**Before the Expert Panel**

**FTAA-2603-1179**

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| **Under** | the Fast-track Approvals Act 2024 |
| **In the matter of** | the substantive application by the Department of Corrections for approvals for the Auckland Prison Capacity Increase listed project |

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**<u>Tenth</u> Memorandum on behalf of the Department of Corrections – response to draft conditions**

**Date:** 28 September 2026

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## Introduction

1 On 21 September 2026, through Minute 9, the Expert Panel invited comments on the proposed draft conditions attached to its Draft Decision, under section 70 of the Fast-track Approvals Act 2024. The purpose of this memorandum is to provide the Expert Panel with a response to the draft conditions on behalf of the Department of Corrections (**Corrections**).

2 Attached as Attachment 1 and Attachment 2 to this memorandum are updated word versions of the condition sets for the Designation and the Watercourse Works resource consents. As no changes were proposed by the Expert Panel to the conditions on the Wildlife Approval or the Archaeological Authority, no comments are made on those conditions and no updated condition set is provided for those approvals.

3 As encouraged at paragraph [700] of the Draft Decision, Corrections has updated the numbering and cross-referencing of the designation and resource consent conditions as part of its response to the draft conditions.

4 In addition, Corrections has proposed consequential amendments as a result of Panel's proposed deletion of the conditions requiring the proposed design reports. Further minor amendments have also been proposed for the reasons set out in comment boxes on the condition sets.

### Stormwater and flood hazard management

5 The only substantive changes proposed by Corrections are to condition LUC16 (renumbered as condition 19) and condition DES23. These are the conditions on the watercourse works resource consent and designation respectively that refer to stormwater outcomes. The Expert Panel has proposed deleting the word

"significantly" from LUC16(b) (renumbered to condition 19(b)) and condition DES23(a).

6 As previously set out in response to questions asked at the Conditions Conference, the wording in the conditions was used to reflect the language in the Auckland Unitary Plan. However, Corrections acknowledges the concern raised by the Expert Panel with the use of the word "significantly", particularly as it relates to risks to human life, and has considered the revised conditions further.

7 Corrections and its expert team have reviewed the amended version of the conditions as put forward by the Expert Panel. That review has determined that the Expert Panel's proposed wording implies a zero tolerance to flood hazard risk, which is not achievable, efficient or effective and would not allow Corrections to implement the designation.

8 For the watercourse 6 replacement culvert, a larger sized box culvert is required to meet the requirement to provide conveyance for the 100 year ARI event. However, it is not possible to install a larger culvert and guarantee no increase in flood levels upstream or downstream under all flow conditions. Similarly, the Iona Avenue culvert at Watercourse 1 (an Auckland Council asset) is currently undersized and needs to be upgraded in future. Increasing the size of the culvert on Iona Avenue is likely to increase flows in the downstream channel. This decreases the flows overtopping the culvert and associated risks over the public road, however would increase flooding risk downstream of the site before it enters the estuary.

9 Following receipt of Minute 9, Corrections has also engaged with Auckland Council (and Healthy Waters) on

the draft conditions, including LUC16 (now condition 19) and DES23. That engagement has been productive.

10 In the updated conditions, Corrections has proposed inserting the word "materially" in condition LUC16(b) (now condition 19(b)) as that condition generally reflects the requirement for culverts to be designed in accordance with standard E3.6.1.18 of the Auckland Unitary Plan, which reads:

> (2) The 1 per cent annual exceedance probability (AEP) flood shall be accommodated by the structure and/or by an overland flow path without significantly increasing flood levels up stream or downstream of the structure

11 The term "materially" is considered to be less than "significant" and may be more acceptable to the Expert Panel.

12 Should insertion of the word "materially" not be acceptable to the Expert Panel in this condition, Corrections has proposed that, as an alternative to its preferred wording, the condition could be amended as follows:

> (b) conveyance of stormwater during the 100 year ARI event without increasing flood levels <u>by more than 200mm on other properties or public roads</u> upstream or downstream of the structure.

13 Corrections is willing to accept that alternative wording and notes the reference to 200mm aligns with the amended wording it is proposing for DES23 (explained below).

14 As a further safeguard, Corrections has proposed an additional clause in condition 19(b)(ii) to ensure that the new culvert does not result in increased inundation of buildings on other properties in rainfall events up to and

including the 1 per cent annual exceedance probability (**AEP**).

15 In respect of the designation condition, DES23, Corrections has proposed an amended condition for the reasons set out in the condition set. The amended condition wording is considered to be appropriate as:

15.1 it reduces uncertainty and introduces a threshold which is measurable, enforceable and appropriate in the context of Auckland Prison site and downstream receiving environments. The 300mm and 200mm thresholds are considered acceptable in this context due to low sensitivity of adjacent properties to flood level change (eg deeply incised existing channels for watercourse 1, with only 60m length downstream of the Auckland Prison site before the water enters the estuary).

15.2 the specified outcomes would be demonstrated by flood hazard modelling relative to existing flood hazard levels.

15.3 specific reference to human life is not necessary as it is inherent within the term "flood hazard risk".

15.4 it provides an exception when the discharge and flood risk is authorised by a resource consent to allow flexibility based on detailed design and assessment in future.

15.5 it is consistent with the National Policy Statement for Natural Hazards 2025 approach of proportionate management of natural hazard risk.

15.6 it is more aligned with Auckland Unitary Plan standard in Standard E8.6.1(3) (which applies to stormwater discharge and diversion).

16 The following is provided in Attachment 3 to this memorandum, supplied by Aurecon engineers Nick Simpson and Connor O'Boyle (authors of the Infrastructure and Site Suitability Assessment (Substantive Application, Volume 2, Appendix 2M)):

16.1 "Overview of Areas of Influence – Flood Plain" map which demonstrates the likely implications of future development on downstream flood flows to the Pāremoremo Estuary (based on current available information).

16.2 Cross-sections for the downstream channels of Watercourses 1 and 2 with an indication of the implications of the difference in flood levels (300mm and 200mm increase in flood levels respectively).

17 Corrections also considers that it is relevant to note that downstream risks at Auckland Prison site are low because existing dwellings downstream are set back more than 20 metres from the existing flood plain areas, with freeboard levels elevated above the expected flood levels and stream channels. In addition, the conditions require no increase to inundation of buildings in rainfall events up to and including the 1 percent AEP event, and under the Auckland Unitary Plan, no new buildings can be constructed within 20m of the permanent streams (Standard H19.10.3.1 of the Auckland Unitary Plan).

**Dewatering**

18 Finally, Corrections wishes to draw the Expert Panel's attention to the fact that the dewatering associated with the watercourse consents does not need resource consent under the Chapter E7 rules of the AUP (as set out in Auckland Council's section 53 comments, Annexure 14 by Richard Simonds, and Corrections response in relation to conditions WAT-01 and WAT02,

Table 10 of Corrections section 55 Report). There are no changes to conditions required in response to this matter, but the Table in Appendix 1 of the Draft Decision that references Taking, Using, Damming and Diversion of Water (Chapter E7) should be deleted as there is no related consent.

**Conclusion**

19 Corrections considers the above detail and the attached revised condition set provide the basis for the changes it has proposed to the draft conditions and is happy to provide further clarification or comment as required.

Date: 28 September 2026



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S F Quinn / E L Manohar
**Counsel for the Department of Corrections**

**Attachment 1 – Draft Designation Conditions – Applicant section 70 version**

[Supplied separately]

**Attachment 2 – Proposed Resource Consent Conditions – Applicant section 70 version**

[Supplied separately]

**Attachment 3 – 'Overview of Areas of Influence – Flood Plain' map and Cross-Sections**

[Supplied separately]