

IN THE MATTER of the Resource Management Act 1991(RMA)

AND

IN THE MATTER Nineteen Notices of Requirement (NoRs) and one Resource Consent application for the North-West project by Te Tupu Ngatahi Supporting Growth Alliance (SGA).

JOINT WITNESS STATEMENT (JWS) IN RELATION TO:

PLANNING 1

30 August 2023

Expert Conferencing Held on: 30 August 2023 at 9:00am

Venue: Online by Teams

Independent Facilitator: Marlene Oliver

Admin Support: Darwin Chan

1 Attendance:

- 1.1 The list of participants is included in the schedule at the end of this Statement.
- 1.2 Note Note from the facilitator: Ben Willis, Katie Auckram, Hannah Milatovic and Joe McDougall has been approved to attend this expert conferencing session as an observer. Ben confirmed that he has read the Environment Court Practice Note 2023, in particular Section 9 Code of Conduct, and that he will comply.

2 Basis of Attendance and Environment Court Practice Note 2023

- 2.1 All participants agree to the following:
 - (a) The Environment Court Practice Note 2023 provides relevant guidance and protocols for the expert conferencing session;
 - (b) They will comply with the relevant provisions of the Environment Court Practice Note 2023;
 - (c) They will make themselves available to appear before the Panel;
 - (d) This statement is to be filed with the Panel and posted on the Council’s website.

3 Agenda and Outcomes

3.1 Certainty of engagement in Conditions, particularly management plans

[Conditions referred to this in the JWS are the version included in the evidence of Ms Atkins for SGA on the 2nd of August 2023]

Kay Panther Knight considers, recapping on the JWS- Transport and Planning (29 August 2023), further drafting of conditions is required to provide certainty and clarity as to how the RA intends to consult or engage with affected landowners and occupiers at both design and construction stage. This consideration is made with reference to the suite of management plan conditions and in respect of Condition 11 (Existing Access).

Hamish Hey raised a concern about the effect of the interim period on the ability of affected landowners to make reasonable use of the land – Section 178. With so much specific detail unknown, when details of access to site, how much land is to be acquired vs interim use, final footprint, of the designation is not known/specified, how can the prevent / hinder test be applied transparently by the RA? How does a landowner design their project and use when these constraints are not known - even by the RA?

3.2 Condition 11 Existing Property Access

Kay Panther Knight presented proposed edits to condition 11 that are detailed in her evidence. The crux of the changes seek to insert a consultation process that requires the RA to engage with affected landowners and occupiers, consider and respond to concerns or issues raised in that consultation regarding effects on existing property accesses – in both construction and operational phases. The intent of reference to looping in Council officers is to achieve some formal consideration of matters raised by parties that would not otherwise get an opportunity to be involved in the subsequent OPW process. Kay agrees with the SGA experts that the LIMP and SCEMP (etc) play a role in this expectation, but still considers clarity in condition 11 and/or clear linkages between conditions will better address this matter. Kay welcomes the opportunity to consider further wording from other experts.

Sarah Westoby supports the position of Kay Panther Knight. She considers Condition 11 should direct the requiring authority to summarise comments received from all affected landowners, occupiers or leaseholders demonstrating how, as far as practicable, the feedback has been incorporated. She also considers that the last sentence should be expanded on to ensure that not just safe access is provided, but also efficient and effective access is provided, to be demonstrated in the Outline Plan, unless otherwise agreed.

Rebecca Sanders considers that Condition 11 should include a new site-specific sub-clause (or condition) in relation to sites where the current access arrangement is critical to the operation of the business. This site specific condition will ensure specific access, manoeuvring and loading requirements is maintained through construction and the operation of the project as detailed in the evidence of Matthew Norwell. The inclusion of site specific clauses in the conditions will likely be relevant to other conditions such as the CTMP.

Hamish Hey supports Rebecca Sanders concept of a site-specific schedule of access requirements/objectives for landowners. This could be worked through in their respective specific caucusing.

Mark Arbuthnot and Hannah Edwards consider that in relation to Condition 11, the policy requirement of the Unitary Plan is “...to provide for safe, effective and efficient movement to and from sites...”, rather than simply to provide “safe access”. This is important to ensure that the access remains fit for its intended purpose. In addition, he considers that engagement with affected landowners and occupiers is required under this Condition where existing property access, on-site parking, loading, or vehicle manoeuvring is proposed to be altered by the Project, rather than simply “access”. Noting that the SGA Transport Experts agreed to ‘review the drafting of the CTMP/SCMP to consider access, parking, loading and manoeuvring’ in the JWS Transport and Planning (29 August 2023).

John Daly, Regan Elley and Bridget O’Leary note that consideration of how to provide for access for properties that exist at the time will be undertaken at the time of detailed design and the process for addressing this is provided through the Existing Access Condition 11 and this includes a requirement for consultation with owners. They consider that inclusion of reference to ‘occupiers’ in the existing property access condition is warranted. Further engagement can occur through the LIMP. Construction access will be managed via the CTMP with engagement undertaken via the SCMP. They will look to review the conditions in light of other experts comments and provide clarification / updates if appropriate through rebuttal.

NoR S2 - Access

Anthony Blomfield, Rebecca Sanders, Hannah Edwards, Diana Bell and Sarah Westoby considers that Condition 11 should also apply to NoR S2. He is concerned the intent to maintain property access along Main Road (SH16 through Kumeu and Huapai) is not reflected in the conditions of S2, and that reliance on other powers (e.g. Government Rooding Powers Act 1989) to manage access from state highways does not address the effects of NoR S2.

Hamish Hey noted that NoR S2 is changing the footprint of SH16. Until the footprint of SH16 is changed, the provisions of state highway access aren't a front line processes. Hence Condition 11 is needed in S2 to facilitate the planning of access to properties until the SH16 changes occur.

John Daly and Regan Elley consider that as it is an existing State Highway there are existing statutory controls on the location and number of accesses to Main Road. There are existing processes for the management and removal of accesses. The reason that Condition 11 is not included in NoR S2 is because there will be conflict between the existing statutory controls and the NoR conditions. John Daly and Regan Elley will confirm the existing statutory controls and the relationship to NoR S2.

3.3 Land Integration Management Plan (LIMP)- Condition 7A

Kay Panther Knight consider that the LIMP is useful addition to the conditions framework. As set out in her evidence, Kay strongly advises that this condition not be able to be used by the RA in the future as a ‘handbrake’ where design of future roading corridors may not have progressed in alignment or in advanced of landowner development plans.

The SGA experts and Kay will give further consideration to whether changing the wording of the conditions is required to address the concern.

Chris Horne advised that the same edits being proposed as part of the SGA Airport 2 Botany project land integration condition should be made to the LIMP Condition for this North West project. In summary, these edits broaden the condition to include network utility operators. It is noted that this will apply only to the AT projects. Chris considers

that a similar outcome maybe able to be achieved for the Waka Kotahi projects by amending a different condition e.g. the SCEMP condition. The SGA experts agree to amend conditions as per the A2B primary evidence set and these will be reflected in the rebuttal version.

Emma Bayly and Kay Panther Knight considers that the LIMP condition requires clarification as to the timeframes and sequencing in the preparation of the LIMP and the application of this condition. The SGA experts acknowledge the requests for clarification and will look to provide this in their rebuttal evidence.

3.4 Lapse Periods

S42A Experts acknowledge the reasoning for a longer lapse period for all the NoRs. However, they have concerns about the effects of a longer lapse periods on landowners, occupiers and leaseholders. The S42A Experts will review the next version of the proposed conditions (with rebuttal evidence) and consider whether the suite of conditions better addresses the submitter's concerns relating to uncertainty and the provision of information relating to the RMA aspect of the project and also the other processes related to valuation, compensation and acquisition.

Hamish Hey raised a concern how lapse periods and extent impacted on certainty and who a land owner is able to engage with. He acknowledges that the PWA will be available in the future. Land owners need certainty, and hence loss of value is a significant concern where there is uncertainty. Hamish supports the position expressed by the S42A experts above.

3.5 Certification and or verification of Management Plan conditions

S42A Experts note that management plans are the primary method for addressing adverse effects under the proposed conditions. However, they are concerned that there is no certification process offered as part of those conditions.

SGA Experts note that as proposed by Condition 5, an outline plan (or plans) shall be provided in accordance with section 176A of the RMA and this shall include management plans as required for the relevant stage of works. As per section 176A of the RMA, an outline plan must be submitted to the territorial authority to allow the territorial authority to request changes before construction is commenced. There is no intention to provide for a certification step. An exception to this would be processes outside of the outline plan process such as schedules to the Construction Noise Vibration Management Plan and the Stakeholder Communication and Engagement Management Plan.

The SGA Experts noted that the drafting of Condition 6 (b) (iii) will need review as it appears to have a formatting error which has a consequential effect on the meaning of the condition. They confirmed that it is the intention that any material change to any management plan developed in accordance to Condition 5 will either be submitted as an update of the outline plan or provided to the Council for certification. There is a need to review the conditions to clarify the use of the term 'material change'.

4 PARTICIPANTS TO JOINT WITNESS STATEMENT

4.1 The participants to this Joint Witness Statement, as listed below, confirm that:

- (a) They agree that the outcome(s) of the expert conferencing are as recorded in this statement; and
- (b) They have read the Environment Court’s Practice Note 2023 and agree to comply with it; and
- (c) The matters addressed in this statement are within their area of expertise; and
- (d) As this session was held online, in the interests of efficiency, it was agreed that each expert would verbally confirm their position in relation to this para 4.1 to the Independent Facilitator and the other experts and this is recorded in the schedule below.

Confirmed online: 30 August 2023.

EXPERT’S NAME & EXPERTISE	PARTY	EXPERT’S CONFIRMATION REFER PARA 4.1
Anthony Blomfield, planning	Barney Holdings Limited	Yes
Diana Bell, planning	All Seasons Properties Limited and Lendich Construction Limited GR & CC McCullough Trustee Limited Kumeu Central Limited and Tahua Partners Limited Matvin Group Limited Northland Waste Limited	Yes- Attended for Agenda Items 3.1-3.3
Emma Bayly, planning	Redhills Green Limited	Yes
Hannah Edwards, planning	Cabra Development Limited F. Boric and Sons Limited Kumeu Properties Limited The Beachaven Trust	Yes
Hamish Hey, planning	Stephen Anderson	Yes
Jo Hart, planning	Auckland Council (s42A)	Yes
Jess Romhany, planning	Auckland Council (s42A)	Yes

Robert Scott, planning	Auckland Council (s42A)	Yes
Ben Willis, planning Katie Auckram, planning Hannah Milatovic, planning Lucy Rossiter, planning Joe McDougall, planning	Auckland Council	Observers refer to para 1.2
Kay Panther Knight, planning	CDL Land New Zealand Limited	Yes- Attended for Agenda Items 3.1 to 3.3
Mark Arbuthnot, planning	Restaurant Brands Limited	Yes
Michael Campbell, planning	Kāinga Ora Homes and Communities	Yes – Attended for Agenda Item 3.1 and the discussion session of Agenda Item 3.2. Departed at 10:50am.
Rebecca Sanders, planning	Bunnings Ltd The National Trading Company of New Zealand Limited	Yes- Attended for Agenda Items 3.1 to 3.3
Sarah Westoby, planning	Z Energy	Yes- Attended for Agenda Items 3.1 to 3.3
Keren McDonnell, planning	Future Kumeu	Yes- Left the session at Agenda Item 3.2
Chris Horne, planning	Telecommunications	Yes- Attended for Agenda Item 3.3
Chris Scrafton - Planning	Te Tupu Ngatahi (SGA)	Yes
John Daly - Planning	Te Tupu Ngatahi (SGA)	Yes
Regan Elley - Planning	Te Tupu Ngatahi (SGA)	Yes
Bridget O’Leary - planning	Te Tupu Ngatahi (SGA)	Yes