

Before the Expert Panel

FTAA-2603-1179

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

**Ninth Memorandum on behalf of the Department of Corrections –
provision of updated condition set post Conditions Conference**

Date: 15 September 2026



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Introduction

- 1 The purpose of this memorandum is to provide the Expert Panel with an updated condition set on behalf of the Department of Corrections (**Corrections**).
- 2 This updated condition set is being filed in response to clarification questions raised by the Expert Panel at the Conditions Conference on 14 September 2026.
- 3 The updated condition set for the designation alteration (Volume 2) and the resource consent application (Volume 3) are attached to this memorandum as **Attachment 1 and Attachment 2**. As discussed with the Expert Panel, the base document used for this updated condition set is the version provided with the Section 55 Report, with previously shown strike through and underlined amendments now accepted, and strike through and underlining now only showing amendments proposed in response to the matters raised at the Conditions Conference. Drafting notes are provided by way of comment boxes, with any more substantive issues addressed in this memorandum.
- 4 Changes are only proposed to the designation conditions and the resource consent conditions. The conditions for the Wildlife Authority and the Archaeological Authority remain as per the Section 55 Report.

Section 55
Report, 4
August 2026.

Construction noise and vibration conditions

- 5 At the Conditions Conference, the Expert Panel raised several matters of consistency with the language used in the construction noise and vibration conditions (DES11 and DES12), and

sought clarification as to whether they were intended to apply onsite or offsite only and/or take different approaches under each condition.

- 6 Consistent with the approach taken for other Corrections designations, including recently at Waikeria Prison, the conditions to manage construction noise and vibration are both intended to apply only to land beyond the Auckland Prison site. Amendments to condition DES12 have been made to clarify this, but Corrections considers that no amendments are required to condition DES11. These amendments also resolve the issue raised by the Expert Panel as to the definition of "occupier" and whether or not the conditions apply to prisoners on site.

Approved by the Environment Court in *Minister of Corrections v Otorohanga District Council* [2018] NZEnvC 25, see condition 56 for example.

Which was also addressed in detail by the Panel in its analysis of who was invited to comment in Minute 2.

- 7 Impacts of construction activities on the prison itself, including prisoner accommodation, are operational matters that will be addressed by Corrections in accordance with the applicable legislative framework, including the Corrections Act 2004.

Management Plan conditions

- 8 Several questions were raised as to how management plan certification is to occur and the relationship between management plans and the Outline Plan of Works process for the designation. Amendments have been proposed to conditions DES32, DES35 and DES36 to provide clarity and certainty.
- 9 By way of clarification, there are two approaches to management plans outlined in the designation conditions – one where the preparation and certification of a management plan will occur at a

later date (ie. yet to be prepared management plans), and another where the management plan has already been prepared and the Expert Panel is being asked to approve that management plan as part of the substantive application being approved under the Fast-track Approvals Act 2024.

- 10 As set out in section 3.3.2.3 of Volume 6 of the Substantive Application, management plans have been provided with the Substantive Application in circumstances where the relevant information to inform those plans is available and the proposed measures set out in those plans will be consistent and applicable across the Auckland Prison site, irrespective of the design of new facilities, construction timing or phasing. It is those management plans that Corrections is asking the Expert Panel to approve through this process.
- 11 Other management plans referred to in conditions have not been provided as part of the Substantive Application. That is because those management plans are focused on managing construction effects, and the preparation of these plans and proposed mitigation measures contained within them is heavily reliant on details of construction timing and phasing and design information which is currently unknown and are unlikely to be known until a contractor is confirmed and a construction methodology and programme is established. Those management plans will be certified by Auckland Council at a later date.
- 12 The process for preparing and certifying the yet to be prepared management plans is set out in conditions DES32 and DES33. The process to amend a certified management plan is set out in

DES34 and DES36, with the compliance obligation set out in DES36 and DES37.

- 13 The objective and content of the yet to be prepared management plans for the designation are set out in conditions DES38 (Construction Traffic Management Plan), DES39 (Construction Noise and Vibration Management Plan), DES41 (Construction Lighting Management Plan) and DES42 (Earthworks Management Plan).
- 14 Where Corrections is asking the Expert Panel to approve the draft management plan, the conditions are phrased in a manner that requires works to be undertaken in accordance with the specifically referenced management plan, or any subsequent updated and certified plan.
- 15 That approach has been taken in respect of the Ecological Management Plan (DES43A) and Landscape and Ecology Implementation and Management Plan (DES45). For example, DES43A states:

The Requiring Authority shall undertake construction works, demolition and/or removal works in accordance with the Ecological Management Plan prepared by Boffa Miskell, dated 26 March 2026 or any subsequent management plans(s) prepared by a suitably qualified and experienced ecologist(s)), and certified by Auckland Council in accordance with the process set out in conditions DES33 to DES37. ...
- 16 The objective of the management plan is also set out in the same condition, so any amended plan can be assessed against it. The same process for amending a management plan applies regardless

of when approval or certification occurs (ie, DES34 to DES36).

- 17 Similar approaches have been taken with the management plans in the resource consent conditions, Wildlife Approval conditions and Archaeological Authority conditions.
- 18 The table below summarises each of the management plans, and which approach Corrections is asking the Expert Panel take in respect of each (ie. approved by Expert Panel now or to be certified by the Council later).

Approval	Management Plan	Condition Reference	Approve now or certify later
Designation	Construction Traffic Management Plan	DES38	Later
	Construction Noise and Vibration Management Plan	DES39	Later
	Construction Lighting Management Plan	DES41	Later
	Earthworks Management Plan	DES42	Later
	Ecological Management Plan	DES43A	Now
	Landscape and Ecology Implementation and Management Plan	DES45	Now
Resource Consents	Erosion and Sediment Control Management Plan	LUC04	Later
	Earthworks and Contamination Management Plan	DIS12	Now
	Pumping & Dewatering Management Plan	LUC11A	Later
	Chemical Treatment Management Plan	LUC11B	Later
	Ecological Management Plan	LUC12	Now
	Landscape Mitigation and Ecology and Enhancement Plan	LUC14 / LUS03	Now
Wildlife Approval	Lizard Management Plan	WAA01	Now
	Pest Animal Management Plan	WAA08	Now

Archaeological Authority	Archaeological Management Plan	AA02	Now
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- 19 At the Conditions Conference, the Expert Panel queried the lawfulness of the provision in condition DES32(f) which enables the Council to waive the requirement for a Management Plan. Corrections has provided some minor drafting refinements to provide certainty of when this applies, without reliance on the following advice note.

- 20 DES32 requires certain management plans to be prepared prior to commencement of specified works on site. The relevant management plans are those that are to be certified by Auckland Council at a later date, not those approved by the Panel through this process. DES32(a) to (f) then provides a range of exceptions to that requirement. In respect of DES(f), there are two important matters to note:
 - 20.1 it only applies where Auckland Council has waived the requirement for the certification of the management plan prior to commencement of the works; and
 - 20.2 it needs to be read in the context of the preceding list, which sets out specific circumstances where the management plan requirements do not apply, and is intended to provide a final catch-all to enable Corrections to commence works on site prior to certification.

- 21 This approach is considered to be pragmatic and appropriate in the context of the range in scale of activities that may occur on the Auckland Prison

site following approval of amendment to the designation (should that occur).

- 22 As the territorial authority responsible for administering and monitoring compliance with designation conditions under the Resource Management Act 1991, Auckland Council may waive the requirement for a management plan where the designation conditions expressly provide for such discretion. In this case, proposed Condition DES32 specifically contemplates that Council may waive the requirement for a management plan for minor works. Exercising this discretion is appropriate where the scale, nature and risk profile of the works are such that preparation of a management plan would not provide any meaningful additional environmental management or compliance benefit. Accordingly, the waiver mechanism enables a proportionate and efficient regulatory response, while remaining consistent with the intent and outcomes of the designation conditions.

Relationship between the various approvals

- 23 The relationship between the various approvals sought was raised on several occasions by the Expert Panel. So too was the relationship between the designation conditions and future resource consents that will be sought, specifically in the context of earthworks and stormwater conditions and consents.
- 24 Following the Conditions Conference, Corrections has considered the interface and relationship between the various approvals, conditions, potential overlap and the relationship between management plans. Corrections has proposed

amendments to the conditions to remove duplication where appropriate. For example, the conditions related to the lizard management plan have been removed from the designation and resource consent conditions, with the Wildlife Approval now left to manage lizards.

- 25 In other cases, the potential overlap and relationship between approvals is more complex. This is largely due to an overlap in regulation of the same activities. For example, both district and regional rules within the Auckland Unitary Plan regulate earthworks and stormwater activities (either through impervious surface area controls or the discharges themselves). The rules may be triggered at different times by different activities.
- 26 In that context, it is considered appropriate for both the designation conditions (that address the district rules) and any future regional resource consents (if required) to address the relevant effects. The approach taken by Corrections in that regard has been intentional.
- 27 Corrections does not consider that the proposed conditions create any conflict between the approvals sought as part of this Substantive Application. Should conflict arise between the designation conditions and regional resource consent requirements in the future, that conflict would need to be addressed at that point in time.

Conclusion

- 28 Corrections is grateful for the opportunity provided to engage with the Expert Panel on the proposed

condition set ahead of the draft decision being issued.

- 29 Corrections considers the above detail and the attached revised condition set provides the requested clarifications sought by the Expert Panel at the Conditions Conference, and is happy to provide further clarification or comment as required.

Date: 15 September 2026



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

Attachment 1 – Revised designation conditions

Attachment 2 – Revised resource consent conditions