

10 May 2021

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Dear Wayne

**NOTICE OF DECISION OF WAKA KOTAHI NZ TRANSPORT AGENCY UNDER SECTION 172 OF THE RESOURCE MANAGEMENT ACT 1991**

**Introduction**

- 1 Further to your letter of 25 March 2021, we write to advise Auckland Council (*Council*) of Waka Kotahi NZ Transport Agency's (*Waka Kotahi*) decision in respect of the notice of requirement for a designation for the construction, operation and maintenance of a new state highway and associated activities between Warkworth and north of Te Hana (*Requirement*) (*the Project*).
- 2 Pursuant to section 168 of the Resource Management Act 1991 (*RMA*), Waka Kotahi gave notice to the Council of its requirement for the Project. The Council delegated to Independent Commissioners (*Hearing Commissioners*) its functions to hear the matter and to make a recommendation to Waka Kotahi on whether the Requirement should be withdrawn, confirmed with or without modification, or confirmed subject to conditions.
- 3 The Commissioners' recommendation was that the Requirement should be **confirmed** subject to conditions.

**The Waka Kotahi decision in relation to the recommendation**

- 4 In accordance with section 172 of the RMA, Waka Kotahi accepts in part the Commissioners' recommendation in relation to the Requirement. It has made modifications to some of the recommended conditions, and rejected other recommended conditions.
- 5 A complete set of the final conditions, incorporating modifications made as a result of the Waka Kotahi decision, and correcting a number of minor typographical and formatting errors, is **attached** to this letter as **Annexure A**.

***Conditions rejected or accepted in part only***

- 6 There are a number of recommended conditions that are only partially accepted by Waka Kotahi. The extent of amendment to these conditions and the reasons for the Waka Kotahi decision in respect of these conditions are set out below.

***Definitions***

- 7 The Hearing Commissioners recommended a new definition for 'Resource Consents'. The Waka Kotahi decision is to amend the new definition for 'Resource Consents' as follows:

Resource Consents means those consents BUN60354951 (~~comprising LUC60354952, LUS60354955, WAT60354953, WAT60355184, WAT 60356979, DIS60354954, LUC60355185, DIS60355186~~) granted to the Requiring Authority by Auckland Council to undertake the Project.

- 8 The reason for this amendment is that Waka Kotahi does not consider it necessary or appropriate to include a definition of resource consents which references the individual resource consent numbers. The inclusion of this definition may make administration of the designation conditions more difficult. Amendment to the conditions would be required should the resource consent numbers listed change in the future.

*Interpretation Notes*

- 9 The Hearing Commissioners recommended the addition of an Interpretation Note to the designation conditions to clarify the relevance of the Requirement and resource consent application materials to the conditions. The Interpretation Note states that in the event that interpretation of the conditions is necessary during construction or operation of the Project, recourse shall be had to the Notice of Requirement and Consent Applications (dated 20 March 2020) and supporting documents, Section 92 Responses and Evidence presented at the Hearing.
- 10 The Waka Kotahi decision is to delete the additional Interpretation Note in its entirety. The reason for the deletion is that the Interpretation Note specifies a normal interpretation convention and is therefore unnecessary.

*Condition 1*

- 11 The Hearing Commissioners have recommended that Waka Kotahi accept a new condition 1 that requires all Project Works and operation of the state highway to be undertaken in accordance with the resource consents, in addition to the designation conditions, to clarify the relationship between the Designation and the Resource Consents
- 12 The Waka Kotahi decision is to delete Condition 1 in its entirety. The reason for this amendment is that the condition is unnecessary. While separate requirements, from a practical point of view, implementing the Designation will require the Resource Consents to be implemented.

*Condition 1A*

- 13 The Hearing Commissioners recommended amendments to the wording of Condition 1A, including by adding a reference to the offsetting of effects on the environment. Waka Kotahi's decision is to reject these amendments, and reinstate the condition as follows:

As soon as practicable following completion of construction of the Project, ~~but not prior to~~, the Requiring Authority shall give notice to Auckland Council in accordance with section 182 of the RMA for removal of those parts of the Designation that are not required for the long-term operation, ~~and maintenance~~ and of the State Highway or for the long-term mitigation of or offsetting of its effects of on the State highway environment.

- 14 The reason for this amendment is to ensure that the ability for Waka Kotahi to retain or rollback the designation is in accordance with its powers as a requiring authority under the RMA is not fettered. Section 182 also enables the Council to decline a

notice to roll back a designation which would address the apparent concern of the Hearing Commissioners.<sup>1</sup>

*Condition 27A*

- 15 The Hearing Commissioners' recommended Waka Kotahi accept a new Condition 27A, which requires vibration arising from construction activities that may affect underground pipe work to be measured in accordance with DIN4150-3:2016 Structural vibration – Part 3: Effects of vibration on structures.
- 16 The Waka Kotahi decision is to delete condition 27A in its entirety. The reason for this amendment is that Condition 27A is unnecessary. The Waka Kotahi position, as supported by expert assessment and evidence presented at the hearing of the Project, is that there will not be any vibration effects on the underground pipework from the Project which is unable to be managed via agreement between network utility providers.

*Condition 29*

- 17 The Hearing Commissioners recommended a number of changes to Condition 29, including the addition of a new list of requirements for the Schedule to the Construction Noise and Vibration Management Plan (CNVMP).
- 18 The Waka Kotahi decision is to amend the condition as follows:

~~If prior to or during Project Works noise or vibration levels from Project Works are predicted or measured to exceed the noise criteria in Condition 26 or the Category A vibration criteria in Condition 27, then the relevant works shall not commence or proceed until a Suitably Qualified and Experienced Person shall be has been engaged to identify specific in consultation with the owners and occupiers of sites subject to the exceedance, Best Practicable Option measures to manage the effects of the specific construction activity. The measures shall be added as a Schedule to the CNVMP and implemented by the Requiring Authority for the duration of the relevant works.~~

~~The Schedule shall as a minimum set out:~~

- ~~a. Construction activity location, start and finish dates;~~
- ~~b. The predicted noise and/or vibration level for all receivers where the levels are predicted or measured to exceed the applicable criteria of Conditions 26 and/or 27;~~
- ~~c. The mitigation options that have been selected, and the options that have been discounted as being impracticable and the reasons why;~~
- ~~d. The proposed noise and/or vibration monitoring regime;~~
- ~~e. The communication and engagement requirements for affected landowners and occupiers;~~
- ~~f. Documentation of the consultation undertaken with owners and occupiers of sites subject to the Schedule, and how consultation has and has not been taken into account.~~

~~Where practicable, the Schedules shall be provided to the Manager for information within certification at least five Days before the specific construction activity is undertaken.~~

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<sup>1</sup> Resource Management Act 1991 s 182(5).

19 The reasons for the amendments are:

- 19.1 Waka Kotahi considers that the condition will adequately mitigate the construction noise effects of the Project, by requiring the CNVMP to be prepared in accordance with New Zealand Standard NZS 6803:1999: Acoustics – Construction Noise (*NZS 6803*) and the Waka Kotahi State highway construction and maintenance noise and vibration guide (*Waka Kotahi Standards*). The additional listed requirements for the Schedule to the CNVMP as amended by the Hearing Commissioners are already required under NZS 6803. Therefore, the specific inclusion is unnecessary. It may also have the unintended consequence of limiting the requirements of the Schedule to those components specifically listed, rather than requiring compliance with the broader requirements of NZS 6803 and Waka Kotahi Standards.
- 19.2 In preparing the CNVMP in accordance with NZ 6803 and the Waka Kotahi Standards, the Requiring Authority will be required to consult with owners and occupiers of sites regarding the exceedance of any noise or vibration criteria. Requiring the Suitably Qualified and Experienced Person to consult with owners and occupiers of sites subject to the exceedance regarding the Best Practicable Option (*BPO*) measures is therefore considered to be superfluous.
- 19.3 Waka Kotahi considers the requirement for additional procedural certification by Council to be unwarranted and unnecessary. Waka Kotahi is required by the designation conditions to adopt the BPO to manage construction noise and vibration effects. If the Council considers that the Schedules do not meet BPO it can take action to enforce the conditions. The requirement to certify the Schedules is therefore unnecessary. In the experience of Waka Kotahi, the information process achieves effective and efficient monitoring of the noise and vibration effects. A certification requirement introduces an additional administrative burden with no positive impact in terms of effects management and in some cases has resulted in noise dis-benefits.

*Condition 30*

20 The Hearing Commissioners' recommended amendments to Condition 30 include a requirement for Waka Kotahi to provide the Schedules of the CNVMP to the Manager for certification at least five days prior to the specific construction activity being undertaken.

21 The Waka Kotahi decision is to amend Condition 30 as follows:

If prior to or during Project Works vibration levels from Project Works are predicted or measured to exceed the Category B criteria in Condition 27, then the relevant works shall not commence or proceed until a Suitably Qualified and Experienced Person has undertaken a building condition survey (provided the owner and/or occupier has agreed to such survey), and identified specific Best Practicable Option measures to manage the effects of vibration.

The measures shall be added as a Schedule to the CNVMP and implemented by the Requiring Authority for the duration of the relevant works. The Schedule shall, as a minimum, contain the information set out in Condition 29 and the findings of the building pre-condition survey.

Where practicable, the Schedules shall be provided to the Manager for ~~certification at least~~ information within five Days before the specific construction activity is undertaken.

- 22 Waka Kotahi considers the requirement for additional procedural certification by Council to be unwarranted and unnecessary for the reasons noted at paragraph 19.3.

*Condition 37*

- 23 The Hearing Commissioners' recommended deleting the final sentence of Condition 37, which allowed Waka Kotahi to consider that the relevant party has no comments on the Construction Traffic Management Plan (CTMP) if no comments are received within 20 days of the CTMP being provided. The recommendation does not provide reasons for this change.
- 24 The Waka Kotahi decision is that Condition 37 should be amended to reinstate the deleted sentence as follows:

In preparing the CTMP, the Requiring Authority shall consult with Auckland Transport, and the owner of the commercial plantation forest (Mahurangi Forest) located west of SH1 with respect to access and traffic management activities which directly interface with forestry operations. If the Requiring Authority has not received any written comment from Auckland Transport or the owner of the Mahurangi Forest within 20 Days of providing the CTMP to them, the Requiring Authority may consider the relevant party has no comments.

- 25 The reason for this amendment is to ensure that Waka Kotahi has the ability to proceed with preparation and finalisation of the CTMP in the event that comments from Auckland Transport and/or the Mahurangi Forest owner are not forthcoming within a reasonable timeframe. Without this amendment it is unclear how Waka Kotahi would be able to satisfy the requirements of Condition 37 if comments were not received by the relevant parties.

*Condition 38*

- 26 The Hearing Commissioners' recommended amending Condition 38 to replace the references to 'Project construction activity' and 'Construction Works' with 'Project Works construction activity'.
- 27 The Waka Kotahi decision is that Condition 38 should be amended to reinstate the deleted definitions as follows:

The Requiring Authority shall prepare a Site Specific Traffic Management Plan (SSTMP) or Plans where any ~~Project Construction Works construction activity~~ varies the normal traffic conditions of any public road. The SSTMP shall be prepared prior to using that road and prior to the start of the relevant Construction Project Works construction activity. The purpose of the SSTMP(s) is to identify specific construction methods to comply with the CTMP and to address the particular circumstances, local traffic and community travel demands within the area covered by the SSTMP.

- 28 The reason for this amendment is that both Construction Works and Project Works are separately defined terms in the designation conditions. Replacing the clearly defined terms in Condition 38 will create interpretation issues as it conflates separately defined terms with different meanings.

*Condition 40*

- 29 The Hearing Commissioners' recommended amending Condition 40 to include an additional requirement to consult with landowners whose property access will be affected when preparing the SSTMP and to incorporate any comments received from landowners into the SSTMP unless not practicable to do so.
- 30 The Waka Kotahi decision is to amend Condition 40 as follows:

In preparing the SSTMP, the Requiring Authority shall consult with Auckland Transport where the Project ~~Construction Works construction activity~~ interfaces with the local road network, and

a) ~~with any landowners whose property access will be affected by the Project Works construction activity covered by the SSTMP.~~

If the Requiring Authority has not received any comment from Auckland Transport ~~or affected landowners~~ within 20 Days of providing the SSTMP to them, then it may ~~consider Auckland Transport has no comments and proceed to lodge the SSTMP in accordance with Table 1.~~ Where comments are provided within 20 Days, they shall be incorporated into the SSTMP, unless it is not practicable to do so, in which case an explanation as to why shall be included in the SSTMP.

31 The reasons for the amendments are:

31.1 'Project Works' is a defined term on the designation conditions, which is separate to 'Construction Works' and includes ongoing mitigation activities. The reference to 'Project construction activity' in Condition 40 was an error and should have read 'Construction Works'. Referring to 'Project construction activities' in Condition 40 will create interpretation issues as it conflates separately defined terms with different meanings.

31.2 The SSTMP is a specific process designed to manage transport network effects and will, by its very nature consider site specific matters including property access. Therefore, the requirement to consult with any landowners whose property access will be affected by the Project Works construction activity is unnecessary and unduly onerous and not required in order to mitigate the effects of the Project.

31.3 The requirement to incorporate any comments provided into the SSTMP unless not practicable to do so:

- (a) is potentially unduly onerous given the potential uncertainty of what could be requested;
- (b) is not required to mitigate the effects of the Project on the environment;
- (c) has the potential to unduly fetter Waka Kotahi's ability to construct and operate the Project in accordance with its statutory obligations and powers as a requiring authority under the RMA; and
- (d) May result in conflicts between traffic engineering requirements and layperson desires, leading to implementation barriers.

*Condition 42*

32 The Hearing Commissioners' recommended Condition 42 includes the requirement that Waka Kotahi incorporate any comments provided by Auckland Transport into the Enabling Works Construction Traffic Management Plan (*EWCTMP*).

33 The Waka Kotahi decision is to amend Condition 42 to remove the additional requirement as follows:

In preparing the EWCTMP, the Requiring Authority shall consult with Auckland Transport where the Project construction activity interfaces with the local road network. If the Requiring Authority has not received any comment from Auckland Transport within 20 Days of providing the EWCTMP to them, it may proceed to lodge the EWCTMP in accordance with Table 1. ~~Where comments are provided within 20 Days, they~~

~~shall be incorporated into the EWCTMP, unless it is not practicable to do so, in which case an explanation as to why shall be included in the EWCTMP.~~

34 The reason for the amendment is that the requirement to incorporate any comments provided by Auckland Transport into the EWCTMP:

34.1 is potentially uncertain and unduly onerous given the potential uncertainty of what could be requested;

34.2 is not required to mitigate the effects of the Project on the environment;

34.3 has the potential to unduly fetter the ability for Waka Kotahi to construct and operate the Project in accordance with its statutory obligations and powers as a requiring authority under the RMA; and

34.4 May result in conflicts between the traffic engineering requirements and Auckland Transport desires leading to implementation barriers.

*Condition 49A*

35 The Hearing Commissioners recommended that Condition 49A includes the requirement that Waka Kotahi provide drafts of the Urban and Landscape Design Management Plan (*ULDMP*) detailed design drawings to listed landowners for feedback, and that any feedback received be incorporated into the ULDMP.

36 The Waka Kotahi decision is to amend Condition 49A as follows:

Prior to the completion of the relevant ULDMP, the Requiring Authority shall provide drafts of the detailed design drawings required by Condition 49(b)(xiv) to the current landowner(s) and occupiers of the ~~dwelling properties~~ identified in that condition and invite their feedback on the new planting or other screening measures proposed for their property. The Requiring Authority shall consider any feedback received when preparing the relevant ULDMP. If no endeavour to incorporate any feedback is received within 10 days of the drafts being provided, into the final ULDMP. If no feedback is received within that period, the Requiring Authority may assume that no feedback is to be provided. The final ULDMP shall be submitted with a report describing how any feedback has been considered when preparing the relevant ULDMP. incorporated, or, if not incorporated, why not.

37 The reasons for the amendments are:

37.1 Consultation should be limited to the legal owner(s) due to the permanence of the mitigation.

37.2 The requirement to incorporate any feedback received into the ULDMP:

(a) is potentially uncertain and unduly onerous given the potential uncertainty of what could be requested;

(b) is not required to mitigate the effects of the Project on the environment;

(c) has the potential to unduly fetter the ability of Waka Kotahi to construct and operate the Project in accordance with its statutory obligations and powers as a requiring authority under the RMA;

(d) may result in conflicts between the engineering requirements and layperson desires, leading to implementation barriers; and

- (e) the amendments retain the intent of the condition which is to provide opportunity for feedback to be considered and responded to.

*Condition 78(b)*

- 38 The Hearing Commissioners' recommended deleting the reference to "as far as practicable" in Condition 78(b).
- 39 Waka Kotahi's decision is that condition 78(b) should be amended to reinstate the removed words as follows:

Where avoidance of adverse effect is not practicable, minimise adverse effects on historic heritage sites and places as far as practicable;

- 40 The reason for this amendment is that there may be instances where minimisation of adverse effects will not be practicable, in which case mitigation will be required. Condition 78(c) and 78(d) set out measures to mitigate adverse effects where avoidance is not possible.

*Condition 79C*

- 41 The Hearing Commissioners recommended amendments to Condition 79C, replacing the reference to "Level II of the HNZPT guideline" in Condition 79C(c) with "the most appropriate level per HNZPT guideline".
- 42 The Waka Kotahi decision is to amend Condition 79C(c) to reinstate the reference to "Level II" as follows:

If Phillips Cottage (156 Kaipara Flats Road, Dome Valley) cannot be avoided at the detailed design stage, then:

...

c. if all relocation options can be shown to have been exhausted, only then should the building be demolished and recorded to Level II of the most appropriate level per HNZPT guideline AGS 1A: Investigation and Recording of Buildings and Standing Structures (November 2018) or any subsequent version.

....

- 43 The reason for this amendment is that the Waka Kotahi position, as supported by expert assessment and evidence presented at the hearing of the Project, is that Level II of the HNZPT guideline is required. The reference to "the most appropriate level" is vague and uncertain and may lead to difficulties in interpretation of the conditions.

*Condition 89A*

- 44 The Hearing Commissioners recommended the inclusion of a new Condition 89A requiring the implementation of Building Modification Mitigation (*BMM*) for those PPFs where compliance with the Noise Criteria Category identified in Table 2 is not practicable following implementation of the Best Practicable Option (*BPO*) Structural Mitigation.
- 45 The Waka Kotahi decision is to delete Condition 89A in its entirety. The reasons for this amendment are that:

45.1 Condition 89A provides additional flexibility beyond that which was envisaged by the suite of conditions proposed by Waka Kotahi to manage operational

noise effects. Those conditions required compliance with the Noise Criteria Category identified in Table 2 and that BMM be undertaken for all Category C PPFs and for Category B PPFs where noise increases by more than 3 dB as a result of the Project. Condition 89A allows for the exceedance of the Noise Criteria Categories, provided that BMM is implemented.

45.2 Furthermore, the requirement in Condition 89A to implement BMM for identified Category B and C PPFs where compliance with the Noise Criteria Category is not practicable is unnecessary as Condition 92(a) and 92(b) set out the circumstances in which BMM will be required.

*Condition 92*

46 The Hearing Commissioners have recommended amendments to Condition 92 - to clarify the baseline from which a 3 dB increase as a result of the Project will be calculated for PPFs.

47 The Waka Kotahi decision is to amend Condition 92 as follows:

92. Prior to the start of Construction Works, a Suitably Qualified and Experienced Person shall identify:

a. Category B PPFs where the predicted sound level increases by more than 3dB as a result of road-traffic noise from the operational Project calculated: {

i) for PPFs identified as Altered Category in Table 2 and assessed against the Altered Road criteria calculated from the NZS 6806 "do-nothing" level for Altered Roads to the level with all detailed design Structural Mitigation, and

ii) for PPFs identified as New Category in Table 2 and assessed against the New Road criteria calculated from the estimated future noise level in the design year without the project NZS 6806 "existing" level to the level with all detailed design Structural Mitigation}; and

b. Category C PPFs, following implementation of all detailed design Structural Mitigation;

c. PPFs where Noise Criteria Category of Table 2 cannot practicably be achieved following the implementation of all detailed design Structural Mitigation.

48 The reasons for these amendments are:

48.1 The purpose of Condition 92 is to ensure that any adverse effects on PPFs as a result of the noise generated by the Project once operational are adequately mitigated. If an increase in noise is generated by something other than the operational Project, then it should not be caught under Condition 92, or BMM required to mitigate the noise increase under Conditions 93 to 98. The NZS 6806 "existing" level refers to the 2019/2020 noise levels. Noise levels will increase over time, with or without the Project. As the Project is not anticipated to be operational until 2037, calculating the noise increase from a baseline of 2020 levels will result in Waka Kotahi potentially being required to mitigate well over and above the effects of noise generated by the Project. The appropriate baseline should be the ambient noise immediately prior to the Project.

48.2 The Waka Kotahi position is that the Noise Criteria Categories in Table 2 should be complied with and that BMM should be implemented for all Category C PPFs, and Category B PPFs where there is an increase of more

than 3 dB. Recommended condition 92(c) would allow for the exceedance of the Noise Criteria Categories, provided that BMM is implemented, which is not proposed or accepted by Waka Kotahi.

*Condition 93*

- 49 The Hearing Commissioners' recommended Condition 93, which requires implementation of the BMM where required under Condition 92, is generally consistent with that put forward by Waka Kotahi in its reply submissions.
- 50 The Waka Kotahi decision is to amend Condition 93 as follows:

~~Building Modification~~

~~93. The Requiring Authority shall apply the Building Modification Conditions 94 to 98 for any PPF that is identified predicted under Condition 92. 89 to be:~~

~~a. Category B in the Noise Criteria Categories and the change in noise from the operational road is predicted to be more than 3dB compared to the situation without the Project (calculated from the NZS 6806 "do-nothing" level); or~~

~~b. Category C in the Noise Criteria Categories.~~

- 51 The reason for these amendments is to remove the repetition between the requirements of Condition 92 and Condition 93 and possible confusion in interpretation of the conditions as a result. The amendments ensure that the process of determining when BMM is required is established under Condition 92 and the requirement to implement BMM is established separately under Condition 93.

*Condition 99*

- 52 The Hearing Commissioners recommended that Condition 99 be amended, by adding a requirement that the Requiring Authority provide the Noise Mitigation Plan to the Manager for certification, and removing the reference to any subsequent version of the NZ Transport Agency P40 Noise Specification 2014. The Waka Kotahi decision is to amend Condition 99 as follows:

~~Prior to the Project becoming operational, the Requiring Authority shall prepare a Noise Mitigation Plan (NMP) in accordance with the NZ Transport Agency P40 Noise Specification 2014, or any subsequent version and 2014 and provide it to the Manager for information certification. The NMP shall be prepared by a Suitably Qualified and Experienced Person and shall include methods and design details that encourage road users to accelerate and brake gradually at the roundabout at the existing SH1/Mangawhai Road intersection to minimise noise at the dwelling at 542 SH1.~~

- 53 The reasons for these amendments are:
- 53.1 The reference to 'any subsequent version' ensures that the most up-to-date, current best practice information is used when preparing management plans. It is necessary to prevent reliance on historical and potentially superseded versions. This approach is consistent with Waka Kotahi's approach in other similar conditions.
- 53.2 Waka Kotahi considers the requirement for additional procedural certification by Council to be unwarranted and unnecessary. Waka Kotahi is required by the designation conditions to prepare a Noise Mitigation Plan (NMP) in accordance with current best practice guidelines. The NMP is a relatively formulaic, process based document which sets out the steps to be taken to

ensure that the mitigation already certified or approved by the Council at earlier stages in the Project is implemented.

*Condition 100*

- 54 The Hearing Commissioners recommended deleting the reference to 'any subsequent version' in Condition 100
- 55 The Waka Kotahi decision is that Condition 100 should be amended as follows:

Within 6 months of the low noise road surface being installed under Condition 91, the Requiring Authority shall prepare, a post-construction review report in accordance with the NZ Transport Agency P40 Noise Specification 2014, or any subsequent version, and provide the post-construction review report to the Manager for information.

- 56 The reason for this amendment, as mentioned above, is that Waka Kotahi considers the reference to 'any subsequent version' is appropriate to ensure the Requiring Authority refers to the most up-to-date, best practice information when preparing management plans.

*Condition 101*

- 57 The Hearing Commissioners' recommended amendment to Condition 101, by adding a reference to the maintenance of landscape planting to ensure it achieves the purpose for which it was installed. The Hearing Commissioners have also recommended that landscape planting be actively maintained.
- 58 The Waka Kotahi decision is that Condition 101 should be amended as follows:

The Requiring Authority shall actively maintain all landscape planting (and replace unsuccessful planting) undertaken as part of the Project for a period of 5 years following opening of the Project in accordance with NZTA P39 Standard Specification for Highway Landscape Treatments 2013, or any subsequent version, to ensure its successful establishment. ~~Thereafter, landscape planting shall be maintained to ensure that it achieves the purpose for which it was installed.~~

- 59 The reason for these amendments is that Waka Kotahi considers that requirement to maintain landscape planting in perpetuity is unnecessary and unduly onerous. Condition 101 requires all landscape planting to be maintained to ensure its successful establishment. Condition [49d] above also requires the planting area to be protected if the relevant land is transferred. Waka Kotahi considers that the 5 year maintenance period is sufficient to ensure planting is well established and self-sustaining and provides mitigation of landscape effects.

*Condition 101A*

- 60 The Hearing Commissioners have recommended that Waka Kotahi accept a new condition 101A that requires the Requiring Authority to maintain and protect mitigation works required under the resource consent conditions for the duration of the Project following its opening.
- 61 The Waka Kotahi decision is to delete condition 101A in its entirety. The reason for this amendment is that Waka Kotahi considers that the maintenance and protection of mitigation works is properly a matter for the resource consents. Waka Kotahi has appealed the relevant conditions of the resource consents seeking reinstatement of the maintenance and protection conditions. It is therefore inappropriate and unnecessary to impose this condition on the designation.

*Condition 101B*

- 62 The Hearing Commissioners have recommended that Waka Kotahi accept a new Condition 101B requiring Waka Kotahi to procure from the Crown appropriate covenants and/or encumbrances (or similar legal mechanisms) to ensure that areas of land required for mitigation purposes pursuant to the Resource Consent conditions are protected on an ongoing basis.
- 63 The Waka Kotahi decision is to delete Condition 101B in its entirety. The reason for this amendment is that Waka Kotahi considers that the issue of ongoing protection of mitigation works is properly a matter for the resource consent conditions. Waka Kotahi has appealed the relevant conditions of the resource consents seeking reinstatement of the maintenance and protection conditions. It is therefore inappropriate and unnecessary to impose this condition on the designation.

**Minor corrections**

- 64 A number of typographical and grammatical errors have been corrected as follows:

64.1 Re-number Condition "1A" Condition "1".

64.2 In Condition 10:

- (a) Change the comma to a semi-colon in Condition 9(b) and add the word "and" after the semi-colon; and
- (b) Insert clause "c." before the wording "shall engage with Mana Whenua".

64.3 Replace "to contact" with earlier inclusion of "contact details" in Condition 10A for clarity.

64.4 Amend the word "SCMP" to "SECMP" in Condition 19A(d)(i) and Condition 87(i) for consistency with the Definitions Table.

64.5 Delete the words "Electricity Infrastructure Construction Management Plan" in the first sentence of Condition 25F and delete the brackets around "EICMP".

64.6 Amend "metre" to "m" in Condition 26A for internal consistency in the conditions.

64.7 Amend "Lot3" to "Lot 3" in Condition 34(e).

64.8 Insert the words "any such effects" in Condition 81(a).

64.9 Insert the word "the" before "Manager: Heritage Unit" in Conditions 85A and 85B.

64.10 Insert the word "and" before the word "limiting earthworks during high winds" in Condition 87(c)(i).

64.11 Insert new row into Table 2: Identified PPFs with the information below:

1232A SH-1, Wayby Valley (first floor)	A	54 (55 from SH1)	Altered
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64.12 Amend Table 2: Identified PPFs as follows:

1232A SH-1, Wayby Valley <u>(ground floor)</u>	A	54	Altered
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64.13 Insert the word "Topuni" after "542 SH1" in Condition 99 for clarity and consistency with Table 2: Identified PPFs.

64.14 Delete the quotation marks in Condition 102.

**Other conditions**

65 In all other respects, Waka Kotahi accepts the other conditions as recommended by the Hearing Commissioners.

**Conclusion**

66 A full set of all conditions, including modifications made as a result of Waka Kotahi's decision, and correcting the minor typographical and formatting errors, are attached to this letter as **Annexure A**.

Yours faithfully



Jenni Fitzgerald

Manager, Environmental Planning

**ANNEXURE A – FINAL CONDITIONS TO APPLY TO NOTICE OF REQUIREMENT**