

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



Proposal

NORTH-WEST STRATEGIC (WAKA KOTAHI): PROJECTS IN WHENUAPAI, KUMEŪ, HUAPAI AND REDHILLS

NoR S1: Alternative State Highway: A new dual carriageway motorway and the upgrade of Brigham Creek Interchange in Whenuapai.

NoR S2: State Highway 16 (SH16) Main Road (Huapai): Upgrade of the existing SH16 designation 6766 to provide for the road corridor upgrade, including shared footpaths and cycle lanes (active mode facilities) and realignment of the Station Road intersection with SH16.

NoR S3: Rapid Transit Corridor (Kumeū): New rapid transit corridor with shared footpath and cycle lane (active mode corridor).

NoR KS: Kumeū Rapid Transit Station: New rapid transit station, including transport interchange facilities and accessway.

NoR HS: Huapai Rapid Transit Station: New rapid transit station, including transport interchange facilities, park and ride and accessway.

These Notices of Requirement are **ACCEPTED** in whole or in part. The reasons are set out below.

Application:	Five Notices of Requirement for Te Tupu Ngātahi - Supporting Growth Programme / North-West Strategic: Projects in Whenuapai, Kumeū, Huapai and Redhills
Site Address:	N/A
Requiring Authority:	Waka Kotahi NZ Transport Agency and Auckland Transport in conjunction with Te Tupu Ngātahi - Supporting Growth Alliance
Hearing Commenced:	18 September 2023 at 9:30am
Hearing Panel:	Richard Blakey (Chairperson) Mark Farnsworth Vaughan Smith

Appearances:

For the Requiring Authority:

Andrew Beatson, Legal
Leigh Ziegler, Legal
Megan Exton, Legal
Deepak Rama, Corporate (WK)
Alastair Lovell, Corporate (AT)
John Daly, Planning (Alternatives)
Joe Phillips, Transport Planning (Strategic)
Rob Mason, Engineering (Strategic overview)
Rosemary Beltran, Engineering (Site-specific)
Lewis Stradling, Public Works Act (WK)
Mark van der Ham, Public Works Act (AT)
Ian Davidson-Watts, Ecology (Bats)
Michiel Jonker, Ecology
Johan Pratomo, Construction Method
Ida Dowling, Engagement
Sarah MacCormick, Social (Strategic)
Rob Greenaway, Parks & Open Space (Strategic)
John Brown, Historic Heritage
Hans-Dieter Bader, Archaeology
Stuart Bowden, Urban Design
Tom Lines, Landscape & Visual
Matt Paul, Arboriculture
Mike Summerhays, Stormwater & Flooding
Siiri Wilkening, Noise & Vibration (Strategic)
Claire Drewery, Noise & Vibration (Local)
Holly Atkins, Planning (Conditions)
Regan Elley, Planning (Strategic)
Bridget O'Leary, Planning (Local)

For the Submitters:

Barry Frank Boric / F. Boric and Sons Limited
represented by:

- Douglas Allan, Legal
- Milenko Boric, Submitter
- Don McKenzie, Transport
- Hannah Edwards, Planning

Kumeu Properties Limited represented by:

- Hannah Edwards, Planning
- Milenko and Michael Boric, Submitters
- Don McKenzie, Transport

Christopher Penk, Member of Parliament for Kaipara
ki Mahurangi

	<p>Joseph Stapleton and Karen Crosland</p> <p>Gail and Graham McIntyre, Country Living Realty</p> <p>Mary Connelly and James Scully represented by:</p> <ul style="list-style-type: none"> - Janette Campbell, Legal - Mary Connelly, Submitter <p>Kumeu Medical Centre represented by Dr William Ferguson, Corporate</p> <p>Victoria Sydney Facoory</p> <p>Mirko Daniel Ujdur represented by Owen Burn, Planning</p> <p>Natalya Ujdur</p> <p>GH Atchison and PM Atchison and calling Mr JD Singh</p> <p>Morleyvest Limited represented by Ross Morley</p> <p>Price Properties Limited represented by:</p> <ul style="list-style-type: none"> - Joan Forret, Legal - Jennifer Price, Corporate <p>Topland New Zealand Limited represented by:</p> <ul style="list-style-type: none"> - Liam Clark - Ruth Carpenter <p>Simply Events Holdings Ltd</p> <p>West Coast Rangers Football and Sports Club Incorporated represented by Michael Brooke</p> <p>Ezra and Gael Keren represented by Aidan Cameron, Legal</p> <p>Future-Kumeū Incorporated represented by:</p> <ul style="list-style-type: none"> - Aidan Cameron, Legal - Graham McIntyre, Corporate - John Francis, Corporate - Craig Walker, Corporate
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- Don McKenzie, Transport
- Vaughan Martin, Flooding
- Hamish Firth, Planning

Christopher McGuire

The National Trading Company of New Zealand Limited represented by:

- Daniel Sadlier, Legal
- David Boersen, Corporate
- John Parlane, Transport
- Matthew Norwell, Planning

Peter Edward Clark and Diane Margaret Clark

Alesana and Stacie Levi represented by:

- Simon Pilkinton, Legal
- Stacie Levi, Submitter
- Alesana Levi, Submitter

Heritage NZ Pouhere Taonga represented by:

- Robin Byron, Senior Conservation Architect
- Kurt Bennett, Archaeologist
- Alice Morris, Planning

Kāinga Ora Homes and Communities represented by:

- Douglas Allan, Legal
- Michael Campbell, Planning
- Brendon Liggett, Corporate
- Rhys Hegley, Acoustics

Telecommunications Submitters represented by:

- Graeme McCarrison, Corporate
- Ian Gavin, Engineering
- Chris Horne, Planning

KiwiRail Holdings Limited represented by:

- Jako Strydom, Network Investment Manager
- Pam Butler, Senior RMA Advisor

Stephen Anderson represented by Hamish Hey, Planning

Kumeu Central Limited represented by:

- Jeremy Brabant, Legal

	<ul style="list-style-type: none"> - Terry Church, Transport - Burnette O'Connor, Planning <p>Tahua Partners Limited represented by:</p> <ul style="list-style-type: none"> - Jeremy Brabant, Legal - Terry Church, Transport - Burnette O'Connor, Planning <p>Muyi Zeng and Bihui Zhao represented by:</p> <ul style="list-style-type: none"> - Jeremy Brabant, Legal - Jason Chen, Agent <p>All Seasons Properties Limited represented by Burnette O'Connor, Planning</p> <p>Lendich Construction Limited represented by Burnette O'Connor, Planning</p> <p>Kumeu Shopping Village Combined Owners' Committee [Lot 1: Kumeu Medical Centre; Lot 2: Body Corporate 98706 (90A-90D Main Rd)] represented by Molly Whittington, Corporate</p> <p>Kumeu Shopping Village Combined Owners' Committee [Kumeu Medical Centre & Body Corporates 98706, 97519, 96480, & 109614] represented by Molly Whittington, Corporate</p> <p>Ulrich and Fleur Hess</p> <p>Simon Papa</p> <p>Z Energy Limited represented by:</p> <ul style="list-style-type: none"> - Olivia Manning, Legal - Matthew Brennan, Corporate - Dave Smith, Traffic - Sarah Westoby, Planning <p>Watercare Services Limited represented by Tim Barry, Corporate</p> <p>Ministry of Education represented by Gemma Hayes, Planning</p>
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	<p>S Nuich and I Selak and S A Nuich and Gibson Nominee Ltd represented by David Haines, Planning</p> <p>Steve and Sofia Nuich Trustee Limited represented by David Haines, Planning</p> <p>Atlas Concrete Limited represented by David Haines, Planning</p> <p><u>For the Rodney Local Board:</u> Louise Johnston, Deputy Chair</p> <p><u>For the Upper Harbour Local Board:</u> Anna Atkinson, Chairperson</p> <p><u>For the Henderson-Massey Local Board:</u> Brooke Loader, Board Member</p> <p><u>For the Council:</u> Todd Elder, Project Manager Eryn Shields, Team Leader - Planning Robert Scott, Reporting Planner (Strategic) Anatole Sergejew, Transport (Strategic) James Hendra, Parks (Strategic) Dan Windwood, Built Heritage Derek Foy, Economics Hilary Konigkramer, Social Impacts Jason Smith, Ecology Jennifer Esterman, Urban Design John McKensey, Lighting Jon Styles, Noise & Vibration Lee Te, Healthy Waters Danny Curtis, Healthy Waters West Fynn, Arborist Peter Kensington, Landscape Visual Mica Plowman, Heritage</p> <p>Patrice Baillargeon, Senior Hearing Advisor</p>
Hearing adjourned	12 October 2023
Commissioners' site visit	8 August 2023
Hearing Closed:	23 January 2024

INTRODUCTION

1. Pursuant to s.168 of the Resource Management Act 1991 (**the RMA**), the NZ Transport Agency Waka Kotahi (**Waka Kotahi**), in conjunction with Auckland Transport (**AT**) as part of Te Tupu Ngātahi - Supporting Growth Alliance (**SGA**), as the Requiring Authority, gave notice to the Auckland Council (**the Council**) to designate land as described above and in further detail below, known as the 'North-West Strategic Projects', located in Whenuapai, Kumeū, Huapai and Redhills, under the Auckland Unitary Plan (Operative in Part) (**AUP**). These are comprised of four new designations, and one alteration to an existing designation (no. 6766).
2. At the request of the Requiring Authority, the five North-West Strategic Notices of Requirement (**Strategic NoRs**) were publicly notified on 23 March 2023. Submissions closed on 24 April 2023. A total of 297 submissions were received across the NW Strategic NoRs.
3. The Strategic NoRs, along with 14 other NoRs and one resource consent application, were referred to Independent Hearing Commissioners Richard Blakey (Chair), Mark Farnsworth, and Vaughan Smith (**Panel**), who were appointed and act under delegated authority from the Council under ss.34 and 34A of the RMA for a hearing and recommendation. The hearing of the 19 NoRs and resource consent application took place over four weeks from 18 September to 12 October 2023 and was conducted for the most part at the Henderson Civic building (1 Smythe Road, Henderson).¹ There were appearances at the hearing by the Requiring Authority, submitters and Council officers, as listed above.
4. This recommendation assesses the five Strategic NoRs in accordance with s.171 of the RMA. It addresses the issues raised in the submissions and contains the Panel's recommendation to the Requiring Authority under s.171(2) of the RMA.

OVERVIEW OF THE NOTICES OF REQUIREMENT

5. As outlined above, the five Strategic NoRs are part of a wider package of 19 NoRs sought by the SGA on behalf of Waka Kotahi and Auckland Transport (**AT**) for land in the North-West. We have grouped these 19 NoRs for the purposes of two recommendation reports to Waka Kotahi and AT:
 - The Strategic NoRs package (comprised of NoRs S1, S2, S3, HS and KS for Waka Kotahi), being the subject of this recommendation report; and
 - The North-West 'Local Arterial' NoRs package (comprised of NoRs RE1, RE2, R1, W1, W2, W3, W4 and W5 and incorporating one 'Strategic' NoR S4 sought by AT); the Housing Infrastructure Fund: Projects in Redhills' package (comprised of NoRs 1, 2A, 2B and 2C); and the Trig Road Housing Infrastructure Fund (comprised of NoR HIFTR), all for AT and being the

¹ The hearing was held over 14 days, with two of those being at the Waimauku War Memorial Hall.

subject of a separate recommendation report. We will describe these NoRs generically in this report as the **Local NoRs** (as further explained below).

6. To align with this approach to our reports, we also note that two of the three condition sets provided with the SGA's Reply of 24 November 2023 have been re-structured to match the grouping set out in our two recommendation reports and as described above. We also note that this approach differs from the s.42A report structure, where four s.42A reports were prepared and where NoR S4 was included in the Strategic NoRs assessment. However, this generally aligns with the way in which the SGA's evidence was presented (i.e., with witnesses for many of the topics representing the Strategic and Local NoRs separately).
7. The Strategic NoRs seek the route protection of future strategic transport corridors (highway connections, rapid transit and local roading) as part of the Supporting Growth Programme to enable the future construction, operation and maintenance of transport infrastructure in the north-west area of Auckland. The components of the Strategic NoRs that are addressed in this recommendation report are described as follows:

(a) NoR S1: Alternative State Highway

NoR S1 is a new designation for a new four-laned dual carriageway motorway described as the 'Alternative State Highway' (**ASH**). The ASH will have an approximately 50m-wide cross-section providing for both vehicles and active modes. It will have connections west of the Kumeū-Huapai township (outside the Rural Urban Boundary), south (near the western intersection with Trigg Road), east (Access/Tawa Road) and re-joins the State Highway network at the Brigham Creek Interchange (**BCI**).

NoR S1 is intended to allow sufficient land to construct the ASH, associated interchanges and shared paths and realignment of local roads. The NoR S1 footprint shows the envelope proposed to operate and maintain the ASH and all its ancillary components, including construction, stormwater infrastructure, batter slopes, retaining walls and mitigation.

(b) NoR S2: State Highway 16 – Main Road (Huapai)

NoR S2 seeks to alter Designation No. 6766 to provide for the upgrade of the Main Road / State Highway 16 (**SH16**) corridor, including provision of active mode facilities and realignment of the Station Road intersection with SH16.

SH16 is proposed to be upgraded to a 24m-wide urban corridor providing for two-lanes (one lane in each direction) with separated walking and cycling facilities on each side. The upgrade generally follows the existing alignment of SH16 and includes 600m of active mode upgrades between Oraha Road and Tapu Road.

SGA state that this aspect of the project will also provide an important function of connecting people safely to the two proposed Rapid Transit Stations (**RTS**) at Huapai and Kumeū and the strategic cycle network (included within the NoR S3 described below). These connections to the Huapai and Kumeū stations adjacent to commercial activity will support a commercial centre that provides for the existing and future community needs.

The works associated with the NoR S2 project include upgrades to existing stream crossings and Station Road will also be realigned to form a new signalised intersection with SH16 and Tapu Road. The plans containing the general corridor alignment shows the envelope proposed to operate and maintain SH16 and all its ancillary components, including stormwater infrastructure, bridges, batter slopes and retaining walls, mitigation areas and construction areas.

(c) NoR S3 – Rapid Transit Corridor

NoR S3 is a new designation for a Rapid Transit Corridor (**RTC**) and active mode corridor. It has a total length of approximately 9.5km and is intended to operate in an uninterrupted free-flowing manner with all road crossings to be grade separated. The RTC is designed to enable bus rapid transit and is generally comprised of two sections, a rural section extending from the BCI (adjacent NoR S1) to SH16 and an urban section from Waitakere Road to Matua Road, where it is alternately co-located with SH16 Main Road (NoR S2) and/or the existing North Auckland [Rail] Line (**NAL**), terminating at Matua Road.

NoR S3 will affect the Huapai Tavern at 301 Main Road, a historic heritage building tracing its origins back to the 1870s and its associated Historic Heritage Overlay Extent of Place #482.

(d) NoR HS - Huapai Rapid Transit Station

NoR HS is a new designation, for a RTS including transport interchange facilities, park and ride and accessway. The Huapai RTS is proposed to be on the northern side of the NAL, south of Meryl Avenue, and will be an 'end of the line' station. NoR HS provides for a service interchange, walking and cycling, on-demand travel as well as park-and-ride. An active mode overbridge is proposed to connect station users to the land on the southern site of SH16, currently zoned Future Urban Zone (**FUZ**), where the North-west Spatial Strategy shows an indicative new town centre.

(e) NoR KS - Kumeū Rapid Transit Station

NoR KS is a new designation, for a RTS including transport interchange facilities and an accessway.

The RTS proposed at Kumeū will be within a Business - Local Centre Zone and would be accessible by local bus services, walking and cycling network and on-demand travel routes (pick up/drop off). An active-mode overbridge and path is intended to connect station users to Wookey Lane and Vintry Drive. SGA state that the station will form a transport node for the Kumeū community for trips south towards key employment centres such as Westgate and the Auckland CBD.

The Kumeū Station also has an effect on the Huapai Tavern at 301 Main Road, as described in (c) above.

8. A 20-year lapse period is proposed by the SGA in respect of NoRs S1, S3, HS and KS. No lapse period is proposed in respect of NoR S2 on the basis that this relates to existing designation that has already been given effect to. The issue of lapse dates and the applicability of the same to designation alterations is addressed later in this report.
9. A sixth component of the Strategic NoRs is NoR S4: Access Road (Kumeū). This is for an upgrade of Access Road from its intersection with NoR S2 (SH16/Main Road) to NoR S1 (in the vicinity of Motu Road), with a separate footpath and cycle lane. Although this forms part of the overall 'Strategic' package, and was notified as such, this NoR is being progressed by AT, rather than Waka Kotahi. Therefore, and as outlined earlier, it will be addressed in the separate recommendation report on the Local NoRs (which as noted above are wholly comprised of AT designations).
10. It is also appropriate to record here the specific project objectives, as a matter relevant to our consideration under s.171(1)(c). These were detailed in the evidence of Deepak Rama for Waka Kotahi² and while there are some differences between the five NoRs, they incorporate the objective "*to enable the provision of a transport corridor*" that:
 - Supports planned urban growth (All);
 - Supports a safe transport network for all users (All);
 - Provides for an efficient, reliable and resilient strategic connection between Redhills North and SH16 west of Kumeū-Huapai (S1);
 - Supports connectivity within Kumeū-Huapai (S1 and S2) and by providing a new corridor for interregional and freight trips to SH16 Main Road (S1);
 - Supports and integrates with the existing and future strategic transport network in the North West (S1); the existing and future transport network in

² EV006, at Appendix A

Kumeū-Huapai (S2) and in the North West (S3) and the transport network generally (HS and KS).

- Supports mode shift on the transport network (S1);
 - Contributes to mode shift by providing a choice of transport options including active modes (S2 and S3), and via access to rapid transit (S3, HS and KS); and
 - Supports a quality urban form within Kumeū-Huapai (S3, HS and KS).
11. The designation plans (provided as Attachment A in Form 18 for all of the NoRs) together with the schedule of directly affected properties (provided as Attachment B in Form 18) describe the land that will be directly affected and required for the projects and associated works. An updated set of designation plans were provided with the SGA's Reply, to reflect those changes to the designation boundaries made since notification of all of the NoRs, and those made during the hearing.³
12. A more detailed description of the Strategic NoRs are set out in the application documents and in section 2.7 of the Council's s.42A report.
13. We also note the overall conditions framework that the SGA proposes to apply across all 19 NoRs incorporate a number of management plans to address the majority of anticipated environmental effects. These would provide the framework to guide the final design of the various components of the transport corridors as well as avoid, remedy mitigate or manage the adverse effects of the construction activities associated with the implementation of the Project. The following management plans are proposed by SGA as those to be developed and submitted as part of any outline plan of works (to be submitted in terms of s.176A of the RMA), in accordance with condition 8:
- Construction Environmental Management Plan (**CEMP**);
 - Construction Noise and Vibration Management Plan (**CNVMP**);
 - Construction Traffic Management Plan (**CTMP**);
 - Ecological Management Plan (**EMP**);
 - Historic Heritage Management Plan (**HHMP**);
 - Network Integration Management Plan (**NIMP**);
 - Network Utilities Management Plan (**NUMP**).
 - Tree Management Plan (**TMP**); and
 - Urban and Landscape Design Management Plan (**ULDMP**).
14. The wording of these management plans, and the conditions generally, were consistent across all the NoRs, but with some variances as required for the circumstances and context of each NoR. In particular, the Local NoRs contain a Land Use Integration Process (**LIP**) condition but this was not proposed by the

³ EV288, Appendix E (pp.630-679)

SGA to apply to the Strategic NoRs. There are also differences in respect of the approach to management plan certification.

15. A significant aspect of the overall proposal is the preparation of a Stakeholder Communication and Engagement Management Plan (**SCEMP**), across all the NoRs. This is proposed to be prepared prior to an outline plan being submitted to the Council, but only submitted with an outline plan for information purposes, including with respect to any material changes after confirmation of the outline plan (whereas material changes to any of the abovementioned management plans, or a 'Schedule' to a CNVMP, are to be provided to the Council for certification).
16. The s.42A report noted its acknowledgement in regard to the use of management plans that:⁴

“...the NoR process is primarily about route protection rather than implementation and in that regard a management process is accepted as an appropriate method, given that detailed assessment and implementation would occur at the Outline Plan of Works stage”.
17. It went on to emphasise the need for the conditions to establish a robust process for the preparation of those plans, such that they are certain and enforceable and incorporate a clear objective as to their purpose as well as specific measures to avoid or mitigate potentially adverse effects.
18. We address particular aspects related to the conditions and management plans later in this decision.

SITE AND LOCALITY

19. Section 10 of the AEE provided us with a detailed description of the designated routes (individually or collectively **the Project** or **Projects**), with further descriptions provided in supporting specialist reports such as the Landscape and Urban Design assessments. The s.42A report adopted these descriptions and we also do the same for the purpose of this recommendation. The site and locality descriptions were also reinforced by our site visit. We visited all sections of the 'on-road' sections of the designations and viewed the 'off-road' sections of the designations from available vantage points.
20. It can be said in general terms that the Strategic NoRs traverse a variety of contexts, from more open countryside for NoR S1 and S3, to existing rural road environments for parts of NoR S2 and HS, to more built-up commercial and residential areas for parts of S2, S3 and KS. The routes therefore affect a large number of properties, to a greater or lesser extent, along their alignments and we address those effects, primarily in general terms, as raised during the hearing later in this report.

⁴ Agenda, at pp.55-57

SUBMISSIONS

21. As noted above, the NoRs were publicly notified by the Council at SGA's request on 23 March 2023. Submissions closed on 24 April 2023. A total of 297 submissions were received across the Strategic NoRs.⁵ A summary of the key issues raised in submissions relative to these NoRs can be found at section 3.2.3 of the s.42A report.⁶
22. The s.42A report also provides commentary with respect to those submissions that were received after the closing date. In this regard we note that those that were received within 20 working days of the submission closing date were able to be accepted by the Council under s.37A(4) of the RMA, and this was described by way of an Information Memorandum to the Panel from Council officers dated 26 July 2023. Those submissions that were more than 20 days late in respect of NoR S2 were accepted in accordance with the Panel's Direction 6.⁷

PROCEDURAL MATTERS

23. There were a number of procedural matters that the Panel has addressed both prior to and during the hearing. Some standard matters related to defining the hearing and evidence exchange timetable (Direction 1); directing joint witness conferencing (Direction 2); and acceptance of late submissions in respect of the Local NoRs W1 and W5 (Direction 3) and Strategic NoR S2 (Direction 6). The Panel also addressed the requirements for evidence for the resource consent application (Direction 4) and sought an update from Council officers as to recent consenting and plan-making/policy issues relevant to the North-West area (Direction 5).
24. We note here and acknowledge the extensive work that was undertaken by the various expert witnesses in terms of the process outlined in Direction 2, and it was apparent that this process enabled some issues to be appreciably narrowed by the time of the hearing. The Panel records its thanks to the expert witnesses, and to independent facilitator for the witness conferencing process, Marlene Oliver, for her efforts in this regard and the manner in which the issues were recorded for our reference as part of the subsequent joint witness statements.
25. Further directions and memoranda arose during the course of the hearing itself:
 - (a) Having heard from a number of submitters with respect to the width of the designation along Access Road (NoR S4) in particular, and where it was apparent that the designation would have significant effects on various properties along this route, the Panel sought further information as to the manner by which the construction width had been determined. At the same time, the Panel was also interested to know whether changes to the designations in response to submissions had been more broadly considered

⁵ This excludes the 40 submissions received in respect of NoR S4.

⁶ Agenda, at pp.46-50

⁷ Submissions by Kumeu Central Ltd and Tahua Partners Ltd.

as to potential changes on land adjacent to and/or further along such routes. This was responded to by way of a memorandum dated 2 October 2023,⁸ and we refer to the submissions made in this regard later in this report.

- (b) The Panel issued a further direction on 3 October 2023 (Direction 7) in response to the Joint Witness Statement (Planning – Conditions) (**JWS**) that was received on 20 September 2023⁹ and which proposed an amendment to the proposed SCEMP condition common to all the NoRs. We refer to this JWS again later in this report but suffice to say here that in response to variable approaches to the site-specific additions requested by various planning witnesses, the Direction sought a more consistent approach from those witnesses to the wording of any requested additions, in the event that we would adopt the approach suggested in the JWS.
26. Minute 1 was also issued during the hearing (on 4 October 2023) to provide an indication to Council officers as to the issues that the Panel was particularly interested to ensure were covered in the Council’s response to the evidence.
27. Following receipt and review of the SGA’s Closing Legal Submissions (**Reply**), the Panel issued Direction 8 on 30 November 2023 to seek further information on a number of matters related to those submissions. This was responded to by the SGA by way of a supplementary memorandum dated 22 December 2023. As these addressed the Panel’s queries in full, we resolved to close the hearing, and notice to this effect was issued on 23 January 2024. The Panel thanks the SGA for the detailed nature of its Reply and supplementary memorandum and has found these to be a useful reference both in providing a summary of the matters in contention and to assist the Panel’s consideration of those matters.
28. We also highlight our approach to the references to the Requiring Authority(ies), the SGA and the evidence presented across the whole North-West package used in this recommendation report. Because this recommendation report relates only to the NoRs proposed by Waka Kotahi, we will generally refer to them as the Requiring Authority in the singular, while noting that the legal submissions and evidence presented to us was across both Waka Kotahi and AT NoRs, and so relevant quotes on behalf of both Requiring Authorities will typically refer to “the SGA”. In addition, there are some points made in the evidence that may have been raised during the hearing in respect of the AT designations, that is of general applicability to those of Waka Kotahi. Because all the NoRs were heard together, we consider this to be an appropriate approach and provides a more considered and detailed overview of the particular topic in question.
29. In a similar vein, we have also had to make some decisions with respect to the naming convention used in this report to describe the various NoRs and the grouping thereof. For example, in respect of the AT NoRs, the RATN is also

⁸ EV221

⁹ This JWS was not facilitated and was prepared by a number of planning witnesses for various submitter parties.

referred to as the HIFRED, and the HIFTR is referred to at times as the Trig Road (South) Project, or TRHIF. For simplicity's sake we have elected to adopt the abbreviations that are used in the SGA's proposed conditions. We will refer to the NoR sub-groupings where appropriate, while also noting that these form part of this overall report on the Local NoRs. We explain this in summary form below:

- Strategic NoRs (Waka Kotahi), comprised of:
 - NoRs S1, S2, S3, HS and KS.
 - Local NoRs (Auckland Transport), comprised of:
 - Local Arterial NoRs: RE1, RE2, R1, W1, W2, W3, W4 and W5 and S4;
 - RATN NoRs: RATN1, RATN2A, RATN2B and RATN2C; and
 - HIFTR NoR.
30. Finally, we also make the note that this Panel has also been appointed to hear and make recommendations in respect of the SGA's notices of requirement in the Warkworth area (hearing held on 13 – 21 November 2023) and for areas in North Auckland (hearing scheduled for 17 June – 4 July 2024). In particular, and at the time of preparing its reports for the North-West Strategic and Local NoRs, it has received reply submissions and has closed the hearing for the Warkworth NoRs, and the matters raised in the course of that hearing have some relevance to those that we must consider for North-West (and vice versa). We have endeavoured to take a consistent approach across the respective NoRs, while noting that there are some site or area-specific variables that need to be taken into account in each case. Further evidence and legal submissions will be considered in the North Auckland NoRs, and the Panel wishes to emphasise that it may reach different findings on similar topics from that hearing depending on the evidence and legal submissions that it receives.

RELEVANT STATUTORY CONSIDERATIONS

31. The statutory considerations relevant to our consideration of the NoRs were set out in the application documents and the s.42A reports and were further reiterated to the Panel through legal submissions and in various expert witness statements. While the relevant provisions of the RMA were well-canvassed during the hearing, they are central to the recommendations that we must make and so are re-stated here.
32. The RMA provides that the procedures adopted in processing a notice of requirement are generally those adopted for processing a resource consent application. This includes processes relating to lodgement, requiring further information, notification, receiving and the hearing of submissions. In respect of

the Strategic NoRs, the s.42A report confirmed that all of those procedures have been followed.¹⁰

33. Section 171 of the RMA states:

- (1A) *When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition.*
- (1) *When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—*
- (a) *any relevant provisions of—*
 - (i) *a national policy statement;*
 - (ii) *a New Zealand coastal policy statement;*
 - (iii) *a regional policy statement or proposed regional policy statement;*
 - (iv) *a plan or proposed plan; and*
 - (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—*
 - (i) *the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
 - (ii) *it is likely that the work will have a significant adverse effect on the environment; and*
 - (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
 - (d) *any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*
- (1B) *The effects to be considered under subsection (1) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority.*

34. Section 171(1) is subject to Part 2 of the RMA. Part 2 contains the purpose and principles of the RMA. It has been confirmed by the Environment Court that, in relation to a designation matter:¹¹

“...all considerations, whether favouring or negating the designation, are secondary to the requirement that the provisions of Part II of the RMA must be fulfilled by the proposal”.

35. After considering these matters, the Council needs to make a recommendation to the requiring authority under s.171(2) which states:

¹⁰ Agenda, at p.51

¹¹ *Estate of P.A. Moran and Others v Transit NZ* W55/99 [1999] NZEnvC 513, at [114]

- (2) *The territorial authority may recommend to the requiring authority that it –*
 - (a) *confirm the requirement:*
 - (b) *modify the requirement:*
 - (c) *impose conditions:*
 - (d) *withdraw the requirement.*

36. Reasons must be given for the recommendation(s) under s.171(3).

37. It is also important to emphasise this aspect of the Panel's role under s.171(2), being to make a recommendation on the NoRs to the Requiring Authority, rather than a binding decision. This was recognised by many witnesses and submitters whom we heard from during the hearing. While our recommendations support the need for the NoRs thereby endorsing the overall recommendation of Council, but making some amendments to the conditions, as set out later in this report, it is the Requiring Authority who will make its decision on the NoRs. Its decision will be required to be made in accordance with s.172 (*'Decision of the requiring authority'*) which is set out below as follows:

- (1) *Within 30 working days of the day on which it receives a territorial authority's recommendation under section 171, a requiring authority shall advise the territorial authority whether the requiring authority accepts or rejects the recommendation in whole or in part.*
- (2) *A requiring authority may modify a requirement if, and only if, that modification is recommended by the territorial authority or is not inconsistent with the requirement as notified.*
- (3) *Where a requiring authority rejects the recommendation in whole or in part, or modifies the requirement, the authority shall give reasons for its decision.*

38. However, despite the abovementioned decision-making powers, all parties to the NoRs retain appeal rights to the Environment Court under s.174 in respect of the Requiring Authority's eventual decisions.

39. A further relevant consideration for the present NoRs is s.181 (*'alteration to an existing designation'*). This applies to NoR S2 (SH16) and Waka Kotahi's 'SH16 – Hobsonville to Wellsford' designation (identified as no. 6766 in the AUP Chapter K Designations Schedule) that has been given effect to. The alteration is limited to the works proposed as part of the alteration. It does not include works that could be undertaken within (or effects that are or could reasonably be generated by) the existing designation.

40. Section 181(2) states that ss.168 to 171 apply to the "modifications" as if it were a requirement for a new designation. Section 181 is set out below:

- (1) *A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*

- (2) *Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*
- (3) *A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if—*
- (a) *the alteration—*
- (i) *involves no more than a minor change to the effects on the environment associated with the use or proposed use of land or any water concerned; or*
- (ii) *involves only minor changes or adjustments to the boundaries of the designation or requirement; and*
- (b) *written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*
- (c) *both the territorial authority and the requiring authority agree with the alteration—*
- and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.*
- (4) *This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.*

41. We provide an overall assessment regarding the relevant considerations under ss.171 and 181 later in this report, including with respect to whether in the Panel’s view a lapse date can apply to an alteration to a designation that has been given effect to.

EVIDENCE HEARD

42. The s.42A report, along with the Council’s various specialist assessments, was circulated prior to the hearing and taken as read. The evidence presented at the hearing responded to the issues and concerns identified in the s.42A report, the NoRs themselves, and the submissions made on the NoRs. Expert evidence on behalf of all parties who appeared, along with a number of non-expert statements, were also circulated prior to the hearing and again were taken as read. As outlined above, the evidence for the SGA was presented for a number of topics by different witnesses between the Local and Strategic NoRs.¹²
43. Due to the breadth and scale of the Local and Strategic NoRs (and the resource consent application in respect of Trig Road South) a considerable volume of evidence was produced through the hearing, including supplementary and/or rebuttal statements of witnesses for the SGA, with many witnesses for submitters

¹² The topics addressed in this manner were: “Corporate”, “Noise and Vibration”, “Planning”, “Public Works Act” and “Transport Planning”.

also helpfully providing summary 'hearing statements'. This information and evidence is referred to as necessary to explain the points being made in text below. However, we have not summarised all the evidence provided, other than where reference is made to specific evidence as part of our discussion below. Not only were the materials pre-circulated to all parties but they were also uploaded to the Council's website and may be read there should that be required.¹³ An 'evidence index' has also been prepared to assist with navigation of the evidence file, and we have used the index reference in our referencing of the evidence throughout this recommendation report.

44. We have reviewed, and considered, all of the submissions made on the Strategic NoRs and the relief sought by the submitters. There are a number of generic themes that emerged along with some unique site specific matters raised in the evidence, the intent of which is addressed in the discussion to follow. As a result we do not intend to address each and every issue raised by submitters on an individual basis.
45. As referred to above, the Panel is also required to make recommendations with respect to the 14 'Local' NoRs, along with the resource consent application. The Panel has resolved to issue both of its recommendation reports, and decision on the resource consent, contemporaneously rather than through any sequencing procedure. This reflects the timing at which the NoRs were lodged, and notified, on a common date, and were subsequently, along with the resource consent application, all heard at the same time.¹⁴ The Panel observed, prior to the adjournment of the hearing, that it is not bound by any timeframe under s.171 in which to issue its recommendation(s) but would nevertheless undertake to do so as expeditiously as possible following receipt of the SGA's Reply (in accordance with our general duty under s.21 but noting that this Panel would also subsequently be hearing the SGA's eight notices of requirement for the Warkworth area in November 2023).

ISSUES IN CONTENTION

Introduction

46. The recommendations made in this report follow the deliberations and the findings reached by the Panel after considering the NoRs, the submissions lodged, the Council's reports, and the legal submissions and evidence presented at the hearing, the JWSs, the response comments provided by Council officers and consultants, and the written reply and associated updated conditions schedule provided by counsel acting on behalf of the SGA.¹⁵ The recommendations are

¹³ This includes the notification materials, submissions, Panel directions and minutes, and Joint Witness Statements.

¹⁴ Noting that the resource consent was lodged on 19 December 2022, the same date as the NoRs, but was not publicly notified until 20 June 2023.

¹⁵ Counsel for the SGA were Andrew Beatson, Leigh Zeigler and Megan Exton.

made in terms of the aforementioned framework provided by ss.171 and 181 of the RMA.

47. The Panel noted at the outset of the hearing that the consideration of no less than 19 NoRs (including the five to be considered in this report) as part of a single hearing would be a substantial undertaking. In this regard the Panel recognises the extensive efforts made by the SGA itself in bringing the NoRs to the application stage and addressing the subsequent further information process; the Council in undertaking its assessments of them; and by submitters and their representatives in reaching an understanding of them for the purposes of making a submission and then preparing evidence and/or statements for the hearing. We note, and agree with, the general sentiment expressed in the SGA's closing submissions as to the contributions to the process by submitter parties notwithstanding the acknowledged scope and detail of the proposed NoRs.¹⁶
48. In overall terms, the NoRs raise a number of issues and a range of impacts for those persons (including businesses, residents, community groups etc) and environments along their routes.
49. Compounding those impacts are the designation lapse dates proposed by the SGA, which for the Strategic NoRs are proposed to be 20 years. This was a primary and significant factor in the concerns raised by submitters affected by the NoRs, due to the immediate effect that the designations were perceived to have on the value and utility of their property and the uncertainty as to when the designations would be implemented along with the associated land acquisition process.
50. The Panel heard from a large number of submitters with respect to the way in which the NoRs could affect their property, either in whole or in part (including in respect of the lapse dates as mentioned above). For properties partly affected (such as through the taking of land along site frontages), such issues are, in the main, proposed to be addressed through management plan conditions to be included in each designation. These follow a standard format, but have some specific components for different NoRs. We have therefore sought to address the issues around the relevant management plan conditions as these represent the primary method by which those effects will be resolved, or at least managed. For those properties that are proposed to be acquired in full (where the designation requires an extensive area of a property and/or where access can no longer be provided), the primary relief will be via the Public Works Act 1981 (**PWA**) (either directly or via an Environment Court order made under s.185 of the RMA).
51. After our analysis of the NoRs and evidence (including proposed mitigation measures), undertaking a site visit, reviewing the Council's s.42A assessments, reviewing the submissions and concluding the hearing process, the NoRs raise a number of issues for consideration as we have alluded to above. These have been

¹⁶ EV288, at [1.2]

helpfully addressed through the SGA's Reply, and we consider that the topics and the order that they are presented is appropriate and we have generally followed those topics as part of this report, except that we have incorporated reference to:

- the SGA's proposed amendments to NoR conditions within the relevant topic rather than separately;
- matters addressed by the Council in response to the Panel's Minute 1 issued during the hearing on 4 October 2023 (which was primarily in response to a request from Council officers who sought an indication of those issues in which we were particularly interested to hear the Council's view); and
- responses arising from the SGA's supplementary memorandum provided in response to Direction 8.

52. Based on the above, the list of topics in contention that we have addressed in this report are as follows:

General matters

- Approach to long-term designations for large infrastructure projects (and analysis underpinning the designations);
- Alignment and extent of designation boundaries (including property access);
- Corridor active-mode design;
- The lapse periods for the designations;
- Provision for a designation review condition (periodic review and post-construction);
- Application of a lapse period to an existing (altered) designation;
- Business and property impacts and interface with the PWA;
- Existing and future environment analysis;
- Adequacy of alternatives assessment;
- Criticisms of the engagement process;
- Management plans (including CTMP, review, certification and definition);
- Effects of stormwater and flooding;
- Relocation of the Kumeū town centre;
- Noise effects (including effects on residential dwellings, construction noise and re-surfacing and station noise);

- HHMP condition;
- Proposed ULDMP advice note; and
- Conditions (not addressed elsewhere).

Site-specific issues

- Responses to site-specific concerns;
 - Land Use Integration Process;
 - The use of site-specific schedules;
 - Huapai Domain, Fred Taylor Park and Whenuapai Settlement Park; and
 - Huapai Tavern.
53. As will be apparent from the above list, we considered that a large number of the issues in contention were common across the Strategic NoRs (and the Local NoRs), and we address these first, and the site-specific matters second where these are not otherwise addressed by our findings in respect to the common issues. We also note that some of the issues in contention appeared to be resolved, at least in part, through the ongoing evolution of the conditions as proposed by the SGA, and we record those outcomes as relevant to the issues in question.
54. The Panel acknowledges that its recommendations do not address all of the concerns raised by submitters, and indeed is unable to do so where those concerns relate to the timing of land acquisition (and any associated property valuations), or where significant changes to the NoRs beyond their proposed alignments are sought. In this regard we have taken care to consider whether our recommendations in respect of the conditions are in accordance with the scope afforded by s.171(2).
55. The following section of our recommendation addresses the background and rationale for the Strategic NoRs, being an aspect that was generally understood but nevertheless also gave rise to some issues of contention as to necessity (indeed, of all the NoRs) and their location. In this regard, we discuss below the rationale for the project as set out in the evidence, to provide the contextual backdrop to our analysis of the matters that remained in contention.

Approach to long-term designations for large infrastructure projects

56. For this topic we have incorporated considerations related to the analysis underpinning the designations, being a separate, but in the Panel's view overlapping, matter.

57. The Panel notes that while there were some submitters who queried the overall need for the NoRs, the majority of the evidence that we heard recognised the importance of providing for the Projects, and indeed many sought the early implementation of NoR S1 in order to address congestion and other related effects within the North-West roading network, particularly in terms of SH16.
58. We were told that the Supporting Growth Programme has been prepared to investigate, plan and deliver the key components of the future transport network necessary to support this planned greenfield growth in Auckland's future urban areas. The SGA's application documents advise, as re-affirmed through evidence, that the early protection of critical transport routes is necessary to provide certainty for all stakeholders as to the alignment, nature and timing of the future transport network. It was also the Requiring Authority's case that designations also provide increased certainty for Waka Kotahi (and AT) that it can implement the works provided for by the designations.
59. The Council's s.42A report prepared by Robert Scott has provided a useful summary of the background and context for the NoRs generally, by reference to the notification documents, and we adopt that summary here.¹⁷ In particular, these reports highlight the signal within the Council's Auckland Plan 2050 that Auckland could grow by 720,000 people over the next 30 years, generating demand for more than 400,000 additional homes and requiring land for 270,000 more jobs. Around a third of this growth is expected to occur in areas within the Future Urban Zone (**FUZ**). The Council's 2017 Future Urban Land Supply Strategy (**FULSS**) was updated in line with the AUP zonings, with 15,000 hectares of land allocated for future urbanisation via the FUZ. The **FULSS** provides for sequenced and accelerated greenfield growth in ten areas of Auckland.
60. The North-West growth areas, comprising Kumeū-Huapai, Whenuapai, Redhills/Redhills North and Riverhead, are located approximately 30 kilometres north-west of Auckland's Central Business District (**CBD**). These areas are planned to make a significant contribution to the future growth of Auckland's population by providing for approximately 42,355 new dwellings and employment opportunities that will contribute 13,000 new jobs.¹⁸ The AEE states that the proposed staging is based on the **FULSS** and was tested in SGA's Detailed Business Case (**DBC**) modelling to confirm assumptions based on growth need and related projects delivery.¹⁹
61. The SGA's supplementary reply also (in response to the Panel's Direction 8) highlights more recent growth and demand activity in the Kumeū-Huapai context. It states:²⁰

¹⁷ Agenda, at pp.23-25

¹⁸ AEE, at [4.2]

¹⁹ Ibid

²⁰ EV289, at [4.5]

“...Recent large-scale development completed or under construction in Huapai (Huapai Triangle and Huapai North) has put pressure on existing infrastructure in the North West. The transport corridors proposed in Kumeū-Huapai (Alternative State Highway, Rapid Transit Corridor and Stations and SH16 Main Rd upgrade) are of a larger scale and provide a strategic transport network that will serve not only the growth that is projected to occur but the existing community and the wider Auckland region. The road has recently been identified as a Road of National Significance²¹ (which underlines its importance and the need for the designations), but the difference in scale to the other North West projects and varying political priorities means a prolonged funding, planning, design and implementation timeframe is envisaged, which is a key consideration in the lapse periods proposed for these corridors”.

62. The Panel notes that since lodgement of the NoRs the Council has consulted on, and recently confirmed, its Future Development Strategy (**FDS**). This amends the extent of FUZ and the timelines for the development of land previously defined by the FULSS, such that the planned timing for development of the FUZ areas within Kumeū-Huapai and Riverhead is anticipated to occur from 2050. The SGA’s supplementary reply highlights that the National Policy Statement on Urban Development 2020 (**NPS-UD**) nevertheless requires local authorities to “*be responsive to unanticipated or out-of-sequence developments, such as private plan changes*”.²² This may result in development occurring earlier than the timeframes suggested by the FDS. In this regard, the FDS also identifies that further development in Kumeū-Huapai will require a longer investigation phase and an integrated approach between developers and the Council, particularly in respect of flood hazard and stormwater matters that are required to be investigated and addressed (including prior to further re-zoning of FUZ land). The supplementary memorandum notes that such issues have already been apparent though the Council’s rejection of a private plan change application in Riverhead (in proximity to NoR R1).²³
63. We comment further on the above matters with regard to s.171(1)(d) of the RMA later in this report.
64. As noted by the SGA in its Reply, some submitters expressed concern with what was perceived to be a ‘novel’ approach to the designation process, as well as the level of design detail, the baseline environment for the purposes of effects assessment purposes and the long-term nature of the designations. For example, Aidan Cameron in his legal submissions for Future-Kumeū Incorporated submitted

²¹ The Panel was unclear which road was referred to as being of National Significance, but by reference to the Waka Kotahi website we understand this to be a reference to the ASH.

²² Ibid, at [4.6]

²³ An appeal to the Council’s decision has since been resolved by way of a consent order based on an amended plan change (*Fletcher Residential Ltd & Ors v Auckland Council* [2024], NZEnvC 49 (20 March 2024))

that “*the fundamental point remains that the Requiring Authorities approach goes well beyond the concept of route protection and would lock in a poor outcome for the people of Kumeū*”.²⁴

65. However, the Reply goes on to explain why its approach is not novel, stating:²⁵

“... While it has consistently been acknowledged that the Projects differ from implementation-ready infrastructure projects, it is not uncommon for Requiring Authorities to seek long-term designations to secure strategic routes or alignments for critical infrastructure projects, particularly where they are required in areas undergoing substantial change that could make implementation more difficult and costly in the future...”

66. Examples of comparable projects with long lapse dates were provided in SGA’s opening submissions at Appendix B and include (in respect of Waka Kotahi transport-related designations): Transmission Gully (2012, 15 years); Southern Links (2015, 20 years); and Ponga Road / Ōpaheke Road (2022, 20 years).

67. The Reply went on to describe the overall approach and level of design used to inform the NoRs,²⁶ which we have summarised as involving the following:

- (a) Development of a concept design, which involved designing the alignments to a level sufficient to inform the proposed designation footprint (and integration with adjacent development), and to enable an assessment of an envelope of effects that includes potential construction areas, operational and maintenance requirements and areas required to mitigate effects.
- (b) Identification of the existing and future environment in accordance with established case law, and in particular assuming the future urbanisation of FUZ areas.
- (c) Including a sufficient level of flexibility so that the final details for the Projects, including the design and location of associated works, can be refined, integrated and confirmed at the detailed design and resource consenting stage and through future outline plan processes (per s.176A of the RMA). The Reply notes that “*this is an orthodox use of the designation tools available under the RMA and should not be controversial*”.
- (d) The Project objectives, and the need to identify and protect transport interventions (corridors) to support and enable areas anticipated to experience growth, is supported by strategic policy documents, including the Auckland Regional Land Transport Plan 2021-31.

68. The Panel accepts the basis for the need for route-protection, given the growth projections for the North-West and the evident growth pressures currently

²⁴ EV138, at [1.7]

²⁵ EV288, at [2.2]

²⁶ Ibid, at [2.3]

experienced within this area, and that the analysis underpinning its rationale in this regard is considered to be sound. That analysis is therefore relied upon for the purposes of considering the issues that arise from the proposed route-protection and the associated matters of contention, as discussed in the following parts of this report.

Alignment and extent of the designations

Introduction

69. The proposed designations seek to protect routes by way of designation, including land sufficient for the construction, operation and maintenance of the future arterial transport network. The design of the Strategic NoRs, and the NoRs forming part of the North-West network generally, have focused on developing alignments to a level that are sufficient to inform the proposed designation footprint and to assess an envelope of effects that includes potential construction areas, operational and maintenance requirements and areas required to mitigate effects.
70. Our discussion of this topic incorporates several inter-related themes that were frequently raised within the evidence of submitters. These related to the SGA's proposals for what will need to be incorporated within each designation, integration with adjacent development proposals, the maintenance of access during and after construction, and the protection of existing right-hand turn movements.

What is incorporated in the designations

71. The proposed designations incorporate the areas expected to be required during construction such as general work areas, construction compounds and laydown areas, construction traffic access and manoeuvring and the regrading of driveways, sediment controls, earthworks (including cut and fill batters), works to relocate or realign network utilities, culvert and bridge works, drainage and stormwater works including new wetlands. While concept plans provided a reasonable level of detail of the facilities to be provided within the proposed road reserve, the extent of the additional areas for construction were somewhat less definitive but were described as being based on anticipated requirements given land characteristics and present understandings of construction techniques. In particular, the evidence for the SGA advised that sufficient width has been provided at the edge of embankments and design elements to provide for appropriate construction areas and access along the corridors.
72. We note at this juncture that while the particular details shown in the concept plans were useful in illustrating the likely and potential form of the completed new roads or upgrades, we are only tasked with making recommendations on the designation maps, which are the outline maps depicting the designations in simple black outline and grey shading. While the concept plans form part of the information to be contained in Schedule 1 to the conditions, condition 1 clarifies that where there is any inconsistency between the concept plan and the requirements of the remainder of the conditions, the conditions and management plans shall prevail.

73. Some submitters considered that the extent of the designation boundaries had not taken into consideration the potential development of adjacent land, or situations where resource consent approvals had been granted for the same, or were in the process of being implemented. For example:
- (a) Hannah Edwards asked on behalf of F Boric & Sons that the Requiring Authority confirm the extent of the land that is required (both temporarily and permanently) to reduce the duration and effects.²⁷
 - (b) Dr William Ferguson told us of his concern over the extent of the designation “*a consequence of widening the Main Road carriageway through Kumeu will be the loss of approximately 1/3 of the current carparks*” and that “*[w]ithout doubt this will immediately render the carpark completely dysfunctional*”.²⁸
 - (c) Ezra and Gael Keren (with respect to NoR S4) explained how the extent of land required for the works over their site at 56 Tawa Road would leave insufficient room for their business to exist, significantly impacting the company operating on the premises.²⁹
74. The SGA advised that with respect to the design of the road the concept designs have been developed with some flexibility to integrate with adjacent land. The designations are considered by the SGA to be of sufficient scope to provide flexibility in road levels and berm areas to accommodate an appropriate tie-in with adjacent land. As the final earthworks levels of any adjoining development are unknown, the SGA have made assumptions regarding road levels and embankments. The conditions propose that the ULDMP is required to be prepared prior to the start of construction to ensure integration with adjoining land use at the time of detailed design and implementation (in particular, via clause (e)(i)).
75. As referred to earlier, the extent of the proposed designation boundaries was also raised by many submitters across the five Strategic NoRs, and in particular for the road alignments of NoRs S1 - S3 (and S4).
76. The evidence for the SGA addressed these submissions by way of explanation of the necessity of the location of the designation in evidence provided by its experts and in some cases by modifying the extent of the designations. It was the SGA’s overall submission that “*[w]hile concerns have been raised by submitters and the Council in relation to the North West Network, these will be adequately addressed through the proposed conditions*”.³⁰
77. That submission notwithstanding, the Panel also heard from a number of submitters with respect the width of the designation along Access Road (Local NoR S4), and where it was apparent that the designation would have significant

²⁷ EV105, at [21]

²⁸ EV119

²⁹ EV137

³⁰ EV001, at [14.1]

effects on various properties along this route. We requested further clarification in this regard from the SGA to assist us to better understand the basis on which the alignments were determined and that they were not unduly conservative.

78. The response memorandum from the SGA on this matter, provided during the hearing on 2 October 2023, set out the key factors utilised by its engineers to determine the proposed road widths and batter slopes, and noted that there are a number of factors that are considered in this respect. This response is considered to be of general applicability to Waka Kotahi's Strategic NoRs so is referred to here, and we note the summary statement provided in the SGA's memorandum that:³¹

“The final position of the kerb (horizontally and vertically, and also linearly along the alignment) and the components of the cross section will ultimately determine the level difference at the property boundary. As set out in [section 6 of Mr Mason's evidence], this will also depend on the actual dimensions adopted for the cross sectional elements, the actual ground profile determined through topographical survey, and the levels adopted for any adjacent development that has been implemented in the interim (noting that there are live examples where we are currently working with the developer on levels). These are matters that will be assessed at the time of detailed design”.

79. At the same time, the Panel was also interested to know whether changes to the designations in response to submissions had also been considered in terms of potential changes (reductions) in the designations for adjacent properties, particularly as a result of the change in vertical alignment for SH16 (NoR S2). The SGA's memorandum in this regard advised that there are “a non-exhaustive set of principles which identify situations when it is appropriate to consider amending a designation boundary during the post-lodgement process” and that “[t]hese principles have been considered by the relevant North West Network experts when proposing amendments to the designation boundaries, taking into account the Project objectives and the reasonably necessity of the designation spatial area, in order to achieve those objectives”.³²

80. We note that NoR S2 was the only existing transport corridor that was proposed to be raised in order to enable vehicles to use the road in an extreme weather event. However, the evidence for the SGA was that the proposed ASH (NoR S1) would provide sufficient network resilience during such events, and the proposal to raise the NoR S2 corridor was no longer sought. The memorandum confirmed that, in response to the lowering of the corridor, the designation boundaries were reviewed and the designation has been pulled back where appropriate.

³¹ EV221, at [9]

³² Ibid, at [2] and [3]

81. We also highlight here a change made to the ULDMP for NoR S1 to recognise that much of this alignment passes through a rural environment. Consequently, condition 9(f)(iii)(a) has been altered as follows:

Road design – elements such as intersection form, carriageway gradient and associated earthworks contouring including cut and fill batters, shaped to a natural profile where practicable and appropriate to the surrounding context and the interface with adjacent land uses and existing roads (including slip lanes), benching, spoil disposal sites, median width and treatment, roadside width and treatment.

Effects on site access

82. We also heard evidence from submitters more generally across other areas affected by the NoRs that the proposed designation boundaries extend further than required and would impact upon site features such as access and carparking, and other on-site activities such as the manoeuvring of customer or loading vehicles. Submitters with businesses on or near Main Road (NoR S2) were assisted by expert planning and/or traffic engineering witnesses who outlined the extent of the issue and potential solutions. We note that in response to these individual submitter's concerns the SGA has considered each submission and have made changes to extent to which the designation encroaches on to the submitter's site(s) where they deemed it appropriate or possible.
83. In addition, or associated with the above, we received traffic engineering -related evidence from a number of parties who expressed their concern with the potential impacts of the designations on access to certain sites, and the resulting impact on the viability of such properties. This included:
- (a) F. Boric and Sons Limited, through the evidence of Hannah Edwards and Don McKenzie, was concerned with the impact of NoR S2 and NoR S4 on both the access and circulation within its property at 993 Waitakere Road.³³
 - (b) The Beachhaven Trust, also through the evidence of Mr McKenzie, is concerned with the impact of NoR S2 and NoR S4 on both the access and circulation within its property at 33 Grivelle Street.³⁴
 - (c) Z Energy Limited (**Z Energy**), through the evidence of David Smith, was concerned with the impact of NoR S2 and NoR S3 on both access and circulation within its recently developed service station at 132 to 152 Main Road.³⁵

³³ Ibid, at [4.63]

³⁴ Ibid, at [4.77]

³⁵ Ibid, at [4.88]

84. The changes to the designations and associated conditions to address such matters were explained in the rebuttal evidence of Joe Phillips.³⁶ For example:
- (a) For F. Boric and Sons Limited, the SGA's rebuttal evidence showed an amendment to the concept plan to accommodate one south-bound lane instead of two (although the designation boundary remained as originally proposed in order to accommodate construction activities). Mr Phillips considered that matters relating to access and on-site manoeuvring could be satisfactorily addressed at the time of implementation through the Existing Property Access condition (no.19) as well as through the ULDMP and SCEMP.³⁷
 - (b) For The Beachhaven Trust, Mr Phillips advised that the consideration of these access points can be satisfactorily addressed through the CTMP at the time of implementation.³⁸
 - (c) For Z Energy, Mr Phillips considered that this matter can be further addressed at the time of implementation through the proposed conditions, when further detailed design will be undertaken.³⁹
85. Mr Phillips' rebuttal evidence was questioned by a number of the expert transport witnesses with many of the witnesses suggesting site-specific changes or endorsing the need for a Site Specific Schedule. For example:
- (a) Terry Church for Kumeu Central Ltd and Tahua Partners Ltd expressed his concern regarding Mr Phillips' generic interim design solution in that it had significant issues from a traffic engineering and safety perspective.⁴⁰ He concluded that extent of the NoR boundary proposed had not been sufficiently justified. Mr Church noted his preference for a reduced designation set-back:⁴¹

"While my preference remains that the proposed designation boundary of S2 and S3 is pulled back to reflect the extent of Designation 6768 as it fronts the subject Site (from which the layout of the Site was based), a designation that reflects a 9.0m setback will minimise the impacts of the Site and allow the activities to continue to operate as they do today".

Mr Church also supported the inclusion of a Site Specific Schedule to the SCEMP that outlines the requirements of each site that shall be considered when designing the corridor in greater detail outlines the requirements of

³⁶ EV013, at [4.63] – [4.136]

³⁷ Ibid, at [4.66]

³⁸ Ibid, at [4.79]

³⁹ Ibid, at [4.104]

⁴⁰ EV200, at [3]

⁴¹ Ibid, at [6.3]

each site that shall be considered when designing the corridor in greater detail.⁴²

(b) Mr Smith for Z Energy stated that:⁴³

“I consider that the reduced boundary has lessened but not eliminated the transport effects. In my view the revised boundary will still impact on the operation of the Site, and compromise pedestrian and cycle safety in the vicinity of the Site egress and shared Right of Way (RoW)”.

(c) Matthew Norwell, a planner who presented evidence on behalf of the National Trading Company (**NTC**), took a stronger stance noting:⁴⁴

“..extent that the modifications to the extent of NoRs W5, S2, S3, RE1 and RE2 are not accepted and/or requested amendments to the conditions of NoR W5, S2, S3, RE1 and RE2 are not made, I consider that effects of allowing the NoRs would be inappropriate having regard to the relevant provisions of the higher order planning instruments and the AUP, and that the Hearing Panel should recommend to the Requiring Authorities that the NoRs be withdrawn”.

86. The Panel was advised by Mr Phillips in regard to such concerns that:⁴⁵

“I consider that it is appropriate for Waka Kotahi and AT to retain their respective statutory controls / powers in relation to managing the transport network. The implementation of site-specific access requirements would limit these current statutory controls / powers and I do not consider this specificity is necessary at this point in time. I consider the proposed conditions provide for this matter to be properly considered at the time of implementation.”

87. A full schedule of amendments that have been made to the proposed designation boundaries since the application was included with the SGA’s Reply.⁴⁶ The Reply also addressed the methodology for reducing (or removing) the proposed designation boundaries:⁴⁷

“Since lodgement of the NoRs, the Requiring Authorities have reviewed and made some site-specific amendments to the proposed designation boundaries. These changes have been guided by a non-exhaustive set of principles, which identify situations when it is appropriate to consider amending a designation boundary during the post-lodgement process.”

⁴² Ibid, at [6.5]

⁴³ EV251, at [15]

⁴⁴ EV159, at [10.4]

⁴⁵ EV014, at [1.27]

⁴⁶ EV288, at Appendix F

⁴⁷ Ibid, at [8.2]

88. During the hearing the Panel had questioned the SGA on the need for a consistent approach to boundary alterations to adjacent sites. Through the Reply the SGA noted:⁴⁸

“During the hearing the Panel also sought information from the Requiring Authorities as to whether site-specific changes made to the proposed designation boundaries could be expected to give rise to further changes in other parts of the proposed designation corridor(s) if the same methodology or rationale for the change was to be applied consistently. The Requiring Authorities confirm that where adjustments were made to a designation boundary with reference to the principles described in the Memorandum, further adjustments were made to other properties to ensure consistency”.

89. In its consideration of the detail of site-specific concerns raised by a number of submitters, the Panel is aware that a key consideration in regard to these issues relates to timing. It was clear, and understandable, that many of the concerns over proposed designation extent were based on how the submitters’ view of the impact of the designations if construction was to be undertaken at the present time. However, given the proposed lapse dates, there will be a gap of some 15 - 20 years before construction would commence. The situation pertaining to each site, either in terms of its physical configuration or the nature and requirements of tenancies and use, at that time may therefore not be the same as it is now. That consideration notwithstanding, the Panel also recognises that for some sites that have been recently developed their overall configuration may not have changed significantly in that intervening period. In any event, we agree with the SGA that the focus should be to ensure that the conditions, and requirements of the management plans, address the submitters (or future property owners) concerns at the relevant time in a consistent manner.
90. Ms Aitkin in her rebuttal evidence for the SGA addressed this approach as follows:⁴⁹

“As set out by Mr Beatson, the proposed conditions are commensurate with the longer implementation timeframes proposed. Mr Beatson also explained that the conditions have been derived from a base set of conditions developed for Projects across Te Tupu Ngātahi Supporting Growth.

“The conditions have been developed to ensure that any potential effects, including those existing at the time of construction and operation, are appropriately managed.”

91. Ms Aitkin also opined:⁵⁰

⁴⁸ Ibid at [8.4]

⁴⁹ EV078, at [1.6] – [1.7]

⁵⁰ Ibid, at [1.10]

“I consider this approach to design, future environment considerations and proposed conditions is appropriate given construction is not immediately anticipated and is intended to commence within the next 15 to 20 years for the North West Network projects.”

92. The Panel recognises that the SGA has been proactive in addressing submitter concerns regarding the extent of the designations, and we note that changes have been made where possible. We understand that a number of submitters have remaining concerns and sought further changes, or the rejection of the NoRs outright in the absence of such changes. However, we accept that the proposed conditions as now worded appropriately provide for the involvement of landowners and stakeholders in the management plan process, recognising the likely time period between confirmation of the designations and the commencement of detailed design.

Turning movements into sites

93. We also note here an associated issue as to the concerns that we heard in respect of potential limitations for right-hand turns into sites, where such manoeuvres are presently available and are of particular significance to the operation and commercial viability of a business.⁵¹ This was raised, for example by Mr Smith for Z Energy and John Parlane in respect of the NTC (in respect of the New World supermarket at 108 Main Road). Their evidence highlighted the importance of right-hand turns for general traffic (Z Energy) or for loading vehicles (NTC), and recommended conditions be imposed that ensure that such manoeuvres continue to be provided for.
94. Mr Phillips noted in his rebuttal evidence that this issue *“can be satisfactorily addressed through the Existing property access condition, as well as Waka Kotahi’s current statutory controls, and managed through the ULDMP and SCEMP ... at the time of implementation”*.⁵²
95. The response memorandum from Mr Sergejew in this regard stated that:⁵³

“It is acceptable that in some situations right turns onto or off from a flush median may not be safe. This is the case when right turns must be made across multiple traffic lanes, as through traffic in the near lane can obstruct visibility of traffic in the far lane. However, it is important that a safe and convenient alternative is provided where right turns are not provided. There is a limit to how far motorists will go out of their way, and a risk that, should

⁵¹ The Panel recognises that NoR S1, being on a State Highway, relates to a Limited Access Road under the Government Roading Powers Act 1989, and that Waka Kotahi therefore has existing statutory controls when it comes to the location and number of accesses to and from State Highways. Our consideration of this issue is made separate to any powers that the Requiring Authority may consider appropriate to invoke at any given time, but also note that there is a proposed requirement within the SCEMP (at (b)(viii)) for NoR S2 to include methods and timing to engage with landowners whose access is directly affected.

⁵² EV013, at [4.130]

⁵³ EV281, at p.52

convenient alternative access not be provided, motorists will undertake U-turns where it is not safe to do so, effectively replacing one safety problem with another.”

96. On this basis, Mr Sergejew recommended changes to conditions 11 (Existing Property Access) and 16 (CTMP), to specifically refer to safe, efficient, and effective site access. The proposed change to condition 11 was as follows:

Where ~~existing property vehicle~~ access which exists at the time the Outline Plan is submitted is proposed to be altered by the project, the requiring authority shall consult with the directly affected landowners and occupiers regarding the required changes. The Outline Plan shall demonstrate how safe, efficient and effective access, parking and manoeuvring will be provided, unless otherwise agreed with the affected landowner.

97. The Reply version of the conditions did not adopt the change in respect of condition 11, noting that:⁵⁴

“The re-provision of vehicular access is the key component of this condition and therefore needs to be specified. Where vehicle access can be provided it is considered all other forms of access can be maintained.

“The re-instatement of access to property needs to be safe for the continued activities on that property at the time of implementation. Waka Kotahi does not consider that this condition should provide for effective and efficient movement for a property. This has the potential to conflict with the safe and efficient movement of people and goods along the transport corridor. The effectiveness of access for the landowner and occupier is best understood and considered through engagement and will be appropriately managed under the SCEMP”.

98. The Reply also noted that, while it disagreed the changes were necessary, “[s]hould the Panel be minded to recommend these changes, then in our submission the condition will also need amending to refer to the safe, efficient and effective operation of the transport corridor”.⁵⁵

99. While the Panel accepts the re-phrasing of the first part of this condition, it does not accept the comments of the SGA in regard to the proposed and presumed primacy of “people and goods” over the need for “safe, efficient and effective” access which will invariably also involve “people and goods”. We consider that proposed active modes can co-exist with existing accesses, and facilities for right-hand turns, with good design. We also consider that access to parking and manoeuvring is an appropriate consideration at the time of design at outline plan stage, and that such aspects are not otherwise referenced through the SCEMP.

⁵⁴ EV288, at p.144

⁵⁵ Ibid, at [13.10]

This wording will, in the Panel's view, be consistent with, and give effect to, the requirement of the ULDMP to interface "with the operational areas of commercial premises within business zoned land, including loading areas, internal circulation and car parking, where practicable" (condition 9(e)(v)). We consider that this will be a more robust method by which to ensure that Mr Phillips' evidence (i.e., that the reinstatement of safe and effective access will be provided for at the time of implementation) will be achieved.

100. Having said that, the Panel also recognises that for NoR S2, the condition will be limited in its effect to those parts of the route that are not a state highway (except where otherwise addressed through the SCEMP condition). Nevertheless, we consider that the additional wording is appropriate to those parts of the designation not affected by this differentiation.
101. We therefore largely adopt the wording recommended by Mr Sergejew, but use the term "transport corridor" for the reasons set out in the Reply.
102. In terms of construction effects on access to public and private property, we note that there is a requirement within the CTMP condition (condition 16) to include methods to maintain vehicle access public and private property and/or roads where practicable, or to provide alternative access arrangement when it will not be.
103. Mr Sergejew's amendment to condition 16 (at (a)(vi)) was as follows:
- [M]ethods to maintain vehicle parking, manoeuvring and access to and within property and/or private roads where practicable, or to provide alternative parking, manoeuvring and access arrangements when it will not be. Engagement with landowners or occupiers whose access, parking or manoeuvring is directly affected shall be undertaken in accordance with Condition [3B];*
104. These amendments were not adopted in the SGA's Reply version as it considered that "parking and manoeuvring" concerns are already addressed by the relevant conditions (noting clauses (a)(vi) and (a)(vii) of the CTMP), and that "[f]urthermore, parking and manoeuvring within a site is more appropriately addressed as an integration matter in consultation with affected landowners and occupiers through the development of the ULDMP".⁵⁶
105. Again, the Panel does not accept the SGA's submission in this regard, and considers that the changes proposed by the Council will provide greater rigour to the consideration of effects on adjacent sites which go beyond simply access, but also encompass important operations aspects of parking and manoeuvring. We also observe that clause (a)(vii) of the CTMP addresses loading, and while that is

⁵⁶ Ibid, at [14.8]

a related consideration to parking and manoeuvring, it is appropriate to address them separately as loading may not always be a relevant matter.

Panel findings and recommendations

106. The Panel considers that the alignments and extents of the designations have been based on and appropriately detailed analysis of technical need and requirements and have been subject to ongoing review in response to submissions.
107. The Panel also considers that the amendments proposed to condition 11 by the Council are generally appropriate, and provide more rigour to the need to consider potential impacts on business activities associated with the future implementation of the Projects. We therefore recommend that condition 11 for NoRs S1, S3, KS and HS is amended as follows:

Where property access which exists at the time the Outline Plan is submitted is proposed to be altered by the project, the requiring authority shall consult with the directly affected landowners and occupiers regarding the required changes. The Outline Plan shall demonstrate how safe, efficient and effective access to the transport corridor, and on-site parking and manoeuvring, will be provided, unless otherwise agreed with the affected landowner.

108. The same change is recommended in respect of NoR S2, noting that there is some different wording in the first sentence of the condition in that case.
109. Similarly, the Panel considers that the Council's proposed change to the CTMP is appropriate and will require a broader consideration of site access to incorporate ancillary aspects of parking and manoeuvring. Our recommended change in respect of condition 16 (which involves some re-ordering of the relevant matters) is as follows:

(vi) methods to maintain vehicle access, parking and manoeuvring to and within property and/or private roads where practicable, or to provide alternative vehicle access, parking and manoeuvring arrangements when it will not be. Engagement with landowners or occupiers whose access, parking or manoeuvring is directly affected shall be undertaken in accordance with Condition 3B;

Corridor active-mode design

110. A related topic to the above was in respect of the width of the active mode corridors associated with the NoRs, particularly in respect of NoR S2. The SGA's approach to the provision of active mode corridors to support the extent of the NoR was questioned by a number of transport experts (and was also of interest to the Panel). For example, Mr Church, on behalf of Kumeu Central Limited and Tahua Partners Limited, noted some differences in the details of these facilities, with the concept plan indicating a shared path fronting the site while the Assessment of

Transport Effects indicating a bi-directional cycleway and footpath with the Network Summary Presentation showing the same.

111. Mr Church provided a detailed analysis of the approach taken by the SGA, advising the Panel:⁵⁷

“Management plans allow sectional changes along the corridor to be looked at later. This implies that the proposed NoR has not yet considered site specific constraints through the corridor in order to determine a workable design that supports the extent of the NoR.

“...the footpath width along the Main Road corridor provides an inconsistent design, with the width unnecessarily increasing in front of a Site.

“... a consistent facility is required to ensure a safe facility exists, in particular to those visually impaired. Having sections across intersections and driveways increasing and decreasing through a corridor is not safe and does not provide the user a clear understanding as to what to expect;...”

112. Mr Church was of the view that similar transport effects will exist in the future, and therefore refining the extent of the designation should occur now, thereby providing better clarity around how sites designs can be altered to allow the transition anticipated for the corridor.

113. Molly Whittington for the Kumeu Shopping Village also addressed the configuration of the cycleways and footpaths. In her presentation she noted SGA stated outcome for cyclists:⁵⁸

“The suite of cycling measures include: “Strategic facilities adjacent the Rapid Transit Corridor and Alternative State Highway which support separated, uninterrupted and higher speed cycling.”

114. Ms Whittington also pointed out to the Panel that new cycle lane has been completed by AT on the other side of SH16 as part of the present Access Road upgrade. In her view, it would be better to continue this alongside the railway corridor, which is not interrupted by driveways. The other ideal site for cycleways is alongside the Kumeū River and wetlands. She was of the view that adequate consideration of these options has not been given, and that that the alternative sites and routes are arguably better options for high-speed cycling.

115. Mr Smith (for Z Energy) told the Panel that there is insufficient justification for the proposed widths of active mode facilities and reducing these will enable the effects on Z Energy’s site to be reduced and provided an analysis of other such facilities (with higher patronage) to support his view. It was his conclusion:⁵⁹

⁵⁷ EV200, at section 4

⁵⁸ EV223, at [1.3]

⁵⁹ EV251, at [16] – [24]

*“The active mode facilities as proposed remain over-engineered and there is a lack of evidence from [Waka Kotahi] to justify these widths. If a facility that is more in keeping with likely demands be installed in the future, the designation width could be reduced accordingly, potentially by 2-3m with a corresponding reduction of the residual effects on the Site”.*⁶⁰

116. Both Messrs Church and Smith drew the Panel’s attention to AT Design Standards for active mode facilities, being:⁶¹

- *A 0.9m (minimum) front berm, as per the Commercial Vehicle crossing standard, Transport Design Manual (TDM) VX0203A;*
- *A 2.6m (minimum) bi-directional cycleway, as per Table 4 of Cycle Infrastructure engineering design code;*
- *A 0.2 separator between the bi-directional cycle way and footpath*
- *A 1.8m (minimum) footpath which accommodates up to 60 people per minute for out of centre Arterials, as per Table 1 of the Footpaths and public realm engineering design code.*

117. Mr Church highlighted that the combined width of the facilities provided for in the TDM equate to 9.0m, and that therefore:⁶²

“If a 9.0m maximum setback is applied to the Site, the operation of both the Site carpark, circulation and drive-through can all continue to operate as it does today, with a compliant access width, parking spaces and manoeuvring, while also reducing the number of parking spaces lost.

“Further, this design also achieves the objectives of the NoR with a dedicated cycleway, separated footpath and a revised road alignment that makes space for the [RTC]. I am also of the view that the layout discussed above provides a suitable, consistent outcome for the extent of the corridor, tying into the corridor design further north and south.

118. Mr Church concluded by saying that:⁶³

“A 9.0m setback is therefore the absolute maximum setback from the existing road reserve boundary that the Site can accommodate to allow the Site to continue to operate safely and efficiently.”

119. Mr Sergejew’s response on behalf of the Council was somewhat unclear as to his recommendations in this regard. He noted the active modes corridor:⁶⁴

⁶⁰ Ibid, at [21]

⁶¹ EV200, at [4.6]

⁶² Ibid, at [4.8] – [4.9]

⁶³ Ibid, at [4.10]

⁶⁴ EV281, at p.48

“...will also provide local active mode access within Kumeu and Huapai. Because of potential conflict between higher-speed commuter cyclists and town centre pedestrian activity, I do not believe that a shared path would be a safe way to accommodate local walking and cycling activity as well as commuter cyclists within the existing and future Kumeu town centre”.

120. We took from this advice that cycling and walking modes should be provided for separately, although we were not sure whether this took into account the localised restrictions that were then referred to by the SGA in its Reply.⁶⁵

“Kumeū Central Limited and Tahua Partners Limited raised that the active modes corridor is inconsistent along its length. As discussed by Mr Phillips at the hearing, there are some physical constraints or “pinchpoints” (such as existing buildings) along Main Road where localised adjustments have been made. Typically, the Requiring Authorities’ approach is to consider such adjustments for physical buildings that are consistent with the future land use zoning, significant ecological constraints, or sensitive areas such as urupa.

“The Requiring Authorities acknowledge that localised constraints must be adequately considered. However, extending these constraints to the cross section along the whole corridor (or even a section of corridor) compromises the ability to provide for a safe and attractive movement corridor for a range of transport modes, as well as the place function...”

121. The Panel came to the understanding that the need for consistency is the key and that the corridor width along Main Road, in dealing with pinch-points, has resulted in the potential for an inconsistent approach for the provision for active modes, but equally, that greater widths than required by the TDM have been proposed. The Panel concurs with the observation of Mr Church.⁶⁶

“Having sections across intersections and driveways increasing and decreasing through a corridor is not safe and does not provide the user a clear understanding as to what to expect.”

122. To the extent that we have correctly understood the issue we reach two conclusions:

- (a) Some localised restrictions to the width of the active mode facilities will be an inevitable consequence of ‘retro-fitting’ such facilities and other road improvements within existing commercial environment, as is evident in central areas of Auckland, for example. We expect that safety considerations can be adequately addressed during the design stage including through appropriate physical cues, including signage and lane markings and pathway treatment.

⁶⁵ EV288, at [8.27] – [8.28]

⁶⁶ EV200, at [4.2(c)]

(b) Conversely, we do not envisage the need for such facilities to be provided in excess of the minimum standards of the TDM where that would result in additional incursions into private property and potential effects on the operation of business activities and associated site facilities contained therein.

123. As noted by Mr Church, the NoRs “do not include any cross-section or generic interim designs, or specify differences between an operational requirement, or construction requirement on the Outline Plan”.⁶⁷ Accordingly, there is no specific recommendation that arises from our conclusions in this regard except to reinforce our findings in respect of condition 11, as set out above, and that this includes reference to parking and manoeuvring, as well as access. In this way, the mandatory requirement to consider such aspects will, in the Panel’s view, serve to ensure that the design of the active mode facilities are appropriate to the context of their overall route as well as adjacent properties and activities.

Panel findings and recommendations

124. For the reasons set out above, the Panel makes no recommendations in respect of this matter but considers that its findings reinforce its previous recommendations in respect of condition 11.

The lapse periods for the designations

125. As previously noted, NoRs S1, S3, HS and KS have proposed lapse periods of 20 years. The ‘standard’ lapse period under the RMA is five years under s.184(1), unless, as provided for in s.184(1)(c), “the designation specified a different period when incorporated in the plan”. NoR S2 (as well as Local NoRs RE2 and W5) has been advanced as an alteration to an existing designation, and it was therefore the case for the SGA that no lapse period is applicable in these instances.

126. The issue of lapse dates was a significant one during the hearing and is relevant to a number of sub-topics. Our discussion below has sought to address these sub-topics in as logical manner as possible, while recognising the overlap between the relevant considerations, as well as the further topic of business impacts and effects on property value.

127. In general, and in terms of the four new Strategic designations, the SGA considered that the proposed lapse dates were necessary to account for the uncertainty as to the timing of urbanisation in the area and funding timeframes. Conversely, submitters and the Council considered that a reduced period, of various extent, was necessary to reduce uncertainty for affected landowners and to avoid the adverse and associated effects of ‘planning blight’. The s.42A report, for example, recommended a reduced period of ten years, or the establishment of a priority sequence for all of the Strategic NoRs with corresponding cascade of

⁶⁷ EV200, at [6.1]

lapse dates for implementation. A five-yearly review of the designations was also proposed.

128. Case law was presented by both the SGA and submitters in support of their respective approaches. Between that and the objectives for parties on both sides of the issue it is evident that there are a number of matters that we must take into account in reaching principled findings and recommendations on the various aspects of the lapse dates. We also note that to a significant extent, the duration of the lapse date is also a major factor in concerns as to the effects of each NoR on affected landowners or occupiers. We therefore address the competing arguments in some detail below.
129. The reasons for the lapse dates proposed for the Strategic NoRs are many and are set out in the evidence of Regan Elley for the Requiring Authority. We summarise those reasons as follows:⁶⁸
- (a) Recognition that there is currently no funding allocated for the construction of the transport corridors, and the lapse period provides adequate time to secure funding, undertake detailed design and purchase property;
 - (b) The RPS and Auckland-wide infrastructure provisions of the AUP seek that infrastructure (including transport routes) is protected from incompatible subdivision, use and development and reverse sensitivity effects;
 - (c) There is a need to protect the transport corridors from incompatible use and development and to provide certainty to the SGA, developers and the community that transport infrastructure can be provided in an efficient timeframe;
 - (d) The lapse periods allow for flexibility in the sequence of the projects and prioritisation as FUZ land is zoned for urban development;
 - (e) The SGA's approach is common for large-scale infrastructure projects, such as Southern Links (Waka Kotahi), the Northern Interceptor Wastewater Pipeline and the Hamilton Ring Road; and
 - (f) Shorter lapse periods would risk the designations lapsing prior to being implemented and would lead to additional RMA-approval processes which would be an inefficient use of resources and expense of public funds.
130. Mr Elley's evidence also sought to portray some positive outcomes associated with longer lapse periods, being:
- (a) Lapse periods that more closely align with expected implementation timeframes give increased certainty to the SGA that it can implement the projects. This also provides property owners, businesses and the community

⁶⁸ EV079, at [10.107]

with more certainty regarding the location and timing of future infrastructure, so they can make informed decisions (compared to shorter lapse periods).

- (b) A lapse period that aligns with estimated implementation timeframes provides land and business owners with an appropriate period of time for transition planning, with consideration of changing population patterns and land use as FUZ areas are urbanised.

131. The latter points were also set out in the SGA's opening submissions, which stated that:⁶⁹

“As explained in evidence, the lapse dates have been selected to reflect the currently known timeframe to achieve funding, undertake detailed design for the Project and to acquire the necessary properties. The Requiring Authorities acknowledge that for some affected landowners that uncertainty about when, and to what extent, their land will be impacted by the Project, will be unsettling. Seen more broadly, however, the designations do provide some certainty to the community regarding the future transport network in the area and can assist with decisions about future development and investment. This increased certainty is likely to benefit those interested in pursuing development opportunities presented by the intensification that will be enabled in the North West area”.

132. Those submissions also addressed some general principles applicable in the consideration of lapse dates, noting that the RMA does not provide any guidance on what matters should be considered (and therefore the matter is discretionary). Accordingly, this matter is guided by the principles established through case law, and the *Beda Family Trust v Transit NZ* case (***Beda***) in applying this discretion:⁷⁰

“(a) When applying an extended lapse date, the discretion must be exercised in a principled manner, after considering all the circumstances of a particular case;

(b) There may be circumstances where a longer period than the statutory 5-year lapse period is required to secure the route for a major roading / transport project; and

(c) In instance [sic] of longer lapse dates, there is a need to balance the prejudicial effects on property owners who are required to endure the effect of planning blight as a result of the project for an indeterminate period”.

133. We note that the *Beda* decision traversed many of the same issues and concerns that were raised for the North-West NoRs, with reference to a 20-year lapse period sought by Transit NZ (i.e., Waka Kotahi, the present Requiring Authority), with the

⁶⁹ EV001, at [10.34]

⁷⁰ *Ibid*, at [10.35]

lapse period being one of the three primary issues before the Court in that case. The Court determined that a ten-year lapse period was appropriate, for the reasons that:⁷¹

“In our view a term of 10 years will assist in giving Transit a focus and commitment, not only to complete the project, but more importantly for the owners of affected properties, to ensure that Transit is focussed and committed to dealing with them in an appropriate and fair manner”.

134. Notwithstanding the outcome in *Beda*, the SGA’s submissions included a schedule of where longer lapse dates had been approved (as noted previously), demonstrating that a 15-20 year time period for large strategic infrastructure projects is not extraordinary, highlighting by way of example the 20 years provided for in Waka Kotahi’s Southern Links Project (2014) that was referred to by Mr Elley, with the reasons for the decision in that case being:⁷²

- (a) To future proof the transport network so that it could meet strategic growth needs;*
- (b) To protect the route from incompatible future uses;*
- (c) Because additional time was needed to investigate, fund and construct the project; and*
- (d) To provide certainty for landowners about where the future transport corridor would go”.*

135. The SGA’s opening submissions went on to note that the recent Drury Arterials Network designations include two designations with lapse periods of 20 years, although we observe that the recommendation of the Hearing Panel in that case was that it be reduced to 15 years,⁷³ with the Requiring Authorities then reverting to 20 years in their decision. The submissions advised that the next set of NoRs to be lodged later in 2023 by the SGA for North Auckland would include lapse periods of 25 and 30 years.⁷⁴

136. Overall, it was the SGA’s case that the potential adverse effects of a longer lapse date *“will be mitigated or managed through the proposed condition sets, including the ability to use land or develop properties that integrate with the projects”*.⁷⁵

137. As noted above, a large number of submitters sought significantly shorter lapse periods to avoid the effects of ‘planning blight’ (an issue we address separately below), and/or based on a view that this would bring forward the implementation of projects. Mr Scott proposed a shorter lapse date of ten years, or a staged (or staggered) approach to the lapse dates correlating to the priority sequencing, with NoR S1 (ASH) being required to be implemented first.⁷⁶ This approach was

⁷¹ *Beda Family Trust v Transit NZ*, A139/2004, EnvC 386, at [121]

⁷² EV001, at [10.39]

⁷³ Recommendation on Drury Arterial Network, 20 April 2022, at [288]

⁷⁴ These NoRs were subsequently notified on 16 November 2023 and are scheduled to be heard in mid-2024.

⁷⁵ EV001, at [10.40]

⁷⁶ Agenda, at p.61

supported, for example, by Ms Edwards (on behalf of Barry Frank Borich et al), who stated:⁷⁷

“I agree with the recommendation of the Reporting Planner to either reduce the lapse date of all Strategic NoRs (including NoR S4) or to stagger the lapse dates correlating to the priority sequencing, with the [ASH] being the first cab off the rank, with Access Road following thereafter”.

138. In respect of whether a shorter lapse period would bring forward the implementation of projects (including NoR S1), the evidence of Mr Lovell (as adopted by Mr Rama) noted, in addition to the use of conditions as set out above, that:⁷⁸

“From my experience, the decision to implement projects will be a future decision of AT [or Waka Kotahi], and a shorter lapse period will not influence the decision to implement a project”.

139. This aspect was reinforced by Mr Elley, who stated that the decision to implement projects will be a future decision of the Requiring Authority, informed by future implementation business cases or similar mechanisms. He added that, in addition to not influencing the implementation decision, a shortened lapse period risks the designation(s) lapsing.⁷⁹

140. The SGA also advised that for projects of this size and complexity, imposing a shorter lapse date will not drive implementation decisions, as the Requiring Authority is not able to commence design or implementation until funding is secured, which is allocated at a national and regional level (through the Regional Land Transport Programme). Accordingly, it was submitted that:⁸⁰

“... the Requiring Authorities do not consider that the proposed lapse dates on the NORs should be altered as suggested by some submitters. The inefficiency in imposing inadequate lapse dates for such long term and critical infrastructure projects significantly outweighs the "effects" that a shorter lapse date seek to address”.

141. As previously stated, we heard a great deal of opposing evidence and legal submissions on behalf of submitters on this subject.

142. Ms Forret on behalf of Price Properties Limited⁸¹ sought that all the Strategic NoRs be subject to five-year lapse dates. She drew our attention to additional cases to *Beda*, being *Hernon v Vector Gas Limited*⁸² (**Hernon**) and *Meridian 37 Ltd v Waipa*

⁷⁷ EV105, at [9.2]

⁷⁸ EV004, at [10.16] (and EV006 at [7.8])

⁷⁹ EV079, at [10.116]

⁸⁰ EV001, at [10.50]

⁸¹ EV133 - the submissions for Price Properties Ltd related to a property at 329 Main Road, Huapai, which would be primarily affected by NoR S3. However, the submissions also addressed lapse dates for all the Strategic NoRs (including NoR S2 which we address later).

⁸² *Hernon v Vector Gas Limited* [2010] NZEnvC 203

*District Council*⁸³ (**Meridian**). In *Hernon*, Ms Price noted that the Environment Court considered *Beda* and found that the balance between the interests of the landowner and the designating authority did not justify a longer period than the standard five-year lapse period. In addition, in *Meridian*, the Court, with reference to s.5 of the RMA, noted the element of community well-being for an airport and well-being for the community not to have strong limitations on the otherwise efficient use of their assets for a long period of time. Ms Price referred to the Court's findings that:⁸⁴

"...to expect a landowner to endure such a planning blight on a not insubstantial portion of otherwise valuable land, and for such a long period, is unreasonable and unfair... it should not be that a private landowner has the use of its land significantly limited for such a long period (ie a total of three times the statutory default period) because of a possible third-party requirement that, literally, may never happen".

143. Ms Forret went on to note the options available to the Requiring Authority in terms of its timeframes, including *"seeking an extension to the designation if substantial progress has been made, or seeking a new designation if this one lapses, or purchasing the necessary land if it so wishes"*.⁸⁵

144. Reference was also made to the *Hernon* decision by Mr Cameron on behalf of Future-Kumeū Inc (who also adopted the submissions of Ms Forret), noting that under the FULSS, the entire Kumeū-Huapai Future Urban Area is identified to be development-ready by 2032 (albeit that there is some doubt in that regard in terms of flooding and the recently-amended FDS) and that this ten-year horizon aligns with the timeframes at issue in *Hernon*. Based on that case precedent, and those referred to by Ms Forret, it was Mr Cameron's submission that:⁸⁶

"If designation of the Network is to proceed, then in my submission, the default lapse period (coupled with the ability to seek an extension under s 184(1)(b)), strikes the appropriate balance between the interests of the Requiring Authorities and those of affected landowners".

145. The issue of lapse dates with respect to concerns of 'planning blight' were also raised by Mr Allan, on behalf of CDL Land NZ Ltd (**CDL**). His submissions were made in respect of the 'Local' NoRs W5 and HIFTR (as we discuss in our separate report), but appeared to be of general applicability to the issues we need to consider in terms of the Strategic NoRs. In this respect Mr Allan observed that:⁸⁷

"The route protection mechanism creates a blight on land that can only be addressed through the requiring authority offering to purchase that land in whole or in part. The issue in this case is that SGA claims to have funding

⁸³ *Meridian 37 Ltd v Waipa District Council* [2015] NZEnvC 119

⁸⁴ *Ibid*, at [32]

⁸⁵ EV133, at [30]

⁸⁶ EV138, at [6.13]

⁸⁷ EV097, at [9.12]

only for the consenting phase but not the land purchase or construction phases”.

146. Mr Allan went on to say that:⁸⁸

“CDL says there are legitimate reasons to impose such a condition in this case and that a lapse condition is appropriate and necessary to address the adverse effects on landowners that will arise from the NOR. Put another way, the concerns that justify a reduced lapse period under section 184 would also support a condition under section 171 requiring completion of construction within a specified time period”.

147. In support of shorter or longer periods, the Council and the parties referred to the recent history of lapse periods for various designations. The s.42A report in particular provided a short-list of recent designations, each of which being the subject of a Court decision that had reduced the lapse period for (including those cases cited by Ms Forret).⁸⁹

148. Through the Council planners’ response memorandum, Mr Scott advised in terms of the Strategic NoRs that, as a general starting position, a longer lapse date has a greater potential for planning blight. He also noted (in respect of evidence from Ms MacCormick for the SGA) that a shorter period would have less adverse effects of a social nature in terms of anxiety, disruption, financial worry and stress.⁹⁰

149. Mr Scott did, however, acknowledge the scale and scope of the Strategic NoR package and the need for them to be implemented on an integrated basis, and that the reasons given for a 20-year lapse date is not disputed. He also noted his understanding as to the merits of confirming the route prior to re-zoning in order to minimise acquisition costs and reduce the number of landowners to be consulted and engaged with.

150. However, Mr Scott considered that this rationale does not in itself represent mitigation of the effects of lengthy lapse periods. He went on to say that for NoR S1 and for much of NoR S2 (and S4):⁹¹

“... much of the land is zoned Countryside Living zone (CSL) which is unlikely to change significantly over time. That said, the CSL zone will experience some change as it is the only rural zone that can receive Transferable Development Rights. With regard to the [FUZ], I note that no structure plan has been prepared for Kumeu, but a broad Spatial strategy assist with informing the North West has been prepared by Council”.

151. While Mr Scott noted the obligations that mitigation measures (i.e., project website, Council LIM process, and potential referral to the Environment Court under s.185) would place much of the onus on affected landowners, and prolong adverse social

⁸⁸ Ibid, at [9.16]

⁸⁹ E.g., ‘Local’ Agenda, at p.194

⁹⁰ EV281, at p.11

⁹¹ Ibid, at p.10

effects, he acknowledged that the SGA have made a number of changes to the CTMP, SCEMP and ULDM conditions to provide more certainty. In terms of the suggestion by a number of submitters (e.g., Kāinga Ora⁹²) as to a proposed five-yearly designation review condition he went on to say:⁹³

“In my view, the inclusion of a five yearly review period is a method that will significantly mitigate the adverse effects of a prolonged lapse date. If such a condition were accepted by SGA, in addition to the mitigation measures offered in the SGA evidence, I would be more supportive of a 20 year lapse date”.

152. We discuss the merits or otherwise of a designation review clause separately below (although we should emphasise that it is of some relevance to the Panel’s findings in respect of the lapse dates).
153. The Reply for the SGA addressed the lapse period in some detail, including responding to the decisions noted on behalf of some submitters. In particular, the SGA submitted that it did not consider the *Meridian* decision to be analogous to the present NoRs, “*being for a runway extension which the Requiring Authority had no firm plans as to the timing of, and did not have a business case for*”.⁹⁴ The Reply went on to add that the Environment Court differentiated between the nature of the project in question in that case and other major projects, including transportation projects of the type before us, with the *Meridian* decision stating (including with reference to *Heron*, and with emphasis added):

“We were directed to two decisions in particular — [Beda] and [Heron]. We find assistance in both and respectfully agree with the comments of the Court in Beda, at paras [112] and [113] (while noting that the reference to a major roading project is one example only):

“[112] No guidance is given as to the principles that are to be applied in determining a period different to the 5 year period mentioned in the Statute. To extend the period beyond 5 years a territorial authority, and this Court, is thus given a wide discretion.

[113] The discretion has to be exercised in a principled manner, after considering all the circumstances of a particular case. There may be circumstances where a longer period than the statutory 5 years is required to secure the route for a major roading project. Such circumstances need to be balanced against the prejudicial effects to directly affected property owners who are required to endure the blighting effects on their properties for an indeterminate period”.

⁹² EV179, at [7.29]

⁹³ *Ibid*, at p.11

⁹⁴ EV288, at [4.12]

154. The case of *Hernon*, as referenced in *Meridian* and referred to by Ms Forret and Mr Cameron, was also addressed in the SGA's Reply, which did not consider this case to be comparable. That was because in *Hernon* all parties accepted that a shorter lapse date would not have a material impact on Vector's ability to deliver the project that was at issue. In the present situation, the SGA submitted that the Requiring Authorities are not public companies, and that:⁹⁵

"These are long term projects that are needed to enable projected demand resulting from planned growth. In addition to this, the Requiring Authorities do not have full control of implementation funding decisions, and therefore the timing or prioritisation of the Projects".

155. The SGA also commented on observations by submitters that the RMA establishes a 'default' lapse period of five years for designations (per s.184), but that such an emphasis does not properly acknowledge that the five-year period applies unless "*the designation specified a different period when incorporated into in the plan*" (per s.184(1)(c)).⁹⁶ The Reply concluded on this matter by saying:⁹⁷

"...the lapse dates proffered by the Requiring Authorities reflect the anticipated timing of the Projects. If anything, following the release of the [FDS] the lapse dates err on the side of a shorter duration than may now be realised".

156. We have given careful consideration to the issue of lapse dates, noting that our conclusions inevitably incorporate our findings in respect of the designation review condition (as a factor that was assessed by the s.42A report authors to be of some moment to their recommendations), but which is assessed in detail below. In short, a majority of the Panel has found that the case for the use of a review condition is persuasive, and we therefore make our overall findings on the lapse dates on the basis of this option as a form of mitigation.

157. In summary, with respect to the Strategic NoRs, the Panel accepts that these are significant transport projects but equally that funding for their implementation is not in place. We consider that the situation is entirely analogous with the reasons expressed for the Southern Links Project, i.e., that the combination of the designations and the proposed lapse dates:

- will future proof the Strategic North-West transport network so that it can meet strategic growth needs;
- protect the routes from incompatible future land-uses;
- provide sufficient time to investigate, fund and construct the projects; and
- provide certainty for landowners about where the future transport corridors will go.

⁹⁵ Ibid, at [4.14]

⁹⁶ Ibid, at [4.15]

⁹⁷ Ibid, at [4.16]

158. This conclusion is reached by all Panel members. However, as alluded to above, it is subject to the recommended inclusion of a review clause, which we discuss in more detail below.
159. In general, the Panel is not convinced that prescribing, or recommending, shorter lapse dates would have any bearing on funding arrangements materialising, or being brought forward, such that the designations may be implemented within a shorter timeframe. Recent and well-publicised decisions with respect to changes to the Auckland and nation-wide fuel tax levies and associated funding uncertainties in at least the near term would also appear to throw further doubt on the ability for the designations to be implemented any earlier than the SGA has already forecast.
160. The Panel also acknowledges in this regard the conclusions of Mr Scott which appears to accept the basis and rationale for the lapse periods as sought, with reference to the improvements to the proposed conditions, and the nature of surrounding zones (in respect of potential planning blight).
161. For the reasons set out below, Commissioners Farnsworth and Smith consider that a review clause would provide mitigation of the uncertainty experienced by affected landowners. Conversely, Commissioner Blakey does not consider that the inclusion of a review clause would materially reduce concerns relating to the effects of uncertainty for such landowners.

Panel findings and recommendations

162. The Panel finds that the proposed 20-year lapse dates for Strategic NoRs S1, S3, KS and HS are appropriate, for the reasons set out in the Council's response memorandum and the SGA's Reply, and our discussion above, and subject (by way of a majority finding) to the inclusion of a designation review condition. Except in that respect, we therefore do not make any recommendations to alter the lapse dates proposed by the Requiring Authority for these NoRs.
163. The question with respect to the inclusion of a lapse date for NoR S2 is addressed later in this report.

Provision for a designation review condition

Introduction

164. Our consideration of this topic, related to proposed condition 3, was two-fold. Firstly, this relates to the concept of a period review of the need for any particular designation, as has been alluded to above. Secondly, and as part of the same condition, it relates to the post-construction review where the designation would be able to be pulled back to match the position of the completed road reserve alignment (being the purpose of the condition as proposed by the SGA). We address both aspects in turn below. We do so on the basis that both aspects would be addressed by condition 3, as this was the way in which it was presented in the Council's response memorandum.

Periodic designation review

165. Having concluded in the previous topic that we accept the rationale for extended designation lapse dates for the Strategic NoRs, we now address the question as to the need or otherwise for a periodic review of the designations.
166. As referred to earlier, this approach was proposed in the submission by Kāinga Ora where the extent of the designation boundary would be required to be reviewed every year to ensure that the designation boundaries were continually refined, and land no longer required is uplifted from the designation. This relief was amended in the evidence of Mr Campbell for Kāinga Ora to a five-year period,⁹⁸ through an amendment to condition 3, and incorporating changes in respect of the post-construction review process.
167. Counsel for Kāinga Ora, Douglas Allan, submitted in respect of this matter that:⁹⁹
- “(a) SGA argues that reviews of the extent of the designations are not required during the extended lapse periods because detailed design work will only be undertaken close to the construction date. That is only one reason why the extent of the designation might warrant being changed, however. There are a range of other reasons that might justify reducing the extent of designated land...*
- ...
- (c) The likelihood of [major changes] arising during a five year lapse period is slim. It increases significantly, however, where a lapse period of 15 or 20 years is specified. During that time frame it is likely that entirely new teams of strategic planners will be responsible for decision-making with respect to planning and transport issues. Experience demonstrates that new decision-makers tend to implement their preferred approach to the environment rather than accept the decisions of predecessors.”*
168. The Council’s response memorandum advised that the reporting planners for all the NoRs were of the view that a review would assist to mitigate some of the effects of uncertainty associated with the proposed lapse periods. In this regard they considered that such a periodic review would be most appropriately accommodated through an amendment to condition 3 rather than 3A, as condition 3 relates to the review of the extent of the designation whereas condition 3A relates to the lapse date.
169. The Council advised that incorporation of a five-yearly review of the designation extent would be appropriate because it:¹⁰⁰
- (a) aligns with the timeframe stated in s.184(1);

⁹⁸ EV179, at [7.29]

⁹⁹ EV178, at [4.7]

¹⁰⁰ EV281, at p.9

- (b) is administratively simple and anticipated and can be easily incorporated into the Requiring Authority’s work programmes;
 - (c) is not reliant on external or third-party triggers (or statutory milestones as suggested by the Council’s transport specialists, Anatole Sergejew and Andrew Temperley);
 - (d) provides more certainty to landowners and occupiers; and
 - (e) provides more certainty to the Requiring Authority of the long-term route protection of the future transport corridors (where included in conjunction with a longer lapse period).
170. The Council planners were also of the view that a review would need to include a reporting requirement that would address the following matters:¹⁰¹
- *“an assessment of the need for, and extent of the land required, as part of the designation, and the properties where there is change to the boundary of the designation;*
 - *an update of the progress or effort made to give effect to the designation;*
 - *the provision of Section 182 requests to Auckland Council for the removal of those parts of the designation which are no longer required”.*
171. Furthermore, the Council recommended that, in terms of visibility and process, the review report *“would be subsequently published on the project information website and provided to the Council (for information only)”*. This is for the reason that *“the process is mainly between the requiring authority and the affected landowners or occupiers”*.
172. The proposed wording for condition 3 was set out in the Council’s final version of the condition sets (i.e., being Attachment 2A to their response memorandum which is applicable to the Strategic NoRs) as follows:¹⁰²

Designation Review

(a) The Requiring Authority shall:

(i) At 5-yearly intervals from the confirmation of the designation and;

(ii) within 6 months of Completion of Construction or as soon as otherwise practicable;

1. review the extent of the designation to identify any areas of designated land that it no longer requires for the on-going operation, maintenance or mitigation of effects of the Project;
and

¹⁰¹ Ibid

¹⁰² EV281, at p.105

2. give notice to Auckland Council in accordance with section 182 of the RMA for the removal of those parts of the designation identified above.

(b) The review shall involve affected landowners and occupiers and:

(i) Assess the need for, and extent of the land, as part of the designation;

(ii) An update on the progress or effort made to give effect to the designation; and

(iii) Be made publicly available on the project website and made available to the Council.

173. The Reply by the SGA on this matter did not consider such a review to be necessary. The reasons, expressed in response to the points set out at paragraph 169 above, can be summarised as follows:

- (a) There is a clear ability to extend the lapse date beyond the default five-year period and it is a question of what is appropriate in the circumstances. In the SGA's submission, this five-year lapse period is the statutory starting point for considering duration and is not intended as a guide for a review timeframe.
- (b) The SGA disagrees that a five-year review period would be administratively simple, with the potential scope of review being uncertain in terms of the matters to be considered and to what level of detail. They note the uncertainty as to whether the findings of its review would be amenable to review (for example, judicial review proceedings).
- (c) Section 182 already provides a mechanism for the Requiring Authority to review the extent of each designation, which is not reliant on external or third-party triggers and can be done at any time without an explicit condition. This also relates to the Council's suggestion that a review process would provide more certainty to the Requiring Authority as to the long-term route protection of the transport corridors.
- (d) The SGA disagrees that such reviews will provide more certainty to landowners and occupiers, again noting that the RMA allows for the designation to be amended at any time, including if a legislative / policy shift required a designation review and adjustment. A review condition could potentially add uncertainty by signaling regular changes to the designations, when in practice any changes to the designation boundaries would only be made if and when necessary.

- (e) There is no need to respond to ‘triggers’ (such as the FDS or legislative changes), as there is already a statutory process within the RMA for changes to designations in response to such considerations.
174. The Reply included the following submission as a concluding comment on this matter:
- “Five yearly reviews would create more uncertainty, as determining whether a project is required is more complex than determining whether growth in a certain area is confirmed or not. Consideration needs to be given to (amongst other matters) what the role of a project is in the wider network. Therefore, the Requiring Authorities do not consider that a cyclical change in growth strategy would in itself be sufficient to warrant the review of, and potential cancellation of, a designation”.*
175. The Panel has carefully considered the competing positions on this issue, and whether such a review would provide an appropriate and useful ‘counterpoint’ to its acceptance of the 20-year lapse dates sought by the SGA in respect of NoRs S1, S3, KS and HS, and which we have endorsed through our previous recommendation on that topic (noting that, for obvious reasons, the two considerations are intertwined).
176. In this regard, and to further assist our deliberations on this matter, the Panel has also heard from AT,¹⁰³ as the Requiring Authority in respect of the Warkworth NoRs, where the reporting officer in that case has recommended a ten-yearly review clause.¹⁰⁴ The further points made in respect of those NoRs are considered to also be of relevance with those NoRs that are the subject of this report, and are summarised as follows:
- (a) Section 79 of the RMA requires the Council to undertake a review of the District Plan every ten years. This includes an invitation to all requiring authorities with existing designations to give written notice as to whether they require the designation to be rolled over into the proposed plan (cl.4 of Schedule 1).¹⁰⁵
- (b) There is, therefore, already a statutory mechanism that requires a requiring authority to review the accuracy, need, relevance, and appropriateness of its designation(s), and which involves a public submission and hearing process (as compared to a s.184 process). The Environment Court has stated *“that courtesy of the Schedule 1 process in the roll-over situation, landowners are actually more empowered...”*¹⁰⁶
- (c) It notes that AT has a statutory requirement to achieve a safe, effective and efficient transport system, and to provide integrated transport and land use

¹⁰³ Hearing conducted in October/November 2023.

¹⁰⁴ Warkworth NoRs, EV130

¹⁰⁵ The Panel understands that following the repeal of the Natural and Built Environment Act 2023 that November 2026 is the time at which the first review of the AUP must commence.

¹⁰⁶ *Bunnings Limited v Auckland Transport* [2020] NZEnvC 92 at [83]

planning for the Auckland Region. This should provide additional comfort that AT will responsibly review the need for the designations at the appropriate times in the future. Section 182 of the RMA also sets out the process for removing a designation which may be initiated at any time.

- (d) Determining whether a project is required is more complex than determining whether growth in a certain area is confirmed or not, and requires consideration of the role of a project in the wider network. On that basis, a cyclical change in growth strategy would not be sufficient to warrant the review, and potential cancellation, of a designation.
 - (e) A review process signals uncertainty as to the need for the designation(s) in the first place, and such a review essentially reopens the entire NoR process.
 - (f) No such review condition is included on any other designation in the AUP, and given that there is no precedent AT does not consider such a condition to be reasonably necessary, particularly given the existing s.79 process.
177. The Panel has not reached a unanimous finding in respect of this matter. As noted previously, Commissioners Farnsworth and Smith were of the view that a review clause is necessary to address the effect and impact of the extended period of uncertainty for land owners and occupiers beyond a ten-year timeframe. While they accept that s.182 provides a mechanism to review the designation extent, the timing of any such review is at the total discretion of the Requiring Authority. Accordingly, Commissioners Farnsworth and Smith are not of a mind that an annual review is required but do consider that NoRs with a lapse period of 15 or more years should be subject to a five-yearly review, as this would provide a level of certainty for land owners and occupiers that progress on the NoRs is being maintained. They generally recommend the adoption of the Council's wording for such a review condition (as an amendment to condition 3), but with some amendments and exclusion of reference to s.182 and have restructured the Council's version so that the 'completion of construction' clause more logically follows any interim designation review clause.
178. Commissioner Blakey records that he finds the submissions of the SGA, in combination with those presented on behalf of AT in respect of the Warkworth NoRs, to be persuasive on the issue. In particular, he acknowledges and accepts the points that:
- (a) the five year default period can only be viewed as a starting point and cannot be definitive in the case of long-term roading designations such as these;
 - (b) designation review provisions already exist through ss.79 and 182;
 - (c) the requirement to undertake such reviews across all 19 NoRs (and potentially more within the region) would be a costly and inefficient imposition on public funds that could otherwise be allocated to the projects themselves; and

- (d) no precedent for such a review condition was brought to the Panel's attention, and the existence of the same would suggest some uncertainty as to the need for the designations in the first place.

179. We set out the Panel's proposed condition wording to address its majority findings at the end of this topic, in combination with the post-construction amendment discussed below.

Post-construction designation review

180. Following completion of the works, the existing form of condition 3 (applicable to all the NoRs) requires the extent of the designation to be reviewed to identify any areas of designated land that are no longer required for the on-going operation, maintenance of the corridor or mitigation of effects. The condition (SGA Reply version) is as follows:

- (a) *The Requiring Authority shall within 6 months of Completion of Construction or as soon as otherwise practicable:*
- (i) *review the extent of the designation to identify any areas of designated land that it no longer requires for the on-going operation, maintenance or mitigation of effects of the Project; and*
 - (ii) *give notice to Auckland Council in accordance with section 182 of the RMA for the removal of those parts of the designation identified above.*

181. This means that the designation boundary would be drawn back to the edge of the final formed corridor (operational boundary) after construction is complete. While we heard evidence from submissions seeking that this process be completed within three months,¹⁰⁷ this issue of timing was addressed in the SGA's opening submissions which commented that:¹⁰⁸

"Condition 3, which requires the Requiring Authority to review the designation boundary within 6 months of completion of construction or as soon as practicable, does not restrict the Requiring Authority from undertaking a review of the designation footprint at any time, and removing a designation or part of a designation under section 182 of the RMA. The Land Use Integration Process proposed as part of the NOR conditions also provides a process for review of any potential modifications required to the designation boundaries".

182. We also heard evidence on this matter by Mr Lovell¹⁰⁹ on behalf of the SGA, who advised:

"... I note that the review of the designation boundary is usually undertaken in line with PWA processes at the completion of construction, and needs to reflect the final property boundaries, which relies on accurate survey data

¹⁰⁷ E.g., EV099, at [9.10]

¹⁰⁸ EV001, at [10.9]

¹⁰⁹ On behalf of AT, but the point is considered applicable to the NW Strategic NoRs.

and separate LINZ/title processes. This usually takes longer than three months, although during this time, affected landowners will be in communication with the requiring authorities via PWA processes, which will provide the certainty sought by affected landowners. A three-month timeframe for review of the designation is therefore not likely to be workable or necessary”.

183. This evidence appeared to be accepted as the provision within condition 3 for the required review within a six-month period was not pursued further by any witnesses for submitters during the hearing. However, the wording of condition 3 was sought to be altered by the Council in order to address a broader issue relating to whether the designations themselves should be subject to periodic review, as we have discussed above.
184. For the purposes of the present discussion, the Panel notes that further consideration of this condition also arose during the subsequent hearing for the Warkworth NoRs. There it was noted that the introductory wording of the condition was somewhat ambiguous as to whether “*as soon as otherwise practicable*” was a reference to *before* or *after* the six-month timeframe. This was acknowledged by AT in its reply for that hearing, and therefore the condition was amended to read “[a]s soon as reasonably practicable following Completion of Construction the Requiring Authority shall...”. The reply for AT noted that the wording aligns with the approach adopted in other designations and provides flexibility for the rollback to occur at any time that is reasonably practicable. The Panel generally agrees with that approach but has some residual concern at the loss of a six-month ‘backstop’ within the condition. In this regard we recognise that the timing is to some extent outside the control of the Requiring Authorities, but consider that a six month limit would provide sufficient flexibility to accommodate this factor. We therefore consider that the introductory wording of the condition should be amended (for all the North-West NoRs) as follows:

As soon as reasonably practicable, but no later than six (6) months, following The Requiring Authority shall within 6 months of Completion of Construction or as soon as otherwise practicable the Requiring Authority shall:

...

Findings and recommendations

185. For the reasons set out above, the Panel has reached a majority view that a five-yearly designation review clause should be included in the conditions for the Strategic NoRs.
186. The wording for this designation review clause is recommended to be included in condition 3, incorporating our recommended amendments to the post-construction review provisions. We consider that these changes are warranted so as to make the purpose, phrasing and requirements of this part of the condition more certain and incorporate an appropriate timing threshold.

187. The order of the condition is altered from that proposed by the Council to follow a more logical sequence (i.e., pre-construction and post-construction).
188. The full text of condition 3 is therefore recommended to be amended as follows:

Designation Review

Pre-construction review

- (a) *The Requiring Authority shall, at five (5) yearly intervals from the confirmation of the designation, undertake a review of the designation. The purpose of the review is to keep stakeholders updated on progress with implementation of the project, and to enable areas of designated land to be removed from the designation if identified as being no longer required.*
- (b) *The review shall involve affected landowners and occupiers and:*
- (i) *provide an update on the progress or effort made to give effect to the designation and the anticipated date for implementation;*
- (ii) *review the extent of the designation to identify any areas of designated land that are no longer required for the designation;*
and
- (iii) *be made publicly available on the project website and be made available to the Council.*

Post-construction review

- (c) *As soon as reasonably practicable, but no later than six (6) months, following ~~The Requiring Authority shall within 6 months of Completion of Construction or as soon as otherwise practicable~~ the Requiring Authority shall:*
- (i) *review the extent of the designation to identify any areas of designated land that it no longer requires for the on-going operation, maintenance or mitigation of effects of the Project; and*
- (ii) *give notice to ~~Auckland~~ the Council in accordance with section 182 of the RMA for the removal of those parts of the designation identified above.*

Application of a lapse period to an existing (altered) designation

189. The position of the SGA is that NoR S2 is not subject to a lapse period because this part of the Project amends an existing designation (which has been given effect to, being the existing SH16 or Main Road). The Panel notes that the same approach also applies to NoRs W5 and RE2 for the Local network, and which we also discuss in our separate recommendation report on those NoRs.
190. The issue that was put to us during the hearing was that the extent of widening involved in the subject designations extends beyond what can be considered as an alteration (under s.181), and therefore should be considered as a new designation (under s.168). While s.181(2) requires the same matters to be

considered “*with all necessary modifications*” in relation to a notice of requirement for an alteration as if it were for a new designation, s.181(2) applies ss.168-179 and 198AA-198AD and excludes the lapse date provisions under s.184. The SGA’s opening submissions commented in this regard, therefore, that for the ‘altered’ designations, “*the key implication is that the Commissioners should limit consideration of effects to the altered portions of the relevant corridors*”.¹¹⁰

191. We heard evidence and legal submissions on this matter on behalf of submitters, albeit primarily in respect of NoR W5. For example, Vern Warren, a retired planner and who gave evidence as a representative of BW Holdings Limited in respect of a child-care centre on Hobsonville Road that is affected by NoR W5. He noted the extent of the ‘alteration’ to this NoR that is designed “*to accommodate a new work – not merely an alteration to an existing work*”. He acknowledged that “*the lapse provision of s.184 does not apply to a NoR to alter an existing designation because it is not listed in s.181(2)*”, but went on to say:¹¹¹

“However, there are several other fundamental provisions that are not included in the s.181 (2) list, such as the power of the Environment Court to order the purchase of land. On that basis, the ‘list’ in s.181 (2) does not appear to be exclusive. It is submitted that the lapse provision is of such fundamental importance that it should apply to any alteration of a designation that involves additional properties”.

192. Mr Allan also provided supplementary submissions on behalf of CDL in respect to his position on the application of lapse dates to an alteration to an existing designation.¹¹² While his submission, and the evidence of Mr Warren, was not specifically ‘on’ one of the Strategic NoRs, it was raised in the course of the same hearing and we therefore consider it to be of relevance to the question as to the extent of an alteration and potential application of a lapse date.

193. Mr Allan advised that following presentation of his primary submissions on behalf of CDL, he had become aware of a recent High Court decision that addressed the issue of whether the five-year default lapse period on designations imposed under s.184 applies to an amendment to an existing designation. Curiously, however, the decision he referred to answered the question in the negative, given that the Court accepted the submissions of Waka Kotahi in that case and stated:¹¹³

“Section 181(2) prescribes the sections of the Act relevant to an alteration of a designation. The lapse provision requirement is explicitly excluded. Accordingly, the Environment Court did not err in failing to impose a lapse date on the NoR”.

¹¹⁰ EV001, at [9.1]

¹¹¹ EV126, at [45]

¹¹² EV097A

¹¹³ *Poutama Kaitiaki Charitable Trust and D & T Pascoe v Taranaki Regional Council and Others* CIV-2021-443-15 [2022] NZHC 629, at [66]

194. Mr Allan sought to distinguish this determination from the situation for the North-West NoRs by submitting that the matter was not argued in full; that the analysis was “*slight*”; and that the omission of s.184 from the list of matters under s.181 is unsurprising given that it relates to a separate and distinct time period. It was therefore his submission that, in any event, the Panel is entitled to impose a lapse period condition under s.171 “*provided there are legitimate RMA reasons for such a condition*”, and in his submission such reasons exist in the case of the North-West NoRs.¹¹⁴ However, we put it to Mr Allan during the hearing that it would not be open to us to reinterpret a decision of the High Court on the substance of its findings, irrespective of whether we agreed that there was any flaw in its analysis or depth of consideration of the issue (which we would not). Rather, we consider that the High Court’s decision on the matter is binding on this Panel. However, on his final point, we noted that the imposition of a lapse date via a condition may be an option but only, in our view, if it were proffered by the Requiring Authority.

195. The Council’s response memorandum addressed this issue, with the following excerpt being based, we were advised, on legal advice provided to the officers. We set it out here, as conveyed in the Council’s memorandum:¹¹⁵

“The above statutory requirements [s.171] do not apply to a minor alteration to a designation under section 181(3). We consider that an alteration to an existing designation that may be more than a minor change to a boundary or more than a minor change to the effects associated with the alteration is envisaged and provided for in the section 181 [sic] of the RMA. It is the scale of the works, and the associated potential adverse effects, provided for by a notice of requirement which determines the statutory process for an alteration to an existing designation. We also consider that assessment of whether the works fit within the purpose of the existing designation would also be required.

“In regard to an existing designation, a baseline of effects can be utilised, to make an assessment against the level of effects above that already permitted by the designation, permitted activities in the AUP, or via a granted resource consent. In this case, as stated in the reporting planner’s section 42A reports, we do not consider that the baseline of effects approach is appropriate. This is because the scale of the works, and the potential adverse effects, are materially different to those envisaged by the existing designations. The requiring authorities have also not based their assessment of effects using the baseline of effects. SGA have based them on what they consider to be the anticipated potential adverse effects associated with the works provided for by the notices of requirement”.

196. While the Council’s position as expressed above was not entirely clear, we have understood it to support the approach that (a) the NoRs have been properly

¹¹⁴ EV097A, at [6]

¹¹⁵ EV281, at pp.17 and 18

advanced as alterations to existing designations in accordance with s.181; and (b) such an alteration requires a broad approach to the assessment of potential adverse effects beyond the existing 'baseline', and this is the approach that has been followed by the SGA.

197. The SGA's Reply endorsed this advice, noting in summary that:¹¹⁶

- (a) The RMA does not specifically identify when it is appropriate to seek an alteration to an existing designation, rather than seeking a new designation for proposed works, but does require an application to alter an existing designation to be subject to the same statutory tests as an application for a new designation.
- (b) In terms of natural justice considerations, landowners affected by the applications to alter the designations were notified of the applications, in the same manner and form used for the new designations. Their participation in the process has therefore not been impacted by the decision of the SGA to seek an alteration to the designations rather than seeking a new designation(s).
- (c) The only practical difference arising from the decision to seek alterations to the existing designations, rather than seeking new designations, is in relation to the lapse date, and the consequential potential for planning blight. The proposed designation conditions will assist in managing these potential effects (e.g., the Project Information, SCEMP and ULDMP conditions, and the LIP for the AT Local NoRs¹¹⁷). Various forms of redress are available under the RMA and PWA, as well as the s.176 process which enables use of land within the designation prior to construction.

198. With respect to (c) above, the Council memorandum went on to address the question as to the application of a lapse date on an altered designation, and stated that this is not a usual practice, and that there is no statutory requirement in the RMA to apply such a limitation. However, it also added:¹¹⁸

"While there does not appear to have been much consideration given to this matter through the Courts, there is nothing in the RMA which prevents the Panel from recommending a lapse date/timeframe as part of a condition being applied to an existing designation under s171 of the RMA. Even if there is some doubt over imposing lapse dates on previously designated land, in our view where additional new land is being designated it would be appropriate for a lapse period to be imposed".

199. The Council officers noted in this regard that a lapse date would "*provide greater certainty to landowners and/or occupiers or any other affected parties if this was*

¹¹⁶ EV288, at [4.29]

¹¹⁷ As well as the Strategic NoRs if the Panel's recommendations in this regard are upheld.

¹¹⁸ EV281, at p.18

to be recommended by the Panel and subsequently accepted in the requiring authorities' decision".¹¹⁹ This appears to the Panel to be at variance to the High Court decision referred to in Mr Allan's submission on the point, and as stated above, it is our conclusion that the only realistic manner by which a lapse date could be imposed on such designations would be if it were proffered by the Requiring Authorities.

200. However, the SGA's Reply did not propose the inclusion of a lapse date for the relevant designations because "*the Requiring Authorities remain of the view that a lapse date cannot be lawfully imposed on [the NoRs]*" and that "*[t]hey rely upon both the statutory framework and binding caselaw confirming this*".¹²⁰
201. Having regard to the relevant caselaw and High Court authority discussed above, the Panel accepts the advice of the Council and the submissions of the SGA in regard to the use of the 'alteration' mechanism with respect to NoR S2, and also accepts the position of the SGA that there is no legal basis on which a lapse date can be imposed for this NoR.

Panel findings and recommendations

202. The Panel accepts the approach of the SGA and does not make any recommendations in terms of the use of s.181 for NoR S2, nor the application of a lapse date in respect of it.

Business and property impacts and interface with the PWA

203. The SGA's opening submissions referred to the issue of 'planning blight', commenting that this concern is not capable of precise definition but typically interpreted to relate to effects from "*the existence of the proposal or uncertainty as to when public works might commence, such as the perception of depreciation of land values*".¹²¹ This issue is one that was closely aligned with the issue as to the proposed lapse dates, but one which we have resolved to address separately from the consideration of case law principles relating to lapse dates per se, with a focus on the way in which business and property effects would be addressed. However, as a general observation, we consider that it is inevitable that the proposed lapse dates will result in increased uncertainty for those landowners affected by the NoRs, while the methods for compensation will remain the same irrespective of what lapse dates are eventually confirmed by the SGA. That issue may, however, be ameliorated to an extent by the Panel's majority recommendation for the inclusion of a five-yearly review clause.
204. The SGA's submissions further noted that such issues associated with planning blight were considered by the Environment Court in *Tram Lease Ltd v Auckland Transport (Tram Lease)*, relating to the City Rail Link project (CRL), whereby:¹²²

¹¹⁹ EV281, at pp.17 and 18

¹²⁰ EV288, at [4.27]

¹²¹ EV001, at [10.42]

¹²² Ibid, at [10.43], with reference to *Tram Lease Ltd v Auckland Transport* [2015] NZEnvC 137, at [55]

“(a) The Court found that uncertainty about precise construction commencement dates is not uncommon with large infrastructure projects that take time for detailed design and funding to be completed. As outlined previously, a role of a route protection designation is to provide that protection function for critical strategic infrastructure; and

(b) Effects on property values are inherently subjective and are best addressed via the PWA”.

205. Again, it was the SGA’s submission that the provision of project information and updates through the Project Information condition, as well as the requirement to engage with stakeholders prior to the design and construction phases, will assist to increase the level of certainty regarding Project timelines and implementation dates. The SGA also referred to the existence of Waka Kotahi’s early acquisition policies in the event of hardship and the statutory mechanism (via the Environment Court) for acquisition available under s.185 of the RMA. On that basis, the SGA submitted that:¹²³

“these measures to address uncertainty (or planning blight) outweigh the inefficiencies and any (largely symbolic) perceived benefits that would result from a reduction in the lapse period”.

206. We note at this juncture that while we were provided with a copy of AT’s early acquisition advice, we did not formally receive a copy of those of Waka Kotahi (although these were provided during the hearing by hardcopy). These were provided as part of SGA’s supplementary memorandum in response to our further request set out within Direction 8, and therefore forms part of EV289 (Appendix 1).

207. A significant area of discussion within the evidence and during the hearing centered around the extent to where RMA considerations as to adverse effects (and the avoidance, remedying or mitigating of such effects) ends, and PWA processes commence. Some submitters who presented evidence at the hearing sought to explain the need for early acquisition of their properties under the PWA, or the reasons why compensation under the PWA was unlikely to address potential losses of property or business value as a result of the NoRs.

208. The submitters had also presented a generally consistent theme that the PWA should be a last resort for addressing adverse effects, that should be dealt with at the first instance through amendments or modifications to the NoR, or via conditions. For example:

(a) Ross Morley, on behalf of Morleyvest Limited, told us that the company had invested heavily in their site (384 Main Road) and the viability of the project is contingent on the site remaining accessible and user-friendly. There is

¹²³ Ibid, at [10.47]

significant risk that the designation (even as recently amended) will deter tenants and undermine the viability of the commercial premises at this property.¹²⁴

Mr Morley sought that the designated area be provided "*for construction and integration only*", but that the legal boundary remain in its current position. This would provide some certainty that the company can continue investing in the property without risk that the property will be subject to a PWA process in the future.

- (b) Kevin Clark, for Kumeu Central Limited (**KCL**), noted that both NoRs S2 and S3 extend a significant distance into the subject site past the existing vehicle entrance on Putaki Drive that provides access to the site.¹²⁵ The designations would therefore directly and significantly impact on the viability of the site to operate with the existing tenancies, and future uses would also be limited. The proposed outcome has significant adverse financial implications for KCL given the level of investment in the land and the buildings that are currently fully tenanted.
- (c) Hannah Edwards, for Boric and Sons Limited, addressed the potential adverse impacts on parking, loading storage and operations for western side of the property at 993 Waitakere Road which contains a trade-supplier warehouse and an associated showroom/office and at-grade storage area.¹²⁶ Ms Edwards noted that there is no viable alternative layout within the site due to a large stormwater watercourse and culvert to the south-east of the building. She was of the view that the designation needs to be reduced in order to retain all parking, storage, loading and access so it does not adversely impact on the commercial viability of the site.

209. However, we note that such effects, particularly where related to reductions in site frontages and landscaping, access/parking and resource consent compliance, are to a greater or lesser extent an unavoidable consequence of the scope of works envisaged under the NoRs. The purpose of the PWA is to provide a financial remedy to such effects, including business losses and injurious affection arising as a direct result of the works. Nevertheless, the SGA had made amendments to the ULDM conditions to require that the detailed design stage would be required to show how property access would be maintained, along with the utility of that access (i.e., internal loading and manoeuvring functions, as we have discussed previously), including through the construction period.

210. The SGA's Reply provides what we consider to be a helpful overview and summary of the interface between the PWA and RMA, which in part re-states the

¹²⁴ EV132 at [2]

¹²⁵ EV203 at [7 – 8]

¹²⁶ EV105 at [Section 5]

position of the SGA as set out in its opening submission, and the corporate evidence of Mr Rama and the PWA-related evidence of Lewis Stradling (for Waka Kotahi) and Mark van der Ham (for AT). Mr Stradling highlighted that in his view, “*section 68 of the PWA will appropriately address the submission points that raise issues regarding business loss at the appropriate time*”.¹²⁷

211. The Reply also addresses business impacts in respect of how these would be managed through various conditions (the SCEMP, construction management plans, and the Project Information condition). The Reply also contrasted the nature of effects and their scale to the experience of the City Rail Link project, and the compensation available under the PWA.
212. In summary, the SGA’s Reply advises of the following particular aspects of the NoRs that are considered to address business impacts, including changes introduced as part of the Reply:
- (a) Additional clauses will require the SCEMP to incorporate methods to manage the potential loss of visibility from public spaces and severance to businesses in the Business Local/Town Centre Zones as a result of construction works.
 - (b) The conditions relating to the Construction Environment Management Plan (CEMP), Construction Traffic Management Plan (CTMP) and Construction Noise and Vibration Management Plan (CNVMP) require that these plans are prepared prior to the start of construction, and have the objective to manage business disruption, utilising information collected through the SCEMP process. The Reply advised of an improvement to the CEMP to include an explicit requirement to respond to matters raised through the engagement process.
 - (c) The Project Information condition requires a project website to be established to provide information on “*the implications of the designation for landowners, occupiers and business owners and operators within the designation and information on how/where they can receive additional support following confirmation of the designation*”. A change was made during the hearing, and formalised in the Reply, to require the Project Information website to be established “*as soon as reasonably practical and within 6 months of the designation inclusion in the AUP*”, rather than the 12-months originally proposed. We note that an example of the website was provided during the hearing (relating to the Drury Arterials) to demonstrate the type of information that will be made available.¹²⁸

¹²⁷ EV027, at [4.11]

¹²⁸ See <https://findoutmore-supportinggrowth.nz/drury-and-opaheke-projects>

- (d) Some submitters referred to the construction impacts arising from the CRL and that such impacts may affect businesses located adjacent to construction areas. This concern was also expressed by Derek Foy, the Council's economics expert. The Reply noted that the relative effects were not comparable and would not involve the scale of works involved in the CRL, noting that it involves "*extensive tunnelling and deep 'top-down' excavations (and therefore aboveground road closures) through the heart of the Auckland CBD over a prolonged length of time*".¹²⁹ The Reply acknowledged, however, that while the effects of construction and operation of the NoRs will not be comparable to those experienced by businesses adjacent to the CRL, the works involved "*are necessary interventions which cannot be realised without some construction disruption*".¹³⁰
- (e) The Reply highlights that "*the potential impact of land takes or physical disruptions to business operations will be compensated for under the PWA*", and emphasised that:¹³¹

"Just as the consideration of effects on the environment requires a broad and flexible assessment, so does consideration of the factors which might be seen to mitigate those effects. The availability of financial compensation under the PWA for those parties whose land is impacted is a statutorily mandated method of remedy".

It also notes that while some indirect impacts of the NoRs may not be compensated for, the scope of the PWA process is comprehensive. It notes the findings of the Environment Court in *Tram Lease* (which related to the CRL Project)¹³² that "*Parliament has deliberately created a framework for financial compensation under the RMA and PWA, and the case emphasised the importance of protecting the 'public purse' from extending compensation beyond the circumstances expressly ordained by statute*".

213. We note here that the Council's response had suggested that in some locations, the effects on business viability will be more pronounced, with Mr Foy highlighting the example of a small café fronting a construction area that is likely to be adversely impacted, even if it is not within the construction zone. Mr Foy went on to suggest the staging of works (to minimise their extent for shorter periods), establishment of a hardship fund and provision for temporary accommodation.¹³³ The Council's reporting officers considered that such alternative measures could be integrated into the SCEMP condition to avoid reliance on PWA processes. The

¹²⁹ EV288, at [5.9]

¹³⁰ *Ibid*, at [5.13]

¹³¹ *Ibid*, at [5.16]

¹³² *Tram Lease Ltd v Auckland Council* [2015] NZEnvC 137, at [62]

¹³³ EV281, at p.44

Council's proposed new clauses (applicable to condition 8A(b)(ii) in the Council version) were as follows.¹³⁴

G. Methods to manage the potential loss of visibility from public spaces and severance to businesses in the Business - Town Centre Zones, informed by engagement undertaken in accordance with condition (a)(iv) (b)(i)(B). These methods could include (but not be limited to) customer access arrangements, temporary wayfinding and signage.

...

L. Provision for a hardship fund to compensate or offset business costs or losses resulting from the designation on the operation of the business.

214. Somewhat confusingly, however, clause 'L' was not included within the Council's edited conditions (Attachment A to its response memorandum). We were therefore unclear on which designations it is recommended to apply to. Clause 'G' was however shown as forming part of the SCEMP condition that would apply to all the Strategic NoRs, albeit that it relates only to those sites with a Business - Local Centre zoning.

215. The SGA's Reply notes that consideration has been given to the proposed amendment to the SCEMP condition, and its response was set out in the table at Appendix A to the Reply. A review of the conditions set out within Appendix A indicates that clause G is supported by the SGA as clause (b)(vii) (and with a minor cross-referencing amendment), but only in respect of NoRs S2 and S3. However, in respect of clause 'L':

"Waka Kotahi do not consider it necessary to provide the detail of a hardship fund within the SCEMP. Any additional support for businesses impacted by a Stage of Work would be considered on a case-by-case basis. Information on where to receive additional support will be provided through the project website required to be established under Condition 2".

216. From our review of Waka Kotahi's Property Acquisition policy, we understand that any claims related to 'hardship' would be those of a medical nature. The policy states that:¹³⁵

"The main grounds for advance purchase acquisition applications are medical, where a serious illness requires a sale to release funds for treatment, the need for alternative care, or a change of location (e.g. to be closer to family support or just to deal with the estate)".

¹³⁴ Ibid, at p.108

¹³⁵ EV289, Appendix 2

217. While the Council's proposed policy appeared to seek a more tailored or specific hardship arrangement for businesses, rather than what we discern to be a more residentially-focused hardship provision (above), the Panel considers in general terms that such effects in respect of business owners will usually be more properly made through the existing provisions of the PWA that have been established to address such impacts.
218. Notwithstanding the above, we were curious to understand the extent to which potential business losses could be assessed under the PWA, given that these may not fully manifest themselves in what we understand to be the 'default' two-year period from commencement of the works. This reflects s.68(1)(a) of the PWA whereby business loss "*shall not be determined until the business has moved and (if the circumstances so require) until sufficient time has elapsed since the relocation of the business to enable the extent of loss to be quantified...*". In particular, the Panel wished to understand the situation that would arise where a business was not able to continue trading to the end of the loss-assessment period. This concern (and presumably the Council's proposed clause 'L') arose from issues related to the CRL where well-publicised businesses losses occurred during the construction period, and we understand formed the basis for the Council's suggested hardship fund in the present case.
219. While we are satisfied that the proposed designations will not give rise to the extent or duration of works that have occurred with respect to the CRL or the extent of ongoing business interruption experienced there, we consider that there are some risks to existing and nearby businesses affected by NoR S2 in particular. However, we also recognise that there will be other parts of the Strategic NoRs that may also give rise to such issues. A question that arises with respect to the Council's proposed clause 'L' is the detail as to the way in which compensation or offsets of business losses would be calculated during the period of construction (which is presumably why the PWA establishes that such losses are calculated at a later period). Nevertheless, we consider that there is merit in establishing a requirement for such a fund to be established to address the types of issues highlighted by Mr Foy, and this would allow for potential claims to be addressed on a case by case basis. We have, however, concluded in line with the SGA that clause 'G' should only apply to NoRs S2 and S3, and we recommend that clause 'L' be limited to these NoRs as well. We have also added the words "Construction Works" within the clause (and deleted "designation"), to make it clear that the fund would only relate to those costs or losses incurred during that stage of works, rather than in the intervening period, or from operation of the project.
220. As a further minor amendment we recommend a change to the SCEMP condition at (b)(vii) as it relates to NoRs S2 and S3 such that the word "manage" is replaced by "avoid, remedy or mitigate" to provide a higher level of rigour to the obligations of the Requiring Authority in respect to addressing the issues of business visibility and access for sites within the Town Centre Zones.

Panel findings and recommendations

221. The Panel generally accepts the submissions and evidence of the SGA in respect of business and property impacts, but is concerned as to the efficacy of the PWA to address business impacts and associated hardship experienced during the construction process, as separate to the medical issues that appear to be the focus of Waka Kotahi’s existing hardship policy. The Panel considers that this issue is one that is more likely to arise in respect of the numerous businesses along the NoR S2 and S3 route in particular, and so considers that condition clause ‘L’ should apply to these NoRs.
222. Accordingly, and based on the preceding discussion, the Panel recommends that the SCEMP condition (SGA Reply version) at clause (b) for NoRs S2 and S3 are amended to include the following (incorporating our recommended editorial changes):

- ...
- (vii) ~~m~~Methods to ~~manage~~ avoid, remedy or mitigate the potential loss of visibility from public spaces and physical severance to businesses in the Business - Town Centre Zones, informed by engagement undertaken in accordance with condition ~~8A(b)~~(i) and (ii) above. These methods could include (but not be limited to) customer access arrangements, temporary wayfinding and signage;*
- ...
- (xi) provision for a hardship fund to compensate or offset business costs or losses resulting from the Construction Works on the operation of the business.*

Existing and future environment analysis

223. The opening submissions for the SGA set out its approach to the definition of the “environment” against which the effects of the designations must be assessed in terms of s.171(1)(a). It stated that:¹³⁶

“Determining what is the appropriate environment to assess within areas that are planned to be urbanised in the future is complex. The changing receiving environment needs to be reflected in any assessment and subsequently, where the environment is likely to change between the time of assessment and the time effects are anticipated to be experienced, it is considered that a “real world” approach to defining the environment and management of effects should be applied”.

224. It went on to say that in this regard an approach was agreed with the Council to

¹³⁶ EV001, at [8.19]

the effect that:¹³⁷

- (a) Areas that are not identified for future growth are not likely to materially change within the potential implementation periods (i.e., within the proposed lapse dates);
- (b) Areas that are currently in rural use, or urban zoned and have recently been live zoned or up-zoned for urban development are likely to experience material change because of the urbanisation contemplated by operative planning provisions; and
- (c) In areas zoned FUZ, it is likely that the construction of the transport corridors will occur in parallel with the urbanisation of these areas and the corridors will operate in an urban environment.

225. The SGA also noted that the Whenuapai Structure Plan, the North-West Spatial Strategy (**Spatial Strategy**) and the overlay provisions of the AUP are also relevant to the assessment, and that “*in adopting this approach, effects of the construction and operation of the projects have been assessed considering whether the existing or likely future environment is the most appropriate baseline for the assessment*”.¹³⁸

226. Mr Cameron (for Future-Kumeū Inc), was critical of the SGA’s analysis of the existing environment, and considered that this was contrary to the approaches established by *Queenstown Lakes District Council v Hawthorn Estate Ltd (Hawthorn)*¹³⁹ and *Queenstown Central Ltd v Queenstown Lakes District Council (Queenstown Central)*.¹⁴⁰ The primary point was that the analysis should not include FUZ considerations, in reliance on *Wallace v Auckland Council (Wallace)*¹⁴¹ (which stated, as part of a judicial review proceeding to a resource consent, that the Council was not entitled to take into account the environment as it may be modified by future resource consents). This was for the reason that little can be done on land which is currently zoned FUZ. Further, for the developed area along the Main Road corridor (of particular relevance to Future Kumeū Inc):¹⁴²

“...it cannot be assumed that there is unlikely to be material change within the project implementation periods simply because they are already urbanised. The existing mix of [urban zoned] land provides for a range of permitted activities, in addition to those landholdings where unimplemented consents are held which, without the Network, would still be likely to be implemented”.

227. On that basis, it was Mr Cameron’s submission that “[i]t cannot be assumed, as

¹³⁷ Ibid, at [8.20]

¹³⁸ Ibid, at [8.23]

¹³⁹ *Queenstown Lakes District Council v Hawthorn Estate Ltd* (2006) 12 ELRNZ 299 (CA)

¹⁴⁰ *Queenstown Central Ltd v Queenstown Lakes District Council* [2013] NZHC 815

¹⁴¹ *Wallace v Auckland Council* [2021] NZHC 3085

¹⁴² EV138, at [3.11]

*the Requiring Authorities' proposed matrix appears to do, that these areas would otherwise remain static or stagnant", and that "[t]he effects on the environment must still be considered through the filter or lens of the objectives and policies of the relevant underlying zones, when assessing whether or not those effects are appropriate".*¹⁴³

228. Mr Cameron also referred to the draft FDS, as a relevant 'other matter' under s.171(1)(d) to which we should have regard, and to the extent that it affects our findings in respect of:

- (a) Alternative sites, routes or methods of undertaking the work, including that put forward by Future-Kumeū Inc (under s.171(1)(b)); and
- (b) Whether the Strategic NoRs are reasonably necessary for achieving the objectives of the SGA under s.171(1)(c).

229. The SGA's Reply noted that its opening submissions had referenced *Queenstown Central* which confirms that "a 'real world' approach to the future environment requires consideration of that environment as signalled by operative objectives and policies of a district plan. The Reply went on to consider the principles in *Hawthorn*, and that "[i]t is inevitable that the nature of the environment will change and in many cases, the future effects will not be on the environment as it exists when a decision on a resource consent or designation has been made".¹⁴⁴

230. The Reply made the following further points:

- (a) While *Hawthorn* was a resource consent case, the Environment Court in *Villages of NZ (Mt Wellington) Limited v Auckland City Council*, accepted that notices of requirement are not "outside the findings" of *Hawthorn* and that consideration should be given to whether a designation is likely to be implemented.¹⁴⁵
- (b) Because *Wallace* was a judicial review proceeding it did not consider the merits of the relevant decision, and was only looking at whether procedural obligations were fulfilled and whether future resource consents could be taken into account by the Council in its decision under ss.104(1)(a) and 104C(1).
- (c) In this regard the Reply states that "[t]he Project is not subject to section 104, and given the different purposes of resource consents and designations, it cannot reasonably be considered that the limitations applied to section 104 considerations can be transposed to section 171".¹⁴⁶ The reason for this is because s.104 separates the effects assessment from the consideration of

¹⁴³ Ibid, at [3.12] - [3.13]

¹⁴⁴ EV288, at [7.3]

¹⁴⁵ *Villages of NZ (Mt Wellington) Ltd v Auckland City Council*, NZEnvC Auckland A023/09, 20 March 2009, at [32]

¹⁴⁶ EV288, at [7.6]

relevant planning instruments, whereas s.171 does not. Accordingly, the SGA submits that *Wallace* cannot be picked up and applied in the context of designations (which commonly respond to longer term land-use pressures).

231. The Reply then observes that Mr Cameron’s contention that the (then) draft FDS is a relevant consideration for the statutory assessment under s.171(1)(d) is a contradiction of his argument made in respect of the inclusion of the FUZ in the assessment of the existing and future environment, noting that “[t]he FDS provides no more certainty in relation to planned development than the FUZ”.¹⁴⁷

Panel findings and recommendations

232. The Panel accepts the submissions for the SGA and considers that the manner in which its assessment of effects have been made against an appropriate understanding and characterisation of the existing and future environment is correct, including taking account of the changes signalled by the now-confirmed FDS. No recommendations arise in respect of this finding.

Adequacy of alternatives assessment

233. Section 171(1)(b) requires that if a requiring authority does not have an interest in the land, sufficient for undertaking the work, or it is likely that the work will have a significant adverse effect on the environment, then adequate consideration must be given “to alternative sites, routes, or methods of undertaking the work”.
234. The Requiring Authority’s assessment of alternatives is set out in Appendix A to the AEE, and described the methodology adopted and the assessment framework used. The assessment comprised the following steps for each NoR corridor:
- Long List corridor assessment;
 - Short List corridor assessment;
 - Indicative Strategic Transport Network; and
 - Routes refinement involving ‘Gap analysis’, form and function assessment, and further route refinement options assessment.
235. The s.42A report notes that this methodology and approach was undertaken for all the Strategic NoRs with a specific assessment for the BCI, and the agreement with the assessment undertaken and conclusions reached in the SGA’s Assessment of Alternatives. Accordingly it was considered to satisfy the requirements of s.171(1)(b).¹⁴⁸ The exception to this was in terms of the alignment of NoR S3 relative to the Huapai Tavern (and its relocation) which would require some further refinement. We note that this aspect was resolved through the subsequent evidence presented during the hearing and is discussed in more detail later in this report.

¹⁴⁷ EV288, at [7.8]

¹⁴⁸ S.42A report, at [7.3.4]

236. The SGA's opening submissions also set out for us the relevant legal principles in determining whether sufficient analysis has been given to alternatives in any particular case. These were as follows:¹⁴⁹

- “(a) The focus is on the process, not the outcome: whether the requiring authority has made sufficient investigations of alternatives to satisfy itself of the alternative proposed, rather than acting arbitrarily, or giving only cursory consideration to alternatives. Adequate consideration does not mean exhaustive or meticulous consideration;*
- (b) The question is not whether the best route, site or method has been chosen, nor whether there are more appropriate routes, sites or methods;*
- (c) The fact that there may be routes, sites or methods which may be considered by some (including submitters) to be more suitable is irrelevant;*
- (d) The RMA does not entrust to the decision maker the policy function of deciding the most suitable site, route or method; the executive responsibility for selecting that site route or method remains with the requiring authority;*
- (e) The RMA does not require every alternative, however speculative, to have been fully considered. Notable in this context is the fact that many of the projects involve alterations or widening of existing corridors and have the express purpose of connecting key destinations and integrating with future urban growth. This, along with existing land use and environmental constraints has limited the alignment options readily available; and*
- (f) The requiring authority is not required to eliminate speculative or suppositious options”.*

237. The associated footnotes also made reference to a decision of the High Court¹⁵⁰ which had held that s.171(1)(b) does not require a full evaluation of every non-suppositious alternative with potentially reduced effects. The opening submissions also highlighted the Council's agreement with the assessments undertaken, and therefore, with respect to the principles described above, submitted that:¹⁵¹

“It is clear that there has been sufficient investigation undertaken, and that neither Requiring Authority acted arbitrarily or gave only cursory consideration to alternative routes, sites and methods. The alternatives assessment process was robust, transparent and replicable. While several submitters have questioned the adequacy of the assessment in some

¹⁴⁹ EV001, at [9.9]

¹⁵⁰ *New Zealand Transport Agency v Architectural Centre* [2015] NZHC 1991 at [152] to [156]

¹⁵¹ EV001, at [9.14]

specific respects the fact remains that the corridors advanced to NOR stage represent an appropriate and carefully considered solution to the issues identified in the Investment Objectives and Project Objectives”.

238. The evidence of John Daly for the SGA addressed the alternatives assessment, and in response to submissions and in particular that of the following experts:
- David Haines on behalf of Atlas Concrete Ltd and others;
 - Burnette O'Connor and Jessica Andrews on behalf of All Seasons Properties and Lendich Construction Ltd;
 - Hamish Hey on behalf of Stephen Anderson; and
 - Matthew Brennan on behalf of Z Energy.
239. We do not propose to re-state the further commentary in respect of these properties as set out in Mr Daly's rebuttal evidence, but save to say that we accept his evidence that:
- (a) adequate consideration was given to alternative sites, routes and methods in selecting the preferred options for undertaking the Project and this meets the purposes of s.171(1)(b); and
 - (b) the Requiring Authorities have kept an open mind to situations where submitters' experts have identified matters that were not apparent at the time the earlier optioneering took place, and that adjustments to the NoR boundaries have been made to reflect such matters.
240. While the assessments within the s.42A reports were in agreement with the SGA's position in this regard, there was one minor difference with respect to NoR S3 (the RTC) which we have described previously. The Council considered that the designation required some refinement to accommodate the relocation of the Huapai Tavern within its Extent of Place. However, based on the evidence of Mr Brown, Mr Daly did not consider that there was a need to refine the RTC, and that an appropriate location for the tavern would be determined at the detailed design stage.
241. We acknowledge as a general proposition the evidence of Mr Daly that at an individual site perspective:¹⁵²

“In my view, the proposed designation boundaries for the Project are both necessary and appropriate. These extents will facilitate detailed design and construction of the Project to occur in the future. Given this, I consider that the differentiation between the extent required for the construction and operation of the Project is not able to be accurately defined at this stage.

¹⁵² EV009, at [4.5]

This delineation will be confirmed by the Requiring Authorities and discussed with landowners under the [PWA], closer to the time of construction”.

242. Mr Daly also noted in general terms that the SGA had:¹⁵³

“...adopted a systematic and robust approach to considering alternatives and statutory methods. The MCA framework adopted to consider alternative options incorporated Part 2 RMA elements as well as matters appropriate to AT and Waka Kotahi’s statutory functions”.

243. On that basis it was his view that adequate consideration was given to alternative sites, routes and methods in selecting the preferred options for undertaking the Project and this meets the purposes of s.171(1)(b).

244. The Council response memorandum did not address the matter of alternatives, and so we anticipate that their view in this regard had not altered from what was set out in the s.42A report(s).

245. The Reply re-emphasised the principles relating to alternatives as set out in the SGA’s opening submissions adopted Mr Daly’s analysis. It responded to the legal matters raised by counsel for Future-Kumeū Inc and Daltons Holdings 2013 Ltd, including providing further comment in respect of the *Basin Bridge* case.¹⁵⁴ We accept the points made in respect of those parties that:

- (a) The proposed alignment for NoR S3 provides an efficient alignment from which to service the existing Town Centre zoned land, the Huapai Triangle and FUZ land in the north east of Kumeū;
- (b) The alignment responds to constraints along the RTC, and the two railway stations respond to the Spatial Strategy;
- (c) The evidence demonstrates that flood risks can be appropriately mitigated via the Flood Risk condition (subject to the findings that we make in respect of that condition); and
- (d) That the primary reason for the designation over the Daltons Holdings site is not for temporary works and is to ensure that the site is not built out such that development interferes with implementation of the Project, along with providing for access during construction.

246. We also heard from David Haines on behalf of a number of submitters who put forward alternative rail-based proposals for the North-West NoRs. His suggestions sought that we contemplate significant amendments to the Strategic NoRs, and

¹⁵³ Ibid, at [3.1]

¹⁵⁴ *New Zealand Transport Agency v Architectural Centre Incorporated* [2015] NZHC 1991

we note that his evidence was at odds with what we heard from Mr Strydom on behalf of KiwiRail. Overall, we consider that his proposals sought something much more from the Panel than simply a recommendation to modify the NoRs and would be beyond the scope of what we are required to consider.

247. The Reply also addressed the issue of alternatives from the perspective of economic impact in response to the evidence of Simon Papa, in respect of NoR S1 (and Local NoR R1). Mr Papa considered that the SGA had not provided evidence that the designations would have economic benefit, particularly when weighed against the impact on affected landowners. He also considered that the need for the designations in terms of rural land from an economic and land value perspective was not demonstrated (where that land would not be subject to price escalation in the same way as urban land), but would impact affected landowners for a long period.¹⁵⁵

248. The response set out in the Reply encapsulated a number of what the Panel considers to be some important key themes regarding this issue, of application to the North-West NoRs generally. This includes the extent of analysis required on a site-by-site basis, with reference to relevant case law. We summarise those matters below:

- (a) Determining the response to the problem identified (as set out in the first topic addressed in this report) is a matter for a requiring authority to assess, and this takes place through the business case process, and that “[i]t is well established that this level of analysis is not ‘second guessed’ by decision makers through the RMA process”.¹⁵⁶ Effects at landowner level are then to be addressed through conditions and the fair compensation provisions of the PWA.
- (b) The North-West network is supported by a project-level DBC.
- (c) In terms of quantifying economic impacts at an individual property level, the Reply states:¹⁵⁷

“It would be highly impractical to undertake such an assessment for projects of this size due to the number of impacted landowners, and a reluctance to share financial data in some cases. Any assessment at this fine-grained level would then need to consider the potential costs and benefits related to all the other alternative routes at a similar level in order to provide a fair comparison. Such a herculean task is simply impossible for a project of this scale at this stage. We are not aware of any significant infrastructure (or other) project on which it has been

¹⁵⁵ EV247, at [13]

¹⁵⁶ EV288, at [3.8]

¹⁵⁷ Ibid, at [3.10]

required or deemed necessary as part of the RMA confirmation process”.

- (d) The High Court has held that the RMA does not require projects to meet any specific cost-benefit threshold before they can legitimately be designated (or consented):¹⁵⁸

“...decisions on the cost and economic viability, or profitability, of a project must sensibly be regarded as decisions for the promoter of the project. Otherwise, the Environment Court will be drawn into making, or at least second-guessing, business decisions. That is surely not its task”.

- (e) The High Court has also held that a project is not required to be the most efficient use of resources:¹⁵⁹

“We do not think s7(b) (or Part 2 generally) was intended to give to decision makers under the RMA the power to make judgments about whether the value achieved from the resources that are being utilised is the greatest benefit that could be achieved from those resources or whether greater benefits could be achieved by utilising resources of lower value or a different set of resources”.

- (f) Accordingly, it is understood that the RMA does not require a project to be the best and most economical option. That is a matter for a requiring authority to determine, having regard to their own statutory mandates and obligations, while individual economic effects are compensated for through the PWA. At the same time, it is important to recognise the economic benefits of the Projects for a wide range of people and communities (as is referred to in our statutory assessment later in this report).

249. The Panel generally accepts that analysis and acknowledges the direction provided by the courts on this issue. We observe, however, that the scale of the exercise in terms of assessing economic impacts at an individual level is a function of a decision of the SGA to undertake the designation process ‘at scale’, and such a decision should not necessarily then be relied upon as a basis not to undertake that task. That said, we also recognise the need for the overall North-West Project (as discussed previously), and that the scale of the Project is a function of that need. On that basis, and noting the SGA’s submission that an economic assessment at a “fine-grained level” has not been undertaken as part of any other designation process, we accept the approach that has been undertaken by it in respect of the North-West Strategic (and Local) NoRs.

¹⁵⁸ Ibid, at [3.12], with reference to *Friends and Community of Ngawha Inc v Minister of Corrections* [2002] NZRMA 401 at [20]

¹⁵⁹ Ibid, at [3.13], with reference to *Meridian Energy Limited v Central Otago District Council* [2011] 1 NZLR 482 (HC) at [120]

250. Overall, we are satisfied that the assessment of alternatives undertaken by the SGA, including from an economic perspective, has been thorough, and ongoing through the hearing process, and accords with the relevant statutory tests and case law guidance.

Panel findings and recommendations

251. The Panel finds in line with the conclusions set out above. No recommendations arise from this finding.

Criticisms of the engagement process

252. The Panel heard from various submitters who expressed concern about the adequacy and extent of consultation and engagement undertaken for the NoRs. These concerns ranged from the level of information received, and that they were not specifically engaged with, or notified, about the NoRs.
253. The engagement process was explained in the evidence of Ida Dowling on behalf of the SGA. Ms Dowling set out the timeline and nature of consultation undertaken, the methods that were established to facilitate further engagement and the resources made available in this regard, including with respect to the difficulties experienced during the periods affected by Covid-19. Her evidence described the extensive scale of engagement undertaken since 2016, which included numerous public feedback sessions and open days, circulation of over 30,000 flyers, online and mail surveys, affected landowner letters, and one-on-one meetings. In particular, she noted that during the IBC and DBC phases more than 1,000 pieces of feedback were received and considered, and the 'Consultation Manager' data management tool used by the SGA has recorded more than 4,700 interactions. She advised that following lodgement of the NoRs with the Council, letters were sent to affected landowners to advise them of that fact, noting that while this did not replicate formal "notification" of the NoRs, this was an important step given that the NoRs have statutory effect once they have been lodged with the Council.
254. Ms Dowling advised that, in summary and in her opinion, "*the approach taken to engagement for the Projects was appropriate, and the level and type of engagement robust and in line with good practice*".¹⁶⁰
255. Notwithstanding the above, we did hear some specific cases, and were provided with correspondence, outlining where the engagement undertaken could be considered to be less than would be expected given the scale of the projects and effects on some sites. In respect of the Strategic NoRs, we noted a submission from Topland NZ (regarding 131 Tawa Road and NoR S1) where the owners had not been provided with post-lodgement information from the SGA due to a database error (although they were subsequently notified and made a submission by the due date).

¹⁶⁰ EV039, at [1.10]

256. In this regard, Eryn Shields for the Council confirmed during the hearing that there were some errors with the Council's rating database provided to the SGA which led to some affected landowners being omitted from the list of properties notified about the NoRs. The Reply also advises of the SGA's regret that this occurred, but that "*where they were made aware that an affected landowner or member of the community wanted to discuss the Projects, the Project team offered to meet and discuss the Projects with them at their earliest convenience*".¹⁶¹
257. Other submitter experiences are detailed in evidence related to the Local NoRs, and will be referred to in our separate reports.
258. The Panel agrees with the sentiment expressed in the Reply that the omission in respect of Topland, and possibly other sites, was regrettable, but acknowledge the SGA's efforts to engage further to address this issue. Overall, given the scope of the North-West NoRs and the number of affected properties involved, and the relatively low numbers of persons who expressed dissatisfaction with the engagement process (separate to issues as to effects on their properties), we consider that the consultation and engagement processes have been robust and wide-ranging and undertaken with appropriate provision for feedback and dialogue.
259. We also note here the additional consultation that was afforded to submitters during the hearing at the Panel's direction, with Mr Daly making himself available following submitter presentations to speak with them on a one-to-one basis and provide such additional information as may be relevant to the submitter circumstances. This ranged from specific discussions about the extent of land designated in a particular case, to processes involved with the PWA, including with respect to the respective Requiring Authority's hardship policies. The Panel records its appreciation to Mr Daly for undertaking this role and while we have not been appraised as to any particular outcomes of that further engagement (beyond the comments in Appendix G to the Reply), we understand that using the hearing as a convenient point to facilitate further discussion has been of assistance to both the submitters and the SGA.
260. The Reply acknowledges that the notice of requirement process can be difficult or daunting for affected persons to navigate, but highlights that the SGA:¹⁶²
- "... has worked hard to provide a range of options for landowners and members of the community to contact the Project team, both prior to and post-lodgement of the NoRs. The Requiring Authorities acknowledge that despite best endeavours to engage and meet with affected landowners, some may not have been reached, while others did not respond"*.
261. The SGA's efforts in this regard have been tabulated with respect to each submitter party who participated in the hearing at Appendix G to the Reply (80

¹⁶¹ EV288, at [11.5]

¹⁶² Ibid, at [113]

parties in total across both the Strategic and Local NoRs). This includes reference to the further engagement that occurred for some submitters with Mr Daly at the hearing, as referred to above, and records the responses of the submitters to the engagement up to that time. This illustrates that for most parties, they are dissatisfied with the NoRs in respect of their properties, as well as the process of engagement and/or its outcome. We note that some of that dissatisfaction arises where the property remains affected by a designation, which will presumably, and understandably, have coloured the impression of the engagement that was undertaken.

262. Overall, the Panel acknowledges that there a large number of parties who remain dissatisfied with the designations but we are of the view that the measures proposed by the SGA through the conditions represent a considered and detailed approach to the management and mitigation of those effects. We further recognise that these measures will not be able to be prescribed until the preparation of relevant management plans and the associated detailed design stage. However, we consider that the management plan is an appropriate approach (as discussed elsewhere in this decision) and incorporates appropriate 'bottom lines', such as maintenance of property access and associated utility (e.g., parking and loading), that will be responsive to the range of property-specific issues that we heard.

Panel findings and recommendations

263. The Panel recognises the concerns of those submitters who consider they have not been appropriately consulted or engaged with. However it also accepts the evidence and Reply of the SGA and considers that the engagement process undertaken by the SGA has been appropriate, broad in scale and scope, and consistent with good practice. No recommendations in respect of the NoRs arise from this finding.

Management plans

Overview

264. We have previously noted that the SGA proposes to use management plans to address the majority of anticipated environmental effects, and these have been offered as conditions of consent. The list of proposed management plans are set out at paragraph 13 of this report, and are also referred to as relevant to particular topics elsewhere in this report. In general, the management plans would provide the framework to guide the final design of the various components of the transport corridors as well as avoid, remedy mitigate or manage the adverse effects of the construction activities associated with the implementation of the projects.
265. The s.42A report acknowledges that the NoR process is primarily about route protection rather than implementation, and accepts that a management process is appropriate, given that detailed assessment and implementation would occur at the outline plan stage. The s.42A report went on to describe the principles that should be incorporated within a management plan condition framework, and notes

that these have been adopted in the recommended management plan conditions. It states that “[i]n a number of circumstances Council officers have recommended amendments to the management plans to address certain adverse effects and/or make the management plans more effective”.¹⁶³ It raises the issue of certification of those plans, which is a further matter that we address below.

266. The Panel’s Minute 1 sought confirmation from the Council as to the content and interrelationship between management plans and the overall approach generally, and the Council confirmed its initial view (i.e., as expressed in the s.42A report) in this regard as part of its response memorandum.
267. The Reply addressed further matters relating to the proposed management plans that arose during the hearing, including in respect of this Panel’s queries and noted proposed changes to the content of the relevant conditions, which we discuss below.

Draft management plans (CTMP)

268. The Panel raised a query in respect of whether the preparation of draft management plans as part of the NoRs would be beneficial, primarily in respect to the CTMP. Our interest in this regard was related to the complex road environment along Main Road through the Huapai and Kumeū townships, and the uncertainties as to how provision for through-traffic would be maintained to an acceptable level during the construction process. We suggested that an indicative/draft outline of the form that the CTMP would take could potentially illustrate the effect that the use of the adjacent designation for the RTC may have in the management of traffic flows in this area. In this regard a draft CTMP might also be expected to address a question about the emphasis or priority that might be given to the development of NoR S1 (ASH) prior to NoR S2. This was a recommendation of the Council’s traffic specialist, Mr Sergejew, who had stated in his review report that:¹⁶⁴

“With the current volumes of traffic on SH16 Main Road the strategic transport function of SH16 as the major access to Auckland’s North-West as well as serving as a significant alternative route to SH1 north of Auckland, and the scale of works proposed along and adjacent to this corridor, I consider that the construction effects related to the NOR for SH16 Main Road upgrade (S2) and the components of the NOR for the Rapid Transit Corridor (S3) through the developed commercial areas of Kumeu and Huapai, are unlikely to be adequately mitigated by a CTMP”.

269. We put the question of whether a draft CTMP would be of assistance at this NoR stage to Mr Mason and Mr Phillips, and their responses were addressed in the SGA’s Reply. It noted Mr Mason’s view that the value of a draft CTMP would be

¹⁶³ Agenda, at p.56

¹⁶⁴ Ibid, at p.221

limited at this stage as current information may not be relevant when the projects are constructed in 15-20 years' time, and that:¹⁶⁵

“The proposed CTMP condition includes the objectives to be achieved during the construction phase, which will provide the starting point for a later framework/plan to be developed. The CTMP will address matters such as proposed detours and lane closures for construction works, how access to closed roads will be managed by traffic controllers etc. It is more appropriate for such matters to be determined with reference to the environment existing at that time. A more prescriptive approach now could lead the CTMP to becoming a ‘tick box’ exercise focussed on these prescribed measures, rather than a more holistic and considered approach to the assessment and implementation of measures required to address adverse effects...”

270. The Reply also notes the additional commentary provided by Mr Phillips during the hearing, who acknowledged that a draft CTMP would provide some reassurance to the Council (and, we would add, this Panel), but he was otherwise of a similar view to Mr Mason. He added that *“specific sequencing of the Project will also play a key part in the drafting of the CTMP, providing the example that construction on Main Road could be standalone or paired with works for the RTC”*.¹⁶⁶
271. The Reply also referred to Mr Phillips' additional commentary as to the potential changes in the future environment, whereby traffic growth could be greater than expected with continuing urbanisation in existing live-zoned areas, or less as a result of the Pūhoi to Warkworth and Warkworth to Wellsford motorway projects reducing reliance on SH16 as an alternative to SH1. On this basis, Mr Phillips was of the view that *“given the ambiguity of all of these contributing factors, a draft CTMP provided now would be almost entirely superseded by [the time of] implementation”*.¹⁶⁷ The Reply goes on to note that *“the NIMP will also provide the first step in the process of considering the construction effects of a project on the ability to provide an effective, efficient and safe land transport system”*.¹⁶⁸
272. We also note in this regard the evidence of Don McKenzie for Future-Kumeū Inc, who observed a need within the CTMP condition *“to ensure that the management plan preparation is directed towards the means by which the adverse effect is managed”*, and that *“[t]he overall objective to avoid, remedy or mitigate the effect (effectively the “what”) should be set in the Condition and the means by which the objective is achieved (the “how”) is achieved via the management plan”*.¹⁶⁹
273. The Council response memorandum advised in respect of these matters, including the sequencing condition originally recommended by Mr Sergejew, that:¹⁷⁰

¹⁶⁵ EV288, at [12.3(b)]

¹⁶⁶ Ibid, at [12.3(c)]

¹⁶⁷ Ibid, at [12.3(d)]

¹⁶⁸ Ibid, at [12.3(e)]

¹⁶⁹ EV142, at [7.11]

¹⁷⁰ EV281, at p.15

“However, after hearing evidence and legal submissions we are doubtful of the ability to impose a condition on one NoR that relates to another NoR(s) and that each designation needs to be able to be implemented individually. On that basis we do not consider it appropriate to refer to the sequencing of other NoRs in the conditions. That said, we are of the opinion that the construction traffic effects of the S2 – SH16 widening can be lessened if the equivalent of one lane of through traffic is available in each direction, at all times during construction (excepting the intersections of SH16 Main Road with Access Road and Harikoa Street, where two through lanes are required in each direction to maintain capacity). We have amended the proposed CTMP condition for S2 – SH16 Widening to reflect this”.

274. The Council response therefore incorporated a proposed CTMP condition to reflect this approach for NoR S2, as follows:

(xvi) Maintain road capacity for through traffic, equivalent to one through lane of traffic in each direction, at all times during construction, excepting the intersections of SH16 Main Road with Access Road and Harikoa Street, where two through lanes is required in each direction to maintain capacity.

275. The Reply noted, as referred to above, Mr Phillips’ view that these matters will be addressed the time of the outline plan, *“in an appropriate future context, and can be achieved within the proposed designation footprint”*. On that basis, the Reply advises that the CTMP condition *“for all corridors has been merged as there are no differences”*.¹⁷¹
276. The Panel has considered the respective approaches as between the Council and the SGA. We accept that the provision of a draft CTMP would be of lesser utility than we first envisaged, for the reasons set out by Messrs Mason and Phillips. However, we are of the view that, in light of important through-function served by Main Road, and the lack of a sequencing requirement, that the Council’s proposed objective is appropriate, and provides a greater level of specificity in respect of this route, while leaving the eventual CTMP as the mechanism to resolve how that objective will be achieved. The Panel notes the potential for traffic growth in the locality beyond that which may occur within the FUZ areas, and observes that completion of the northern state highway upgrades (in particular the Warkworth to Wellsford Project) would appear unlikely to significantly affect the existing and future volumes of traffic wishing to access or move through Huapai and Kumeū.
277. We anticipate that the Requiring Authority may consider that existing objectives (i) and (xi) are sufficient to address the issues of concern in this regard. However, the Panel has reached a view that an additional specific objective of this nature is appropriate, and will be complementary to those aforementioned objectives. The Panel is also of the view that while it would not recommend the mandating of a

¹⁷¹ EV288, at p.148

sequencing clause, it does consider that there is some merit in signalling its preference for NoR S1 to commence prior to NoRs S2 (in particular) and S3. It considers that this would be best achieved through an amendment to the NIMP condition, as described below.

Panel findings and recommendations

278. Based on the preceding discussion, the Panel recommends that the general CTMP condition (condition 16) be amended in respect of NoR S2, and that an additional objective, to maintain road capacity for through traffic equivalent to one through-lane in each direction, be included. We have incorporated this objective as clause (ii), to reflect its significance for NoR S2, with some slight amendments to the text. The recommended objective is set out as follows:

(ii) methods to maintain road capacity for through traffic, equivalent to one through-lane of traffic in each direction, at all times during construction, excepting the intersections of SH16 Main Road with Access Road and Harikoa Street, where two through-lanes is required in each direction to maintain capacity:...

279. The Panel also recommends an amendment to clause (b) of the NIMP condition (condition 8) to signal the desirability as to sequencing between NoRs S1, S2 and S3, as follows:

(b) *The objective of the NIMP is to identify how the Project will integrate with the planned transport network in the North West growth area to achieve an effective, efficient and safe land transport system. To achieve this objective, the NIMP shall include details of the:*

(i) *Project implementation approach and any staging of the Project, including ~~both~~ design, management and operational matters; and*

(ii) *Sequencing of the Projects with the planned transport network, including ~~both~~ design, management and operational matters, and whether Designation S1 can practicably be implemented prior to Designations S2 and S3 in order to minimise adverse effects on the operation of SH16 and the Kumeū Town Centre.*

Reviewing the efficacy of management plans

280. A further matter raised by the Panel was in respect to the manner by which the efficacy of the management plans, through their implementation, would be considered, and whether an additional condition would be required in respect of this.

281. The Reply comments in respect of this matter that the following management plans include requirements for reviews and/or updates, “*and recognises the need to be*

adaptive to the management of effects, particularly in terms of noise and transport".¹⁷² The relevant conditions and their provisions are set out below:

- (a) The CEMP will include methods for amending and updating the CEMP as required (condition 12(b)(xiv));
- (b) The CTMP will include auditing, monitoring and reporting requirements relating to traffic management activities (condition 16(b)(x)); and
- (c) The CNVMP will address requirements for review and update (condition 19(c)(xv)).

282. The Reply goes on to say that:¹⁷³

"Other management plans, such as the NUMP, SCEMP and ULDMMP, include requirements for third party involvement. Any concerns regarding the achievement of those objectives can be captured through the development of the management plan. It is only the EMP, TMP and NIMP that do not include some form of internal review process or the involvement of third parties".

283. And further:¹⁷⁴

"Should it be required, a management plan can be updated through either a material change process or a new outline plan process. Additionally, there is also the complaints process and where a complaint is registered and deemed to be valid, this could trigger a review of a management plan".

284. As an associated matter, the Panel was also concerned to ensure that possible impacts on landowners who are not located within a designation, but would nevertheless be affected by it, would be addressed – e.g., in terms of access during the construction period. In this regard, we note that the conditions include the following:

- (a) The objectives of the SCEMP require consideration of *"methods and timing to engage with landowners whose access is directly affected"* (at (b)(viii)). Existing property access is also addressed by condition 11;
- (b) The ULDMMP is required to provide details of *"[i]nterfaces with the operational areas of commercial premises within business zoned land, including loading areas, internal circulation and car parking, where practicable"* (at (e)(v));

¹⁷² Ibid, at [12.8]

¹⁷³ Ibid, at [12.9]

¹⁷⁴ Ibid, at [12.10]

- (c) Consideration of flood hazard effects is required to be undertaken within the catchment and not just within the designation (based on the recommended form of the flood hazard condition (condition 10) as discussed later);
 - (d) Consideration of effects on surrounding land (including residential areas, or, as recommended, residential zones) through the CEMP;
 - (e) Consideration of effects on the wider transport network and property access through the CTMP; and
 - (f) Construction noise and vibration effects are based on occupied properties, whether within the designation or not.
285. Accordingly, the Panel considers that effects on third parties (i.e., those not directly impacted by the designation) will be appropriately safeguarded through both the construction process and subsequent implementation and operation of the projects. Our recommended amendment to the SCEMP, in respect of NoRs S2 and S3, to incorporate provision for the establishment of a hardship fund, is also not limited to those landowners within the designation.

Panel findings and recommendations

286. The Panel accepts the Reply submissions in respect of review provisions, and considers that the specific review-type clauses included in three of the management plan conditions (that do not include third party involvement) are appropriate and sufficient, and notes the safeguards provided for across all the plans through the material-change and complaint provisions. No recommendations are therefore made in respect of this matter.

Management Plan certification

287. The s.42A report recommended that the management plans required to be provided as part of any application for an outline plan should be certified by the Council. This was for the reasons that:¹⁷⁵
- (a) It is general practice for the Council to certify management plans that form conditions of designations;
 - (b) A great deal of reliance is being placed on management plans as the principal method to avoid, remedy or mitigate adverse effects on the environment; and
 - (c) It is important that the Council retains the ability to review any management plan for completeness, and to make changes to the management plans without the need for formal review of the conditions.

¹⁷⁵ Agenda, at pp.56-57

288. Holly Atkins, on behalf of the SGA and who had prepared evidence in respect of the conditions, set out the reasons why she did not agree, noting that she was unaware of the Council “*raising certification as a matter of general practice or suggesting that it would be required for the North West Network Projects before now*”. She went on to comment that:¹⁷⁶
- (a) Certification of management plans has not been imposed for other designations for the SGA Network either confirmed by the SGA (e.g., the Drury Arterial Network) or currently being sought (i.e., Auckland to Botany).¹⁷⁷
 - (b) While it is agreed that the proposed management plans are the principal proposed method for the management of adverse effects, this does not mean that certification of management plans by the Council is required. Further, certification is not required to provide an opportunity for the Council to make changes beyond the statutorily mandated outline plan process.
 - (c) The SGA seeks to rely on the outline plan process to allow for the Council’s review of the management plan content and detail. In that respect, some management plans will need to be prepared in advance of the outline plan process and serve to inform aspects of the content of the outline plan applications. This review process is not, however, the same as a certification process but does provide the Council with the opportunity for input that is sought by the Council’s reporting officers.
289. It was therefore Ms Atkin’s view that:¹⁷⁸

“...I do not consider that requiring certification of the management plans provides any additional benefit beyond what is already provided for by section 176A of the RMA, but does potentially impose a constraint for the Requiring Authority. Through a certification process, the Requiring Authority could potentially be subjected to unnecessary delay as a result of the time required to obtain certification. Given the often dynamic nature of construction projects, I consider that this risk of delay is inappropriate. Given the statutory framework mandates the outline plan process and contains checks and balances where there is disagreement, I consider the risk is unnecessary”.

290. Ms Atkin addressed this issue further in her rebuttal evidence, highlighting that the SGA approach “*is consistent with the two-step approval process where an initial designation is confirmed with a statutorily acknowledged step for the development and refinement of design detail being subject to the outline plan process*”.¹⁷⁹

¹⁷⁶ EV076, at [7.4]-[7.7]

¹⁷⁷ The Auckland to Botany NoRs are now the subject of a decision by the SGA (21 February 2024) that does not include provision for additional certification of management plans.

¹⁷⁸ EV076, at [7.7]

¹⁷⁹ EV077, at [5.5]

291. The exception in SGA's approach is where changes are made to a management plan of a 'material' nature, and under condition 6 which includes the following clause:

(c) If there is a material change required to a management plan which has been submitted with an Outline Plan, the revised part of the plan shall be submitted to the Council as an update to the Outline Plan or for Certification as soon as practicable following identification of the need for a revision;

292. The exception in this regard is for a change to a SCEMP, which under clause (d) is required only to be provided to the Council for information purposes.

293. This form of certification, as proposed for the Strategic NoRs, is then defined within the abbreviation and definition section of the conditions, whereby the material change would be able to be 'deemed' certified where:

(a) The Requiring Authority has received written confirmation from Council that a material change is certified; or

(b) Ten working days from submission of the material change, where no written confirmation or certification has been received.

294. Ms Atkin notes that this provides for an efficient process "*that recognises the complexities and time pressures associated with delivering large infrastructure projects*", as a material change can be certified within ten days as opposed to the 20 days that could be required for an outline plan.

295. The Council response memorandum notes that the various management plans are the principal method proposed to be used to avoid, remedy or mitigate the various adverse effects identified. It comments that while Council officers generally support this approach, it is their "*collective opinion that Council needs to certify these plans at the time that they are lodged with the Council*".¹⁸⁰

296. The memorandum notes the concern of Council officers that a certification process is a method to ensure that the matters set out in the management plans (and adopted as part of the NoR routes selection and confirmation process) have been adopted in the final design process. It states that:¹⁸¹

"Council is not seeking a process of approval, rather the process to certify that the NoR management plan conditions have been met in terms of their content. In our view certification of a management plan is a different process to the OPW process where Council officers are limited to only make "recommended changes" to the RA. Given the importance and primacy of the management plans offered by SGA to address environmental effects, we

¹⁸⁰ EV281, at p.32

¹⁸¹ Ibid, at p.33

are of the view a separate certification process for all of the management plans occurs at the time that they are lodged with the Council”.

297. The Council memorandum advises that, based on its own legal advice, “*if the proposed management plans have not been submitted in draft format as part of the hearing process, then Council is obliged to certify them*”. It goes on to say that it has not blurred the certification process associated with resource consents with the NoR approach, and notes that it is a common practice on many existing Waka Kotahi designations (per Chapter K of the AUP), and that:¹⁸²

“While we have no concern with the management plans being submitted and evaluated at the OPW stage, we are still of the view that certification of the management plans needs to occur as an additional matter alongside the consideration of an OPW”.

298. The Panel notes in this regard that, following a cursory review of Chapter K, that there are existing Waka Kotahi designations (e.g., 6714, 6718 and 6722) that provide for the use of certification in the verification of management plans. However, we are not certain that this approach is widespread, and note the difference of opinion expressed in the evidence of the Council and the SGA in this regard.

299. The SGA’s Reply addressed this matter further, and reiterated the view that “*it would be inappropriate and unnecessary to introduce a certification process into the statutorily mandated outline plan process*”. It highlighted the reasons for that view with regard to the mechanisms under the RMA, which are summarised as follows:

- (a) The aforementioned two-step outline plan process in accordance with s.176A(3)(f), with the management plans being proposed as part of that process. It notes that “*[t]he RMA does not envisage certification through this process and it would be inappropriate to introduce a certification process into the statutorily mandated Outline Plan process*”.¹⁸³
- (b) If the Requiring Authorities decline any of the Council’s recommended changes to the outline plan, then the Council may appeal to the Environment Court. The Reply further observes on this point that:¹⁸⁴

“The Board of Inquiry in the Transmission Gully Proposal considered that this process works well in practice and incentivises parties to resolve matters efficiently. This reflects that when projects are nearing commencement at the Outline Plan stage, parties are in a different mode”.

¹⁸² Ibid, at p.34

¹⁸³ EV288, at [12.13(a)]

¹⁸⁴ Ibid, at [12.13(b)], with reference to the Final Report and Decision of the Board of Inquiry into the Transmission Gully Proposal, June 2012 at [1047]

- (c) A party may seek an enforcement order under s.314(1) of the RMA to cease works or require compliance with a requirement for a designation. In this instance, a breach by the Requiring Authority would make it vulnerable to liability for an offence under s.338.
300. The Reply further noted with respect to the *Transmission Gully* proposal that the Board of Inquiry had determined the use of management plans via the outline plan process to be appropriate, and that this “allows for an integrated design response across the entire roading alignment, with individual certification processes likely to jeopardise the holistic process that a designation process entails”.¹⁸⁵
301. The Reply goes on to state that there is no case law to suggest that certification is a mandatory requirement and expresses the concern that the Council approach seeks to “subsume” the substantive decision-making power that the Requiring Authority has with respect to outline plan processes. It differentiates that position from the certification process that is proposed for those parts of the management plans that sit outside the outline plan process (i.e., Schedules to the CNVMP and where material changes are proposed to a management plan submitted with an outline plan). It concludes by saying that:¹⁸⁶
- “Once a management plan is in place, it is important that the requiring authorities can make rapid changes to those plans if required while also ensuring that there are checks and balances on that process. Requiring certification for material changes achieves those dual objectives without introducing unnecessary bureaucracy or undermining the statutorily mandated Outline Plan process”.*
302. The Panel has carefully considered the competing positions described above. We acknowledge the Council’s position that the management plans have been designed to function as the principal method to avoid, remedy or mitigate adverse effects on the environment. In that regard, we observe that the requirements for the proposed management plans in this case are extensive and provide much greater specificity than is otherwise required by s.176A at the outline plan stage (but in that manner is also reflective of the lapse dates sought and the need to address the environmental context at the time of their implementation). We further note that while the use of management plans are not specifically envisaged by the RMA, their use is also not precluded, as is evident from the precedent designations noted above.
303. The Panel has not reached a unanimous finding on this issue. The majority view held by Commissioners Blakey and Farnsworth is cognisant of the overall scheme of the RMA in relation to designations, and the broad powers that it affords a requiring authority. In that regard they have some concern with an approach that would seek to assign a form of approval that is at odds with the final decision-making functions of a requiring authority. Such an approach, in their view, does

¹⁸⁵ Ibid, at [12.14], with reference to *Transmission Gully* at [1045] and [1049]-[1051]

¹⁸⁶ Ibid, at [12.17]

not sit comfortably with the duty of the Council to make recommendations only in respect of an outline plan, and to do so within 20 working days. Clearly, that is not an absolute power, given the appeal process available to the Council should that prove necessary, along with the two certification exceptions provided within the proposed conditions. However, they consider that it is a clear signal that any amendment to the general presumption should be carefully exercised. Commissioners Blakey and Farnsworth have concluded that it is not necessary in the case of these NoRs to exercise, or so recommend, such an amendment.

304. The minority view held by Commissioner Smith notes that the Strategic NoRs are for projects likely to be implemented two decades or more into the future. He considers that although an impressive amount of work has been carried out establishing the proposed alignment and designation boundaries based on an assumed road design, it has not been possible to establish with any degree of certainty the effects of the implementation of the designation.
305. Out of necessity, because of the extremely long timeframes, and uncertainty in relation to the future environment and the effects of the implementation of the projects for which only a very preliminary design exists, a management plan approach has been established by the proposed designation conditions. This approach is by no means unusual, even for relatively short project timeframes.
306. Commissioner Smith notes that there is agreement between the SGA and the Council that the certification of management plans is the norm for resource consents, but each has acknowledged that certification of management plans for designations is not universal. He notes the Council's point that the outline plan process is not a certification process. Under the former, the Council can recommend changes to the outline plan but the Requiring Authority does not have to adopt the changes. The Council's recourse is by way of an appeal to the Environment Court.
307. In contrast, the purpose of certification is to ensure that a management plan addresses the relevant designation conditions and the Council may withhold certification if it considers those conditions have not been addressed. The Council analysis does not go further than that with certification and sole responsibility for the management of effects remains with the Requiring Authority.
308. Neither the SGA's planning witness, nor their legal advisors, consider certification provides a benefit over and above what is provided for by s.176A. The Requiring Authority's concern with the inclusion of certification is the potential for delays from the involvement of the Council. No evidence was presented on the Council's track record in this regard.
309. Commissioner Smith considers that, given lapse periods of 20 years, the risk of delay from a certification process is likely to have been overstated. If that is a real concern it would be expedient of the Requiring Authority to develop the

management plans well in advance of the date by which they are required to be finalised.

310. If that objection falls away, the main matter in contention is whether the outline plan process can provide an equivalent level of scrutiny to the management plans prepared by the Requiring Authority.
311. Although designation conditions set out the requirements for the management plans, draft plans have not been provided to the Panel. In addition, the preliminary nature of the design of the projects and the long timeframe established by the lapse period for the designations mean that there is no way of determining at this stage what the effects will be (except in a general sense) and whether the management plans finally produced will establish and address those effects.
312. Commissioner Smith therefore agrees with the Council officers that the certification and outline plan processes are quite different and that certification of management plans should occur as an additional matter alongside the consideration of an outline plan. Accordingly, he considers it essential that there be a check on the content of all management plans through a requirement for certification of those plans.

Panel findings and recommendations

313. Overall, the Panel has reached a majority view that having regard to the guidance provided on the point in *Transmission Gully*, and where no contrary authority has been brought to our attention, that the process as sought by the SGA will ensure the relevant issues and effects are appropriately addressed and are able to be resolved in an efficient manner. Statutory safeguards also provide additional surety in this regard. The Panel therefore does not recommend any change to the conditions to require certification beyond that which applies to a Schedule to a CNVMP and where material changes are made to a management plan (excluding a SCEMP). The detail of those provisions are addressed below.

Definition and timeframes for certification

314. This section of our report addresses the variations in the certification definition as between the different condition sets, and the timeframes by which a material change or a change to a CNVMP Schedule is 'deemed' to be certified, and the difference in approach between the Strategic and Local NoRs.
315. We observe that for the Strategic NoRs, the relevant definition in the proposed conditions is simply for 'Certification', whereas in the Local NoRs it is for 'Certification of material changes to management plans and CNVMP Schedules'. This reflects an approach within the conditions whereby a CNVMP Schedule is proposed to be provided to the Council for 'information' only (condition 20(c)) in

the Strategic NoRs,¹⁸⁷ whereas for the Local NoRs it is to be provided for 'certification'. From a further review of the evidence, we could not discern a basis for this difference in approach, other than Ms Atkins' comment in her rebuttal evidence that:¹⁸⁸

"...I note that there is a certification process proposed as part of the conditions and as defined it relates to material changes to management plans and for the [AT] designations Schedules to a CNVMP".

316. The Reply also includes a comment in respect of the conditions that:¹⁸⁹

"Waka Kotahi have a tested and extensive system of internal review and certification for Schedules to a CNVMP. The inhouse experience by Waka Kotahi, complemented with external consultants, ensures that Schedules are produced to a high standard and will be implemented".

317. However, the Reply also includes a comment in respect of the Local NoR conditions to the same effect, highlighting AT's similar experience and expertise.¹⁹⁰ This, then, did not suggest a basis for according Waka Kotahi a different (less rigorous) approach than for the AT's Local NoRs.

318. It therefore remained unclear to the Panel as to why a certification process should not apply to a CNVMP Schedule that is the responsibility of Waka Kotahi, and that its in-house experience and expertise would presumably ensure that certification would not be an unduly onerous process (as for AT). Given the purpose of such schedules, the Panel does not consider it appropriate that these are to be provided for information only. This also applies to 'material changes' to a Schedule via condition 20(d).

319. Because we do not see a logical basis for the difference in approaches, we have recommended the use of a consistent definition for certification across all the NoRs. In this regard we consider that additional text in the Local NoRs is superfluous and given its limited use within the conditions and because we see no obvious reason for two versions across all the NoRs, we have recommended its deletion (noting this does not require a change to the Strategic NoRs version).

320. This addresses a further problem in that the wording for the Local NoRs suggests they relate only to changes to a CNVMP Schedule, rather than the intended certification of the Schedule in the first instance. In our separate report on the Local NoRs we have recommended a change in the order of the relevant words to assist in making this clearer.

321. Returning to the substance of the definition, the Strategic NoR conditions provide for the option of (a) Council certification through written confirmation, or (b) after

¹⁸⁷ The Reply version suggest that the Council has sought 'certification' (see EV288, at p.152), but no change in this regard was noted in the Council response memorandum (see EV281, at p.128).

¹⁸⁸ EV077, at [5.2]

¹⁸⁹ EV288, at p.152

¹⁹⁰ Ibid, at p.173

ten working days the material change is effectively deemed to be certified if no written confirmation is received.

322. The Council response memorandum expressed a concern with respect to the timeframes for 'deemed' certification, where this process may include the need for the Council to commission expert advice. It advised that in terms of (b) "*a response within [undefined] working days is appropriate*".¹⁹¹
323. The SGA Reply version of the conditions opposed this change, stating that:¹⁹²

"The replacement of "written confirmation" with "response" is uncertain and hard to measure. It is standard practice for Waka Kotahi and its contractors to work closely with Council through the construction period to ensure compliance with the management plans and therefore ten working days is considered an appropriate timeframe while ensuring project timeframes are not delayed".

324. We agree that the phrase 'response' is uncertain, and we therefore recommend the retention of the SGA's wording in this regard. We do consider that ten days is potentially tight but we are also cognisant that this will relate to changes to an existing management plan and/or an addition to a CNVMP (Schedule) that has already been assessed through the outline plan process. We have therefore accepted that the ten-day timeframe should be retained in the condition, noting the need for a close working arrangement with the Council during the construction process, as is described in the Reply, to ensure such changes are addressed in an efficient and timely manner. We have also accepted the retention of the five-day timeframe in respect of a 'material change' to a CNVMP Schedule.
325. Because we have found that certification to be appropriate for a CNVMP Schedule, we have deleted the text that provides for any comments from the Manager (Council) to be "considered" by the Requiring Authority prior to implementation.
326. In addition, the Local NoR definition includes a further clause specific to the CNVMP (that was specifically deleted by the SGA for the Strategic NoRs):
- (c) *five working days from the submission of the material change to a CNVMP Schedule where no written confirmation of certification has been received.*
327. Again, this clause is problematic in our view, as it does not relate to the preparation of the CNVMP Schedule in the first instance. While related to the Local NoRs, our review of the various conditions has led us to consider whether a revised version of this clause should be added to the Strategic NoRs. In doing so we have concluded as follows:

¹⁹¹ EV281, at p.102

¹⁹² EV288, at p.119

- (a) The preparation of a CNVMP Schedule for the Strategic NoRs should be subject to certification, as should any material change to such a Schedule;
 - (b) The definition of certification should incorporate changes to a management plan, the preparation of the CNVMP Schedule in the first instance, and any subsequent change; and
 - (c) That it is appropriate to apply a consistent approach between the Strategic and Local NoRs, and this will include the 'Strategic' NoR S4 which is to be administered by AT.
328. We have set out those changes to the respective clauses in our recommendations below.

Panel findings and recommendations

329. On the basis of the above commentary, the Panel recommends the following changes to the definition of Certification and clauses (c) and (d) of condition 20:

Definition – 'Certification'

Confirmation from the Manager that a CNVMP Schedule (or change thereto) or a material change to a management plan has been prepared in accordance with the condition to which it relates.

A CNVMP Schedule (or change thereto) or a material change to a management plan shall be deemed certified:

- (a) *where the Requiring Authority has received written confirmation from the Council that the CNVMP Schedule or the material change to the management plan is certified; or*
- (b) *ten (10) working days from the submission of the CNVMP Schedule or the material change to the management plan where no written confirmation of certification has been received; or*
- (c) *five (5) working days from the submission of a change to a CNVMP Schedule where no written confirmation of certification has been received.*

Condition 20

...

- (c) *The Schedule shall be submitted to the Manager for information certification at least five (5) working days (except in unforeseen circumstances) in advance of Construction Works that are covered by the scope of the Schedule and shall form part of the CNVMP. ~~If any comments are received from the Manager, these shall be considered by the Requiring Authority prior to implementation of the Schedule; and~~*

- (d) *Where material changes are made to a Schedule required by this condition, the Requiring Authority shall consult the owners and/or occupiers of sites subject to the Schedule prior to submitting the amended Schedule to the Manager for information certification in accordance with (c) above. The amended Schedule shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.*

Other management plan changes

330. This section addresses particular changes to the management plans to address general or specific matters of contention, where these have not been discussed elsewhere.

ULDMP

331. We noted during the hearing that the wording of those land features to be reinstated suggested that the identified features should not be cast as an exclusive list. This was on the basis of examples highlighted by submitters with respect to site-specific features such as boundary walls, as well as utilities such as water tanks or wastewater disposal fields. The Reply has advised that this has been amended to provide “*broader wording of ‘reinstatement of features to be retained’, followed by a list of examples*”.¹⁹³ The change to condition 9(f)(iii) was as follows:

- (i) *Reinstatement of construction and site compound areas, ~~driveways, accessways and fences~~;*
- (j) *Reinstatement of features to be retained such as:*
- a. boundary features;*
- b. landscaping;*
- c. driveways;*
- d. accessways; and*
- e. fences.*

332. The Panel considers that while the above list is cast as ‘un-exclusive’, we consider that the inclusion of “site utilities”, to incorporate the types of features noted above, would be appropriate for the avoidance of any doubt in the future. Accordingly, we have added “site utilities” (as clause f) to the ULDMP conditions.

333. On review of the detailed specifications component of the ULDMP landscape conditions at clause (g)(iii), the Panel also recommends the inclusion of “irrigation” and “plant replacement (due to theft of plants dying)”, and these have been added to the Panel’s recommended changes to the ULDMP conditions accordingly, as

¹⁹³ Ibid, at [24.3]

follows:

(iii) *detailed specifications relating to the following:*

...

f. irrigation; and

g. plant replacement (due to theft or plants dying).

SCEMP (and Definitions)

334. The SGA advised at the hearing that the SCEMP condition was to be updated to require this to be provided to the Council ‘for information’ with an outline plan. This responded to the JWS that had suggested the SCEMP be provided as part of an outline plan, rather than just ten days prior to the start of construction. The Reply advises that this approach can be further improved, so that the identification of stakeholders and engagement methods must take place at least six months prior to detailed design, with a record of these matters then submitted at the outline plan stage. This is noted to be better aligned “*with the preparation of the ULDMP, and will occur before the other management plans are prepared*”. Clause (c) to the condition then requires that the SCEMP “*shall be submitted to the Council for information*”. In this way it has been proposed that “*it is the record of those matters that is to be provided at the outline plan stage, and not the SCEMP itself, which will be provided separate to the Outline Plan process and prior to the start of construction*”.¹⁹⁴
335. A corresponding amendment has been proposed to the CEMP (condition 12), to include an explicit requirement to respond to matters raised in through the SCEMP engagement process, so that the CEMP condition is amended to read (at (b)):
- “... *the CEMP shall include:*
- ...
- (xii) *summary of measures included to respond to matters raised in engagement, if not already covered above;*
- ...
336. The Reply also notes that while the Ministry of Education sought specific inclusion of ‘educational facilities’ within the SCEMP, this has been refined to incorporate this activity within the definition of ‘Stakeholders’.
337. With respect to the identified list of Stakeholders, the Panel notes that two separate lists have been prepared, with a separate one for NoR S3 to include ‘emergency services’. Because the definition is not an exclusive list, we do not consider that two separate lists are warranted, and so we recommend that they are combined.
338. The aforementioned amendments described in the Reply are accepted, although the Panel has asked itself about the purpose of providing a SCEMP to the Council

¹⁹⁴ Ibid, at [24.8]

simply for information. However we consider that knowledge of the matters addressed in the SCEMP will assist the Council, in its assessment of the outline plan, to understand the process proposed through the SCEMP in its consideration of other management plans, and in particular the ULDMP.

NUMP

339. The Panel heard from witnesses for Spark New Zealand Trading Limited who raised concerns about potential effects of the Projects on the 'Southern Cross International Cable', and in respect of the NUMP condition (as applicable to NoRs S1 - S3). In response, the Reply advised that this condition has been changed to just refer to the 'International Cable'. More substantively, the SGA also proposed a change to the NUMP condition in order to ensure that there will be a record of engagement with network utility operators, "*including details of the opportunities considered to co-ordinate the forward work programme with network utility facilities*".¹⁹⁵ The change to condition 23 was proposed as follows:

The Requiring Authority shall consult with Network Utility Operators during the detailed design phase to consider 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 NUMP.

~~*The development of the NUMP shall consider opportunities to coordinate future work programmes with other Network Utility Operator(s) during detailed design where practicable.*~~

340. The Reply goes on to advise of a change to the definition of 'North West growth area', "*which is used in the NUMP*".¹⁹⁶ This was proposed to be in response to the Council's recommendation to include live-zoned areas and to remove a reference to the 2023 version of the AUP, to ensure that future plan changes are appropriately captured. The Panel endorses this change to the definition, but notes that it is not actually referenced in the NUMP condition. We have considered whether inclusion of the definition within the condition would be warranted (in case of any issues arise from such an oversight) but have concluded that it would not.

Panel findings and recommendations

341. The Panel generally accepts the changes made to the abovementioned management plan conditions for the reasons set out in the Reply and as summarised above. We recommend, however, the following further amendments (relative to the conditions set out in the SGA's Reply version):
- (a) For the ULDMP condition, at 9(f)(iii):

¹⁹⁵ Ibid, at 24.18]

¹⁹⁶ Ibid, at [24.18(a)]

- j. *Reinstatement of features to be retained such as:*
 - a. *boundary features;*
 - b. *landscaping;*
 - c. *driveways;*
 - d. *accessways; ~~and~~*
 - e. *fences; and*
 - f. *site utilities.*

(b) For the ULDMP condition, at (g)(iii):

(iii) *detailed specifications relating to the following:*

...

f. irrigation; and

g. plant replacement (due to theft or plants dying).

(c) For the Definitions section, we have recommended combining the two separate lists of Stakeholders into one.

Effects of stormwater and flooding

342. The effects of stormwater and flooding were of concern to a number of submitters, particularly within the Kumeū-Huapai area in light of the weather events in August 2021 and in early 2023. All five Strategic NoRs (and the North-West NoRs generally) incorporate a specific 'Flood Hazard' condition (condition 10) that sets out particular flood risk outcomes to be achieved by the projects. The Council's s.42A report provided a detailed analysis of the submission points, and the advice received from the Council's stormwater and flooding specialists, including from its Healthy Waters department, and the changes to the condition proposed by Healthy Waters.¹⁹⁷
343. At the time of the hearing this condition was as follows (with underlining denoting the SGA's recommended amendments to the lodged version):¹⁹⁸

- (a) *The Project shall be designed to achieve the following flood risk outcomes:*
 - (i) *no increase in flood levels in a 1% AEP event for existing authorised habitable floors that are already subject to flooding or have a freeboard less than 150mm;*
 - (ii) *no more than a 10% reduction in freeboard in a 1% AEP event for existing authorised habitable floors with a freeboard of over 150mm;*

¹⁹⁷ Agenda, at p.119

¹⁹⁸ EV076, Attachment A

- (iii) no increase in 1% AEP flood levels for existing authorised community, commercial, industrial and network utility building floors that are already subject to flooding;
 - (iv) no more than a 10% reduction in freeboard in a 1% AEP event for existing authorised community, commercial, industrial and network utility building floors;
 - (v) no increase of more than 50mm in flood level in a 1% AEP event on land zoned for urban or future urban development where there is no existing dwelling;
 - (vi) no new flood prone areas; and
 - (vii) no more than a 10% average increase of flood hazard (defined as flow depth times velocity) for main access to authorised habitable dwellings existing at time the Outline Plan is submitted. The assessment shall be undertaken for the 50%, 20%, 10% and 1% AEP rainfall events.
- (b) Compliance with this condition shall be demonstrated in the Outline Plan, which shall include flood modelling of the pre-Project and post-Project ~~100-year ARI~~ 10% and 1% AEP flood levels (for Maximum Probable Development land use and including climate change).
- (c) Where the above outcomes can be achieved through alternative measures outside of the designation such as flood stop banks, flood walls, raising existing authorised habitable floor level and new overland flow paths or varied through agreement with the relevant landowner, the Outline Plan shall include confirmation that any necessary landowner and statutory approvals have been obtained for that work or alternative outcome.

344. The SGA's opening submissions noted that this condition is largely consistent with the suggestions provided by Healthy Waters and those recommended in the s.42A report.¹⁹⁹

345. The evidence of Michael Summerhays for the SGA in respect of stormwater and flooding described the overall intent of the above conditions, as follows:²⁰⁰

“32.3 The conditions will require flood modelling of the pre- and post-Project geometry for the 50%, 20%, 10% and 1% AEP rainfall event (for MPD land use including climate change). The project will then need to be designed to include measures that achieve the Outcomes, and compliance with the Outcomes condition will need to be demonstrated in the Outline Plan.

32.4 The potential construction phase flooding effects will be appropriately managed through the consideration of flooding in the proposed CEMP developed prior to the construction phase along with the proposed

¹⁹⁹ EV001, at [10.80]

²⁰⁰ EV060

added clause (methods to mitigate flood hazard effects such as siting stockpiles out of floodplains, minimising obstruction to flood flows and actions to respond to warnings of heavy rain).

32.5 To improve flexibility in how the flooding effects are managed, the proposed designation condition also allows the use of alternative measures outside of the proposed designation - such as flood stop banks, flood walls and overland flow paths, provided that this can be agreed with the affected property owner and any resource consents are obtained. To allow for further flexibility, an amendment to the condition also allows for alternative outcomes to be considered with the agreement of the affected landowner”.

346. It was Mr Summerhay’s conclusion that the conditions “*provide sufficient protection for existing buildings and property with future design and modelling being required to demonstrate achievement of these conditions*”.²⁰¹

347. The Panel notes that while NoR S2 had originally incorporated provision for the raising of Main Road relative to its current level, to minimise the vulnerability of this key arterial route from future flood events, this no longer formed part of the NoR by the time of the hearing. Mr Summerhays stated as part of his evidence in this regard that:

“As noted above raising the elevation of the SH16 will exacerbate existing flooding issues in Kumeū town centre. To reduce the effects of flooding to be consistent with the pre-Project scenario the vertical alignment of SH16 could be maintained at the existing level, although not ideal from a flood resilience aspect. Leaving SH16 at the current level SH16 will still overtop between Kumeū River Bridge and Access Road as it currently does, thus maintaining pre Project flooding”.

348. While Mr Summerhays statement above suggested a level of uncertainty as to whether the road would be lowered or not, this was confirmed through the SGA’s opening submissions.²⁰²

349. The Panel heard from a number of submitters who were concerned about how flood hazards will be adequately managed, and some submitters are particularly concerned about flooding in the Kumeū-Huapai area.

(a) Christopher Penk, MP for Kaipara ki Mahurangi, spoke to his submission as to concerns regarding the SGA’s flooding assessment, and advised of his view that the Project should be designed to achieve the following flood risk outcomes.²⁰³

²⁰¹ Ibid, at [33.5]

²⁰² EV001, at [10.25]

²⁰³ Sub-Vol 2 at pp.48, 337, 643, 1093, 1255 and 1358

- (i) no increase in flood levels for existing authorised habitable floors that are already subject to flooding;
 - (ii) no more than a 10% reduction in freeboard for existing authorized habitable floors;
 - (iii) no increase of more than 50mm in flood level on land zoned for urban or future urban development where there is no existing dwelling;
 - (iv) no new flood prone areas; and
 - (v) no more than a 10% average increase of flood hazard (defined as flow depth times velocity) for main access to authorised habitable dwellings existing at time the Outline Plan is submitted.
- (b) Louise Johnston, the Deputy Chair of the Local Rodney Board, expressed concern about the flood hazards in both Kumeū and Huapai especially after the continuing flood events in the area.²⁰⁴
- (c) Michael Campbell, for Kāinga Ora, expressed a planning view that, drawing support from AUP Policy E36.4.1(21), “*flooding effects of a project or development should be managed by the project itself, and that flooding to a neighbouring property should not be increased by a proposal*”.²⁰⁵ He advised of his support for Mr Scott’s proposed flood condition which includes a requirement to generate no loss in overland flow path capacity, unless provided by other means, and no new flood prone areas.²⁰⁶
- (d) David Haines, for three joint submitters,²⁰⁷ in addressing the compounding effects of delaying implementation of the NoRs, noted:²⁰⁸
- “Kumeu – Huapai’s flooding concerns remain. They are significant and are dependent on implementation of the Kumeu River floodway project, which was proposed in 2005, subsequently aborted and now reportedly the subject of further modelling. The indeterminate timeframe for resolving this issue adds a further complication for the Busway RTC component of the North West Package.”*
- (e) Graham McIntyre for Country Living Realty Limited told us the floods of: 31 August 2021; 27 January 2023 and 12 February 2023 (Cyclone Gabrielle) have continued to affect the resilient people of Kumeū and Taupaki, through repair, recovery and insurance companies removal of flood cover, and a landscape that has changed. He was of the view that:²⁰⁹

²⁰⁴ EV112 at [4]

²⁰⁵ EV179, at [7.35]

²⁰⁶ EV179 at [7.36]

²⁰⁷ Atlas Concrete Limited; Steve & Sofia Nuich Trustee Limited and S. Nuich & I. Selak & S.A. Nuich & Gibson Nominee Limited

²⁰⁸ EV259 at [22]

²⁰⁹ EV114, at p.1

“If a rapid transit corridor is to be located through a recognised flow path and flood plain, and follow the standard planning requirements of Auckland Council it should be bridged to ensure no restrictions impacting upstream or downstream properties.”

- (f) Peter Sinton, for Price Properties Limited (the site a 329 Main Road), expressed concerns centred on flooding and noted:²¹⁰

“Kumeu township and the proposed Town Centre are the only commercial industrial land built or proposed in the flood plain in the north west. With the flooding events, I believe the Auckland Council has to investigate and solve the stormwater and flooding issues first before granting any further infrastructure or Town Centre concepts. The NoR for roading intended to service that new Town Centre has to follow that process.”

- (g) Vaughan Martin, for Future Kumeū Inc, provided a brief of expert evidence that addressed flooding, and advised of his view that a significant flood hazard exists in the Kumeū township and surrounding areas. His evidence outlined a number of issues including:²¹¹

“I see a fundamental flaw in the rationale of the Requiring Authorities, and (to some extent) Auckland Council, in promoting further urban development, including a new town centre and associated transport connections, through a floodplain.”

He considered that the assessment provided by the SGA does not refer to any form of model calibration to observed events, and that he considered this to be a critical component of a fit-for-purpose hydraulic model, and should have been undertaken as part of the SGA’s assessment. In his view, *“the SGA report does not provide sufficient detail to demonstrate that the design criteria set by SGA will be capable of being met”*.²¹²

- (h) The planning evidence of Hamish Firth (also on behalf of Future-Kumeū Inc), noted the need for further engagement between the SGA and Healthy Waters in the preparation of detailed analysis as to the future of the FUZ zone in the Kumeū-Huapai area, and the coordination between further outline plans and possible structure planning.²¹³ He was also critical of the increased flood level allowances within the flood hazard condition outcomes which appeared contrary in his view to the Council’s Stormwater Code of Practice and the AUP standards for permitted activities within a 1% floodplain (Rule E36.6.1). In this regard he observed that:²¹⁴

²¹⁰ EV134, at [3.15]

²¹¹ EV143 at [11]

²¹² Ibid, at [44]

²¹³ EV144, at [1.7]

²¹⁴ Ibid, at [4.13]

“The proposed outcomes also allow a leniency under the Outline Plan process in favour of SGA, that is not afforded under the permitted activity standards AUP(OP) for private landowners/development which require roads, parking and vehicle entry/exits in no more than 200mm of flood water in a 1%AEP storm event, of 500mm as a controlled activity (with vehicles restrained)”.

350. We note that part of the concerns, as expressed by Future-Kumeū Inc and other submitters in or proximate to Kumeū arose from the original proposal to elevate Main Road to minimise the vulnerability of this road from future flood events. As we have noted previously, the SGA amended the NoR so that this change to road level was no longer proposed.
351. Mr Summerhays responded to the above witnesses in his rebuttal evidence. In particular, he confirmed that in his view, sufficient modelling has been carried out to support the NoRs and the flood risk outcomes stated in the flood hazard condition. He noted that this condition requires further modelling to be carried out to confirm compliance with the flood risk outcomes, and that this is appropriate as part of a two-stage process (i.e., notice of requirement and outline plan stages).²¹⁵
352. He also referenced the use of the same conditions in the Airport to Botany NoRs, and noted that the conditions were (at that stage) supported by Healthy Waters, and were in his view appropriate.²¹⁶
353. The response memorandum by Lee Te and Danny Curtis of Healthy Waters outlined their general concerns with the conditions in respect of NoRs S2 and S3 as follows:²¹⁷

“In general, Healthy Waters supports the SH16 and Main Road NoRs; however, the implementation of any project will need to limit any impacts on the existing floodplains and buildings, whilst recognising the development potential of the current [FUZ] downstream of the project. Detailed flood modelling of the proposed road vertical and horizontal alignment is required, including bridge, culvert and the proposed stormwater management of the project itself. This will allow for potential effects on flooding to be quantified and refined through the design process.

“Due to the current NoRs application having only concept design data available and acknowledging that changes to the design will occur as more site-specific information becomes available through the development process, it is critical that appropriate conditions are in place to quantitatively assess flood impacts within this specific location”.

354. They also noted that the comparison by Mr Summerhays with the Airport to Botany

²¹⁵ EV061, at [3.6]

²¹⁶ Ibid, at [3.10]

²¹⁷ EV281, at p.65

and Drury NoRs was not valid, because:²¹⁸

“In both of these cases the 1% AEP floodplain is contained by topography such that a 50mm increase in flood level would generally have little effect on the overall floodplain extents; however, for Kumeu and Huapai the 1% AEP floodplain is extensive and a 50mm increase in flood depth may result in a large increase in floodplain extents”.

355. The changes proposed by Ms Tee and Mr Curtis include amendments to all seven flood risk outcomes, and adds two more, and sets out more detailed compliance provisions within the outline plan -related provisions. It also includes additions to condition (c) (alternative measures), and a new clause (d) to require that “[t]he capacity of the designation’s stormwater management network to drain surface water from private properties shall not be reduced or if reduced is appropriately accommodated by other means”. Two advice notes are also proposed specifying consultation requirements between the Requiring Authority and Healthy Waters. The memorandum goes on to state in terms of their recommended changes to the proposed conditions that:²¹⁹

“We have recommended changes to conditions to include consultation with Healthy Waters (or its equivalent), as it is important to have up to date site-specific information for flood modelling, Healthy Waters continually investigate areas at risk of flooding and are familiar with the catchment specific details of different areas, this will ensure an integrated stormwater management approach. Additionally, there are different methods and details used in flood modelling, we need to ensure the flood modelling at the detail design stage has essential details that will make the information accurate and comparable to other assessments that are not part of this project. It will also give confidence that the flood hazard outcomes in the Flood Hazard conditions will be achieved”.

356. The SGA’s Reply acknowledged the concerns of submitters in this regard, and stated that following lodgement of the NoRs, the recent flood events were tested in the base case model. Mr Summerhays’ evidence advised that the January 2023 event exceeded the runoff and flooding compared to the 1% AEP future scenario with climate change of 2.1° for the Kumeū catchment but was slightly lower for the other three catchments. He also noted that this event had been assessed by the Council as being in the order of a 250-year return period storm and was the largest recorded to date.²²⁰ He went on to say:²²¹

“Many of the current catchment flooding problems require catchment-wide responses and the integration of plans from many different organisations. As noted above Auckland Council is understood to be investigating flood

²¹⁸ Ibid

²¹⁹ Ibid, at p.66

²²⁰ Ibid, at [30.17]

²²¹ Ibid, at [30.18]

reduction options and my understanding is that the future project team would work with Auckland Council to achieve that, if not already completed before the Project commences”.

357. The Reply stated that while the conditions proposed at the opening of the hearing were largely consistent with the suggestions provided by Healthy Waters and recommended in the s.42A report, questions had been raised subsequently during the hearing from both submitters and the Council. It noted that the changes proposed by Healthy Waters were extensive, and so were addressed separately at Appendix A to the Reply.
358. The Reply version of the conditions retained the original wording presented at the hearing, with one addition, being to one of the flood hazard outcome requirements at clause (a), as follows:
- (ii) *no more than a 10% reduction in freeboard in a 1% AEP event for existing authorised habitable floors ~~with a freeboard of over 150mm~~ to maintain a minimum freeboard of 150mm;*
359. This change was to address a query from the Panel to ensure that it is clear that the stipulated freeboard is a minimum threshold. A change has also been made to the definition of ‘flood prone area’ (as a preamble to the flood hazard condition) to align with Auckland Council’s Geomaps.
360. The Reply addressed the substance of the changes sought by Healthy Waters in some detail, as well as the flood-related issues raised by Future-Kumeū Inc, and we summarise the basis for the Requiring Authorities’ general rejection of those changes as follows:²²²
- (a) The use of 150mm freeboard as the “threshold” for allowing flooding effects, being an issue of concern to Andreas Roa (for Yvonne and Gayo Vodanovich) and the Council, was the level proposed initially by Healthy Waters. The SGA does not propose to amend this freeboard level.
 - (b) Subsequent to the Council/Healthy Waters change in position, the SGA has not been able to complete the technical analysis required to confirm that Healthy Waters’ revised stance is workable, but that work is continuing.
 - (c) The SGA will therefore await the Panel’s recommendation and continue its technical analysis, and look to incorporate both of these into its decision on these NoRs to the extent that it is practicable and appropriate to do so.
 - (d) In terms of the appropriateness of allowing for any increase in flood risk, in light of AUP requirements to this effect (Chapter E36), as raised by Mr Firth, and the Council’s proposed amendments to clause (a)(v) to require no increase in the 1% AEP levels (except within a well-defined stream cross-

²²² EV288, at [15.5] – [15.13]

section and will not increase flood plain extent), the Reply states that “*the RMA is not a no-effects statute, and there is no statutory requirement to have zero adverse effects*”. It further added that there is no requirement to comply with the AUP’s permitted activity standards as part of a notice of requirement.

- (e) The Reply explains the ramifications of incorporating a requirement for no increase in flood risk in all locations, and describes the potential for adverse consequences in terms of bridge design spans and the ability to integrate these with adjacent land use. It goes on to say:²²³

“It is also important to recognise that the flood conditions do not work in isolation and need to be considered in their totality. While a 10% reduction in freeboard and a 50mm increase in flood level are allowed for in clauses (ii), (iv) and (v), in many cases the other clauses will work to set a lower limit on the level of increased flood risk that can be tolerated. In particular, clauses (a)(i) and (iii) set out more restrictive provisions for areas that are already subject to flooding.

The increases in flood risk allowed for under the proposed conditions are minimal. As explained by Mr Summerhays, a 50mm increase in flood water level would be considered negligible, and it is also an accepted average value for large transport infrastructure projects and was accepted by Auckland Council in its Section 42A reports on the projects. We also note that these matters will be subject to additional scrutiny at the resource consenting phases to come”.

361. In terms of other specific changes proposed by Healthy Waters, Annexure A to the Reply states as follows:

- *“In relation to overland flow paths in (vi) and (vii), Waka Kotahi has no control over existing overland flow paths on private property and cannot be responsible for diverting them away from private properties. No new overland flow paths would be created, and as such (vi) is unnecessary. Further, the requirement for “no new flood prone” areas address the Council’s proposed amendments to clause (vii), as there will need to be sufficient flood capacity and overland flow paths to avoid creating any new flood prone areas.*
- *Controlling flooding around dwellings is already addressed by (i) to (iv) and therefore the proposed (ix) is unnecessary. It is also important to note that a reference to the 10% AEP event is unnecessary because the 1% AEP is the worst-case event.*

²²³ Ibid, at [15.14] – [15.15] (footnotes omitted)

- *The changes to (b), (c) and (d) are not required as they are already covered by the other clauses or the project modelling that will already be undertaken”.*

362. As part of the Panel’s request for further commentary on other matters as set out in its Direction 8, it invited the SGA to provide an update as to any further work undertaken in respect of flooding matters and/or further discussions with Healthy Waters. The SGA’s supplementary memorandum advised in this regard that the results of further flood map results had been shared with Healthy Waters, and on the basis of that further changes have been made to the flood hazard condition. These are summarised as follows:²²⁴

- (a) Clause (a)(i) is altered to refer to 500mm instead of 150mm, to ensure “*no increase in flood levels in a 1% AEP event, for existing authorised habitable floors that have a freeboard less than 500mm*”.
- (b) As a result of the above change (with a commitment to maintaining the 500mm freeboard), clause (a)(ii) is deleted.
- (c) Clause (a)(iii) is altered to refer to 300mm to ensure “*no increase in 1% AEP flood levels for existing authorised community, commercial, industrial, and network utility building floors that have a freeboard less than 300 mm*”.
- (d) For a similar reason to (b) above, clause (a)(iv) is deleted.
- (e) Clause (a)(v) is changed to require:

Maximum of 50mm increase in water level in a 1% AEP event outside and adjacent to the designation boundaries between the pre and post Project scenarios:

This is to ensure “*that flood effects will be limited to a very short distance upstream and downstream of the designation boundary before returning to pre Project flood levels*”.

- (f) Clause (a)(vii) is amended to ensure that that it is specific to vehicle access and to clarify the definition of Flood Hazard.
- (g) In clause (b) the 10% AEP event is removed to be consistent with the 1% AEP event used throughout the condition set. This is because “*[a]s the 1% AEP event is a more severe event than the 10% AEP event, including the 10% AEP event is unnecessary*”.

363. The Reply advised that discussions with Healthy Waters are ongoing, including presenting the results of the mapping and changes to conditions, and that the SGA

²²⁴ EV289, at [7.3]

*“will update the Panel in the new year if any agreements can be reached”.*²²⁵ However, and in the interim, the SGA also considered that *“its proposed condition wording adequately responds to flood risk and it does not support the amendments proposed by Healthy Waters”.*²²⁶ The Panel notes that no further updates were received prior to our closing of the hearing on 23 January 2024, and we have considered these conditions on the basis of the versions before us at that time.

364. The Panel has carefully considered the competing position between the SGA and Healthy Waters in respect of the flood hazard condition. We are, however, concerned that it is dealing with a highly technical matter and one that has significant potential consequences in the event that flood hazard management is not undertaken to the appropriate and necessary standard. We recognise the expert evidence presented in this regard that underpins the SGA’s preferred set of conditions but are also cognisant of Healthy Waters’ expertise in the management of flooding issues on a region-wide basis, and the issues they have highlighted with the SGA’s proposed condition. On this basis we have decided that we favour what appears to us to be the more precautionary approach advanced by Healthy Waters, and therefore recommend the adoption of their preferred conditions. This has been a somewhat complicated exercise because their amendments are based on an earlier version of the conditions, and before the SGA committed to provide for 300mm/500mm minimum freeboards in their supplementary memorandum. However, we have adopted the following changes sought by the SGA variously noted in their Reply and response memorandum:

- A requirement to maintain a minimum freeboard of 500mm (clause (b)(ii));
- Acceptance that reference to 10% AEP events are unnecessary, because 1% is also required to be modelled and this is the worst case event;
- Acceptance of inclusion of the flood hazard definition parameters (clause (b)(xi)); and
- Deletion of the additional text at the end of (c) submission of modelling to the Council/Healthy Waters) as this is unnecessary because it is captured by the text added to the end of (b).

365. We note the advice of the SGA that the parties are continuing to work closely on this issue, and that further discussions in that regard will no doubt inform the Requiring Authority’s final decisions-version of the condition.

Panel findings and recommendations

366. For the reasons set out above, the Panel finds that the Healthy Waters version of the conditions is generally preferred, subject to the amendments noted above to reflect the further work undertaken by the SGA since the Healthy Waters final review. The following changes, relative to the SGA supplementary memorandum

²²⁵ Ibid, at [7.4]

²²⁶ Ibid, at [7.5]

version,²²⁷ being an evolution of what was provided with the Reply, is recommended for condition 10 as follows:

- (a) *The Project shall be designed to achieve the following flood risk outcomes:*
- (i) *no increase in flood levels in a 1% AEP event for existing authorised habitable floors that are already subject to flooding or have a freeboard of less than 500mm, within the designation or upstream or downstream of the designation;*
 - (ii) *no more than a 10% reduction in freeboard in a 1% AEP event for existing authorised habitable floors with a freeboard of over 500mm (to maintain a minimum freeboard of 500mm), within the designation or upstream or downstream of the designation;*
 - (iii) *no increase in 1% AEP flood levels for existing authorised community, commercial, industrial and network utility building floors that are already subject to flooding or have a freeboard of less than 300mm within the designation or upstream or downstream of the designation;*
 - (iv) *no more than a 10% reduction in freeboard in a 1% AEP event for existing authorised community, commercial, industrial and network utility building floors with a freeboard of over 300mm (to maintain a minimum freeboard of 300mm) within the designation or upstream or downstream of the designation;*
 - (v) *no increase in a 1% AEP flood level, except where the increase in level occurs within a well-defined stream cross-section and the increase will not increase the flood plain extent;*
 - ~~(vi) Maximum of 50mm increase in water level in a 1% AEP event outside and adjacent to the designation boundaries between the pre and post Project scenarios;~~
 - (vi) *existing or new overland flow paths shall be diverted away from private properties and discharge to a suitable location so that there is no increase in flood levels in a 1% AEP event downstream. Overland flow paths shall be kept free of obstructions;*
 - (vii) *no new flood prone areas;*
 - (viii) *no increase of flood hazard for main vehicle or pedestrian access to authorised habitable dwellings existing at time the Outline Plan is submitted. The assessment shall be undertaken for the 1% AEP rainfall event.*

Where Flood Hazard is:

- *velocity x depth > = 0.6 or*
- *depth > 0.5m, or*
- *velocity >2m/s.*

²²⁷ Ibid, at [7.3]

- (b) Compliance with ~~this condition (a)~~ shall be demonstrated in the Outline Plan, which shall include flood modelling of:
- (i) the pre-Project and post-Project 1% AEP flood levels (for Maximum Probable Development land use and including climate change);
 - (ii) proposed horizontal and vertical alignments of the road design;
and
 - (iii) all stormwater, drainage and mitigation infrastructure proposed to service the road construction.

This modelling shall be submitted to Auckland Council Healthy Waters (or its equivalent) for review and confirmation that it can adequately demonstrate compliance with the condition.

- (c) Where the above outcomes can be achieved through alternative measures outside of the designation such as flood stop banks, flood walls, raising existing authorised habitable floor level and new overland flow paths or varied through agreement with the relevant landowner, the Outline Plan shall include confirmation that any necessary landowner and statutory approvals have been obtained for that work or alternative outcome.
- (d) The capacity of the designation's stormwater management network to drain surface water from private properties shall not be reduced or if reduced is appropriately accommodated by other means.

Advice Notes:

- (i) For the Strategic Network, due to the extensive flooding known to occur within Kumeū – Huapai, the linear nature of the designation, and the potential timeframe between granting of the designation and construction it is required that the Requiring Authority confirms an appropriate modelling with Auckland Council Healthy Waters (or its equivalent) when commencing the detailed design. This will ensure compliance with any relevant National and Regional Codes of Practice and specifications are complied with.
- (ii) Consultation with Auckland Council Healthy Waters (or its equivalent) to identify opportunities for collaboration on catchment improvement projects shall be carried out at the detailed design stage.

367. As an associated minor matter, we have also removed the definition for 'ARI' (Annual Recurrence Interval) as this is not a term that is subsequently used in the flood hazard condition itself.

Relocation of the Kumeū town centre

368. A further particular aspect of flooding effects was the somewhat wide-ranging submission and evidence from Future-Kumeū Inc. Future-Kumeū Inc was in favour of the ASH (NoR S1), and that it be given priority status, but sought that the other

four Strategic NoRs be withdrawn.²²⁸ They were critical of the promotion of further urban development, including a new town centre and associated transport connections, within a flood plain area, and John Francis' evidence was that "*any live zoning should be deferred pending further investigation into the potential effects of flooding and climate change*".²²⁹ Craig Walker's corporate evidence for Future-Kumeū Inc proposed that the town centre and the NoR S3 (RTC) should be on the other side of the railway line on higher ground.²³⁰ He noted that Future-Kumeū Inc had prepared a concept plan of how this would work (where the RTC would connect to the ASH).

369. These issues also related to the matters raised in terms of the consideration of alternatives. However, in terms of flooding, the evidence of Mr Daly for the SGA advised that a focus of the flood effects assessment for the NoR S2 corridor was to ensure "*that additional flood effects are not created as a result of the North West Strategic Projects and any increased flooding is managed to achieve the flood outcomes identified in the proposed flood hazard condition*".²³¹

370. He also stated with respect to the expansion of the Kumeū town centre that:²³²

"...whilst the corridor will integrate with this initiative, the SH16 upgrade is not dependent on a change in zoning from Business Industrial to Town Centre. The objective of the NOR is (amongst other things) to support connectivity within Kumeu-Huapai, where there are a variety of zones along the SH16 corridor, and to integrate with the existing and future transport network. The proposals for the future transport network are not dependent on the expansion of the town centre and its location is a matter to be determined by others, outside of this process..."

371. Mr Daly also observed that the proposed Kumeū Station (NoR KS) is located out of the flood plain, while the surrounding town centre has limited areas covered by flood plains, and that this compares with the Alternatives Assessment²³³ where station options were discounted due to their locations inter alia within a flood plain. The proposed Kumeū Station is also not proposed to be located in the area identified for an expanded town centre within the Council's Spatial Strategy.²³⁴

372. The legal submissions of Mr Cameron for Future-Kumeū Inc noted that this organisation was established in November 2022 "*by a steering group of likeminded Kumeū property owners*".²³⁵ We were not appraised of its overall membership, but have considered it to represent but one component of the Kumeū community, and we have not accorded its views any greater significance than those of other individuals or businesses in the locality. We note in this regard the evidence of Ms

²²⁸ E.g., EV138, at [11.3]

²²⁹ EV140, at [28]

²³⁰ EV141, at [29]

²³¹ EV008, at [8.28]

²³² Ibid, at [8.30]

²³³ North-West Strategic Alternatives Assessment, at section 7.6.4

²³⁴ EV008, at [8.43] and [8.44]

²³⁵ EV138, at [1.3]

Connelly, a resident of the area, who noted that no consultation with the local community had been carried out by Future-Kumeū Inc on their proposed routes or zoning, and that their views do not necessarily represent those impact by their proposal, or the wider community.²³⁶

373. The Council response memorandum provided some additional commentary with respect to the Spatial Strategy (referred to by Mr Daly), advising that while there has been no formal structure plan prepared for Kumeū-Huapai undertaken in accordance with Appendix 1 of the RPS, the Spatial Strategy was adopted by the Council in May 2021. The memorandum further noted that:²³⁷

“... the 2021 Spatial Strategy contains higher level ‘structure planning’ components (including engagement with the community) and is of relevance to the SGA NoRs. In that sense, it would be fair to say that structure planning at a higher level, to support the North West NoRs, has been undertaken”.

374. In the absence of a structure plan having been prepared for Kumeū-Huapai, the Panel has considered whether the Spatial Strategy can be given some level of equivalency. In this regard we note that Appendix 1 of the AUP sets out guidelines for structure planning which is described as *“an important method for establishing the pattern of land use and the transport and services network”*. The process for producing a structure plan involves identifying, investigating and addressing a range of matters including urban growth strategies; natural resources, natural and built heritage; contribution to a compact urban form and the efficient use of land; mix and distribution of land uses and urban form; transport networks; other infrastructure; and feedback from stakeholders. It requires a comprehensive study of an area to produce a plan to show the arrangement of various land uses and infrastructure. Road infrastructure is just one component of the output.
375. In contrast, the present Spatial Strategy, prepared to support the SGA’s DBC for the key transport networks in the North-West, is much less detailed and, understandably, is focused primarily on planning for the transport network in the area. As with structure planning, consultation has formed part of the process for preparing the Spatial Strategy but we note that this took place between November 2020 and February 2021, and just 25 pieces of feedback were received, and 70% of the respondents did not support the draft strategy.
376. Nevertheless, the use of the Spatial Strategy in lieu of a Structure Plan for informing the proposed strategic road network in Kumeū-Huapai has been accepted by the Council. When structure planning eventually takes place for the area, the planning for the preferred strategic road network will already be established and the structure planning process will effectively be transport-led. The Panel does not therefore agree with the Council’s position that *“it would be fair to say that structure planning at a higher level, to support the North West NoRs, has been undertaken”*. However, as the Council is comfortable with the use of the

²³⁶ EV115, at [5]

²³⁷ EV281, at p.25

Spatial Strategy in lieu of a structure plan, the Panel does not have any further issue with respect to the higher-level planning processes undertaken to-date.

377. Overall, we have carefully considered the evidence and submissions presented on behalf of Future-Kumeū Inc, but have formed a view that proposals for alternative routes and flood risk for Kumeū have been appropriately addressed in the evidence for the SGA, while questions regarding the location of the town centre and other zoning arrangements are more properly assessed through the Spatial Strategy and future structure planning and plan change processes.

Panel findings and recommendations

378. The Panel accepts that the proposals for alternative routes and flood risk for Kumeū have been appropriately addressed by the SGA and no recommendations arise from these findings.

Effects of road noise

Introduction

379. There were several issues of contention relating to road noise (including construction noise) that arose between the evidence for the SGA and the acoustic evidence of Rhys Hegley for Kāinga Ora and the assessment of the Council's acoustic specialist, Jon Styles. These issues can be categorised as:

- Construction noise;
- Management of traffic noise for future receivers;
- Noise contours;
- Low noise road surface (and resurfacing); and
- Station noise.

380. We address these matters in turn below.

Construction noise

381. The conditions proposed by the SGA provide for a CNVMP to be established which would identify management measures whenever construction noise and vibration levels exceed the construction noise and vibration standards identified in the AUP. Mr Styles' concern with the proposed conditions was that the CNVMP could be drafted in a way that allows infringement of the standards in wide-ranging circumstances. He considered that the activities that infringe the standards are the ones that require the closest attention and most careful management.²³⁸
382. During the hearing, Mr Styles had discussions with the SGA experts with the result that modifications to the conditions were agreed which satisfied Mr Styles' concerns. These modifications include clarification that infringements of noise and vibration criteria cannot occur without the use of CNVMP Schedules, and a default

²³⁸ Agenda, at p.301

position for high noise-generating activities to take place in the daytime rather than the night-time.

383. Mr Hegley also had concerns regarding the CNVMP. He considered that the CNVMP should be certified to ensure that the BPO is met, and that there is consistency across all the NoRs for any associated schedules to be submitted for certification by the Council because the items addressed by Schedules often “*represent those with the greatest construction effects*”.²³⁹
384. The Reply recorded the Requiring Authority’s acceptance that reference to infringements permitted by the CNVMP should be removed from the conditions and that any infringements of the noise and vibration criteria should only be dealt with through a CNVMP Schedule.

Panel findings and recommendations

385. The Panel is satisfied that the concerns expressed by Mr Styles regarding the CNVMP conditions have been satisfactorily addressed by the Requiring Authority. Regarding certification, the Panel does not consider that the role of certification is to check that the CNVMP necessarily represents the BPO for construction but rather that the details required by the condition have been provided, but the issue of certification of management plans (in general) is dealt with elsewhere in this report. In particular, the Panel has set out the reasons why the requirement for any Schedule to a CNVMP should be submitted for certification for all the NoRs, including those administered by Waka Kotahi.

Management of traffic noise

386. The SGA has assessed traffic noise effects of the projects utilising NZS 6806:2010 Acoustics – Road-traffic-noise – New and altered roads (NZS6806). The approach under this standard is to assess noise received at Protected Premises and Facilities (**PPFs**) which are essentially noise sensitive activities. Existing PPFs, and the corresponding Noise Activity Categories, are set out in Schedule 3 of the conditions. The operational noise conditions relate only to NoR S1 because noise levels associated with traffic for the other Strategic NoRs are anticipated to be only marginally increased, or decreased.
387. The primary issue with respect to the management of traffic noise was the extent to which the Requiring Authority’s assessment of the ‘BPO’ (Best Practicable Option) at the time of implementation of a designation should include future receivers in addition to existing PPFs. There was no dispute that existing PPFs should be modified, where necessary, to meet the requirements of NZS6806.
388. The AUP does not include standards requiring dwellings built adjacent to heavily trafficked roads to be acoustically treated to mitigate traffic noise effects. In the absence of such a standard, there appeared to be common ground that there is a

²³⁹ EV181, at [41]

shared responsibility between the Requiring Authority and developers for noise mitigation for buildings constructed between the lodgement of the NoRs and the completion of construction of the projects (future receivers). However, the proportionate share that should fall on the Requiring Authority and developers, respectively, was an issue in contention.

389. The SGA's position is that their responsibility for mitigation should start and end with the provision of low-noise road surfaces on the roads being constructed as enabled by the NoRs. Based on the design of roads, including the use of low-noise surfaces, they produced noise contours to inform the design of future development. This was based on the expectation that the developers of buildings will ensure the design incorporates sufficient noise mitigation measures to produce suitable internal noise environment when the roads are operational.
390. On the other hand, the Council and Kāinga Ora consider that the BPO for noise mitigation should be provided by the Requiring Authority at the time the roads are designed. Mr Styles and Mr Hegley considered that this BPO should include not only low-noise road surfaces, but also provide for barriers in appropriate locations within the designation boundaries and provide for building modifications and barriers on adjacent properties outside the designation boundaries.
391. Mr Campbell (on behalf of Kāinga Ora) proposed a number of amendments to the conditions addressing noise and vibration effects, including the following additional condition that addresses the use of noise barriers to achieve the BPO:²⁴⁰

Where the Project passes through areas with a residential or future urban zoning, noise barriers shall be erected where they can be demonstrated to provide the [BPO] for the control of road traffic noise having regard to the future residential use of the adjoining land.

392. By the end of the hearing, however, it was accepted by the parties contesting this issue that:
- (a) There is a shared responsibility for noise mitigation;
 - (b) All roads should incorporate low-noise surfaces (per the relevant Joint Witness Statement referred to below); and
 - (c) The Requiring Authority should not be responsible for modifying new dwellings built between the lodgement of the NoRs and their construction.
393. The main remaining area of disagreement is whether the BPO should be adopted within the road design, which will include both low-noise road surfaces and, in some locations (where practicable) noise barriers. This additional mitigation would be accounted for in the noise level contours produced for each road and would result in a lesser need for noise-mitigation within building design and, importantly, improve the noise environment for the external areas within the properties adjacent to the road.

²⁴⁰ EV179, Appendix B

394. At the hearing, Mr Styles undertook to provide amended drafting for the relevant conditions to address this issue but at the time that the hearing was adjourned (and closed) this had not been provided to the Panel.
395. The Council version of the definitions relevant to the traffic noise conditions are consistent with those of the Requiring Authority, and modifications to condition 25 (relating to circumstances when the Noise Criteria Categories do not need to be complied with) have been accepted by the Requiring Authority in the version of the conditions attached to the Reply.
396. The Reply characterised Mr Hegley's evidence as "inconsistent", acknowledged Mr Styles' modified position in relation to this issue (but noted the lack of updated conditions from Mr Styles), and submitted that the position of the SGA's experts should be preferred because it has remained consistent throughout the hearing, and that "*the conditions as currently proposed by the Requiring Authorities are appropriate and accurately and sufficiently provide for the concept of shared responsibility*".²⁴¹

Panel findings and recommendations

397. Having considered the reporting and evidence presented to it, the Panel finds that:
- (a) There is a shared responsibility for noise mitigation;
 - (b) All roads that are the subject of the NoRs should incorporate low-noise surfaces;
 - (c) The Requiring Authority should not be responsible for modifying new dwellings built between the lodgement of the NoRs and their construction; and
 - (d) With the design of the roads, the BPO should be adopted for the mitigation of operational noise that will include not only low-noise surfaces, but also barriers to attenuate noise in appropriate locations where practicable.
398. To address the last of these findings, the Panel recommends that the following condition be added (as condition 24A²⁴²) in respect of NoRs S1, S2 and S3:

Where the Project passes through areas with a residential or future urban zoning, noise barriers shall be erected where they can be demonstrated to provide the Best Practicable Option for the control of road traffic noise having regard to the future residential use of the adjoining land.

Noise contours

399. Mr Styles expressed the view in his response memorandum that there are faults with the noise level contours that would limit their efficacy for the incorporation of noise mitigation with the design of new buildings located adjacent to the designations. These faults include the mitigation effects of screening provided by

²⁴¹ EV288, at [16.6]

²⁴² Existing condition 24A (Station Noise) is renumbered as condition 24B

existing buildings (such as farm buildings and greenhouses) which are unlikely to exist when land adjacent to new roads is urbanised; and the inclusion of the effect of noise barriers which would be deleted from the road design if the PPF it is designed to protect is no longer in existence when the road is implemented. Mr Styles considers that that it would not be possible for the contours to be interpreted to account for such changes.

400. In her rebuttal evidence, Siiri Wilkening for the Requiring Authority had stated that the contours are sufficient (and appropriately conservative) to account for minor changes to features of the environment, and that it would be a relatively simple matter for the contours to be interpreted to account for such changes.
401. The other issue on which there was a level of disagreement (or uncertainty) was where the contours should be published in order that they could be readily accessed by those designing new buildings. There was a general preference expressed for the contours to form a layer in the Council's GIS as that is a tool used to identify other forms of constraint on development. The Council highlighted, however, that the burden of ensuring the contours were consistently up-to-date would then unfairly fall upon it (and in particular, its GIS team).
402. The other option discussed was for the contours to be placed on the Project Website which is to be established in accordance with condition 2. This option has the benefit of being the responsibility of the Requiring Authority to keep it updated but will require developers to be aware of its existence for it to be of use.

Panel findings and recommendations

403. The Panel accepts the evidence of Ms Wilkening that the contours are fit for purpose and recommends that they be available on a project website that is to be established in accordance with condition 2(a). This condition requires (and to which the Panel recommends a minor amendment) as follows:

...The project website or virtual information source shall include these conditions and shall provide information on:

...

(vii) how / where to access noise modelling contours to inform the design of development adjacent to the designation;

...

404. The Panel also recommends that a layer should be included on the Council's GIS that identifies the area covered by the contours and directing the reader to the Project Website for the contours themselves (and where that information will be kept up-to-date). However, we do not consider it appropriate or permissible to include this by way of a condition, and so leave this as a matter that may be addressed in the future by the Requiring Authority in conjunction with the Council.

Low noise road surfacing (and resurfacing)

405. As noted above, the sole form of noise mitigation offered by the SGA for future

receivers is providing low-noise surface on the roads that are the subject of the NoRs (S1 and S3). Paragraph 3.1 of the Joint Witness Statement in relation to Noise and Planning states:

“All noise experts agree that [a] low noise road surface be required as a condition on the entire length of all roads subject to these applications.”

406. Mr Styles commented specifically on the use of Open Graded Porous Asphalt (**OPGA**) for NoR S1 (ASH) and recommended that this paving material be specified in condition 24 for NoR S1. This has been adopted by the Requiring Authority.
407. The Reply also highlighted that the traffic volumes on NoR S3 (RTC) will be relatively low and will consist of buses only and that, because of its structure, OPGA performs best with high traffic volumes. It is not typically used in a low trafficked environment.²⁴³ Accordingly, the Panel considers that an asphaltic mix surface should be specified for NoR S3 as proposed by the Requiring Authority and as agreed in the JWS.
408. The Panel notes that both versions of condition 24 as proposed by the Requiring Authority include the following qualification:

The asphaltic mix surface shall be maintained to retain the noise reduction performance as far as practicable. (emphasis added)

409. Given the importance of the low-noise road surface for mitigating operational noise effects, the Panel does not consider the phrase “*as far as practicable*” is appropriate in this case, and recommends the addition of “*of the original surface*”.

Panel findings and recommendations

410. The Panel recommends that the phrase “*as far as practicable*” be deleted from both versions of condition 24 that address the maintenance of either OGPA or asphaltic mix low-noise road surfaces, and the addition of “*of the original surface*”.

Station operational noise

411. In his technical review of the NoRs for the s.42A report, Mr Styles commented on the lack of a condition addressing noise generated by the operation of the proposed Huapai and Kumeū stations.
412. Mr Styles highlighted that the noise from a public address (**PA**) system, in particular, would not be anticipated in a residential zone. The characteristics of such a system include announcements about arrivals and departures made at regular intervals throughout the day and night, and may be audible over the noise level in the surrounding environment. He noted that such characteristics would not be generated by typical permitted activities in a residential zone and

²⁴³ EV288, at p.162

recommended that, the permitted noise limits for the PA systems should be set at a level of 15dB lower than the standards applying in the adjacent existing and future residential zones. He recommended that other noise sources, including traffic using the stations, mechanical plant and people at the station, should comply with the standards applying to receivers in a residential zone.

413. Ms Wilkening disagreed with Mr Styles, noting that: the noise limit for the PA system would be lower than the World Health Organisation recommendations for noise levels inside bedrooms; that it is not possible to control people noise; and people are part of an urban environment.
414. By the end of the hearing, Mr Styles had modified his view on this issue, recommending that the “*numerical decibel limits in the proposed station noise conditions be reduced by 10dB in all cases*”.²⁴⁴
415. The Council version of condition 24A excluded the noise level table from the original version of the conditions and instead referred to the zone applying at the receiving sites. This amendment has not been adopted in the Reply.
416. The Panel considers that the relevant noise levels are those applying to the zones adjacent to the stations and that the table in the Reply version of the conditions should be deleted. We also consider that noise from traffic and people at the stations would be difficult to control but accept Mr Styles’ evidence that noise from PA systems could be “highly annoying” for any nearby residents. Given the nature of zoning adjacent to the two stations, the Panel considers that the noise limit for the PA systems should be reduced from the residential zone standards by 10dB in each case and that condition 24A (renumbered 24B) be amended as follows:

All mechanical and electrical services (including Public Address system) shall be designed to comply with the following noise rating levels and maximum noise levels, as measured and assessed at any residential zone site boundary. The public address system shall be designed to comply with noise limits 10dB lower than those levels in each case.

[delete table]

Historic Heritage Management Plan

417. The Historic Heritage Management Plan (**HHMP**, condition 21) was relatively non-contentious, save for the particular phrasing used in clause (b)(ix), as to whether it should refer to ‘accidental’ or ‘unexpected’ discoveries during the construction phase, and the question of whether a further clause (d) should be added relating to consolidation of the heritage assessments.

²⁴⁴ EV283, at p.7

‘Accidental’ or ‘unexpected’

418. In respect of the former matter, the Panel heard evidence from Alice Morris on behalf of Heritage New Zealand Pouhere Taonga (**NZHPT**). Ms Morris stated:²⁴⁵

“I also support the recommended wording change proposed by Ms Atkins to remove the words ‘accidental discovery’ and replace them with ‘unexpected discovery’ in all HHMP conditions for the proposed NoRs. Using the term ‘unexpected’, in my opinion, assists in removing the conflation potential between the requirements under the HNZPTA and what can be managed via the Accidental Discovery Protocol Rules (E11.6.1 and E12.6.1) under the [AUP], when an archaeological authority is not otherwise in place”.

419. The rebuttal evidence of Hans-Dieter Bader for the SGA commented in this regard that:²⁴⁶

“I support the proposed change from “accidental discoveries” to “unexpected discoveries” in the HHMP condition. In areas of high risk for encountering archaeological features and deposits, any discovery is better considered “unexpected” in the particular place that it occurs, than accidental. This difference is important for areas where (in the future) a general Archaeological Authority has been granted, so as not to confuse the authority and the Accidental Discovery Protocol under the [AUP].”

420. The Council’s response memorandum prepared by Mica Plowman set out her reasons why the phrase ‘accidental’ rather than ‘unexpected’ should be used. She advised:²⁴⁷

“The Heritage Unit does not support the RA or HNZPT proposed change of wording to the HHMP condition point B (ix) (c), which seeks to unnecessarily change the word “accidental” to “unexpected”. The rationale provided is to remove the potential for conflation between the requirements under the HNZPTA and what can be managed via the Accidental Discovery Protocol Rule (E11.6.1) under the Auckland Unitary Plan (AUP)”.

421. Ms Plowman went on to add:

“It is also important to clarify that as a standard within the AUP, the Accidental Discovery Rule, provisions will only drop away if it has been expressly provided for by a resource consent or other statutory authority. For example, for an archaeological site, if an Authority were granted under the Heritage New Zealand Pouhere Taonga Act 2014 any archaeological sites or land parcel not expressly provided for by the Authority would default to the ADR process.

²⁴⁵ EV173, at [12]

²⁴⁶ EV051, at [6.1]

²⁴⁷ EV281, at p.91

“Therefore, it is not a duplication of the HNPT Act, because it is only operational for pre 1900 archaeological sites when the provisions of the HNZPT Act are not in effect under the authority process.

“Moreover, the term “accidental discovery”, or “accidental discovery protocol” is a long established and accepted industry standard term. Changing it needlessly can only introduce unnecessary confusion”.

422. Ms Plowman also listed those Waka Kotahi heritage-related documents that reference the term ‘accidental discovery’ or ‘accidental discovery protocols’.
423. Notwithstanding the above, the conditions attached to the Council’s memorandum reverted to the use of ‘unexpected’, although we anticipate that this may have been an oversight. This phrase ‘unexpected’ has subsequently been adopted by the SGA in its Reply conditions.
424. The Panel has the impression that the area of contention in this regard is very narrow, and sees little practical difference arising from the use of either term, using their plain meaning. Overall, it favours some differentiation in the terminology used having regard to the context of the condition clause in which it appears (which incorporates reference to the AUP Accidental Discovery rule), and is confident that the experienced practitioners who will be involved in preparing and reviewing the HHMP will be able establish the proposed methods to address any archaeological discoveries, whether ‘accidental’ or ‘unexpected’, as required within the condition in an appropriate manner.
425. We therefore do not propose to make any recommendations in respect of the condition wording in this regard.

Clause (d)

426. The Panel is unsure whether a question in respect of a new clause (d) to the HHMP condition (for NoRs S1 and HS) is a matter of contention or not. The clause is as follows:

(d) That the Historic Heritage Assessment and section 92 Addendum report are consolidated and updated to include the level of assessment outlined in the HNZPT Archaeological Guidelines series NO 2 Writing Archaeological Assessments and/or the Waka Kotahi Guideline 1 Historic Heritage Impact Assessment Guide for State Highway Projects templates.

427. The clause is marked in pink underline (i.e., ascribed to Council officers), but there is no such clause in the Council response memorandum version. The Reply version comments that it has been addressed in the primary evidence of Mr Bader, who did not recommend its inclusion. It appears to therefore be a carry-over from earlier versions of the conditions. For completeness, and following a review of Mr

Bader's primary evidence,²⁴⁸ we are satisfied that the additional clause is not necessary.

Panel findings and recommendations

428. For the reasons set out above, the Panel accepts the use of the term "unexpected" in condition 21, and accordingly no recommendations arise in respect of this matter.

Proposed ULDMP Advice Note

429. The conditions proposed by the SGA included the aforementioned ULDMP condition, which has its objectives to enable integration of the Project's permanent works into its surrounding context and manage adverse landscape and visual effects and contribute to a quality urban environment.
430. The condition includes a proposed advice note as follows:²⁴⁹

This designation is for the purpose of construction, operation and maintenance of an arterial transport corridor and is not for the specific purpose of road widening. Therefore, it is not intended that the front yard definition in the [AUP] which applies a set back from a designation for road widening purposes applies to this designation. A set back is not required to manage effects between the designation boundary and any proposed adjacent sites or lots.

431. The same form of condition and advice note was also proposed for the other NoRs in the Local Arterial, RATN and HIFTR packages.
432. The evidence of Michael Campbell for Kāinga Ora noted the definition of 'Front yard' in the AUP,²⁵⁰ which is:

The area along the full length of a front boundary of a site that is between:

- *the front boundary of that site;*
- *a building line restriction or a designation for road widening purposes; and*
- *a line parallel to that front boundary, restriction or designation.*

433. The submission from Kāinga Ora raised the concern that the proposed NoRs are, at least in part, for road widening to accommodate the NW Projects. The evidence of Mr Campbell was that a designation cannot modify a rule in the plan, and if the Council requires the front yard to be provided from the designated boundary, this would potentially result in unintended consequences along the alignment of the Project(s). This would also compromise efficient land use and development along the Project's alignment, particularly given the extent of land proposed to be designated and the timeframe for which the relevant designations are sought. Mr

²⁴⁸ EV050, at [6.2] – [6.4]

²⁴⁹ Version date: 18 September 2023

²⁵⁰ EV179, at [7.38]

Campbell stated that in his experience, the Council has tended to take a conservative approach to the requirement for setbacks from designation boundaries. He considered that given the extent and timeframe of the designation areas being sought, there are potential consequences if this matter is not clearly understood and administered by all parties.

434. Through questions of various witnesses including Mr Campbell, we understood the issue to essentially be one whereby the application of a front yard setback from the designation boundary (2.5m in the case of the Residential – Mixed Housing Urban zone, for example), which in most cases incorporates an allowance for temporary construction activity, would result in large set-backs from the finished road corridor, and the potential for inefficient land-use outcomes noted in Mr Campbell’s evidence. The advice note appears to seek to avoid that, by establishing ‘up-front’ that the designations are not for ‘road widening purposes’, and therefore the designation boundaries and any adjacent development would not be caught by the definition set out above.

435. We observed during the hearing that the advice note would also be relevant to subdivision outcomes, by reference to the definition of ‘net site area’ which is:

The total area of a site excluding:

- *any area subject to a road widening designation;*
- *any part of an entrance strip;*
- *any legal right of way; and*
- *any access site (emphasis added)*

436. Mr Elley stated in his rebuttal evidence on behalf of the SGA that he does not agree with Mr Campbell, advising that the advice note “*simply clarifies the purpose of the designation and that the purpose is not for road widening and therefore the rule should not apply to the designation*”.²⁵¹ He also commented that the Council has confirmed to him that there is currently no guidance note regarding the interpretation of the front yard rule. In his view, the advice note should be viewed as being complementary to the s.176 approval process, as “*it will aid Council’s understanding of the purpose of the proposed designations when administering the AUP:OP front yard standards, and therefore assists to addressing the potential consequences set out above*”.²⁵² On this basis, he considered that providing clarity around the purpose of the proposed designations does not modify the rules of the AUP, rather it is designed to assist in their administration, and is therefore valid, useful and appropriate.

437. We refer here to the legal submissions of Mr Allan on behalf of Kāinga Ora, who stated that:²⁵³

²⁵¹ EV080, at [3.49]

²⁵² Ibid, at [3.53]

²⁵³ EV178, at [7.3]

(c) *The assertion that the designation is “not for the specific purpose of ‘road widening’” does not bind a Council officer, assessing a subsequent resource consent application for a property adjacent to the designation. The effect of the designation is to widen an existing road. The intention of the front yard rules is to ensure that structures are setback a specified distance from a road. The advice note, as drafted, ignores and would override that intention. The consequence would be structures constructed closer to the road than the rule intends. Accordingly, a processing planner in respect of a future proposal to develop on a site where the requiring authority has acquired land along the frontage may conclude that the proposal needs to comply with the yard requirement, notwithstanding the advice note”.*

438. Mr Allan went on to outline the consequential concern of Kāinga Ora that:²⁵⁴

(a) *The advice note may provide landowners with a greater confidence than is warranted regarding how they will be able to deal with land in the future.*

(b) *The advice note may result in wrongly reduced compensation for landowners if it is relied upon by valuers when assessing compensation for land takes along the road frontage of properties”.*

439. Mr Allan recommended that the most appropriate course of action would be to delete the advice note, and also observed that the issue highlights “*the adverse consequences arising from the lack of certainty as to extent to which the designation is required permanently or temporarily (e.g.: for construction purposes)*”.

440. The Council response memorandum noted in a similar vein that while the use of advice notes is common, they are not legally enforceable. They noted the SGA’s stated purpose for the advice note, being to provide information to a resource consent processing planner where a landowner applies for a resource consent. However, the Council planners advised of their view that the proposed advice note applies to a process which is beyond the scope of the designation, and that “[a] planner processing a future resource consent application will undertake their own assessment against the objectives, policies, and standards of the AUP” and “[i]t will be within their responsibilities to determine whether a setback is required or not”.²⁵⁵

441. The SGA’s Reply was largely silent on this matter but addressed it in its supplementary memorandum (in response to the Panel’s queries set out in Direction 8). The SGA advised that the advice note was originally introduced to the programme-wide conditions following the hearing for the Drury Arterials Network, and in response to concerns raised by Kāinga Ora. The advice note

²⁵⁴ Ibid, at [7.4]

²⁵⁵ EV281, at p.18

sought “to provide some assistance in the future should that rule be interpreted as relating to the Requiring Authorities’ projects (which it is not intended to do)”. At the time, this addressed the points raised by Kāinga Ora, but the Requiring Authority acknowledged the concerns since raised about the advice note being ultra vires. On this basis, the memorandum went on to advise:²⁵⁶

“The Requiring Authorities are comfortable with the advice note being removed from the ULDMP condition and look forward to the Panel’s recommendation on this matter. It was originally included in response to Kāinga Ora’s concerns, therefore if Kāinga Ora no longer agrees with it then the Requiring Authorities see no reason to retain it”.

442. It may therefore be a simple matter for the Panel to recommend its removal. However, we consider in terms of the history of the advice note, and its proposed application in other programme-wide NoRs (including Warkworth and North Auckland), that it is appropriate to record why we consider that there are a number of aspects of the advice note that appear problematic:

- (a) Firstly, we consider that in the general context of the North-West Projects that it would be artificial to seek to describe them as being “for the purpose of construction, operation and maintenance of an arterial transport corridor” as distinct from “road widening”. The two categories can both be applicable. In our view, and in the absence of definitions within the AUP for either term, a reasonable person would interpret the Projects, where relating to an existing road, as being for “road widening”, and we agree with Mr Allan’s submission referred to above that in numerous instances “[t]he effect of the designation is to widen an existing road”.
- (b) Secondly, however, we accept in the case of NoRs S1, S3, HS and KS that the designations would not be for ‘road widening’, as they are ‘new’ designations that are more appropriately described as being for the purpose of (or at the very least, a component of) an arterial transport corridor. Nevertheless, it would be somewhat illogical in our view for the presence of the designations to not be a relevant consideration in the determination of establishing a front yard consistent with the zoning requirements of any particular site affected by the designations. Where the designations traverse the rear of middle part of a site, the issue will not arise, but may still be a relevant consideration for the purposes of defining the ‘net site area’ of a property where that is associated with a proposed subdivision.
- (c) Thirdly, and separate to any s.176 considerations, it is possible that the effect of the advice note would be to result in a required front yard set-back (from the existing road reserve boundary) that is entirely deficient having regard to the extent of the designation, even if part of that is only required temporarily for construction. On this issue, we also acknowledge Mr Allan’s

²⁵⁶ EV289, at [2.3]

point that, to the extent that if the majority of the area is only required temporarily, then that simply highlights a consequence of the lack of certainty in this regard at this time.

443. Overall, therefore, it is the Panel's conclusion that the advice note as drafted would not assist in the administration of the designations, and therefore we are unable to accept Mr Elley's evidence that it is "*valid, useful and appropriate*". It is our conclusion that the effect of the designation, particularly for front yard setback requirements, is better addressed at the relevant time at which a development proposal is considered. Such an assessment would be expected to take into account the relevant designation alignment, where a greater understanding may be available as to where the temporary and permanent designation boundaries may lie. This would also include reference to any updates that may arise during the intervening period, including via the LIP condition and the review clause if our recommendations in this regard are upheld by the Requiring Authority.

Panel findings and recommendations

444. Based on the above commentary, the Panel finds that the advice note would not assist in the administration of the designations, and we therefore recommend its deletion from the ULDMP condition.

Conditions (not addressed elsewhere)

445. The previous sections of this report discuss the conditions, and recommended changes thereto, with respect to those matters raised during the hearing. From the Panel's further review of the conditions, we have noted two further issues where we consider that the conditions could be further improved and/or clarified, as set out below.

EIANZ guidelines

446. The Panel notes that the conditions specify that the proposed EIANZ Guidelines, for use in the ecological assessment and condition 21A are defined as "*EIANZ guidelines for use in New Zealand: terrestrial and freshwater ecosystems, second edition, dated May 2018*". The original memorandum by the Council's ecologist, Mr Smith, had recommended that reference to the EIANZ guidelines be supplemented by "*or any updated version*", as this could be superseded by the time the designations are given effect to.²⁵⁷
447. The evidence of Mr Jonker stated in this regard that:²⁵⁸

"While acknowledging that including updated revisions could have ecological advantages, I am confident that the current version of EIANZ 2018 adequately addresses ecological effects. I further note that the applicant is designating for the effects now rather than for a future state and that any

²⁵⁷ Agenda, at p.333

²⁵⁸ EV032, at [12.6]

regional consenting will be subject to updated revisions of the EIANZ guidelines”.

448. Mr Smith’s response memorandum did not contest Mr Jonker’s advice in this respect, and so we have not considered to be a matter of contention (although it is so in the Warkworth NoRs). The Panel does, however, express some concern that the future ecological survey required by condition 21A will be based on a potentially outdated version of the guidelines, and may be at variance with those guidelines that will be required to be relied upon in any resource consent applications. The Panel therefore recommends an amendment to the definition to include “*(or any updated version)*”, in line with the s.42A recommended version of the conditions.²⁵⁹

CEMP and residential areas

449. Condition 12(b) addresses the requirements for the CEMP to achieve the objectives of this plan, and includes:

(iv) details of the proposed construction yards including temporary screening when adjacent to residential areas; ...

450. The Panel notes that the phrase “residential areas” is not defined and could conceivably include residential activities outside a residential zone (e.g., in case of a residential unit(s) located in a Business Zone), or may require screening when adjacent to large rural sites that include a residential dwelling. The Panel therefore recommends that this requirement is limited to ‘Residential zones’, rather than ‘residential areas’.

Minor changes

451. We have made some further minor changes to the conditions which include the following:
- (a) The inclusion of a brief description of the NoRs at the front of the conditions to assist with readability and providing an understanding of the NoRs beyond the simple ‘S1’, ‘S2’ etc descriptors;
 - (b) Changing the definition of the Requiring Authority from ‘Auckland Transport’ to the ‘New Zealand Transport Agency Waka Kotahi’;
 - (c) The inclusion of a further row below the heading ‘General conditions’ to mirror the text relating to NoR S2 as to which conditions are applicable (i.e., that NoRs S1, S3, HS and KS are subject to conditions 1 – 36);
 - (d) An amendment to condition 6(a)(i) (Management plans) to include reference to the need for such plans to achieve the objective or purpose of the plan;

²⁵⁹ Agenda, at p.555

- (e) Deletion of the term ‘key’ as a qualifier to the stakeholders to be identified in conditions 8B and 9, as this is not a defined term, and we consider that condition 3B sufficiently informs the identification of stakeholders for each designation or stage of work;
 - (f) The inclusion of definitions for two additional management plans not previously referenced (i.e., the Tree Management Plan and Cultural Monitoring Plan); and
 - (g) Minor typographical changes to ensure consistency as to format and referencing.
452. For ease of cross-referencing between the various versions of conditions, we have retained the same condition numbering (i.e., rather than to change conditions 3A, 3B, 8A, 8B, 21A, 21B, 24A, 28A and 35A, and address the missing condition 13, and apply revised sequential numbering). This is a matter that the Requiring Authority may wish to attend to in its decisions on the NoRs should it consider that to be useful.
453. Finally, we also note that we have shown our changes in ‘track-change’ format so that the amendments are more easily identified by the parties, and in particular by the Requiring Authorities for the purposes of preparing their decision(s).

Panel findings and recommendations

454. Based on the foregoing discussion, we recommend:

- (a) The definition of ‘EIANZ Guidelines’ be amended as follows:

Ecological Impact Assessment: EIANZ guidelines for use in New Zealand: terrestrial and freshwater ecosystems, second edition, dated May 2018 (or updated version).

- (b) Condition 12(b) be amended as follows:

The objective of the CEMP is to set out the management procedures and construction methods to be undertaken to, avoid, remedy or mitigate any adverse effects associated with Construction Works as far as practicable. To achieve the objective, the CEMP shall include:

...

- (iv) *details of the proposed construction yards including temporary screening when adjacent to ~~Residential areas~~ zones;*

....

- (c) Other minor amendments as described above.

SITE SPECIFIC ISSUES

Responses to site-specific concerns

455. As outlined previously, a large number of submissions were received across the overall NoR package, and including for the Strategic NoRs, and we heard from a number of submitters affected by these NoRs as to the way in which the designations would affect their properties. These included the extent of land proposed to be included in the designations, and the effects on the amenity and utility of those land areas (usually frontages and including potential access restrictions) and the length of time that the subject land would be affected by the designations (lapse period).
456. To a significant extent our previous discussion with respect to these matters has sought to address such concerns on a generally Project-wide basis, with reference to specific evidence where that has highlighted the effects of a particular issue on an individual property. The Panel acknowledges the extent of property-specific evidence that it heard throughout the hearing, and has taken note of the concerns expressed before it. However, in general, and as previously described, it has reached a view that those matters are able to be appropriately addressed and managed at the implementation stage through a combination of the Project Information website, the LIP (as discussed below), the SCEMP and ULDMP, and the PWA (and s.185 of the RMA where necessary).
457. The Panel notes that the SGA has prepared a summary of the engagement response with those submitters who attended the hearing, and the response of those submitters at the hearing, and where further individual engagement occurred at that time with Mr Daly. This is set out in Appendix G to the Reply. We note that this record of engagement identifies that satisfactory outcomes have not been reached for most submitters, and their positions in this regard were also apparent to the Panel. We recognise however, the ongoing efforts that the SGA have committed themselves to, both through the implementation stage and the intervening period. We also acknowledge the processes that have been incorporated within the conditions to provide some statutory rigour to those undertakings.
458. We also make the observation that it was apparent to us that a number of issues raised in submissions had either been addressed through the SGA's evidence, either by revisions to the designation alignments or changes to the conditions, such that those topics were not raised during the hearing.²⁶⁰
459. The Panel further notes, that the specific responses as to the management and mitigation, and remediation, of effects on properties will not be known until the detailed design stage, including through preparation of the SCEMPs and ULDMPs.

²⁶⁰ These topics include, by reference to the s.42A report [at pp.48-49], contamination of drinking water; that the Strategic NoRs will not alleviate traffic congestion; increased transport emissions; iwi/cultural effects; effects on landscape character; and effects on domestic and rural animals.

This is, in the Panel's view, not an untypical outcome with respect to road and transport corridor designations with long lapse dates, but the Panel nevertheless recognises that these lapse dates are not themselves typical. However, we have, for the reasons set out earlier, accepted the need and rationale for the lapse dates proposed for these projects (subject to a review clause), which have recently also been determined for the Drury Arterials and Airport to Botany designations.

Panel findings and recommendations

460. No further recommendations arise as a result of our discussion and conclusions set out above.

Land Use Integration Process

461. A further consideration for this Panel has related to the way in which the Local NoRs will be implemented, which includes the use of a Land Use Integration Process (LIP) to provide for landowners with development proposals to integrate with the NoR corridors.

462. The LIP condition, for the Local NoRs, arose as an amendment to the SGA's originally proposed Land Use Integration Management Plan, with this amendment being described and introduced through the SGA's rebuttal evidence. The purpose of the LIP is "*to encourage and facilitate the integration of master planning and land use development activity on land directly affected by, or adjacent to the designation*".

463. Mr Elley advised that for the Strategic NoRs, the LIP is proposed to only apply to NoR S4 (which we address separately as part of the Local NoRs), because this is the only strategic corridor that has an interface between the FUZ and an arterial corridor. Mr Elley advised that the condition is "*not proposed for NOR S1 and S3 as there is limited need for such a condition as these corridors traverse land that is predominately Rural Zone and is therefore unlikely to be intensively developed*".²⁶¹

464. The Panel has nevertheless asked itself whether the LIP should also apply to the NoRs S1 S2, S3 and HS, noting that there is another part of the Local NoRs that will be adjacent to land within rural zones (i.e., NoR R1), for which the LIP condition will be applicable. In this regard, the Panel observes that:

- NoR S1 is located within FUZ land in part of its western section and at its eastern end;
- NoRs S2, S3 and HS also traverse or are adjacent to land within the FUZ; and

²⁶¹ EV079, at [10.93]

- The proposed lapse dates for the Strategic NoRs may extend across two district plan revisions, and therefore may interface with possible extensions to the provision of residentially-zoned land.

465. The Panel therefore considers that the LIP condition should apply to NoRs S1, S2, S3 and HS. It recognises that this requirement may not be of relevance to various or large sections of the relevant designation (e.g., for NoR S1), but nevertheless it will be of use, as with other locations in the overall network, for those landowners where approval is sought for works to be undertaken within designated land. In the Panel's view, this will provide the same benefits to adjacent landowners from establishing the condition for other NoRs to those adjacent to the abovementioned Strategic NoRs.

Panel findings and recommendations

466. Overall, and based on the above discussion, the Panel recommends the inclusion of the LIP condition be included to the condition sets for NoRs S1, S2, S3 and HS. The wording is the same as for the Local NoRs (incorporating NoR S4), and so is not reproduced here.

The use of site specific schedules

467. A number of witnesses for various submitters had raised concerns with construction effects and sought site-specific management plans or conditions in relation to their properties.²⁶² Ms Atkins did not support this approach and stated:²⁶³

“The management plan approach recognises the linear nature of the transport infrastructure, but does not preclude the option of developing a management plan (or suite of management plans) for a specific site and recognises that the decision as to when this approach is confirmed is best left to the detailed design stage”.

468. As part of her rebuttal evidence, Ms Atkins further noted that the final details of the Projects will be refined and confirmed at the detailed design and resource consenting stages. She addressed the site-specific issues raised by Sarah Westoby, on behalf of Z Energy (NoRs S2 and S3),²⁶⁴ and in respect of those matters (and those raised in respect of Local NoRs) considered that *“the amendments made to the conditions following expert conferencing adequately address the site specific concerns raised by submitters”*.²⁶⁵

469. At the commencement of the hearing we were presented with an aforementioned JWS prepared by various planning witnesses representing a number of submitters, dated 20 September 2023.²⁶⁶ This was separate to the joint witness conferencing

²⁶² E.g., for NoR S2: Boric; Beachhaven Trust; Kumeu Properties Limited; Country Club Huapai.

²⁶³ EV076, at [7.11]

²⁶⁴ EV077, at Attachment D

²⁶⁵ Ibid, at [6.2]

²⁶⁶ Refer 'Hearing documents' webpage

process directed by the Panel and was not facilitated (nor involve planners for the SGA or the Council). It stated that its intent was “to assist the Panel and to summarise the combined effort the Witnesses have made in condition drafting following formal expert conferencing”.

470. The JWS proposed amendments to the SCEMP and ‘Existing Property Access’ conditions (conditions 8A and 11 respectively)²⁶⁷ and for a site-specific schedule (rather than a ‘management plan’) to be included as part of the SCEMP.

471. We address the issues relating to the changes to the condition wording elsewhere in this report. The JWS states that the purpose of the inclusion of a site-specific schedule, to be referenced in the SCEMP condition, is “to set a clear agenda and to act as a transparent record of issues that have been raised through the NOR process”.²⁶⁸ It went on to say:

“This approach ensures that when the Requiring Authority comes to implement the NORs in time, noting (as many Witnesses have in their evidence to date) that the personnel may be entirely different from those involved in the drafting of the NOR conditions due to the long lapse periods sought, there can be no confusion as to what the expectations are on the Requiring Authority to best address and respond to key issues arising from the projects and their effects on stakeholders”.

472. The proposed format was that of a table that includes the designation reference, property address, the party consulted with, the ‘site-specific issue’, and the Requiring Authority’s response. This would be referenced by way of an addition to:

- the objective of the SCEMP condition, requiring, as part of the preparation of the Outline Plan, that the Requiring Authority identify inter alia:

Having regard to the above, cross-references to the parties listed in the Schedule X Communication and Engagement Site-Specific Issues;

- the inclusion of inter alia:

Details of how the Requiring Authority has considered and responded to the issues listed in Schedule X Communication and Engagement Site-Specific Issues, where relevant to each Stage of Work;

473. However, most of the signatories to the JWS did not incorporate any such site-specific provisions as part of their evidence. The Panel invited them to do so by way of supplementary statements, in the event that such a schedule were to be included in our recommended conditions. To ensure that all experts were aware

²⁶⁷ This included reference to the LIP condition, via condition 2A, which was not originally proposed for the Strategic NoRs but is recommended to be included in accordance with the previous section of this report.

²⁶⁸ JWS, at [22]

of and availed of this opportunity we issued Direction 7 on 3 October 2023 recording, in response to our requests in this regard, that:

“The Panel has since heard from a number of planning witnesses, some of whom have provided summary statements that include proposed text (as to site-specific issues) that is sought to be included in the schedule. Others have presented suggested wording that seek site-specific outcomes which the Panel notes is not the purpose of the schedule”.

474. Noting that the Panel had yet to reach a finding as to whether it would include the schedule, the Direction went on advise that for any witnesses who require a property(s) and associated site-specific issues to be identified in the schedule, they would need to provide a supplementary statement setting out the ‘issue wording’ sought in respect of that property. It emphasised that the Panel did not intend to develop that wording on behalf of any party (in the event that it includes the proposed condition amendments and associated schedule). To provide online guidance to submitters in drafting their response, the Direction provided the location of an example of the type of supplementary evidence expected in respect of this matter, namely the online submitter hearing evidence prepared by Ms Edwards (on behalf of Barry Frank Boric et al).²⁶⁹
475. Any supplementary statements in respect of this Direction were required to be submitted by 6 October 2023.
476. A number of such supplementary statements were received, though some of these set out specific outcomes rather than identifying issues, contrary to what was requested in the Direction. For the Strategic NoRs, we received three statements of supplementary evidence in response to this matter, as follows:
- Burnette O’Connor, on behalf of Kumeū Central Limited and Tahua Partners Limited (NoRs S2 and S3);²⁷⁰
 - Hannah Edwards, on behalf of F Boric & Sons (NoR S2);²⁷¹ and
 - Sarah Westoby, on behalf of Z Energy (NoRs S2 and S3).²⁷²
477. The nature of the site-specific relief provided to us in the abovementioned supplementary evidence included:
- Access from 46 Main Road is to be provided directly to and from SH16 during construction and following completion of the NoR S2 project.
 - Ensure the designation is located to the east of the easternmost vehicle crossing to avoid effects on the safety, operation and stormwater on the access or property.

²⁶⁹ EV106, at [21]

²⁷⁰ EV268, at p.2

²⁷¹ EV270, at [21]

²⁷² EV271, at Appendix A

- Retain right-hand turns and all-vehicle access to the (Z Energy) site.
 - Retain two-way vehicle access from Putaki Drive through the site to Harikoa Street and ensure a 99-percentile tracking curve is achieved to secure the useability of the Fast-Food restaurant drive-through facility.
478. The supplementary evidence on behalf of Z Energy also sought the inclusion of detailed matters in respect of oil-water separators, signage, landscaping and electric vehicle transformers. This was to a level of detail that was well beyond what the Panel envisaged within its Direction, and was unnecessarily specific in the context for conditions for a NoR.
479. The Council response memorandum advised that the reporting planners generally support the inclusion of a site-specific schedule for each NoR that is cross-referenced within the SCEMP. It commented that “*this amendment would address the concerns raised by various submitters and assist with providing greater certainty*”.²⁷³ In terms of the Existing Property Access condition (and the LIP for the Local NoRs), the Council was of the view that this a matter to be addressed between the Requiring Authority and the landowners and occupiers, and as a result they have not given further consideration to the proposed wording in the JWS for the ‘Existing Property Access’ (or LIP) condition.
480. The SGA’s Reply commented that a key concern raised by submitters in this regard appeared to be based on the potential for issues to be ‘lost’ between the designations being confirmed, and the implementation of the projects. However, the Reply went on to emphasise the need “*to recognise that the conditions have been prepared to ensure that the relevant effects are appropriately avoided, remedied or mitigated along each project corridor*”, and that the condition structure seeks to ensure that “*site-specific issues are captured through the engagement process, which will be used to inform the preparation of management plans*”.²⁷⁴
481. The Reply went on to make several further observations:
- (a) Given the replies to the Panel’s Direction, the number of sites that would be listed in each of the NoR condition sets would be quite small, and listing the issues raised by a small group of submitters would not achieve consistent treatment for all affected parties or stakeholders. Instead, the emphasis should be to provide robust processes to capture site-specific concerns at the relevant time.
 - (b) A site-specific category would create a different category of affected party and inconsistent mitigation, with no effects-based rationale.
 - (c) Apart from a few exceptions, there are no unique adverse effects raised in site-specific concerns that require bespoke mitigation. It would therefore be

²⁷³ EV281, at p.35

²⁷⁴ EV288, at [17.5]

unreasonable to include bespoke conditions to address impacts that are experienced across the entire network or each NoR.

482. The Reply emphasised, however, that it has identified where site-specific provisions are warranted. These include, for example, the RNZAF Base Auckland aircraft operations, the Southern Cross International Cable, the Business – Town/Local Centre Zones, the Huapai Recreation Reserve and Fred Taylor Park, the Huapai Tavern, the Kumeū Railway Goods Shed, and the specification of a minimum freeboard for Kumeū. It went on to say that:²⁷⁵

“...the matters addressed by these conditions are quite different to the more network-wide concerns (eg access and parking) raised in relation to specific properties and for which many submitters have sought bespoke conditions. The Panel can be confident that where bespoke conditions are required, they have been proposed”.

483. As with the SGA, the Panel understands the underlying concern of submitters as to the potential for their particular issue(s) to be lost between the designations being confirmed and the time that the Projects are implemented. Indeed, we were advised during the Warkworth NoR hearings that Te Tupu Ngātahi is currently in the process of preparing a comprehensive transition process for the designations to be transferred to AT and this will ensure there are appropriate teams and processes in place to implement the Projects. This transfer also presumably applies to the Waka Kotahi NoRs as well, and signals that at an early stage different personnel within these organisations will be responsible for the designations following the Requiring Authorities’ decisions on them.
484. Having reviewed the submissions on the need for site-specific measures and the material placed before us in response to our Direction 7, it is clear that the site-specific requests highlight issues which several submitters deem to be important at this present time. However, the Panel has reached a conclusion that given the period of time that would elapse before implementation of the Projects, coupled the potential for change in the ‘existing environment’, these present issues may well become of lesser relevance in the period at which implementation will occur.
485. As we have previously noted, the Panel also recognises that the developments as addressed by the respective witnesses referred to above may not be subject to significant change in that period due to their more recent construction. However, we are satisfied that the combination of the aforementioned conditions, including the application of the LIP condition to the Strategic NoRs, as well as the Existing Property Access condition, that the particular characteristics and access and frontage needs of these developments can be accommodated with respect to the environment that exists at the relevant time. Certainly, in the Panel’s view there was nothing raised within the submitters’ supplementary evidence, as outlined

²⁷⁵ Ibid, at [17.10]

above, that suggested that these matters were not already covered by the requirements of the relevant conditions.

Panel findings and recommendations

486. As a result of our considerations, the Panel concurs with the SGA that:
- (a) The amended conditions are now framed to ensure site-specific issues are captured through the engagement process, which will be used to inform the preparation of management plans; and
 - (b) The inclusion of site-specific conditions at this stage in the process would not be a useful addition to the same exercise being carried out at that the SCEMP preparation stage.
487. Accordingly, we have not recommended that further site-specific conditions be included as a schedule to the SCEMP.

Huapai Domain

488. This section of our report addresses site-specific matters raised in respect of Council-owned reserves and a particular matter related to the Huapai Tavern. These relate to effects on sites that were acknowledged by the SGA to not be able to be addressed through the 'standard' conditions within the NoRs. For the Huapai Domain, the Reply notes that the agreement of the current owner is needed before any of the Domain land can be acquired (via the processes in the Reserves Act 1977).
489. The proposed alignments for NoRs S1, S2 and S3 impact, to a greater or lesser extent on the existing Council reserves at Huapai Domain, Fred Taylor Park (Whenuapai West) and Whenuapai Settlement Park. The AEE proposed that proposed mitigation in respect of these community resources would be through engagement from the Requiring Authority with the Council's Community Facilities department to provide temporary or permanent replacement facilities, with consultation in this regard continuing through the hearing process. The condition structure at the time of the hearing proposed that the primary mechanism to address effects on these reserves would be through the ULDMP.
490. Submissions from key users of these reserves (the West Coast Rangers Football and Sports Club Inc. and Kumeū Cricket Club) which were addressed in the evidence of Sarah MacCormick (social effects) and Rob Greenaway (parks) on behalf of the SGA. Although Mr Greenaway concluded that the scale of effects on the reserves would not be significant (and able to be mitigated), and:²⁷⁶

"... effective processes to identify future preferred mitigation and management outcomes are established via the proposed SCEMP, CTMP and ULDMP, and, should prior agreement not be reached, the Open Space

²⁷⁶ EV046, at [10.3]

Management Plan. The conditions for the latter are explicit in requiring the input of Auckland Council, and will allow all parties to consider what may be quite different sets of community expectations in the future”.

491. The rebuttal evidence of Mr Elley provided further detail in respect of consultation and an amendment to the conditions to incorporate an Open Space Management Plan (**OSMP**) requirement (in addition to the urban design-related measures required within the ULDMPs). This condition was worded as follows:

Open Space Management Plan

- (a) *An OSMP shall be prepared for Huapai Domain and Fred Taylor Park prior to the Start of Construction for a Stage of Work.*
- (b) *Auckland Council Parks shall be invited to participate in the development of the OSMP at least six (6) months prior to the start of detailed design for a Stage of Work.*
- (c) *The objective of the OSMP is to minimise, as far as practicable, adverse effects on the recreation amenity of parks resulting from the Project. To achieve the objective, the OSMP shall include details of:*
 - (i) *how the ongoing operation of and access (including walking and cycling) to parks during construction will be maintained in accordance with the Construction Traffic Management Plan (Condition 16);*
 - (ii) *opportunities to coordinate the forward work programme for parks, where appropriate, with Auckland Council Parks;*
 - (iii) *measures to reasonably maintain the existing level of service of the affected park; and*
 - (iv) *how comments from Auckland Council Parks have been incorporated into the OSMP, and where comments have not been incorporated, the reasons why not.*

492. Mr Elley advised that while dialogue is ongoing, agreement had not been reached, and that the objective of the OSMP is “*to minimise, as far as practicable, adverse effects on the recreation amenity of parks resulting from the project*”.²⁷⁷

493. However, the response comments from James Hendra, on behalf of the Council’s Parks Planning department, considered that while the Requiring Authority’s amendments to the conditions addressed the concerns raised in his original memorandum, the new OSMP condition does not achieve the open space commitments made by the Requiring Authority in an earlier s.92 (further information) response. The key commitments in this regard were noted to be:²⁷⁸

“Engagement with Auckland Council on the reconfiguration of the Parks and access arrangements, including timing of the re-configuration;

²⁷⁷ EV080, at [3.44]

²⁷⁸ EV282, at [12]

- *The repair and reconfiguration of the Parks to be undertaken during/following construction. and*
- *There will be no loss of service to the Parks following construction”.*

494. Mr Hendra further noted in respect of the OSMP condition that:

- (a) The six-month timeframe is too short, as Parks maintenance, renewal and active recreation programming requires at least an 18-month lead in time.
- (b) The caveat of ‘as far as practicable’ removes any certainty of the outcome being achieved.
- (c) Reference to the requirement to ‘reasonably maintain’ existing levels of service is unclear, and fails to implement the Requiring Authority’s commitment that there will be no loss of service following construction.
- (d) The term ‘Recreational amenity’ has no clear meaning and this should be altered to ‘recreational service levels and function’.
- (e) The use of ‘Participate in the plan’ infers a co-design process, while clause (c)(iv) reduces the Council’s role to providing ‘comments’ which implies a low level of influence on the outcomes of the OSMP.
- (f) Adverse recreational effects would include the permanent loss of function and amenity at a park. The measures listed to achieve the objective do not address this significant effect.
- (g) The condition does not recognise or seek to mitigate the operational effects on community organisations who occupy the parks.

495. An amended version of the OSMP condition was set out in the Council response memorandum,²⁷⁹ and as a separate attachment to Mr Hendra’s memorandum.²⁸⁰

496. We also heard from Michael Brooke on behalf of the West Coast Rangers Football and Sports Club with respect of the potential impact of NoR S3 on the Huapai Recreation Reserve and Fred Taylor Park, and in regard to effects on parking at Huapai Domain, and the lead in time of consultation on the OSMP.²⁸¹

497. Peter Kensington, the Council’s landscape architect, also expressed concern with respect to Huapai Domain and Fred Taylor Park that, with no agreements reached with Parks, *“there is uncertainty around the nature and scale of adverse landscape effects that may arise from the future transport infrastructure on these two public open spaces”*.²⁸²

498. The Reply noted that the OSMP and the agreement/negotiations with Parks/Council are parallel processes, and that the OSMP is an important interim

²⁷⁹ EV281, at pp.110-112

²⁸⁰ EV284

²⁸¹ EV136

²⁸² EV281, at p.83

measure to mitigate potential effects where agreements can take time to resolve. It went on to say, however, that:²⁸³

“Ultimately, because the Huapai Domain is publicly owned land, the agreement of the current owner is needed before any of the Domain land can be acquired. This ensures [Council’s] agreement as to effects and outcomes will be in place prior to any of this land being acquired for the Projects”.

499. In response to the matters raised by Mr Brooke and Mr Hendra, the Reply advised of changes to the OSMP, involving:
- (a) Extending the timeframe for carrying out consultation has been brought forward, from six months to 18 months prior to the start of detailed design; and
 - (b) Enabling key stakeholders (not just Auckland Council Parks) to provide input into the OSMP (and that the West Coast Rangers Football and Sports Club would be considered a key stakeholder for the purposes of consultation under the OSMP).
500. The Reply also acknowledged the effect of the implementation of the RTC (NoR S3) will have on access and parking at Huapai Domain, and notes that lost parking can be replaced by utilising parts of the designation required for construction and within the existing site. These aspects will be confirmed through the development of the OSMP and the negotiations with the Council over land acquisition.²⁸⁴
501. The changes to the OSMP conditions as set out in the Reply are shown below, in respect of NoR S3 (but are similar for NoR S1 and S3):
- (a) *An OSMP shall be prepared for Huapai Recreation Reserve and Fred Taylor Park (the parks) prior to the Start of Construction for a Stage of Work that will impact on the parks.*
 - (b) *Auckland Council Parks shall be invited to participate in the development of the OSMP at least ~~six (6)~~ eighteen (18) months prior to the start of detailed design for a Stage of Work that will impact on the parks.*
 - (c) *The objective of the OSMP is to minimise, as far as practicable, adverse effects on the recreation amenity of the parks resulting from the Project. To achieve the objective, the OSMP shall include details of:*
 - (i) *how ~~the ongoing operation of and~~ access (including walking and cycling) to parks during construction will be maintained in*

²⁸³ EV288, at [19.2], noting also that “Huapai Domain is classified as a recreation reserve, therefore it will be subject to the processes set out in s 52 of the Public Works Act 1981 and section 24 of the Reserves Act 1977”.

²⁸⁴ EV288, at [19.7]

accordance with the Construction Traffic Management Plan (Condition 16);

- (ii) opportunities to coordinate the forward work programme for the parks, where appropriate, with Auckland Council Parks;*
- (iii) measures to reasonably maintain the existing level of service level of the affected park, including any temporary or permanent reconfiguration or replacement of park facilities; and*
- (iv) how ~~comments from~~ matters raised by Auckland Council Parks and by relevant key stakeholders identified pursuant to Condition 3B have been incorporated into the OSMP, and where ~~comments matters~~ matters have not been incorporated, the reasons why not.*

502. In terms of the adverse effects related to landscape outcomes raised by Mr Kensington, the Reply comments that:²⁸⁵

“...the ULDMP also comes into play with respect to the landscape impacts on these open space areas. Specifically, the ULDMP requires details about how the Projects are designed to integrate with the adjacent urban and landscape context and includes an explicit reference to the Huapai Recreation Reserve and Fred Taylor Park open space zones”.

Panel findings and recommendations

503. The Panel considers that the approach by the Requiring Authority is appropriate and endorses the Reply version of the changes to the OSMP condition (condition 8B), as set out above (except for the removal of the phrase ‘key’ in relation to stakeholders, for reasons we have set out elsewhere). It makes no further recommendations in respect of this matter.

Huapai Tavern

504. The Huapai Tavern is a designated heritage place located at 301 Main Road. Due to the works associated with NoRs S3 and KS it will require relocation. The effect on this building has sought to be addressed through the ULDMP (condition 9) for NoRs S3 and KS, requiring landscape and urban design details to cover inter alia historic heritage places, including Huapai Tavern (AUP:OP Schedule 14.1 #00482) and Kumeū Railway Goods Shed (AUP:OP Schedule 14.1 #00483), with reference to the Historic Heritage Management Plan (**HHMP**) required under condition 21 (of both NoRs).

505. The HHMP requires specifically:

For Huapai Tavern (AUP:OP Schedule 14.1 #00482) and Kumeū Railway Goods Shed (AUP:OP Schedule 14.1 #00483) measures and methods shall be identified to:

- A. appropriately avoid, remedy or mitigate adverse construction effects from the re-location of the buildings;*

²⁸⁵ Ibid, at [19.10]

- B. *appropriately re-locate the Huapai Tavern (AUP:OP Schedule 14.1 #00482) within the area identified in Schedule 4 in a manner that respects the heritage value of the buildings;*
- C. *appropriately re-locate the Kumeū Railway Goods Shed (AUP:OP Schedule 14.1 #00483) within extent of the designation located within Kumeū-Huapai in a manner that respects the heritage value of the building;*
- D. *identify non-original additions to the Huapai Tavern which may be removed without compromising the heritage values of the building; and*
- E. *identify long term protection management of heritage elements of the buildings.*

506. We heard evidence in respect of this building from John Brown, heritage consultant for the SGA, and Robyn Byron on behalf of Heritage New Zealand Pouhere Taonga (**HNZPT**). Ms Byron noted her support for the conditions proposed to manage heritage values, but expressed concerns with aspects of the conditions proposed to manage noise and vibration effects during relocation of the Tavern.

507. The opening submissions for the SGA noted that the conditions for the relevant NoRs had been updated to accommodate the relocation of the Tavern, and that “*all relevant experts agree with the proposed area in which the Huapai Tavern should be relocated*”.²⁸⁶

508. Subsequent to their presentation to the Panel, the NZHPT submitted a memorandum (dated 29 September 2023) that proposed an amendment to the CNVMP condition (at (b)) that includes a specific objective to set out the method for monitoring the Huapai Tavern, and to require the HHMP to address historic heritage places including the Tavern.²⁸⁷ The objective was as follows:

(iv) set out the method for monitoring the Huapai Tavern (AUP:OP Schedule 14.1 #00482) to protect historic heritage values; and

509. The CNVMP would be required to give effect to this objective, by the need to address (at (c)):

(iv) Historic heritage places, including Huapai Tavern (AUP:OP Schedule 14.1 #00482), with reference to the HHMP;

510. The response memorandum from Mr Styles, on behalf of the Council, recommended in respect of such effects that the following is included:²⁸⁸

- a pre-condition survey of the Tavern prior to its relocation;

²⁸⁶ EV001, at [11.10]

²⁸⁷ EV220, at p.2

²⁸⁸ EV283, at [3]

- a second survey following its relocation to determine the relevant ‘category’ in relation to the DIN4150-3 building damage criteria; and
 - a post-construction condition survey to determine any change in state and / or damage (including cosmetic) from construction vibration.
511. No particular condition wording was, however, proposed as part of Mr Styles’ response memorandum.
512. The Reply by the SGA states on this matter that:²⁸⁹

“The Requiring Authorities recognise the need to carefully manage heritage values, and consider that the conditions as proposed adequately provide for the matters raised by HNZPT and Mr Styles. Alongside the archaeological authority application process, the relocation of the Huapai Tavern will be managed by the HHMP and Waka Kotahi will be required to assess and fix any damage resulting from the relocation process.[ref condition 21] While we understand the intent of the proposed amendments, the Requiring Authorities consider there are already sufficient controls in place to ensure that effects on Huapai Tavern will be appropriately assessed and managed and an additional layer of controls would not add anything further”.

513. The Panel notes that the CNVMP condition, as proposed by the SGA, is generic for all the Strategic NoRs. However, we consider that there is some merit, and no apparent disadvantage, in ensuring that the CNVMP is implemented with appropriate reference to the HHMP, and by reference to the amendments proposed by the NZHPT. However, we note that the structure of the condition has altered so that only one of the clauses recommended by the NZHPT could be accommodated. However, as clause (c) establishes the objectives for the CNVMP, we consider that the recommendations of the NZHPT can be appropriately addressed with a single addition, as set out below.

Panel findings and recommendations

514. The Panel finds that the additional clauses for the CNVMP to ensure that appropriate monitoring of effects on the Huapai Tavern is provided for, and that this will act in a complementary manner with the HHMP. Accordingly, we recommend that a separate version of the CNVMP condition (condition 19) is provided for NoRs S3 and KS to incorporate the following clause at (c):

(v) Set out the method for monitoring effects on the Huapai Tavern (AUP Schedule 14.1 #00482), to protect historic heritage values including by reference to the HHMP:

²⁸⁹ EV288, at [20.4]

RELEVANT STATUTORY PROVISIONS CONSIDERED

Introduction

515. Waka Kotahi is a requiring authority in terms of s.166 of the RMA and has given notice to the Council under s.168 of its requirement for the works associated with the road construction and improvement projects described as NoRs S1, S2, S3, HS and KS (the Strategic NoRs).
516. We have previously set out the wording of s.171 which sets out the matters to which this Panel must have regard when considering these NoRs and any submissions received, and in making our recommendations to the Requiring Authority. We also note that an alteration to a designation, in respect of NoR S2, is subject to the provisions of s.181. Section 171 (and an alteration via s.181(2)) is subject to Part 2, which states the purpose and principles of the RMA.
517. Our recommendation in respect of the NoRs are therefore subject to the provisions of s.171 as set out above. This includes NoR S2 because recommendations under s.181 are subject inter alia to s.171.
518. We address the specific clauses of s.171(1) below.

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

519. We note that s.171(1)(a) requires that we consider the environmental effects of allowing the activity, having particular regard to the various statutory planning documents within the national, regional and local hierarchy. In other words, the environmental effects are to be assessed against the environment envisaged by those planning documents and the environmental outcomes sought by the relevant objectives and policies for the land through which the North-West NoR routes are to pass. The analysis within the s.42A report and the evidence for the SGA contained a comprehensive review of the framework established by these documents including the statutory provisions as they relate to various parts of the routes.
520. As the SGA also advised in its Reply, the assessment of effects on the environment for the NoRs has been limited to matters that trigger district plan consent requirements as these are the only activities to be authorised by the proposed designations.²⁹⁰ Accordingly, where National Environmental Standard (NES) or regional plan consenting requirements are triggered, these will not be authorised by the proposed designations. Resource consents will be required in the future to authorise activities controlled under the NESs and regional plan

²⁹⁰ EV001, at [8.13]

matters of the AUP (noting that one concurrent resource consent application has been submitted for this purpose at Trig Road, Whenuapai).

521. Section 7 of the s.42A report identifies the policy and planning provisions from the NPS-UD, the National Policy Statement on Freshwater Management (**NPS-FM**), and the Regional Policy Statement (**RPS**) and district plan sections of the AUP. In relation to the AUP we note the relevant provisions in E25 – Noise and Vibration, H7 – Open Space zones and H22 – Strategic Transport Corridor Zone.
522. Mr Scott’s assessment advised that he was in agreement with the Requiring Authority’s assessment against these statutory documents, that the Projects align with the relevant provisions of the national policy statements, policy documents and plans, especially at the strategic level in terms of facilitating urban growth and promoting land use transport integration. In particular, with respect to the NPS-UD, he stated that:²⁹¹
- “...the NoRs will support and enable the future growth proposed in the North West while also promoting and providing for active modes of transport and significant public transport availability in addition to additional roading. In that regard, I agree that the NoRs give effect to the NPS-UD”.*
523. Mr Scott also considered that the NoRs would be consistent with the Auckland-wide and overlay provisions of the AUP.²⁹² The Panel agrees with and adopts Mr Scott’s assessments and conclusions for the purpose of this recommendation.
524. Expert planning evidence from the submitters was less comprehensive in its coverage, being focused on particular points of contention, but nevertheless brought our attention to specific elements of the planning documents upon which their evidence focussed. Of particular importance here were urban integration and noise environment considerations. We find that the conditions attached to the Reply, and as amended through our recommendations, will address the concerns raised in the submitter evidence about the consistency of the Projects with the relevant provisions.
525. The preceding parts of this decision have considered the adverse effects of the NoRs where there were matters remaining in contention between the Requiring Authority, the submitters and the Council (or matters raised by this Panel), and we have made our findings in respect of these matters, having regard to the relevant statutory tests and the conditions proposed by the SGA and our recommended amendments (set out in Attachment A to this report).
526. We also note that prior to the hearing we sought advice from the Council as to the status of any proposed plan changes that have been proposed for the local environment affected by the NoRs.²⁹³ Having regard to the Council’s memorandum in response of 6 September 2023, we note that plan changes affecting the local

²⁹¹ Agenda, at p.186

²⁹² Ibid, at p.190-192

²⁹³ Direction 5, 22 August 2023

area were of broad Auckland-wide application, with no specific measures being highlighted for us to take into account. In particular, there were no private plan changes that have been adopted by the Council in the area directly affected by the NoRs.

Section 171(1B) - any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation

527. Section 171(1B) provides that the effects to be considered under s.171(1) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by a requiring authority.
528. Positive effects were described in the AEE and referenced by Mr Scott in the s.42A report. To a large extent, these effects form part of the overall rationale for the North-West projects and align with the Project objectives. They were noted to include in a s.171(1B) sense a number of general matters (such as supporting and enabling growth and providing improved access to economic and social opportunities and improved resilience in the strategic transport network); supporting transformational mode shift and sustainable outcomes; encouraging land use and transport integration; providing for improved road-user safety; and integrating the transport response with the needs and opportunities of network utility providers. Mr Scott advised that he generally agreed with these positive effects identified by the SGA *“that relate to the project as a whole”* and acknowledged *“that these positive effects must be taken into consideration when balancing any adverse effects on the environment”*.²⁹⁴
529. These positive effects were further highlighted in the evidence of Mr Elley for the SGA, but also with reference to the evidence of other SGA witnesses who identified a range of positive effects (as well as addressing adverse effects), being the evidence of Mr Phillips (transportation), Ms Wilkening (road noise), Mr Summerhays (flood management), Mr Jonker (ecology), Thomas Lines (landscape and visual) and Sarah MacCormick (social). Overall, Mr Elley concluded that the Strategic NoRs *“will have a range of positive effects”*.²⁹⁵
530. We also note that while a number of planning experts appeared for submitters in respect of particular site-specific concerns and issues, they did not generally oppose the NoRs and acknowledged some of the broader positive effects that would arise from their implementation.
531. We agree with the conclusions of the Council and SGA planning experts that the Strategic NoRs will provide for a range of positive effects and outcomes as referred to above.

²⁹⁴ Agenda, at p.58

²⁹⁵ EV079, at [9.10]

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

532. Pursuant to s.171(1)(b), subject to Part 2 of the RMA, we must have particular regard to whether adequate consideration has been given to alternative sites, routes and methods of undertaking the public work, if the Requiring Authority does not have an interest in the land sufficient for undertaking the work, or it is likely that the work will have a significant adverse effect on the environment.
533. The consideration of alternatives is a matter of whether we are satisfied that the Requiring Authority has adequately considered alternatives, rather than whether the ‘best’ option has been chosen, or that all possible alternatives have been considered. Therefore, the option chosen by the Requiring Authority is the one that it considers meets its objectives for the Projects. As explained in the SGA’s opening submissions, the Requiring Authority needs to ensure that it has considered all reasonable options and has not acted arbitrarily or given cursory consideration to the alternatives.
534. We have addressed this matter earlier in this report and also in relation to several of the submitters. The evidence of Mr Daly for the SGA set out his overall position with respect of s.171(1)(b) that:²⁹⁶
- “...[the SGA] adopted a systematic approach to considering alternatives and statutory methods. The MCA framework adopted to consider alternative options incorporated Part 2 RMA elements as well as matters appropriate to AT and Waka Kotahi’s statutory functions”.*
535. Mr Daly was therefore of the opinion that the NoRs meet the purposes of s.171(1)(b) because *“adequate consideration was given to alternative sites, routes and methods in selecting the preferred options for undertaking the Project”*.²⁹⁷
536. While the assessment within the s.42A report was in agreement with the SGA’s position in this regard, there was one minor difference with respect to NoR S3 (RTC) which we have described previously. The Council considered that this required some refinement to accommodate the relocation of the Huapai Tavern within its Extent of Place. However, based on the evidence of Mr Brown, Mr Daly did not consider that there was a need to refine the RTC, and that an appropriate location for the Tavern would be determined at the detailed design stage.
537. Mr Daly also addressed the evidence of submitters with respect to alternatives, and we have discussed and described our findings in regard to those matters earlier in our report. Based on Mr Daly’s evidence, we are further satisfied that the

²⁹⁶ EV008, at [6.1]

²⁹⁷ Ibid, at [6.2]

documentation supporting the NoRs and its evidence clearly demonstrate the adequacy of the optioneering process and assessment.

538. The Reply notes that the evidence from SGA on alternatives assessment was extensive and largely uncontested, and we agree.
539. We agree with those assessments that adequate consideration was given to alternative routes and methods and we therefore find, on the basis of the documentation provided in Appendix 5 to the NoR, and the evidence of Mr Daly in particular, that the requirements of s.171(1)(b) have been met.

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

540. Section 171(1)(c) requires that we must have particular regard to whether the work and designation are 'reasonably necessary' for achieving the objectives of the requiring authority for which the designation is sought
541. The Panel understands from the opening submissions presented for the Warkworth NoRs that there are two legal considerations related to the question posed by s.171(1)(c). Firstly, that the High Court²⁹⁸ has described the threshold of 'reasonably necessary' as falling somewhere between expedient or desirable on the one hand and essential on the other, with the use of 'reasonably' allowing some form of tolerance. On this interpretation, a threshold assessment may be made that is proportionate to the circumstances of the case to assess whether the proposed work is clearly justified. Secondly, what is then required is:²⁹⁹

"...an assessment of whether the work and the designation proposed are reasonably necessary to achieve the requiring authority's objectives, not whether the objectives themselves are necessary. When assessing reasonable necessity, the Panel cannot cast judgment on the merits of a requiring authority's objectives".

542. The project objectives were fully described in the documentation for the NoRs (and have been outlined earlier in this report), the submissions and evidence, as was the need for the specific works being reasonably necessary to achieve them. The AEE stated that the Projects were 'reasonably necessary' for the following reasons, being to:³⁰⁰

- *Enable flexibility and ability to construct, operate and maintain the transport corridor in accordance with the proposed designations and the proposed alteration to existing designation;*

²⁹⁸ By reference to *Queenstown Airport Corporation Limited v Queenstown Lakes District Council* [2013] NZHC 2347 at [93] – [96]

²⁹⁹ By reference to *New Zealand Transport Agency v Waikato Regional Council* [2023] NZEnvC 055 at [75]–[76]

³⁰⁰ AEE, at section 28.3

- *Enable the future works to be undertaken in a comprehensive and integrated manner;*
- *Provide certainty to landowners, the community and stakeholders through identifying in the AUP:OP the location, nature and likely extent of the transport corridors and the Requiring Authority's intended use of that land;*
- *Protect the land from incompatible development by third parties;*
- *Protect the land so that transport corridors can be implemented when required in line with growth; and*
- *Enable the Requiring Authority to avoid, remedy and mitigate any adverse effects of the transport corridors.*

543. Mr Scott advised of his agreement with the conclusion within the AEE that the designations are reasonably necessary to achieve the project objectives.³⁰¹ Mr Elley noted that conclusion in his evidence, and that he was in agreement with it.³⁰²

544. The Panel notes that a key theme of the evidence for some submitters was whether the extent of a given designation is reasonably necessary, particularly in relation to the lack of clarity as to the extent to which designated land would be required for its final configuration as compared to that which is also required for construction. We have discussed this aspect earlier in this report, and note our finding that while this creates uncertainty, we are satisfied that the extent of the designation boundaries has been determined on the basis of rigorous engineering analysis; have been refined as part of the NoR process; and will be further refined and reviewed through detailed design and post-implementation. We have therefore found the designation extent, as finalised through the Requiring Authority's amendments, to meet the threshold of 'reasonably necessary' as that term is defined by the courts.

545. Accordingly, it is the Panel's finding that the Strategic NoRs meet the requirements of s.171(1)(c).

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

Overview

546. Section 171(1)(d) requires us to have particular regard to any other matter that we consider reasonably necessary in order to make a recommendation on the NoRs. The opening submissions for the SGA noted that the "other matters" considered relevant to each of the NoRs are consistent across the Project, so that a single assessment of these matters has been made.³⁰³

³⁰¹ Agenda, at p.193

³⁰² EV079, at [8.15]

³⁰³ EV001, at [13.11]

547. The s.42A report noted that the AEE had also included an assessment against a range of other legislation, central government and local government plans, strategies and policies. Reference to section 28.5 of the AEE shows that these included the Government Policy Statement on Land Transport for 2021/22 – 2030/31; the Emissions Reduction Plan 2022; Auckland Regional Land Transport Plan 2018-2028; the Auckland Transport Alignment Project 2021-2031 (**ATAP**); and Local Board Plans. Mr Scott advised that he generally concurs “*with the assessments and conclusions of the AEE on any other matter*”.³⁰⁴
548. The s.42A report concurred with the SGA analysis of these documents and also referred us to the Heritage New Zealand Pouhere Taonga Act 2014. We have accepted the Council’s advice on the importance of this Act, as demonstrated by the adoption of the Council’s recommended condition relating to a Historic Heritage Management Plan.
549. The SGA’s opening submissions also noted that:³⁰⁵
- “At a strategic policy level, the objectives of Te Tupu Ngātahi are recognised as a priority for Auckland. For example, the [ATAP] identifies the "critical role" of transport in delivering a successful Auckland, which means working towards transport objectives that include "enabling and supporting Auckland's growth". The route protection objectives being progressed by Te Tupu Ngātahi are also supported by Auckland's strategic policy documents, with funding prioritised for the Alliance to undertake these initiatives”.*
550. The conclusions of the s.42A report and evidence and submissions of the Requiring Authority were not challenged through the hearing, and the Panel therefore finds that the range of other legislation, central government and local government plans, strategies and policies identified in the AEE, and including the confirmed FDS (as discussed elsewhere), are relevant ‘other matters’, with which the Projects are generally aligned.

Future Development Strategy

551. A further ‘other matter’ also became relevant following lodgement of the NoRs arising from the Council’s draft ‘Future Development Strategy’ (**FDS**) that was released for public consultation on 6 June 2023 (to 31 July 2023). The stated purpose of the FDS is:
- “...to manage growth across Tāmaki Makaurau for the next 30 years. It seeks to integrate long-term land use and infrastructure planning while meeting future environmental, population, housing and employment needs”.*
552. The approval of the final version of the FDS was adopted by the Council’s Planning, Environment and Parks Committee meeting of 2 November 2023 (i.e., following the end of the hearing but prior to receipt of the SGA’s Reply). The

³⁰⁴ Agenda, at p.193

³⁰⁵ EV001, at [13.13]

Council's resolution notes that "*once published, the Future Development Strategy replaces the current Development Strategy (2018) and the Future Urban Land Supply Strategy (2017) and will be considered part of the Auckland Plan 2050*".³⁰⁶

553. The FDS incorporates a number of significant changes to the FUZ in and around Huapai-Kumeū, and as outlined in the Council's response memorandum, it shows the land north of Huapai-Kumeū, directly adjoining the Kumeū River, as "*no longer appropriate for urban development*", and the FUZ will need to be uplifted and replaced by a non-urban zone. The rest of the FUZ land has been assigned a 'red-flag' notation. As described in the Council's response memorandum, rather than signalling a prohibition on future urban zoning, these areas will instead require an additional level of scrutiny, assessment and evaluation (ideally within a structure planning process) to demonstrate that flood risk within the FUZ land will not be exacerbated.
554. The FDS was formally adopted by the abovementioned Council committee on 2 November 2023. The SGA's Reply noted that the additional requirements specified in the FDS are not novel and observed that the specific transport corridors proposed in the Strategic NoRs are identified as a prerequisite to support the development-readiness of these areas.³⁰⁷
555. The Reply also notes that while the FDS extends the timeframes for development out to 2050 and beyond, the NPS-UD requires the Council to be responsive to unanticipated or out-of-sequence developments, such as private plan changes, which could result in development occurring earlier than 2050. It considers that "*[t]he timeframes proposed in the FDS further support and emphasise the need for the lapse periods sought by Te Tupu Ngātahi for the North West Transport Network*".³⁰⁸ On that basis it concludes that the SGA.³⁰⁹

"... do not consider that the release of the FDS has any material influence on the North West Transport Network other than to add further support for the designations and the respective lapse periods sought. As identified in the FDS, aligning future urban areas with planned infrastructure delivery ensures that development is well-coordinated and is able to provide a safe, sustainable environment for communities".

556. The Panel accepts the SGA's analysis in respect of the newly-minted FDS, and considers that, while the FDS review was promulgated after lodgement of the NoRs, and was finalised during the course of the hearing, the NoRs have appropriate regard to this document (as a relevant 'other matter') and will be in accordance with it.

³⁰⁶ Council resolution no. PEPCC/2023/144

³⁰⁷ EV288, at [6.29], with reference to the FDS at Appendix 6, p.36

³⁰⁸ Ibid, at [6.31]

³⁰⁹ Ibid, at [6.32]

Section 181 – Alteration of designation

557. As previously discussed, it was the SGA’s position that NoR S2 is an alteration to an existing designation (Designation 6766), rather than a new designation per se. This section nevertheless provides that ss.168 to 171 apply to the “modifications” as if it were a requirement for a new designation, and therefore the aforementioned tests need to be met for this designation as well. The previous assessment made in respect of s.171 has therefore been made with respect to, and applies to, NoR S2.

Section 184(1)(c) – Designation lapse periods

558. As previously discussed, the default period for the lapse of a designation is five years after its inclusion in a plan unless it has been given effect to or an application is made to extend the period, or a longer period is confirmed as part of the designation process.³¹⁰ For the present NoRs, Waka Kotahi has sought lapse periods for the four new NoRs of 20 years. We have set out earlier in this decision why we accept that these lapse periods are appropriate, noting that this conclusion is reached with respect to the imposition of a review clause (by way of a majority finding), on which basis they are accepted by this Panel.

PART 2 OF THE RMA

559. Part 2 of the RMA sets out its purpose and principles at ss. 5 to 8, with the overall purpose being sustainable management as defined in s.5. Our findings as to how the Strategic NoRs fare against the relevant clauses of Part 2 are set out below.
560. In terms of s.5, the Panel recognises that the proposal will generate adverse environmental effects, but subject to compliance with the conditions we are recommending to the Requiring Authority these effects are considered to be no more than minor and will be outweighed by the positive benefits of providing for the community’s social, cultural and economic wellbeing by enabling the development of the transport infrastructure proposed in the NoRs. The conditions to be attached to the designation, including the Panel’s recommended amendments, will ensure that adverse effects are avoided or mitigated to the extent that is practicable, and will address the maintenance and enhancement of amenity values and quality of the environment, such as construction traffic and access, noise, infrastructure, business interruption and landscape amenity.
561. We have had regard to the matters of national importance listed in s.6, and these were addressed in appropriate detail in the AEE, as referred to in the s.42A report. Key points in respect of s.6 were referred to by Mr Elley, who highlighted that:³¹¹
- (a) Section 6(c) would be addressed through measures to appropriately mitigate the actual or potential effects on terrestrial ecology, including long-tailed bats and Threatened or At-Risk birds, and that potential impacts on natural

³¹⁰ Section 184(1) of the RMA

³¹¹ EV079, at [13.2] and [13.3]

wetlands will be assessed and managed through a future regional consenting process.

- (b) Section 6(h) is able to be met through the design measures described by Mr Summerhays to provide resilience to flooding, inundation and climate change through the future detailed design of the transport corridors.
562. Section 7 includes 'other matters' that are relevant to the proposed designations. Key points in respect of s.7 were also addressed by Mr Elley, who stated that:³¹²
- (a) The ethic of stewardship (s.7(b)) would be recognised through engagement with key stakeholders, business associations, community groups and the wider community who exercise stewardship over particular resources.
 - (b) The maintenance and enhancement of amenity values (s.7(e)) would be achieved through the development of the concept design through the implementation of the ULDMP.

563. No adverse issues directly associated with s.8, which requires all persons exercising functions and powers under the RMA to take the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) into account, were drawn to our attention. We note that the Requiring Authority, and the SGA generally, have established a collaborative working relationship with Mana Whenua, as described in section 28.6.3 of the AEE. Mr Elley's evidence advised in this regard that:³¹³

"... Manawhenua have been actively involved through the development of the NORs and will continue to exercise kaitiakitanga through the future phases of the Strategic Package. This includes in the preparation of management plans and the involvement of Manawhenua as partners in the detailed design and consenting phases. This ongoing partnership and engagement will ensure that appropriate regard has been had to the matters in sections 6(e) 7(a) and 8".

564. The Panel notes that this continued engagement will be mandated through the requirements contained in the Cultural Advisory Report requirements (condition 7) and in several of the management plan conditions.

565. The s.42A report concludes that the NoRs "are consistent with Part 2 of the RMA in that they enable people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety".³¹⁴ The evidence of Mr Elley similarly concluded in terms of Part 2 that:³¹⁵

"...the Strategic Package will result in some adverse effects, however, when considering the significant regional and local benefits of the transport corridors, and the measures proposed to avoid, remedy and mitigate the

³¹² Ibid, at [13.4] and [13.5]

³¹³ Ibid, at [13.6]

³¹⁴ Agenda, at p.197

³¹⁵ EV079, at [13.7]

adverse effects, the Strategic Package is consistent with the purpose and principles of the RMA”.

566. The Panel agrees with those conclusions, which were not subject to any particular challenge, and it is therefore our finding that the Strategic NoRs will be in accordance with Part 2.

CONCLUSIONS AND RECOMMENDATIONS

567. Section 171 of the RMA provides the means by which the NoRs can be recommended to be confirmed or otherwise by Waka Kotahi. In terms of s.171 we consider that the NoRs are appropriate, subject to the conditions we are recommending to be adopted (as Attachment A) by the Requiring Authority and should be confirmed.

568. Overall we conclude in line with the Council’s s.42A recommendation report that:

- (a) The NoRs and associated works are reasonably necessary for achieving the objectives of the Requiring Authority;
- (b) Adequate consideration has been given to alternative sites, routes or methods of undertaking the work identified in the NoRs;
- (c) The NoRs are generally consistent with the relevant AUP provisions;
- (d) The NoRs are generally in accordance with Part 2 of the RMA and the relevant national environmental standards and national policy statements; and
- (e) Restrictions, by way of conditions, imposed on the designation can avoid, remedy or mitigate any potential adverse environmental effects.

569. We also conclude that the 20-year lapse periods sought by Waka Kotahi for the four new NoRs are appropriate (subject to a majority finding that recommends the imposition of a designation review clause), given the Projects’ scale and the expected timeframes anticipated in respect of funding, land acquisition and outline plan approval processes to be completed, as well as their actual construction.

570. Many of the issues raised by submissions will be appropriately dealt with at the outline plan stage, which must occur before work commences and is subject to overview by the Council.

RECOMMENDATION

571. In accordance with section 171(2) of the RMA, and on behalf of the Auckland Council, the Commissioners recommend to the New Zealand Transport Agency Waka Kotahi that the Notices of Requirement for designations to authorise:

- NoR S1 – Alternative State Highway: A new four-laned dual carriageway motorway and the upgrade of Brigham Creek Interchange;
- NoR S2 – SH16 Main Road: An upgrade to the existing urban corridor including active modes and realignment of Station Road intersection with SH16;
- NoR S3 – Rapid Transit Corridor: A new rapid transit corridor and active mode corridor in one co-located corridor;
- NoR HS – Huapai Station: A new rapid transit station at Huapai, including transport interchange facilities, park and ride and accessway; and
- NoR KS - Kumeū Station: A new rapid transit station, including transport interchange facilities and accessway,

be confirmed, subject to the following conditions set out in **Attachment A**.

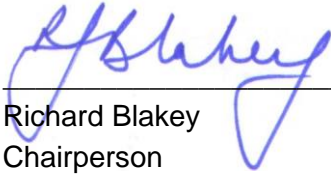
572. Under section 171(3) of the RMA, the reasons for this recommendation are:

- (a) The NoRs satisfy section 171 of the RMA as the designations will avoid, remedy or mitigate adverse environmental effects, subject to the adoption of the recommended conditions set out in Attachment A, and because:
- The designations are in general accordance with to the objectives and policies of the relevant plans, which include:
 - The National Policy Statement for Freshwater Management;
 - The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health;
 - The New Zealand Coastal Policy Statement and the Hauraki Gulf Marine Park Act 2000;
 - Auckland Regional Policy Statement; and
 - Auckland Unitary Plan – Operative in Part,
 - The Requiring Authority has considered alternative sites, routes and methods for undertaking the proposed works;
 - The proposed works are reasonably necessary for achieving the objectives of the Requiring Authority; and
 - Subject to the recommended conditions, set out in Attachment A, the designations will avoid, remedy or mitigate adverse environmental effects.

- (b) A 20-year lapse period for the four new designations is appropriate (subject to a majority finding that recommends the imposition of a designation review clause) given the scale of the proposed works and associated timeframes related to funding, outline plan approvals and construction.
- (c) The works proposed by the NoRs are consistent with Part 2 of the RMA in that they represent the sustainable management of natural and physical resources.

AMENDMENTS TO THE AUCKLAND UNITARY PLAN

573. That the Auckland Unitary Plan be amended as set out in **Attachment A** (conditions and schedules).



Richard Blakey
Chairperson



Mark Farnsworth



Vaughan Smith

Date: 5 April 2024

Attachment A – Conditions and Schedules

Waka Kotahi North West
Recommendation Version: 5 April 2024

NoRs S1, S2, S3, HS, KS

These conditions relate to Notices of Requirement S1, S2, S3, HS and KS, described as follows:

S1 Alternative State Highway (ASH): A new four-laned dual carriageway motorway and the upgrade of the Brigham Creek Interchange.

S2 SH16 Main Road: An upgrade to the existing urban corridor including active modes and realignment of the Station Road intersection with State Highway 16.

S3 Rapid Transit Corridor (RTC): A new rapid transit corridor and active mode corridor in one co-located corridor.

HS Huapai Station: A new rapid transit station, including transport interchange facilities, park-and-ride and accessway.

KS Kumeū Station: A new rapid transit station, including transport interchange facilities and accessway.

Abbreviations and definitions

Acronym/Term	Definition
Activity sensitive to noise	Any dwelling, visitor accommodation, boarding house, marae, papakāinga, integrated residential development, retirement village, supported residential care, care centre, lecture theatre in a tertiary education facility, classroom in an education facility and healthcare facility with an overnight stay facility.
AUP	Auckland Unitary Plan
BPO or Best Practicable Option	Has the same meaning as in section 2 of the RMA 1994 .
CEMP	Construction Environmental Management Plan
Certification	Confirmation from the Manager that a <u>CNVMP Schedule (or change thereto) or a</u> material change to a management plan has been prepared in accordance with the condition to which it relates. A <u>CNVMP Schedule (or change thereto) or a</u> material change to a management plan shall be deemed certified: (a) where the Requiring Authority has received written confirmation from <u>the</u> Council that the <u>CNVMP Schedule or the</u> material change to the management plan is certified; or (b) <u>ten (10) working days from the submission of the CNVMP Schedule or the</u> material change to the management plan where no written confirmation of certification has been received; <u>or</u> (b) (c) <u>five (5) working days from the submission of a change to the CNVMP Schedule where no written confirmation of certification has been received.</u>
<u>CMP</u>	<u>Cultural Management Plan</u>
CNVMP	Construction Noise and Vibration Management Plan
CNVMP Schedule or Schedule	A schedule to the CNVMP
Completion of Construction	When construction of the Project (or part of the Project) is complete and it is available for use.
Confirmed Biodiversity Areas	Areas recorded in the Identified Biodiversity Area Schedule where the ecological values and effects have been confirmed through the ecological survey under Condition 21A.
Construction Works	Activities undertaken to construct the Project excluding Enabling Works.
Council	Auckland Council
CTMP	Construction Traffic Management Plan
Developer	Any legal entity that intends to master plan or develop land adjacent to the designation

Acronym/Term	Definition
Development Agency	Public entities involved in development projects
Educational facility	Facility used for education to secondary level. Includes: <ul style="list-style-type: none"> schools and outdoor education facilities; and accommodation, administrative, cultural, religious, health, retail and communal facilities accessory to the above. Excludes: <ul style="list-style-type: none"> care centres; and tertiary education facilities.
EMP	Ecological Management Plan
EIANZ Guidelines	Ecological Impact Assessment: EIANZ guidelines for use in New Zealand: terrestrial and freshwater ecosystems, second edition, dated May 2018 (or any updated version) .
Enabling works	Includes, but is not limited to, the following and similar activities: <ul style="list-style-type: none"> geotechnical investigations (including trial embankments) archaeological site investigations formation of access for geotechnical investigations establishment of site yards, site entrances 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 planting).
HHMP	Historic Heritage Management Plan
HNZPT	Heritage New Zealand Pouhere Taonga
HNZPTA	Heritage New Zealand Pouhere Taonga Act 2014
Identified Biodiversity Area	Means an area or areas of ecological value where the Project ecologist has identified that the project will potentially have a moderate or greater level of ecological effect, prior to implementation of impact management measures, as determined in accordance with the EIANZ guidelines.
LIP	Land Use Integration Process
Manager	The Manager – Resource Consents of the Auckland Council, or authorised delegate.
Mana Whenua	Mana Whenua as referred to in the conditions is considered to be (as a minimum but not limited to) the following (in no particular order), who at the time of Notice of Requirement expressed a desire to be involved in the Project includes but is not limited to: <ul style="list-style-type: none"> Te Kawerau a Maki Ngāti Whātua o Kaipara Te Ākitai Waiohū <p>Note: Other iwi and hapū not identified above may have an interest in the Project and should be consulted.</p>
Network Utility Operator	Has the same meaning as set out in section 166 of the RMA.
NIMP	Network Integration Management Plan

Acronym/Term	Definition
NOR	Notice of Requirement
North West growth area	Constitutes the Future Urban Zone, or live zoned urban land in Kumeū, Huapai, Redhills, Redhills North, Riverhead and Whenuapai.
NUMP	Network Utilities Management Plan
Outline Plan	An outline plan prepared in accordance with section 176A of the RMA.
OSMP	Open Space Management Plan
Project Liaison Person	The person or persons appointed <u>by the Requiring Authority</u> for the duration of the Project's Construction Works to be the main point of contact for persons wanting information about the Project or affected by the Construction Works.
Protected Premises and Facilities (PPF)	Protected Premises and Facilities as defined in New Zealand Standard NZS 6806:2010: <i>Acoustics – Road-traffic noise – New and altered roads</i> .
Requiring Authority	Has the same meaning as section 166 of the RMA and, for this Designation is Auckland Transport <u>the New Zealand Transport Agency Waka Kotahi</u> .
RMA	Resource Management Act (1991)
SCEMP	Stakeholder Communication and Engagement Management Plan
Stage of Work	Any physical works that require the development of an Outline Plan.
Stakeholders	Stakeholders to be identified in accordance with Condition 3B, which may include as appropriate: (a) adjacent owners and occupiers; (b) adjacent business owners and operators; (c) central and local government bodies; (d) community groups; (e) developers; (f) development agencies; (g) educational facilities; and (h)(a) network utility operators.
Stakeholders NOR S3	Stakeholders to be identified in accordance with Condition 3B, which may include as appropriate: (a) adjacent owners and occupiers; (b) adjacent business owners and operators; (c) central and local government bodies; (d) community groups; (e) developers; (f) development agencies; (g) educational facilities; (h) network utility operators; and (i) emergency services.
Start of Construction	The time when Construction Works (excluding Enabling Works) start.
Suitably Qualified Person	A person (or persons) who can provide sufficient evidence to demonstrate their suitability, experience and competence in the relevant field of expertise.
<u>TMP</u>	<u>Tree Management Plan</u>
ULDMP	Urban and Landscape Design Management Plan

NoR No.	No.	Condition
General Conditions		
S2		Conditions 1 – 23 of this designation shall only apply to the work described in the Project Description and the altered area identified in the Concept Plan in Schedule 1.
<u>S1, S3</u> <u>HS, KS</u>		<u>Conditions 1 – 36 of this designation shall only apply to the work described in the Project Description and the altered area identified in the Concept Plan in Schedule 1.</u>
All	1	<p>Activity in General Accordance with Plans and Information</p> <p>(a) Except as provided for in the conditions below, and subject to final design and Outline Plan(s), works within the designation shall be undertaken in general accordance with the Project description and concept plan in Schedule 1:</p> <p>(b) Where there is inconsistency between:</p> <ol style="list-style-type: none"> (i) the Project description and concept plan in Schedule 1 and the requirements of the following conditions, the conditions shall prevail; (ii) the Project description and concept plan in Schedule 1, and the management plans under the conditions of the designation, the requirements of the management plans shall prevail.
All	2	<p>Project Information</p> <p>(a) A project website, or equivalent virtual information source, shall be established as soon as reasonably practicable, and within <u>six (6)</u> months of the designation-inclusion of the <u>designation</u> in the AUP. All directly affected owners and occupiers shall be notified in writing as soon as reasonably practicable once the website or equivalent information source has been established. The project website or virtual information source shall include these conditions and shall provide information on:</p> <ol style="list-style-type: none"> (i) the status of the Project; (ii) anticipated construction timeframes; (iii) contact details for enquiries; (iv) a subscription service to enable receipt of project updates by email; (v) the implications of the designation for landowners, occupiers and business owners and operators within the designation on how / where they can receive additional support following confirmation of the designation; (vi) how / where to access noise modelling contours to inform <u>the design of</u> development adjacent to the designation; (vii) when and how to apply for consent for works in the designation under <u>section 176(1)(b)</u> of the RMA; and <p>(b) At the start of detailed design for a Stage of Work, the project website or virtual information source shall be updated to provide information on the likely date for Start of Construction, and any staging of works.</p>
<u>S1</u> <u>S2</u> <u>S3</u> <u>HS</u>	2A	<p><u>Land use Integration Process (LIP)</u></p> <p><u>(a) A Land use Integration Process for the period between confirmation of the designation and the Start of Construction shall be established. The purpose of this process is to encourage and facilitate the integration of master planning and land use development activity on land directly affected by, or adjacent to the designation. To achieve this purpose:</u></p> <ol style="list-style-type: none"> <u>(i) The contact details of a nominated contact shall be included on the project website (or equivalent information source) required to be established by Condition (2)(a)(iii).</u> <u>(ii) The nominated contact shall facilitate engagement with a Developer or Development Agency wanting to work with the Requiring Authority to integrate their development plans or master planning with the designation.</u> <p><u>(b) At any time prior to the Start of Construction, the nominated contact shall be available to engage with a Developer or Development Agency for the purpose of:</u></p> <ol style="list-style-type: none"> <u>(i) Responding to requests for information regarding design details that could assist with land use integration; and</u> <u>(ii) Receiving information from a Developer or Development Agency regarding master planning or land development details that could assist with land use integration.</u> <p><u>(c) Information provided by the Requiring Authority under Condition 2A(b) above may include but not be limited to the following matters:</u></p> <ol style="list-style-type: none"> <u>(i) Design details of the project including:</u>

NoR No.	No.	Condition
		<p><u>A. boundary treatment (e.g. the use of retaining walls or batter slopes);</u> <u>B. the horizontal and vertical alignment of the road (levels);</u> <u>C. potential locations for mid-block crossings;</u> <u>D. integration of stormwater infrastructure; and</u> <u>E. outputs from any flood modelling.</u></p> <p><u>(ii) Potential modifications to the extent of the designation in response to information received through Condition 2A(b)(ii);</u> <u>(iii) A process for the Requiring Authority to undertake a technical review of or provide comments on any master planning or development proposal advanced by the Developer or Development Agency as it relates to integration with the Project;</u> <u>(iv) Details of how to apply for written consent from the Requiring Authority for any development proposal that relates to land is within the designation under section 176(1)(b) of the RMA; and</u> <u>(v) How / where to access noise modelling contours to inform development adjacent to the designation.</u></p> <p><u>(d) Where information is requested from the Requiring Authority and is available, it shall be provided unless there are reasonable grounds for not providing it.</u> <u>(e) The Requiring Authority shall maintain a record of engagement with Developers and Development Agencies for the period following the date in which this designation is included in the AUP through to the Start of Construction for a Stage of Work. The record shall include:</u> <u>(i) A list of all Developers and Development Agencies who indicated through the notice of requirement process that they intend to master plan or develop sites along the Project alignment that may require specific integration with the designation;</u> <u>(ii) A summary of requests made to the Requiring Authority that could influence detailed design, the results of any engagement and, where such requests that could influence detailed design are declined, the reasons why the Requiring Authority has declined the requests; and</u> <u>(iii) Details of any requests to co-ordinate the forward work programme, where appropriate, with Development Agencies and Network Utility Operators.</u></p> <p><u>The record shall be submitted to the Council for information ten (10) working days prior to the Start of Construction for a Stage of Work.</u></p>
All	3	<p>Designation Review</p> <p><u>Pre-construction review</u></p> <p><u>(a) The Requiring Authority shall, at five (5) yearly intervals from the confirmation of the designation, undertake a review of the designation. The purpose of the review is to keep stakeholders updated on progress with implementation of the project, and to enable areas of designated land to be removed from the designation if identified as being no longer required.</u> <u>(b) The review shall involve affected landowners and occupiers and:</u> <u>(i) provide an update on the progress or effort made to give effect to the designation and the anticipated date for implementation;</u> <u>(ii) review the extent of the designation to identify any areas of designated land that are no longer required for the designation; and</u> <u>(iii) be made publicly available on the project website and be made available to the Council.</u></p> <p><u>Post-construction review</u></p> <p><u>(a)(c) As soon as reasonably practicable, but no later than six (6) months, following the Completion of Construction (The Requiring Authority shall within 6 months of Completion of Construction or as soon as otherwise practicable:</u> <u>(i) review the extent of the designation to identify any areas of designated land that it no longer requires for the on-going operation, maintenance or mitigation of effects of the Project; and</u> <u>(ii) give notice to Auckland the Council in accordance with section 182 of the RMA for the removal of those parts of the designation identified above.</u></p>
<u>S1</u> <u>S3</u>	3A	Lapse

NoR No.	No.	Condition
HS KS S3 S4		In accordance with section 184(1)(c) of the RMA, this designation shall lapse if not given effect to within 20 years from the date on which it is included in the AUP.
All	3B	<p>Stakeholder Communication and Engagement</p> <p>(a) At least 6 months prior to the start of detailed design for a Stage of Work, the Requiring Authority shall identify:</p> <ul style="list-style-type: none"> (i) a list of Stakeholders; (ii) a list of properties within the designation which the Requiring Authority does not own or have occupation rights to; and (iii) methods to engage with Stakeholders and the owners and occupiers of properties identified in (a)(i) – (ii) above. <p>(b) A record of (a) shall be submitted with an Outline Plan for the relevant Stage of Work.</p>
S1 S2 S3	4	<p>Network Utility Operators and Auckland Council (Section 176 Approval)</p> <p>(a) Prior to the start of Construction Works, Network Utility Operators with existing infrastructure and Auckland Council in relation to parks will not require written consent under section 176 of the RMA for the following activities:</p> <ul style="list-style-type: none"> (i) operation, maintenance and repair works; (ii) minor renewal works to existing network utilities and/or parks necessary for the on-going provision or security of supply of network utility operations and/or parks; (iii) minor works such as new service connections; and (iv) the upgrade and replacement of existing network utilities and/or parks in the same location with the same or similar effects as the existing utility and/or park. <p>(b) To the extent that a record of written approval is required for the activities listed above, this condition shall constitute written approval.</p>
KS HS	4	<p>Network Utility Operators (Section 176 Approval)</p> <p>(a) Prior to the start of Construction Works, Network Utility Operators with existing infrastructure located within the designation will not require written consent under section 176 of the RMA for the following activities:</p> <ul style="list-style-type: none"> (i) operation, maintenance and urgent repair works; (ii) minor renewal works to existing network utilities for the on-going provision or security of supply of network utility operations; (iii) minor works such as new service connections; and (iv) the upgrade and replacement of existing network utilities in the same location with the same or similar effects as the existing utility. <p>(b) To the extent that a record of written approval is required for the activities listed above, this condition shall constitute written approval.</p>
Pre-construction Conditions		
All	5	<p>Outline Plan</p> <p>(a) An Outline Plan (or Plans) shall be prepared in accordance with section 176A of the RMA.</p> <p>(b) Outline Plans (or Plan) may be submitted in parts or in stages to address particular activities (e.g. design or construction aspects), or a Stage of Work of the Project.</p> <p>(c) Outline Plans shall include any management plan or plans that are relevant to the management of effects of those activities or Stage of Work, which may include:</p> <ul style="list-style-type: none"> (i) Construction Environmental Management Plan; (ii) Construction Traffic Management Plan; (iii) Construction Noise and Vibration Management Plan; (iv) Network Integration Management Plan; (v) Urban and Landscape Design Management Plan; (vi) Historic Heritage Management Plan; (vii) Ecological Management Plan; (viii) Tree Management Plan; and

NoR No.	No.	Condition
		(ix) Network Utilities Management Plan.
All	6	<p>Management Plans</p> <p>(a) Any management plan shall:</p> <ul style="list-style-type: none"> (i) Be prepared and implemented in accordance with the relevant management plan condition <u>and to achieve its objective or purpose</u>; (ii) Be prepared by a Suitably Qualified Person(s); (iii) Include sufficient detail relating to the management of effects associated with the relevant activities and/or Stage of Work to which it relates. (iv) Summarise comments received from Mana Whenua and other stakeholders as required by the relevant management plan condition, along with a summary of where comments have: <ul style="list-style-type: none"> a. Been incorporated; and b. Where not incorporated, the reasons why. (v) Be submitted as part of an Outline Plan pursuant to <u>section</u> 176A of the RMA, with the exception of SCEMPs and CNVMP Schedules. (vi) Once finalised, uploaded to the Project website or equivalent virtual information source. <p>(b) Any management plan developed in accordance with Condition 5 may:</p> <ul style="list-style-type: none"> (i) Be submitted in parts or in stages to address particular activities (e.g. design or construction aspects) a Stage of Work of the Project, or to address specific activities authorised by the designation. (ii) Except for material changes, be amended to reflect any changes in design, construction methods or management of effects without further process. <p>(c) If there is a material change required to a management plan which has been submitted with an Outline Plan, the revised part of the plan shall be submitted to the Council as an update to the Outline Plan or for Certification as soon as practicable following identification of the need for a revision.;</p> <p>(d) Any material changes to the SCEMP(s), are to be submitted to the Council for information.</p>
All	7	<p>Cultural Advisory Report</p> <p>(a) At least six (6) months prior to the start of detailed design for a Stage of Work, Mana Whenua shall be invited to prepare a Cultural Advisory Report for the Project.</p> <p>(b) The objective of the Cultural Advisory Report is to assist in understanding and identifying Ngā Taonga Tuku Iho ('treasures handed down by our ancestors') affected by the Project, to inform their management and protection. To achieve the objective, the Requiring Authority shall invite Mana Whenua to prepare a Cultural Advisory Report that:</p> <ul style="list-style-type: none"> (i) Identifies the cultural sites, landscapes and values that have the potential to be affected by the construction and operation of the Project; (ii) Sets out the desired outcomes for management of potential effects on cultural sites, landscapes and values; (iii) Identifies traditional cultural practices within the area that may be impacted by the Project; (iv) Identifies opportunities for restoration and enhancement of identified cultural sites, landscapes and values within the Project area; (v) Taking into account the outcomes of (i) to (iv) above, identify cultural matters and principles that should be considered in the development of the Urban and Landscape Design Management Plan and Historic Heritage Management Plan, and the Cultural Monitoring Plan referred to in Condition 15. (vi) Identifies and (if possible) nominates traditional names along the Project alignment. Noting there may be formal statutory processes outside the project required in any decision-making. <p>(c) The desired outcomes for management of potential effects on cultural sites, landscapes and values identified in the Cultural Advisory Report shall be discussed with Mana Whenua and those outcomes reflected in the relevant management plans where practicable.</p> <p>(d) Conditions 7(b) and 7(c) above will cease to apply if:</p> <ul style="list-style-type: none"> (i) Mana Whenua have been invited to prepare a Cultural Advisory Report by a date at least <u>six (6)</u> months prior to start of Construction Works; and

NoR No.	No.	Condition
		(ii) Mana Whenua have not provided a Cultural Advisory Report within six (6) months prior to start of Construction Works.
All	8	<p>Network Integration Management Plan (NIMP)</p> <p>(a) At least six (6) months prior to the start of detailed design for a Stage of Work, the Requiring Authority shall prepare, in collaboration with other relevant road controlling authorities, a Network Integration Management Plan (NIMP).</p> <p>(b) The objective of the NIMP is to identify how the Project will integrate with the planned transport network in the North West growth area to achieve an effective, efficient and safe land transport system. To achieve this objective, the NIMP shall include details of the:</p> <ul style="list-style-type: none"> (i) Project implementation approach and any staging of the Project, including both design, management and operational matters; <u>and</u> (ii) Sequencing of the Project<u>s</u> with the planned transport network, including both design, management and operational matters, <u>and whether Designation S1 can practicably be implemented prior to Designations S2 and S3 in order to minimise adverse effects on SH16 and the Kumeū Town Centre.</u>
S2 S3	8A	<p>Stakeholder and Communication and Engagement Management Plan (SCEMP)</p> <p>(a) A SCEMP shall be prepared in consultation with Stakeholders, prior to the Start of Construction.</p> <p>(b) The objective of the SCEMP is to identify how the public and Stakeholders will be engaged with throughout Construction Works. To achieve the objective, the SCEMP shall include:</p> <ul style="list-style-type: none"> (i) a list of Stakeholders; (ii) a list of properties within the designation which the Requiring Authority does not own or have occupation rights to; (iii) methods to engage with Stakeholders and the owners of properties identified in b(ii) above; (iv) the contact details for the Project Liaison Person. These details shall be on the Project website, or equivalent virtual information source, and prominently displayed at the main entrance(s) to the site(s); (v) the procedures for ensuring that there is a contact person available for the duration of Construction Works, for public enquiries or complaints about the Construction Works; (vi) methods for engaging with Mana Whenua, to be developed in consultation with Mana Whenua; (vii) mMethods to manage<u>avoid, remedy or mitigate</u> the potential loss of visibility from public spaces and <u>physical</u> severance to businesses in the Business - Town Centre Zones, informed by engagement undertaken in accordance with condition 8A(b)(i) and (ii) <u>above</u>. These methods could include (but not be limited to) customer access arrangements, temporary wayfinding and signage; (viii) mMethods and timing to engage with owners and occupiers whose access is directly affected; (ix) methods to communicate key project milestones and the proposed hours of construction activities including outside of normal working hours and on weekends and public holidays, to the parties identified in (b)(i) and (ii) above; <u>and</u> (x) linkages and cross-references to communication and engagement methods set out in other conditions and management plans where relevant; <u>and</u> (*)(xi) <u>provision for a hardship fund to compensate or offset business costs or losses arising from the Construction Works on the operation of the business.</u> <p>(c) Any SCEMP prepared for a Stage of Work shall be submitted to <u>the</u> Council for information <u>a minimum of ten</u> (10) working days prior to the Start of Construction for a Stage of Work.</p>
S1 HS KS	8A	<p>Stakeholder and Communication and Engagement Management Plan (SCEMP)</p>

NoR No.	No.	Condition
		<p>(a) A SCEMP shall be prepared in consultation with Stakeholders, prior to the Start of Construction.</p> <p>(b) The objective of the SCEMP is to identify how the public and Stakeholders will be engaged with throughout Construction Works. To achieve the objective, the SCEMP shall include:</p> <ul style="list-style-type: none"> (i) a list of Stakeholders; (ii) a list of properties within the designation which the Requiring Authority does not own or have occupation rights to; (iii) methods to engage with Stakeholders and the owners of properties identified in b(ii) above; (iv) the contact details for the Project Liaison Person. These details shall be on the Project website, or equivalent virtual information source, and prominently displayed at the main entrance(s) to the site(s); (v) the procedures for ensuring that there is a contact person available for the duration of Construction Works, for public enquiries or complaints about the Construction Works; (vi) methods for engaging with Mana Whenua, to be developed in consultation with Mana Whenua; (vii) mMethods and timing to engage with owners and occupiers whose access is directly affected; (viii) methods to communicate key project milestones and the proposed hours of construction activities including outside of normal working hours and on weekends and public holidays, to the parties identified in b(i) and (ii) above; and (ix) linkages and cross-references to communication and engagement methods set out in other conditions and management plans where relevant. <p>(c) Any SCEMP prepared for a Stage of Work shall be submitted to <u>the</u> Council for information with the Outline Plan.</p>
<u>HS</u>	<u>8A</u>	<p><u>Stakeholder and Communication and Engagement Management Plan (SCEMP)</u></p> <p><u>(a) A SCEMP shall be prepared in consultation with Stakeholders, prior to the Start of Construction.</u></p> <p><u>(b) The objective of the SCEMP is to identify how the public and Stakeholders will be engaged with throughout Construction Works. To achieve the objective, the SCEMP shall include:</u></p> <ul style="list-style-type: none"> <u>(i) a list of Stakeholders;</u> <u>(ii) a list of properties within the designation which the Requiring Authority does not own or have occupation rights to;</u> <u>(iii) methods to engage with Stakeholders and the owners of properties identified in b(ii) above;</u> <u>(iv) the contact details for the Project Liaison Person. These details shall be on the Project website, or equivalent virtual information source, and prominently displayed at the main entrance(s) to the site(s);</u> <u>(v) the procedures for ensuring that there is a contact person available for the duration of Construction Works, for public enquiries or complaints about the Construction Works;</u> <u>(vi) methods for engaging with Mana Whenua, to be developed in consultation with Mana Whenua;</u> <u>(vii) methods and timing to engage with owners and occupiers whose access is directly affected;</u> <u>(viii) methods to communicate key project milestones and the proposed hours of construction activities including outside of normal working hours and on weekends and public holidays, to the parties identified in b(i) and (ii) above; and</u> <u>(ix) linkages and cross-references to communication and engagement methods set out in other conditions and management plans where relevant.</u> <p><u>Any SCEMP prepared for a Stage of Work shall be submitted to the Council for information with the Outline Plan.</u></p>

NoR No.	No.	Condition
S1	8B	<p>Open Space Management Plan (OSMP)</p> <p>(a) An OSMP shall be prepared for Fred Taylor Park prior to the Start of Construction for a Stage of Work that will impact on Fred Taylor Park.</p> <p>(b) Auckland Council Parks shall be invited to participate in the development of the OSMP at least eighteen (18)18 months prior to the start of detailed design for a Stage of Work that will impact on Fred Taylor Park.</p> <p>(c) The objective of the OSMP is to minimise, as far as practicable, adverse effects on the recreation amenity of Fred Taylor Park resulting from the Project. To achieve the objective, the OSMP shall include details of:</p> <ul style="list-style-type: none"> (i) how ongoing access (including walking and cycling) to Fred Taylor Park during construction will be maintained in accordance with the Construction Traffic Management Plan (Condition 16); (ii) opportunities to coordinate the forward work programme for Fred Taylor Park, where appropriate, with Auckland Council Parks; (iii) measures to reasonably maintain the existing service level of the affected park, including any temporary or permanent reconfiguration or replacement of park facilities; and (iv) how matters raised by Auckland Council Parks and by relevant key stakeholders identified pursuant to Condition 3B have been incorporated into the OSMP, and where matters have not been incorporated, the reasons why not.
S2	8B	<p>Open Space Management Plan (OSMP)</p> <p>(a) An OSMP shall be prepared for Huapai Recreation Reserve prior to the Start of Construction for a Stage of Work that will impact on the Huapai Recreation Reserve.</p> <p>(b) Auckland Council Parks shall be invited to participate in the development of the OSMP at least eighteen (18)18 months prior to the start of detailed design for a Stage of Work that will impact on the Huapai Recreation Reserve.</p> <p>(c) The objective of the OSMP is to minimise, as far as practicable, adverse effects on the recreation amenity of the Huapai Recreation Reserve resulting from the Project. To achieve the objective, the OSMP shall include details of:</p> <ul style="list-style-type: none"> (i) how ongoing access (including walking and cycling) to the Huapai Recreation Reserve during construction will be maintained in accordance with the Construction Traffic Management Plan (Condition 16); (ii) opportunities to coordinate the forward work programme for the Huapai Recreation Reserve, where appropriate, with Auckland Council Parks; (iii) measures to reasonably maintain the existing service level of the affected park, including any temporary or permanent reconfiguration or replacement of park facilities; and (iv) how matters raised by Auckland Council Parks and by relevant key stakeholders identified pursuant to Condition 3B have been incorporated into the OSMP, and where matters have not been incorporated, the reasons why not.
S3	8B	<p>Open Space Management Plan (OSMP)</p> <p>(a) An OSMP shall be prepared for Huapai Recreation Reserve and Fred Taylor Park ('the parks') prior to the Start of Construction for a Stage of Work that will impact on the parks.</p> <p>(b) Auckland Council Parks shall be invited to participate in the development of the OSMP at least eighteen (18)18 months prior to the start of detailed design for a Stage of Work that will impact on the parks.</p> <p>(c) The objective of the OSMP is to minimise, as far as practicable, adverse effects on the recreation amenity of the parks resulting from the Project. To achieve the objective, the OSMP shall include details of:</p> <ul style="list-style-type: none"> (i) how ongoing access (including walking and cycling) to parks during construction will be maintained in accordance with the Construction Traffic Management Plan (Condition 16);

NoR No.	No.	Condition
		<ul style="list-style-type: none"> (ii) opportunities to coordinate the forward work programme for the parks, where appropriate, with Auckland Council Parks; (iii) measures to reasonably maintain the existing service level of the affected park, including any temporary or permanent reconfiguration or replacement of park facilities; and (iv) how matters raised by Auckland Council Parks and by relevant key-stakeholders identified pursuant to Condition 3B have been incorporated into the OSMP, and where matters have not been incorporated, the reasons why not.
S1	9	<p>Urban and Landscape Design Management Plan (ULDMP)</p> <ul style="list-style-type: none"> (a) A ULDMP shall be prepared prior to the Start of Construction for a Stage of Work. The objective of the ULDMP(s) is to: <ul style="list-style-type: none"> (i) Enable integration of the Project's permanent works into the surrounding landscape and urban, anticipated future urban, or rural context; and (ii) Ensure that the Project manages potential adverse landscape and visual effects as far as practicable and contributes to a quality environment. (b) Mana Whenua shall be invited to participate in the development of the ULDMP(s) to provide input into relevant cultural landscape and design matters including how desired outcomes for management of potential effects on cultural sites, landscapes and values identified and discussed in accordance with Condition 7(c) may be reflected in the ULDMP. (c) Key-Stakeholders identified through the Condition 3B shall be invited to participate in the development of the ULDMP at least six (6) months prior to the start of detailed design for a Stage of Work. (d) The ULDMP shall be prepared in general accordance with: <ul style="list-style-type: none"> (i) Waka Kotahi Urban Design Guidelines: Bridging the Gap (2013) or any subsequent updated version; (ii) Waka Kotahi Landscape Guidelines (2013) or any subsequent updated version; (iii) Waka Kotahi P39 Standard Specification for Highway Landscape Treatments (2013) or any subsequent updated version; and (e) To achieve the objective, the ULDMP(s) shall provide details of how the project: <ul style="list-style-type: none"> (i) Is designed to integrate with the adjacent urban, anticipated future urban, or rural context, including the surrounding existing or proposed topography, urban environment (i.e. centres and density of built form), natural environment, landscape character and open space zones (including Fred Taylor Park); (ii) Provides appropriate walking and cycling connectivity to, and interfaces with, existing or proposed adjacent land uses, public transport infrastructure and walking and cycling connections; (iii) Promotes inclusive access (where appropriate); and (iv) Promotes a sense of personal safety by aligning with best practice guidelines, such as: <ul style="list-style-type: none"> a. Crime Prevention Through Environmental Design (CPTED) principles; b. Safety in Design (SID) requirements; and c. Maintenance in Design (MID) requirements and anti-vandalism/anti-graffiti measures. (v) Interfaces with the operational areas of commercial premises within business zoned land, including loading areas, internal circulation and car parking, where practicable. (f) The ULDMP(s) shall include: <ul style="list-style-type: none"> (i) a concept plan – which depicts the overall landscape and urban design concept, and explain the rationale for the landscape and urban design proposals; (ii) developed design concepts, including principles for walking and cycling facilities and public transport; and (iii) landscape and urban design details – that cover the following: <ul style="list-style-type: none"> a. Road design – elements such as intersection form, carriageway gradient and associated earthworks contouring including cut and fill batters, shaped to a natural profile where practicable and appropriate to the surrounding context and the interface with adjacent land uses and existing roads (including slip lanes), benching, spoil disposal sites, median width and treatment, roadside width and treatment;

NoR No.	No.	Condition
		<ul style="list-style-type: none"> b. Roadside elements – such as lighting, fencing, wayfinding and signage; c. architectural and landscape treatment of all major structures, including bridges and retaining walls; d. Architectural and landscape treatment of noise barriers; e. Landscape treatment of permanent stormwater control wetlands and swales; f. Integration of passenger transport; g. Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/ cycle bridges or underpasses; h. Historic heritage places with reference to the HHMP; i. Reinstatement of construction and site compound areas; j. Reinstatement of features to be retained such as: <ul style="list-style-type: none"> a. boundary features; b. landscaping; c. driveways; d. accessways; and e. fences; and e-f. <u>site utilities.</u> <p>(g) The ULDMP shall also include the following planting details and maintenance requirements:</p> <ul style="list-style-type: none"> (i) planting design details including: <ul style="list-style-type: none"> a. identification of existing trees and vegetation that will be retained with reference to the Tree Management Plan and Ecological Management Plan. Where practicable, mature trees and native vegetation should be retained; b. street trees, shrubs and ground cover suitable for the location; c. treatment of fill slopes to integrate with adjacent land use, streams, riparian margins and open space zones; d. planting of stormwater wetlands; e. identification of vegetation to be retained and any planting requirements under Conditions 21B and 22; f. integration of any planting requirements required by conditions of any resource consents for the project; and g. re-instatement planting of construction and site compound areas as appropriate. (ii) a planting programme including the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of works in each Stage of Work; and (iii) detailed specifications relating to the following: <ul style="list-style-type: none"> a. weed control and clearance; b. pest animal management (to support plant establishment); c. ground preparation (top soiling and decompaction); d. mulching; and e. <u>plant sourcing and planting, including hydroseeding and grassing, and use of eco-sourced species;</u> f. <u>irrigation; and</u> e-g. <u>plant replacement (due to theft or plants dying).</u> <p><u>Advice Note:</u></p> <p><i>This designation is for the purpose of construction, operation and maintenance of an arterial transport corridor and it is not for the specific purpose of “road widening”. Therefore, it is not intended that the front yard definition in the Auckland Unitary Plan which applies a set back from a designation for road widening purposes applies to this designation. A set back is not required to manage effects between the designation boundary and any proposed adjacent sites or lots.</i></p>
S2	9	<p>Urban and Landscape Design Management Plan (ULDMP)</p> <p>(a) A ULDMP shall be prepared prior to the Start of Construction for a Stage of Work. The objective of the ULDMP(s) is to:</p> <ul style="list-style-type: none"> (i) Enable integration of the Project's permanent works into the surrounding landscape and urban context; and

NoR No.	No.	Condition
		<ul style="list-style-type: none"> (ii) Ensure that the Project manages potential adverse landscape and visual effects as far as practicable and contributes to a quality urban environment. (b) Mana Whenua shall be invited to participate in the development of the ULDMP(s) to provide input into relevant cultural landscape and design matters including how desired outcomes for management of potential effects on cultural sites, landscapes and values identified and discussed in accordance with Condition 7(c) may be reflected in the ULDMP. (c) Key Stakeholders identified through the Condition 3B shall be invited to participate in the development of the ULDMP at least six (6) months prior to the start of detailed design for a Stage of Work. (d) The ULDMP shall be prepared in general accordance with: <ul style="list-style-type: none"> (i) Waka Kotahi Urban Design Guidelines: Bridging the Gap (2013) or any subsequent updated version; (ii) Waka Kotahi Landscape Guidelines (2013) or any subsequent updated version; (iii) Waka Kotahi P39 Standard Specification for Highway Landscape Treatments (2013) or any subsequent updated version; and (e) To achieve the objective, the ULDMP(s) shall provide details of how the project: <ul style="list-style-type: none"> (i) Is designed to integrate with the adjacent urban (or proposed urban) and landscape context, including the surrounding existing or proposed topography, urban environment (i.e. centres and density of built form), natural environment, landscape character and open space zones (including Huapai Recreation Reserve); (ii) Provides appropriate walking and cycling connectivity to, and interfaces with, existing or proposed adjacent land uses, public transport infrastructure and walking and cycling connections; (iii) Promotes inclusive access (where appropriate); and (iv) Promotes a sense of personal safety by aligning with best practice guidelines, such as: <ul style="list-style-type: none"> a. Crime Prevention Through Environmental Design (CPTED) principles; b. Safety in Design (SID) requirements; and c. Maintenance in Design (MID) requirements and anti-vandalism/anti-graffiti measures. (v) Interfaces with the operational areas of commercial premises within business zoned land, including loading areas, internal circulation and car parking, where practicable. (f) The ULDMP(s) shall include: <ul style="list-style-type: none"> (i) a concept plan – which depicts the overall landscape and urban design concept, and explain the rationale for the landscape and urban design proposals; (ii) developed design concepts, including principles for walking and cycling facilities and public transport; and (iii) landscape and urban design details – that cover the following: <ul style="list-style-type: none"> a. Road design – elements such as intersection form, carriageway gradient and associated earthworks contouring including cut and fill batters and the interface with adjacent land uses and existing roads (including slip lanes), benching, spoil disposal sites, median width and treatment, roadside width and treatment; b. Roadside elements – such as lighting, fencing, wayfinding and signage; c. architectural and landscape treatment of all major structures, including bridges and retaining walls; d. Architectural and landscape treatment of noise barriers; e. Landscape treatment of permanent stormwater control wetlands and swales; f. Integration of passenger transport; g. Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/ cycle bridges or underpasses; h. Historic heritage places with reference to the HHMP; i. Reinstatement of construction and site compound areas; j. Reinstatement of features to be retained such as: <ul style="list-style-type: none"> a. boundary features; b. landscaping; c. driveways;

NoR No.	No.	Condition
		<p>d. accessways; and e. fences; and e.f. site utilities.</p> <p>(g) The ULDM shall also include the following planting details and maintenance requirements:</p> <p>(i) planting design details including:</p> <ol style="list-style-type: none"> a. identification of existing trees and vegetation that will be retained with reference to the Tree Management Plan and Ecological Management Plan. Where practicable, mature trees and native vegetation should be retained; b. street trees, shrubs and ground cover suitable for the location; c. treatment of fill slopes to integrate with adjacent land use, streams, riparian margins and open space zones; d. planting of stormwater wetlands; e. identification of vegetation to be retained and any planting requirements under Conditions 21B and 22; f. integration of any planting requirements required by conditions of any resource consents for the project; and g. re-instatement planting of construction and site compound areas as appropriate. <p>(ii) a planting programme including the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of works in each Stage of Work; and</p> <p>(iii) detailed specifications relating to the following:</p> <ol style="list-style-type: none"> a. weed control and clearance; b. pest animal management (to support plant establishment); c. ground preparation (top soiling and decompaction); d. mulching; and e. plant sourcing and planting, including hydroseeding and grassing, and use of eco-sourced species; f. irrigation; and e.g. plant replacement (due to theft or plants dying). <p><u>Advice Note:</u></p> <p><i>This designation is for the purpose of construction, operation and maintenance of an arterial transport corridor and it is not for the specific purpose of "road widening". Therefore, it is not intended that the front yard definition in the Auckland Unitary Plan which applies a set back from a designation for road widening purposes applies to this designation. A set back is not required to manage effects between the designation boundary and any proposed adjacent sites or lots.</i></p>
S3	9	<p>Urban and Landscape Design Management Plan (ULDMP)</p> <p>(a) A ULDM shall be prepared prior to the Start of Construction for a Stage of Work. The objective of the ULDM(s) is to:</p> <ol style="list-style-type: none"> (i) Enable integration of the Project's permanent works into the surrounding landscape and urban context; and (ii) Ensure that the Project manages potential adverse landscape and visual effects as far as practicable and contributes to a quality urban environment. <p>(b) Mana Whenua shall be invited to participate in the development of the ULDM(s) to provide input into relevant cultural landscape and design matters including how desired outcomes for management of potential effects on cultural sites, landscapes and values identified and discussed in accordance with Condition 7(c) may be reflected in the ULDM.</p> <p>(c) Key Stakeholders identified through the Condition 3B shall be invited to participate in the development of the ULDM at least six (6) months prior to the start of detailed design for a Stage of Work.</p> <p>(d) The ULDM shall be prepared in general accordance with:</p> <ol style="list-style-type: none"> (i) Waka Kotahi Urban Design Guidelines: Bridging the Gap (2013) or any subsequent updated version; (ii) Waka Kotahi Landscape Guidelines (2013) or any subsequent updated version;

NoR No.	No.	Condition
		<p>(iii) Waka Kotahi P39 Standard Specification for Highway Landscape Treatments (2013) or any subsequent updated version; and</p> <p>(e) To achieve the objective, the ULDMP(s) shall provide details of how the project:</p> <p>(i) Is designed to integrate with the adjacent urban (or proposed urban) and landscape context, including the surrounding existing or proposed topography, urban environment (i.e. centres and density of built form), natural environment, landscape character and open space zones (including Huapai Recreation Reserve and Fred Taylor Park);</p> <p>(ii) Provides appropriate walking and cycling connectivity to, and interfaces with, existing or proposed adjacent land uses, public transport infrastructure and walking and cycling connections;</p> <p>(iii) Promotes inclusive access (where appropriate); and</p> <p>(iv) Promotes a sense of personal safety by aligning with best practice guidelines, such as:</p> <p>a. Crime Prevention Through Environmental Design (CPTED) principles;</p> <p>b. Safety in Design (SID) requirements; and</p> <p>c. Maintenance in Design (MID) requirements and anti-vandalism/anti-graffiti measures.</p> <p>(v) Interfaces with the operational areas of commercial premises within business zoned land, including loading areas, internal circulation and car parking, where practicable.</p> <p>(f) The ULDMP(s) shall include:</p> <p>(i) a concept plan – which depicts the overall landscape and urban design concept, and explain the rationale for the landscape and urban design proposals;</p> <p>(ii) developed design concepts, including principles for walking and cycling facilities and public transport; and</p> <p>(iii) landscape and urban design details – that cover the following:</p> <p>a. Road design – elements such as intersection form, carriageway gradient and associated earthworks contouring including cut and fill batters and the interface with adjacent land uses and existing roads (including slip lanes), benching, spoil disposal sites, median width and treatment, roadside width and treatment;</p> <p>b. Roadside elements – such as lighting, fencing, wayfinding and signage;</p> <p>c. architectural and landscape treatment of all major structures, including bridges and retaining walls;</p> <p>d. Architectural and landscape treatment of noise barriers;</p> <p>e. Landscape treatment of permanent stormwater control wetlands and swales;</p> <p>f. Integration of passenger transport;</p> <p>g. Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/ cycle bridges or underpasses;</p> <p>h. Historic heritage places, including Huapai Tavern (AUP:OP Schedule 14.1 #00482) and Kumeū Railway Goods Shed (AUP:OP Schedule 14.1 #00483),- with reference to the HHMP;</p> <p>i. Reinstatement of construction and site compound areas;</p> <p>j. Reinstatement of features to be retained such as:</p> <p>a. boundary features;</p> <p>b. landscaping;</p> <p>c. driveways;</p> <p>d. accessways; and</p> <p><u>e. fences; and</u></p> <p><u>e-f. site utilities.</u></p> <p>(g) The ULDMP shall also include the following planting details and maintenance requirements:</p> <p>(i) planting design details including:</p> <p>a. identification of existing trees and vegetation that will be retained with reference to the Tree Management Plan and Ecological Management Plan. Where practicable, mature trees and native vegetation should be retained;</p> <p>b. street trees, shrubs and ground cover suitable for the location;</p> <p>c. treatment of fill slopes to integrate with adjacent land use, streams, riparian margins and open space zones;</p>

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		<p>d. planting of stormwater wetlands;</p> <p>e. identification of vegetation to be retained and any planting requirements under Conditions 21B and 22;</p> <p>f. integration of any planting requirements required by conditions of any resource consents for the project; and</p> <p>g. re-instatement planting of construction and site compound areas as appropriate.</p> <p>(ii) a planting programme including the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of works in each Stage of Work; and</p> <p>(iii) detailed specifications relating to the following:</p> <p>a. weed control and clearance;</p> <p>b. pest animal management (to support plant establishment);</p> <p>c. ground preparation (top soiling and decompaction);</p> <p>d. mulching; and</p> <p>e. plant sourcing and planting, including hydroseeding and grassing, and use of eco-sourced species</p> <p>f. irrigation; and</p> <p>e-g. plant replacement (due to theft or plants dying).</p> <p><u>Advice Note:</u></p> <p><i>This designation is for the purpose of construction, operation and maintenance of an arterial transport corridor and it is not for the specific purpose of "road widening". Therefore, it is not intended that the front yard definition in the Auckland Unitary Plan which applies a set back from a designation for road widening purposes applies to this designation. A set back is not required to manage effects between the designation boundary and any proposed adjacent sites or lots.</i></p>
HS	9	<p>Urban and Landscape Design Management Plan (ULDMP)</p> <p>(a) A ULDMP shall be prepared prior to the Start of Construction for a Stage of Work. The objective of the ULDMP(s) is to:</p> <p>(i) Enable integration of the Project's permanent works into the surrounding landscape and urban context; and</p> <p>(ii) Ensure that the Project manages potential adverse landscape and visual effects as far as practicable and contributes to a quality urban environment.</p> <p>(b) Mana Whenua shall be invited to participate in the development of the ULDMP(s) to provide input into relevant cultural landscape and design matters including how desired outcomes for management of potential effects on cultural sites, landscapes and values identified and discussed in accordance with Condition 7(c) may be reflected in the ULDMP.</p> <p>(c) Key Stakeholders identified through the Condition 3B shall be invited to participate in the development of the ULDMP at least six (6) months prior to the start of detailed design for a Stage of Work.</p> <p>(d) The ULDMP shall be prepared in general accordance with:</p> <p>(i) Waka Kotahi Urban Design Guidelines: Bridging the Gap (2013) or any subsequent updated version;</p> <p>(ii) Waka Kotahi Landscape Guidelines (2013) or any subsequent updated version;</p> <p>(iii) Waka Kotahi P39 Standard Specification for Highway Landscape Treatments (2013) or any subsequent updated version; and</p> <p>(e) To achieve the objective, the ULDMP(s) shall provide details of how the project:</p> <p>(i) Is designed to integrate with the adjacent urban (or proposed urban) and landscape context, including the surrounding existing or proposed topography, urban environment (i.e. centres and density of built form), natural environment, landscape character and open space zones;</p> <p>(ii) Provides appropriate walking and cycling connectivity to, and interfaces with, existing or proposed adjacent land uses, public transport infrastructure and walking and cycling connections;</p> <p>(iii) Promotes inclusive access (where appropriate); and</p> <p>(iv) Promotes a sense of personal safety by aligning with best practice guidelines, such as:</p>

NoR No.	No.	Condition
		<p>a. Crime Prevention Through Environmental Design (CPTED) principles;</p> <p>b. Safety in Design (SID) requirements; and</p> <p>c. Maintenance in Design (MID) requirements and anti-vandalism/anti-graffiti measures.</p> <p>(v) Interfaces with the operational areas of commercial premises within business zoned land, including loading areas, internal circulation and car parking, where practicable.</p> <p>(f) The ULDMP(s) shall include:</p> <p>(i) a concept plan – which depicts the overall landscape and urban design concept, and explain the rationale for the landscape and urban design proposals;</p> <p>(ii) developed design concepts, including principles for walking and cycling facilities and public transport; and</p> <p>(iii) landscape and urban design details – that cover the following:</p> <p>a. Road design – elements such as intersection form, carriageway gradient and associated earthworks contouring including cut and fill batters and the interface with adjacent land uses and existing roads (including slip lanes), benching, spoil disposal sites, median width and treatment, roadside width and treatment;</p> <p>b. Roadside elements – such as lighting, fencing, wayfinding and signage;</p> <p>c. architectural and landscape treatment of all major structures, including bridges and retaining walls;</p> <p>d. Architectural and landscape treatment of noise barriers;</p> <p>e. Landscape treatment of permanent stormwater control wetlands and swales;</p> <p>f. Integration of passenger transport;</p> <p>g. Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/ cycle bridges or underpasses;</p> <p>h. Historic heritage places with reference to the HHMP;</p> <p>i. Reinstatement of construction and site compound areas;</p> <p>j. Reinstatement of features to be retained such as:</p> <p>a. boundary features;</p> <p>b. landscaping;</p> <p>c. driveways;</p> <p>d. accessways; and</p> <p><u>e. fences; and</u></p> <p><u>e-f. site utilities.</u></p> <p>(g) The ULDMP shall also include the following planting details and maintenance requirements:</p> <p>(i) planting design details including:</p> <p>a. identification of existing trees and vegetation that will be retained with reference to the Tree Management Plan and Ecological Management Plan. Where practicable, mature trees and native vegetation should be retained;</p> <p>b. street trees, shrubs and ground cover suitable for the location;</p> <p>c. treatment of fill slopes to integrate with adjacent land use, streams, riparian margins and open space zones;</p> <p>d. planting of stormwater wetlands;</p> <p>e. identification of vegetation to be retained and any planting requirements under Conditions 21B and 22;</p> <p>f. integration of any planting requirements required by conditions of any resource consents for the project; and</p> <p>g. re-instatement planting of construction and site compound areas as appropriate.</p> <p>(ii) a planting programme including the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of works in each Stage of Work; and</p> <p>(iii) detailed specifications relating to the following:</p> <p>a. weed control and clearance;</p> <p>b. pest animal management (to support plant establishment);</p> <p>c. ground preparation (top soiling and decompaction);</p>

NoR No.	No.	Condition
		<p>d. mulching; and e. plant sourcing and planting, including hydroseeding and grassing, and use of eco-sourced species f. irrigation; and e-g. plant replacement (due to theft or plants dying).</p> <p><u>Advice Note:</u> This designation is for the purpose of construction, operation and maintenance of an arterial transport corridor and it is not for the specific purpose of “road widening”. Therefore, it is not intended that the front yard definition in the Auckland Unitary Plan which applies a set back from a designation for road widening purposes applies to this designation. A set back is not required to manage effects between the designation boundary and any proposed adjacent sites or lots.</p>
KS	9	<p>Urban and Landscape Design Management Plan (ULDMP)</p> <p>(a) A ULDMP shall be prepared prior to the Start of Construction for a Stage of Work. The objective of the ULDMP(s) is to:</p> <ol style="list-style-type: none"> (i) Enable integration of the Project's permanent works into the surrounding landscape and urban context; and (ii) Ensure that the Project manages potential adverse landscape and visual effects as far as practicable and contributes to a quality urban environment. <p>(b) Mana Whenua shall be invited to participate in the development of the ULDMP(s) to provide input into relevant cultural landscape and design matters including how desired outcomes for management of potential effects on cultural sites, landscapes and values identified and discussed in accordance with Condition 7(c) may be reflected in the ULDMP.</p> <p>(c) Key Stakeholders identified through the Condition 3B shall be invited to participate in the development of the ULDMP at least six (6) months prior to the start of detailed design for a Stage of Work.</p> <p>(d) The ULDMP shall be prepared in general accordance with:</p> <ol style="list-style-type: none"> (i) Waka Kotahi Urban Design Guidelines: Bridging the Gap (2013) or any subsequent updated version; (ii) Waka Kotahi Landscape Guidelines (2013) or any subsequent updated version; (iii) Waka Kotahi P39 Standard Specification for Highway Landscape Treatments (2013) or any subsequent updated version; and <p>(e) To achieve the objective, the ULDMP(s) shall provide details of how the project:</p> <ol style="list-style-type: none"> (i) Is designed to integrate with the adjacent urban (or proposed urban) and landscape context, including the surrounding existing or proposed topography, urban environment (i.e. centres and density of built form), natural environment, landscape character and open space zones; (ii) Provides appropriate walking and cycling connectivity to, and interfaces with, existing or proposed adjacent land uses, public transport infrastructure and walking and cycling connections; (iii) Promotes inclusive access (where appropriate); and (iv) Promotes a sense of personal safety by aligning with best practice guidelines, such as: <ol style="list-style-type: none"> a. Crime Prevention Through Environmental Design (CPTED) principles; b. Safety in Design (SID) requirements; and c. Maintenance in Design (MID) requirements and anti-vandalism/anti-graffiti measures. (v) Interfaces with the operational areas of commercial premises within business zoned land, including loading areas, internal circulation and car parking, where practicable. <p>(f) The ULDMP(s) shall include:</p> <ol style="list-style-type: none"> (i) a concept plan – which depicts the overall landscape and urban design concept, and explain the rationale for the landscape and urban design proposals; (ii) developed design concepts, including principles for walking and cycling facilities and public transport; and (iii) landscape and urban design details – that cover the following: <ol style="list-style-type: none"> a. Road design – elements such as intersection form, carriageway gradient and associated earthworks contouring including cut and fill batters and the

NoR No.	No.	Condition
		<p>interface with adjacent land uses and existing roads (including slip lanes), benching, spoil disposal sites, median width and treatment, roadside width and treatment;</p> <p>b. Roadside elements – such as lighting, fencing, wayfinding and signage;</p> <p>c. architectural and landscape treatment of all major structures, including bridges and retaining walls;</p> <p>d. Architectural and landscape treatment of noise barriers;</p> <p>e. Landscape treatment of permanent stormwater control wetlands and swales;</p> <p>f. Integration of passenger transport;</p> <p>g. Pedestrian and cycle facilities including paths, road crossings and dedicated pedestrian/ cycle bridges or underpasses;</p> <p>h. Historic heritage places, including Huapai Tavern (AUP:OP Schedule 14.1 #00482),- with reference to the HHMP;</p> <p>i. Reinstatement of construction and site compound areas;</p> <p>j. Reinstatement of features to be retained such as:</p> <ol style="list-style-type: none"> a. boundary features; b. landscaping; c. driveways; d. accessways; and e. <u>fences; and</u> e-f. <u>site utilities.</u> <p>(g) The ULDMP shall also include the following planting details and maintenance requirements:</p> <ol style="list-style-type: none"> (i) planting design details including: <ol style="list-style-type: none"> a. identification of existing trees and vegetation that will be retained with reference to the Tree Management Plan and Ecological Management Plan. Where practicable, mature trees and native vegetation should be retained; b. street trees, shrubs and ground cover suitable for the location; c. treatment of fill slopes to integrate with adjacent land use, streams, riparian margins and open space zones; d. planting of stormwater wetlands; e. identification of vegetation to be retained and any planting requirements under Conditions 21B and 22; f. integration of any planting requirements required by conditions of any resource consents for the project; and g. re-instatement planting of construction and site compound areas as appropriate. (ii) a planting programme including the staging of planting in relation to the construction programme which shall, as far as practicable, include provision for planting within each planting season following completion of works in each Stage of Work; and (iii) detailed specifications relating to the following: <ol style="list-style-type: none"> a. weed control and clearance; b. pest animal management (to support plant establishment); c. ground preparation (top soiling and decompaction); d. mulching; and e. <u>plant sourcing and planting, including hydroseeding and grassing, and use of eco-sourced species;</u> f. <u>irrigation; and</u> e-g. <u>plant replacement (due to theft or plants dying).</u> <p><u>Advice Note:</u></p> <p><i>This designation is for the purpose of construction, operation and maintenance of an arterial transport corridor and it is not for the specific purpose of “road widening”. Therefore, it is not intended that the front yard definition in the Auckland Unitary Plan which applies a set back from a designation for road widening purposes applies to this designation. A set back is not required to manage effects between the designation boundary and any proposed adjacent sites or lots.</i></p>
Specific Outline Plan Requirements		

NoR No.	No.	Condition
All		<p>Flood Hazard</p> <p>For the purpose of Condition 10:</p> <p>(a) ARI means Average Recurrence Interval</p> <p>(b)(a) AEP – means Annual Exceedance Probability</p> <p>(c)(b) Existing authorised habitable floor – means the floor level of any room (floor) in a residential building which is authorised and exists at the time the outline plan is submitted, excluding a laundry, bathroom, toilet or any room used solely as an entrance hall, passageway or garage.</p> <p>(d)(c) Flood prone area – means a potential ponding area that may flood and commonly comprised of topographical depression areas. These can occur naturally or as a result of constructed features which act as embankments when stormwater outlets are blocked. Flood prone areas typically include depressions formed by road/railway/motorway embankments built across natural gullies.</p> <p>(e)(d) Maximum Probable Development – is the design case for consideration of future flows allowing for development within a catchment that takes into account the maximum impervious surface limits of the current zone or if the land is zoned Future Urban in the AUP, the probable level of development arising from zone changes.</p> <p>(f)(e) Pre-Project development – means existing site condition prior to the Project (including existing buildings and roadways).</p> <p>(g)(f) Post-Project development – means site condition after the Project has been completed (including existing and new buildings and roadways).</p>
All	10	<p>Flood Hazard</p> <p>(a) The Project shall be designed to achieve the following flood risk outcomes:</p> <p>(i) no increase in flood levels in a 1% AEP event for existing authorised habitable floors that are already subject to flooding or have a freeboard of less than 500mm within the designation or upstream or downstream of the designation;</p> <p>(ii) no more than a 10% reduction in freeboard in a 1% AEP event for existing authorised habitable floors with a freeboard of over 500mm (to maintain a minimum freeboard of 500mm), within the designation or upstream or downstream of the designation;</p> <p>(iii) no increase in 1% AEP flood levels for existing authorised community, commercial, industrial and network utility building floors that are already subject to flooding or have a freeboard of less than 300mm within the designation or upstream or downstream of the designation;</p> <p>(iv) no more than a 10% reduction in freeboard in a 1% AEP event for existing authorised community, commercial, industrial and network utility building floors with a freeboard of over 300mm (to maintain a minimum freeboard of 300mm) within the designation or upstream or downstream of the designation;</p> <p>(v) no increase in a 1% AEP flood level, except where the increase in level occurs within a well-defined stream cross-section and the increase will not increase the flood plain extent;</p> <p>(vi) existing or new overland flow paths shall be diverted away from private properties and discharge to a suitable location so that there is no increase in flood levels in a 1% AEP event downstream. Overland flow paths shall be kept free of obstructions;</p> <p>(iii) Maximum of 50mm increase in water level in a 1% AEP event outside and adjacent to the designation boundaries between the pre and post Project scenarios;</p> <p>(vii) no new flood prone areas; and</p> <p>(viii) no increase of flood hazard for main vehicle access to authorised habitable dwellings existing at time the Outline Plan is submitted. The assessment shall be undertaken for the 1% AEP rainfall event.</p>

NoR No.	No.	Condition
		<p>Where Flood Hazard is:</p> <ul style="list-style-type: none"> • velocity x depth > = 0.6 or • depth > 0.5m, or • <u>velocity >2m/s.</u> <p><u>(b) Compliance with this condition (a) shall be demonstrated in the Outline Plan, which shall include flood modelling of:</u></p> <p><u>(i) the pre-Project and post-Project 1% AEP flood levels (for Maximum Probable Development land use and including climate change);</u></p> <p><u>(ii) proposed horizontal and vertical alignments of the road design; and</u></p> <p><u>(iii) all stormwater, drainage and mitigation infrastructure proposed to service the road construction.</u></p> <p><u>This modelling shall be submitted to Auckland Council Healthy Waters (or its equivalent) for review and confirmation that it can adequately demonstrate compliance with the condition.</u></p> <p><u>(c) Where the above outcomes can be achieved through alternative measures outside of the designation such as flood stop banks, flood walls, raising existing authorised habitable floor level and new overland flow paths or varied through agreement with the relevant landowner, the Outline Plan shall include confirmation that any necessary landowner and statutory approvals have been obtained for that work or alternative outcome.</u></p> <p><u>(d) The capacity of the designation's stormwater management network to drain surface water from private properties shall not be reduced or if reduced is appropriately accommodated by other means.</u></p> <p><u>Advice Notes:</u></p> <p><u>(i) For the Strategic Network, due to the extensive flooding known to occur within Kumeū – Huapai, the linear nature of the designation, and the potential timeframe between granting of the designation and construction it is required that the Requiring Authority confirms an appropriate modelling with Auckland Council Healthy Waters (or its equivalent) when commencing the detailed design. This will ensure compliance with any relevant National and Regional Codes of Practice and specifications are complied with.</u></p> <p><u>(ii) Consultation with Auckland Council Healthy Waters (or its equivalent) to identify opportunities for collaboration on catchment improvement projects shall be carried out at the detailed design stage.</u></p>
S1 S3 KS HS	11	<p>Existing property access</p> <p>Where existing property vehicle access which exists at the time the Outline Plan is submitted is proposed to be altered by the project, the Rrequiring Aauthority shall consult with the directly affected landowners and occupiers regarding the required changes. The Outline Plan shall demonstrate how safe, <u>efficient and effective</u> access <u>to the transport corridor, and on-site parking and manoeuvring</u>, will be provided, unless otherwise agreed with the affected landowner.</p>
S2	11	<p>Existing property access</p> <p>Where existing property vehicle access from roads that are not a state highway, which exists at the time the Outline Plan is submitted is proposed to be altered by the project, the Rrequiring Aauthority shall consult with the directly affected landowners and occupiers regarding the required changes. The Outline Plan shall demonstrate how safe, <u>efficient and effective</u> access <u>to the transport corridor, and on-site parking and manoeuvring</u>, will be provided, unless otherwise agreed with the affected landowner.</p>
Construction Conditions		

NoR No.	No.	Condition
All	12	<p>Construction Environmental Management Plan (CEMP)</p> <p>(a) A CEMP shall be prepared prior to the Start of Construction for a Stage of Work.</p> <p>(b) The objective of the CEMP is to set out the management procedures and construction methods to be undertaken to, avoid, remedy or mitigate any adverse effects associated with Construction Works as far as practicable. To achieve the objective, the CEMP shall include:</p> <ul style="list-style-type: none"> (i) the roles and responsibilities of staff and contractors; (ii) details of the site or project manager and the Project Liaison Person, including their contact details (phone and email address); (iii) the Construction Works programmes and the staging approach, and the proposed hours of work; (iv) details of the proposed construction yards including temporary screening when adjacent to Rresidential areas <u>zones</u>; (v) details of the proposed locations of refuelling activities and construction lighting; (vi) methods for controlling dust and the removal of debris and demolition of construction materials from public roads or places; (vii) methods for providing for the health and safety of the general public; (viii) measures to mitigate flood hazard effects such as siting stockpiles out of floodplains, minimising obstruction to flood flows, actions to respond to warnings of heavy rain; (ix) procedures for incident management; (x) procedures for the refuelling and maintenance of plant and equipment to avoid discharges of fuels or lubricants to wwatercourses; (xi) measures to address the storage of fuels, lubricants, hazardous and/or dangerous materials, along with contingency procedures to address emergency spill response(s) and clean up; (xii) summary of measures included to respond to matters raised in engagement, if not already covered above; (xiii) procedures for responding to complaints about Construction Works; and (xiv) methods for amending and updating the CEMP as required.
All	14	<p>Complaints Register</p> <p>(a) At all times during Construction Works, a record of any complaints received about the Construction Works shall be maintained. The record shall include:</p> <ul style="list-style-type: none"> (i) The date, time and nature of the complaint; (ii) The name, phone number and address of the complainant (unless the complainant wishes to remain anonymous); (iii) Measures taken to respond to the complaint (including a record of the response provided to the complainant) or confirmation of no action if deemed appropriate; (iv) The outcome of the investigation into the complaint; <u>and</u> (v) Any other activities in the area, unrelated to the Project that may have contributed to the complaint, such as non-project construction, fires, traffic accidents or unusually dusty conditions generally. <p>(b) A copy of the Complaints Register required by this condition shall be made available to the Manager upon request as soon as practicable after the request is made.</p>
All	15	<p>Cultural Monitoring Plan (CMP)</p> <p>(a) Prior to the start of Construction Works, a Cultural Monitoring Plan <u>CMP</u> shall be prepared by a Suitably Qualified Person(s) identified in collaboration with Mana Whenua.</p> <p>(b) The objective of the Cultural Monitoring Plan <u>CMP</u> is to identify methods for undertaking cultural monitoring to assist with management of any cultural effects during Construction Wworks. The Cultural Monitoring Plan <u>CMP</u> shall include:</p> <ul style="list-style-type: none"> (i) Requirements for formal dedication or cultural interpretation to be undertaken prior to start of Construction Works in areas identified as having significance to Mana Whenua; (ii) Requirements and protocols for cultural inductions for contractors and subcontractors; (iii) Identification of activities, sites and areas where cultural monitoring is required during particular Construction Works;

NoR No.	No.	Condition
		<p>(iv) Identification of personnel to undertake cultural monitoring, including any geographic definition of their responsibilities; and</p> <p>(v) Details of personnel to assist with management of any cultural effects identified during cultural monitoring, including implementation of the Accidental Discovery Protocol.</p> <p>(c) If Enabling Works involving soil disturbance are undertaken prior to the start of Construction Works, an Enabling Works Cultural Monitoring Plan CMP shall be prepared by a Suitably Qualified Person identified in collaboration with Mana Whenua. This plan may be prepared as a standalone Enabling Works Cultural Monitoring Plan CMP or be included in the main Construction Works Cultural Monitoring Plan CMP.</p> <p>Advice Note: Where appropriate, the Cultural Monitoring Plan CMP shall align with the requirements of other conditions of the designation and resource consents for the Project which require monitoring during Construction Works.</p>
<u>S1, S3, HS, KSA#</u>	16	<p>Construction Traffic Management Plan (CTMP)</p> <p>(a) A CTMP shall be prepared prior to the Start of Construction for a Stage of Work.</p> <p>(b) The objective of the CTMP is to avoid, remedy or mitigate, as far as practicable, adverse construction traffic effects. To achieve this objective, the CTMP shall include:</p> <p>(i) methods to manage the effects of temporary traffic management activities on traffic;</p> <p>(ii) measures to ensure the safety of all transport users;</p> <p>(iii) the estimated numbers, frequencies, routes and timing of traffic movements, including any specific non-working or non-movement hours to manage vehicular and pedestrian traffic near educational facilities or to manage traffic congestion;</p> <p>(iv) site access routes and access points for heavy vehicles, the size and location of parking areas for plant, construction vehicles and the vehicles of workers and visitors;</p> <p>(v) identification of detour routes and other methods to ensure the safe management and maintenance of traffic flows, including public transport services, pedestrians and cyclists;</p> <p>(vi) methods to maintain <u>vehicle access, parking and manoeuvring</u> to and within property and/or private roads where practicable, or to provide alternative <u>vehicle access, parking and manoeuvring</u> arrangements when it will not be. Engagement with landowners or occupiers whose access, <u>parking and manoeuvring</u> is directly affected shall be undertaken in accordance with Condition 3B;</p> <p>(vii) dDetails of how the loading and unloading of goods will be provided for;</p> <p>(viii) the management approach to loads on heavy vehicles, including covering loads of fine material, the use of wheel-wash facilities at site exit points and the timely removal of any material deposited or spilled on public roads;</p> <p>(ix) methods that will be undertaken to communicate traffic management measures to affected road users (e.g. residents /public /stakeholders /emergency services);-</p> <p>(x) aAuditing, monitoring and reporting requirements relating to traffic management activities shall be undertaken in accordance with the New Zealand Guide to Temporary Traffic Management or any subsequent version;-</p> <p>(xi) details of minimum network performance parameters during the construction phase, including any measures to monitor compliance with the performance parameters; and</p> <p>(xii) details of any measures proposed to be implemented in the event of thresholds identified in (xi) being exceeded.</p>
<u>S2</u>		<p>Construction Traffic Management Plan (CTMP)</p> <p><u>(a) A CTMP shall be prepared prior to the Start of Construction for a Stage of Work.</u></p> <p><u>(b) The objective of the CTMP is to avoid, remedy or mitigate, as far as practicable, adverse construction traffic effects. To achieve this objective, the CTMP shall include:</u></p> <p><u>(i) methods to manage the effects of temporary traffic management activities on traffic;</u></p> <p><u>(ii) methods to maintain road capacity for through traffic, equivalent to one through-lane of traffic in each direction, at all times during construction, excepting the intersections of SH16 Main Road with Access Road and Harikoa Street, where two through-lanes is required in each direction to maintain capacity;</u></p>

NoR No.	No.	Condition																																															
		<p>(iii) <u>measures to ensure the safety of all transport users;</u></p> <p>(iv) <u>the estimated numbers, frequencies, routes and timing of traffic movements, including any specific non-working or non-movement hours to manage vehicular and pedestrian traffic near educational facilities or to manage traffic congestion;</u></p> <p>(v) <u>site access routes and access points for heavy vehicles, the size and location of parking areas for plant, construction vehicles and the vehicles of workers and visitors;</u></p> <p>(vi) <u>identification of detour routes and other methods to ensure the safe management and maintenance of traffic flows, including public transport services, pedestrians and cyclists;</u></p> <p>(vii) <u>methods to maintain vehicle access, parking and manoeuvring to and within property and/or private roads where practicable, or to provide alternative vehicle access, parking and manoeuvring arrangements when it will not be. Engagement with landowners or occupiers whose access, parking and manoeuvring is directly affected shall be undertaken in accordance with Condition 3B;</u></p> <p>(viii) <u>details of how the loading and unloading of goods will be provided for;</u></p> <p>(ix) <u>the management approach to loads on heavy vehicles, including covering loads of fine material, the use of wheel-wash facilities at site exit points and the timely removal of any material deposited or spilled on public roads;</u></p> <p>(x) <u>methods that will be undertaken to communicate traffic management measures to affected road users (e.g. residents /public /stakeholders /emergency services);</u></p> <p>(xi) <u>auditing, monitoring and reporting requirements relating to traffic management activities shall be undertaken in accordance with the New Zealand Guide to Temporary Traffic Management or any subsequent version;</u></p> <p>(xii) <u>details of minimum network performance parameters during the construction phase, including any measures to monitor compliance with the performance parameters; and</u></p> <p>(xiii) <u>details of any measures proposed to be implemented in the event of thresholds identified in (xii) being exceeded.</u></p>																																															
All	17	<p>Construction Noise Standards</p> <p>(a) Construction noise shall be measured and assessed in accordance with NZS6803:1999 Acoustics – Construction Noise and shall comply with the noise standards set out in the following table as far as practicable:</p> <p>Table 17.1: Construction noise standards</p> <table border="1"> <thead> <tr> <th>Day of week</th> <th>Time period</th> <th>L_{Aeq}(15min)</th> <th>L_{AFmax}</th> </tr> </thead> <tbody> <tr> <td colspan="4" style="text-align: center;">Occupied activity sensitive to noise</td> </tr> <tr> <td rowspan="4">Weekday</td> <td>0630h - 0730h</td> <td>55 dB</td> <td>75 dB</td> </tr> <tr> <td>0730h - 1800h</td> <td>70 dB</td> <td>85 dB</td> </tr> <tr> <td>1800h - 2000h</td> <td>65 dB</td> <td>80 dB</td> </tr> <tr> <td>2000h - 0630h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td rowspan="4">Saturday</td> <td>0630h - 0730h</td> <td>55 dB</td> <td>75 dB</td> </tr> <tr> <td>0730h - 1800h</td> <td>70 dB</td> <td>85 dB</td> </tr> <tr> <td>1800h - 2000h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td>2000h - 0630h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td rowspan="4">Sunday and Public Holidays</td> <td>0630h - 0730h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td>0730h - 1800h</td> <td>55 dB</td> <td>85 dB</td> </tr> <tr> <td>1800h - 2000h</td> <td>45 dB</td> <td>75 dB</td> </tr> <tr> <td>2000h - 0630h</td> <td>45 dB</td> <td>75 dB</td> </tr> </tbody> </table>	Day of week	Time period	L _{Aeq} (15min)	L _{AFmax}	Occupied activity sensitive to noise				Weekday	0630h - 0730h	55 dB	75 dB	0730h - 1800h	70 dB	85 dB	1800h - 2000h	65 dB	80 dB	2000h - 0630h	45 dB	75 dB	Saturday	0630h - 0730h	55 dB	75 dB	0730h - 1800h	70 dB	85 dB	1800h - 2000h	45 dB	75 dB	2000h - 0630h	45 dB	75 dB	Sunday and Public Holidays	0630h - 0730h	45 dB	75 dB	0730h - 1800h	55 dB	85 dB	1800h - 2000h	45 dB	75 dB	2000h - 0630h	45 dB	75 dB
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All	18	<p>Construction Vibration Standards</p> <p>(a) Construction vibration shall be measured 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 and shall comply with the vibration standards set out in the following table Table 18.1 as far as practicable.</p> <p>Table 18.1: Construction vibration criteria</p> <table border="1"> <thead> <tr> <th>Receiver</th> <th>Details</th> <th>Category A</th> <th>Category B</th> </tr> </thead> <tbody> <tr> <td rowspan="2">Occupied Activities sensitive noise to</td> <td>Night-time 2000h - 0630h</td> <td>0.3mm/s ppv</td> <td>1mm/s ppv</td> </tr> <tr> <td>Daytime 0630h - 2000h</td> <td>1mm/s ppv</td> <td>5mm/s ppv</td> </tr> <tr> <td>Other occupied buildings</td> <td>Daytime 0630h - 2000h</td> <td>2mm/s ppv</td> <td>5mm/s ppv</td> </tr> <tr> <td rowspan="2">All other buildings</td> <td>At all other times Vibration transient</td> <td>5mm/s ppv</td> <td>BS 5228-2* Table B2</td> </tr> <tr> <td>At all other times Vibration continuous</td> <td>5mm/s ppv</td> <td>BS 5228-2* 50% of Table B2 values</td> </tr> </tbody> </table> <p>* Refer to <i>Waka Kotahi State highway construction and maintenance noise and vibration guide for further explanation regarding Category A and B criteria</i></p> <p>**BS 5228-2:2009 'Code of practice for noise and vibration control on construction and open sites – Part 2: Vibration'</p> <p>(b) Where compliance with the vibration standards set out in Table 18.1 is not practicable, the methodology in Condition 20 shall apply.</p> <p>(c) If measured or predicted vibration from construction activities exceeds the Category A criteria, a Suitably Qualified Person shall assess and manage construction vibration during those activities.</p> <p>(d) If measured or predicted vibration from construction activities exceeds the Category B criteria those activities must only proceed if vibration effects on affected buildings are assessed, monitored and mitigated by a Suitably Qualified Person.</p>	Receiver	Details	Category A	Category B	Occupied Activities sensitive noise to	Night-time 2000h - 0630h	0.3mm/s ppv	1mm/s ppv	Daytime 0630h - 2000h	1mm/s ppv	5mm/s ppv	Other occupied buildings	Daytime 0630h - 2000h	2mm/s ppv	5mm/s ppv	All other buildings	At all other times Vibration transient	5mm/s ppv	BS 5228-2* Table B2	At all other times Vibration continuous	5mm/s ppv	BS 5228-2* 50% of Table B2 values
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A# S1, S2, HS	19	<p>Construction Noise and Vibration Management Plan (CNVMP)</p> <p>(a) A CNVMP shall be prepared prior to the Start of Construction for a Stage of Work.</p> <p>(b) A CNVMP shall be implemented during the Stage of Work to which it relates.</p> <p>(c) The objective of the CNVMP is to provide a framework for the development and implementation of the Best Practicable Option for the management of construction noise and vibration effects to achieve the construction noise and vibration standards set out in Conditions 17 and 18 to the extent practicable. To achieve this objective, the CNVMP shall be prepared in accordance with Annex E2 of the New Zealand Standard NZS6803:1999 'Acoustics – Construction Noise' (NZS6803:1999) and the Waka Kotahi State highway construction and maintenance noise and vibration guide (version 1.1, 2019), and shall as a minimum, address the following:</p> <ol style="list-style-type: none"> A dDescription of the works and anticipated equipment/processes; Hours of operation, including times and days when construction activities would occur; 																						

NoR No.	No.	Condition
		<ul style="list-style-type: none"> (iii) The construction noise and vibration standards for the project; (iv) Identification of receivers where noise and vibration standards apply; (v) A hierarchy of management and mitigation options including any requirements to limit night and works during other sensitive times, including Sundays and public holidays as far as practicable; (vi) Methods and frequency for monitoring and reporting on construction noise and vibration; (vii) Procedures for communication and engagement with nearby residents and stakeholders, including notification of proposed construction activities, the period of construction activities, and management of noise and vibration complaints; (viii) Contact details of the Project Liaison Person; (ix) Procedures for the regular training of the operators of construction equipment to minimise noise and vibration as well as expected construction site behaviours for all workers; (x) Procedures and requirements for the preparation of a Schedule to the CNVMP (Schedule) for those areas where compliance with the noise (Condition 17) and/or vibration standards (Condition 18) for Category A or Category B will not be practicable; (xi) Identification of trigger levels for undertaking building condition surveys, which shall be below Category B day time levels; (xii) Procedures for undertaking building condition surveys before and after works to determine whether any cosmetic or structural damage has occurred as a result of construction vibration; (xiii) Methodology and programme of desktop and field audits and inspections to be undertaken to ensure that CNVMP, Schedules and the best practicable option for management of effects are being implemented; <u>and</u> (xiv) Requirements for review and update of the CNVMP.
<u>S3, KS</u>	<u>20</u>	<p><u>Construction Noise and Vibration Management Plan (CNVMP)</u></p> <p><u>(a) A CNVMP shall be prepared prior to the Start of Construction for a Stage of Work.</u></p> <p><u>(b) A CNVMP shall be implemented during the Stage of Work to which it relates.</u></p> <p><u>(c) The objective of the CNVMP is to provide a framework for the development and implementation of the Best Practicable Option for the management of construction noise and vibration effects to achieve the construction noise and vibration standards set out in Conditions 17 and 18 to the extent practicable. To achieve this objective, the CNVMP shall be prepared in accordance with Annex E2 of the New Zealand Standard NZS6803:1999 'Acoustics – Construction Noise' (NZS6803:1999) and the Waka Kotahi State highway construction and maintenance noise and vibration guide (version 1.1, 2019), and shall as a minimum, address the following:</u></p> <ul style="list-style-type: none"> <u>(i) A description of the works and anticipated equipment/processes;</u> <u>(ii) Hours of operation, including times and days when construction activities would occur;</u> <u>(iii) The construction noise and vibration standards for the project;</u> <u>(iv) Identification of receivers where noise and vibration standards apply;</u> <u>(v) Set out the method for monitoring effects on the Huapai Tavern (AUP Schedule 14.1 #00482), to protect historic heritage values including by reference to the HHMP;</u> <u>(vi) A hierarchy of management and mitigation options including any requirements to limit night and works during other sensitive times, including Sundays and public holidays as far as practicable;</u> <u>(vii) Methods and frequency for monitoring and reporting on construction noise and vibration;</u> <u>(viii) Procedures for communication and engagement with nearby residents and stakeholders, including notification of proposed construction activities, the period of construction activities, and management of noise and vibration complaints;</u> <u>(ix) Contact details of the Project Liaison Person;</u> <u>(x) Procedures for the regular training of the operators of construction equipment to minimise noise and vibration as well as expected construction site behaviours for all workers;</u> <u>(xi) Procedures and requirements for the preparation of a Schedule to the CNVMP (Schedule) for those areas where compliance with the noise (Condition 17) and/or vibration standards (Condition 18) for Category A or Category B will not be practicable;</u>

NoR No.	No.	Condition
		<p>(xii) Identification of trigger levels for undertaking building condition surveys, which shall be below Category B day time levels;</p> <p>(xiii) Procedures for undertaking building condition surveys before and after works to determine whether any cosmetic or structural damage has occurred as a result of construction vibration;</p> <p>(xiv) Methodology and programme of desktop and field audits and inspections to be undertaken to ensure that CNVMP Schedules and the best practicable option for management of effects are being implemented; and</p> <p>(+)(xv) Requirements for review and update of the CNVMP.</p>
All	20	<p>Schedule to a CNVMP</p> <p>(a) A Schedule to the CNVMP (Schedule) shall be prepared prior to the start of the construction activity to which it relates by a Suitably Qualified Person, in consultation with the owners and occupiers of sites subject to the Schedule to the CNVMP, when:</p> <ol style="list-style-type: none"> Construction noise is either predicted or measured to exceed the noise standards in Condition 17; and/or Construction vibration is either predicted or measured to exceed the Category A standard at the receivers in Condition 18.; <p>(b) The objective of the Schedule is to set out the Best Practicable Option measures to manage noise and/or vibration effects of the construction activity beyond those measures set out in the CNVMP. The Schedule shall include details such as:</p> <ol style="list-style-type: none"> Construction activity location, start and finish times; The nearest neighbours to the construction activity; The predicted noise and/or vibration level for all receivers where the levels are predicted or measured to exceed the applicable standards in Conditions 17 and 18 and the predicted duration of the exceedance; For works proposed between 2000h and 0630h, the reasons why the proposed works must be undertaken during these hours and why they cannot be practicably undertaken during the daytime; The proposed mitigation options that have been selected, and the options that have been discounted as being impracticable and the reasons why; A summary 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; and Location, times and types of monitoring. <p>(c) The Schedule shall be submitted to the Manager for information certification at least five <u>(5)</u> working days (except in unforeseen circumstances) in advance of Construction Works that are covered by the scope of the Schedule and shall form part of the CNVMP. If any comments are received from the Manager, these shall be considered by the Requiring Authority prior to implementation of the Schedule; and</p> <p>(d) Where material changes are made to a Schedule required by this condition, the Requiring Authority shall consult the owners and/or occupiers of sites subject to the Schedule prior to submitting the amended Schedule to the Manager for information certification in accordance with (c) above. The amended Schedule shall document the consultation undertaken with those owners and occupiers, and how consultation outcomes have and have not been taken into account.</p>
S1 S2 HS	21	<p>Historic Heritage Management Plan (HHMP)</p> <p>(a) A HHMP shall be prepared in consultation with <u>the</u> Council, HNZPT and Mana Whenua prior to the Start of Construction for a Stage of Work.</p> <p>(b) The objective of the HHMP is to protect historic heritage and to remedy and mitigate any residual effects as far as practicable. To achieve the objective, the HHMP shall identify:</p> <ol style="list-style-type: none"> Any adverse direct and indirect effects on historic heritage sites and measures to appropriately avoid, remedy or mitigate any such effects, including a tabulated summary of these effects and measures; Methods for the identification and assessment of potential historic heritage places within the Designation to inform detailed design; Known historic heritage places and potential archaeological sites within the Designation, including identifying any archaeological sites for which an Archaeological Authority under the HNZPTA will be sought or has been granted;

NoR No.	No.	Condition
		<p>(iv) Any unrecorded archaeological sites or post-1900 heritage sites within the Designation, which shall also be documented and recorded;</p> <p>(v) Roles, responsibilities and contact details of Project personnel, Council and HNZPT representatives, Mana Whenua representatives, and relevant agencies involved with heritage and archaeological matters including surveys, monitoring of Construction Works, compliance with AUP accidental discovery rule, and monitoring of conditions;</p> <p>(vi) Specific areas to be investigated, monitored and recorded to the extent these are directly affected by the Project;</p> <p>(vii) The proposed methodology for investigating and recording post-1900 historic heritage sites (including buildings) that need to be destroyed, demolished or relocated, including details of their condition, measures to mitigate any adverse effects and timeframe for implementing the proposed methodology, in accordance with the HNZPT Archaeological Guidelines Series No.1: Investigation and Recording of Buildings and Standing Structures (November 2018), or any subsequent version;</p> <p>(viii) Methods to acknowledge cultural values identified through Condition 7 where archaeological sites also involve ngā taonga tuku iho (treasures handed down by our ancestors) and where feasible and practicable to do so;</p> <p>(ix) Methods for avoiding, remedying or mitigating on adverse effects on historic heritage places and sites within the Designation during Construction Works as far as practicable. These methods shall include, but are not limited to:</p> <p>A. sSecurity fencing or hoardings around historic heritage places to protect them from damage during construction or unauthorised access;</p> <p>B. measures to mitigate adverse effects on historic heritage sites that achieve positive historic heritage outcomes such as increased public awareness and interpretation signage; and</p> <p>C. tTraining requirements and inductions for contractors and subcontractors on historic heritage places within the Designation, legal obligations relating to unexpected discoveries, the AUP Accidental Discovery Rule (E11.6.1). The training shall be undertaken prior to the Start of Construction, under the guidance of a Suitably Qualified Person and Mana Whenua representatives (to the extent the training relates to cultural values identified under Condition 15 ; and</p> <p>(c) Electronic copies of all historic heritage reports relating to historic heritage investigations (evaluation, excavation and monitoring), shall be submitted to the Manager within 12 months of completion.</p> <p>Accidental Discoveries</p> <p>Advice Note: <i>The Requiring Authority is advised of the requirements of Rule E11.6.1 of the AUP for “Accidental Discovery” as they relate to both contaminated soils and heritage items.</i></p> <p><i>The requirements for accidental discoveries of heritage items are set out in Rule E11.6.1 of the AUP [and in the Waka Kotahi Minimum Standard P45 Accidental Archaeological Discovery Specification, or any subsequent version].</i></p>
S3	21	<p>Historic Heritage Management Plan (HHMP)</p> <p>(a) A HHMP shall be prepared in consultation with the Council, HNZPT and Mana Whenua prior to the Start of Construction for a Stage of Work.</p> <p>(b) The objective of the HHMP is to protect historic heritage and to remedy and mitigate any residual effects as far as practicable. To achieve the objective, the HHMP shall identify:</p> <p>(i) Any adverse direct and indirect effects on historic heritage sites and measures to appropriately avoid, remedy or mitigate any such effects, including a tabulated summary of these effects and measures;</p> <p>(ii) Methods for the identification and assessment of potential historic heritage places within the Designation to inform detailed design;</p> <p>(iii) Known historic heritage places and potential archaeological sites within the Designation, including identifying any archaeological sites for which an Archaeological Authority under the HNZPTA will be sought or has been granted;</p> <p>(iv) Any unrecorded archaeological sites or post-1900 heritage sites within the Designation, which shall also be documented and recorded;</p>

NoR No.	No.	Condition
		<p>(v) Roles, responsibilities and contact details of Project personnel, Council and HNZPT representatives, Mana Whenua representatives, and relevant agencies involved with heritage and archaeological matters including surveys, monitoring of Construction Works, compliance with AUP accidental discovery rule, and monitoring of conditions;</p> <p>(vi) Specific areas to be investigated, monitored and recorded to the extent these are directly affected by the Project;</p> <p>(vii) The proposed methodology for investigating and recording post-1900 historic heritage sites (including buildings) that need to be destroyed, demolished or relocated, including details of their condition, measures to mitigate any adverse effects and timeframe for implementing the proposed methodology, in accordance with the HNZPT Archaeological Guidelines Series No.1: Investigation and Recording of Buildings and Standing Structures (November 2018), or any subsequent version;</p> <p>(viii) Methods to acknowledge cultural values identified through Condition 7 where archaeological sites also involve ngā taonga tuku iho (treasures handed down by our ancestors) and where feasible and practicable to do so;</p> <p>(ix) Methods for avoiding, remedying or mitigation adverse effects on historic heritage places and sites within the Designation during Construction Works as far as practicable. These methods shall include, but are not limited to:</p> <ul style="list-style-type: none"> A. security fencing or hoardings around historic heritage places to protect them from damage during construction or unauthorised access); B. measures to mitigate adverse effects on historic heritage sites that achieve positive historic heritage outcomes such as increased public awareness and interpretation signage; and C. Training training requirements and inductions for contractors and subcontractors on historic heritage places within the Designation, legal obligations relating to unexpected discoveries, the AUP Accidental Discovery Rule (E11.6.1). The training shall be undertaken prior to the Start of Construction, under the guidance of a Suitably Qualified Person and Mana Whenua representatives (to the extent the training relates to cultural values identified under Condition 15; and <p>(x) For Huapai Tavern (AUP:OP Schedule 14.1 #00482) and Kumeū Railway Goods Shed (AUP:OP Schedule 14.1 #00483) measures and methods shall be identified to:</p> <ul style="list-style-type: none"> A. appropriately avoid, remedy or mitigate adverse construction effects from the re-location of the buildings; B. appropriately re-locate the Huapai Tavern (AUP:OP Schedule 14.1 #00482) within the area identified in Schedule 4 in a manner that respects the heritage value of the buildings; C. appropriately re-locate the Kumeū Railway Goods Shed (AUP:OP Schedule 14.1 #00483) within extent of the designation located within Kumeū-Huapai in a manner that respects the heritage value of the building; D. identify non-original additions to the Huapai Tavern which may be removed without compromising the heritage values of the building; and E. identify long term protection management of heritage elements of the buildings. <p>(c) Electronic copies of all historic heritage reports relating to historic heritage investigations (evaluation, excavation and monitoring), shall be submitted to the Manager within 12 months of completion.</p> <p>Accidental Discoveries</p> <p>Advice Notes:</p> <p><i>The Requiring Authority is advised of the requirements of Rule E11.6.1 of the AUP for "Accidental Discovery" as they relate to both contaminated soils and heritage items.</i></p> <p><i>The requirements for accidental discoveries of heritage items are set out in Rule E11.6.1 of the AUP [and in the Waka Kotahi Minimum Standard P45 Accidental Archaeological Discovery Specification, or any subsequent version].</i></p> <p><i>The Kumeū Railway Goods Shed and Huapai Tavern are scheduled under the AUP(OP). Long term protection management will be identified though Condition 21 b(X) E until the</i></p>

NoR No.	No.	Condition
		<i>extent of place is amended through a Plan Change process to reflect the new location once relocated.</i>
KS	21	<p>Historic Heritage Management Plan (HHMP)</p> <p>(a) A HHMP shall be prepared in consultation with <u>the</u> Council, HNZPT and Mana Whenua prior to the Start of Construction for a Stage of Work.</p> <p>(b) The objective of the HHMP is to protect historic heritage and to remedy and mitigate any residual effects as far as practicable. To achieve the objective, the HHMP shall identify:</p> <ul style="list-style-type: none"> (i) Any adverse direct and indirect effects on historic heritage sites and measures to appropriately avoid, remedy or mitigate any such effects, including a tabulated summary of these effects and measures; (ii) Methods for the identification and assessment of potential historic heritage places within the Designation to inform detailed design; (iii) Known historic heritage places and potential archaeological sites within the Designation, including identifying any archaeological sites for which an Archaeological Authority under the HNZPTA will be sought or has been granted; (iv) Any unrecorded archaeological sites or post-1900 heritage sites within the Designation, which shall also be documented and recorded; (v) Roles, responsibilities and contact details of Project personnel, Council and HNZPT representatives, Mana Whenua representatives, and relevant agencies involved with heritage and archaeological matters including surveys, monitoring of Construction Works, compliance with AUP accidental discovery rule, and monitoring of conditions; (vi) Specific areas to be investigated, monitored and recorded to the extent these are directly affected by the Project; (vii) The proposed methodology for investigating and recording post-1900 historic heritage sites (including buildings) that need to be destroyed, demolished or relocated, including details of their condition, measures to mitigate any adverse effects and timeframe for implementing the proposed methodology, in accordance with the HNZPT Archaeological Guidelines Series No.1: Investigation and Recording of Buildings and Standing Structures (November 2018), or any subsequent version; (viii) Methods to acknowledge cultural values identified through Condition 7 where archaeological sites also involve ngā taonga tuku iho (treasures handed down by our ancestors) and where feasible and practicable to do so; (ix) Methods for avoiding, remedying or mitigating ngōn adverse effects on historic heritage places and sites within the Designation during Construction Works as far as practicable. These methods shall include, but are not limited to: <ul style="list-style-type: none"> A. security fencing or hoardings around historic heritage places to protect them from damage during construction or unauthorised access); B. measures to mitigate adverse effects on historic heritage sites that achieve positive historic heritage outcomes such as increased public awareness and interpretation signage; <u>and</u> C. tTraining requirements and inductions for contractors and subcontractors on historic heritage places within the Designation, legal obligations relating to unexpected discoveries, the AUP Accidental Discovery Rule (E11.6.1). The training shall be undertaken prior to the Start of Construction, under the guidance of a Suitably Qualified Person and Mana Whenua representatives (to the extent the training relates to cultural values identified under Condition 15 ; <u>and</u> (x) For Huapai Tavern (AUP:OP Schedule 14.1 #00482) measures and methods shall be identified to: <ul style="list-style-type: none"> A. appropriately avoid, remedy or mitigate adverse construction effects from the re-location of the buildings; B. appropriately re-locate the Huapai Tavern (AUP:OP Schedule 14.1 #00482) within the area identified in Schedule 4 in a manner that respects the heritage value of the buildings; C. identify non-original additions to the Huapai Tavern which may be removed without compromising the heritage values of the building; and D. identify long term protection management of heritage elements of the buildings.

NoR No.	No.	Condition
		<p>(c) Electronic copies of all historic heritage reports relating to historic heritage investigations (evaluation, excavation and monitoring), shall be submitted to the Manager within 12 months of completion.</p> <p>Accidental Discoveries</p> <p>Advice Notes:</p> <p><i>The Requiring Authority is advised of the requirements of Rule E11.6.1 of the AUP for “Accidental Discovery” as they relate to both contaminated soils and heritage items.</i></p> <p><i>The requirements for accidental discoveries of heritage items are set out in Rule E11.6.1 of the AUP [and in the Waka Kotahi Minimum Standard P45 Accidental Archaeological Discovery Specification, or any subsequent version].</i></p> <p><i>The Huapai Tavern is scheduled under the AUP(OP). Long term protection management will be identified through Condition 21 b(X) E until the extent of place is amended through a Plan Change process to reflect the new location once relocated.</i></p>
All	21A	<p>Pre-Construction Ecological Survey</p> <p>(a) At the start of detailed design for a Stage of Work, an updated ecological survey shall be undertaken by a Suitably Qualified Person. The purpose of the survey is to inform the detailed design of ecological management plan by:</p> <ol style="list-style-type: none"> (i) Confirming whether the species of value within the Identified Biodiversity Areas recorded in the <i>Identified Biodiversity Area Schedule 2</i> are still present; and (ii) Confirming whether the project will or may have a moderate or greater level of ecological effect on ecological species of value, prior to implementation of impact management measures, as determined in accordance with the EIANZ guidelines. <p>(b) If the ecological survey confirms the presence of ecological features of value in accordance with Condition 21A(a)(i) and that effects are likely in accordance with Condition 21A(a)(ii) then an Ecological Management Plan (or Plans) shall be prepared in accordance with Condition 21B for these areas (Confirmed Biodiversity Areas).</p>
All	21B	<p>Ecological Management Plan (EMP)</p> <p>(a) An EMP shall be prepared for any Confirmed Biodiversity Areas (undertaken in Condition 21A) prior to the Start of Construction for a Stage of Work. The objective of the EMP is to minimise effects of the Project on the ecological features of value of Confirmed Biodiversity Areas as far as practicable. The EMP shall set out the methods that will be used to achieve the objective which may include:</p> <ol style="list-style-type: none"> i. If an EMP is required in accordance with Condition 21A(b) for the presence of long tail bats: <ol style="list-style-type: none"> a. measures to minimise as far as practicable, disturbance from construction activities within the vicinity of any active long tail bat roosts (including maternity) that are discovered through survey until such roosts are confirmed to be vacant of bats; b. how the timing of any construction work in the vicinity of any maternity long tail bat roosts will be limited to outside the bat maternity period (between December and March) where reasonably practicable; c. dDetails of areas where vegetation is to be retained where practicable for the purposes of the connectivity of long tail bats; d. details of how bat connectivity (including suitable indigenous or exotic trees or artificial alternatives) will be provided and maintained. This could include identification of areas and timeframes for establishment of advance restoration / mitigation planting taking into account land ownership, accessibility and the timing of available funding, measures to manage the effects of light spill on bat connectivity as far as practicable; and- e. where mitigation to minimise effects is not practicable, details of any offsetting proposed. ii. If an EMP is required in accordance with Condition 21A(b) for the presence of threatened or at risk wetland birds: <ol style="list-style-type: none"> a. how the timing of any Construction Works shall be undertaken outside of the bird breeding season (September to February) where practicable;-

NoR No.	No.	Condition
		<p>b. where works are required within the Confirmed Biodiversity Area during the bird season, methods to minimise adverse effects on Threatened or At-Risk wetland birds;</p> <p>c. undertaking a nesting bird survey of Threatened or At-Risk wetland birds prior to any Construction Works taking place within a 50m radius of any identified Wetlands (including establishment of construction areas adjacent to Wetlands). Surveys should be repeated at the beginning of each wetland bird breeding season and following periods of construction inactivity;</p> <p>d. what protection and buffer measures will be provided where nesting Threatened or At-Risk wetland birds are identified within 50m of any construction area (including laydown areas). Measures could include:</p> <ol style="list-style-type: none"> i. a 20 m buffer area around the nest location and retaining vegetation. The buffer areas should be demarcated where necessary to protect birds from encroachment. This might include the use of marker poles, tape and signage; ii. monitoring of the nesting Threatened or At-Risk wetland birds by a Suitably Qualified Person. Construction works within the 20m nesting buffer areas should not occur until the Threatened or At-Risk wetland birds have fledged from the nest location (approximately 30 days from egg laying to fledging) as confirmed by a Suitably Qualified Person; iii. minimising the disturbance from the works if construction works are required within 50 m of a nest, as advised by a Suitably Qualified Person; iv. adopting a 10m setback where practicable, between the edge of Wetlands and construction areas (along the edge of the stockpile / laydown area); and v. minimising light spill from construction areas into Wetlands. <p>(b) The EMP shall be consistent with any ecological management measures to be undertaken in compliance with conditions of any regional resource consents granted for the Project.</p> <p>Advice Note:</p> <p><i>Depending on the potential effects of the Project, the regional consents for the Project may include the following monitoring and management plans:</i></p> <ol style="list-style-type: none"> (i) Stream and/or wetland restoration plans; (ii) Vegetation restoration plans; and (iii) Fauna management plans (eg avifauna, herpetofauna, bats).
All	22	<p>Tree Management Plan (TMP)</p> <p>(a) Prior to the Start of Construction for a Stage of Work, a Tree Management Plan TMP shall be prepared.</p> <p>(b) The objective of the Tree Management Plan TMP is to avoid, remedy or mitigate effects of construction activities on trees identified as protected or notable in the Auckland Unitary Plan AUP.</p> <p>(c) The Tree Management Plan TMP shall:</p> <ol style="list-style-type: none"> (i) confirm the trees that will be affected by the project work and are identified as protected or notable in the Auckland Unitary Plan AUP; and (ii) demonstrate how the design and location of project works has avoided, remedied or mitigated any effects on any tree listed in identified in (i) above. This may include: <ol style="list-style-type: none"> A. any opportunities to relocate listed trees where practicable. B. planting to replace trees that require removal (with reference to the ULDMP planting design details in Condition 9); C. tree protection zones and tree protection measures such as protective fencing, ground protection and physical protection of roots, trunks and branches; and D. methods for work within the rootzone of trees that are to be retained in line with accepted arboricultural standards.

NoR No.	No.	Condition
		(iii) demonstrate how the tree management measures (outlined in A – D above) are consistent with conditions of any resource consents granted for the project in relation to managing construction effects on trees.
S1 S2 S3	23	<p>Network Utility Management Plan (NUMP)</p> <p>(a) A NUMP shall be prepared prior to the Start of Construction for a Stage of Work.</p> <p>(b) The objective of the NUMP is to set out a framework for protecting, relocating and working in proximity to existing network utilities. The NUMP shall include methods to:</p> <ul style="list-style-type: none"> (i) Provide access for maintenance at all reasonable times, or emergency works at all times during construction activities; (ii) Protect and where necessary, relocate existing network utilities; (iii) Manage the effects of dust and any other material potentially resulting from construction activities and able to cause material damage, beyond normal wear and tear to overhead transmission lines in the Project area; and (iv) Demonstrate compliance with relevant standards and Codes of Practice including, where relevant, the NZECP 34:2001 New Zealand Electrical Code of Practice for Electrical Safe Distances 2001; AS/NZS 4853:2012 Electrical hazards on Metallic Pipelines; and AS/NZS 2885 Pipelines – Gas and Liquid Petroleum. <p>(c) The NUMP shall include methods (including timing) to protect and where required safely relocate the International Cable.</p> <p>(d) The NUMP shall be prepared in consultation with the relevant Network Utility Operator(s) who have existing assets that are directly affected by the Project.</p> <p>(e) The Requiring Authority shall consult with Network Utility Operators during the detailed design phase to consider 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 NUMP.</p> <p>(f) The NUMP shall describe how any comments from the Network Utility Operator in relation to its assets have been addressed.</p> <p>(g) Any comments received from the Network Utility Operator shall be considered when finalising the NUMP.</p> <p>(h) Any amendments to the NUMP related to the assets of a Network Utility Operator shall be prepared in consultation with that asset owner.</p>
KS HS	23	<p>Network Utility Management Plan (NUMP)</p> <p>(a) A NUMP shall be prepared prior to the Start of Construction for a Stage of Work.</p> <p>(b) The objective of the NUMP is to set out a framework for protecting, relocating and working in proximity to existing network utilities. The NUMP shall include methods to:</p> <ul style="list-style-type: none"> (i) Provide access for maintenance at all reasonable times, or emergency works at all times during construction activities; (ii) Protect and where necessary, relocate existing network utilities; (iii) Manage the effects of dust and any other material potentially resulting from construction activities and able to cause material damage, beyond normal wear and tear to overhead transmission lines in the Project area; and (iv) Demonstrate compliance with relevant standards and Codes of Practice including, where relevant, the NZECP 34:2001 New Zealand Electrical Code of Practice for Electrical Safe Distances 2001; AS/NZS 4853:2012 Electrical hazards on Metallic Pipelines; and AS/NZS 2885 Pipelines – Gas and Liquid Petroleum. <p>(c) The NUMP shall be prepared in consultation with the relevant Network Utility Operator(s) who have existing assets that are directly affected by the Project.</p> <p>(d) The Requiring Authority shall consult with Network Utility Operators during the detailed design phase to consider 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 NUMP.</p> <p>(e) The NUMP shall describe how any comments from the Network Utility Operator in relation to its assets have been addressed.</p> <p>(f) Any comments received from the Network Utility Operator shall be considered when finalising the NUMP.</p>

NoR No.	No.	Condition							
		(g) Any amendments to the NUMP related to the assets of a Network Utility Operator shall be prepared in consultation with that asset owner.							
Operational Conditions									
S1	24	<p>Low Noise Road Surface</p> <p>(a) An Open Graded Porous Asphalt (OGPA) pavement or a pavement with a similar or better noise reduction characteristics shall be implemented within twelve months of completion of construction of the Project.</p> <p>(b) The surfacing in (a) above shall be maintained to retain the noise reduction performance as far as practicable <u>of the original surface</u>.</p>							
S3	24	<p>Low Noise Road Surface</p> <p>(a) Asphaltic mix surface shall be implemented within twelve months of completion of construction of the Project.</p> <p>(b) The asphaltic mix surface shall be maintained to retain the noise reduction performance as far as practicable <u>of the original surface</u>.</p>							
<u>S1</u> <u>S3</u>	<u>24A</u>	<u>Where the Project passes through areas with a residential or future urban zoning, noise barriers shall be erected where they can be demonstrated to provide the Best Practicable Option for the control of road traffic noise having regard to the future residential use of the adjoining land.</u>							
HS KS	<u>24B</u> <u>A</u>	<p>Station Noise</p> <p>All mechanical and electrical services (including Public Address system) shall be designed to comply with the following noise rating levels and maximum noise levels, as measured and</p> <table border="1"> <thead> <tr> <th>Time</th> <th>Noise level</th> </tr> </thead> <tbody> <tr> <td>Monday to Saturday 7am-10pm</td> <td rowspan="2">50dB LAeq</td> </tr> <tr> <td>Sunday 9am-6pm</td> </tr> <tr> <td>All other times</td> <td>40dB LAeq 75dB LAFmax</td> </tr> </tbody> </table> <p>assessed at any residential zone site boundary. <u>The public address system shall be designed to comply with noise limits 10dB lower than those levels in each case.</u>¹</p>	Time	Noise level	Monday to Saturday 7am-10pm	50dB LAeq	Sunday 9am-6pm	All other times	40dB LAeq 75dB LAFmax
Time	Noise level								
Monday to Saturday 7am-10pm	50dB LAeq								
Sunday 9am-6pm									
All other times	40dB LAeq 75dB LAFmax								
S1		<p>Traffic Noise</p> <p>For the purposes of Conditions 25 to 36:</p> <p>(a) Building-Modification Mitigation – has the same meaning as in NZS 6806;</p> <p>(b) Design year has the same meaning as in NZS 6806;</p> <p>(c) Detailed Mitigation Options – means the fully detailed design of the Selected Mitigation Options, with all practical issues addressed;</p> <p>(d) Habitable Space – has the same meaning as in NZS 6806;</p> <p>(e) Identified Noise Criteria Category – means the Noise Criteria Category for a PPF identified in Schedule 3: Identified PPFs Noise Criteria Categories;</p> <p>(f) Mitigation – has the same meaning as in NZS 6806:2010 Acoustics – Road-traffic noise – New and altered roads;</p> <p>(g) Noise Criteria Categories – means the groups of preference for sound levels established in accordance with NZS 6806 when determining the Best Practicable Option for noise mitigation (i.e. Categories A, B and C);</p> <p>(h) NZS 6806 – means New Zealand Standard NZS 6806:2010 Acoustics – Road-traffic noise – New and altered roads;</p> <p>(i) P40 – means Transport Agency NZTA P40:2014 Specification for noise mitigation;</p> <p>(j) Protected Premises and Facilities (PPFs) – means only the premises and facilities identified in Schedule 3: PPFs Noise Criteria Categories;</p> <p>(k) Selected Mitigation Options – means the preferred mitigation option resulting from a Best Practicable Option assessment undertaken in accordance with NZS 6806; and</p> <p>(l) Structural Mitigation – has the same meaning as in NZS 6806.</p>							

¹ The Panel decision recommends deletion of the above table as part of this amendment.

NoR No.	No.	Condition
S1	25	<p>The Noise Criteria Categories identified in <i>Schedule 3: PPFs Noise Criteria Categories</i> at each of the PPFs shall be achieved where practicable and subject to Conditions 25 to 36 (all traffic noise conditions).</p> <p>The Noise Criteria Categories at the PPFs identified in <i>Schedule 3: Identified PPFs Noise Criteria Categories</i> do not need to be complied with where:</p> <ul style="list-style-type: none"> (a) the PPF no longer exists; or (b) agreement of the landowner has been obtained confirming that the Noise Criteria Category level does not need to be met. <p>Achievement of the Noise Criteria Categories for PPFs shall be by reference to a traffic forecast for a high growth scenario in a design year at least ten (10) years after the programmed opening of the Project.</p>
S1	26	As part of the detailed design of the Project, a Suitably Qualified Person shall determine the Selected Mitigation Options for the PPFs identified on <i>Schedule 3 PPFs Noise Criteria Categories</i> .
S1	27	Prior to construction of the Project, a Suitably Qualified Person shall develop the Detailed Mitigation Options for the PPFs identified in <i>Schedule 3 PPFs Noise Criteria Categories</i> , taking into account the Selected Mitigation Options.
S1	28	If the Detailed Mitigation Options would result in the Identified Noise Criteria Category changing to a less stringent Category, e.g. from Category A to B or Category B to C, at any relevant PPF, a Suitably Qualified Person shall provide confirmation to the Manager that the Detailed Mitigation Option would be consistent with adopting the Best Practicable Option in accordance with NZS 6806 prior to implementation.
S1	28A	Prior to the Start of Construction, a Noise Mitigation Plan written in accordance with P40 shall be provided to the Manager for information.
S1	29	The Detailed Mitigation Options shall be implemented prior to completion of construction of the Project, with the exception of any low-noise road surfaces, which shall be implemented within twelve 12 months of completion of construction.
S1	30	Prior to the Start of Construction, a Suitably Qualified Person shall identify those PPFs which, following implementation of all the Detailed Mitigation Options, will not be Noise Criteria Categories A or B and where Building-Modification Mitigation might be required to achieve 40 dB $L_{Aeq(24h)}$ inside Habitable Spaces ('Category C Buildings').
S1	31	Prior to the Start of Construction in the vicinity of each Category C Building, the Requiring Authority shall write to the owner of the Category C Building requesting entry to assess the noise reduction performance of the existing building envelope. If the building owner agrees to entry within three (3) months of the date of the Requiring Authority's letter, the Requiring Authority shall instruct a Suitably Qualified Person to visit the building and assess the noise reduction performance of the existing building envelope.
S1	32	<p>For each Category C Building identified, the Requiring Authority is deemed to have complied with Condition 31 above if:</p> <ul style="list-style-type: none"> (a) The Requiring Authority's Suitably Qualified Person has visited the building and assessed the noise reduction performance of the building envelope; or (b) The building owner agreed to entry, but the Requiring Authority could not gain entry for some reason (such as entry denied by a tenant); or (c) The building owner did not agree to entry within three (3) months of the date of the Requiring Authority's letter sent in accordance with Condition 31 above (including where the owner did not respond within that period); or (d) The building owner cannot, after reasonable enquiry, be found prior to completion of construction of the Project. <p>If any of (b) to (d) above apply to a Category C Building, the Requiring Authority is not required to implement Building-Modification Mitigation to that building.</p>

NoR No.	No.	Condition
S1	33	<p>Subject to Condition 32 above, within six <u>(6)</u> months of the assessment undertaken in accordance with Conditions 31 and 32, the Requiring Authority shall write to the owner of each Category C Building advising:</p> <ul style="list-style-type: none"> (a) If Building-Modification Mitigation is required to achieve 40 dB L_{Aeq(24h)} inside habitable spaces; and (b) The options available for Building-Modification Mitigation to the building, if required; and (c) That the owner has three months to decide whether to accept Building-Modification Mitigation to the building and to advise which option for Building-Modification Mitigation the owner prefers, if the Requiring Authority has advised that more than one option is available.
S1	34	<p>Once an agreement on Building-Modification Mitigation is reached between the Requiring Authority and the owner of a Category C Building, the mitigation shall be implemented, including any third party authorisations required, in a reasonable and practical timeframe agreed between the Requiring Authority and the owner.</p>
S1	35	<p>Subject to Condition 32, where Building-Modification Mitigation is required, the Requiring Authority is deemed to have complied with Condition 34 if:</p> <ul style="list-style-type: none"> (a) The Requiring Authority has completed Building Modification Mitigation to the building; or (b) An alternative agreement for mitigation is reached between the Requiring Authority and the building owner; or (c) The building owner did not accept the Requiring Authority's offer to implement Building-Modification Mitigation within three months of the date of the Requiring Authority's letter sent in accordance with Condition 32 (including where the owner did not respond within that period); or (d) The building owner cannot, after reasonable enquiry, be found prior to completion of construction of the Project.
S1	35A	<p>Within twelve-12 months of completion of construction of the Project, a post-construction review report written in accordance with P40 Specification for Noise Mitigation 2014 shall be provided to the Manager.</p>
S1	36	<p>The Detailed Mitigation Options shall be maintained so they retain their noise reduction performance as far as practicable</p>

| **Attachments** SCHEDULES

Schedule 1: General Accordance Plans and Information

Schedule 2: Identified Biodiversity Areas

Schedule 3: Identified PPFs Noise Criteria Categories

NOR S1

Address	New or Altered Road	Noise Criteria Category
2 Brigham Creek Road, Whenuapai, Auckland	Altered Road	A
4 Brigham Creek Road, Whenuapai, Auckland	Altered Road	A
6 Brigham Creek Road, Whenuapai, Auckland	Altered Road	A
15 Brigham Creek Road, Whenuapai, Auckland (2)	Altered Road	A
15 Brigham Creek Road, Whenuapai, Auckland (1)	Altered Road	A
23-27 Brigham Creek Road, Whenuapai, Auckland	Altered Road	A
107 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
121 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
125 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
127 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
129 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
131 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
133 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
135 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
137 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
139 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
141 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
143 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
172 Fred Taylor Drive, Whenuapai, Auckland	Altered Road	A
1 Kennedys Road, Whenuapai, Auckland	Altered Road	A
3 Kennedys Road, Whenuapai, Auckland	Altered Road	A
5 Kennedys Road, Whenuapai, Auckland	Altered Road	A
9 Kennedys Road, Whenuapai, Auckland	Altered Road	A
11 Kennedys Road, Whenuapai, Auckland	Altered Road	A
13 Kennedys Road, Whenuapai, Auckland	Altered Road	A
15 Kennedys Road, Whenuapai, Auckland	Altered Road	A
17 Kennedys Road, Whenuapai, Auckland	Altered Road	A
19 Kennedys Road, Whenuapai, Auckland	Altered Road	A

Address	New or Altered Road	Noise Criteria Category
2-6 Kennedys Road, Whenuapai, Auckland	Altered Road	A
17A Kennedys Road, Whenuapai, Auckland	Altered Road	A
392 Matua Road, Kumeū	Altered Road	A
402 Matua Road, Kumeū	Altered Road	A
392B Matua Road, Kumeū	Altered Road	A
150 Motu Road, Kumeū	Altered Road	A
158 Motu Road, Kumeū	Altered Road	A
164 Motu Road, Kumeū	Altered Road	A
171 State Highway 16, Whenuapai, Auckland	Altered Road	A
173 State Highway 16, Whenuapai, Auckland	Altered Road	A
175 State Highway 16, Whenuapai, Auckland	Altered Road	A
177 State Highway 16, Whenuapai, Auckland	Altered Road	A
179 State Highway 16, Whenuapai, Auckland	Altered Road	A
181 State Highway 16, Whenuapai, Auckland	Altered Road	A
218 State Highway 16, Whenuapai, Auckland	Altered Road	A
222 State Highway 16, Whenuapai, Auckland	Altered Road	A
677 State Highway 16, Kumeū	Altered Road	A
693 State Highway 16, Kumeū	Altered Road	A
695 State Highway 16, Kumeū	Altered Road	A
726 State Highway 16, Kumeū (2)	Altered Road	A
726 State Highway 16, Kumeū (1)	Altered Road	A
728 State Highway 16, Kumeū	Altered Road	A
761 State Highway 16, Kumeū (2)	Altered Road	A
761 State Highway 16, Kumeū (1)	Altered Road	A
763 State Highway 16, Kumeū	Altered Road	A
59 Tawa Road, Kumeū	Altered Road	A
63 Tawa Road, Kumeū	Altered Road	A
66 Tawa Road, Kumeū	Altered Road	A
73 Tawa Road, Kumeū	Altered Road	A
76 Tawa Road, Kumeū	Altered Road	A

Address	New or Altered Road	Noise Criteria Category
79 Tawa Road, Kumeū	Altered Road	A
83 Tawa Road, Kumeū (2)	Altered Road	A
83 Tawa Road, Kumeū (1)	Altered Road	A
86 Tawa Road, Kumeū (2)	Altered Road	A
86 Tawa Road, Kumeū (1)	Altered Road	A
186 Boord Crescent, Kumeū	New Road	B
4 Dysart Lane, Kumeū	New Road	A
81 Foster Road, Kumeū	New Road	A
116 Foster Road, Kumeū	New Road	A
131 Foster Road, Kumeū	New Road	A
196 Fred Taylor Drive, Whenuapai, Auckland	New Road	A
198 Fred Taylor Drive, Whenuapai, Auckland	New Road	A
208 Fred Taylor Drive, Whenuapai, Auckland	New Road	A
210 Fred Taylor Drive, Whenuapai, Auckland	New Road	A
2 Hanham Road, Kumeū	New Road	A
6 Hanham Road, Kumeū	New Road	A
8 Hanham Road, Kumeū	New Road	A
9 Hanham Road, Kumeū	New Road	A
14 Joseph Dunstan Drive, Taupaki	New Road	A
28 Pomona Road, Kumeū	New Road	B
48 Pomona Road, Kumeū	New Road	A
66 Pomona Road, Kumeū	New Road	B
90 Pomona Road, Kumeū	New Road	B
94 Pomona Road, Kumeū	New Road	A
95 Pomona Road, Kumeū	New Road	B
96 Pomona Road, Kumeū	New Road	B
114 Pomona Road, Kumeū	New Road	A
123 Pomona Road, Kumeū (2)	New Road	B
123 Pomona Road, Kumeū (1)	New Road	A
151 Pomona Road, Kumeū	New Road	A

Address	New or Altered Road	Noise Criteria Category
191 Pomona Road, Kumeū	New Road	B
194 Pomona Road, Kumeū	New Road	B
212 Pomona Road, Kumeū	New Road	A
214 Pomona Road, Kumeū	New Road	A
218 Pomona Road, Kumeū	New Road	A
18 Puke Road, Kumeū	New Road	A
21 Puke Road, Kumeū	New Road	A
22 Puke Road, Kumeū	New Road	A
27 Puke Road, Kumeū	New Road	A
37 Puke Road, Kumeū	New Road	A
80 Puke Road, Kumeū	New Road	A
104 Puke Road, Kumeū	New Road	A
107 Puke Road, Kumeū	New Road	A
133 Puke Road, Kumeū	New Road	A
139 Puke Road, Kumeū (2)	New Road	B
139 Puke Road, Kumeū (1)	New Road	A
145 Puke Road, Kumeū	New Road	A
151 Puke Road, Kumeū	New Road	A
157 Puke Road, Kumeū	New Road	B
284 State Highway 16, Kumeū	New Road	A
362 Taupaki Road, Taupaki	New Road	A
364 Taupaki Road, Taupaki	New Road	A
367 Taupaki Road, Taupaki	New Road	A
370 Taupaki Road, Taupaki	New Road	A
374 Taupaki Road, Taupaki	New Road	B
375 Taupaki Road, Taupaki	New Road	A
377 Taupaki Road, Taupaki	New Road	B
405 Taupaki Road, Kumeū	New Road	A
137 Tawa Road, Kumeū	New Road	B
141 Tawa Road, Kumeū	New Road	B

Address	New or Altered Road	Noise Criteria Category
145 Tawa Road, Kumeū	New Road	A
148 Tawa Road, Kumeū	New Road	A
154 Tawa Road, Kumeū	New Road	A
155 Tawa Road, Kumeū	New Road	A
176 Tawa Road, Kumeū	New Road	A
227 Trigg Road, Kumeū (2)	New Road	A
227 Trigg Road, Kumeū (1)	New Road	A
609 Waitakere Road, Kumeū	New Road	A
637 Waitakere Road, Kumeū	New Road	A
646 Waitakere Road, Kumeū (2)	New Road	B
646 Waitakere Road, Kumeū (1)	New Road	B
670 Waitakere Road, Kumeū	New Road	B
679 Waitakere Road, Kumeū	New Road	B
682 Waitakere Road, Kumeū	New Road	A
710 Waitakere Road, Kumeū	New Road	A
723 Waitakere Road, Kumeū	New Road	A

Schedule 4: Huapai Tavern Relocation