

Appendix B

North West Rapid Transit Project

New Zealand Transport Agency Waka Kotahi (NZTA) Response to comments – Auckland Council by topic

Consents – resolved topics

Contaminated Land
This topic was resolved during the facilitated discussions between NZTA and Council. NZTA and Council agreed amended consent conditions 7-7C. The key amendments are to clarify the relevant guidelines to be applied, specify some additional matters to be addressed in the Contamination Site Management Plan and require a Site Validation Report to be submitted to the Council for information.
Earthworks
This topic was resolved during the facilitated discussions between NZTA and Council. NZTA and Council agreed amended consent conditions 5-5F. The key amendments are to refer to site specific ESCP (and clarify no Project-wide ESCP is required), add a maximum area of exposed earth (5 hectares), require certification of construction of ESC measures and maintenance of their effectiveness and efficiency throughout earthworks, and address deposition of soil on roads and footpaths.
Stormwater
This topic was resolved during the facilitated discussions between NZTA and Council, as follows: - NZTA and Council agreed to amend Proposed Consent Condition 9 to require a “summary technical note” to be provided to Council for information to demonstrate compliance with the stream velocity standard in Condition 9(a). - Council agreed that its suggested Stormwater Management Works condition is not required. - Council agreed that its suggested Operation and Maintenance Plan condition is not required.
Wetlands
This topic was resolved during the facilitated discussions between NZTA and Council. NZTA and Council agreed an exception statement that clarifies the consents do not authorise works within or near wetlands.

Consents – unresolved topics

Response number	Comment reference	Topic	Comment Summary or Extract	Response to Comment from NZTA
Coastal processes and marine ecology				
This topic was resolved in part during the facilitated discussions between NZTA and Council: - In relation to coastal management: This sub-topic was resolved. NZTA and Council agreed amendments to Proposed Consent Condition 20. Council agreed that its suggested conditions concerning biosecurity and maintenance of structures are not required. - In relation to mangroves: This sub-topic was resolved. NZTA and Council agreed amendments to Proposed Consent Condition 20(a)(iv) addressing mangrove removal. - In relation to occupation of the CMA: This sub-topic was resolved. NZTA and Council agreed a new condition addressing the exclusive occupation of the common marine and coastal area. - In relation to underwater noise: This sub-topic was not resolved and is addressed below.				
1	Planning Memo, para 195-196 Appendix 19 – Coastal Processes and Marine Ecology Memo, Section 5 Council consent conditions dated 8 July 2026	Underwater Noise	The Council’s expert considers “<i>marine mammals may be present within the creeks during construction activities</i>” and “<i>the effect on those individuals could be quite high</i>”. The Council has suggested a condition that requires underwater noise to be minimise during impact driving and vibratory piling.	NZTA considers the Council’s suggested condition is unrelated to the Project’s effects and overly onerous because: <i>(1) There is no evidence of marine mammals being present within the coastal permit area, which is a significant distance upstream from open water:</i> Dr Sivaguru’s review appears to ignore the lack of any information confirming marine mammal presence within the relevant area. She states “potential effects on marine mammals...cannot be discounted” and that “such occurrences cannot be entirely ruled out”. She also appears to expect NZTA to prove a negative when she states “[t]he Applicant’s assessment does not demonstrate that marine mammals are absent from the creeks, nor does it provide evidence that no sightings have occurred in the area”. Dr Sivaguru does not provide any evidence of sightings that might assist NZTA or its expert ecologists. NZTA’s experts advised there is no evidence of marine mammals being present within the Project Area and therefore this matter was not addressed in the Assessment of Ecological Effects. Accordingly, there is no evidence that the Project may impact marine mammals. Even if marine mammals were present, any effects would be short-lived and very low as noted below. NZTA notes that the two bridges to be constructed in the CMA are both upstream of the existing SH16 bridges. Those bridges are respectively some 4.5 kilometres and 6 kilometres upstream of very narrow open channels from Hobsonville Marina. The likelihood of a marine mammal venturing that far up a tidal creek is very remote. <i>(2) Project works in the CMA are very limited and the potential effects without mitigation are assessed as very low:</i> NZTA seeks coastal permits for the occupation and use of the CMA for both temporary staging and permanent bridges. The effects of vibratory piling have been assessed in both Section 4, Table 4-3 of the Assessment of Ecological Effects and Section 3.3.2 of the Assessment of Construction Noise and Vibration Effects. The Assessment of Ecological Effects assessed the potential for noise and vibration disturbance to marine fauna (fish, invertebrates, birds) from construction activities (especially vibratory piling for bridge construction), and determined the level of effect without mitigation to be Very Low. This assessment was based on both the mangrove habitat and sub-tidal areas having a Low ecological value and construction noise and vibration activities being temporary. The Construction Noise and Vibration Assessment refers to and concurs with the Assessment of Ecological Effects. Vibration piling activities will take place over a few days and NZTA’s expert considers that during piling fish and birds will avoid the area. They also note that there would be no underwater acoustic effects when piling occurs at low tide or outside the wetted channel.

Response number	Comment reference	Topic	Comment Summary or Extract	Response to Comment from NZTA
Groundwater and settlement				
This topic was not resolved during the facilitated discussions between NZTA and Council. A detailed response to the Council comments on groundwater is provided below and supported by a second statement of evidence from Mr Greg Sheppard. NZTA notes that it intends to propose consent conditions that: • Apply to excavation or installation of structures below the seasonal low water table; • 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 10 mm; or ◦ Total differential settlement at a building or services beyond the Designation of more than 1:500; • Require a report and accompanying analytical or numerical modelling to be submitted to Council for certification that the final design meets the above requirements. The final wording of the proposed conditions will be provided in NZTA's updated resource consent conditions to be lodged following the final response to comments period.				
2	Appendix 19 – Groundwater, section 6 Planning Memo, paras 219 and 221	Groundwater	The Council's expert suggests the Application is " <i>missing information</i> ". The Planning Memo says " <i>Council is not in a position to be able to assess the groundwater and settlement effects at this point</i> " and recommends " <i>the Panel seriously consider seeking their own peer review of this aspect of the proposal</i> ".	NZTA considers the Groundwater Assessment Report appropriately assesses the effects of the Project. NZTA does not consider it is necessary to provide any of the additional information listed in the Groundwater Memo and therefore does not agree that it is "missing". NZTA and its expert consider the information provided is sufficient to properly and robustly assess the Project's potential groundwater effects, and Mr Sheppard's second statement of evidence confirms that it is appropriate to rely on that information (paragraphs 16 – 17). Mr Sheppard has assessed those effects as less than minor to negligible, based on a conservative scenario. NZTA considers the types of conditions proposed in Council's Groundwater Memo (eg a Groundwater Settlement Monitoring and Contingency Plan) are unnecessary, and would be wholly out of proportion to the level of potential effects as assessed by Mr Sheppard. Nevertheless, NZTA intends to propose conditions that will address Mr Simond's concerns, and those raised by other commenters, in a manner that is proportionate to the effects identified. NZTA also disagrees that there is a need for or value in a peer review.
3	Appendix 19 – Groundwater, section 5	Groundwater	The Council's expert considers that the groundwater assessment should include an assessment of the predicted mechanical settlement associated with the construction of retaining structures.	The Groundwater Assessment Report provided an assessment of the effects related to the diversion of groundwater and dewatering – the activity for which NZTA seeks consent. For the reasons set out above, NZTA and its expert consider sufficient information has been provided to assess the effects of that activity. Any effects resulting from excavation below groundwater levels within the Designation will be appropriately managed by NZTA's proposed conditions, and through the use of standard engineering methods. Mechanical settlement is not directly associated with the diversion of groundwater and dewatering, and can occur irrespective of dewatering. Mr Sheppard has further addressed mechanical settlement in his second statement of evidence at paragraphs 19 – 23. Mr Sheppard considers "<i>Mechanical settlement primarily relates to deflection of retaining walls and the soil movement to fill the resulting void. Mechanical settlement is typically of smaller magnitude and more localised than consolidation settlement due to dewatering</i>". There are a range of established engineering techniques that manage mechanical settlement and ensure that it remains within acceptable tolerances. Any risk of mechanical settlement will be managed through the detailed design of retaining walls, in accordance with normal engineering design principles and standards and independent review practices. In summary, the combination of established engineering techniques and the conditions that NZTA will propose address total settlement and total differential settlement and therefore appropriately address mechanical settlement.
4	Appendix 19 – Groundwater, section 2 Planning memo, para 220 Council consent conditions dated 8 July 2026	Groundwater	The Council's expert identified three areas of concern: "...the proposed works may not meet AUP (OP) Standard E7.6.1. 10 (3) at the location of the proposed Point Chevalier station... the proposed works may not meet AUP (OP) Standard E7.6.1. 10 (3) at the location of the proposed Fred Taylor Drive underpass" "the assessment of effects on third party assets (such as buildings, structures and public and private services), undertaken by Jacobs, is invalid" "no conditions have been proposed in relation to the Water Permit, nor a draft Ground Settlement Monitoring and Contingency Plan (GSMCP) prepared" The Council has indicated it will propose conditions requiring (among other things) a Groundwater Settlement Monitoring and Contingency Management Plan.	NZTA considers the Application does not omit reasons for consent. NZTA has applied for a s14 consent to divert and discharge groundwater, and compliance with any permitted activity standard is therefore irrelevant. Accordingly, there is no gap in the Application. The Groundwater Assessment Report prepared by NZTA's expert is valid. It appropriately assesses potential groundwater effects, and confirms that they will be minor or less. As demonstrated in the second statement of evidence prepared by Mr Sheppard (paragraphs 7 - 14), the assessment of groundwater seepage to excavation and resulting drawdown is very conservative and it assumes unrestricted groundwater seepage. Mr Simmonds ignores this important point. The use of secant pile or diaphragm retaining walls would act to reduce, and potentially exclude, groundwater seepage to excavations, resulting in no (or very little) drawdown and consolidation settlement. The potential for settlement will be addressed at detailed design, in accordance with normal practice and the conditions that will be proposed by NZTA. Auckland Council has indicated that it will provide a standard set of groundwater conditions but has not done so. NZTA opposes groundwater-related conditions requiring a Groundwater Settlement Monitoring and Contingency Plan. Such conditions would be disproportionate to what is necessary to manage the Project's potential effects discussed above. NZTA will propose conditions that are proportionate to the assessed effects.

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Industrial and Trade Activities				
This topic was not resolved during the facilitated discussions between NZTA and Council.				
5	Planning Memo, paras 239, 241 Council consent conditions dated 8 July 2026	Industrial and Trade Activity	The Council considers construction laydown spaces are Industrial and Trade Activities and have the potential to discharge contaminants “<i>without appropriate management of stockpiles, storage of vehicles/machinery and other activities associated with these areas</i>”. Council has suggested the following advice note be included in the conditions: “<i>It is assumed that any construction laydown areas comply with E33.6.1.2 of the AUP (Discharge from an industrial or trade activity area). If not, resource consent may be required under Table E33.4.2(A12).</i>”	NZTA does not agree that construction laydown spaces fall within the definition of an Industrial and Trade Activity (<i>ITA</i>) under E33 of the AUP. As stated in the E33.1 Background, “Industrial and trade activities involve <u><i>the use, handling and storage of environmentally hazardous substances as part of their production</i></u> and operation” (our emphasis). E33 also requires the rules to be read “in conjunction with E31 Hazardous substances, E8 Stormwater Discharge and diversion and relevant zone rules”. The Project does not involve the use of any hazardous substances covered by E31. NZTA considers the Council has misinterpreted E33 and the ITA definition. The AUP definition of “industrial or trade activity” directs the reader to the RMA definition of "industrial or trade process", which is: "<i>includes every part of a process from the receipt of raw material to the dispatch or use in another process or disposal of any product or waste material, and any intervening storage of the raw material, partly processed matter, or product</i>". Table E33.4.3 sets out the ITAs covered by E33. This table does not include road or busway construction or maintenance nor their construction areas. The 'Transport and related activities' item identifies ship or boat construction, repair or maintenance, but there is no road or busway content. Furthermore, Table E33.4.3 only manages the storage of metals in the context of “recycling, recovery, reuse or disposal”. Aggregate storage prior to construction of a road is none of these. The construction laydown areas do not involve the processing of a raw material into a product or waste material and therefore are not an ITA. Notably, aggregate material is not raw as it is already crushed and is used in that state (refer to Auckland Council advice here). It is also unclear what contaminants Council considers would require a land use and/or discharge consent under E33. The Council’s general advice available on its website requires appropriate management of discharges to trade waste (for example) – illustrating the type of discharge anticipated or treatment on site prior to discharging to the environment. By way of comparison, Eastern Busway Alliance (EBA) obtained a variety of resource consents for the construction yard established at William Roberts Road, but did not require consent for an industrial and trade activity. In that case, Council rightly did not suggest additional consent under E33 was required. The EBA construction yard site has been operating for several years with no suggestion of non-compliance. Notwithstanding its disagreement with Council’s interpretation of the ITA provisions, NZTA has included construction yards in the scope of the Substantive Application. It has sought consents under s9(2) and s15. In that respect all necessary consents have been sought. Accordingly, the advice note suggested by Auckland Council is also incorrect.
Review				
This topic was not resolved during the facilitated discussions between NZTA and Council.				
6	Council consent conditions dated 8 July 2026	Review	Council has suggested a review condition.	NZTA does not support the condition as it simply duplicates the requirements of s128 of the Resource Management Act and is not required to manage the Project’s effects.

Response number	Comment reference	Topic	Comment Summary or Extract	Response to Comment from NZTA
Streamworks and Freshwater Ecology				
This topic was not resolved during the facilitated discussions between NZTA and Council.				
7	Appendix 17 – Stream works and freshwater ecology, section 5	Freshwater ecology	The Council expert agrees with NZTA's freshwater ecology assessment and says "[o]verall, the proposed Te Ara Hauāuru Northwest Rapid Transit Project is well described in terms of its construction and operational freshwater ecology effects, which are appropriately assessed as low to very low."	NZTA acknowledges the Council specialist agrees with the assessment, findings and conclusion in NZTA's Freshwater Ecology Assessment . Despite that agreement, the Council specialist goes on to propose additional conditions which are addressed below.
8	Appendix 17 – Stream works and freshwater ecology, section 6	Streamworks Freshwater ecology	The Council expert suggests the Project needs to comply with (unidentified) standards and criteria and says "... the application does not clearly demonstrate whether, and how, the proposed works comply with relevant regulatory requirements, standards, and consent criteria".	The Project's freshwater ecology effects have been appropriately assessed in the Freshwater Ecology Assessment, which concluded that effects will be low to very low. Auckland Council's specialist agrees with that conclusion. The Council's expert appears to consider NZTA needs to meet "standards and consent criteria". However, the application is for a discretionary activity, has been assessed against the relevant objectives and policies, and the effects have been appropriately assessed and conditions proposed. NZTA considers the Panel can properly rely on the assessment against the relevant planning provisions undertaken in Part 4 of the Substantive Application and NZTA's conclusions as to potential effects on freshwater ecology and streamworks, and the appropriateness of management and mitigation proposed.
9	Appendix 17 – Stream works and freshwater ecology, section 26 Council consent conditions dated 8 July 2026	Streamworks	The Council expert considers detailed culvert, outfall, and bridge designs are required to assess freshwater ecology effects. Following facilitated discussions, the Council has proposed a "stream works design method statement" condition.	Dr Tavasoli says an absence of detailed design and specifications for bridges and culverts prevents her from a 'full assessment of potential ecological effects and the effectiveness of proposed mitigation measures'. This contradicts her conclusion that "Overall, the proposed Te Ara Hauāuru Northwest Rapid Transit Project is well described in terms of its construction and operational freshwater ecology effects, which are appropriately assessed as low to very low." NZTA's Proposed Consent Conditions 9, 12, 13 and 15 address hydraulic performance, scour protection, fish passage and other impacts from bridging and culverting respectively. Given the limited freshwater ecology effects of the Project, NZTA considers these conditions will appropriately mitigate the effects. Given NZTA's conditions set out specific requirements to be met, NZTA considers conditions requiring Council certification of designs, and requiring the outfalls, culverts and bridges be built in accordance with the designs certified is "more onerous than necessary". Council's proposed stream works design method statement condition would require NZTA to address several matters already proposed in conditions. Additionally, as drafted that condition includes matters that are not appropriate, or practical and are unnecessary to secure the effects envelope. For example, (a) would require the 'angle of the discharge from the outfall' to be specified but that is dependent on the amount of water being discharged. Further, a variability in the discharge volume and angle can be managed through appropriate scour protection. Similarly, (d) would result in capacity constraints to achieve retrofitting of culverts for fish passage, which would impact upstream flood plains. There are other matters contained within the Council's proposed condition that NZTA will consider further prior to lodging its comprehensive conditions set after all comments have been received and responded to.
10	Appendix 17 – Stream works and freshwater ecology, section 5	Freshwater ecology	The Council's expert suggests that NZTA's conditions do not "adequately address the permanent loss of stream extent and ecological values through a robust offsetting or compensation framework".	NZTA considers no mitigation is required given the Project's effects are Low to Very Low. Regardless, NZTA has proposed mitigation planting (Proposed Consent Condition 15). Mr Garrett-Walker has explained why that mitigation planting is appropriate in his evidence dated 3 June 2026 (at paragraphs 16 – 17). Accordingly, NZTA does not consider any offsetting or compensation framework is necessary.
11	Council consent conditions dated 8 July 2026	Freshwater ecology	The Council has suggested a Native Fish Capture and Relocation Plan condition.	NZTA has proposed conditions that require native fish capture and relocation. Based on Mr Garrett-Walker's statement of evidence dated 3 June 2026 in response to DOC comments (paragraphs 59 – 64), NZTA does not consider a condition requiring a Native Fish Capture and Relocation Plan is necessary. As Mr Garrett-Walker explains, fish salvage and relocation are "well understood and established practices". Additionally, and particularly relevant to the context of this Project, he explains 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. Accordingly, NZTA considers Council's suggested condition is unnecessary and disproportionate to the Project's effects.

Response number	Comment reference	Topic	Comment Summary or Extract	Response to Comment from NZTA
Terrestrial ecology				
This topic was resolved in part during the facilitated discussions between NZTA and Council: • In relation to lizards: This sub-topic was resolved. Council agreed that no condition is needed to address the potential effect of the Project on lizards. • In relation to bats: This sub-topic was resolved. Council agreed that the condition proposed by NZTA is appropriate. • In relation to avifauna: This sub-topic was resolved. NZTA and Council agreed to amend Proposed Consent Condition 16 to clarify the locations where nesting surveys are required and setbacks to be applied if active nests are found. • In relation to kauri dieback: This sub-topic was resolved. NZTA and Council agreed to amend Proposed Consent Condition 19 to clarify the relevant guidance document. • In relation to terrestrial vegetation: This sub-topic was resolved in part and is addressed below. • In relation to trees: This sub-topic was not resolved and is addressed below.				
12	Appendix 16 – Terrestrial Ecology, sections 5 and 8 Planning memo, para 179 Council consent conditions dated 8 July 2026	Terrestrial Vegetation	The Council’s expert suggests the conditions should mitigate loss of exotic vegetation in addition to loss of native vegetation loss. The Council’s expert suggests using the "<i>generally accepted methodology to calculate appropriate terrestrial offsetting is the use of the Biodiversity Offset Accountancy Model (BOAM)</i>". The Council’s expert acknowledges that ‘Te Haumanu Taiao: Restoring the natural environment in Tāmaki Makaurau’ is not a statutory document, but does on to suggest it is included in the conditions of consent. The Council’s expert suggested pest animal control “to ensure success of the planting and any fauna management specific requirements” but does not provide reasons. Council has suggested amendments to NZTA’s Proposed Designation Condition 26A and Proposed Consent Condition 14 to reflect those matters.	The following matters were resolved during the facilitated discussions between NZTA and Council: • NZTA and Council agreed the conditions will include one SQEP definition, being “a suitably qualified and experienced person, being a person who can provide sufficient evidence to demonstrate their suitability and competence”. • NZTA and Council agreed that Proposed Designation Condition 26A and Proposed Consent Condition 14 will require “eco-sourced” planting. All other terrestrial vegetation issues raised in the Council comments are unresolved. <i>In relation to Council’s suggested deletion of “native vegetation” and replacement with “any vegetation”:</i> The Terrestrial Vegetation Assessment Report assessed terrestrial vegetation values. It says (paragraph 1.2): “My assessment of effects focuses on indigenous vegetation within Significant Ecological Areas (SEA), riparian and coastal margins, or certain overlays and open space zoned land. This focus is because I understand indigenous vegetation removal is permitted or otherwise authorised within residential and business zoned land and within NZTA’s existing designations (unless it is an SEA, riparian / coastal margin or certain overlay).” The focus on native vegetation does not assume that exotic vegetation has no or little value to biodiversity, but reflects the provisions of the AUP. The assessment did not consider the removal of vegetation in residential, industrial and business zoned land as that is a permitted activity. Mr Blayney’s evidence sets out why he does not consider there is a need to mitigate the loss of all vegetation. Ms Sinclair’s evidence addresses the AUP provisions as they relate to vegetation removal in SEAs, riparian and coastal margins and within Arch Hill Scenic Reserve. For the reasons set out in that evidence, NZTA considers the suggested removal of the word “native” from Designation Condition 26A and Consent Condition 14 is not proportionate to the Project’s effects, nor is it appropriate when considered in light of the AUP. <i>In relation to Council’s suggested reference to the Biodiversity Offset Accountancy Model:</i> For the reasons set out in Mr Blayney’s statement of evidence and Section 5 of the Terrestrial Vegetation Ecology Assessment, NZTA does not consider any biodiversity offset modelling or other demonstrations of adequacy of the proposed effects management approach to be required. Section 5 also explains how, with the recommended effects management, the Project’s “<i>medium term impact (<10 years post impact) would be essentially neutral with the scale and value of in scope native vegetation within the Proposed Designation being equivalent to the current baseline condition</i>”. The constrained and altered environmental context of this Project, the effects of the Project being assessed as low to moderate and the requirement of the FTAA for a proportionate response all guided development of the conditions proposed for the Project. <i>In relation to the Council’s suggested addition of a reference to “in accordance with the specifications detailed in Te Haumanu Taiao”:</i> NZTA opposes Council’s suggested cross-reference to Te Haumanu Taiao because: • The document has no statutory basis and has not been through, or tested in any independent review process. It was developed by Auckland Council in partnership with iwi, and does not appear to have had wider input. • The suggested condition refers to “specifications detailed in Te Haumanu Taiao” but the document does not contain “specifications”. The suggested condition also refers to “ecosystem specification” but it is also unclear what this term means.

				The suggested condition therefore does not meet the minimum requirements for validity. <i>In relation to the Council's suggested addition of pest animal control:</i> NZTA's terrestrial vegetation expert does not consider pest animal control is necessary to ensure planting success. Accordingly, the suggested addition is out of proportion to the effects of the Project and would be unnecessarily onerous.
13	Appendix 12 – Arboricultural, section 8 Planning memo, para 201 Council consent conditions dated 8 July 2026	Trees	The Council's expert suggests that specialist input from qualified arborist is required during the detailed design stage to "ensure there is no net loss of canopy coverage within the different habitats and areas including SEAs, riparian margins, coastal land within 150m MHWS, road berm and open space zoned land." Council has suggested a "Tree Removal" condition that requires an arboricultural report to submitted to Council for certification.	NZTA opposes Council's suggested condition as: - 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. - These conditions apply in conjunction with any future Tree Asset owner approval required in relation to street trees and trees in parks. - As set out in Mr Blayney's statement of evidence , the condition is not required to address the Project's terrestrial vegetation ecology effects.