

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

## Proposal

Notices of Requirement sought by the Supporting Growth Alliance (**SGA**) on behalf of Waka Kotahi NZ Transport Agency and Auckland Transport (jointly the **RAs**) sought for the route protection of the Airport to Botany Rapid Transit project, in the following locations:

- Botany to Rongomai Park (NoR1) (Auckland Transport)
- Rongomai Park to Puhinui Station, in the vicinity of Plunket Avenue (NoR2) (Auckland Transport)
- Puhinui Station, in the vicinity of Plunket Avenue to the SH20/SH20B Interchange (NoR3) (Auckland Transport)
- SH20/SH20B Interchange to Orrs Road (NoR4a) (Auckland Transport)
- The intersection of Manukau Memorial Gardens (NoR4b) (alteration to Designation 6717 – Waka Kotahi NZ Transport Agency).

These Notice of Requirements recommended to be CONFIRMED subject to conditions. The reasons are set out below.

<b>Site address:</b>	As described above
<b>Requiring Authority / RA:</b>	The Supporting Growth Alliance (SGA) on behalf of Waka Kotahi NZ Transport Agency and Auckland Transport
<b>Hearing commenced:</b>	Monday 21 August 2023 at 9.30am
<b>Hearing panel:</b>	David Wren Alan Pattle Basil Morrison
<b>Appearances:</b>	<b><u>For the Requiring Authorities:</u></b> Jennifer Caldwell - Legal submissions Renata Smit – Corporate (Auckland Transport) Natalie Summerfield – Legal Counsel Evan Keating – Corporate (Waka Kotahi NZ Transport Agency) Himani Bhatia-Mitha – Mana whenua partnerships Patrick Buckley – Alternatives Andrew Murray – Transport (Strategic) Ida Dowling – Transport (Operational) Rob Mason - Engineering Theresa Walsh - Engagement Julie Boucher – Social Impact

Mark van der Ham – Property  
Arden Cruickshank – Archaeology  
John Brown – Built Heritage  
Matt Paul – Arboriculture  
Kate Feickert – Ecology  
Stuart Bowden – Urban Design  
Tom Lines – Landscape and Visual  
Rob Greenaway – Open Space and Recreation  
Siri Wilkening – Noise  
Roger Seyb – Flooding  
Adam Jellie – Planning

**Local Boards**

Otara Papatoetoe Local Board represented by Apulu  
Reece Autagavia  
Howick Local Board represented by Damian Light

**For the Submitters:**

**Thursday 24 August:**

Te Akitai Waiohua Waka Taua Trust represented by Karen  
Wilson

Watercare Services Limited represented by Tim Barry  
Renaissance Apartments Body Corporate 316863  
represented by Asher Davidson (Legal Counsel), Peter  
Canham & Colin Shields (Transport Engineer)

Auckland University of Technology represented by Asher  
Davidson (Legal Counsel), David Curry & Justine Bray  
(Planning)

JOLT Charge (New Zealand) Limited represented by Mark  
Arbuthnot

Meleane Latu (MS-Teams)

Ganpat Patel

Fa'ana Campbell

SPG Manukau Limited represented by Andrew Baggins  
(Legal Counsel), David Haines (Planning), Reeve Barnett  
(MS-Teams) and Tim Arnott (MS-Teams)

**Monday 28 August:**

Howard Property represented by Ali Guise

Vanessa Phillips

Van Den Brink Group and A.M.Self Ltd represented by  
Matthew Husband (Planning), Emma Bayly (Planning) and  
Michael Sheridan (Van Den Brink)

John Hansford

	<p>Business East Tamaki, Business Manukau &amp; Wiri Business Association represented by Grant Hewison (MS-Teams)</p> <p>Alan James Steele represented by Jeremy Brabant</p> <p>Chalmers Properties Ltd represented by Jeremy Brabant (Legal counsel) and Rebecca Sanders (Planning) (MS-Teams)</p> <p>New Zealand Storage Holdings Limited represented by Craig McGarr</p> <p>Wendy Jane Rodger</p> <p><b>Tuesday 29 August:</b></p> <p>Simran Krishna</p> <p>Heather Haylock</p> <p>Shane Haylock</p> <p>Ministry of Education represented by Gemma Hayes</p> <p>TIM Nominees Limited and The Saint Johns College Trust Board represented by Clare Covington (Planning), Ian Campbell (Public Works Specialist) &amp; Felicity Berry (Property Manager)</p> <p>Quadrant Properties Ltd represented by Ila Daniels</p> <p><b>Wednesday 30 August:</b></p> <p>BPG Developments Ltd represented by Douglas Allan &amp; Cordelia Woodhouse (Legal) &amp; John Parlane (Traffic Engineer)</p> <p>Altrend Properties Ltd &amp; Ormiston Centre Ltd represented by Russell Bartlett (Legal Counsel), Hamish Firth (Mt Hobson Group), Bronwyn Rhynd (Planning) &amp; Michael Hall (Engineer)</p> <p><b>Thursday 31 August:</b></p> <p>Centuria Funds Management (NZ) Ltd &amp; Bunnings Ltd represented by Daniel Minhinnick (Legal), Harry Hanham (Corporate – Centuria), Hus Narsai (Bunnings), Mark Arbuthnot (Planning) &amp; Don McKenzie (Transport)</p> <p>PSPCIB/CPPIB Waiheke Inc &amp; Auckland Body Corporate Ltd represented by Daniel Minhinnick (Legal), Kirat Narayan (Corporate), Mark Arbuthnot (Planning) &amp; Don McKenzie (Transport)</p> <p>Woolworths New Zealand Limited (General Distributors Ltd) represented by Allison Arthur-Young (Legal), Ross Burns (Corporate) and Don McKenzie (Transport)</p> <p>Harvey Norman Properties (NZ) Limited and Harvey Norman Stores Pty (NZ) Limited represented by David</p>
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Haines with Doug Murray as witness (HN National Development & Asset Manager NZ)

Z Energy Ltd represented Stephanie de Groot & Olivia Manning (Legal Counsel, Matthew Brennan (Corporate), Philip Brown (Traffic), Sarah Westoby (Planning))

**Monday 4 September:**

Wiri Oil Services Ltd (WOSL) represented by Rob Enright (Legal Counsel), David King (Corporate), Georgina McPherson (Planning)

Mitre 10 Holdings Limited represented by David Gell (Corporate) (MS-Teams), Mike Doesburg (Legal Counsel) and Paul Arnesen (Planning)

Kiwirail Holdings Limited represented by Pam Butler  
Street Properties Ltd represented by Paul Street and Mark Street

Heritage New Zealand Pouhere Taonga represented by Robin Byron (Senior Conservation Architect) and Alice Morris (Mid-Northern Planner)

Kāinga Ora – Homes and Communities represented by Aidan Cameron (Legal Counsel), Brendon Liggett (Corporate), Michael Campbell & Jono Payne (Planning), Rhys Hegley (Noise) and Phil Jaggard (Flooding)

Auckland International Airport Ltd represented by Andrea Marshall (Corporate) & Allison Arthur-Young (Legal)

**Tuesday 5 September:**

SPG Manukau Limited represented by Andrew Baggins (Legal Counsel) and David Haines (Planning)

**Tabled Statements**

P Thambirajah & T Paskaranandavadivel

Kamlesh Rana & 33 Signatories

Telecommunications Submitters

Tunicin Investments Limited and Airface Limited

Daniel Shaw – Kindercare Learning Centres Limited

Daniel Shaw – Newell Management Limited

Don McKenzie - Newell Management Limited

Michael Clark – East Tamaki Investments and Beale Partnership

National Mini Storage

**For Council:**

Trevor Mackie, Planner (consultant)

James Hendra, Parks Specialist

	Andrew Temperley, Traffic Engineer (consultant) Jon Styles, Noise Consultant (consultant) Robert Quigley, Social Impact Specialist (consultant) Lisa Mein, Urban Designer (consultant) Myfanwy Eaves, Senior Specialist Historic Heritage Archaeology Marc Dendale, Team Leader (MS-Teams) Bevan Donovan, Hearings Advisor
<b>Hearing adjourned</b>	Tuesday, 5 September 2023
<b>Commissioners' site visit</b>	Monday 14 August 2023 and 17 October 2023
<b>Hearing Closed:</b>	24 October 2023

## INTRODUCTION

1. Pursuant to section 168 of the Resource Management Act 1991 (the Act), the Supporting Growth Alliance (**SGA**) on behalf of Waka Kotahi NZ Transport Agency and Auckland Transport, as the Requiring Authorities (**RAs**), gave notice to the Council of a requirement for four new designations and for the alteration to existing Designation 6717 together as part of the proposed Airport to Botany Bus Rapid Transit project.
2. At the request of the Requiring Authorities, the notices of requirement (**NoRs**) were publicly notified on 10 March 2023. Submissions closed on 11 April 2023. 200 submissions were received over the 5 NoRs. Several late submissions were also received, and these have been accepted by the Commissioners prior to the start of the hearing.
3. The NoRs were referred to Commissioners for a hearing and recommendation. The hearing took place on Monday 21, Tuesday 22, Wednesday 23, Thursday 24, Monday 28, Tuesday 29, Wednesday 30, Thursday, 31 August, Monday 4 and Tuesday 5 September 2023. There were appearances at the hearing by submitters.
4. This recommendation assesses the NoRs under section 171 of the Act. This report addresses the issues raised in the submissions and contains our recommendation to the RA under section 171(2) of the Act.

## THE AIRPORT TO BOTANY BUSWAY

5. The overall Airport to Botany Bus Rapid Transit (BRT) Project is proposed to provide an 18km dedicated BRT corridor together with walking and cycling facilities. Auckland Transport and Waka Kotahi are seeking to authorise a 14.9 km portion of the overall Project which extends from the south of Botany Town Centre to Orrs Road. The remainder of the overall Project will be delivered separately by:
  - **Auckland Airport** – BRT corridor and walking and cycling facilities between Orrs Road and the Airport including a bridge across Pūkaki Creek; and

- The **Eastern Busway Alliance** – Botany Station.
6. The Project has been divided into 5 Notices of Requirement (NoR) as follows.
- NoR1 – Botany Town Centre to Rongomai Park
  - NoR2 – Rongomai Park to Puhinui Station, in the vicinity of Plunket Avenue
  - NoR3 – Puhinui Station, in the vicinity of Plunket Avenue to SH20/20B Interchange
  - NoRs 4a and 4b – SH20/20B Interchange to Orrs Road
7. The Project primarily involves the upgrade and widening of existing transport corridors to provide a dedicated BRT corridor together with walking and cycling facilities. Nine BRT stations are proposed at the following locations.
- Smales Road;
  - Accent Drive;
  - Ormiston Road – Botany Junction Shopping Centre;
  - Dawson Road;
  - Diorella Drive;
  - Ronwood Avenue (Manukau Central);
  - Manukau Station;
  - Puhinui Road/Lambie Drive; and
  - Puhinui Station.
8. Two new major structures proposed include a BRT bridge crossing the North Island Main Trunk Line at Puhinui Station and a south bound ramp from SH20B to SH20. Upgrades to existing structures are proposed at a bridge over the Otara Creek (NoR1), bridge over SH1 (NoR2), bridge over NIMRT (NoR3) and a bridge over the Waokauri Creek (NoR4a).
9. The NoRs have been applied for on the basis of being for “Route Protection”. The RAs’ opening submission notes that;
- “Funding for the detailed design, construction and operational phases of the Project has not yet been allocated and may not be allocated for a number of years....*
- The NoRs have been prepared on the basis of a concept level of design sufficient to inform designation footprint, boundaries and an envelope of effects assessment. ....”<sup>1</sup>*
10. The key features of each NoR are;
- NoR1 – Botany to Rongomai Park*

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<sup>1</sup> RA’s opening submissions paras 1.3 and 1.4

11. NoR1 runs from near the Botany Town Centre along Te Irirangi Drive to Rongomai Park. In this section of the busway the BRT is proposed to run along the centre of the corridor with new bicycle and pedestrian paths along both sides of the road. Two lanes of vehicular traffic in each direction will generally be provided. The NoR includes the widening of Te Irirangi Drive, partially or fully onto properties along the length of the road. The Smales Road, Accent Drive and Ormiston Road stations are located within this NoR.

*NoR2 – Rongomai Park to Puhinui Station in the vicinity of Plunket Avenue.*

12. NoR2 runs from Rongomai Park through the Manukau business area and along Puhinui Road to Plunket Avenue. In this section of the busway the BRT is proposed to run along the centre of the corridor along Te Irirangi Drive, Great South Road, Ronwood Avenue, Manukau Station Road, Lambie Drive and Puhinui Road. The BRT is proposed to run along the western side of Davies Avenue.
13. Two general traffic lanes in each direction are proposed to be provided along Te Irirangi Drive, Great South Road, Ronwood Avenue, Manukau Station Road and Lambie Drive. Davies Avenue will have a single one-way lane for general traffic while Puhinui Road will have one lane in each direction.
14. Stations proposed (or existing) in NoR2 include Dawson Road, Diorella Drive, Ronwood Avenue, Manukau Station and at the corner of Lambie Drive and Puhinui Road.

*NoR3 – Puhinui Station in the vicinity of Plunket Avenue to SH20/SH20B Interchange.*

15. NoR3 runs along Puhinui Road from Plunket Avenue to the SH20/SH20B interchange. In this section of the busway the BRT is proposed to run along the centre of the corridor. One lane in each direction is provided for general traffic. There is one station provided in this stretch at Puhinui Station.
16. A new BRT bridge is proposed to be provided at Puhinui Station with general traffic lanes and the bicycle and pedestrian lanes using a modified Bridge Street structure.

*NoRs 4a and 4b – SH20/SH20B Interchange to Orrs Road.*

17. NoR4 runs along Puhinui Road from the Puhinui Station to Orrs Road. The BRT is proposed to run along the centre of the road through to the Manukau Memorial Gardens intersection which is approximately 600m west of the SH20/SH20B interchange. The remainder of the BRT runs along the southern side of Puhinui Road to Orrs Road. In this western part of the NoR4 the bicycle and pedestrian lanes are proposed to be located only on the south side of the road. Two lanes for general traffic in each direction are proposed in this NoR.
18. In addition to the BRT NoR4a proposes a new south bound ramp from SH20B onto SH20.

### *Lapse Date*

19. The RAs propose a 15-year lapse date for the Auckland Transport NoRs 1 to 4a, and no lapse date for the Waka Kotahi NZ Transport Agency Alteration to Designation 6717 (NoR4b).

## **THE EXISTING ENVIRONMENT**

20. Sections 7.1 to 7.4 of the AEE provided by the RAs set out the existing environment for the NoRs. The AEE also states that consideration of the environment as it exists today will not be a true reflection of the environment in which the corridor will operate. Accordingly, the RAs have also set out the likely future receiving environment for the project in section 7.5 of the AEE. Briefly, these can be summarised as follows.

### *NoR1 – Botany to Rongomai Park*

21. The land uses in this area consist mainly of residential uses together with some commercial, educational and retirement facilities. Rongomai Park is used for both sports and active recreation and informal recreation.
22. In this area the Project crosses the Otara Creek and 4 archaeological site, and one associated historic heritage extent of place is located within 200m of the Project.

### *NoR2 – Rongomai Park to Puhinui Station in the vicinity of Plunket Avenue.*

23. The land use along Te Irirangi Drive is low density residential through to SH1. Local shops, services, and educational facilities are located in the vicinity of Dawson Road.
24. Manukau Central transitions into a commercial and retail environment which serves as a major economic centre and employment node. Hayman Park is used for informal recreation and is fronted by Manukau Station and Manukau Institute of Technology (**MIT**).
25. The land use between Ihaka Place and Puhinui Station is low-density residential with local shops and services throughout the area on Puhinui Road adjacent to Ranfurly Road. Puhinui School is located on Puhinui Road. Puhinui Domain is used for informal recreation.
26. This part of the Project is located close to the Puhinui Stream. A notable tree is located outside 9 Cavendish Drive and a Milepost marker was located outside 656 Great South Road.

### *NoR3 – Puhinui Station in the vicinity of Plunket Avenue to SH20/SH20B Interchange.*

27. The land use is low-density residential to the north of Puhinui Road. Larger industrial sites are to the south of Puhinui Road, with some neighbourhood and



local commercial activities throughout. Cambria House is zoned for community use.

28. Two Notable Trees are identified including a flowering gum on the corner of Puhinui Road and Vision Place and a Magnolia adjoining the Cambria House site at 250 Puhinui Road. Cambria House is identified as a Historic Heritage place.

*NoRs 4a and 4b – SH20/SH20B Interchange to Orrs Road.*

29. The current land use is predominantly rural, however land south of SH20B is zoned for light industry and the land use is changing to industrial activity in this area.

30. This area also includes the Manukau Memorial Gardens. There are riparian margins adjoining the tributaries of the Waokauri Creek and Pūkaki Creek. The area is also subject to several existing designations within the AUP including;

- Designation 6717 State Highway 20B - State Highway 20 to Auckland International Airport (Waka Kotahi)(NoR4b is an Alteration to this designation);
- Designation 6709 South Western Motorway State Highway 20 (Waka Kotahi);
- Designation 1100 Auckland International Airport (Auckland International Airport Limited);
- Designation 9529 Southwestern Interceptor Line (Watercare Services Ltd);
- Designation 6501 Petroleum Pipeline – Urban Section (New Zealand Refining Company Ltd);
- Designation 9700 Wiri to Auckland International Airport Jet Fuel Pipeline (Wiri Oil Services Ltd); and
- Designation 607 Manukau Memorial Gardens (Auckland Council).

## **SUBMISSIONS AND EVIDENCE**

31. The NoRs were publicly notified by the Auckland Council (“**Council**”) at the RA’s request on 10 March 2023. Submissions closed on 11 April 2023. A total of 200 submissions were received. Several late submissions were also received and have been accepted, either by Council staff acting under delegated authority or by the Commissioners prior to the hearing. Several submissions identified in the Council’s s42A report lodged against NoRs which were not the ones intended by the submitters. These submissions have been considered against the intended NoR.

32. The main issues raised in the submissions include;

- Extent of the designation needing to be justified
- Need for the BRT Project
- Further information required
- Property value and land acquisition, and compensation

- Social impact of displacement of families and communities
- Consultation and engagement
- Business effects on access to businesses, loss of small businesses, disruption to businesses
- Traffic effects of roading changes, intersections and parking
- Access to and from properties and within complex sites
- Project scope not to include walkways and cycleways
- Construction noise and vibration effects
- Other construction effects, e.g. dust, air pollution, water pollution
- Operational traffic and road noise and vibration effects
- Visual impact
- Loss of trees
- Flood and climate change effect risk exacerbated by increased impervious surface area and loss of trees
- Urban design effects on frontages, street trees, retaining walls preferred over batter slopes, design of the BRT alignment.
- Compromised activities – operation of sites disrupted or unviable due to construction effects or design of works.
- Alternatives – Alternative routes, route through commercial not residential areas, alternatives to BRT
- Historic heritage effects on sites, notable trees, archaeology
- Community facilities and Parks effects
- Zoning future changes and intensification, and the use of surplus designated land
- Infrastructure effects
- Lapse period uncertainty
- Authority of AT to undertake the works.
- Indirect costs including third party resource consents and variations to consent conditions.

33. Six submissions were lodged in support of the NoRs.

## Procedural matters

34. This recommendation covers all 5 NoRs. The hearing heard from the RAs on all 5 NoRs and from submitters in respect of all NoRs. Some submitters submitted on all 5 NoRS while others were confined to one or more identified NoRs. This recommendation report discusses all NoRs, but the recommendations are made for each NoR.
35. There is no time frame set out in the RMA for the delivery of our recommendation. However, we have endeavoured to deliver this in a reasonable time.

## Relevant statutory provisions considered.

36. Both AT and Waka Kotahi are Requiring Authorities in terms of s166 of the Act. Pursuant to section 168 of the RMA, the requiring authorities (RA) lodged NoRs for designations in the AUP:OP for public works, being the route protection of the Airport to Botany Rapid Transit project, in the following locations:
- Botany to Rongomai Park (NoR1) (Auckland Transport)
  - Rongomai Park to Puhinui Station, in the vicinity of Plunket Avenue (NoR2) (Auckland Transport)
  - Puhinui Station, in the vicinity of Plunket Avenue to the SH20/SH20B Interchange (NoR3) (Auckland Transport)
  - SH20/SH20B Interchange to Orrs Road (NoR4a) (Auckland Transport)
  - The intersection of Manukau Memorial Gardens (NoR4b (alteration to Designation 6717 – Waka Kotahi NZ Transport Agency).
37. Section 171 of the Act sets out the matters to which a territorial authority must have regard when considering a requirement and any submissions received, and in making its recommendations to the requiring authority.
38. Section 171(1) requires:
- (1) *When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to -*
    - (a) *any relevant provisions of -*
      - (i) *a national policy statement:*
      - (ii) *a New Zealand coastal policy statement:*
      - (iii) *a regional policy statement or proposed regional policy statement:*
      - (iv) *a plan or proposed plan; and*
    - (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if –*
      - (i) *the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
      - (ii) *it is likely that the work will have a significant adverse effect on the environment; and*

- (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
- (d) *any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*

### **Relevant Policy Standards and Plans considered**

39. In accordance with section 171(1)(a)(i)-(iv) of the RMA, we have had regard to the relevant policy statements and plan provisions of the following documents.
- National Policy Statement on Urban Development (“NPS-UD”)
  - National Policy Statement on Freshwater Management (“NPS-FM”)
  - New Zealand Coastal Policy Statement 2010 (“NZCPS”)
  - National Policy Statement – Electricity Transmission
  - National Environment Standard for Freshwater
  - National Environment Standard Assessing and Managing Contaminants in Soil to Protect Human Health
  - AUP:OP - Regional Policy Statement
  - AUP:OP – District Plan provisions
40. We also considered the following “other matters” to be relevant and reasonably necessary to determine the application in accordance with section 171(1)(d) of the RMA:
- Distinct from the legal concept of the existing environment, growth in south and south-east Auckland and the associated predicted future traffic and built environment.

### **Hearing**

41. A report and recommendation on the NoRs were prepared by Council officers and is referred to hereafter as the “s42A report”. This report, along with the Council’s various specialist assessments, was circulated prior to the hearing and taken as read. The evidence presented at the hearing responded to the issues and concerns identified in the Council’s report, the NoRs themselves and the submissions made on the NoRs. Expert evidence on behalf of all parties who appeared was also circulated prior to the hearing and again was taken as read.
42. The hearing for the NoRs together was conducted at the Papatoetoe Cosmopolitan Club by three Independent Hearing Commissioners, David Wren, Basil Morrison and Alan Pattle who were appointed and act under delegated authority from the Council under sections 34 and 34A of the RMA.

## Submitters

43. The following submitters tabled written statements;

- P Thambirajah & T Paskaranandavadivel
- Kamlesh Rana & 33 Signatories
- Telecommunications Submitters
- Tunicin Investments Limited and Airface Limited
- Daniel Shaw – Kindercare Learning Centres Limited
- Daniel Shaw – Newell Management Limited
- Don McKenzie - Newell Management Limited
- Michael Clark – East Tamaki Investments and Beale Partnership
- National Mini Storage
- Z Energy Ltd (following the hearing).

44. The following submitters presented at the hearing.

### **Thursday 24 August:**

- Te Akitai Waiohua Waka Taua Trust
- Watercare Services Limited
- Renaissance Apartments Body Corporate 316863
- Auckland University of Technology
- JOLT Charge (New Zealand) Limited
- Meleane Latu
- Ganpat Patel
- Fa'ana Campbell
- SPG Manukau Limited

### **Monday 28 August:**

- Howard Property
- Vanessa Phillips
- Van Den Brink Group and A.M.Self Ltd
- John Hansford
- Business East Tamaki, Business Manukau & Wiri Business Association
- Alan James Steele
- Chalmers Properties Ltd
- New Zealand Storage Holdings Limited
- Wendy Jane Rodger

### **Tuesday 29 August:**

- Simran Krishna
- Heather Haylock
- Shane Haylock
- Ministry of Education

- TIM Nominees Limited and The Saint Johns College Trust Board
- Quadrant Properties Ltd

**Wednesday 30 August:**

- BPG Developments Ltd
- Altrend Properties Ltd & Ormiston Centre Ltd

**Thursday 31 August:**

- Centuria Funds Management (NZ) Ltd & Bunnings Ltd
- PSPCIB/CPPIB Waiheke Inc & Auckland Body Corporate Ltd
- Woolworths New Zealand Limited (General Distributors Ltd)
- Harvey Norman Properties (NZ) Limited and Harvey Norman Stores Pty (NZ) Limited
- Z Energy Ltd

**Monday 4 September:**

- Wiri Oil Services Ltd (WOSL)
- Mitre 10 Holdings Limited
- Kiwirail Holdings Limited
- Street Properties Ltd
- Heritage New Zealand Pouhere Taonga
- Kāinga Ora – Homes and Communities
- Auckland International Airport Ltd

**Tuesday 5 September:**

- SPG Manukau Limited

**Local Board Comments**

45. Comments on the NoRs were received from the Ōtara-Papatoetoe Local Board and from the Howick Local Board.
46. The Ōtara-Papatoetoe Local Board supports the improved public transport being provided by the project and the reduction in emissions in accordance with Te Tāruke-ā-Tāwhiri: Auckland's Climate Plan. Specific concerns can be summarised as follows:
  - Consider local plans such as the Manukau Sports Bowl masterplan, the Local Paths (Greenways) Plan and the Play Network Gap Analysis.
  - Concern about the impact on local parks including Hayman Park, Rongomai Park and Puhinui Domain.
  - Identified local feedback concerns around impact on property, stormwater ponds, pedestrian access to schools, access to open spaces and access to parks for groups and clubs.

- Access to the Manukau Memorial Garden
  - Alternative locations for stormwater ponds in Manukau Sports Bowl
  - Future proofing of local neighbourhoods and catchments affected.
47. The Ōtara-Papatoetoe Local Board Chair, Apulu Reece Autagavaia presented at the hearing.
48. The Howick Local Board supports the project in principle as a key transport infrastructure project providing links through to the Airport. Specific concerns can be summarised as follows:
- acknowledge the feedback from the community.
  - note with concern the impact on:
    - i. loss of trees along the corridor including the slip lanes
    - ii. loss of berms
    - iii. access for residents
  - encourage exploration of options for reducing impact on existing infrastructure
  - note with concern about the long timeframe from the Notice of Requirement through designation through to completion
  - request that trees lost are replaced like for like and wherever possible retain trees and / or relocate them to another site in close proximity and explore other options including sale or distribution
  - suggest that barriers are provided to protect people who walk and cycle along the residential properties in the area
  - request that the planners explore the use of Chapel Road as the key walking and cycling infrastructure to support the changes in Te Irirangi Drive.
49. The Howick Local Board Chair, Damian Light presented at the hearing.
50. The hearing panel have taken the views of the Ōtara-Papatoetoe Local Board and the Howick Local Board into consideration.

### **Summary of legal submissions and evidence heard.**

51. We set out below a summary of the legal submissions and evidence heard.
52. The evidence presented at the hearing responded to the issues raised and concerns identified in the Council officer's section 42A report, the applications, and the submissions made on the applications.

### Section 42A Report

53. The Council s42A reporting planner for the Applications was Trevor Mackie. The s42A report assessed the NoRs in terms of the relevant statutory requirements, responded to the submissions, and assessed the environmental effects, with input from a number of technical experts. The section 42A report was pre-circulated.

54. The s42A report recommended that the notices of requirement be confirmed following a reduction in their physical extents, subject to the amended and additional conditions which were set out in Appendix 5 to the report. The notable changes recommended to the RAs' conditions are as follows:
- A requirement to review the extent of the designation and identify areas no longer required within 12 months of the lodgement of the outline plan of works (Condition 3)
  - Amending the lapse date from 15 years to 10 years (Condition 4)
  - A requirement that a preference for retaining walls to replace batters at the edge of the designation should be investigated in the OPW to minimise impacts on adjacent land (Condition 8)
  - A requirement for a Development Response Management Plan (Condition 8 and 12).
  - Amendments to various management plans
  - Amendments to the flooding conditions
  - Amendments to the noise conditions.
55. Having heard all the evidence Mr Mackie provided his response supported by the Council specialists. While Mr Mackie accepted a number of the changes to conditions proposed through the hearing several matters remained outstanding in his view.

#### Requiring Authorities

#### *Legal Submissions*

56. The RAs provided detailed legal submissions. At the hearing Ms Summerfield addressed us on the documents provided at the hearing and matters relating to arboriculture effects, archaeological effects, the AUT site, the Cambria House site and NoRs 4a and 4b. Ms Caldwell addressed us on all other matters.
57. The legal submissions introduced the Applications as follows:<sup>2</sup>

*The designations sought by these notices of requirement will enable the construction of a dedicated Bus Rapid Transport corridor, supported by high quality walking and cycling facilities and stations along the entire length of the route. A high capacity, frequent and reliable BRT service will significantly improve connectivity between the major centres of Botany, where it will link to the Eastern Busway corridor, Manukau Central and Auckland Airport. The Project will utilise existing transport hubs at the Puhinui and Manukau stations.*

*Funding for the detailed design, construction and operational phases of the Project has not yet been allocated and may not be allocated for a number of years, given competing demands for transport infrastructure investment. However, the Resource Management Act provides an opportunity now to achieve protection of the BRT corridor in the Auckland Unitary Plan, so that*

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<sup>2</sup> Paras 1.2 and 1.3 of the RAs' opening legal submissions.



*when funding decisions are made, those phases can commence without further delay.*

58. The legal submissions addressed (among other matters)

- The project overview
- The statutory role of the requiring authorities
- The implications of a route protection approach
- Statutory assessment framework and analysis
- The effects on the environment
- Project wide issues raised by submitters
- NoR specific issues
- Responses to matters in the section 42A report
- Statutory analysis
- Introduction of witnesses.

59. The evidence presented by the RAs' is summarised below.

*Corporate*

60. Two witnesses provided corporate evidence. Ms Renata Smit presented evidence on behalf of AT and Mr Evan Keating provided evidence on behalf of Waka Kotahi NZ Transport Agency.
61. Ms Smit holds the position of Auckland Transport Owner Interface Manager for Te Tupu Ngātahi Supporting Growth Alliance (**Te Tupu Ngātahi**). Ms Smit's evidence explained the role and responsibilities of Auckland Transport, including in relation to the Te Tupu Ngātahi Supporting Growth programme, and outlined the strategic need for the Project as documented in the current regional strategic documents. The evidence also provided an overview of the route protection approach taken to the Project and discussed the implications of that approach in respect of construction timing, lapse dates and property acquisition under the Public Works Act process.
62. Ms Smit also set out the objectives for the AT NoRs (i.e. NoRs 1-4a)
63. Mr Keating is a Principal Planner for Waka Kotahi and is the Waka Kotahi Consent Owner Interface Manager for the Airport to Botany Bus Rapid Transit Project. Mr Keating explained the roles and responsibilities of Waka Kotahi in respect of the project. Mr Keating also set out the Objective of NoR4b (Alteration to Designation 6717) for which Waka Kotahi has responsibility.

### *Mana whenua partnership*

64. Himani Bhatia-Mitha is a senior planner employed by Beca Limited. Ms Bhatia-Mitha's evidence set out the process that was developed with Mana whenua to ensure that their aspirations were appropriately considered through the development of the Notices of Requirement (**NoRs**) for the Project. The evidence also provided an overview of the engagement that has been undertaken with mana whenua in relation to the NoRs for the Project and described how this has informed key decisions in the pre-lodgement phase of the Project, including the proposed designation conditions.

### *Options Assessment*

65. Mr Patrick Buckley is the Team Leader – Consent Planning at Auckland Transport. Mr Buckley led the assessment of alternatives processes for the Project and provided a summary of the alternatives process undertaken for the project in his evidence.
66. Mr Buckley described the processes used for evaluating the options for the Project. The alternatives assessed include a long list of 28 potential route and mode alternatives. This list was reduced to a short list of 5 route options before the preferred option was arrived at.
67. Mr Buckley also discussed options for the Puhinui Station rapid transit bridge, the preferred mode, the placement of the busway within the corridor, the side of the road on which widening would occur, the location of stations, active mode assessment including at Puhinui Station, and options for SH20B section. Mr Buckley also discussed alternative methods evaluated.

### *Transportation Planning*

68. Andrew Murray is a technical director and technical fellow within Beca's Transport Advisory division in Auckland. Mr Murray provided strategic transport evidence.
69. Mr Murray advised that the project proposed to address both existing transportation issues as well as support significant growth along the rapid transit corridor. The Project is also designed to integrate with other existing and planned rapid transit systems.
70. Mr Murray advised that he had also considered issues raised by submitters in relation to station location, the need for a BRT system and/or walking facilities, an alternative alignment and requested design service standards. He addressed these issues in his evidence, and remained of the opinion that he supported the Project.
71. Ida Dowling is a Principal Transportation consultant at Commute Transportation. Ms Dowling's evidence described and assessed the transport effects of the five Notices of Requirement (NoRs).
72. Ms Dowling considered that transport effects of the Project will be appropriately mitigated through the proposed NoR conditions. As the majority of the Project

works will likely be adjacent to the existing road corridor, temporary traffic management measures will be required, which is reflected in the proposed NoR conditions. Ms Dowling recommended that a Construction Traffic Management Plan (**CTMP**) is prepared prior to construction to address uncertainties in timing and the specific land use activities that may exist along the corridor at the time of construction.

73. Ms Dowling's evidence also addressed matters raised in the s42A report and by submitters.

#### *Engineering Design*

74. Robert Mason is a Senior Technical Director of the Transport Advisory Business at Beca Limited. Mr Mason's evidence described the engineering design of the Project and the process for the development of that preliminary design.
75. Mr Mason advised that the concept design for the busway was developed in line with a range of geometric design standards. However specific design details of utility works will be undertaken at the detailed design stage.
76. Mr Mason also advised that he disagreed with the recommendation from Mr Mackie that the Project be redesigned at the Notice of Requirement (**NoR**) stage to reduce the extent of land required for batter slopes at the edges of the NoRs by more general use of retaining walls. Mr Mason also responded to submitters' concerns in respect of the level of design detail provided, the extent of the designation boundary and specific NoR design issues.

#### *Project Engagement*

77. Theresa Walsh is an independent community engagement and planning specialist. Ms Walsh's evidence outlined the programme-wide approach to engagement, and how engagement was undertaken for the purposes of preparing Notices of Requirement (**NoRs**) for the Project.

#### *Social Impact*

78. Julie Boucher is the Principal Social Sustainability and Planning Consultant at Just Add Lime. Ms Boucher's evidence assessed the social impact of the project.
79. Ms Boucher identified that there would be both positive and negative social impacts experienced whether the Project proceeds or not. Ms Boucher recommended a number of strategies to manage potential social impacts, with some best included within organisational policy and procedures and some in conditions. The recommendations include, amongst other things, the development of a Community and Stakeholder Engagement Strategy which has informed the development of the proposed Stakeholder Community and Engagement Management Plan and a Development Response Management Plan condition.

### *Property Acquisition*

80. Mark van der Ham is the Principal Property Specialist at Auckland Transport. The evidence from Mr van der Ham provided a high-level summary of the property acquisition process that applies under the Public Works Act 1981.
81. Mr van der Ham addressed a number of submitter concerns in respect of property acquisition. Mr van der Ham opined that all of the submitter concerns are able to be addressed as part of the PWA acquisition and compensation process, as outlined in his evidence.

### *Archaeology and Heritage*

82. Arden Cruickshank is a Senior Archaeologist at CFC Heritage. Mr Cruickshank provided evidence on the archaeological effects of the Project.
83. Mr Cruickshank advised that the Project's proposed designation boundary has avoided all known archaeological sites, with the exception of site R111973 which is located in the Notice of Requirement 1 (**NoR1**) vicinity. However, this site was not able to be relocated and it is unknown if this site has been destroyed during development in the area. Mr Cruickshank also recommended that in order to mitigate any adverse construction effects on any unidentified archaeological or historic heritage sites a Historic Heritage Management Plan (**HHMP**) is prepared prior to the start of works.
84. Mr Cruickshank also addressed the concerns of the Council specialist report from Ms Eaves and the submissions made by Heritage New Zealand Pouhere Taonga (**HNZPT**). Mr Cruickshank advised that he disagreed with the changes to conditions sought.
85. John Brown is a director of Plan Heritage Ltd. Mr Brown's evidence focuses on built heritage matters in relation to the five NoRs and provides a description and assessment of effects as they relate to built heritage the Project.
86. Mr Brown advised that there are no identified sites of built heritage significance in NoRs 1, 2, 4a and 4b. NoR3 includes historic heritage sites at Cambria House, the former Gardener's Cottage and the Memorial Plaque.
87. Mr Brown considers that the Project has no significant adverse effects on these built heritage places. While there would be potential for temporary construction effects, these are likely to be limited to nuisance effects associated with dust, noise and visual obstruction, which are typically associated with construction activities. Once the Project is operational, there would not be any ongoing adverse effects on built heritage values.
88. Mr Brown's evidence also responded to matters raised in the s42A report and the HNZPT submission.

### *Arboriculture*

89. Matthew Paul is an arboricultural consultant employed by Peers Brown Miller Ltd. Mr Paul's evidence provided a summary of the key points from the Arboricultural Assessment which formed part of the Assessment of Effects on the Environment for the Project.
90. Mr Paul noted that a total of 1,117 individual trees and 33,044 m<sup>2</sup> of vegetation is proposed for removal as part of the Project. The evidence considered that overall, the effects on trees protected by the District Plan level provisions will be adequately mitigated or remediated by replacement planting within the corridor or on adjacent land.
91. Mr Paul also responded to matters raised in the s42A report and by submitters.

### *Ecology*

92. Kate Feickert is a Senior Ecologist at Biosearches (Babbage Consultants Limited). Ms Feickert's evidence highlights the key points from the Ecological Impact Assessment (**EclIA**) report, which formed part of the Assessment of Effects on the Environment for the Project.
93. Ms Feickert advised that the assessment considered the potential ecological effects of the Project on ecological features relating to district plan matters contained in the Auckland Unitary Plan Operative in Part (**AUP:OP**) as those are the potential effects that will be authorised by the designations sought. Any necessary regional plan consents and/or consents under the National Environmental Standards for Freshwater (**NES-F**) will be sought at a later date for the Project, with any potential effects or required mitigation on such matters assessed fully at that time, as values may change. However, potential ecological effects of the Project activities on ecological features likely requiring regional or NES resource consents and/or wildlife permits at a later stage of the Project have also been considered in the assessment to the extent necessary to inform the proposed designation boundaries for the Project. The EclIA report has identified potential effects to lizards as a matter to be addressed in the future consenting stage along with the need to comply with the Wildlife Act 1953.

### *Urban Design and Landscape and Visual Effects*

94. Stuart Bowden is a Principal Urban Design and Landscape Architecture at Beca. Mr Bowden's evidence outlined the urban design evaluation methodology and highlights the key points from the Urban Design Evaluation (**UDE**), which formed part of the Assessment of Effects on the Environment for Project.
95. The UDE provided an examination of the urban design considerations and inputs as well as an evaluation and identification of future transport and land use integration opportunities for the Project. It contains an evaluation section for each Notice of Requirement (**NoR**) which was prepared based on the guidance and principles established in the programme wide document – Te Tupu Ngātahi Design Framework (**Design Framework**). The evidence outlined the core urban design

recommendations from the UDE and identifies where they have been addressed in the proposed Urban and Landscape Design Management Plan (**ULDMP**) condition (or elsewhere).

96. Thomas Lines is a Landscape Architect and Senior Principal at Boffa Miskell. Mr Lines' evidence outlined the landscape character and values of the five Notices of Requirement and provided a description of the corridor subject to the assessment of the temporary and permanent landscape and visual effects for the Project.
97. Overall Mr Lines considered that the effects during construction will typically be more elevated in relation to tree removal and adverse visual effects for residential viewing audiences which abut the corridor. Following the implementation of mitigation measures and completion of the Project, permanent landscape and visual effects will reduce. In relation to the matters raised in the Council Section 42A report and submissions, Mr Lines advised that design resolutions of adjacent property interfaces with the Project, appearances of above ground structures and tree planting will be further resolved closer to the time of construction through detailed design phases together with the provision of a comprehensive ULDMP.

#### *Recreation Facilities*

98. Robert Greenaway is a consultant recreation and tourism planner specialising in recreation planning and effects assessment for large scale infrastructure projects. Mr Greenaway's evidence reviewed the effects of NoR1 and NoR2 on ten areas of public space.
99. Mr Greenaway advised that the proposed CTMP will need to address the potential for interruption of access to all identified recreation areas accessed and used by the public. Additionally, the proposed ULDMP will need to have particular regard for the redevelopment of the Manukau Sports Bowl, Hayman Park and, particularly considering the redevelopment options for Davies Avenue; and Puhinui Domain. Effects on users of Rongomai Park and the Manukau Sports Bowl will need to be addressed in an ongoing manner – prior to and during construction – via the proposed Stakeholder Communication and Engagement Plan.
100. Mr Greenaway did not consider that it is necessary to undertake an assessment of open space function and facilities at the time of construction as recommended in the Section 42A report. Rather, impacts on parks and open spaces could be appropriately provided for through the proposed designation conditions, in particular the Construction Traffic Management Plan and the Stakeholder Communication and Engagement Management Plan.

#### *Acoustics*

101. Siiri Wilkening is an experienced acoustician at Marshall Day Acoustics Limited. Ms Wilkening provided evidence on the construction noise and vibration and traffic noise effects of the Project.
102. In respect of construction noise and vibration Ms Wilkening advised that she considers that the construction effects will generally be reasonable for most

activities and can be managed and mitigated through the Construction Noise and Vibration Management Plan (CNVMP). In respect of operational traffic noise Ms Wilkening predicted that the change in noise level will be minimal due to traffic itself, but that removal of the first row of houses will result in significant noise level changes to the houses behind. Conditions would address this for the worst affected properties. Ms Wilkening considered that should new housing be built adjacent to the project prior to construction, their design should take into account the existing and predicted noise environment.

103. Ms Wilkening also commented on a number of submissions and the s42A report.

*Flooding*

104. Roger Seyb is a Senior Technical Director; Water Resources at Beca Limited. Mr Seyb provided evidence on stormwater and flooding matters.

105. Mr Seyb advised that the general approach has been to adopt the existing road geometry as the basis for the future design geometry. As such, the Project will minimise potential flooding effects on neighbouring properties. A condition with flood outcomes or performance standards is proposed so that changes in flooding effects are no more than minor. Areas required for future stormwater management are identified and provide for the integrated approach to be progressed as part of the future design.

106. Mr Seyb advised that the flood hazard condition, with proposed amendments, specifies the flood outcomes that will need to be achieved and is an appropriate means of controlling effects so that they are no more than minor.

107. *Planning Effects and Conditions*

108. Adam Jellie is a Senior Associate – Planning at Beca Limited and is the lead planner for the project. Mr Jellie's evidence provided an overview of the assessment of effects of the Project and the proposed conditions to manage those effects, and a response to matters raised in submissions and the s24A report.

109. Mr Jellie summarised the environmental effects of the Project and concluded that the Project had sought to avoid adverse effects through the consideration of alternatives, there were significant positive effects and that the conditions proposed will ensure that the adverse effects of the Project will be appropriately managed.

110. Mr Jellie considered that adequate consideration of alternative sites, routes and methods has been undertaken in accordance with s171(1)(b) of the RMA.

111. Mr Jellie also considered that the work and designation are reasonably necessary for achieving the objectives under s171(1)(c) of the RMA and that the Project achieves the purpose and principles of the RMA.

## Submitters

### Te Ākitai Waiohua Waka Trust

*Karen Wilson*

112. Ms Wilson is a member of the Te Ākitai Waiohua Waka Taua incorporated society and Chair of Te Ākitai Waiohua Iwi Authority. Ms Wilson's evidence related to all 5 NoRs.
113. Ms Wilson advised that Te Ākitai Waiohua does not object to the Project but seeks protection of its culturally significant sites and that these have been identified through the cultural heritage assessment undertaken by Te Ākitai Waiohua. Te Ākitai Waiohua also seeks involvement in decision making and the retention of condition 5 of the NoRs that recognises Te Ākitai Waiohua as a partner on the Project.
114. In response to questions from the hearing panel, Ms Wilson advised that she did not support the changes to condition 5 recommended in the s42A report.

### Watercare Services Ltd

*Tim Barry*

115. Mr Barry is the Infrastructure Interface Manager at Watercare Services Limited. Mr Barry's evidence related to all 5 NoRs.
116. Mr Barry advised that Watercare seeks to ensure that the requiring authorities engage with Watercare throughout the progression of the Project and that the engagement occurs early and that the Project does not impact on Watercare's ability to service their customers. Watercare sought the inclusion of conditions to ensure its concerns were met.

### Renaissance Apartments Body Corporate 316863

*Asher Davidson*

117. Ms Davidson outlined the Body Corporate's concerns about the effect of the NoR2 on access to the property at 18 Ronwood Avenue. The submission acknowledged that some of the concerns have been met by rebuttal evidence from the RAs but noted that concerns remained in respect of access during construction, confirmation of the 1.3m intrusion and the impact of the removal of pedestrian access.

*Peter Carnham*

118. Peter Carnham is a member of the Renaissance Apartments Body Corporate Committee. Mr Carnham gave evidence, described the apartment complex and outlined the concerns of the Body Corporate about the effects of road widening on the apartment property and access to the property.



*Colin Shields*

119. Colin Shields is a Senior Principal Transport Planner at Tonkin and Taylor Ltd. Mr Shields' evidence concluded that the impact of the Proposal on vehicular access to the Renaissance property will be significantly adverse and will result in the removal of access to 247 car parking spaces.
120. Mr Shields however did agree that if the encroachment could be limited to 1.3m as set out in the evidence of the RAs suitable vehicular access could be achieved.

Auckland University of Technology (AUT).

*Asher Davidson*

121. Ms Davidson provided legal submissions on behalf of AUT in respect of NoR2 and its site located at 640 Great South Road which is located on the corner of Great South Road and Te Irirangi Drive.
122. Ms Davidson said that AUT generally supports the NoR but that significant issues in respect of the impact of the NoR on the Southern Campus site remain. Ms Davidson discussed the law regarding the layering of designation and that as AUT has an existing designation the RAs will require AUT's approval for any works. Ms Davidson also discussed the effects of the proposal and the reasonable necessity for the Proposal in respect of the AUT site and a preference for a 10-year lapse period.

*David Curry*

123. Mr Curry is the Group Director Estates Operations at AUT. Mr Curry provided background on the AUT South Campus, the expected impact of NoR2 on the South Campus and AUT's attempts to get agreement with the RAs.

*Justine Bray*

124. Ms Bray is a Technical Principal – Planning at WSP New Zealand Limited. Ms Bray's evidence addressed the South Campus designation and conditions, the statutory framework, construction effects, operational effects and a summary.
125. Ms Bray's evidence sought additional conditions to address the effects of the Project and identified areas where additional information was requested to more fully understand the potential effects. Ms Bray considered that a 10-year lapse period is appropriate for the designation and also recommended new conditions which acknowledge the Minister of Education as the earlier designation holder in order to address concerns about the primacy of the existing designation on the site.

Jolt Charge (New Zealand) Limited

*Mark Arbuthnot*

126. Mr Arbuthnot is a qualified planning consultant and a Director of Bentley and Co Limited. Mr Arbuthnot's evidence related to NoR2 and the impact of the NoR on a JOLT charging station located at 63 Lambie Drive.
127. Mr Arbuthnot recommended that a condition be included on NoR2 such that the relocation of JOLT's freestanding advertising unit forms part of the works. A suitable condition of consent is also required that enables JOLT to approve the relocation of the sign and be a party to the associated process to achieve this.

Ganpat Patel

128. Mr Patel owns the dairy at 165 Puhinui Road. The dairy is located within a group of shops at 151-169 Puhinui Road known locally as the Ranfurly shops. Mr Patel is concerned that the Project will adversely affect his business if the car parking currently located on the road outside the shops is removed for the Project.

Fa'ana Campbell

129. Ms Campbell owns a property at 148A Puhinui Road. Her property is located down a long driveway and while her house will not be subject to the NoR; she is concerned about the health, safety and privacy impacts of the Project as her house will become a front house located close to the new road edge.
130. Ms Campbell is also concerned about the impact of the Project on her neighbours and others in Puhinui Road who will be impacted and may have to move. Ms Campbell identified adverse social effects and did not consider that people in Puhinui Road would benefit from the Project.

SPG Manukau Limited (SPG)

*Andrew Braggins*

131. Mr Braggins presented legal submissions on behalf of SPG in respect of NoR2. SPG owns 67 Cavendish Drive which is located at the north-western corner of the Cavendish Drive / Lambie Drive intersection, Manukau Central. That site houses a retail complex.
132. Mr Braggins submitted that the NoR should not be confirmed because it is inconsistent with the AUP and that there is a lack of information upon which to assess the adverse effects, particularly in regard to construction effects. Mr Braggins considered that the Project will generate significant adverse effects. Additionally, Mr Braggins submitted that the RAs have not undertaken an adequate consideration of alternatives in light of the route protection purpose of the Project. The submissions also considered that the Project is not necessary to achieve the objectives of the RAs and that the RAs have failed to correctly assess the future environment.

*David Haines*

133. Mr Haines is an experienced planning consultant. Mr Haines' evidence assessed that the NoR does not demonstrate how the Project's significant adverse effects will be avoided, remedied or mitigated. He was particularly concerned that a more comprehensive assessment of alternatives had not been undertaken and suggested two additional alternatives for the Lambie Drive portion of the Project. The evidence also stated that the RA had failed to integrate the Project with the established pattern of uses within Manukau Central and along Lambie Drive and that planning blight would occur in this area.
134. Mr Haines also presented supplementary evidence regarding information he had sought from the RAs.

135. *Reeve Barnett*

136. Mr Barnett is a director of Brixton Management Limited which manages SPG properties. Mr Barnett explained the proposal to implement a fast-food business for which it has resource consent and other plans for the site. Mr Barnett explained the effects of the Proposal on plans for the site and particularly the importance of car parking on the site and this would be affected by the Project. Mr Barnett considered that it does not make financial sense for the RAs to require land to establish batter slopes.

*Timothy Arnott*

137. Mr Arnott is a registered valuer with 26 years' experience in valuation and advisory services. Mr Arnott's evidence assessed the change in value of the SPG site as a result of the Project and advised that relatively small reductions in the NoR footprint could reduce the assessed losses if they allowed the fast-food project to proceed.

Melanie Latu

138. Ms Latu owns a property at 47 Te Irirangi Drive. Ms Latu is concerned about the taking of land and is concerned about lack of notification of the NoR. Ms Latu expressed concern about the works going ahead soon and is currently finding out more information about the Project.

Howard Property Ltd

*Alison Guise*

139. Ms Guise is a director of Howard Property Limited (HPL). HPL owns a property at 4 Beale Place which is occupied by Botany Toyota. 4 Beale Place has a frontage to Te Irirangi Drive and is affected by NoR1.
140. Ms Guise explained that she supported NoR1 in principle subject to a reduction in the extent of the designation to avoid encroachment upon the dual frontages of the property and supported the changes recommended conditions 3,4,7,8,11,12, and 18 as set out in the s42A report.

Vanessa Phillips

141. Ms Phillips who lives in Wando Lane provided a PowerPoint display that set out her concerns with NoR1. Ms Phillips supports a dedicated BRT corridor centre running along Te Irirangi Drive but opposes the improved walking and cycling facilities alongside. Ms Phillips is opposed to the removal of trees required for the NoR as these create good canopy cover and reduce flooding risk to nearby residents. Ms Phillips suggested that the Chapel Road would be a preferred option for the proposed walking and cycling investment,

Van der Brink 652 Limited and A.M. Self Limited.

*Matthew Husband*

142. Mr Husband is a planning consultant from CivilPlan Consultants Limited. Mr Husband provided evidence on behalf of Van der Brink Limited which is the owner of the site at 654 Great South Road and 5 Te Irirangi Road and A.M. Self Limited which are the owner of the adjoining site at 652 Great South Road. These adjoining sites are occupied by a Countdown Supermarket and other buildings and a Caltex service station.
143. Mr Husband's evidence was that extra measures should be included within the management plan conditions to ensure the engagement of stakeholders during the design of the Project and that access routes for customers and deliveries are maintained with minimal disruption during and after construction. Mr Husband provided a number of changes to recommended conditions and noted that he supported the changes to conditions proposed in the s42A report.

John Hansford

144. Mr Hansford owns and lives at the property at 138 Puhinui Road.
145. Mr Hansford explained that he was opposed to the Project and wished to remain living in his property. Mr Hansford also identified a number of issues with access to and along Puhinui Road which will result from the centre running BRT and the restrictions this would place on access and turning from side roads. Mr Hansford considered that a better option is to extend Cavendish Drive rather than using Puhinui Road.

Business East Tamaki (NoR1), Business Manukau (NoR2) & Wiri Business Association (NoR3)

*Grant Hewison*

146. Mr Hewison spoke to the submissions of the three business associations. While the associations remain neutral about the Project they are concerned about the effects of the construction of the project on businesses. Mr Hewison advised that he supports the proposed conditions, especially the Development Response Plan conditions recommended by the RAs.

New Zealand Storage Holdings Limited (NZSHL).

*Craig McGarr*

147. Mr McGarr is a planning consultant and director of Bentley and Co Limited. Mr McGarr gave evidence on behalf New Zealand Storage Holdings Limited in respect of NoR4a. NZSHL own the site at 402 and 408 Puhinui Road.
148. Mr McGarr explained that NZSHL is specifically concerned with the extent of the proposed designation over its land, the inconsistent depth of the proposed designation and existing AUP standards and the retention of access to the NZSHL site due to the Project. Mr McGarr also supported a 10-year lapse period for the designation.
149. In his summary statement Mr McGarr advised that no discussion have been had with the RAs to resolve the extent of the designation issue and also suggested amendments to the access condition that would meet his concerns.

Alan Steele (Note Commissioner Wren took no part in respect of this submission)

*Jeremy Brabant*

150. Mr Brabant provided legal submissions on behalf of Mr Steele. Mr Steele who as a director and shareholder in Blackbridge Nurseries Limited which operates a nursery at 436 Puhinui Road.
151. Mr Brabant advised that the key issue for Blackbridge is that suitable access should be maintained to the Blackbridge nursery and that this could be achieved by extending the centre running of the BRT further to the west. Mr Brabant further explained that Blackbridge needs continued Prices Road access until an appropriate alternative is provided. Mr Brabant submitted that a condition is needed to ensure the Project does not landlock the Prices Road and Puhinui Road properties.

*Alan Steele*

152. Mr Steele spoke briefly to his evidence concerning his desire to have the BRT travel down the centre of the road to the west of the Blackbridge site.

Chalmers Properties Limited (CPL)

*Jeremy Brabant*

153. Mr Brabant provided legal submissions on behalf of CPL. CPL owns a 1.6085ha site at 1 and 5 Ronwood Avenue (known as the Ronwood Centre). Mr Brabant advised that CPL is generally supportive of the Project, but it opposes the extent of the designation boundary as the areas of land proposed to be designated are much greater than required for the Project. CPL seeks that the proposed designation boundaries be reduced as soon as possible.

*Rebecca Sanders*

154. Ms Sanders is an experienced planning consultant and Senior Associate planner at Barker and Associated Limited. Ms Sanders' summary evidence was prepared as Mr Norwell who provided written evidence in chief was unable to attend the hearing.
155. Ms Sanders advised that she supported the s42A report's recommended condition 3a with some amendments to ensure that a review of the designation boundary occurred as soon as practicable.

Wendy Rodger

156. Ms Rodger owns a property at 22 Cambridge Terrace. She advised that she is interested in selling her property in the near future and would like the RAs to purchase the property from her early rather than waiting up to 15 years for the project to commence.

Simran Krishna

157. Ms Krishna's family own a property in Puhinui Road. Ms Krishna outlined the attachments that people in her neighbourhood have to the neighbourhood and explained the disruption to the neighbourhood and people that the NoR had created.
158. Ms Krishna also noted that in her experience the existing buses running along Puhinui Rod were often empty. In Ms Krishna's view, the use of existing infrastructure should be increased before new infrastructure is provided, and the future growth of the city should not take place at the cost of smaller communities.

Heather Haylock

159. Ms Haylock spoke to a power point presentation and provided a summary statement of evidence. Ms Haylock and her husband have lived in Puhinui Road for many years, and she spoke of the connection she and her neighbours have with the neighbourhood and the effects that the proposal will have on the community.
160. Ms Haylock was critical of the engagement process undertaken by the RAs and the difficulty for many of the people in her community to effectively participate in the submission and hearing process.
161. Ms Haylock considers that other options for the route which avoided much of the Puhinui Road area could have been chosen for the Project and was critical of the lack of access to the BRT that people who lived in Puhinui Road would have compared with the current bus network in the area. Ms Haylock also talked of the uncertainty that the Project has brought to the neighbourhood and the stress that this has on people and their families.

Shane Haylock

162. Mr Haylock lives in Puhinui Road. Mr Haylock considers that the problem that the Project is trying to solve has not been well defined, the costs and benefits are not clear, the purchase of land under the Public Works Act seems inequitable and unfair and the engagement process with the public has been inadequate.

Ministry of Education

*Gemma Hayes*

163. Ms Hayes is a Principal Planning Advisor – Natural and Built Environments at the Ministry for Education.
164. Ms Hayes advised that the Ministry is concerned about the effects of construction vehicles on the safety of school students on their way to and from schools along the route of the NoRs. Ms Hayes recommended that condition 19(b)(iii) as recommended by the RAs in respect of this matter be amended to give clearer direction on which hours must be adhered to near schools. Ms Hayes provided an alternative wording.

TIM Nominees Limited and The Saint Johns College Trust Board (TIM and SJCTB).

*Clare Covington*

165. Ms Covington is the Planning Manager – Auckland at Harrison Grierson. Ms Covington's evidence on behalf of TIM and SJCTB addressed the request to reduce the extent of the designation at 439 East Tamaki Road to avoid the effects this has on the current and future operations of that site.
166. Ms Covington advised that the NoR would cut off an approximately 5m wide strip from the side of the site fronting Te Irirangi Drive. Ms Covington considered that the NoR should be amended through a review of the design involving retaining walls, if even required, or an amended road cross section where this can avoid the requirement to take land at 439 East Tamaki Road. In addition, the NoR should be kept to only the area required for construction rather than extending over additional land causing an ongoing blight on the future operations of the property. Ms Covington also supported a 10-year lapse date.

*Ian Campbell*

167. Mr Campbell is a director of Public Works Advisory Limited and assists landowners and occupants affected by Public Works.
168. Mr Campbell advised that the AT landowner guide does not adequately disclose the full range of relief available under the Public Works Act and recommended that the latest version of the LINZ Guide for Landowners be used instead. Mr Campbell also recommended that the RA offer a clear and transparent process for relief available to all affected landowners when their land has been designated and

provide a means of immediate land acquisition due to hardship, health, or other prevailing circumstances.

#### Quadrant Properties

##### *Ila Daniels*

169. Ms Daniels is a principal planner at Campbell Brown Planning Limited. Ms Daniels' evidence relates to a number of properties that Quadrant Properties own along the route but concentrates on 307 Puhinui Road. Ms Daniel's evidence assessed the width of the designation and flooding effects from the Project.
170. Overall Ms Daniels supports the Project subject to a reduction in designation width adjacent to 307 Puhinui Road by the use of retaining walls and the changes to conditions 3, 8, 11, 12, 13 and 14 outlined in the s42A report.

#### BPG Developments Limited (BPG)

##### *Douglas Allan*

171. Mr Allan presented legal submissions on behalf of BPG which manages properties at Botany Junction (277 Te Irirangi Drive and 123 Ormiston Road), Botany South (308 Te Irirangi Drive) and Cavendish Corner (613-615 Great South Road).
172. Mr Allan identified that BPG's submissions seek to ensure that there will be no long-term effects on access to BPG's sites, that adverse effects on the operation of BPG's sites are avoided or minimised, there will be no adverse effects on car parking and that existing signage is kept in its current location or relocated to a suitable location by the RAs. Mr Allan requested specific conditions (or amendments to proposed conditions) to address these concerns.
173. Mr Allan also commented on the need to provide conditions to enable people to easily sell their properties to the RAs ahead of the implementation of the Project as a result of the long lapse period.

##### *John Parlane*

174. Mr Parlane is an experienced Traffic Engineer. Mr Parlane's evidence addressed the traffic and transportation issues related to the sites managed by BPG as identified by Mr Allan.
175. Mr Parlane advised that the frontage of each of the properties listed are located within the proposed designation boundaries. If the designations are confirmed in their current form, this may alter access to, or parking within, the sites. Mr Parlane identified a number of ambiguities in the NoR plans in respect of access. Mr Parlane recommended that conditions be included in the designations to ensure the existing accesses are maintained and to ensure that Bishop Lenihan Lane and Botany Lane are rebuilt to accepted standards. Mr Parlane also recommended that a further condition be included to ensure that advertising signs at the sites are either kept in their current locations or relocated at the expense of the Requiring Authority.



Ormiston Centre Limited (OCL)

*Russell Bartlett*

176. Mr Bartlett provided legal submissions on behalf of Ormiston Centre Limited. OCL's site is vacant and is subject to the NoR along its entire frontage. Mr Bartlett's submission expressed concern about the uncertainty of having a route protection designation, the extent of which could be amended over a long lapse period. Mr Bartlett said that the holding costs for the route protection belong with the RAs.
177. Mr Bartlett tabled evidence from James Kirkpatrick jnr (corporate) and Hamish Firth (planning). Both Mr Kirkpatrick and Mr Firth made brief verbal statements. Mr Kirkpatrick said that the company needed certainty and that the designation lapse period should be 5 years maximum and that the site will be developed within 15 years and that certainty was needed now.

Altrend Properties Limited (Altrend)

*Russell Bartlett*

178. Mr Bartlett provided legal submission on behalf of Altrend. The Altrend land has frontage to the State Highway portion of the Project corridor.
179. Mr Bartlett submitted that the proposed corridor in respect of his client's land is wider than what is likely to be required for purely roading purposes largely due to the presence of a stormwater swale. Mr Bartlett submitted that there is no evidence that the swale is reasonably necessary to achieve the objectives of the requiring authority. Mr Bartlett also recommended a 5-year lapse period for the Project.
180. Mr Bartlett tabled evidence from Michael Hall (transportation), Bronwyn Rhynd (stormwater), James Kirkpatrick jnr (corporate) and Hamish Firth (planning).

General Distributors Limited (GDL)

*Daniel Minhinnick*

181. Mr Minhinnick provided legal submissions on behalf of GDL. GDL operates the Countdown Supermarket at 652 Great South Road.
182. Mr Minhinnick submitted that NoR2 will have significant adverse effects on Countdown Manukau including the loss of loading dock access from Te Irirangi Drive to the north of the supermarket, loss of customer parking spaces and constraints on access to the store for customers and servicing vehicles. Mr Minhinnick submitted that the designation footprint should be moved away from the north of the supermarket and sought the removal of the designation from the Countdown Manukau site.

*Ross Burns*

183. Mr Burns is a Portfolio Manager at Woolworths NZ Limited. GDL is a subsidiary of Woolworths.
184. Mr Burns' evidence outlined Woolworths' development philosophies and assessed the impact of NoR2 on Countdown Manukau.

*Don McKenzie*

185. Mr McKenzie is an experienced Traffic and Transportation Engineer.
186. Mr McKenzie outlined his concerns with NoR2 including the extent of the designation being sought and the impact it will have on Countdown Manukau's loading dock, the implications for access to an area of at grade car parking near Te Irirangi Drive, the loss of car parks and access to the under-croft customer carpark.
187. Mr McKenzie considered that the NoR has not adequately addressed or mitigated the adverse effects on the supermarket. The evidence recommended a condition that includes an objective of maintaining the current scale, function and convenience of both loading and parking facilities.

Centuria Funds Management NZ Limited and Bunnings Limited

*Daniel Minhinnick*

188. Mr Minhinnick provided legal submissions on behalf of Centuria and Bunnings. Centuria manages the property at 55 Lambie Drive which is occupied by a Bunnings store on the site.
189. Mr Minhinnick acknowledged that the RA has made some changes to the NoR2 in response to submissions but that further work is required to address loading and customer access to the site and adequate provision for safe and efficient parking. In his submission moving the designation footprint from the Bunnings site is the most appropriate way to minimise the adverse effects of the NoR.

*Nus Narsai*

190. Mr Narsai is a Property Portfolio Manager at Bunnings Limited. Mr Narsai's evidence provided an overview of the Bunnings store and outlined the impacts of the Project on the Bunnings operation. Mr Narsai said that Bunnings is concerned that the Project will deter customers from visiting the store due to traffic congestion and lack of parking and that this will have severe impacts on the business and its customer base.

*Harry Hanham*

191. Mr Hanham is an asset manager at Centuria Funds Management Limited (Centuria). We understand that Centuria is the owner of the Bunnings site.

192. Similarly, to Mr Narsai, Mr Hanham expressed concern about the removal of car parking spaces and that access to the Bunnings loading dock would be obstructed by works associated with the Project.

*Don McKenzie*

193. Mr McKenzie provided traffic and transportation evidence on behalf of Bunnings and Centuria. Mr McKenzie considers that the Project will create significant adverse operational effects on the Bunnings site and will adversely affect the safety and effectiveness of the site. These concerns centred around the availability and location of parking and vehicular access.
194. Mr McKenzie suggested that some of his concerns could be met by the realignment of the NoR to the eastern side of Lambie Drive onto Hayman Park. Mr McKenzie also agreed that greater use of retaining walls along the NoR boundaries would likely reduce effects on car parking.

*Mark Arbuthnot*

195. Mr Arbuthnot provided planning evidence on behalf of Centuria and Bunnings. Mr Arbuthnot said that the matters Centuria and Bunnings are concerned with include the following;
- The effects of the Project on the Bunnings site including internal circulation, the loss of car parking and construction effects;
  - The consideration of alternatives;
  - The extent of the designation;
  - The 15-year lapse period; and
  - Consultation in respect of using retaining walls in place of batter slopes.
196. Mr Arbuthnot recommended a number of changes to the proposed conditions.

PSPiB/CPPIB Waiheke Inc and Auckland Body Corporate Limited

*Daniel Minhinnick*

197. Mr Minhinnick provided legal submissions on behalf these submitters. PSPiB/CPPIB Waiheke owns the Manukau Supa Centa (MSC) located on the corner of Lambie and Cavendish Drive. ABC manages the site.
198. Mr Minhinnick submitted that the Project will have significant effects on the MSC and despite changes to the Project proposed by the RAs MSC remains concerned with the extent of the designation over the site and that further changes are required to the conditions to appropriately manage adverse effects. Mr Minhinnick submitted that the RAs have not demonstrated that land at MSC is reasonably necessary for the Project.

*Kirat Narayan*

199. Mr Narayan is the Assistant Funds manager at Dexus. Mr Narayan's evidence provided an overview of the key features and operations of the MSC and summarised the impacts of NoR2 on the centre's operations. The latter include impacts on loading dock, the effects of roadworks on the convenience for customers accessing the site, the loss of car parking and business disruption.

*Don McKenzie*

200. Mr McKenzie provided traffic and transportation evidence on behalf of MSC.
201. Mr McKenzie considers that NoR2 as notified will introduce notable transportation and operational effects on MSC. Mr McKenzie considers that consented accesses and loading areas will be affected and that there has been limited consideration of alternatives for the positioning of the Project along Lambie Drive.

*Mark Arbuthnot*

202. Mr Arbuthnot provided planning evidence on behalf of MSC. Mr Arbuthnot identified the following matters of being of concern;
- The effects of the project on the MSC site, and in particular, access, parking and loading bay access
  - The consideration of alternatives
  - The extent of the designation
  - Consultation in respect of using retaining walls in place of batter slopes.
203. Mr Arbuthnot recommended a number of changes to the proposed conditions.

Harvey Norman Properties Limited

204. *David Haines*

205. Mr Haines provided planning evidence on behalf of Harvey Norman Properties Limited.
206. Mr Haines considered that the NoR documentation does not demonstrate how the Project's significant adverse effects on Lambie Drive properties will be avoided, remedied or mitigated. He also considered that a more comprehensive assessment of alternatives was required and that the project would lead to planning blight on numerous properties.
207. Mr Haines also provided two pieces of supplementary evidence. The first updated on information that Mr Haines had sought from the witnesses for the RAs. He noted that the first piece of information was heavily redacted and that he would update on this. The second piece related to the consideration of alternatives and Mr Haines noted that the alternative considered by the RA was different from the

alternative he proposed. The second contained correspondence to the effects that some information was still to come.

Z Energy Limited

*Stephanie de Groot*

208. Ms de Groot provided legal submissions on behalf of Z Energy Limited. The Z submission concerned a service station located at 136 Dawson Road, Otara which is on the corner of Dawson Road and Te Irirangi Drive. The site is affected by NoR2.
209. Ms de Groot noted that since Z's evidence was filed there have been some changes to the Project in respect of the Z site and these have resolved some of the concerns related to the operation of the car wash and vehicle crossing to Dawson Road. However, concerns remained regarding the Te Irirangi access and encroachment into the site.

*Matthew Brennan*

210. Mr Brennan is the Network and Development Manager at Z. Mr Brennan described the importance of the service station, its layout and how it operates. Mr Brennan advised that service station may require a complete reconfiguration to enable Z to comply with its statutory requirements and that this may not be possible from a commercial perspective.
211. Mr Brennan also agreed that the changes proposed by the RAs will resolve some but not all the issues he has identified.

*Phillip Brown*

212. Mr Brown is the Managing Director of Traffic Engineering and Management Ltd and is an experienced traffic engineer. Mr Brown provided evidence in chief and supplementary evidence.
213. Mr Brown also agrees that the changes proposed to the Dawson Road frontage are acceptable. However, Mr Brown explained in detail how the Te Irirangi frontage and access would still result in considerable difficulty for the operation of the service station.

*Sarah Westoby*

214. Ms Westoby is a Principal Planning and Policy Consultant at 4Sight Consulting Ltd. Ms Westoby gave planning evidence on behalf of Z.
215. Ms Westoby's evidence covered a wide range of matters. However following consideration of the RA's rebuttal evidence Ms Westoby also considered that the issues to do with the Dawson Road entry were resolved but other matters remained outstanding. Ms Westoby proposed a number of conditions that would assist engagement between Z and the RAs.

216. During the afternoon break Mr Mason (for the RAs) and Mr Brown had further discussions about how the Project could be changed to better accommodate the Z site. Following the break Mr Mason explained the further changes to the Project. This involves shifting the alignment further to the east. Mr Brown considered that the changes proposed are helpful but there are still details that would be required to be worked through.
217. On 29 September 2023 Ms de Groot filed a Memorandum responding more formally to the RA's changes. Ms de Groot confirmed that Z's position remained as it did at the end of the hearing and proposed an additional condition defining in more detail the location of the permanent works in relation to the Z site.

Wiri Oil Services Limited

*Rob Enright*

218. Mr Enright presented legal submissions on behalf of Wiri Oil Services Limited (WOSL). WOSL and Channel Infrastructure have existing assets located within the NoR4a area.
219. Mr Enright submitted that the conditions relating the protection of existing infrastructure should specifically include reference to WOSL (and Channel Infrastructure) given the long lapse period and uncertainty around how existing designations may be protected in the future.

*David King*

220. Mr King is the Pipeline Manager for Channel Infrastructure NZ Ltd. Mr King presented evidence in support of WOSL. Channel operates the Marsden Point to Auckland Pipeline which transmits fuel to the Auckland region and beyond. Mr King emphasised the importance of early engagement with the RAs to ensure that design and construction aspects of the Project adequately take account of the continued safe operation of the pipelines.

*Georgina McPherson*

221. Ms McPherson is a Principal Planning and Policy Consultant at 4Sight Consulting. Ms McPherson gave evidence on behalf of WOSL. Ms McPherson noted that petroleum pipelines cross under Puhinui Road and that the widening works have the potential to adversely affect the pipelines. These pipelines are designated in the AUP:OP.
222. Ms McPherson considers that additional measures are required to ensure appropriate protection of the pipelines is incorporated in detailed design and construction methodologies. Ms McPherson recommended changes to conditions to ensure this occurs.

Mitre 10 Holdings Limited

*Mike Doesburg*

223. Mr Doesburg presented legal submissions on behalf of Mitre 10. Mitre 10 owns the site at 61 Lambie Drive and is affected by NoR2.
224. Mr Doesburg said that while Mitre 10 is not opposed to the Project it is opposed to the extent of the encroachment of the NoR over its site. Mitre 10 seeks that the extent of encroachment is reduced and appropriate conditions are imposed. Mr Doesburg submitted that the RAs have not demonstrated that the extent of designation is reasonably necessary to achieve its objectives and have given inadequate consideration to alternatives. Additionally, Mr Doesburg considers that the LIP condition 3 proposed by the RAs is not effective.

*Paul Arneson*

225. Mr Arneson is an experienced planner and is a partner of Planning Focus Limited.
226. Mr Arneson advised that the main issues of contention are the inclusion of a batter slope on the site at 61 Lambie Drive, the extent to which the Project extends into the site and lack of clarity over which areas are required for the operation of the Project and which areas are required for construction. Mr Arneson said that he favoured a retaining wall rather than a batter. Mr Arneson also recommended an amendment to the LIP condition.

KiwiRail Holdings Limited

*Pam Butler*

227. Ms Butler is a Senior RMA Advisor for KiwiRail. Ms Butler advised that KiwiRail generally supported the Project subject to changes to conditions 3 and 6. These conditions relate to the review of the designations' boundaries on completion and when that should occur and works carried out by network utility operators. Ms Butler also expressed support for condition 27 requiring a Network Utility Management Plan.

Heritage New Zealand Pouhere Taonga (HNZPT)

*Robyn Byron*

228. Ms Byron is a Senior Conservation Architect at HNZPT. Ms Byron considered that due to the significant historic heritage of the Cambrai Park Homestead, more consideration should be made to tailor the Project to retain the important features affected including the gardener's cottage and associated plantings.

*Alice Morris*

229. Ms Morris is the Planner for the Mid-Northern and Northland offices for HNZPT. Ms Morris' evidence focussed on the wording of the Historic Heritage Management Plan Condition (RA proposed condition 23). Ms Morris supported the changes

proposed by Mr Jellie to remove the words 'accidental discovery' and replace them with 'unexpected discovery'.

Street Properties Limited

*Mark Street*

230. Street Properties Limited owns an industrial property at 11 Reg Savory Place in East Tamaki. The site backs onto Te Irirangi Drive and is affected by NoR1.
231. Mr Street is concerned that the annexation of a strip of land along the eastern boundary of the site will restrict access along the building and make the site unviable. Mr Street sought that the realignment of the road be moved back clear of the property.

Kāinga Ora – Homes and Communities (KO)

*Aidan Cameron*

232. Mr Cameron provided legal submissions on behalf of KO.
233. Mr Cameron advised that the main issues for KO are;
- KO engagement and involvement in the future detailed design of the Project;
  - Access, connectivity and potential severance effects;
  - Ongoing operational noise effects;
  - Potential increase in flooding risk for neighbouring properties (although Mr Cameron advised that it is likely that these issues will be resolved);
  - The conditions applying to review designation boundaries and the return of land no longer required on a more proactive basis.

*Michael Campbell*

234. Mr Campbell is an experienced planner and is a director of, and Principal Planner at Campbell Brown Planning Limited.
235. Mr Campbell stated that he supported the NoRs subject to the matters raised in his evidence being addressed. Mr Campbell noted the following;
- Support for the request by KO to be included as partners in the preparation of management plans and future OPWs for the Project, with associated amendments to conditions.
  - Greater emphasis should be placed on the importance of quality urban design, connectivity and severance to ensure the provision of a well-functioning urban environment.



- Support for the changes to the operational noise conditions proposed by the Council.
- Support for proposed changes to flooding and designation review as recommended by the s42A report.

236. Mr Campbell's evidence also include his recommended changes to conditions.

*Brendon Liggett*

237. Mr Liggett is the Manager – Development Planning within the Urban Planning and Design Group at KO. As we understand it, Mr Liggett gave corporate evidence on behalf of KO.

238. The matters covered in Mr Liggett's statement were similar to those covered by Mr Cameron and Mr Campbell. Mr Liggett also recommended changes to the advice note to proposed condition 13 which relates to front yards.

239. Mr Liggett also provided a PowerPoint presentation that outlined some of the points raised in his evidence and outlined the history to development though the Clover Park area.

*Rhys Hegley*

240. Mr Hegley is an acoustic engineer and is a partner with Hegley Acoustic Consultants.

241. In respect of operational noise Mr Hegley recommended a new condition 35A which requires treatment of PPFs when the internal traffic noise would exceed 40dBLAeq(24hr) and where the proposal would result in an increase in traffic noise of 3dB. Mr Hegley's evidence also responded to the rebuttal evidence provided by Ms Wilkening.

*Phillip Jaggard*

242. Mr Jaggard is a Director/Infrastructure Specialist at MPS Limited. Mr Jaggard answered questions in respect of his precirculated statement of evidence noting that he was now largely in agreement with the RA's expert, Mr Seyb.

Auckland International Airport Limited (AIAL)

*Alison Arthur-Young*

243. Ms Arthur-Young provided legal submissions on behalf of AIAL.

244. Ms Arthur-Young noted that AIAL is strongly supportive of the Project. Ms Arthur-Young also outlined that AIAL owns land adjacent to NoR4a and needs to ensure the works enabled by this NoR appropriately integrate with the existing and planned development of the Airport's land. The Airport seeks amendments to conditions 3 and 30 to ensure certainty around critical integration of projects.

*Andrea Marshall*

245. Ms Marshall is the Head of Master Planning and Sustainability at AIAL.
246. Ms Marshall explained that AIAL is constructing a new Park and Ride facility near Puhinui Road and is activity planning for the provision of additional utilities on its land along Puhinui Road. AIAL is concerned that NoR4a as notified does not make adequate provision for or integrate with AIAL's current and future operational needs. Ms Marshall's evidence recommended changes to proposed conditions 13 and 27.

SPG Manukau Limited (SPG)

*Andrew Braggins*

247. Mr Braggins spoke to supplementary submission answering a number of questions raised earlier by the panel. These related to legal questions regarding the applicability of resource consent case law to NoRs. Mr Braggins submitted that the Panel must consider the environmental effects of allowing the designation now and not leave this to a management plan or OPW.
248. Mr Braggins also referred to the acquisition strategy that Mr Haines obtained from the RAs.

*David Haines*

249. Mr Haines updated the Panel about two documents he had obtained from the RAs. In Mr Haines' view these did not show that the RAs had given adequate consideration to the alternatives set out in his evidence.

The RAs

250. Following some preliminary verbal closing statements at the end of the hearing the Requiring Authorities' right of reply was given in writing by Ms Caldwell and addressed matters raised by the Panel including how the existing environment should be applied, regional vs district effects, the 15 year lapse period, financial responsibility, the application of the Natural and Built Environment Act 2023, the role of the Public Works Act 1981, s185 of the RMA, the PWA and what matters are in place to ensure a fair and just property acquisition process.
251. The closing submissions also addressed matters raised by the submitters and matters raised by the Council's reporting officer and specialists.
252. The closing submissions also set out adjustments to the designation boundaries now recommended as a result of evidence presented at the hearing.

## ISSUES IN CONTENTION

253. After analysis of the application and evidence (including proposed mitigation measures), undertaking a site visit, reviewing the Council planning officer's report, reviewing the submissions and concluding the hearing process, the proposed activity raises a number of issues for consideration. The principal issues in contention are:

254. General

- Existing environment and how it should be applied.
- The proposed 15 – year lapse period
- The financial responsibility implications of a long lapse period
- The extent the PWA acts as a mitigation tool for RMA effects.
- Will there be a fair and just property acquisition.
- The nature of route protection approach and what this authorises.
- The extent of designation boundary and reasonable necessity test.
- The place of existing designations (i.e. AUT)
- The adequacy of alternatives assessment.
- Management plans
- Noise effects
- Flooding effects
- Social Impacts
- Business Disruption
- Traffic and parking

255. Site Specific

- NoR4a and NoR4b boundary issues.
- Puhinui Rd properties
- Cambria House Cottage
- Lambie Drive/ Manukau properties
- Z station

### **Existing environment and how it should be applied.**

256. The RAs' legal submissions and evidence addressed the existing and future environment, as did the section 42A report, and the legal submissions and evidence for several submitters. The Panel engaged with counsel and witnesses on the point.

257. The RAs' closing submissions Ms Caldwell noted that;

*Hawthorn establishes that:*<sup>3</sup>

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<sup>3</sup> RAs closing submissions para 3.2

- (a) *The effects of the Project must be assessed against the environment as it exists at the time of the assessment AND the future state of the environment in which such events will likely occur;*
- (b) *It is well established that the "environment" in an RMA sense includes the existing environment plus elements of the future environment such as permitted activities under the relevant plans and resource consents that have been or are likely to be implemented;<sup>19</sup>*
- (c) *However, the Court of Appeal provided clear guidance that future potential effects cannot be considered unless there is a genuine attempt to envisage the environment in which such future effect, or effects arising over time, will be operating. It is inevitable that the nature of the environment will change and in many cases, the future effects will not be on the environment as it exists when a decision on a resource consent or designation has been made;*
- (d) *It will not be necessary to consider the future environment in every case. For example, the future environment may not need to be considered where it is likely that the environment would be similar to that which existed at the time of the application being considered. However, this is not the case for this Project.*

258. The submissions also noted that case law indicates that Hawthorn also applies to NoRs.

259. In respect of the SPG property Ms Caldwell submitted that the consent obtained by SPG after the lodgement of the NoRs does not form part of the existing environment because the existing environment should be measured at the time of the lodging the NoRs with the SPG consent having been obtained after that, and that additional approvals are required including approval from the RAs under s178 of the RMA. We accept this interpretation.

260. In assessing the effects of the Project, we are in a difficult situation as the majority of the effects will only be experienced in the future as no works are proposed for many years, but we do not have a good idea of what the future environment will be. We do not know what the zoning of land adjoining the route will be, nor whether future development will be permitted activities or not. We expect that additional intensification will be provided for by future plan changes due to the NPS-UD and perhaps Plan Change 78 if the designations are confirmed. However, these future environments are not a Hawthorn future environment.

261. In respect of the benefits of the Project the RAs have relied on predicted <sup>4</sup>growth to 2038 to illustrate the benefits of the proposal. It is not entirely clear to us how the growth figures have been developed, but it is certain that at least some of the future growth along the Project corridor will require resource consents and thus fall outside a strict Hawthorn existing and future environment.

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<sup>4</sup> Andrew Murray

262. We have chosen to consider the future benefits as a 171(1)(d) matter, as the actual project will occur only in the future, and these will largely be experienced in the future. This is considered to be a 'real world' approach.
263. In respect of effects the RAs appear to us to have accepted that the effects of the Project should be ascertained in the future at the time of the Project implementation. This is proposed to be achieved through the various management plans required by conditions. The environment on which those effects will be managed is the environment existing at the time of implementation. This is clearly not a Hawthorn environment because we do not know what the environment will be at the time the management plans are developed and implemented.
264. The one area where the RAs do not appear to accept this is in respect of the environment in respect of road noise. We discuss this below in paragraphs 311 to 320 below.

### **Proposed 15 Year Lapse Date**

265. A significant area of discussion within the evidence and during the hearing centred around the extent to which RMA considerations as to adverse effects, and the avoidance, remedying or mitigating of such effects, ends, and PWA processes commence. We discuss this matter now in order to provide clarification for the basis for our approach to the discussion of conditions that follows.
266. In our view, while the 15-year lapse date gives a great deal of certainty and flexibility for the RAs, it reduces flexibility and certainty for persons affected by the designation. Many submitters were concerned that the long lapse period would lead to planning blight where land would not be able to be developed or used and many, particularly residents, were concerned that they would not be able to sell their properties because of the designation. The Council s42A report recommended a 10-year lapse date.
267. The RAs emphasised that the funding was not yet available for the project and the 15-year lapse period was needed to allow proper time for funding to be made available and for detailed design work. In respect of planning blight, the RAs pointed out that the contact website, the LIP condition, the Stakeholder Communication and Engagement Management Plan (SCEMP) and the Development Response Management Plan (DRMP) together with other mechanisms would serve to mitigate planning blight and other effects on a long lapse period.
268. We find that a 10-year lapse period is appropriate if the NoRs are confirmed. We consider that this period will give the RAs time to arrange funding and design work while providing a shorter period of uncertainty for landowners affected. We acknowledge the mechanisms proposed within the designation conditions to assist landowners, but we find that those affected to the greatest extent, are least likely to

benefit from the Project and have significant obstacles to participation in the processes available.<sup>5</sup>

### **The financial responsibility implications of long lapse period**

269. A number of submitters (and the panel) were concerned about whether the RAs had financial responsibility for the Project given that funding was not immediately available.
270. In the reply to submissions the RAs confirmed that they accepted financial responsibility and additionally that they have sufficient funding already allocated to meet any interim obligations such as court-directed property acquisitions.<sup>6</sup>
271. On the basis of this advice, we find that the RAs will be financially responsible for the works the subject of the designation.

### **The extent the PWA acts as a mitigation tool for RMA effects.**

272. In assessing the environmental effects of the proposal which we are required to do, we were told that some effects can be effectively mitigated by the provisions of the Public Works Act. In particular the evidence of Mr van der Ham for the RAs and Mr Campbell of TIM Nominees Ltd and the St Johns College Trust Board were helpful in understanding how the PWA works and the interplay between the two Acts.
273. The key question for us is what effects can be effectively discounted (from RMA considerations) if they will be mitigated by the purchase and compensation provisions of the PWA. We consider that understanding this is important as in a designation situation where private land is to be acquired and used for the designation (in full or in part) will inevitably have effects on the people who own or occupy that land. It is axiomatic that many of these effects cannot be avoided if the designation is to proceed in its notified form.
274. Many of the submitters, particularly business submitters, where parts of sites are proposed to be used for the designation (mostly being strips of land along site frontages) highlighted the effects of the loss of these strips on their businesses.
275. Ms Caldwell in her closing submissions submitted that the PWA and the RMA have been designed to work together to provide a clear framework to address property effects from a designation/ requirement.<sup>7</sup>
276. We find that property effects (meaning effects of the designation resulting in the loss of property) are relevant to consider under s171 and that we can consider the extent to which they will be mitigated by the compensatory provisions of the PWA.

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<sup>5</sup> EIC Heather Haylock

<sup>6</sup> RAs' closing submission – para-3.26.

<sup>7</sup> RAs' closing submissions para 3.41.

## **Will there be a fair and just property acquisition?**

277. The Panel are concerned that people whose properties are directly affected by the designation will be treated fairly and that there will be a fair and just property acquisition process. We consider that this is important given the long lapse period of the designation (whether it be 10 years or 15 years) and the greater uncertainty that this brings to people in respect of the future of their properties together with the route protection approach that is not definitive about the final form of the Project and the property requirements of the RAs. We heard from several submitters (including Ms Haylock and Mr Hansford) about the difficulties that the Project was bringing to people, particularly in the Puhinui Road area.
278. Mr Allan on behalf of BPG Development Ltd suggested that we have the ability to impose a legal obligation on the RAs to acquire property through a NoR condition in addition to the provisions of s185 of the RMA.
279. Ms Caldwell considered that such a condition is not necessary as the RAs have allocated funding available for acquisitions required under s185 of the RMA and that funding has not been allocated for the acquisition of all properties affected by the designation.
280. We remain concerned based on the evidence we heard that some of the most affected people are possibly the least able to avail themselves of the mechanisms under the RMA or PWA of seek and obtain early purchase or compensation early. We find that because of the uncertainty of the project and the long lapse periods the RAs should be required to provide effective assistance to people affected to access the mechanisms to achieve early purchase or other compensation.

## **The nature of route protection approach and what this authorises**

281. A number of submissions (including OCL and SPG) questioned the nature of the route protection approach to the designation and what a route protection designation actually authorises. Some of these concerns are related to the nature of and the use of management plans. These are discussed in more detail later in this recommendation.
282. Ms Caldwell in her opening submission and in the closing responded to these submissions. Ms Caldwell submitted that the OPW process can together with the management plan process be relied on to confirm the design, effects and details of mitigation measures. Accordingly, it is valid to seek route protection on the basis of a concept design and an envelope approach to effects design. Ms Caldwell also said that the designation sought authorised all s9 RMA matters as set out in s176(1)(a) of the RMA.
283. We find that the route protection approach is a valid approach. In coming to this conclusion, we have taken into account the fact that the OPW process specifically allows for designations to have details of the works provided to the Council at a later stage. The OPW stage would not be necessary if all details of a project had to be available and considered at the time of the NoR. This does not however mean that we should not consider the effects of the Project at the route protection

stage to the extent that we are able. S171 of the RMA clearly requires us to consider the effects on the environment of allowing the requirement.

### **The extent of designation boundary and reasonable necessity test.**

284. Section 171(1)(c) requires us to 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.
285. We understand from the RAs' submissions and evidence that in general terms the extent of the proposed designation boundary has been determined through the application of a standard cross-section for the Project and then applied over the route with some modifications in some places (i.e. NoR4a).
286. A number of submitters<sup>8</sup> questioned whether the full extent of the designation boundary was necessary. In some cases (for example Mitre 10) submitters identified that the designation width could be reduced by using retaining walls rather than batters to allow for elevation differences between the Project and adjoining properties. Some submitters (i.e., TIM Nominees Limited, Street) suggested that changes be made to the cross sections in specific parts of the route. Several submitters also pointed out that as the RAs have made some changes to the designation boundary as a result of discussions with some property owners, that the designation boundaries are not proved to be reasonably necessary.
287. The Council s42A report recommended that at the time of the OPW being prepared the RAs should identify where retaining walls should be used in preference to batters particularly in NoRs 1-3.
288. Ms Caldwell remains of the view that the Project boundaries are reasonably necessary and that the fact that in some instances (but not all) the boundary could be adjusted does not mean that the extent of the boundary is not reasonably necessary.
289. In our view the extent of the designation boundary is one of the main causes of concern for many submitters. There is a tension between setting a designation boundary for route protection that will ensure the Project can be implemented and providing adjoining landowners with certainty about the final extent of the land to be used. Submitters have identified one area where this tension exists is in the proposed use of batters to deal with gradient changes. In our view the use of batters may in some places unnecessarily widen the final designation boundary (although we note that the RAs when asked about these noted that even with retaining walls the additional land may be needed for construction purposes). We also consider that in some locations, particularly within the Manukau business area where the AUP rules encourage active frontages adjoining the road for new development, the use of battered slopes will be inappropriate as these will almost

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<sup>8</sup> Including Renaissance, AUT, SPG, HPL, NZSHL, A Steele, CPL, TIM, SJCTB, Quadrant, Centuria, Altrend, Bunnings, PSPIB, CPPIB, Z, Mitre 10, Steet.



inevitably result in buildings being set back from the road. This will especially be the case where the batters are located within the roadway.

290. We therefore agree with the s42A report that the use of retaining walls rather than batters should be encouraged and we agree with the conditions recommended by Mr Mackie to achieve this.
291. In other respects, we generally consider that given the Project objectives the extent of the boundary is reasonably necessary as the standard width is necessary to accommodate the transport activities the objectives seek to achieve. We did consider this in respect of the separation of the walkway function from the cycle function. The RAs consider that this separation is required for safety purposes, and we heard little expert evidence that was contrary to this. While several landowners identified that reducing the Project by small amounts through changes to the standard cross-section would reduce the impact on their properties there was little evidence as to the resulting effects of doing this<sup>9</sup>.
292. A number of specific exceptions to these conclusions are discussed below in the sections of this recommendation dealing with specific sites or areas.

#### **The place of existing designations (i.e. AUT)**

293. In a number of locations, the designation is proposed to be applied to land where there are already other existing designations. We note that S177 of the RMA sets out the rights and obligations of the various parties in these situations with the more recent requiring authority needing to obtain approval from the earlier authority.
294. A number of submitters were concerned that conditions of the designation should ensure that this occurs with some wanting to ensure that such conditions directly referenced the specific existing requiring authorities. Some of the requiring authorities that submitted, acknowledged the engagement already undertaken by the RAs.
295. Ms Caldwell submitted that the proposed Network Utilities Management Plan (NUMP) condition is sufficient to manage the relationships between the various designations and network utility operators without amendment to refer to different designations.
296. We agree with Ms Caldwell that the condition is general in application and that naming individual operators or designations is not necessary.

#### **The adequacy of alternatives assessment.**

297. Section 171(1)(b) requires us to have particular regard to whether adequate consideration has been given to alternative sites, routes, or methods of

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<sup>9</sup> Inc Street Properties

undertaking the work (triggered because the RAs do not have an interest in the land sufficient for undertaking the work).

298. A number of submitters including SPG Manukau, Ms Haylock, Ms Phillips and others suggested alternative routes and or methods for achieving the Project. The submitters considered therefore that the assessment of alternatives was inadequate and that the alternatives assessed should have included their suggestions. Mr Haines said we were able to choose an alternative based on what we heard at the hearing.
299. Ms Caldwell in her closing submissions outlined the legal principles as derived from a number of cases.<sup>10</sup> Ms Caldwell summarised these as saying that the panel is not entitled to determine whether a different route or method should have been selected for the project and instead, we should focus on the process undertaken to assess the alternatives for the Project and referred us to the evidence of Mr Buckley in this regard.
300. We find that it is not necessary for us to choose the best route or method, only for us to decide whether the RAs have undertaken an adequate assessment. We find that the RAs have undertaken an adequate assessment of both alternative routes and methods as set out in the evidence of Mr Buckley. These alternatives addressed a number of different locations, routes, methods and station locations. We find that a specific assessment of the alternatives suggested by Mr Haines or by other submitters is not required by section 171(1)(b).

### **Management plans**

301. As the detailed design of the project has not yet been undertaken and the long lead time until this will occur, the RAs have included in the NoR conditions a number of conditions that require the provision of management plans, to manage a range of effects. The majority of these are to be submitted to the Council at the OPW stage.
302. A number of submitters opposed the use of management plans (including SPG) and submitted that the effects of the Project should be assessed and dealt with now and not left to some future date. Mr Arbuthnot for PSPiB/CPPIB Waiheke Inc and Auckland Body Corporate Ltd requested that the management plans be required to be certified by the Council.
303. Ms Caldwell submitted that the use of management plans has been accepted by boards of enquiry and the court and that certification of those plans is not required.<sup>11</sup>
304. We are of the view that given the long-time frame before works begin, and because detailed design work has not been undertaken, the use of management plans is necessary to effectively manage some of the effects of the Project. We consider that the management plan conditions have been drafted correctly with objectives

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<sup>10</sup> RA Closing Subs Para 4.26

<sup>11</sup> RA Closings Subs – Paras 4.75- 4.81

for each plan setting out the effects each plan is to deal with and what is required to be achieved.

305. In the draft conditions the development of management plans is tied into the OPW process. This will give the Council an appropriate degree of control over the contents of the management plans through its ability to recommend changes to submitted OPWs and if necessary, appeal to the Environment Court if those changes are not adopted by the RAs. Conditions 8 and 9 provide that most management plans shall be submitted as part of the OPW process and condition 9 provides for Council certification if there is a material change to the plan at a later date.
306. The exceptions to the management plans that are prepared at the time of the OPWs are the Stakeholder Communication and Engagement Management Plan (SCEMP) and the schedules to the Construction Noise and Vibration Management Plan (CNVMP).
307. Turning first to the SCEMP, this plan is to be prepared at least 18 months prior to an OPW being submitted. There is no requirement proposed for the SCEMP to be certified. The S42A report recommends that the SCEMP be part of the OPW process and recommends an extended condition that includes the establishment of a representative group that would co-prepare the SCEMP.
308. We consider that the SCEMP cannot be part of the OPW process as it is to be prepared prior to the OPW. However, we see value in having the SCEMP certified by the Council which will give some assurance to the Council that the SCEMP sufficiently meets its (i.e. the SCEMP's) objectives.
309. The s42A report recommended substantial changes to the SCEMP condition including the establishment and funding of a co-design group which would take some responsibility for the SCEMP. We do not consider that a co-design group is necessarily the most effective option. We don't consider that this was requested by affected submitters and we also note that submitters expressed concern about time commitments and the difficulty some had in participating. However, we consider that the community should be supported by the RAs to enable them to effectively engage with the RAs. The NoRs impose a long-term relationship on people, and it is necessary that clear and effective communication is provided for between people and the RAs at no cost to the people affected. Therefore, we have recommended an amendment to the SCEMP condition accordingly.
310. We recommend no changes to the schedules to the CNVMP.

### **Noise effects**

311. We understand that noise and vibration effects can be divided into two areas being construction noise and vibration and operational noise and vibration.
312. Turning firstly to construction noise and vibration we were presented with evidence from the RA (Ms Wilkening) and from the Council (Mr Styles). The only other

expert who presented acoustic evidence was Mr Hegley for Kāinga Ora but as we understand it Mr Hegley's evidence was confined to operational noise.

313. Ms Caldwell in her closing submissions noted that following the end of the hearing Ms Wilkening and Mr Styles had met and that they have now agreed on amendments to the conditions that will address Mr Styles' concerns with construction noise and vibration. Based on this evidence we have recommended the conditions in respect of construction noise and vibration as attached to the closing submissions from the RAs.
314. In respect of operational noise, we received expert evidence from Ms Wilkening, Mr Styles and Mr Hegley as noted above.
315. The main issue before us in respect of operational noise relates to how future Protected Premises and Facilities (PPFs) will be treated. As we understand it, the RAs are proposing to assess the operational noise effects and the Best Practical Option (BPO) for dealing with those effects on receivers at the time of detailed design. However, they are only proposing to assess and manage noise effects on receivers that currently exist. This means that PPFs established between now and when the Project is constructed will be expected to be cognisant of the Project and design and construct any new facilities to appropriately deal with future noise effects.
316. Mr Styles in his statement to us at the hearing was reluctant to agree with the RAs' position that it should not be responsible for the acoustic treatment of buildings constructed between the lodgement of the NoRs and the detailed design work being undertaken, as this was inconsistent with the guidance in NZS6806:2010 and from WHO. He maintained that consideration of barriers and the long-term use of low noise pavements should be maintained. Mr Styles left us with three options including an intermediate approach which would require the assessment of the effects on the environment as it existed at the time of detailed design, but with clear direction that the RAs were not required to acoustically treat dwellings/ activities sensitive to noise constructed during the lapse period.
317. Mr Hegley takes a similar view to Mr Styles in respect of the future PPFs and the use of barriers and considers that acoustic treatment of future PPFs is appropriate.
318. In our view the environment at the time of detailed design will be relevant to consider and protect as we have noted previously. There are however some differences. For example, the Project will remove some existing dwellings from the 'front row' facing the road and sites to the rear will become the new 'front row'. The new front row will experience different noise effects simply because the intervening dwellings have been removed and the road will now be closer to them. Other dwellings may however also be built between now and the lapse period that may experience noise effects.
319. The evidence suggests that there are three general means of achieving acoustic protection for PPFs being providing a low noise road surface, providing barriers between the noise source (i.e. traffic) and the receiver and acoustically treating the receiver premises to reduce noise transmission into the building. Obviously, the

RAs have more control over the first two options than the third with the third option being more expensive to achieve and largely outside of their control.

320. Overall, we consider that the use of a low road noise surface and the use of barriers should be emphasised in the conditions and accept some of the recommended condition amendments from Mr Hegley and Mr Styles. We also accept that it may be unreasonable for the RAs to acoustically treat premises that are constructed in the future. However, we do not agree that the effects on these PPFs should not be assessed at the time of detailed design and that actions to achieve some protection, short of acoustically treating new buildings is provided if that is in accordance with the BPO.

## **Flooding**

321. We heard evidence on flooding effects that related mainly to the potential for additional flooding effects to those that already occur in some areas along the route. Some concern was also raised by submitters about the lack of opportunity for involvement in the decisions that will be made when the project goes through the detailed design and consenting phase.
322. This latter issue was primarily led by Mr Jaggard who noted that the stormwater management works could be mostly, if not entirely, undertaken under the “permitted activity” rules in the AUP or through use of the Heathy Waters Network Discharge Consent. In this case he mooted, that affected parties such as Kāinga Ora could be excluded from having any involvement in the decision process. However, Mr Jaggard offered no proposed condition to address this matter and we note that Kāinga Ora and all other parties will have the opportunity to participate in the process through the provisions of the SCEMP.
323. Mr Seyb in his evidence and in his reply stated that the proposed stormwater philosophy for the project had been based on an integrated stormwater management approach that was developed in partnership with mana whenua. He considered that for the purposes of the Notice of Requirement the key issue is whether the designation extents are large enough to allow for the passage of floods and stormwater works associated with the future project.
324. In that regard we heard little evidence from other parties that the extent of provision required for stormwater management were too large or unnecessary, save the proposed treatment facility in the Manukau Sports Bowl. After hearing evidence from Mr Greenaway we do not consider this provision to be inappropriate and unworkable with the proposed plans for the development of that space.
325. In terms of managing the flood hazard effects the RA has proposed these be managed by limiting outcomes through the standards provided in Condition 15 (NoRs 1-4b, Condition 12 NoR4a). Through the hearing there was considerable conferencing between Mr Seyb, Mr Jaggard and Ms Tsang for Council. By the end of the hearing a large degree of agreement had been reached on the wording of condition 15 (NoRs 1-4b, Condition 12 NoR4a) which sets out the performance standards relating to flood hazard. The only outstanding matter related to the maximum acceptable flood hazard for a main access to a habitable dwelling.

326. Ms Tsang proposed that there should be no increase in flood hazard in these locations where the hazard was above a certain threshold (defined in the condition as a product of water velocity and depth) and a 10% increase allowed where the hazard was below the threshold. Mr Seyb considered that flexibility was required to allow for a 10% increase with no threshold given that specific conditions/receptors along the corridor are unknown at this stage and that detailed design has yet to be undertaken.
327. We were given no assistance from the parties about the safety or other consequences of exceeding the threshold and therefore take a conservative approach and recommend the wording proposed by Ms Tsang.

### **Social Effects**

328. A number of submitters<sup>12</sup> spoke about the adverse social effects of the Project on local communities. Some of these issues have been discussed above in respect of the interaction between the RMA and the PWA and in relation to the SCEMP. We are concerned about the considerable social disruption that the Project may have on some communities. Of note is the neighbourhood centred on Puhinui Road between SH20 and Lambie Drive.
329. The RAs have proposed a number of conditions to assist in mitigating some of the social impacts of the proposal including The Land use Integration Plan (LIP), the Stakeholder Engagement Management Plan (SCEMP) and the Development Response Management Plan (DRMP). Some of these are more focussed on business rather than residents. The Council s42A report recommends substantial changes to the DRMP condition to widen its scope to include residents and community groups along the route.
330. If the designation is confirmed, we recognise that the Project will have social impacts many of which cannot be avoided. Based on the s42A report and submissions we are concerned that the means of addressing the social impacts of the Project suggested by the RAs are insufficient and that more could be done to mitigate some of the social impacts. After listening to the submissions from some residents we are of the view that the conditions (particularly the DRMP) require amending to extend the range of people affected. However, we are not convinced that all of the Council's proposed amendments are necessarily practicable or will ultimately achieve the required mitigation. We find some of the amendments recommended by the Council to be overly bureaucratic and may not actually assist those that require assistance.
331. We have therefore recommended changes to condition 13 that we consider go some way to mitigating social impacts and to supporting affected landowners.

### **Traffic Effects General**

332. We heard evidence from a number of transport planning witnesses. Mr Murray and Ms Dowling provided traffic evidence for the RAs. Mr McKenzie, Mr Shields, Mr

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<sup>12</sup> Including Ms Haylock, Mr Haylock, TIM, SJCTB, Ms Krishna, Mr Hansford, Ms Campbell

Hall, Mr Parlane and Mr Brown provided evidence for submitters. Mr Temperley contributed to the s42A report and was available for questioning at the end of the hearing.

333. Much of the evidence from the traffic experts related to access to and parking related matters chiefly in respect of their clients' land. We discuss some of these concerns in the section below relating to specific areas.
334. We heard little or no contrary evidence from submitters regarding the wider traffic effects of the Project. A number of submitters<sup>13</sup> raised the issue of additional travel time for some car trips as a result of the removal of some right-hand turns. Others raised a more general issue of severance of communities by the Project and the general restrictions on movement across the Project.
335. Putting aside specific access and car parking concerns, we accept the evidence that the effects of the Project are acceptable in that much of the corridor will be at capacity in 2038 and that the Project will not make things worse for general traffic and that public transport and active mode provision will be improved. Ms Dowling noted that where intersection level of service was reduced this was as a result of the removal of free left turns. These were removed in the interest of improving pedestrian safety at these intersections.
336. In respect of the removal of right hand turns Ms Dowling provided a comprehensive assessment of concerns raised by submitters. Ms Dowling noted that in some cases people would be forced to travel an additional 3-4 minutes (less than 2.5km) to access their properties because of the removal of right hand turns. Ms Dowling implied that this additional travel was acceptable. We consider that the additional car travel required will be an inconvenience for motorists, but that it will be unavoidable should the Project go ahead and we cannot see a way in which additional right hand turns could be provided without disruption to service provided by the Project or by a more complete redesign of the Project, for example, involving grade separation which would have its own set of effects on which we do not have evidence. We also note that much of the route of the entire Project already has right hand turn restrictions (i.e. much of Te Irirangi Drive and parts of Great South Road, Ronwood Avenue, and Lambie Drive) and that for much of the route this will not result in additional travel. Overall, we consider that the removal of right hand turning is inconvenient but acceptable.
337. We discuss severance below in paras 346 to 349.
338. Ms Dowling's evidence considers that the construction traffic effects of the Project will be appropriately mitigated through the proposed NoR conditions. The majority of the works required for the Project will likely be adjacent to or within the existing road corridor, which means that temporary traffic management measures will be required. The scale of temporary traffic management to delineate live traffic away from the construction zones will be largely dependent on the various stages of construction activity and the requirements of each stage.

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<sup>13</sup> For example, Mr Hansford and KO

339. Ms Dowling recommended that a Construction Traffic Management Plan is prepared prior to construction. She noted that this is a standard practice for large scale transport projects.
340. We agree that a condition requiring a Construction Traffic Management Plan is appropriate.

### **Business disruption during construction.**

341. The Project is likely to cause disruption to adjoining businesses during the construction of the Project. The timeframes for construction are significant and currently the timing of construction is unknown.
342. Ms Caldwell in her legal submissions submitted that the CTMP, the Development Response Management Plan (DRMP) and the CNVMP would assist in mitigating the effects on disruption through the construction period, including disruption to businesses along the route. The approach recommended by Ms Caldwell was supported by Mr Hewison representing the business associations along the route.
343. The Council s42A report recommended that the DRMP be extended to cover all landowners along the route and not just businesses and that its scope and method of preparation be extended. The s42A report recommends that the DRMP be prepared by the advisory group.
344. We find that a condition requiring the DRMP should be included within the designation as proposed by the RAs. This will provide a mechanism for mitigating some of the disruption effects of the Project on businesses.
345. We have discussed the widening of this condition to others above in paragraphs 328 to 331.

### **Severance**

346. A number of submitters including Kāinga Ora (**KO**) were concerned that the Project route would result in the severance of communities because of the reduction in crossing points over the BRT. Mr Campbell for KO states in his evidence that the Project will increase this severance effect further and in turn reduce connectivity by increasing the corridor width and making it harder to cross due to the provision of the central bus lanes.<sup>14</sup>
347. Mr Campbell agrees with the changes proposed by the s42A report to address some of the severance and urban design matters identified by both Mr Campbell and Ms Mein for the Council. This is chiefly through amendments to the ULDMP that would ensure integration with existing and proposed active mode network and better urban design outcomes.

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<sup>14</sup> EIC M Campbell para 7.12



348. Mr Bowden provided urban design evidence for the RAs. Mr Bowden agreed that good connectivity is a key tenet of high quality, well-functioning urban environments and that the ULDMP condition is an appropriate way of providing for this. Mr Bowden also identified that cross corridor active mode connections were required and that this represents a tension in the project.
349. We find that it will be necessary to ensure cross corridor connections are provided and that the changes recommended by the s42A report to the ULDMP condition will assist in ensuring these are achieved in the future.

## **Specific Areas**

### **NoR4a and NoR4b boundary issues**

350. A number of submitters in the NoR4a and NoR4b area expressed concerns about the extent of the NoR boundary on the south side of Puhinui Road and access arrangements for land facing the south side of Puhinui Road.

#### *NoR Boundary*

351. The NoR boundary as it affects land between SH20 and Orrs Road includes land proposed to be used as stormwater swales. This has resulted in the NoR boundary extending further into these sites than expected. As we understand there was some expectation that there would be some land required in this area that was signalled in the Puhinui Precinct provisions, but that the notified NoRs extended further.
352. In the closing submission Ms Caldwell updated us on progress with discussions with Altrend Limited. Altrend owns land on the corner of SH20 and SH20B. Ms Caldwell advised that a revised stormwater solution was being worked on but that a final solution has not yet been developed. The submission states that if a final solution cannot be documented prior to the Panel releasing its recommendation, the RAs seek that the existing designation boundary be confirmed. If the final position is reached after the Panel recommendation, the RAs will explore further opportunities to implement the agreed position.
353. We consider that there is sufficient evidence that the designation boundary should be moved north in respect of the Altrend property, but we have no evidence as to how far it can or should be moved.
354. The relocation of the designation boundary for Altrend in our view also calls into question the location of the designation boundary in respect of the properties to the west of the Altrend property. If the stormwater can be managed without the need for swales on the Altrend property, then the question arises as to whether a similar approach be taken for other similar properties. We find that if this is the case, the boundary is not reasonably necessary in respect of this area.
355. We therefore find that it is necessary to review the extent of the designation boundary in this general location for the extent to remain reasonably necessary. We have therefore recommended a condition requiring that the designation

boundary in this area be investigated and moved (if practicable) within 6 months of the designation being confirmed.

#### Access

356. A number of submitters in this area submitted that access should be maintained to land to the south of Puhinui Road and that the Prices Road intersection should be maintained.
357. In respect of individual site access, we consider that condition “Existing Property Access” is sufficient to ensure future property access. This will require the RAs to ensure access is provided.
358. In our view the situation is less clear in respect of the Prices Road closure. While we understand processes are in train to provide an alternative road to the Campana Road / SH20B intersection, the timing and responsibilities for the construction and vesting of an actual road are not straightforward. The RAs consider however that this will be resolved well before the commencement of construction of the project.<sup>15</sup> That may well be the case, however we consider that it is appropriate to include a condition that only allows the closure of the Prices Road intersection once an alternative connection to Campana Road is operational. This will ensure that the Project does not leave properties without road access.

#### Puhinui Rd properties

359. We heard submissions from a number of residents in the Puhinui Road area between SH20 and Lambie Drive. These submitters were concerned for their own properties and for those of their neighbours and about how the Project will impact the neighbourhood. We have some sympathy for their concerns but given the designation process and the cross section developed by the RAs we can see little opportunity to recommend amendments to the designation to reduce the physical impact of the Project on property.
360. We consider that there are three things that we can recommend that will go some way to assisting those affected by the designation in this area.
361. Firstly, the Ranfurly shops are an important part of the community. At the hearing we were told by the RAs that these shops will not be affected by the designation and that the car parks on the roadway outside the shops will be retained. As the details of the actual works have not been finalised, we consider it important that this undertaking does not get lost and accordingly we have recommended an additional condition to ensure that these car parks are retained.
362. Secondly, we consider it important given the long lapse time that people have quick and easy access to the RAs for property purchase in advance of the designation being implemented. We do not consider it fair that the long-term risk of holding property should lie with residents and that residents plans for their lives should be put on hold because the RAs do not have funding to purchase properties

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<sup>15</sup> RA Closing Legal Submission para-4.52.

in advance. We have recommended a condition to assist people to obtain early purchase assistance.

363. Thirdly we agree with the s42A report that the final boundary should be determined as soon as practicable to give people the greatest amount of certainty possible about how their properties will be affected. The recommended conditions of consent will assist in ensuring this.

### **Cambria House Cottage**

364. We heard submissions from HNZPT requesting the potential retention of the Cambria House gardener's cottage.
365. The plans provided with the NoRs show that the cottage will have to be removed to accommodate the Project.
366. We heard evidence from the RAs that the cottage is in poor condition following a fire and was derelict for some time before that. We viewed the cottage as part of our site visit. The cottage is located within the existing road reserve and is not protected as a historic heritage place in the AUP. We also understand that despite the cottage being located within the road reserve there is some uncertainty about its ownership.
367. Given the above we do not consider that the cottage be required to be retained as part of this Project as its value is limited and it would appear to us that it could be removed without further approval regardless.

### **Lambie Drive/ Manukau properties**

368. We heard from a number of submitters in the Lambie Drive and general Manukau business area concerning the effects of the Project on their properties. Submitters were concerned about loss of car parking and loading and access to sites or parts of sites.
369. A number of these were resolved or at least partially resolved through changes to the boundary of the designation offered by the RAs at the Hearing. This included the changes in respect of a number of properties that we were provided information about during the hearing and attached to the RAs reply submissions.<sup>16</sup>
370. Some submitters suggested alternative methods [SPG] while others [Mitre 10] suggested that the Project could be realigned to the east through parts of Hayman Park.
371. Ms Caldwell in her closing submissions submitted as follows;<sup>17</sup>

*The Requiring Authorities' rebuttal evidence adequately addressed the concerns raised by Manukau Central businesses, and it was disappointing to find out that several submitters*

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<sup>16</sup> 5 Te Irirangi Drive, 18 Srah Place, 136 Dawson Road, 652 Great South Road, 15R Davies Avenue, 33 Lambie Drive, 67 Cavendish Drive, 20/72 Cavendish Drive, 408 Puhinui Road.

<sup>17</sup> RA Closing subs para 4.93

*(and their expert witnesses) did not appear to have read this material prior to the hearing. In summary, the rebuttal evidence clarifies that:*

- (a) Access will be maintained and reinstated, and loading bays will be preserved and will work during construction. The revised wording for the CTMP clarifies the Requiring Authorities' obligations in respect to servicing and loading facilities. <sup>[17]</sup><sub>[SEP]</sub>*
  - (b) All businesses through their respective Business Associations will have the opportunity to engage with the Requiring Authorities to participate in the development of the DRMP, which will provide a framework to manage the impacts of construction on businesses; <sup>[17]</sup><sub>[SEP]</sub>*
  - (c) All businesses with the intention of developing their sites prior to the start of the construction phase of the Project shall have the benefit of the LIP, to ensure that the Project integrates with the proposed land use development; and <sup>[17]</sup><sub>[SEP]</sub>*
  - (d) Any residual concerns in relation to the permanent loss of parking or property will be addressed through the PWA process.*
372. We have noted our view in respect of alternatives generally in the discussion above. We consider that we are unable to recommend an alternative route to the NoRs. The realignment of the route over Hayman Park may be practicable, but we have not been provided with sufficient evidence to show that this would not have other effects including on the overall availability of open space. The conditions regarding the use of retaining walls will also in our view assist in reducing the property impact of the Project on some of these properties.
373. In respect of businesses, we find that the LIP condition is adequate and will assist those businesses wishing to develop their land prior to the final design of the Project being completed.
374. Following on from the discussion above regarding the place of the PWA we consider that the taking of land for the Project will have some effects on the submitters' properties. These effects relate to the loss of car parking, internal access and loading. There is conflicting evidence before us about the severity of these effects. Overall, we consider that these effects are the types of effects that the PWA is able to mitigate. We were presented with evidence from Mr Arnott regarding the losses that would result from the Project in respect of the SPG site. If this is the degree of loss (and we make no comment one way or the other about that) then the provisions of the PWA will apply and the RAs will have to bear the cost of compensation.
375. The focus of the submitters' evidence was on the effects of the Project on individual properties. We did not perceive that submitters were suggesting that the reduction in parking proposed would result in an overall effect on the Manukau City metro area.

376. The submitters also expressed concern about how the changes to the roading layout, particularly on Lambie Drive would affect the access to their sites and the flow on effects on queuing and other internal arrangements within sites. The RAs have made some changes to property boundaries in this area and note that some activities that were previously constrained (such as loading spaces and the separate kiosk and vehicle testing station at 20/72 Cavendish Drive) are no longer directly affected.
377. We have reviewed the proposed changes at the Countdown site at 5 Te Irirangi Drive. While access is now proposed to be provided to the Countdown, access to and around the loading area will be affected by the NoR. We understand that this is required for construction purposes, but also note that we were told that access over the affected area must be maintained for the loading bay to continue to operate. We have accordingly recommended a condition to ensure access to loading bays is retained.

## **Z Station**

378. The RAs have proposed an amendment to the boundaries of the designation in the vicinity of the Z Station on the corner of Dawson Road and Te Irirangi Drive. We understand from the supplementary memorandum provided by Ms de Groot for Z that while the changes proposed are welcomed, the designation boundary still encroaches a considerable distance into the site and that as detailed design has not been completed, adverse effects on the station could still arise.
379. Ms de Groot advised that Z's concerns could be further alleviated if a condition was imposed that effectively limited the extent of permanent works on the Z site. Ms Caldwell did not specifically address this in her closing submissions.
380. We find that the condition should be imposed.

## **Council Response**

381. We have had regard to the comments provided in the officer response as part of our discussion of the matters in contention in the preceding discussion above. In this respect, officers have highlighted the following;
- The LIP process is accepted;
  - The designation review condition;
  - The 10-year lapse period;
  - The s176 approval condition is accepted;
  - The DRMP should be expanded to include all parties;
  - The OPW should include preference for retaining walls;
  - The RA Mana Whenua partnership condition is accepted;
  - The SCEMP should be extended and be certified by Council;
  - There should be greater level of prescription in the ULDMP;
  - Amendments required to the flood hazard condition;
  - The CTMP should be amended to include school routes;
  - Concerns about the OSMP;
  - Concerns around Council open space;

- Construction noise and operational noise;
- The Historic Heritage Management Plan;
- Ecology;
- Network Utility Management Plan.

## RELEVANT STATUTORY PROVISIONS CONSIDERED

382. The RAs are Requiring Authorities in terms of s166 of the Act. The RAs gave notice to the Council of a requirement for four new designations and for the alteration to existing Designation 6717 together as part of the proposed Airport to Botany Bus Rapid Transit project.

383. Section 171 of the Act sets out the matters to which a territorial authority must have regard when considering a requirement and any submissions received, and in making its recommendations to the requiring authority. Section 171 is subject to Part 2, which states the purpose and principles of the Act.

384. Section 171(1) requires:

*(1) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to -*

*(a) any relevant provisions of -*

*(i) a national policy statement:*

*(ii) a New Zealand coastal policy statement:*

*(iii) a regional policy statement or proposed regional policy statement:*

*(iv) a plan or proposed plan; and*

*(b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if –*

*(i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or*

*(ii) it is likely that the work will have a significant adverse effect on the environment; and*

*(c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*

*(d) any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*

## **Effects on the Environment**

385. We have considered the effects of the proposal on the environment generally as outlined in the discussion above, in the evidence received, as set out in the RAs 'Assessment of Environmental Effects' and in the Council officers' reports. Subject to the imposition of appropriate conditions we find that the environmental effects are acceptable or can be avoided, remedied or mitigated.

### **Section 171(1)(a) – Any relevant provisions of a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, a regional plan, a district plan or a proposed district plan.**

386. Pursuant to section 171(1)(a), when considering the requirement, we must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to any relevant provisions of a national policy statement, the New Zealand Coastal Policy Statement, the regional policy statement, the proposed regional policy statement and the relevant regional and district plans and proposed plans.

387. Collectively the RAs' Notice of Requirement application and the Council officer's hearing report provided a comprehensive commentary on the relevant national and regional policy statement and, the Auckland Unitary Plan. We do not intend to repeat this material in this decision; rather we rely on the application documents and officer's report in this regard, except to indicate that the following documents were considered of particular relevance in reaching our decision:

- National Policy Statement on Urban Development 2020 (NPS:UD);
- National Policy Statement on Freshwater Management 2020 (NPS:FM);
- National Policy Statement on Electricity Transmission (NPS:ET);
- New Zealand Coastal Policy Statement (NZCPS);
- Auckland Regional Policy Statement (RPS);
- Auckland Unitary Plan (AUP);

388. No regional plans are relevant to the consideration of this NoR. Any subsequent applications to develop the site that trigger the need for resource consents under the regional plans will be applied for at that time.

### **Section 171(1)(b) – Adequate consideration has been given to alternative sites, routes, or methods of undertaking the work or that it is likely that the work will have a significant adverse effect on the environment.**

389. The RAs do not have an interest in all the land and the effects of the works will be significant. Therefore, an assessment of alternatives sites, routes or methods is required.

390. As noted above we accept that the RAs have undertaken an adequate assessment of both alternative routes and methods as set out in the evidence of Mr Buckley. We find that it is not necessary for us to recommend the best route or method, only for us to decide whether the RAs have undertaken an adequate assessment, and we find that they have done so.

**Section 171(1)(c) - Whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought.**

391. The objectives for Auckland Transport are as follows;

*Enable the provision of public transport and active mode corridors in a manner that;*

- (i) Is safe for all transport users.*
- (ii) Connects Orrs Road (Auckland Airport Boundary) with Manukau City Centre and Botany Town Centre;*
- (iii) Includes efficient resilient and reliable dedicated public transport and active mode infrastructure;*
- (iv) Contributes to mode shift by improving travel choice and access to key destinations along the corridors;*
- (v) Connects to existing and planned public transport stations;*
- (vi) Integrates with the existing and planned future environments; and*
- (vii) Recognises the future strategic function of the corridor.*

392. The objective for Waka Kotahi's alteration to designation is;

*Provide for the maintenance, operation and improvement of the SH20B corridor while enabling the implementation and delivery of a cycleway and shared path and a public transport corridor.*

393. The main challenge to these objectives came from submitters that expressed concern that the standard cross section was proposed to be imposed over adjoining land and that because of that and the lack of detailed design the Project in some locations failed to integrate with existing and planned future environments (AT objective vi). Some submitters also challenged the need for active mode infrastructure or preferred the location of active mode infrastructure to be located elsewhere.

394. As noted in the discussion above, we have some sympathy with submitters concerned about the lack of integration with adjoining activities caused by the use of the standard corridor. This concern is exacerbated by the proposed use of battered slopes to address elevation changes between the expanded road and adjoining sites, especially in business areas where the AUP encouraged buildings



to be located on the road boundary. In these situations, battered slopes may not be appropriate and a clear elevation for the road boundary adjacent to the footpath is considered more desirable.

395. The submissions that considered that the active mode aspects of the Project be deleted (in full or in part) challenged the objectives. We are unable to amend the RAs' objectives.
396. We consider that given the adjustments made through the hearing process, the LIP process, specific changes recommended and the conditions encouraging the use of retaining walls, the designations can be considered reasonably necessary to achieve the RAs' objectives.

**Section 171(1)(d) Other matters considered reasonably necessary in order to make a recommendation on the requirement.**

397. The default period for the lapse of a designation is 5 years after its inclusion in a plan unless it has been given effect to or an application is made to extend the period, or a longer period is confirmed as part of the designation process<sup>18</sup>. In this application the Requiring Authority has sought a lapse period of 15 years.
398. For the reasons set out earlier in this discussion we consider that a 15-year lapse period is not appropriate given the considerable uncertainty about the final form of the designation and the impact that the designation will have on a large number of properties along the route.
399. We recommend that a 10-year lapse period be adopted.
400. For completeness we note here that we have considered the likely future environment in addition to the existing environment.

**Part 2 of the Act**

401. Part 2 of the Act sets out the purpose and principles of the RMA.
402. In terms of **section 5**, we consider that the Project will enable the people and communities of the area that the BRT traverses and others to provide for their social, economic, and cultural well-being and for their health and safety, and sustain the potential of the transportation network to meet the reasonably foreseeable needs of future generations, through the promotion of an integrated, multi-modal transport system to support population and economic growth. A comprehensive suite of conditions to safeguard life-supporting capacity and avoid, remedy, mitigate the adverse effects of the Project on the environment are recommended.
403. In terms of **section 6**, we are of the view that s.6 (e) on the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, discussed below with section 8, is relevant (as is section 7 (a)).

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<sup>18</sup> Section 184(1) of the RMA

Based on the evidence of Ms Wilson particularly we find that the Project adequately recognises and provides for these matters.

404. There are also a number of Other Matters under **Section 7**, of relevance to the proposed designation, to which we must have regard namely:

(a) Kaitiakitanga;

[(aa) The ethic of stewardship;]

(b) The efficient use and development of natural and physical resources;

(c) The maintenance and enhancement of amenity values;

(f) Maintenance and enhancement of the quality of the environment;

We find that the Project has adequately had particular regard to these matters.

405. **Section 8**, of the Act requires all persons exercising functions and powers under the Act, in relation to managing the use, development, and protection of natural and physical resources, to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). We make the same findings in respect of this matter as we do in respect of the matter of national importance above

## CONCLUSIONS

406. The Project seeks to extend significant transportation infrastructure to support population and economic growth in south and south-east Auckland.

407. The evidence has established that the Project is likely to have potential future benefits on the predicted future environment.

408. The Panel's focus in this report of our findings on adverse effects and fine details of proposed conditions should not be taken as disregarding the benefits of the Project. The Panel has followed the submissions and evidence to determine whether appropriate conditions will effectively avoid, remedy, mitigate the adverse effects of the Project. We have found that subject to changes to the conditions proposed by the RAs this can be achieved.

409. We have concluded that the NoR should be confirmed.

410. We record that our recommended and approved conditions are drawn from the Applicant's reply conditions, with amendments as indicated throughout this report.

## RECOMMENDATIONS

### ***NOR1***

In exercising our delegation under section 34A of the RMA and in accordance with section 171(2) of the Resource Management Act 1991, the Panel **recommends** to Auckland Transport that the Notice of Requirement for the construction, operation, and maintenance of a BRT from near the Botany Town Centre along Te Irirangi Drive to Rongomai Park as shown in Attachment A: be **confirmed** and be subject to the conditions set out in Attachment A for the reasons below.

### ***NOR2***

In exercising our delegation under section 34A of the RMA and in accordance with section 171(2) of the Resource Management Act 1991, the Panel **recommends** to Auckland Transport that the Notice of Requirement for the construction, operation, and maintenance of a BRT from Rongomai Park to Puhinui Station, in the vicinity of Plunket Avenue as shown in Attachment B: be **confirmed** and be subject to the conditions set out in Attachment B for the reasons below.

### ***NOR3***

In exercising our delegation under section 34A of the RMA and in accordance with section 171(2) of the Resource Management Act 1991, the Panel **recommends** to Auckland Transport that the Notice of Requirement for the construction, operation, and maintenance of a BRT from Puhinui Station, in the vicinity of Plunket Avenue to SH20/20B Interchange as shown in Attachment C: be **confirmed** and be subject to the conditions set out in Attachment C for the reasons below.

### ***NOR4a***

In exercising our delegation under section 34A of the RMA and in accordance with section 171(2) of the Resource Management Act 1991, the Panel **recommends** to Auckland Transport that the Notice of Requirement for the construction, operation, and maintenance of a BRT from SH20/20B Interchange to Orrs Road as shown in Attachment D: be **confirmed** and be subject to the conditions set out in Attachment D for the reasons below.

### ***NOR4b***

In exercising our delegation under section 34A of the RMA and in accordance with section 171(2) of the Resource Management Act 1991, the Panel **recommends** to Waka Kotahi – New Zealand Transport Agency that the Notice of Requirement for the construction a new south bound ramp from SH20B onto SH20 and operation, and maintenance of a BRT from SH20/20B Interchange to Orrs Road as shown in Attachment E: be **confirmed** and be subject to the conditions set out in Attachment E for the reasons below.

## REASONS FOR THE RECOMMENDATIONS

Under section 171(3) of the Act the reasons for the recommendation are set out in the body of our report and are summarised as follows:

1. The NoRs satisfy section 171 of the Act as;
  - a. adequate consideration has been given to alternative sites, routes, or methods of undertaking the work – s171(1)(b);
  - b. the work and designations are reasonably necessary for achieving the objectives of the Requiring Authorities, - s171(1)(c);
  - c. the work and designations respond to and support growth in south and south-east Auckland and the predicted future transport environment and network – s171(1)(d).
2. The work proposed by the designations are consistent with Part 2 of the Act in that it represents the sustainable management of natural and physical resources consistent with sections 5, 6, 7 and 8 through the promotion of an integrated, multi-modal transport system to support population and economic growth in south and south-east Auckland.
3. The designations are in general accordance with relevant objectives and policies of National Policy Statement on Urban Development 2020 (NPS:UD), National Policy Statement on Freshwater Management 2020 (NPS:FM), National Policy Statement on Electricity Transmission (NPS:ET), New Zealand Coastal Policy Statement (NZCPS), Auckland Regional Policy Statement (RPS), and the Auckland Unitary Plan (AUP).
4. Subject to the recommended conditions, set out in Attachments A to E, the designations will avoid, remedy or mitigate adverse environmental effects.

### **AMENDMENTS TO THE UNITARY PLAN (OPERATIVE IN PART)**

That the Auckland Unitary Plan (Operative in Part) be amended as set out in Attachments A to E.



**David Wren**  
**Chairperson**

**Date: 13 December 2023**