

BEFORE THE ENVIRONMENT COURT

ENV-2019-AKL

AUCKLAND REGISTRY

IN THE MATTER

of an appeal under Section 174 of the Resource Management Act 1991

BETWEEN

DIRECTOR-GENERAL OF CONSERVATION

Appellant

AND

WAKA KOTAHI NZ TRANSPORT AGENCY

Respondent

**NOTICE OF APPEAL BY THE DIRECTOR-GENERAL OF CONSERVATION
IN RELATION TO A DECISION BY WAKA KOTAHI NZ TRANSPORT AGENCY ON
ARA TŪHONO - WARKWORTH TO WELLSFORD**

Dated: 1 July 2021

Department of Conservation
Private Bag 3072
Hamilton
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To: The Registrar
Environment Court
AUCKLAND

1. I, Lou Sanson, Director-General of Conservation appeal parts of a decision on the following matter:

A decision made under section 172 of the Resource Management Act 1991 (**the Act**) in respect of a recommendation by Commissioners on behalf of the Auckland Council (**the Council**) in relation to a Requirement by Waka Kotahi NZ Transport Agency (**Waka Kotahi**) regarding Ara Tuhono – Warkworth to Wellsford.

The decision was to accept in part the recommendation, to modify some of the recommended conditions, and to reject other recommended conditions.

2. I made a submission on the notice of requirement.
3. I received notice of the decision on 10 June 2021.
4. The decision was made by Waka Kotahi.
5. I am not a trade competitor for the purposes of section 308D of the Act.
6. The parts of the decision that I am appealing are:
 - a. Waka Kotahi's decision to reject the Council's recommendation to include an Interpretation Note stating that in the event 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 (paragraphs 9 and 10 of Waka Kotahi's notice of decision).
 - b. Waka Kotahi's decision to reject the Council's recommendation to include Condition 101A requiring Waka Kotahi to maintain and protect mitigation works required under the resource consent conditions for the duration of the Project following its opening (paragraphs 60 and 61 of its notice of decision).
7. The reasons for the appeal are set out below.

Interpretation Note

8. The reason given by Waka Kotahi in its decision for rejecting the Council's recommendation to include the Interpretation Note referred to in paragraph 6(a) above, is that the Interpretation Note specifies a normal interpretation convention and is therefore unnecessary. I do not consider this to be a satisfactory reason to justify rejection of the inclusion of the Interpretation Note.

9. I consider the Interpretation Note recommended by the Council provides useful guidance in the conditions, and should be included in the conditions as recommended by the Council in case there is a need for clarity and certainty for stakeholders and contractors at a later date.
10. A condition or Interpretation Note to the effect of that recommended by the Council is generally accepted as standard practice for most resource consents. The Council's Standard Conditions Manual (2020) states that such a condition is to be included in all resource consents. This approach is equally applicable, and equally desirable, for designations.

Condition 101A

11. The reasons given by Waka Kotahi for rejecting the Council's recommendation to include Condition 101A referred to in paragraph 6(b) above, as stated in its decision (paragraphs 60 and 61) are that:
 - a. Waka Kotahi considers that the maintenance and protection of mitigation works is properly a matter for the resource consents;
 - b. Waka Kotahi has appealed the relevant conditions of the resource consents seeking reinstatement of the maintenance and protection conditions; and
 - c. It is therefore inappropriate and unnecessary to impose this condition on the designation.
12. The amendments to the resource consent conditions sought by Waka Kotahi under its appeal do not include a condition that would require Waka Kotahi to maintain and protect mitigation works for the duration of the Project, in line with Condition 101A recommended by the Council.
13. The proposed conditions by Waka Kotahi for its resource consents in its appeal do not provide the same degree of maintenance and protection as what would be afforded by Condition 101A as recommended by the Council.
14. In any event, there is no valid reason why complementary or "mirror" conditions could not be imposed on both the resource consent and designation, given Waka Kotahi is both the resource consent holder and requiring authority responsible for the project.
15. If Condition 101A is not included as a condition on the designation, full reliance will be placed on the resolution of Waka Kotahi's appeal in a way that ensures adequate maintenance and protection of mitigation plantings. This outcome is not certain, and a condition reflecting the requirement for maintenance and protection of the mitigation plantings for the life of the project as recommended by the Council is appropriate. I note that Waka Kotahi's decision does not record disagreement with such a requirement, but rather only that this is properly a matter for resource consents and therefore is inappropriate and unnecessary as a condition on its designation.

Further reasons

16. Waka Kotahi's rejection of the Council's recommendation to include the Interpretation Note and Condition 101A:

- a. Does not promote the sustainable management of natural and physical resources as directed by section 5 of the Act, nor provide for the matters in sections 6 and 7 of the Act;
- b. Does not represent sound resource management practice; and
- c. Creates uncertainty and a lack of clarity in terms of the scope of the activities authorised by the designation and the requirements for maintenance and protection of mitigation plantings required for the project.

17. I seek the following relief:

- a. That the Court imposes conditions on the designation to give effect to the Council's recommendations to include the Interpretation Note and Condition 101A as referred to above;
- b. Such further, consequential or alternative relief to like effect, that the Court considers fit to address my concerns;
- c. Any consequential changes to the conditions required as a result of the changes sought; and
- d. Costs.

18. I agree to participate in mediation or other alternative dispute resolution proceedings.

19. I attach the following documents to this notice:

- a. A copy of Waka Kotahi's decision;
- b. A copy of my submission; and
- c. A list of names and addresses of persons to be served with a copy of this notice.



Shona Bradley
Counsel for the Director-General of Conservation

Date: 1 July 2021

Address for service of appellant:

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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if,—

(a) within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and

(b) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.

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

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

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the relevant application or the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

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

Attachment (a)
Waka Kotahi's decision

10 May 2021

Wayne Sui
Auckland Council
Private Bag 92300
Victoria Street West
Auckland 1142

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.¹

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.~~

¹ 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

CONDITIONS OF DESIGNATION

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MAPS

Maps 1 – 6 Mitigation sites

DEFINITIONS

The table below defines the acronyms and terms used in the conditions. Defined terms are capitalised throughout the conditions.

Acronym / Term	Definition / Meaning
Auckland Transport	The Chief Executive of Auckland Transport or authorised delegate
AUP(OP)	Auckland Unitary Plan Operative in Part
Best Practicable Option or BPO	Best Practicable Option as defined in section 2 of the Resource Management Act 1991.
Building-Modification Mitigation	As defined in New Zealand Standard NZS 6806:2010: Acoustics – Road-traffic noise – New and altered roads
CAQMP	Construction Air Quality Management Plan
CNVMP	Construction Noise and Vibration Management Plan
CIR	Cultural Indicators Report

Acronym / Term	Definition / Meaning
Construction Works	Activities undertaken to construct the Project excluding Enabling Works
COPTTM	NZ Transport Agency Code of Practice for Temporary Traffic Management, or any subsequent version
CTMP	Construction Traffic Management Plan
Day(s)	Has the same meaning as “working day” under section 2 of the RMA
Designation	The designation included in the AUP(OP)
EICMP	Electricity Infrastructure Construction Management Plan
Enabling Works	<p>Preliminary construction activities as follows:</p> <ul style="list-style-type: none"> • geotechnical investigations (including trial embankments) • formation of access for geotechnical investigations • establishment of site yards, site offices, site entrances and site access points and fencing • constructing and sealing site access roads • demolition or removal of buildings and structures • relocation of services • establishment of mitigation measures (such as erosion and sediment control measures, temporary noise walls, earth bunds and screen planting)
EWCTMP	Enabling Works Construction Traffic Management Plan
Habitable Space	As defined in New Zealand Standard NZS 6806:2010: Acoustics – Road-traffic noise – New and altered roads
HHMP	Historic Heritage Management Plan
Heavy Vehicle	A motor vehicle having a gross laden weight exceeding 3500 kg
HEN-MPE-A	<p>Transpower’s Henderson to Maungatapere A (HEN-MPE-A) 110kV high voltage transmission line assets, which include:</p> <ul style="list-style-type: none"> • the existing HEN-MPE-A transmission line Spans 199-204 and support structures/Towers 200-203; and • any proposed new or relocated high voltage transmission line assets (spans and/or support structures) required as a result of the Project Works.
Highly Sensitive Receiver (HSR)	<p>Residential dwellings within:</p> <ul style="list-style-type: none"> • 200m of the Designation boundary; • 50m of sealed access roads used for Project Works up to 500 m outside of the Designation boundary; and • 100m of unsealed access roads used for Project Works outside of the Designation boundary.
HNZPT	Heritage New Zealand Pouhere Taonga

Acronym / Term	Definition / Meaning
HNZPTA	Heritage New Zealand Pouhere Taonga Act 2014
Hōkai Nuku	The iwi collective being comprised of the representatives for Ngāti Manuhiri, Ngāti Mauku/Ngāti Kauae of Te Uri o Hau, Ngāti Rango of Ngāti Whātua o Kaipara and Ngāti Whātua.
Iwi Advisor	The advisor (or other nominated kaitiaki) appointed by Hōkai Nuku in accordance with Condition 19D.
Manager	The Team Manager – Compliance Monitoring, of Auckland Council, or authorised delegate
Mana Whenua	Māori who can demonstrate customary rights through occupation to resources within the Project area, and who have responsibilities as kaitiaki over their tribal lands, waterways and other taonga
Mitigation Sites	The mitigation planting sites identified on Maps 1 to 6 included with the Designation
Network Utility Operation(s)/Operator(s)	As defined in section 166 of the RMA, for the avoidance of doubt this includes the North Albertland Community Water Supply Association
NMP	Noise Mitigation Plan
Noise Criteria Categories	The groups of preference for sound levels established in accordance with New Zealand Standard NZS 6806:2010: <i>Acoustics – Road-traffic noise – New and altered roads</i> when determining the BPO for noise mitigation (Categories A, B and C)
NZS 6803	New Zealand Standard 6803:1999: <i>Acoustics – Construction Noise</i> , or any subsequent version
NZS 6806	New Zealand Standard NZS 6806:2010: <i>Acoustics – Road-traffic noise – New and altered roads</i> , or any subsequent version
PPF	Protected Premises and Facilities as defined in New Zealand Standard NZS 6806:2010: <i>Acoustics – Road-traffic noise – New and altered roads</i>
Project	The construction, maintenance and operation of the Ara Tūhono Warkworth to Wellsford Project, which extends from Warkworth to north of Te Hana
Project Liaison Person	The person or persons appointed for the duration of the construction phase of the Project to be the main and readily accessible point of contact for persons affected by the construction work
Project Works	All activities undertaken to construct the Project (Construction Works and Enabling Works) and including ecological and

Acronym / Term	Definition / Meaning
	landscape mitigation activities, but excluding operation of the highway
Resource Consent	Those consents granted to the Requiring Authority by Auckland Council to undertake the Project
RMA	Resource Management Act 1991
SECMP	Stakeholder Engagement and Communications Management Plan
SH1	State Highway 1
SSTMP	Site Specific Traffic Management Plan
Stage(s)	A specific works area or new land disturbing activity associated with construction of the Project as nominated by the Requiring Authority
Structural Mitigation	As defined in New Zealand Standard NZS 6806:2010: <i>Acoustics – Road-traffic noise – New and altered roads</i>
Suitably Qualified and Experienced Person	A person (or persons) who can provide sufficient evidence to demonstrate their suitability and competence
Threatened Species	Species listed as per the Department of Conservation's <i>New Zealand Threat Classification System (NZTCS)</i>
TTM	Temporary Traffic Management
ULDF	Urban and Landscape Design Framework
ULDMP	Urban and Landscape Design Management Plan

GENERAL

- As soon as practicable following completion of construction of the Project, 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, maintenance and mitigation of effects of the State highway.

Lapse

- The Designation shall lapse if not given effect to within 15 years from the date on which it is included in the District Plan under section 175 of the RMA.

Construction conditions

- Conditions 4 to 88E relate to construction of the Project and only apply to construction activities. Once construction of the Project is complete these conditions will no longer apply and can be removed, except for conditions that specify an obligation which continues after construction.

Management and outline plan process

4. The Requiring Authority shall prepare, submit to Auckland Council, and implement the Designation management plans in accordance with Table 1 and the specific management plan conditions.
5. The Requiring Authority may prepare management plans in parts or in Stages to address specific activities or to reflect the staged implementation of the Project Works.
6. The Requiring Authority shall not commence Project Works within the area to which a management plan applies until the Outline Plan of Works has been considered in accordance with s176A of the RMA or the required management plan(s) has been certified or otherwise provided to the Council for information.

Table 1: Management Plan Table

Management Plan	Decision Pathway	When to submit	Response time from Manager	Duration for implementation
Stakeholder Engagement and Communications	To Manager for information	At least 6 months prior to the start of the Requiring Authority's nominated date for detailed design	N/A	Duration of Project Works
Construction Noise and Vibration	Outline Plan of Works	Prior to start of Project Works	Within statutory timeframes	Duration of Project Works
Noise Mitigation	Outline Plan of Works	Prior to the Project becoming operational	N/A	Throughout the operation of the State Highway
Construction Traffic	Outline Plan of Works	Prior to start of Construction Works	Within statutory timeframes	Duration of Construction Works
Enabling Works Traffic	To Road Controlling Authority for approval via COPTTM process	Prior to start of relevant Enabling Works	N/A	Duration of Enabling Works
Site Specific Traffic	To Road Controlling Authority for approval via COPTTM process	Prior to using the relevant public road	N/A	Duration of use of public road for construction activities.

Management Plan	Decision Pathway	When to submit	Response time from Manager	Duration for implementation
Enabling Works Traffic	To Manager for Information (approval via COPTTM process)	Prior to start of relevant Enabling Works	N/A	Duration of Enabling Works
Urban and Landscape Design Framework	Outline Plan of Works	Prior to start of Project Works	Within statutory timeframes	Duration of Project Works
Urban and Landscape Design Management Plan/s	Outline Plan of Works	Prior to start of Construction Works in relevant sector	Within statutory timeframes	Duration of Project Works
Historic Heritage	Outline Plan of Works	Prior to start of Project Works	Within statutory timeframes	Duration of Project Works
Construction Air Quality	Outline Plan of Works	Prior to start of Construction Works	Within statutory timeframes	Duration of Construction Works
Cultural Engagement	To the Manager for information	Prior to the start of Project Works	N/A	Throughout the Project Works
Electricity Infrastructure Construction	To the Manager for information	Prior to the start of Project Works	N/A	Throughout the Project Works

CONSTRUCTION CONDITIONS

Stakeholder Engagement and Communications

Project Liaison Person

- The Requiring Authority shall appoint a Project Liaison Person for the duration of Project Works to be the main and readily accessible point of contact for persons interested in, or affected by, Project Works. The Project Liaison Person's contact details shall be readily available via the internet (e.g., via the Project website) and the Project Liaison Person shall be contactable at all times during Project Works.

Stakeholder Engagement and Communications Management Plan

- The Requiring Authority shall prepare a Stakeholder Engagement and Communications Management Plan (SECMP) at least 6 months prior to the start of the Requiring Authority's nominated date for detailed design. The purpose of the SECMP is to set out how the Requiring Authority will communicate with the public and stakeholders for the duration of Project Works.

9. The SECMP shall set out the framework for how the Requiring Authority will:
 - a. Engage with stakeholders such as directly affected landowners and immediately adjoining landowners, educational facilities, iwi and hapū groups, community groups, local businesses and representative groups, residents' organisations, other interested groups and individuals, Auckland Council, Auckland Transport and adjacent local authorities, the Rodney Local Board, and Network Utility Operators about the Project Works;
 - b. Inform the communities of Warkworth, Wellsford and Te Hana of construction progress, including proposed hours of work;
 - c. Engage with the communities to foster good relationships and to provide opportunities for learning about the Project;
 - d. Provide information on key Project milestones;
 - e. Provide advance notice of the upcoming works programme, including intended hours of works and activities, to residents and businesses in proximity to the Project Works; and
 - f. Make each management plan listed in Table 1 publicly available online once it is finalised (and if it is amended or updated), and for the duration of the Project Works.

10. The Requiring Authority shall prepare the SECMP in consultation with:
 - a. Auckland Council, with respect to coordination of communications with the public and stakeholders; and
 - b. Auckland Transport, with respect to communications relating to Project Works or activities that interface with the local road network; and
 - c. shall engage with Mana Whenua, with respect to provisions that relate specifically to communications with iwi and hapū groups.

- 10A. At all times prior to and during Project Works, the Requiring Authority shall maintain a Project website with current information about the Project, including details of its current state of progress towards commencement, likely commencement timeframe and anticipated milestones in that regard. The website shall also include contact details (email and/or phone number) for any person seeking further information about the Project.

Complaints Management Process

11. The Requiring Authority shall keep and maintain a complaints record (*Complaints Record*), to record any complaints received in relation to Project Works for the duration of the Project Works.

12. The Complaints Record shall include:
 - a. The name and address (if known) of the complainant;
 - b. Details of the complaint;
 - c. The date and time of the complaint, and the location, date and time of the alleged event giving rise to the complaint;

- d. The weather conditions at the time of the complaint (as far as reasonably practicable), including wind direction and approximate wind speed if the complaint relates to air quality or noise and where weather conditions are relevant to the nature of the complaint;
 - e. Any other activities in the area, unrelated to the Project that may have contributed to the complaint, such as construction undertaken by other parties, fires, traffic accidents or unusually dusty conditions generally;
 - f. Measures taken to respond to the complaint or confirmation of no action if deemed appropriate; and
 - g. The response provided to the complainant.
13. The Requiring Authority will acknowledge receipt of a complaint related to Project Works within 24 hours and shall respond in full to such complaint as soon as practicable and no later than 10 Days after the complaint was received, except where urgency is indicated, in which case the Requiring Authority shall use its best endeavours to respond within 2 hours.
 14. The Requiring Authority shall provide a copy of the Complaints Record to the Manager on a monthly basis, unless otherwise agreed with the Manager.

Mana Whenua

Cultural Indicators Report

15. At least 12 months prior to the Requiring Authority's nominated start date for detailed design of the Project, the Requiring Authority shall invite Mana Whenua to prepare a Cultural Indicators Report for the Project, or to nominate a person or organisation to prepare a Cultural Indicators Report on their behalf. To assist with preparation of any Cultural Indicators Report, the Requiring Authority shall provide access to Crown owned land within the Project Area for Mana Whenua to undertake surveys. The purpose of any Cultural Indicators Report is to assist with the protection and management of Ngā Taonga Tuku Iho (treasures handed down by our ancestors) during Construction Works.
16. Any Cultural Indicators Report should be completed and provided to the Requiring Authority at least 6 months prior to the Requiring Authority's nominated start date for detailed design of the Project and should:
 - a) Describe Mana Whenua's customary rights through occupation to resources within the Designation.
 - b) Identify and map cultural sites, landscapes and values that have the potential to be affected by Project Works;
 - c) Set out Mana Whenua's desired outcomes and recommended methods for management of potential effects on cultural values;
 - d) Identify cultural indicators of cultural stream health as relevant to the Project Works;
 - e) Set out recommended methods to measure the effects on identified cultural indicators during Project Works;
 - f) Identify opportunities for restoration and enhancement of Mauri and mahinga kai within the Designation; and

- g) Identify cultural criteria that should be acknowledged in the development of the SECMP, the ULDF, the ULDMs, the HHMP.

Conditions 17 and 18 are intentionally left blank

Cultural Artworks Plan

19. At least 18 months prior to start of Construction Works, the Requiring Authority shall invite Mana Whenua to prepare a cultural artworks plan to identify possible artworks or features to reflect sites and values of significance to Mana Whenua. Condition 19 will cease to apply if Mana Whenua have been invited to prepare a cultural artwork plan and have not provided it within six months prior to start of Construction Works.

Cultural Engagement Plan

19A. At least 1 month prior to the Requiring Authority's nominated start date for detailed design of the Project, if it has received any Cultural Indicators Report in accordance with Conditions 15-16, the Requiring Authority shall prepare a Cultural Engagement Plan. The purpose of the Cultural Engagement Plan is to identify:

- a. The measures and methods to implement the recommendations within the Cultural Indicators Report(s) where the Requiring Authority considers it is practicable to do so.
- b. Written reasons where the Requiring Authority considers any recommendations in the Cultural Indicators Report(s) cannot be practicably implemented, for example due to the operational, technical, financial, health and safety or engineering needs of the Project.
- c. The roles and responsibilities of Mana Whenua during the Project Works
- d. The roles and responsibilities of the Iwi Advisor, which shall include but not be limited to:
 - i. Engaging with the Requiring Authority on the preparation of the SECMP, the ULDF, the ULDMs, the HHMP;
 - ii. Onsite monitoring of Project Works involving top soil removal up to 1.5m below ground level (as defined in the AUP(OP));
- e. Requirements for formal dedication or cultural interpretation prior to the start of Construction Works in areas identified as having significance to Mana Whenua.
- f. A written record of the engagement undertaken in accordance with Condition 19B.

19B. In preparing the Cultural Engagement Plan the Requiring Authority shall engage with Mana Whenua who have prepared a Cultural Indicators Report over a period of not less than 3 months prior to the Requiring Authority's nominated start date for detailed design of the Project to better understand any Cultural Indicators Report and to discuss the recommendations in it.

19C. The Requiring Authority shall implement the Cultural Engagement Plan throughout the Project Works.

Iwi Advisor

19D. At least 12 months prior to commencement of Construction Works, the Requiring

Authority shall invite Hōkai Nuku to appoint an Iwi Advisor or other nominated kaitiaki (Iwi Advisor) to undertake the roles and responsibilities set out, or to be set out in the Cultural Engagement Plan.

- 19E. Conditions 19A-19C will cease to apply if Mana Whenua have been invited to prepare a Cultural Indicators Report in accordance with Condition 15 and have not provided that report within six months of the Requiring Authority's nominated start date for detailed design of the Project.

Conditions 20 – 23 are intentionally left blank

Network Utilities

24. The Requiring Authority shall ensure that Project Works do not adversely impact on the ongoing safe and efficient operation of Network Utility Operations. The scope, timing and methodology for utility protection and / or relocation works shall be developed in consultation with the relevant Network Utility Operator to ensure ongoing safe and efficient operation for the required works.
- 24A. The Requiring Authority shall consult with Network Utility Operators during the detailed design phase to identify opportunities to enable, or not preclude, the development of new network utility facilities including access to power and ducting within the Project, where practicable to do so. The consultation undertaken, opportunities considered, and whether or not they have been incorporated into the detailed design, shall be summarised in the Outline Plan or Plans prepared for the Project.
- 25A. The Project must be designed and undertaken to comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).
- 25B. The Requiring Authority shall design and undertake earthworks to ensure that the vertical clearance provided between the HEN-MPE-A transmission line conductors and the finished road level shall be a minimum of 10 metres for State Highway 1 (including approach roundabouts and on/off ramps), and 8 metres for Vipond Road.
- 25C. The Requiring Authority shall ensure that all trees and vegetation planted for the Project Works comply with the Electricity (Hazards from Trees) Regulations 2003; and cannot fall within 4m of any transmission line conductors.
- 25D. The Requiring Authority shall ensure that any new landscaping planted for the Project Works within 12m of the centre line of the HEN-MPE-A transmission line conductors is limited to species that will grow to a maximum of 2m in height at full maturity.

Transpower – Construction

- 25E. Construction or Enabling Works north of Wellsford must not commence within fifty (50) metres of the centreline of the HEN-MPE-A assets until the Electricity Infrastructure Construction Management Plan (EICMP) required by Condition 25F

has been completed and either:

- a. the construction and operation of the Project has been designed to comply with Conditions 24 and 25A to 25D; or
- b. the HEN-MPE-A assets have been relocated or altered to ensure compliance with Conditions 24 and 25A to 25D and enable the construction and operation of the Project.

25F. The Requiring Authority shall prepare an EICMP prior to start of Project Works within fifty (50) metres of the centreline of the HEN-MPE-A assets. The EICMP shall be prepared by a Suitably Qualified and Experienced Person in consultation with Transpower NZ Ltd. The purpose of the EICMP is to ensure Project Works are carried out safely and to manage any potential adverse effects of the works on Transpower's assets, including confirming that all works will comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) or any subsequent revision of that code.

25G. The EICMP shall:

- a. Include a record of consultation undertaken with Transpower New Zealand;
- b. Provide procedures, methods and measures to be implemented during Project Works to:
 - i) Manage effects of dust and other material potentially resulting from Project Works and able to cause damage, beyond normal wear and tear, to the HEN-MPE-A assets;
 - ii) Ensure that no activity is undertaken during construction that would result in ground vibrations, ground instability and/or ground settlement likely to cause damage to HEN-MPE-A assets;
 - iii) Meet applicable standards and Codes of Practice applying to the construction of Project Works that interface with the HEN-MPE-A assets;
 - iv) Ensure that, during construction and operation, changes to the drainage patterns and runoff characteristics do not result in adverse effects from stormwater on the foundations of any HEN-MPE-A support structures; and
 - v) Mitigate Earth Potential Rise, where use of conductive material for road infrastructure (e.g., metallic barriers, lighting) is within 25m of the outer foundations of any HEN-MPE-A support structures;
- c. Confirm that all Project Works will comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001). For certainty, this shall include specific measures and methods relating to:
 - i. Excavation or disturbance of the land around any transmission support structures (Section 2);
 - ii. Building to conductor clearances (Section 3);
 - iii. Depositing of material under or near overhead conductors (Section 4.3);
 - iv. Mobile plant to conductor clearances and warning notices for mobile plant (Section 5); and
 - v. People to conductor clearances (Section 9).

Advice Note: Along with the RMA processes, there are other additional processes and

approvals applying to any work or activity that affect network utilities. The Requiring Authority may require additional approvals from Network Utility Operators prior to any works commencing in proximity to network utilities.

Construction Noise and Vibration

Noise Criteria

26. Unless provided for in Conditions 28 and 29, construction noise from Project Works shall comply with the following criteria in accordance with NZS 6803:

a. Residential receivers:

	Time	dB LAeq(15min)	dB LAmax
Weekdays	0630-0730	55	75
	0730-1800	70	85
	1800-2000	65	80
	2000-0630	45	75
Saturdays	0630-0730	45	75
	0730-1800	70	85
	1800-2000	45	75
	2000-0630	45	75
Sundays and Public Holidays	0630-0730	45	75
	0730-1800	55	85
	1800-2000	45	75
	2000-0630	45	75

b. Industrial and commercial receivers:

Time	dB LAeq(15min)
0730-1800	70
1800-0730	75

26A. Air blast noise shall comply with a limit of 120 dB L_{Zpeak} at 1m from the most exposed façade of any occupied buildings.

Measurement and assessment of air blast noise shall be undertaken in accordance with AS 2187-2:2006 Explosives – Storage and use - Part 2: Use of explosives, (as it relates to air blast).

Vibration Criteria

27. Unless otherwise provided for in Conditions 28, 29 or 30, vibration from Project Works shall comply with the following criteria:

Receiver	Location	Detail	Category A	Category B
Occupied PPFs*	Inside the building	Night-time 2000h - 0630h	0.3mm/s PPV	1mm/s PPV
		Daytime 0630h - 2000h	1mm/s PPV	5mm/s PPV
		Blasting – vibration	5mm/s PPV	10mm/s PPV
Other occupied buildings	Inside the building	Daytime 0630h - 2000h	2mm/s PPV	5mm/s PPV
All other buildings	Building Foundation	Vibration - transient [including blasting]	5mm/s PPV	BS 5228-2 Table B.2
		Vibration - continuous		BS 5228-2 50% of Table B.2 values

Notes:

Measurements of construction vibration shall be undertaken in accordance with ISO 4866:2010 Mechanical vibration and shock – Vibration of fixed structures – Guidelines for the measurement of vibrations and evaluation of their effects on structures.

* For vibration, Protected Premises and Facilities (PPFs) are dwellings, educational facilities, boarding houses, homes for the elderly and retirement villages, marae, hospitals that contain in-house patient facilities and buildings used as temporary accommodation (eg motels and hotels).

Construction Noise and Vibration Management Plan

28. The Requiring Authority shall prepare a Construction Noise and Vibration Management Plan (CNVMP), prior to start of Project Works, to provide a framework for the development, identification, and implementation of the Best Practicable Option for the management and mitigation of all construction noise and vibration effects. The CNVMP shall set out how compliance with the construction noise and vibration criteria in Conditions 26 to 27A will be achieved, to the extent practicable. The CNVMP shall be prepared in accordance with NZS 6803, Annex E2, and the NZ Transport Agency’s State highway construction and maintenance noise and vibration guide (version 1.1, 2019), and shall address the process required to review and

update the CNVMP. The CNVMP shall also include methods to minimise significant intermittent noise and vibration event effects on farm animals by:

- notifying farm operators in advance of a blasting programme or other significant noise and vibration event in the vicinity of farm animals; and
- minimising the use of horns and sirens in the vicinity of farm animals.

The term 'noise' in NZS 6803, Annex 2 shall be interpreted as 'noise and vibration'.

The CNVMP shall be prepared by a Suitably Qualified and Experienced Person and implemented for the duration of the Project Works.

29. If 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 a Suitably Qualified and Experienced Person shall be engaged to identify specific 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.

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

30. 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 information within five Days before the specific construction activity is undertaken.

Vibration monitoring shall be undertaken and continue throughout the works covered by the Schedule. Following completion of the activity, a building condition survey shall be undertaken to determine if any damage has occurred as a result of construction vibration, and any such damage shall be repaired by the Requiring Authority.

- 30A. The Requiring Authority shall not locate any site office or construction yards that are to be established and used for longer than 12 months, within 200 metres of any PPFs.

Construction Traffic

General construction traffic management

31. Kraack Road shall not be used as a haulage route for Heavy Vehicles between State Highway 1 and Saunders Road.
32. Construction Works shall be managed to enable pedestrian access along Te Araroa Walkway where feasible and practicable to do so and where the health and safety of users can be maintained.
33. Any damage to a local road at a construction site access point, which is verified by a Suitably Qualified and Experienced Person as being directly attributable to Heavy Vehicles entering or exiting the construction site at that location, shall be repaired within two weeks or within an alternative timeframe to be agreed with Auckland Transport. All repairs shall be undertaken in accordance with the Auckland Transport's Transport Design Manual, or any subsequent version.

Construction Traffic Management Plan

34. The Requiring Authority shall manage construction traffic and construction parking to:
 - a. Protect public safety including the safe passage of pedestrians, equestrians and cyclists;
 - b. Minimise delays to road users, particularly during peak traffic periods;
 - c. Minimise interruption to property access;
 - d. Inform the public about any potential impacts on the road network;
 - e. Enable 24 hour emergency access to lifeline utilities; and
 - f. Enable access to Watercare's Wastewater Treatment Plant (Lot 3 DP64870), Water Treatment Facility (362 Wayby Valley Road) and planned water treatment facility (487 Wayby Valley Road) at reasonable times.
35. The Requiring Authority shall prepare a Construction Traffic Management Plan (CTMP) prior to the start of Construction Works for the Project to identify how Condition 34 will be met. The CTMP shall be prepared by a Suitably Qualified and Experienced Person and shall include the following:
 - a. Methods that will be undertaken to communicate traffic management measures to affected road users (residents/public/stakeholders/emergency services);
 - b. Identification of traffic management activities and sequencing proposed for the Project, including a staff travel plan, site access routes and site access points for Heavy Vehicles;
 - c. Methods for managing traffic effects, including through Temporary Traffic Management activities (TTM); including:
 - i. Methods to provide for safe and efficient access of construction vehicles to and from construction sites, including consideration of capacity for queuing vehicles, restrictions on turning movements and sight distances;
 - ii. Methods to maintain vehicle access to property and/or private roads where practicable, or to provide alternative access arrangements when it will not be;
 - iii. Methods to minimise the effects of TTM activities on traffic;

- iv. Methods to maintain local access during Project Works, where practicable, in particular during the realignment of or connection to local roads;
 - v. Methods to maintain access, turnaround locations and set down areas for bus routes (including school buses) where practicable;
 - vi. Methods for temporary road closures, with road closures to be carried out at times of lowest traffic, at night if practicable;
 - vii. Methods to identify how impacts on the road network from construction related light vehicle movements will be managed during peak traffic periods; and
 - viii. Methods to identify how impacts from construction related Heavy Vehicle movements on traffic flow and level of service of the road network will be managed;
 - ix. Methods to manage noise from Heavy Vehicles including effective noise suppression devices for engine brakes and planning routes, speeds and times; and
- d. Auditing, monitoring and reporting requirements relating to TTM activities in accordance with the requirements of NZ Transport Agency Code of Practice for Temporary Traffic Management (COPTTM).
36. The Suitably Qualified and Experienced Person shall prepare the CTMP based on traffic volumes and movements and the transport network that is in place immediately prior to the start of Construction Works and shall take into account any other transport works that are planned to occur during the Construction Works.
37. 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.

Site Specific Traffic Management Plans

38. The Requiring Authority shall prepare a Site Specific Traffic Management Plan (SSTMP) or Plans where any Construction Works vary the normal traffic conditions of any public road. The SSTMP shall be prepared prior to using that road and prior to start of the relevant Construction Works. 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.
39. The SSTMP(s) shall be prepared by a Suitably Qualified and Experienced Person and shall comply with the version of COPTTM which applies at the time the relevant SSTMP is prepared. Where it is not possible to adhere to this Code, the Requiring Authority shall apply COPTTM's prescribed Engineering Exception Decision (EED) process.
40. In preparing the SSTMP, the Requiring Authority shall consult with Auckland Transport where the Construction Works interfaces with the local road network.

If the Requiring Authority has not received any comment from Auckland Transport within 20 Days of providing the SSTMP to them, the Requiring Authority may consider Auckland Transport has no comments and proceed to lodge the SSTMP in accordance with Table 1.

Enabling Works Construction Traffic Management Plan

41. Where Enabling Works are to be undertaken, the Requiring Authority shall prepare an activity specific Enabling Works Construction Traffic Management Plan (EWCTMP) prior to the start of the relevant Enabling Works. The EWCTMP shall be prepared by a Suitably Qualified and Experienced Person and shall provide a similar scope of information as for a CTMP but shall be commensurate with the scale and effects of the proposed Enabling Works.
42. 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.

Urban and Landscape Design

Urban and Landscape Design Framework

43. The Requiring Authority shall prepare an Urban and Landscape Design Framework (ULDF) prior to the start of Construction Works. The purpose of the ULDF is to:
 - a. Set the framework for integration of the permanent Project Works into the surrounding landscape and topography, and built environment, having regard to the local landscape and character and contexts along the Project route;
 - b. inform development of the Urban and Landscape Design Management Plan(s) (ULDMP(s)); and
 - c. support the achievement of the Ecological Outcomes in Condition 54C of the resource consents, by combining landscape planting, restoration planting and habitat rehabilitation where practicable.
44. The ULDF shall be prepared by a Suitably Qualified and Experienced Person having regard to the:
 - a. Planning Version ULDF (2019) (submitted with the Notice of Requirement);
 - b. NZ Transport Agency Bridging the Gap NZTA Urban Design Guidelines (2013), or any subsequent version;
 - c. NZ Transport Agency Landscape Guidelines (final draft dated 2014), or any subsequent version, and the NZ Transport Agency P39 Standard Specification for Highway Landscape Treatments (2013), or any subsequent version;
 - d. the ULDF for Ara Tūhono Puhoi to Warkworth section of SH1;
 - e. Landscape mitigation planting and screen planting shown on Maps 1 – 6;
 - f. Te Aranga Principles, Auckland Design Manual (2013), or any subsequent version;
 - g. Cultural Engagement Plan; and
 - h. the Ecological Outcomes required by Condition 54C of the Resource Consent.

45. The ULDF shall:
- a. Confirm the overall key design principles and sector outcomes for the Project, as set out in the descriptions of those principles and outcomes in the Planning Version of the ULDF (2019);
 - b. Identify individual urban and landscape design sectors within the Project area;
 - c. Identify highly sensitive locations, which may include properties in close proximity to the Designation, requiring particular urban and landscape design treatment; and
 - d. Identify opportunities to integrate landscape planting under a ULDMP with restoration planting and habitat rehabilitation or other planting required for the Project.
46. The Requiring Authority shall prepare the ULDF in engagement with Mana Whenua and in consultation with:
- a. Auckland Council;
 - b. Rodney Local Board;
 - c. Auckland Transport for areas within and adjoining local roads; and
 - d. HNZPT for areas next to identified heritage sites.
47. The ULDF shall include a summary of the consultation undertaken and shall document how input from the parties listed in Condition 46 has or has not been incorporated in the ULDF or supporting information. If the Requiring Authority has not received any comment from such parties within 20 Days of providing the ULDF to them, the Requiring Authority may consider the relevant party has no comment.

Urban and Landscape Design Management Plan(s)

48. The Requiring Authority shall prepare an Urban and Landscape Design Management Plan (ULDMP) for each individual urban and landscape design sector within the Project area, in engagement with Mana Whenua, prior to the start of Construction Works within each sector. The purpose of the ULDMP(s) is to identify, how for the relevant sector:
- a. the key design principles and sector outcomes identified in the ULDF will be met by the permanent Project Works;
 - b. the landscape and visual requirements (Conditions 49 to 50) have been incorporated; and
 - c. landscape planting is to be integrated with restoration planting and habitat rehabilitation or other planting required for the Project.
49. The ULDMP(s) shall be prepared by a Suitably Qualified and Experienced Person and shall include the following details for the sector to which the plan applies:
- a. A plan describing and illustrating the overall landscape and urban design concept and rationale.
 - b. Detailed design drawings of the landscape and urban design features, including the following:
 - i. Road design including elements such as earthworks contouring including cut and fill batters to integrate with adjacent landform, benching (to be

- avoided if practicable), treatment of rock cuts, and spoil disposal sites; median width and treatment; borrow pits/areas; roadside width and treatment.
- ii. Appropriate surface treatment of cut slopes such as grassing, revegetation or leaving an exposed rock face.
 - iii. Roadside elements including elements such as lighting, sign gantries and signage, guard rails, fences, central and median barriers etc.
 - iv. Urban design and landscape treatment of:
 - a. all major structures, including viaducts, bridges and associated infrastructure, retaining walls, ancillary buildings;
 - b. any Structural Mitigation required by Condition 90;
 - c. roadside furniture, such as lighting, sign gantries and signage, guard rails, fences and median barriers; and
 - d. hardscape material, (e.g. rock rip rap, sealed shoulders, kerbs, roundabouts) and interchanges.
 - v. Land use re-instatement.
 - vi. Landscape treatment/rehabilitation of construction yards and haul roads following completion of construction.
 - vii. The integration of landscape planting with restoration planting and habitat rehabilitation or other planting required for the Project (including by resource consent conditions) where applicable, as further specified by Condition 50.
 - viii. Landscape design input to the form of stormwater ponds and swales to assist with landscape integration.
 - ix. Pedestrian and cycle facilities including paths along local roads where these facilities are directly affected by Project Works.
 - x. Features (such as interpretive signage) for identifying and interpreting cultural heritage, built heritage, archaeology, geological heritage and ecology.
 - xi. Noise barriers, and structures, walking and cycling facilities (including bridges, underpasses and associated retaining walls) which are identified in the ULDF as being in highly sensitive locations.
 - xii. The design of the tunnel portals, which shall be integrated with the adjacent landform through the use of sloping portal structures and revegetation works. Any ancillary structures associated with the tunnels shall be located and designed so they are recessive in form and colour.
 - xiii. Context-sensitive landscape design and planting at Interchanges to create a local gateway, wayfinding and promote a sense of place that reflects the destination accessed via the interchange.
 - xiv. New planting, or other measures where they are practicable, to provide visual screening of the permanent Project Works from dwellings with direct line of sight to the Project, in particular from the following properties:
 - (i) 111 Kaipara Flats Road
 - (ii) 211 Kaipara Flats Road
 - (iii) 214 Kaipara Flats Road
 - (iv) 215 Kaipara Flats Road
 - (v) 542 SH1
 - (vi) 250 Silver Hill Road

- (vii) 263 Silver Hill Road
 - (viii) 199 Shepherd Road
 - xv. Design and landscape features to acknowledge cultural values relating to landscape design identified through the Cultural Engagement Plan.
 - xvi. Design and landscape features to acknowledge the recommendations of the Cultural Artworks Plan (if prepared), where feasible and practicable to do so.
 - c. Environmental design measures to support crime prevention (CPTED or superseding industry standard) principles.
- 49A. 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) of the 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 feedback is received within 10 days of the drafts being provided, 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.
- 49B. Within 10 days of the relevant ULDMP being confirmed, the Requiring Authority shall provide a copy of any final ULDMP that addresses visual screening for the properties listed in Condition 49(b)(xiv) to the current landowner(s) of those properties including information as to how the landscape mitigation and screen planting in Maps 1 -6 and their feedback has been given regard to and (if relevant) why visual screening was not practicable.
- 49C. In addition to the requirements of Condition 49(b)(xiv), prior to the commencement of Construction Works the Requiring Authority shall provide and plant a 15m wide planting area along the western boundary of the blue hatched area shown on the map at Attachment A for the purpose of providing visual screening of the permanent Project Works for the property at 39 Phillips Road (Lot 1 DP 103533). The Requiring Authority shall not undertake any Project Works (except for the planting and related activities) within the blue hatched area shown on the map at Attachment A.
- 49D. The Requiring Authority shall procure from the Crown the entering into of appropriate covenants and/or encumbrances (or similar legal mechanisms) to ensure that the planting required by Condition 49C is protected on an ongoing basis prior to any transfer of ownership/tenure from the Crown.
50. The ULDMP(s) shall include the following planting and vegetation management details:
- a) Planting design details, including:
 - i. Identification of vegetation to be retained.
 - ii. Proposed planting suitable to site conditions including plant species (including consideration of native bird food sources), mixes (canopy succession species), spacing/densities and sizes (at the time of planting), and layout and planting methods including trials. All proposed

- planting shall be native species, except for visual screen planting which may include exotic species. A minimum 1% of planting shall be of Threatened Species.
- iii. Details of the sourcing of native plants including genetic sourcing of native plants from the Rodney Ecological District.
 - iv. Retention of existing shelter belts and indigenous trees within the Designation, where practicable, to screen direct line of sight of the permanent Project Works from adjacent properties.
- b) A planting programme including the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of works in each Stage of the Project.
 - c) Detailed specifications relating to the following:
 - i. Weed control and clearance;
 - ii. Pest animal management;
 - iii. Ground preparation (top soiling and decompaction);
 - iv. Mulching; and
 - v. Plant sourcing and planting, including hydroseeding and grassing.
 - d) The relevant requirements of the NZ Transport Agency P39 Standard Specification for Highway Landscape Treatments (2013), or any subsequent version, and performance standards including a five-year maintenance plan/schedule that requires any unsuccessful planting to be replaced within that five-year period unless canopy closure is achieved as determined by a Suitably Qualified and Experienced Person.

Landscape and visual requirements – construction activities

51. Construction yards shall be located at least 200 m from any dwelling which has a view of the construction yard.
52. Temporary haul roads and access roads shall be rehabilitated as soon as reasonably practicable following completion of construction.

Compliance with the Electricity (Hazards from Trees) Regulations 2003

53. Areas of landscape planting (trees and vegetation) shall be designed to enable compliance with the Electricity (Hazards from Trees) Regulations 2003. Any new landscaping within 12m of the centre line of the HEN-MPE-A transmission line conductors shall be limited to species that grow to a maximum of 2m in height at full maturity.

Conditions 54-77 are intentionally left blank

Historic Heritage and Archaeology

78. The Requiring Authority shall design and implement the Project Works to achieve the following Heritage Outcomes:
 - a. Avoid adverse effects on historic heritage sites and places as far as practicable;
 - b. Where avoidance of adverse effects is not practicable, minimise adverse effects on historic heritage sites and places as far as practicable;

- c. Where avoidance of adverse effects is not practicable, investigate and record all historic heritage sites and places (pre and post 1900) within the Designation; and
- d. Positive historic heritage outcomes

Historic Heritage Management Plan

79. The Requiring Authority shall prepare a Historic Heritage Management Plan (HHMP) prior to the start of Project Works, in engagement with Mana Whenua and in consultation with HNZPT and Auckland Council. The purpose of the HHMP is to identify indirect and direct adverse effects on historic heritage sites and appropriate methods to avoid, remedy and mitigate them. The HHMP shall set out the methods to achieve the Heritage Outcomes. The HHMP shall be provided to the Manager (in consultation with the Manager: Heritage Unit) for certification.
- 79A. The HHMP shall be prepared with up to date information. This additional information shall be provided to council prior to the lodgement of the HHMP to streamline the certification process. This includes:
- a. Any archaeological assessments, heritage impact assessments, granted authorities, final archaeological reports and updated site record forms (CHI and NZAA ArchSite) prepared/submitted since time of the granting of any designation;
 - b. Cultural Indicators Report; and
 - c. Additional areas of survey and investigation undertaken as part of the Project.
- 79B. Further assessment of built heritage shall include (but not be limited to):
- a. 156 Kaipara Flats Road, Dome Valley
 - b. 35 Borrows Road, Waiteitei
 - c. 30 Robertson Road, Wayby Valley
 - d. 159 Whangaripo Valley Road, Wellsford
 - e. 199 Rustybrook Road, Wayby Valley
 - f. 200 Rustybrook Road, Wayby Valley
- 79C. If Phillips Cottage (156 Kaipara Flats Road, Dome Valley) cannot be avoided at the detailed design stage, then:
- a. in the first instance the cottage structure must be relocated within its local area of significance.
 - b. if this can be demonstrated not to be practicable then the structure must be relocated within the wider area of significance, including offering the place to the Warkworth Museum.
 - c. if all relocation options can be shown to have been exhausted, only then should the building be demolished and recorded to Level II per HNZPT guideline AGS 1A: Investigation and Recording of Buildings and Standing Structures (November 2018) or any subsequent version.

- d. Auckland Council shall be advised in writing at least 10 Days prior to the cottage's relocation or demolition, with accompanying records demonstrating compliance with (a)-(c) above and Condition 81(h).
80. The HHMP shall be consistent with the conditions of any Archaeological Authority granted by HNZPT for the Project.
81. The HHMP shall be prepared by a Suitably Qualified and Experienced Person and shall identify and include:
- a. Any adverse direct and indirect effects on historic heritage sites and measures to appropriately avoid, remedy or mitigate any such effects;
 - b. Methods and areas for the identification and assessment of potential historic heritage sites and values within the Designation to inform detailed design;
 - c. Known historic heritage sites and places and areas of historic heritage potential within the Designation;
 - d. Any pre-1900 archaeological sites or areas of archaeological potential for which an Archaeological Authority under the HNZPTA will be sought or has been granted;
 - e. Any historic heritage sites within the Designation to be avoided, relocated, documented and recorded;
 - f. Roles, responsibilities and contact details of Project personnel, Mana Whenua representatives, and relevant agencies involved with historic heritage and archaeological matters including surveys, documentation and recording, monitoring of Project Works, Accidental Discovery Protocols, and monitoring of conditions;
 - g. Specific areas to be investigated, monitored and recorded to the extent these are directly affected by Project Works;
 - h. The proposed methodology for investigating and recording post-1900 heritage sites (including buildings) that need to be demolished or relocated, including details of their condition, measures to mitigate any adverse effects and timeframe for implementing the preferred methodology, in accordance with the HNZPT guideline AGS 1A: Investigation and Recording of Buildings and Standing Structures (November 2018), or any subsequent version and the International Council on Monuments and Sites (ICOMOS) New Zealand Charter 2010 or any subsequent versions;
 - i. Proposed methodology for documentation of historic heritage exposed during construction and the recording of these sites in the Auckland Council Cultural Heritage Inventory (www.chi.net/Home.aspx).
 - j. Methods to acknowledge cultural values identified through the Cultural Engagement Plan where archaeological sites also involve Ngā Taonga Tuku Iho (treasures handed down by our ancestors) and where feasible and practicable to do so;
 - k. Methods for protecting or minimising adverse effects on historic heritage and archaeological sites within the Designation during Project Works as far as practicable in line with the ICOMOS NZ Charter and including construction methods that minimise vibration (for example fencing around historic heritage and archaeological sites to protect them from damage during construction);

- l. Training requirements for contractors and subcontractors on historic heritage sites within the Designation, legal requirements relating to accidental discoveries, and implementing the Accidental Discovery Protocol. The training shall be undertaken under the guidance of a Suitably Qualified and Experienced Person and Mana Whenua representatives (to the extent the training relates to cultural values identified under the Cultural Engagement Plan and shall include a pre-construction briefing to contractors;
- m. How Conditions 81(a)-(j) address the following sites:
 - i. Woodthorpe House (CHI 22114, R09/2064);
 - ii. Dome Valley teacher's residence (CHI 22119, R09/2226);
 - iii. Dome Valley school site (CHI 22118, R09/2225);
 - iv. Phillips' Cottage (CHI 19027, R09/2063);
 - v. Whitson's House and Stockyard (CHI 22117, R09/2224); and
 - vi. World War II military camps (various) in the Warkworth area.
- n. Construction and post-construction reporting requirements; and
- o. Measures to mitigate adverse effects on historic heritage that achieve positive heritage outcomes. Measures may include, but not be limited to: increased public awareness and amenity of historic heritage sites and places, interpretation, repatriation and donation of historic heritage material to suitable repositories and publication of heritage stories.

Accidental discovery during construction

- 82. Prior to the start of Project Works, the Requiring Authority shall prepare an accidental discovery protocol for any accidental historic heritage discoveries which occur during Project Works.
- 83. The accidental discovery protocol shall be consistent with the NZ Transport Agency Minimum Standard P45 Accidental Archaeological Discovery Specification, or any subsequent version and the Auckland Unitary Plan Accidental Discovery Rule (E11 Land disturbance Regional – E11.6.1).
- 84. The accidental discovery protocol shall be prepared in engagement with Mana Whenua and consultation with Auckland Council and HNZPT and modified as necessary to reflect the site-specific Project detail. The Requiring Authority shall undertake engagement and consultation for a period of not less than 30 Days.
- 85. The Accidental Discovery Protocol shall be implemented throughout the Project Works.
- 85A. Electronic copies of all historic heritage reports relating to historic heritage investigations (evaluation, excavation and monitoring etc.), including interim reports, shall be submitted to the Manager (in consultation with the Manager: Heritage Unit) within 12 months of being produced.
- 85B. The Suitably Qualified and Experienced Person shall record and log any heritage discovery and on-going compliance with the conditions of this Designation. This log shall be provided to the Manager (in consultation with the Manager: Heritage Unit) quarterly.

85C. In the event that any unrecorded historic heritage sites are exposed as a result of the work, these shall be recorded and documented by a Suitably Qualified and Experienced Person for inclusion within the Auckland Council Cultural Heritage Inventory (CHI). The information and documentation shall be forwarded to the Team Manager: Heritage Unit (heritageconsents@aucklandcouncil.govt.nz) or other address nominated by the Manager within twelve months of the works being completed on site.

Air quality

86. There shall be no noxious, dangerous, objectionable or offensive dust, fumes or odour to the extent that it causes an adverse effect at or beyond the Designation boundary.
87. The Requiring Authority shall prepare a Construction Air Quality Management Plan (CAQMP) to outline the measures to be adopted to meet Condition 86. The CAQMP shall be prepared by a Suitably Qualified and Experienced Person and shall include:
- a. A description of the works, and periods of time when emissions of odour, dust or fumes might arise from Construction Works;
 - b. Identification of HSRs that may be adversely affected by emissions of odour, dust or fumes from Construction Works;
 - c. Methods for mitigating dust that may arise from:
 - i. exposed surfaces, vehicle movements and truck loads, potentially including watering for dust suppression, wind fencing, metalling of yards and access roads, minimising open earthwork areas, re-vegetation, controlling vehicle speeds, covering or dampening loads and limiting drop heights, and limiting earthworks during high winds.
 - ii. dust trackout from construction site exits onto sealed roads, potentially including the use of vacuum sweeping, water sprays or wheel washes for trucks;
 - iii. construction traffic on unsealed roads, including consideration of sealing the sections of any road that is 50m of a HSR;
 - iv. earthworks and rock crushing, potentially including minimum setbacks from HSRs where necessary, emissions control equipment (e.g. enclosure and/or water sprays at transfer points), and monitoring of weather conditions and visual inspections; and
 - d. Methods for maintaining and operating construction equipment and vehicles to manage visual emissions of smoke from exhaust tailpipes;
 - e. Methods for undertaking and reporting on the results of daily inspections of Construction Works that might give rise to odour, dust or fumes;
 - f. Methods for monitoring and reporting on the state of air quality during Construction Works, including wind speed, wind direction, air temperature and rainfall;
 - fa. Methods for limiting the effects of dust on the Kourawhero Wetland Complex;
 - g. Methods to remediate adverse dust deposits from Construction Works on HSRs, potentially including cleaning exterior surfaces of houses or driveways and/or cleaning of water tanks and replenishment of water supplies;
 - h. Site specific methods for managing potential dust effects on HSRs within 50 metres of dust generating activities;

- i. Procedures for maintaining contact with stakeholders and notifying of proposed construction activities, with reference to the SECMP, including complaints procedures;
 - j. Methods to review and update the CAQMP to add further measures such as ambient air boundary dust measuring and associated trigger levels, where improvements to practices are necessary to achieve Condition 86;
 - k. Construction operator training procedures;
 - l. Consideration of portable Total Suspended Particle measurement devices and associated levels; and
 - m. Contact details of the site supervisor or Project manager and the Project Liaison Person (telephone number and email or other contact address).
88. When preparing the CAQMP the Suitably Qualified and Experienced Person shall have regard to the guidance contained in the Good Practice Guide for Assessing and Managing Dust, Ministry for Environment, 2016, or any subsequent version and the NZ Transport Agency Guide to assessing air quality impacts from state highway projects (version 2.3, October 2019), or any subsequent version.
- 88A. At intervals of no less than three (3) months during the period of Construction Works, the Requiring Authority shall offer by mail or email to the landowners and occupiers (if different) of any occupied dwellings:
- i. Located on the following properties:
 - a) 111 Kaipara Flats Road;
 - b) 211 Kaipara Flats Road
 - c) 214 Kaipara Flats Road;
 - d) 215 Kaipara Flats Road;
 - e) 39 Phillips Road;
 - f) 253 Worthington Road;
 - g) 259 Worthington Road;
 - h) 263 Worthington Road;
 - i) 542 SH1;
 - j) 250 Silver Hill Road;
- or
- ii. Within 200 metres of the Designation boundary on any other property.
- to:
- iii. Fill any potable water tanks on the property, up to a maximum of 30,000 litres per property every three (3) months; and
 - iv. Conduct exterior house and window soft washing, (every three (3) months), with non-toxic washing liquid to remove visible dust arising from the Construction Works.

- 88B. Where a property owner/occupier has accepted the offer of potable water under Condition 88A(iii), the Requiring Authority shall offer to temporarily disconnect from roof collection the relevant potable water tanks on the property (and divert the rainwater flow to a tank overflow system or a suitable alternative drainage path), and internally clean any such tank before delivering the first load of potable water. At the end of Construction Works within 500m of the relevant property, the Requiring Authority shall reconnect the water tank to roof collection.
- 88C. The Requiring Authority shall offer by mail or email to the persons referred to in Condition 88A(i) and (ii) to conduct a soft wash with a non-toxic washing liquid of any surface used to collect potable water on the properties referred to in Condition 88A(i) and (ii), at the conclusion of Construction Works within 500m of the relevant property.
- 88D. If the Requiring Authority has not received a response from a landowner or occupier identified in Condition 88A(i) or (ii) within 20 Days of making an offer under Condition 88A or Condition 88C, that landowner or occupier will be deemed to have rejected the offer. The Requiring Authority shall undertake the activities under Conditions 88A, 88B or 88C within 30 Days of obtaining agreement, subject to access being provided.
- 88E. The Requiring Authority shall keep a record of all offers made under Conditions 88A, 88B or 88C, any response from the property owner/occupier, and a note as to whether the offer was taken up.

MAINTENANCE AND OPERATIONAL CONDITIONS

Operational Noise

Noise Criteria Categories

89. The Requiring Authority shall design and construct the Project to ensure that the operational State highway achieves the predicted Noise Criteria Categories identified in Table 2 at each of the identified PPFs adopting the Best Practicable Option. Compliance with the Noise Criteria Categories shall be based on a traffic forecast for a high growth scenario in a design year at least 10 years after the programmed opening of the Project.

Table 2: Identified PPFs

Address	Noise Criteria Category	Predicted noise level (dBL _{Aeq(24h)})	New or Altered Category (as per NZS 6806)
83 Valerie Close	A	57	New
74 Wyllie Road	A	52	New
12 Wyllie Road	A	57	New
2 Wyllie Road	A	57	New
2 - 2 Wyllie Road	A	57	New
371 Woodcocks Road	B	60	New
372 Woodcocks Road	B	62	New

Address	Noise Criteria Category	Predicted noise level (dBL_{Aeq(24h)})	New or Altered Category (as per NZS 6806)
79 J Viv Davie Martin Drive	A	57	New
79 B Viv Davie Martin Drive	A	57	New
79 K Viv Davie Martin Drive	A	57	New
78 B Viv Davie Martin Drive	A	57	New
79 A Viv Davie Martin Drive	A	57	New
78 B Viv Davie Martin Drive	A	57	New
78 A Viv Davie Martin Drive	A	57	New
78 Viv Davie Martin Drive	A	57	New
115 Kaipara Flats Road	A	52	New
115 - 2 Kaipara Flats Road	A	52	New
130 Kaipara Flats Road	A	56	New
131 Kaipara Flats Road	A	55	New
211 Kaipara Flats Road	A	53	New
214 Kaipara Flats Road	A	51	New
215 Kaipara Flats Road	A	56	New
91 SH1, Warkworth	A	57	Altered
27 SH-1, Warkworth	A	61	Altered
63 SH-1, Warkworth	A	57	Altered
42 SH-1, Warkworth	A	41 (69 from SH1)	Altered
39 Phillips Road	A	51	New
105 SH1, Warkworth	A	57	Altered
102 SH-1, Warkworth	A	60	Altered
104 SH1, Warkworth	A	39 (65 from SH1)	Altered
6 Kaipara Flats Road	A	59	Altered
161 Kraack Road	A	49	New
145 Kraack Road	A	39	New
127 Kraack Road	A	48	New
696a SH-1, Dome Forest	A	64	Altered
696b SH-1, Dome Forest	A	64	Altered
1232A SH-1, Wayby Valley (first floor)	A	54 (55 from SH1)	Altered
1232A SH-1, Wayby Valley (ground floor)	A	54	Altered
25 Wayby Station Road	A	64	Altered
49(a) Wayby Station Road	A	64	Altered
4 Wayby Station Road	A	57	Altered
44 Wayby Station Road	A	58	Altered
177 Rustybrook Road	A	53	New
351 Wayby Valley Road	A	53	New
64 Whangaripo Valley Road	A	51	New
96 Whangaripo Valley Road	A	53	New
40 Borrowes Road	A	56	New
47 Borrowes Road	A	53	New

Address	Noise Criteria Category	Predicted noise level (dBL _{Aeq(24h)})	New or Altered Category (as per NZS 6806)
213 Whangaripo Valley Road	A	53	New
263 Worthington Road	A	47	New
250 Silver Hill Road	A	50	New
263 Silver Hill Road	A	49	New
273 Silver Hill Road	A	48	New
332 Silver Hill Road	A	53	New
344 Silver Hill Road	A	51	New
469 SH-1, Te Hana	A	52	Altered
490 SH-1, Wellsford	B	65	Altered
10 Charis Lane	A	51	Altered
13 Charis Lane	A	54	Altered
8 Charis Lane	A	54	Altered
7 Charis Lane	A	53	Altered
9 Charis Lane	A	55	Altered
6 Charis Lane	A	52	Altered
542 SH-1, Topuni	A	55	Altered
557 SH-1, Wellsford	A	55	Altered
139 Vipond Road	A	56	Altered
129 Vipond Road	A	51	Altered
575 SH-1, Topuni	B	58	New
28 Waimanu Road	A	54	Altered
641 SH-1, Wellsford	A	59	Altered
705 SH-1, Wellsford	C	70	Altered
704 SH-1, Wellsford	C	68	Altered
17 Maeneene Road	A	61	Altered
45 Maeneene Road	A	59	Altered
33 Maeneene Road	A	58	Altered
18 Maeneene Road	A	56	Altered
35 Vipond Road	B	60	New
17 Vipond Road	A	55	New
259 Worthington Road	A	50	New

Implementation of noise mitigation

90. The Requiring Authority shall implement all Structural Mitigation or other noise mitigation identified in the Noise Mitigation Plan (Condition 99) prior to the Project becoming operational, except for the road surfaces identified in Condition 91.
91. The Requiring Authority shall use Porous Asphalt, or another road surface with equivalent or better low-noise generating characteristics, from where the Project connects with the Ara Tūhono Puhoi to Warkworth section of SH1 to the southern portal of the tunnels, and from Dibble Road (a forestry road) to the northern tie-in

with the existing SH1 north of Maeneene Road. Such a surface shall be implemented within 12 months following the Project being officially opened to general public traffic.

Building-Modification Mitigation

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 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 from the estimated future noise level in the design year without the project to the level with all detailed design Structural Mitigation; and
 - b. Category C PPFs, following implementation of all detailed design Structural Mitigation.
93. The Requiring Authority shall apply the Building Modification Conditions 94 to 98 for any PPF that is identified under Condition 92.
94. If the owner(s) of the PPF agree to entry within 12 months of the date of the request for entry, the Requiring Authority shall engage a Suitably Qualified and Experienced Person to visit the building and assess the noise reduction performance of the existing building envelope.
95. If the Requiring Authority cannot meet the requirements of Condition 90 because:
 - a. The building owner(s) agreed to entry, but entry was not attainable by the Requiring Authority (e.g., entry denied by a tenant); or
 - b. The building owner(s) did not agree to entry within 12 months of the date of the request for entry (including where the owner did not respond within that period); or
 - c. The building owner(s) cannot, after reasonable enquiry, be found prior to completion of construction of the Project.

The Requiring Authority will be deemed to have complied with those conditions and the Requiring Authority shall not be required to implement Building-Modification Mitigation to that building.

96. Within six months of an assessment of a PPF being undertaken in accordance with Condition 92, the Requiring Authority shall give the owner(s) of each PPF written notice advising:
 - a. If Building-Modification Mitigation is required to achieve 40 dB LAeq(24h) inside Habitable Spaces when windows are open 100mm for ventilation; and
 - b. The options available for Building-Modification Mitigation, if required; and

- c. That the owner has three months to decide whether to accept Building-Modification Mitigation and to advise which option for Building-Modification Mitigation the owner(s) prefers (if more than one option is available).
97. The Requiring Authority shall implement the Building-Modification Mitigation agreed in accordance with Condition 96, in a reasonable timeframe agreed with the owner.
 98. If the Requiring Authority cannot meet the requirements of Conditions 94 and 95 because:
 - a. An alternative agreement for mitigation was reached with the building owner(s);
or
 - b. The building owner(s) did not accept the offer to implement Building-Modification Mitigation within three months of the date of the written notice being sent (including where the owner did not respond within that period); or
 - c. The building owner(s) cannot, after reasonable enquiry, be found prior to completion of construction of the Project;

then the Requiring Authority will be deemed to have complied with those conditions.

Noise Mitigation Plan

99. 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 provide it to the Manager for information. 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 Topuni.
100. 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.

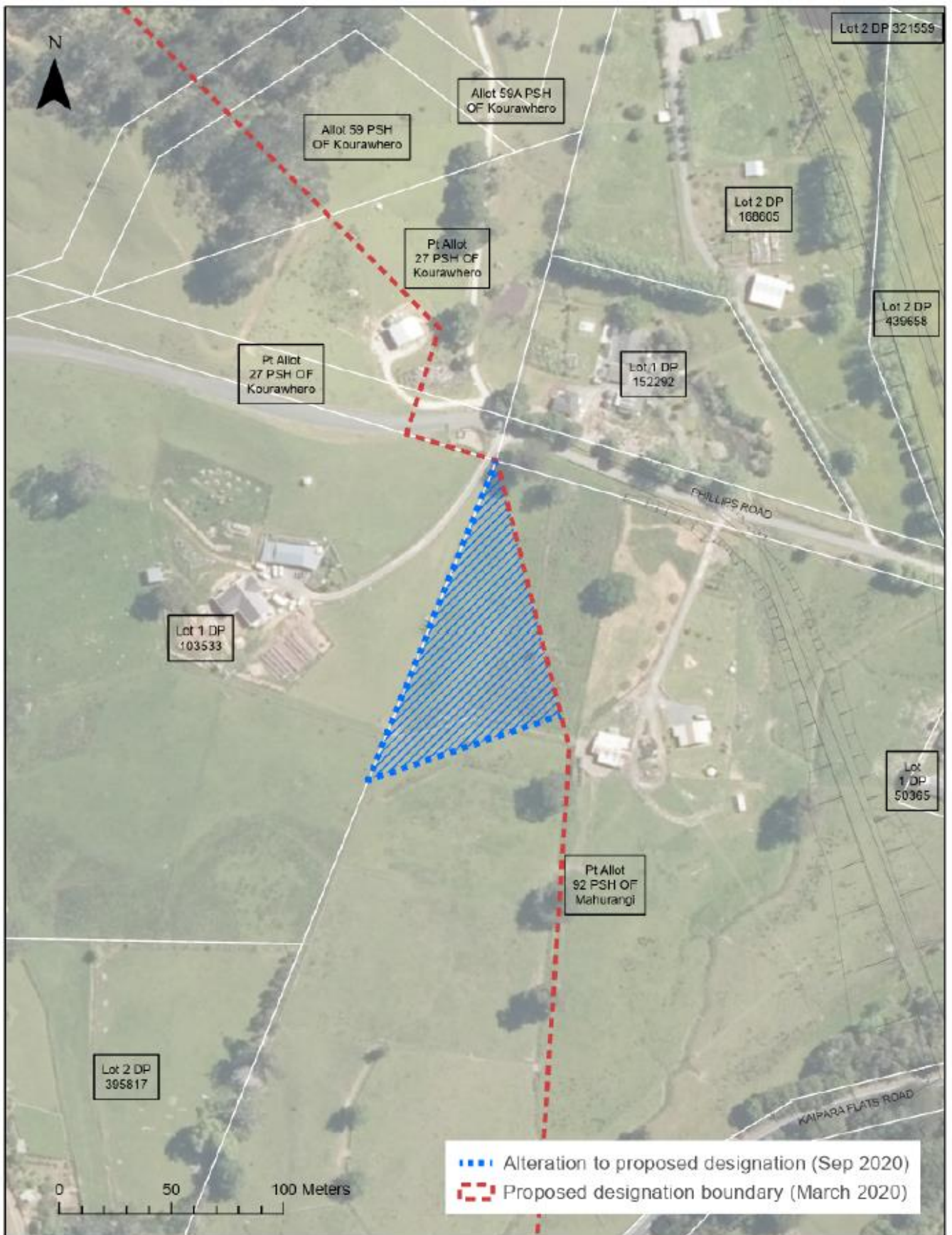
Maintenance and protection of landscape, mitigation and offset planting and works

101. The Requiring Authority shall 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.

Lighting

102. Lighting of the new State highway will be limited to safety and operational requirements (e.g., interchanges) and shall comply with AS/NZS 1158:2005: Lighting for roads and public spaces and any subsequent version.

Attachment A



Conditions maps

Attachment (b)
Director-General of Conservation's
Submission on Waka Kotahi's Notice of Requirement



29 June 2020

Auckland Council
Unitary Plan
Private Bag 92300
AUCKLAND 1142
Attention: Planning Technician

By email: unitaryplan@aucklandcouncil.govt.nz

Dear Sir/Madam,

**ARA TŪHONO – NZTA WARKWORTH TO WELLSFORD:
DESIGNATION AND RESOURCE CONSENT APPLICATION**

I refer to the application by the Waka Kotahi – NZ Transport Agency for a designation and resource consents for the construction and operation of the Ara Tūhono Warkworth to Wellsford project, a new four-lane state highway.

Please find enclosed a submission by the Director-General of Conservation in respect of both the notice of requirement for a designation and the application for resource consents.

I support the new highway project in principle, but I oppose granting of the designation and consents unless suitable conditions can be imposed to provide certainty that the adverse effects will be properly identified and avoided, remedied, or mitigated, and residual effects offset or compensated for. Because of the long delay before these consents will be exercised, and the heavy reliance on management plans and ecological surveys produced at a later date, the conditions will need to be rigorous and should be subject to a review once baseline surveys have been completed and prior to the start of construction.

Please contact Graeme Silver in the first instance if you wish to discuss any of the matters raised in this submission (phone 027 564 5767 or email gsilver@doc.govt.nz).

Nāku noa, nā

Kirsty Prior
Operations Manager
Tamaki Makaurau/Auckland Mainland

cc. NZ Transport Agency, warkworth-wellsford@nzta.govt.nz

Department of Conservation Te Papa Atawhai
Kirikiriroa/Hamilton Office
Private Bag 3072, Hamilton 3240, New Zealand
www.doc.govt.nz

Submission on notice of requirement and application for resource consent (form 13 and 21)

Resource Management Act 1991

- To:** Auckland Council
- Name of submitter:** Lou Sanson, Director-General of Conservation
- Applicant:** New Zealand Transport Agency
- Description of activity:** Construction and operation of the new SH1 bypassing Warkworth and Wellsford.
- Locations:** State Highway 1, between Wyllie Road and passing to the west of the existing SH1 alignment near The Dome, before crossing SH1 south of the Hotoe River and passing to the east of Wellsford and Te Hana, tying into the existing SH1 to the north of Te Hana
- Notice of requirement:** NOR – SH1 Warkworth to Wellsford
- Consent applications:** BUN60354951, LUC60354952, LUS60354955, WAT60354953, WAT60355184, WAT60356979, DIS60354954, LUC60355185, DIS60355186.
- Trade competition:** I am not a trade competitor for the purposes of section 308B of the Resource Management Act 1991.
- My submission relates to:** The whole application but in particular the parts related to adverse effects on terrestrial ecology, freshwater ecology, avifauna, invertebrates, bats, herpetofauna, marine ecology and ecological mitigation and offset proposals.
- My submission is:** I oppose the application.

My interest in the application

1. The functions of the Department of Conservation (DOC) are established by section 6 of the Conservation Act 1987. DOC's functions include (amongst other things) management of land and natural and historic resources for conservation purposes, preservation so far as is practicable of all indigenous freshwater fisheries, protection of recreational freshwater fisheries and freshwater fish habitats and advocacy for the conservation of natural resources and historic heritage.

2. DOC is also the authority responsible for processing applications under the Wildlife Act 1953 and the Freshwater Fisheries Regulations 1983. I understand that approvals under both of those Acts will be required prior to the start construction and will be considered separately by DOC.
3. A large part of the project occurs in one of DOC's 14 priority river restoration catchments, the Hōteao.
4. I appreciate the consultation that the Applicant has undertaken to date for the Ara Tūhono project. This has assisted my understanding of the proposal and environmental effects associated with it. DOC has had opportunity to provide early feedback on draft technical reports on several occasions.

Reasons for my submission

5. The need for a new route for State Highway 1 that avoids the Dome Valley is well established. DOC accepts the need for this new route and supports the project's objectives, particularly with regard to improving safety for road users.
6. I support in principle the Applicant's selected route as it generally minimises the natural areas that will be directly impacted by the new highway. By routing the new highway through mostly modified environments, the relative impacts of the proposal have been reduced.
7. Over most of its length, the proposal involves a change in land use from plantation forestry and pastoral farming to a state highway with associated amenity planting for screening. In the short term, construction effects will be significant and require intensive management.
8. In the longer term this provides an opportunity to achieve positive environmental outcomes rather than just maintaining the status quo of a previously degraded environment, an opportunity that could be lost once the state highway is in place. This would contribute to the progressive improvement sought by the Auckland RPS and Unitary Plan, and give effect to policy B7.3.2(6) which requires restoration and enhancement where practicable when undertaking development.
9. However, the proposal will still have some significant adverse effects. Some natural areas will be directly impacted and those adverse effects will need to be remedied and mitigated, and residual effects should be offset or compensated for. About 27

kilometres of stream habitat (permanent and intermittent) will be directly affected by modification and many more will be indirectly affected by sedimentation.

10. The Kaipara and Mahurangi harbours will be the eventual receiving environment for any sediment load from the construction and operation of the highway. Both these harbours have already been significantly impacted by increased sedimentation from past land uses. Sedimentation of the Kaipara Harbour has been identified as a key environmental issue by the Integrated Kaipara Harbour Management Group and Auckland Council¹. The Mahurangi Harbour has similar sedimentation issues and Auckland Council has produced a control plan for that catchment².
11. The development of this new highway and the associated plantings will effectively be a permanent change in land use. This creates an opportunity for a net ecological benefit, an opportunity that could be lost once the state highway is in place. The goal should be to improve the status quo, not merely to maintain it.
12. Treating the existing environment in the Matariki forest section of the new highway in its post-harvest state creates an artificially low baseline. In the absence of a new highway designation, the forest would be replanted and the impacts of harvesting would be temporary on a time scale of about 10 years. The ecological values of a re-growing plantation forest will be permanently lost on the footprint of the new highway, and should be factored into the required mitigation of the highway.
13. It is important that the construction and operation of the new highway does not undermine restoration work being carried out in the Hōteio catchment. It is part of DOC's Nga Awa river restoration programme applying a 'mountains to the sea' approach to the restoration of 14 catchments³. The Hōteio is also one of seven priority catchments in Auckland Council's Sustainable Catchment Programme, and is part of the Ministry for the Environment's first named Exemplar Catchment (Kaipara Harbour) in the Healthy Waters programme⁴.
14. The ecological impacts that DOC is most concerned about include:
 - a. sedimentation of freshwater and marine receiving environments

¹ Hart, G and Scott, K (2014). Hoteio River catchment: environment and socio-economic review. Prepared for Auckland Council by Landcare. Auckland Council technical report, TR2014/021

² Temple, T and Parsonson, M (2014). Erosion and sediment control plan for the Mahurangi catchment. Prepared by SouthernSkies Environmental Limited for Auckland Council. Auckland Council technical report, TR2014/038

³ <https://www.doc.govt.nz/our-work/freshwater-restoration/nga-awa/>

⁴ <https://www.mfe.govt.nz/action-for-healthy-waterways>

- b. loss of instream habitat through diversion and culverting of water courses
 - c. destruction of terrestrial and wetland habitat, and the relocation of fauna
 - d. effects on bats, frogs, birds, herpetofauna and invertebrates
 - e. kauri dieback and other biosecurity risks
15. Another aspect of the application that is of concern is related to the long time interval before the consents will be exercised. This has limited the extent to which accurate baseline surveys of the existing environment can be completed before consent is granted. It has created a particularly heavy reliance on management plans to identify, then mitigate, effects.
16. My submission provides general comments on the approach taken by the applicant and includes, without being limited to such matters, some examples of specific requests for improved clarity and certainty of some of the proposed conditions (see attachments 1 and 2).

Sedimentation

17. The new highway is a high risk earthworks site. The area has some of the highest rainfall in the Auckland region, nearly half (45%) of the work will be on slopes greater than 10°, large areas of bare land will be exposed and sediment issues already exist in the freshwater and marine receiving environment. As such the very best controls and proactive procedures should be used.
18. Current sediment loss from most of the catchment is greatly elevated over pre-development levels. A considerable amount of work is being undertaken to address this. There is an opportunity for NZTA to contribute to that work. Allowing an increase in sediment yield from the site would undermine it.
19. I support the overall approach to addressing the impacts of sedimentation, that is the monitoring of cumulative and acute discharges of sediment from the work sites to determine the total sediment load discharged into the environment. We consider this to be a better approach than attempting to monitor the receiving environment where sediment sources cannot be easily distinguished.
20. I support the limits on active earthwork areas, and the requirement for rapid stabilisation of worked areas.
21. I have outstanding concerns relating to the timing and thresholds for responding to sediment discharges during construction. I understand that the applicant proposes to

retrospectively mitigate sediment discharges through sediment reduction activities after completion of the project but only to the extent that cumulative sediment discharges exceed 5% of the baseline yield for the entire catchment.

22. I consider that threshold to be too high given the SEA-M status of most of the Kaipara and Mahurangi harbours, the ONF status of the Hōteu River's main channel, and the degree of historical impacts on these environments. There should be no net increase in sediment load into the river network and marine receiving environment.
23. Sediment mitigation activities should commence proactively as opportunity arises rather than wait until construction is complete.
24. I note that the sediment reduction benefits of the amenity and ecological mitigation plantings will be counted towards the sediment mitigation. As some of these areas have already been identified there is scope to begin planting before and early during the construction phase, thereby maximising the sediment reduction benefits, as well as enabling earlier establishment of suitable habitat for fauna relocation (discussed below).
25. I presume that any in-channel works carried out as part of any sediment reduction programme will require additional consents as they will have the potential for additional adverse effects on instream habitat.

Loss of instream habitat

26. During construction of the new highway 27.1 km of permanent and intermittent stream will be lost. Of this, 18.3 km will be diverted and the applicant is not proposing to mitigate for this on the basis that the diverted streams will have equivalent ecological value. I do not agree with this assessment. Diverted stream have a simplified ecological structure and are often lined with artificial substrate. While a lower mitigation ratio may be appropriate for the diverted watercourses this effect must be addressed.
27. The monitoring of freshwater impacts is reliant on the selection of representative streams. The choice of these should be independently reviewed and assessed to ensure adequate coverage. Normal practice is to survey all affected streams and it is not clear why that will not be done for this project. There is a significant risk that threatened or at-risk species may be undiscovered and adversely affected.
28. The proposal to carry out an integrated mitigation programme to maximise the benefits of enhancement and restoration work is supported.

Destruction of terrestrial and wetland habitat and relocation of fauna

29. I support the approach taken by the applicant to minimise the area of indigenous vegetation and habitat that is directly affected by the highway. I also support the applicant's proposal to integrate the mitigation effort in order to achieve better ecological outcomes through larger scale restoration rather than a piecemeal and fragmented approach.
30. I support the ratios proposed for mitigating loss of indigenous vegetation (6:1 and 3:1) but request that mitigation also be provided for the lost habitat values of the plantation forest.
31. Areas being planted or enhanced for mitigation purposes should be protected by legal mechanisms such as QEII covenants and fenced to a stock exclusion standard. The plantings should be managed and maintained for a period of at least 5 years to ensure their survival, and any failure during this period (such as due to drought) be replanted.
32. While the full scale of mitigation work required will not be known until the final alignment is confirmed and ecological surveys have been completed, we would encourage the applicant to commence ecological planting and rehabilitation work early so that suitable habitat for relocating fauna becomes available, and more suitable, during the course of construction. It is likely that existing suitable habitat for relocating fauna will already be occupied, so it will be necessary to establish new habitat for relocated fauna and carry out pest control in these areas.

Kauri dieback and other biosecurity risks

33. Conditions for managing the risk of kauri dieback and other biosecurity risks are supported.
34. Some additional references are requested. These relate to another specific pest species of concern (Argentine ants), and other biosecurity guidance documents that are in production and will be released shortly.

Inadequate baseline surveys and reliance on management plans

35. This designation and consent will not be exercised for an unusually long time with construction scheduled to begin in 2030. The ecological surveys carried out prior to application are a small sample of what is required to understand its effects.

36. It is acknowledged that the detailed baseline ecological assessment must be done closer to the time of construction, and once the final alignment has been confirmed, but this means that the current assessment of ecological effects is to some degree speculative and based on a hopefully representative sample. As the full details of effects will not be known until long after consent has been granted, the extent and degree of mitigation, offsetting and compensation required will also not be known until then.
37. Essentially the panel is being asked to approve an application without knowing the potential effects to the degree of certainty normally required, and to then rely on the degree of mitigation and offsetting being determined later. It will be assumed that the level of mitigation, offsetting and compensation will be scaled up as necessary once the extent and intensity of adverse effects becomes apparent.
38. This has resulted in a heavy reliance on a management plan approach in the proposed conditions. This is not ideal as management plans can only be certified as complete, and does not allow for major changes to the proposal if effects are found to be unacceptable.
39. Several conditions use the phrase “minimising” and “to the extent practicable”. These are good principles to operate by, but are subjective and do not provide a meaningful performance standard. More objective conditions should be set for the management plans and monitoring where possible.
40. The management plan conditions often reserve an inappropriately high level of discretion to the applicant. For example, condition 52 imposes a limit of 14 days on stabilisation of worked areas, but allows the CESP to set a different limit.
41. The risks of this approach are not insurmountable and DOC does not see them as reason for declining the designation and consent application, but these risks need to be acknowledged and taken into account when setting rigorous and enforceable conditions that clearly state the prerequisites to be met before construction can begin.
42. The process for certification of management plans should provide the ability for Council to seek amendments to the plan and obtain an independent peer review. Conditions should include a process for auditing and reviewing plans, and time-bound steps to follow if a threshold is exceeded and additional mitigation is required.

43. The proposed 'deeming' of a management plan to be certified if no response is received from Council within 20 days is unacceptable and would compromise the integrity of the management plan approach that this proposal relies so heavily on.
44. As a significant quantity of new information will be provided to council before construction, timeframes should be imposed for the delivery of that information that provides council with adequate time to consider it. Scope should be provided for Council to review the consent conditions if necessary prior to the start of construction.
45. I also note that conditions on a designation cannot be reviewed by the Council at a later date, when more information is available. For this reason it is important that the conditions of consent are comprehensive. The applicant is seeking consent for vegetation alteration and removal but all conditions relating to that are included in the proposed designation conditions. These should be transferred to, or replicated, in the consent conditions.

Decision sought

46. I seek the following:
 - a. That the consent authority declines the resource consent applications and recommends to the requiring authority that the notice of requirement be withdrawn; or
 - b. If the consent authority is minded to approve the application, that it imposes the following requirements:
 - i. Additional information is to be provided by the Applicant to address the matters outlined in this submission;
 - ii. Suitable consent and designation conditions to ensure the concerns outlined in this submission are adequately and appropriately addressed (including setting of environmental standards and triggers, monitoring measures, preferred methodologies and contingencies for failure to meet standards);
 - iii. A comprehensive approach to managing the effects of the proposed construction and operation of the highway, prioritising measures to avoid, remedy then mitigate adverse effects, and, where there are

residual effects, offsetting or (when offsetting cannot be achieved) environmental compensation;

- iv. Suitable review conditions to require as a condition precedent to the commencement of construction that: (a) baseline surveys be completed at the appropriate time to the required standard; and (b) the conditions be reviewed once the baseline surveys have been completed;
- v. The nature of the conditions that I seek include (but are not necessarily limited to) the following:
 - 1. Retain the consent and designation conditions I support as described in attachments 1 and 2;
 - 2. Amend the consent and designation conditions as described in attachments 1 and 2;
- c. Such other relief as may be necessary and appropriate to address my concerns described above and in attachments 1 and 2.

I **wish to be heard** in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

A copy of this submission has been served on the applicant.



Kirsty Prior
Operations Manager
Tamaki Makaurau/Auckland Mainland
Acting pursuant to delegated authority on behalf of Lou Sanson, Director-General of Conservation

Date: 29 May 2020

Note: a copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011.

Addresses for service:

Attn: Graeme Silver, Planner

gsilver@doc.govt.nz

027 564 5767

Department of Conservation

Kirikiroa/Hamilton Office

Private Bag 3072

Hamilton 3240

Attn: Michelle Hooper, Solicitor

mhooper@doc.govt.nz

027 324 6314

Department of Conservation

Kirikiroa/Hamilton Office

Private Bag 3072

Hamilton 3240

Attachment 1: Submission table on proposed designation conditions

Condition		Reason	Decision sought
general	Support with amendments	The designation conditions include matters that are authorised by resource consents. These conditions need to be transferred or duplicated in the consent conditions as they are not subject to a section 128 review.	Transfer or duplicate the conditions relating to consents to the consent conditions, such as those relating to vegetation alteration and removal.
various	Support with amendment	Various management plans and ecological surveys must be completed “prior to the start of project works”. A timeframe for these plans to be delivered to council should be specified that provides opportunity for council to consider the information. Because of the large volume of management plans and the heavy reliance on them to manage adverse effects, the normal 20 working day turnaround of a section 176A outline plan is not appropriate I note that conditions 15, 19, and 20 include timeframes for preparation of reports and plans, and I support those.	Amend various conditions (eg. 28, 55, 66, 68) to provide a suitable timeframe for council to consider the surveys and management plans, prior to the lodging of an online plan.
54	Support with amendments	Clear outcomes are required for the project and its management plans. These establish good principles for the ecological management of the project but are generally not measurable. Some objective performance standards should also be included. This condition refers to the construction of the project but should apply to the operation and maintenance phase as well.	Retain, amend to include operation and maintenance, and where possible, include objectively measurable performance standards: <i>“...managing the construction, operation and maintenance of the Project...”</i>
55	Support with amendments	I support the requirement for an ecological management plan but seek additional clauses relating to monitoring the success of planting and rehabilitation efforts, managing pest and weed incursions, replacing any unsuccessful planting, and providing for permanent legal protection of the planted and rehabilitated areas such as through a QEII covenant. I note that some of these clauses are already included for the landscape plantings.	Retain and amend to address: <ul style="list-style-type: none"> • pest and weed management • monitoring • replacement of failed plantings • ongoing legal protection
62	Support with amendments	I support the condition to undertake restoration planting and habitat rehabilitation, and the mitigation ratios. A further ratio is required for the permanent loss of plantation forest that will not be replanted as a result of the highway development.	Retain this condition and add a requirement for ecological mitigation to offset the habitat loss resulting from the change of land use from plantation forest to road.
65	Support with amendments and correction	I support the requirement to complete planting and rehabilitation within 5 years but recommend that a deadline be set for this work to commence as soon as areas become available to do so because the benefits will not be realised for some time. In addition, where relocation of fauna is required, new habitat may need to be established for them.	Retain with the addition of starting date/time for restoration planting and habitat rehabilitation, and correct the reference to the ULDMP to read EMP.

		I note that the condition refers to ULDMPs but the restoration planting and habitat rehabilitation is described in the EMP.	
66 & 67	Support with amendments	I support the requirement for bat surveys prior to construction but the requirement to recommend methods to avoid injury or mortalities, and recommend methods to maintain or enhance habitat, does not provide any certainty that these methods will be implemented.	Retain and amend to require the assessment and avoidance of effects at a population level.
73, 74 & 76	Support with correction	Reference to the DOC's local area manager should be to the Operations Manager.	<i>"...the Local Area Operations Manager, Department of Conservation.."</i>
76	Support with amendments	I support this condition as these risks are significant and potentially permanent. I support specific reference to kauri dieback, Myrtle rust and plague skink, and request the inclusion of Argentine ants.	Retain with amendments <i>"..and other biosecurity hazards such as Myrtle rust, <u>Argentine ants</u> and plague skink."</i>
77	Support with amendments	I support this condition and note that there is additional guidance that will soon be available and should be referred to.	<i>"...consistent with "Hygiene Procedures for Kauri Dieback", "<u>Land disturbance activities (including earthworks) around kauri</u>", "<u>Vehicle and Heavy Machinery Hygiene</u>", "<u>Landfill Disposal of Contaminated Material</u>" and "Procedures for Tree Removal and Pruning" and other relevant guidelines published by the Ministry for Primary Industries Kauri Dieback Management Programme..."</i>
101	Support with amendments	Maintenance and replacement of landscape plantings for 5 years is supported. A similar requirement should apply to ecological plantings and is discussed under condition 55 above.	Retain and amend to cover ecological plantings as well (or alternatively amend condition 55 to address this).

Attachment 2: Submission table on proposed consent conditions

Condition		Reason	Decision sought
2	Support with amendment	The review condition is generally appropriate and reasonable. As baseline surveys will be carried out and delivered to the consent authority prior to construction, it would be appropriate to provide for a possible review of conditions at that time, before construction begins.	Amend this condition to allow a potential review after baseline surveys have been carried out and before construction commences.
5	Oppose	Deeming management plans to be certified by default is unacceptable. This major project places a heavy reliance on a suite of management plans to identify and address	Delete condition 5.

		significant adverse effects after consent has been granted.	
21	Support with amendments	The outcomes sought for erosion and sediment control area supported. These are sound principles. However they are capable of objective measurement. Wherever possible, objective performance standards should be included, even if they are arbitrary to a degree and may need to be reconsidered later through a variation to the consent.	Amend this condition, or add an additional one, to include measureable performance standards.
24(f)	Clarification	Reference to rainfall events in the Hōteō Inlet and Mahurangi Harbour should probably refer to rainfall events in the catchments, rather than the receiving marine water body.	Amend the condition to clarify.
24(h)	Support with amendment	This condition is supported but replacing the term 'limit' with 'minimise' would be clearer and be consistent with the erosion and sediment control outcomes stated in condition 21	Replace 'limit' with 'minimise'.
26	Support with amendments	Clarification is required on the circumstances in which it is 'not practicable' to design clean and dirty water diversion to channels to a 100 year storm event	Delete " <i>where practicable</i> " and state the circumstances when a 100 year ARI design standard does not need to be met.
31	Support	This condition is strongly supported as accurate measurement of sediment yield is essential for identifying and mitigating the effects of this project.	Retain
37	Support with amendments	I support this condition as a suitable approach to offsetting construction sediment effects, and the deadline for the sediment reduction activities to achieve complete offsetting. However a timeframe for starting the sediment reduction activities should also specified. Ideally this should as be as soon as possible, but no later than completion of construction.	Amend to include a deadline for commencing the sediment reduction activities.
44 & 45	Support	I support the maximum open earthworks areas of the Hōteō and Oruawharo catchments.	Retain.
51	Oppose	The requirement to stabilise within 14 days is supported, but the ability of a management plan to alter this timing is not. This is a key erosion control method and changes to the timeframe should only be possible through a variation to the consent.	Delete " <i>or time otherwise certified with the Manager within a CESCP,</i> ".
52	Support with correction	There appears to be a grammatical error in the wording of this condition.	Clarify by deleting " <i>shall be stabilised against erosion</i> ".
55	Support with amendment	Monitoring of water levels in the wetland complex is essential and should be used to identify the natural range in variability in levels. We request a longer time period of monitoring to confirm the natural variability.	Retain and extend the duration of monitoring to enable natural variability to be determined.
56	Support with amendments	I support the conditions to protect the high value Kourawhero wetland complex.	Amend to state:

		Maintenance of pre-construction water table levels is supported. Natural variability in water levels should also be allowed to continue. Diversion channels should avoid the wetland complex.	<i>"...maintain the pre-construction water table level and natural variability..."</i> <i>"Minimising Avoid intrusion of diversion channels into or through..."</i>
61 & 62	Neutral	It should be noted that any restriction on fish passage will require a permit under the Freshwater Fisheries Regulations.	
63	Oppose	Deeming management plans to be certified by default is unacceptable. This major project places a heavy reliance on a suite of management plans to identify and address significant adverse effects after consent has been granted.	Delete the second to last sentence of condition 63, starting <i>"If a response has not been received..."</i> .
64	Support with amendments	The identification of erosion prone streams should be subject to an independent review.	Retain and amend to provide for an independent review before monitoring starts.
66	Support with amendments	Pre-construction baseline survey and monitoring should be provided with an adequate lead-in time to allow the consent authority to consider the information and review consent conditions if necessary (see comment on condition 2). A suitable lead-in time would be for the consent authority to determine. We would suggest 3 months.	Amend to allow Council time to consider baseline data and review conditions if necessary.
76 & 77	Clarify	These conditions refer to off-setting and compensation measures as mitigation. Restoration and enhancement of sites not directly impacts by works, but still within the designation, is off-setting and compensation.	Amend these (and other) conditions to clarify the terminology used.
80	Support with amendments	This condition is supported, particularly the requirement to minimise changes to water flows in the Kourawhero Wetland Complex. However this principle should be backed up with a measurable performance standard such as any change to water levels shall be within the range of natural variability. Clarification is required of when it would not be practicable to capture, treat and discharge stormwater through constructed wetlands.	Amend condition 80(vi) to include measurable standards for maintaining wetland water levels and the proportion of stormwater that is captured and treated before discharge.

Attachment (c)

Names and addresses of persons to be served with this notice of appeal

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