

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



Proposal

The construction, operation and maintenance of the proposed Whenuapai Wastewater Servicing Scheme – Package 1 Project (the Project), which includes a Gravity Main, Pump Station, Rising Main¹, and associated infrastructure.

This Notice of Requirement is recommended for CONFIRMATION subject to conditions. The reasons are set out below.

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| Application number | Notice of Requirement – BUN60411512 |
| Site address: | Whenuapai Wastewater Servicing Scheme - Package 1 |
| Requiring Authority / Applicant: | Watercare Services Limited |
| Hearing commenced: | Thursday, 3 October 2024, 9.30am |
| Hearing panel: | David Hill (Chairperson) Matthew Byrne Juliane Chetham |
| Appearances: | <p><u>For the Requiring Authority:</u> Watercare Services Limited represented by: Simon Pilkinton (Legal Counsel) Kirsty Dibley (Legal Counsel) Priyan Perera (corporate) Andrew Deutschle (corporate) William Hung (corporate) Dragan Jovanovic (engineering) Colin Stokes (engineering) Raymond Chang (ecology) Mat Cottle (noise and vibration) Jenny Vince (planning)</p> <p><u>Tabled Submitter Statements</u> Auckland Transport – Emeline Fonua (Planning) Cabra Developments - Hannah Edwards (Planning)</p> <p><u>For Council:</u> Tony Reidy, Acting Team Leader</p> |

¹ Subsequently deleted from the Nor by WSL.

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| | Todd Elder, Reporting Planner Greg Hall, Engineer Jon Styles, Noise & Vibration Specialist (consultant) Bevan Donovan, Hearings Advisor |
| Hearing adjourned | Thursday, 3 October 2024 |
| Hearing Closed: | Friday, 11 October 2024 |

INTRODUCTION

1. Pursuant to section 168 of the Resource Management Act 1991 (the Act), Watercare Services Limited (**WSL**), as the Requiring Authority, gave notice to the Council to designate various site(s) including the Pump Station site at 23A Brigham Creek Road, the Break Pressure Chamber at 32 Mamari / Spedding Road, and for the Gravity Main from the Pump Station to the existing Whenuapai Village Pump Station on Tamiro Road, for Whenuapai Wastewater Servicing Scheme - Package 1 in the Auckland Unitary Plan.
2. While the notice of requirement (**NoR**) and regional consent applications were originally lodged together, they were subsequently withdrawn and separated out. The latter are not part of the present application and therefore the hearing (and recommendation) is solely focussed on the territorial land use aspects of the NoR.
3. The NoR was lodged on 6 October 2023 and, at the request of the Requiring Authority, publicly notified on 28 March 2024. Submissions closed on 30 April 2024. Three submissions were received. The submissions either supported or offered conditional support subject to certain communication and transportation issues being addressed.
4. Section 92 further Information requests were issued by Council on 13 November 2023 and 9 February 2024. Those were responded to on 19 January, 8 March and 1 July 2024.
5. Written approval was provided from the owner of 31 Brigham Creek Road.
6. A s.42A hearing report dated 5 July 2024 was prepared by Todd Elder, reporting planner for Council, which included specialist reviews as follows:
 - Rue Statham - Ecology
 - Greg Hall - Development Engineer
 - Bridget Gilbert - Landscape Architect
 - Lee Te - Healthy Waters Specialist
 - Harry Shepard - Transportation Engineer
 - Rhys Caldwell - Arborist
7. A specialist acoustic report was separately provided by Jon Styles, Styles Group.
8. Council provided a s.42A addendum with Mr Elder's Statement of evidence on 11 September 2024, which responded to WSL's evidence and included further statements from Mr Hall, Mr Statham and Mr Styles (among other attachments).

9. Independent Hearing Commissioners David Hill (Chair), Matthew Byrne and Juliane Chetham were appointed to hear and make recommendations on the NoR, and acted under delegated authority from the Council under sections 34 and 34A of the RMA.
10. The NoR was referred to Commissioners for a hearing and recommendation / decision. The hearing took place on Thursday, 3 October 2024 in the Council Chambers, L2 Henderson Civic Building, 1 Smythe Road, Henderson. No submitter elected to appear. Statements were tabled from Auckland Transport and Cabra Developments Limited.
11. For the record we record that, unusually, Commissioners did not undertake a site visit due to the extensive Oyster Capital construction works in the immediate vicinity rendering the Pump Station site (which was the main focus of concern) virtually inaccessible. However, we were provided with a very recent drone photograph of the site which clearly showed the detail. No issue was raised on that account.
12. This recommendation decision assesses the NoR under section 171 of the Act. It addresses the issues raised primarily in the s.42A reports and contains our recommendation to the Requiring Authority under section 171(2) of the Act.

THE PROPOSAL

13. WSL's Whenuapai Wastewater Scheme (**the Scheme**) is designed to service the anticipated significant growth in the Whenuapai – Redhills area over the next 20 years – i.e. projected growth from 2,400 dwellings to >10,000 dwellings, with peak wet weather wastewater flows increasing from 74 l/s to 320 l/s.²
14. The Scheme is divided into three packages³ as follows:
 - (a) *Package 1 (this Project and the subject of this NoR) is proposed to provide for the planned growth within the Whenuapai Catchment to 2041. Once completed the Project will [provide] support for the 10,240 dwellings anticipated.*
 - (b) *Package 2 (which will connect Package 1 via a new gravity pipeline to the Northern Interceptor Phase 2 Tunnel).*
 - (c) *Package 3 (which will provide for four gravity pipelines to service the Southern Redhills area) will be delivered at a later stage to align with currently planned development timeframes.*
15. The main components of Package 1 (as notified) included⁴:
 - (a) *A Pump Station located at a point where the Whenuapai and Redhills Catchments meet at 23A Brigham Creek Road. The Pump Station will have an underground wet well (extending approximately 9.5m below ground level) and an underground storage tank (extending approximately 6m below ground level). An emergency overflow point will also be provided to the west of the pump station, discharging into the Sinton Stream. Permanent access to the pump station will be from Spedding Road.*

² Deutschle, Statement of evidence, 26 August 2024 at [4.1].

³ Vince, Statement of evidence, 26 August 2024 at [4.5].

⁴ Vince, Statement of evidence, 26 August 2024 at [4.8-4.9].

- (b) *A Gravity Main pipeline (approximately 700m long and 375 – 475 mm in diameter) between the existing Whenuapai Village Pump Station on Tamiro Road and the new pump station. ...the Gravity Main alignment extends through a wetland (Wetland C) directly northwest of the new Pump Station prior to going beneath Brigham Creek Road.*
- (c) *A Break Pressure Chamber located on the corner of Mamari and Spedding Roads.*
- (d) *A Rising Main (approximately 1.5km long and 500 mm in diameter) between the new pump station and a proposed new break pressure chamber on Mamari Road.*
- (e) *A culvert (approximately 63 m long including wing wall and rip rap) to provide access for the Rising Main across Sinton Stream.*
16. However, while the initial proposal for designation included a rising main and culvert over the Sinton Stream ((d) and (e) above), those elements were “removed” from the designation by WSL once the neighbouring developer, Oyster Capital Limited, had secured resource consent and commenced construction, including of the rising main and culvert (which will be vested in WSL and Council - Healthy Waters, respectively). Furthermore, Counsel for WSL told us⁵ that operation and maintenance of those assets is a permitted activity under the AUP.
17. We understood that inclusion of those elements in the notified NoR was intentionally redundant in case Oyster failed to secure consent through relevant parcels of land. As Ms Vince stated⁶:
- ... due to the uncertainty at the time of lodgement as to who between Watercare or Oyster would be in a position to start their development first, both organisations obtained consents to construct the Culvert.*
18. As Ms Vince stated of the revised NoR⁷:
- The NoR seeks to designate land, pursuant to s168 RMA, in the Auckland Unitary Plan Operative in Part ("AUP-OP") to enable the construction, operation and maintenance of a Gravity Main, Pump Station, and associated infrastructure.*
19. The project objectives⁸ for Package 1 are:
- (a) *To provide additional capacity in the wastewater network for growth and development of the Whenuapai-Redhills catchment in a manner that:*
- (i) *protects public health;*
- (ii) *optimises investment decisions, including by being efficient, effective and financially responsible;*
- (iii) *minimises private property development disruption;*

⁵ Legal submissions, 27 September 2024 at [1.12].

⁶ Vince, Statement of rebuttal evidence, 18 September 2024 at [2.5]

⁷ Vince, Statement of evidence, 26 August 2024 at [2.8].

⁸ Deutschle, Statement of evidence, 26 August 2024 at [5.1].

(iv) coordinates with existing and known planned development; and

(v) integrates with the existing Watercare wastewater network.

(b) To provide statutory protection for Package 1 of the Whenuapai-Redhills Wastewater Servicing Scheme to enable its construction, operation and maintenance.

20. Mr Deutschle confirmed that WSL has all the necessary property rights underlying the revised designation.
21. WSL proposed to submit an outline plan of works under s.176A for the break pressure chamber (Designation Condition (**DC**) 2), but sought that no outline plan of works be required (DC1) for the Pump Station and gravity main (unless there are more than minor changes to the referenced plans).
22. A 10-year lapse date is sought (DC5); commencing either on the date on which the NoR is included in the AUP if no appeals, or the date on which all appeals on the NoR are settled. No party opposed that condition.

ZONING AND EXISTING ENVIRONMENT

23. Whilst the underlying zoning is not particularly relevant for a designation, the AEE records⁹ that the project traverses a mix of Future Urban, Road Reserve, and Open Space – Informal Recreation zones (some of which involve the removed infrastructure elements).
24. The general environment of the NoR is well covered in the AEE (see for example section 2) and in the background reports and evidence. That was not in contention and, in the interest of brevity, we do not repeat that material.

EVIDENCE AND LEGAL SUBMISSIONS HEARD

25. Evidence associated with the s.42A report has been identified above at paragraphs [6-8].
26. Primary evidence for WSL was filed as follows:
- (a) Priyan Perera, Chief Strategy and Planning Officer at Watercare (Corporate – Overview), provided an overview of Watercare's role and operations as Auckland's statutory water and wastewater provider and its strategic planning functions for new assets.
 - (b) Andrew Deutschle, Head of Wastewater Planning at Watercare (Corporate – Technical), provided an overview of the development of the Project, including how Watercare in undertaking its strategic planning process determined the proposed design and alignment.
 - (c) William Hung, Senior Resource Consent Planner at Watercare (Corporate – Consultation and Engagement), set out Watercare's approach to consultation and

⁹ AEE, 8 March 2024, Table 4 at [2.2].

engagement with property owners and other stakeholders, including that undertaken for the Project.

- (d) Dragan Jovanovic, Technical Director, Water and Wastewater, and Principal at GHD (Engineering and Design), set out the engineering and design decisions of the various Project elements.
 - (e) Colin Stokes, Technical Principal Engineer at WSP (Engineering and Design), explained the options considered for the Pump Station design and how the preferred orientation was selected.
 - (f) Raymond Chang, Technical Director – Environmental Science at Beca (Ecology), assessed the potential ecological effects and recommended mitigation, as relevant to the NoR.
 - (g) Mathew Cottle, Associate at Marshall Day Acoustics (Noise and Vibration), explained the assessment of construction noise and vibration effects of the NoR and recommended mitigation.
 - (h) Jennifer Vince, Technical Director – Planning at Beca (Planning), provided a planning assessment for the NoR against the relevant statutory framework. Ms Vince also proposed a comprehensive suite of conditions to manage the potential adverse effects of the NoR.
27. In response to the supplementary evidence filed by Council, WSL filed brief rebuttal evidence from:
- (a) Colin Stokes – Pump Station design and location;
 - (b) Dragan Jovanovic – gravity pipeline alignment and Wetland C location;
 - (c) Raymond Chang – ecological values, conditions and wetland restoration; and
 - (d) Jennifer Vince – designation extent, NPS-FM interpretation, RPS, and new / amended conditions.
28. Legal submissions in opening and reply were filed by Mr Simon Pilkington and Ms Kirsty Dibley, Counsel for WSL with a finalised set of proposed NoR conditions.
29. As the issues in contention for hearing were relatively confined, we dispense with an overview recital of the evidence filed and proceed directly to the issues requiring decision and recommendations.
30. The recommendations made in this document follow the deliberations and the findings made by the Commissioners after considering the NoR, the submissions lodged, the Council’s reports, and the submissions and evidence presented at the hearing, including final comments made by Council officers and consultants (“**officer response**”), and a written Reply and associated updated conditions schedule provided by Counsel for WSL on 10 October 2024.

31. The recommendations are made in terms of the framework provided by section 171 of the RMA.

PROCEDURAL MATTERS

32. The Panel issued three directions related to the exchange of reports, evidence and legal submissions.
33. No other procedural matters were raised.

ISSUES IN CONTENTION

34. As noted, submitter concerns (to the extent that there were any) were satisfied by conditions or amended conditions proposed and accepted by WSL. Remaining issues were those expressed by Council and summarised by Mr Elder¹⁰ as follows:
- (a) The extent of the NoR.
 - (b) Functional need and wetlands (to which we add – Operational need).
 - (c) Power and water services arrangement to the Pump Station.
 - (d) Ecological conditions.
 - (e) Noise and vibration assessment.

NoR extent

35. In his s.42A Addendum Mr Elder¹¹ raised a question as to whether it was appropriate to reduce the extent of the designation from that notified as now proposed by WSL – i.e. excluding the rising main and the Sinton Stream culvert. He argued that as all components were integral to Package 1 and were necessary for the “system” to operate, and the approved plans (including engineering plans) included those elements, and as a designation is to be included in the AUP, it was therefore important that they are appropriately authorised regardless of who might construct them.
36. Counsel for WSL disagreed. Mr Pilkington submitted that WSL cannot designate land that is not actually required – the rising main and culvert are consented, and their operation and maintenance is a permitted activity under the AUP. He noted that WSL can only designate land where that is “reasonably necessary” to achieve its objective (the s.171(1)(c) test).
37. In that regard we note that s.168(2)(b) requires that the:
- ... restriction is necessary for the safe or efficient functioning or operation of a public work.*
38. WSL says that is not the case with respect to those two elements of the project.

¹⁰ Elder, Primary statement of evidence, 11 September 2024 at [5.1].

¹¹ Elder, Primary statement of evidence, 11 September 2024 at section. [6].

39. We also note that Ms Vince had observed that it is good practice, in a planning sense, to refine the designation boundary once work is completed to only that which was actually required.
40. Mr Pilkington concluded¹² that to do otherwise is in fact unlawful.

Discussion and Finding

41. While the Act is silent on the matter, (s.168(4) only relates to the *withdrawal* of a requirement), it is common practice for modifications to be recommended under s.171(2), and which often have the effect of reducing the extent of a proposed NoR boundary for precisely the reason submitted by Mr Pilkington – i.e. it is not “reasonably necessary”.
42. We see no material difference between that “option” and the present situation. Indeed, were we to agree with Mr Elder on the principle, we would likely make such a finding and recommendation on those two elements – i.e. to remove them – in any event.
43. It also seems logical to us that an applicant, whether for a resource consent or an NoR, is able to modify its application within the process in response either to changing circumstance or submissions, provided that is within scope and does not introduce new or different adverse effects that have not been able to be addressed or submitted thereon.
44. We find that WSL is entitled to reduce the extent of the NoR as proposed.

Functional Need / Wetlands

45. Mr Elder had raised the question of “functional need” as that term is used in the National Policy Statement for Freshwater Management (**the NPS-FM**) and incorporated into the AUP Regional Policy Statement (**the RPS**) chapters B3 and B7. Specifically this was with respect to the location of the Pump Station and gravity main within Wetland C and the alternative route to the east of Wetland C posed by Mr Hall.
46. *Functional need* is defined in the NPS-FM at cl.3.21(1) as:
- means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.*
47. That definition is also adopted in Chapter J of the AUP and in Chapter 14 of the National Planning Standards.
48. Mr Elder’s opinion was that regardless of the fact that functional need is required to be demonstrated for the regional consents, it remained a relevant matter under s.171. He contended¹³ that the priorities Objective 2.1(1) and the associated effects management hierarchy of the NPS-FM apply to consent authorities generally.

¹² Legal submissions, 27 September 2024 at [4.6].

¹³ Elder, Primary statement of evidence, 11 September 2024 at [7.17].

49. WSL disagreed that “functional need” was necessary noting that this requirement is contained within cl.3.22 Natural inland wetlands of the NPS-FM relating to regional council functions - and we note that is specifically in respect of specified infrastructure (cl.3.22(1)(b)(iii)), quarrying (cl.3.22(1)(d)(iii)), or mineral extraction (cl.3.22(1)(e)(iii)).
50. Regardless, the functional need for the NoR was characterised by Mr Deutsche¹⁴ on the following basis:
- (a) *By its nature, the Pump Station was required to be at the lowest part of the catchment – the gravity pipework captures wastewater flows from the catchment and transports it to the lowest part of the catchment area (being the inlet manhole to the pump station).*
 - (b) *The Pump Station needs to be where it is to reduce the rising main length, which reduces the potential for septicity of the wastewater.*
 - (c) *The pump station requires a suitable receiving environment nearby for an emergency overflow point – making it necessary to be located within close proximity to a stream.*
 - (d) *There are no alternative configurations which would mean works within Wetland C could be avoided.*
51. Ms Vince’s evidence was to the effect that the NoR had addressed both the NPS-FM and RPS. With respect to the latter she criticised Mr Elder for focussing on a single policy (B7.3.2(5)(c)) rather than the suite of relevant policies as a whole¹⁵ which, she maintained, recognised the importance of infrastructure and allowed of occasions when locating in areas of specific sensitivity is appropriate provided the avoid, remedy, mitigate requirement is observed. Regardless, she concluded¹⁶ that:

...in my opinion:

- (i) *there is both a functional and operational need for the location of the Project;*
 - (ii) *it is not possible to fully avoid the wetland during construction; and*
 - (iii) *any potential impact will be remedied such that there is likely to be a net positive.*
52. Mr Pilkington again submitted¹⁷ that Mr Elder’s position was wrong in law, while noting¹⁸ that, in any event, the NoR was consistent with the requirements of the AUP under policy E3.3.17 relating to specified infrastructure within natural inland wetlands.

Discussion and Finding

53. We do not think this matter is quite as clear cut as WSL contends. While we agree that the NPS-FM application of the functional need test is not in play (for the reasons

¹⁴ Deutsche, Statement of evidence, 26 August 2024 at [8.3].

¹⁵ Vince, Statement of rebuttal evidence, 18 September 2024 at [3.12 – 3.13].

¹⁶ Vince, Statement of rebuttal evidence, 18 September 2024 at [3.14(c)].

¹⁷ Legal submissions, 27 September 2024 at [1.10].

¹⁸ Legal submissions, 27 September 2024 at [1.10(b)].

submitted by WSL), the RPS policy B7.3.2(5)(c) is directive. It is to:

... limit the establishment of structures within the beds of lakes, rivers and streams and in wetlands to those that have a functional need or operational requirement to be located there.

54. When read in conjunction with the NPS-FM objective:

The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:

(a) first, the health and well-being of water bodies and freshwater ecosystems

(b) second, the health needs of people (such as drinking water)

(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

it does raise the bar.

55. However, having said that, the operational need is made out by Mr Stokes and Mr Jovanovic as we discuss next.

56. As such we find that the RPS policy B7.3.2(5)(c) is satisfied – and agree with Ms Vince that the entire suite of relevant policies are in play and are satisfied.

Operational Need

57. Operational need is not defined in the NPS-FM but is in Chapter 14 of the National Planning Standards and in Chapter J of the AUP as:

... means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.

58. The term is not used in the NPS-FM but appears in the RPS as policy B7.3.2(5)(c) under the subheading of *Management of freshwater systems* and states:

... limit the establishment of structures within the beds of lakes, rivers and streams and in wetlands to those that have a functional need or operational requirement to be located there.

59. WSL's Assessment of Alternatives (not formally required) determined that the most suitable operational location for the Pump Station and its associated pipelines was at 23-27 Brigham Creek Road, for reasons which we do not repeat here.

60. Based on the suitability of the Pump Station's location, Mr Stokes and Mr Jovanovic provided evidence regarding the preferred option for the station's orientation, which resulted in a construction methodology for the gravity main sewer being through Wetland C rather than around it, and via open trenching rather than a trenchless methodology.

61. A trenchless methodology for the gravity main through Wetland C was initially discounted by WSL's contractor based on advice from Watercare's then contractor¹⁹. A

¹⁹ Legal submissions, 27 September 2024 at [7.18].

condition (DC7a) has subsequently been introduced that will require formal assessment of this matter prior to construction of that part of the works.

62. At the Hearing, Mr Hall reiterated his concerns regarding the preferred route of the gravity sewer main being through and not around Wetland C. However, his concerns centred around the “functional need” of the pipeline going through the wetland rather than any “operational need” for the pipeline to go through the wetland.
63. In fact, nowhere in Mr Hall’s evidence does he question the operational need of the pipeline’s route with regard to Wetland C.

Discussion and Finding

64. There is no dispute regarding the operational need of the Pump Station and its associated pipelines being located at 23-27 Brigham Creek Road.
65. Despite there being no dispute regarding the operational need of the Pump Station being located at 23-27 Brigham Creek Road, and no dispute regarding the operational need of the pipeline going through the wetland, WSL has proposed a new condition, DC7a, which requires that prior to construction of the Gravity Main between the Pump Station and Brigham Creek Road, they are required to engage a suitably qualified and experienced person to assess whether a trenchless construction methodology for the gravity main pipeline beneath Wetland C is feasible and practicable.
66. The purpose of that condition is to help ensure that the impacts on Wetland C are minimised insofar as that is possible²⁰.
67. Based on the above, we find that an operational need for the gravity pipeline to be located within the wetland has been demonstrated and we rely on the condition proffered by WSL, being DC7a, - and, of course, the regional consent application - to help ensure that the effects on Wetland C are minimised to the extent practicable.

Services to Pump Station

68. Mr Hall raised concerns regarding the source of power and water supply to the Pump Station. Mr Hall noted that as the current works being undertaken by Oyster Capital in the Spedding Block Precinct immediately adjacent to the east of the Pump Station will have power and water supply installed in the near term, WSL’s proposal to have power and water supplied to the Pump Station from the west end of Brigham Creek Road, no longer reflected the current on-site conditions.
69. Mr Hall stated that there should be no need for the designation boundary to extend around the northwestern side of Wetland C for the route for power and water supply if it were to connect to the Pump Station from the west end of Brigham Creek Road, as there are no easements provided to allow these services to be located in this area. Mr Hall indicated that this would lead to potential difficulties with maintaining the services. Mr

²⁰ Legal submissions, 27 September 2024 at [7.19].

Hall emphasised that providing power and water from the Spedding Road extension avoids all these issues.

70. In response to this matter, WSL proposed a new condition (DC27) requiring a connection to the public power and water supply on the Spedding Road extension, to the east of the Pump Station, if power and water supply is available at the time when it needed to be connected.

Discussion and Finding

71. Given the current state of the Spedding Road extension, it is highly improbable that power and water will not be available at the time it is required by the Pump Station. The Spedding Road extension works are well advanced and the construction, let alone completion, of the Pump Station is unlikely in the near term.
72. As such, we find that condition DC27 proposed by WSL satisfactorily addresses the concerns raised by Mr Hall regarding the supply of services to the Pump Station.

Ecological Conditions

73. WSL's ecological evidence was given by Kah mun (Raymond) Chang, based largely on a desktop review of material recently provided for the immediately adjacent Oyster Capital development resource consents (Spedding Block Precinct) and other publicly available databases. That included bat, fish and native lizard records.
74. Mr Chang noted from his most recent site visit on 2 August 2024 that vegetation in the vicinity of the Pump Station and emergency overflow point has largely been removed as approved under the Oyster Capital consents. Consequently he assessed the existing ecological environment of the NoR designation as "low" in value but "very high" for long-tail bats (because of the bat record data in proximity to the site), and conservatively as "high" for native lizards because of suitable habitat. Mr Chang recommended management measures as conditions on the NoR in consequence.
75. Council's ecological reviewer, Rupert Statham, was critical of Mr Chang's reliance on a desktop review and expressed concern about the management plan measures only being proposed to be developed if evidence of species (for example, native skinks and bats) is established.
76. In response Mr Chang (and Ms Vince) accepted Mr Statham's principal point and now propose management measures (such as motion sensor-controlled lighting at the Pump Station) in anticipation of those species potentially being present.
77. While the removal, use and restoration of Wetland C is primarily a matter for the regional consent application, Mr Chang noted that with its proposed restoration, its ecological values would be enhanced – resulting in a net positive effect.
78. WSL has also agreed to a new condition (DC7a) explicitly requiring an assessment as to whether trenchless construction of the gravity main beneath Wetland C is feasible and practicable prior to construction of works in that section.

Discussion and Finding

79. Given the detailed ecological assessment work undertaken by Tonkin + Taylor Ltd for the immediately adjacent Oyster Capital construction consents, which clearly was accepted by Council for that purpose, we find that adequate for the NoR. Furthermore, with the amended ecological management plan requirements in the proposed designation conditions, we find that those will provide an appropriate basis for mitigating any residual adverse effects.
80. Finally we note that if removal and restoration of Wetland C is accepted through the regional consent application process, we are entitled to assume that further appropriate ecological conditions will be required if necessary. If that consent is not granted then, as Mr Pilkington noted, an alteration to this NoR will be necessary (assuming it is confirmed) which may necessitate further or different conditions.
81. In any event, for the land use NoR that we are required to consider, we find that the conditions proposed are sufficient to manage the relevant ecological effects.

Noise and Vibration

82. As a consequence of the way in which one of the proposed noise and vibration conditions (DC14) had been expressed, the respective noise / acoustic professionals for WSL (Mathew Cottle) and Council (Jon Styles) had disagreed over an interpretation of one of the key provisions of the AUP - E25.6.30(1)(b) Vibration - in relation to the lineal pipe installation works.
83. In brief that disagreement was as to whether the particular standard was to be applied to the construction works overall across its entire length at all times, or simply to discrete sections as that work moved around spatially.
84. Mr Cottle's assessment otherwise was accepted by Mr Styles by the end of the hearing.
85. In the end we are not required to make a finding on that disagreement as Mr Cottle (and Ms Vince) had modified DC14 removing reference to that provision and clarifying the intent of the condition. With a further amendment suggested by Mr Styles to the proposed DC11 amendment, deleting cross-reference to the vibration conditions, the wording of the construction noise and vibration conditions DC11 – DC 16 were agreed.

Discussion and Finding

86. We find that the conditions now proposed will address noise and vibration matters appropriately, including in those circumstances where the standards are exceeded.
87. As an aside we note that whilst the Oyster Capital development could be completed before the NoR is given full effect (in that WSL seeks a 10-year lapse period), occupation is unlikely to occur (and therefore potentially be adversely affected by construction noise and vibration) before the construction works are completed. However, even if that did occur, we are satisfied that the conditions proposed would still be appropriate.

RELEVANT STATUTORY PROVISIONS CONSIDERED

88. Section 171 of the Act sets out the matters to which a territorial authority must have regard when considering a requirement and any submissions received, and in making its recommendations to the requiring authority. Section 171 is subject to Part 2, which states the purpose and principles of the Act.
89. Section 171(1) requires:
- (1) *When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to -*
 - (a) *any relevant provisions of -*
 - (i) *a national policy statement:*
 - (ii) *a New Zealand coastal policy statement:*
 - (iii) *a regional policy statement or proposed regional policy statement:*
 - (iv) *a plan or proposed plan; and*
 - (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if –*
 - (i) *the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
 - (ii) *it is likely that the work will have a significant adverse effect on the environment; and*
 - (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
 - (d) *any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*

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.

90. Pursuant to section 171(1)(a), when considering the requirement we must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to any relevant provisions of a national policy statement, the New Zealand Coastal Policy Statement, the RPS, and the relevant regional and district plans.
91. Collectively WSL's NoR application (section 10.2), the Council s.42A hearing report (sections 4.5 – 4.10) and the planning evidence of Ms Vince provided a comprehensive commentary on the relevant national and regional policy statements, and the sections of the AUP. As there was no material disagreement about the relevance of those documents, we do not intend to repeat that material in this decision; rather we rely on

them but note that the following documents were considered of particular relevance in reaching our recommendation:

- Auckland Unitary Plan, particularly Chapter B Regional Policy Statement.
- National Policy Statement for Freshwater Management 2020.
- National Policy Statement on Urban Development 2020.
- National Policy Statement for Indigenous Biodiversity 2023.
- National Environment Standard for Assessing and Managing Contaminants in Soil to protect Human Health 2011.

92. The New Zealand Coastal Policy Statement was not considered relevant in relation to this particular NoR, nor were any particular regional plans. As noted, the need for resource consents under the regional plans have been applied for and are being processed separately.

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.

93. While the s.42A Report authors sought to pursue the alternative route around Wetland C, Mr Pilkington correctly submitted that s.171(1)(b) was not engaged because WSL has all necessary interests in the land sufficient for undertaking the work, and it was WSL's conclusion that any remaining adverse effects, following completion of the works and reinstatement of the wetland, would fall well short of the threshold for significance.

94. We did not understand Council to disagree with the land use aspects of the “adverse effect” matter – acknowledging that the Wetland C question will be determined by the regional consents sought.

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.

95. As now reduced in extent the NoR and associated works are “reasonably” necessary. We have cited the project objectives at paragraph 19 above. Those are not open for debate since it is the requiring authority's prerogative to define its objectives. Clearly the infrastructure required to realise those objectives is what the present Package 1 NoR seeks to implement.

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

96. Two matters for consideration under this “other matters” subsection are:

- a. The 10-year lapse period sought; and
- b. Involvement of Mana Whenua.

Lapse Period

97. The default period for the lapse of a designation is 5 years after its inclusion in a plan unless it has been given effect to or an application is made to extend the period, or a longer period is confirmed as part of the designation process²¹. In this application the Requiring Authority has sought a lapse period of 10 years.
98. The reason for the extended lapse period was not specifically addressed in evidence or legal submissions but, we surmise, is related to the timing of the need for the infrastructure as determined by the pace of growth and demand in the subject catchment. As no third-party land interests are affected by the NoR we see no resource management reason for not acceding to the 10-year request.

Mana Whenua

99. The Requiring Authority's AEE described the engagement undertaken with Mana Whenua and more specifically representatives from Ngāti Whātua o Kaipara (via Ngā Maunga Whakahii o Kaipara Development Trust) and Te Kawerau a Maki. These groups were provided a project presentation, updates and reports and undertook a site visit²². The record of engagement indicated Ngā Maunga Whakahii o Kaipara Development Trust advised a Cultural Values Assessment (CVA) prepared previously for Oyster Capital's Private Plan Change²³ could be relied upon for Watercare's NoR application, provided its recommendations were adhered to in this process. Mr Hung on behalf of WSL further confirmed that it will continue to engage with mana whenua who have indicated an interest in the Project²⁴, and in the s.42A Hearing Report Mr Elder expressed the opinion that the project would give effect to AUP RPS Chapter B6 Mana Whenua.²⁵
100. The CVA was generally supportive of benefits for the wider community associated with the NoR through provision of infrastructure to support growing residential and employment opportunities in the vicinity. It highlighted Ngāti Whātua o Kaipara's cultural connection with the whenua in this location and their kaitiakitanga values that seek to protect waterways, and ultimately the health of the Waitematā Harbour. Recommendations included provision for Ngā Maunga Whakahii o Kaipara Development Trust to carry out cultural protocols and monitoring and contribute to landscaping design and planting.
101. During the hearing we posed a question to the Requiring Authority seeking clarity as to how these recommendations would be implemented through the NoR process, noting they were not specifically identified in the draft conditions. In response WSL has reiterated its commitment to continued engagement with Ngāti Whātua o Kaipara and has proposed new conditions (DC29 - DC31). Those conditions will facilitate opportunities for Mana Whenua to carry out tikanga, cultural monitoring and participate

²¹ Section 184(1) of the RMA

²² AEE Section 8.1

²³ NoR Notification Material Vol. 2 at page 680

²⁴ Mr Hung EIC at para 5.19

²⁵ S42A Report Section 4.7

in the development of landscape and planting plans, demonstrating how WSL intends to respond to the CVA recommendations.²⁶

102. As a result, the Panel is satisfied that the NoR is consistent with the statutory framework provisions relevant to Mana Whenua including; Chapter B6 of the RPS recognising Treaty of Waitangi partnerships and participation and Mana Whenua values; Policy 2 of the NPS-FM requiring the involvement of Tangata Whenua in freshwater management and identifying and providing for their values; and Part 2 RMA sections 6(e), 7(a) and 8.

PART 2 OF THE ACT

103. Part 2 of the Act sets out the purpose and principles of the RMA. Section 171(1) requires us to consider Part 2.
104. It is now established case authority that recourse to Part 2 is only required if there is incomplete coverage or ambiguity in the relevant policies and plans, or any more recent national policies or standards have issued.
105. Regardless, section 10.5 of the AEE provided a Part 2 assessment – accepted by Mr Elder²⁷ in his s.42A report. Ms Vince also addressed that matter at section 8 of her evidence.
106. In this instance we are satisfied that such recourse is not necessary as all the relevant higher order instruments are in play and have been addressed.

CONDITIONS

107. The notified conditions have been amended in response to the hearing, including new conditions as follows:
- (a) DC7a - a condition (as noted above) responding to the trenchless construction methodology question;
 - (b) D22 - a condition exempting Auckland Transport (**AT**) from the need to seek its written approval under s.176(1)(b) for routine works in the road reserve;
 - (c) DC23 - a condition similarly exempting Council's Healthy Waters for routine works in the stormwater pond;
 - (d) DC27 - a condition relating to future water and power supply servicing;
 - (e) DC28 - a condition relating to appropriate operational lighting with respect to bats at the Pump Station;
 - (f) DC29 - a Ngāti Whātua o Kaipara cultural protocol condition;

²⁶ Memorandum of Counsel 10th October 2024 at paras 4 & 5

²⁷ S.42A Report at [4.15].

- (g) DC30 - a condition for Ngāti Whātua o Kaipara to undertake karakia; and
 - (h) DC31 - a condition enabling Ngāti Whātua o Kaipara input to landscape design and planting.
108. We have also made a number of corrections of a minor editorial nature. No substantive change is recommended.

CONCLUSIONS

109. Section 171 of the RMA states the basis on which an NoR recommendation may confirm, modify, condition, or withdraw. We conclude that, subject to the conditions we recommend (as Attachment A), the NOR be confirmed.
110. We have concluded that the 10-year lapse period sought by WSL for the designation is appropriate as noted at paragraph 98 above.
111. We agree that an Outline Plan of Works is not required for the Pump Station and gravity main (unless there are more than minor changes to the referenced plans).

RECOMMENDATION

112. In accordance with section 171(2) of the Resource Management Act 1991, the Auckland Council recommends to Watercare Services Limited that the Notice of Requirement to enable the construction, operation and maintenance of a Gravity Main, Pump Station, and associated infrastructure, referred to as the Whenuapai Wastewater Servicing Scheme - Package 1, and as shown on the revised designation boundary plans contained in Ms Vince's Statement of evidence (Planning) Appendix B of 26 August 2024 [Drwg GIS-4219201-5 Rev 4 dated 22/08/2024 and associated plans), be confirmed, and be subject to the conditions set out in Attachment A.

REASONS FOR THE RECOMMENDATION

113. Under section 171(3) of the Act the summary reasons for the recommendation are:
1. The NoR satisfies section 171 of the Act as the designation is reasonably necessary for achieving the objectives of the Requiring Authority, and consideration of alternatives is not required.
 2. The work proposed by the designation is consistent with the relevant higher order planning instruments in that it represents the sustainable management of natural and physical resources.
 3. The designation is in general accordance with the relevant objectives and policies of the Auckland Unitary Plan (Operative in Part).
 4. Subject to the recommended conditions, set out in Attachment A, the designation will avoid, remedy or mitigate its adverse environmental effects.

AMENDMENTS TO THE UNITARY PLAN (OPERATIVE IN PART)

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



David Hill
Chairperson
Independent Hearings Panel

and for Commissioners Matthew Byrne and Juliane Chetham.

Date: 25 October 2024

Attachment A: Recommended Designation Conditions

| Designation Conditions | |
|------------------------|---|
| DC1. | <p>The location, design, implementation, and operation of the Works within the designated area shall be undertaken in general accordance with the Notice of Requirement and its associated plans and documents with the information provided by the Requiring Authority (dated 7 March 2024) including:</p> <ol style="list-style-type: none"> a. “Whenuapai Wastewater Servicing Scheme Package 1 – Notice of Requirement – Assessment of Effects on the Environment” prepared by Beca on behalf of Watercare, dated 7 March 2024. b. Whenuapai-Redhills Wastewater Servicing Brigham Creek Road, Whenuapai: Interim Slaughterhouse PS – Wastewater gravity main plan and long section – Sheet 1 of 5 dated 13 May 2022. c. Whenuapai Wastewater Servicing Scheme Phase 1 Brigham Creek Road, Whenuapai Package 1 Key Construction Activities, Rev 4, dated 15 August 2024. <p>Except as required by Condition DC2 below, an Outline Plan of Works shall not be required and is waived unless there are more than minor changes to the referenced plans in which case Watercare Services Limited shall clearly identify these changes to Council at least 20 working days prior to construction, and the Council may then require an Outline Plan of Works to be submitted in terms of section 176A of the RMA.</p> |
| DC2. | <p>The Requiring Authority shall submit an Outline Plan of Works for the construction of the Break Pressure Chamber in accordance with section 176A of the RMA, unless the Council has waived the requirement for an Outline Plan of Works in accordance with Section 176(2)(c) of the RMA.</p> |
| DC3. | <p>Where there may be inconsistencies between information provided by the applicant and conditions of the designation, these conditions prevail.</p> <p><i>With the exception of the following conditions, all conditions will expire and may be removed from this designation in accordance with s182 of the RMA, upon completion of Works:</i></p> <ul style="list-style-type: none"> • DC1 • DC4 • DC5 • DC17 • D22 • DC23 • DC28 |
| DC4. | <p>As soon as practicable following completion of commissioning of the Project, the Requiring Authority shall, in consultation with the Council:</p> <ol style="list-style-type: none"> a. review the extent of the area designated for the Project; b. identify any areas of designated land that are no longer necessary for the ongoing operation, maintenance, renewal and protection of the Project and associated structures and activities; c. identify, in consultation with Auckland Transport any areas of the designation within road reserve that are no longer necessary as the completed infrastructure is otherwise provided for and adequately protected by provisions of the Local Government (Auckland |

Designation Conditions

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| | <p>Council) Act 2009 and Utilities Access Act 2010;</p> <p>d. give notice to the Council in accordance with Section 182 of the RMA for the removal of those parts of the designation identified in (b) above, which are not required for the long-term operation, maintenance, renewal and protection of the Project; and</p> <p>e. provide as-built plans to the Council's Team Leader, Compliance and Monitoring, Resource Consents (or equivalent position).</p> |
| DC5. | <p>The designation shall lapse on the expiry of a period of 10 years after the date on which the last of any appeals on the notice of requirement associated with the Project is withdrawn or determined, or, if no appeals are lodged, the date on which the notice of requirement is included in the AUP in accordance with section 184(1)(c) of the RMA, unless:</p> <p>a. it has been given effect before the end of that period; or</p> <p>b. the Council determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made; and fixes a longer period for the purposes of this subsection.</p> |
| DC6. | <p>Work hours</p> <p>Normal working hours for onsite construction activities will be as follows:</p> <p>a. 7:30am to 6.00pm Monday to Saturday (excluding public holidays).</p> <p>b. Heavy construction vehicles shall be restricted from travelling westbound on Brigham Creek Road between 23-27 Brigham Creek Road and the SH16 roundabout between the hours of 16:30 to 17:30 Monday to Friday.</p> <p>c. If any construction work or specialised heavy vehicle movements cannot be reasonably undertaken during normal working hours, these shall be identified in the Construction Environmental Management Plan required by Condition DC7 and/or the Construction Traffic Management Plan required by Condition DC8.</p> <p>Other construction related activities, such as site set up or delivery of pipes, may occur outside of the standard hours set out in DC56(a) above, if they meet the noise levels in DC13.</p> <p><i>Advice note: Heavy construction vehicles refers to all construction vehicles, except for utes, vans or small cars</i></p> |
| DC7. | <p>Construction and Environment Management Plan</p> <p>A Construction and Environment Management Plan (CEMP) shall be submitted to Council for certification that the matters listed in (a) to (p) below have been included in the CEMP at least 20 working days prior to the commencement of construction.</p> <p>The CEMP shall be maintained and implemented throughout the entire construction period. 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 this objective the CEMP shall include:</p> <p>a. Construction methodologies and construction timeframes, including:</p> |

Designation Conditions

- i. Details of staging (if required);
- ii. Details of methods to provide for the stability of any temporary cut or fill faces;
- iii. Measures for the management of any temporary stockpiling of material on the site;
- b. The proposed hours of work;
- c. Staff and contractors' responsibilities;
- d. Measures to control dust from the works;
- e. Public safety;
- f. Training requirements for employees, sub-contractors and visitors;
- g. Environmental incident, emergency management , flood hazard management, and spill contingency plans;
- h. Measures to mitigate any changes to floodplains and overland flow paths to maintain functions, minimise obstruction to flood flows, actions to respond to warnings of heavy rain;
- i. Site reinstatement upon completion of the construction activities;
- j. Communication and interface procedures;
- k. Complaints management;
- l. Compliance monitoring;
- m. Environmental reporting;
- n. Corrective actions;
- o. Site inspection and environmental auditing procedures; and
- p. Contact details for the person in charge of the works.

DC7a. **Construction Methodology**

Prior to construction of the section of Gravity Main between the proposed pump station and Brigham Creek Road, the Requiring Authority shall engage a suitably qualified and experienced person to assess whether trenchless construction methodology for the gravity main beneath "Wetland C" is feasible and practicable. In undertaking this assessment, consideration shall be given to:

- a. The ground conditions;
- b. The location and depth of the pipeline;
- c. Accuracy of installing the pipeline;

Designation Conditions

- d. The ability to achieve the design requirements of the pipeline;
- e. The risk of potential failures (e.g. frack out, encountering underground obstructions);
- f. The potential disturbance to the wetland;
- g. The designation objectives;
- h. Any other matter considered reasonably necessary.

The Requiring Authority shall review the findings of the specialist assessment and use a trenchless construction methodology where it is feasible and practicable to do so.

The Requiring Authority shall provide the report to the Council to confirm the construction methodology.

If it is determined by the Requiring Authority that it is not feasible and practicable to do so, the Requiring Authority's reasons, alongside the specialist's assessment, will be provided to Council.

DC8. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) prepared in consultation with Auckland Transport shall be provided to Auckland Council for certification at least 20 working days prior to commencement of construction. The purpose of the CTMP is to manage the traffic effects during construction so that safe, adequate, and convenient routes for local movements by all transport modes are maintained throughout the construction of the Project. The CTMP shall be prepared in accordance with the Council's requirements for traffic management plans or CTMPs (as applicable) and the Waka Kotahi Code of Practice for Temporary Traffic Management.

The CTMP shall be maintained and implemented throughout the entire construction period. The CTMP must be prepared by a suitably qualified person and include:

- a. Safety control measures such as fencing, barriers, hoarding and signage;
- b. Details of the temporary Site Access Points (SAPs) including:
 - i. The access for SAP1 at 23-27 Brigham Creek Road as required by Condition DC9.
 - ii. Measures to enable heavy construction vehicles to operate on a left in / left out basis from the entrance to sites at SAP 1 at 23-27 Brigham Creek Road, and SAP 3 at 20-22 Brigham Creek Road.
 - iii. Measures to ensure safe access for heavy vehicles to SAPs such as signage, temporary speed limit zones, spotters, temporary parking restrictions and deceleration lanes.
 - iv. Measures to repair any damage to the road directly caused by heavy vehicles entering or existing the site within two weeks or within an alternative timeframe agreed with Auckland Transport.

Designation Conditions

- c. Measures to ensure safe turning movements for heavy vehicles using intersections at Trig Road / Spedding Road and Spedding Road / Māmari Road. Measures may include turning restrictions, localised widening, vegetation removal or trimming, use of smaller trucks.
- d. Measures to maintain access for residents and visitors along Brigham Creek Road, Spedding Road, Mamari Road, and 90 Trig Road.
- e. Measures to inform the public and engage with local residents (specifically Spedding Road, Tamiro Road, Joseph Macdonald Drive and Mamari Road residents, and the landowners of 90 Trig Road), local businesses, Timatanga Community School and other sensitive receivers.
- f. Contact details for appropriate person(s) implementing the CTMP, including after-hours contact details.
- g. Measures to prevent mud or other excavated material from being dropped on the road by construction vehicles. This should include cleaning facilities within the site and resources for prompt clean up in the event that material is dropped on the road.

Note: The CTMP shall be prepared in accordance with the requirements of the Corridor Access Request to the Road Controlling Authority.

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| DC9. | <p>Site Access at 23-27 Brigham Creek Road</p> <p>For the purposes of construction, the width of the temporary vehicle crossing (SAP 1) at 23-27 Brigham Creek Road shall be at least 15.0m wide, or as otherwise agreed with Auckland Transport.</p> |
| DC10. | <p>Once construction of the works is complete, the width of the vehicle crossing to Brigham Creek Road shall be reinstated.</p> |
| DC11. | <p>Construction Noise and Vibration Management Plan</p> <p>A Construction Noise and Vibration Management Plan (CNVMP) shall be prepared by an appropriately qualified person and submitted to the Council for certification that the CNVMP includes the matters listed at (a) to (j) below at least 20 working days prior to construction commencing.</p> <p>The purpose of the CNVMP is to identify and require the adoption of the best practicable option to minimise construction noise and vibration from the works and to minimise any exceedance of the criteria set out in Conditions DC13 and DC14. The consent holder must implement the certified CNVMP for the duration of construction works and keep an up-to-date copy at the construction site.</p> <p>As a minimum, the CNVMP must include the following information:</p> <ul style="list-style-type: none"> a. The proposed works, anticipated equipment / processes and their scheduled durations. b. Hours of operation including times and days when activities causing noise and/or vibration will occur, including where work is required to be outside normal working hours (as outlined in DC6). |

Designation Conditions

- c. The construction noise and vibration standards for the Project (from conditions DC13, DC14 and DC15).
- d. Mitigation options including alternative strategies to identify and implement the Best Practicable Option (BPO) in accordance with section 16 of the RMA, for work and activities that cannot practicably comply with the relevant noise and/or vibration limits in DC13 and DC14. This section shall set and require the adoption of the BPO for these works and shall set out noise limits for these works and activities.
- e. Identification of any properties that require a pre-construction building condition survey.
- f. Procedures, methods and frequency for monitoring and reporting on construction noise and vibration.
- g. Specify an exemption process for approval by the Council for any construction work that cannot be undertaken during approved working hours.
- h. Communication, consultation, and complaints response protocols as required by Condition DC12.
- i. Noise and vibration monitoring and reporting requirements as required by Condition DC16.
- j. Procedures for review of the CNVMP throughout the works.

DC12. Noise Communication Protocols

At a minimum, communication protocols included in the CNVMP will include provision of written communication to:

- a. all occupants of all neighbouring buildings within 50 m of the extent of the proposed construction works, at least 1 week prior to the Project commencing; and
- b. all occupants of buildings predicted to receive vibration levels exceeding 2 mm/s peak particle velocity (PPV) for more than three days, at least 3 days prior to the works commencing.

The written advice shall **clearly describe** that some activities are predicted to generate high noise and / or vibration levels that may result in disturbance for short periods, and include a brief description of the works, the expected timing of the works, and contact details where any concerns regarding noise and vibration should be directed.

DC13. Construction Noise

Construction noise shall be measured and assessed in accordance with NZS 6803:1999 Acoustics – Construction Noise. The construction noise shall comply with the following noise standards when measured and assessed 1m from the façade of any occupied building containing an activity sensitive to noise unless a higher noise limit is provided in the CNVMP:

| Time of week | Time period | Contractor Areas (North, Hub and South) and Pump Station | Laydown Area adjacent to Tamiro Road and pipeline |
|--------------|-------------|--|---|
| | | | |

Designation Conditions

| | | B LAeq (15min) | dB LAF (max) | B LAeq (15min) | dB LAF (max) |
|-----------------------------|-----------|-----------------------|---------------------|-----------------------|---------------------|
| Weekdays | 0630-0730 | 55 | 75 | 60 | 75 |
| | 0730-1800 | 70 | 85 | 75 | 90 |
| | 1800-2000 | 65 | 80 | 70 | 85 |
| | 2000-0630 | 45 | 75 | 45 | 75 |
| Saturdays | 0630-0730 | 45 | 75 | 45 | 75 |
| | 0730-1800 | 70 | 85 | 75 | 90 |
| | 1800-2000 | 45 | 75 | 45 | 75 |
| | 2000-0630 | 45 | 75 | 45 | 75 |
| Sundays and public holidays | 0630-0730 | 45 | 75 | 45 | 75 |
| | 0730-1800 | 55 | 85 | 55 | 85 |
| | 1800-2000 | 45 | 75 | 45 | 75 |
| | 2000-0630 | 45 | 75 | 45 | 75 |

Where compliance with the noise standards cannot be achieved these activities and receivers shall be identified in the CNVMP required by DC11 and the best practicable option shall be specified and adopted.

DC14. **Construction Vibration**

Except as provided for below, vibration levels arising from construction activity on the site shall not exceed 2 mm/s peak particle velocity (PPV) in occupied buildings in any axis when measured in the corner of the floor of the storey of interest for multi-storey buildings, or within 500 mm of ground level at the foundation of a single storey building.

- a. If measured or predicted vibration from construction activities exceeds 2 mm/s PPV at occupied buildings, the Requiring Authority shall consult with the affected receiver to:
 - i. Discuss the nature of the works and the anticipated days and hours when the exceedances are likely to occur; and
 - ii. Determine whether the exceedances could be timed or managed to reduce the effects on the receiver.

The Requiring Authority shall maintain a record of these discussions and make them available to Council on its request.

DC15. A level of 2 mm/s peak particle velocity (PPV) shall not be exceeded for more than three days in any 14 day period at any one occupied building, and must not exceed 5 mm/s PPV at any time.

DC16. **Construction Noise and Vibration Monitoring**

The consent holder must engage a suitably qualified acoustic specialist to carry out noise and vibration monitoring at the first occurrence of activities that generate high noise and / or vibration levels close to activities sensitive to noise, for the purpose of confirming compliance with the relevant noise standards and validating the levels predicted in the noise and vibration assessment. Monitoring shall also be conducted as it is required by the certified CNVMP

DC17. **Landscape and Visual and Arboricultural**

Designation Conditions

The Requiring Authority shall ensure that:

- a. All above ground structures associated with the Pump Station at 23-27 Brigham Creek Road are painted and maintained using paints in recessive colours, i.e. dark greys and greens.
- b. All works are contained to a defined footprint as small as practicably possible.
- c. Disturbed areas are recontoured so they tie into existing contours including natural depressions in identified wetlands.
- d. Revegetation is undertaken including:
 - i. Planting in general accordance with Drawing 2013649.001 around Wetland C.
 - ii. Low level planting around curtilage of new aboveground structures at the Pump Station at 23A Brigham Creek Road; and.
 - iii. Replacement planting on a 2:1 basis of any trees removed from the riparian area of Slaughterhouse Stream, and the Tamiro Road stormwater pond associated with the proposed works.
- e. Revegetation planting is maintained for no less than 5yrs. All planting and maintenance must be in accordance with best practice methodologies of Te Haumanu Taiao, or other subsequent Council restoration guide.

DC18. All tree work proposed must be undertaken in accordance with Appendix A “Tree Protection Method” within the arboricultural assessment by Arborlab Limited, dated August 2022. A copy of this tree report must be available on site at all times.

DC19. **Terrestrial Ecology**

An Ecological Management Plan (EMP) must be prepared prior to the Start of Construction, prepared by a suitably qualified and experienced person (e.g. Level D competency for bats), to manage effects on bats, birds, lizards, and the removal of terrestrial vegetation/habitat. The management plan must be submitted for certification that it includes the matters listed in (a) to (c) below by the Council, prior to any works commencing within the site and implemented in all respects.

The EMP must include, but not be limited to the following:

- a. Bird Management (all bird species), in accordance with best practice methodologies, a description of methods to avoid impacts on birds, including supervised habitat clearance protocols, and working outside of the bird breeding season (species dependent).
- b. Long-tailed Bat Management, in accordance with best practice methodologies, a description of methods to avoid impacts on bats, including roost feature identification, salvage protocols, relocation protocols, and supervised habitat clearance/transfer protocols.
- c. Lizard Management (rescue and relocation of), in accordance with best practice

Designation Conditions

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|-------|--|
| | <p>methodologies, including but not limited to a description of methodology for capture and relocation of lizards rescued including but not limited to: the timing of implementation, seasonality restrictions, salvage protocols, relocation protocols (including method used to identify suitable relocation site(s)), habitat improvements, landowner approvals (as applicable), supervised habitat clearance/transfer protocols, and opportunistic relocation protocols.</p> |
| DC20. | <p>Network Utilities</p> <p>Prior to works commencing, the consent holder is to arrange a pre-start meeting with the works principal, contractor, and Healthy Waters, to manage risk to Healthy Waters assets.</p> |
| DC21. | <p>CCTV of the stormwater outlet shall be undertaken prior to commencement of construction and at completion of construction for works underneath the Tamiro Road Stormwater Embankment, to identify any damage resulting from the works. Watercare shall provide the post-construction CCTV, and a report identifying any damage and potential repair or replacement options, to Healthy Waters (Healthy Waters, Operations North, Team Manager) within one month of completion of construction for works adjacent to the Tamiro Road Stormwater Embankment.</p> <p>Repair or replacement of any damage identified due to the works shall be undertaken by Watercare at no cost to Healthy Waters, and in accordance with the repair or replacement option agreed to with Healthy Waters.</p> |
| DC22. | <p>Following construction of the project (or a section thereof), the Requiring Authority shall not require Auckland Transport to seek written approval under section 176(1)(b) of the RMA for routine operation, maintenance and renewal of existing assets within the road reserve.</p> |
| DC23. | <p>Following construction of the Gravity Main through the Tamiro Road Stormwater Wetland embankment, the Requiring Authority shall not require Healthy Waters to seek written approval under section 176(1)(b) of the RMA for works for routine operation and maintenance of the stormwater pond. Works greater than those described are subject to the approval of the Requiring Authority under section 176 but approval is not to be unreasonably withheld.</p> |
| DC24. | <p>Defence</p> <p>All permanent structures at SECT 1 SO 582220 (8 Spedding Road, Figure 1) must be lower than the level of the designated Obstacle Limitation Surface (OLS)</p> |
| DC25. | <p>No construction or maintenance machinery or activities at 8 Spedding Road or SECT 2 SO 582220 (32 Mamari Road) shall exceed the level of the designated Obstacle Limitation Surface (OLS), unless written approval, including any additional conditions, has been obtained from NZ Defence Force (NZDF). Any such approvals will not be unreasonably withheld.</p> <p><i>Advice Note 1:</i> <i>Some construction works will temporarily breach the OLS level - including but not limited to, movement of the tunnel boring machine, installation of piles, reinforcing, and foundations. NZDF have indicated that this is acceptable in principle, provided adherence to all other conditions as relevant.</i></p> <p><i>Advice Note 2:</i> <i>Civil Aviation Authority (CAA) rules and regulations apply in relation to the height of permanent and temporary obstacles (including but not limited to structures, construction</i></p> |

Designation Conditions

equipment, cranes and trees) within the OLS for RNZAF Base Whenuapai. All persons carrying out work under this designation and any related building consent must therefore comply with all obligations arising under CAA rules and regulations, including obligations to notify the Director CAA as outlined in CAA Rules Part 77. Parties are advised to contact CAA for further information.

DC26. At least 20 working days prior to any construction activity occurring at 8 Spedding Road or 32 Mamari Road, a Communications Plan shall be prepared in draft and be provided to NZDF for comment, acceptance, finalisation and implementation.

Points of contact for all communications with NZDF and/or RNZAF Base Auckland are:

Airfield Manager, Mr Junior Saaga
Email - WPAirfieldManager@NZDF.mil.nz

Principal Statutory Planner Ms Rebecca Davies
Email – Environment@nzdf.mil.nz

Advice Note 1:

The purpose of the Communications Plan is to establish appropriate communication and notification procedures with RNZAF Base Auckland specifically in relation to construction and maintenance activities occurring on site. If comment has not been received from NZDF within 20 working days of provision, the Communications Plan shall be deemed accepted

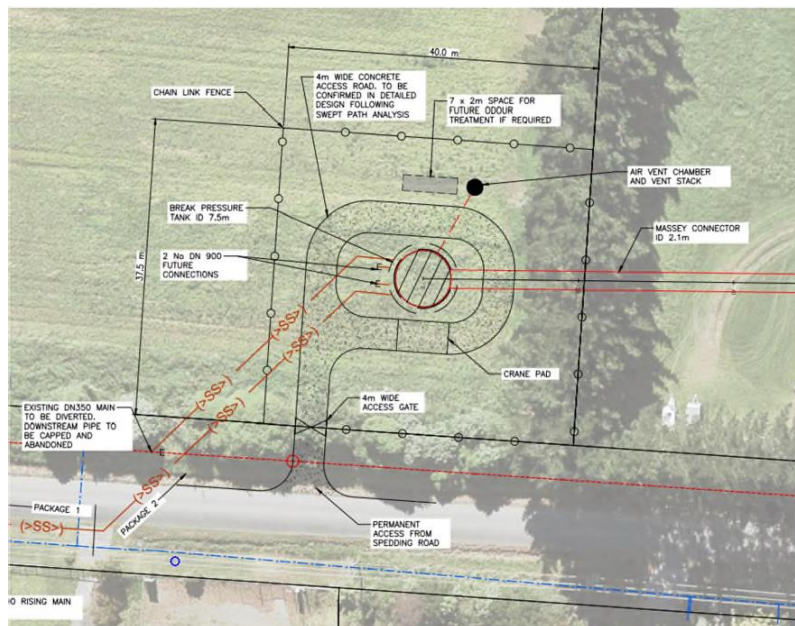


Figure 1. Break Pressure Tank Site Layout 8 Spedding Road

DC27. **Water and Power**

Watercare shall use reasonable endeavours to connect the proposed Pump Station to water and power supply from Spedding Road extension provided:

- There is a public water and/or public power supply available within proximity to the Pump Station; and

| Designation Conditions | |
|------------------------|--|
| | <ul style="list-style-type: none"> The supply is available at the time that the Pump Station is ready to connect. <p>If the public water and power supply is not available at the time when the Pump Station is ready to be connected, then Watercare shall connect to the supply on Brigham Creek Road.</p> |
| DC28. | <p>Operational Lighting of Pump Station - Bats</p> <p>Any external operational lighting required for the Pump Station shall be designed with a means of automatic off switch to minimise the amount of time that external lighting from the Pump Station may impact bats navigating at night. This may include timers or motion sensors.</p> |
| DC29. | <p>Cultural Protocols</p> <p>The Requiring Authority shall provide the opportunity for Ngāti Whātua o Kaipara representatives to undertake cultural monitoring associated with earthworks for the project, particularly in relation to earthworks in and around streams and wetlands. A minimum of 10 working days' notice shall be given.</p> |
| DC30. | <p>Prior to the commencement of earthworks, the Requiring Authority shall provide the opportunity for Ngāti Whātua o Kaipara representatives to undertake karakia (or site blessing), and at any other time as agreed between Watercare and Ngāti Whātua o Kaipara representatives.</p> <p>The site blessing:</p> <ol style="list-style-type: none"> shall be located on site; shall be scheduled not less than five working days before the anticipated commencement of earthworks; and shall include all persons directly involved in the project (including but not limited to Watercare and contractor representatives) |
| DC31. | <p>The Requiring Authority shall provide the opportunity for Ngāti Whātua o Kaipara representatives to input into the development of the landscape design and planting required to be undertaken in accordance with DC17, including the selection of native plants.</p> |