

**BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND**

**I MUA I TE KŌTI TAIAO  
TĀMAKI MAKAURAU ROHE**

**ENV-2022-AKL-000**

**IN THE MATTER** of The Resource Management Act 1991 ("the Act")

**A N D**

**IN THE MATTER** of an appeal under section 174 of the Act

**BETWEEN** **Elly S Pan**

Appellant

**A N D**

**Auckland Transport**

Respondent

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**NOTICE OF APPEAL UNDER SECTION 174 OF THE RESOURCE  
MANAGEMENT ACT 1991**

**14 July 2022**

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**ELLIS GOULD  
LAWYERS  
AUCKLAND**

**Level 31 Vero Centre  
48 Shortland Street, Auckland  
Tel: 09 307 2172 / Fax: 09 358 5215  
PO Box 1509  
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AUCKLAND**

**REF: Douglas Allan/Julie Goodyer**

**NOTICE OF APPEAL UNDER SECTION 174 OF THE RESOURCE  
MANAGEMENT ACT 1991**

**To: The Registrar  
Environment Court  
Auckland**

1. **Elly S Pan (“the Appellant”)** appeals those parts of the decision by Auckland Transport (“**the Respondent**”) on four notices of requirement that comprise part of the Drury Arterial Network (“**the Decision**”) that relate to the designation for the Jesmond Road to Waihoehoe Road Frequent Transit Network (FTN) Upgrade (“**NoR D2**”).
2. The Appellant made a submission on NoR D2, as trustee of The P & C Family Trust (“**the Trust**”) and in her personal capacity (“**Submission**”).
3. The Appellant received notice of the Decision on 23 June 2022.
4. The Decision was made by the Respondent.
5. Neither the Trust nor the Appellant in her personal capacity are trade competitors for the purposes of section 308D of the Resource Management Act 1991.
6. The appeal is in respect of those parts of the Decision that relate to NoR D2.
7. The land to which NoR D2 applies is in Drury and runs from Jesmond Road (State Highway 22) in the vicinity of 341 Jesmond Road to Waihoehoe Road east of Fitzgerald Road, Drury.
8. The reasons for the appeal are as follows:
  - (a) In the absence of the relief sought below NoR D2 will:
    - (i) Not promote the sustainable management of natural and physical resources;
    - (ii) Not amount to and promote the efficient use and development of resources;
    - (iii) Not be consistent with the purpose and principles in Part 2 of the Act;

- (iv) Not be consistent with the objectives, policies and other provisions in the relevant planning instruments;
- (v) Generate significant adverse effects on the environment and, in particular, on the land owned by the Appellant; and
- (vi) Not warrant being upheld in terms of section 171 of the Act.

In particular, but without derogating from the generality of the above:

- (b) NoR D2 includes:
  - (i) An upgraded new transport corridor with four lanes, including public transport and active transport facilities ("**the Arterial**");
  - (ii) Associated works including intersections, bridges, embankments, retaining, culverts, stormwater management systems and realignment of Tui Street;
  - (iii) Changes to local roads, where the proposed work intersects with local roads; and
  - (iv) Construction activities, including vegetation removal, construction compounds, laydown areas, bridge works area, construction traffic management and the re-grade of driveways.
- (c) The Appellant will be directly and adversely affected by NoR D2:
  - (i) The Trust is the owner of 341 Jesmond Road, Drury and the Appellant is the owner of 38 Burberry Road, Drury (collectively "**the Land**"). Part of the Land is identified in and subject to NoR D2.
  - (ii) The Appellant is not opposed to the works enabled by NOR D2 but is concerned that the extent and nature of NOR D2 and the works that are proposed by the Respondent to be undertaken pursuant to it with reference to the Arterial will compromise the quality and form of urban development that will be carried out on the Land. Accordingly, the Appellant seeks the imposition of constraints and

conditions on NoR D2 that will enable development opportunities for the Land to be fully realised.

- (d) The Appellant generally supports NoR D2 provided that the relief sought by her is granted.
- (e) Under the Auckland Unitary Plan (“**AUP**”), the Land is zoned Mixed Housing Urban, forms part of the Drury 1 Precinct, and is subject to the Drury 1 Precinct Plan 2 (“**Precinct Plan 2**”).

*Local Roads*

- (f) Precinct Plan 2 includes a new collector road in the location now proposed to be used for the Arterial under NoR D2. Precinct Plan 2 incorporates two proposed local road connections between that collector road and the Land, neither of which are incorporated into or identified on NoR D2.
- (g) The local road reserves on the Land would be in the order of 15 m wide if developed in the form prescribed in the AUP provisions.
- (h) In the absence of clarity regarding the location and form of any intersection between the Arterial and the local roads, it will not be possible for the Appellant to undertake urban development of the Land in a way that maximises the amenity of future residents or that ensures appropriate integration with neighbouring development.
- (i) That is particularly so with respect to integration of development on the Land with the school development that the Ministry of Education is intending to undertake on the Crown land bordering Jesmond Road immediately north of NoR D2 and west of the Land. The location of the local road intersection with the Arterial will need to be determined by agreement between the Appellant, the Respondent and the Ministry of Education. **Appendix 1 to the Submission (Attachment 1 to this appeal)** is a plan showing two possible alignments for the local road immediately east of the Ministry land (identified as Local Road Options 1A and 1B respectively). The location of the intersection between that local road and the Arterial needs to be fixed through NoR D2 so that

design and implementation of the school and of the Land can be undertaken with certainty.

- (j) The Appellant seeks that NoR D2 be declined consent unless it makes provision for local road connections between the Arterial and the Land as indicated by Precinct Plan 2.

*Elevation of FTN upgrade*

- (k) NoR D2 provides for the Arterial to be elevated above adjacent land to a maximum height of approximately 1.3 m in the vicinity of the Land. The Appellant is concerned that this elevation of the road will prevent the intended high quality urban interface proposed in the AUP being established between the Land and the Arterial.
- (l) The elevation of the Arterial through the Land will also impact on the design of future local road connections. If, as seems likely, the adjacent land will be lower than the Arterial carriageway, the adjoining local roads will need to be graded upwards at the intersection.
- (m) The elevation of the Arterial will create localised areas of flooding within the Land where no flooding occurred previously.

*Extent of designation*

- (n) The Appellant understands that the land subject to NoR D2 includes significant parts of the Land that are intended to be used only during the construction phase.
- (o) There is currently insufficient clarity as to:
  - (i) The boundary between those parts of the Land that will be required permanently and those that will be used for construction only; and
  - (ii) The time frame following the completion of works within which the notice of requirement will be withdrawn from those areas to be used for construction only.

- (p) **Appendix 3 to the Submission (Attachment 1 to this appeal)** is a plan showing in cross hatching parts of the Land that the Appellant understands are needed only during the construction phase.
- (q) The Appellant considers that the Respondent should only be entitled to take occupation of those areas designated for construction purposes until that construction has been completed.

*Upstream flooding*

- (r) The preliminary design proposals in NoR D2 for the provision of the Arterial's bridge across the stream that crosses the Land anticipate an increase in the upstream floodwater depth of approximately 500 mm. That is inappropriate in terms of the AUP provisions, will compromise the quality of development on the Land, and will reduce the amenity of future residents. The Appellant considers that any design parameters for the Arterial bridge should require that there is no increase in upstream floodwater depth.

*General Comments*

- (s) The location and form of the Arterial could adversely affect the density, design and layout of any urban activities on the Land. If the Arterial is implemented in a way that has little regard to the long-term urban development of the Land that could compromise:
- (i) The density of development that can be placed on the Land;
  - (ii) The amenity that can be created for residents of and visitors to the Land;
  - (iii) The nature and design of local roads connecting to the Arterial and, potentially, the ability for the Appellant to provide safe, convenient and appropriate connections between the local roads and the Arterial;
  - (iv) The nature and design of activities that might be placed on the Land; and

- (v) The manner in which development on the Land can be integrated with urban development on other land to the west, south and east.
- (t) The Appellant accepts that implementation of the Arterial is desirable and that the proposed location is consistent with Precinct Plan 2. However, the Appellant considers it essential, if the Arterial is to be integrated appropriately with future urban development on the Land for NoR D2 to be subject to terms and conditions that address the matters discussed above.
- (u) The Submission (**Attachment 1**) was rejected by the Auckland Council Independent Hearing Commissioners' Recommendation ("**Recommendation**") confirming NoR D2 subject to conditions. That rejection was accepted by the Respondent in the Decision. The relevant parts of the Recommendation and Decision addressing the Submission are in **Attachment 2**.

### **Relief**

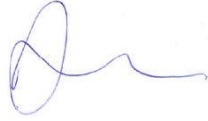
- 9. The Appellant seeks the following relief:
  - (a) That the NoR D2 be refused unless conditions are imposed which:
    - (i) Make provision for local road connections between the Land and the Arterial as indicated by Precinct Plan 2;
    - (ii) Confirm the intersection location between the Arterial and either Local Road Option 1A or Local Road Option 1B on **Appendix 1 to the Submission (Attachment 1 to this appeal)**;
    - (iii) Delete the proposed fill along the Arterial between Chainage 320 and 520 so that this section of the road is the same level as the adjoining land;
    - (iv) Ensure that the designation will be uplifted from the land required on a temporary basis for construction purposes, as shown on **Appendix 3 to the Submission (Attachment 1 to this appeal)**, as soon as possible after that construction has been completed;

- (v) Ensure that the design of the Arterial bridge crossing over the no name stream on the Land will generate no increase to any upstream floodwater depth and no increase in upstream flooding effects; and
  - (b) Such other orders, relief or other consequential amendments as are considered appropriate or necessary to address the Appellant's objections and concerns.
  - (c) Alternatively, if the relief sought in (a) and (b) above is not upheld, that the Respondent's decision on NoR D2 be disallowed
    - (i) in its entirety; or, alternatively
    - (ii) insofar as it applies to The Land.
  - (d) Such other orders, relief or other consequential amendments as are considered appropriate or necessary to address the Appellant's objections and concerns raised in the appeal.
10. The following documents are attached to this notice in support of the appeal:
- (a) A copy of the Appellant's Submission on NoR D2. (**Attachment 1**)
  - (b) A document comprising:
    - (i) A copy of the relevant parts of the Recommendation confirming NoR D2 subject to conditions and declining the relief sought in the Submission; and
    - (ii) A copy of the Respondent's decision accepting in part the Recommendation and modifying some conditions in the Recommendation but not altering the decline of the relief sought in the Submission. (**Attachment 2**).



- (c) A list of names and addresses of persons to be served with a copy of this notice. **(Attachment 3)**

**ELLY S PAN** by her solicitors  
and duly authorised agents **Ellis Gould**



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**DA Allan/JG Goodyer**

**Date: 14 July 2022**

**ADDRESS FOR SERVICE:** The offices of Ellis Gould, Solicitors, Level 31, Vero Centre, 48 Shortland Street, PO Box 1509, Auckland, 1140, DX CP 22003, Auckland. Telephone 09 307 2172, Mobile DA Allan 021 680 562, Mobile JG Goodyer 027 296 5294, Facsimile 09 538 5215,

**Attention DA Allan,** [dallan@ellisgould.co.nz](mailto:dallan@ellisgould.co.nz) and **JG Goodyer** [jgoodyer@ellisgould.co.nz](mailto:jgoodyer@ellisgould.co.nz)

## **Advice to Recipients of Copy of Notice**

### *How to become party to proceedings*

You may be a party to the appeal if—

- (a) You made a submission on the matter of this appeal; and
- (b) Within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (c) Within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

### ***How to obtain copies of documents relating to appeal***

The copy of this notice served on you does not attach a full copy of the relevant decision. This document may be obtained on request from the Appellant.

### ***Advice***

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

**Attachment 1**

**A copy of the Appellant's Submission on NoR D2**

**Form 21****Resource Management Act 1991****Submission on publicly notified requirement for designation of land for Drury Arterials Network: Jesmond to Waihoehoe West FTN Upgrade (Auckland Transport)**

*Sections 168A, 169, 181, 189A, 190, and 192(f), Resource Management Act 1991*

To: Auckland Council - Attn: Planning Technician

Auckland Council

Level 24, 135 Albert Street

Private Bag 92300

Auckland 1142

[unitaryplan@aucklandcouncil.govt.nz](mailto:unitaryplan@aucklandcouncil.govt.nz)

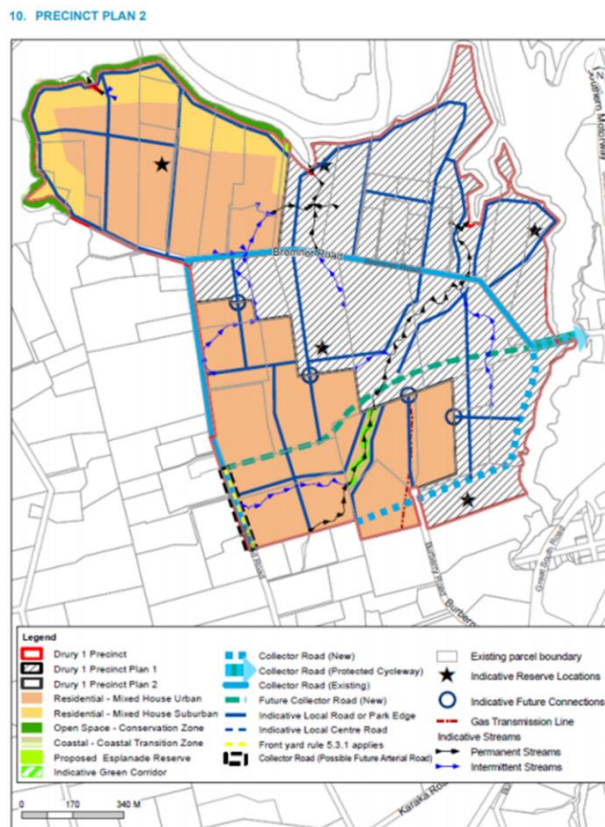
**ELLY S PAN AND BENJAMIN BAN CHONG BONG**, as trustees of The P & C Family Trust (“**the Trust**”), and **ELLY S PAN** (“**Pan**”) in her personal capacity c/- Ellis Gould, Solicitors at the Address for Service set out below (collectively “**the Submitters**”) make the following submission in response to a notice of requirement (“**NOR**”) for designation of land for Drury Arterials Network: Jesmond to Waihoehoe West FTN Upgrade (“**FTN Upgrade**”) in Drury West lodged with Auckland Council by Auckland Transport (“**AT**”).

1. The Submitters will be directly affected by the NOR as they are the owners of 341 Jesmond Road, Drury (“**the Trust Land**”) and 38 Burberry Road, Drury (“**the Pan Land**”) both properties are collectively referred to as “**the Land**”. Part of the Land is identified in and subject to the NOR.
2. The Trust has owned the Trust Land since 2005 and the property is currently tenanted. It adjoins the Pan Land at 38 Burberry Road, Drury which has been owned by Pan since 2003 and is the principal residence of Pan.
3. The Submitters are not a trade competitor for the purposes of section 308B of the Resource Management Act 1991 (“**RMA**”).
4. The Submitters support the NOR in part and oppose the NOR in part.
5. The Submitters support the NOR to the extent that the proposed alignment through the Land is consistent with the alignment agreed through Pan’s appeal on Private Plan Change No 6 (“**PPC6**”).

6. The Submitters oppose the NOR for the reasons set out below:
- (a) In the absence of the relief sought below being upheld, the NOR will:
- (i) Not promote the sustainable management of natural and physical resources;
  - (ii) Not amount to or promote the efficient use and development of resources;
  - (iii) Not be consistent with the purposes and principles in Part 2 of the RMA;
  - (iv) Generate significant adverse effects on the environment and, in particular, on the Land; and
  - (v) Not warrant being upheld in terms of section 171 of the RMA.

In particular, but without derogating from the generality of the above:

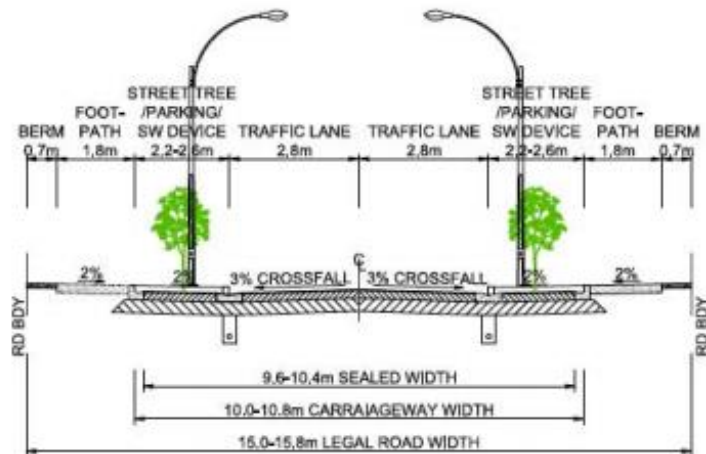
- (b) The Land has been zoned for residential urban use through PPC6.
- (c) PPC6 established the proposed pattern for the future development of the Land as described on Drury Precinct Plan 2 ("**Precinct Plan 2**") below:



*Local Road connections*

- (d) The NOR does not indicate any of the future local road connections onto the Trust Land proposed by Precinct Plan 2. This plan indicates two proposed local road connections as drawn on the plan attached as **Appendix 1**.
- (e) The local roads would be in the order of 15m wide if developed in the form prescribed in the Drury 1 Precinct Rules as shown below:

Figures 7 and 8



**ROAD F -  
LOCAL ROAD (PARKING BOTH SIDES)  
CROSS SECTION**



**ROAD H -  
LOCAL ROAD (PARKING ONE SIDE)  
CROSS SECTION**

- (f) The plan attached in **Appendix 1** has drawn onto it the two local roads and labels them as Local Road 1A, 1B and 2.

- (g) Local Road 1 is drawn with two options. Option 1A is dependent on the Minister of Education (“**MoE**”) agreeing to share the cost of providing Local Road 1 as part of establishing the best urban interface between the school and residential areas.
- (h) The Submitter has lodged a submission on the NOR for the proposed Secondary School and Early Childhood Education Centre seeking an agreement with MoE to provide for Local Road 1A.
- (i) If no agreement can be reached then Local Road 1 will default to the 1B option being one development lot depth away from the MoE boundary.

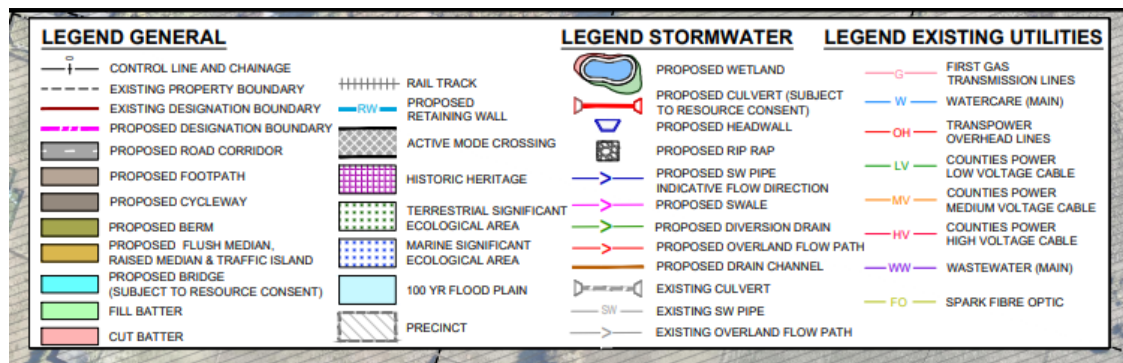
*Elevation of FTN Upgrade*

- (j) The proposed new Bremner Road FTN (“**Future Road**”) is shown on the NOR Drawing No. SGA-DRG-STH-004-CI-2201 F as proposed to be elevated above the surrounding land from Chainage 320 through to Chainage 520 to a maximum height of approximately 1.3m above the adjacent land. The Submitters are concerned that this elevation of the road will prevent the intended urban interface proposed by the Auckland Unitary Plan (AUP) being established between the residential land and the Future Road along this section.
- (k) The assessment of this Urban Interface is contained in the Urban Design Framework and Evaluation Report in Section 5.3. There is no assessment or comment given in the report on how this portion of the road is to meet the criteria given in Table 5.1, Sections 1.1, 1.2, 1.3, 2.1, 2.3, 2.4 and 2.5.
- (l) The elevation of the Future Road through the Land will also impact the future design of local road connections. The adjacent land being lower than the Future Road will result in the local roads being required to grade upwards at the intersection to meet the Future Road.
- (m) The elevation of the Future Road will also create localised areas of flooding within the Land where no flooding occurred previously.
- (n) The drawing attached as **Appendix 2** proposes a solution to eliminate the elevation of the Future Road labelled as ‘A’ by cutting the knoll located at ‘B’ and reducing the grade of the proposed stream crossing ‘C’.

- (o) This proposal has been reviewed by the Submitters' traffic engineer. This design change would improve the K Value of the vertical curves at Chainage 560 and 620m and improve the design speed of the route overall. Crest Curves can also be a visibility issue if the K Value is too low for the approach speed.
- (p) The NOR proposal seeks to establish an earthwork cut and fill balance. The Submitters consider that there are other local opportunities to manage any excess fill, and this should not be the primary design consideration.

#### *Extent of Designation*

- (q) The Indicative Plans included with the NOR identify the extent of the proposed designation in accordance with the legend shown below:



- (r) The legend describes the Existing Designation Boundary (which is yet to be established) and the Proposed Designation Boundary.
- (s) There is no clear guidance on the intended use of the residual land once the road is completed. The extent of this land is shown on the plan attached as **Appendix 3**.

#### *Upstream Flooding*

- (t) The preliminary design proposals for the provision of the bridge crossing of the no name stream anticipate an increase in the upstream floodwater depth of approximately 500mm. There is no reason for this to occur and any design parameter should require that there is no change to any upstream floodwater depth.



7. The Submitters seek the following relief:
- (a) That the NOR be refused unless conditions are imposed which:
    - (i) Make provision for local road connections to the Future Road as indicated by Precinct Plan 2;
    - (ii) Confirm either Local Road Option 1A or 1B on Appendix 1 for local road 1;
    - (iii) Delete the proposed fill between Chainage 320 and 520 so that this section of road is the same level as the adjoining land;
    - (iv) Remove from the designation the surplus land shown on **Appendix 3** so that the landowner only provides for temporary occupation at the time of construction and retains the land on completion of road construction;
    - (v) Ensure that the design of the bridge crossing over no name stream will have no increased upstream flooding effects.
  - (b) Such other orders, relief or other consequential amendments as are considered appropriate or necessary to address the Submitters' objections and concerns.
8. The Submitters wish to be heard in support of this submission. If other parties make similar submission the Submitters would consider presenting a joint case with them at any hearing.

Dated this 21st day of May 2021.

**ELLY S PAN AND BENJAMIN BANN CHONG BONG as trustees of The P & C Family Trust and Elly S Pan** by their solicitors and duly authorised agents, Ellis Gould



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**J G Goodyer**

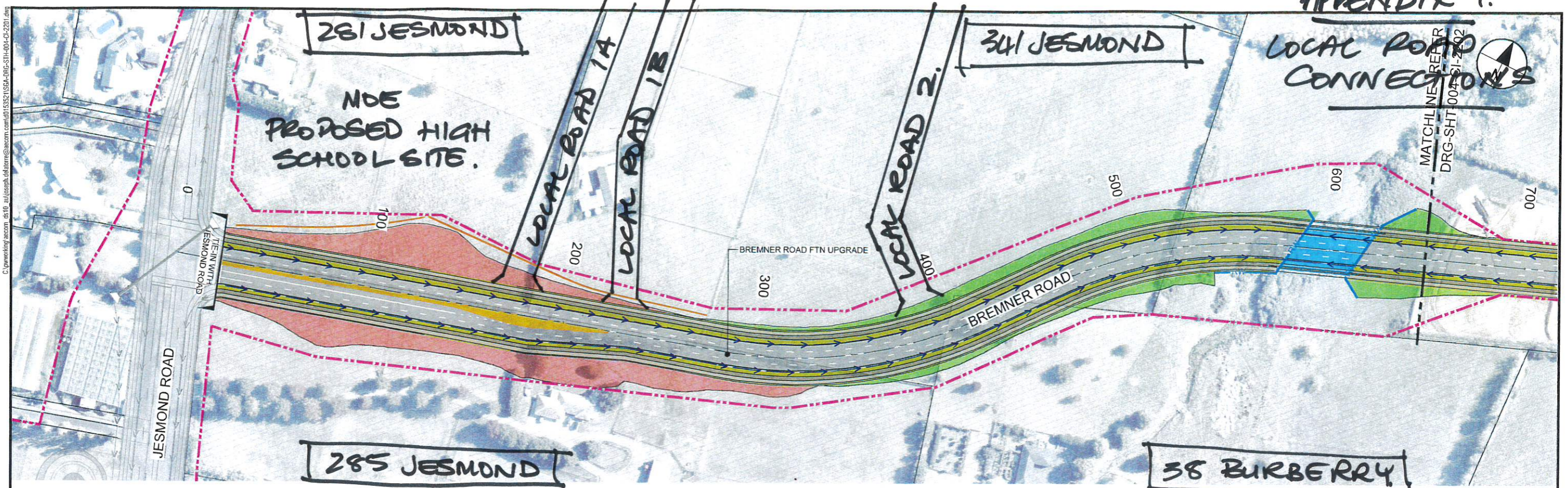
**Address for Service:** The offices of Ellis Gould, Solicitors, Level 17, Vero Centre, 48 Shortland Street, PO Box 1509, Auckland, 1140, DX CP22003, Auckland. Telephone 09 306 0747, Facsimile 09 358 5215, Attention: Julie Goodyer [jgoodyer@ellisgould.co.nz](mailto:jgoodyer@ellisgould.co.nz)

**APPENDIX 1: LOCAL ROAD CONNECTIONS**

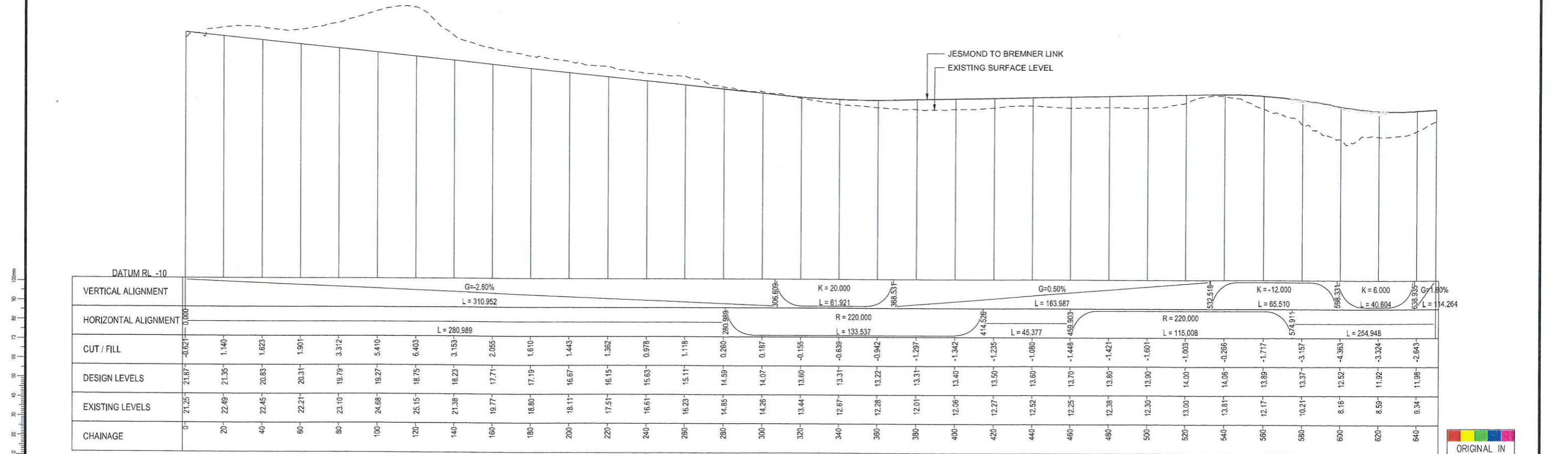


APPENDIX 1.

LOCAL ROAD CONNECTIONS



PLAN VIEW - BREMNER ROAD FTN UPGRADE  
Scale 1:1000



LONGITUDINAL SECTION - BREMNER ROAD FTN UPGRADE  
SCALE HORIZ=1:1000 VERT=1:250

ORIGINAL IN COLOUR

ORIGINAL SIZE A1

REV	DATE	DESCRIPTION	BY	CHKD	DATE
F	12.18.2020	ISSUED FOR NOE LODGEMENT	JDT	NG	13.02.2020
E	24.07.2020	ISSUED FOR APPROVAL	DD	RB	01.10.2019
D	21.07.2020	ISSUED FOR ENGAGEMENT	DD	RB	10.02.2020
C	15.05.2020	ISSUED FOR ASSESSMENT OF EFFECTS ON ENVIRONMENT	RB	RB	14.02.2020
B	28.02.2020	DRAFT ISSUE FOR REVIEW	RB	RB	14.02.2020
A	14.02.2020	DRAFT ISSUE FOR REVIEW	RB	RB	14.02.2020



Project: **SUPPORTING GROWTH PROGRAMME**  
**DRURY - BREMNER ROAD FTN UPGRADE (A SECTION OF NOE D2)**  
 Drawing Title: **PLAN AND LONGITUDINAL SECTION**  
 SHEET 1 OF 4

"AERIAL IMAGERY SUPPLIED BY NEARMAP AUSTRALIA PTY LTD"

NOT FOR CONSTRUCTION

Drawing Status		FOR LODGEMENT	
Drawing Date:	14.02.2020	A1 Scale:	1:1000H 1:250V
Drawing No:	SGA-DRG-STH-004-CI-2201	A3 Scale:	1:2000H 1:500V
Discipline:	CIVIL	Revisions:	F

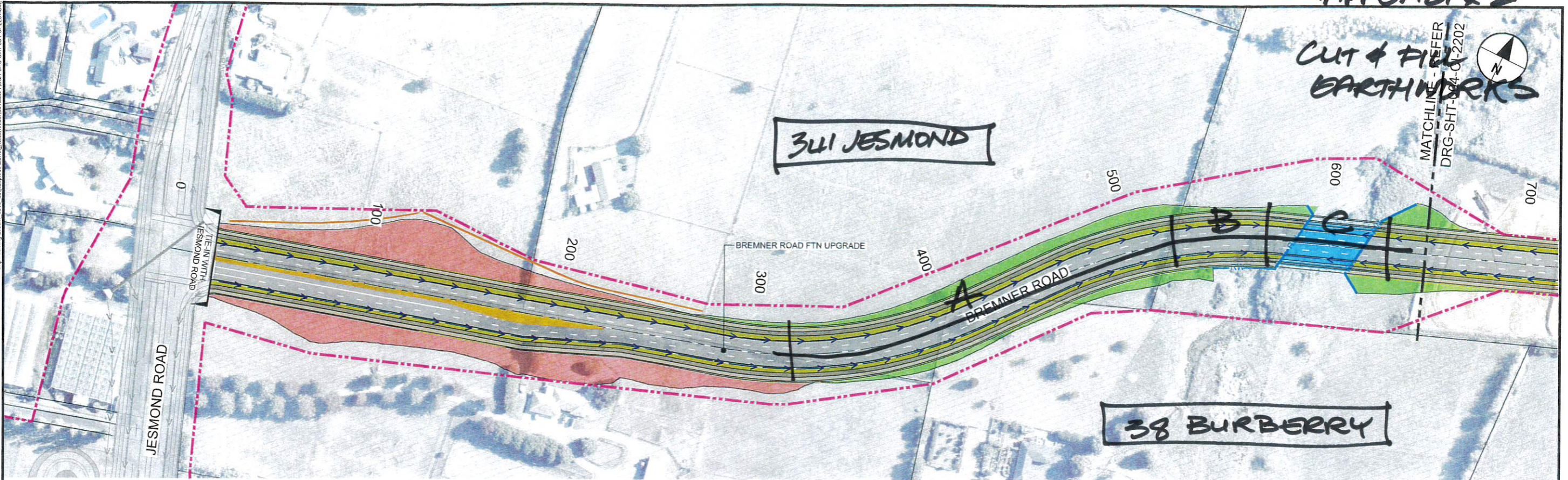


**APPENDIX 2: EARTHWORKS**



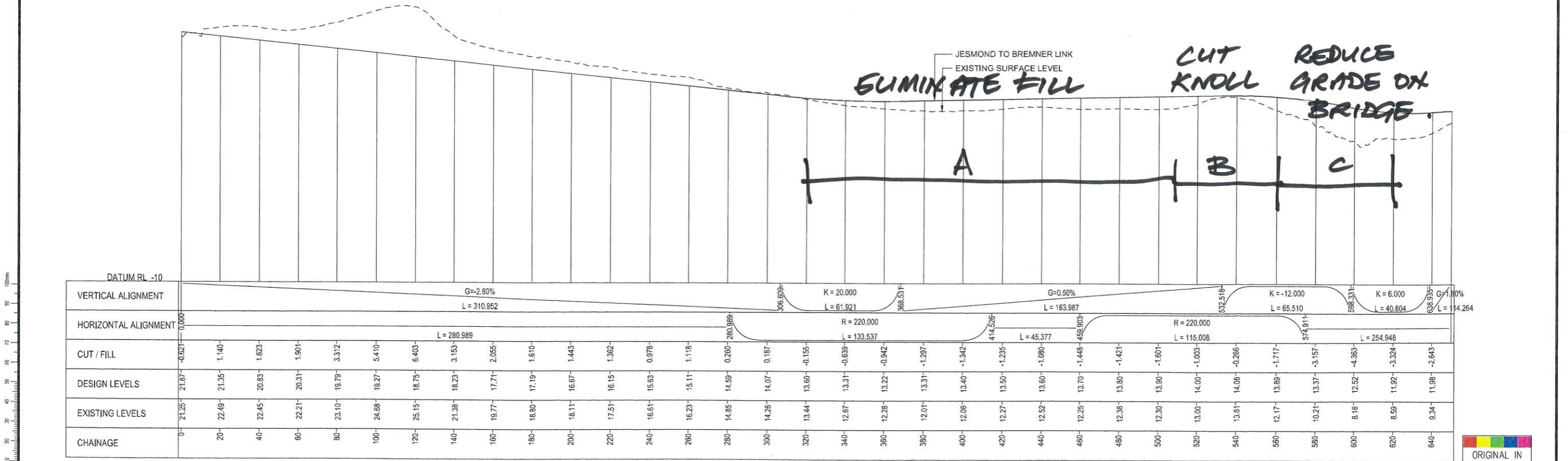
# APPENDIX 2

CUT & FILL  
EARTHWORKS



PLAN VIEW - BREMNER ROAD FTN UPGRADE

Scale 1:1000



LONGITUDINAL SECTION - BREMNER ROAD FTN UPGRADE

SCALE HORIZ=1:1000 VERT=1:250

REV	DATE	BY	CHKD	APPD	DESCRIPTION
F	12.18.2020	JDT			ISSUED FOR NOB LODGEMENT
E	24.07.2020	DO			REISSUED FOR APPROVAL
D	21.07.2020	DO			ISSUED FOR APPROVAL
C	15.05.2020	DO			ISSUED FOR ENGAGEMENT
B	26.02.2020	RB			ISSUED FOR ASSESSMENT OF EFFECTS ON ENVIRONMENT
A	14.02.2020	RB			DRAFT ISSUE FOR REVIEW

**SUPPORTING GROWTH PROGRAMME**  
**DRURY - BREMNER ROAD FTN UPGRADE (A SECTION OF NOB D2)**

Project: DRURY - BREMNER ROAD FTN UPGRADE (A SECTION OF NOB D2)  
 Drawing Title: PLAN AND LONGITUDINAL SECTION  
 SHEET 1 OF 4

NOT FOR CONSTRUCTION

**FOR LODGEMENT**

Drawing Date: 14.02.2020

A1 Scale: 1:1000H 1:250V	A3 Scale: 1:2000H 1:500V
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Drawing No: SGA-DRG-STH-004-CI-2201

ORIGINAL SIZE A1

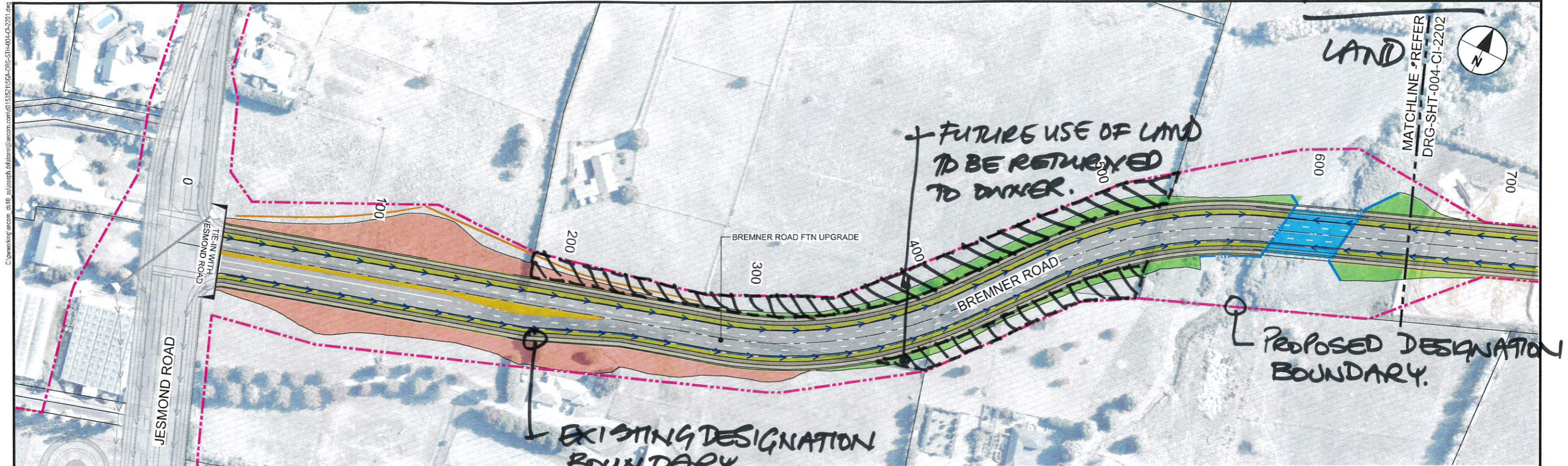
ORIGINAL IN COLOUR

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**APPENDIX 3: LAND**



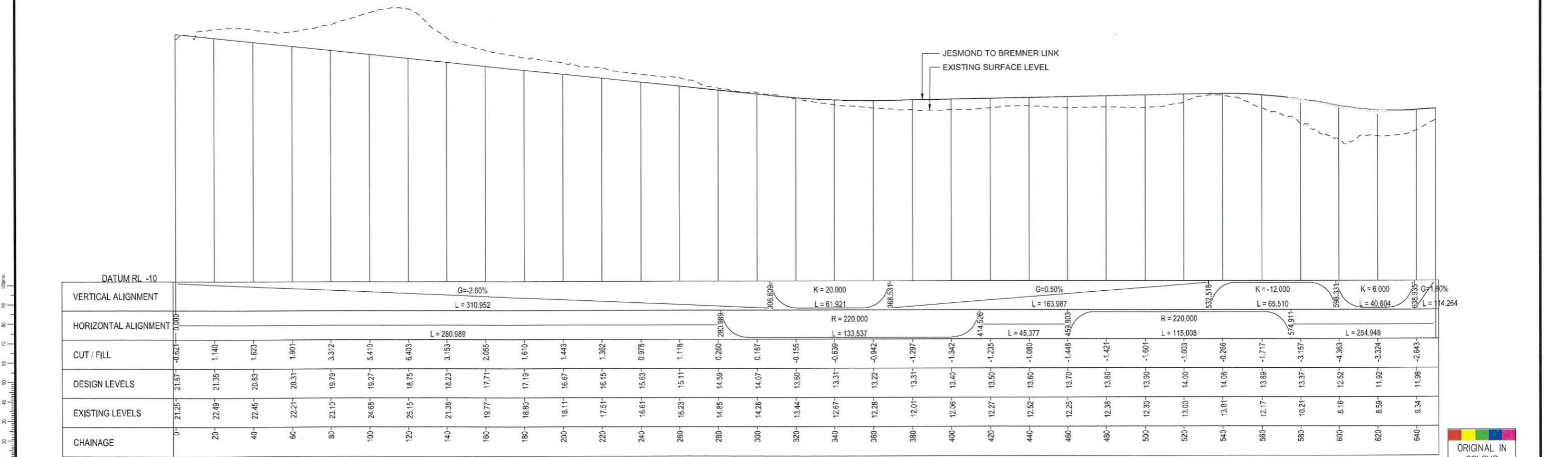


EXISTING DESIGNATION BOUNDARY

FUTURE USE OF LAND TO BE RETURNED TO OWNER.

PROPOSED DESIGNATION BOUNDARY.

PLAN VIEW - BREMNER ROAD FTN UPGRADE  
Scale 1:1000



LONGITUDINAL SECTION - BREMNER ROAD FTN UPGRADE  
SCALE HORIZ=1:1000 VERT=1:250

ORIGINAL SIZE A1

REV	DATE	BY	CHKD	APP'D	DESCRIPTION
A	14.02.2020	RB			DRAFT ISSUE FOR REVIEW
B	28.02.2020	RB			ISSUED FOR ASSESSMENT OF EFFECTS ON ENVIRONMENT
C	15.05.2020	RB			ISSUED FOR ENGAGEMENT
D	21.07.2020	DD			ISSUED FOR APPROVAL
E	24.07.2020	DD			REISSUED FOR APPROVAL
F	12.18.2020	DD			ISSUED FOR N&P LODGEMENT

SURVEYED	N/A	DATE	01.11.2019
DRAWN	RB	DATE	13.02.2020
DRAWING CHECK	NG	DATE	01.10.2019
DESIGN	RB	DATE	10.02.2020
DESIGN REVIEW	RJB	DATE	14.02.2020
APPROVED	RM	DATE	14.02.2020

**SUPPORTING GROWTH PROGRAMME**  
DRURY - BREMNER ROAD FTN UPGRADE (A SECTION OF N&P D2)

Project: DRURY - BREMNER ROAD FTN UPGRADE (A SECTION OF N&P D2)  
Drawing Title: PLAN AND LONGITUDINAL SECTION  
Sheet: SHEET 1 OF 4

NOT FOR CONSTRUCTION

**FOR LODGEMENT**

14.02.2020

Scale: 1:1000H 1:250V / 1:2000H 1:500V

Discipline: CIVIL

Drawing No: SGA-DRG-STH-004-CI-2201

Revision: **F**



"AERIAL IMAGERY SUPPLIED BY NEARMAP AUSTRALIA PTY LTD"





**Attachment 2**

**A copy of the relevant part of the Respondent's Decision being:**

A document comprising:

- (i) A copy of the relevant parts of the Recommendation confirming NoR D2 subject to conditions and declining the relief sought in the Submission; and
- (ii) A copy of the Respondent's decision accepting in part the Recommendation and modifying some conditions in the Recommendation but not altering the decline of the relief sought in the Submission. **(Attachment 2)**.



# Recommendation following the hearing of Notices of Requirement under the Resource Management Act 1991

## Proposal

Notices of Requirement sought by the Supporting Growth Alliance (**SGA or the applicant**) on behalf of Waka Kotahi NZ Transport Agency and Auckland Transport<sup>1</sup> for the route protection of the Drury Arterial Network required to support planned urban growth in Drury and Ōpaheke as follows:

- D1 - Alteration to Designation 6707 State Highway 22 Update (Waka Kotahi)
- D2 - Jesmond to Waihoehoe West FTN Upgrade (Auckland Transport)
- D3 - Waihoehoe Road East Upgrade (Auckland Transport)
- D4 - Ōpāheke North-South FTN Arterial (Auckland Transport)
- D5 - Ponga Road and Ōpāheke Road Upgrade (Auckland Transport)

The proposal is more particularly described in Table 1 of the Hearing Report Drury Arterials Network Notice of Requirements (D1 – SH 22 Upgrade) Volume One Waka Kotahi (**Hearing Report D1**) with further detail in Hearing Report Drury Arterials Network Notice of Requirements (D2 – D5) Volume Two Auckland Transport (**Hearing Report D2-D5**).

The Notice of Requirement is **CONFIRMED SUBJECT TO CONDITIONS**. The reasons are set out below.

<b>Site addresses</b>	As described above
<b>Requiring Authorities</b>	Waka Kotahi and Auckland Transport
<b>Hearing duration</b>	Hearing commenced on Monday 13 December, 2021
<b>Independent Hearing Commissioners</b>	Dave Serjeant (Chairperson) Nigel Mark-Brown Basil Morrison
<b>Appearances</b>	<b><u>For the Supporting Growth Alliance (Requiring Authorities)</u></b> Vanessa Evitt - Legal Counsel Leigh Ziegler - Legal Counsel Alastair Lovell - Corporate (AT) Deepak Rama - Corporate (Waka Kotahi) Rob Mason - Engineering, Design and Construction Andrew Murray - Strategic Transport Werner Pretorius - Transportation effects, construction and operation

<sup>1</sup> In this recommendation, SGA or “the applicant” are referred to unless the matter is specific to one or other of the Requiring Authorities in which case Waka Kotahi or Auckland Transport or the Requiring Authority is referred to.  
Recommendations on Notices of Requirement D1 Alteration to Designation 6707 (SH22) and D2 to D5 for the Drury Arterial Network

	<p>Roger Seyb - Flooding and Stormwater  Fiona Davies - Ecology  Craig Webb - Arboriculture  Chris Bentley - Landscape and Visual  Stuart Bowden - Urban Design  Claire Drewery - Noise and vibration - construction and operation  Siiri Wilkening - Acoustics  Danielle Trilford - Historic Heritage  Julian Harrison-Tubb - Public Works Act processes  Diana Bell - Planning - Statutory Assessment  Helen Hicks - Planning - Effects, alternatives and conditions</p> <p><b><u>For the Submitters</u></b></p> <p>Papakura Local Board represented by Brent Catchpole (chair) and Jan Robinson (deputy chair)  Katherine de Courcy, Greg Smith and Robert Smith represented by Greg Smith  Godfrey and Ana White represented by Godfrey White  Karaka and Drury Limited represented by Helen Andrews and Mark Tollemache  Oyster Capital Limited and Fletcher Residential Limited represented by Jeremy Brabant (legal counsel), Andrew McCarthy (corporate), Jon Styles (Acoustic), Vaughan Crang (engineering), Daryl Hughes (traffic), Nick Roberts (planning)  Fulton Hogan Land Development Limited represented by Kate Storer &amp; Sue Simmons (legal counsel), Greg Dewe (corporate), Daryl Hughes (traffic), Nick Roberts (planning), Jon Styles (Acoustic)  Kiwi Property Holdings No.2 represented by Alex Devine (legal counsel) and David Schwartzfeger (corporate)  Kiwon and Kihae Park  Lyndsay Sutton &amp; Howard Sutton (av)  Hayes Family Trust represented by Maurice Hayes and Julian Dawson (barrister) (av)  Pinemore Investments Limited represented by Aaron Davidson and Alan Webb (legal counsel)  Soco Homes represented by Yongcheng Duan, Tingran Duan Shudong Fang  Gleeson Contractors Limited represented by Mike Doesburg (legal), Mark Arbuthnot (planner) and Theresa (Ria) Gleeson (landowner)  Jessie Barriball (av)</p>
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	<p>The P and C Family Trust and Elly S Pan represented by Julie Goodyer (legal counsel) and Nigel Hosken (architect/project manager), John Parlane (traffic and transportation) (av)</p> <p>Kāinga Ora Homes and Communities represented by Bal Matheson (legal), Brendon Liggett (corporate) and Michael Campbell (planning) (av)</p> <p><b><u>For the Council (not all present at Hearing)</u></b></p> <p>Mr Nicholas Lau – Senior Planner  Mr Sanjay Bangs – Planner  Mat Collins, Associate, Flow Transportation Consultants Limited (av)  Rebecca Skidmore, R A Skidmore Urban Design Ltd  Carl Tutt, Ecologist, Auckland Council  Gavin Donaldson, Senior Arborist, Auckland Council (av)  Robert Brassey, Principal Specialist, Cultural Heritage, Auckland Council  Cara Francesco, Principal Specialist, Built Heritage, Auckland Council  Rhys Hegley, Partner, Hegley Acoustic Consultants  James Hendra, Consultant Parks Planner, Hendra Planning  Trent Sunich, Consultant Stormwater Technical Specialist, 4Sight Consulting  Danny Curtis, Principal – Catchment Planning, Healthy Waters, Auckland Council  Paul Crimmins, Senior Specialist, Auckland Council</p>
<b>Hearing adjourned</b>	Friday 17 December, 2021
<b>Commissioners’ site visit</b>	28 January 2022
<b>Hearing Closed</b>	11 February 2022

## A. Introduction

1. This recommendation on the Notices of Requirement (**NoR**) is made on behalf of the Auckland Council (**Council**) by Independent Hearing Commissioners Mr Dave Serjeant, Mr Nigel Mark-Brown and Mr Basil Morrison appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (**RMA**).
2. The recommendation contains the findings from our deliberations on the NoR and has been prepared in accordance with section 171 and 181 of the RMA.
3. The NoRs were publicly notified on 22 April 2021. The number of submissions on each NoR were individually registered as set out in Table 1.

**Table 1: Submissions of each NoR**

NoR	Number of Submissions
D1 - Alteration to Designation 6707 - State Highway 22 Upgrade	13
D2 - Jesmond to Waihoehoe West FTN Upgrade	27
D3 - Waihoehoe Road East Upgrade	12
D4 - Opāheke North-South FTN Arterial	12
D5 - Ponga Road and Opāheke Road Upgrade	13

4. Several submitters submitted on more than one NoR (D2 to D5 in particular) and due to repetition and cross-over of matters referred to in the submissions the Hearing Report considered the submissions in a combined manner. We adopted the same approach for the hearing and for this recommendation.

## **B. Procedural Matters**

5. We note that the hearing was held subject to Covid 19 restrictions. The main effect of this was to limit the numbers of persons in the room and consequently several submitters presented by way of online audio-visual conferencing. Interested parties were also able to view and listen to proceedings online.
6. Overall, we consider that the online audio-visual conferencing functioned effectively and did not prevent parties from understanding proceedings or participating effectively. We are grateful to our hearing advisor, Mr Donovan, for his expertise and perseverance in ensuring the systems ran effectively.

## **C. Summary of proposal**

7. This summary refers for convenience and brevity to sections of the Hearing Reports. The Hearing Reports in turn refer to the application material which was both extensive and detailed. The summary also has the benefit of the evidence from the applicant which efficiently 'packaged' the application for us at the hearing, and covered the key matters without unnecessary repetition.
8. Hearing Report 2 succinctly set out the context for the NoRs in the Drury-Ōpaheke area as follows:

*The Auckland Plan 2050 signals that Auckland could grow by 720,000 people over the next 30 years, generating demand for more than 400,000 additional homes and requiring land for 270,000 more jobs. Around a third of this growth is expected to occur in Future Urban zoned areas identified within the AUP the Future Urban Land Supply Strategy ('FULSS') was prepared in 2017 to determine how future urban growth could be sequenced to align with the investment and delivery of infrastructure. The FULSS identifies Drury West as being development-ready by 2023 – 2027, and Opāheke/Drury (east of SH1) development ready by 2028 – 2032.*

*The Supporting Growth Programme has been prepared to investigate, plan and deliver the key components of the future transport network necessary to support greenfield growth in Auckland's future urban areas. SGA is a collaboration between Auckland Transport and Waka Kotahi NZ Transport Agency<sup>2</sup> created to undertake necessary planning for this work. SGA advise that the early protection of critical transport routes is necessary to provide certainty for all stakeholders as to the alignment, nature and timing of the future transport network.*

*In 2019, Auckland Council prepared the Drury-Opāheke Structure Plan, which outlines how future growth within the Drury and Opāheke areas will be achieved, including the pattern of land uses, infrastructure networks, constraints and values to be protected. The Drury-Opāheke Structure Plan area is estimated to provide approximately 22,000 houses, 12,000 jobs and increase from a current population of just over 3,300 to a population of about 60,000.*

9. Table 1 from Hearing Report D1 provides the following details:

**Table 2: Description of Drury Arterial Network package of NoRs**

<b>Notice</b>	<b>Project Name</b>	<b>Description</b>	<b>Requiring Authority</b>
D1	Alteration to Designation 56707- SH 22 Upgrade	Widening of existing state highway from the Drury Interchange at State Highway 1 (SH1) to Oira Creek to a four-lane urban arterial with separated active transport facilities.	Waka Kotahi NZ Transport Agency
D2	Jesmond to Waihoehoe West FTN Upgrade	Widening of the existing Jesmond Road from SH22 to near 256 Jesmond Road to a four-lane FTN urban arterial with separated active transport facilities.  A four-lane FTN urban arterial with separated active transport facilities from Jesmond Road to Norrie Road. It includes upgrading existing and constructing new transport corridors.  Widening of Waihoehoe Road from the Norrie Road/Great South Road intersection to Fitzgerald Road to a four-lane FTN urban arterial with separated active transport facilities.	Auckland Transport
D3	Waihoehoe Road East Upgrade	Widening of Waihoehoe Road east of Fitzgerald Road to Drury Hills Road to a two-lane urban arterial with separated active transport facilities.	Auckland Transport

<sup>2</sup> In partnership with Auckland Council, Mana Whenua and Kiwirail Holdings Limited  
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D4		Widening of Waihoehoe Road from the Norrie Road/Great South Road intersection to Fitzgerald Road to a new four-lane FTN urban arterial with separated active transport facilities from Hunua Road in the north to Waihoehoe Road in the south.	Auckland Transport
D5		Widening of Ponga Road from Ōpaheke Road to Jack Paterson Road to a two-lane urban arterial with separated active transport facilities. Widening of Ōpaheke Road from the extent of the FUZ in the north to Ponga Road in the south a two-lane urban arterial with separated active transport facilities. Upgrade of Opaheke Road/Settlement Road intersection to a roundabout with active transport facilities, including crossing facilities and re-grading of nine driveways.	Auckland Transport

10. As Ms Evitt advised in her submissions for SGA, the assessment of effects on the environment for the NoRs has been limited to matters that trigger district plan consent requirements as these are the only activities to be authorised by the proposed designations. Accordingly, where National Environmental Standard (**NES**) or regional plan consenting requirements are triggered, these will not be authorised by the proposed designations. Resource consents will be required in the future to authorise activities controlled under the NESs and regional plan matters of the AUP.

#### **D. Relevant policy and plan provisions**

11. Sections 4.6 to 4.8 of Hearing Report D1 identify the policy and planning provisions from the National Policy Statement on Urban Development (**NPSUD**), National Policy Statement on Freshwater Management (**NPSFM**), and the Regional Policy Statement (**RPS**) and district plan sections of the Auckland Unitary Plan – Operative in Part (**AUP-OP**). In relation to the AUP-OP we note the relevant provisions in E25 – Noise and Vibration, H7 – Open Space zones and H22 – Strategic Transport Corridor zone. We adopt that information for the purpose of this recommendation.
12. During the hearing, SGA and the Council also advised us of the status of the various plan changes that have been proposed for the local environment affected by the NoRs. Where relevant the submitters also provided up to date information on the specific private plan changes that affected their property interests that the NoRs either crossed or interfaced with. We were advised of the following plan changes and their status:

**Table 3: Private Plan Changes in Drury**

<b>Private Plan Change</b>	<b>Status</b>
PC 48 Drury Centre Precinct	Hearing completed, awaiting decision from Commissioners
PC 49 Drury East Precinct	Hearing completed, awaiting decision from Commissioners
PC 50 Waihoehoe Precinct	Hearing completed, awaiting decision from Commissioners
PC 51 Drury 2 Precinct	Hearing completed, awaiting decision from Commissioners
PC61 Waipupuke	Declined

13. The relationship between the plan changes and the NoRs was aptly described in the SGA legal submissions as follows:<sup>3</sup>

*The Drury Arterial Network will provide the strategic transport infrastructure necessary to support and integrate with the planned urban growth in Drury-Ōpāheke. Development in the area is accelerating, with developers seeking to develop their FUZ land holdings. Various areas are already live-zoned for development, and multiple private plan change proposals are currently being considered by Auckland Council (the Council). The Projects will therefore support an increase in development capacity in the southern growth area, and in this way, the Projects will help in the delivery of additional housing and commercial premises for the local community.*

14. Section 171 (1)(a)(iv) requires us to “have particular regard” to a plan or proposed plan. However a proposed plan includes private plan changes that have been “adopted” by the Council (section 43 RMA), but not those that have been “accepted” by the Council). We are advised that in the case of all of the private plan changes in Table 2, the changes were accepted but not adopted.
15. Consequently, we would only be required to have regard to the contents of these plan changes if they became operative, and therefore became a ‘plan’ in terms of section 171. That is not to say that there are no other statutory planning documents that assist in determining how the receiving environment should be characterised, and we consider this matter as a principal issue in contention below.
16. We note that there did not appear to be any disagreement between the applicant, the Council and the various experts for the submitters as to the identification of the relevant policy and plan provisions.

<sup>3</sup> SGA legal submissions para. 1.8  
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## **E. Site and locality**

17. Section 7 of the AEE provided us with a detailed description of the designated routes (individually or collectively '**the project or projects**') and the plans in the respective Attachment Bs. Further, the schedules in the respective Attachment Cs to NoR D1-D5 Form 18s described the land that will be directly affected by the project and associated works. The Hearing Reports adopted these descriptions and we do also for the purpose of this hearing and recommendation.
18. The descriptions were also reinforced by our site visit. We traversed all sections of the 'on-road' sections of the designations and viewed the 'off-road' sections of the designations from available vantage points such as:
  - The end of Walker Road, on the northern section of NoR D4;
  - Along Sutton Road, west of the low lying sections of NoR D4;
  - Within the developing Auranga suburb, for various viewpoints on NoR D2; and
  - The end of Burberry Lane, south of the western section of NoR D2.
19. Our passage through Auranga, where development is proceeding on multiple fronts, provided further insight into the need for the appropriate integration of the future arterial roads and the future and, in many places, existing development.

## **F. Summary of issues identified in evidence and submissions**

20. The application material, Council's planning report, the applicant's expert evidence and the expert and non-expert evidence of submitters was circulated prior to the hearing. We had therefore read or referred to all of this material prior to the hearing. As noted above, the applicant's evidence was concise, and it was usefully presented by way of a summary and a focus on a response to matters which had not been agreed with Council, the submissions, and the proposed conditions of consent. Various parties and the Council officers produced other evidence in response to matters raised as the hearing progressed and summaries of evidence as noted below. We note that the Council produced an Addendum to the Hearing Reports during the hearing which updated Council specialist advice on various matters.
21. We do not provide a separate summary of all the evidence here, but rather refer to specific evidence or matters raised in submissions as necessary in the context of the principal issues in contention.

### **The applicant's case**

22. SGA provided a comprehensive legal and technical case. Ms Evitt described the statutory role of the two requiring authorities, relating those roles and the related powers to the NoRs being considered by us. With reference to the urban growth in the Drury area she established the need for the Drury Arterial Network. Ms Evitt submitted that an essential part of establishing the network was route protection for the widening of existing roads and the future taking of land for new routes. She also detailed the benefits of the route protection approach. Acknowledging that a route



protection requirement “*may look a little different to an application for a traditional ‘implementation-ready’ project*” Ms Evitt nevertheless considered that the approach was “*appropriate in light of the designations proposed, and the objectives they are seeking to achieve.*” The second part of the designation process is the Outline Plan process under section 176A and Ms Evitt described how the conditions have been framed to provide for this future process to finalise the details of the design and location of associated works.

23. Ms Evitt brought our attention to the importance of the receiving environment in evaluating the environmental effects of the project and devising conditions to mitigate these effects as necessary. She referred us to the relevant case law, as did a number of the other legal counsel. Accordingly, we have examined this matter as a principal issue in contention.
24. Ms Evitt summarised the key statutory requirements and legal principles in section 171 relevant to our recommendation, while Ms Zeigler provided more detail on the content of these requirements, including the key provisions of the statutory documents, the assessment of environmental effects and the “reasonably necessary” test. Ms Zeigler relied on the planning evidence from Ms Hicks and Ms Bell for these submissions.
25. Ms Evitt outlined the extensive work of SGA in examining alternatives for the project. We had been provided with reports on the alternatives assessment process as part of the application documentation. Alternative transport interventions had been considered as part of the successive business case assessments and then again, in more detail using a Multi-Criteria Assessment tool, as part of the NoR process. We note that this assessment was a collaborative process, involving the SGA partners, including mana whenua and Auckland Council. Further feedback was also sought from the community, including landowners and key stakeholders at various stages on option and alignment development. We did not receive any expert evidence from submitters questioning the alternatives process, however, at a ‘micro-level’, to adopt the term used by Mr Webb, in his submissions for Pinemor Investments Limited, there were submissions on how the NoRs affected individual properties. These submissions are addressed below.
26. Ms Zeigler advised also that consideration of NoRs is still subject to the overall broad judgement of Part 2, following the ‘Basin Bridge’ decision<sup>4</sup> in which the High Court considered the implications of the King Salmon decision of the Supreme Court for NoRs. Again relying on Ms Bell’s analysis, Ms Zeigler submitted that the projects are consistent with the outcomes of section 5 and satisfy the requirements of sections 6, 7 and 8.
27. Ms Evitt made submissions on both project-wide issues raised by submitters and site-specific submitter issues. As the hearing unfolded and we deliberated on what we had heard, these submissions, and the SGA closing, closely matched what we

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<sup>4</sup> New Zealand Transport Agency v Architectural Centre [2015] NZHC 1991  
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identified as being the principal issues in contention. The issues identified by Ms Evitt and key submissions on the various issues are identified in the following paragraphs.

### **Alignment and extent of designations**

28. Mr Mason for SGA provided the detailed engineering rationale for the extent of designation boundaries for each alignment and sufficient land for *“tie-ins with existing roads, intersections, batter slopes and retaining and for other construction related activities including construction compounds and laydown areas, construction traffic manoeuvring and re-grading of driveways.”* As noted above, there was no expert evidence questioning the adequacy of the alternatives assessment process, which also applies to the designation boundaries at the macro-level. The Council advice in the Hearing Reports was that the Council officers agreed with the conclusions reached in the assessment of alternatives. However, questions were raised by a number of submitters in relation to how the boundary affected their property. At the hearing this included Oyster Capital Limited and Fletcher Residential Limited (Oyster and Fletcher), Gleeson Contractors Limited (Gleeson), Jessie Barribal, Pinemor Investments Ltd, G & A White, Soco Homes, Fulton Hogan, Kiwi Property, K&K Park, Kāinga Ora and Hayes Family Trust. Of these submitters, only Oyster and Fletcher provided expert engineering evidence as to how the designation boundary should be amended (from Mr Crang). The matter of whether the designation properly differentiated between land for the route and land for temporary construction purposes was also raised in submissions, for example at the hearing by Gleeson. We address the alignment and extent of the designations below.

### **Roundabouts vs signalised intersections**

29. SGA based the designation alignment on a mixture of roundabouts and signalised intersections. A number of submitters, for example Oyster and Fletcher and Karaka and Drury Limited, supported the use of signalised intersections. This choice was mainly due to the perception that less land was needed for signalised intersections. Other assessments compared the relative merits for pedestrians in traversing roads with roundabouts vs signalised intersections (such as the Council urban design assessment by Ms Skidmore). At the hearing SGA reinforced its position on the appropriate intersection design, through Mr Mason and Mr Bowden, and we had expert evidence and reports from submitter parties accepting that the time for determining intersection design was through the Outline Plan of Works. This included:
- (i) Ms Skidmore, whose request for intersection form to be added to the matters to be part of the Urban Development and Landscape Management Plan was agreed to by SGA;<sup>5</sup>
  - (ii) Mr Hughes for Oyster and Fletcher, who advised that the “NoR does not predetermine the final form or design of (intersection) treatment”<sup>6</sup>; and

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<sup>5</sup> Hicks EIC para 15.8

<sup>6</sup> Hughes EIC Fulton Hogan para 6.6

- (iii) Mr Collins, the Council's transport specialist, being satisfied that there is sufficient flexibility in the designated area to determine appropriate intersection design as part of the future detailed design stage.
- 30. As a result of these conclusions in evidence, we do not re-examine this matter and the recommended conditions reflect the evidence outcome.
- 31. This settled position is also to be applied to the specific submission by Fulton Hogan Land Developments Limited (Fulton Hogan) on the designation boundaries for the single lane roundabouts on Waihoehoe East Road intersections with both Cossey Road and Appleby Road. SGA have reduced the amount of land required at these intersections resulting in a shrinking of the designation boundaries to a position acceptable to Mr Hughes for Fulton Hogan.<sup>7</sup>

### **Property access**

- 32. Property access, both during construction and operationally after the new roads have been constructed, was a concern for several submitters. Mr Murray and Ms Hicks provided evidence that recognised these concerns and provided a solution as to how the conditions on the recommendation could address them. We understood that this was a matter for final design and that every property would potentially need a bespoke solution. At the end of the hearing there was a large measure of agreement between SGA and Council on property access, however as it is an issue that has been identified in submissions throughout the NoRs, we address it further below, including the matter of the Tui Street access in Drury.

### **Operational traffic noise**

- 33. Operational traffic noise is clearly a principal issue in contention and the issue on which we received the most evidence from the parties. It is an issue that relates to the 'real world' receiving environment and the most appropriate measures to avoid or minimise traffic noise effects. All parties appeared to accept that these measures can be implemented by either or both the roading authorities or the land developer, however the scale and variability of the overall interface between road and land use in this case along approximately 16.5km of new and upgraded road makes the outcome critical for the affected parties. As we have already observed, this criticality is also heightened by the imminent arrival of medium and higher density residential development, a land use that is sensitive to noise.

### **Integration of NoRs with planned collector roads and surrounding landform**

- 34. As with traffic noise, the integration of the NoRs with planned collector roads and more generally the surrounding landform is of critical importance to adjacent land owners and in particular the land developers. The landform interface is important in terms of both the location of the designation boundary and the relative levels of the final alignment. Overlain on this three dimensional interface is the streetscape of the arterials which are to interface with the urban form around them, as Mr Bentley's

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<sup>7</sup>

evidence described. Several submitters, amongst them Kāinga Ora, Karaka and Drury, and the P&C Family Trust and E S Pan, sought amendments to the conditions in order to achieve what they considered to be an acceptable interface. At a broader level, the Council sought amendments to the Urban and Landscape Design Management Plan (ULDMP), based on Ms Skidmore's evidence relating to the surrounding landform and urban design matters. Both the integration of the NoRs and these related landform and urban design matters are addressed below.

### **The lapse period**

35. As Ms Evitt noted, a “small number” of submitters sought shorter lapse periods for various of the NoRs. That number is subsumed within a larger number who express concern about the uncertainty of various parameters, such as the designation boundaries as noted above, for an extended period of time. SGA lapse dates for NoRs D2 and D3 are proposed to be 15 years and for NoRs D4 and D5, 20 years. These lapse periods were related by SGA to the development timeframes within the Future Urban Land Supply Strategy (**FULSS**). Acknowledging the potential for ‘planning blight’, the term used to describe the adverse effect on land use arising from the uncertainty of future planning provisions, be they public or private, Ms Evitt referred to the mitigating effects of community engagement and early purchase using the Public Works Act. The latter process was usefully described in more detail for us by Mr Harrison-Tubb for SGA.
36. The recommendation in Hearing Report D2 – D5 was to accept a 15 year lapse period for NoRs D2 and D3 but to shorten the lapse period for NoRs D4 and D5 to 15 years. The Council planners considered that the shorter period would “*better align with the current FULSS sequencing, which anticipates the adjacent Opaheke/Drury area being development-ready by between 2028-2032*”.
37. In relation to the lapse period for Waka Kotahi's NoR D1, Mr Rama advised that “*A lapse period is not required for NoR D1 because the designation being altered has already been given effect to.*”<sup>8</sup>
38. We specifically address below the matter of a lapse period for all NoRs as a principal issue in contention.

### **Composition of Outline Plans and certification of management plans**

39. The composition of Outline Plans and the certification of management plans by the Council was a point of difference between SGA and the Council advice, as addressed in SGA submissions and evidence of Ms Hicks and others and in the Hearing Reports. The content and processing of management plans are important to the efficiency of the implementation process and also the transparency of implementation, where the effects of construction on the urban and natural environment, albeit temporary, can be significant for these environments along the route. We address these matters as principal issues in contention below.

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<sup>8</sup> Rama EIC para 5.9  
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### **Ecological effects**

40. Submissions on ecology related mainly to the potential for adverse effects of the NoR alignments on wetlands associated with the Ngakaroa Stream (NoR D2) and wetlands along the low-lying section of NoR D4.<sup>9</sup> The assessment by Council officers was also mainly focussed on wetlands, although there also remained a difference between the SGA and Council on the current need for a Lizard Management Plan. We examine these matters as principal issues in contention below.

### **Construction noise**

41. The control of construction noise is generally well prescribed by noise standards and the production of a noise (and vibration) management plan. This overall structure was agreed however there were differences between SGA, submitter and Council noise advisors as to how noise exceedances during sensitive time periods. We address this matter below as a principal issue in contention.

### **Historic heritage matters**

42. Effects on historic heritage from all the NoRs have been assessed by SGA and described in reports and evidence by Ms Trilford. It is evident that the NoRs collectively traverse areas which contain important items of historic heritage and have the potential for undiscovered sites and artifacts. Historic heritage attracted a comprehensive submission from Heritage New Zealand Pouhere Taonga (**HNZPT**) and property specific submissions from Ms de Courcy and Messrs G and R Smith in relation to Aroha Cottage on Jesmond Road, and from Ms Barribal in relation to her property on State Highway 22. The aspect on which we received the most considered evidence was on the Historic Heritage Management Plan (**HHMP**) where there remained disagreement between SGA and the Council.
43. We address the HHMP and Aroha Cottage matters below. Ms Barribal's submission, which is more appropriately to be considered as a matter of cultural heritage, is addressed below in relation to the effects of the designation alignment on individual properties.

### **Stormwater and flooding**

44. The horizontal and vertical alignment of the designations and the interface of the future road with catchments, overland flowpaths and waterways was a matter relating to individual properties along the routes. Several submissions<sup>10</sup> raised detailed matters in relation to their property, to which the SGA responded. We address these matters below as a principal issue in contention.

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<sup>9</sup> Submission points by Oyster and Fletcher and Messrs K and A Davidson re wetlands on NoR D4

<sup>10</sup> Submissions points by Messrs K and A Davidson on NoR D4, PC Family Trust and ES Pan, and Soco Homes. Recommendations on Notices of Requirement D1 Alteration to Designation 6707 (SH22) and D2 to D5 for the Drury Arterial Network

## **Tabled evidence**

45. Evidence was tabled from Graeme Roberts of Beca Limited on behalf of Firstgas Limited and from the Ministry of Education.
46. Mr Roberts was neutral to the Drury NoR projects and largely support the proposed conditions except for two amendments he proposed to the Network Utility Management Plan condition. Mr Roberts was concerned that even site investigations, which could take place prior to the Start of Construction, as defined, might result in risk of damage to Firstgas pipelines. The definitional point here being that Start of Construction excludes enabling works such as site investigations.
47. Ms Hicks addressed the two amendments in her rebuttal evidence. She considered that the concerns raised by the submitter are sufficiently provided for under the proposed NUMP condition and other processes such as BeforeUdig, s176 RMA approval from Firstgas (as the majority of the Firstgas assets are designated) and the National Code. However, she agreed with the addition of the reference to Standard AS/NZS 2885 Pipelines – Gas and Liquid in the NUMP condition. We agree with Ms Hicks that Firstgas' concerns have been appropriately addressed.
48. The Ministry of Education was also supportive in principle of the NoRs, along the D2 route of which are located Ngakaroa School and a proposed new secondary school. The Ministry sought amendments to several conditions which all focussed on requirements to consult with it on detailed design matters prior to construction. Of particular interest to the Ministry were walking and cycling linkages in the future urban environment.
49. In response, Ms Hicks stated that it had always been the intention of Auckland Transport to 'engage' with adjacent landowners, not to just 'communicate' information and consequently the reference in the Stakeholder Communication and Engagement Plan (**SCEMP**) condition had been amended to this effect. Ms Hicks noted that the CTMP specifically requires the estimated numbers, frequencies, routes and timing of traffic movements, including any specific non-working or non-movement hours to manage vehicular and pedestrian traffic near schools or to manage traffic congestion. Consequently, she considered that it was not necessary to include further consultation requirements in the CTMP or ULDMP conditions. We accept her evidence on this point and note the amendments to conditions.

## **G. Principal issues in contention/matters of concern**

50. We considered the principal issues in contention to be as follows:
  - The environment against which the effects of the project must be assessed;
  - Alignment and extent of designations
  - Existing property access;
  - Tui Street;

- Integration of NoR arterials with planned collector roads and surrounding landform
- Landscape and visual impact /ULDMP matters and conditions
- Ecological impacts;
- Stormwater and flooding
- Construction noise and vibration;
- Traffic noise;
- Composition of Outline Plans and certification of management plans
- Historic heritage matters and management plan
- The lapse period and timing of the project and measures to mitigate an extended period

### **The environment against which the effects of the project must be assessed**

51. Urban growth within the Drury area and the planning provisions and infrastructure required to direct and service that growth are proceeding in a contemporaneous fashion as evidenced by the progressing of the private plan changes noted above and the infrastructure and land development we saw on our site visit. As noted by Ms Evitt,<sup>11</sup> *“[m]ost sections of the project will take place in the Future Urban Zone (FUZ) areas, with the objectives and policies for this zone clearly indicating an intention for the areas to be urbanised in the future.”*
52. Ms Evitt referred us to the legal position clearly established in 2006 in the Hawthorn Estates case<sup>12</sup> which addressed the meaning of the word ‘environment’ in the context of a future environment against which to assess the effects of a specific proposal. This decision on a resource consent case was later extended to notices of requirement. Further to this, there is a second Queenstown case that confirmed a “real world” approach to the future environment required a consideration of that environment as signalled by the operative objectives and policies of the district plan.<sup>13</sup>
53. The submitters were in general agreement with that approach. Mr Brabant, in his submissions for Oyster and Fletcher told us that the “real world” assessment was a “touchstone” for our consideration. At a factual level, for Karaka and Drury Limited, Mr Tollemache’s planning evidence confirmed that over 250 people were already living in Auranga, through which NoR D2 passes, with homes for many more people soon to be completed. It was also Mr Tollemache’s evidence that the FUZ objectives and policies applicable to the local environment for NoR D1 and D2 would shortly be replaced by more specific urban zone objectives and policies. His evidence could be readily extrapolated to the local environments for the other NoRs.

<sup>11</sup> SGA Legal submissions para 8.10

<sup>12</sup> Queenstown Lakes District Council v Hawthorn Estate Ltd (2006) 12 ELRNZ 299 (CA)

<sup>13</sup> Queenstown Central Ltd v Queenstown Lakes District Council [2013] NZHC 815

54. Ms Storer, in her submissions for Fulton Hogan, emphasised that for its land, residential development was likely to precede the arterial road upgrade.
55. So while there was no real dispute amongst the parties on what the appropriate environment for assessment is, the matter of the relative timing of the arterial road upgrade and adjacent land development was very much 'on point'. This issue was manifest in two other principal issues in contention addressed below being:
- (i) The control of future traffic noise; and
  - (ii) The physical integration of the built form of the future arterial roads with collector roads and adjacent land along each route.

### **Alignment and extent of designation**

56. The proposed designations seek to protect routes by way of designation, including land sufficient for the construction, operation and maintenance of the future arterial transport network. The design of the Drury Arterial Network has focused on developing alignments to a level sufficient to inform the proposed designation footprint and to assess an envelope of effects that includes potential construction areas, operational and maintenance requirements and areas required to mitigate effects.<sup>14</sup>
57. The proposed designations include areas required during construction such as general work areas, construction compounds and laydown areas, construction traffic access and manoeuvring and the regrading of driveways, sediment controls, earthworks (including cut and fill batters), works to relocate or realign network utilities, culvert and bridge works, drainage and stormwater works including new wetlands.
58. The extent of the proposed designation boundaries was raised by many submitters across the five NoRs, as identified in Appendix Three Summary of Submissions in each of the Hearing Reports. These submitters generally consider that the proposed designation boundaries extend further than required, and seek that they are reduced.
59. The applicant has addressed these submissions by way of explanation of the necessity of the location of the designation in evidence provide by its experts and in some cases by modifying the extent of the designations.
60. SGA advises that sufficient width has been provided at the edge of embankments and design elements to provide for appropriate construction areas and access along the corridors. Following completion of the works, the extent of the designation will be reviewed to identify any areas of designated land that are no longer required for the on-going operation, maintenance of the corridor or mitigation of effects (as set out in the conditions). The designation boundary will be drawn back to the edge of the final formed corridor (operational boundary) after construction is complete. This is provided as a condition of the designation.<sup>15</sup>

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<sup>14</sup> Mason EIC para 6.3

<sup>15</sup> Hicks EIC para 14.57



61. Some submitters consider that the extent of the designation boundaries have not taken into consideration the potential development of adjacent land. SGA advises that with respect to the design of the road the concept designs have been developed with some flexibility to integrate with adjacent land. The designation is considered by the applicant to be sufficient to provide flexibility in road levels and berm areas to accommodate an appropriate tie-in with adjacent land. As the final earthworks levels of any adjoining development are unknown, SGA has made assumptions regarding road levels and embankments. The conditions propose that an Urban and Landscape Design Management Plan is required to be prepared prior to the start of construction as a condition on the designations to ensure integration with adjoining land use at the time of detailed design and implementation.
62. A further concern of some submitters was that the extent of designation boundaries will result in the unnecessary cost of acquiring land. However, SGA advises that the land required for construction purposes will be for temporary occupation and use only.<sup>16</sup> Land required for the permanent work will be purchased under the Public Works Act (**PWA**). As a condition on the proposed alteration to designation, Waka Kotahi will review the designation boundary as soon as practicable following construction. Any land not required for the permanent work or for the ongoing operation, maintenance or mitigation of effects of the project will be reinstated in coordination with directly affected landowners or occupiers and the designation pulled back or removed.
63. Individual submissions, most of whom attended the hearing, on the alignment and extent of the designations are discussed as follows.

#### Soco Homes 224 Jesmond Road

64. Mr Duan for Soco Homes specifically sought the extent of the proposed designation on his property at 224 Jesmond Road is reduced due to its implications for a development proposed for the site. There is a stormwater wetland proposed at this location and a site laydown area adjacent for material handling and stockpiling, environmental controls such as sediment retentions ponds and silt fence, and construction plant parking. The Duan submission opposed the pond location and extended area at 224 Jesmond Road and sought information about the minimum pond size required and whether the land take can be reduced following construction. It also stated that the extended pond size will have a significant impact on the future urban capacity of the site.
65. In response to the Duan submission the applicant reduced the extent of the requested designation to reduce the area required for temporary construction activities.<sup>17</sup>
66. At the hearing Mr Fang who appeared for Mr Duan asked why the pond could not be located on the opposite side of Jesmond Road where there is an existing pond and

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<sup>16</sup> Mason EIC para 9.27

<sup>17</sup> Hicks Rebuttal evidence para 1.34

**[Pages 18 - 30 omitted]**

specialist assessment inputs and that the impacts to Ms Erceg's landholdings will be addressed through the PWA processes.<sup>50</sup>

#### Ms Paterson 215 Ponga Road

139. Ms Paterson's submission identified that the proposed designation would result in her relinquishing a cottage providing income for her mother who is in a retirement home and take a parcel of land ring fenced for proposed new family residence. They have a limited area of land for building due to a number of constraints on the site. They requested that consideration be given to not acquiring the full amount of land proposed.
140. The SGA responded to this submission by altering the designation boundary so that it does not impact the area planned for a new residence.<sup>51</sup>

#### Hayes Family Trust

141. While not specifically about the alignment of the designation and more broadly expressed in terms of planning blight, Mr Hayes and legal counsel, Mr Dawson, expressed their concerns to us about owner's ability to enjoy their property now and to subdivide. Mr Dawson also addressed the extended lapse period, which is addressed below. Several of the SGA witnesses addressed the matters raised in the submission and in the following paragraphs we discuss the means by which the adverse effects Mr Hayes perceives can be mitigated, in addition to those offered by SGA.

#### Summary and recommendation on alignment and extent of designation

142. We note that no matters of difference remain between Auckland Council officers and the SGA with respect to alignment and extent of the designation
143. We consider that the SGA has addressed the concerns of the submitters regarding the extent of the designations as best it can by amending the location of designations where feasible. We are satisfied that the proposed designations have been derived from competently assessed engineering, environmental and other considerations and are appropriate to achieve the Project aims.
144. With reference to the conditions, some submitters sought specific changes to conditions which were aimed at mitigating the effect of the designation on their land. Firstly, there was the designation review condition required upon completion of construction, in which SGA accepted the reference to the 6 months timeframe, albeit adopting the Council's wording which incorporated a 'practicability' test. We find that commitment by SGA to be acceptable.
145. Secondly, there was the proposal by Ms Devine for periodic review of the need for the land to be designated over the intervening years until implementation. Ms Devine drew our attention to various review conditions in existing designations for both

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<sup>50</sup> Ibid para 33.9

<sup>51</sup> Ibid para 39.3

Auckland Transport and Waka Kotahi, which included the designation conditions for the recent Mill Road designation. She recommended a condition that appeared to be based on the Designation 1836 (Mill Road-Redoubt Road Corridor Project) and designation with a lapse period of variously 10 and 15 years. Ms Devine's condition required periodic review of land required for construction purposes.

146. We understand from the SGA evidence that land required for construction areas will be refined as part of ongoing design of the roads and that a 'conservative' approach to these land requirements had been taken in identifying the NoR boundaries. That approach ensures the benefit of flexibility in design and land requirements. However, the reverse side of that benefit is the additional cost of uncertainty for the landowners. We find that a periodic review of land requirements would mitigate that cost for land owners and have incorporated a condition based on Ms Devine's recommended wording. The period for review we have set at 12 months, and the Council is to be advised of the outcome irrespective of the review findings.
147. Thirdly, there was the proposal for a time limit on a section 176(1)(b) application for works within designated land. Mr Roberts proposed that this time limit be 40 days. We have considered the implications for this proposal and find the SGA response persuasive. We consider that the section 176 process can work effectively and in a timely manner by the Requiring Authorities and landowners working together. In a response to a question from the Panel, Mr Tollemache advised us that in his recent experience the section 176 process had worked effectively. Consequently, we are not of a view to include a time limit on the process.
148. Fourthly, there was the proposal from Mr Campbell that the CEMP include a requirement to identify the land required for construction purposes (and no more). On this matter we find that, with the incorporation of the periodic review condition above, plus the PWA process as construction becomes more imminent, adjacent landowners will have sufficient clarity as to NoR land requirements.

### **Existing property access**

149. A number of submitters have raised concerns regarding maintenance and reinstatement of existing access to private properties, parks, community and other facilities, both during construction and once the Projects are operational.
150. SGA have addressed these concerns by way of meeting with a number of submitters and developing a number of NoR conditions which address the concerns raised. The proposed ULDM condition addresses landscape and urban design details including road design and the interface with adjacent land uses and re-instatement of construction and site compound areas, driveways, accessways and fences.
151. There is also a general condition for NoRs D2 to D5 on existing property access which requires the Outline Plan to demonstrate how safe alternate access will be provided where existing property vehicle access is altered by the project.

**[Pages 33 - 34 omitted]**

Road intersection. This option was selected as it is an acceptable distance from the intersection and does not impact the playing fields within the Drury Domain.<sup>59</sup>

161. Potential safety concerns with the proposed realignment of Tui Street /Great South Road, including those raised by the Council s42A review process, together with provision for safe access to the Drury and Districts Rugby Football Club and Recreation Club and community facilities using Tui Street and the use of the Drury domain are addressed by way of condition 15 in NoR D2.
162. SGA evidence<sup>60</sup> notes that Kāinga Ora have not raised Tui Street as a concern in their submission. Whilst Kāinga Ora may be investigating plans for a development around East Street (to the north of the Drury Domain), these plans have not been confirmed and are not part of this Auckland Transport project. There may be opportunities for increased access via any plans that Kāinga Ora may have. These future opportunities are not precluded and can be investigated closer to the time of construction under condition 15.
163. The Council reviewer is in agreement with the wording of condition 15 in NoR D2 to address safety and access issues for Tui Street.
164. Our finding is that the proposed realignment of Tui Street is appropriate and NoR D2 condition 15 will ensure the detailed design of the realignment addresses safety and access concerns.

#### **Integration of NoR arterials with planned collector roads and surrounding landform**

165. Several submitters, amongst them Kāinga Ora, Karaka and Drury, and the P&C Family Trust and E S Pan, all of whom addressed this issue at the hearing, were critical of the interface between the proposed NoR boundary and their land. This criticism was directed at both the extent of land for the NoR and the uncertainty surrounding when the boundary would be finalised. The extent of the designation has been addressed above.
166. The planning evidence of Kāinga Ora from Mr Campbell addressed a number of interface issues. Mr Campbell prefaced his analysis with reference to the overarching planning documents including the NPS-UD 2020, Auckland Plan 2050, AUP Auckland Regional Policy Statement and the Drury Ōpaheke Structure Plan (**DOSP**). Mr Campbell emphasised those parts of these documents that referred to the required interconnectedness of the future urban environment and concluded that the NoRs demonstrated general alignment with these provisions.
167. Nevertheless, Mr Campbell was critical of the potential for excessive land to end up within front yard areas and the uncertainty around the release of land not required permanently for the operation, maintenance or mitigation of effects of the future arterial.

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<sup>59</sup> Ibid para 19.20

<sup>60</sup> Ibid para 21.23

168. In both these cases SGA offered amendments to the conditions in response. These amendments included an advice note that the front yard setback rule (which references the designation boundary as a start point) would not apply to NoRs D2, D3 or D5; and a commitment to reviewing the designation boundary within 6 months of the completion of construction, and so release excess land. Mr Campbell supported these amendments.
169. Mr Tollemache's evidence for Karaka and Drury Limited focussed more on the strategic integration of the developing Karaka West land with NoRs D1 and D2. Mr Tollemache detailed the interface between a future town centre located just north of State Highway 22 and the NoR D1 alignment, emphasising the mainstreet connection and the link to the future Drury West Rail Station, south of the state highway. Mr Tollemache referred to the DOSP provisions for the town centre, and advised the zoning provisions for this in proposed Plan Change 51, for which a decision is pending. As noted above, we are unable to give any weight to the latter planning document.
170. Mr Tollemache then turned to how the proposed conditions had recognised the interface he sought for the above land use and referred to the ULDMP. While noting the focus that the ULDMP had on landscape and visual effects of the project, Mr Tollemache considered that it was not broad enough to address the wider integration issues, such as relating to transport and stormwater. He sought that more explicit recognition was given in the detailed design to elements of the surrounding land use, that specific reference to the DOSP was made, and that consultation with adjacent landowners was required in preparing both the Outline Plan and the ULDMP.
171. Ms Hicks rebuttal evidence was that Mr Tollemache's concerns were largely addressed already in the proposed conditions. She also expressed concern at his proposal that final design be "in accordance with" the DOSP, which she indicated had already become dated compared with actual development. Ms Hicks further considered that Karaka and Drury, as an affected landowner, would be engaged with directly by way of a number of processes provided for in the conditions, including via section 176 applications for works within the designation.
172. On the matter of the DOSP, we consider that structure plans, albeit non-statutory documents, are important strategic documents for a new developing area and are a matter envisaged by section 171(1)(d). Where land is in multiple ownership and public infrastructure is required, a structure plan is an outcome of a consultative process and a key mechanism by which integration is achieved. In a fast moving development environment it is inevitable that actual growth does not follow a structure plan in every detail. However, to have no mention of the DOSP in the conditions appears to us to be inexplicable and a significant departure from the outcomes sought by the DOSP would need to be justified. Consequently, whilst not going to the extent of requiring the final design to be "in accordance with" the DOSP, we consider that the 'outcomes' of the DOSP need to be had regard to. A specific such outcome is the connectivity of the proposed Drury West town centre with State Highway 22 which Mr Tollemache referred to and which we understand SGA have every intention of having regard to.

173. In relation to the urban design and integration matters, Mr Tollemache provided additional conditions. In the hearing we noted that these appeared to double up on the existing ULDMP conditions and in response Ms Andrews helpfully provided a memorandum that demonstrated how the Karaka and Drury relief could be integrated with the existing conditions which we have considered in the recommended conditions for NoRs D1 and D2.
174. We accept Ms Hicks rebuttal evidence on the matters of stormwater treatment and conveyance being matters left for the regional consents.
175. The evidence of Mr Parlane and Mr Hoskens for P&C Family Trust and E S Pan also focussed on arterial road integration, and on the relative elevation of NoR D2 and their client's land, which also has collector roads through and alongside it. Mr Hosken detailed the importance of this elevation in terms of the built development. Mr Parlane sought that NoR D2 be modified to show the two collector roads intersecting with the NoR and that these be at specified levels.
176. The rebuttal evidence from Ms Hicks, in reliance on Mr Mason's assessment, was that the integration of NoR D2 with the subject land can be addressed either through the ULDMP or by way of section 176 process, depending on whether arterial or land development is to happen first.
177. The Council advice, from Mr Collins, was that NoR D2 does not preclude the local roads indicated by Mr Parlane and that given the location of these local roads is still to be confirmed, it would be premature to include them within the NoR.
178. We have reviewed the submitter's evidence, however we accept the position of SGA and the Council that there are mechanisms for ensuring the integration of the arterial with the subject land in terms of both connectivity and elevation and that resolving such matters is a standard part of the final design process. The SGA has inserted an additional reference in the ULDMP road design to consider the interface with adjacent land uses and in response to the Council suggestion, there is a cross-reference to Auckland Transport's Urban Roads and Streets Design Guide.

### **Landscape and visual impact/ULDMP matters and conditions**

179. Related to the integration matters addressed above are specific landscape and visual impact matters addressed comprehensively by Ms Skidmore for the Council. We note that in terms of the recommended conditions, the Council's Hearing Report Addendum identified several residual matters that remained in contention for Ms Skidmore to advise on. These matters were not carried through to Council's closing remarks, and although we agree that they are minor, we nevertheless address them as follows:
- (i) "Manage" versus "avoid, remedy and mitigate" in condition 9(b)(ii) in relation to the ULDMP objective. Our finding is that the combination of "manage" and "as far as practicable" in this condition overly dilutes the outcome sought. We prefer the Council's wording in this condition.



**[Pages 38 - 41 omitted]**

198. Mr Tutt, Auckland Council's ecologist set out how under the relevant methodologies, he considers that copper skinks are assigned a 'high' level of impact being anticipated on the species<sup>74</sup>. Mr Tutt considers that copper skink habitats fall outside of areas subject to regional consents and he has therefore recommended an NoR condition for a Lizard Management Plan (LMP) to provide a framework for assessing species present and relocating species if necessary to maintain the species. The Auckland Council reporting officers' recommendation is for a condition on each NoR requiring a LMP.
199. The SGA response was that Unitary Councils can elect to manage biodiversity via district or regional functions<sup>75</sup> and that the Council's functions under sections 30 and 31 are delivered through the AUP provisions that address these matters. They further advise that way in which the Auckland Council has chosen to meet its obligations in respect of management of lizards (as a type of indigenous biodiversity relevant to the obligations in sections 30 and 31) is through the regional plan provisions of the AUP, not the district plan provisions.
200. SGA therefore consider that section 31 of the RMA does not provide an appropriate justification for imposing the conditions sought by the Council regarding an LMP and pre-construction surveys and remain of the view that these matters are more appropriately addressed as part of the resource consent process (in addition to the requirements under the Wildlife Act).
201. We find that the matter of Lizard Management Plans is more appropriately addressed at the time of regional consenting when final design and vegetation clearance details are available.

### **Stormwater and flooding**

202. There were a number of matters raised in submissions regarding stormwater and flooding which are discussed as follows.

#### Increase in flood hazard arising from the project

203. Increase in flood hazard is proposed to be limited by a "flood hazard" condition within all the NoRs. This condition includes a number of flood risk outcomes including:
- (i) there is no increase in flood levels for existing authorised habitable floors that are already subject to flooding; and
  - (ii) there is no increase of more than 50 mm in flood level on land zoned for urban or future urban development where there is no existing dwelling.
204. The proposed flood hazard conditions have been agreed by the Council stormwater reviewer as appropriate to ensure any exacerbation of flood hazard as a result of constructing the NoR routes will be minor.

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<sup>74</sup> Addendum to Hearing Agenda para 6.16

<sup>75</sup> SGA closing para 7.8

205. The submission from Messrs Ken and Aaron Davidson (Pinemor) expressed concern about the proposed stormwater wetland located on the property at 168 Walker Road. The submitters consider the north-south orientation of the wetland will have adverse effects arising from a reduction of road frontage, and adverse effects on access, which the submitters consider will decrease its commercial visibility from the proposed FTN arterial. The submitters requests the location of the proposed stormwater wetland be re-orientated in its current proposed position, or alternatively relocated to another property.
206. The expert evidence for SGA is that the alternative locations identified by the submitters are either not appropriate or optimal locations for the wetlands compared to the current proposed wetland location on the submitter's property<sup>76</sup>. Re-orientation of the wetland is a matter that could be considered further during future design processes.<sup>77</sup>
207. As the proposed stormwater wetland requires land acquisition from 168 Walker Road, this can be discussed with Auckland Transport and the landowner at the time of property discussions before construction commences.<sup>78</sup>
208. Mr Hosken's evidence for PC Family Trust and ES Pan detailed the submitter's concerns<sup>79</sup> about the increase in flooding on the submitters' land that would be caused by the proposed new road between Jesmond Road and Bremner Road crossing the "no name" stream as part of NoR D2 adjoining the submitters land. Mr Hosken advises these concerns can be alleviated by amendments to the NoR to:
- (i) ensure the bridge over the no name stream is to be extended to accommodate the 100 year flow without any constraint; and
  - (ii) provide for emergency overflow no higher than RL12.6m.
209. In his power point presentation shown at the hearing Mr Hosken made the following points:
- (i) that upstream catchment land uses are proposed in the Drury Ōpaheke Structure Plan and that Private Plan Change 61 (which we have noted has been declined by Independent Commissioners) has densities exceeding those proposed;
  - (ii) there is no guarantee approval will be given to modify the stream and so address flooding issues and that modification of existing streams is discouraged; and
  - (iii) the 50mm increase in flood level increases the width of the stream from approximately 71 metres to 118 metres as measured at the submitters' northern boundary.

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<sup>76</sup> Seyb EIC paras 31.2 to 31.5

<sup>77</sup> Ibid para 31.6

<sup>78</sup> Hicks EIC para 33.17

<sup>79</sup> Hosken Evidence 30 September 2021 para 61

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210. SGA stormwater and flooding expert evidence presented at the hearing,<sup>80</sup> in commenting on the length of bridge, recommends that a bridge is utilised at chainage 600m on the new section of road between Jesmond Road and Bremner Road. Further, to manage potential upstream flood effects, a condition is included on the proposed designation which sets appropriate flooding outcomes. Part of the condition requires that there is no more than a 50mm increase in flooding on adjacent land zoned for FUZ – which may require a wider bridge and / or shaping of the abutments and stream approach. This means that Auckland Transport is committing to no more than a 50mm vertical increase in flood level at the NoR boundaries to the land upstream. As part of the future detailed design, flood modelling will be undertaken to confirm the design required to meet the flood hazard conditions on the designation.<sup>81</sup>
211. SGA also do not agree with Mr Hosken (his paragraph 61c) that the bridge over the no name stream needs to be extended to accommodate the 100 year flow without any constraint and do not think a condition to that effect is required.<sup>82</sup> The bridge design and construction would be much more costly and less efficient if it was required to span the entire floodplain and it is not considered to be a better overall option. SGA consider that the proposed flood hazard conditions are an appropriate way to manage the potential flooding effect on the Pan property and that this will limit the effect to less than a 50mm increase - which is considered to be a negligible effect.
212. In response to Mr Hosken's concern that the submitters have no opportunity to input into the design of the bridge and any possible flooding impacts after the NoR is confirmed, SGA consider that the 50mm criteria means that the submitter can have confidence that the effects on their land will be negligible.<sup>83</sup> They consequently consider specific input into the design of the bridge by the submitter is unnecessary. However, the landowner will have ongoing engagement with Auckland Transport during detailed design as the Public Works Act process takes place and during the construction phase under the conditions on the designation.
213. In response to Mr Hosken's request to provide for emergency overflow the SGA expert evidence advises that bridge capacity for events in excess of the 100 year rainfall event are provided for by freeboard in accordance with the Bridge Manual - with at least 600 mm of freeboard to be provided between the 100 year flood level and the underside of the bridge beams.<sup>84</sup> This allows extra flow capacity for very infrequent rainfall and an overland flow path across the corridor is consequently not required.
214. The submission on behalf of Soco homes, (Mr Duan) expressing concern about the size and location of the proposed wetland at 224 Jesmond Road is addressed under the Alignment and Extent of Designation section of this recommendation.

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<sup>80</sup> Seyb Evidence Hearing Summary para 1.20

<sup>81</sup> Seyb Rebuttal evidence para 2.16

<sup>82</sup> Seyb Rebuttal evidence para 2.18

<sup>83</sup> Ibid para 2.20

<sup>84</sup> Ibid para 2.23

215. There are no matters of difference remaining between the Council reviewers and the SGA with respect to stormwater and flooding matters.
216. Our finding, based on the expert evidence provided to us, is that stormwater and flooding aspects of the proposed NoRs have been adequately addressed and can be suitably managed through the proposed flood hazard conditions.

### **Construction noise and vibration**

217. Construction noise generated by the project is proposed to be controlled in the usual manner against the standards of NZS6803:1999 Acoustics – Construction Noise, as detailed in the proposed conditions of consent for each NoR. Where compliance with the noise standards is not practicable, and the noise is not otherwise provided for by the Construction Noise and Vibration Management Plan, then a predicted exceedence for a specific noise generating activity may be provided for by way of a schedule.
218. There were no submissions about this overall structure for construction noise control, however Mr Styles, for Fulton Hogan, considered that the reasons for needing to exceed the noise standard should be properly justified. He supported the Best Practicable Option approach that was integral to the scheduling approach, but his view was that such scheduling “*is not a panacea to the noise issues*”.<sup>85</sup>
219. Mr Hegley, for the Council, agreed with Mr Styles and suggested that the condition that addresses the preparation of the CNVMP requires the following addition:
- “a hierarchy of management and mitigation options, including prioritising the management of construction activities to avoid night works and other sensitive times, including Sundays and public holidays”*
220. Ms Drewery and Ms Hicks responded for SGA and while they appeared to have some agreement that night time noise should comply with the standards, or the necessity for the proposed noise event to be subject to specific scrutiny, their response was only to require the CNVMP to specifically consider the necessity for night works.
221. It is a matter of general agreement that the roadworks for the Drury arterial network are likely to take place within a developed urban environment. We consider that the populace of the new suburbs deserve protection from excessive night time noise levels and the combined construction noise conditions need sufficient rigour to achieve this, while not ruling out night work, which we acknowledge cannot be avoided completely. Consequently, we support Mr Hegley’s addition with some elements of Mr Styles preferred wording. We note also that the overarching objective of the CNVMP is to implement the Best Practicable Option (**BPO**).
222. Further, we found the combined construction noise and vibration conditions to be confusing in their wording around compliance and the utilisation of the BPO, both generally and for scheduled activities. We consider that the conditions should express a clear hierarchy of strict compliance, general exceptions through the

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<sup>85</sup> Styles EIC para 5.12  
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**[Pages 45 - 61 omitted]**

300. In conclusion, our recommendation is to impose a lapse period of 15 years on NoR D1. That recommendation applies whether the NoR is to be treated as an alteration to an existing designation or a new designation. We note that the title for the conditions for NoR D1 still reflect that this is a 'rollover' designation despite our comments above, however the same conditions apply irrespective, and we leave that detail for Waka Kotahi to attend to.

## H. Relevant statutory provisions considered

301. Our recommendation is subject to the provisions of section 171 of the RMA. An alteration to a designation is subject to the provisions of section 181. However as we have discussed in the preceding section, our view, uninformed as it was by any specific submissions or evidence, is that NoR D1 is actually a new designation and not an alteration to a designation and so should be considered pursuant to section 171. In case we are incorrect on that matter, section 181(2) refers to section 171 for substantive consideration in any event.

302. Section 171(1)(a) requires that we consider the environmental effects of allowing the activity, having particular regard to the various statutory planning documents within the national, regional and local hierarchy. In other words, the environmental effects were to be assessed against the environment envisaged by those planning documents and the environmental outcomes sought by the relevant objectives and policies for the land through which the routes are to pass. Both SGA evidence from Ms Bell and the Hearing Reports contained a comprehensive review of the framework established by these documents including the statutory provisions as they relate to various parts of the routes.<sup>95</sup>

303. We were referred to:

- (i) The New Zealand Coastal Policy Statement;
- (ii) The National Policy Statement for Freshwater Management (**NPS-FW**);
- (iii) The National Policy Statement for Urban Development Capacity;
- (iv) The National Policy Statement for Electricity Transmission; and
- (v) Auckland Unitary Plan – Operative in Part.

304. Ms Hicks provided an overall summary of the environmental effects of the project, including positive effects, as directed by section 171(1B). In reliance on this summary, Ms Bell concluded that appropriate regard had been had to the relevant provisions of the statutory planning documents in the alignment choices, concept design and recommended mitigation. Ms Bell further concluded that the Projects align with the relevant provisions of the national policy statements, policy documents and plans, especially at the strategic level in terms of facilitating urban growth and promoting land use transport integration. She considered that the mitigation identified

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<sup>95</sup> Bell EIC Section 6  
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Designation 6707 (SH22) and D2 to D5 for the Drury Arterial Network

within designation conditions proposed by Waka Kotahi and Auckland Transport also aligned with the relevant policy direction.

305. On the one matter where the Council disagreed with the Projects demonstrating consistent with the statutory documents, being the consideration of natural wetlands in terms of the provisions of the NPS-FM and aspects of AUP-OP RPS Chapter B7, Ms Bell's evidence was that adverse effects on natural wetlands can be determined and appropriately avoided as necessary at the time of detailed design when the need for regional and NES resource consents are determined. Based on our assessment of the wetlands matter above, we agree with Ms Bell's advice.
306. Expert planning evidence from the submitters was less comprehensive in its coverage but nevertheless brought our attention to specific elements of the planning documents upon which their evidence focussed. Of particular importance here were urban integration and noise environment considerations. We find that the conditions attached to the recommendation address the concerns raised in the submitter evidence about the consistency of the Projects with the relevant provisions.
307. Pursuant to s171(1)(b), subject to Part 2 of the Act, we must have particular regard to whether adequate consideration has been given to alternative sites, routes and methods of undertaking the public work, if the requiring authority does not have an interest in the land sufficient for undertaking the work, or it is likely that the work will have a significant adverse effect on the environment. We have addressed this matter above in paragraph 25 and also in relation to several of the submitters. The evidence from SGA on alternatives assessment was extensive and largely uncontested. We find that adequate consideration was given to alternative routes and methods.
308. Section 171(1)(c) requires that we must have particular regard to whether the work and designation are 'reasonably necessary' for achieving the objectives of the requiring authority for which the designation is sought. The project objectives were fully described in the NoR documentation, submissions and evidence, as was the need for the specific works being reasonably necessary to achieve them. On the matter of utilising the designation technique to achieve the objectives, we find that a designation in this case is preferable to other processes potentially available under the RMA, such as plan changes or resource consents.
309. In terms of 'other matters' under section 171(1)(d), the SGA AEE and evidence referred to an extensive list of technical and strategic planning documents that had some relevance to the Projects, mainly in the transport area. Ms Bell concluded that the Projects were well supported by these documents. This is not surprising as the Drury Arterial Network is a key component of the Supporting Growth Programme which is referred to in the strategic plans as listed (the National Land Transport Programme 2021-24, Auckland Regional Land Transport Plan 2021-2031 (RLTP) and the Auckland Transport Alignment Project 2021-2031 Investment Programme (ATAP)). The Hearing Reports concurred with the SGA analysis of these documents and referred us also to the Heritage New Zealand Pouhere Taonga Act 2014. We have accepted the Council's advice on the



importance of this Act, as demonstrated by the adoption of the Council's recommended heritage conditions.

## **I. Part 2 of the RMA**

310. Consideration of section 171 is subject to Part 2 and, as advised by Ms Zeigler, is subject to the overall broad judgement approach, should that be necessary in the weighing of competing outcomes. The environmental effects assessment above, as addressed in the principal matters in contention, deals with a multitude of matters, with a focus on avoiding, remedying and mitigating adverse effects as sought by section 5 of the RMA. With reference to the matters in sections 6, 7 and 8, not all matters are relevant to the Projects (for example the routes do not pass through any outstanding natural landscapes). Our summary of how the Project fares against the relevant clauses of sections 6, 7 and 8 is as follows:
- (i) SGA engaged with mana whenua throughout the development committing to partnership principles and developing and implementing conditions addressing resources and issues of concern and recognising the kaitiakitanga of manawhenua (sections 6(e), 7(a), 7(aa) and 8);
  - (ii) Adverse effects on natural character values and high value habitats have been largely avoided or can be appropriately mitigated (sections 6(a), 6(c) and 7(d));
  - (iii) Adverse effects on historic heritage have similarly been avoided and minimised, with detailed conditions applying to the implementation of works in the future (section 6(f));
  - (iv) The matters in (ii) and (iii) above, as well as the proposed integrated transport solution which has resulted from a rigorous alternatives assessment will contribute to future amenity and the quality of the environment (sections 7(b), 7(c) and 7 (f));
  - (v) Flood hazard will be appropriately managed during construction and during future urban occupation (section 6(h));
  - (vi) The effects of climate change have been responded to by the Projects providing resilience to flooding (taking into account climate change); the provision for street tree planting that, when delivered, will contribute to reducing urban heat island effects; and contributing positively towards reducing greenhouse gas emissions by providing modal choice, improved reliability for public transport and active transport facilities (section 7(i)).
311. In summary, we agree with SGA and the Council Hearing Reports that the Projects are consistent with Part 2.

**J. Decision**

312. In exercising our delegation under sections 34 and 34A of the RMA and having regard to the foregoing matters and the requirements of section 171 and 181 of the RMA we recommend to the requiring authority that the Notice of Requirement be **CONFIRMED SUBJECT TO CONDITIONS** attached to this decision.



Chairperson

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Dave Serjeant

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Date:

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20 April 2022

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10 June 2022

Nicholas Lau  
Senior Policy Planner  
Central/South Planning Unit - Plans and Places  
Auckland Council  
Private Bag 92300  
Victoria Street West  
Auckland 1142

Dear Nicholas

## **NOTICE OF DECISION OF AUCKLAND TRANSPORT UNDER SECTION 172 OF THE RESOURCE MANAGEMENT ACT 1991**

Thank you for your letter dated 28 April 2022 advising of the recommendation of the Auckland Council Independent Hearing Commissioners in relation to the four Auckland Transport Notices of Requirement that comprise part of the Drury Arterial Network:

- NoR D2 - Jesmond to Waihoehoe West Frequent Transit Network (FTN) Upgrade
- NoR D3 - Waihoehoe Road East Upgrade
- NoR D4 - Ōpāheke North-South FTN Arterial
- NoR D5 - Ponga Road and Ōpāheke Road Upgrade

The Commissioners' recommendation was that the Notices of Requirement should be **confirmed** subject to conditions.

Pursuant to Section 172 of the Resource Management Act 1991, Auckland Transport accepts in part the Commissioners' recommendation in relation to the Notices of Requirement.

The table below sets out the modifications made by Auckland Transport to the Notices of Requirement conditions recommended by the Hearing Commissioners on 28 April 2022 and the reasons for the modifications. Only those conditions that Auckland Transport has modified are outlined in the table below.

All other conditions are accepted as recommended by the Hearing Commissioners. Complete sets of designation conditions, including modifications made and a clean set as a result of the Auckland Transport decision, are **attached** to this letter as **Appendices A – D**.

**Modifications made by Auckland Transport to conditions recommended by the Hearing Commissioners for NoRs D2 – D5**

Designation	Condition number	Modifications made by Auckland Transport to conditions recommended by the Hearing Commissioners  (additions to conditions are in bold and <u>underlined</u> and rejections are in bold and <del>strikethrough</del> )	Reason for modification
All	Abbreviations and definitions	<p><b>Certification of material changes to management plans <u>and CNVMP Schedules</u></b></p> <p>Confirmation from the Manager that a material change to a plan <u>or CNVMP Schedule</u> has been prepared in accordance with the condition to which it relates.</p> <p>A material change to a management plan <u>or CNVMP Schedule</u> shall be deemed certified:</p> <p>(a) where the Requiring Authority has received written confirmation from Council that the material change to the management plan is certified; or</p> <p>(b) ten working days from the submission of the material change to the management plan where no written confirmation of certification has been received.</p> <p><b>(c) <u>five working days from the submission of the material change to a CNVMP Schedule where no written confirmation of certification has been received.</u></b></p>	<p><b>Accept Commissioners' recommendation with modifications</b> to also provide for certification of material changes to the CNVMP Schedules and the associated certification timeframe to ensure construction works are not unreasonably delayed.</p>
All	3 <sup>1</sup>	<p><b>Designation Review</b></p> <p>(a) ...</p> <p><del>(b) Notwithstanding the above, on an on-going basis, and at least every six months until Completion of Construction, the Requiring Authority shall:</del></p> <p><del>(i) assess whether any areas of the designation that have been identified for construction purposes are still required for that purpose;</del></p> <p><del>(ii) identify any areas of the designation that are no longer necessary for construction purposes or the on-going operation or maintenance of the project or for on-going mitigation measures; and give notice to the Council in accordance with section 182 of the RMA for the removal of those parts of the designation identified above.</del></p>	<p><b>Reject</b> – Auckland Transport does not consider that a six-month timeframe for review of the necessity of the designated area for construction or operation of the Project is a feasible or efficient method for managing potential uncertainty or perceived planning blight for affected parties prior to implementation of the Project.</p> <p>Until funding is secured for the Project to coincide with future land release, AT does not anticipate undertaking any further design work to enable refinement of the designated boundaries.</p> <p>To keep affected parties informed, the designation conditions (see Condition 2) provides for Project information to be shared through the establishment of a project website or equivalent project information source which will include information and updates on project development, timelines, the s176 approval process, engagement with landowners and Public Works Act processes.</p>
NoR D4 and D5	4 <sup>2</sup>	<p><b>Lapse</b></p> <p>In accordance with section 184(1)(c) of the RMA, this designation shall lapse if not given effect to within <del>15</del> <b><u>20</u></b> years from the date on which it is included in the AUP.</p>	<p><b>Reject 15-year lapse date for NoR D4 and NoR D5</b></p> <p>The Commissioners' recommended 15 year lapse date for NoR D4 and NoR D5 appears to be based on a misunderstanding of the planned timing of land release for future urban zoned land in Ōpāheke and related Project implementation timeframe.</p> <p>As acknowledged by the Commissioners, expert transport modelling carried out subsequent to FULSS has demonstrated that the NoR D4 and NoR D5 Projects are anticipated to be sequenced and implemented in FULSS Decade 3 (2038-2048) – outside the proposed 15-year lapse date. The 20-year lapse date accounts for land in the relevant areas being released for development (according to the FULSS to be Decade 2 (2028-2038), the development actually eventuating, and the transport infrastructure being implemented to support that growth.</p> <p>Further, the 20-year lapse date provides adequate time to secure funding, undertake detailed design and purchase property. The 20 year lapse period was therefore carefully determined for NoR D4 and D5 using a range of considerations as noted by the Commissioners.</p> <p>Auckland Transport does not consider a reduced lapse period from 20 years to 15 years necessarily provides a better outcome in terms of delivering the Projects and providing certainty to landowners. Route protecting the corridor for the necessary timeframe delivers certainty to the community and stakeholders and safeguards the alignment from inappropriate use and development.</p> <p>In reality, Auckland Transport is unable to commence detailed design/implementation of these Projects until funding has been secured. This will be determined based on the rate of growth in the area and</p>

<sup>1</sup> NoRs D3 – D5: Condition 3

<sup>2</sup> NoRs D4 and D5: Condition 4

Designation	Condition number	Modifications made by Auckland Transport to conditions recommended by the Hearing Commissioners  (additions to conditions are in bold and <u>underlined</u> and rejections are in bold and <del>strikethrough</del> )	Reason for modification
			<p>relies on funding to be allocated at a national and regional level (i.e. through the Auckland Regional Land Transport Plan).</p> <p>Auckland Transport recognises that a longer lapse period may result in a perception of planning blight or uncertainty over private property impacts for landowners. However, these potential effects can be appropriately managed through other conditions which have been specifically designed to inform affected parties on project details and timelines (for example, see NoR D2 Condition 2, Condition 18, Condition 19) and other statutory mechanisms such as the s176 approval process and in some circumstances early acquisition.</p>
All	9 <sup>3</sup>	<p><b>Urban and Landscape Design Management Plan</b></p> <p>(a) A ULDM shall be prepared prior to the Start of Construction for a Stage of Work.</p> <p>(b) The objective of the ULDM(s) is to:</p> <ul style="list-style-type: none"> <li>(i) enable integration of the Project's permanent works into the surrounding landscape and urban context; and</li> <li>(ii) ensure that the Project's potential adverse landscape and visual effects are avoided, remedied or mitigated as far as practicable and it contributes to a quality urban environment.</li> </ul> <p>(c) The ULDM shall be prepared in general accordance with:</p> <ul style="list-style-type: none"> <li>(i) Auckland Transport's Urban Roads and Streets Design Guide;</li> <li>(ii) Waka Kotahi Urban Design Guidelines: Bridging the Gap (2013) or any subsequent updated version;</li> <li>(iii) Waka Kotahi Landscape Guidelines (2013) or any subsequent updated version; <b>and</b></li> <li>(iv) Waka Kotahi P39 Standard Specification for Highway Landscape Treatments (2013) or any subsequent updated version; and</li> <li>(v) Auckland's Urban Ngahere (Forest) Strategy or any subsequent updated version</li> </ul> <p><b>and shall have regard to the outcomes of the Drury Ōpāheke Structure Plan and the mitigation measures detailed in the evidence of Mr Chris Bentley paragraph 14.19.</b></p> <p>(d) To achieve the objective, the ULDM(s) shall provide details of how the project:</p> <ul style="list-style-type: none"> <li>(i) is designed to integrate with the adjacent urban (or proposed urban) and landscape context, including the surrounding existing or proposed topography, urban environment (i.e. centres and density of built form), natural environment, landscape character, and open space zones;</li> <li>(ii) provides appropriate walking and cycling connectivity to, and interfaces with, existing or proposed adjacent land uses, public transport infrastructure, and walking and cycling connections;</li> <li>(iii) promotes inclusive access (where appropriate); and</li> <li>(iv) promotes a sense of personal safety by aligning with best practice guidelines, such as: <ul style="list-style-type: none"> <li>A. Crime Prevention Through Environmental Design (CPTED) principles;</li> <li>B. Safety in Design (SID) requirements; and</li> <li>C. Maintenance in Design (MID) requirements and anti-vandalism/anti-graffiti measures.</li> </ul> </li> </ul>	<p><b>Reject additions made to Condition 9 (c)</b> to include reference to the outcomes of the Drury Ōpāheke Structure Plan.</p> <p>While Auckland Transport acknowledges the role of the Drury Ōpāheke Structure Plan in the planning process for future growth areas, it also considers that the Structure Plan is only indicative of the future land use at a point in time. Auckland Transport notes that there are already some differences in the land use patterns from that proposed in the Drury-Ōpāheke Structure Plan and what is being progressed through the current private plan changes, some of which have been approved and may shortly be operative.</p> <p>Notwithstanding this, the outcomes of the Drury Ōpāheke Structure Plan are generally provided for in the ULDM condition. The condition has been drafted in a manner that ensures the detailed design of the Projects will respond to the land use present or planned at the time the Projects are being implemented, which Auckland Transport considers to be an appropriate response. If, upon implementation of the Project, the planned land use (including open space and riparian networks) reflects the outcomes of the Drury Ōpāheke Structure Plan, then the same outcomes will be achieved.</p> <p><b>Reject additions made to Condition 9 (c)</b> to include reference to the landscape and visual mitigation measures detailed in Mr Bentley's evidence.</p> <p>As Mr Bentley confirmed in evidence these measures were already covered in the ULDM conditions<sup>4</sup>. Contrary to the Commissioners apparent understanding, Ms Skidmore for the Council also confirmed that the scope of the conditions around the preparation of an ULDM is suitable and provides a sufficient framework to enable relevant matters and the detailed recommendations set out in both the Urban Design Framework and Landscape Assessment<sup>5</sup>. Auckland Transport does not therefore consider any further conditions are necessary</p>
All	10 <sup>6</sup>	<p>(a) The ULDM(s) shall include:</p> <ul style="list-style-type: none"> <li>(i) a concept plan which depicts the overall landscape and urban design concept, and explains the rationale for the landscape and urban design proposals;</li> <li>(ii) developed design concepts, including principles for walking and cycling facilities and public transport; and</li> </ul>	

<sup>3</sup> NoRs D3 – D5: Condition 9

<sup>4</sup> NoR D3: Mr Bentley primary evidence at paragraph 18.13  
NoR D4: Mr Bentley primary evidence at paragraph 21.15  
NoR D5: Mr Bentley primary evidence at paragraph 25.17

<sup>5</sup> Auckland Council s42 Addendum (NoR D2 – D5), Appendix 1 Pages. 40-43, Paragraph 7

<sup>6</sup> NoRs D3 – D5: Condition 10

Designation	Condition number	Modifications made by Auckland Transport to conditions recommended by the Hearing Commissioners  (additions to conditions are in bold and <u>underlined</u> and rejections are in bold and <del>strikethrough</del> )	Reason for modification
		<p>(iii) landscape and urban design details that cover the following:</p> <ul style="list-style-type: none"> <li>A. Road design – elements such as intersection form, carriageway gradient and associated earthworks contouring including cut and fill batters and the interface with adjacent land uses, benching, spoil disposal sites, median width and treatment, roadside width and treatment;</li> <li>B. roadside elements – such as lighting, sign gantries and signage, fences, and median barriers;</li> <li>C. architectural and landscape treatment of all major structures, including bridges and retaining walls;</li> <li>D. architectural and landscape treatment of noise barriers;</li> <li>E. landscape treatment of permanent stormwater control wetlands and swales;</li> <li>F. integration of passenger transport;</li> <li>G. pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/ cycle bridges or underpasses; <del>and integration of open space linkages;</del></li> <li>H. historic heritage places with reference to the HHMP in Condition 26<sup>7</sup>; and</li> <li>I. re-instatement of construction and site compound areas, driveways, accessways and fences.</li> </ul>	<p><b>Reject addition to clause (a)(iii)(G)</b> – integration of open spaces is already provided for in Condition 9 (d)(i).</p>
D2	11	<p>(a) The ULDMP(s) shall also include the following planting details and maintenance requirements:</p> <ul style="list-style-type: none"> <li>(i) planting design details including: <ul style="list-style-type: none"> <li>A. identification of existing trees and vegetation that will be retained with reference to the Tree Management Plan in Condition 29. Where practicable, mature trees and native vegetation should be retained;</li> <li>B. street trees, shrubs and ground cover suitable for berms;</li> <li>C. treatment of fill slopes to integrate with adjacent land use, streams, riparian margins and open space zones, <del>including ecological linkages identified in the Drury – Ōpāheke Structure Plan;</del></li> <li>D. planting of stormwater wetlands;</li> <li>E. identification of vegetation to be retained and any planting requirements under Conditions 27 and 28;</li> <li>F. integration of any planting requirements required by conditions of any resource consents for the Project; and</li> <li>G. reinstatement planting of construction and site compound areas as appropriate;</li> </ul> </li> <li>(ii) a planting programme including the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of works in each Stage of Work; and</li> <li>(iii) detailed specifications relating to the following: <ul style="list-style-type: none"> <li>A. weed control and clearance;</li> <li>B. pest animal management (to support plant establishment);</li> <li>C. ground preparation (top soiling and decompaction);</li> <li>D. mulching; and</li> <li>E. plant sourcing and planting, including hydroseeding and grassing, and use of eco-sourced species; <del>and</del></li> </ul> </li> </ul>	<p><b>Reject (a)(i)(C)</b> – Auckland Transport does not consider it necessary to include “ecological linkages identified in the Drury-Ōpāheke Structure Plan or any subsequent plan” as integration with these linkages are covered by reference to streams, riparian margins and open space zones” which are included in the preceding words in the subclause of this condition.</p>

<sup>7</sup> NoRs D3 – D5: Condition 23

Designation	Condition number	Modifications made by Auckland Transport to conditions recommended by the Hearing Commissioners  (additions to conditions are in bold and <u>underlined</u> and rejections are in bold and <del>strikethrough</del> )	Reason for modification
		<p><del>(iv) a maintenance plan in accordance with the Waka Kotahi P39 Standard Specification for Highway Landscape Treatments (2013) or any subsequent updated version.</del></p>	<p>Reject (iv) as the Waka Kotahi P39 Standard is already included in the condition in 9(c)(iv).</p>
D3 and D4	11	<p>(a) The ULDM shall also include the following planting details and maintenance requirements:</p> <ul style="list-style-type: none"> <li>(i) planting design details including: <ul style="list-style-type: none"> <li>A. street trees, shrubs and ground cover suitable for berms;</li> <li>B. where practicable, mature trees and native vegetation should be retained;</li> <li>C. treatment of fill slopes to integrate with adjacent land use, streams, riparian margins and open space zones; <del>including ecological linkages identified in the Drury – Ōpāheke Structure Plan;</del></li> <li>D. planting of stormwater wetlands;</li> <li>E. integration of any planting requirements required by conditions of any resource consents for the project; and</li> <li>F. reinstatement planting of construction and site compound areas as appropriate;</li> </ul> </li> <li>(ii) a planting programme including the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of works in each Stage of Work; and</li> <li>(iii) detailed specifications relating to the following: <ul style="list-style-type: none"> <li>A. weed control and clearance;</li> <li>B. pest animal management (to support plant establishment);</li> <li>C. ground preparation (top soiling and decompaction);</li> <li>D. mulching; and</li> <li>E. plant sourcing and planting, including hydroseeding and grassing, and use of eco-sourced species; <del>and</del></li> </ul> </li> </ul> <p><del>(iv) a maintenance plan in accordance with the Waka Kotahi P39 Standard Specification for Highway Landscape Treatments (2013) or any subsequent updated version.</del></p> <p>(b) Mana Whenua shall be invited to participate in the development of the ULDM(s) to provide input into relevant cultural landscape and design matters including how desired outcomes for management of potential effects on cultural sites, landscapes and values identified and discussed in accordance with Condition 8 may be reflected in the ULDM.</p> <p><b>Advice Note:</b> <i>This designation is for the purpose of construction, operation and maintenance of an arterial transport corridor and it is not for the specific purpose of "road widening". Therefore, it is not intended that the front yard definition in the Auckland Unitary Plan which applies a set back from a designation for road widening purposes applies to this designation. A set back is not required to manage effects between the designation boundary and any proposed adjacent sites or lots.</i></p>	<p>Reject 11(a)(i)(C) – Auckland Transport does not consider it necessary to include “ecological linkages identified in the Drury-Ōpāheke Structure Plan or any subsequent plan” as integration with these linkages are covered by the reference to “streams, riparian margins and open space zones” which are included in the preceding words in the subclause of this condition.</p> <p>Reject (iv) as the Waka Kotahi P39 Standard is already included in the condition in 9(c)(iv).</p>
D5	11	<p>(a) The ULDM shall also include the following planting details and maintenance requirements:</p> <ul style="list-style-type: none"> <li>(i) planting design details including: <ul style="list-style-type: none"> <li>A. Identification of existing trees and vegetation that will be retained with reference to the Tree Management Plan in Condition <del>2524</del>. Where practicable, mature trees and native vegetation should be retained;</li> <li>B. street trees, shrubs and ground cover suitable for berms;</li> </ul> </li> </ul>	



Designation	Condition number	Modifications made by Auckland Transport to conditions recommended by the Hearing Commissioners  (additions to conditions are in bold and <u>underlined</u> and rejections are in bold and <del>strikethrough</del> )	Reason for modification
		<p>C. treatment of fill slopes to integrate with adjacent land use , streams, riparian margins and open space zones; <del>including ecological linkages identified in the Drury – Ōpāheke Structure Plan;</del></p> <p>D. planting of stormwater wetlands;</p> <p>E. integration of any planting requirements required by conditions of any resource consents for the project; and</p> <p>F. reinstatement planting of construction and site compound areas as appropriate;</p> <p>(ii) a planting programme including the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of works in each Stage of Work; and</p> <p>(iii) detailed specifications relating to the following:</p> <p>A. weed control and clearance;</p> <p>B. pest animal management (to support plant establishment);</p> <p>C. ground preparation (top soiling and decompaction);</p> <p>D. mulching; and</p> <p>E. plant sourcing and planting, including hydroseeding and grassing, and use of eco-sourced species; <del>and</del></p> <p><del>(iv) a maintenance plan in accordance with the Waka Kotahi P39 Standard Specification for Highway Landscape Treatments (2013) or any subsequent updated version</del></p> <p>(b) Mana Whenua shall be invited to participate in the development of the ULDMP(s) to provide input into relevant cultural landscape and design matters including how desired outcomes for management of potential effects on cultural sites, landscapes and values identified and discussed in accordance with Condition 8 may be reflected in the ULDMP.</p> <p><b>Advice Note:</b> <i>This designation is for the purpose of construction, operation and maintenance of an arterial transport corridor and it is not for the specific purpose of "road widening". Therefore, it is not intended that the front yard definition in the Auckland Unitary Plan which applies a set back from a designation for road widening purposes applies to this designation. A set back is not required to manage effects between the designation boundary and any proposed adjacent sites or lots.</i></p>	<p><b>Reject (a)(i)(C)</b> – Auckland Transport does not consider it necessary to include “ecological linkages identified in the Drury-Ōpāheke Structure Plan or any subsequent plan” as these linkages are covered by the integration requirements with “streams, riparian margins and open space zones” in the preceding words of that sub-clause of the condition.</p> <p><b>Reject (iv)</b> as the Waka Kotahi P39 Standard is already included in the condition in 9(c)(iv).</p>
All	14 <sup>8</sup>	<p><b>Existing Property Access</b></p> <p>Where <del>the accessibility of a</del> property vehicle accessway, which exists at the time the Outline Plan is submitted, is altered by the project, the requiring authority shall consult with the directly affected landowner regarding the required changes, and the Outline Plan shall demonstrate how safe alternate access will be provided, unless otherwise agreed with the affected landowner.</p>	<p><b>Reject the addition of ‘accessibility’</b></p> <p>The Commissioners noted that the term ‘accessibility’ allows for the consideration of any effects that may result from turning restrictions that are placed on existing property accesses. While consideration of turning restrictions on individual properties has been assessed as part of the Project design, it may not be feasible or safe in every instance to reinstate alternative turning movements upon implementation of the Project.</p> <p>Auckland Transport therefore does not consider the addition of the term ‘accessibility’ is appropriate as there are various definitions of accessibility that typically involve a much broader meaning than what is intended here, which is to manage direct property access effects and the provision of alternate safe access upon implementation of the Project works. The reference to access rather than accessway has been retained for consistency.</p>

<sup>8</sup> NoRs D3 – D5: Condition 13



Designation	Condition number	Modifications made by Auckland Transport to conditions recommended by the Hearing Commissioners  (additions to conditions are in bold and <u>underlined</u> and rejections are in bold and <del>strikethrough</del> )	Reason for modification
All	18 <sup>9</sup>	<p><b>Stakeholder Communication and Engagement Management Plan</b></p> <p>(a) A SCEMP shall be prepared <del>in consultation with the Council at least 6 months</del> prior to the Start of Construction for a Stage of Work.</p> <p>(b) The objective of the SCEMP is to identify how the public and stakeholders (including directly affected and adjacent owners and occupiers of land) will be engaged with throughout the Construction Works. To achieve the objective, the SCEMP shall include:</p> <ul style="list-style-type: none"> <li>(i) the contact details for the Project Liaison Person. These details shall be on the Project website, or equivalent virtual information source, and prominently displayed at the main entrance(s) to the site(s);</li> <li>(ii) the procedures for ensuring that there is a contact person available for the duration of Construction Works, for public enquiries or complaints about the Construction Works;</li> <li>(iii) methods for engaging with Mana Whenua, to be developed in consultation with Mana Whenua;</li> <li>(iv) a list of stakeholders, organisations (such as community facilities), and businesses who will be engaged with;</li> <li>(v) Identification of the properties whose owners will be engaged with;</li> <li><del>(vi) Methods and timing to engage with landowners whose access is directly affected;</del></li> <li><del>(vii) (vi) methods to communicate key project milestones and the proposed hours of construction activities including outside of normal working hours and on weekends and public holidays, to the parties identified in (iv) and (v) above; and</del></li> <li><del>(viii) (vii) linkages and cross-references to communication and engagement methods set out in other conditions and management plans where relevant.</del></li> </ul> <p>(c) Any SCEMP prepared for a Stage of Work shall be submitted to Council for information ten working days prior to the Start of Construction for a Stage of Work.</p> <p><del>(d) The SCEMP shall be reviewed six monthly for the duration of construction and updated if required. Any updated SCEMP shall be provided to the persons referred to in (b) and Auckland Council for review and agreement on any further action to be undertaken. Any further action recommended as a result of this review shall be undertaken by the Project Liaison Person and confirmation of completion provided to Auckland Council. If, in the course of amendments undertaken as part of the review process, a material change to the SCEMP is made, those parties affected by the change shall be notified within 1 month of the material change occurring.</del></p>	<p><b>Reject addition to clause (a) in SCEMP condition</b></p> <p>The Commissioners consider that the preparation of the SCEMP will benefit from Council's broader regulatory view.</p> <p>However, Auckland Transport considers this to be unnecessary where the plan will be prepared by a suitably qualified and experienced person and its project teams are sufficiently experienced in engagement for projects of this nature.</p> <p><b>Reject (b)(vi).</b> The addition by the Commissioners relates specifically to Condition 14 (NoR D2) "Existing Property Access". Under Condition 14, directly affected landowners will be consulted with and the Outline Plan must demonstrate how safe alternate access is provided (unless agreed with the affected landowner). The SCEMP is targeted communication and engagement during Construction Works. Therefore, the engagement with landowners whose access is affected under Condition 14 will be undertaken earlier than the preparation of the SCEMP and better addressed via that process.</p> <p><b>Reject addition of clause (d) in SCEMP condition.</b></p> <p>The SCEMP will be submitted to Council for its information only, which Auckland Transport understands the Council agreed with. The proposed addition of clause (d) sets out a six monthly review and agreement process with Council for material changes. Given the original SCEMP will be provided to Council for its information only, this subsequent variation process is considered to be disproportionate and inefficient.</p>
All	19 <sup>10</sup>	<p><b>Complaints Register</b></p> <p>(a) At all times during Construction Works, a record of any complaints received about the Construction Works shall be maintained. The record shall include:</p> <ul style="list-style-type: none"> <li>(i) the date, time and nature of the complaint;</li> <li>(ii) the name, phone number and address of the complainant (unless the complainant wishes to remain anonymous);</li> <li>(iii) measures taken to respond to the complaint (including a record of the response provided to the complainant) or confirmation of no action if deemed appropriate;</li> <li>(iv) the outcome of the investigation into the complaint; and</li> <li><del>(v) the weather conditions at the time of the complaint (as far as reasonably practicable), including wind direction and approximate wind speed if the complaint relates to air quality or noise and where weather conditions are relevant to the nature of the complaint; and</del></li> </ul>	<p><b>Reject addition of (a)(v)</b> – Condition 17(b)(xi) requires the CEMP to include procedures for responding to complaints about Construction Works. Air quality matters will be dealt with under regional consents.</p>

<sup>9</sup> NoRs D3 – D5: Condition 15

<sup>10</sup> NoRs D3 – D5: Condition 16

Designation	Condition number	Modifications made by Auckland Transport to conditions recommended by the Hearing Commissioners  (additions to conditions are in bold and <u>underlined</u> and rejections are in bold and <del>strikethrough</del> )	Reason for modification
		<p><del>(vi)</del> <b>(v)</b> any other activities in the area, unrelated to the project that may have contributed to the complaint, such as non-project construction, fires, traffic accidents or unusually dusty conditions generally.</p> <p>(b) A copy of the Complaints Register required by this condition shall be made available to the Manager upon request as soon as practicable after the request is made.</p>	
All	22 <sup>11</sup>	<p><b>Construction Noise Standards</b></p> <p>(a) Construction noise shall be measured and assessed in accordance with NZS6803:1999 Acoustics – Construction Noise and shall comply with the noise standards set out in the following table <b><u>as far as practicable</u></b>:</p> <p>...</p>	<p><b>Reject removal of “as far as practicable” in (a).</b></p> <p>There will be times that construction noise cannot meet the noise standards, which is standard practice and why CNVMPs are typically developed. The purpose of this condition is to require compliance with those standards in the first instance, as far as practicable.</p>
All	24 <sup>12</sup>	<p><b>Construction Noise and Vibration Management Plan</b></p> <p>(a) A CNVMP shall be prepared prior to the Start of Construction for a Stage of Work.</p> <p>(b) A CNVMP shall be implemented during the Stage of Work to which it relates.</p> <p>(c) The objective of the CNVMP is to provide a framework for the development and implementation of the Best Practicable Option for <del>preventing or minimising the management of</del> construction noise and vibration effects to achieve the construction noise and vibration standards set out in Conditions 22<sup>13</sup> and 23<sup>14</sup> to the extent practicable. To achieve this objective, the CNVMP shall be prepared in accordance with Annex E2 of the New Zealand Standard NZS6803:1999 ‘Acoustics – Construction Noise’ (NZS6803:1999) and shall as a minimum, address the following:</p> <ul style="list-style-type: none"> <li>(i) description of the works and anticipated equipment/processes;</li> <li>(ii) hours of operation, including times and days when construction activities would occur;</li> <li>(iii) the construction noise and vibration standards for the Project;</li> <li>(iv) identification of receivers where noise and vibration standards apply;</li> <li>(v) a hierarchy of management and mitigation options including <del>prioritising the management of construction activities to any requirements to avoid limit</del> night works and <del>works during</del> other sensitive times, including Sundays and public holidays <b><u>as far as practicable, unless it can be demonstrated that the work cannot practicably be undertaken during the daytime due to safety reasons, unreasonable traffic congestion or traffic delays or similar reasons;</u></b></li> <li>(vi) methods and frequency for monitoring and reporting on construction noise and vibration;</li> <li>(vii) procedures for communication and engagement with nearby residents and stakeholders, including notification of proposed construction activities, the period of construction activities, and management of noise and vibration complaints;</li> <li>(viii) contact details of the project Liaison Person;</li> <li>(ix) procedures for the regular training of the operators of construction equipment to minimise noise and vibration as well as expected construction site behaviours for all workers;</li> <li>(x) identification of areas where compliance with the noise (Condition 22)<sup>15</sup> and/or vibration standards (Condition 23)<sup>16</sup> Category A or Category B) will not be practicable and the specific management controls to be implemented and consultation requirements with owners and occupiers of affected sites;</li> <li>(xi) procedures and requirements for the preparation of a Schedule to the CNVMP (Schedule) for</li> </ul>	<p><b>Reject addition in clause 24(c) and reinstate the original wording</b> – NZS6803 refers to the identification of methods to ‘manage’ construction noise. Auckland Transport considers that the reinstatement of the term ‘management of’ in the condition is appropriate as this is consistent with the standards and with the intention of the CNVMP as set out in NZS6803.</p> <p><b>Reject in part additions made to clause 24(c)(v)</b></p> <p>The Commissioners considered that construction for the Drury Arterial Network is likely to take place in a developed urban environment<sup>22</sup>.</p> <p>However, Auckland Transport notes that the technical assessments have considered the construction of the Projects to occur either ahead of or in parallel to, the urbanisation of the area. The extent of noise sensitive receivers is therefore currently unknown and will depend on project implementation timing.</p> <p>In relation to 24 (c)(v) Auckland Transport notes that the construction noise standards (NoR D2 – Condition 22) already preclude noisy or intensive construction activities on Sunday and public holidays to an appropriate extent through reduced noise levels criteria and working hours on these days. In any event, Auckland Transport has accepted the majority of the Commissioners’ recommendation with some modification for simplicity.</p>

<sup>11</sup> NoRs D3 – D5: Condition 19

<sup>12</sup> NoRs D3 – D5: Condition 21

<sup>13</sup> NoRs D3 – D5: Condition 19

<sup>14</sup> NoRs D3 – D5: Condition 20

<sup>15</sup> NoRs D3 – D5: Condition 19

<sup>16</sup> NoRs D3 – D5: Condition 20

<sup>22</sup> Independent Hearing Commissioners Recommendation Report, pg.45, paragraph 221

Designation	Condition number	Modifications made by Auckland Transport to conditions recommended by the Hearing Commissioners  (additions to conditions are in bold and <u>underlined</u> and rejections are in bold and <del>strikethrough</del> )	Reason for modification
		<p>those areas where compliance with the noise (Condition 22<sup>17</sup>) and/or vibration standards (Condition 23<sup>18</sup> Category B) will not be practicable and where sufficient information is not available at the time of the CNVMP to determine the area specific management controls (Condition 24(c)(x))<sup>19</sup>;</p> <p>(xii) procedures for:</p> <p>A. communicating with affected receivers, where measured or predicted vibration from construction activities exceeds the vibration criteria of Condition 23<sup>20</sup>; and</p> <p>B. assessing, mitigating and monitoring vibration where measured or predicted vibration from construction activities exceeds the Category B vibration criteria of Condition 23<sup>21</sup>, <b><u>including the requirement to undertake building condition surveys before and after works to determine whether any damage has occurred as a result of construction vibration</u></b>; and</p> <p>(xiii) requirements for review and update of the CNVMP.</p>	<p><b>Reinstate deleted text in (c)(xii)(B)</b> – Auckland Transport considers clause (c)(xii)(B) makes it clear how the criteria identified in Condition 23 (NoR D2) should be applied and what measures should be implemented should the construction vibration criteria be exceeded.</p>
All	25 <sup>23</sup>	<p><b>Schedule to a CNVMP</b></p> <p>(a) Unless otherwise provided for in a CNVMP, a Schedule to the CNVMP (Schedule) shall be prepared prior to the start of the construction activity to which it relates by a Suitably Qualified and Experienced Person, in consultation with the owners and occupiers of sites subject to the Schedule, when:</p> <p>(i) construction noise is either predicted or measured to exceed the noise standards in Condition 22<sup>24</sup>, except where the exceedance of the L<sub>Aeq</sub> criteria is no greater than 5 decibels and does not exceed:</p> <p>A. 0630 – 2000: 2 period of up to 2 consecutive weeks in any 2 months; or</p> <p>B. 2000 - 0630: 1 period of up to 2 consecutive nights in any 10 days;</p> <p>(ii) construction vibration is either predicted or measured to exceed the Category B standard at the receivers in Condition 23<sup>25</sup>.</p> <p>(b) The objective of the Schedule is to set out the Best Practicable Option measures <del>for preventing or minimising to manage</del> noise and/or vibration effects for the duration of the construction activity to which it relates beyond those measures set out in the CNVMP. The Schedule shall as a minimum set out:</p> <p>(i) construction activity location, start and finish dates;</p> <p>(ii) the nearest neighbours to the construction activity;</p> <p>(iii) the predicted noise and/or vibration level for all receivers where the levels are predicted or measured to exceed the applicable standards in Condition 25 (a)<sup>26</sup> and predicted duration of the exceedance;</p> <p>(iv) the proposed mitigation options that have been selected, and the options that have been discounted as being impracticable and the reasons why;</p> <p>(v) the consultation undertaken with owners and occupiers of sites subject to the Schedule, and how consultation has and has not been taken into account; and</p>	<p><b>Reject addition in clause 25(b)</b> and reinstate the original wording – NZS6803 refers to the identification of methods to 'manage' construction noise. Auckland Transport considers that the reinstatement of the term 'management' in the condition is appropriate as this is consistent with the standards and with the intention of the CNVMP as set out in NZS6803.</p>

<sup>17</sup> NoRs D3 – D5: Condition 19

<sup>18</sup> NoRs D3 – D5: Condition 20

<sup>19</sup> NoRs D3 – D5: Condition 21(c)(x)

<sup>20</sup> NoRs D3 – D5: Condition 20

<sup>21</sup> NoRs D3 – D5: Condition 20

<sup>23</sup> NoRs D3 – D5: Condition 22

<sup>24</sup> NoRs D3 – D5: Condition 19

<sup>25</sup> NoRs D3 – D5: Condition 20

<sup>26</sup> NoRs D3 – D5: Condition 22(a)

Designation	Condition number	Modifications made by Auckland Transport to conditions recommended by the Hearing Commissioners  (additions to conditions are in bold and <u>underlined</u> and rejections are in bold and <del>strikethrough</del> )	Reason for modification
		<p>(vi) location, times and types of monitoring.</p> <p><del>(c) When construction vibration from a construction activity is either predicted or measured to exceed the Category B standard at the receivers in Condition 19, the construction activity shall not commence until a Suitably Qualified and Experienced Person has undertaken a building condition survey (provided the affected owners and/or occupiers have agreed to such survey). The building condition survey shall as a minimum include, but not limited to, the following:</del></p> <p><del>(i) Determination of building classification: commercial, industrial, residential or a historic or sensitive structure;</del></p> <p><del>(ii) determination of building specific vibration damage risk thresholds; and</del></p> <p><del>(iii) recording (including photographs) the major features of the buildings including location, type, construction (including foundation type), age and present condition, including existing levels of any aesthetic damage or structural damage.</del></p> <p><del>(d) The building condition survey and specific Best Practicable Option measures to prevent and minimise vibration effects for the duration of the construction activity to which it relates beyond those measures set out in the CNVMP shall be added as a Schedule. The Schedule shall be prepared in consultation with the owners and occupiers of buildings subject to the Schedule, and as a minimum, contain the information set out in (b) above and the findings of the building pre-condition survey.</del></p> <p><del>(e) Vibration monitoring shall be undertaken and continue throughout the construction activity covered by the Schedule. Following completion of the activity, a building condition survey shall be undertaken to determine if any damage has occurred as a result of construction vibration, and any such damage shall be repaired by the Requiring Authority.</del></p> <p><del>(f) (c) The Schedule shall be submitted to the Manager for certification at least 5 working days, except in unforeseen circumstances, in advance of Construction Works that are covered by the scope of the Schedule and shall form part of the CNVMP.</del></p> <p><del>(g) (d) Where material changes are made to a Schedule required by this condition, the Requiring Authority shall consult the owners and/or occupiers of sites subject to the Schedule prior to submitting the amended Schedule to the Manager for certification in accordance with (f)(c) above. The amended Schedule shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.</del></p>	<p><b>Reject – additions made in clause 25 (c) – (e).</b></p> <p>These matters are already covered in the CNVMP condition (NoR D2 – Condition 24(c)(xii)) and do not need to be duplicated in a Schedule.</p> <p>Auckland Transport considers that Condition 24(c)(xii) makes it clear how the construction vibration criteria identified in Condition 23 (NoR D2) should be applied and what mitigation measures should be put in place if the construction vibration criteria are to be exceeded.</p>
D2	26	<p><b>Historic Heritage Management Plan</b></p> <p><del>(a) The Requiring Authority shall design and implement the construction, operation and maintenance of the Project to achieve the following historic heritage outcomes:</del></p> <p><del>(i) To deliver positive historic heritage opportunities and outcomes.</del></p> <p><del>(ii) To avoid as far as practicable, adverse effects on historic heritage places.</del></p> <p><del>(iii) Where avoidance of adverse effects cannot be achieved, remedy or mitigate all adverse effects on historic heritage places as far as practicable.</del></p> <p><del>(b) (a) A HHMP shall be prepared by the nominated heritage specialist(s) in consultation with Council, HNZPT and Mana Whenua prior to the Start of Construction for a Stage of Work.</del></p> <p><del>(c) The HHMP shall be prepared with up to date information. This information shall be provided to Council prior to the lodgement of the HHMP to streamline the review process. This includes, but is not limited to:</del></p>	<p><b>Reject in part</b></p> <p>The restructure of the HHMP is inconsistent with the general structure of the management plan conditions across the designation conditions. As the HHMP has been merged with the original condition proposed by Auckland Transport, the HHMP is now overly prescriptive for a route protection designation and in many instances is repetitive and long.</p> <p>Importantly, the HHMP is required to be prepared in consultation with Council (along with HNZPT and Mana Whenua). The Council will be able to input into the HHMP before it is submitted with the Outline Plan. Council will have another opportunity to provide comment on the Outline Plan. Therefore, Auckland Transport considers the prescriptive nature of the Council's recommended condition (which the Commissioners have largely adopted) is not appropriate or necessary.</p> <p>Specific reasons for the modifications are below: It is not necessary to specify a "nominated heritage specialist" in (b). The overall "management plan" condition (NoR D2 – Condition 7) sets out that all management plans are to be prepared by a Suitably</p>

[Pages 11- 21 omitted]

Designation	Condition number	Modifications made by Auckland Transport to conditions recommended by the Hearing Commissioners  (additions to conditions are in bold and <u>underlined</u> and rejections are in bold and <del>strikethrough</del> )	Reason for modification
		<p><u>The Noise Mitigation Plan shall include confirmation that consultation has been undertaken with affected property owners for site specific design requirements and the implementation programme. For the avoidance of doubt, the low noise road surfacing implemented in accordance with Condition 25 may be (or be part of) the traffic noise mitigation.</u></p> <p><b><u>(d) The traffic noise mitigation shall be implemented prior to completion of construction of the project, with the exception of any low-noise road surfaces, which shall be implemented within twelve months of completion of construction.</u></b></p> <p><b><u>(e) The Category B levels at the PPFs listed in Condition 26(a)(i) – (iv) and shown in Schedule 2 do not need to be complied with where:</u></b></p> <ul style="list-style-type: none"> <li><b><u>(i) the PPF no longer exists; or</u></b></li> <li><b><u>(ii) agreement of the landowner has been obtained confirming that the Category B level does not need to be met.</u></b></li> </ul> <p><b><u>(f) The traffic noise mitigation shall be maintained to retain noise reduction performance as far as practicable.</u></b></p>	

Yours sincerely



Jane Small  
Group Manager PMO, Strategic Programmes & Property

[Pages 23 - 82 omitted]



## Attachments

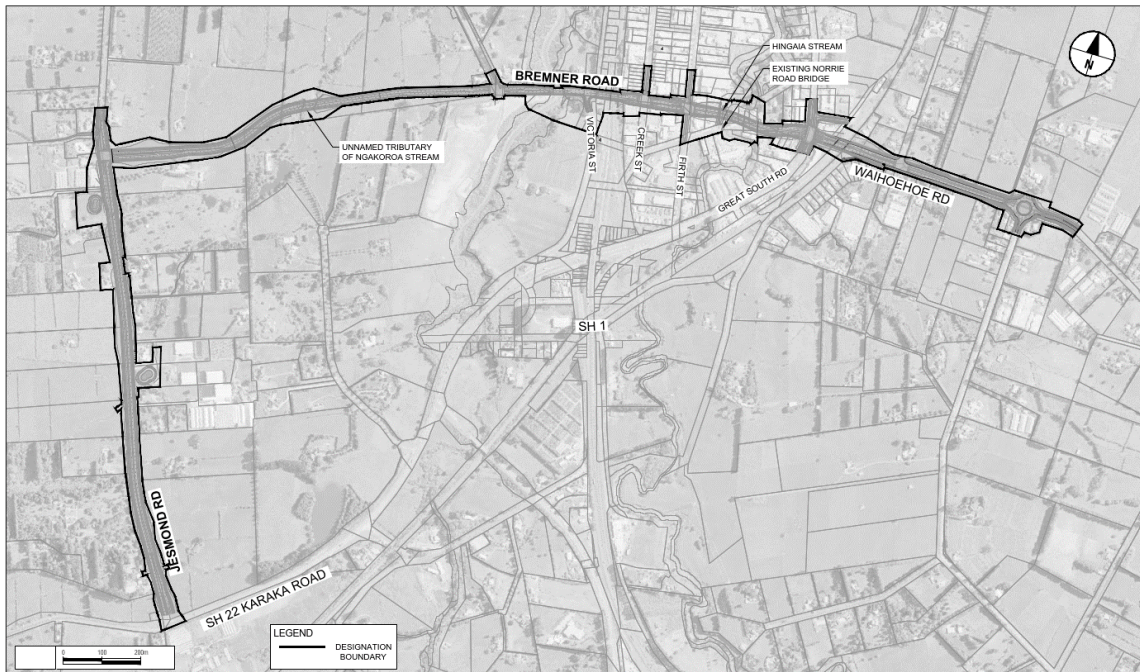
### Schedule 1: General Accordance Plans and Information

#### Project Description

The proposed work is the construction, operation and maintenance of an arterial transport corridor in Drury from Jesmond Road (from State Highway 22) to Waihoehoe Road east of Fitzgerald Road including active transport facilities and associated infrastructure. The proposed work is shown in the following Concept Plan and includes:

- (a) An upgraded and new transport corridor with four lanes, including public transport and active transport facilities;
- (b) Associated works including intersections, bridges, embankments, retaining, culverts, stormwater management systems and realignment of Tui Street;
- (c) Changes to local roads, where the proposed work intersects with local roads; and
- (d) Construction activities, including vegetation removal, construction compounds, lay down areas, bridge works area, construction traffic management and the re-grade of driveways.

#### Concept Plan





[Pages 84 - 234 omitted]

**Attachment 3**

**A list of names and addresses of persons to be served  
with a copy of this notice**

Name	Email
Auckland Transport	Vanessa Evitt, Buddle Findlay, PO Box 1433, Auckland 1140, New Zealand. <a href="mailto:Vanessa.Evitt@buddlefindlay.com">Vanessa.Evitt@buddlefindlay.com</a>
Auckland Council	Auckland Council, Manager Regulatory Litigation, Legal and Risk, Private Bag 92300, Auckland 1142 <a href="mailto:unitaryplan@aucklandcouncil.govt.nz">unitaryplan@aucklandcouncil.govt.nz</a> ; <a href="mailto:christian.brown@aucklandcouncil.govt.nz">christian.brown@aucklandcouncil.govt.nz</a>
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Fletcher Residential Limited	Jeremy@brabant.co.nz
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