

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

## Proposal

Notice of Requirement for a designation for the Whangapouri Road Substation in the Auckland Unitary Plan (Operative in part) (AUP) at 8 Whangapouri Road, Karaka.

This Notice of Requirement is recommended to be **CONFIRMED**, subject to conditions. The reasons are set out below.

<b>Site address:</b>	8 Whangapouri Road, Karaka
<b>Requiring Authority:</b>	Counties Energy
<b>Hearing commenced:</b>	Monday 2 May 2022, 9.30am
<b>Hearing panel:</b>	Peter Reaburn (Chairperson) Gavin Lister Basil Morrison
<b>Appearances:</b>	<u>For the Applicant:</u> Nick Williamson, Planning Angela Brown, Landscape Architecture Adrian Nadan, Corporate <u>For the Submitters:</u> Kerry Stove, for Sublime Property Management <u>For Council:</u> Craig Cairncross, Team Leader Katrina David, Planner Stephen Brown, Landscape Architect Chris Freke, Auckland Transport Wendy Stephenson, Hearings Advisor
<b>Hearing adjourned</b>	Monday 2 May 2022
<b>Commissioners' site visit</b>	Tuesday 10 May 2022
<b>Requiring Authority Reply Received</b>	Friday 20 May 2022
<b>Hearing Closed</b>	Monday 23 May 2022

## INTRODUCTION

1. Pursuant to section 168 of the Resource Management Act 1991 (**RMA**), Counties Energy, as the requiring authority, has lodged a Notice of Requirement (**NoR**) for a designation for the Whangapouri Road Substation in the Auckland Unitary Plan (Operative in part) (**AUP**) at 8 Whangapouri Road, Karaka. The NoR was limited notified and two submissions were received. The NoR and issues raised by

submitters were addressed at a hearing before an independent commissioner's panel, conducted remotely (using "Teams") on 2 May 2022.

2. This recommendation on the NoR is made on behalf of the Auckland Council by Independent Hearing Commissioners Peter Reaburn, Basil Morrison and Gavin Lister, appointed and acting under delegated authority in accordance with sections 34 and 34A of the Resource Management Act 1991. The recommendation has been prepared in accordance with section 113 of the RMA. It assesses the NoR under section 171 of the RMA, addresses the issues raised in the submissions and contains our recommendations to the requiring authority, Counties Energy, under section 171(2) of the RMA.

## THE SITE AND SURROUNDINGS

3. The site and surrounding environment was explained in the Council officer's s42A report prepared by an Auckland Council Senior Policy Planner, Katrina David, and in the submitted Assessment of Environmental Effects (**AEE**). Our appreciation of the site and its context was also assisted by our site visit, conducted on Tuesday 10 May 2022.
4. In brief, the NoR affects part of a 1.0724ha Rural - Mixed Rural zoned site at 8 Whangapouri Road, Karaka. The site is situated in a rural area on the corner of Karaka Road/State Highway 22 (**Karaka Road**) and Whangapouri Road, approximately 4km to the east of State Highway 1 and 700-800m east of the Rural Urban Boundary (**RUB**). We were advised that the Future Urban zoned land to the east of the RUB has been the subject of an Auckland Council Structure Plan, formally adopted by Auckland Council in August 2019. The Drury – Opāheke area - extending from the RUB boundary at Drury West up to Opaheke is estimated to provide about 22,000 houses and about 12,000 jobs with a population of about 60,000 over the next 30 years.
5. The subject site has been used for rural residential purposes and has recently been redeveloped with residential buildings clustered on the eastern part of the site with the balance area (that part of the site subject to the NoR) being in grass. The site is fenced but is entirely visible from the Karaka Road / Whangapouri Road corner. An existing designation, being Waka Kotahi Designation 6705, State Highway 22: Karaka to Pukekohe – Road widening applies to a 5-metre strip of the front of the site along Karaka Road.
6. The property immediately to the north at 14 Whangapouri Road contains a substantial single storied dwellinghouse. Within the subject site's side of the shared boundary is a pittosporum hedge that provides some screening between the subject site and the adjoining dwelling.
7. 5 Whangapouri Road is a property across the road from the subject site, on the opposite side of the Karaka Road / Whangapouri Road corner. That site also contains a recently erected dwelling, with the Whangapouri Road boundary containing a screen fence.

8. 5 and 14 Whangapouri Road contain the only nearby dwellings to the subject site. Paddocks exist on land to the east and land across Karaka Road to the south contains large shelterbelts.

## **SUMMARY OF THE PROPOSAL**

9. The proposal as notified was explained in the AEE and in the s42A report.
10. In brief, Counties Energy proposes using 6,800m<sup>2</sup> of the subject site to construct, operate and maintain a new 110/22kV electricity substation needed to provide for forecast electrical demand growth for the area it describes as Pukekohe North. The site will be supplied from Counties Energy's Quarry Road 110kV substation. The NoR Report states:

*Specific construction works proposed for the site (following the NoR and subsequent Outline Plan of Works include:*

- *Approximately 2000m<sup>3</sup> of earthworks over an area of approximately 5000m<sup>2</sup>, predominantly to form a level platform for the substation yard.*
  - *Construction of concrete foundation pads and steel stands for the outdoor 110kV equipment and transformers.*
  - *Construction of a 22kV switchroom building.*
  - *Civil site works such as earthworks, stormwater drainage, wastewater drainage and driveways.*
  - *Fencing of the full site.*
11. A concept plan provided by Counties Energy was intended to demonstrate the suitability of the site in terms of infrastructure and planning constraints and to inform the assessment of environmental effects. Counties Energy stated "while subject to change" the concept plan shows:
- a concrete switch room building approximately 19m long, 7.5m wide, 4.5m high
  - 12m-15m high gantries for the incoming 110kV lines
  - 2-3 (3 are shown on the concept plan) 110kV transformers on concrete foundations, with fire and bund walls
  - 8-10m high busbar works and equipment structures on concrete foundations.
12. We note that, in response to requests for further information, the requiring authority included reference to "termination poles" that may reach a height of 17m.
13. The existing single vehicle access way from Whangapouri Road will be removed. A new access to the balance part of the site to be retained for residential purposes will be established along the boundary with 14 Whangapouri Road and two further access points into the substation site are shown on the concept plan.
14. We were advised that the detail and location of the 110kv cabling or overhead lines coming into or distributed from the site was not part of the NoR proposal. This matter is further addressed under the permitted baseline considerations below.

## PROCEDURAL MATTERS

15. The NoR was limited notified to owners/occupiers of 5 and 14 Whangapouri Road and the Ngāti Tamaoho Trust on 10 December 2021 and (after an issue with postage delivery), resent to affected parties on 26 January 2022, with a submission closing date of 25 February 2022. Submissions were subsequently received from:
  - The Light of Mercy Charitable Trust (14 Whangapouri Road)
  - Sublime Property Management Ltd (5 Whangapouri Road)
16. No late submissions were received.
17. We were advised in the s42A report that fifteen people who were not served notice attempted to submit on the NoR. Due to the limited notification these were 'submissions' that could not be accepted by council and council staff advised those people accordingly.

## RELEVANT STATUTORY PROVISIONS CONSIDERED

18. Counties Energy is a Requiring Authority in terms of s166 of the Act.
19. Section 171 of the RMA 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 RMA.
20. Section 171(1) of the RMA states:
  - (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.*

21. After considering these matters, the council needs to make a recommendation to the requiring authority under section 171(2) of the RMA which states:

(2) *The territorial authority may recommend to the requiring authority that it –*

(a) *confirm the requirement:*

(b) *modify the requirement:*

(c) *impose conditions:*

(d) *withdraw the requirement.*

22. Reasons must be given for the recommendation under section 171(3) of the RMA

## **SUMMARY OF EVIDENCE**

23. Section 113 RMA states that every decision in respect of an application for resource consent that is notified shall be in writing and state *inter alia* a summary of the evidence heard. That is not required for recommendations on NoRs. Be that as it may, we provide a summary of the presentations we received at the hearing for the NoR. The key evidence we received is also discussed as part of our findings on the principal issues in contention and, in particular, the evidence that has contributed to, or that is determinative of, the recommendations we have made on the NoR.

24. Ms David's s42A report was circulated prior to the hearing and taken as read. In preparing that report Ms. David had the assistance of a number of supporting specialists. One of those, Mr Stephen Brown, was a Landscape Architect and both Ms David and Mr Brown assisted us in response to matters raised at the hearing.

25. Other evidence presented at the hearing responded to the issues and concerns identified in Ms David's s42A report, the NoR application material and the submissions made on the NoR. Evidence was presented on behalf of Counties Energy and one of the submitters, representing Sublime Property Management Ltd (5 Whangapouri Road).

26. The evidence presented by the Requiring Authority at the hearing is summarised below.

### **Requiring Authority - Counties Energy**

27. **Nick Williamson** is a qualified planner. He gave planning evidence on behalf of the requiring authority. He advised that Counties Energy requires land for a new 110/22kV substation to meet the forecast electrical demand growth for the Pukekohe North area, including residential development in Paerata Rise, Wesley,

and Karaka North. Counties Energy had considered many alternative sites over several years in the face of increasing competition for land that could physically accommodate a substation with its associated design parameters.

28. Mr Williamson advised that there was some uncertainty regarding the sequencing and timing of the related 'upstream' works, much of which was outside the control of Counties Energy. That impacted on the construction timetable for the substation, and did not allow, at the current time, for a detailed layout of the site to be finalised. The submitted concept plan was intended only to demonstrate feasibility. In respect of timing he considered the upstream enabling works themselves are likely to take the better part of 5 years to complete. Detailed design would be submitted as part of a future outline plan of works and, for now, it was proposed that 'outcome based' conditions be included in the designation that replicate the AUP development and performance standards relating to permitted substations. Subject to some minor changes that he suggested, Mr Williamson considered the recommended designation conditions as proposed in the s42A Report were generally acceptable. He noted that the proposed conditions included requirements to consult with directly affected parties, including Waka Kotahi, Auckland Council, mana whenua, and the owners of 5 and 14 Whangapouri Road. It was not practicable to commence consultation until there was more certainty regarding the ultimate parameters.
29. In response to questions from the commissioners Mr Williamson reiterated his view that it was prudent for Counties Energy to secure land that it would eventually need well in advance of that need. The site may not actually be developed for a substation for up to 10 years, thus the request for a 10-year designation period. Development would begin with bulk earthworks and the delay in that commencement date made it difficult to confidently plan and provide the proposed screening landscape treatment in the meantime.
30. **Adrian Nadan** was the corporate representative for Counties Energy. He did not present written evidence; however he did respond to questions from the commissioners. Mr Nadan was not confident that screen planting could be established prior to bulk earthworks occurring as confidence would be required first on the final site layout. He expected that there would be the need for only one access to the site. He further expected that the future 110kv cabling or overhead lines coming into or distributed from the site would be directed to the south (i.e. across Karaka Road).
31. Angela Brown is a Registered Landscape Architect. The Landscape and Visual Assessment (LVIA) dated October 2021 had been prepared by Tim Walton who had since changed employment and was no longer available to present evidence. Ms Brown had visited the site and concurred with the site description in the LVIA. She described the landscape as being a fragmented rural landscape, in particular along Karaka Road/SH22, with a number of farm production buildings and an increasing rural residential intensification evident (in particular to the west of the site).

32. The focus of Ms Brown's evidence was on addressing the issues raised in the two submissions to the proposal and in response to the Hearing Report findings.
33. She referred to an indicative Landscape Concept Plan that was provided as part of the LVIA. That plan showed *Alectryon excelsus* (Titoki) as the main screening plant with *Phormium tenax* selected to provide further low screening and habitat. However those species were indicative only and additional species to improve biodiversity and amenity would be included in the planting plan at site-specific design stage. It was recommended that all built forms have a low reflective value to blend with the landscape and planting. Detail on the cladding and finish of the structures would also be included at site-specific design stage.
34. To assess the impact of the proposal, photo simulations had been prepared as part of the LVIA for viewpoints representative of residences potentially impacted by the site. The viewpoints represented the site from close and distance locations, and illustrated mitigation established over 0-5 year and 5–10-year timeframes. Ms Brown concluded that reliance was placed on mature mitigation planting to reduce visual impacts for neighbours and integrate the substation into the surrounding landscape. Mitigation planting around the perimeter would gradually lessen the visual impact of the site over a timeframe exceeding 5 years.
35. In respect of 5 Whangapouri Road, Ms Brown concurred with a conclusion Stephen Brown had reached, *'that effects in relation to 5 Whangapouri Road would still be of a moderate order in the short to medium term (out to approximately 10 years) and of a low-moderate order, at most, beyond - taking into account the fencing already undertaken and my recommendations in relation to the proposed conditions of consent'*.
36. In respect of 14 Whangapouri Road, Ms Brown considered there are a number of factors that mitigated the effects of potential future substation structure/s including the existing planting to be retained (she recommended that the existing *Pittosporum* hedgerow be retained) and other mitigation planting proposed on the substation site. In the latter respect the 'Indicative Planting proposal' showed alternating small trees between the security fence and the ROW between this property and the substation. However Ms Brown agreed that this plan is not clear in indicating what species are proposed in this area and concurred with Mr Brown's recommendation that mitigation planting in this area should consist of two rows of trees capable to growing to 8m high.
37. Ms Brown further concurred with Mr Brown on the need for the 8m high evergreen buffer to be provided to all the boundaries of the NoR development area (taking into consideration the 5m setback, vehicle access, and the Whangapouri Road visibility splays that had been sought by Auckland Transport). She noted that the effectiveness of a mitigation buffer of 8m high, evergreen vegetation is illustrated at the Whangarata Road open substation in Tuakau.
38. Ms Brown agreed that there would be a significant benefit in getting at least part of the mitigation planting established as early in the process as possible. She considered retaining the existing *Pittosporum* hedge along the boundary with 14

Whangapouri Road (i.e. along the north side of the proposed RoW) would provide some initial mitigation of visual effects for that property while the proposed mitigation planting became established. She was also in support of Counties Energy working with the two affected parties, to potentially undertake mitigation planting within the properties of the affected parties to further aid in getting some initial planting established. While this would likely be an effective approach, we are unable to take it into consideration because we are unable to impose a condition on a third party.

39. In response to questions from commissioners about the accuracy of the photo simulations contained within the LVIA, Ms Brown stated that her assessments had been based on her own observations on site, as well as the photo simulations. She considered that, if the screening montages “were not perfect” they nevertheless showed the intent of the proposed mitigation planting. Ms Brown also responded to questions about conditions, a matter we return to below.

### **Submitters**

40. **Mr Kerry Stove** owns the neighbouring property to the Sublime Property Management Limited (submitter’s) site at 5 Whangapouri Road. Mr Stove’s property was not one of those limited notified. However Mr Stove advised that he had been asked to appear for the submitter, Sublime Property Management Limited, “due to the unavailability of their key people”.
41. Mr Stove gave verbal evidence at the hearing, which was copied in writing to the panel with some further questions from Mr Stove after the conclusion to the hearing.
42. Mr Stove was advised by the Panel Chair at the hearing that he must confine his evidence to the submitter concerns as expressed by Sublime Property Management Limited, the submitter party he was there to represent. We have not considered any other matter, and in particular concerns raised by Mr Stove in relation to his own property. Nevertheless, we have given Mr Stove some latitude in hearing and considering his concerns in relation to not only 5 Whangapouri Road but also 14 Whangapouri Road, the address of the other submitter. We have done this, acknowledging that Mr Stove has considerable local knowledge including of these sites.
43. Mr Stove raised a concern that the Sublime Properties site had been described as a storage facility for a building company and that it was a residential property (currently being used as a showhome). The other notified party’s property was described as a Buddhist Temple but was an occupied residential property.
44. Despite the proposed mitigation planting, Mr Stove considered that the proposal will still have a significant detrimental impact on the value of, and the desirability of, surrounding land including, specifically, the notified parties. He was aware that property values are not considered under the Resource Management Act, however considered that the reduced value is a reflection of the significant loss of rural character. Mr Stove further considered the landscape visual assessment



“seriously overestimates” the degree of mitigation able to be achieved by the proposed planting, noting that the proposed maximum height at maturity of the proposed plants would be 8 metres and the maximum height of buildings (gantries/bus units) is 15m. Even if the planting would eventually provide some screening effect Mr Stove was concerned that this will only be achieved 10 years after planting.

45. In relation to traffic effects Mr Stove noted that the application did not include a traffic assessment and in respect of construction activity in particular there was no indication of how long the construction period will be, what type or quantity of construction traffic will be generated, or how that will be managed.

### **Council Advisors**

46. **Stephen Brown**, a qualified and experienced landscape architect, noted that, from a landscape architecture perspective, he was comfortable with the proposal, although not with the LVIA or photo simulations. Nevertheless, he considered that within 8-10 years a reasonable degree of screening could be provided.
47. **Katrina David** provided comment on conditions, as did Mr Brown. We address conditions below.

### **Reply**

48. The Requiring Authority’s right of reply was given by Mr Williamson in writing after the conclusion of the hearing, and addressed the following matters:

### **ISSUES IN CONTENTION**

49. After analysis of the NoR and the evidence (including proposed mitigation measures), undertaking a site visit, reviewing the Council’s section 42A report, reviewing the submissions and concluding the hearing process, the proposal raises a number of issues for consideration. The principal issues in contention are:
1. The relevance of the permitted baseline
  2. Landscape, character and amenity effects
  3. Other effects (traffic and noise)
  4. Lapse Date
  5. Conditions

### **Permitted Baseline**

50. There was discussion during the hearing with respect to the “permitted baseline”, or the extent to which activities that Counties Energy is entitled to carry out as of right should be taken into account in the assessment of effects of the NoR. We address this matter first due to its significance to some of the effects that are considered by some to arise in respect of their properties.
51. The permitted baseline was addressed in the AEE, the s42A report, the evidence, and the reply.

52. Ms David in the s42A report described a relatively permissive approach in the AUP provisions to the establishment, operation and maintenance of infrastructure. AUP Chapter E26 Infrastructure provides for a range of activities that can be undertaken without the need for a resource consent<sup>1</sup>. Permitted activities include substations *within new buildings*, subject to compliance with prescribed performance standards including noise and vibration, lighting electromagnetic fields, and radio frequency fields.
53. As stated in the Counties Energy Reply, the NoR proposes conditions requiring compliance with all the performance standards for enclosed substations. Council's technical experts have reviewed the proposal against these standards and have raised no issue in relation to the ability to comply with them. We find that this NoR's compliance with all the performance standards for enclosed substations is a relevant permitted baseline.
54. The subject substation will not, or at least not be entirely, within a new building. Chapter E26 requires Restricted Discretionary Activity consent for unenclosed substations. We find that the permitted baseline in this respect is limited to the proposed switchgear building. We were left with some doubt as to whether this would be a fully enclosed building, however we are satisfied, including by reference to our visit to the Tuakau substation, that it will have the appearance of an enclosed substation.
55. Reference was made in the s42A report to activities that are permitted in the Mixed Rural Zone but not the Countryside Living Zone. These activities include greenhouses, poultry farming (free range and intensive), intensive farming, on-site primary produce manufacturing and animal breeding or boarding. While we see differences between these activities and, in particular, the visual effects of what would be enabled by the NoR, we find that the range of activities that are permitted in the Mixed Rural Zone is relevant, as part of the permitted baseline, to an assessment of generated effects such as noise and traffic generation.
56. The relevant bulk and location standards required for permitted activities in the Mixed Rural Zone are: H19.10.2 – Building Height – 15m, and H19.10.3 – Minimum yard setbacks: front – 20m (Karaka Road is identified as an Arterial Road) and side – 12m. We find that these standards are a relevant permitted baseline.
57. We were further advised that overhead electricity lines up to and including 110kV are permitted in AUP Chapter E26. Lines leading to and from the subject site are not part of the NoR, however we consider this permitted activity status is relevant, as context.
58. We have a discretion in relation to application of the permitted baseline and in this case have concluded that, having regard to the circumstances of the NoR, the matters we have recorded above are relevant.

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<sup>1</sup> AUP E26 Infrastructure Table E26.2.3.1 Activity table

## Landscape, Character and Amenity Effects

59. The character and amenity impact of the development enabled by the NoR was the key concern of submitters. These, and landscape effects generally, were the main matters canvassed at the hearing.
60. The existing environment and infrastructure facilities likely to be placed on the site are detailed in the AEE and are summarised in Paragraphs 3 – 13 above.
61. We note and acknowledge the analysis and dialogue undertaken by and between the requiring authority and Council prior to, at, and subsequent to the hearing in addressing concerns, including those that were raised in submissions and by commissioners and the submitter's representative at the hearing. We further note that the required mitigation, as a result of that process of discussion and iteration, has led to a significantly enhanced package of requirements as compared to what had been initially proposed by Counties Energy. On the basis that the final proposed conditions are agreed between the requiring authority and the Council advisors it is the version of conditions as circulated in the Reply that we assess in our findings.
62. In their submission The Light of Mercy Charitable Trust raised concerns about the adverse effects of visual dominance on their property at 14 Whangapouri Road. Sublime Property Management Limited, who were represented by Mr Stove at the hearing, also raised concerns about the adverse effects on visual amenity for their property (5 Whangapouri Road), and also raised a concern that a rural/lifestyle area is an inappropriate location for a "significant industrial installation" such as the substation and that other locations are better suited (e.g. those zoned for future industrial or within areas the substation is intended to service).
63. We find that, while electricity substations are not a common presence in rural areas, neither are they unusual. As an example, reference was made during the hearing to the Counties Energy substation at Tuakau which is also in a generally rural area. Having regard to the way substations are described in the AUP, we also find that they are infrastructure rather than an industrial activity. As infrastructure they must be located on a site that is suitable for the function that they serve. The relatively permissive provisions of the AUP in relation to infrastructure are a response to that necessary function and those provisions do not treat rural areas in any significant way differently from other areas. The requiring authority has determined that this is a suitable site for the infrastructure they consider is necessary to support further growth in this area. Our focus is accordingly on assessing the adverse effects of the NoR at this location, rather than whether a substation is appropriate per se in a rural area.
64. In respect of character and amenity effects beyond the immediate environs of the subject site we accept and find in favour of the conclusions reached by the landscape experts for the requiring authority and the Council. Both presented the view that the substation would not have a significant effect in relation to the character of the wider rural landscape around Karaka Road and nearby parts of both Whangapouri and Bycroft Roads.

65. In respect of closer views in the immediate vicinity of the subject site, we note that the LVIA contained photo simulations illustrating a substation and the mitigating effect of proposed planting. Those photo simulations were relied on by the requiring authority to the extent that they were initially intended to be referred to in a designation condition. The accuracy of the photo simulations was questioned by Mr Brown on behalf of Council, Mr Stove on behalf of a submitter, and by the commissioners at the hearing. Ms Brown, landscape architect giving evidence for Counties Energy, did not entirely rely on them but considered they were of some assistance. Mr Williamson, in his reply on behalf of the requiring authority, confirmed that the proposed screen planting was not intended to be for the purpose of making the substation invisible, noting further that buildings up to 15m high are permitted in rural zones, without any requirement for screening. Having regard to these observations we find that the photo simulations are of little assistance, and we have placed no reliance on them in our findings. Of more significance in terms of the evidence we are satisfied that Mr Brown relied on his own observations rather than the photo simulations in making his review assessments on behalf of the Council and Ms Brown also said she relied only in part on the photo simulations.
66. The designation conditions as now proposed are intended to address, through mitigation measures, the potential adverse landscape and visual effects to the immediately surrounding areas. The conditions require submission of a landscape plan with the Outline Plan of Works (**OPW**) (proposed condition 2). The explicit purpose of that plan is to provide mitigation by a dense screen of permanent vegetation which is to include at least two rows of taller planting along the perimeter of the substation opposite the boundaries shared with Karaka Road, Whangapouri Road and 14 Whangapouri Road – of a species that will achieve an average height of 7m after 10 years and complete canopy closure in that time (proposed Condition 15). A proviso, to satisfy concerns of Auckland Transport, is that no landscaping, planting or other objects exceeding 80 centimetres in height shall be located within a right-angled triangular area with sides of 5 metres length located on the southwestern corner of the site as measured from the Waka Kotahi NZ Transport Agency road widening designation existing on 31 March 2022 (proposed Condition 17).
67. With regard to Karaka Road and the Karaka Road / Whangapouri Road corner we find that the conditions will provide appropriate mitigation through the required planting of substantial vegetation along those road boundaries. In that respect we consider the proposals here will provide a better outcome than what has been achieved at the Tuakau substation where the infrastructure present on the site is clearly visible from the adjoining road.
68. The landscape experts were of the common view that the primary potential for adverse effects arose in respect of 5 and 14 Whangapouri Road. We note the concerns expressed by submitters relating to what these properties were being utilised for. This matter was ultimately resolved and there was a consensus amongst the experts that both 5 and 14 Whangapouri Road needed to be assessed as properties with dwellings, and therefore residential use.

69. In respect of 5 Whangapouri Road the evidence of Ms Brown was that the effect of an outdoor substation “is more around perception as the components are visual and less aesthetically pleasing”. She considered (as compared to an enclosed substation which is a permitted activity) that an outdoor substation is easier to screen because of the reduced bulk of the structure. Ms Brown agreed with Mr Brown (for the Council) that, taking into account the mitigation (screen) planting proposed (adverse) effects in relation to 5 Whangapouri Road would be of a moderate order in the short to medium term (out to approximately 10 years) and of a low-moderate order, at most, beyond 10 years.
70. In respect of 14 Whangapouri Road Ms Brown recommended that the existing pittosporum hedgerow be retained as an initial buffer. She concurred with Mr Brown that this should be supplemented by mitigation planting of two rows and 8m high be provided in the location adjoining the proposed RoW on the north part of the site (being the access to the new residential site).
71. Mr Brown had made recommendations in respect of conditions that were accepted by the requiring authority. On that basis he was comfortable that a reasonable degree of screening would be achieved in 8 – 10 years. In response to questions at the hearing he said that additional planting within 14 Whangapouri Road would be helpful but was not necessary.
72. Ms Brown referred to what she regarded as the effectiveness of a mitigation buffer of 8m high, evergreen vegetation is illustrated at the Whangarata Road open substation in Tuakau. This substation has an 8m high Pittosporum eugenioides hedge to the north and east boundaries which screens the majority of the substation from neighbouring viewpoints.
73. The Panel visited the Tuakau substation site and agree with Ms Brown that it represents an example of how effective screening can be achieved. We find that, while the 7m average height screening will not entirely screen the substation from outside views, mitigation in accordance with the conditions proposed in the requiring authority’s reply will achieve satisfactory mitigation screening after a period of 8 – 10 years.
74. With regard to the timing of planting, Ms Brown considered that there would be a significant benefit in getting at least part of the mitigation planting established as early in the process as possible. She supported Counties Energy working with the two affected parties, to potentially undertake further mitigation planting within their own properties to aid in getting some initial planting established. The preliminary earthworks plan also shows that there may be a possibility to establish mitigation planting, at least along the Karaka Road and Whangapouri Road frontages ahead of detailed site design and bulk earthworks occurring. The Counties Energy witnesses, including Mr Nadan, expressed concerns about mitigation planting being required in advance of bulk earthworks and we note the proposed conditions as agreed between the requiring authority and Council advisors set the required time as being the first planting season after the bulk earthworks. Notwithstanding this we are concerned that, if it does appear possible for at least some of the

mitigation planting to begin at an earlier date that should be encouraged. We have made amendments to the conditions to require that this be a matter of further consultation with the affected parties.. That will then be a matter assessed by Council when considering the OPW. We further find that the existing Pittosporum hedge along the boundary with 14 Whangapouri Road (or an alternative acceptable to the neighbour) should be retained until such time as the new screen planting referred to in Paragraph 70 above is established. We have recommended a new condition to that effect.

### **Other Effects**

75. We have reviewed matters relating to noise, electromagnetic radiation and traffic and note that there were no issues raised between experts that were not otherwise addressed by the conditions proposed to be imposed on the designation. In relation to the issue of construction traffic raised by Mr Stove we note that the conditions require a construction traffic management plan to be lodged as part of the OPW. We accordingly find that in relation to all potential effects that have been raised in submissions the NoR that conditions will appropriately manage potential adverse effects.

### **Lapse Date**

76. The rationale for the ten-year period lapse date sought was set out in the AEE and Mr Williamson's evidence. It may be some time before plans for the site can be finalised as a response to current and future planned developments in the area that this substation will serve. While a five-year period could be extended, imposing this period would simply require the RA to apply for an extension at a later date. A ten-year period was not opposed by the Council advisors and we find that term is appropriate.

### **Conditions**

77. As noted, the conditions as finally proposed in the requiring authority's reply were agreed with Council's advisors. We find that, subject to the minor amendments we have made, they will appropriately manage the establishment and operation of infrastructure on this site in accordance with its designated purpose.

## **FINDINGS UNDER SECTION 171**

***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 proposed district plan.***

78. 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.

79. Collectively the NoR and the section 42A report provided a comprehensive commentary on the relevant national and regional policy statements and the AUP: OP. We do not repeat this material in this recommendation, rather we rely on the NoR documents and section 42A report in this regard, except to indicate that the following documents were considered of particular relevance in reaching our recommendation:
- Auckland Unitary Plan – Operative in Part, including Chapter B Regional Policy Statement
  - National Policy Statement on Electricity Transmission 2008
  - National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Public Health
  - National Policy Statement on Urban Development
80. We further note that AUP includes objectives and policies that relate to urban growth and form; infrastructure, mana whenua values, rural activities; natural resources; land disturbance; contaminated land, hazardous substances, environmental risk, noise and vibration and lighting. Our consideration of all of these is that the NoR is consistent with, and does not conflict with, the provisions or the intention of these provisions.

***Section 171(1)(b) – Adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if the requiring authority does not have an interest in the land sufficient for undertaking the work; or or that it is likely that the work will have a significant adverse effect on the environment.***

81. The AEE concludes that, because the requiring authority has entered into a sale and purchase agreement with the existing owners for the land that is required for the designation, they have sufficient interest in the land to undertake the works.
82. The Panel finds that, whilst not being entirely satisfactory for submitters, the work will not have a *significant* adverse effect on the environment and that a rigorous examination of alternative sites is not therefore required. Counties Energy has met its statutory responsibilities in respect of the consideration of the NoR. We nevertheless acknowledge the points raised by submitters and have done as much as we believe we can do to accommodate their concerns in the consideration of conditions.
83. If it was necessary for alternative sites to have been examined then we note from the AEE that there was an investigation of 12 alternative sites. We find that the requiring authority has not acted arbitrarily or not given more than a cursory consideration of alternatives.

***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.***

84. Counties Energy's specific objective for the project, as stated in the AEE is to "facilitate the construction of a new substations and other electrical equipment required to achieve resilience of electricity supply throughout the Counties Energy network"<sup>2</sup>. In this particular case, Counties Energy requires land for a new 110/22kv substation to meet the forecast electrical demand growth for the Pukekohe North area, including residential developments in Paerata Rise, Wesley and Karaka North.
85. We find that the evidence shows that the designation is reasonably necessary to achieve the requiring authority's objectives.

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

86. We have had due regard to all the various documents referred to during the hearing on the NoR. We do not consider them to be necessary considerations in the context of the recommendations we are to make, noting however that the NoR is consistent with directions for electricity network planning as outlined in the Auckland Plan.

***Conclusion on section 171 RMA***

87. We find that the requirements of section 171 relating to NoRs have been met by the details of the proposal and supported by conditions as part of our recommendation on the NoR.

**PART 2 RMA**

88. We have had due regard to Part 2 RMA considerations and note these were addressed in the submitted documents. We find agreement with that evidence and that the project will meet the purpose of the RMA; recognise and provide for the relevant section 6 matters; has had particular regard to section 7 matters; and, has recognised the section 8 principles of the Treaty of Waitangi through the engagement that has occurred and is to be ongoing throughout the course of the project.

**CONCLUSIONS**

89. Section 171 of the RMA provides the means by which the NoR can be recommended to be confirmed or otherwise. In terms of section 171 we consider that the NoR is appropriate, subject to the conditions we are recommending to be adopted (as **Attachment A**), and should be confirmed.
90. We have concluded that the 10-year lapse period sought for the designation is appropriate given the expected timeframes anticipated, including the necessary detailed design and outline plan approval processes, as well as its actual construction.

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<sup>2</sup> Part 6.2 of the AEE



91. Other issues raised will be appropriately dealt with at the Outline Plan of Works stage, which must occur before work commences, and is subject to overview by the Council.

## **RECOMMENDATION ON THE NOR**

In accordance with section 171(2) of the Resource Management Act 1991, the Auckland Council **recommends** to Counties Energy that the Notice of Requirement for be **confirmed** and be subject to the conditions set out in **Attachment A**.

## **REASONS FOR THE RECOMMENDATION**

Under section 171(3) of the Resource Management Act 1991, the reasons for the recommendation are:

1. The Notice of Requirement is consistent with section 171 of the RMA as the designation is reasonably necessary for achieving the objectives of the requiring authority and adequate consideration has been given to alternatives for doing the works.
2. The conditions attached to the Notice of Requirement and designation are intended to avoid, remedy or mitigate any adverse effects that may be associated with the works and take account of the concerns of submitters, to the extent we are able to do so.
3. The designation is in accordance with relevant objectives and policies of the Auckland Unitary Plan, Operative in Part and with the other relevant planning documents.
4. The designation is consistent with Part 2 of the RMA.

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

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



**Peter Reaburn**  
**Chairperson**

**Date: 10 June 2022**

## ATTACHMENT A

### Recommended Conditions

#### 30XX Counties Energy Whangapouri Road Substation

Designation Number	30XX
Requiring Authority	Counties Energy Limited
Location	Whangapouri Road, Karaka
Lapse Date	10 years from date of inclusion in the Auckland Unitary Plan

#### Purpose

'Electricity supply purposes'

#### Conditions

#### Outline Plan(s)

1. Prior to commencement of construction, the Counties Energy must submit an Outline Plan of Works to Auckland Council in accordance with section 176A of the Act. The Outline Plan of Works must show:
  - a. The height, shape, and bulk of the public work, project, or work;
  - b. The location on the site of the public work, project, or work;
  - c. The likely finished contour of the site;
  - d. The vehicular access crossings, circulation, and the provision for parking;
  - e. The landscaping proposed; and
  - f. Any other matters to avoid, remedy, or mitigate any adverse effects on the environment.
2. In addition to the matters set out in Condition 1 the Outline Plan must:
  - a. include the extent of any stormwater discharges to the road reserve;
  - b. demonstrate how the proposal will be compliant with the conditions;
  - c. include the outcome of the consultation required by Conditions 3, 4 and 5;
  - d. include a detailed landscape plan as detailed in Condition 15; and
  - e. include the following management plans, each prepared by a suitable qualified and experienced professional:
    - i. Construction Environmental Management Plan as detailed in Condition 6;

- ii. Construction Noise and Vibration Management Plan as detailed in condition 9;
- iii. Construction Traffic Management Plan as detailed in condition 7;
- iv. Erosion and Sediment Control Management Plan as detailed in conditions 34 to 40; and
- iv. Environmental Management Plan for Hazardous Substances as detailed in condition 28.

#### **Consultation with Waka Kotahi NZ Transport Agency**

3. Counties Energy shall liaise with Waka Kotahi NZ Transport Agency during the detailed design and subsequent construction processes prior to undertaking any work pursuant to this designation to ensure that the proposed works are integrated and managed in a manner suitable to both parties.

#### **Consultation with Ngāti Tamaoho**

4. Counties Energy shall consult with Ngāti Tamaoho during the detailed design and subsequent construction processes prior to undertaking any work pursuant to this designation to ensure that the proposed design addresses their suggestions about switch room colour and finish.

#### **Consultation with Adjoining Owners**

5. Counties Energy shall consult with the owners of 5 and 14 Whangapouri Road during the detailed design process to ensure that their suggestions and preferences are taken into account when preparing the detailed Landscaping Plan required by Condition 2.

#### **Construction Environmental Management Plan (CEMP)**

6. The purpose of the CEMP required by Condition 2 is to avoid, remedy or mitigate adverse effects associated with the construction works associated with the Project. The CEMP must contain the following:
  - a. Where access points are to be located and procedures for managing construction vehicle ingress and egress to construction support and storage areas;
  - b. Methods for managing and monitoring dust as a nuisance, including methods for minimising dust emissions, monitoring procedures and contingency procedures in the event of a dust nuisance event;
  - c. Measures to be adopted to keep the construction areas in a tidy condition in terms of disposal / storage of rubbish and storage, unloading construction materials (including equipment). All storage of materials and equipment associated with the construction works must take place within the boundaries of the designation;
  - d. The location of any temporary buildings (including workers' offices and portaloos) and vehicle parking (which should be located in the construction area and not on adjacent streets);
  - e. Information on designated staff parking areas for construction workers;

- f. Training requirements for employees, sub-contractor and visitors on construction procedures, environmental management and monitoring;
  - g. Environmental incident and emergency management procedures (excluding spills); and
  - h. An outline of the construction programme of the work, including construction hours of operation, indicating linkages to the other management plans which address the management of adverse effects during construction.
7. A Construction Traffic Management Plan (CTMP) must be prepared by a suitably qualified person and must include any feedback from Auckland Transport and Waka Kotahi NZ Transport Agency and an explanation where any of their recommendations have not been adopted within the plan.
  8. All construction work (as defined in NZS 6803:1999) must be designed, managed and conducted to ensure that construction noise from the site does not exceed the limits in NZS 6803:1999 Acoustics - Construction Noise at locations set out in section 6.2 of that standard.
  9. A Construction Noise and Vibration Management Plan (CNVMP) must be prepared, with the assistance of a suitably qualified and experienced professional, that sets out the management procedures in terms of Section 8 and Annex E of NZS 6803:1999 and the works must be undertaken in accordance with that CNVMP.
  10. In accordance with NZS 6803:1999 Acoustics - Construction Noise, construction activities are to occur between 7.30am and 6.00pm Monday to Saturday, with no construction to occur on Sundays or public holidays unless otherwise authorised through the CNVMP required by Condition 9.
  11. The noise limits set out in Condition 8 above shall not apply to emergency work required to re- establish continuity of supply, work urgently required to prevent loss of life or other personal injury, or commissioning works at the substation site, but all practicable steps shall be undertaken to control noise and to avoid adverse noise effect.

### **Operational Noise**

12. Noise from the substation must not exceed the following noise limits when measured within the notional boundary of all adjacent properties:
  - a. 55 dB LAeq between Monday to Saturday 7am to 10pm and Sundays 9am to 6pm and
  - b. 45 dB LAeq/75 dB LAmax for all other times

*Advice note: The noise limits set out in this Condition shall not apply to emergency work required to re-establish continuity of supply, work urgently required to prevent loss of life or other personal injury, or commissioning works at the substation site, but all practicable steps shall be undertaken to control noise and to avoid adverse noise effect.*

### **Site access**

13. The site must be safe and secure from unauthorised public access at all times during construction and operation.

### **Accidental Discovery Protocols**

14. If any archaeological sites, urupā, traditional sites, taonga (significant artefacts), or kōiwi (human remains) are exposed during site works, then the following procedures shall apply:
  - a. Works in the immediate vicinity of the site that has been exposed shall cease;
  - b. The site supervisor shall immediately secure the area in a way that ensures that any remains or artefacts are untouched;
  - c. The site supervisor shall notify representatives of relevant tangata whenua, the Heritage New Zealand Pouhere Taonga, the Auckland Council and, in the case of human remains, the New Zealand Police;
  - d. The notification in (c) above shall allow such persons being given a reasonable time to record and recover archaeological features discovered before work may recommence on the exposed site; and
  - e. Works shall not commence in the immediate vicinity of the archaeological site until any approval required from the Heritage New Zealand Pouhere Taonga is obtained.

### **Landscaping and visual**

15. The purpose of the Detailed Landscape Plan required in Condition 2 is to ensure planting around the substation mitigates the adverse visual and amenity effects of the substation on the neighbouring properties and wider environment by creating a dense screen of permanent vegetation around the perimeter of the substation. The detailed landscape plan must be prepared by an experienced and qualified landscape architect or landscape professional and must:
  - a. Provide sufficient space and depth of planting – incorporating at least two rows of taller planting along the perimeter of the substation opposite Karaka Road, Whangapouri Road and between the substation and the proposed right of way on the north part of the site – of a species that will achieve an average height of 7m after 10 years and complete canopy closure in that time.
  - b. Retain the existing Pittosporum hedge adjacent to the boundary between the proposed right of way and 14 Whangapouri Road or replaced with alternative screen planting agreed with the owners of 14 Whangapouri Road.
  - c. Detail the type of species to be planted, their spacing, and their size at the time of planting; and
  - d. Ensure the planting required by clauses a) and c) is set back on the southwestern corner of the site to ensure compliance with Condition 18.
  - e. Provide an indicative planting programme with the objective of achieving planting, or staged areas of planting, at the earliest possible time after the site design details have been completed.

16. No later than the planting season immediately following the completion of bulk earthworks on the site, the Requiring Authority must implement the detailed landscape plan required by Condition 2.
17. The existing Pittosporum hedge (or an alternative acceptable to the 14 Whangapouri Road property owner) along the boundary with 14 Whangapouri Road is to be retained for no less than 8 years after the planting between the substation and the proposed right of way has been implemented in accordance with the detailed landscape plan required by Condition 2.
18. No landscaping, planting or other objects exceeding 80 centimetres in height shall be located within a right-angled triangular area with sides of 5 metres length located on the southwestern corner of the site as measured from the Waka Kotahi NZ Transport Agency road widening designation existing on 31 March 2022.
19. All landscaping and planting shall be maintained in good condition for the term of the designation, and any plantings that clearly fail to thrive in the first three years after establishment or which fail to mature thereafter shall be replaced no later than the next planting season.
20. The substation switchroom is required to have exterior cladding and colours that are recessive, such as grey or earthy tones, and to employ colours and materiality that modulates its form and surfaces, ensuring that the substation building does not appear excessively mono-textural and/or monolithic. The only exception to this requirement is to accommodate specific design input from Ngāti Tamaoho forming part of the Outline Plan of Works in accordance with Condition 4.

#### **Maximum Height of Structures**

21. The maximum height of poles (excluding insulators) and support structures within the designated area shall be 17m, and all other buildings must not exceed 15m in height.

#### **Setbacks**

22. Buildings and structures exceeding 10m<sup>2</sup> must not be located within 10m of the Whangapouri Road boundary.

#### **Electric Magnetic Fields (EMF)**

23. The operation of the substation shall at all times comply with the International Commission on Non- ionising Radiation Protection Guidelines (ICNIRP) for limiting exposure to time varying electric and magnetic fields (1Hz – 100kHz) (Health Physics, 2010, 99(6); 818-836) and recommendations from the World Health Organisation monograph Environmental Health Criteria (No 238, June 2007).
24. Within 6 months of the substation commencing operation the Requiring Authority must engage an electrical engineer to confirm compliance with the ICNIRP guidelines as evidenced by actual measurement of electric and magnetic fields at relevant locations. The engineer's report must be submitted to council's manager compliance and monitoring. In the event of any non-compliance, the report shall demonstrate how compliance will be achieved and the timeframes for completion.

## **Electrical Interference**

25. Every reasonable effort must be made to ensure that the substation is operated, managed or controlled so that there is no electrical interference with television or radio reception at any adjacent property including complying with the requirements of the Radio Communications Regulations 2001, the Ministry of Economic Development's Radio Spectrum Management "Compliance Guide" (November 2004), NZ Standard for Radiofrequency Fields Part 1 (1999) and relevant Gazetted Notices.

## **Lighting**

26. All exterior on-site lighting must be positioned and aimed within the site, away from adjacent properties and public roads, to minimise the level of light spill and glare.

## **Surface water**

27. The Requiring Authority must maintain and regularly clean all stormwater catch pits, channels, grates, pipes and other stormwater collection systems to ensure they operate in an effective manner.

## **Hazardous Substances Environmental Management Plan (HSEMP)**

28. The purpose of the HSEMP required by Condition 2 is to outline the methodologies and processes that will be adopted to ensure that the risks of storing and using hazardous substances within the subject site will be appropriately managed by the Requiring Authority for the duration of the operation of the electrical substation. The HSEMP must contain the following:
  - a. The appropriate hazardous substance methodologies for:
    - Storage;
    - Handling;
    - Transport; and
    - Disposal.
  - b. Provide information to regulatory authorities to demonstrate that the possible risks as a result of storage and use of hazardous substances have been considered and will be appropriately managed by the Requiring Authority;
  - c. Methods to ensure prevention and mitigation of adverse effects associated with the storage, use, disposal, or transportation of hazardous substances;
  - d. Training requirements for employees, sub-contractor and visitors on construction procedures, environmental management and monitoring;
  - e. The document management system for administering the HSEMP, requirements;
  - f. Environmental incident and emergency management procedures (including spills);
  - g. Environmental complaint management procedures; and
  - h. Methods to provide for the safety of the general public.

29. The Requiring Authority must ensure that all transformers containing more than 1000L of oil are bunded. Each bund must be of sufficient capacity to contain the total volume of oil contained within each transformer plus an allowance for rainwater.

#### **Vehicle crossings**

30. The vehicle crossing for the sub-station must be designed and formed in accordance with either the GD020A Rural Vehicle Crossing standard set out in Auckland Transport's Code of Practice (ATCOP) or VX0303 Rural Crossing Standards set out in Auckland Transport's Transport Design Manual (TDM), whichever is operative at the time of construction.
31. Any vehicle crossing access to Whangapouri Road must be located a minimum of 10 metres beyond the Waka Kotahi NZ Transport Agency road widening designation 6705 boundary. If the road widening designation no longer applies to the site, then any vehicle crossing access to Whangapouri Road must be located a minimum of 10 metres from the boundary of the site and Karaka Road.
32. No motor vehicle access (beyond vehicle access to support efficient maintenance of the substation grounds and buildings) is to be obtained from Karaka Road.
33. Prior to operation of the substation, the berm must be re-instated to Auckland Council's "Code of Practice for Working in the Road" (<https://at.govt.nz/aboutus/working-on-the-road>).

#### **Erosion and Sediment Control Management Plan (ESCMP)**

34. The purpose of the ESCMP required by Condition 2 is to describe the methods and practices to be implemented to minimise the effects of sediment generation and yield on the receiving environment associated with the construction phase. The ESCMP shall be prepared in accordance with the council's Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region Guideline Document 2016/005 (GD05) and any subsequent updates. The requiring authority must undertake construction in accordance with the ESCMP and must contain the following:
  - a. Specific erosion and sediment control works for each stage (location, dimensions, capacity) in accordance with industry best practice as well as GD05;
  - b. Supporting calculations and design drawings;
  - c. Details of construction methods;
  - d. Monitoring and maintenance requirements;
  - e. Catchment boundaries and contour information; and
  - f. Details relating to the management of exposed areas (e.g. grassing, mulch).
35. No earthworks activity on the subject site shall commence until confirmation from the council is provided that the ESCMP satisfactorily meets the



requirements of GD05, and the erosion and sediment control measures referred to in that plan have been constructed or certified.

*Advice note: For the purpose of compliance with this condition, “the council” refers to the council’s monitoring inspector unless otherwise specified. Please contact the Team Leader Monitoring South at [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz) to identify your allocated officer.*

36. The operational effectiveness and efficiency of all erosion and sediment control measures specifically required as a condition of this Notice of Requirement or by a certified ESCMP are to be maintained throughout the duration of earthworks activity, or until the site is permanently stabilised against erosion.
37. There must be no deposition of earth, mud, dirt or other debris on any public road or footpath outside the construction site resulting from earthworks activity on the project route.
38. In the event that such deposition does occur, it is to be removed immediately. In no instance are roads and/or footpaths to be washed down with water without appropriate erosion and sediment control measures in place to prevent contamination of the public stormwater drainage system, watercourses and/or receiving waters.
39. The sediment and erosion controls at the site of the works are to be inspected on a regular basis and within 24 hours of each rainstorm event that is likely to impair the function or performance of the erosion and sediment controls. A record is to be maintained of the date, time and any maintenance undertaken in association with this condition which is to be forwarded to the council on request.
40. All earthworks must occur between the hours of 7.30am and 6.00pm Monday to Saturday.