the parameters for certification expressly stated in the relevant conditions.

(b) This power of certification does not authorise the making of any waiver or sufferance or departure from a policy statement or plan except as expressly authorised under the Act (s 84 of the RMA).

(c) This power of certification does not authorise any change or cancellation of a condition except as expressly authorised under the Act (s 127 of the RMA).

719 To the extent the final set contains minor errors, the Panel notes it has powers under s 89 of the FTAA to make minor corrections if necessary.

<u>Effects envelope approach (resource consents)</u>

720 The Council agreed that the 'effects envelope' approach is appropriate for the designations. For the resource consents, the Council's position in its 8 July 2026 conditions is that, provided the outstanding issues with the detailed resource consent

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[137] *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731 (HL), at 739.
[138] *Summerset Village (Lower Hutt) Ltd v Hutt City Council* [2020] EnvC 31 at [156].
[139] *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57.
[140] *Turner v Allison* (1970) 4 NZTPA 104.

conditions can be resolved, such an approach is potentially acceptable; the Council did not identify any circumstance in which the approach would remain unacceptable even if those conditions were resolved.

721 In its 9 July Memorandum, the Applicant maintained that the 'effects envelope' approach is appropriate for the resource consents, relying on its legal submissions lodged with the Application, its response to the Panel's Minute 3 request for information, and its experience implementing the same approach on the Puhoi to Warkworth and Warkworth to Wellsford projects. The Applicant considers that, as a result of the facilitated discussions, its amended or additional consent conditions (relating to erosion and sediment control, contaminated land, native birds and groundwater) are agreed with the Council save for groundwater, and that no further conditions are required to support the approach in relation to the topics that remain unresolved (works in watercourses, terrestrial vegetation, freshwater ecology, coastal, and groundwater), each of which is addressed under the relevant effects topic above.

Project conditions

722 The Applicant and the Council provided a set of consent and designation conditions to the Panel on 8 July 2026, which identified where agreement had been reached, and also identified the remaining outstanding issues. Those outstanding issues have been addressed by the Panel in this decision. A 'final set of proposed conditions' was presented by the Applicant on 29 July 2026. The Panel used this set as a base to develop its draft conditions circulated on 12 August 2026 for comments. The Panel received comments on the draft conditions from the parties listed in Part B above, and a further response to comments from the Applicant on 26 August 2026.

723 We have considered the comments, and the response, and as a result have accepted some recommended changes to conditions, rejected others, made further edits to existing drafting, and introduced additional drafting where we considered it necessary to do so. Rather than address each comment and response, we deal with the changes to draft conditions thematically, as set out below.[141] We note that a large number of comments related to the conditions addressing construction traffic management, which we have taken into account as part of our general editing of those conditions, as discussed further below. Other specific requests from various parties have also been commented on along with the Panel's findings on the requested changes.

<u>Private household concerns</u>

724 In response to the draft conditions, a number of 'lay submitters' provided feedback.[142] While that feedback was wide-ranging, a number of themes were identified. These commenters were concerned about construction effects, access arrangements, impacts on dwellings associated with construction noise and vibration, overall feelings of uncertainty and displacement, and a general concern regarding how they will be kept informed of matters affecting them. While broadly framed, the Panel has viewed these matters as being directed at the adequacy of the conditions generally, and as seeking drafting edits where necessary.

725 The Panel recognises the importance of these matters, and to the extent appropriate,

[141] References to consent or designation conditions are to the draft condition numbering, which will change in the final set.
[142] See comments on conditions from Kim Weston, Pauline Skeats, Hui Liu and Ji Ma.

we accept they should be addressed via conditions. Before addressing the conditions however, we again emphasise that issues concerning property values, acquisition of land, and any associated compensation, are matters addressed independent of this process, under the PWA. These are not matters we can address.

726 In terms of the concerns raised regarding construction effects and access concerns, these matters are appropriately addressed via draft Designation Condition 16 (CTMP requirement) and in particular Condition 16(b)(vii),(ix) and (xv), Condition 16C which addresses Existing Property Access, and Condition 16F which sets out a process for resolution of construction traffic issues. Concerns relating to construction noise and vibration are addressed via draft Conditions 17-20. In combination we consider these conditions (retained but noting that there are some numbering changes) appropriately address the concerns raised.

727 In addition to these draft conditions, we consider there are two further conditions which should be introduced to provide greater certainty and clarity to landowners and occupiers in the areas affected by the Project.

728 First, a condition requiring that the Applicant maintain a website or online equivalent, so that stakeholders are kept appraised of the Project's implementation. The Panel notes that the Applicant may consider this condition redundant, given it has broader obligations which drive these stakeholder communications, but we consider that effects on landowners and occupiers will be mitigated by the following obligations being 'hard wired' into the Designation:

> *The Requiring Authority will maintain a website page, or equivalent online information source (Project website) which provides information updates on progress being made towards implementation of the Project. Prior to commencement of construction, the information provided on the Project website will be updated at 6 monthly intervals. After commencement of construction of a particular stage of the Project, the information in relation to that part under construction will be updated at a minimum of 3 monthly intervals until that part is completed.*

729 Next, the Panel has given careful consideration to the Designation Plans at Part 6.4 of the Application, which define the extent of the designations. It is clear that once completed, even taking account of any ongoing operational and maintenance requirements, there are likely to be some areas within the Designation footprint which are no longer required in order to give effect to it. The following condition, requiring the Applicant to actively address this issue at the completion of the Project, will ensure there is no unnecessary residual 'planning blight' and will provide landowners and occupiers much needed certainty, thereby mitigating the social impacts and effects on wellbeing associated with this issue:

> *As soon as practicable following completion of construction of the entire Project, the Requiring Authority shall give notice to Auckland Council in accordance with s 182 of the RMA (or its equivalent) for removal of those parts of the designation that are not required for the long-term operation, maintenance and mitigation of effects of the Project.*

<u>Draft Condition 1A</u>

730 The inclusion of draft Condition 1A attracted comment and suggested edits from

NZRPG, the Council, and the Applicant.

731 For NZRPG it was argued that draft Condition 1A is circular in that it deems consistency with the Indicative Design established by compliance with the balance of the Designation Conditions and approval through the Outline Plan process, without requiring any actual comparison with the Indicative Design drawings. NZRPG argues that works could depart entirely from the alignment, form, and scale shown in the Indicative Design and still comply with every other condition, none of which uses the Indicative Design as a design envelope. Such works would nonetheless be deemed consistent. NZRPG says this concern in 'not academic', because NZRPG opposes the elevated viaduct over the Fred Taylor Drive/SH16 interchange, and yet the deeming mechanism provides no real constraint, meaning NZTA could proceed with an elevated structure at the interchange and the works would still be deemed consistent with the Indicative Design, without assessment against relevant objective criteria. NZRPG offered alternative drafting for Condition 1A which addresses these factors.

732 The Council raised a similar concern, noting that the second sentence of each condition deems work to be consistent with the Indicative Design drawings, but everything asked about that work relates to compliance with other requirements rather than to the drawings themselves. The Council made a related point that the second sentence sets out one route by which work will be treated as consistent, but says nothing about work that does not take that route. Work falling outside it, including because a single unrelated condition has not been met, would be subject to the bare obligation in the first sentence, measured directly against the drawings. It sought clarity on whether the Panel's intent is that future processes, being outline plans and management plans, have regard to the Indicative Design drawings, or that built work be measured against them.

733 The Applicant also sought clarification on the Panel's intent. In Minute 19 the Panel confirmed at [4] that:

> *The intention of draft condition 1A is to create a tangible link between the designation and consent conditions and the Indicative Design Drawings, so that, subject to the inbuilt flexibility of the 'effects envelope' approach, there is a real world comparison available to ensure a connection between what was applied for and what is ultimately delivered. To simply apply the 'effects envelope' approach within the constraints of the designation footprint could enable an outcome very different (albeit with no greater adverse effects) to what was commented on by stakeholders, and assessed by the Panel. Draft condition 1A is intended to strike the necessary balance between flexibility and no material surprises.*

734 In response to this clarification, and the comments from other parties, the Applicant provided the Panel with a further memorandum of counsel dated 26 August 2026 (**26 August Memorandum**) which addressed the issue in further detail. The Applicant considers that proposed Condition 1A is *"inappropriate and ultra vires and it does not concern effects management".*[143] The Applicant holds the view that the Panel has acknowledged in its draft decision and restatement of the issue that the concern we seek to address with Condition 1A is not related to effects management. This view is incorrect. The Panel considers that Condition 1A is directly connected to the management of effects by controlling the nature of the enabled land use. This control

[143] Memorandum of Counsel for the Applicant dated 26 August 2026, paragraphs 10-15.

over the land use is integral to both the reliability of the overall effects assessment which supports the Application, and the setting of the wider suite of conditions which create the so-called 'envelope of effects'.

735 In support of its position the Applicant relies on s 108AA(1)(b)(i) of the RMA which requires that a consent authority must not include a condition in a resource consent unless the condition is directly connected to an adverse effect on the environment. However, the Panel observes that this subsection must be read in the wider context of s 108AA which also enables conditions which, while not satisfying this particular criteria, satisfy wider and different criteria, including under s 108AA(1)(c) – i.e., if it relates to administrative matters that are essential for the efficient implementation of the relevant resource consent. In the present case, quite apart from whether draft 'Condition 1A' meets the requirements in s 108AA(1)(b)(i), it nevertheless meets the requirements in s 108AA(1)(c) in the Panel's view. In particular, as a potential refence point in the administrative tasks associated with certification of management plans and in relation to the Outline Plan review process.

736 Returning to the issue of a direct connection between conditions and an adverse effect, it is material that s 108AA(2) provides that *"subsection (1) does not limit this Act".* This is a reminder that ultimately, conditions must serve the purpose of the RMA. That purpose is to promote the sustainable management of resources, which means managing the use, and development, and protection of those resources.[144] In turn, that management requires a range of measures, and factors, to be addressed, including avoiding, remedying or mitigating any adverse effects of activities on the environment. In this way, effects management does not stand separate to the management of the actual use to which resources are put, or to the development itself. Controlling the use itself is integral to achieving the RMA purpose. An integrated condition set should reflect this obligation.

737 Similarly, the FTAA purpose is concerned with the facilitation of infrastructure or development projects either as listed, or referred projects, which are defined and described in their listing, or referral.[145] An approval under the FTAA which contains a condition establishing that what is enabled is the project as defined, serves the FTAA's purpose in our view.

738 Accordingly, whether it relates to the imposition of consent conditions, or the broad power to impose designation conditions under s 171 of the RMA, in the context of both the RMA and the FTAA, we consider that draft Condition 1A is not ultra vires, as the Applicant contends.

739 We do however acknowledge the issues identified by the commenters, and the Applicant, in relation to the current proposed drafting of Condition 1A. In relation to the designations, of the proposed drafting edits, we consider that rather than making edits to the current draft, a recast version of Condition 1A, in line with the direction set out in the Applicant's suggested drafting, aligns with the Panel's intended purpose for the condition. Subject to a number of edits, which capture the description of the Project set out in the Application, and reference to the Designation boundaries set by the Designation Plans provided by the Applicant as 'Schedule X' (renamed by the Panel as Schedule A) and including reference to the detailed Designation Plans included with

[144] RMA, s 5.
[145] FTAA, ss 3 and 4.

the Application, we adopt that drafting as follows:

> *1A. This designation authorises the Project, being the construction, operation and maintenance of new bus rapid transit facilities alongside and connected to State Highway 16 from the Brigham Creek Road/SH16 intersection through to Ian McKinnon Drive in the Auckland City Centre and includes seven rapid transit stations and one Park and Ride facility, associated connections to the local bus and road network, ancillary structures, works, facilities and activities, all within the boundary shown in Schedule A*, including the following works:*
>
> *a) A busway;*
>
> *b) Bus stations, including facilities for the convenience of passengers;*
>
> *c) With respect to designations [designation numbers for NOR1 and NOR4], a Park and Ride facility;*
>
> *d) Ancillary structures, works, facilities and activities, including:*
>
> > *i. bridges, underpasses, embankments, retaining walls;*
> >
> > *ii. lighting, signs, gantries, acoustic barriers, landscaping;*
> >
> > *iii. stormwater management, culverts, outfalls;*
>
> *e) Realignment of, and connections to, the Northwestern Shared User Path;*
>
> *f) Changes and connections to local roads to enable connectivity to bus stations;*
>
> *g) Protection and relocation of existing utilities; and*
>
> *h) All construction activities for the Project.*
>
> *If there is any inconsistency between the above description of the Project and the conditions, then the conditions prevail.*
>
> ** Except if there is any inconsistency between Schedule A and the boundary shown in the AUP (which shall accord with the Designation Plans at Part 6.4 of the Application), then the AUP will prevail.*

740 With respect to the Consent Conditions, the Panel has considered whether reference to the greater detail provided in the Indicative Design would be appropriate, and provide greater context for those consent matters and associated conditions where the Project intersects with relevant sections of the alignment (i.e., coastal environment, contaminated sites, earthwork areas, watercourses etc), while also recognising that the full alignment is relevant to stormwater management. However, we are satisfied that the same Schedule A provides the necessary parameters for those matters and that reference to the Indicative Design would not serve any additional purpose. Accordingly, the Panel has determined that it will impose a similar condition as that imposed for the designations, along with reference to the same Schedule A.

741 For clarity, we note that proposed Condition 1A will be renumbered as Condition 1 in

the final set of Designation and Consent Conditions, and that consequential renumbering will follow.

Outline Plan requirements

742 The Council sought to include requirements (as clause (c)) to Designation Conditions 23 (BHCMP) and 27 (Tree Protection Methodology) to require that these details are provided as part of an Outline Plan for a stage of works. On review, the Panel acknowledges that these had been included within the Applicant's earlier version of Designation Condition 3, but that they apply to NoRs 9, 10 and 11 only, and had been inadvertently deleted from the Panel's draft set. Reinstatement of these clauses will therefore resolve the Council's concern, and we note that the Applicant also appeared to invite the same approach, subject to the condition being limited to the aforementioned NoRs.

Landscape planting reinstatement

743 Clarification and revised wording was provided by the Council in respect of the reinstatement planting requirement of Designation Condition 26(a)(iv), and to remove any potential for need to re-plant weed or pest species. It acknowledged that the condition had been discussed with the Applicant and was opposed by it (as noted in the Applicant's own comments). The Applicant's response to comments acknowledged that it 'inadvertently' did not respond to this condition amendment, and was opposed to it. It considered that there was no evidence in support of it, and may result in inappropriate outcomes (e.g., reinstatement of pest plants, planting of an unsafe height, or planting that is not suitable for maintenance purposes), and that the condition may duplicate planting requirements within Condition 26A and resource consent conditions that require replanting.

744 The Panel has considered the Council's proposed condition which we note addresses the Applicant's concern relating to pest plant issues. We do not consider there is any force in their concern regarding the height of planting or possible issues for maintenance purposes, particularly given the qualifier to the condition that planting be undertaken "as appropriate". Further, the requirements for planting under Designation Condition 26A relate only to the Arch Hill Scenic Reserve, and the proposed condition would appear consistent with the requirement therein (at (a)(i)) for revegetation of those areas where vegetation was removed in respect of temporary construction works. Clause (a)(v) also requires the planting to be integrated with the planting required under Condition 26A and resource consents for the Projects.

745 The Panel has therefore retained the Council's wording for Designation Condition 26(a)(iv), as follows:

> *Re-instatement planting of construction and site compound areas as appropriate.*

Wastewater Management Plan

746 Through its response to the conditions, Watercare reaffirmed its request for inclusion of a WWMP (as part of the Designation Conditions). In this regard, it provided a table to illustrate the gaps in other legislation that the WWMP sought to address.

747 The Applicant through its 26 August Memorandum considered that the request for the

WWMP to be included introduces new evidence that was not previously before the Panel. Nevertheless, it observed that Watercare has still not identified any adverse environmental effects that would be managed by its suggested condition, and it refers to and relies on the Panel's previous findings in the draft decision on this point. It goes on to note that Watercare's comments support the Applicant's position that network utilities are managed through other statutory/regulatory processes, for example under the Auckland Council Water Supply and Wastewater Network Bylaw 2015 that requires:

(a) All persons are prohibited from connecting, disconnecting, carrying out other works on or in relation to the water supply or wastewater network, or opening / tampering with network access points without Watercare approval (cl 6). This approval process allows Watercare to impose conditions, including compliance with a code of practice.

(b) All persons are prohibited from damaging, stopping, obstructing or interfering with the water supply or wastewater network, requires prompt reporting of damage / interference, and prohibits physically obstructing Watercare's access to the network (cl 7).

(c) Watercare's written approval is required before restricted works or building work over a watermain or rising main, including works likely to damage or adversely affect the operation of the water supply or wastewater network (cl 8). It sets specified distances for excavation, piling, and blasting, and allows Watercare to impose conditions for protection of the network.

748 The Panel has reconsidered this matter carefully and remains of the view as set out in its draft decision (and which is retained in this final decision as above) that the inclusion of a WWMP is not required, for the reasons as already stated.

<u>Geotechnical Management Plan</u>

749 The Council's original GMP requirement remained a point of contention. The Council sought that this be applied to all NoRs, rather than just NoRs 9 and 10, as it had not been Mr Hall's intent that it would only be applied to the Waterview and Arch Hill Reserve areas. The Council also sought that the GMP be provided as part of an Outline Plan, noting it would inevitably be expected at the time as it would be relevant to the Council's assessment of "*any other matters to avoid, remedy or mitigate any adverse effects on the environment*", under s 176A(3)(f) of the RMA. Conversely, the Applicant remained opposed to the inclusion of the GMP condition, but that if the Panel resolved to retain it, that it be confined to specified areas within NoRs. It considered that its drafting reflected our earlier commentary (at Part E above) while avoiding unnecessary duplication of process. Specifically, it sought that the condition be rephrased as a 'Geotechnical Design Statement' and that it:

(d) Be limited to the Waterview [Interchange] and Arch Hill Scenic Reserve Area where a geotechnical risk was identified by Council. There is no evidence of a geotechnical risk across the entirety of NORs 9 and 10; and

(e) Only require NZTA to provide a copy of the Geotechnical Design Statement to Council that will be prepared as part of NZTA's normal design/engineering processes (rather than a separate document).

750 The Applicant also sought that, if the condition were to be imposed, such a

Geotechnical Design Statement be provided prior to the start of construction, and to the Council for information purposes. In this regard, Mr Hall's comments noted that the Council would not be seeking to certify or peer review any such Geotechnical Report under this process, but to ensure that effects are managed. That appeared to accord with the 'information-only' approach to the condition.

751 Through its 26 August Memorandum, the Applicant advised of its opposition to the geotechnical requirements, but in light of the Panel's draft decision, noted its position with regard to the following aspects of the condition:

(a) *Geographical scope:* The Applicant opposes the broad application of the condition, particularly as this is based on new information from the Council to which the Applicant has not had reasonable opportunity to respond.

(b) *Substantive requirement:* The Council's comments on the Panel's draft condition accepted that requiring a GMP for the entire Project may be more onerous than necessary, and instead proposes a "geotechnical risk review". The Applicant submits that its proposed approach of providing a copy of its Geotechnical Design Statement to the Council achieves the intended outcome of the Panel's draft condition (i.e., confirming that the Project will not result in adverse effects beyond the designation boundary arising from geotechnical conditions). It also does not duplicate the Building Act 2004 process and normal engineering / geotechnical design process requirements, which are already subject to independent technical review requirements. Accordingly, the Applicant submits that its approach is the "least onerous" approach and should be preferred by the Panel.

(c) *Process requirement:* The Applicant considers that it is sufficient to provide a copy of its Geotechnical Design Statement to the Council for information purposes as the Council's regulatory team (compared to the Council's building consent team) will not be commenting on the content under s 176A. It therefore supports the Panel's draft decision recording that the GMP would not be subject to Outline Plan or certification processes.

752 The Panel has considered the competing views in respect of this matter. It acknowledges the Council's view that any such geotechnical statement or plan be applied more widely, but that was not apparent from its original assessment. For the reasons expressed in the Applicant's 26 August Memorandum, it does not consider that this is an issue that can be expanded upon through comments on conditions. In terms of its purpose, and because we do not require the information to be the subject of certification or supplied as part of an Outline Plan, we adopt the revised terminology for the condition ('Geotechnical Design Statement') and confirm the limitation of the conditions to NoRs 9 and 10 (and more specifically, the areas specified in the Applicant's proposed Schedule Z).

753 We generally adopt the amended form of the condition as provided in the Applicant's comments except that:

(a) The Applicant's version seeks that the Geotechnical Design Statement confirm that there will be no 'material' adverse effects to land, buildings or infrastructure beyond the designation boundary *"arising from geotechnical considerations"*. We have determined that the matters to be addressed should be more closely related to the effects of the Project, and in this regard retain aspects of the original

clause (b) of the condition, such that the Geotechnical Design Statement instead confirm the scale of effects with reference to *"both the temporary and permanent works"*.

(b) The Applicant seeks that the condition use the term 'SQP' rather than 'SQEP' (the latter as recommended by the Council). We do not adopt the Applicant's approach in this regard, as SQEP is a defined term within the Definitions section of the conditions whereas SQP is not.

Groundwater

754 The Council proposed the introduction of new groundwater management-related conditions (as Consent Conditions 25 and 27-31). This was noted in the Council's memorandum as seeking to ensure that settlement risks are appropriately identified and managed. It notes that these are based on those agreed with Watercare for the Motions Collector Project (reference BUN60455222 / WAT60455334), a major wastewater pipeline extension to the Central Interceptor. The Council considers that Consent Conditions 23 and 24 of the draft decision would be inadequate.

755 The Applicant submitted that the Council is in this regard seeking to introduce new material and to relitigate a matter that has already been determined by the Panel. It went on to say that:

> *The majority of the additional groundwater conditions proposed by Council are unnecessary, as NZTA's proposed Condition 24 sets out clear parameters to be achieved that will avoid damage outside the designation boundary. NZTA also notes that a management plan certification process is unnecessary because NZTA's proposed Condition 24 requires a summary technical note to be provided to Council to confirm those parameters will be achieved. Council's normal enforcement powers will apply if that condition is not satisfied. We also agree with the Panel that the fact that "the Project is being delivered by an experienced Crown agency" is a relevant consideration. Because of that consideration, we submit that further oversight by Council through a management plan certification process would be "more onerous than necessary".*

756 In its comments on the conditions themselves, the Applicant further noted that "*the Council had a number of opportunities to provide draft groundwater conditions earlier in* this *process, but failed to do so*". It considered that the Panel's draft decision on the matter was appropriate, and the Council's suggested Consent Conditions 25 and 27-31 are unnecessary as Condition 24 sets out clear parameters to be achieved that will avoid damage outside the designation boundary.

757 The Panel acknowledged in its draft decision that there remained a difference of opinion between the parties' specialists as to the methodology for determining settlement effects and the sufficiency of information. We also noted that the Council considered that conditions are needed (of the nature now proposed) but that it would be premature to settle them absent further information. The Panel recognises that the conditions now advanced by the Council seek to address the matter of concern, but we note that the information gap they perceived as the reason they were not proposed at an earlier stage has not materially altered since that time. The desire of the Council to 'plug this gap' at this late stage in proceedings is understandable, but in the Panel's view this effort relates to conditions that needed to have been proposed at the earlier

comment or facilitated discussion stage. We recognise the pressures that the FTAA process places on public bodies in responding to applications, but nevertheless we suggest that extensive conditions which have a potentially significant impact or scope, such as those now proposed by the Council, must be advanced at the 'invitations to comment' stage to enable sufficient opportunity for an Applicant to properly engage with them.

758 Quite apart from these procedural observations, and more substantively, the Panel reiterates its view as expressed within its draft decision that it is comfortable to proceed on the basis of Consent Conditions 23 and 24, albeit with caution and in reliance on delivery of the Project by an experienced Crown agency.

Explanatory Note

759 The Council urged the Panel's reconsideration of the inclusion of the Explanatory Note to the Designation Conditions. It noted that its imposition is at no cost to the Applicant, and serves to explain why the design-related conditions take the form that they do (in regard to its agreement to replace its former proposed conditions with those now included). It further stated that the same considerations underpinning the Panel's conclusions regarding lapse date matters *"support retaining a short statement of the framework's structure for the benefit of Council officers assessing outline plans, and delivery teams and contractors reading the conditions, including in 10 or 20 years' time, without the background the parties presently share"*.

760 The Applicant advised in the conditions attached to its 26 August Memorandum that it opposes the Council's suggested Explanatory Note for the reasons previously advised on 9 July. It notes that it supports the Panel's draft decision on the matter, and considers that the Council's comment is seeking to relitigate the issue.

761 The Panel remains of the view already set out in its draft decision (and as set out earlier in this decision) and considers that the advice note attached to Designation Condition 15C is sufficient to address the matter.

Ecology

762 DoC sought changes (including the deletion or addition of conditions/clauses) in respect of certain Resource Consent Conditions. They also sought a minor amendment to Condition 1A, which the Panel has taken into account in its consideration of this matter above.

763 DoC expressed a concern with respect to the allowance for minor changes to management plans (Consent Condition 3) and the scope of changes that would not be subject to a recertification requirement. In its view, the condition as drafted could result in changes to the management of effects that have not had an independent regulatory check to confirm that they will manage the effect to the level required. They noted that there is no method for the Council, as the regulator of the consent, to oppose a change to a management plan that the Applicant considers to be a 'minor change', and this would therefore allow the Consent Holder itself to change the management of an effect without a review by the Council. DoC further observed that management plans can only be certified by the Council and should not be delegated to the Applicant, so any amendments to management plans should ultimately be reviewed and where necessary certified by the Council.

764 The Applicant noted in its 26 August Memorandum that DoC had not previously commented on management plan certification issues as they did not relate to matters covered in its earlier comments on the Application. However, it did not oppose the intent of the requested amendments to require an amended management plan be provided to the Council within ten working days. However, it further advised of its opposition to amendments to clause (c)(i) to:

(a) Limit its effect to "*minor administrative changes*". However, the Applicant considers that some of DoC's suggested amendments could helpfully clarify what is meant by a "*minor change*".

(b) Require the Council to determine whether the amendments to the management plan are a "minor change" or need to be submitted for certification. The Applicant considered that such a determination would effectively create a certification process.

765 The Panel agrees with those changes, and considers that they enable changes of no or negligible effect to exclude the need for certification, and work in tandem with clause (ii) that provides for re-certification in the event of a 'material' change. It has therefore adopted the Applicant's proposed amendments to Consent Condition 3.

766 DoC also requested:

(a) The inclusion of 'natural' to the description of exclusions for existing barriers to fish passage associated with the development of all new culverts or associated extensions. It states that the presence of existing artificial barriers is not an appropriate reason to avoid providing fish passage, as no exceptions of this nature are provided for under the NPS-FM, NES-F or the AUP. DoC highlighted the status of eel species within those streams where culvert or pipe extensions are required, and that given the permanent nature of the proposed works, additional artificial barriers should not be created.

(b) The removal of clauses (b) and (e) of Conditions 14 and 15 respectively that provided for mitigation planting required by each of these conditions to be counted as mitigation planting required by the other condition. In its view, such double-counting allows one action to offset two distinct effects.

(c) That, in respect of both conditions, the removal of the five-year timeframe from clauses (c) and (f) (respectively), as the requirement for achieving 80% native canopy cover is standard practice. If not achieved, it considered that replacement planting should continue until the required cover has been achieved.

(d) Additions to Condition 15 to require that instream works or disturbance not be undertaken during peak migration season (September to November), and inanga spawning sites should be avoided during spawning season, in order to minimise disturbance particularly for Threatened or At-Risk taonga and/or mahinga kai species. It states that this would not be an onerous requirement as it understands that instream works are typically undertaken in low flow conditions.

(e) Amendments and additions to Condition 17 to include reference to best practice guidelines to ensure that fish salvage and relocation is in accordance with the most recent set of industry guidelines, as well as to provide further clarification as to where fish can be appropriately relocated to.

(f) That in the absence of a 'typical' version of 'Condition 1', a further condition is recommended to limit the maximum extent of culverting that can occur (to 75m).

767 The Applicant's response advised in respect of these requested changes that they are opposed and that DoC is seeking to re-state and relitigate its original comments, to which it has previously responded (and which the Panel adds that it has made its findings on), and citing a lack of evidence to support the requested changes. On particular matters it responded that:

(a) 80% canopy cover will be achieved in less than five years with effective planting and maintenance, and deletion of the 'five-year period' is not necessary.

(b) The Applicant's expert considers that the proposed limit regarding disturbance (new Condition 15(g) and (h)) is unnecessarily restrictive. The suggested condition would prevent works across seven months of the year, which would significantly restrict construction flexibility. Given the lack of evidence on effects and the extensive restrictions the condition would place on Project works, it is clearly "more onerous than necessary".

(c) Fish salvage and relocation are well understood and established practices (Condition 17). Accordingly, the Applicant does not consider a reference to a guideline document to be necessary.

(d) The Applicant's evidence establishes (Freshwater Ecology Assessment, Section 4.6), and the Panel accepted in its draft decision, that the effects of culverting will be appropriately managed through the proposed conditions.

768 The Panel accepts the Applicant's responses on these matters, which relate to issues on which we have previously made findings on. While we acknowledge the concerns expressed by DoC, the Panel is satisfied that the condition framework that addresses works in watercourses are sufficiently robust to address the effects at issue and are not more onerous than is necessary.

<u>Network Integration, Form and Landscaping and CNVMP Schedule</u>

769 Comments from Foundry advised of their concern that the effects on their landholding and on existing development have not been adequately addressed. They proposed new conditions and amendments to the Designation Conditions, following input from civil and acoustic engineers, requiring:

(e) A new condition is proposed requiring a Network Integration Management Plan (**NIMP**);

(f) Amendments to Condition 15C(b)(v) - Form and Landscaping Statement; and

(g) Amendments to Condition 20 - CNVMP Schedule.

770 The proposed NIMP condition was in respect of the need for integration of other transport projects that have an axis or intersection on and adjacent to Foundry's land. Inclusion of a NIMP would be consistent with the designations relating to the Supporting Growth Alliance's Spedding Road extension, Rapid Transit Corridor and the Alternative State Highway. The NIMP for those projects is noted to have the objective of identifying "*how the Project will integrate with the planned transport network in the*

North West growth area to achieve an effective, efficient and safe land transport system". Foundry highlighted that the Project will interface with (and need to integrate with) multiple other planned transport projects on or adjacent to Foundry's landholdings, and that the designation should be subject to the same condition as applicable to those other designations.

771 The Applicant submitted in its response that Foundry has sought to restate an issue from its original comments and expands upon it through a new condition. In that regard, the Applicant says that it is not a comment on the Panel's draft conditions and should not be considered by the Panel. Further, it does not consider that Foundry's condition is appropriate and is not related to an environmental effect that requires management. It also noted that while a NIMP condition was originally proposed by the Council, it agreed through facilitated discussions that it was not necessary for this Project.

772 The Panel agrees that the condition is not required for the reasons set out in the Applicant's response.

773 Foundry also commented that while Designation Condition 15C ('Form and Landscaping Statement') requires the Requiring Authority to work collaboratively with the Council, it does not require it to consult or engage with adjacent landowners. Foundry considered that there would be efficiencies for all parties to work collaboratively with respect to property interfaces and seeks an amendment to Condition 15C(b) as follows:

> *(v) the interface with adjacent land use (including open space zones), including a description of how engagement with the adjacent landowner has informed the design of the finished contours, levels, retaining or batter slopes, building form and location, and landscaping.*

774 The Applicant restated its concerns with Foundry seeking additions to this condition, and goes on to say that the additional clause *"would require NZTA to engage with every adjacent landowner along the alignment and explain (in the outline plan) how that* engagement *informed the final design"*. It considered that such an amendment is clearly *"more onerous than necessary"* and should not be imposed by the Panel.

775 The Panel agrees with the Applicant's observations in this regard, and does not consider the additional clause sought by Foundry to be appropriate or necessary.

776 Foundry also sought a change to Condition 20 to require that where a CNVMP Schedule proposes exceedances of structural protection limits, an independent peer review must be obtained and provided to the Council as part of the certification process (rather than just 'submitted' to the Council) to ensure that such exceedances are being appropriately managed and mitigated.

777 The Applicant opposed the addition sought by Foundry and responded in this regard with comments from Ms Wilkening:

> *In my opinion it would not be practicable to obtain independent peer reviews for Schedules, given the short turn around throughout the construction process. Schedules follow the requirements of condition 20. At the same time, the requirements of condition 19 (CNVMP) must be fulfilled, which includes building condition surveys (condition 19(c)(xii)). Therefore, should vibration be predicted to reach levels that require a building condition survey, this will need to be*

undertaken prior to and following the identified works.

The Category B criteria for occupied buildings (e.g. 5 mm/s ppv) are highly conservative. The criteria for unoccupied buildings based on BS 5228-2 are significantly higher (15 to 20 mm/s ppv) and are also designed to protect buildings from damage. Therefore, a potential temporary infringement of the "occupied building" Category B criteria would not result in damage to the building. In my opinion, it is therefore unnecessary to require an independent peer review of Schedules purely based on a potential exceedance of the Category B criterion for occupied buildings, particularly given that the risk of any damage is approaching zero.

778 The Panel accepts this response, which aligns with our understanding as to the purpose of CNVMP Schedules and the requirement for their use during the construction period and the time constraints that necessarily apply. We have therefore not accepted the change to Designation Condition 20 as sought by Foundry.

Supermarket Access – Woolworths Westgate Shopping Centre

779 Comments and the same suggested minor edits from Woolworths and the Applicant were received. These amounted to addressing errors in the draft conditions and have been adopted by the Panel.

780 More substantive comments and edits were also received from NZRPG requesting that the Westgate Shopping Centre and the "Centre Manager" be included within Designation Conditions 13-15 as the landowner as any changes to access and loading arrangements relating to design and construction activity would also impact on them.

781 The Applicant stated in its response that it considers that it is not appropriate that NZRPG (and the Westgate Shopping Centre) is included in Conditions 13-15. The comments of the draft conditions repeat NZRPG's original comments, and those comments are not comments on the draft conditions. The Applicant further observed that the purpose of these conditions is to address potential effects on loading activities of the Woolworths supermarket – i.e. the conditions do not apply if the supermarket has no legal rights to use the turning area or is no longer operating. Furthermore, there is no legal basis to extend this condition to the wider Westgate Shopping Centre and the Applicant will engage with NZRPG as landowner as part of the PWA process.

782 The Panel agrees with the Applicant's observations in this regard and does not consider the additions sought by NZRPG to be appropriate or necessary.

Construction Traffic Management Plan

783 Comments from Woolworths, NTC, Stride and the Applicant were received on the draft CTMP condition. All parties provided general support for the condition with only Stride and the Applicant suggesting amendments to the condition.

784 Stride sought additional relief to amend the condition and set out timeframes for providing the CTMP to directly affected landowners and occupiers together with details on consultation and the measures undertaken to provide affected parties with the maximum lead times.

785 The Applicant opposed the amendments sought by Stride. However, it suggested an

alternative drafting to reflect the changes to the objectives of the CTMP that would allow communication to the affected landowners and occupiers as follows:

> *(ix) Methods that will be undertaken to communicate traffic management measures to affected road users and to communicate the measures to manage impacts on existing access to affected landowners and occupiers;*

786 The Panel agrees with the Applicant and has included this change within the CTMP condition.

787 Several amendments were suggested by the Applicant for reasons set out in the in its Memorandum dated 19 August 2026 to refine the draft conditions and reduce any uncertainties in implementation and enforcement while continuing to achieve the intent of the Panel's draft decision in relation to managing traffic during construction. It also suggested edits with better connection and consistency between Condition 16 and Conditions 16A, 16B, 16D and 16E.

788 The Panel has adopted the Applicant's recommended amendments to the CTMP condition.

Gunton Drive Access (Condition 16A)

789 Comments were received from Woolworths, Stride, and the Applicant on draft condition 16A. Woolworths and Stride supported the condition with only the Applicant suggesting amendments, providing a schedule of relevant properties and refining the condition to be consistent with the other CTMP conditions relevant to the Westgate area.

790 The Panel has adopted the Applicant's recommended amendments except for 16A(a)(ii) which states the following:

> *(ii) There is no restriction on the closure of traffic lanes on Gunton Drive between Fred Taylor Drive and Tawhia Drive between 8pm – 8am, 7 days a week.*

791 The Panel considers this clause to be unnecessary as Condition 16A(a)(i) states when Gunton Drive must remain open and to what extent.

Westgate Precinct Construction Traffic Management (Condition 16D)

792 Comments were received from Stride, Woolworths, and the Applicant on the draft condition. Woolworths and Stride supported the condition with only the Applicant suggesting substantive amendments.

793 Several amendments have been suggested by the Applicant for the same reasons that relate to the CTMP condition.

794 The Panel has adopted the Applicant's recommended amendments to the condition except for the dates set out in Condition 16D(b)(vi). The Applicant has sought to change the extent of the peak retail trading period to 1 December to 2 January. The Panel prefers the end date of 5 January.

Point Chevalier Transport and Access Plan (Condition 16E)

795 Comments on the draft condition were received from NTC, RBL, and the Applicant.

796 NTC and RBL sought several changes to the condition primarily based around requiring NZTA to consult with these parties regarding any changes in the Point Chevalier area and to ensure their access is not adversely affected by any design or operation of the Point Chevalier Station.

797 The Applicant expressed opposition to these amendments and did not consider it is necessary or appropriate for Condition 16E to require consultation with landowners or occupiers considering the condition concerns the use of public roads.

798 The Applicant has also sought several amendments including a title change and deletion of the majority of the clauses in this condition, including those relating to consultation to provide consistency with the other conditions.

799 The Panel has adopted most the Applicant's recommended amendments to the condition except for those relating to consultation. The Panel considers that consultation with the affected property owners and occupiers is important given the uncertainty as to the access requirements around the proposed station and how it might impact on the operation of the properties accessed from the service lane and Parr Road North.

Construction Traffic Issues Resolution (Condition 16F)

800 Comments were received from NTC, Stride, Woolworths, and the Applicant on the draft condition.

801 All parties supported the retention of the condition as drafted except for the Applicant. The Applicant proposed incorporating a resolution process within the CTMP condition.

802 The Panel agrees that the purpose of the condition is more efficiently contained within the CTMP condition, noting that it needs to be prepared as part of the CTMP. We have therefore adopted the Applicant's recommended change in this regard.

Condition Process

803 Three administrative or procedural issues arose from the comments on conditions. We discuss our approach to these issues below.

Condition numbering

804 Through the course of the Panel's consideration of the Application, the Applicant's original condition numbering has inevitably been the subject of some expansion (i.e., through the use of A, B, C etc) to denote additional conditions. To provide for ease of reference between original and amended condition sets through the comments stage and through our draft decision we have not wished to interfere with that approach. However, we consider that at this final decision stage, where the conditions are also now final, it is appropriate to reinstate a sequential numbering for both sets of conditions, along with an associated update with respect to cross-referencing. No change to the order of conditions has been made, other than to swap the previous arrangement between Conditions 1 and 1A, as referred to previously.

805 Additional schedules were also provided by the Applicant through the comments stage,

which better identify relevant site or land areas for the purposes of the Designation Conditions. As previously noted, we altered one version of 'Schedule X' to form 'Schedule A' (the relevant area for the purposes of Condition 1), while the remaining naming of Schedule X (Westgate area), Schedule Y (Point Chevalier area) and Schedule Z (Geotechnical Statement Report area) have also been amended to be sequential to the remainder of the Schedules, and become Schedule J, K and L respectively.

Designation Conditions

806 The Council in its comments advised of a need for the Designation Conditions (Appendix 1 to this Decision) for the 12 NoRs to be split into their 12 component parts. The Council stated in this regard:

> *The council requests that the designation conditions be separated into the 12 respective designation-specific sets as part of the Expert Panel's final decision. If the conditions remain consolidated, Council will be obliged to incorporate them into the AUP in that form, requiring subsequent administrative amendments to separate the conditions across the relevant designations. This would add unnecessary complexity, time and cost to plan implementation.*
>
> *Council's planning technical team would welcome the opportunity to undertake a final administrative review of the 12 sets of designation conditions prior to release of the final decision, to identify any formatting or templating issues that may otherwise delay incorporation into the AUP.*

807 The Panel did not consider that it would be appropriate to provide its final conditions to the Council, or any other party, prior to their issue as part of the Panel's final decision.

808 Instead, contemporaneous with the release of the final decision and Designation Conditions we have issued Minute 20 which directs the Applicant, in consultation with the Council, to undertake the administrative tasks required in terms of the Designation Conditions (and other matters described below). Specifically, the Panel directs the Applicant to split the Designation Conditions into the required 12 component parts so that the Council can incorporate the designations into the AUP. This direction is issued pursuant to clause 10, Schedule 3 of the FTAA, and in reliance on the general powers contained in s 89 of the FTAA.

<u>Archaeological Authorities</u>

809 Appendix C to the decision are the NZHPT Archaeological Authorities. The draft issue of these Authorities were issued as two sets ('West' and 'East'). Comments were received from NZHPT seeking an amendment to a reference within the 'East 3' Archaeological Authority, which has been accepted.

810 Schedule A to those Authorities have a note (carried over from the drafts provided by the Applicant and NZHPT): *"[For reference only: Four unique schedules to be provided for each of the four authorities in the east of the Project Area]"*. As part of a Joint Memorandum from the Applicant and NZHPT dated 7 August 2026 it was advised that:

> *We note that eight authorities (four in the east and four in the west) will need to be created following the Panel's decision. NZTA is happy to assist the EPA with this administrative task.*

811 We take the same approach as the Designation Conditions in addressing this issue – i.e., to require the Applicant to restructure the Authorities in the manner described, and as offered in the Joint Memorandum of 7 August 2026. Contemporaneous with the release of this Decision, the Panel has issued a Minute directing that these matters be addressed by the Applicant within seven days.

PART K: RMA 1991

812 As noted in Part C of this decision, Schedule 5, clause 17 of the FTAA sets out how the Application is to be assessed under various provisions of the RMA.

813 As explained in Part C, the Panel has assessed the Application taking into account the relevant provisions of the RMA relating to decision making on consent applications and NoRs, including the matters identified as relevant under ss 104 and 171 of the RMA.

814 The Panel has also considered the Application in light of the purpose and principles of the RMA (in Part 2). As a result of the conclusions reached on the effects of the Application and in the context of the relevant planning provisions and the conditions, and the lack of any evidence that contested otherwise, the Panel finds that the Application is consistent with Part 2. For completeness, we adopt the analysis with respect to ss 5 – 8 as set out in Section 22.4 of the Applicant's AEE, and note our further comments in respect of those matters throughout this decision.

815 The Panel has not given greater weight to the RMA considerations than to the overall purpose of the FTAA as required by clause 17. However, the Panel observes that its consideration of the relevant RMA provisions also supports its overall decision to grant the RMA approvals and therefore it was not placed in a position of having to weigh competing considerations under clause 17. Nevertheless, the Panel notes that where there may exist a tension in respect of conditions relating to matters under ss 6 and 7, the outcome as set out in this decision does inevitably have regard to the overarching purpose of the FTAA.

PART L: FTAA, SECTION 3

816 The Panel's decision is subject to the purpose of the FTAA, contained in s 3, namely to: facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

817 As noted, the Panel accepts that the Project will deliver infrastructure and development with significant regional benefit.

PART M: OVERALL ASSESSMENT

818 As noted in Part C the Panel may decline an approval if, in complying with section 81(2), the Panel forms the view that:

> (a) there are 1 or more adverse impacts in relation to the approval sought; and
> (b) those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered under section 81(4), even after taking into account—
> (i) any conditions that the panel may set in relation to those adverse impacts; and

(ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.[146]

(4) To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).

819 The FTAA clearly envisages an overall judgment or balancing approach to decision making. The Panel must balance the adverse impacts against the regional or national benefits of the Project.

820 The Panel has considered the Application and all advice, reports, comments and other information received by the Panel. We have applied clauses 17-25 of Schedule 5 of the FTAA and ensured that we have given appropriate weight to the relevant provisions of the RMA and given the greatest weight to the purpose of the FTAA when making our decision.

821 We have addressed s 82 relating to Treaty settlements but have not considered it necessary to impose conditions relating to Treaty settlements under s 84. We have imposed conditions relating to other matters and complied with s 83 when setting those conditions.

822 Overall, the Panel is satisfied that the matters set out in s 81 of the FTAA have been addressed appropriately and that the purposes of the FTAA are achieved by this decision. In reaching that view, the Panel has had regard to the actual and potential effects on the environment of allowing the activity as set out above. The Panel has also had regard to the relevant planning documents.

PART N: FINAL DECISION

823 The Panel has considered the Application and supporting information as well as the comments received on it and on the draft conditions, as well as the further information provided as a result of comments received from other participants and the subsequent refinement of the Application. We thank all those who commented for their contributions.

824 The Panel determines to grant the approvals sought subject to the Conditions attached as Appendices **A**, **B** and **C** to this Decision.

825 As required by s 99 of the FTAA the persons listed in that section are entitled to appeal and must commence any appeals within the 20-working day period from the day this decision is published under s 88(3).

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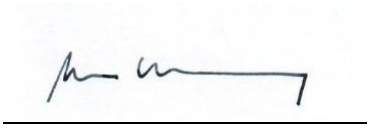
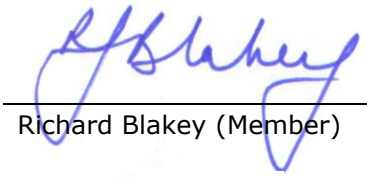
[146] FTAA, s 82.

Dated 28 September 2026



Lachlan Muldowney
(Chair)



Richard Blakey (Member)

Todd Langwell (Member)

APPENDIX A: CONDITIONS (DESIGNATIONS) AND SCHEDULES

APPENDIX B: CONDITIONS (RESOURCE CONSENTS) AND SCHEDULES

APPENDIX C: CONDITIONS (ARCHAEOLOGICAL AUTHORITIES)

APPENDIX D: REASONS FOR CONSENT

APPENDIX E: MAPS OF COMMENTS RECEIVED

APPENDIX F: GLOSSARY OF ACRONYMS

Term	Definition
ACNVE	Assessment of Construction Noise and Vibration Effects
AEcE	Assessment of Ecological Effects
AEE	Assessment of Environmental Effects
AGSE	Assessment of Groundwater and Settlement Effects
AONVE	Assessment of Operational Noise and Vibration Effects
ARTP	Auckland Rapid Transit Pathway
ASFE	Assessment of Stormwater and Flood Effects
AT	Auckland Transport
ATE	The Transport Assessment report
AUP	Auckland Unitary Plan
BHCMP	Built Heritage Construction Management Plan
BHE	Assessment of Built Heritage Effects
BOAM	Biodiversity Offset Accountancy Model
BPO	Best Practicable Outcomes
CCMP	Coastal Construction Management Plan
CIDF	Corridor Integration Design Framework
CIIG	Central Iwi Integration Group
CLMP	Contaminated Land Management Plan
CMA	Coastal Marine Area
CMP	Cultural Monitoring Plan
CNVMP	Construction Noise and Vibration Management Plan
CPTED	Crime Prevention Through Environmental Design
CLMP	Contaminated Land Management Plan
CNVMP	Construction Noise and Vibration Management Plan
CS	Contaminated Soil
CSMP	Contaminated Site Management Plan
CTMP	Construction Traffic Management Plan
DoC	The Department of Conservation
DSI	Detailed Site Investigation
ECEs	Early Childcare Centres
ECR	Environmental Compensation Ratio
EN	Electricity network

Term	Definition
EPA	Environmental Protection Agency
ESCP	Erosion and Sediment Control Plan
FTAA	The Fast-Track Approvals Act 2024
FUZ	Future Urban Zone
GMP	Geotechnical Management Plan
GPS	Government Policy Statement on land transport 2024-34
GSMCP	Ground Settlement Monitoring and Contingency Plan
HAIL	Hazardous Activities and Industries List
HGMPA	Hauraki Gulf Marine Park Act 2000
HIRTB	Height in Relation to Boundary
HNZPT	Heritage New Zealand Pouhere Taonga
HNZPTA	Heritage New Zealand Pouhere Taonga Act 2014
HWFR	Healthy Waters & Flood Resilience
ITA / ITAs	Industrial or Trade Activity/Activities
IWG	Iwi Working Group
LVA	Landscape and Visual Assessment
LMP	Lizard Management Plan
MACAA	Marine and Coastal Area (Takutai Moana) Act 2011
MHWS	Mean High Water Springs
MoE	Ministry of Education
MoU	Memorandum of Understanding
NDC	Regional Stormwater Network Discharge Consent
NES	National Environmental Standards (generally)
NES-CS	Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011
NES-FW	Resource Management (National Environmental Standards for Freshwater Management) Regulations 2020
NH2	North Harbour 2
NIMP	Network Integration Management Plan
NLTF	National Land Transport Fund
NLTP	National Land Transport Programme
NoR/NoRs	Notice of Requirement (generally) / Notices of Requirement: the twelve designations sought (five primary designations and seven overlapping station designations)
NPS-EN	National Policy Statement for Electricity Networks

Term	Definition
NPS-FM	National Policy Statement for Freshwater Management
NPS-I	National Policy Statement for Infrastructure
NPS-IB	National Policy Statement for Indigenous Biodiversity
NPS-NH	National Policy Statement for Natural Hazards
NPS-UD	National Policy Statement on Urban Development
NTC	The National Trading Company of New Zealand Limited
NUMP	Network Utility Management Plan
NUOs	Network Utility Operators
NZCPS	New Zealand Coastal Policy Statement
NZRPG	New Zealand Retail Property Group Limited
NZTA	New Zealand Transport Agency - Waka Kotahi
ONFs	Outstanding Natural Features
PC120	Proposed Plan Change 120
PCF	Parks and Community Facilities
PSI	(Contaminated Land) Preliminary Site Investigation
PPF	Protected Premise and Facility
PWA	Public Works Act 1981
RBL	Restaurant Brands Limited
RLTP	Auckland Regional Land Transport Plan
RMA	Resource Management Act 1991
RPS	Regional Policy Statement.
RTN	Rapid Transit Network
SCA	Special Character Area
SCPA	Sediment Control Protection Area
SEA / SEAs	Significant Ecological Area(s)
SEV	Stream Ecological Valuation
SH16	State Highway 16
SMDS	Streamworks Method Design Statement
SMP	Stormwater Management Plan
SQEP	Suitably Qualified and Experienced Practitioner
SQGP	Suitably Qualified Geotechnical Professional
TCMP	Transpower Construction Management Plan
THG	Tāmaki Health Group
TOA	Tree Owner Approval

Term	Definition
ULDMP	Urban and Landscape Design Management Plan
WPL	Westgate Properties Limited
WTCL	Westgate Town Centre (2017) Limited
WWMP	Water and Wastewater Management Plan